

**MINUTES
ENVIRONMENTAL QUALITY BOARD
June 21, 2005
Roman Nose Resort Park
Watonga, Oklahoma**

EQB Approved
August 23, 2005

Notice of Public Meeting The Environmental Quality Board convened for a regular meeting at 9:30 a.m. June 21, 2005 in the Black Coyote Room, at Roman Nose Resort Park, Watonga, 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 June 9, 2005 and was posted on June 17, 2005 on the door of the Black Coyote Room at Roman Nose and at the Department of Environmental Quality. Mr. Steve Mason called the meeting to order and welcomed David Griesel to the Board. Roll call was taken and a quorum was confirmed.

MEMBERS PRESENT

Brita Cantrell
Mike Cassidy
Tony Dark
Bob Drake
David Griesel
Jerry Johnston
Steve Mason
Terri Savage
Richard Wuerflein

MEMBERS ABSENT

Jack Coffman
Jennifer Galvin
Sandra Rose
Vacancy

DEQ STAFF PRESENT

Steve Thompson, Executive Director
Craig Kennamer, Deputy Executive Director
Jimmy Givens, General Counsel
Eddie Terrill, Air Quality Division
Scott Thompson, 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
Ellen Phillips, Assistant Attorney General
David Branecky, Member, AQC

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

Approval of Minutes Mr. Mason called for motion to approve the Minutes of the March 4, 2005 Regular Meeting. Mr. Drake made the motion and Mr. Dark made the second.

Roll call.

Brita Cantrell	Yes	David Griesel	Abstain
Mike Cassidy	Yes	Jerry Johnston	Yes
Tony Dark	Yes	Terri Savage	Yes
Bob Drake	Yes	Richard Wuerflein	Yes
		Steve Mason	Yes

Motion carried.

AQC 252:100 Air Pollution Control Mr. David Branecky, Member of the Air Quality Council, stated that proposed amendments to *Subchapter 41, Control of Emission of Hazardous Air Pollutants and Toxic Air Contaminants* partitions the existing Subchapter 41 into two subchapters. Proposed amendments would clarify and modify the state-only requirements for emissions from stationary sources and relocate those requirements into the new Subchapter 42 and Appendix O. He related that Subchapter 41 would contain the federal requirements for hazardous air pollutants and asbestos and that the new Appendix O would provide a list of toxic air contaminants and set maximum acceptable ambient

concentrations for these substances. Mr. Branecky pointed out that the Air Quality Council held four hearings on this rule and passed the rule for permanent adoption at its April 20, 2005 meeting. He told the Board that since then the legislature had approved funding for the program and that the Council now recommended that the Board approve the proposal for both emergency and permanent adoption so that the program might be instituted more quickly. Mr. Eddie Terrill fielded questions and comments regarding the proposal. Mr. Tony Dark made motion to approve as a permanent and emergency rule. The second was made by Ms. Savage. Ms. Susan Krug, Assistant Attorney General, requested that first there must be a finding of emergency. Mr. Dark amended his motion to reflect the need for emergency adoption and Ms. Savage made that second.

See transcript pages 7 – 22

Roll call.		David Griesel	Yes
Brita Cantrell	Yes	Jerry Johnston	Yes
Mike Cassidy	Yes	Terri Savage	Yes
Tony Dark	Yes	Richard Wuerflein	Yes
Bob Drake	Yes	Steve Mason	Yes

Motion carried.

Mr. Dark then made his motion to approve as a permanent rule and Ms. Savage made the second. Following discussion, Ms. Bruce called the roll.

See transcript pages 22-30

Roll call.		David Griesel	Yes
Brita Cantrell	Yes	Jerry Johnston	Yes
Mike Cassidy	Yes	Terri Savage	Yes
Tony Dark	Yes	Richard Wuerflein	Yes
Bob Drake	Yes	Steve Mason	Yes

Motion carried.

Annual Performance Review of the Executive Director Mr. Steve Thompson provided information to the Board relating to the FOCUS document that sets forth the goals, objectives, priorities, and policies of the Department. Mr. Mason called for a motion to adjourn to Executive Session. Mr. Drake made the motion with Mr. Griesel making the second. At 10:15 a.m. the Board members adjourned to Executive Session in an adjacent room. Ms. Bruce was requested to take the Minutes of the Executive Session.

Roll call.		David Griesel	Yes
Brita Cantrell	Yes	Jerry Johnston	Yes
Mike Cassidy	Yes	Terri Savage	Yes
Tony Dark	Yes	Richard Wuerflein	Yes
Bob Drake	Yes	Steve Mason	Yes

Motion carried.

Following initial discussion, Mr. Thompson was called into the room to answer questions. The Public Meeting reconvened at 11:00 a.m. and Mr. Mason called for action by the Board. Ms. Savage expressed that it would be a “win-win” situation to give Mr. Thompson the maximum raise allowable by law. Mr. Jerry Johnston made the motion to raise Mr. Thompson’s salary to the salary cap - \$89,450.00 effective July 1, 2005. Mr. Drake made the second.

See transcript pages 31 - 43

Roll call.		David Griesel	Yes
Brita Cantrell	Yes	Jerry Johnston	Yes
Mike Cassidy	Yes	Terri Savage	Yes
Tony Dark	Yes	Richard Wuerflein	Yes
Bob Drake	Yes	Steve Mason	Yes
			Motion carried.

New Business Mr. Mason thanked Ellen Bussert for all the arrangements that had been made for the meeting. He also introduced Senator Ron Justice who represents District 23.

Executive Director's Report Mr. Thompson called upon Mr. Jimmy Givens for disclosure of certain DEQ employee financial interests as required by statute. Mr. Givens reported that only one staff member had disclosed shares in a regulated company and that employee has been advised that he cannot work on matters related to that facility.

Mr. Thompson thanked the Board members for their willingness to attend Council meetings and Mr. Johnston noted the importance of the Board support of the Councils.

Mr. Thompson provided information regarding the key bills pertaining to the Agency and handed out the DEQ Mission Statement and Major Issues for FY 2006.

He announced that this was Ms. Susan Krug's last meeting and thanked her for her time serving the Board. Ms. Krug introduced Ms. Ellen Phillips, her replacement with the Attorney General's Office.

See transcript pages 44 - 61

Adjournment At 11:30 am, Mr. Mason called for adjournment, announcing the Public Forum to follow.

The next regular meeting of the Environmental Quality Board will be August 23 at the Mid-America Expo Center, Mid-America Airport, Pryor, Oklahoma.

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DEPARTMENT OF ENVIRONMENTAL QUALITY

STATE OF OKLAHOMA

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TRANSCRIPT OF PROCEEDINGS

OF THE REGULAR MEETING

ENVIRONMENTAL QUALITY BOARD

HELD ON JUNE 21, 2005, AT 9:30 A.M.

IN WATONGA, OKLAHOMA

* * * * *

REPORTED BY: Christy A. Myers, CSR

MYERS REPORTING SERVICE
(405) 721-2882

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MEMBERS OF THE COUNCIL

- BRITA CANTRELL
- MIKE CASSIDY
- JACK COFFMAN
- TONY DARK
- BOB DRAKE
- JENNIFER GALVIN
- DAVID GRIESEL
- JERRY JOHNSTON
- TERRI SAVAGE
- RICHARD WUERFLEIN
- STEVE MASON - CHAIRMAN

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Certified Shorthand Reporter

1 PROCEEDINGS

2 MR. MASON: My name is Steve
3 Mason and I am Chairman of the
4 Environmental Quality Board.

5 This regular meeting of the
6 Environmental Quality Board has been called
7 according to the Oklahoma Open Meeting Act,
8 Section 311 of Title 25 of the Oklahoma
9 Statutes. Notice was filed with the
10 Secretary of State on November 24, 2004.
11 Agendas were mailed to interested parties
12 on June 9, 2005.

13 The agenda for this meeting was
14 posted on Friday, June 17, 2005 at this
15 facility and at the Department of
16 Environmental Quality, 707 North Robinson,
17 in Oklahoma City, Oklahoma. Only matters
18 appearing on the posted agenda may be
19 considered.

20 If this meeting is continued or
21 reconvened, we must announce today the
22 date, time and place of the continued
23 meeting and the agenda for such
24 continuation will remain the same as
25 today s agenda.

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1 All right, we re going to do a roll

2 call to see who s here, please, Myrna.

3 MS. BRUCE: Good morning.

4 Ms. Cantrell is absent for now.

5 Mr. Cassidy.

6 MR. CASSIDY: Here.

7 MS. BRUCE: Mr. Dark.

8 MR. DARK: Here.

9 MS. BRUCE: Mr. Drake.

10 MR. DRAKE: Here.

11 MS. BRUCE: Mr. Griesel.

12 MR. GRIESEL: Here.

13 MS. BRUCE: Mr. Johnston.

14 MR. JOHNSTON: Here.

15 MS. BRUCE: Ms. Savage.

16 MS. SAVAGE: Here.

17 MS. BRUCE: Mr. Wuerflein.

18 MR. WUERFLEIN: Yes.

19 MS. BRUCE: Mr. Mason.

20 MR. MASON: Yes.

21 MS. BRUCE: And for the record

22 also absent are Mr. Coffman and Ms. Galvin.

23 MR. MASON: So we have a quorum?

24 MS. BRUCE: And we do have a

25 quorum.

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1 MR. MASON: Great. First of all,
2 I d like to welcome David Griesel who s
3 joining our Board. He was appointed by
4 Governor Henry to fill the Solid Waste
5 Industry position on the Board. He has
6 served as the General Manager of the
7 Canadian County Solid Waste Disposal
8 Authority over near El Reno for
9 approximately 27 years.

10 When this agency was started back in
11 1993, he was actually one of the first -- a
12 member of the Solid Waste Advisory Council
13 when it began. Thanks for all of your
14 years down there working on solid waste
15 issues. He s also on the Board of
16 Directors of the Solid Waste Association of
17 North America and he s the General Manager
18 of Griesel Motor Ford in Okarche. Thanks
19 for being here David.

20 MR. GRIESEL: Thank you, very
21 much.

22 MR. MASON: Item Three is an
23 approval of Minutes from the previous
24 meeting.

25 MR. DRAKE: So moved.

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1 MR. DARK: Second.

2 MR. MASON: Is there any

3 discussion?

4 Can we have a roll call please.

5 MS. BRUCE: Mr. Cassidy.

6 MR. CASSIDY: Yes.

7 MS. BRUCE: Mr. Dark.

8 MR. DARK: Yes.

9 MS. BRUCE: Mr. Drake.

10 MR. DRAKE: Yes.

11 MS. BRUCE: Mr. Griesel.

12 MR. GRIESEL: Abstain.

13 MS. BRUCE: Mr. Johnston.

14 MR. JOHNSTON: 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: Motion approved.

22 MR. MASON: Item Four is

23 rulemaking regarding Air Pollution Control.

24 Is Dave Branecky here?

25 MR. BRANECKY: I m here. Thank

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1 you, Mr. Chairman. Good morning Members of
2 the Board. What we have -- what I have to
3 bring to you this morning really has three
4 separate rules. They re all interrelated
5 so I ll address them as one. You can t
6 really pass one without the other foot.
7 So, I m not expecting you to.

8 What the Department proposes is to
9 amend Subchapter 41, of OAC 252:100.
10 Subchapter 41 is Control of Emission of
11 Hazardous Air Pollutants and we want to
12 add, in addition to modifying Subchapter
13 41, we want to add another new Subchapter
14 42 and a new Appendix O. What we re trying
15 to do with 41 -- the old Subchapter 41
16 contains the requirements for both state
17 and federal hazardous air pollutants.
18 Subchapter 41 contains requirements for
19 state only and federal requirements. What
20 we were trying to do with this rulemaking
21 is to separate the State requirements into
22 one subchapter and Federal requirements
23 into the other subchapter.

24 Subchapter 41, as proposed to you
25 today, if passed, would contain only the

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1 Federal requirements. The new Subchapter
2 42 would be the state-only requirements and
3 Appendix O is associated with Subchapter
4 42.

5 What I want to do is kind of briefly
6 step you through how the new Subchapter 42
7 will work. Because Subchapter 42 and
8 Appendix O is a kind of new approach for
9 controlling Air Toxics in Oklahoma. So, I
10 want to kind of step you through how we
11 envision the new process working.

12 We believe the new Subchapter 42
13 will be less burdensome, not only on
14 industry but also on DEQ. Subchapter 41
15 just -- existing 41 became too unwieldy.
16 It was unenforceable and wasn't doing any
17 good. We needed to step back and look and
18 start fresh with a new approach. That's
19 what we're proposing today.

20 So, here's how the rule is going to
21 work. Appendix O, OAC 252:100 (inaudible)
22 change the list about 21 -- charges 21 air
23 toxins. Which we've identified -- DEQ has
24 identified as being emitted in Oklahoma and
25 have -- we have set the emission levels,

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1 maximum ambient-air concentrations, 24-hour
2 standard, that we feel are necessary to
3 protect public health. Anything above that
4 could endanger public health. But we've
5 set the (inaudible) 21 toxics and a
6 corresponding 24 hour maximum ambient-air
7 concentration. Both in parts per million
8 and (inaudible).

9 If, based on a complaint from the
10 public or from DEQ's own investigation from
11 emission inventory data or from EPA
12 reports, it is determined that there may be
13 a problem with one of these toxins in
14 Oklahoma, DEQ will initiate ambient
15 monitoring. Actually go out to the
16 suspected area, set up monitoring equipment
17 and see if there is a problem. The list in
18 Appendix O, the toxics were -- only those
19 that have proven monitoring capabilities
20 are listed. In other words, we didn't put
21 a toxic in Appendix O that we didn't go out
22 and monitor. So, those -- we have
23 monitoring capabilities for those 21 listed
24 in Appendix O.

25 If, based on the results of the

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1 monitoring data it s determined that there
2 is a problem in that area, DEQ will make
3 those what we call an area of concern,
4 around where the area that s been
5 monitored. Once that area of concern is
6 identified, DEQ will work with the industry
7 in the area, hold info meetings in with the
8 community leaders and say, hey, we think
9 there s a problem in this area. After
10 that, we will actually have a public
11 meeting to educate the public that after
12 the monitoring and the investigation, we
13 think there is a problem. After the public
14 meeting, after input from industries in the
15 area, after the input from community
16 leaders, the DEQ then will make the final
17 decision to designate that as a true area
18 of concern. Initially, with the proposed
19 areas of concern, we ll hold meetings,
20 we ll hold public hearings and then we ll
21 make a final determination to make it a
22 true area of concern. If an area of
23 concern is decided upon, we ll develop a
24 control strategy. We ll go out into the
25 area and say how can we -- what do we need

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1 to do in these areas to get these levels --
2 the ambient levels down below those listed
3 in Appendix O. And that may require
4 rulemaking. We may have to go back through
5 the Council to look to requiring stationary
6 sources in that area, if there is a
7 problem, if they are the problem, to put on
8 a control to reduce the toxics in that
9 area.

10 Once the levels have been brought
11 down to those below Appendix O, the
12 Director will then re-designate that area
13 as being in compliance. And so that
14 compliance will be demonstrated through
15 monitoring -- additional monitoring (
16 monitoring or model.

17 Following the re-designation of the
18 area by the Director, we ll have another
19 public meeting and tell everybody who, you
20 know, we had a problem -- it s been through
21 the control strategies and now it s down
22 below the acceptable levels.

23 So we believe what we ve done in
24 subchapter 42 is far better than what was
25 in (inaudible). It s improved. It

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1 integrates -- it separates federal and
2 state and we think it s best for Oklahoma.

3 The Council, when we passed the
4 rule, realized that this was a new
5 approach. So we asked the Department to
6 come back to us in a year, kind of review
7 and see how it s working and we ll make any
8 adjustments at that point.

9 We felt, since it was such a new
10 program, we wanted to make sure that if we
11 needed to make any adjustments, that we
12 could do that at that time.

13 We held a public meeting on this
14 rule on July 21st, 2004. We held another
15 meeting on December 9th, 2004; January
16 19th, 2005; and finally on April 20, 2005
17 we passed this rule. So, we had several
18 public hearings. I know Ms. Cantrell and
19 Ms. Galvin were there from the Board, at
20 our Council meetings. We had substantial
21 input from industry and from the public and
22 the Department took those comments under
23 consideration and we came up with this rule
24 that we want to present to you today.

25 What we are asking for you today to

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1 do is to pass this, not only as a permanent
2 rule but also as an emergency rule. We
3 feel that because 41 is not really working
4 well at this point in time, it s a burden
5 on industry, it s a burden on DEQ, so the
6 sooner we get this in place, the better.
7 The problem is, when the Council passed the
8 rule in May, we passed it as a permanent
9 rule because at the time we did not have
10 funding. And there is being funding being
11 considered by the legislature, but at that
12 point in time when we had the Council
13 meetings, we weren t sure if that funding
14 was going to be there.

15 If the legislature was not going to
16 give us funding, we were going to come back
17 to the Council at the July meeting and ask
18 for funding. So, what we did, we just
19 passed it as a permanent rule. However,
20 since then, the legislature has provided
21 funding for this rule and that s why we
22 think the Board has the ability to not only
23 pass this as a permanent rule, but as an
24 emergency rule. And that s what we are
25 asking for you guys to do today, is to pass

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1 this as an emergency rule and a permanent
2 rule.

3 I have staff here to answer any
4 questions. Eddie, do you want to say
5 anything about that?

6 MR. TERRILL: Let me just talk
7 just a little bit about the emergency part
8 of this. Another consideration we had in
9 not taking this as an emergency, is that if
10 we didn't get the funding through the
11 legislature appropriations, which we
12 thought was real important because not only
13 -- it was an equity issue really, because
14 toxics are more so than any other pollutant
15 are really directed -- or tied to mobile
16 sources. So, really we didn't feel like it
17 was fair for the stationary sources, the
18 Title V sources, to pay the majority of the
19 funding for a rule that was really tied
20 quite a bit to the mobile source problem
21 that we may or may not have here in
22 Oklahoma.

23 But if we hadn't got any funding
24 through the legislature, we just didn't
25 have the funds to move forward and if we

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1 had to go back and ask for the Council and
2 the industry to approve a fee increase, it
3 would have taken about 15 months once they
4 had passed that rule, for us to actually
5 get the money in. And so that was a lot of
6 the consideration that we had in not asking
7 for an emergency on this. I think David is
8 exactly right. Subchapter 41, even though
9 we re only looking at probably nine months
10 of implementation, we ve got about 269
11 permits that are out there pending. All of
12 them will probably require some form of
13 analysis under the old subchapter 41, maybe
14 only two or three toxics, but some sources
15 may have 50, 60, or 70 toxics but they have
16 to be analyzed.

17 Most of the time all that happens is
18 you do a modeling exercise, you determine
19 that nothing can be done to control the
20 toxics, you give them a permit and move on.
21 But that requires a lot of work on our
22 part, a lot of work on the industries part
23 and we anticipate some cases where some of
24 the sources may have to add control
25 equipment in order to meet a standard that

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1 won't exist in about nine months that may
2 cost two or three hundred thousand dollars
3 to implement and we just think it is a
4 waste of money. Plus it really doesn't get
5 us to the public health issue and that's
6 really what this issue -- what this rule is
7 designed to do is to address the public
8 health issue of toxics in Oklahoma, not
9 just be an exercise in modeling and
10 permitting. So, you know, it's a little
11 bit unusual but our legal folks have done
12 the research and believe that there is the
13 ability for you all to pass this as
14 emergency. We believe there is ample need
15 both from a financial and practical
16 standpoint to do that and we would ask your
17 consideration on it.

18 MR. MASON: Questions from the
19 Board?

20 I have a question. If you look five
21 years out, where do you think we'll end up
22 with areas of concern and what do you think
23 we're going to have to do to fix it?

24 MR. TERRILL: You know, we don't
25 know. And that's a lot of the reason that

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1 we wanted to come back and look at this
2 rule in a year. We designed this rule with
3 what we believe to be the approach that
4 EPA s going to take with their -- they call
5 it the care rule, similar to the interstate
6 transport, but it s a community -- public
7 community based toxic s program. We think
8 that s what this -- our program will allow
9 us to address it like that. It could be
10 that we won t have any areas of concern.
11 Because we will -- our first -- probably
12 first challenge is going to be to take the
13 National Air Toxic Assessment, the second
14 round has been done, and verified that
15 those numbers are correct. That s what we
16 did in the Ponca City area and we found
17 that they had over estimated some of the
18 areas that they thought were concerns, by
19 modeling only, and they actually go out and
20 do the monitoring. So, that would be one
21 of the first things that we would do is try
22 to hone our skills and try to see what the
23 -- what the feds have done with their
24 assessment, see how close they came and go
25 from there.

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1 But it s really hard to say because
2 this will probably be complaint-driven and
3 EPA-driven more so than anything else.
4 We ll do some analysis of our own through
5 inventories and things like that, but it s
6 just really kind of hard to say what it s
7 going to look like in five years.

8 But the whole idea here is not to
9 designate areas of concern. The whole idea
10 here is if we ve got a problem, work with
11 the community to address that problem and
12 fix it. A lot of this is going to be
13 collaborative effort. This is not a --
14 really a command and control-type rule that
15 we, you know, we normally have in these
16 situations because we don t think it calls
17 for that. We may even have situations
18 where a community decides that there s
19 nothing that can be done about this
20 particular problem and it s something that
21 is an acceptable risk. But, you ve got to
22 remember that there s a safety factor
23 built-in to these ambient levels. And so
24 even though there is concern, there is
25 enough of a factor that it may be an

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1 acceptable risk for the community, based on
2 all the factors. That s the reason we ll
3 do a lot of -- if we ever have a closed
4 meeting, we ll () call a meeting round.
5 Probably have a number of meetings before
6 we leave the affected industry and the
7 community leaders to discuss the
8 (inaudible) and hopefully arrive at a
9 solution without ever having to designate
10 an area. Because that would be the
11 preferable solution, right then, if we have
12 a problem, fix it and go on.

13 MR. THOMPSON: I think though
14 it s fair to say in the most general sense
15 that where you find some fairly heavy
16 concentrations in this industry -- an
17 industry and where you find fairly heavy
18 concentrations of mobile sources, you can
19 begin to find potential areas of concern in
20 that way. Is that fair to say?

21 MR. TERRILL: Sure. And that s
22 probably one of the first things that we ll
23 do is try to find a couple of folks that we
24 believe we ll be able to train to be our
25 toxic expert, if you will. We re going to

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1 start looking at the mobile source issues
2 in Oklahoma, Metropolitan Area especially.
3 Because we really never have taken a look
4 at what their impact had on the air quality
5 in the Metropolitan Area. So, without
6 getting a handle on that, it s going to be
7 very difficult to pull out the things that
8 we can actually do something about, if we
9 do demonstrate a problem. Understanding
10 mobile source component of our toxic s air
11 shed will be one of the first things that
12 we ll do.

13 MR. DARK: Mr. Chairman, I d move that Item
14 Number 4 be approved as a permanent rule,
15 with a designation as an emergency rule.

16 MR. MASON: All right. Is there
17 a second?

18 MR. SAVAGE: Second.

19 MR. MASON: Second from Terri.

20 Is there any discussion from the public?
21 Are we doing this correctly for emergency?

22 MS. KRUG: I feel like you first
23 need to make a finding of emergency. And
24 make that vote first. And then make your
25 adoption of a permanent rule.

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1 MR. DARK: Have we not already
2 adopted this as a permanent rule as you
3 said earlier?

4 MR. BRANECKY: The Council has
5 adopted it.

6 MR. DARK: The Council, okay.
7 All right. I didn't think the Board had.

8 MS. KRUG: The Board has not.

9 MR. BRANECKY: The Board has not.
10 This is the first time to come through.

11 MS. KRUG: But since that time
12 you -- things have changed, where you feel
13 like you've met the emergency criteria and
14 that's what I would like you to do is make
15 that finding.

16 MR. DARK: Okay. I'll amend then
17 my motion to reflect Counsel's suggestion.

18 MR. MASON: Are you declaring
19 that an emergency?

20 MS. KRUG: Yes.

21 MR. MASON: Do we need to vote on
22 that first and then take a second vote?

23 MS. KRUG: Yes. That's what I'd
24 advise you to do.

25 MR. DARK: I'd make a motion that

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1 it be applied as an emergency rule.

2 MS. SAVAGE: Second.

3 MR. MASON: Terri, second. All

4 right. Let s vote please. Myrna.

5 MS. BRUCE: Ms. Cantrell.

6 MS. CANTRELL: Aye.

7 MS. BRUCE: Mr. Cassidy.

8 MR. CASSIDY: Yes.

9 MS. BRUCE: Mr. Dark.

10 MR. DARK: Yes.

11 MS. BRUCE: Mr. Drake.

12 MR. DRAKE: Yes.

13 MS. BRUCE: Mr. Griesel.

14 MR. GRIESEL: Yes.

15 MS. BRUCE: Mr. Johnston.

16 MR. JOHNSTON: 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. DARK: I d also like to move

25 that it be placed as a permanent rule.

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1 MS. SAVAGE: Second.

2 MR. WUERFLEIN: Steve, might I
3 ask a question before we vote?

4 MR. MASON: Uh-huh.

5 MR. WUERFLEIN: I didn't get to
6 read through all the comments in the packet
7 and I'm not sure if the comments I read
8 were from an earlier hearing or most
9 recent. But I still come back to, if you
10 declare an area of concern versus what
11 David called a true area of concern, after
12 the studies, what does the scientific basis
13 of the -- what determines an area we're
14 going to study versus what one we're going
15 to increase the regulation of the
16 (inaudible)?

17 MR. BRANECKY: Initially, we'll
18 do the monitoring. Well, first we'll input
19 the data, if we have a complaint on it.
20 (Inaudible) we have a suspected area, we'll
21 do the monitoring, then we'll propose an
22 area of concern. Before we actually say
23 this is a true area of concern, we'll have
24 some meetings with industries and community
25 leaders and then we'll have some public

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1 hearings, and after all that, they ll take
2 all that into consideration and if they
3 still feel that it is a true area of
4 concern, then we ll make that (inaudible).

5 MR. TERRILL: One thing that we
6 need to remember though, is this rule does
7 not require anything additional as far as
8 requirements, on anyone other than what s
9 already in the rules. That s the reason
10 that once we identify them and do have an
11 area of concern -- and part of that
12 discussion period is to verify that the
13 facilities that we believe are truly
14 problems are meeting all of the federal and
15 state requirements. Because if they
16 aren t, then we ve got to evaluate it. Is
17 it cost effective, is it the communities
18 wishes that we go beyond that to address
19 this area of concern. And it may be that
20 the community decides that, well, the cost
21 of controls are not -- there s a risk --
22 it s an acceptable risk not to require
23 additional controls. This is really a
24 community decision. That s really what
25 this is all about is (inaudible), the

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1 individual communities to be aware of
2 health issues in their communities and make
3 an informed decision with us, using the
4 science that s best for them.

5 I guess in extreme cases if the
6 citizens were saying one thing and the
7 community was saying something else and it
8 was feasible for us to require additional
9 control, we may go to Council and do that.
10 But anything additional beyond what is
11 already in our rules, would have to go back
12 through the Council.

13 So there will be a lot of
14 opportunity for input from the affected
15 sources and the citizens. And this is
16 something we take very seriously because
17 toxins are a very emotional issue and there
18 is a lot of discussion on both sides of
19 what the safety levels are and it s not
20 something that -- you know, we ve been
21 looking at this for about four years now
22 and so this is something that -- so this is
23 the way we ve come up tp address it.

24 MR. MASON: Did he answer your
25 question?

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1 MR. WUERFLEIN: Kind of, sort of.
2 Who makes that determination -- is it the
3 Council or Eddie or --

4 MR. TERRILL: It s just me. I m
5 the one that will actually make the final
6 decision. But that will be through --
7 after a lot of consultations with the
8 community and the industry and probably the
9 Council too. Because this brings a lot of
10 attention, if you will, to not only the
11 Department but the Council as well. So,
12 it s not something that we would take
13 lightly.

14 MR. BRANECKY: If there s an
15 effort that this (inaudible) -- if there s
16 any hope that this will be made into a
17 rule, that would definitely be the Council.

18 (Inaudible Conversations)

19 MR. WUERFLEIN: I can say that,
20 you know, from the public relations
21 standpoint -- if you can get a media blast
22 on the issues and blow it out of proportion
23 in a local area and you got to have a
24 scientific --

25 MR. TERRILL: Well, that s our

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1 responsibility.

2 MR. WUERFLEIN: Where s the
3 scientific levels -- it s all kind of
4 ambiguous, isn t it?

5 MR. TERRILL: Well, that s where
6 the monitoring comes in. Monitoring of --
7 actual monitored data, would be a better
8 tool for evaluating toxins than anything
9 else. But you re exactly right and that s
10 something that we looked at, especially if
11 we get a situation where it s just
12 determined there s nothing that can be
13 done, we got an issue with the toxics and
14 you just can t -- because of the nature of
15 the where the facility is and the nature of
16 the force component or a number of factors,
17 nothing can be done and at that point it is
18 a public relations problem.

19 But we decided that, one, EPA was
20 moving forward with this community based
21 toxics approach, we felt like for a change
22 we needed to be out in front of this rather
23 than behind it so we can be able to react
24 with our program and be smart about this.
25 Because my biggest concern -- right now EPA

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1 is going around with a pot of money trying
2 to entice folks to -- not government
3 agencies necessarily but local communities
4 can apply for this money to go in and see
5 if they've got a problem. Well, they
6 monitor the problem but they won't come up
7 with any solutions, they dump that back on
8 us to figure it out and that's not the way
9 to go about this. That's where you get
10 this uproar of concern with no way to fix
11 it. Our approach, I think, is if we
12 identify the problem, work with the
13 community really before we become public
14 with this and try to fix it before it
15 becomes a public relations problem.

16 MR. BRANECKY: EPA has been
17 behind and in support of the rule. And in
18 fact, I think several other states have
19 inquired to DEQ about this rule that they
20 like the lengthy approach.

21 MR. TERRILL: In fact, we're one
22 of four states that's being considered as a
23 model state program nationwide. So, the
24 staff really did a good job with this. I
25 think they did an excellent job putting

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1 this together. Again we ll just have to
2 see how it works. We may be back to the
3 Board in a year or so, fine tuning it, or
4 over hauling it or whatever because this is
5 supposed to be a good tool for the citizens
6 of Oklahoma, not a beat you on the head
7 tool.

8 MR. WUERFLEIN: Thank you.

9 MR. MASON: Any questions or
10 input from the public? All right. So I
11 think we have Tony s motion for permanent
12 rulemaking? I guess we ll have a roll call
13 vote on that please, Myrna.

14 MS. BRUCE: Ms. Cantrell.

15 MS. CANTRELL: Yes.

16 MS. BRUCE: Mr. Cassidy.

17 MR. CASSIDY: Yes.

18 MS. BRUCE: Mr. Dark.

19 MR. DARK: Yes.

20 MS. BRUCE: Mr. Drake.

21 MR. DRAKE: Yes.

22 MS. BRUCE: Mr. Griesel.

23 MR. GRIESEL: Yes.

24 MS. BRUCE: Mr. Johnston.

25 MR. JOHNSTON: Yes.

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1 MS. BRUCE: Ms. Savage.

2 MS. SAVAGE: Yes.

3 MS. BRUCE: Mr. Wuerflein.

4 MR. WUERFLEIN: Yes.

5 MS. BRUCE: Mr. Mason.

6 MR. MASON: Yes.

7 MS. BRUCE: Motion approved.

8 MR. MASON: Thank you. The
9 Senator from District 23, Ron Justice, has
10 joined us and Senator, thank you for being
11 here. Would you like to say a few words?

12 MR. JUSTICE: I just appreciate
13 the opportunity to be here and again I just
14 came to learn.

15 MR. MASON: All right. Thank
16 you. And you re from Chickasha? Does this
17 include your District? Are you up this
18 far?

19 MR. JUSTICE: Yes, it is. This
20 is a portion of my District. District 23
21 actually goes just north of Hitchcock. So
22 this includes this area and down to a big
23 portion of Blaine County on down into Caddo
24 County, south of Anadarko. So, it includes
25 Hydro, Geary, Watonga, and then south of I-

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1 40 over through Mustang. So, this being a
2 part of it and I learned how they
3 (inaudible), I wanted to come and just get
4 some additional information. So, I
5 appreciate you talking to me.

6 MR. MASON: Thanks for making the
7 drive. I bet you get some mileage. Item 5
8 is the annual performance review of
9 Executive Director. Do you want to start
10 this Steve or --

11 MR. THOMPSON: I can.

12 MR. MASON: Okay.

13 MR. THOMPSON: As a -- what we
14 did was provide to the Board a document
15 that is a part of the agency s annual plan,
16 the Focus Document. Every employee in the
17 agency has a piece of that plan, including
18 the Executive Director. What we -- and
19 that document looks like this. What we do
20 as an Agency -- and I think during the
21 Executive Director s Report, I m going to
22 talk a little bit more about the process by
23 which we set our mission and our goals and
24 some of the activities we want to address
25 for the coming year.

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1 The Agency really operates off of a
2 set of five goals that have to do with
3 administrative efficiency and work with the
4 federal government.

5 Our second goal is really about
6 permitting.

7 The third goal is related to public
8 assistance, customer assistance and clean-
9 up programs.

10 The fourth is our response program
11 to complaint.

12 And our fifth goal relates to our
13 enforcement programs. So, what I ve
14 provided to the Board for that evaluation
15 is my piece of our annual plan of my
16 responsibilities and then some comments
17 that were related to some of the things
18 that we believe the agency accomplished
19 this year, some of the things that we
20 really need to work on, some comments on
21 some of the more routine pieces of the
22 agency as a mechanism for that evaluation.

23 Rather than go through that
24 document, I would be glad to respond to
25 comments. I think it s also fair -- I

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1 think that the Board is aware that due to
2 the efforts of you and others, that the
3 legislature did raise the cap for the
4 Executive Director s salary this year from
5 \$83,400.00 to \$89,450.00. So the Board has
6 an opportunity to act on that, raising the
7 cap, if that s their choice.

8 Over all, I think the Agency runs
9 well. To a huge extent it runs well
10 because of the work and dedication of its
11 Division Director. We are blessed in
12 Oklahoma to have a set of very experienced,
13 very knowledgeable leaders, national
14 leaders, in our Division Directors. I
15 suppose that the very best choice that I
16 made, and also in our -- the leader of our
17 legal group. I think that the very best
18 choice that I made last year was the
19 selection of Greg Kennamer as my Deputy
20 Executive Director. I think he has the
21 respect of the Division Directors with -- I
22 don t know about Eddie, but -- Eddie
23 respects no one.

24 MR. TERRILL: That s right David.

25 MR. THOMPSON: I think he -- I

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1 think he has the respect of the Division
2 Directors and has done an excellent job and
3 has allowed me greater latitude to deal
4 with legislative issues during the
5 legislative session. I think I've reported
6 to you in the past that last year I was
7 elected president of ECOS, which is the
8 National Environmental Commissioner s
9 Association and I reported to you that that
10 would take some of my time and that has
11 proven to be the case.

12 We are at the national level working
13 very hard on issues related particularly to
14 public water supply and waste water
15 infrastructure. We are almost in crisis
16 mode in this country relative to shoring up
17 the infrastructures of our communities,
18 particularly our small communities.

19 One of the things that I think we
20 will -- I will talk a little bit more about
21 this, but one of the things we will
22 dedicate ourselves to a little bit more in
23 the coming year is, maybe the
24 infrastructure funding process in the State
25 of Oklahoma, makes sense, maybe it does.

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1 But I m just not -- I am going to educate
2 myself on that issue.

3 There are community block
4 development grants or development block
5 grants, excuse me, that are available for
6 infrastructure funding. There s rule
7 development money that is available for
8 infrastructure funding. There are federal
9 and state revolving loan monies that are
10 available for infrastructure funding. The
11 question I have is, are we directing grant
12 and loan money to the places where we get
13 the most bang for the buck. We need to
14 know that. Because if we re going to ask
15 our legislature and if we re going to ask
16 Congress for additional funding for
17 infrastructure, we re going to have to be
18 able to make the case that we re using the
19 money that s provided to us, wisely. And
20 because -- the Department of Environmental
21 Quality really has nothing to do with those
22 funds, other than the fact that we re the
23 ones that write the enforcement orders that
24 send communities scrambling that -- for
25 violations that send communities scrambling

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1 for money to fix their problem.

2 Dewayne Smith at the Water Board and
3 I often have discussions about we re two
4 ends of the same horse. I show up with the
5 enforcement orders and Dewayne shows up
6 with the phone checks to fix the problem.
7 So you can imagine what end of the horse I
8 represent. It is time for, I think, the
9 Department of Environmental Quality to
10 understand better infrastructure funding in
11 this state and to step up to the plate. So
12 that is amongst the many things we intend
13 to try to get a little better handle on
14 this year. There s others that I ll talk a
15 little bit more about in the Executive
16 Director s Report.

17 I would suggest we ll talk a little
18 bit more about legislation this year. I
19 would suggest that we had, what I believe
20 is the most successful legislative session
21 in the Agency s history this year, and I
22 would be very happy to take full credit for
23 that but that would not be the case.

24 What we ve done this year, I think
25 better than any other year in my memory --

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1 and I ve been with the Agency from the very
2 beginning -- was get the cooperation of
3 this Board and the people associated with
4 this Board and with industry to take a
5 unified message to the legislature about
6 the needs of the Department and the needs
7 of the public -- for the issues that the
8 Department has authority for. And I think
9 it is that cooperative effort, that team
10 effort that has caused this very successful
11 year. I would have liked to have been more
12 successful but there s always next year.

13 So, I ve really kind of run out of
14 gas here. I ll be glad to answer questions
15 of the Board, or I ll be glad to answer any
16 questions that you have.

17 MR. MASON: I think as a Board,
18 we can continue in this open session. If
19 we want to go into Executive Session to
20 discuss his performance and employment
21 actions, we can. It s kind of whatever our
22 preference is right now. Yes, ma am.

23 MS. SAVAGE: We re not having an
24 Executive Session?

25 MR. MASON: We need to decide

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1 what we want to do.

2 MS. KRUG: You may move to do so
3 if you feel like you need to go into --

4 MR. DRAKE: I move to go into
5 Executive Session.

6 MR. GRIESEL: I ll second.

7 MR. MASON: We have a second. Is
8 there any discussion? Public discussion?
9 Myrna, are you ready to vote?

10 MS. BRUCE: Thank you.
11 Ms. Cantrell.

12 MS. CANTRELL: Yes.

13 MS. BRUCE: Mr. Cassidy.

14 MR. CASSIDY: Yes.

15 MS. BRUCE: Mr. Dark.

16 MR. DARK: Yes.

17 MS. BRUCE: Mr. Drake.

18 MR. DRAKE: Yes.

19 MS. BRUCE: Mr. Griesel.

20 MR. GRIESEL: Yes.

21 MS. BRUCE: Mr. Johnston.

22 MR. JOHNSTON: 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 (Whereupon, the Board went into
6 Executive Session)

7 (Whereupon, the Board returned from
8 Executive Session)

9 MR. MASON: Okay. We re going to
10 return from Executive Session under Item 5
11 Annual Performance Review of the Executive
12 Director. I think we re at item C, any
13 discussion by the Board?

14 MS. SAVAGE: Is this regarding
15 Steve s salary?

16 MS. KRUG: Yeah.

17 MS. SAVAGE: So this would be the
18 appropriate time if you wanted to make a
19 statement?

20 MR. MASON: Yes, ma am.

21 MS. SAVAGE: Well, I would just
22 like to say that I was put on the Board in
23 1997 and the first call that I got was from
24 Mark Holman and the second call that I got
25 was from Steve Thompson. So, I ve gotten a

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1 chance to work with him since that time and
2 got to know him and I will tell you that
3 Steve is an unusual talent and I have
4 always thought that he was smarter than the
5 average bear and that we are exceptionally
6 lucky in the State of Oklahoma to have him.
7 And I think that had he wanted to move, he
8 could have moved anytime, anyplace and
9 anyone would have been just thrilled to
10 have him. And I just think that we re --
11 something about the State of Oklahoma,
12 people don t want to move. But Steve could
13 have left, he s talented enough that if he
14 just set his sights on Colgate/Palmolive he
15 could have done it. And I think that even
16 when we give him, you know, the salary
17 that s at the top of the cap, we are still
18 paying him a pittance of what he is worth
19 to the Agency and to the State of Oklahoma.
20 And I am personally very proud and anxious
21 to give him the maximum rates that we can
22 and I think that it s -- and I think that
23 everyone else is -- I think everyone on the
24 Board shares that and I think that it will
25 be good for the State, it will be good for

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1 the Agency, it will be good for everyone.

2 I think this is win-win for everyone.

3 MR. JOHNSTON: Following that, I
4 would move that we do that.

5 MR. DRAKE: And I would second
6 that we do that. I couldn't beat that
7 speech.

8 MR. MASON: Your motion is for
9 how much, Jerry?

10 MR. JOHNSTON: Top of the cap.

11 MS. SAVAGE: The top of the cap
12 is \$89,450.00.

13 MR. MASON: Okay. That's your
14 motion?

15 MR. JOHNSTON: Yes.

16 MR. DRAKE: And I second that.

17 MR. MASON: A second from Bob.

18 Is there any discussion amongst the Board?

19 MR. CASSIDY: You need to make
20 that effective July 1st. Does that matter?

21 MS. SAVAGE: Yes. Immediately or
22 July 1st or sooner.

23 Mr. THOMPSON: The statute would
24 be -- according to statute, July 1st.

25 MS. SAVAGE: Effective July 1st.

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1 MR. MASON: Thanks Mike. Is that
2 fine, that amendment? Okay. Any
3 discussion from the public? Any more
4 discussion from the Board? Myrna, can we
5 vote, please.

6 MS. BRUCE: Ms. Cantrell.
7 MS. CANTRELL: Yes.
8 MS. BRUCE: Mr. Cassidy.
9 MR. CASSIDY: Yes.
10 MS. BRUCE: Mr. Dark.
11 MR. DARK: Yes.
12 MS. BRUCE: Mr. Drake.
13 MR. DRAKE: Enthusiastic yes.
14 MS. BRUCE: Mr. Griesel.
15 MR. GRIESEL: Yes.
16 MS. BRUCE: Mr. Johnston.
17 MR. JOHNSTON: Yes.
18 MS. BRUCE: Ms. Savage.
19 MS. SAVAGE: Yes.
20 MS. BRUCE: Mr. Wuerflein.
21 MR. WUERFLEIN: Yes.
22 MS. BRUCE: Mr. Mason.
23 MR. MASON: Yes.
24 MS. BRUCE: And motion approved.
25 MR. MASON: Thank you.

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1 MS. BRUCE: Enthusiastically, I
2 might add.

3 MR. THOMPSON: Thank you, very
4 much.

5 MR. MASON: Steve, any comments?
6 And congratulations.

7 MR. THOMPSON: Well, thank you
8 very much for the kind words. I will again
9 say what I said earlier, any success that I
10 have is in large part due to an
11 extraordinarily talented staff, and good
12 folks to work with, good folks of the State
13 of Oklahoma and a Board that has always
14 been supportive of the things that the
15 Agency has tried to do when they were
16 right. And I just hope we can continue to
17 have your confidence as we go forward. I
18 look forward to -- I enjoy what I do, I m
19 having fun except for the times when I have
20 to deal with Don Pendegraft, who you don t
21 know, but -- and it s exciting work when
22 you think you re maybe just a little bit
23 making a difference in folk s lives, that s
24 a pretty good salary too. So, anyway,
25 thank you very much. I appreciate it.

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1 MR. MASON: Thank you Steve.
2 Any new business? I want to thank
3 Ellen Bussart for arranging all this.
4 Thank you Ellen. It s wonderful, all the
5 things you do for us. We appreciate it.
6 Executive Director s Reports, Steve.

7
8 MR. THOMPSON: The first thing
9 that we wanted to do -- want to do is, by
10 statute, we have the responsibility to
11 disclose certain employee financial
12 interest. I m going to ask Jimmy to
13 provide that to the Board. I m going to
14 ask Jimmy to provide that information.

15 MR. GIVENS: The Board Members
16 who have been around will recall that we do
17 this once per year. There is a statutory
18 requirement that we disclose financial
19 interest held by employees who are in
20 technical supervisory or administrative
21 positions that relate to the review
22 issuance or enforcement of permits. And
23 the obvious reason for this, first of all
24 it s required to be reported to the
25 Executive Director and then, in turn, to

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1 the Board. And the obvious reason is that
2 we want to insure anybody in a position
3 where they might have a conflict of
4 interest, that that is recognized. Then we
5 follow-up on that by specifically sending a
6 memo through the Division Director, down
7 the Chain of Command to the manager and the
8 employee himself or herself, that requires
9 that that person not have any involvement
10 in an action that would relate to an
11 enforcement action or permit relating to
12 any entity that they have an ownership or
13 financial interest in.

14 The only update to that report from
15 the last time we made the report is that
16 Joe Don Willingham, Water Quality Division,
17 has disclosed that he has acquired some
18 shares in General Motors. We have already
19 sent the memo through John Craig to
20 Mr. Willingham, and specified that he will
21 not be working on any matters that relate
22 to General Motors. And that s all I have
23 this year.

24 MR. THOMPSON: Okay. I think
25 Steve has contacted you all now about

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1 attending Council meetings so that you are
2 supportive -- or you can explain issues
3 that come before the Council. I think in
4 conversations with people on the Council
5 and on the Board, they find that to be a
6 very useful mechanism and so we appreciate
7 your willingness to serve in that capacity.
8 Is there anything else I need to say about
9 that.

10 MR. JOHNSTON: That s very, very
11 important and I ve stressed this before.
12 You have to work on something a full year
13 and you set down on that Council and you
14 know what s going on and then if you re not
15 careful -- if you don t do that, then it
16 comes to this Board and half of us second
17 guess the Council -- that s why you do need
18 at least one or two persons from the Board
19 to sit in on the Council. It s very
20 important. The Council is probably one of
21 the best part of DEQ s structure, I think.
22 Because that s where the real information
23 comes from and the people that have to
24 devise those rules and execute them, do the
25 things that they need to do. So, I think

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1 the Council is very, very important. I
2 think they should get recognized maybe a
3 little more than we recognize them because
4 they do an excellent job.

5 MR. THOMPSON: Okay. I wanted to
6 talk a little bit about, really the month
7 of June. June is a transition month for
8 the Department each year. I've provided a
9 couple of documents that sort of describe
10 that transition.

11 First of all, you should have in
12 front of you a document that says all Key
13 Bills, 2005 Session. This is the document
14 that we track legislation by, Jimmy
15 prepares it for us and updates it every
16 week. At Tony's suggestion, at the last
17 meeting, we began to forward this document
18 to all the Board Members so they'd have a
19 simple mechanism to track legislation.

20 MR. DARK: I appreciate those as
21 well. It's been helpful.

22 MR. THOMPSON: Good. Good. June
23 ends a really intensive four month time for
24 the agency in working on legislative
25 issues. I wanted to just highlight a

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1 couple of issues that were important to us
2 during the legislative session. If you
3 look under HUD, Senate Bill 272 was the
4 mobile source fee on rental cars. That was
5 an idea that we brought to you at the
6 November meeting and was, I would suggest
7 somewhat controversial at the time and
8 remained controversial throughout the
9 session. That motion morphed into the
10 \$800,000.00 General Revenue Appropriation
11 that we received for the Toxic Program and
12 the Air Quality Program. So, while we
13 didn't get the fee on rental cars, we did
14 get the \$800,000.00 General Revenue
15 Appropriation. Which, quite frankly,
16 represents four times more than any non-
17 salary general revenue appropriation that
18 we've ever received as an agency since --
19 we became an agency in '93.

20 MR. DARK: It's a well fought
21 political battle.

22 MR. THOMPSON: It was a well
23 fought political battle joined by many and
24 the credit for that goes to many. And you
25 know who you are and we thank you all.

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1 I did want to say a special thanks
2 to Bud Ground, who tracked that language,
3 and others would work very hard. He
4 probably owes me lunch, but, no, he worked
5 extremely hard on this as did many other
6 people and we want to thank Bud for his
7 work on that. That was House Bill 1114, if
8 you look under DEQ, it became our
9 appropriations bill in which the budget
10 limits were increased. We received full
11 funding for this statutory salary increase,
12 the \$800,000.00 for the Air Program and did
13 not -- we had no fee funds taken from the
14 agency this year. And that, from a budget
15 standpoint, is a remarkable year for the
16 agency.

17 You look down under LPD, House Bill
18 1606, the issue that we spent the very most
19 time this year on, that should be no
20 surprise to anybody, was tire legislation.
21 I was charged by Representative Don Arms,
22 who was the Chairman of the House
23 Environment Committee, to get all the
24 competing interest in the tire program in a
25 room and come to consensus. Clearly by

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1 some act of a higher power, that we were
2 able to accomplish that, that notion became
3 House Bill 1606. It is the Bill that gets
4 money to the people that take waste tires
5 out of the waste stream and did so without
6 a fee increase to the tire-buying public.
7 One of the things that we will be tracking
8 is the implementation of that legislation
9 this year to see how successful we were. I
10 believe we will be, but that remains to be
11 seen.

12 Also, if you will look under LPD,
13 Senate Bill 599, that is the Request Bill
14 of the agency to align forums at Board
15 meetings so that we have forums every time
16 that we have Board meetings but only at the
17 time that we have Board meetings and that
18 was passed.

19 House Bill 1238 was our Bill to
20 simplify small, public sewer systems. That
21 Bill was, quite frankly, a pretty easy Bill
22 to pass and we were successful in doing
23 that.

24 Then, also, under Water Quality,
25 House Bill 1467 was not on our Bill. It

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1 was the AG-NPDS Bill that provided the
2 framework for the Department of Agriculture
3 to seek delegation of the NPDS Capitol
4 Program. I would have to say that Tina
5 Gunner with the Department of Agriculture,
6 was very good, I think Jimmy will support
7 that, with providing the agency with
8 information about that Bill, so that we
9 felt comfortable with the Bill all the way
10 through. I think she was good with
11 everybody concerned. It s really none of
12 our business except that we do support
13 delegation of program.

14 We think you get better government
15 at the local level. That s an obvious
16 philosophy of the Department of
17 Environmental Quality because every time a
18 program is eligible for delegation, we seek
19 it. Now I have also told the Department of
20 Agriculture that when it comes to funding
21 of this program, we expect equity relative
22 to fees and federal money and state money,
23 just like the industrial group in Oklahoma
24 and they ve agreed that s a good -- that s
25 a good solid goal and so we ll see how that

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1 works. This Bill does not give them
2 delegation, it simply establishes a
3 framework by which they can seek delegation
4 from the Environmental Protection Agency.

5
6 The final Bill that I would call to
7 your attention is the last Bill on the
8 list. Senate Joint Resolution 18, which
9 would have disapproved two of our
10 industrial wastewater rules, rules that
11 this Board has established. That popped up
12 early in the session. A number of people
13 had discussions with the author and it went
14 dormant and remained dormant for the end of
15 the session, which is where it should be.
16 So, all-in-all, the things that we were
17 requesting, we got. The things that we
18 didn't want, died. Pretty successful
19 session.

20 Are there any questions of the Board
21 related to that?

22 MR. DARK: Can we just call Jimmy
23 if we want copies of this legislation?

24 MR. GIVENS: That would be fine.

25 MR. THOMPSON: Yes. The other

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1 document that I gave you is a document that
2 looks like this, a two-page document. The
3 first page represents the Agency s Mission
4 Statement. Clean, attractive, prosperous
5 Oklahoma, we think that s important for our
6 quality of life for Oklahoma citizens. I
7 briefly went through our goals -- our
8 annual goals which remain fairly constant
9 over time.

10 First having to do with
11 efficiencies; second, permitting; third,
12 assistance; the fourth one, citizen
13 complaints; the fifth, enforcement program.
14 That represents the 95 percent that the
15 Agency does. I think you will -- I hope
16 you will see in there two values that we
17 try to incorporate into out goals. The
18 first being customer service and the second
19 being problem solving. We view our self as
20 problem solvers. And I am sure there are
21 folks that don t think we always get the
22 job done but that s how we view ourselves.
23 And if we -- we always must remain within
24 statutory and regulatory constraints but to
25 the extent that we can break with tradition

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1 and go solve a problem within those
2 context, that s our intent.

3 And the second page, briefly, are
4 some of the things that, for the coming
5 year, that we think are going to be
6 important for the Agency. You ve heard at
7 the last Board meeting, our discussion of
8 the effort to set a mercury standard. You
9 will hear at this forum about the process
10 by which we set that standard and how we
11 intend to implement it. I did take a
12 chance that you would pass the toxic s
13 program -- toxic s rule this time and
14 listed the evolution of the Air Toxics
15 Program.

16 As you listened to David and Eddie s
17 explanation of that program, it is an
18 evolution, it s an evolutionary process by
19 which we try to protect public health but
20 do it in a common sense manner and that
21 will require lots of input and lots -- and
22 probably some changes and refinement over
23 time and so we will be watching that.

24 I also mentioned earlier our need to
25 understand the infrastructure needs across

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1 the state. I have a meeting with the
2 Director of the Water Resources Board, in
3 mid-July, to begin that process. We have
4 got to know where our infrastructure money
5 is going. We have to know, as a State,
6 that it s being used wisely and then if we
7 identify real needs, we need to go to
8 public policy makers to seek funding for
9 that. Not only at the State level but at
10 the Congressional level and as both, the
11 Director of the DEQ and the President of
12 ECOS -- and I picked this up just so you
13 guys will know I am not operating under
14 false colors. There s the President s
15 Corner for ECOS, in their magazine. But we
16 need to work on that. Again, we re going
17 to have to review the progress with the new
18 waste tire legislation. Something that we
19 had talked about at some length in the
20 Agency, since the session was over, and
21 that was our concern that with communities,
22 and particularly with small communities, we
23 have become that thing which we dread the
24 most and that is bureaucratic paper
25 shufflers.

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1 We allowed Consent Orders to
2 municipalities who have no capacity to
3 solve the problems that are addressed and
4 scheduled in most Consent Orders. What I
5 think we want to try to do is get back to
6 what I call, "In my facility philosophy."
7 To ingrain within the employees -- and John
8 is all over this thing -- of the Water
9 Quality Division and the Customer Services
10 Division and the Environmental Complaints
11 and Local Services Division, the notion
12 that a water -- public water supply or
13 waste water facility is their facility.
14 And they have the responsibility to provide
15 good sound technical advice to that
16 facility to the extent that we can, to
17 provide them avenues to seek funding, to
18 seek those problems, to really take those
19 facilities as our own. Now, quite frankly
20 when you have a facility that doesn't
21 respond to that, I am less patient with
22 them from an enforcement standpoint than I
23 am otherwise. But we want to -- we're
24 shuffling too much paper and we're not
25 solving a lot of problems in that area, and

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1 we need to really think about what we are
2 doing. And we've begun that process.

3 One of the things that will always
4 -- that seems to always take a lot of our
5 time in the last two or three years are
6 tribal issues. We continue to try to
7 negotiate agreements with the 39 individual
8 tribes in the State of Oklahoma that are
9 good for us all. But that is a very time
10 consuming issue. I visited with you
11 briefly in Executive Session about this
12 notion of consistent enforcement across the
13 States. While I was at the legislature, I
14 have to tell you that Craig Kinnamer and
15 Wendy Caperton took -- the yeoman's work
16 and are moving that process forward and I
17 hope to be able to spend a little bit more
18 time with that as the session has ended.

19 And finally, over the past two
20 years, it historically, as federal funding
21 for State programs has risen or been flat,
22 so has EPA's. They've been generally on
23 the same track. And we've always relied on
24 the Environmental Protection Agency to
25 negotiate what is called the STAG Grants,

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1 State and Tribal Assistance Grants, which
2 is the federal money that we received off
3 of (inaudible).

4 Over the last two years, while the
5 EPA budget has gone like this, the money
6 for State programs and State infrastructure
7 programs has gone like this. And as the
8 President for ECOS, I am not any longer
9 confident that I can rely on the
10 Environmental Protection Agency to
11 negotiate my budgets.

12 I think ECOS is going to have to
13 step to the plate and negotiate our needs
14 directly with Congress. And I think that
15 many of my peers in State Agencies across
16 the country are beginning to agree with me.
17 That will take more work. When you let
18 them negotiate your deal for you, it
19 doesn't take any work at all. When you are
20 negotiating your own deal, it takes a lot
21 of work. It's something that we think is
22 important.

23 Eighty percent of the programs that
24 are eligible to be delegated in this
25 country, have been delegated over the last

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1 15 years. That means that the state
2 environmental agencies in this country are
3 doing almost all of the day-to-day work on
4 environmental protection. That is a
5 message that I understand and that my peers
6 understand, it s not a message that I think
7 Congress and OMB and CEQ and all that
8 alphabet soup of folks that we deal with,
9 do understand. We got to do a better job
10 of that.

11 So those are the kinds of issues
12 that we ll be working on in the future. I
13 think -- first I ll take questions on any
14 of that.

15 Okay, I think we have -- yes.

16 W: How many tribes have been
17 designated as states or (inaudible)?

18 MR. THOMPSON: Only the Pawnee.

19 w: Pawnee. I knew we have a
20 couple of (inaudible).

21 MR. THOMPSON: That was issued
22 and withdrawn, then issued. The Department
23 filed suit in Circuit Court to block that.
24 We did it as an exercise because there were
25 time limits to do that to continue the

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1 negotiations with the Pawnee about getting
2 a state -- compact or state agreement. And
3 our intent is to continue to negotiate.
4 But only -- now there is an application for
5 the Cherokee s for air that is in EPA.
6 We ve commented on that. There s some that
7 the Quapahs have developed water quality
8 standards but have not developed treatment
9 of state application as far as I know.
10 Those are the three that we know that are
11 (inaudible).

12 I think we have one presentation,
13 Mr. Chairman. Any other questions of that
14 report? Thank you.

15 MR. MASON: As you know, we have
16 -- always have an attorney from the
17 Attorney General s Office that helps us
18 work through these meetings and Susan has
19 been our attorney for four years. I think
20 you are leaving us to go to greener
21 pastures.

22 MS. KRUG: Well, some would say,
23 maybe not. But I am staying with the
24 Attorney General s Office. I m going to be
25 Chief of the Victim Services Unit. We are

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1 inheriting some of those duties from the
2 Department of Mental Health, beginning July
3 1.

4 MR. MASON: God bless you. I
5 think that s harder than what we do.

6 MS. KRUG: Thank you.

7 MR. MASON: We have a card for
8 you. If you d like to say a few words and
9 I think your replacement is here if you
10 want to introduce her.

11 MS. KRUG: Yes. I want to
12 introduce Ellen Phillips. She comes to us
13 most recently from the House, has a vast
14 experience with administrative rules,
15 that s what she did for the House staff. I
16 think she s going to be a wonderful fit for
17 this Board.

18 And I have appreciated working with
19 each and every one of you. I know it s
20 been challenging at times but I also have
21 found it very rewarding, and I appreciate
22 it. Thank you, very much.

23 MR. MASON: Thank you Susan.

24 If there is no other business, we
25 will adjourn and start our public forum.

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(Meeting Concluded)

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