

**DRAFT MINUTES
ENVIRONMENTAL QUALITY BOARD
March 4, 2005
DEQ Multipurpose Room
Oklahoma City, Oklahoma**

EQB Approved
June 21, 2005

Notice of Public Meeting The Environmental Quality Board convened for a regular meeting at 9:30 a.m. March 4, 2005 at the DEQ Multipurpose Room, Oklahoma City, Oklahoma. This meeting was held in accordance with 25 O.S. Sections 301-314, with notice of the meeting given to the Secretary of State on November 24, 2004. The agenda was mailed to interested parties on February 18, 2005 and was posted on March 2, 2005 at Department of Environmental Quality. Mr. Richard Wuerflein called the meeting to order. Roll call was taken and a quorum was confirmed.

MEMBERS PRESENT

Brita Cantrell
Tony Dark
Bob Drake
Jennifer Galvin
Jerry Johnston
Steve Mason
Sandra Rose
Terri Savage
Richard Wuerflein

MEMBERS ABSENT

Mike Cassidy
Jack Coffman
Vacancy
Vacancy

DEQ STAFF PRESENT

Steve Thompson, Executive Director
Jimmy Givens, General Counsel
Eddie Terrill, Air Quality Division
Scott Thompson, Land Protection Division
Catherine Sharp, Land Protection Division
Jon Craig, Water Quality Division
Judy Duncan, Customer Services Division
Gary Collins, ECLS
Wendy Caperton, Office of Executive Director
Ellen Bussert, Administrative Services Division
Jamie Fannin, Administrative Services Division
Myrna Bruce, Secretary, Board & Councils

OTHERS PRESENT

Susan Krug, Assistant Attorney General
Sharon Myers, Chair, AQC
Jody Reinhart, Chair, HWMAC
Steve Woods, Vice-Chair, RMAC
Lowell Hobbs, Chair, WQMAC
Carl Gray, Chair, WWWAC

The Transcript and Attendance Sheet is attached as an official part of these Minutes.

Approval of Minutes Mr. Wuerflein called for motion to approve the Minutes of the November 16, 2004 Regular Meeting. Ms. Galvin made the motion and Mr. Drake made the second.

Roll call.

Brita Cantrell	Yes	Jerry Johnston	Yes
Tony Dark	Yes	Steve Mason	Yes
Bob Drake	Yes	Sandra Rose	Yes
Jennifer Galvin	Yes	Terri Savage	Yes
		Richard Wuerflein	Yes

Motion carried.

lection of Officers - Mr. Wuerflein called for nominations for Chair for calendar year 2005. Mr. Drake nominated Steve Mason for Chair. Mr. Johnston made the second. Mr. Drake moved that nominations cease and that Mr. Mason be elected by acclamation from the Board and Mr. Johnston made that second. Following roll call vote, Mr. Johnston presented Mr. Wuerflein with an appreciation plaque for his term served as Chair.

Roll call.		Jerry Johnston	Yes
Brita Cantrell	Yes	Steve Mason	Abstain
Tony Dark	Yes	Sandra Rose	Yes
Bob Drake	Yes	Terri Savage	Yes
Jennifer Galvin	Yes	Richard Wuerflein	Yes

Motion carried.

Mr. Mason also thanked Mr. Wuerflein for his leadership and called for nominations for vice-chair. Mr. Johnston nominated Jennifer Galvin with second being made by Ms. Savage. Mr. Johnston moved that nominations cease and that Ms. Galvin be elected by acclamation. Mr. Drake made the second.

Roll call.		Jerry Johnston	Yes
Brita Cantrell	Yes	Steve Mason	Yes
Tony Dark	Yes	Sandra Rose	Yes
Bob Drake	Yes	Terri Savage	Yes
Jennifer Galvin	Abstain	Richard Wuerflein	Yes

Motion carried.

OAC 252:4 Rules of Practice and Procedure Mr. Jimmy Givens, General Counsel, advised that a agency-wide central records system is now in place and proposed rule changes have been recommended by the Central Records Committee. The proposal would amend language to provide greater security and file integrity for agency records and would cover some of the costs of materials when the DEQ responds to open records requests. Mr. Givens explained that most of the copy work is now being handled in house by Central Records; therefore, the amendments relate to restrictions on removal of files from DEQ offices and to recovery of DEQ costs for faxing, mailing, delivery service, and copying of CDs. Hearing no comments or discussions, Mr. Mason called for a motion to approve the rule changes as recommended. Mr. Johnston moved approval and Ms. Galvin made the second.

Roll call.		Jerry Johnston	Yes
Brita Cantrell	Yes	Steve Mason	Yes
Tony Dark	Yes	Sandra Rose	Yes
Bob Drake	Yes	Terri Savage	Yes
Jennifer Galvin	Yes	Richard Wuerflein	Yes

Motion carried.

See transcript pages 10 –16

AQC 252:100 Air Pollution Control Ms. Sharon Myers, Air Quality Council Chair, stated that the three rule changes she presented for consideration would bring the agency into compliance with federal guidelines. She explained that proposed new language in Section 63 of Subchapter 17, Incinerators, would clarify federal requirements that air curtain incinerators are subject to the Title V permitting requirements found in Section 73 of that Subchapter. Ms. Myers pointed out that the proposed amendment to Subchapter 41, Control of Emission of Hazardous Air Pollutants and Toxic Air Contaminants, would incorporate by reference new National Emission Standards for Hazardous Air Pollutants contained in 40 CFR Parts 61 and 63, as of September 1, 2004. She added that the third rule proposal would amend Appendices E and F to add the 24-hour and annual PM 2.5 standards to both the Primary and Secondary Ambient Air Quality Standards contained in those appendices.

Mr. Mason called for motion to approve Subchapter 17, Incinerators. Mr. Drake moved for approval of proposed changes as presented and Mr. Dark made the second.

Roll call.		Jerry Johnston	Yes
Brita Cantrell	Yes	Steve Mason	Yes
Tony Dark	Yes	Sandra Rose	Yes
Bob Drake	Yes	Terri Savage	Yes
Jennifer Galvin	Yes	Richard Wuerflein	Yes
Motion carried.			

Mr. Mason called for the next two Air Quality items to be voted on together. Mr. Johnston moved for approval of Subchapter 41 and Appendices E and F. Ms. Galvin made the second.

Roll call.		Jerry Johnston	Yes
Brita Cantrell	Yes	Steve Mason	Yes
Tony Dark	Yes	Sandra Rose	Yes
Bob Drake	Yes	Terri Savage	Yes
Jennifer Galvin	Yes	Richard Wuerflein	Yes
Motion carried.			

See transcript pages 16 – 20

OAC 252:205 Hazardous Waste Management Ms. Jody Reinhart, Hazardous Waste Management Advisory Council Chair, advised that the proposed Section 3-1 amendment would update the incorporation by reference of federal hazardous waste regulations to July 1, 2004. She added that the only significant changes to the federal rules directly affecting Oklahoma facilities are revisions to the used oil management standards involving revisions to 40 CFR Parts 261 and 279. Mr. Wuerflein moved for adoption of Subchapter 3 as presented. Ms. Galvin made the second.

Roll call.		Jerry Johnston	Yes
Brita Cantrell	Yes	Steve Mason	Yes
Tony Dark	Yes	Sandra Rose	Yes
Bob Drake	Yes	Terri Savage	Yes
Jennifer Galvin	Yes	Richard Wuerflein	Yes
Motion carried.			

See transcript pages 20 – 23

Ms. Reinhart continued with the proposal to add a new Section 21-5, Subchapter 25 and Appendices D and E and amend Section 3-2 to implement a state hazardous waste delisting program in Oklahoma and establish fees to help support the program. Ms. Reinhart set forth the changes recommended. She and Ms. Catherine Sharp fielded questions from Board and the public. Mr. Drake made motion to approve the amendments as presented and Mr. Dark made the second.

Roll call.		Jerry Johnston	Yes
Brita Cantrell	Yes	Steve Mason	Yes
Tony Dark	Yes	Sandra Rose	Yes
Bob Drake	Yes	Terri Savage	Yes
Jennifer Galvin	Yes	Richard Wuerflein	Yes
Motion carried.			

See transcript pages 23 - 40

OAC 252:410 Radiation Management Mr. Steve Woods, Vice-Chair of the Radiation Management Advisory Council, set forth several rule changes recommended unanimously by the Council. He advised that changes to Subchapter 1 updates the DEQ with the federal rules and changes to Subchapter 10 modifies the numbering to be in line with the newest version of the federal rules in 10 CFR 35. Mr. Woods explained that proposed changes to Subchapter 3 extend the permit term from one year to ten years, which will reduce paperwork, clarify permit requirements, and add a due date for annual fees. Mr. Woods continued with proposed administrative changes to Subchapters 7 and 10 that would add late fee provisions, add an example of a major permit or license amendments, and strengthen language concerning the content of renewal applications. Subchapter 10 amendments clarify DEQ's intent to charge at full cost inspection and oversight activities at licensed facilities undergoing decommissioning. Other changes clarify language and update citations. The proposal would also amend the schedule of fees charged to applicants for new radioactive materials licenses by deleting the option to file as a small entity. Following questions and comments, Mr. Mason called for action on the proposals. Ms. Galvin moved to adopt the four items as presented and Ms. Cantrell seconded.

Roll call.		Jerry Johnston	Yes
Brita Cantrell	Yes	Sandra Rose	Yes
Tony Dark	Yes	Terri Savage	Yes
Bob Drake	Yes	Richard Wuerflein	Yes
Jennifer Galvin	Yes	Steve Mason	Yes

Motion carried.

See transcript pages 40 – 47

OAC 252:4 Rules of Practice and Procedure (Water Quality Management-Related) Mr. Lowell Hobbs, Water Quality Council Chair, advised that the proposal would clarify language regarding water quality permits and includes a category of permits that were inadvertently omitted -- pretreatment permits and 401 certifications. He stated that no public comments were received. Mr. Mason called for action by the Board. Mr. Dark moved for approval and Mr. Drake made the second.

Roll call.		Jerry Johnston	Yes
Brita Cantrell	Yes	Sandra Rose	Yes
Tony Dark	Yes	Terri Savage	Yes
Bob Drake	Yes	Richard Wuerflein	Yes
Jennifer Galvin	Yes	Steve Mason	Yes

Motion carried.

See transcript pages 47 - 51

OAC 252:606 Oklahoma Pollutant Discharge Elimination System Mr. Lowell Hobbs explained that proposed changes would update the incorporation by reference of federal regulations in various Parts of 40 CFR to July 1, 2004. He mentioned that the update does not involve any major change in regulatory requirements. Hearing no comments, Mr. Mason called for action. Ms. Cantrell moved approval and Ms. Galvin made the second.

Roll call.		Jerry Johnston	Yes
Brita Cantrell	Yes	Sandra Rose	Yes
Tony Dark	Yes	Terri Savage	Yes
Bob Drake	Yes	Richard Wuerflein	Yes

Jennifer Galvin	Yes	Steve Mason	Yes
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Motion carried.

See transcript pages 52-53

OAC 252:611 General Water Quality Mr. Lowell Hobbs stated that proposed changes update the incorporation by reference of federal regulations in 40 CFR Part 130 to July 1, 2004. He explained that this update does not involve any major change in regulatory requirements.

Roll call.		Jerry Johnston	Yes
Brita Cantrell	Yes	Steve Mason	Yes
Tony Dark	Yes	Sandra Rose	Yes
Bob Drake	Yes	Terri Savage	Yes
Jennifer Galvin	Yes	Richard Wuerflein	Yes

Motion carried.

See transcript pages 53 –55

OAC 252:616 Industrial Wastewater Systems Mr. Lowell Hobbs advised that proposed changes are primarily the results of a workgroup established to review this Chapter and make appropriate language recommendations. The changes include eliminating duplicative language relating to storm water requirements; clarifying classes of wastewater that can be treated in tank systems; prohibiting the land application of industrial sludge in scenic river basins; and listing specific requirements for the use of Class III wastewater for dust suppression. Also included is an amendment to clarify that a licensed professional engineer must design and close industrial treatment systems under the state statutory definition of the “practice of engineering”. Mr. Hobbs stated that the Council voted unanimously to recommend these changes to the Board for consideration. Comments were received from the Board and the public, then Mr. Dark made motion to approve the proposed rule changes as presented including the new engineer requirement paragraph. Mr. Dark also recommended that the Council could eliminate the workgroup efforts. Ms. Savage made the second to that motion. Mr. Drake moved to table this motion. With no second to the motion, Mr. Drake pulled his motion. Following a break, Mr. Mason asked if there was further discussion in relation to Mr. Dark’s motion to pass the rule as presented. Hearing none, Mr. Mason called for a vote.

Roll call.		Jerry Johnston	Yes
Brita Cantrell	Yes	Sandra Rose	Yes
Tony Dark	Yes	Terri Savage	Yes
Bob Drake	Yes	Richard Wuerflein	Yes
Jennifer Galvin	Yes	Steve Mason	Yes

Motion carried.

See transcript pages 55 – 83

OAC 252:619 Operation and Maintenance of Non-Industrial Total Retention Lagoon Systems and Land Application Mr. Lowell Hobbs pointed out that this new chapter would clarify maintenance and operation rules that apply to non-industrial total retention lagoon systems, with or without land applications sites; and would consolidate them into one set of rules that is separate from the more complex rules applicable to discharging wastewater treatment facilities. Following discussion, Mr. Johnston moved to approve as recommended and Mr. Wuerflein made the second.

Roll call.		Jerry Johnston	Yes
Brita Cantrell	Yes	Steve Mason	Yes
Tony Dark	Yes	Sandra Rose	Yes
Bob Drake	Yes	Terri Savage	Yes
Jennifer Galvin	Yes	Richard Wuerflein	Yes

Motion carried.

See transcript pages 83 – 88

OAC 252:621 Non-Industrial Flow-Through and Public Water Supply Impoundments Including Land Application

Mr. Lowell Hobbs advised that the changes to Chapter 621 are the result of the anticipated adoption of the new Chapter 619. The changes are for clarification of the title and which entities this Chapter regulates. Hearing no comments, Mr. Mason called for a motion. Motion was made by Mr. Wuerflein and the second was by Mr. Drake.

Roll call.		Jerry Johnston	Yes
Brita Cantrell	Yes	Sandra Rose	Yes
Tony Dark	Yes	Terri Savage	Yes
Bob Drake	Yes	Richard Wuerflein	Yes
Jennifer Galvin	Yes	Steve Mason	Yes

Motion carried.

See transcript pages 88- 90

OAC 252:631 Public Water Supply Operation

Mr. Lowell Hobbs advised that these proposed changes would update the incorporation by reference of federal regulations in 40 CFR Parts 141 and 143 to July 1, 2004. He pointed out that the update does not involve any major change in regulatory requirements and that no public comments had been received. Mr. Dark moved for approval and Ms. Cantrell made the second.

Roll call.		Jerry Johnston	Yes
Brita Cantrell	Yes	Sandra Rose	Yes
Tony Dark	Yes	Terri Savage	Yes
Bob Drake	Yes	Richard Wuerflein	Yes
Jennifer Galvin	Yes	Steve Mason	Yes

Motion carried.

See transcript pages 90 – 91

OAC 252:690 Water Quality Standards

Mr. Lowell Hobbs explained that proposed amendments sets forth the methodology that DEQ uses to implement water quality standards and would modify and update the incorporation by reference of federal regulations in various Parts of 40 CFR to July 1, 2004; amend the calculation procedure for 7Q2 to allow for alternative methods; amend background monitoring requirements; amend ammonia monitoring requirements; amend procedures relating to Whole Effluent Toxicity (WET) testing; and correct a typographical error in Appendix B. He added that all comments had been addressed by the Council. Hearing no further comments, Mr. Mason called for a motion. Mr. Dark moved for approval and Ms. Galvin made the second.

Roll call.		Jerry Johnston	Yes
Brita Cantrell	Yes	Sandra Rose	Yes
Tony Dark	Yes	Terri Savage	Yes
Bob Drake	Yes	Richard Wuerflein	Yes
Jennifer Galvin	Yes	Steve Mason	Yes

Motion carried.

See transcript pages 91 – 94

OAC 252:710 Waterworks & Wastewater Works The proposed changes revise and clarify the current operator certification rules. They amend existing procedures and requirements for the certification of waterworks and wastewater works operators and laboratory operators. Included are establishment of a certification exception for certain laboratory operators and addition of a classification based on the complexity of certain systems. The provision for a grace period for non-transient non-community systems is being deleted because of rule obsolescence. Mr. Carl Gray, Chair of the Waterworks and Wastewater Works Advisory Council advised that Council recommended changes for approval but due to the finding of a possible misunderstanding of 252:710-3-31b(1), requested that portion not be considered. Mr. Wisniewski, Manager of the Operator Certification Section, explained that this portion of the rule could be construed as conflicting with State Statutes; therefore, staff would prefer to reconsider and bring it to the Board at a later time. Mr. Mason called for a motion to approve the language as presented striking the proposed language in 3-31b(1). Mr. Johnston made the motion and Mr. Drake made the second.

Roll call.		Jerry Johnston	Yes
Brita Cantrell	Yes	Sandra Rose	Yes
Tony Dark	Yes	Terri Savage	Yes
Bob Drake	Yes	Richard Wuerflein	Yes
Jennifer Galvin	Yes	Steve Mason	Yes
			Motion carried.

See transcript pages 94 - 102

New Business None

Executive Director's Report Mr. Steve Thompson updated the Board on Agency policy in regards to fleet vehicles; and provided an update on legislative interests, key bills and watches.

Adjournment At 12:05, Mr. Mason called for adjournment announcing the Public Forum to follow.

The next regular meeting of the Environmental Quality Board will be June 21, Roman Nose State Park, Watonga, Oklahoma.

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DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY DIVISION
STATE OF OKLAHOMA

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TRANSCRIPT OF PROCEEDINGS
OF REGULAR MEETING
AGENDA ITEMS 1-19
HELD ON MARCH 4, 2005, AT 9:30 A.M.
IN OKLAHOMA CITY, OKLAHOMA

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MEMBERS OF THE BOARD

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5 ROBERT WUERFLEIN - CHAIR

6 BRITA CANTRELL

7 JACK CASSIDY

8 BOB DRAKE

9 JENNIFER GALVIN

10 TERRI SAVAGE

11 JERRY JOHNSTON

12 STEVE MASON

13 SANDRA ROSE

14 TONY DARK

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STAFF MEMBERS

18 MYRNA BRUCE - SECRETARY

19 JIMMY GIVENS - GENERAL COUNSEL

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PROCEEDINGS

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MR. WUERFLEIN: This regular meeting of the Environmental Quality Board has been called according to the Oklahoma Open Meeting Act, Section 311 of Title 25 of the Oklahoma Statutes.

Notice was filed with the Secretary of State on November 24, 2004. Agendas were mailed to interested parties on February 18, 2005. The agenda for this meeting was posted on Wednesday, March 2, 2005 at the Department of Environmental Quality, 707 North Robinson, Oklahoma City, Oklahoma.

Only matters appearing on the posted agenda may be considered. If this meeting is continued or reconvened, we must announce today the date, time and place of the continued meeting and the agenda for such continuation will remain the same as today's agenda.

So welcome. We've got a long agenda today. We'll get started. Time for roll

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call, Myrna.
MS. BRUCE: Ms. Cantrell.

3 MS. CANTRELL: Here.

4 MS. BRUCE: Mr. Dark.

5 MR. DARK: Here.

6 MS. BRUCE: Mr. Drake.

7 MR. DRAKE: Yes.

8 MS. BRUCE: Ms. Galvin.

9 MS. GALVIN: Yes.

10 MS. BRUCE: Mr. Johnston.

11 MR. JOHNSTON: Yes.

12 MS. BRUCE: Mr. Mason.

13 MR. MASON: Yes.

14 MS. BRUCE: Ms. Rose.

15 MS. ROSE: Yes.

16 MS. BRUCE: Ms. Savage.

17 MS. SAVAGE: Yes.

18 MS. BRUCE: Mr. Wuerflein.

19 MR. WUERFLEIN: Yes.

20 MS. BRUCE: For the record,
21 absent are Mr. Cassidy, Mr. Coffman and we
22 have two vacancies. We do have a quorum.

23 MR. WUERFLEIN: So that is a
24 quorum. Thank you. The next item on the
25 agenda is the Approval of the Minutes of

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1 the last meeting, which were mailed to
2 everyone. Are there any questions,
3 comments or corrections to the printed

4 Minutes?
5 MS. GALVIN: No comments. I move
6 we --
7 MR. WUERFLEIN: Move we approve?
8 MS. GALVIN: -- move to approve.
9 MR. WUERFLEIN: Okay. Thank you.
10 MR. DRAKE: Second.
11 MR. WUERFLEIN: Bob Drake. Roll
12 call.
13 MS. BRUCE: Ms. Cantrell.
14 MS. CANTRELL: Yes.
15 MS. BRUCE: Mr. Dark.
16 MR. DARK: Yes.
17 MS. BRUCE: Mr. Drake.
18 MR. DRAKE: Yes.
19 MS. BRUCE: Ms. Galvin.
20 MS. GALVIN: Yes.
21 MS. BRUCE: Mr. Johnston.
22 MR. JOHNSTON: Yes.
23 MS. BRUCE: Mr. Mason.
24 MR. MASON: Yes.
25 MS. BRUCE: Ms. Rose.

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1 MS. ROSE: Yes.
2 MS. BRUCE: Ms. Savage.
3 MS. SAVAGE: Yes.

4 MS. BRUCE: Mr. Wuerflein.
5 MR. WUERFLEIN: Yes.
6 MS. BRUCE: Approved.
7 MR. WUERFLEIN: It's time to
8 reorganize the Board. Any suggestions,
9 nominations for Chairman of the Board?
10 MR. DRAKE: I move that Mr. Mason
11 be elected as Chairman.
12 MR. WUERFLEIN: Thank you, Mr.
13 Drake.
14 MR. JOHNSTON: Second.
15 MR. WUERFLEIN: Second by --
16 MS. SAVAGE: Second.
17 MR. WUERFLEIN: I've got two
18 seconds. I've got Jerry Johnston and Terri
19 Savage both, so are there any other
20 nominations?
21 MR. DRAKE: Move nominations
22 close and Mr. Mason be elected by
23 acclamation from the Board.
24 MR. WUERFLEIN: Thank you.
25 MR. JOHNSTON: Second.

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1 MR. WUERFLEIN: Second agree with
2 that? I've got a yes from Jerry. So we
3 will take a -- I guess it's a roll call for
4 that, too; isn't it?

5 MS. KRUG: I think you should,
6 yes.
7 MR. WUERFLEIN: All right. Roll
8 call vote.
9 MS. BRUCE: Ms. Cantrell.
10 MS. CANTRELL: Yes.
11 MS. BRUCE: Mr. Dark.
12 MR. DARK: Yes.
13 MS. BRUCE: Mr. Drake.
14 MR. DRAKE: Yes.
15 MS. BRUCE: Ms. Galvin.
16 MS. GALVIN: Yes.
17 MS. BRUCE: Mr. Johnston.
18 MR. JOHNSTON: Yes.
19 MS. BRUCE: Mr. Mason.
20 MR. MASON: Abstain.
21 MS. BRUCE: Ms. Rose.
22 MS. ROSE: Yes.
23 MS. BRUCE: Ms. Savage.
24 MS. SAVAGE: Yes.
25 MS. BRUCE: Mr. Wuerflein.

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1 MR. WUERFLEIN: Yes.
2 MS. BRUCE: Motion approved.
3 MR. WUERFLEIN: Thank you. I'll
4 turn this over to you, Steve.

5 MR. MASON: I think I would like
6 to recognize Jerry to say a few words.

7 MR. JOHNSTON: Before you run
8 off, Richard, as the President, or Mr.
9 Chair, it gives me a great deal of pleasure
10 to give this plaque to a very good friend
11 and a person who's done a very good job as
12 the Chairman of the Board the last two
13 years.

14 It says from the Oklahoma Department
15 of Environmental Quality in appreciation of
16 Richard Wuerflien for dedicated service as
17 the Environmental Quality Board Chairman
18 for 2003 and 2004.

19 MR. WUERFLEIN: I appreciate
20 that.

21 MR. MASON: Thanks for all your
22 great leadership.

23 Now we need to elect a Vice-
24 Chairman. Are there any suggestions?

25 MR. JOHNSTON: I would nominate

1 Jennifer Galvin to be Vice-Chair.

2 MS. SAVAGE: Second.

3 MR. MASON: Are there any other
4 nominations?

5 MR. JOHNSTON: I would move that

6 nominations cease and vote by acclamation
7 or however it works.
8 MR. DRAKE: I'll second that
9 nomination.
10 MR. MASON: May we have another
11 vote, please.
12 MS. BRUCE: Ms. Cantrell.
13 MS. CANTRELL: Yes.
14 MS. BRUCE: Mr. Dark.
15 MR. DARK: Yes.
16 MS. BRUCE: Mr. Drake.
17 MR. DRAKE: Yes.
18 MS. BRUCE: Ms. Galvin.
19 MS. GALVIN: Abstain.
20 MS. BRUCE: Mr. Johnston.
21 MR. JOHNSTON: Yes.
22 MS. BRUCE: Ms. Rose.
23 MS. ROSE: Yes.
24 MS. BRUCE: Ms. Savage.
25 MS. SAVAGE: Yes.

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1 MS. BRUCE: Mr. Wuerflein.
2 MR. WUERFLEIN: Yes.
3 MS. BRUCE: Mr. Mason.
4 MR. MASON: Yes.
5 MS. BRUCE: Motion passed.

6 MR. MASON: Jennifer, thank you
7 and congratulations.

8 Our next item is the Rules of
9 Practice and Procedure.

10 Jimmy, give your presentation.

11 MR. GIVENS: Good morning. I'm
12 always accused when I have a presentation
13 to make of going into too much detail and
14 taking too much time. I'm going to try to
15 keep it short this morning, but I'm giving
16 to give you just a little bit of background
17 on our central records system because I
18 think it will help you to understand what
19 we're proposing here today. But maybe more
20 importantly I think it's useful information
21 for you to have and we're quite proud of
22 what we've been able to accomplish.

23 About a year or so ago, we started
24 seriously talking about moving all of our
25 records into a central location. And we

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1 are well down the road to doing that.
2 There are a number of advantages to that,
3 obviously file security is high. Probably,
4 more importantly, we think it is helpful to
5 our customers to have the records in a
6 central location and we have the ability

7 then to train people who do that full-time,
8 to both manage records and then to deal
9 with requests that come in for the records.

10 So if you here not aware that that
11 was going on, that has been going on for
12 quite some time now and we have most of our
13 records on the Sixth Floor and the
14 remainder is coming shortly.

15 That s just by way of brief
16 background, as far as the physical
17 operation itself, but in conjunction with
18 that, we had a Central Records Committee,
19 we still have a Central Records Committee,
20 to look not only at the location and
21 management itself, but to make
22 recommendations that might be helpful in
23 the management of the records. And they
24 have made a couple of recommendations that
25 are reflected in what you have before you

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1 today.

2 What you have before you today
3 reflects really two categories of rule
4 changes. But one is a fairly minor change
5 pertaining to file security. What the
6 Committee proposed to us and what we are

7 bringing to you today is simply to be a
8 little bit more careful about letting files
9 outside the building.

10 In the past, we, frankly did not
11 have as great a capability as we do now to
12 handle copy jobs in-house, the large copy
13 jobs that we occasionally get. So we had
14 an accommodation that said, if you make
15 arrangements with a professional copying
16 service, they can come get the file, take
17 it to their location, copy it, and bring it
18 back.

19 We ran into one very specific
20 problem with that. We actually lost a set
21 of files one time when they went outside
22 the building, it s rather a unique
23 circumstances. It's the only time that it
24 has happened. But it does illustrate the
25 fact that it's better to keep the files

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1 here if it's possible to do so.

2 Now that we have a central records
3 location and full-time staff for it, we can
4 handle nearly all the jobs that we get. So
5 this first change that you see on Page One
6 of your rules is simply saying that
7 normally we will keep everything in-house.

8 If there is a really extraordinary
9 circumstance, we can make arrangements for
10 it to go out to a copying service, but we
11 will continue to supervise getting it there
12 and getting it back, is basically what the
13 first set of changes on Page One does.

14 On Page Two, we are simply handing a
15 few administrative fees or adjusting a few
16 of those administrative fees. We did not
17 have a provision for charging for faxes.
18 Nearly every state agency that I know of
19 does and it probably makes sense if we're
20 going to charge a small fee for copying, to
21 also charge a small fee for faxing. And
22 that's what the first change does, is
23 anything above ten pages.

24 Frankly, below ten pages, copying,
25 faxing, collecting the fee, costs more than

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1 what the fee is worth. But once you get --
2 if it's a moderate-sized copy job, we
3 propose to charge 25 cents a page for
4 faxing. We already charge 25 cents a page
5 for copying, so this will be an either/or
6 situation.

7 We didn't have a specific provision

8 for recovering our costs for mailing,
9 that's what Subsection D, does on Page Two.
10 And we did not have a provision to collect
11 any of our costs for CD copying, which as
12 you would imagine, has become more and more
13 common. When we first adopted
14 administrative fee rules, most requests
15 were hard copies. We're seeing more and
16 more requests for electronic copies now.

17 I would represent to you that these
18 fees -- we have looked around at some of
19 the other agencies, most of them are lower
20 than the other agencies that we have looked
21 at. We are trying to simply recover our
22 costs more or less with these proposed rule
23 changes. And I am open to any questions
24 you might have about them.

25 MR. MASON: Is there any

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1 questions from the Board? Any questions or
2 suggestions from the public? Is there any
3 discussion and action by the Board?

4 MR. JOHNSTON: I would move that
5 we approve this.

6 MS. GALVIN: I second.

7 MR. MASON: Thank you, Jerry.

8 And we have a second from Jennifer. Is

9 there any discussion?

10 Myrna, may we have a vote, please.

11 MS. BRUCE: Ms. Cantrell.

12 MS. CANTRELL: Yes.

13 MS. BRUCE: Mr. Dark.

14 MR. DARK: Yes.

15 MS. BRUCE: Mr. Drake.

16 MR. DRAKE: Yes.

17 MS. BRUCE: Ms. Galvin.

18 MS. GALVIN: Yes.

19 MS. BRUCE: Mr. Johnston.

20 MR. JOHNSTON: Yes.

21 MS. BRUCE: Ms. Rose.

22 MS. ROSE: Yes.

23 MS. BRUCE: Ms. Savage.

24 MS. SAVAGE: Yes.

25 MS. BRUCE: Mr. Wuerflein.

16

1 MR. WUERFLEIN: Yes.

2 MS. BRUCE: Mr. Mason.

3 MR. MASON: Yes, ma'am.

4 MS. BRUCE: Motion passed.

5 MR. MASON: Thank you, Jimmy.

6 I think Sharon Myers has a

7 presentation now on behalf of Air.

8 MS. MYERS: Good morning, Mr.

9 Chair, Members of the Board, Members of the
10 Agency.

11 We have three rules under
12 consideration today. Subchapter 17
13 relating to incinerators. The language
14 proposed for that is clarification to meet
15 the federal requirements. Subchapter 41,
16 is incorporating by reference the changes
17 that have been made on the federal level,
18 and the additions and clarification
19 relating to Appendix E and F to change the
20 primary and secondary ambient air quality
21 standards for particulate matter 2.5 to be
22 consistent with the National Ambient Air
23 Quality Standards.

24 Basically, all three rules are
25 straightforward, they're minor changes to

17

1 bring us into compliance with the federal
2 guidelines.

3 MR. MASON: Thank you. Let's do
4 the three rules separately. We'll start
5 with Subchapter 17, Item Number 6 on our
6 agenda.

7 Are there any questions or
8 discussion by the Board? Any comments from
9 the public? Any discussion or action by

10 the Board?

11 MR. DRAKE: Move approval.

12 MR. DARK: Second.

13 MR. MASON: Second. All right.

14 Myrna, may we have a vote, please.

15 MS. BRUCE: Ms. Cantrell.

16 MS. CANTRELL: Yes.

17 MS. BRUCE: Mr. Dark.

18 MR. DARK: Yes.

19 MS. BRUCE: Mr. Drake.

20 MR. DRAKE: Yes.

21 MS. BRUCE: Ms. Galvin.

22 MS. GALVIN: Yes.

23 MS. BRUCE: Mr. Johnston.

24 MR. JOHNSTON: Yes.

25 MS. BRUCE: Ms. Rose.

18

1 MS. ROSE: Yes.

2 MS. BRUCE: Ms. Savage.

3 MS. SAVAGE: Yes.

4 MS. BRUCE: Mr. Wuerflein.

5 MR. WUERFLEIN: Yes.

6 MS. BRUCE: Mr. Mason.

7 MR. MASON: Yes.

8 MS. BRUCE: Motion passed.

9 MR. MASON: The next item is Item

10 Number 17 -- I mean Number 7, I apologize,
11 Subchapter 41.

12 MS. MYERS: We're still under
13 Item 6.

14 MR. MASON: Pardon me.

15 MS. MYERS: We're still under
16 Item 6 on the agenda, it's the second
17 bullet under Item 6.

18 MR. MASON: I'm sorry. You're
19 right. We should have done this as one.

20 Well, let's do the final two together. All
21 right. Well, let's do these final two then
22 as the next motion. I'm sorry. 41 and
23 then these appendices.

24 Is there any discussion by the
25 Board? Any discussion by the public? Any

19

1 discussion and action by the Board? We
2 could get a motion, I guess, for Subchapter
3 41 and then this Chapter 100.

4 MR. JOHNSTON: I move approval.

5 MS. GALVIN: Second.

6 MR. MASON: Any discussion?
7 Myrna, roll call vote, please.

8 MS. BRUCE: Is this for 41 and
9 the E and F?

10 MR. MASON: Yes, ma'am.

11 MS. BRUCE: Okay. Ms. Cantrell.
12 MS. CANTRELL: Yes.
13 MS. BRUCE: Mr. Dark.
14 MR. DARK: Yes.
15 MS. BRUCE: Mr. Drake.
16 MR. DRAKE: Yes.
17 MS. BRUCE: Ms. Galvin.
18 MS. GALVIN: Yes.
19 MS. BRUCE: Mr. Johnston.
20 MR. JOHNSTON: Yes.
21 MS. BRUCE: Ms. Rose.
22 MS. ROSE: Yes.
23 MS. BRUCE: Ms. Savage.
24 MS. SAVAGE: Yes.
25 MS. BRUCE: Mr. Wuerflein.

20

1 MR. WUERFLEIN: Yes.
2 MS. BRUCE: Mr. Mason.
3 MR. MASON: Yes.
4 MS. BRUCE: Motion passed.
5 MR. MASON: Thank you, Sharon.
6 Jodie Reinhart has a presentation.
7 MS. REINHART: Good morning. How
8 is everyone this morning? We're going to
9 be talking about -- we have two different
10 things to address in our rulemaking this

11 morning. The first part is we're going to
12 be doing our incorporation by reference.

13 The second part is the delisting,
14 and because the delisting is significantly
15 -- it's a big change, we wanted to do ours
16 in two separate rulemakings, Okay.

17 The first set of rules before you is
18 just the annual incorporation by reference
19 and it's the most recent hazardous waste
20 rules as it's listed in July of 2004. All
21 it does is make revisions to the 252:205-3-
22 1 and change the date from July 1, 2003 to
23 July 1, 2004. There is no real significant
24 rule changes that occurred during that
25 period of time, there were just some minor

21

1 changes. And so we're just going to go
2 through those so you can understand what
3 happened.

4 The first clarifies the used oil
5 contaminated with PCBs and when it's going
6 to be regulated under RCRA.

7 The second part of it clarifies the
8 mixtures of small quantities of hazardous
9 waste in used oil when it is subject to
10 RCRA and to the used oil management
11 standards and how it's going to be recycled

12 and so forth.

13 Previously, the federal rules
14 required that the mixture would be subject
15 to RCRA, used oil standards, but only if it
16 was going to be going to the energy
17 recovery. Okay.

18 The final revision deals with the
19 record keeping requirements of initial
20 marketer of used oil. It requires that
21 they keep a shipment of records -- excuse
22 me, a record of the shipment of used oil to
23 facilities where used oil is delivered to.

24

25 Previously, the federal rules

22

1 suggested that they have to not only keep a
2 record of that shipment, but to any other
3 facilities that that oil was shipped to and
4 that would be literally impossible for
5 somebody to keep track of. So these are
6 just the federal changes. All we do is
7 just do the incorporation by reference and
8 so we don't need to do anything further on
9 that.

10 And our Council makes the
11 recommendation that we make those changes

12 to update our records.

13 MR. MASON: Thank you. Are there
14 any questions by the Board? Any comments
15 from the public? Is there any action from
16 the Board?

17 MR. WUERFLEIN: I would move
18 adoption of Subchapter 3.

19 MS. GALVIN: I second it.

20 MR. MASON: Any discussion from
21 the Board? Can we have a roll call vote,
22 please, Myrna.

23 MS. BRUCE: Ms. Cantrell.

24 MS. CANTRELL: Yes.

25 MS. BRUCE: Mr. Dark.

23

1 MR. DARK: Yes.

2 MS. BRUCE: Mr. Drake.

3 MR. DRAKE: Yes.

4 MS. BRUCE: Ms. Galvin.

5 MS. GALVIN: Yes.

6 MS. BRUCE: Mr. Johnston.

7 MR. JOHNSTON: Yes.

8 MS. BRUCE: Mr. Mason.

9 MR. MASON: Yes.

10 MS. BRUCE: Ms. Rose.

11 MS. ROSE: Yes.

12 MS. BRUCE: Ms. Savage.

13 MS. SAVAGE: Yes.
14 MS. BRUCE: Mr. Wuerflein.
15 MR. WUERFLEIN: Yes.
16 MS. BRUCE: Mr. Mason.
17 MR. MASON: Yes.
18 MS. BRUCE: Motion passed.
19 MS. REINHART: The second item
20 that we are bringing to the Board today is
21 (inaudible) RCRA recognizes two broad
22 categories of hazardous waste. The first
23 way is by what they call listing it on a
24 list by a certain industrial process that
25 routinely generates waste and industry

24

1 knows that the waste is hazardous by
2 definition.
3 The second is, if it doesn't meet a
4 listed criteria, then you go through and
5 list its characteristics and various
6 criteria of whether it's (inaudible)
7 corrosive, reactive or toxic. So those are
8 the two types of hazardous wastes within
9 our realm.
10 Ever since RCRA was accepted, EPA
11 recognizes some industries are able to
12 implement some control measures that

13 distribute the waste that s being generated
14 is not really hazardous. And so,
15 therefore, they also gave the generators an
16 opportunity to do what they call waste
17 exclusion and it allows them to exclude
18 waste from being listed by demonstrating
19 that the waste is consistently and
20 migrates, not hazardous.

21 So in common terms, this process is
22 known as delisting. The generators would
23 collect data, they write a report, and then
24 they determine whether it meets the RCRA
25 criteria or not. And historically they

25

1 lwere responsible for reviewing these
2 delisting petitions within the EPA. But in
3 May of 2003, the DEQ received authorization
4 from the EPA to do these evaluations of
5 delisting petitions, instead of them. So
6 at this point, the DEQ is required to
7 develop procedures on how to go through and
8 do that delisting program.

9 In April of 2004, the Hazardous
10 Waste Management Council, we looked at the
11 rules that they proposed and we modified
12 and approved them and so that's what you
13 have before you today.

14 In Section 3-2 of that information,
15 it s just revising so that we can provide
16 publication of the approved petitions in
17 the Oklahoma Register versus the Federal
18 Register.

19 In Chapter 21, that's where we go
20 through and establish the fees for the
21 review of the delisting petition. And then
22 in Subchapter 25, it establishes the
23 procedures that somebody will have to go
24 through, in order to do a delisting
25

26

1 petition.

2 (Inaudible) our program, when EPA
3 grants a delisting petition, the federal
4 rules are revised and they have to issue
5 something to the Federal Register through
6 the notice there, they identify the
7 generator, the specific waste that they are
8 requesting to be delisted in the petition,
9 and then any conditions that are necessary
10 for the generator to maintain that
11 delisting status.

12 Our DEQ process is designed to
13 mirror that same exact federal process.

14 The generators will submit their delisting
15 petition to the DEQ and our hazardous waste
16 management staff and permitting staff as
17 well as the (inaudible) staff will be doing
18 that review. If the petition is denied,
19 the generator is going to be notified. If
20 it's ultimately approved, then the final
21 authorization will be granted through an
22 amendment to the DEQ hazardous waste
23 management rules.

24 So the DEQ will then prepare a
25 dissertation for approval and amendment to

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1 Appendix E of the rules. They'll have to
2 come before the Hazardous Waste Council to
3 make that petition for our approval and
4 then it will come back to the Board for
5 their approval. And if all goes well, then
6 they will get added to Appendix E after the
7 Governor and so forth sign off on it.

8 This also entails a fee because
9 there is -- when the DEQ started looking at
10 this process, they got varying levels of
11 amounts that the federal level had used, to
12 be able to do the delisting petition. So
13 we want to make certain that the DEQ is
14 able to recover the cost, for the most

15 part, for what it took to do the reviews,
16 as well as to process the delisting
17 petition. So they looked at, you know,
18 various other states that have already been
19 doing it, as well at the federal level, and
20 based upon that time, they made a
21 determination of the time and effort it
22 takes to be able to do that, review that
23 petition. And they looked at it and they
24 determined that it's basically the same
25 thing as a hazardous waste permit, which is

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1 -- and the fee is set at \$20,000. An
2 annual monitoring fee has also been
3 provided for additional funding for the
4 staff to be able to do their periodic
5 inspection of these generators and
6 facilities, be able to collect samples for
7 analysis, and then there will be some
8 rulemaking or some processes or record
9 keeping that the generator must maintain to
10 be able to confirm that they are still
11 doing their process the way they set it up.
12 So all those fees are going to be set up so
13 that the DEQ won't be out as much money.
14 While the fee may appear significant

15 for the initial petition, the generators
16 that will be doing these petitions will
17 actually be saving quite a bit of money
18 because their waste, instead of being
19 hazardous waste, will now be deemed
20 nonhazardous waste, and it's significantly
21 less expensive to be able to dispose of
22 nonhazardous waste versus hazardous waste.
23 So during the rulemaking process, we also
24 got input from the representatives of the
25 industry, as well as the industry alliance

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1 group, and they gave input to the fee. So
2 there is a considerable amount of time
3 that's necessary to review these petitions
4 and that the program can't be maintained
5 without them.

6 One other thing that we came across
7 when we started looking at these rules, is
8 that the rules as we passed in last April
9 and voted upon, there is a slight change
10 that we need to make to the language. It's
11 just a minor modification to the language.

12 MS. BRUCE: Jodie, the Board has
13 it in front of them.

14 MS. REINHART: Okay. It looks
15 like this. And all we re recommending

16 today versus what our Council did last
17 April is -- under Paragraph C-1, there is a
18 slight change in the language there. When
19 we first approved this, the language
20 indicated that the generator must pay a
21 prorated and a monitoring fee and we're
22 just changing that word prorated so that
23 means that (inaudible) must pay a prorated
24 portion of the annual monitoring fee, which
25 there was not a prorated fee in the

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1 Appendices.

2 Therefore, that's what we have and
3 Council is recommending today. Are there
4 any questions regarding this rulemaking?

5 MR. MASON: Questions from the
6 Board?

7 MS. GALVIN: Jodie, could I ask a
8 clarification question?

9 MS. REINHART: Yes. Go ahead.

10 MS. GALVIN: And my real purpose
11 is trying to just clarify what the Board's
12 part to play is, the sole purpose.

13 MS. REINHART: Okay. All right.

14 MS. GALVIN: So the delisting
15 comes to DEQ.

16 MS. REINHART: Yes, ma'am.

17 MS. GALVIN: DEQ reviews it and
18 then brings it to the Board and, I'm sorry,
19 and then the delisting is either approved
20 or disapproved. But following that, if it
21 is approved, it goes to EPA for
22 notification?

23 MS. REINHART: No. My
24 understanding of the process is that the
25 DEQ will either approve or deny that first

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1 delisting. Okay. If they recommend that
2 it be approved, they will bring it to the
3 Council. The Council will then bring it to
4 the Board. And then just like any other
5 rulemaking that comes before the Board, it
6 will, you know, you guys either approve it
7 or deny it. If it's denied, you know, it's
8 dead. If you guys approve it, then it's
9 going to go on in the regular rulemaking
10 process where the Legislature and the
11 Governor and so forth have to go through
12 and approve that.

13 Because what we'll be doing, every
14 time one of these comes before us, we will
15 be making changes to these rules here.
16 They will be added to the appendices within

17 our rulemaking. Once the EPA gave
18 authority, almost two years ago, to the
19 DEQ, then their ability to process these
20 type of applications ceased and now it's
21 the DEQ's responsibility to pick up that
22 and go forward with the program. Okay.
23 Did I answer your question? It will never
24 go back to the regional level at this
25 point.

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1 MR. THOMPSON: Jodie, let me see
2 if I can help just a little bit. And the
3 wastes that's excluded will only be
4 excluded for Oklahoma.

5 MS. REINHART: Yes.

6 MR. THOMPSON: Wastes generated
7 and disposed in Oklahoma. So it does not
8 carry with it a national exclusion.

9 MS. REINHART: Right. That is a
10 big difference between -- and we wrestled
11 with that question significantly, because
12 when you got a federal exclusion, it's
13 excluded throughout the whole nation. Now
14 that they delegated it out to the states,
15 if you want to dispose of your waste in a
16 different state, you'll have to not only

17 delist it in Oklahoma, you'll have to go to
18 that other state, as well, and delist it.
19 Now, I understand -- is that right, Jon,
20 that we -- they're going to try and work
21 out a deal to do some concurrent delistings
22 or did that not go through?

23 MR. ROBERTS: I think we have an
24 agreement with EPA where we could delist in
25 Oklahoma and a facility could request a

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1 nationwide delisting, also, for everybody
2 else.

3 MS. REINHART: The remainder of
4 the states, yes.

5 MS. GALVIN: That answered the
6 question. Thanks.

7 MS. REINHART: Okay.

8 MS. SAVAGE: Mr. Chairman, have
9 we -- Jennifer, are you -- I have a real
10 problem with something brand-new being put
11 on our desk at the beginning.

12 MS. REINHART: I understand.

13 MS. SAVAGE: I mean, I have a
14 real problem with that because we're all
15 scrambling trying to figure out what is
16 new, what it relates to. There is a lot of
17 confusion on my part.

18 MS. REINHART: Okay.

19 MS. SAVAGE: Not unusual. So I
20 think -- I guess, basically, we need to
21 talk about that and I think that if it has
22 not been explained and everybody in the
23 Board -- if everybody is okay with it, then
24 we can proceed with that. But I really
25 have a real hard time finding something

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1 like this on the day of the meeting.

2 MS. REINHART: I'll let Catherine
3 explain.

4 MS. SHARP: Could I address this
5 real quick? Are you talking about the one-
6 page change? It's so minor we almost
7 didn't do it. It's the sentence about
8 prorating the fee. And you see where it
9 said, after the effective date of the rule
10 excluding the waste, the generating
11 facility must pay the prorated annual
12 monitoring fees listed. We didn't actually
13 list any, so we said they will pay a
14 prorated portion, making it -- the effect
15 is the same, but we didn't want to refer to
16 a prorated fee listed if one didn't exist.

17 So the effect is exactly the same,

18 it's just literally more correct. We need
19 to refer to something. You know,
20 somebody's like, where's the prorated fee,
21 well, it didn't actually get written into
22 the fee section that way.

23 Do you read it that way, Jimmy?

24 MR. GIVENS: Yes. If there's
25 blame to be laid, it's mine. Actually, I

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1 read this and when I read it, I looked at
2 Appendix D and couldn't figure out where
3 the prorated fees were and so I raised the
4 question. And when it was explained to me
5 what they were trying to accomplish, it
6 makes sense. They are simply saying, take
7 the fees that are there, take however many
8 months that are applicable in that first
9 year and take the prorated portion of
10 what's in Appendix D.

11 I didn't think that's what this said
12 initially, or at least it was unclear. It
13 referred to prorated fees in Appendix D.
14 When you look at Appendix D, there are no
15 prorated fees there. So it's purely a
16 clarification, it was at my request.

17 MS. GALVIN: I just want to add,
18 because I was trying to figure that out,

19 also, just to reinforce what Jimmy said,
20 it's really pretty minor.

21 MS. SAVAGE: Okay.

22 MS. GALVIN: The fee is there,
23 but the prorated fee is not. So you just
24 have to do a little bit of math to get to
25 nine-twelfths or whatever the --

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1 MR. WUERFLEIN: So really we're
2 just adding the word "portion of" instead
3 of --

4 MS. REINHART: Right. Because
5 prorated is --

6 MR. WUERFLEIN: -- it's already
7 in there, yes.

8 MS. REINHART: Yes. We just
9 moved that one word and added (inaudible)
10 to make it real clear to the reader that --
11 if they get a petition given to them in
12 June, they don't have to pay a whole year
13 of monitoring, you know, they only have to
14 pay half a year. So that was the thought
15 behind that language right there.

16 MR. THOMPSON: You'll also note
17 that it's in our rules of practice that if
18 there's a problem, Jimmy takes the blame.

19 MR. DARK: Are we ready for
20 action on this item?

21 MR. MASON: I have one question.

22 MS. REINHART: Yes, sir.

23 MR. MASON: Compared to the EPA
24 process for delisting, not the cost of
25 waste disposal, will the state process be

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1 cheaper or faster to the generator?

2 MS. REINHART: I would think
3 that's a staff question. (Inaudible). It
4 should be faster.

5 MS. SHARP: We will go on record
6 and say we do everything better than the
7 EPA. That's actually a really very good
8 question. The delisting rules, just in a
9 nutshell -- see, unlike Jimmy, he takes a
10 long time to explain something, I do it,
11 too quickly. The delisting rules are
12 unique in the hazardous waste program
13 because it takes the waste out of the
14 hazardous waste realm almost forever, and
15 it's a huge thing, the hazardous waste
16 generator.

17 So the rules are a little bit
18 unique, that's why this is one of the last
19 things to ever get evolved down to the

20 states. EPA had refined their process, to
21 answer your question, at Region VI to where
22 I understand certain petitions did finally
23 get to the yes point and that was not true
24 of EPA petitions years ago. Delisting was
25 considered completely broken, you couldn't

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1 get your waste out even if you had all the
2 data in the world to prove that it
3 shouldn't be a hazardous waste.

4 They evolved that process and we
5 adopted that process and during both
6 Council meetings on this, several people
7 asked the same thing you asked, why would
8 it be in Oklahoma if EPA has refined it.
9 And what I would have to say is the general
10 feeling was that generators like to deal
11 with the agency in the state, they felt
12 like they would be processed in a timely
13 manner and the process would be better
14 dealing with us. So they stated that to
15 us. So the technical bar you have to get
16 over to get one approved could be roughly
17 the same. That generally should be the
18 same.

19 MR. DARK: So my understanding is

20 that basically the industry has asked for
21 this?

22 MS. SHARP: Right, they did.
23 They -- to be in all fairness, they
24 vacillated during the meeting because of,
25 there's no fee for the federal system and

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1 they've gotten better where it was workable
2 for the state system. But then by the end,
3 the industry people in the room said they
4 (inaudible) and that's why the rule came
5 forward.

6 MR. MASON: Thank you. Any other
7 comments from the Board? Comments or
8 questions from the public? Returning to
9 the Board, are there any discussions or
10 action?

11 MR. DRAKE: I move approval. I
12 would rather pay DEQ than have EPA free.

13 MR. MASON: Does your motion
14 include this proration handout?

15 MR. DRAKE: You bet.

16 MR. MASON: All right. Do we
17 have a second?

18 MR. DARK: Second.

19 MR. MASON: We have a second.

20 May we have a roll call vote, please,

21 Myrna.

22 MS. BRUCE: Ms. Cantrell.

23 MS. CANTRELL: Yes.

24 MS. BRUCE: Mr. Dark.

25 MR. DARK: Yes.

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1 MS. BRUCE: Mr. Drake.

2 MR. DRAKE: Yes.

3 MS. BRUCE: Ms. Galvin.

4 MS. GALVIN: Yes.

5 MS. BRUCE: Mr. Johnston.

6 MR. JOHNSTON: Yes.

7 MS. BRUCE: Mr. Mason.

8 MR. MASON: Yes.

9 MS. BRUCE: Ms. Rose.

10 MS. ROSE: Yes.

11 MS. BRUCE: Ms. Savage.

12 MS. SAVAGE: Yes.

13 MS. BRUCE: Mr. Wuerflein.

14 MR. WUERFLEIN: Yes.

15 MS. BRUCE: Motion approved.

16 MR. MASON: Thank you. Bob,

17 we ll be sure to send the Minutes of this

18 down to EPA with your comments.

19 MR. MASON: We're ready for

20 Radiation now. Steve Woods.

21 MR. WOODS: Thank you, Chairman
22 Mason. Good morning, my name is Steve
23 Woods, I am the Vice-Chairman of the
24 Radiation Management Advisory Council.
25 The Council has recommended

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1 unanimously several rule changes. I am
2 here to present them to you today. They
3 are listed on your agenda as four bulleted
4 items. I'll start with the first one.
5 Subchapter 1 and 10, these are in OAC
6 252:410, Radiation Management. Amendments
7 to Subchapter 1 changes the date of the
8 nuclear regulatory Commission rules in 10
9 CFR to bring DEQ up to date with current
10 federal rules. It changes the dates of the
11 rules which were adopted by reference.
12 Changes to Subchapter 10 modified the
13 numbering to make the numbering with the
14 DEQ listing, the 10 CFR 35 (inaudible) fit
15 the numbering of the newest version of the
16 federal rules.
17 Bullet number two. Changes to
18 Subchapter 3 to govern radiation machines,
19 extend the permit term from one year to 10
20 years, which will reduce repetitive filing
21 of paperwork, it also clarifies the permit

22 requirements and specifies the due date for
23 fees to support late fee changes in
24 Subchapter 7.

25 Bullet number three. Changes to

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1 Subchapter 7 institute charges for late
2 fees for radiation applications.
3 Requirements for all licensing must include
4 a renewal application to clarify. It makes
5 a number of administrative changes such as
6 change in references to the agreement as a
7 state program, the radioactive material
8 program as the program is currently known,
9 and updating some of references from
10 federal regulations, adds new source of
11 radiation for therapeutic purposes, and
12 that s added as an example of a minor
13 amendment.

14 Subchapter 10 changes. Clarify
15 occasions DEQ may charge a per hour fee to
16 insure that the language is consistent with
17 NRC practices and with the original intent
18 of the DEQ. There are also a number of
19 administrative changes similar to those in
20 Subchapter 7.

21 Another change to Subchapter 10

22 brings DEQ in line with the NRC practice by
23 eliminating the option to file for a
24 radioactive material license as a small
25 entity. Current practices allow for a

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1 reduced application fee for small entities.
2 This fee does not cover DEQ's cost in most
3 cases and since it has income as one
4 justification, current rules have led to
5 such inequities as a new hospital with a
6 massive nuclear medicine program paying
7 approximately \$250 to get a radioactive
8 material license because the facility did
9 not exist in the previous year and thus had
10 no income. These applications take many
11 hours of processing by DEQ's most
12 experienced staff and the existing fee does
13 not even begin to cover DEQ's costs.

14 The proposed fee change will
15 eliminate these inequities and bring us in
16 line with federal practices. DEQ processes
17 approximately one dozen licenses under this
18 program per year, so the number of
19 applicants affected will not be large.
20 There will still also be (inaudible) for
21 the annual fee and (inaudible) the initial
22 application. We're asking to change all

23 that.

24 MR. MASON: Thank you, Steve.

25 Any questions from the Board?

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1 MR. DARK: An example of the cost
2 change, in terms of dollars?

3 MR. WOODS: It varies depending
4 on the application type. Each type of
5 application --

6 MR. DARK: The hospital, for
7 example.

8 MR. WOODS: Well, the hospital is
9 going to go from, say, \$250 to around
10 \$10,000 and it's based on, you know,
11 looking at a stack of paperwork about that
12 thick (inaudible) time an hour associated
13 with that.

14 MR. DARK: Do you have any idea
15 what kind of time an hour do you guys track
16 that at a staff level?

17 MR. THOMPSON: I'm sorry.

18 MR. DARK: Do you track that at a
19 staff level, how much time an hour?

20 MR. THOMPSON: Yes, we track time
21 and effort on those.

22 MR. DARK: Do you have any

23 estimate on what that would be? I'm just
24 curious.

25 MR. THOMPSON: Mike -- is Mike

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1 here? There he is.

2 MR. BRODERICK: For a hospital,
3 it would take -- there would be some back
4 and forth over several weeks, a licence
5 wouldn't work solid just on the hospital.
6 We have several licenses that we would be
7 juggling. I can't -- I don't have an exact
8 figure, but I would guess it would be forty
9 to sixty hours, would be my guess for a
10 hospital week-to-week.

11 MR. THOMPSON: I think the range,
12 as I understand it, is -- I mean, it can be
13 fairly significant, depending upon the
14 number of machines and the size that we're
15 talking about. It can go up to close to
16 \$20,000, as I understand it. So it is --
17 for the initial -- for the initial
18 application, it can be a significant
19 change. The renewal remains, for small
20 entities, remains the same. That s sort of
21 -- the base is about \$1,300 and the highest
22 would be about \$19,000. So there is a
23 range depending upon the technical nature

24 of the application, the size and number of
25 machines. That's the range.

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1 MR. DARK: I was just curious.

2 MR. MASON: Any other Board
3 questions? Comments from the public? Is
4 there any action on all four items?

5 MS. GALVIN: I move we adopt all
6 four items.

7 MS. CANTRELL: I'll second it.

8 MR. MASON: Second from Brita.
9 Is there any discussion from the Board? Do
10 a vote, please.

11 MS. BRUCE: Ms. Cantrell.

12 MS. CANTRELL: Yes.

13 MS. BRUCE: Mr. Dark.

14 MR. DARK: Yes.

15 MS. BRUCE: Mr. Drake.

16 MR. DRAKE: Yes.

17 MS. BRUCE: Ms. Galvin.

18 MS. GALVIN: Yes.

19 MS. BRUCE: Mr. Johnston.

20 MR. JOHNSTON: Yes.

21 MS. BRUCE: Ms. Rose.

22 MS. ROSE: Yes.

23 MS. BRUCE: Ms. Savage.

24 MS. SAVAGE: Yes.

25 MS. BRUCE: Mr. Wuerflein.

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1 MR. WUERFLEIN: Yes.

2 MS. BRUCE: Mr. Mason.

3 MR. MASON: Yes.

4 MS. BRUCE: Motion approved.

5 MR. MASON: Thank you, Steve.

6 MR. WOODS: Thank you.

7 MR. MASON: Lowell Hobbs is going

8 to discuss some water issues now with us.

9 MR. HOBBS: As Chairman of the
10 Water Quality Management Advisory Council,
11 it's my privilege to represent the entire
12 Water Quality Council to present these rule
13 changes to you. Our staff leader, Shellie
14 Chard-McClary, has been -- other things are
15 happening in her life and she couldn't be
16 here today, so I checked with staff to take
17 up her part. If it would give you all any
18 degree of comfort to know that our Water
19 Quality Board has reviewed these and in
20 every case voted unanimously to make these
21 recommendations to you.

22 I have managed to out live everybody
23 who has ever been on the Water Quality
24 Council. I was on the first Water Quality

25 Board or Council and the only one that is

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1 still there, so they treat me with much
2 respect (inaudible) and allow me to
3 continue.

4 That being said, I would like to
5 tell you that in addition to that, that our
6 Water Quality Council people are all of a
7 broad base of occupations and environments
8 and personalities. And we try to allow
9 time for everybody to have a comment and
10 input if they feel led to and feel like we
11 have been very successful in doing that.
12 So that should give you some comfort to
13 know before we make these recommendations,
14 that it's not been done very lightly, it's
15 been done with some forethought and some
16 effort put into these recommendations.

17 We start with 252:004, Rules of
18 Practice and Procedure. Chapter 4,
19 Subchapter 7, Part 7 addresses the
20 permitting functions of the Water Quality
21 Division. The change before the
22 Environmental Quality Board is to clarify
23 the existing language in the Water Quality
24 Tier Rules and to add a pretreatment permit

25 that had been omitted when the rules were

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1 originally set forth.

2 There were no comments received
3 during the comment period or at the Council
4 meeting. The Council voted unanimously to
5 recommend that the Board approve the
6 changes to Chapter 4.

7 Do you want me to do them
8 individually or do you want me to go
9 through them?

10 MR. MASON: I think according to
11 my agenda, I think we'll do them
12 individually. All right. I've got this
13 figured out now. All right. Any questions
14 from the Board? Comments from the public?
15 Action from the Board?

16 MR. DARK: Move approval.

17 MR. MASON: Move approval from
18 Tony.

19 MR. WUERFLEIN: I might have one
20 question on procedure. This one, they just
21 changed one date -- was it radiation when
22 they went through and underlined all the
23 subchapters or paragraphs that were
24 affected. Is there a difference? I didn't
25 know any more after reading the radiation

1 on what they were changing than this one by
2 changing the one CFR date.

3 MR. THOMPSON: I believe the
4 difference is that when there is simply a
5 date change, there has been no change to
6 the federal rule, that you simply do the
7 date change. I think on the radiation
8 rule, there was some -- I don't know that
9 there was specifically any real changes to
10 it, the feds just did some renumbering; is
11 that right, Pam?

12 MS. DIZIKES: That's correct.

13 MR. THOMPSON: And so we just
14 changed the rules to reflect the
15 renumbering.

16 MR. WUERFLEIN: So there was
17 renumbering involved with this, okay.

18 MR. THOMPSON: Is that fair?

19 MS. DIZIKES: There were a couple
20 of very minor changes in doing the program
21 that (inaudible) hospitals. (Inaudible) a
22 long, long number of underlying problems.

23 MR. WUERFLEIN: Renumbering,
24 okay.

25 MR. MASON: Thank you, Richard.

1 Is there a second to Tony's motion?

2 MR. DRAKE: Second.

3 MR. MASON: Second from Bob. Any

4 discussion? Can we have a vote, please.

5 MS. BRUCE: Ms. Cantrell.

6 MS. CANTRELL: Yes.

7 MS. BRUCE: Mr. Dark.

8 MR. DARK: Yes.

9 MS. BRUCE: Mr. Drake.

10 MR. DRAKE: Yes.

11 MS. BRUCE: Ms. Galvin.

12 MS. GALVIN: Yes.

13 MS. BRUCE: Mr. Johnston.

14 MR. JOHNSTON: Yes.

15 MS. BRUCE: Ms. Rose.

16 MS. ROSE: Yes.

17 MS. BRUCE: Ms. Savage.

18 MS. SAVAGE: Yes.

19 MS. BRUCE: Mr. Wuerflein.

20 MR. WUERFLEIN: Yes.

21 MS. BRUCE: Mr. Mason.

22 MR. MASON: Yes.

23 MS. BRUCE: Motion approved.

24 MR. MASON: Thank you. Lowell, I

25 guess you're up next.

1 MR. HOBBS: 252:606, Oklahoma
2 Pollutant Discharge Elimination System.
3 Chapter 606 addresses the federal NPDES
4 program. The change before the
5 Environmental Quality Board is to update
6 the incorporation by reference of federal
7 regulations. This is an annual update to
8 ensure that the Oklahoma program is
9 consistent with federal requirements.
10 There were no technical changes or changes
11 to fees.

12 There were no comments received
13 during the comment period or at the Council
14 meeting. The Council voted unanimously to
15 recommend that the Board approve the
16 changes to Chapter 606.

17 MR. MASON: Thank you. Any
18 questions from the Board?

19 MS. CANTRELL: Move approval.

20 MR. MASON: Okay.

21 MS. GALVIN: Second.

22 MR. MASON: Second. Are there
23 any comments from the public? Can we have
24 a vote, please.

25 MS. BRUCE: Ms. Cantrell.

1 MS. CANTRELL: Yes.

2 MS. BRUCE: Mr. Dark.

3 MR. DARK: Yes.

4 MS. BRUCE: Mr. Drake.

5 MR. DRAKE: Yes.

6 MS. BRUCE: Ms. Galvin.

7 MS. GALVIN: Yes.

8 MS. BRUCE: Mr. Johnston.

9 MR. JOHNSTON: Yes.

10 MS. BRUCE: Ms. Rose.

11 MS. ROSE: Yes.

12 MS. BRUCE: Ms. Savage.

13 MS. SAVAGE: Yes.

14 MS. BRUCE: Mr. Wuerflein.

15 MR. WUERFLEIN: Yes.

16 MS. BRUCE: Mr. Mason.

17 MR. MASON: Yes.

18 MS. BRUCE: Motion approved.

19 MR. MASON: You're still here.

20 MR. LOWELL: 252:611, General

21 Water Quality. Chapter 611 addresses

22 general water quality issues, including 401

23 certifications and groundwater. The change

24 before the Environmental Quality Board is

25 to update the incorporation by reference of

1 federal regulations. This is an annual
2 update to ensure that the Oklahoma program
3 is consistent with federal requirements.
4 There were no technical changes or changes
5 to fees.

6 There were no comments during the
7 comment period or at the Council meeting.
8 The Council voted unanimously to recommend
9 that the Board approve the changes to
10 Chapter 611.

11 MR. MASON: Questions from the
12 Board? Comments from the public? Action
13 by the Board?

14 MR. JOHNSTON: Move approval.

15 MS. CANTRELL: Second.

16 MR. MASON: Jerry and Brita.

17 Discussion? Can we have a vote, please.

18 MS. BRUCE: Ms. Cantrell.

19 MS. CANTRELL: Yes.

20 MS. BRUCE: Mr. Dark.

21 MR. DARK: Yes.

22 MS. BRUCE: Mr. Drake.

23 MR. DRAKE: Yes.

24 MS. BRUCE: Ms. Galvin.

25 MS. GALVIN: Yes.

1 MS. BRUCE: Mr. Johnston.
2 MR. JOHNSTON: Yes.
3 MS. BRUCE: Ms. Rose.
4 MS. ROSE: Yes.
5 MS. BRUCE: Ms. Savage.
6 MS. SAVAGE: Yes.
7 MS. BRUCE: Mr. Wuerflein.
8 MR. WUERFLEIN: Yes.
9 MS. BRUCE: Mr. Mason.
10 MR. MASON: Yes.
11 MS. BRUCE: Motion approved.
12 MR. HOBBS: 252:616, Industrial
13 Wastewater Systems. Now, listen up on this
14 one because this one is a little different
15 than those last ones.
16 This chapter has been undergoing
17 review by a workgroup since September of
18 2004. The changes presented today are a
19 result of that workgroup consisting of
20 Council Members, a Board Member,
21 consultants, affected industries, other
22 state agencies, and DEQ staff.
23 These changes include removing
24 duplicative language related to stormwater;
25 clarifying that tank systems can be used

1 for all wastewater classifications and
2 renumbering the tank system section; adding
3 a specific prohibition for the land
4 application of industrial sludge in a
5 scenic river basin; adding specific
6 language to allow for the use of Class III
7 wastewater where TSS is the pollutant of
8 concern for dust suppression; and adding
9 appropriate recordkeeping requirements for
10 dust suppression.

11 There was language included in the
12 rule making notice and the rules presented
13 to the Council that added the following
14 language. You all have been provided a
15 copy of this change. 252:616-1-3, Engineer
16 Required. Pursuant to 59 O.S. 475 and a
17 ruling by the Oklahoma State Board of
18 Registration for Professional Engineers and
19 Land Surveyors, the design and closure
20 activities required by this chapter
21 constitute the practice of engineering and
22 thus, require the seal and signature of an
23 engineer registered to practice in the
24 State of Oklahoma.

25 At the time of the Council meeting,

1 no response had been received by DEQ from
2 the Oklahoma State Board of Registration
3 for Professional Engineers and Land
4 Surveyors to determine if all wastewater
5 classification design and closure required
6 a PE seal. Therefore, the Council motion
7 for recommendation to the Board removed
8 this provision.

9 However, DEQ did receive a letter
10 dated January 21, 2005 from the PE Board
11 stating that a PE seal for design and
12 closure submittals under Chapter 616 is
13 required. The PE Board also stated that it
14 expected DEQ to submit to them any person
15 or company that submitted engineering work
16 without a seal so that proper enforcement
17 could be pursued. The letter has been
18 shared with the Council and the workgroup.
19 Based on the receipt of the letter, I am
20 asking that you amend the rules recommended
21 to you to re-insert this language, which is
22 the copies that have been handed out.

23 The workgroup is still in place.
24 However, at the request of the Oklahoma
25 Aggregates Association and a Council

1 Member, the workgroup has taken a break and

2 will reconvene in April of 2005. It is
3 anticipated that there will be additional
4 changes presented to the Council and the
5 Board in Calendar Year 2006.

6 After much discussion, this Council
7 recommended the changes presented to the
8 Board for consideration by a unanimous
9 vote.

10 MR. MASON: Questions from the
11 Board.

12 MR. DRAKE: I have a question.
13 Steve, you're about to explain that to
14 Jerry, so why don't you explain it to all
15 of us.

16 MR. THOMPSON: The real issue is
17 whether these lagoons require an engineer,
18 a seal of professional engineer. And what
19 we do, what the DEQ does, is defer to the
20 Engineering Board to make that decision.
21 That decision had not been -- we had not
22 received correspondence from the
23 Engineering Board at the time that the
24 Council passed the rule.

25 So what happened was, once we

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1 received that letter, which says, you bet

2 ya, you need an engineer for this kind of
3 work, we provided the language to include
4 the rulemaking to reflect what the
5 Engineering Board -- not only did the
6 Engineering Board say you need an engineer,
7 they said if somebody doesn't do it, if
8 somebody does it that is not an engineer,
9 we expect you to refer those folks to us
10 for enforcement.

11 So we believe it's important, very
12 important to clarify the position of the PE
13 Board. We are going to follow what the PE
14 Board says to us about this issue.

15 MR. DARK: Just a quick question.
16 It said that the -- this advisory, that
17 there is a separate advisory board set up
18 for this?

19 MR. HOBBS: It's a workgroup.

20 MR. DARK: I'm sorry, a
21 workgroup. And this workgroup is going to
22 stay together because we expect some other
23 changes, do those changes have anything to
24 do with licensure with the engineer seal
25 portion?

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1 MR. HOBBS: My understanding is
2 that it covers a lot of things which might

3 include that, yes.

4 MR. DARK: Okay. I want to make
5 a comment. We have to understand two
6 things. One, this Board's role and the
7 registration board's role, they are far
8 different, but both very important. I'm of
9 the opinion, strong opinion -- I'll be glad
10 to debate it until midnight tonight if you
11 want to stay -- that this Board must
12 require an engineer's seal and signature
13 and the industries that we -- frankly, this
14 is an opinion, the industries that we want
15 in this state will want an engineer's seal
16 and signature because with that comes a
17 liability and a responsibility from that
18 professional to do it the proper way.

19 And I understand that that's a very
20 definitive statement and it covers a very
21 broad range of issues, but on those smaller
22 issues that seem of no significance, to
23 spend a workgroup's time considering
24 whether a small impoundment would need an
25 engineer's seal, they will spend more time

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1 calling to put the workgroup together than
2 the industry will in hiring that engineer

3 to review it and seal it. It is an
4 insignificant cost.

5 So to argue that point is a moot
6 point and it's a waste of our time. I
7 would strongly consider that we recommend
8 that we not have a workgroup, that we set
9 this rule in place and that we protect the
10 public, which is our charge, and that we
11 require a registered professional
12 engineer's seal and signature on this type
13 of work. And for those areas where there
14 may be a problem, where there may be a
15 concern about costs, I can assure you in
16 the big picture that is not a concern and
17 it s a waste of this Board's time and
18 effort to consider that.

19 I think it's very important that we
20 make certain that registered professionals
21 are signing and sealing documents that we
22 are reviewing, otherwise we are accepting
23 the liability that we shouldn't and that
24 industry is maybe unknowingly accepting the
25 liability that they shouldn't. I don't

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1 2believe we're here to protect the
2 industry, but at the same time any industry
3 we would want, would want that

4 professional.

5 MR. HOBBS: I'm not -- if I
6 clearly understand, this change that we put
7 in here does require the seal and signature
8 of an engineer (inaudible).

9 MR. DARK: I understand that. My
10 point is if that is the only reason that
11 this workgroup is being kept together. If
12 there are other issues here, absolutely,
13 but I cannot see, personally, as a Board
14 Member representing this Board, why we
15 would ever want to consider allowing some
16 nonprofessionals to do that sort of work.
17 It just does not make sense.

18 MR. MASON: Other Board comments?
19 Any comments from the public?

20 MR. RODRIGUEZ: Yes, Mr.
21 Chairman, I do.

22 MR. MASON: If you would come up
23 to the podium and introduce yourself,
24 please. Thank you.

25 MR. RODRIGUEZ: Mr. Chairman,
other Members of the Board, on behalf of

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1 the Oklahoma Aggregate's Association, I'd
2 like to thank you for this opportunity to
3 address this subject.

4 MR. MASON: And your name please.

5 MR. RODRIQUEZ: My name is Jim
6 Rodriquez. I'm the Executive Director of
7 the Association. And by unanimous vote of
8 Board, I was asked to come and speak
9 against this additional engineering
10 requirement.

11 I'd like to read the names of the
12 companies on the Board. By the way, we
13 have 30 member companies who are producers.
14 We have 37 affiliate members. Our member
15 companies represent close to 80 percent of
16 the production of rock, sand and gravel in
17 the State of Oklahoma. Which is
18 approaching 80 million tons of a growing,
19 vibrant industry, a significant part of
20 this State's economy. I would also like to
21 note that 20 to 25 percent today is shipped
22 by rail to north Texas because the Arbuckle
23 area, the Synder area, represents the
24 highest quality aggregate source in close
25 proximity to that area. So this is a

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1 significant business in the State of
2 Oklahoma.

3 On the Board are: Anchor Stone;
4 APAC-Oklahoma, which is a company out of

5 Atlanta, Georgia; Bellco Materials; Dolese
6 Brothers Company; Hanson Aggregates, which
7 is a company out of Irving, Texas; Kemp
8 Stone; Martin Marietta Materials, which is
9 a company out of Atlanta Georgia; Muskogee
10 Sand, Incorporated; Pryor Stone
11 Incorporated; TXI, which is a company out
12 of Dallas, Texas. Some of these are
13 national companies: Martin Marietta, TXI,
14 APAC. Our Board Members unanimously asked
15 me to come and speak against this
16 requirement for engineering -- for the
17 certification on Class III impoundments.
18 Class I and II impoundments require
19 a board certification design. The
20 pollutants in those two classes merit that
21 design, you know, by itself, without any
22 other consideration. That is an
23 environmental consideration. And I agree
24 with Tony, that in cases such as that, that
25 yes, you should have the rule and, Tony,

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1 you do have the rule right now in your
2 rules.

3 Class III the pollutant is suspended
4 solids. By your own definition, suspended

5 solids are not a threat to the waters of
6 the State of Oklahoma. So your
7 environmental concerns are not present at
8 Class III.

9 So we move into a category of
10 engineering concerns. Whose interest or
11 whose responsibility is it to enforce the
12 engineering for itself? Who is to set the
13 standards to qualify a structure to be
14 Board certified, if there is no threat to
15 the environment? Certainly, not DEQ.
16 Certainly, it would be the State Board of
17 Engineering and Land Surveyors.

18 I attended the November 19th meeting
19 of the Engineering Board. Shawn was there.
20 Carl Parrish was there. We had four
21 industry representatives attending that
22 meeting where this was discussed. And
23 during that meeting, one example of an
24 impoundment was presented by one of our
25 members. It was a concrete and steel

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1 structure and I have the drawings, if any
2 one want to review them. And our
3 Association has no argument that this type
4 of impoundment may need a Board
5 certification seal and signature. At the

6 meeting -- our member representatives at
7 this November 19th meeting, described
8 earthen impoundments similar to farm ponds,
9 which are common at quarries and sand and
10 gravel operations. Engineering Board
11 Members stated that farm ponds do not
12 require engineering seals and signatures.
13 And that Class III impoundments that were
14 similar to farm ponds would likely not need
15 a seal and signature. And during the
16 discussion on these earthen impoundments,
17 the DEQ management employees that were
18 there suggested that the current 616
19 treatment of sand and gravel operations
20 needs to be addressed perhaps with a new
21 classification. That admission came during
22 that particular meeting.

23 At sand and gravel operations, the
24 impoundment, is usually the mine. And as
25 such, is constantly undergoing modification

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1 by the mining process. Thereby, putting
2 the facility in a constant state of non-
3 compliance for most of 616's, and
4 definitely if you add this engineering
5 provision.

6 The language as presented, the
7 language that Lowell presented -- and I
8 want to make sure that it's understood --

9 MR. HOBBS: I'm right behind you.

10 MR. RODRIQUEZ? Lowell, has your
11 Board or your Council voted unanimously for
12 this particular item

13 MR. HOBBS: Yes, sir.

14 MR. RODRIQUEZ: When? They did
15 not vote on this item on the 19th of
16 January.

17 MR. MASON: Mr. Rodriques, I
18 think we understand -- I think this Board
19 understands that that language has appeared
20 since that meeting.

21 MR. RODRIQUEZ: So this Board
22 understands that that Council did not
23 unanimously approve this. That this was
24 rushed in to.

25 There's a line from Loretta Lynn's

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1 movie, Coalminer's Daughter, "I think we're
2 just moving a little fast here". And
3 that's what I am here to say. If I may
4 continue.

5 The language as permitted, would
6 require DEQ to start making judgments,

7 engineering judgments, that they previously
8 said they didn't want to make.

9 MR. MASON: Mr. Rodriques, are
10 there other speakers after you?

11 MR. RODRIQUEZ: No, I'm it.

12 MR. MASON: We don't have 30
13 aggregate people here to talk after you, do
14 we?

15 MR. RODRIQUEZ: No, no, no.

16 MR. MASON: Okay.

17 MR. RODRIQUEZ: DEQ said they
18 didn't want to make these engineering
19 decisions, now they are going to have to
20 make them. And the Engineering Board
21 ruling absolves DEQ employees of any
22 liability. So we don't see the need to act
23 here at this time.

24 We think this is a very obvious case
25 that proves that one size does not fit

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1 all . In discussions, yesterday, with a PE
2 Board Member, John Nelson, who drafted this
3 letter, when I got that letter, I was
4 puzzled because I attended a different
5 meeting. In conversations with John,
6 yesterday, he stated that it was not the

7 Board's decision that all Class III
8 impoundments would require a Board
9 certification, engineering construction and
10 that was not what they meant by their
11 letter. And he told me he was on his way
12 to see Don and have a conversation with
13 him, and I believe that conversation took
14 place. Don told me he had a brief
15 conversation with John.

16 During the meeting, they clearly
17 stated that the impoundment that we were
18 describing as earthen impoundments, similar
19 to farm ponds, would not require an
20 engineering signature. Because if they
21 were to rule that they did, then to be fair
22 they would have to start requiring all the
23 farms in the State of Oklahoma to get board
24 certification on their ponds.

25 I would ask you to lay this aside.

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1 The opinion from the Engineering Board does
2 state that there is no liability and to
3 your staff for enforcement, of engineering.
4 We recognize that some Class III
5 impoundments are going rise to the level
6 that require Engineering Board
7 certification. We strongly advise that

8 that is between our industry and the
9 Engineering Board. And that's where we
10 think it should remain.

11 Thank you very much for your
12 indulgence and consideration. I would like
13 to thank the Board, thank the Advisory
14 Council, and recommend passage of the other
15 items. We, Tony, do have other significant
16 issues regarding 616 especially as they
17 apply to sand and gravel operations and the
18 Board is, you know, behind our continuing
19 that effort.

20 Thank you.

21 MR. MASON: Thank you, sir. Is
22 there any other comments from the public?

23 All right. Tony.

24 MR. DARK: I guess, first the
25 Roberts Rules, we need a motion and a

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1 second and then more discussion. I'll move
2 that we approve this as written with the
3 recommendation that the Council eliminate
4 the workgroup if it is just so concerned,
5 if it's only concerned with engineer's
6 seals and signatures as I stated before.

7 MR. MASON: All right.

8 MR. DARK: If there are other
9 issues, then I think it would be great.

10 MR. MASON: Your motion includes
11 this engineer required paragraph?

12 MR. DARK: Absolutely.

13 MR. MASON: Is there a second.

14 MS. SAVAGE: Second.

15 MR. MASON: From Terri.

16 MR. DRAKE: Mr. Chairman, I am
17 very confused. I live in the Arbuckle's
18 and consequently, I am very concerned when
19 Mr. Lacey, and others, have concerns. I
20 don't know what I'm really voting on.

21 I move to table this motion, which
22 takes precedence.

23 MS. KRUG: We have one motion, we
24 need a second on the first motion.

25 MR. MASON: We've got a second

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1 from Terri.

2 MS. KRUG: So, it will either
3 pass or fail before we can get another
4 motion.

5 MR. DRAKE: You can't move to
6 table? You can move to table any time,
7 can't you?

8 MS. KRUG: Well, don't we already

9 have a motion on the floor that needs to be
10 --

11 MR. WUERFLIEN: That table takes
12 precedence over the motion.

13 MR. DRAKE: You have a motion on
14 the floor to pass this as written with the
15 letter. You have a second. I am not
16 Roberts Rules of Order but I -- I think a
17 motion to table will take precedence.

18 MS. SAVAGE: Bob, would it be
19 helpful to you to know that I participated
20 in the workgroup and that I was at the
21 Water Quality Council Meeting. Absolutely
22 nothing untoward is happening here as
23 related to the professional engineering
24 rule, absolutely nothing. The language was
25 not stuck in at the last minute. The Water

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1 Quality Council did vote, everyone knew
2 exactly what was happening. The
3 information was sent to the Professional
4 Engineering Board for discussion and for
5 them to issue a statement and an opinion.
6 Their opinion had not been rendered by the
7 time of the Water Quality Council and it
8 was discussed -- Shellie discussed it, it

9 was all completely laid on the table. The
10 entire Council knew that, because of the
11 workgroup, because of the discussion at the
12 workgroup. And I can tell you that it was
13 -- there was a great deal of discussion at
14 the workgroup that if the PE Board
15 recommended that the language be changed --

16 (Court reporter changed tape)

17 MS. SAVAGE: -- there is nothing
18 untoward happening here. And I was a
19 participant in this from -- it began last
20 September, October. And so many people
21 have been involved. And I had a letter
22 from Jeff Short, who is a professional
23 engineer, who has served on the Water
24 Quality Council, he is a professor at
25 Southwestern Oklahoma State University.

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1 You can look at it if you would like. I
2 asked him to come to the meeting because I
3 knew there would be some discussion. He
4 has two classes to teach. He emailed his
5 statement to me. He was the leader in this
6 and I take my direction from the experts
7 because I am not an engineer, but there is
8 nothing untoward happening and I totally
9 support Tony one hundred percent.

10 MR. DARK: Let me add this. I
11 have said for years -- I am an associate
12 member of the Association of Contractors
13 which everyone of these members are a
14 member of. I am quite confident in what I
15 am suggesting which would not be that which
16 results in to what Mr. Rodriquez is
17 representing. I don't see -- I can't
18 imagine that the (inaudible) for any large
19 producer would be resistant to the changes
20 we're talking about.

21 I've got a list of things:

22 A, these are not farm ponds,
23 everyone recognizes that.

24 B, John Nelson not only has a
25 business partner (inaudible) for 15 years,

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1 I've consulted with him on this. I know
2 his opinion intimately.

3 C, I don't think that this Board
4 needs to be making more rules and setting
5 another classification that we're
6 (inaudible) with as it is. I mean, to
7 supersede the Federal Government knowing
8 their classification is beyond
9 comprehension. We should not and will not

10 have the liability, our Board or our staff
11 (inaudible).

12 As a professional engineer, you seal
13 us up a plan, you sleep with that decision
14 until you are six feet in the ground. And
15 there's no limitations on them, you must
16 live with that.

17 So that is a foregone conclusion
18 when a professional signs it and why on
19 earth we would not want a professional to
20 sign this is beyond me. However, it does
21 indicate to me that there may be special
22 interest far beyond this list of producers
23 that is motivating a reason to pull a
24 professional engineer requirement out of
25 it. We require a professional engineer

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1 seal and signature on every waste water
2 plant design that comes through this --
3 there are very few things that DEQ will not
4 require a professional engineer's signature
5 on. The only thing that concerns me about
6 this is that an issue as small as this, is
7 elevated to a level as high as this. And
8 it tells me that there is something there
9 that we should not concern ourselves with
10 and act as a Board and see to it that we

11 are protecting the public health and
12 safety, and welfare. And I do not believe
13 that we are being onerous -- it's been
14 debated all day long -- that we are being
15 wrong in doing what I'm suggesting here and
16 what our advisory council is suggesting.
17 We're following procedure, we're right
18 there.

19 Unless there is strong opinion
20 otherwise. I would move that the Board
21 pass it (inaudible) because this is
22 important to what we are doing.

23 MR. DRAKE: Well, I have a second
24 on the table.

25 MR. MASON: I think we're still

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1 getting organized with what to do with your
2 motion.

3 MR. DRAKE: Well, I will pull it
4 but I will tell you -- is it important
5 enough that this go into effect today or is
6 it -- we meet again in three months, and if
7 there is any confusion, maybe, I'm the only
8 one that is confused. But again, I'm very
9 likely to listen when I have eight plants
10 within ten miles of my home. And our area

11 relies greatly on the Arbuckle Mountains
12 and we service north Texas, and that's
13 where most of this is coming from. And
14 when those names are given and all of them
15 work, all but one, I have a real concern
16 because I don't have the ability that you
17 have, I am not in that (inaudible).

18 But the tabling didn't have a
19 second, anyway. I do think though you will
20 find out that I will be right. A motion to
21 table takes precedence.

22 MR. MASON: They're thinking
23 about it. We'll have an answer in a few
24 minutes.

25 MR. DRAKE: I bet I'm right on

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1 that. I will tell you, though, that I
2 don't think -- I appreciate everything that
3 has been said. Terri and Tony, both, are
4 more familiar with this than I am but I
5 have to tell you I am very concerned when
6 we're voting on something that affects my
7 area this way and I don't have more
8 knowledge. I am just wondering if three
9 months makes that much of a difference?

10 So again, I don't have that second
11 on the table, and we are looking up the

12 Roberts Rules of Order.

13 MS. SAVAGE: Dolese was part of
14 the workgroup.

15 MR. DRAKE: They were part of the
16 workgroup? I just heard their name
17 mentioned as part of the group --

18 MR. MASON: I said they were in
19 the workgroup that recommended this rule be
20 put in place .

21 MS. SAVAGE: Yes. There was a
22 unanimous vote within the workgroup.

23 MR. MASON: But I think, in
24 defense of Dolese, they weren't at the
25 workgroup when this paragraph came up.

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1 MS. SAVAGE: Yeah. It was a big
2 deal.

3 MR. MASON: It was my
4 understanding that this paragraph has
5 appeared after the workgroup?

6 MS. SAVAGE: No. There -- it was
7 brought up legitimately as an agenda item,
8 discussed and votes were taken. In fact --
9 the fact that it was sent to the PE Board
10 was the part that makes it not an arbitrary
11 decision on the part of the DEQ staff. The

12 whole meeting practically was devoted to it
13 and it was, you know, we're going to send
14 it to the PE Board for -- and really on
15 this, we had -- yes.

16 MR. MASON: But when the Council
17 passed this rule, the paragraph was not in
18 there?

19 MS. SAVAGE: No. I was an
20 observer, I am not on the Council. They
21 were told that they had hoped that the PE
22 Board would have rendered their decision by
23 the time of the Water Quality Council. But
24 it had not been in effect. It came about a
25 week later after -- I think it was about a

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1 week later or maybe it was a few days after
2 the Water Quality Council, Shellie said, we
3 didn't get it but we will -- if they decide
4 to recommend that we change the language
5 and recommend or require a professional
6 engineer, then the language will be
7 inserted as part of this package, which
8 will be presented to our Board.

9 MR. MASON: And that was the
10 discussion with the Council?

11 MS. SAVAGE: Yes, and everybody
12 voted.

13 MR. DARK: And Dolese was present
14 at that discussion?

15 MS. SAVAGE: They were present on
16 the workgroup, they were part of this
17 workgroup.

18 (Multiple inaudible conversations)

19 MR. MASON: Do we need to take a
20 break?

21 MR. DRAKE: I'll move a break.

22 MR. MASON: All right. We'll
23 take a break for ten minutes.

24 (Break)

25 (Back on the record)

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1 MR. MASON: Are we ready to
2 resume, folks?

3 We're going to go back to this 616
4 discussion, Item 12. I think Tony made a
5 motion. And it was seconded. And your
6 motion died, to table. So we're back to
7 Tony's motion.

8 MR. DRAKE: I will support Tony's
9 motion because I've had it explained.

10 MR. MASON: All right. So, now
11 we're in discussion within the Board about
12 the motion to pass the rule and include the

13 PE paragraph.

14 Is there any other discussion?

15 MR. WUERFLEIN: From what I
16 understand, that paragraph is the same as
17 what was in our packet. It was just
18 submitted to them for ratification. There
19 is no changes between what we had presented
20 before and what was on the table today, is
21 there?

22 MR. THOMPSON: What I think
23 happened was between the time that the
24 Board packet went out and the Council met
25 we received notification from the PE Board

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1 and we parenthetically put it in there so
2 you would know that it was coming.

3 MR. MASON: Is there any other
4 Board discussion?

5 Myrna, let's call the question,
6 please, for a vote.

7 MS. BRUCE: Ms. Cantrell.

8 MS. CANTRELL: Yes.

9 MS. BRUCE: Mr. Dark.

10 MR. DARK: Yes.

11 MS. BRUCE: Mr. Drake.

12 MR. DRAKE: Yes.

13 MS. BRUCE: Ms. Galvin.

14 MS. GALVIN: Yes.
15 MS. BRUCE: Mr. Johnston.
16 MR. JOHNSTON: Yes.
17 MS. BRUCE: Ms. Rose.
18 MS. ROSE: Yes.
19 MS. BRUCE: Ms. Savage.
20 MS. SAVAGE: Yes.
21 MS. BRUCE: Mr. Wuerflein.
22 MR. WUERFLEIN: Yes.
23 MS. BRUCE: Mr. Mason.
24 MR. MASON: Yes.
25 MS. BRUCE: Motion approved.

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1 MR. MASON: Thank you. Mr.
2 Rodriguez, thank you for your input.
3 MR. RODRIGUEZ: Thank you, very
4 much, for the opportunity for discussion.
5 MR. MASON: We appreciate your
6 help. And we're happy that on the dust
7 suppression, hopefully the rules are a
8 little bit easier on using the water now.
9 MR. RODRIGUEZ: (Inaudible).
10 MR. MASON: Good. Lowell, I
11 guess you're with us through lunch.
12 MR. HOBBS: Quite possibly.
13 Remember when I started that, I said listen

14 up? I'm not saying that this time.
15 We're going to proceed with 252:619,
16 Operation and Maintenance of Non-Industrial
17 Total Retention Lagoon Systems and Land
18 Application. This chapter is the result of
19 changing responsibilities with the Agency.
20 Specifically, there was a shift in the
21 compliance and enforcement responsibility
22 for non-industrial total retention lagoon
23 and land application systems. As a result,
24 all requirements for these systems were
25 reviewed and consolidated into Chapter 619.

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1 The DEQ staff sent this chapter out
2 for review prior to filing the rulemaking
3 notice in order to address as many concerns
4 as possible. There were a number of
5 comments received during this unofficial
6 comment period and where possible, these
7 comments were included in the final rule
8 proposal. There were no other comments
9 received from the public at the Council
10 meeting.

11 During the Council meeting, several
12 Council Members questions and concerns were
13 addressed and as a result, changes were
14 made prior to the Council unanimously

15 recommending these rules to the Board for
16 approval.

17 MR. MASON: Board questions?

18 Does a PE have to seal this lagoon?

19 MR. HOBBS: Don, do you want to
20 answer that?

21 MR. MAISCH: Good morning, I'm
22 Don Maisch, supervising attorney for the
23 Water Quality Division. The answer is -- I
24 don't know who posed the question, but the
25 answer to that is yes, there is a statutory

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1 provision that these basically are
2 municipal lagoons and there is a statutory
3 provision that requires municipal lagoons
4 be sealed by a registered professional
5 engineer. So it's included in the
6 statement.

7 MR. HOBBS: I could have said
8 yes, but you will accept it from him.

9 MR. WUERFLEIN: Steve, I just
10 noticed something on page two, paragraph 1-
11 4. And it reads at the bottom of that
12 paragraph, when in conflict, the terms of
13 the program shall supercede requirements of
14 the chapter. It says the permit may be

15 more restrictive or it could be less
16 restrictive than the rules and regulations
17 in the chapter.

18 MR. DARK: I had that same
19 question when I reviewed it. It seems to
20 me either would be -- would be the answer.

21 MR. WUERFLEIN: It could be
22 either one.

23 MR. DARK: Yes. Depending on,
24 you have to pick one to supersede. I mean,
25 I would seek staff's advice. But when I

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1 read that, I had that same question. When
2 I thought through it, it seemed to me that
3 --

4 MR. WUERFLEIN: Why is the permit
5 in conflict with the rules, is my question.

6 MR. DARK: Well, yes, if it
7 happened, you have to pick one. And what
8 the rules would say, we pick the permit. I
9 don't know that that's -- I don't have
10 enough knowledge to have an opinion on it,
11 but it does make sense that you wouldn't
12 want one to supersede the other.

13 MR. COLLINS: If we had a permit
14 that was an old permit, say, that said you
15 need two foot of freeboard, these rules

16 require three foot, well, you would only be
17 required to have two foot, because that's
18 what the permit said.

19 MR. WUERFLEIN: It's grand
20 fathered in.

21 MR. COLLINS: It's grand fathered
22 in. For some reason, they needed
23 (inaudible) the location needed to be more
24 restrictive, it could be more restrictive
25 in the permit. I don't know that that

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1 happens, but regardless of which, if it was
2 more stringent or less stringent, the
3 permit would always rule.

4 (Inaudible discussion)

5 MR. MASON: Any other Board
6 comments? Public comments? Action by the
7 Board?

8 MR. JOHNSTON: Move to approve.

9 MR. WUERFLEIN: Second.

10 MR. MASON: Jerry moved and
11 Richard seconded. Can we have a vote,
12 please, Myrna.

13 MS. BRUCE: Ms. Cantrell.

14 MS. CANTRELL: Yes.

15 MS. BRUCE: Mr. Dark.

16 MR. DARK: Yes.
17 MS. BRUCE: Mr. Drake.
18 MR. DRAKE: Yes.
19 MS. BRUCE: Ms. Galvin.
20 MS. GALVIN: Yes.
21 MS. BRUCE: Mr. Johnston.
22 MR. JOHNSTON: Yes.
23 MS. BRUCE: Ms. Rose.
24 MS. ROSE: Yes.
25 MS. BRUCE: Ms. Savage.

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1 MS. SAVAGE: Yes.
2 MS. BRUCE: Mr. Wuerflein.
3 MR. WUERFLEIN: Yes.
4 MS. BRUCE: Mr. Mason.
5 MR. MASON: Yes.
6 MS. BRUCE: Approved.
7 MR. MASON: Continue, please.
8 MR. HOBBS: 252:621, Non-
9 Industrial Flow-Through and Public Water
10 Supply Impoundments Including Land
11 Application. The changes to this chapter
12 are the result of the anticipated adoption
13 of the new Chapter 619. These changes
14 clarify the title and which entities this
15 chapter regulates. There were no technical
16 changes or changes to fees.

17 There were no comments received
18 during the comment period or at the Council
19 meeting. The Council voted unanimously to
20 recommend that the Board approve the
21 changes to Chapter 621.

22 MR. MASON: And do PE's certify
23 these impoundments?

24 MR. HOBBS: Absolutely.

25 MR. MASON: And I guess part of

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1 my confusion is I don't see it in certainly
2 in the earlier rules we looked at just
3 before this. That's my confusion. Thank
4 you. Board, questions? Public comments?
5 Action by the Board?

6 MR. WUERFLEIN: Move we adopt.

7 MR. MASON: Richard moves.

8 MR. DRAKE: Second.

9 MR. MASON: Second by Bob.

10 Myrna, may we vote again, please.

11 MS. BRUCE: Ms. Cantrell.

12 MS. CANTRELL: Yes.

13 MS. BRUCE: Mr. Dark.

14 MR. DARK: Yes.

15 MS. BRUCE: Mr. Drake.

16 MR. DRAKE: Yes.

17 MS. BRUCE: Ms. Galvin.
18 MS. GALVIN: Yes.
19 MS. BRUCE: Mr. Johnston.
20 MR. JOHNSTON: Yes.
21 MS. BRUCE: Ms. Rose.
22 MS. ROSE: Yes.
23 MS. BRUCE: Ms. Savage.
24 MS. SAVAGE: Yes.
25 MS. BRUCE: Mr. Wuerflein.

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1 MR. WUERFLEIN: Yes.
2 MS. BRUCE: Mr. Mason.
3 MR. MASON: Yes.
4 MS. BRUCE: Motion approved.
5 MR. MASON: Thank you. Lowell.
6 MR. HOBBS: 252:631, Public Water
7 Supply Operation. Chapter 631 addresses
8 the federal Public Water Supply Supervision
9 program. The change before the
10 Environmental Quality Board is to update
11 the incorporation by reference of federal
12 regulations. This is an annual update to
13 ensure that the Oklahoma program is
14 consistent with federal requirements.
15 There were no technical changes or changes
16 to fees, no comments received during the
17 comment period nor at the Council meeting.

18 The Council voted unanimously to recommend
19 that the Board approve the changes to
20 Chapter 631.

21 MR. MASON: Board questions?
22 Public questions? Board action?

23 MR. DARK: Move approval.

24 MR. MASON: Tony moves.

25 MS. CANTRELL: Second.

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1 MR. MASON: Brita seconds.
2 Myrna.

3 MS. BRUCE: Ms. Cantrell.

4 MS. CANTRELL: Yes.

5 MS. BRUCE: Mr. Dark.

6 MR. DARK: Yes.

7 MS. BRUCE: Mr. Drake.

8 MR. DRAKE: Yes.

9 MS. BRUCE: Ms. Galvin.

10 MS. GALVIN: Yes.

11 MS. BRUCE: Mr. Johnston.

12 MR. JOHNSTON: Yes.

13 MS. BRUCE: Ms. Rose.

14 MS. ROSE: Yes.

15 MS. BRUCE: Ms. Savage.

16 MS. SAVAGE: Yes.

17 MS. BRUCE: Mr. Wuerflein.

18 MR. WUERFLEIN: Yes.
19 MS. BRUCE: Mr. Mason.
20 MR. MASON: Yes.
21 MS. BRUCE: Approved.
22 MR. MASON: Lowell.
23 MR. HOBBS: For the length of
24 time I've been up here would confirm my
25 statement earlier that we've got a very

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1 conscientious Council and a very qualified
2 group. We review these things very
3 seriously. This is one of the last things
4 I'll do, I've got one more after this.
5 252:690, Water Quality Standards
6 Implementations. Chapter 690 sets forth
7 the methodology that DEQ uses to implement
8 Water Quality Standards in the permitting
9 process. The changes proposed to this
10 chapter include updating the incorporation
11 by reference of federal regulations and
12 publication dates and titles used as
13 reference materials for Whole Effluent
14 Toxicity Testing; and amending language
15 relating to 7Q2 determination, language for
16 background monitoring, ammonia monitoring
17 requirements, amending test durations, and
18 how and when testing frequency can be

19 reduced; removing the diazinon alternative
20 for Whole Effluent Toxicity testing; and
21 correcting a typographical error in
22 Appendix B.

23 There was one comment received
24 during the comment period, which was
25 addressed by the Council. Also, there were

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1 some questions asked at the Council meeting
2 by Council Members and by members of the
3 public. These questions were addressed
4 during the meeting.

5 The Council voted unanimously to
6 recommend that the Board approve the
7 changes to Chapter 690.

8 MR. MASON: Board questions?
9 Public questions, comments? Board action?

10 MR. DARK: Move approval.

11 MS. GALVIN: Second.

12 MR. MASON: Motion from Tony and
13 a second from Jennifer. Any discussion?
14 May we vote, please, Myrna.

15 MS. BRUCE: Ms. Cantrell.

16 MS. CANTRELL: Yes.

17 MS. BRUCE: Mr. Dark.

18 MR. DARK: Yes.

19 MS. BRUCE: Mr. Drake.
20 MR. DRAKE: Yes.
21 MS. BRUCE: Ms. Galvin.
22 MS. GALVIN: Yes.
23 MS. BRUCE: Mr. Johnston.
24 MR. JOHNSTON: Yes.
25 MS. BRUCE: Ms. Rose.

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1 MS. ROSE: Yes.
2 MS. BRUCE: Ms. Savage.
3 MS. SAVAGE: Yes.
4 MS. BRUCE: Mr. Wuerflein.
5 MR. WUERFLEIN: Yes.
6 MS. BRUCE: Mr. Mason.
7 MR. MASON: Yes.
8 MS. BRUCE: Approved.
9 MR. MASON: Is that it, Lowell?
10 MR. HOBBS: I've got one more
11 unofficial thing. A fellow on this Board,
12 on the DEQ Board, who is -- has a special
13 day today. Bob Drake, if you'll come up
14 here, I've got -- I want to recognize you
15 for having another birthday. I think we're
16 going to sing happy birthday to you and
17 here's a little card of our appreciation.
18 There's not any money in it.
19 Congratulations on a very happy birthday.

20 (Off the record)

21 (Back on record)

22 MR. THOMPSON: It's my opinion
23 that the DEQ staff always goes above and
24 beyond the call of duty. Mr. Drake is not
25 a big fan of bakery birthday cakes, so

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1 Ellen Bussert baked, last night, his
2 favorite birthday cake at home, so just an
3 example of the DEQ -- and I suppose all
4 Board Members will now expect that.

5 MR. DRAKE: Probably all of them
6 won't announce it. I think when you have
7 another year -- anytime after 60 you have
8 another year, God has given you another
9 year of grace, so I announce it.

10 MR. THOMPSON: I'm getting real
11 close to agreeing with you, Bob.

12 MR. MASON: Well, Bob, happy
13 birthday.

14 And Lowell, there is not many people
15 that have served this agency on our
16 councils since we were formed in 1993 and
17 thank you, very much, we appreciate you.

18 Item Number 17 to be presented by
19 Carl Gray.

20 MR. GRAY: So how do you top
21 that? No birthdays.

22 The Water and Wastewater Works
23 Advisory Council would like to propose the
24 following changes to 252:710, except at
25 this time we would like to withdraw the

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1 recommendation under 710-3-31, Subchapter
2 B, and would like to take this back for
3 further discussion. I've had a number of
4 phone calls on this as well as our
5 representatives at DEQ and I think we would
6 like to have some clarification.

7 MR. MASON: So what I understand
8 is your Council passed the rule as
9 presented.

10 MR. GRAY: Yes.

11 MR. MASON: And then your
12 recommendation on Page Two, under (B)(1)
13 under plumbers and contractors.

14 MR. GRAY: Yes.

15 MR. MASON: This new language, "a
16 certified operator or designee", your
17 individual recommendation is that we strike
18 that change and pass the rest of the rule,
19 understanding that the entire rule was
20 passed by your Council?

21 MR. GRAY: Yes. I don't want
22 that to stop the entire rule change to the
23 other housecleaning things we did in 710
24 and for -- we wish for the rule to proceed
25 and that not be a deal breaker.

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1 MR. MASON: Yes, sir. All right.
2 Questions from the Board? Please.

3 MR. DARK: If we pull that out,
4 that's not going to have an adverse affect
5 on any other of the sections, those
6 changes?

7 Mr. GRAY: No.

8 MR. DARK: I really would like to
9 know what's the motivation for pulling it,
10 is there a potential for conflict?

11 MR. GRAY: Yes. I would say
12 there is a potential for conflict. What we
13 attempted to do in the old 700 rules, there
14 was a provision for plumbers and
15 contractors to perform under the general
16 supervision of the superintendent. When we
17 came back in and made some changes to 710,
18 some of that language was left out and
19 changed. The cities can have more
20 stringent requirements than what the rule

21 proposes and the particular city I work for
22 does.

23 But this change was brought about to
24 put some of that wording back in, but we've
25 had a number of calls and comments about it

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1 and I think that if we propose and go
2 forward as written now we might tie up the
3 rest of the afternoon and I don't want to
4 stop that from the rest of the rules going
5 through.

6 MR. DARK: So the cities' concern
7 is that (inaudible).

8 MR. GRAY: Well, I have a
9 personal recommendation on here, but my
10 vote was a no vote on the Council. I
11 wanted further clarification and we had
12 talked about that with the DEQ legal
13 representatives at that time but we went
14 ahead and the proposal was passed on
15 through.

16 MR. WISNIEWSKI: I'm Chris
17 Wisniewski of the Operator Certification.
18 There is a possibility it could be
19 construed as conflicting with State
20 Statutes. Because the State Statutes state
21 that a plumber or contractor can do all the

22 work unsupervised. And then this portion
23 kind of infers that operator certification
24 still might have to be part of the loop
25 which the State Statutes says they do not

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1 have to, so we just want further
2 reconsideration.

3 MR. MASON: Other Board
4 questions?

5 MS. SAVAGE: Why did the Council
6 pass it? Was there no discussion?

7 MR. GRAY: Yes, there was plenty
8 of discussion. And there was discussion in
9 the member audiences, but -- and part of
10 that discussion was that the cities can be
11 more stringent and require additional
12 requirements of issuing a permit to do a
13 TAP, say, on a sewer line. So it was
14 discussed back and forth, but the -- and
15 you know, the view of the Council was that
16 since the cities can be more stringent,
17 that we really did need to clarify this
18 further.

19 My comments in that discussion was a
20 lot of these smaller towns a lot of times
21 say, well, it says in State Statutes that

22 plumbers and contractors can make TAPs and
23 who are we to go against what's in the
24 rules and regs and therefore be more
25 lenient. Okay. May I read this out of --

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1 this is OS 27A.

2 A plumber license pursuant to the
3 plumbing license law of 1955 shall not be
4 required to hold any waterworks or
5 wastewater operation certification in order
6 to make connections to public water systems
7 for lines or sewer systems or lines .

8 So I believe the discussion is,
9 where it comes in is, under the general
10 supervision of a certified operator. And
11 also I wanted some clarification on
12 contractors, are we talking about plumber
13 contractors, are we talking about the
14 general contractors, the gentlemen who's
15 doing the dirt work on the development, you
16 know, personally I've ran across all of
17 those scenarios.

18 MR. DARK: I can see why you
19 would want this held off for more
20 clarification, absolutely. Just from my
21 limited knowledge, there is a lot of
22 potential for conflict -- a lot of

23 potential conflict.

24 MR. MASON: Other Board comments?

25 Comments from the public? Is there any --

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1 MS. SAVAGE: What would be the
2 procedure, do you take that out first?

3 MR. MASON: I think a motion will
4 be made with or without that line.

5 MS. SAVAGE: Okay.

6 MR. MASON: Any action by the
7 Board?

8 MR. JOHNSTON: I make a motion
9 without that line.

10 MR. DRAKE: I'll second.

11 MR. MASON: We have a motion from
12 Jerry and a second from Bob to pass
13 language as presented, but we're going to
14 strike the proposed language in that
15 Section (B)(1) under plumbers and
16 contractors that says a certified operator
17 or a designee of. Is there any discussion?

18 Myrna, may we vote, please.

19 MS. BRUCE: Ms. Cantrell.

20 MS. CANTRELL: Yes.

21 MS. BRUCE: Mr. Dark.

22 MR. DARK: Yes.

23 MS. BRUCE: Mr. Drake.
24 MR. DRAKE: Yes.
25 MS. BRUCE: Ms. Galvin.

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1 MS. GALVIN: Yes.
2 MS. BRUCE: Mr. Johnston.
3 MR. JOHNSTON: Yes.
4 MS. BRUCE: Ms. Rose.
5 MS. ROSE: Yes.
6 MS. BRUCE: Ms. Savage.
7 MS. SAVAGE: Yes.
8 MS. BRUCE: Mr. Wuerflein.
9 MR. WUERFLEIN: Yes.
10 MS. BRUCE: Mr. Mason.
11 MR. MASON: Yes.
12 MS. BRUCE: Motion approved.
13 MR. MASON: Thank you. Thank
14 you, very much.
15 MR. GRAY: Thank you.
16 MR. MASON: Any new business? I
17 guess it's Steve's turn.
18 MR. THOMPSON: Thank you, Mr.
19 Chairman. Members of the Board, I have
20 just a couple of things for the Board
21 today. There has been some publicity in
22 the paper about the State fleet. Those
23 agencies of state government that own

24 vehicles were surveyed by the Auditor and
25 Inspector. And then there was some

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1 publicity in several of the papers about
2 what some agencies were doing. We didn't
3 receive any publicity, which may be an
4 indicator. So I thought I would review
5 that with you.

6 What this survey revealed is that
7 DEQ leases 34 vehicles from the State Motor
8 Pool and we own four vehicles. All of
9 those four vehicles are in surplus and will
10 go through the auction -- surplus auction
11 at some time. So we effectively have only
12 34 leased vehicles. We have a written
13 policy that prohibits employees from taking
14 a state-owned vehicle home, that includes
15 particularly -- not particularly, but it
16 also includes the Executive Director and
17 from allowing non-state personnel from
18 riding in a state vehicle. We log all of
19 our usage, we show where we're going, the
20 miles that we went.

21 We have people in the field who have
22 used a car full-time for work, but they are
23 required to take that car to the office or

24 to some state facility, drive their
25 personal car home and then come back to the

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1 state facility the next day and take that
2 car out for work. So relative to some of
3 the issues that have been raised, relative
4 to fleets, we think we're pretty much in
5 compliance with both the letter and the
6 spirit of the law.

7 Any questions about that? Okay.

8 Every year at about this time we
9 provide a memo to the Board -- to Board and
10 Council Members that describes legislation
11 of interest to the Agency and we hope to
12 the Board and Council and where that bill
13 is, in the process. In past years, that
14 memo would have gone out last Friday. This
15 year, the House decided to extend the time
16 period for committee meetings until next
17 Friday. So that memo will be coming out
18 next Friday, the first deadline being bills
19 being out of the House -- the Committee of
20 the House of Origin.

21 But I thought I would go over some
22 of the bills and maybe as importantly, the
23 way that the agency tracks them. Now,
24 among Jimmy Givens' many talents --

25

MR. GIVENS: Besides taking

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1 blame.

2 MR. THOMPSON: -- besides taking
3 blame, which is his primary task. But
4 second, maybe, is -- Jimmy is responsible
5 to track bills for us. As you will recall,
6 maybe from the newspapers, there were some
7 2,100 bills filed this year, so that's a
8 fairly daunting task. And the way that he
9 tracks those bills -- there are two ways.
10 I didn't bring copies of this, but this is
11 what we call our watch list. These are
12 bills of general interest to the Agency,
13 things that we might think -- a lot of them
14 are administrative issues, some are not.
15 But they are just of general interest to
16 the Agency. And then we have what we call
17 our key bills list that Jimmy creates for
18 us every week. So as those are passed
19 around, I would like to just run down
20 through the bills that are on the key
21 bills list for you, tell you where we
22 think they are and then that will conclude
23 my -- and then I'll answer questions and
24 that will conclude my report for this

25 meeting.

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1 House Bill -- starting at the top,
2 House Bill 1868 is a shell bill . We have
3 talked to the author of that bill and he
4 has stated that he has no intention to use
5 that bill. We'll know more about that at
6 the end of next week. If these bills do
7 not run through committee, they are
8 effectively dead for the session.

9 House Resolution 1007 was a
10 resolution in the House of Representatives
11 that supported the Clear Skies -- the
12 President's Clear Skies Initiative, that
13 did pass the House.

14 Senate Bill 272 was our request bill
15 that we brought forward to the last Board
16 meeting relative to a fee on rental cars.
17 It was the feeling of both the author and
18 the fee payers, quite frankly, that this
19 had drawn enough flies, enough angst had
20 been expressed about it, and that the way
21 to proceed in getting money for the air
22 program was through general revenue
23 appropriations. So -- don't laugh, now.
24 So I have been vigorously pursuing that.
25 It's my understanding, though, that really

1 EFO and the major fee payers will be in
2 behind me supporting that general revenue
3 effort. But we'll see what happens there.

4 MR. DARK: Unless they start
5 falling backwards (inaudible).

6 MR. THOMPSON: That's exactly
7 right, they've promised to be right behind
8 me. But anyway, that bill is effectively
9 dead.

10 Some money that was requested for
11 INCOG for modeling also is dead. You will
12 see then a whole list of appropriation and
13 budget shell bills. We start out every
14 year with lots of appropriation and shell
15 bills -- appropriation and budget shell
16 bills. They eventually whittle those away
17 until we are down to one that our budget
18 will be set -- where our budget will be
19 set. They're just out there in case
20 somebody needs something.

21 Senate Bill -- both Senate Bills 304
22 and 306, there is a prohibition currently
23 against any state employee doing soil tests
24 or soil profiles, perc tests essentially.
25 Both of these bills give state employees

1 the ability to do that. One says that only
2 for non-DEQ employees. One doesn't make
3 that limitation, but the Agency makes that
4 limitation with some support of merit rules
5 and we just don't think it's appropriate
6 for a regulator to be involved in a
7 business. So we will prohibit that by
8 policy, anyway. I think the private sector
9 has taken some interest in this, adding
10 people who might be in competition with
11 them, so we'll see what happens to those
12 bills in the House. But essentially, it
13 has no effect on our employees because
14 either by statute or by policy, we will
15 prohibit that activity.

16 Then there is a raft -- there are as
17 usual a raft of tire bills. House Bill
18 1217, 1606, 1773, Senate Bill 521 and
19 Senate Bill 898 are all tire bills. The
20 ones in the Senate are dead. 1217 will
21 soon die because it's not going to be run
22 in Committee. 1606 and 1773 remain live
23 rounds.

24 The Chairman of the House
25 Environment Committee asked me to get all

1 the tire processors in one room at one time
2 to see if we can come to compromise on a
3 tire bill. And in a brief moment, if
4 insanity, I agreed to do so. But in
5 effect, we met last -- this Wednesday and
6 as of that date, most of the tire
7 processors in the state had compromised on
8 one piece of legislation. Now, this is
9 Friday and that may well have changed by
10 now. And that is a change that is really
11 sort of a reallocation of the current fund
12 that gives more equity to a fund but does
13 not include any fee increase on tires. So
14 we seem at least -- is Sharon Myers still
15 here? Did she leave? Okay. She was in
16 that meeting, so I was going to ask her to
17 comment. But so far so good, so we'll see
18 how that goes.

19 Senate Bill 41 is a bill -- we had a
20 solid waste facility -- our late fee on
21 solid waste fees is, after the first month,
22 is 50 percent a month, by statute and it
23 doesn't say you may fine them 50 percent,
24 or impose a 50 percent late fee, you shall.
25 We had a facility who had a change in

1 employment and the person that was doing
2 this didn't do it and it went on for some
3 time and I don't recall exactly what it
4 was, but I think ultimately they paid a
5 late fee that was 150 percent of the fee.
6 And I don't know of any late fee anywhere
7 that's that big. And so they came, went to
8 the legislature, Senator Wilcoxon came to
9 me, we wanted strong deterrence, we wanted
10 people to pay their late fees, but we
11 compromised at 15 percent a month. That's
12 90 percent a year, we think that's
13 sufficient deterrence, so that's a bill
14 that's going forward.

15 281 is a -- it was a shell bill
16 that's dead. Senate Bill 356 is a Tar
17 Creek relocation act bill, it is really a
18 shell, it is just in case the Governor
19 needs to do anything relative to the buyout
20 that's going on at Tar Creek.

21 380 was a dollar fee on solid waste
22 for county roads, that bill is dead. There
23 was a bill to limit the height on
24 landfills, that bill is dead.

25 599 is our request bill -- Senate

1 Bill 599 is our request bill that has to do
2 with equalizing Board meetings and Board
3 forums, so that if there comes a time that
4 we only have three meetings, we will only
5 have the requirement to have three forums
6 rather than the current requirement to have
7 four. So that's a request bill we brought
8 to you.

9 1238, again, is our request bill
10 that has to do with the connections and the
11 flow and it simply removes the connection
12 language so that the thing that dictates an
13 engineered lagoon is the flow, rather than
14 number of connections. There is also some
15 federal language in there relative to
16 nontransient, non-community officers.

17 MR. WUERFLEIN: Let me back up to
18 one of the forums.

19 MR. THOMPSON: Yes.

20 MR. WUERFLEIN: What does the
21 general order mean? Does that mean it's
22 just alive?

23 MR. THOMPSON: I'm sorry. I'm
24 sorry, I should be telling you that. That
25 bill is -- has passed out of committee, is

1 on general order in the House.

2 MR. WUERFLEIN: Has it been voted
3 on by the floor yet?

4 MR. THOMPSON: Are we talking
5 about 1288?

6 MR. WUERFLEIN: Well, I was
7 talking about the forums.

8 MR. THOMPSON: 599 still needs to
9 be voted on by the Senate, full Senate.

10 MR. WUERFLEIN: Okay.

11 MR. THOMPSON: I'm sorry. 1238
12 has passed the full House and is in
13 committee in the Senate, has been assigned
14 to committee in the Senate. Let's see.

15 1328 was a shell bill. That's not -
16 - the House Environment Committee meets
17 Monday, it is not on the agenda for Monday
18 so -- and that's the deadline, so we're
19 going to assume that that bill is dead.

20 1458 is a bill that says if we -- if
21 a rural water district removes a meter for
22 any other reason than delinquency, the
23 Department can order the rural water
24 district to put it back. This is not a DEQ
25 request bill.

1 MR. DARK: Say that again,
2 please.

3 MR. THOMPSON: Okay. If a rural
4 water district removes a meter for any
5 other reason than delinquency, we can order
6 the rural water district to put the meter
7 back.

8 MR. DARK: Just to protect the
9 water supply.

10 MR. THOMPSON: To protect the
11 water supply. Currently, our only issue
12 related to meters, as far as I know and Don
13 can correct me, is pressure. You have to
14 have sufficient pressure at the meter,
15 wherever that is. This was done as a
16 result of a constituent complaint with
17 Representative Ellis and I'm not sure that
18 Gene Whatley is particularly happy about it
19 and it's not a request bill.

20 The 1467 is the bill that was -- is
21 sponsored by the Oklahoma Department of
22 Agriculture to get delegation of the
23 discharge program from the federal
24 government, much like the DEQ has. I will
25 tell you that Tina Gunter, with the

1 Department of Agriculture, has been very
2 good about providing information to us to
3 allow us to comment. We don't have -- we
4 don't have a particular dog in this fight
5 other than our own jurisdiction.

6 (Court reporter changed tape)

7 MR. THOMPSON: House bill 1505 is
8 a bill that would designate the Blue River
9 as a scenic river. That is scheduled and
10 the Blue River is down in Mr. Drake's area.
11 That is scheduled to be heard in the House
12 Environment Committee Monday. Whether the
13 Blue River is designated as a scenic river
14 or not is not really the Agency's issue.
15 But we do feel an obligation -- no
16 surprises -- obligation to the author to
17 tell him what the consequences of that,
18 what will be -- what will happen when that
19 designation occurs and so we have provided
20 -- we have simply provided that
21 information.

22 MR. DRAKE: He's not listening,
23 but thank you.

24 MR. THOMPSON: 305 is another
25 shell that's dead. If you'll look on the

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1 back, 379 was a task force by Senator

2 Easley to put together the group to talk
3 about poultry issues, that is dead. 592
4 was a simple shell bill by Senator
5 Lerblance, that didn't run in committee so
6 that one is dead.

7 Senate Bill 604 is a bill that
8 simply says that the community has the --
9 can make the determination about who gets
10 its sludge. The Department simply permits
11 where it can go. It was an issue that
12 arose that -- well, that maybe some of our
13 employees were -- an employee was making
14 decisions about the distribution of sludge.
15 That's not our role. Senator Shurden
16 wanted to do a bill that clarified that and
17 we support that bill. It simply puts in
18 place what we believe to be the case now.

19 SJR 18 was a resolution to
20 disapprove a couple of our wastewater rules
21 -- industrial wastewater rules. Joint
22 resolutions and concurrent resolutions
23 survive beyond the committee deadline, so
24 you can't assume that an SJR is dead, even
25 though the committee deadline has passed.

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1 We believe the resolution to be dormant, we

2 don't believe it's going to run, but we
3 will continue to watch that.

4 MR. DARK: Steve, it's my
5 understanding that SJRs are just joint
6 resolutions, they have the ability to live
7 until the last day of session, correct?

8 MR. THOMPSON: We do. SJRs. Okay. Almost
9 until the end, Tony. Go ahead.

10 MR. GIVENS: Joint resolutions
11 that address administrative rules live
12 beyond the deadlines, not all the joint
13 resolutions.

14 MR. DARK: Just administrative.
15 Give me an example of where one wouldn't
16 live.

17 MR. GIVENS: Joint resolutions
18 are subject to the same deadlines as bills
19 except for joint resolutions that address
20 administrative rules, redistricting, one
21 other that escapes me at the moment.
22 Generally, they are subject to the same
23 deadlines.

24 MR. THOMPSON: And it's Jimmy's
25 fault for not making that clear to me.

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1 MR. DARK: I'm just trying to get
2 a clarification, I wasn't sure.

3 MR. THOMPSON: But this one falls
4 into that category.

5 Now, that's a good point. I think
6 most people know this, just because a bill
7 is dead does not mean the idea is dead.
8 Any idea can be slipped into a bill at any
9 time, so we will continue to -- and Jimmy
10 will rigidly continue to watch for those
11 kind of things and we'll address them as we
12 have to. Anyway, it may give you a sense
13 of why the Department spends some time at
14 the legislature.

15 MR. DARK: One request with the
16 sub-bills, if Jimmy is not that busy, in
17 his spare time could he email out to the
18 Board Members?

19 MR. THOMPSON: We would be glad
20 to.

21 MR. DARK: Do you do those weekly
22 or monthly?

23 MR. THOMPSON: Weekly.

24 MR. DARK: Weekly?

25 MR. THOMPSON: Yes.

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1 MR. DARK: Literally, Jimmy, if
2 you could press a button to make it happen,

3 please do, but don't go to any trouble
4 beyond that. I would really like to see
5 those weekly.

6 MR. THOMPSON: Okay. Board, is
7 that the consensus of the Board?

8 MR. JOHNSTON: Yes, I would like
9 to see them.

10 MR. THOMPSON: Okay.

11 MR. DRAKE: Particularly, if you
12 need some help on something, if the
13 Department needs some help on something,
14 not just send out en masse like we're
15 talking about but specifically, say -- you
16 don't have to ask them, just say, this is
17 an issue.

18 MR. THOMPSON: We can certainly
19 do that.

20 MR. DRAKE: Based on how you
21 really feel. Like I don't want the rural
22 water thing to go through.

23 MR. THOMPSON: One other thing
24 that is a legislative issue that I will
25 bring you up to date on. I sense a lot of

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1 the Board, again, has asked that in the
2 appropriations bill, the Hays Study be
3 included relative to the salary of the

4 Executive Director. I am doing a little
5 work on that, but I sense that there are a
6 lot of Board Members and folks that work
7 with Board Members that are pursuing that
8 and I want to express my appreciation, but
9 the deal is not done. Typically, statutory
10 issues get taken up toward the first part
11 of the session, budget and appropriations
12 get taken up toward the end, but there is
13 clearly some overlap on both of those. And
14 with that, Mr. Chairman --

15 MR. DARK: Is there a sense of
16 more overlap because of the freshman status
17 of our house these days?

18 MR. THOMPSON: Well, I mean --
19 yes. Yes.

20 MR. DARK: I wasn't sure, because
21 they have some latitude there. I wasn't
22 sure what they were taking.

23 MR. THOMPSON: Yes. I think
24 there is -- that is the case. They are
25 going to take some advantage of that. They

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1 really did run -- they did extend the time
2 for committee meetings, at least, because
3 they wanted the issues to be taken up in

4 committee. The committee process is a
5 really good learning process for freshman
6 members. In fact, prior to the legislature
7 beginning, because of the number of new
8 people in the legislature, they held some
9 mock committee meetings and we were invited
10 to be there to explain -- help and offer to
11 explain the bill. So I think the
12 leadership on both sides is doing what they
13 can to get new members acclimated to the
14 process. That's my sense.

15 With that, Mr. Chairman, that
16 concludes my report.

17 MR. MASON: Any other questions
18 for Steve today from the Board or the
19 public or the staff?

20 MR. WUERFLEIN: Steve, on this
21 one on municipal sludge, have we got people
22 fighting for that to get that stuff out,
23 keeping the DEQ out of who gets it, it used
24 to be you had to fight to find somebody to
25 take that stuff.

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1 MR. THOMPSON: It is becoming
2 more and more of a resource.

3 MR. WUERFLEIN: More popular,
4 okay.

5 MR. THOMPSON: We permit the
6 site. We have -- they decide who gets it
7 and I assume there is a list and then we
8 permit the site. And there is regulations
9 requiring incorporation of a lot of things
10 once a site is permitted, but that's our
11 role.

12 MR. JOHNSTON: Move for
13 adjournment.

14 MR. MASON: That's fine. We're
15 adjourned and we'll go to the public forum.

16

17 (END OF PROCEEDINGS)

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C E R T I F I C A T E

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STATE OF OKLAHOMA)

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ss:

5 COUNTY OF OKLAHOMA)

6 I, CHRISTY A. MYERS, Certified
7 Shorthand Reporter in and for the State of
8 Oklahoma, do hereby certify that the above
9 proceedings is the truth, the whole truth,
10 and nothing but the truth; that the
11 foregoing proceedings were taken down in
12 shorthand, tape recorded by me and
13 thereafter transcribed under my direction;
14 that said proceedings were taken on the 4th
15 day of March, 2005, at Oklahoma City,
16 Oklahoma; and that I am neither attorney
17 for nor relative of any of said parties,
18 nor otherwise interested in said action.

19 IN WITNESS WHEREOF, I have hereunto
20 set my hand and official seal on this, the
21 7th day of April, 2005.

22

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

24

25