

**MINUTES
ENVIRONMENTAL QUALITY BOARD
NOVEMBER 15, 2011
NATIONAL WEATHER CENTER AT OU
120 DAVID L. BOREN
NORMAN, OKLAHOMA**

EQB Approved
February 25, 2012

Notice of Public Meeting The Environmental Quality Board convened for a regular meeting at 9:30 a.m. at the University of Oklahoma National Weather Center in Class Room 3910 in Norman, 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 7, 2010. The agenda was mailed to interested parties on November 4, 2011 and was posted at the meeting facility and the DEQ on November 10, 2011. Jerry Johnston, Chair, called the meeting to order. Roll call was taken and a quorum was confirmed. Welcome was given by Dr. David A. Sabatini, David Ross Boyd Professor of Civil Engineering & Environmental Science, University of Oklahoma.

MEMBERS PRESENT

Mike Cassidy
Tony Dark
Bob Drake
Jennifer Galvin
David Griesel
Jan Kunze
Jerry Johnston
Terri Savage
John Wendling

MEMBERS ABSENT

Brita Cantrell
Steve Mason
Sandra Rose
Kerry Sublette

OTHERS PRESENT

Gary Sherrer, Secretary of the Environment
Tyler Powell, Director, Office of Secretary of the Environment

DEQ STAFF PRESENT

Steve Thompson, Executive Director
Jimmy Givens, Deputy Executive Director
Martha Penisten, General Counsel
Wendy Caperton, Director, Administrative Services
Eddie Terrill, Director, Air Quality Division
Chris Armstrong, Director Customer Service Division
Gary Collins, Director, ECLS
Kelly Dixon, Assistant Director, Land Protection Division
Mark Hildebrand, Water Quality Division
Skylar McElhaney, Public Information Officer
Myrna Bruce, Secretary, Board & Councils

Representative Aaron Stiles
Clayton Eubanks, Assistant Attorney General
Christy Myers, Court Reporter

The Attendance Sheet becomes an official part of these Minutes.

Approval of Minutes Mr. Johnston, Chair, called for motion to approve the minutes from the August 23, 2011 Regular Meeting. Mr. Drake made the motion and Mr. Dark made the second.

transcript pages 18 - 19

Mike Cassidy	Yes	Jan Kunze	Yes
Tony Dark	Yes	Terri Savage	Yes
Bob Drake	Yes	John Wendling	Yes
Jennifer Galvin	Abstain	Jerry Johnston	Yes
David Griesel	Yes		

Rulemaking – OAC 252:100 Air Pollution Control Ms. Laura Lodes, Air Quality Council Chair, advised that the DEQ proposal would modify Subchapter 2 (Incorporation by Reference) to clarify language and Appendix Q (Incorporation by Reference) by revoking the current Appendix Q and adopting a new Appendix Q to incorporate by reference the latest changes to the federal regulation through August 1, 2011. Ms. Lodes added that DEQ also proposes to modify Subchapter 8 Permits for Part 70 Sources to include EPA’s changes to the Prevention of Significant Deterioration and Part 70 programs regarding permitting of CO2 emissions from certain biomass sources. The proposed modifications would prevent the state rule from being perceived as more stringent than the federal rule along with other non-substantive changes. Hearing no comments from the Board or the public, Mr. Johnston called for a motion. Mr. Dark moved approval as presented and Mr. Drake made the second.

transcript pages 19 - 23

Mike Cassidy	Yes	Jan Kunze	Yes
Tony Dark	Yes	Terri Savage	Yes
Bob Drake	Yes	John Wendling	Yes
Jennifer Galvin	Yes	Jerry Johnston	Yes
David Griesel	Yes		

Rulemaking – OAC 252:205 Hazardous Waste Management Mr. Mike Edwards, Environmental Programs Manager, Hazardous Waste Compliance Section, explained that the DEQ proposal would amend Subchapter 3 to incorporate by reference the federal hazardous waste regulations found in 40 CFR Parts 124 and 260-279 revised as of July 1, 2011. He added that two new rules would be incorporated in order to maintain equivalency with the federal program. Hearing no comments from the Board or the public, Mr. Johnston called for a motion. Ms. Kunze moved approval as presented and Mr. Dark made the second.

transcript pages 24 - 26

Mike Cassidy	Yes	Jan Kunze	Yes
Tony Dark	Yes	Terri Savage	Yes
Bob Drake	Yes	John Wendling	Yes
Jennifer Galvin	Yes	Jerry Johnston	Yes
David Griesel	Yes		

Rulemaking – OAC 252:410 Radiation Management Mr. Steve Woods, Chair of the Radiation Management Advisory Council, explained the changes proposed that would amend Subchapter 1 to incorporate by reference Title 10 of the Code of Federal Regulations revised as of January 1, 2011; amend portions of Subchapter 3 and Subchapter 11; and revoke Subchapter 19. It was suggested that the Board vote on the three changes separately. For Agenda item 7A, Subchapter 1, Mr. Dark moved approval and Mr. Griesel made the second.

transcript pages 26 - 32

Mike Cassidy	Yes	Jan Kunze	Yes
Tony Dark	Yes	Terri Savage	Yes
Bob Drake	Yes	John Wendling	Yes
Jennifer Galvin	Yes	Jerry Johnston	Yes
David Griesel	Yes		

For Agenda item 7B, Subchapter 3 and Subchapter 11 (Parts 3 and 5), Mr. Griesel moved approval and Mr. Drake made the second.

transcript pages 32 - 35

Mike Cassidy	Yes	Jan Kunze	Yes
Tony Dark	Yes	Terri Savage	Yes
Bob Drake	Yes	John Wendling	Yes
Jennifer Galvin	Yes	Jerry Johnston	Yes
David Griesel	Yes		

For Agenda Item 7C, Subchapter 19, Mr. Griesel made the motion for approval and Ms. Kunze made the second.

transcript pages 35 - 36

Mike Cassidy	Yes	Jan Kunze	Yes
Tony Dark	Yes	Terri Savage	Yes
Bob Drake	Yes	John Wendling	Yes
Jennifer Galvin	Yes	Jerry Johnston	Yes
David Griesel	Yes		

Rulemaking – OAC 252:606 Oklahoma Pollutant Discharge Elimination System (OPDES) Standards Mr. Duane Winegardner, Water Quality Management Advisory Council member, advised that the proposal would amend Subchapter 1 to incorporate by reference certain federal NPDES regulations revised as of July 1, 2011 with no significant impact on the OPDES program. Hearing no comments from the Board or the public, Mr. Johnston called for a motion. Dr. Galvin moved to adopt as presented and Mr. Griesel made the second.

transcript pages 36 - 38

Mike Cassidy	Yes	Jan Kunze	Yes
Tony Dark	Yes	Terri Savage	Yes
Bob Drake	Yes	John Wendling	Yes
Jennifer Galvin	Yes	Jerry Johnston	Yes
David Griesel	Yes		

Rulemaking – OAC 252:623 Pretreatment for Central Treatment Trusts Mr. Duane Winegardner, Water Quality Management Advisory Council member, advised that the proposal would amend Subchapter 1 to incorporate by reference certain federal regulations revised as of July 1, 2011 with no significant impact on the pretreatment program. Hearing no comments from the Board or public, Mr. Johnston called for a motion. Mr. Drake moved to adopt as presented and Mr. Dark made the second.

transcript pages 38 - 41

Mike Cassidy	Yes	Jan Kunze	Yes
Tony Dark	Yes	Terri Savage	Yes
Bob Drake	Yes	John Wendling	Yes
Jennifer Galvin	Yes	Jerry Johnston	Yes
David Griesel	Yes		

Consideration of and Action on the Annual Environmental Quality Report Mr. Jimmy Givens, DEQ Deputy Executive Director, advised that this report outlines the DEQ's annual funding needs for providing environmental services within its jurisdiction, reflect any new federal mandates, and summarize statutory changes. Following comments from the Board and the public, Mr. Johnston called for a motion for approval as presented. Mr. Dark made the motion and Mr. Wendling made the second.

transcript pages 41- 85

Mike Cassidy	Yes	Jan Kunze	Yes
Tony Dark	Yes	Terri Savage	Yes
Bob Drake	Yes	John Wendling	Yes
Jennifer Galvin	Yes	Jerry Johnston	Yes
David Griesel	Yes		

Executive Director's Report – Mr. Steve Thompson provided copies of the 2011 Environmental Quality Report. He gave updates on federal mandates; ozone activities; the summer's blue-green algae events; and on the private wells in Duncan impacted by perchlorate.
transcript pages 85 - 94

New Business None

Next Meeting(s) February 24, 2012 at the DEQ
June 19 in Bartlesville
August 21, 2012 in Enid
November 14, 2012 in Lawton.

Adjournment Mr. Dark moved to adjourn and Ms. Drake made the second. Meeting adjourned at 11:15 a.m. No issues were raised during the public forum.

transcript pages 95 - 96

Mike Cassidy	Yes	Jan Kunze	Yes
Tony Dark	Yes	Terri Savage	Yes
Bob Drake	Yes	John Wendling	Yes
Jennifer Galvin	Yes	Jerry Johnston	Yes
David Griesel	Yes		

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

Myers Reporting

<p>Sheet 1 Page 1</p> <p>1 * * * * *</p> <p>2 TRANSCRIPT OF PROCEEDINGS</p> <p>3 OF THE OKLAHOMA DEPARTMENT OF</p> <p>4 ENVIRONMENTAL QUALITY BOARD MEETING</p> <p>5 NOVEMBER 15, 2011, AT 9:30 A.M.</p> <p>6 HELD IN NORMAN, OKLAHOMA</p> <p>7 * * * * *</p> <p>8 MYERS REPORTING SERVICE</p> <p>9 Christy Myers, CSR</p> <p>10 P.O. Box 721532</p> <p>11 Oklahoma City, Oklahoma 73172-1532</p> <p>12 (405) 721-2882</p>	<p>Page 3</p> <p>1 PROCEEDINGS</p> <p>2 MR. JOHNSTON: Okay.</p> <p>3 November 15, 2011 regular meeting of</p> <p>4 the Environmental Quality Board has</p> <p>5 been called in accordance to the</p> <p>6 Oklahoma Open Meeting Act, Section</p> <p>7 311 of Title 25 of the Oklahoma</p> <p>8 Statute. Notice was filed with the</p> <p>9 Secretary of State on December 7,</p> <p>10 2010 and amended on September 30,</p> <p>11 2011 to change the location. The</p> <p>12 Agendas were mailed to interested</p> <p>13 parties on November 4, 2011 and</p> <p>14 posted at this facility on November</p> <p>15 10, 2011.</p> <p>16 Only matters appearing on the</p> <p>17 posted agenda may be considered. If</p> <p>18 this meeting is continued or</p> <p>19 reconvened, we must announce today</p> <p>20 the date, time, and place of the</p> <p>21 continued meeting and the agenda for</p> <p>22 such a continuation will remain the</p> <p>23 same as today's Agenda.</p> <p>24 Will you call the roll call,</p> <p>25 please.</p>
<p>Page 2</p> <p>1 MEMBERS OF THE BOARD</p> <p>2 BRITA CANTRELL - MEMBER</p> <p>3 TONY DARK - MEMBER</p> <p>4 DAVID GRIESEL - MEMBER</p> <p>5 JERRY JOHNSTON - CHAIR</p> <p>6 STEVE MASON - MEMBER</p> <p>7 SANDRA ROSE - MEMBER</p> <p>8 RICHARD WUERFLEIN - MEMBER</p> <p>9 KAROL SAVAGE - MEMBER</p> <p>10 KERRY SUBLETTE - MEMBER</p> <p>11 JOHN WENDLING - MEMBER</p> <p>12 JENIFER GALVIN - MEMBER</p> <p>13 BOB DRAKE - MEMBER</p> <p>14 JAN KUNZE - MEMBER</p> <p>15 STAFF</p> <p>16 STEVE THOMPSON - EXECUTIVE</p> <p>17 DIRECTOR</p> <p>18 JIMMY GIVENS - DEPUTY EXECUTIVE</p> <p>19 DIRECTOR</p> <p>20 CLAYTON EUBANKS - ASSISTANT</p> <p>21 ATTORNEY GENERAL</p> <p>22 MARTHA PENISTEN - GENERAL COUNSEL</p> <p>23 MYRNA BRUCE - SECRETARY</p>	<p>Page 4</p> <p>1 MS. BRUCE: Good morning.</p> <p>2 Ms. Cantrell is absent. Mr.</p> <p>3 Cassidy.</p> <p>4 MR. CASSIDY: Here.</p> <p>5 MS. BRUCE: Mr. Dark.</p> <p>6 MR. DARK: Here.</p> <p>7 MS. BRUCE: Mr. Drake.</p> <p>8 MR. DRAKE: Here.</p> <p>9 MS. BRUCE: Dr. Galvin.</p> <p>10 DR. GALVIN: Here.</p> <p>11 MS. BRUCE: Mr. Griesel.</p> <p>12 MR. GRIESEL: Here.</p> <p>13 MS. BRUCE: Ms. Kunze.</p> <p>14 MS. KUNZE: Here.</p> <p>15 MS. BRUCE: Mr. Mason is</p> <p>16 absent. Ms. Rose is absent.</p> <p>17 Ms. Savage.</p> <p>18 MS. SAVAGE: Here.</p> <p>19 MS. BRUCE: Dr. Sublet is</p> <p>20 absent. Mr. Wendling.</p> <p>21 MR. WENDLING: Here.</p> <p>22 MS. BRUCE: Mr. Johnston.</p> <p>23 MR. JOHNSTON: Here.</p> <p>24 MS. BRUCE: We do have a</p> <p>25 quorum.</p>

Myers Reporting

Sheet 2 Page 5

1 MR. JOHNSTON: At this time
2 I'll turn it over to Steve. He has
3 a few important things he wants to
4 say to you.

5 MR. THOMPSON: Good morning
6 and welcome. The Department of
7 Environmental Quality and the State
8 of Oklahoma lost a great friend and
9 Legislator this year with the death
10 of Senator David Myers from Ponca
11 City. A great friend of the Agency.
12 A great friend of the citizens of
13 the State who died. So I would ask
14 that we take a moment of silence in
15 memory of Senator David Myers.

16 (Pause for silence)

17 MR. THOMPSON: Thank you.
18 We have couple of honored guests here
19 this morning. First of all,
20 Secretary of Environment, Gary
21 Sherrer and the Director of the
22 Offices of Secretary of Environment,
23 or whatever his title is today, Tyler
24 Powell. We're very pleased to have
25 Gary and Tyler with us.

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1 Gary, would like to say a few
2 words?

3 MR. SHERRER: I would be
4 honored. Thank you.

5 First of all, Steve, I would
6 just like to add to what you had to
7 say about Senator David Myers. David
8 Myers was a great public servant of
9 the State of Oklahoma and he will be
10 sorely missed. I do apologize, after
11 I make my remarks Tyler and I will
12 be stepping out because I've got a
13 meeting this afternoon, I've got a
14 couple of things to do before I go
15 up there.

16 But I just wanted to take just
17 a minute to thank this Board and
18 you, Director Thompson, for the job
19 that you all do. I guess -- no, I
20 don't guess. I know that this
21 Agency, this Board, has the toughest
22 job I think of any Board or Agency
23 in the State. When Steve Thompson
24 calls me I know it's not to say, oh,
25 I know you're having a wonderful day.

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1 It's to talk about some issue, or
2 some company, or some town, or some
3 individual or whatever the case, but
4 to his credit we always work through
5 those issues. And I think take a
6 very positive, take a common sense
7 approach and look at all the issues
8 very carefully before jumping off and
9 making some decision that we and this
10 Board and the state of Oklahoma might
11 be regret at some point in time.

12 So Steve, through the years,
13 it's been quite a few years, but
14 it's been a pleasure, sir, to work
15 with you.

16 And, again, I just wanted to
17 say thank you to this Board. I'm so
18 pleased to have a chance to work in
19 this capacity with this Governor.
20 There is no doubt in my mind that
21 this Governor has an opportunity --
22 if she keeps going like she is, to
23 be one of the greatest Governors this
24 state has ever had. And I'm pleased
25 to work on that team and I'm pleased

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1 to work with you, and I hope that
2 any of you, that includes all of you
3 folks out there, any issue that may
4 come up that you feel like that I
5 can help out on, I would appreciate
6 you giving me a call and give me
7 that opportunity.

8 Thank you very much.

9 MR. THOMPSON: Well, thank
10 you, Gary. Those are very kind
11 words. It is fair to say that I
12 will call Gary and nine times out of
13 ten Gary will say something like,
14 Steve, settle down. So it's an
15 honor to be working with you.

16 Also, in the back of the room,
17 we have Representative Aaron Styles,
18 who represents this area -- or
19 representative from Norman.

20 Representative Styles, would
21 you like to say a few words?

22 rs: Never give a politician
23 the opportunity to take the
24 microphone.

25 I just want to thank you for

Myers Reporting

Sheet 3 Page 9

1 the good work that you guys are
2 doing here today. I'm glad to see
3 what you guys have to say about
4 improving the water quality at Lake
5 Thunderbird, which I live a half mile
6 from, Lake Dirtybird that we call it
7 here in addressing the water quality
8 issues that we have here.

9 So thank you for your serve.
10 I know it's a thankless job and I do
11 understand what you do and appreciate
12 the work that you're doing.

13 Likewise, if there's anything that I
14 can do for each of you, just don't
15 hesitate to call me and I'll help.

16 (Applause)

17 MR. THOMPSON: Thank you.

18 Okay. We're very pleased today
19 to have with us Dr. David Sabatini.
20 Dr. Sabatini is the David Ross Boyd
21 Professor at the University of
22 Oklahoma School of Civil Engineering
23 and Environmental Science. And is
24 the Director of the Water
25 Technologies for Emerging Region

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1 Center. Dr. Sabatini has been
2 selected to receive the water
3 environmental foundation award of
4 merit for pioneering work and
5 developing countries. That was
6 awarded this year. And the Oklahoma
7 Medal of Excellence in teaching at a
8 research university by the Oklahoma
9 Foundation for Excellence, last year.
10 And when asked about his bio, Dr.
11 Sabatini simply said, well, I
12 consider myself a teacher, a mentor,
13 a husband and a father. So please
14 join me in welcoming Dr. David
15 Sabatini.

16 DR. SABATINI: Thank you.
17 I appreciate that, and those are the
18 important names that I carry.
19 Teacher, mentor, husband, father is
20 carried in my pride.

21 It is my pleasure to be here
22 to welcome you to the University of
23 Oklahoma Research Campus National
24 Weather Center. And as mentioned, I
25 am the Director of the Water Center

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1 and I'll mention just a little bit
2 more about that later in my comments,
3 but I want to welcome you to the
4 Research Campus which is a thriving,
5 growing hub of research activity and
6 bringing together the private sector,
7 the government research entities, and
8 the University of Oklahoma. The
9 Research Campus houses more than a
10 dozen private companies and employ
11 more than 350 people right here in
12 this corner of the campus which used
13 to be just an open field. I
14 remember running here at noontime and
15 it was just an open field, and the
16 old swimming pool that's closed back
17 in the back corner and now to see
18 all the activity here. More than a
19 million square feet of research area.
20 You may have noticed a fifth
21 Partner's Place under construction.
22 I mean the fourth Partner's Place is
23 under construction and the fifth
24 Partner's Place has been approved and
25 is on the drawing board and so this

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1 area just continues to grow and
2 expand.
3 Just a week ago yesterday I
4 was down in the atrium to hear the
5 announcement of the National -- the
6 NOAA selected OU for a \$75 million
7 continuation grant to support the
8 Institute for Mesoscale Meteorologic
9 Study, SIMMS, which is led by my
10 colleague Pete Langan (phonetic).
11 And that's 75 million over five years
12 and it's just exciting. More than
13 75 people are employed and have
14 employment as a result of that NOAA
15 contract.
16 We all know about severe
17 weather. One of my running partners
18 is the former Director of the
19 meteorology program right here in the
20 National Weather Center and I'm just
21 impressed by how nationally and
22 internationally renown that group is.
23 And that group along with other
24 groups has helped us gain the
25 Carnegie very high research

Myers Reporting

Sheet 4 Page 13

1 classification. It puts us in the
2 top tier of the research universities
3 in the nation so that's a very proud
4 designation of our research
5 accomplishments.

6 The research expenditures this
7 past year have topped \$90 million.
8 That's a new record for OU and
9 that's a 25 percent increase in
10 research funds over the past three
11 years. But more than just research
12 funding, and employee depot, this
13 research helps us save lives as we
14 know from the tornados and the
15 weather research.

16 We were just selected this past
17 summer to host a major Department of
18 the Interior Climate Science Center,
19 one of four around the country, and
20 so that was a very fierce
21 competition. That will allow us to
22 better manage our federal lands, our
23 resources, our wildlife and brings to
24 six the number of federally funded
25 research centers on the OU Campus.

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1 OU will lead a consortium of regional
2 universities, but OU is the lead
3 university including our sister
4 university to the north; Texas Tech,
5 Louisiana State, the Choctaw Nation,
6 and the Chickasaw Nation, and will be
7 part of that consortium. So bringing
8 together multiple entities, multiple
9 stakeholders, and together try and
10 make a significant impact. And that
11 venture can lead up to 90 to 100 new
12 jobs that may be an outgrowth of
13 that.

14 (Ina) when you talk about all
15 the other exciting research
16 activities going on campus. But
17 suffice it to say that with all the
18 recent announcements we've had, we've
19 had more than \$115 million in
20 external funding coming into the
21 State of Oklahoma to help support
22 what may result in more than 100 new
23 jobs as a result. And so we like to
24 think of ourselves, the research
25 enterprise, as being an engine that

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1 spawns economic growth and we're
2 seeing evidence of that.

3 In addition to the Climate
4 Science Center the Corix Water
5 Utilities now operates utilities on
6 campus. Corix is a private utilities
7 company. And they gave a two
8 million dollar endowment to the
9 University to help establish the
10 Corix Water and Sustainability
11 Institute. This is an exciting new
12 venture. We have the Weather Center;
13 we have the Energy Center and now
14 we're trying to build a third -- a
15 parallel organization, the Water
16 Institute. Corix Water
17 Sustainability Institute. And my
18 center is part of this institute, the
19 Water Technologies for Emerging
20 Regions Center. We're in the process
21 of -- a search for the Director of
22 the Oklahoma Water Survey. We have
23 the Oklahoma Geological Survey, and
24 other Oklahoma surveys. We
25 established the Oklahoma Water Survey

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1 which will be housed here at the
2 University of Oklahoma and that will
3 be a second arm underneath this Corix
4 Water Sustainability Institute; and
5 the third institute will be defined
6 once we begin -- identify the new
7 Director -- the AWWA Director of the
8 Corix Water Sustainability Institute.

9 I'm real excited to see water.
10 It's very meaningful to me. It's
11 been a focus of my research. Water,
12 we know we need for life. Lake
13 Thunderbird, a topic of discussion
14 today and so exciting to see our
15 university providing leadership in
16 this area.

17 My particular center, Water
18 Technologies for Emerging Regions,
19 our focus is on the bottom million,
20 the people living on less than a
21 \$1.00 per day in developing
22 countries. And my work takes me to
23 Ethiopia, and Cambodia, and seeing
24 those places, being in those remote
25 villages, seeing what the environment

Myers Reporting

Sheet 5 Page 17

1 is like, what health care is like in
2 those situations, gives me a much
3 greater appreciation for the
4 importance of the work that you do.
5 We benefit greatly in our society
6 from the Department of Environmental
7 Quality and all the things that we
8 have. And traveling in those
9 countries helps me appreciate the
10 important work that you do.
11 So welcome to the University.
12 I wish you a productive meeting and
13 enjoy your time on campus.
14 (Applause)
15 MR. THOMPSON: One more
16 thing from me. Thank you, Dr.
17 Sabatini, very much for being here.
18 We appreciate you being here, and the
19 good work that you're doing, very
20 much. Thank you.
21 One more thing from me. I
22 know that there is an athletic event
23 of some importance to some of us in
24 a couple of weeks. I know that some
25 of us have chosen to display the

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1 colors of our favorite university.
2 For the Members of the Board and the
3 public, I appreciate the pride that
4 you take in your institution; for the
5 members of the DEQ staff, there will
6 be a staff meeting immediately
7 following the Board meeting and we
8 will discuss appropriate dress for
9 these meetings.
10 So with that, Mr. Chairman, I'm
11 through for now.
12 MR. JOHNSTON: Do you mean
13 your staff can't wear orange?
14 MR. THOMPSON: I didn't say
15 that. I said we're going to have a
16 staff meeting. Employees only staff
17 meeting.
18 MR. JOHNSTON: Okay. We're
19 down to the Approval of the Minutes
20 of the August 23, 2011 regular
21 meeting.
22 MR. DRAKE: Move approval.
23 MR. DARK: Second.
24 MR. JOHNSTON: Roll call.
25 MS. BRUCE: Mr. Cassidy.

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1 MR. CASSIDY: Yes.
2 MS. BRUCE: Mr. Dark.
3 MR. DARK: Yes.
4 MS. BRUCE: Mr. Drake.
5 MR. DRAKE: Yes.
6 MS. BRUCE: Dr. Galvin.
7 DR. GALVIN: Abstain.
8 MS. BRUCE: Mr. Griesel.
9 MR. GRIESEL: Yes.
10 MS. BRUCE: Ms. Kunze.
11 MS. KUNZE: Yes.
12 MS. BRUCE: Ms. Savage.
13 MS. SAVAGE: Yes.
14 MS. BRUCE: Mr. Wendling.
15 MR. WENDLING: Yes.
16 MS. BRUCE: Mr. Johnston.
17 MR. JOHNSTON: Yes.
18 MS. BRUCE: Motion approved.
19 Thank you.
20 MR. JOHNSTON: Thank you.
21 Now down to -- back to work.
22 Number 5, rulemaking OAC
23 252:100 Air Pollution Control
24 presented by Laura Lodes. Thank you,
25 Laura.

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1 MS. LODES: Thank you, Mr.
2 Chair and Members of the Board. I
3 would like to discuss a couple of
4 changes the Air Quality Council has
5 passed recently. We have
6 modifications to Subchapter 2 and
7 Appendix Q. The way our rules are
8 setup we have to revoke Appendix Q
9 and then incorporate an entire new
10 version of it to make these changes.
11 Appendix Q is just an incorporation
12 by reference of the federal
13 regulations and this is not any --
14 these were just the most recent
15 changes that have been passed since
16 -- or promulgated by the EPA since
17 August 1, 2011.
18 This is the first time that we
19 have changed Appendix Q since
20 December 10th of 2009. So it is
21 overdue to incorporate the latest
22 regulations into our regs.
23 Additionally, we had
24 modifications to Subchapter 8 which
25 is for Permits for Part 70 Sources.

Myers Reporting

Sheet 6 Page 21

1 We incorporated by reference some
2 recent changes the EPA has
3 promulgated to the greenhouse gas
4 tailoring rule. EPA deferred the PSD
5 in Part 70 requirements for biogenics
6 CO2 emitted. Biogenics CO2 emitted
7 by certain bioenergy and bioenergy
8 stationary sources until July 21,
9 2014.

10 We also propose revisions to
11 the definitions of -- subject to
12 regulation to echo EPA's deferral of
13 those biogenetic CO2 sources. We've
14 clarified in Subchapter 8, OAC
15 252:100-8-4-A(1), that construction
16 permits for new and modified Part 70
17 Sources shall be obtained in the
18 requirements of Part 5 of Subchapter
19 8 and not Subchapter 7 which applies
20 only to permits for minor facilities.

21 We also revised Subchapter 8 to
22 allow certain existing sources twelve
23 months to submit their
24 administratively complete Part 70 --
25 our Title V operating permit. This

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1 corresponded with the federal
2 regulations for sources that are
3 subject to Title V strictly because
4 of the greenhouse gas emissions.

5 We also corrected several
6 errors that were introduced during
7 the publication process on the June
8 15, 2011 Oklahoma Register. We had
9 corrections to the definition
10 "subject to regulation" and we had
11 several places where -- what should
12 have been a "u" for micrograms is
13 spelled with an "f" and we corrected
14 that in definitions "baseline area
15 and significant". And there are
16 several places that was throughout.

17 And we changed our
18 incorporation by reference date from
19 July 1, 2011 to July 1, 2010 and
20 there were no other substantive
21 changes to the regulations.

22 MR. JOHNSTON: Any questions
23 or discussion of the Board?
24 Questions by the Board? Questions,
25 comments, or discussion by the

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1 public?
2
3 MR. DARK: I move approval.
4 MR. DRAKE: Second.
5 MR. JOHNSTON: Roll call,
6 please.
7
8 MS. BRUCE: Mr. Cassidy.
9 MR. CASSIDY: Yes.
10 MS. BRUCE: Mr. Dark.
11 MR. DARK: Yes.
12 MS. BRUCE: Mr. Drake.
13 MR. DRAKE: Yes.
14 MS. BRUCE: Dr. Galvin.
15 DR. GALVIN: Yes.
16 MS. BRUCE: Mr. Griesel.
17 MR. GRIESEL: Yes.
18 MS. BRUCE: Ms. Kunze.
19 MS. KUNZE: Yes.
20 MS. BRUCE: Ms. Savage.
21 MS. SAVAGE: Yes.
22 MS. BRUCE: Mr. Wendling.
23 MR. WENDLING: Yes.
24 MS. BRUCE: Mr. Johnston.
25 MR. JOHNSTON: Yes.
MS. BRUCE: Motion approved.
Thank you.

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1 MS. LODES: Thank you.
2 MR. JOHNSTON: Rulemaking
3 OAC 252:205, Hazardous Waste
4 Management. Mike Edwards. Thank
5 you, Mike.
6
7 MR. EDWARDS: Lee Grater,
8 Chairman of our Council sends regrets
9 and couldn't be at the meeting today.
10 So I'm going to present on
11 rulemaking.
12 On October 13th Council
13 unanimously approved our amendments
14 updating the dates in the state
15 rules. We're changing 2010 to 2011
16 in Title 252, Chapter 205, Subchapter
17 3, and as you probably noticed it's
18 the incorporation by reference that
19 we do every year. This year in
20 order to maintain our equivalency
21 with the federal program we have to
22 incorporate two new rules.
23 The first one involves the
24 Academic Laboratory Generator
25 Standards. And that one is fixing
typos, correcting omissions, and

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1 providing clarification so we don't
2 expect any significant impact on that
3 rule.

4 The second rule is removing
5 saccharine and its salts from the
6 list of hazardous waste. Again, we
7 don't expect in Oklahoma or with our
8 program for that to have any
9 significant impact. We are required
10 to incorporate those rules just to
11 maintain our equivalency.

12 So those are the only two
13 rules I have. Like I said, the
14 Council voted unanimously to approve
15 those. So I'd be happy to answer
16 any questions.

17 MR. JOHNSTON: Questions
18 from the Board? Any questions from
19 the Board?

20 Questions from the public?
21 Questions from the public? That's
22 you guys. Okay.

23 MS. KUNZE: I move approval.

24 MR. DARK: Second.

25 MR. JOHNSTON: Roll call,

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1 please.

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. Griesel.

11 MR. GRIESEL: Yes.

12 MS. BRUCE: Ms. Kunze.

13 MS. KUNZE: Yes.

14 MS. BRUCE: Ms. Savage.

15 MS. SAVAGE: Yes.

16 MS. BRUCE: Mr. Wendling.

17 MR. WENDLING: Yes.

18 MS. BRUCE: Mr. Johnston.

19 MR. JOHNSTON: Yes.

20 MS. BRUCE: Motion passed.

21 Thank you.

22 MR. JOHNSTON: Number 7,
23 Rulemaking OAC 252:410, Radiation
24 Management, presented by Steve Woods.
25 Thank you, Steve.

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1 MR. WOODS: Thank you.
2 Good morning. The Radiation
3 Management Section staff is proposing
4 three separate rulemakings and the
5 Radiation Management Advisory Council
6 has unanimously recommended that the
7 Board approve all three changes.
8 These are listed as Item 7(A), (B),
9 and (C) on today's Agenda.

10 The changes are:

11 First, amendments to Subchapter
12 1 are proposed to update the rules
13 for radioactive materials regulated
14 under the agreement state program and
15 keep Oklahoma rules compatible with
16 the current Nuclear Regulatory
17 Commission rules.

18 Additional changes to
19 Subchapters 10 and 20 are required by
20 the update and are briefly described
21 in your rulemaking packet. In short,
22 they are fairly technical and minor
23 with no negative impact on licensees
24 or the state.

25 There are also minor changes to

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1 correct clerical errors in the
2 state's language and adopts the NRC
3 rules by reference. Passage of these
4 rules is necessary to maintain
5 compliance with federal requirements
6 for agreement states.

7 Second, changes to Subchapter
8 11 and Subchapter 3, to approve the
9 rules for therapeutic administration
10 for machine produced radiation.
11 These proposed changes update
12 existing state rules to accommodate
13 advances in technology. They also
14 ask definitions and clarify the need
15 for therapy machine users to have a
16 specific procedure for how they will
17 design and verify the treatment plan.

18 Recordkeeping requirements are
19 made consistent with other parts of
20 radiation rules. Note that the
21 Council made two changes to the
22 original language submitted by staff.
23 One change clarified and emphasized
24 the staff's intent that procedures
25 for developing and verifying the

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1 treatment plan do not require
2 generation of a separate document
3 called a "written directive".
4 And the second slightly
5 tightened the staff's original
6 language by requiring that a
7 qualified expert perform certain
8 quality assurance measurements rather
9 than allowing these measurements to
10 be delegated to another facility
11 worker under the supervision of the
12 qualified expert.
13 The staff supports both the
14 Council's changes.
15 After the Council meeting the
16 staff received written comment from a
17 medical physicist at a major medical
18 institution that supported the
19 proposed changes; but recommended two
20 non-substantive wording changes for
21 consistency. Staff has made those
22 two non-substantive changes
23 recommended by the comment.
24 Third, staff proposes to revoke
25 Subchapter 19 which regulates x-ray

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1 fluorescent devices used for the
2 detection of lead-based paint. When
3 this rule was passed these devices
4 were not covered by the Federal
5 Atomic Energy Act and were not
6 otherwise covered by the agreement
7 state program. Since this rule was
8 passed the federal government has
9 modified the Atomic Energy Act to
10 bring these devices under the
11 agreement state program so there was
12 no longer a need for a separate rule
13 covering this.
14 Note that all these changes
15 have been uncontroversial and that
16 the Council and the regulated
17 community have supported all the
18 changes.
19 On behalf of the Radiation
20 Management Advisory Council I request
21 that the Board approve these
22 amendments. If desired by the Board,
23 this could be in one vote covering
24 all three sets of changes or in
25 separate votes.

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1 Any questions?
2 MR. THOMPSON: Just a note
3 for clarification. We're advised by
4 counsel that this probably should
5 require three separate votes on 7A,
6 7B, and 7C.
7 MR. DARK: Move approval of
8 7A.
9 MR. JOHNSTON: We need
10 questions from the audience. Do we
11 have questions from the Board?
12 Questions from the audience?
13 Questions from the audience?
14 MR. GRIESEL: I'll second
15 the motion.
16 MR. JOHNSTON: Okay, we're
17 voting on A.
18 MS. BRUCE: Mr. Cassidy.
19 MR. CASSIDY: Yes.
20 MS. BRUCE: Mr. Dark.
21 MR. DARK: Yes.
22 MS. BRUCE: Mr. Drake.
23 MR. DRAKE: Yes.
24 MS. BRUCE: Dr. Galvin.
25 DR. GALVIN: Yes.

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1 MS. BRUCE: Mr. Griesel.
2 MR. GRIESEL: Yes.
3 MS. BRUCE: Ms. Kunze.
4 MS. KUNZE: Yes.
5 MS. BRUCE: Ms. Savage.
6 MS. SAVAGE: Yes.
7 MS. BRUCE: Mr. Wendling.
8 MR. WENDLING: Yes.
9 MS. BRUCE: Mr. Johnston.
10 MR. JOHNSTON: Yes.
11 MS. BRUCE: Motion passed.
12 MR. JOHNSTON: Okay. Now
13 we're voting on 7B.
14 MR. DARK: I have a
15 question on 7B.
16 MR. JOHNSTON: Okay.
17 MR. DARK: On this -- it's
18 a curious point. It says CT
19 Simulators, that wasn't a problem
20 with that group of folks that do
21 that. You're just including them now
22 in this rulemaking?
23 MR. WOODS: I don't believe
24 they had a problem with that, no.
25 MR. BRODERICK: CT

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1 Simulators are interesting because
2 they touch on the areas where the
3 Health Department has an interest and
4 we do and we have an understanding
5 with the Health Department staff and
6 that's --
7 MR. DARK: So nothing really
8 changes (inaudible).
9 MR. BRODERICK: -- really a
10 touchy area and I don't think there
11 is a problem with it.
12 MR. DARK: So nothing really
13 changes from their perspective
14 actually -- the end users
15 perspective? They're dealing with
16 the Health Department as far as they
17 know anyway. Is that basically it?
18 MR. BRODERICK: These
19 machines would only be the ones
20 associated with the therapy machines
21 --
22 MR. DARK: Right.
23 MR. BRODERICK: -- so the
24 bulk --
25 MR. DARK: There is a lot

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1 of those out there.
2 MR. BRODERICK: -- of CT
3 machines are not affected by it.
4 MR. DARK: I see. Okay.
5 MR. JOHNSTON: More
6 questions from the Board? Questions
7 from the audience? Questions from
8 the audience on 7B?
9 MR. GRIESEL: Move approval.
10 MR. DRAKE: Second.
11 MS. BRUCE: Mr. Cassidy.
12 MR. CASSIDY: Yes.
13 MS. BRUCE: Mr. Dark.
14 MR. DARK: Yes.
15 MS. BRUCE: Mr. Drake.
16 MR. DRAKE: Yes.
17 MS. BRUCE: Dr. Galvin.
18 DR. GALVIN: Yes.
19 MS. BRUCE: Mr. Griesel.
20 MR. GRIESEL: Yes.
21 MS. BRUCE: Ms. Kunze.
22 MS. KUNZE: Yes.
23 MS. BRUCE: Ms. Savage.
24 MS. SAVAGE: Yes.
25 MS. BRUCE: Mr. Wendling.

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1 MR. WENDLING: Yes.
2 MS. BRUCE: Mr. Johnston.
3 MR. JOHNSTON: Yes.
4 MS. BRUCE: Motion passed.
5 Thank you.
6 MR. JOHNSTON: Okay. Now
7 we're at 7C. Any questions from the
8 Board on 7C?
9 7C from the audience? 7C from
10 the audience?
11 We're ready for a motion.
12 MR. GRIESEL: So moved.
13 MS. KUNZE: Second.
14 MR. JOHNSTON: Moved and
15 seconded.
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 MS. BRUCE: Mr. Griesel.
25 MR. GRIESEL: Yes.

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1 MS. BRUCE: Ms. Kunze.
2 MS. KUNZE: Yes.
3 MS. BRUCE: Ms. Savage.
4 MS. SAVAGE: Yes.
5 MS. BRUCE: Mr. Wendling.
6 MR. WENDLING: Yes.
7 MS. BRUCE: Mr. Johnston.
8 MR. JOHNSTON: Yes.
9 MS. BRUCE: Motion passed.
10 Thank you.
11 MR. WOODS: Thank you.
12 MR. JOHNSTON: Thank you,
13 sir.
14 Rulemaking OAC 252:606,
15 Oklahoma Pollutant Discharge
16 Elimination System, OPDES Standards
17 and Duane Winegardner will be the
18 presenter. Welcome Duane.
19 MR. WINEGARDNER: Mike Paque
20 was unable to be here today and he
21 sends his regards.
22 The Oklahoma Department of
23 Environmental Quality propose the
24 following changes to the Water
25 Quality Management Advisory Council

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1 to update its rules concerning
2 Oklahoma Administrative Code 252,
3 Chapter 606 on October 11, 2011.
4 During that meeting, the Water
5 Quality Advisory Council hearing, the
6 Council voted five to zero and
7 recommended that the Board approve
8 the changes to Chapter 606 as
9 proposed by the Department.
10 The proposed changes will
11 update the date of incorporation by
12 reference of federal regulations from
13 July 1, 2010 to July 1, 2011. The
14 Department received no comments
15 concerning the proposed changes.
16 MR. JOHNSTON: Any questions
17 from the Board? Questions from the
18 Board?
19 Questions from the audience?
20 Any questions from the audience?
21 We're ready for a motion.
22 DR. GALVIN: I move to
23 adopt.
24 MR. GRIESEL: I'll second.
25 MR. JOHNSTON: Moved and

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1 seconded. Might mention your name
2 when you move for motion and second.
3 It will make it easier for Myrna.
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. Griesel.
13 MR. GRIESEL: Yes.
14 MS. BRUCE: Ms. Kunze.
15 MS. KUNZE: Yes.
16 MS. BRUCE: Ms. Savage.
17 MS. SAVAGE: Yes.
18 MS. BRUCE: Mr. Wendling.
19 MR. WENDLING: Yes.
20 MS. BRUCE: Mr. Johnston.
21 MR. JOHNSTON: Yes.
22 MS. BRUCE: Motion passed.
23 MR. JOHNSTON: Item Number
24 9. Rulemaking OAC 252:623,
25 Pretreatment for Central Treatment

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1 Trust. Presenter is Michael Paque.
2 MR. WINEGARDNER: Yes. This
3 Duane Winegardner again.
4 MR. JOHNSTON: Okay. Duane
5 again.
6 MR. WINEGARDNER: Yes.
7 The Oklahoma Department of
8 Environmental Quality proposed the
9 following changes to the Water
10 Quality Management Advisory Council
11 to update its rules concerning
12 Oklahoma Administrative Code 252,
13 Chapter 623 on October 11, 2011.
14 During that meeting, the Water
15 Quality Management Advisory Council
16 hearing, the Council voted five to
17 zero to recommend that the Board
18 approve the changes to Chapter 623 as
19 proposed by the Department.
20 The proposed changes will
21 update the date of incorporation by
22 reference of federal regulations from
23 July 1, 2010 to July 1, 2011. The
24 Department received no comments
25 concerning the proposed changes.

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1 MR. JOHNSTON: Okay. Any
2 questions on this one from the Board?
3 Questions from the Board?
4 Questions from the audience?
5 You guys are awful quiet out there.
6 Back to the Board.
7 MR. DRAKE: Move approval.
8 MR. DARK: Second.
9 MS. BRUCE: Mr. Cassidy.
10 MR. CASSIDY: Yes.
11 MS. BRUCE: Mr. Dark.
12 MR. DARK: Yes.
13 MS. BRUCE: Mr. Drake.
14 MR. DRAKE: Yes.
15 MS. BRUCE: Dr. Galvin.
16 DR. GALVIN: Yes.
17 MS. BRUCE: Mr. Griesel.
18 MR. GRIESEL: Yes.
19 MS. BRUCE: Ms. Kunze.
20 MS. KUNZE: Yes.
21 MS. BRUCE: Ms. Savage.
22 MS. SAVAGE: Yes.
23 MS. BRUCE: Mr. Wendling.
24 MR. WENDLING: Yes.
25 MS. BRUCE: Mr. Johnston.

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1 MR. JOHNSTON: Yes.
2 MS. BRUCE: Motion approved.
3 Thank you.
4 MR. JOHNSTON: At this time
5 we have our own Jimmy Givens who is
6 going to give us the Annual
7 Environmental Quality Report.
8 MR. GIVENS: Well, I have
9 to say the meeting so far has been
10 rather non-controversial and tame and
11 I'm going to try and keep it that
12 way, but I won't promise.
13 MR. JOHNSTON: We appreciate
14 that.
15 MR. GIVENS: If you have
16 been on the Board for any length of
17 time at all, you know essentially
18 what the Environmental Quality Report
19 is about. It is a name for a report
20 that maybe is a little bit of a
21 misnomer in the sense that it doesn't
22 capture exactly what the
23 Environmental Quality Report by
24 statute is designed to provide.
25 Specifically, the Environmental

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1 Quality Report is to notify you and
2 the public of those needs that we
3 have in the way of funding Federal
4 mandates that are coming down the
5 pike and then legislative
6 recommendations that we have for the
7 upcoming legislative session. Those
8 are the three items that the statute
9 brings out in the that the
10 Environmental Quality Report is
11 supposed to include.
12 Now the first of these, the
13 annual needs for the appropriation
14 requests, you already approved in
15 August because it has to be done
16 earlier than we can in the November
17 Board meeting in order for us to
18 work on providing it to the Office
19 of State Finance. So that particular
20 piece I will only touch on very
21 briefly.
22 You will recall from the August
23 meeting, if you were able to attend,
24 that we are, as we have for the past
25 couple of years, requesting a -- what

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1 might be called a standstill baseline
2 budget. In other words, we're asking
3 for the same amount of money as a
4 baseline request that we are getting
5 in the state appropriations for the
6 current fiscal year. That amount is
7 just over 7.5 million.
8 There are three additional
9 items all of which relate to water
10 quality and public water supplies, in
11 particular, that are adding on to
12 that baseline request. And we
13 discussed those at some length in
14 August. You can see that they have
15 to do with compliance and enforcement
16 and laboratory equipment and to do
17 with public water supplies along with
18 in effort to reinstate some help to
19 small communities for the required
20 laboratory analysis that they have to
21 have in order to operate small public
22 water supplies.
23 Additionally, permits to supply
24 water essentially a one-year program
25 to allow people to get a permit who

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1 should have had one already but did
2 not. So that is a onetime request
3 for assistance with that program and
4 that's a quarter of a million.
5 And then Operator
6 Certification, a program that has
7 lost federal -- a large amount of
8 federal funding and so we're asking
9 for help with that program in the
10 amount of about a quarter of a
11 million.
12 So our baseline request is
13 about 7.5 million; additional
14 requests that we're presenting to the
15 Legislature and Governor this year
16 total about 2 million or a grand
17 total of just over 9.5 million.
18 Again, you approved this particular
19 budget request in August. It will
20 be included in the Environmental
21 Quality Report along with our
22 submittal to the Office of State
23 Finance.
24 The second piece, the federal
25 mandates piece of the Environmental

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1 Quality Report, I will confess that
2 this gets a little bit more into the
3 (inaudible) more so than I am
4 probably equipped to handle in any
5 detail. Steve alluded earlier to a
6 sports event of interest in the next
7 couple of weeks so I am going to
8 resort to the sports analogy to say
9 that basically what I want to do
10 with federal mandates is I want to
11 sort of be the play by play person
12 and Steve may have some commentary --
13 color commentary to go with that.
14 I should say right upfront that
15 I think -- I was not involved in the
16 drafting of the legislation that
17 created the DEQ and that required the
18 Environmental Quality Report, but I
19 suspect that the reason that we talk
20 about the federal mandates in the
21 Environmental Quality Report in that
22 is part of this Environmental Quality
23 Report that you approve is because
24 out of these particular mandates that
25 are coming down and, obviously, we

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1 will only hit the highlights -- or
2 maybe the low-lights depending on how
3 you look at it. We present these
4 because they represent the sorts of
5 things that we are likely to see in
6 the coming months and years in the
7 way either of rulemaking or statutory
8 changes or effects on our budget.
9 Again, part of the Environmental
10 Quality Report gives some sense of
11 what see coming down the pike in
12 order to make source and policy input
13 decisions that we require of the
14 Board.

15 With that said, let me just
16 touch briefly on several of these.
17 They're divided up by program areas.
18 First of all Air Quality. And by
19 the way, many of these will be
20 carryovers from previous years.
21 You've heard about them before, this
22 is simply an update of what we had
23 going on.

24 With the Ozone National Ambient
25 Air Quality Standard, you're probably

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1 aware the current standard that was
2 finalized in 2008, 75 parts per
3 billion. There was a proposal, I'm
4 sure you're aware, to lower that
5 somewhere in the range of 65 to 70.
6 The President recently withdrew that,
7 and now we are on a tract for the
8 normal five year review to be done
9 in 2013. So we're under the 2008
10 standard now. We are in attainment
11 with that standard in Oklahoma based
12 on a 2008 to 2010 data, which is
13 what we are allowed to use for this
14 particular time frame.

15 In 2013 they will take another
16 look at the standard. We may be at
17 some significant risk at that point
18 especially if it gets lowered at that
19 time.

20 The National Ambient Air
21 Quality Standard for sulfur dioxide
22 finalized last year. Also 75 PPB.
23 The interesting part of this is that
24 based on monitored data, the actual
25 data that we have collected, we have

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1 asked the Governor and she has
2 recommended that we be considered in
3 attainment with a couple of areas
4 unclassified -- in other words not
5 enough data to make a definite
6 decision yet.

7 You would think that would be
8 the best information to rely on in
9 order to make those sorts of
10 designations but EPA has decided that
11 there should be modeling done and the
12 modeling should be based on allowable
13 emissions. The modeling, because
14 it's based on allowable emissions, is
15 going to be very conservative and
16 that could result in violations of
17 this particular standard based on
18 that modeling.

19 That's been challenged by
20 several states and DEQ has filed a
21 Brief in that case essentially saying
22 we think monitoring makes more sense
23 than modeling.

24 DR. GALVIN: Jimmy, may I
25 interrupt. I just have to comment

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1 on that.
2 MR. GIVENS: Sure.
3 DR. GALVIN: I'm just going
4 to repeat what you said but I'm
5 making sure I heard what you said.
6 The EPA does not want to rely on
7 actual data that you've collected
8 using their specified air monitors
9 and methodology for analyzing what
10 you captured in those monitors. They
11 want you to now go to using
12 mathematical models and come up with
13 an answer. That's what you're
14 telling us?
15 MR. GIVENS: That's what I'm
16 telling you. To go a little bit
17 deeper than that I would need to
18 rely on Eddie or one of his staff.
19 I think that's essentially what we're
20 saying.
21 MR. DARK: Doesn't this seem
22 backward?
23 DR. GALVIN: Yes. It is.
24 MR. DARK: I mean you're
25 just --

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1 MR. THOMPSON: Yes. Is it
2 is backwards. Now let me just say
3 that there is -- let me first say
4 that when -- I guess within the
5 borders of Oklahoma they get -- I
6 think they get totally beyond --
7 (Comment)
8 MR. THOMPSON: Well,
9 actually there are a number of states
10 on the east coast that support this
11 position. And the reason they
12 support it is because -- because of
13 this specific kind of modeling --
14 monitoring, it's pretty expensive.
15 Pretty expensive to do. And
16 apparently it's -- I'm going to get
17 started and I'm not going to be able
18 to stop but it's somewhat beyond
19 (inaudible) to talk to the industries
20 in this state and make arrangements
21 whereby the state and the industry
22 could do cooperative monitoring to
23 determine -- to determine the best
24 information on which to make these
25 decisions. So we continue to argue

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1 the point, we'll see where that turns
2 out but it's fair to say that there
3 is a lot of -- I don't know a lot --
4 there is some support for this idea
5 not just within the EPA but within
6 other states.
7 DR. GALVIN: Thank you,
8 Jimmy.
9 MR. GIVENS: Sure. The
10 next item under air quality the
11 across state air pollution rule which
12 is the -- essentially the latest
13 version of the CARE (phonetic) or the
14 transport rule that was finalized in
15 July, designed to reduce the
16 precursors of ozone and particulate
17 matter made more or less from the
18 eastern states and the eastern half
19 of the country. Oklahoma was not
20 included in the final rule but at
21 the same time they came out with the
22 final rule and they came out with
23 the supplemental proposal that does
24 include Oklahoma for ozone impact on
25 a county in Michigan which is, for

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1 me, a little hard to understand but
2 that's what I understand that the
3 model showed.
4 Beyond just whether there is an
5 actual impact on that county in
6 Michigan there is certain concern
7 about whether the utilities in
8 Oklahoma have any capability to meet
9 the requirements in the proposal
10 within the time frame that is laid
11 out. So we have submitted comments
12 saying essentially that. that was in
13 August and we're waiting for the
14 response to comments.
15 Regional haze you have heard
16 about before. You are aware I'm
17 sure that we submitted a State
18 Implementation Plan that was
19 partially rejected (inaudible) two
20 parts by EPA earlier this year. EPA
21 at the same time proposed their own
22 Federal Implementation Plan. The
23 State Implementation Plan, this is a
24 gross over-simplification that is
25 largely based on fuel switching and

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1 the federal plan largely based on
2 scrubbers. Oklahoma AG has filed a
3 lawsuit challenging the Federal
4 Implementation Plan and the Court has
5 extended the deadline to finalize
6 that proposed FIP until December 13th
7 and we will have to see how things
8 play out after December 13th, as to
9 how things stand on the Regional Haze
10 Implementation Plan at the moment.
11 This last item that I have on
12 the slide is not actually a federal
13 mandate but it is something that is
14 connected to some of the federal
15 mandates that are coming down in air
16 quality. Because there are so many
17 of these requirements that do impact
18 utilities in the state, the
19 Corporation Commission became very
20 interested in their effect on the
21 ratepayers of those utilities. And
22 so over the course of the last
23 several months the Corporation
24 Commission has had a series of
25 conferences to discuss what these

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1 mean to the utilities and what they
2 will mean to the ratepayers when they
3 go fully into effect. And we're
4 participating in those conferences
5 providing input and information on
6 request.
7 Anything else on the air
8 quality part of the federal mandates
9 before we move to land protection?
10 MS. SAVAGE: Jimmy, why
11 Michigan? Why a county in Michigan?
12 Does anyone have that answer?
13 MR. THOMPSON: Because
14 that's what the model showed.
15 MS. SAVAGE: Okay.
16 MR. WENDLING: Jimmy, are we
17 just required to report on these
18 mandates or are we also required to
19 estimate the impact to the state?
20 MR. GIVENS: All we have to
21 do as far as the Environmental
22 Quality Report is to identify major
23 federal mandates that are coming down
24 the pike. We don't have to put a
25 number (inaudible) at this point.

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1 That would come at the stage of
2 rulemaking.
3 MR. THOMPSON: Although I --
4 on our -- in our comments on the
5 federal rules we often try to
6 describe the physical impacts to the
7 agency and the resource needs that
8 might approve of the agency. There
9 are a lot of other folks out there
10 willing to talk about the impacts to
11 industry or the regulated community.
12 You try to talk about that, that the
13 history of trying to make the impacts
14 to state environmental programs from
15 federal rulemaking, a part of the
16 rulemaking itself is long and
17 troubled. And I've been right in
18 the middle of it and I have a -- I
19 no longer have the energy for it.
20 But there has been effort to make
21 that a component of the federal
22 rulemaking procedure and we have --
23 EPA has not, in any administration
24 and I've been through several, have
25 been amenable to that idea. So

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1 particularly not this one but any
2 administration.
3 MR. GIVENS: Moving on to a
4 couple of things relating to the Land
5 Protection Division. First of all,
6 again, this is a bit of a carryover
7 of definition of solid waste. You
8 might assume that the definition of
9 solid waste would be a relatively
10 simple matter to address.
11 You might assume that the
12 definition of solid waste would imply
13 that something is solid and that it
14 is a waste. If you assume that, you
15 would be wrong on both counts because
16 it is much more complicated than
17 that.
18 What we are looking at though,
19 in particular, with this revision of
20 definition, relates to what they call
21 non-hazardous secondary materials.
22 Basically by-products. And the
23 reason we are particularly interested
24 in this is because tires are an
25 important fuel for cement kilns in

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1 the state. And whether they are
2 defined as waste, or not, impacts the
3 requirements that have to be met for
4 them to be burned in these cement
5 kilns.

6 When we talked to you last
7 year, I think we talked to you a
8 little bit about the proposal and
9 there were some different options the
10 EPA was considering. Based on
11 comments from us and from other
12 states, EPA did come out with a
13 final rule in February of this year
14 that said, in essence, the tires that
15 are entirely within a state program,
16 to manage them throughout a point
17 that they're no longer being used.
18 In other words, basically tires
19 picked up from dealers are not
20 considered to be waste for purposes
21 of meeting these requirements. But
22 tires that are picked up out of
23 dumps, having departed the system for
24 a while, so to speak, are considered
25 to be waste.

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1 So I guess we had mostly a win
2 on the point that we were trying to
3 make which allows -- I don't know,
4 95 percent or so of the tires that
5 are collected, to be burned under
6 requirements that will allow them to
7 continue to be burned in these cement
8 kilns. The other five percent or so
9 that are picked up out of dumps have
10 to be processed before they can be
11 burned so they may be diverted to
12 some other use besides burning in the
13 cement kilns.

14 Largely, positive; didn't get
15 everything we want but most of what
16 we wanted.

17 Coal combustion residues,
18 again, we talked about this last
19 year. You were aware, I imagine,
20 that this came about largely as a
21 result of the slurry spill in
22 Tennessee a few years ago. EPA is
23 considering how these wastes should
24 be managed. Not only the slurry
25 type but the dry materials. And we

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1 have expressed concern in comments to
2 EPA that going the hazardous waste
3 definition route could impede some
4 beneficial uses that can be made of
5 this material. Basically asked them
6 to consider the broad picture. And
7 while we do not oppose reasonable
8 regulation of the materials, we think
9 going the hazardous waste route would
10 create problems for allowing these
11 materials to be used both safely and
12 effectively in a cost effective
13 manner.

14 Any questions on those two?
15 Water quality. I'm not going
16 to go into detail on these particular
17 rules. You can glance at the slide
18 or look at the report itself to see
19 some of the things that we're talking
20 about. Many other relate to
21 additional protections for public
22 water supplies and there are a few
23 that are coming in the future we've
24 been told additional -- well,
25 regulation of perchlorate and

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1 hexavalent chromium along with
2 modification of the arsenic rule.
3 Those last two would probably be of
4 particular interest locally here;
5 arsenic, in particular, along with
6 some publicity about hexavalent
7 chromium in the last year or so.

8 And then the Clean Water Act
9 requirements, the cooling water
10 intake rule having to do with
11 impingements, expected to be
12 finalized in the near future.
13 They're a couple of others. The
14 electronic reporting rule and the
15 NPDES program update rule that have
16 to do with process. How you go
17 about reporting things and the
18 requirements that you have to meet
19 administratively to have a NPDES
20 approved program.

21 I think the bottom line for
22 all of these in water quality is
23 that there are already three PWS
24 rules that we have not been able to
25 assume primacy for because we simply

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1 don't have the resources to do them.
2 We're on a holding pattern on those,
3 and yet there are many more coming
4 the pike. And again, we'll have to
5 consider on a case by case basis
6 whether we have the capability to
7 take on new rules as they are passed
8 along by EPA or not.

9 Before I leave water quality,
10 let me talk a little bit about the
11 environmental lab. Sometimes we tend
12 to think of these in (inaudible)
13 fashion where we think the water
14 quality rules impact the Water
15 Quality Division which they certainly
16 do, but there is an ancillary affect
17 on other divisions and, in
18 particular, the lab when we are
19 talking about public water supplies.

20 The state's two disinfection
21 by-products rule came out a few years
22 ago. We have -- obviously, our lab
23 does the analyses for public water
24 supplies but that is going to be
25 ratcheted down to apply to smaller

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1 PWS's now. So the workload, not
2 only for Water Quality but the lab,
3 will go up. And you say, well, the
4 lab will get paid for the analyses
5 they do. True, in general. Payment
6 is one; being collected is something
7 else.

8 But beyond that, maybe, more
9 importantly the amount of work that
10 has to be done by the lab to help
11 educate, particularly the smaller
12 systems as you would expect, on what
13 these new requirements mean and how
14 they go about doing the sampling and
15 all that increases dramatically when
16 we have these new PWS rules go on.

17 Likewise on the method update
18 rule. This is essentially how the
19 lab goes about doing what it has to
20 do. And those rules are changed
21 from time to time, so we have to
22 educate our lab staff on how those
23 new methods are to be applied.
24 Again, it's something that simply
25 requires more resources, more time,

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1 and more education.

2 I'm going to sum up and then
3 I'll pause again for questions before
4 we move to the final element of the
5 Environmental Quality Report.

6 I had this slide up last year
7 and I think -- I want to put it back
8 up again because I think it is a
9 summary of what I've been saying.
10 And that is that these federal
11 mandates, they often require us to
12 engage in rulemaking which involves
13 most of you. Not only staff, but
14 Councils and eventually the Board.
15 They directly increase the workload
16 in many cases. They, incidentally,
17 increase the workload in many cases
18 as we just talked about. Sometimes
19 they create a whole new set of
20 challenges and they rarely come with
21 any additional money.

22 So all of this kind of ties
23 together in what we were talking
24 about earlier, the Environmental
25 Quality Report designed to present to

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1 you some of the budgetary
2 requirements; some of the rulemaking
3 requirements; some of the statutory
4 requirements that we see facing you
5 in the coming months and years.

6 I'll pause one more time before
7 I get into legislation. Any
8 questions or comments on any of that
9 so far?

10 MR. GROUND: I've got one.

11 MR. GIVENS: Okay.

12 MR. GROUND: What about the
13 covert mandates that are not really
14 regulations but EPA puts them out
15 there as guidance that you're
16 required to follow. Seems like
17 that's been in the news lately where
18 Congress is trying to push back on
19 EPA. Has DEQ been involved with
20 that fight?

21 MR. GIVENS: Well, they're
22 covert so we can't talk about them.

23 MR. THOMPSON: Okay. Well,
24 that's that.

25 Actually, we've been involved

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1 at a permitting level here in the
2 state relative to cooling water
3 intake rule. We believe that EPA
4 was going forward with permit
5 requirements that were based in
6 guidance and not in the rule,
7 particularly a rule that had been
8 remanded by the Court. And so we --
9 it's my understanding -- but
10 partially remanded. EPA wanted us to
11 write a permit for a utility -- not
12 your utility, another utility, based
13 on that guidance. And we steadfastly
14 refused to do so. They came to us
15 with -- I don't know, Cameron, do
16 you know this? Shellie mentioned to
17 me like 15 pages of comments on the
18 permit and we arm wrestled them down
19 to two that we thought were, in
20 fact, not remanded by a Court. So
21 we have been sort of personally
22 involved with that issue at the
23 department level already.
24 Now at the national level
25 through the Environmental Council of

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1 the States we have tried -- some of
2 us have tried to address that issue
3 through resolutions and through
4 discussions with the EPA which, quite
5 frankly, Nancy Stoner, the Water
6 Quality Interim Director, simply
7 denies that it exists. But there
8 are, again, a number of states in
9 our union that think guidance is a
10 perfectly fine way to go about your
11 business. So I think what we're
12 reduced to, Bud, is that it's -- as
13 the Agency identifies those issues in
14 permitting issues before the
15 Department we will -- we will just
16 have to have those individual
17 discussions with the EPA regional
18 office, ultimately the headquarters,
19 about it.
20 Does that answer your question?
21 MR. GROUND: Yeah. I guess
22 recently it's been the waters of the
23 state versus waters of the U.S.
24 MR. THOMPSON: I know there
25 is a lot of discussion about that.

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1 I've not been intimately involved in
2 that. I will tell you that it's
3 quite possible that the Department
4 believes that everybody is wrong on
5 that issue. That there is a -- that
6 there is a (inaudible) that we should
7 take and I'm sure we'll have
8 discussions with you all and others
9 about that. But, yes, we're worried
10 about (inaudible).
11 MR. STILES: Thank you, Mr.
12 Chairman. I had -- we had an issue
13 here in Norman regarding water
14 quality that we discussed, I think in
15 -- I was under the impression there
16 was a water quality -- a statewide
17 water quality study which included
18 Lake Thunderbird and that was
19 supposed to be released by the end
20 of this year. Are you familiar with
21 that and do you know when that study
22 might be released?
23 MR. THOMPSON: Yes. It's
24 what we're -- what we've been tasked
25 to do is a TMDL, a Total Maximum

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1 Daily Log for the Thunderbird
2 watershed. We had an agreement as
3 to a date to have that completed and
4 get it to me. We didn't get it done
5 in time so we have another agreement
6 to have it done by -- I guess the
7 end of the year. Some date certain.
8 Some date certain, and we will have
9 it done by that date.
10 MR. STILES: Okay. I'm
11 sorry, I have a meeting at 11:00 so
12 I have to run and this just seemed
13 like the quickest and easiest way to
14 get that addressed. So by the end
15 of this year hopefully we will have
16 something that I can report to my
17 constituents about because it is an
18 important issue here and I just want
19 to be responsive to the needs of the
20 people of Norman and to -- if there
21 is a needless scare, I would love to
22 be able to help people sleep better
23 at night about the watershed here.
24 MR. THOMPSON: Yeah. We
25 are steadfastly working on that issue

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1 and I don't know what the due date
2 is. I don't know what the agreed
3 due date is but if it the end of --
4 if it is, in fact, the end of the
5 year we'll have it done. There has
6 been a desire by some to have a
7 meeting on water reads and it's my
8 understanding that neither the City
9 of Norman nor other dischargers into
10 the lake are ready to discuss water
11 reuse. So we have sort of said we
12 will have a meeting when all the
13 parties including the City of Norman
14 and the other dischargers are willing
15 to have a meeting. So we have sort
16 of -- well, we haven't sort of, we
17 have decided to wait until there is
18 -- everybody is at the table for
19 that meeting. But as far the TMDL
20 issue, which is the one you're
21 addressing, we are under an agreement
22 to get it done and we'll do that.
23 MR. STILES: You had
24 mentioned the water reuse. I think
25 that's something that we had talked

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1 about in the past. Did the City of
2 Norman state a reason why they are
3 not willing to submit to that?
4 MR. THOMPSON: That's my
5 understanding.
6 MR. STILES: Okay. Do you
7 think you and I could have a
8 conversation outside this meeting
9 some day to talk about the
10 encouragement to the City of Norman
11 to be a part of that meeting?
12 MR. THOMPSON:
13 Representative Stiles, you and I can
14 have a meeting anytime of day that
15 you think it's good to have a
16 meeting.
17 MR. STILES: I think perhaps
18 that the time has come to stress to
19 the City of Norman that there are
20 other options out there and perhaps
21 we can encourage them to participate
22 in these negotiations.
23 MR. THOMPSON: We can
24 certainly talk about it.
25 MR. STILES: Okay. Thank

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1 you, very much. Thank you for your
2 time. I'm sorry I have to run.
3 MR. THOMPSON: Thank you,
4 sir.
5 MR. JOHNSTON: We appreciate
6 you being here and being involved.
7 Thank you.
8 MR. GIVENS: Picking back up
9 with the Environmental Quality Report
10 let me finish by talking just a
11 little bit about the three proposals
12 that DEQ desires to take to the
13 legislature this year that we know of
14 at this point. Obviously, things
15 didn't come up during the session but
16 as far as we know at this point we
17 have three items (inaudible) propose
18 to take and introduce as bills.
19 First is simply what might be
20 called, loosely, a trailer bill to
21 something that happened this past
22 legislative session. There was a
23 bill that clarified that law
24 enforcement bomb squads which use
25 equipment that does have radiation

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1 associated with it, obviously. This
2 detection equipment does not fall
3 under DEQ regulatory jurisdiction and
4 the bill clarified that. But,
5 unfortunately, the language of the
6 bill was broad enough that we're
7 fearful that the Nuclear Regulatory
8 Commission may question whether it's
9 too broad. It simply talked about
10 sources of radiation. Well, these
11 bomb squads are not going to be
12 handling all sorts of sources of
13 radiation. They're going to be
14 handling this bomb detection
15 equipment. And so all that this
16 bill will do is to narrow the focus
17 to the kinds of equipment that they
18 use in bomb detection and provide a
19 regulatory exemption for that or
20 continue the regulatory exemption for
21 that to clarify that we're not
22 talking about other sources of
23 radiation the NRC might be concerned
24 about. We don't believe that there
25 will be any concern with adopting

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1 that clarification on the part of the
2 Department of Public Safety.
3 MR. THOMPSON: Actually I've
4 got a call in Rusty Rhodes, who is
5 the legislative liaison for the
6 Department of Public Safety and I
7 haven't had a chance to talk to him
8 yet but I don't see any problem with
9 this issue. And I suspect on that
10 one that Representative Billy -- Lisa
11 Billy ran that for DPS last year and
12 I've asked her to run this one again
13 and I think she will.
14 MR. GIVENS: The second item
15 also relating to radiation and the
16 Nuclear Regulatory Commission, the
17 NRC does provide guidance to
18 agreement states. Which agreement
19 states is the NRC equivalent to EPA
20 primacy or delegation. The NRC
21 provides guidance on what source of
22 information need to be protected for
23 purposes of Homeland Security
24 considerations. And we're proposing
25 a bill that would simply allow the

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1 DEQ to maintain as confidentials
2 exempt from the Open Records Act;
3 the source of information that the
4 NRC says are especially sensitive for
5 those purposes. So the bill that
6 we're proposing would simply be an
7 amendment to the Open Records Act
8 that says, in essence, that the NRC
9 says that this sort of information
10 could be used for nefarious purposes,
11 the Open Records Act will contain an
12 exemption for that sort of
13 information.
14 And, finally, something that
15 came to our attention fairly
16 recently, some of you may have
17 noticed that we occasionally have
18 storms in Oklahoma. And storms tend
19 to cause replacement of roofs in
20 Oklahoma. What we have discovered is
21 that there is a burgeoning industry
22 that collects roofing shingles and --
23 and I probably should have -- I put
24 shingles on the slide but it's
25 actually much more than that. Two

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1 by fours, decking, nails, anything
2 you can think of that might be
3 associated with roofing a house are
4 being collected by entities and are
5 being stockpiled. And the stated
6 purpose is so that they could
7 eventually be recycled. Asphalt
8 shingles, for example, might be
9 recycled for something to do with
10 construction -- road construction,
11 whatever.
12 Now in concept that sounds like
13 a good deal, but in practice what we
14 have found and what we are finding
15 is that these stockpiles are growing
16 huge with no current recycling and no
17 evidence that that will happen in the
18 immediate future. In essence what we
19 have is what we refer to in waste
20 regulations as speculative
21 accumulation. So what we are
22 proposing is a statute that would
23 clarify our ability to regulate these
24 stockpiled shingles and other roofing
25 materials to ensure that they are

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1 properly managed and that they are,
2 in fact, properly recycled or used
3 and don't become, in essence, a land
4 disposal facility for construction
5 debris.
6 And I thought it would be
7 useful to you to see, so I put a
8 couple of slides on here of what
9 we're talking about. We're not
10 talking about little, you know,
11 something out in the back yard.
12 And this is a little harder
13 to see but the first one does look
14 like a lot of shingle material. You
15 can see a bit more with this one how
16 much other source of material may be
17 mixed in with that. So it does
18 cause us concern. We believe that
19 somebody needs to have regulatory
20 jurisdiction over these source of
21 stock piles and it ought to be the
22 DEQ. So that's the third of our
23 proposals for legislation for this
24 coming session.
25 And that concludes my

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1 remarks, my presentation. But if you
2 have any questions for me or Steve
3 or whoever, we'll be happy to try to
4 answer them.
5 MR. JOHNSTON: Any questions
6 from the Board on these?
7 MS. SAVAGE: Jimmy, how many
8 of this roofing material is being --
9 MR. GIVENS: Kept?
10 MS. SAVAGE: -- yeah. How
11 many piles do we have in the state
12 and are they -- do they belong to
13 roofing companies or is a landfill
14 doing it or is it just spontaneously
15 rising from the ground or what is
16 the --
17 MR. GIVENS: My
18 understanding is it's a fairly new
19 industry. It's not associated with
20 landfills or anything like that and
21 it's not the roofing contractors
22 themselves. It's an independent
23 business that is starting to engage
24 in this kind of activity. And maybe
25 somebody from Land Protection here

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1 can help me. My recollection is
2 that we're talking about five or six
3 entities that we know of at this
4 point.
5 Gary, does that sound about
6 right?
7 MR. COLLINS: Sounds about
8 right to me.
9 MS. SAVAGE: Are they --
10 are these people that are currently
11 operating established businesses in
12 the state or some of the people that
13 came in from out of state that just
14 sort of carpet-bagged their way in
15 after the big storms? Do we know?
16 MR. GIVENS: Gary, I don't
17 know where they are from, do you
18 know?
19 MR. COLLINS: I think at
20 least one of them is from Texas.
21 MR. GIVENS: That's the
22 worst of all.
23 MR. THOMPSON: Well, I think
24 some of them -- my understanding is
25 the state of the use of asphalt

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1 shingles or road -- I don't think
2 DOT is quite there. They're working
3 on the idea of using them but I
4 don't think they're quite there yet.
5 So I think that at least one of
6 these facilities is being done by
7 someone who might well end up
8 recycling those asphalt shingles into
9 road-building material because it's a
10 paving company. One is all that I
11 know of, but there may be others.
12 So that one seems -- I don't want to
13 say it -- well I have to say it.
14 That one seems fairly legitimate.
15 Now let's say it is legitimate.
16 Let's just say for the purposes of
17 argument that it is legitimate, there
18 may well be 750,000 tons of stuff
19 out there. And legitimate or not,
20 the Department feels that they should
21 be permitted; that they should have a
22 closure plan; that they should have a
23 stormwater plan; and they should have
24 financial assurance to ensure that if
25 somebody runs off and leaves it that

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1 there is a bond or insurance or
2 something that would cause that thing
3 to be cleaned up without the
4 taxpayers in the state having to do
5 that.
6 It is also fair to say that if
7 the DEQ is going to -- if the
8 citizens agree that this is a problem
9 and should be regulated, we're going
10 to have to have money to regulate it
11 and we won't get it from the
12 Legislature. So our proposal will
13 include those things that I
14 mentioned, permit, stormwater
15 protections, closure plan, financial
16 assurance, and fees.
17 Now if it's not a legitimate
18 facility then we got -- this thing
19 has sprung up so quickly that we
20 have problems on our hands. But
21 there is nothing wrong with the
22 notion of recycling those asbestos --
23 not asbestos -- although there is
24 some asbestos in the asphalt shingles
25 and that does raise some NESHAPS

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1 issues. Nevertheless, we think that
2 it's important to have some
3 regulatory structure around these
4 things even if they are legitimate
5 recycling facilities.

6 MS. SAVAGE: Is there one
7 particular county that -- are they
8 all over? Are these populated areas?

9 MR. THOMPSON: Oh. Well,
10 you know, I know some folks had some
11 real roof damage from some hail
12 storms in north Oklahoma City, so you
13 might imagine that that's where some
14 of this -- the answer to your
15 question is Oklahoma County.

16 MR. DARK: So you're talking
17 about basically a landfill closure
18 plan?

19 MR. THOMPSON: Yeah. A
20 closure plan. Now, I don't think we
21 have the concerns for groundwater
22 that we would have with a landfill,
23 you know with a cell. We don't have
24 concerns about groundwater although
25 some of concern is for surface water,

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1 so I wouldn't suspect that a closure
2 plan would be as sophisticated as a
3 landfill permit -- solid waste
4 permit. But we've got to have some
5 control over it.

6 MR. DARK: It will be
7 interesting to -- I think we should
8 discuss that at length before we jump
9 in there. Bob has mentioned one
10 thing that there could be private
11 land, obviously, and then there can
12 be tribal land that we have to deal
13 with. But I think that this Board
14 may be dealing with (inaudible) as
15 well, that being the material put
16 into asphalt and there is a lot of
17 that piled up too. So we may be
18 opening up a big regulatory can of
19 worms. Not that we shouldn't. I
20 agree that we should but we need to
21 be prepared for something bigger than
22 a few asphalt piles of asphalt
23 shingles. Because there will be
24 other alternative materials out there
25 being used for asphalt. I'm certain

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1 of that.

2 MR. THOMPSON: I'm certain
3 of that I think we'll -- we will ask
4 the Board and then -- we're asking
5 for a statute that gives us
6 over-arching authority to regulate
7 these things. The rules by which
8 those things occur will clearly come
9 through the Councils and the Board
10 and so there will be ample
11 opportunity for Councils and Board to
12 weigh-in on this issue.

13 Our idea today is as a concept
14 to have 750,000 tons of anything out
15 there unregulated is probably a
16 problem.

17 MR. DARK: And asphalt as
18 -- it will be the genesis of may be
19 an overall plan that we'll have to
20 use for a lot of materials.

21 MR. THOMPSON: No question.

22 MR. JOHNSTON: Any more
23 questions? All right. The Agenda
24 says discussion and possible action
25 by the Board which may include a

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1 roll call vote on approval.

2 MR. THOMPSON: Well, Mr.
3 Chairman, I would suggest "may" is
4 not the appropriate term.

5 MR. JOHNSTON: Everybody was
6 just getting ready to discuss it.
7 Is there a motion for approval?

8 MR. DARK: So moved.

9 MR. WENDLING: Second.

10 MR. JOHNSTON: Roll call
11 vote.

12 MS. BRUCE: Mr. Cassidy.

13 MR. CASSIDY: Yes.

14 MS. BRUCE: Mr. Dark.

15 MR. DARK: Yes.

16 MS. BRUCE: Mr. Drake.

17 MR. DRAKE: Yes.

18 MS. BRUCE: Dr. Galvin.

19 DR. GALVIN: Yes.

20 MS. BRUCE: Mr. Griesel.

21 MR. GRIESEL: Yes.

22 MS. BRUCE: Ms. Kunze.

23 MS. KUNZE: Yes.

24 MS. BRUCE: Ms. Savage.

25 MS. SAVAGE: Yes.

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1 MS. BRUCE: Mr. Wendling.
2 MR. WENDLING: Yes.
3 MS. BRUCE: Mr. Johnston.
4 MR. JOHNSTON: Yes.
5 MS. BRUCE: Motion approved.
6 Thank you.
7 MR. JOHNSTON: And now
8 here's Steve.
9 MR. THOMPSON: Thank you,
10 Mr. Chairman. I guess I'll add a
11 little color commentary to Jimmy's
12 discussion about federal mandates.
13 First of all let me draw your
14 attention to this document that was
15 at your seat. This is our Annual
16 Environmental Quality Report. I'm
17 always amazed at the breadth of
18 activity of the Department when I
19 read through this document, so I
20 commend it to you. If you have any
21 questions of that -- anything in this
22 document, please see ~~Section~~ **SKYLAR**
23 McElhaney.
24 First of all just let me add a
25 little color to the federal mandates

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1 in some areas and let me start with
2 regional haze. The decision for EPA
3 to do a Federal Implementation Plan
4 has twice been delayed. This last
5 time until December the 13th. You
6 will recall that this is a visibility
7 standard. DEQ came forward with a
8 plan that simply said that for best
9 retrofit technology low NOx burners
10 was appropriate for NOx, and EPA
11 approved that; that electrostatic
12 precipitators or bag houses were
13 appropriate for PM, and EPA approved
14 that; that low-sulfur coal was
15 appropriate for sulfur, and that's
16 the piece that EPA did not approve.
17 There was also in our submittal
18 an alternative. Something called a
19 greater reasonable progress
20 alternative determination. And what
21 that simply said was by 2018
22 (inaudible) could change and a
23 decision is made on other units and
24 that would occur in 2026. At the
25 end of that time period the DEQ

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1 believed that the reduction in sulfur
2 based on that alternative plan would
3 be greater than under the FIP,
4 although it took longer to do.
5 Now I don't know where this
6 thing is going to end up; I don't
7 have any idea but I will tell you
8 that I think that the answer to this
9 -- what that alternative did, while
10 it still required the affected public
11 utilities to spend money, it did
12 remove the sticker shock of putting
13 on very expensive control equipment
14 very quickly. So I continue to
15 believe that the seeds of agreement
16 on this issue lie within that
17 alternative and we continue to work
18 toward that end.
19 Let me also say that I
20 understand that the United States
21 Environmental Protection Agency does
22 have a responsibility to enforce the
23 provisions of the federal law.
24 That's their job; that's what they
25 were created to do. And so we do

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1 not argue with that. We just think
2 that they are somewhat knot-headed in
3 the way they go about it and
4 sometimes more than knot-headed. So
5 it's the means and methods that they
6 do that we take issue with.
7 MR. JOHNSTON: I've heard
8 some other verbiage on that.
9 MR. THOMPSON: Let me talk
10 briefly about ozone. The Governor
11 has signed a letter recommending that
12 all counties in Oklahoma be
13 designated in attainment for the
14 period '08 through '10. Let me also
15 tell you that we had a terrible
16 ozone season in '08 mainly because of
17 the heat. And it is going to take
18 an amazingly cool and amazingly wet
19 summer going ahead for us not to be
20 in violation of the ozone standard.
21 So it's something that the Board and
22 Councils can look forward to because
23 the State Implementation Plan to come
24 into compliance with that ozone
25 standard will clearly be something

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1 that the Boards and Councils in the
2 next several years, unless we have a
3 miracle in the weather, will be
4 addressing.

5 Let me briefly mention the
6 Tribal New Source Review rule. The
7 DEQ has filed an appeal of that rule
8 in the D.C. Circuit Court because the
9 rule, in fact, included individual
10 allotments. And the Department
11 believes that that determination --
12 we believe that tribal trust land is
13 well settled and if a company chooses
14 to do business on tribal trust land
15 that is their business, but
16 allotments have never been included
17 and particularly for some industries
18 in the state it will throw the
19 permitting process into chaos. And
20 so we are asking for a review of
21 that rule.

22 Jimmy did a good job on
23 Casper, so let me break away from
24 discussion of federal mandates
25 briefly and talk about one of my

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1 favorite subjects that occurred over
2 the summer and that was the
3 blue-green algae events that occurred
4 in the state. I think that the last
5 time we met I reported to you that
6 we had the great good fortune of
7 recommending lake closure of Grand
8 Lake over the 4th of July weekend
9 which was met with some -- well,
10 there was some very unhappy people
11 about that, because of that. What I
12 didn't report to you that as our
13 luck held, and over the Labor Day
14 weekend we had to do the very same
15 thing at Texhoma. So we had a
16 terrible summer for blue-green algae.
17 Now let me read this to you because
18 if I don't read it Skylar will
19 chastise me openly because I
20 sometimes take liberty with what this
21 says. So let me read this to you.

22 The DEQ has been advised by
23 the Oklahoma State Department of
24 Health that in response to an OSDH
25 reporting request physicians have

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1 voluntarily reported 74 cases of
2 illness that the physicians
3 considered potentially related to
4 toxic effects from recent blue-green
5 algae contact. OSDH has followed up
6 by conducting interviews with 56 of
7 those 74 cases. OSDH interviews
8 indicate that in most cases there was
9 recent swimming or other body contact
10 activities in one of the confirmed
11 blue-green algae impacted lakes. A
12 few cases involved recent body
13 contact in other lakes. Symptoms
14 included upper respiratory distress,
15 gastrointestinal disorders,
16 neurological disorders, and/or skin
17 rashes. These symptoms are
18 consistent with blue-green algae
19 exposure but there is no clinical
20 test or other method to definitively
21 estimate the cause and effect
22 relationship.

23 Okay, Skylar? Okay. So the
24 question then becomes, well, now that
25 it's gotten cooler, and it has --

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1 you know, most of these affects have
2 gone away. The question is what
3 does the DEQ do under its
4 jurisdiction about this? And Gary
5 Collins and his group have opened
6 discussions with interest around
7 Grand Lake about what we might do
8 under rulemaking to select treatment
9 technologies depending upon your
10 proximity to the lake. In other
11 words, if you're a quarter of a mile
12 from the lake or whatever that turns
13 out to be, you have to use a
14 nutrient reduction technology. If
15 you're beyond that, say from a
16 quarter to a mile, you use an
17 aerobic system; and beyond that you
18 can use a subsurface system. So
19 we're beginning to talk to people
20 around the lake about things that we
21 can do for those things under our
22 jurisdiction that might mitigate the
23 blue-green algae effects.

24 We have had over the summer a
25 series of significant fish kills in

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1 the Red River. Rolling fish kills
2 that started, oh, I don't know.
3 What was it? A hundred miles
4 upstream? And it continued to the
5 mouth of Lake Texhoma. We have
6 engaged the Department of Wildlife,
7 the Corporation Commission, the
8 United States Environmental
9 Protection Agency, and everybody that
10 we can think of to try to determine
11 the cause. Our laboratory analyses
12 have produced an unexpected and
13 unidentified gel during the process.
14 And as far as I know, unless
15 something has changed, Chris, neither
16 we nor the federal labs have been
17 able to break that thing down to
18 determine what that is. But we're
19 going to try to find out. We're
20 working to try to find out what that
21 is.
22 Finally, some private water
23 wells have been impacted by
24 perchlorate at an old Haliburton
25 facility near Duncan. Haliburton

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1 discovered the compound in private
2 water wells and so as a result of
3 that Haliburton is doing a couple of
4 things. The first is that it is
5 replacing those wells that have been
6 affected with public water supply,
7 that will come, I think, from both a
8 rural water system and the City of
9 Duncan and they have begun to work
10 with the DEQ on a remedial plan to
11 clean up the perchlorate.
12 With that happy news, Mr.
13 Chairman, I will ask if there are
14 any questions.
15 MR. JOHNSTON: Seeing none
16 --
17 MR. THOMPSON: Thank you,
18 Mr. Chairman.
19 MR. JOHNSTON: We are down
20 to new business. Any matter not
21 known about and which could not have
22 been reasonably foreseen prior to the
23 time of posting the Agenda.
24 Does anyone have any of that
25 kind of business?

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1 Seeing none, our next meeting
2 is going to be February 24, 2012 in
3 the DEQ multipurpose room.
4 MR. THOMPSON: We have no
5 signatures for the forum. Does
6 anybody wish to speak?
7 (No Comments)
8 MR. JOHNSTON: I would
9 entertain --
10 MR. DARK: So moved.
11 MR. DRAKE: Second.
12 MS. BRUCE: Mr. Cassidy.
13 MR. CASSIDY: Yes.
14 MS. BRUCE: Mr. Dark.
15 MR. DARK: Yes.
16 MS. BRUCE: Mr. Drake.
17 MR. DRAKE: Yes.
18 MS. BRUCE: Dr. Galvin.
19 DR. GALVIN: Yes.
20 MS. BRUCE: Mr. Griesel.
21 MR. GRIESEL: Yes.
22 MS. BRUCE: Ms. Kunze.
23 MS. KUNZE: Yes.
24 MS. BRUCE: Ms. Savage.
25 MS. SAVAGE: Yes.

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1 MS. BRUCE: Mr. Wendling.
2 MR. WENDLING: Yes.
3 MS. BRUCE: Mr. Johnston.
4 MR. JOHNSTON: Yes.
5 (Proceedings Concluded)

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

2 STATE OF OKLAHOMA)

3) ss:

4 COUNTY OF OKLAHOMA)

5 I, CHRISTY A. MYERS, Certified
6 Shorthand Reporter in and for the
7 State of Oklahoma, do hereby certify
8 that the above meeting is the truth,
9 the whole truth, and nothing but the
10 truth; that the foregoing meeting was
11 taken down in shorthand and
12 thereafter transcribed by me; that
13 said meeting was taken on the 15th
14 day of November, 2011, at Norman,
15 Oklahoma; and that I am neither
16 attorney for, nor relative of any of
17 said parties, nor otherwise
18 interested in said action.

19 IN WITNESS WHEREOF, I have
20 hereunto set my hand and official
21 seal on this, the 8th day of
22 January, 2012.

23

24 CHRISTY A. MYERS, C.S.R.

25 Certificate No. 00310

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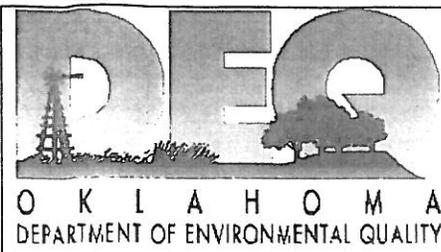
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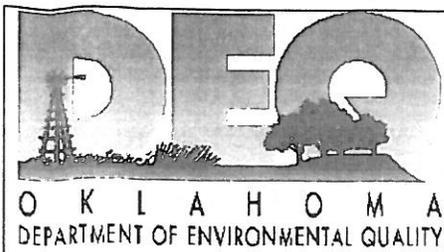
ENVIRONMENTAL QUALITY
BOARD

Attendance Record
November 15, 2011
Norman, Oklahoma

NAME and/or AFFILIATION

Address and/or Phone and/or E-Mail

✓ Myrna Bruce	✓ #1048
✓ Jeanette Nance	X 1049
✓ Roy Walker	
✓ Jennifer Wright	X 1077
✓ Steve Thompson	X 7161
✓ Jerry Johnson	
✓ Jon Roberts	X 5153
✓ [unclear]	4154
✓ Jimmy Anjin	7157
✓ Jennifer Palmer	918 914 0900
✓ Chris Armstrong	DEQ
✓ Catherine Sharp	DEQ
✓ [unclear]	
✓ Paul Brantley	A&AC
✓ Clayton Eubanks	OAG
✓ Steve Woods	RMAC
✓ David Miesel	
✓ Brad Woods	
✓ Tony Gelf	DEQ
✓ Bruce Vanderveer	DEQ
✓ David Greede	DEQ
✓ [unclear]	AAC
✓ Pam Dykes	DEQ
✓ Mike Broderick	DEQ
✓ [unclear]	EQ Board.



ENVIRONMENTAL QUALITY
BOARD

Attendance Record

November 15, 2011

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✓ TIM WARD

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DEQ

✓ Mike Edwards

DEQ

✓ Mike Cassing

DEQ

✓ B. DRAKE

BID DEQ

✓ Amanda Krusten

DEQ

✓ Paul Savage

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