

MINUTES
ENVIRONMENTAL QUALITY BOARD
NOVEMBER 7, 2017
Northeastern State University Event Center
Tahlequah, OKLAHOMA

Official EQB Approved
On February 16, 2018

Notice of Public Meeting – The Environmental Quality Board (Board) convened for a Regular Meeting at 9:30 a.m., at the Northeastern State University Event Center, 1041 North Grand Avenue Tahlequah, Oklahoma. This meeting was held in accordance with 25 O.S. Section 311, with notice of the meeting given to the Secretary of State on December 13, 2016. The agenda was mailed to interested parties on October 27, 2017, and was posted at the DEQ and the facility on November 6, 2017. Mr. Tim Munson, Chair, called the meeting to order. Mr. Munson announced that Mr. Clayton Eubanks was not in attendance and Ms. Lyn Martin-Diehl took his place for the meeting. Mr. Munson then talked on safety precautions in case of an emergency. Ms. Fields called roll and a quorum was confirmed.

MEMBERS PRESENT

Daniel Blankenship
David Griesel
Jimmy Kinder
Jan Kunze
Steve Mason
Tim Munson
Homer Nicholson
Mike Paque
Billy Sims

DEQ STAFF PRESENT

Scott Thompson, Executive Director
Jimmy Givens, Deputy Executive Director
Sarah Penn, Deputy General Counsel
Michelle Wynn, Legislative Liaison
Eddie Terrill, Air Quality Division
Greg Carr, Water Quality Division
Chris Armstrong, State Environmental Laboratory Services
Kelly Dixon, Land Protection Division
Mike Edwards, Land Protection Division
Hillary Young, Land Protection Division
Lloyd Kirk, Office of External Affairs
Shellie Chard, Water Quality Division
Mark Hildebrand, Water Quality Division
Richard McDaniel, Environmental Complaints & Local Services
Debbie Nichols, Environmental Complaints & Local Services
Saba Tahmassebi, Engineering Manager
Stephen Baldrige, Legal Division
Erin Hatfield, Office of External Affairs
Cindy Przekurat, Executive Director's Office
Kathy Aebischer, Administrative Services Division
Paul Parks, Water Quality Division
Quiana Fields, Board & Council Secretary

MEMBERS ABSENT

Shannon Ferrell
Tracy Hammon
John Wendling

OTHERS PRESENT

Lyn Martin-Diehl, Office of the Attorney General
Lee Grater, Hazardous Waste Management Advisory Council
Duane Winegardner, Water Quality Management Advisory Council
Laura Lodes, Air Quality Advisory Council
Carly Cordell, Office of the Secretary of Energy & Environment,
Ann Behles, Court Reporter

Approval of Minutes – Mr. Kinder moved to approve the Minutes from the September 19, 2017 Regular Meeting. Ms. Kunze made the second.

transcript pages 5 - 6

Daniel Blankenship	Yes	Homer Nicholson	Yes
Jimmy Kinder	Yes	Mike Paque	Yes
Jan Kunze	Yes	Billy Sims	Yes
Steve Mason	Yes	Tim Munson	Yes

Rulemaking – OAC 252:100 Air Pollution Control – Mr. Munson called upon Ms. Laura Lodes, Chair of the Air Quality Advisory Council (AQAC), to present the rule. Ms. Lodes stated that the DEQ proposes to amend OAC 252:100, Subchapter 7 (Permits for Minor Facilities), by adding a new Permit By Rule (PBR) as section 252:100-7-60.7, for facilities whose only obligation to obtain a permit is due to the presence of a gasoline dispensing facility or gasoline dispensing facility with an emergency engine that is subject to a federal standard. DEQ also proposes to add a definition in OAC 252:100-7-1.1 for “gasoline dispensing facilities,” and to amend section OAC 252:100-7-2 to exempt gasoline dispensing facilities with less than 100,000 gallons of monthly throughput from permit requirements. If adopted, this proposed rulemaking will simplify the permitting process and reduce the regulatory burden for owners and operators of gasoline dispensing facilities and gasoline dispensing facilities with emergency engines. Following questions by the Board but none by the public, Mr. Munson called for a motion. Mr. Sims moved to approve and Mr. Paque made the second.

transcript pages 6 - 11

Daniel Blankenship	Yes	Homer Nicholson	Yes
Jimmy Kinder	Yes	Mike Paque	Yes
Jan Kunze	Yes	Billy Sims	Yes
Steve Mason	Yes	Tim Munson	Yes

Ms. Lodes stated that the DEQ also proposes to amend OAC 252:100-8-35 to revise or remove references to dates associated with federal air quality modeling guidelines in order to ensure that industry follows the most up-to-date EPA requirements. Following no questions or comments by the Board or the public, Mr. Munson called for a motion. Mr. Nicholson moved to approve and Mr. Kinder made the second.

transcript pages 11 - 13

Daniel Blankenship	Yes	Homer Nicholson	Yes
Jimmy Kinder	Yes	Mike Paque	Yes
Jan Kunze	Yes	Billy Sims	Yes
Steve Mason	Yes	Tim Munson	Yes

Ms. Lodes stated that the DEQ also proposes to amend OAC 252:100, Appendix Q (Incorporation by Reference) in order to incorporate the latest changes to EPA regulations, and to amend OAC 252:100 Subchapter 2 to reflect the latest date of incorporation of EPA rules in Appendix Q. These proposed rules will incorporate recent changes to EPA regulations relating to the National Emission Standards for Hazardous Air Pollutants (NESHAP) and New Source Performance Standards (NSPS). Following no questions or comments by the Board or the public, Mr. Munson called for a motion. Mr. Blankenship moved to approve and Mr. Nicholson made the second

transcript pages 13 - 16

Daniel Blankenship	Yes	Homer Nicholson	Yes
Jimmy Kinder	Yes	Mike Paque	Yes
Jan Kunze	Yes	Billy Sims	Yes
Steve Mason	Yes	Tim Munson	Yes

Mr. David Griesel entered the meeting during Item #6A, on the agenda.

Rulemaking – OAC 252:205 Hazardous Waste Management – Mr. Munson called upon Mr. Lee Grater, Chair of the Hazardous Waste Management Advisory Council (HWMAC), to present the rule. Mr. Grater stated that the DEQ proposes to amend OAC 252:205, Subchapter 3 to incorporate by reference the federal hazardous waste regulations found at 40 CFR Parts 124 and 260-279, revised as of July 1, 2017. Significant rule changes during this time period include the revisions to the hazardous waste generator rules. The incorporation of the federal generator rule revisions will also require amendments to OAC 252:205, Subchapters 13 and 15 due to federal citation changes and in order to ensure that the state rules remain equivalent with the federal rules. Following no questions or comments by the Board or the public, Mr. Munson called for a motion. Mr. Sims moved to approve and Mr. Kinder made the second.

		<i>transcript pages 17 - 20</i>	
Daniel Blankenship	Yes	Homer Nicholson	Yes
David Griesel	Yes	Mike Paque	Yes
Jimmy Kinder	Yes	Billy Sims	Yes
Jan Kunze	Yes	Tim Munson	Yes
Steve Mason	Yes		

Mr. Grater stated that the DEQ also proposes to revoke applicable parts of OAC 252:205, Subchapter 17, which are no longer supported by statute since 27A O.S. § 2-11-303 (Tax Credit) was revoked in 2013. Following no questions or comments by the Board or the public, Mr. Munson called for a motion. Mr. Nicholson moved to approve and Mr. Blankenship made the second.

		<i>transcript pages 20 - 21</i>	
Daniel Blankenship	Yes	Homer Nicholson	Yes
David Griesel	Yes	Mike Paque	Yes
Jimmy Kinder	Yes	Billy Sims	Yes
Jan Kunze	Yes	Tim Munson	Yes
Steve Mason	Yes		

Rulemaking – OAC 252:626 Public Water Supply Construction Standards – Mr. Munson called upon Mr. Duane Winegardner, Chair of the Water Quality Management Advisory Council (WQMAC), to present the rule. Mr. Winegardner stated that the DEQ proposes to amend the definition of “Public Water Supply (PWS) System” to exclude certain purchase water systems that meet explicit requirements as set out in the proposed rule and to amend the definition of “Validated dose” in order to correct a typographical error. Following no questions or comments by the Board or the public, Mr. Munson called for a motion. Mr. Paque moved to approve and Mr. Nicholson made the second.

		<i>transcript pages 21 - 24</i>	
Daniel Blankenship	Yes	Homer Nicholson	Yes
David Griesel	Yes	Mike Paque	Yes
Jimmy Kinder	Yes	Billy Sims	Yes
Jan Kunze	Yes	Tim Munson	Yes
Steve Mason	Yes		

Rulemaking – OAC 252:631 Public Water Supply Operations – Mr. Winegardner stated that the DEQ proposes to amend OAC 252:631, Subchapter 1 to amend the definition of “Public Water Supply (PWS) System” to exclude certain purchase water systems and to update the date of incorporation by reference of federal regulations from July 1, 2015 to July 1, 2017. The federal regulations proposed for incorporation include those allowing for newly approved alternative testing methods for contaminants listed in 40 CFR 141.21 (f)(3). DEQ also proposes to amend OAC 252:631, Subchapter 3, to clarify reporting requirements in 40 CFR Part 141, and to modify language to include a process control test to stabilize calcium carbonate for groundwater systems. Following questions by the Board but none by the public, Mr. Munson called for a motion. Mr. Griesel moved to approve and Mr. Blankenship made the second.

		<i>transcript pages 25 - 29</i>	
Daniel Blankenship	Yes	Homer Nicholson	Yes
David Griesel	Yes	Mike Paque	Yes
Jimmy Kinder	Yes	Billy Sims	Yes
Jan Kunze	Yes	Tim Munson	Yes
Steve Mason	Yes		

Rulemaking – OAC 252:653 Aquifer Storage and Recovery [NEW] – Mr. Winegardner stated that the DEQ proposes to create a new Chapter 653, Aquifer Storage and Recovery (“ASR”), to provide a regulatory structure for an ASR program. The proposed rulemaking would establish a multi-phase permitting process and requirements for the construction and operation of ASR projects. The proposed rulemaking would also require appropriate testing and operation of ASR

projects. The proposed rulemaking would also require appropriate testing and modeling of the aquifer to ensure that the project is feasible and that the aquifer remains unharmed. Additionally, the proposed rulemaking establishes the fees associated with ASR permitting and operations. Following questions and comments by the Board and the public, Mr. Munson called for a motion. Mr. Sims moved to approve and strike the notification requirement in 252:653-1-10 with the understanding that the DEQ will clarify this provision at the February Board meeting. Mr. Kinder made the second.

transcript pages 29 - 79

Daniel Blankenship	Yes	Homer Nicholson	Yes
David Griesel	Yes	Mike Paque	Yes
Jimmy Kinder	Yes	Billy Sims	Yes
Jan Kunze	Yes	Tim Munson	Yes
Steve Mason	Yes		

Mr. Griesel stepped out the meeting during item #10.

Rulemaking – OAC 252:4 Rules of Practice and Procedure [WQD] – Mr. Winegardner stated that the DEQ proposes to create three new sections, OAC 252:4-7-79; 252:4-7-80 and 252:4-7-81, relating to Water Quality Division’s tiered permit application processes for ASR. This proposed rulemaking is related to the rulemaking proposed in Agenda Item 9 above. Following a question by the Board and none by the public, Mr. Munson called for a motion. Mr. Paque moved to approve and Mr. Kinder made the second.

transcript pages 79 - 82

Daniel Blankenship	Yes	Homer Nicholson	Yes
Jimmy Kinder	Yes	Mike Paque	Yes
Jan Kunze	Yes	Billy Sims	Yes
Steve Mason	Yes	Tim Munson	Yes

There was a five minute break before the next agenda item #11.

Mr. Griesel returned to the meeting.

Consideration of and Action on the Annual Environmental Quality Report – Mr. Munson called upon Mr. Jimmy Givens, Deputy Executive Director of the DEQ. Mr. Givens gave a presentation on the Annual Environmental Quality Report which must be approved by the Board prior to its submission to the Governor, Speaker of the House and Senate President Pro Tempore by January 1. The purpose of this report is to outline DEQ’s annual funding needs for providing environmental services within its jurisdiction, reflect any new federal mandates, and summarize DEQ-recommended statutory changes. Following questions by the Board and none by the public, Mr. Munson called for a motion. Mr. Griesel moved to approve and Mr. Nicholson made the second.

transcript pages 82 - 98

Daniel Blankenship	Yes	Homer Nicholson	Yes
David Griesel	Yes	Mike Paque	Yes
Jimmy Kinder	Yes	Billy Sims	Yes
Jan Kunze	Yes	Tim Munson	Yes
Steve Mason	Yes		

Executive Director’s Report – Mr. Scott Thompson, Executive Director of the DEQ, stated we have a new Board member, Mr. Kenneth Hirshey that should be in attendance at the February Board meeting. Mr. Thompson introduced Ms. Debbie Nichols, the regional manager for Tahlequah and for our county offices. He mentioned Mr. Rob Singletary is the new General Counsel of the DEQ. Also, Mr. Thompson discussed agency activities underway and legislative updates.

transcript pages 98 - 112

Budget Update and Financial Overview (FY 2018) – Mr. Munson called upon Ms. Kathy Aebischer, Chief Financial Officer of the DEQ. Ms. Aebischer gave a presentation on the FY 2018 budget update.

transcript pages 112 - 119

Executive Session – Annual Performance Review of Executive Director – Among the statutory duties of the Board are responsibilities to appoint and set the compensation of the Executive Director and to assist the DEQ in conducting periodic reviews and planning activities related to the goals, objectives, priorities, and policies of the DEQ. Mr. Munson called for a motion to enter into executive session pursuant to 25 O.S. § 307(B)(1). Mr. Griesel moved to go into executive session and Mr. Kinder made the second. Ms. Lyn Martin-Diehl was designated as the scribe for executive session.

transcript pages 119 - 120

Daniel Blankenship	Yes	Homer Nicholson	Yes
David Griesel	Yes	Mike Paque	Yes
Jimmy Kinder	Yes	Billy Sims	Yes
Jan Kunze	Yes	Tim Munson	Yes
Steve Mason	Yes		

In open session, Mr. Munson called for a motion to reconvene the Regular Board meeting. Mr. Griesel moved to approve and Mr. Nicholson made the second.

transcript pages 121 - 122

Daniel Blankenship	Yes	Homer Nicholson	Yes
David Griesel	Yes	Mike Paque	Yes
Jimmy Kinder	Yes	Billy Sims	Yes
Jan Kunze	Yes	Tim Munson	Yes
Steve Mason	Yes		

Mr. Munson thanked Mr. Thompson and supports his effort in moving the agency forward. Mr. Munson called for a motion on a specific recommendation of the Executive Director’s annual performance review. Mr. Blankenship moved to approve a five percent increase, which is approximately a percent and a half per year for Mr. Thompson. Mr. Griesel made the second.

transcript pages 123 - 124

Daniel Blankenship	Yes	Homer Nicholson	Yes
David Griesel	Yes	Mike Paque	Yes
Jimmy Kinder	Yes	Billy Sims	Yes
Jan Kunze	Yes	Tim Munson	Yes
Steve Mason	Yes		

New Business – None

Next Meeting – The next regular meeting is scheduled for February 16, 2018 in Oklahoma City, DEQ Multipurpose Room.

Adjournment – Mr. Munson called for a motion to adjourn. Mr. Sims moved to adjourn and Mr. Griesel made the second. Meeting adjourned at 12:55 p.m.

transcript pages 125 - 126

Daniel Blankenship	Yes	Homer Nicholson	Yes
David Griesel	Yes	Mike Paque	Yes
Jimmy Kinder	Yes	Billy Sims	Yes
Jan Kunze	Yes	Tim Munson	Yes
Steve Mason	Yes		

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

OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY
ENVIRONMENTAL QUALITY BOARD

MEETING and PUBLIC FORUM
November 7, 2017 - 9:30 a.m.

NORTHEASTERN STATE UNIVERSITY EVENT CENTER
1041 North Grand Avenue
Tahlequah, Oklahoma 74464

Reported by: Elizabeth Ann Behles, CSR #121

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1 BOARD MEMBERS PRESENT:
2 Chairman Tim Munson
3
4 Mr. Daniel Blankenship
5 Mr. David Griesel
6 Mr. James Kinder
7
8 Ms. Jan Kunze
9 Mr. Steve Mason
10 Mr. Homer Nicholson
11 Mr. Mike Paque
12 Mr. Billy Sims
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14 BOARD MEMBERS ABSENT:
15 Mr. Shannon Ferrell
16 Dr. Tracy Hammon
17 Mr. John Wendling
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2 CALL TO ORDER - 9:30
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4 MR. MUNSON: We'll go ahead and
5 call the meeting to order.
6 The November 7th, 2017 regular meeting
7 of the Department of Environmental Quality
8 Board has been called according to the
9 Oklahoma Open Meeting Act, Section 311 of
10 Title 25 of the Oklahoma Statutes.
11 Notice was filed with the Secretary of
12 State on December 13, 2016. Agendas were
13 mailed to interested parties October 27,
14 2017 and were posted at the DEQ and the
15 facility on November 6, 2017. Only matters
16 appearing on the posted agenda will be
17 considered.
18 If for some reason this meeting is
19 continued or reconvened, we must announce
20 today the date, time and place of continued
21 meeting, and the agenda for such continuation
22 will remain the same as today's agenda.
23 I have a couple of announcements.
24 First of all, if you don't already know,
25 those doors right back there are the best

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1 way to get out in an emergency. Then to use
2 the restrooms, go through these doors and to
3 the right, both mens and womens are back
4 there. And I'd also would like to announce
5 we have in place of Clayton Eubanks, the
6 State AG's office today, we have Lyn
7 Martin-Diehl.
8 We appreciate your being here today.
9 MRS. MARTIN-DIEHL: Thanks.
10 MR. MUNSON: Are there any other
11 announcements?
12 Okay. All right. Quiana, would
13 you please do roll call?
14 MS. FIELDS: Mr. Blankenship?
15 MR. BLANKENSHIP: Present.
16 MS. FIELDS: Mr. Ferrell is absent.
17 Mr. Griesel is absent. Dr. Hammon is absent.
18 MS. FIELDS: Mr. Kinder?
19 MR. KINDER: Here.
20 MS. FIELDS: Ms. Kunze?
21 MS. KUNZE: Here.
22 MS. FIELDS: Mr. Mason?
23 MR. MASON: Here.
24 MS. FIELDS: Mr. Nicholson?
25 MR. NICHOLSON: Here.

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1 MS. FIELDS: Mr. Paque?
2 MR. PAQUE: Here.
3 MS. FIELDS: Mr. Sims?
4 MR. SIMS: Here.
5 MS. FIELDS: Mr. Wendling is absent.
6 Mr. Munson?
7 MR. MUNSON: Here.
8 MS. FIELDS: We have quorum.
9 MR. MUNSON: You have been provided
10 a copy of the minutes of the September 19,
11 2017 meeting. Are there any corrections or
12 changes or additions to those?
13 If not, I'd entertain a motion to
14 approve.
15 MR. KINDER: I'll make the motion
16 to approve.
17 MS. KUNZE: I'll second.
18 MR. MUNSON: Call the roll call,
19 please.
20 MS. FIELDS: Mr. Blankenship?
21 MR. BLANKENSHIP: Yes.
22 MS. FIELDS: Mr. Kinder?
23 MR. KINDER: Yes.
24 MS. FIELDS: Ms. Kunze?
25 MS. KUNZE: Yes.

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1 MS. FIELDS: Mr. Mason?
 2 MR. MASON: Yes.
 3 MS. FIELDS: Mr. Nicholson?
 4 MR. NICHOLSON: Yes.
 5 MS. FIELDS: Mr. Paque?
 6 MR. PAQUE: Yes.
 7 MS. FIELDS: Mr. Sims?
 8 MR. SIMS: Yes.
 9 MS. FIELDS: Mr. Munson?
 10 MR. MUNSON: Yes.
 11 MS. FIELDS: Motion passed.
 12 MR. MUNSON: Thank you.
 13 Okay. We want to again take up
 14 Item Number 5. This item is in three parts
 15 and will require a vote on all three parts, A,
 16 B and C. I would ask Laura Lodes, Chair of
 17 the Air Quality Advisory Council to come
 18 forward.
 19 MS. LODES: Good morning, Members
 20 of the Board. The Air Quality Advisory
 21 Council has three items as stated today.
 22 First, the Subchapter 7 Permits for Minor
 23 Facilities.
 24 The Department is proposing to
 25 amend OAC 252:100-7, Permits for Minor

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1 Facilities to add a permit by rule for
 2 gasoline dispensing facilities and gasoline
 3 dispensing facilities (GDF) with emergency
 4 engines.
 5 This rule change reduces the cost
 6 and paperwork for the gasoline dispensing
 7 facilities. To avoid making this rule overly
 8 burdensome to both the regulated community and
 9 the regulators, we have limited the permit
 10 requirements to gasoline dispensing facilities
 11 with greater than 100,000 gallons per month
 12 throughput. Any gasoline dispensing facility
 13 constructed after the effective date of this
 14 rule change will be required to obtain both a
 15 construction and operating permit. Any
 16 gasoline dispensing facility constructed after
 17 January 10, 2008, when the Federal NESHAP
 18 CCCCCC came into effect and before this rule's
 19 effective date will need an operating permit
 20 only. Any existing GDF built before January
 21 10, 2008 will not be required to be permitted,
 22 unless they undergo construction or
 23 modification.
 24 Notice of the proposed rule changes
 25 was published in the Oklahoma Register on May

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1 1, 2017 and September 15th, 2017. The
 2 Department received no comments prior to or
 3 during the June 2017 Air Quality Advisory
 4 Council meeting in Tulsa, or the October 2017
 5 Air Quality Advisory Council meeting in
 6 Oklahoma City. The Council unanimously
 7 approved the proposal at its October meeting.
 8 As Chair of the Air Quality
 9 Advisory Council, I recommend that the Board
 10 approve the proposed Chapter 100-7 revisions
 11 as permanent rules.
 12 Additional notes:
 13 AQD staff reached out to the Oil
 14 Petroleum Marketers and Convenience Store
 15 Association (OPMCA) to make industry aware of
 16 the pending regulation changes and received no
 17 adverse response.
 18 The Rule was taken to Tulsa in June
 19 and Oklahoma City in October to make sure
 20 public was fully informed and had an
 21 opportunity to comment.
 22 No comments were received on the
 23 record.
 24 GDFs with throughput less than
 25 100,000 gallons per month and that have an

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1 emergency generator will need to register for
 2 the emergency engine PBR.
 3 As Chair of the Air Quality
 4 Advisory Council, I recommend that the Board
 5 approve the rule, and that the rule be moved
 6 forward.
 7 MR. MUNSON: Thank you. Do we have
 8 any questions or discussion from the Board?
 9 Any questions or discussion from the public?
 10 MR. MASON: Like on a typical
 11 convenience store, let's say it had 10,000
 12 gallons a month.
 13 MS. LODES: Uh-huh.
 14 MR. MASON: Does this make their
 15 life more difficult?
 16 MS. LODES: No, it doesn't because
 17 it does not change their requirements under
 18 the Federal rule which they must comply with,
 19 and they are already required to get a permit;
 20 OAC 252:100-7 requires them to obtain a
 21 construction and operating permit because
 22 they're subject to an emission limit and work
 23 practice standards under a work practice
 24 standard or NESHAP, and so this is simply a
 25 streamlined permitting mechanism for them.

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1 MR. MASON: So why bother to add
2 increased compliance?
3 MS. LODES: This really didn't
4 change the requirement to comply because
5 they're already required to get a -- the EPA
6 requires a permit under Subchapter 7.
7 MR. MASON: Thank you.
8 MS. LODES: Uh-huh.
9 MR. MUNSON: Any other questions by
10 the Board? Any questions or comments from the
11 public?
12 Do I have a motion for approval?
13 MR. SIMS: Motion for approval.
14 MR. PAQUE: I'll second.
15 MR. MUNSON: So motion and a
16 second. Roll call, please.
17 MS. FIELDS: Mr. Blankenship?
18 MR. BLANKENSHIP: Yes.
19 MS. FIELDS: Mr. Kinder?
20 MR. KINDER: Yes.
21 MS. FIELDS: Ms. Kunze?
22 MS. KUNZE: Yes.
23 MS. FIELDS: Mr. Mason?
24 MR. MASON: Yes.
25 MS. FIELDS: Mr. Nicholson?

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1 MR. NICHOLSON: Yes.
2 MS. FIELDS: Mr. Paque?
3 MR. PAQUE: Yes.
4 MS. FIELDS: Mr. Sims?
5 MR. SIMS: Yes.
6 MS. FIELDS: Mr. Munson?
7 MR. MUNSON: Yes.
8 MS. FIELDS: Motion passed.
9 MR. MUNSON: We'll go on to the
10 next item B. Okay, the next item on our
11 agenda is Subchapter 8.
12 MS. LODES: Subchapter 8, Permits
13 For Part 70 Sources and Major New Source
14 Review (NSR) Sources.
15 The Department is proposing to update
16 dates used to reference three different EPA
17 publications in Subchapter 8, Section 35.
18 This rulemaking activity was in
19 response to EPA's most recent update to the
20 Guideline on Air Quality Models (40 CFR 51
21 App.W). Two additions were made to OAC
22 252:100 Appendix Q (for 40 CFR 51 App. W,
23 and 40 CFR 58 App. B), which is updated
24 annually, and therefore the previous
25 incorporation dates were removed from OAC

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1 252:100-8-35. A third update was made by
2 amending the reference date to the most
3 recently published version of EPA's Section
4 51.102. Because this section is on public
5 participation and not an industry standard,
6 staff believes it is not appropriate to
7 incorporate that into OAC 252:100 App. Q.
8 Notice of the proposed rule changes
9 was published in the Oklahoma Register on
10 September 15th, 2017. The Department
11 received no comments prior to or during the
12 October 2017 Air Quality Advisory Council
13 meeting, and the Council unanimously
14 approved the propose in its October meeting.
15 As Chair of the Air Quality Advisory
16 Council, I would recommend that the Board
17 approve the proposed Chapter 100-8 revisions
18 as permanent rules.
19 MR. MUNSON: Any questions or
20 discussion by the Board?
21 Any questions or discussion by the
22 public?
23 Do I have a motion to approve?
24 MR. NICHOLSON: Motion to approve.
25 MR. KINDER: Second.

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1 MR. MUNSON: Second?
2 MS. KINDER: Second.
3 MR. MUNSON: Roll call, please.
4 MS. FIELDS: Mr. Blankenship?
5 MR. BLANKENSHIP: Yes.
6 MS. FIELDS: Mr. Kinder?
7 MR. KINDER: Yes.
8 MS. FIELDS: Ms. Kunze?
9 MS. KUNZE: Yes.
10 MS. FIELDS: Mr. Mason?
11 MR. MASON: Yes.
12 MS. FIELDS: Mr. Nicholson?
13 MR. NICHOLSON: Yes.
14 MS. FIELDS: Mr. Paque?
15 MR. PAQUE: Yes.
16 MS. FIELDS: Mr. Sims?
17 MR. SIMS: Yes.
18 MS. FIELDS: Mr. Munson?
19 MR. MUNSON: Yes.
20 MS. FIELDS: Motion passed.
21 MR. MUNSON: Let's go on to item C.
22 MS. LODES: Subchapter 2 and
23 Appendix Q is incorporated by reference.
24 The Department has proposed to
25 update language in Subchapter 2, incorporated

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1 by reference, to reflect the new date of
2 incorporation for Appendix Q (updated as of
3 June 30, 2017). This proposal is part of the
4 annual update of Title 40 of the, Code of
5 Federal Regulations, incorporations by
6 reference in Chapter 100.
7 The purpose of the update to OAC
8 252:100, Appendix Q, incorporation by
9 reference, is to incorporate the latest
10 changes to EPA regulations. Included are
11 changes or additions to 40 CFR Part 60, New
12 Source Performance Standards (NSPS), and Part
13 63, National Emission Standards for Hazardous
14 Air Pollutants (NESHAP).
15 New rules being added to the list
16 are:
17 40 CFR Part 51, Appendix W -
18 Guideline on Air Quality Models.
19 40 CFR Part 58, Appendix B -
20 Quality Assurance Requirements for Prevention
21 of Significant Deterioration (PSD) Air
22 Monitoring.
23 Title 40, code of Federal
24 Regulations (40 CFR), incorporations by
25 reference (IBR) are updated annually in the

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1 DEQ Air Pollution Control rules. The Oklahoma
2 Rules on rulemaking dictate the procedure for
3 amending a rule appendix by revoking the old
4 and creating an entirely new appendix.
5 Notice of the proposed rule changes
6 was published in the Oklahoma Register on
7 September 15, 2017. The Department received
8 no comments prior to or during the October
9 2017 Air Quality Advisory Council meeting.
10 The Council unanimously proved the proposal at
11 its October meeting.
12 As Chair of the Air Quality
13 Advisory Council, I recommend that the Board
14 approve the proposed Chapter 100-2 and
15 Appendix Q revisions as permanent rules.
16 MR. MUNSON: Thank you. Any
17 discussion or questions by the Board?
18 Any discussion or questions by the
19 public?
20 MR. MUNSON: Motion to approve Item
21 3?
22 MR. BLANKENSHIP: Motion to approve.
23 MR. MUNSON: Second?
24 MR. NICHOLSON: Second.
25 MR. MUNSON: Can we have a roll call?

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1 MS. FIELDS: Mr. Blankenship?
2 MR. BLANKENSHIP: Yes.
3 MS. FIELDS: Mr. Kinder?
4 MR. KINDER: Yes.
5 MS. FIELDS: Mrs. Kunze?
6 MS. KUNZE: Yes.
7 MS. FIELDS: Mr. Mason?
8 MR. MASON: Yes.
9 MS. FIELDS: Mr. Nicholson?
10 MR. NICHOLSON: Yes.
11 MS. FIELDS: Mr. Paque?
12 MR. PAQUE: Yes.
13 MS. FIELDS: Mr. Sims?
14 MR. SIMS: Yes.
15 MS. FIELDS: Mr. Munson?
16 MR. MUNSON: Yes.
17 MS. FIELDS: Motion passed.
18 MR. TIM MUNSON: Thank you, Laura.
19 MS. LAURA LODES: Thank you.
20 MR. MUNSON: All right. We'll move
21 on to agenda item Number 6. This is in two
22 parts, A and B that require a vote on each.
23 Come forward, please.
24 MR. WINEGARDNER: Good morning. I
25 am Duane Winegardner, and I'm Chair of the

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1 Water Quality Management Advisory Council.
2 Our council has recommended for charter for
3 proposed rulemaking for the Board's
4 consideration -
5 MR. MUNSON: We're out of order.
6 MR. WINEGARDNER: Excuse me.
7 MR. MUNSON: Is this Item Number 6?
8 MR. BLANKENSHIP: Duane, I think
9 you're a little early.
10 MR. MUNSON: Yeah, I think you're a
11 little early.
12 MR. WINEGARDNER: I'm sorry, I have
13 a little trouble...
14 MR. MUNSON: I think you're a
15 little early. We are asking for Item Number 6
16 on Hazardous Waste Management. Lee Grater,
17 please.
18 Sorry about that, Duane. I thought
19 maybe you were going to take over for him.
20 MR. GRATER: All right, thank you.
21 The Hazardous Waste Management
22 Advisory Council met October 12th when we
23 voted unanimously to approve two amendments to
24 the Oklahoma Hazardous Waste Management rules.
25 One is incorporation by reference for new

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1 Federal Hazardous Waste Rules. The others are
2 revocation of parts of the rule that are
3 obsolete due to statutory changes.
4 The purpose of the first proposed
5 amendment is to incorporate by reference the
6 Federal hazardous waste regulations found in
7 40 CFR, Parts 124 and 260 through 279 revised
8 as of July 1st, 2017. This is the long
9 awaited hazardous waste generator rules. The
10 EPA has overhauled the generator regulations
11 by clarifying, simplifying and reorganizing
12 complicated generator rules. The rule also
13 provides additional flexibility to generators.
14 Adoption of the rule is required to maintain
15 hazardous waste program authorization. An
16 example of improvement is the allowance of
17 episodic generation of hazardous waste for
18 activities like tank clean outs or the
19 disposal of the material without triggering
20 the required notification for the change in
21 generator status.
22 Another improvement is the ability
23 to consolidate waste in large quantity
24 generators. We recommend that the Council
25 approve this amendment.

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1 MR. MUNSON: Any questions or
2 comment by the Board?
3 Any questions or comment by the
4 public?
5 Do I have a motion to approve Item
6 Number 6A?
7 MR. SIMS: I move.
8 MR. MUNSON: Motion or second?
9 MR. KINDER: I'll second.
10 MR. MUNSON: Can we have a roll
11 call, please?
12 MS. FIELDS: Mr. Blankenship?
13 MR. BLANKENSHIP: Yes.
14 MS. FIELDS: For the Record, David
15 Griesel is in attendance. Mr. Griesel?
16 MR. GRIESEL: Yes.
17 MS. FIELDS: Mr. Kinder?
18 MR. KINDER: Yes.
19 MS. FIELDS: Ms. Kunze?
20 MS. KUNZE: Yes.
21 MS. FIELDS: Mr. Mason?
22 MR. MASON: Yes.
23 MS. FIELDS: Mr. Nicholson?
24 MR. NICHOLSON: Yes.
25 MS. FIELDS: Mr. Paque?

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1 MR. PAQUE: Yes.
2 MS. FIELDS: Mr. Sims?
3 MR. SIMS: Yes.
4 MS. FIELDS: Mr. Munson?
5 MR. MUNSON: Yes.
6 MS. FIELDS: Motion passed.
7 MR. MUNSON: Thank you.
8 MR. GRATER: The second amendment
9 that was approved by the Council was
10 revocation of applicable parts of subchapter
11 17 entitled tax credits. These parts became
12 obsolete after a state statutory change in
13 2013 eliminating the tax credits. The
14 revocation had no impact on the regulated
15 community, and I really consider it to be a
16 clean-up of the rules. The Council recommends
17 that you vote to approve this amendment as
18 well.
19 MR. MUNSON: All right, thank you.
20 Any questions or discussion by the
21 Board? Questions or discussion by the public?
22 All right. Can I have a motion to
23 approve?
24 MR. NICHOLSON: Motion to approve.
25 MR. BLANKENSHIP: Second.

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1 MR. MUNSON: Okay, a motion and a
2 second. May we have a roll call?
3 MS. FIELDS: Mr. Blankenship?
4 MR. BLANKENSHIP: Yes.
5 MS. FIELDS: Mr. Griesel?
6 MR. GRIESEL: Yes.
7 MS. FIELDS: Mr. Kinder?
8 MR. KINDER: Yes.
9 MS. FIELDS: Ms. Kunze?
10 MS. KUNZE: Yes.
11 MS. FIELDS: Mr. Mason?
12 MR. MASON: Yes.
13 MS. FIELDS: Mr. Nicholson?
14 MR. NICHOLSON: Yes.
15 MS. FIELDS: Mr. Paque?
16 MR. PAQUE: Yes.
17 MS. FIELDS: Mr. Sims?
18 MR. SIMS: Yes.
19 MS. FIELDS: Mr. Munson?
20 MR. MUNSON: Yes.
21 MS. FIELDS: Motion passed.
22 MR. MUNSON: Thank you.
23 Thank you. All right, Duane,
24 you're up. We're on Item Number 7,
25 Rulemaking for OAC 252:626, Public Water

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1 Supply Construction Standards.
2 MR. WINEGARDNER: Well, wait a
3 minute. You got my notes.
4 MR. GRATER: It's called getting
5 even.
6 MR. MUNSON: That's what you get
7 for coming up early.
8 MR. WINEGARDNER: Yes. Sometimes
9 confusion reigns.
10 Now, anyways, going back to the
11 Water Quality Management Advisory Council is
12 recommending four chapters for proposed
13 rulemaking for the Board's approval.
14 We have revisions to Chapter 626,
15 Public Water Supply Construction Standards,
16 revisions to Chapter 631, the Public Water
17 Supply Operation and a new Chapter 653,
18 Aquifer Storage and Recovery, along with
19 revisions to Chapter 4 to accommodate the tier
20 rules for the new Chapter 653.
21 Prior to bringing these rules
22 before you today, the DEQ staff discussed the
23 proposed rulemaking at the July 26th Water
24 Quality Management Advisory Council meeting,
25 and again, at the October 10th meeting where

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1 they were unanimously approved by our Council.
2 In Chapter 626, Public Water Supply
3 Standards, Construction Standards, we propose
4 the following revision for the Board's
5 consideration:
6 Number 1, to amend the definition
7 of Public Water Supply System to exclude
8 certain purchase water systems that meet
9 explicit requirements; and, Number 2, to amend
10 the definition for "Validated dose" in order
11 to correct a typographical error.
12 DEQ did receive one formal comment
13 from the Manufactured Housing Association of
14 Oklahoma and updated the definition of Public
15 Water Supply accordingly. I would present
16 that for your consideration.
17 MR. MUNSON: All right. Any
18 questions or discussion from the Board? Any
19 questions or discussion from the public?
20 MRS. MARTIN-DIEHL: We're only
21 discussing Item 7.
22 MR. WINEGARDNER: Correct.
23 MR. MUNSON: Yes.
24 MRS. MARTIN-DIEHL: Section 626?
25 MR. WINEGARDNER: Correct.

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1 MR. MUNSON: Do I have a motion for
2 approval?
3 MR. PAQUE: I move to approve.
4 MR. NICHOLSON: Second.
5 MR. MUNSON: Motion is seconded.
6 May we have a roll call?
7 MS. FIELDS: Mr. Blankenship?
8 MR. BLANKENSHIP: Yes.
9 MS. FIELDS: Mr. Griesel?
10 MR. GRIESEL: Yes.
11 MS. FIELDS: Mr. Kinder?
12 MR. KINDER: Yes.
13 MS. FIELDS: Ms. Kunze?
14 MS. KUNZE: Yes.
15 MS. FIELDS: Mr. Mason?
16 MR. MASON: Yes.
17 MS. FIELDS: Mr. Nicholson?
18 MR. NICHOLSON: Yes.
19 MS. FIELDS: Mr. Paque?
20 MR. PAQUE: Yes.
21 MS. FIELDS: Mr. Sims?
22 MR. SIMS: Yes.
23 MS. FIELDS: Mr. Munson?
24 MR. MUNSON: Yes.
25 MS. FIELDS: Motion passed.

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1 MR. MUNSON: Thank you. Duane, you
2 can move on to Item 8, Public Water Supply
3 Operation.
4 MR. WINEGARDNER: In Chapter 631,
5 Public Water Supply Operation, our Council is
6 proposing the following revisions for the
7 Board's consideration:
8 Number 1, to amend the definition
9 for "Public Water Supply System" to exclude
10 certain purchases – purchase water systems
11 that meet exclusive requirements; and, Number
12 2, update the rule concerning the date of the
13 incorporation by reference of certain Federal
14 regulations from February 1, 2015, to January
15 1, 2017, which allows for inclusion of all
16 pertinent CFR parts amended between July 1st,
17 2015, and January 1st, 2017.
18 These specifically allow for newly
19 approved alternative testing methods for
20 contaminants listed in the forwarding CFR
21 found in Appendix A to Subpart C of Part 141.
22 Number 3, clarify reporting
23 requirements for the CFR 141. And Number 4,
24 modify the language to include process
25 controls for stability of calcium carbonate

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1 for groundwater systems that use certain
2 advanced treatment processes.
3 The DEQ did receive one formal
4 comment from the Manufactured Housing
5 Association of Oklahoma and updated the
6 definition for Public Water Supply accordingly.
7 We present these for your
8 consideration.
9 MR. MUNSON: Okay. Does this
10 proposal have any questions or comments on the
11 part of the Board?
12 MR. NICHOLSON: Sir, I thought I
13 understood him to say July 1, 2015 to January
14 1 of 2017. My document says July 1 of 2015 to
15 July 1 of 2017.
16 MR. MUNSON: Is that correct?
17 MR. WINEGARDNER: I'm sorry?
18 MR. MUNSON: Can you -- there was a
19 question as to the dates that you stated. Our
20 document says July 1st, 2015 to July 1st,
21 2017; is that the correct?
22 MR. WINEGARDNER: I believe that's
23 correct, yes.
24 MR. MUNSON: Okay.
25 MR. WINEGARDNER: Yes.

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1 MR. MUNSON: So it is July 1st, 2015?
2 MS. SHELLIE CHARD: This is Shellie
3 Chard and I'm the Water Quality Division
4 Director, and this is a departure from what we
5 normally -- but the correct date is January 1,
6 2017 based on some alteration in the
7 publication dates with this EPA Administration
8 that we did have some drinking water that we
9 needed to adopt that allows the flexibility to
10 modify our drinking water definition.
11 MR. BLANKENSHIP: So just to
12 clarify, so we're talking about what Shellie
13 just referenced is in Chapter 631, Section
14 1-3?
15 MS. SHELLIE CHARD: That's correct.
16 MR. BLANKENSHIP: And it's --
17 MS. SHELLIE CHARD: And it's -- the
18 drinking language is July 1, 2015. The
19 underlying or added language is January 1, 2017.
20 MR. BLANKENSHIP: And that is
21 consistent with the documents that I have in
22 my hand.
23 MS. SHELLIE CHARD: Yes.
24 MR. BLANKENSHIP: Thank you.
25 MR. MUNSON: Thank you, Shellie.

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1 Any other questions or comment by
2 the Board?
3 Any questions or comment from the
4 public?
5 Okay. Do I have a motion for
6 approval of Item Number 8?
7 MR. GRIESEL: So moved.
8 MR. BLANKENSHIP: Second.
9 MR. MUNSON: Motion and a second.
10 Roll call, please?
11 MS. FIELDS: Mr. Blankenship?
12 MR. BLANKENSHIP: Yes.
13 MS. FIELDS: Mr. Griesel?
14 MR. GRIESEL: Yes.
15 MS. FIELDS: Mr. Kinder?
16 MR. KINDER: Yes.
17 MS. FIELDS: Ms. Kunze?
18 MS. KUNZE: Yes.
19 MS. FIELDS: Mr. Mason?
20 MR. MASON: Yes.
21 MS. FIELDS: Mr. Nicholson?
22 MR. NICHOLSON: Yes.
23 MS. FIELDS: Mr. Paque?
24 MR. PAQUE: Yes.
25 MS. FIELDS: Mr. Sims?

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1 MR. SIMS: Yes.
2 MS. FIELDS: Mr. Munson?
3 MR. MUNSON: Yes.
4 MS. FIELDS: Motion passed.
5 MR. MUNSON: Thank you. Okay,
6 we'll move on to agenda item Number 9, aquifer
7 storage and recovery. I think Jimmy Givens is
8 going to make a comment here.
9 MR. GIVENS: I wanted to go ahead
10 and make sure that everybody understood that
11 there was a glitch in what we sent to you in
12 the Board packet that we, hopefully, have
13 corrected, but I wanted to explain kind of how
14 we got to this point.
15 Many times when there is a rule
16 that is perceived to be either complex or
17 controversial, it will go before a Board or
18 Council meeting, and that's what happened in
19 this case. It went to the Water Quality
20 Council initially in July, I believe, just by
21 way of orientation or introduction to the
22 Council of what would be coming before them at
23 a later date.
24 It went back before the Water
25 Quality Council in October, at which point, as

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1 Duane will explain here in a moment, it was
2 officially recommended to come before this
3 Board. But, unfortunately, when we got ready
4 to mail out the Board packet we collect all of
5 the different rule chapters from the divisions
6 and put them into a single packet and then
7 send them out. But, unfortunately, in this
8 case when we pulled in the Chapter 653 rule,
9 we accidentally pulled in the version that
10 went to the first Council meeting. There were
11 a few changes made before it was officially
12 considered at the second Council meeting. So
13 that's why we emailed to you yesterday a
14 corrected version. And the hard copy that you
15 have before you now shows in yellow highlight
16 the difference between what was originally
17 mailed to you about a week and a half ago, and
18 the actual version that went to the Council
19 and the Council considered and approved.
20 So I hope that helps you understand
21 how we got to this point. If there's any
22 questions about that, I'd be happy to try to
23 answer them.
24 MR. MUNSON: Anybody have any
25 questions regarding the dates?

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1 Okay, thank you, Jimmy.
2 MR. WINEGARDNER: Thank you, Jimmy.
3 I'm glad you explained that because I heard
4 about it yesterday afternoon, and it was -- I
5 asked if he would please explain it and make
6 sure that it was correct.
7 The Water Quality Management
8 Advisory Council is also recommending two
9 chapters of proposed rulemaking for the
10 Board's consideration: A new Chapter 653,
11 aquifer storage and recovery as it related to
12 Chapter 4 rules and practice and procedures.
13 During this past calendar year DEQ has
14 undertaken several initiatives to mitigate the
15 impacts of future droughts in Oklahoma. One
16 of these issues is indirect use or IPR of
17 potable water, and DEQ intends to bring the
18 IPR rules to the Water Quality Management
19 Advisory Committee in January, and for
20 subsequent Board consideration in February.
21 DEQ has also entered into a new
22 agreement with the Oklahoma Corporation
23 Commission to obtain jurisdiction over
24 permitting of discharges of treated produced
25 water. Efforts to receive EPA delegation for

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1 these discharges are currently underway.
2 Also together with the Oklahoma
3 Water Resources Board, the DEQ has developed a
4 web-based tool to assist municipalities with
5 decisions for regionalization of water
6 resources. This brings us to the Aquifer
7 Storage and Recovery, or ASR. Recognizing
8 that under certain circumstances it makes
9 sense to store water underground to help
10 municipalities with their one, long-term water
11 management strategies, DEQ has developed these
12 ASR rules. DEQ has formed a working group of
13 national and local experts to help draft these
14 rules. Work group members included the
15 Groundwater Protection Council, the Oklahoma
16 Geological Survey, the US Geological Survey,
17 US EPA Kerr Lab, the Oklahoma Corporation
18 Commission, the Oklahoma Department of
19 Agriculture, the Oklahoma Water Resources
20 Board, the City of Ada, a member of the
21 Oklahoma legislature, and two nationally
22 recognized consulting firms with expertise in
23 ASR. And I am pleased to present the Aquifer
24 and Storage Recovery -- the Aquifer Storage
25 and Recovery rules to you today.

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1 The Water Management Council is
2 proposing a new chapter, Chapter 653, Aquifer
3 Storage and Recovery. This chapter will allow
4 for a regulatory structure of an aquifer
5 storage and recovery system. The proposed
6 rules enable the DEQ to issue permits to those
7 who wish to understand and undertake an ASR
8 project.
9 The proposed rules establish a
10 multi-phase permitted process; requirements
11 for the construction and operation of an ASR
12 project, and appropriate testing and modeling
13 to insure that the project is feasible and
14 that the aquifer is not harmed.
15 DEQ received no formal comments
16 regarding any of these proposed rules brought
17 forth before you today.
18 MR. MUNSON: Thank you. Any
19 comments or discussions by the Board on Item
20 Number 9?
21 MR. MASON: I have several
22 questions. I'm in this disposition of aquifer
23 storage and recovery, and where it exempts
24 ponds and other impoundments.
25 MR. WINEGARDNER: Okay. I would

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1 like to have, I was going to --
2 MS. SHELLIE CHARD: Saba, you want
3 to...
4 MR. WINEGARDNER: Saba is our
5 architect.
6 MR. MASON: I'm in the definition
7 Section 653-1. So it excludes all farm ponds,
8 all impoundments of the state, which is great.
9 And that says to me that if I want to do an
10 aquifer recharge, I just have to build
11 impoundments and never get a permit from you,
12 right?
13 MR. TAHMASSEBI: Excuse me, it's
14 a -- this doesn't help me. Let me come closer
15 so I can hear.
16 MR. MASON: Okay. My question is
17 under the definition of private it excludes
18 farm ponds and other impoundments, but if I
19 wanted to do an aquifer recharge, I could just
20 build impoundments and never get a permit. So
21 it really only applies to injection, I think.
22 MR. TAHMASSEBI: No, I think for
23 here that it's important to distinguish what
24 these rules are and what these rules aren't.
25 What they are is if there is intentional

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1 delivery of water to the subsurface for the
2 purpose of augmenting water supplies, that's
3 ASR. But if water, there's communication
4 between surface water and groundwater that
5 happens naturally through ponds that leak,
6 then it wasn't the intent to regulate under
7 ASR incidental percolation of water from ponds
8 to groundwater.
9 And so if an entity has a pond for
10 the intention of replenishing groundwater
11 resources, that would be ASR.
12 MR. MASON: Okay.
13 MR. TAHMASSEBI: If they don't --
14 MR. MASON: Okay, can we pause now
15 for a second?
16 MR. TAHMASSEBI: Okay.
17 MR. MASON: Show me where the
18 definition agrees with what you just said. I
19 don't read it that way.
20 MR. TAHMASSEBI: Okay, so let me --
21 MR. MASON: It doesn't say
22 intentional, it just says impoundment. I'm
23 probably missing something.
24 MR. THOMPSON: Okay. Part of the
25 point with capturing was impoundments that are

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1 leaky.
2 MR. MASON: Right.
3 MR. THOMPSON: And I agree they are
4 not created for the purpose of aquifers.
5 MR. MASON: Right, and I agree with
6 that at first thought. But the way I read
7 this is I can just build a brand new
8 impoundment with the intent of recharging the
9 aquifer and never get a permit.
10 MR. THOMPSON: Well, it's not --
11 MR. MASON: According to the
12 definition I can recharge --
13 MR. BLANKENSHIP: It's not direct.
14 MR. MASON: -- by then the
15 impoundment's exempt.
16 MR. BLANKENSHIP: That's not
17 correct. An impoundment is not the right to
18 recharge.
19 MR. THOMPSON: Right. There are
20 some instances where people intentionally go
21 for leaky impoundments to recharge water, and
22 Wichita, Kansas has such a project. That's a
23 portion that they have some injection, but
24 they also have leaky impoundment. And so we
25 were trying to capture leaky impoundments that

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1 are intended to be out for recharge, but not
2 capture normal other operations through farm
3 ponds or anything like that, so...
4 MR. MASON: And I get what you're
5 saying, but I can't see that in this
6 definition, so I need some clarity with this.
7 I agree with you, Scott.
8 MR. TAHMASSEBI: So what you're
9 saying is that if we have, if we included the
10 word "unintentional" here, if our activities
11 shall not include unintentional groundwater
12 recharge for augmentation through natural
13 connection, then that would address your
14 concern; is that correct?
15 MR. MASON: I'm not telling you how
16 to rewrite it. I'm agreeing with what Scott
17 said, and I think there is a loophole and how
18 much, but I'm going to build a leaking
19 impoundment to recharge, and I don't need a
20 permit.
21 MR. THOMPSON: Yes --
22 MR. MASON: And if you guys accept
23 that, that's great.
24 MR. THOMPSON: Yeah, there's a
25 unique situation that with the aggregate

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1 industry that they do use some unintentionally
2 leaky impoundments for the manner in which
3 they recirculate water. So part of the goal
4 is not to capture that process which has been
5 ongoing for years, so we want to be a little
6 careful about how we write that.
7 It might be that if we were to do
8 this, we could come back and amend that
9 definition to be more clear, but we probably
10 need some more words, not unintentionally
11 capture people, so...
12 MR. TAHMASSEBI: See, the way we
13 intended this was, first we said what the ASR
14 is. And we said ASR means the delivery of
15 water to aquifer for later recovery and use,
16 so this is what ASR is. So now after we say
17 what it is, we further clarify it by saying
18 what it is not. And what it is not is if you
19 have a natural connection to the farm pond and
20 the subsurface, that's not ASR.
21 MR. MASON: So then if I understand
22 what you just said, I think you just picked up
23 the aggregate impoundments that Scott
24 referenced. If I -- well, not quite. You
25 can't -- not quite is enough quite.

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1 MR. THOMPSON: There's no
2 recirculating water for continued use.
3 MR. MASON: Well --
4 MR. TAHMASSEBI: I'm sorry, Scott,
5 I didn't mean to interrupt you. We, the
6 aggregated issue is at rest in the ultimate
7 sentence in the definition which says, "For
8 the purpose of this chapter ASR activities
9 shall not include activities specifically
10 authorized under Section 1020.2 or stormwater
11 management runoff practices otherwise
12 authorized by law." And this sentence
13 addresses the aggregates issue, and it
14 specifically removes that activity from the
15 ASR definition.
16 So those ponds are for intentional
17 augmentation of aquifer, but we are not
18 deliberately -- they are removing that from
19 the definition of ASR.
20 MR. THOMPSON: So you could modify
21 this to add the word unintentional?
22 MR. TAHMASSEBI: We could if the
23 Board feels that that's necessary to provide
24 that additional clarification, we could.
25 MR. MASON: Well, I read this to

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1 say that I can go out tomorrow and build a
2 section, 640 acre impoundment --
3 MR. TAHMASSEBI: Yes.
4 MR. MASON: -- to recharge an aquifer.
5 MR. TAHMASSEBI: Uh-huh.
6 MR. MASON: And I don't need a permit.
7 MR. TAHMASSEBI: Yes, I would say
8 you do.
9 MR. MASON: I don't see it.
10 MR. TAHMASSEBI: I tell you what,
11 we will change this the way, if we want these
12 rules to be clear, we want everybody to read
13 them the same way, so since that's not the
14 case, we will fix this like Scott says so we
15 all can read them the same way.
16 But with your pond example, I would
17 say that is ASR because it is delivery of
18 water into an aquifer for later recovery and
19 use, so that makes it an ASR. And there are
20 portions of the rule that specifically talk
21 about infiltration reasons, and so we
22 actually -- the pond you're talking about,
23 there are requirements for it in these rules.
24 MR. MASON: So Ms. Penn?
25 MS. PENN: Yes, sir.

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1 MR. MASON: Are you comfortable
2 with enforcing what Saba just said to me that
3 I don't understand? Because it's going to
4 come to your office.
5 MR. THOMPSON: Well, part of the
6 problem would be is this -- it's hard to
7 document it.
8 MR. MASON: Right.
9 MR. THOMPSON: Okay, so if you want
10 to build a pond for any reason, and it so
11 happens to recharge an aquifer, but that's
12 what naturally occurs anyway when people
13 operate, get that water, mix a little bit with
14 groundwater, that's not -- that's not
15 necessarily bad. But the -- but it's very
16 difficult to make a case on intent. So I
17 don't think we'd be in a major position to try
18 to -- I wouldn't want to put us in a situation
19 where this is what we do is arbitrarily judge
20 intent. So we would have to have some really
21 solid basis for taking action against somebody
22 who's built a pond. And if there's -- some
23 instances I can see to enforce, and some of it
24 that would be questionable to enforce under
25 the set of rules that we have. We would set

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1 it up to where we could not have authority
2 over whatever we decide to... so is that --
3 MR. TAHMASSEBI: I agree that this
4 rule will be more, it will be more readily
5 clarified if you use the word unintentional
6 when we talk about recharge for intentional
7 augmentation. If we add that word it will
8 make it a lot better. So I don't know the
9 procedure, whether this is something we want
10 to do later or we want to do it right now.
11 I'm not sure what the process is.
12 MR. MUNSON: Would you like to
13 propose an amendment at this point?
14 MR. MASON: What I've expressed is
15 confusion.
16 MR. MUNSON: Okay.
17 MR. MASON: I've expressed
18 confusion. I build a 640 acre impound. I
19 start recharging. I don't think you can
20 regulate me which is fine, if you all think
21 it's fine because it's an impoundment that's
22 recharging. So this rule I guess would only
23 really apply to like injection wells or wells
24 to put water back below.
25 MR. THOMPSON: I don't think too

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1 many people intentionally build ponds that
2 leak really bad. Farmers don't -- some of
3 them do leak real bad, but it's not on
4 purpose. So I understand it could be an issue
5 there, but I think it's a minor loophole, and
6 it's something that if there becomes a real
7 concern over it then we can modify this and
8 deal with that, whatever the rule actually is
9 in a better way potentially.
10 MR. KINDER: And I've actually got
11 a question to Steve's point. Without this ASR
12 ruling, or proposed ruling, if the farmer
13 built or the entity that is, built that 640
14 acre pond or lake or whatever you want to call
15 it, and I guess it is cloudy about the intent,
16 then you would have no regulatory authority
17 over it currently without this proposed rule;
18 is that correct?
19 MR. TAHMASSEBI: So the question is
20 if there's -- if a claim is made that a pond,
21 a pond's recharging aquifer is unintentional,
22 then, therefore, they're not subject to these
23 rules; is that the question?
24 MR. KINDER: Without these rules,
25 do you have any regulatory authority without

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1 these rules?
2 MR. TAHMASSEBI: There are other
3 authorities, but one thing that we need to
4 make clear: The intent of this rule was not
5 to be an enforcement mechanism. This is not
6 something for us to go after people, after pig
7 farms or after leaky ponds. This is not what
8 we wanted to do. What we wanted to do was
9 mitigation of impacts of drought. That was
10 the intent. So this was written for cities,
11 municipalities that wants to do ASR because
12 they want to grow; they don't have enough
13 water, and then they store the water
14 underground. They have to get a DEQ permit in
15 order to secure water rights from the Water
16 Board. Without a DEQ permit, they cannot do
17 that. So they pond, although it's -- it may
18 replenish the groundwater, but you can't seek
19 water rights because you don't have a DEQ
20 permit.
21 So this is all for DEQ to
22 facilitate Oklahomans to manage their water
23 resources during a time of drought. It's not
24 an enforcement. We didn't take this before
25 enforcement when we did this, so I don't know

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1 whether that constitutes the answer to your
2 question or not.
3 MR. KINDER: Thank you. I just
4 want to make sure that I understand this
5 ruling, and it's new technology and all the
6 kinks aren't worked out. But coming from
7 southwest Oklahoma, from western Oklahoma with
8 the droughts that we've had in the past, this
9 new technology is needed to do move forward,
10 and I have the feeling that you will have an
11 ongoing update, as you see it's needed, of
12 these rules.
13 MR. TAHMASSEBI: Most certainly,
14 yes. The intent for this to be -- this wasn't
15 intended to be the last rendition of the
16 rules. And as we get smarter, as we gain more
17 information, we will update the rules
18 accordingly.
19 One thing that you may want to know
20 is that during this past legislative session,
21 the DEQ sponsored a piece of legislation that
22 enabled us to issue permits for limited scale
23 ASR pilot projects. This was -- this was
24 actually Scott's idea. And the reason he
25 wanted to do this was the understanding that

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1 we don't know everything that we need to know
2 about ASR. We need to have these pilot
3 studies to get the particular standards
4 involved, and as we do, when necessary we will
5 update those.

6 MR. PAQUE: And at the risk of
7 confusing all of this, the great late Dr.
8 Petty from Oklahoma State used to teach a
9 course in, when he was teaching, an
10 introductory course on groundwater. He would
11 tell his students if they wanted to actually
12 see water, they should go to western Oklahoma
13 and look at the farms ponds as well, so
14 there's a built-in interaction. It's a
15 two-way -- I think you know that, but that's
16 just designed and not designed, it's just --
17 and I may be missing your point. It's a
18 natural phenomenon, and those ponds are not
19 for water storage but for other purposes, but
20 they do interact with the groundwater
21 constantly.

22 MR. NICHOLSON: I was kind of
23 looking at this in a different way. To me
24 aquifer storage is above ground, and a pond or
25 something above ground is not an aquifer;

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1 that's merely a pond or a retention or
2 detention, or whatever, so I've got that
3 separation in my mind but that may be wrong.
4 I read this as aquifer storage, I'm thinking
5 below ground; is that...

6 MR. THOMPSON: Well, ultimately,
7 yes. Let me give you an example. I was going
8 to talk about this later, but the City of Ada
9 wanted to do a pilot project. They have a
10 spring they draw water from. They use
11 groundwater too and they mix it; it's really
12 cool, super clear water coming out of that
13 spring.

14 They worked with the Kerr Lab and
15 East Central University there in Ada, and
16 Senator Paddack created a water cluster, kind
17 of a water study group called the Oak
18 Institute. And Saba's people have been
19 working with them. Their goal is to capture
20 water and essentially serve as an impoundment
21 sub top. On the bluff above their spring they
22 bought property; they own it, and it would
23 capture that water and hold it and not let it
24 percolate into this limestone system in
25 greater quantities more -- similar to

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1 quantities that used to get in in the old
2 days, okay. It would have reduced flows in
3 springs like in times it's plugged up a little
4 bit or something. But that in and of itself,
5 if you were going through all the aquifer
6 storage stuff already, I wouldn't even look at
7 that. But because we are struggling with
8 potential uses, actual injections and things
9 like that, we want to be protective of the
10 quality of the water, but we also don't want
11 to eliminate the potentials for good reuse
12 options, especially in the west where they're
13 short of water. Other cities do this, and so
14 there's some data to build on and things. So
15 in that case they would be building an
16 above-ground structure to hold the water that
17 would eventually flow into the limestone
18 fracture system and go down to the spring.
19 But, essentially, it's pretty clean water up
20 top, right, and if they control the surface,
21 they control that property, they can control
22 the use. They can make sure it stays clean.
23 So we're trying to capture the ways that
24 people are doing it for this purpose but not
25 capture everything else.

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1 I mean, technically, every farm
2 terrace is to capture water, but it's mainly
3 for erosion control and a little bit to hang
4 onto the water when it's there. So there is
5 no intent of trying to disrupt the normal,
6 everyday practices the way we're going.

7 MR. NICHOLSON: Okay, thank you.
8 MR. MUNSON: Okay, pretty lively
9 discussion. Any other discussion or comment?

10 MR. MASON: Well, I guess my
11 question was are you comfortable with this
12 definition for enforcement on our constituents?

13 MS. PENN: Well, I think that as
14 Saba mentioned, it's a process to encourage
15 people. Not every single thing at DEQ is
16 about enforcement. It's about encouraging
17 people to do proactive measures and protect
18 our water quality, in addition to doing the
19 regulation that we do. So I think it could
20 stand a little clarification as we discussed,
21 but overall I feel comfortable where it is.

22 MR. MASON: Okay, thank you. I'm
23 not going to support this. I mean, 31 pages
24 just to re-inject aquifers sounds to me like a
25 lot of excessive rules to correct an action.

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1 All we're trying to do is recharge an aquifer.
2 And Saba said -- really what started this we
3 just didn't tell Water Board they have a
4 permit. That could be a three-page application,
5 three lines on a page, and now I've got 31
6 pages of corrective action and financial
7 assurance.
8 MR. THOMPSON: Well --
9 MR. MASON: -- and test studies and
10 boring into the aquifer. It's a lot going on.
11 MR. THOMPSON: It is a lot. It is
12 a complicated question. In some cases it's
13 very simple. It's pretty straightforward.
14 You could potentially have people want to
15 reuse treated waste water, and technically we
16 make sure it meets standards and make sure
17 it's safe. You also have chemical issues with
18 the injection of any water source. So you
19 could take essentially clean water from your
20 drinking water reservoir in times of plenty,
21 and instead of letting it evaporate, store it
22 in the ground. That's the most common basic
23 concept. How you get it in there, we can
24 pond, injection, whatever, a little different
25 thing. If you have to treat it extensively

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1 first, regardless whether it's treated or
2 untreated, it has to meet a certain quality.
3 You also have to look geochemically what
4 happens to that when you move it into that
5 formation because you could cause things to
6 move that are naturally there; that could be a
7 problem. You could also cause the formation
8 to plug up and not store water anymore, or not
9 allow the movement of water the way that it
10 has before. So it's just from general
11 chemistry, geochemical aspects, it takes a
12 work just to figure out what is going to
13 happen if you take this particular water
14 source and put it in this specific geological
15 setting. You know, we want to be careful. We
16 want to make sure we're careful and consider
17 the water, that it is not potentially impacted
18 by anything, or naturally impacted by these
19 things that are not in the current water
20 sources.
21 So that's why we're doing some
22 pilot projects. We're trying to work with the
23 group in Ada. I know in Texas they've done
24 this. They've taken their drinking water,
25 source water and they store it up for

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1 capacity. So in the water balance information
2 it shows they really benefitted by that. They
3 would withdraw some of that water and use it,
4 and they worked out through chemistry and made
5 sure it was not plugging up the formation. So
6 it's not as simple in every case let's catch
7 it in the pond and keep it in the ground. If
8 it were, I don't think we'd be here doing
9 this.
10 So it's a tough call, and it's very
11 technical, and so I do think we need adequate
12 regulation to control this, to make sure
13 somebody doesn't screw up the water resource
14 that -- because, as you know, I can't remember
15 the numbers, but it's like one drop of a
16 certain thing that's in a swimming pool
17 contaminates the pool to the point where it's
18 a serious problem, and it's extremely costly
19 to try to clean it up.
20 So we want to move forward. We
21 want to offer people options to store more
22 water, but we want to try to do it as safely
23 and smart and not create unintended
24 consequence, so it's challenging.
25 MR. MASON: That makes sense what

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1 you said. Thank you.
2 MR. MUNSON: And as a general rule
3 I'm going to agree with you, the simpler the
4 better especially when it come to rules and
5 regulations, but when we are dealing with
6 something that's as valuable and as important
7 as drinking water, I think abundance of
8 caution is called for, so... and this is a
9 first pass, and this is something that will be
10 evolving, I'm sure, as we move forward. So
11 any other discussion or comment on part of the
12 Board?
13 MR. GRIESEL: Actually, I have a
14 question on the notification process on Page
15 6.
16 MR. THOMPSON: Yes, sir.
17 MR. GRIESEL: People who lease these
18 water rights, should they not be notified?
19 Because it talks about own the land or reside.
20 And my other question was why would we -- why
21 would they have to be burdened with notifying
22 oil and gas or mineral owners?
23 MR. TAHMASSEBI: This --
24 MR. GRIESEL: Those are separate
25 interests.

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1 MR. TAHMASSEBI: They are, they
2 are. Let me --
3 MR. GRIESEL: So I'm confused as to
4 why oil and gas is involved.
5 MR. TAHMASSEBI: Because they asked
6 for it. Because when our rules went through
7 public -- public review, they specifically
8 asked that the, that they know if there's an
9 ASR project is going on because they were
10 thinking that if they want to gain access, if
11 they want to drill a well and if that well, if
12 the ASR activities and the precautions are
13 going to add other costs in the name of the
14 well because... They need to know so they
15 asked to us to come up with a mechanism for --
16 to inform them. But since mineral rights
17 owners could be in the hundreds in a five mile
18 radius area, we agreed that notification be
19 made into associations like OIPA or other
20 associations and leave it up to them to inform
21 their constituency the way that they want to.
22 And then your other question
23 about... here where we have the water rights
24 and the owners of the water rights and the
25 rest and...

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1 MR. GRIESEL: Some are water rights
2 lease, so notify the landowners --
3 MR. TAHMASSEBI: Yes --
4 MR. GRIESEL: -- isn't going to
5 take care of the notification to all, all
6 parties that have something to do with the
7 groundwater.
8 MR. TAHMASSEBI: Right, so if you
9 look at 17 statement of interest, 179, it
10 demonstration that the applicant actively
11 seeking water rights with OWRB found
12 applicable, but you're talking about existing
13 water rights owners.
14 MR. GRIESEL: That's correct.
15 MR. TAHMASSEBI: Yes. Now we
16 didn't address that, and this is -- would that
17 be remedial? But if you think that we need
18 to, at the next rendition of the rules, we
19 can --
20 MR. GRIESEL: Well, I would think
21 that would be appropriate because that would
22 be impacting those owners.
23 MR. TAHMASSEBI: Yes. And then we
24 must also recognize that we have made a
25 distinction between water that exists in the

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1 aquifer and the water that is being delivered
2 to the aquifer. We may call it different
3 things. The water that's being delivered is
4 called stored water. And the reason we call
5 it stored water is because that phrase appears
6 in Senate Bill 1219 which sets the stage for
7 OWRB to have water, assign water rights for
8 ASR. And then rules of stored water rights
9 are separate from the regular water rights,
10 the groundwater water rights. In addition to
11 that and for that reason, application is to be
12 made to the OWRB to distinguish what's
13 existing and what's -- and what is being added
14 to the aquifer. So the existing water rights
15 owners, they are not going to get more water
16 rights as a result of ASR, and they not going
17 to get any less. This is the entity that
18 injects first going into that bill is going to
19 have the rights to the water that's being
20 stored. But then your comment to this is a
21 good one, and it's worth of reply.
22 MR. GRIESEL: Well, if those people
23 don't want the ASR, they have a right to know
24 it's coming.
25 MR. TAHMASSEBI: Right.

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1 MR. GRIESEL: The people that have
2 the lease that own the water.
3 MR. TAHMASSEBI: Yes, yes, so I
4 think I can see that.
5 MR. THOMPSON: When the water
6 rights issue came before the Water Resources
7 Board action for a specific, say, it starts
8 projects on behalf of us, you still have to
9 move through the process to get the Water
10 Board to assign the rights.
11 MR. TAHMASSEBI: To get the permit,
12 yes.
13 MR. GRIESEL: But water rights that
14 aren't involved in the --
15 MR. THOMPSON: I understand, but
16 that action does place -- it's placed at the
17 Water Board, the assignment of the rights.
18 MR. GRIESEL: I'm just confused why
19 they're notifying oil and gas.
20 MR. TAHMASSEBI: Okay.
21 MR. GRIESEL: And not notifying
22 water rights for -- or lease on those water
23 rights.
24 MR. TAHMASSEBI: Yes, I think
25 that's Mr. Griesel's comment is, is that's

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1 someone who has water rights. They might be
2 concerned, adverse to pass --
3 MR. GRIESEL: That's correct.
4 MR. TAHMASSEBI: -- to the
5 groundwater, and since they have water rights
6 they need to be informed.
7 MR. TAHMASSEBI: Right. I see, I
8 see, that maybe at the next rendition of the
9 rules maybe we clarify that.
10 MR. MASON: Okay. Following what
11 Mr. Griesel has said, so if the aquifer is
12 affected is the Oologah that's over six
13 states, am I going to serve, send a certified
14 letter to people in six states?
15 MR. TAHMASSEBI: No, although if I
16 were working for the Post Office I would say
17 yes. But that's not -- aquifer is Page 4
18 defined Page 4 --
19 MR. MUNSON: I'm just reading the
20 notification section.
21 MR. TAHMASSEBI: Yes, so it says
22 aquifer, so if the area of hydro geologic
23 effect is let's say five square miles and
24 would they have to, the way the rule reads,
25 folks who have, who own land in those four or

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1 five square miles that need to be informed.
2 But not every body on --
3 MR. MASON: There's just a lot of
4 notification going on. The way I read this
5 also it says -- say we suddenly formed the
6 Griesel & Mason Oil and Gas Natural Gas
7 Association, they're going to have to send us
8 a certified letter too. It's a very vague
9 words, just saying.
10 MR. TAHMASSEBI: Right.
11 MR. MASON: And to David's point he
12 thinks the water rights people forgot to send
13 the DEQ a comment so they can include it along
14 with the oil and gas companies I think is what
15 he's saying. This notification is cumbersome.
16 All of the rules are very cumbersome. I don't
17 think it should have -- I don't think it
18 should take 31 pages to do this. This
19 notification is just another example of this.
20 MR. TAHMASSEBI: Well, it says, you
21 now, we just heard, you know, I'm just trying
22 to tell you how difficult it was to come up
23 with these 31 pages. Every time I have five
24 engineers in the room you get three dissenting
25 opinions, and then you can have that approved,

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1 the dissenting people who are in a group.
2 These are very distinguished people who helped
3 us write these rules. And then right here in
4 this Board we have Mr. Mason who says, "Why
5 then are we having notifications; is that
6 necessary?" And we have Mr. Griesel who says,
7 "You need to notify more people. Why weren't
8 we going to notify more people?"
9 So there has to be a happy medium.
10 There were some there, I mean, I think our
11 group there were more minimalists, and then
12 there were people who wanted more regulation.
13 But then we put our heads together and came up
14 with something that we felt is a good idea.
15 So just to answer your original
16 question, when you say people who are in six
17 states, the way we read the rule is that
18 people who reside on the land or have rights
19 over any part of the aquifer, and then the
20 aquifer is defined as area of the hydro
21 geological effect, which is like maybe five or
22 seven radius circle. So it's not like
23 notifying millions of people. It would be
24 notifying whoever owns the land or has land in
25 these five square miles. And then the

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1 notification of oil and gas national
2 association, there would be like maybe two or
3 three just -- it doesn't say notify all of
4 them. It doesn't say notify all of them, but
5 maybe we can say like not all of them, we can
6 notify some of them, the big ones or
7 something.
8 MR. MASON: Okay.
9 MR. MUNSON: Maybe that would be a
10 good suggestion for a future revision, that
11 would be to spell out specifically what
12 associations are and have a standard rule who
13 the EPA is needing to be notified, or who are
14 the -- who are those organizations.
15 MR. TAHMASSEBI: We will consider
16 that, yes.
17 MR. MUNSON: Any other discussion
18 or comment from the Board? From the public?
19 MR. PAQUE: I have just a comment.
20 The -- what we have before us today in my view
21 is very important, and I do support it. I am
22 intrigued by your comment about the
23 complexity, and there may be pieces of this
24 that are maybe overly cautious. I think if
25 we're going err, to the err on the side of the

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1 public's benefit for water quality, water
2 quality is not all bad.
3 Let me ask you a procedural
4 question -- or let me back up one second. Of
5 some importance, in my view, is that this
6 Board has the opportunity to act and move us
7 forward as a state, perhaps, or half of it
8 anyway, and one of my fears would be that we
9 languish too long on doing something. We're
10 all in the middle of a hundred year drought
11 cycle. We just have a wet year here and
12 there, so I think there -- I wouldn't call it
13 urgent, but I certainly feel that it's very
14 important.
15 Someone who's looked at aquifer
16 storage and recovery in a number of states
17 where it works well, it works very well.
18 Steve mentioned Texas. The City of San
19 Antonio wouldn't be the City of San Antonio if
20 they didn't do aquifer storage in the Edwards
21 aquifer, and they have it down to a science.
22 And the -- there's very aggressive aquifer
23 storage projects going on in southern
24 California that I suspect may not have had
25 some of the oversight that we're proposing be

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1 done in Oklahoma today. They were running
2 into some problems, with problems in southern
3 California. But to me it's important that we
4 act.
5 So my question for you, Steve, or
6 Sarah or somebody, if like -- and I served on
7 the Water Council obviously for 12 years and
8 just saw the fruits of our labor pushed up to
9 this Board, so I'm going to ask the question:
10 If this were to pass today in its current
11 form, what are the opportunities for
12 modification. What would be an historic
13 example of modification in the future to
14 simplify our rule based on experience. What
15 has the Board done in the past in that regard?
16 Let's just say there's something
17 that after three years, Steve, that you said,
18 you know, that really never got us anywhere,
19 maybe that is burdensome.
20 MR. THOMPSON: We have in the past
21 gone back to our rules and we tell them to
22 rewrite them all the time. We went through
23 the regulations and revised our rules to be
24 more straightforward, simpler or eliminating
25 requirements that were no longer necessary,

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1 add things to them, tweak them. That is not
2 uncommon. It's possible to do at any time,
3 through Council and the Board, to modify rules.
4 So the key point is, there is the
5 legislative cycle that we have to tag into to
6 make rules go final. So if -- if this were to
7 pass here, this set of rules were to be passed
8 today, whichever one, then the governor's
9 office and the legislature has to approve
10 those. If they want to change a law they
11 still have to affirm those rules in the
12 Senate, and if they change that, they take up
13 those rules and they affirm them or disapprove
14 them. So the governor has to act out in the
15 session to resolve that problem and has done
16 so, so that State agencies rules can go into
17 effect. I'm not just talking about our rules,
18 the Senate hasn't taken up rules. So the --
19 but it is quite possible. The problem is
20 simply the length of time. If you miss a
21 legislative cycle, that you're really going
22 through the next one before the legislature
23 approves it, so there's a time concern here to
24 not lose a year.
25 MR. PAQUE: I wasn't suggesting it.

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1 I was just asking what the ultimate time in
2 the future was if we did pass it today.
3 MR. THOMPSON: We could but it
4 would come back through the Council and the
5 Board, and I don't know when the next Council
6 meeting is.
7 MS. FIELDS: February, next year.
8 MR. THOMPSON: That's the next
9 board meeting, right?
10 MS. FIELDS: Yes.
11 MR. THOMPSON: When is the next
12 Water Council meeting?
13 UNKNOWN SPEAKER: January 11th.
14 MR. THOMPSON: Okay. So there
15 would be time to modify things and come back
16 in January or February.
17 MR. TAHMASSEBI: Well, you know, I
18 think that if there's a very compelling reason
19 to do that, we can do that. But I think, as
20 Mr. Paque suggested, that is actually
21 evidenced by today's work with the past couple
22 of items that the Board voted on, one of them
23 have to do with modification of the rules. So
24 if we do modify rules if we need to, and I
25 think Mr. Paque's comment is a very good one

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1 that as time goes by and we find ways to
2 simplify the rules, make it better as we gain
3 experience, then we really need to do that.
4 I really don't feel like we need to
5 do that between now and January. I feel like
6 we need to, in my opinion, we need to pass
7 these rules, gain experience, make up the
8 pilots, and then once we have – once we know
9 better what we're doing, then we can go take
10 our time and in a very deliberative manner
11 make the rules better. I hate for us to rush
12 into it before January.
13 MRS. MARTIN-DIEHL: I would also
14 make a comment that the big elephant in the
15 room that no one is discussing is if you're
16 contemplating a change, that you're going to
17 have to republish these. And so that may be
18 the better way that you get a comment before
19 you can get it to the state legislature, so
20 that and that you have no statute and you have
21 no rules, how do you implement the statute?
22 The whole thing may wait for another
23 legislative session.
24 MR. TAHMASSEBI: Yes, that's what I
25 said, as Mr. Paque said this is a – this is

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1 really a milestone for our state. This is the
2 time, after years of work; it was 2008 when
3 the first piece of legislation in Oklahoma was
4 passed that addressed ASR, and it's taken us
5 that long to get to the point that we are.
6 We feel like these are very good
7 rules, and at the same time they are not the
8 final rules. They are stepping stones on our
9 first attempt at this. And as we get smarter,
10 we are going to make them better, but this
11 is -- this is a good thing. This is -- we've
12 done a lot.
13 MR. MUNSON: Okay. Did somebody in
14 the back room want to make a comment?
15 MR. Ground: Thank you. I'm Bud
16 Ground. I'm the president of the
17 Environmental Federation of Oklahoma. And
18 EFO, is a trade organization of companies that
19 work in the regulatory/legislative area on
20 environmental water, safety, health issues, so
21 just as a background that's who I represent is
22 a number of companies across the state, about
23 85, and they range from tire manufacturing and
24 paper manufacturing, oil and gas and then the
25 exploration and production to administrative

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1 to refineries to power plants, gas processing;
2 all kinds of industry across the state. And I
3 tell you that because Mr. Winegardner, who
4 said that they had received no comments on
5 these rules, and it's not because people
6 weren't involved, because the DEQ is very good
7 about working with industry prior to
8 notification, prior to actually publishing the
9 rule where we work out issues prior to them.
10 We didn't comment because we worked out our
11 issues. And I was wanted to talk to you about
12 this because I also work, not only with DEQ
13 but also at the Water Board, so a lot of this
14 is going on hand-in-hand with what's going on
15 with the Water Board and what's going on with
16 DEQ.
17 I have also worked on the
18 legislation, and you might wonder why in the
19 world would industry want to get involved with
20 ASR. I don't know that we have any industry
21 that would ever get involved with it. To me
22 that's going to be a city, that's going to be
23 a municipal that gets involved. But the
24 reason we get involved in rulemaking is
25 because we do not want any unintended

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1 consequences happening because of this
2 rulemaking on what we do in our different
3 industry.
4 And we were very intentional in how
5 we wanted this worded to not pick up things
6 that weren't ASR; to pick up those stormwater
7 basins, or in the mining industry how they
8 actually make basins, or to recharge aquifers.
9 But it's not -- we do not want that under this
10 rule. That's not where it belongs. It has
11 its own rules.
12 Someone could go build a 640 acre
13 pond, and if they've got to permit it now and
14 someone does, it's not here. We don't want it
15 here. You know, industry -- we don't want our
16 ponds or our processes brought into a rule
17 that's not intended. So that's why a lot of
18 these things are like they are. It's because
19 we worked to try to keep other industries out,
20 and only those things that were extremely
21 intention on aquifer storage and recovery.
22 That's the -- there are other types of aquifer
23 storage, not for recovery, so that -- this is
24 for aquifer storage and recovery.
25 So the first thing you have to go

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1 through if you want to intentionally go
2 through ASRs, you have to go, not only get a
3 permit from DEQ, but you have to get a permit
4 from the Water Board. And that's where a lot
5 of notification comes from that Mr. Griesel
6 talked about, is that's where all the
7 notification -- because that's where you get
8 your permit to actually draw that water out.
9 They give the permit to it put that water in
10 it, so it's -- there's processes and there's
11 permitting and there's... it's very
12 complicated. And, in fact, the next couple
13 weeks there's a meeting at the Water Board to
14 talk about how much water you can actually
15 take out, depending on how much you put in it,
16 because it's not one-for-one. And that's not
17 all -- that's not groundwater. We don't put
18 in groundwater. We put in surface water. We
19 are storing surface water, so there might be
20 interaction with groundwater, but when you
21 take it out it's not -- it's stored water. It
22 has to be kept very separately on the
23 accounting process.
24 So all these are going through this
25 process now. And there are people, not just

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1 industry, but municipals that would really
2 want to work on this process. I think what
3 the DEQ did was a very good and probably it's
4 the first start because they've never done it
5 before. They don't know if anyone will
6 actually go through this whole process like
7 they intend. But at least it sets it up in
8 the process where you can. It's not where
9 they're setting up a rule that really can't be
10 met. So I just want to make sure, and I want
11 to give you a little comfort that there are a
12 lot of people working on this on both sides.
13 And we were very intentional in the way we
14 actually worded it and put in some of this so
15 it does not apply to other industry. So I
16 just appreciate the opportunity to let you
17 know that before you vote.
18 MR. THOMPSON: And I would say one
19 thing that we could modify some of the
20 definition language on notifications if you
21 want to right now. I believe the Board has
22 the authority to modify that language. Now
23 the question is can we identify the right --
24 MR. KINDER: Is that allowed?
25 MRS. MARTIN-DIEHL: I would think

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1 that the rules would have to be republished in
2 a new format.
3 MR. KINDER: I have a question.
4 You're talking about -- the Water Board is
5 already giving notification, so would this be
6 dual notification; would our efforts here
7 would be redundant? I'm not sure what the
8 Water Resources Board, what their notification
9 process is, and I don't think the intent is to
10 double notify anybody. Is that my thoughts,
11 or is that correct; they have their own
12 notification process?
13 MR. TAHMASSEBI: They have to draft
14 rules that they at copy to the public, and
15 then as Mr. Ground said, in a couple of weeks
16 they later have the first stakeholder meeting
17 and get input. And there are some
18 requirements how those requirements are meant
19 to gel is we have to wait to see. But then we
20 are, in our process, we are further along as
21 Water Board is. You already have the rules
22 that you're happy with. They're not
23 permanent, although a lot of these rules are
24 going for legislative and editorial review and
25 approval at the same time.

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1 MR. KINDER: Thank you.
2 MR. MUNSON: Does that answer your
3 question?
4 MR. KINDER: Yes.
5 MR. PAQUE: Elaborate on that, why
6 can't -- I'm going back to Steve's comment,
7 couldn't we make minor modifications?
8 MRS. MARTIN-DIEHL: That is the
9 question I have that was pending. Could you
10 elaborate for us, have these been sent,
11 published; have the rules in this format
12 already been published?
13 MS. PENN: Yes, they have. And so
14 I think we can make minor modifications. The
15 Board has that authority to do so. Only for
16 the air quality rules can we not do that.
17 MR. PAQUE: So we put --
18 MS. PENN: But I might say that I
19 think Saba's point is well taken, that we have
20 process that the first time let these things
21 go through. And what we typically do when we
22 have rules and we have rules in place, this is
23 constantly going on at DEQ; we go through a
24 process and people complain about it or it
25 doesn't work exactly as it should. We take

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1 notes and we kind of make a list. And it may
2 not be a formal list, but we have noted what
3 are the problems and what we need to come back
4 and work on. So that's not an unexpected
5 process or something that's atypical for us.
6 Everything is a work in progress because it's
7 never perfect.
8 So it might just be let this play
9 out and take those comments into consideration,
10 see how that works. See if there is an
11 overlap with the Water Resources Board, if
12 those things are being covered, address Mr.
13 Mason's concerns and work on that.
14 MR. SIMS: Mr. Chairman?
15 MR. MUNSON: Yes.
16 MR. SIMS: I make a motion to adopt
17 this proposal with the understanding that we
18 would like some clarification at our January
19 meeting on some language that's discussed here
20 today.
21 MR. MUNSON: Okay, so the motion
22 was to approve this and --
23 MR. SIMS: With the understanding
24 that we want some clarification of the some of
25 the language at the points that have been

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1 addressed here.
2 MS. PENN: At the February Board
3 meeting?
4 MR. SIMS: Yes, at the February
5 Board meeting.
6 MR. GRISEL: I'll second that.
7 MR. MUNSON: Okay.
8 MR. MASON: To accept his motion to
9 strike Section 10, Notifications.
10 MR. MUNSON: Okay, we have an
11 amendment to strike Section 10 Notifications.
12 Can we have a second for that?
13 MR. MASON: Could I amend?
14 MR. MUNSON: Do we not have to --
15 MR. MASON: No, I have to have a
16 second.
17 MR. MUNSON: You need to have a
18 second.
19 MR. GRIESEL: I'll second.
20 MR. MUNSON: Okay, so we will -- do
21 we take a roll call for the amendments, or do
22 we vote on the -- do we have to take a roll
23 call for the amendment, correct? Okay,
24 Quiana -- or Sarah?
25 MS. PENN: We need to make a -- we

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1 need to vote on the original...
2 MRS. MARTIN-DIEHL: The first.
3 MS. PENN: The first.
4 MR. MUNSON: Okay.
5 MS. PENN: And then we can vote on
6 the amendment.
7 MR. MUNSON: Okay.
8 MS. PENN: So...
9 MR. MUNSON: Billy made the motion,
10 Jimmy seconded it.
11 MR. MASON: I've never -- and I'm
12 not used to DEQ procedures, but I've always
13 thought amendments were dealt with in the
14 process before you went to the original
15 motion. And you have a better understanding
16 of DEQ's process.
17 MR. MUNSON: I believe it's --
18 MR. MASON: That's curious to me
19 that we're not going to deal with the proposed
20 amendment.
21 MR. PAQUE: I'd have to agree with
22 you. What, if you're going for the -- you've
23 made your motion before you have your
24 amendment, I'm particularly interested in
25 that.

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1 MR. THOMPSON: I would request we
2 look at the rules and let's take a break for a
3 moment.
4 MR. NICHOLSON: I wouldn't vote if
5 you don't have --
6 MRS. MARTIN-DIEHL: We don't have
7 anything to amend before we --
8 UNKNOWN SPEAKER: Mr. Sims, would
9 you amend your motion?
10 MR. SIMS: I would -- I would agree
11 to accept that amendment for motion.
12 MR. MUNSON: Okay, so how about if
13 we withdraw your Motion and you re -- with
14 that withdraw the amendment, and then you
15 restate your motion as to --
16 MR. SIMS: I'll -- I make a motion
17 that we approve this with some clarifications
18 to follow in the February meeting, and also
19 delete notification Section point 10.
20 MR. MUNSON: Okay, so -- does the
21 motion have a second?
22 MR. KINDER: I'll second.
23 MR. MUNSON: The motion has a
24 second. Can we have a roll call, please?
25 MR. BLANKENSHIP: Can I make a

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1 comment before the roll call?
2 MR. MUNSON: Sure.
3 MR. BLANKENSHIP: I'm in support of
4 the regulations. I'm a little bit concerned
5 about just wholesale removing them of the
6 notification part. But if we're going to, if
7 there's going to be something that comes back
8 it sounds like in February, I would expect to
9 see some, maybe some clarification on the
10 notifications, but I will vote in favor of the
11 motion. I would like to see that -- some
12 clarification come back on this particular
13 section in February. Thank you.
14 MR. MUNSON: Okay.
15 MR. SIMS: I agree with that.
16 Thank you.
17 MR. MUNSON: Okay.
18 MRS. MARTIN-DIEHL: Do you accept
19 that modification, Mr. Sims?
20 MR. SIMS: Yes.
21 MR. MUNSON: All right, Quiana?
22 MS. FIELDS: Mr. Blankenship?
23 MR. BLANKENSHIP: Yes.
24 MS. FIELDS: Mr. Griesel?
25 MR. GRIESEL: Yes.

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1 MS. FIELDS: Mr. Kinder?
2 MR. KINDER: Yes.
3 MS. FIELDS: Ms. Kunze?
4 MS. KUNZE: Yes.
5 MS. FIELDS: Mr. Mason?
6 MR. MASON: Yes.
7 MS. FIELDS: Mr. Nicholson?
8 MR. NICHOLSON: Yes.
9 MS. FIELDS: Mr. Paque?
10 MR. PAQUE: Yes.
11 MS. FIELDS: Mr. Sims?
12 MR. SIMS: Yes.
13 MS. FIELDS: Mr. Munson?
14 MR. MUNSON: Yes.
15 MS. FIELDS: Motion passed.
16 MR. MUNSON: Thank you. You guys
17 are making it awful hard on the new chairman;
18 all these Robert's Rules of Order. Thank you,
19 good conversation, good discussion.
20 We'll move on to Item Number 10,
21 Duane.
22 MR. WINEGARDNER: Okay, Chapter 4.
23 Rules of Practice, Rules of Practice and
24 Procedure.
25 Our committee or Council has

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1 proposed changes to Chapter 4 to create three
2 new sections for aquifer storage and recovery
3 applications within Part 7 of the Water
4 Quality Division's tiers and timelines of
5 Subchapter 7. The proposed rulemaking will
6 make it possible to apply to DEQ for permits
7 required for ASR projects.
8 MR. MUNSON: Okay. Any questions,
9 comments by the Board, recommendations?
10 Any questions, comments about other.
11 MR. KINDER: Our actions previous
12 to this, does that affect this proposal any at
13 all that --
14 MS. CHARD: Nothing that we've done
15 so far impacts Chapter 4. Chapter 4 just sets
16 out what our process is and how we would go
17 about issuing permits. It specifies in those
18 tier rules based on the kind of permit you're
19 applying for what you have to do and whether
20 there's a public notice when the application
21 is filed, or when public notice is made when
22 we have a draft permit for review, when there
23 are public meetings and when there are
24 hearings. So it sets forth that permitting
25 process, but it's not impacted.

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1 MR. KINDER: Thank you.
2 Mr. MUNSON: Any other questions?
3 Any other discussion, questions, discussion by
4 the Board?
5 Any questions, comments or
6 discussion by the public? Okay, I'll entertain
7 a motion to approve.
8 MR. PAQUE: So moved.
9 MR. KINDER: Second.
10 MR. MUNSON: A motion and a second.
11 Quiana, can you do a roll call?
12 MS. FIELDS: Mr. Blankenship?
13 MR. BLANKENSHIP: Yes.
14 MS. FIELDS: Mr. Griesel?
15 MR. GRIESEL: (No audible answer).
16 MS. FIELDS: Mr. Kinder?
17 MR. KINDER: Yes.
18 MS. FIELDS: Ms. Kunze?
19 MS. KUNZE: Yes.
20 MS. FIELDS: Mr. Mason?
21 MR. MASON: Yes.
22 MS. FIELDS: Mr. Nicholson?
23 MR. NICHOLSON: Yes.
24 MS. FIELDS: Mr. Paque?
25 MR. PAQUE: Yes.

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1 MS. FIELDS: Mr. Sims?
2 MR. SIMS: Yes.
3 MS. FIELDS: Mr. Munson?
4 MR. MUNSON: Yes.
5 MS. FIELDS: Motion passed.
6 MR. MUNSON: Thank you. All right.
7 Thank you, Duane. I have to move on to Item
8 Number 11. Consideration of and Action on the
9 Annual Environmental Quality Board Report.
10 Presentation to be made by Jimmy Givens, please?
11 MR. GIVENS: Good morning, Mr.
12 Chairman –
13 MR. MUNSON: Jimmy, one of the
14 Board members requests we take a short break.
15 Can we do that before you get started? We can
16 take about a five minute break, everybody.
17 MR. GIVENS: We can take an hour if
18 you want.
19 MR. MUNSON: I'll give you five, six.
20 Let's take a short five minute break.
21 (Whereupon, a break was had)
22 MR. MUNSON: Jimmy, I apologize for
23 making you take a stop, but we had to get a
24 cup of coffee, so I'll let you get cranked up.
25 MR. GIVENS: Thank you, Mr.

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1 Chairman and Members of the Board. For those
2 of you who have been around any time at all
3 you're pretty familiar with what the
4 Environmental Quality Report is. I will be
5 brief in explaining it for those of who may be
6 new to the process. But the statute requires
7 that the DEQ prepare what is called an
8 Environmental Quality Report. It is
9 distinguished from the annual report.
10 The annual report is kind of a look
11 back at what the DEQ has done in the previous
12 fiscal year. The environmental quality report
13 is more a forward-looking document. It has
14 three principal components. One is the
15 upcoming budget proposal, what are we going to
16 ask for from the legislature for FY '19. That
17 piece of it you already approved at the last
18 Board meeting because we have to submit it by
19 October 1st, even though it's incorporated
20 into the environmental quality report that you
21 have in the packet, you actually have already
22 acted on that first component.
23 The second component is Federal
24 mandates, what we're supposed to do is give
25 you some idea of what the Federal Government,

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1 and specifically the EPA and in some cases the
2 Nuclear Regulatory Commission has done that
3 may have a major impact on DEQ or perhaps on
4 rulemaking that will be considered in future
5 days.
6 And the third component is what we
7 are proposing as field requests for the
8 upcoming legislative session, or regular
9 session, I should say, so we've already acted
10 on the first piece. Just by brief way of
11 reminder, we are essentially asking the
12 legislature in the upcoming session for an
13 \$627,000. That would go primarily toward
14 three positions in the lab because the
15 workload on the lab is continuing to increase
16 as the new water, Waste Water rules came out
17 especially.
18 Three positions in ECLS; we are
19 trying to replace three out of five that we
20 have lost recently because it was getting to
21 the point where we were stretched awfully thin
22 trying to cover the state. And then an
23 emission inventory system for air quality
24 which is badly out of date that needs to be
25 updated. Improve those as set in the

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1 September board meeting, so unless anybody has
2 some questions about that, we'll move ahead to
3 Federal mandates.
4 As you might imagine, it is a
5 little difficult to even tell you what to
6 expect in the way of Federal mandates over the
7 course of the next year or so. By the way, a
8 lot of what we're talking about here today you
9 have seen before. The EPA typically does not
10 act on something from beginning to end in two
11 or three years, let alone one year, so some of
12 what I will be mentioning you have seen
13 before. We'll update you on some of the
14 biggest rules that are either pending or
15 coming down the pike on this, and we can't
16 cover everything.
17 I put this first slide up here just
18 to illustrate though the complexity, even more
19 so than usual of trying to predict what we
20 might be looking at. With a new
21 administration there's always going to be kind
22 of a new look at things, and particularly when
23 you're going from the administration of
24 President Obama to the administration of
25 President Trump. We have a rather wide

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1 variance in outlooks. So it's even more true
2 than normal that there's going to be a lot of
3 uncertainty about what will happen in the next
4 few years.
5 I think it's important as we start
6 looking at this to understand how many
7 different variables there are at play right
8 now, even more so than usual. For example, a
9 lot of these rules that we're talking about,
10 are they in effect yet? Even if they are
11 technically in effect has the Court stayed
12 them for the time being so that they're not
13 being implemented right now. Are they in
14 litigation, and the answer is almost always
15 yes. If they're in litigation has the Court
16 put the case in abeyance, which simply means
17 they're not really doing much at the Court
18 right now because they're waiting to see what
19 the EPA is now going to propose to do with
20 some of these rules that were adopted under
21 the Obama administration. So you have EPA
22 reconsideration going on. So I put these up
23 here, not to discuss them, but simply to
24 illustrate that it is a very difficult process
25 to determine what may happen in the future,

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1 but really getting to some of the more
2 specific items that are major consequence and
3 major interest around the country.
4 A lot of what is really going on, and a
5 lot of the discussions that's going on now
6 revolves around air quality ruling. The clean
7 power plant obviously was adopted under the
8 Obama administration. The Court, and the
9 Supreme Court stayed its implementation.
10 The litigation is essentially in abeyance
11 right now, and the EPA has proposed to
12 repeal it. All of that we can say with some
13 confidence. What we can't say with any
14 confidence is what will come next, assuming
15 that the repeal decision moves forward.
16 It's uncertain what the EPA will do after
17 that because they have to deal with the
18 remnants of the endangerment finding of a
19 few years ago, and the Supreme Court
20 decision that said in essence that Co2 is a
21 point, so I'm not sure how they will deal
22 with that. But what we do know is they will
23 move aggressively to appeal what's on the
24 books right now.
25 The Volkswagen mitigation trust,

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1 it may be a little of a misnomer to call
2 this a mandate, but it does involve additional
3 work by DEQ. All of you, I'm sure, are
4 aware of the press reports that EPA entered
5 into settlement with Volkswagen because they
6 had tampered with emission testing. And the
7 settlement was a huge settlement on a
8 national scale, which resulted in about 21
9 million dollars coming to the State of
10 Oklahoma to utilize to try to accomplish
11 some mitigation of emissions. And so this
12 is money that has to be used to try to
13 reduce air emissions.
14 And we have to put together a plan
15 that has to be approved before we actually
16 can start to claim, I believe on a
17 reimbursement basis, any of that money. And
18 I bring it up simply because both DEQ and
19 the Office of Secretary of Energy and
20 Environment will be involved in putting
21 together the plan and implementing that
22 settlement as far as Oklahoma is concerned.
23 A couple of other items in the
24 way related to air quality, again, these
25 are -- these are things you've seen before

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1 but they relate to attainment with National
2 Ambient Air Quality Standard. Ozone, we're
3 in pretty good shape, but -- we're in
4 excellent shape right now because of the
5 past few summers. We've had good success in
6 staying below the threshold. And while this
7 slide's slightly outdated, it was put
8 together a week or so ago, I found out that
9 yesterday the EPA did issue notice that all
10 of the State of Oklahoma is considered in
11 attainment, improved, with the ozone
12 standard based on 2014 to 2016 period of
13 measurement, so we're doing well on ozone.
14 On sulfur dioxide and the other
15 National Ambient Air Quality Standards that
16 we're most involved with, you may recall
17 that there was some controversy a few years
18 ago, the EPA trying to decide whether to use
19 modeling or monitoring or a combination of
20 the two, to determine what areas needed more
21 study in Oklahoma. And to make a long story
22 short, they essentially settled on doing
23 some modeling to determine where monitoring
24 was needed, and we have had to add a couple
25 of sites to add new monitoring; and one at

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1 the Oxbow Calcining plant near Kremlin, and
2 then the other at the MidAmerica Industrial
3 Park in Pryor. So that would be something
4 that we will continue to monitor over the
5 coming years to determine whether there's an
6 attainment problem with CO2.
7 Now, those were some of the
8 highlights as far as air quality is concerned.
9 Let me pause just a moment to see if you
10 have any questions before I move on to point
11 of protection.
12 If not, we've talked before about
13 coal combustion residuals. This is the
14 outgrowth that's still making -- that
15 happened a few years ago. The EPA felt like
16 they had to act to implement some more
17 stringent requirements for the remains of
18 the coal combustion residuals.
19 You may recall that Oklahoma adopted
20 rules almost a year or two ago, but what has
21 happened since then is that EPA has now come
22 out with a program such that DEQ will
23 essentially get something similar to
24 delegation for the program. And so we
25 will -- actually, we have already filed and

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1 we're waiting to see whether we'll get
2 approval for that. We believe we will.
3 We're pretty far out from most of the
4 country in both the document rules and in
5 applying for authorization for that program.
6 Clean-up programs, the main thing
7 that I will highlight, and I think this is
8 was information last year as well that was
9 being considered, but there is now a vapor
10 intrusion component that's part of the
11 hazardous ranking system of Superfund, so
12 that is that element that we will now have
13 to look at when we are looking at potential
14 Superfund sites and working with EPA on this.
15 Any question on those two?
16 That's about all I have to cover on land
17 protection. Okay.
18 Moving ahead to water quality of
19 the land. The major -- the most
20 significant, the most prominent item of
21 interest over the past couple of years as
22 far as public water supplies goes is lead,
23 and obviously Flint is a large reason for
24 that. Even before that though the EPA or
25 actually Congress adopted the reduction in

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1 lead of drinking water act. The EPA is now
2 going to issue some rules to clarifying that
3 because there was some confusion about how
4 the statute itself should and could be
5 self-implementing, so there will be some
6 rules to clarify that, and we expect that
7 we'll get a lot of questions about that.
8 We probably will have even more
9 interest or involvement from the regulating
10 community when it comes to the lead and
11 copper rules, long-term revision. We
12 understand that's likely to come out in
13 2018, so it's going to require separate lead
14 and copper monitoring. It's going to
15 require some additional monitoring, and
16 states are going to have to come up with new
17 plans for monitoring and all that's going to
18 be. So we will have quite a bit of
19 technical and customer assistance to
20 provide, we are sure, in connection with
21 that rule.
22 On the waste water side of
23 things, you're, I'm sure well aware of the
24 role, discussion and controversy and dispute
25 over Waters of US Rule. It's also called

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1 clean water rule. A little bit like the
2 clean power plant is air quality, the
3 process is underway to rescind that rule and
4 come up with something different. The EPA and
5 the Corps of Engineers proposed the repeal
6 in July of this year. And if and when that
7 happens the former rule, the former position
8 of EPA and the Corps of Engineers will apply
9 until they come up with something new to
10 replace it, so we're kind of taking a step
11 back a few years, if you will, and trying to
12 decide what is one of the Court decisions
13 that's existed over the course of the last
14 ten or 15 years.
15 NPDES Program Update Rule. I
16 won't go into detail on this. It's essentially
17 this provides for new requirements for the
18 State and legislature to come up as to how
19 the NPDES program will be implemented by the
20 State. There's some additional recordkeeping
21 requirements and so forth.
22 The main thing though that I
23 would highlight, and I think we mentioned
24 this last year, is that it contains a
25 provision that would allow the EPA to

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1 consider administrative -- administrative
2 continued purpose. In other words, permits
3 whose term has expired but they haven't been
4 replaced with a new permit, that will allow
5 the EPA to consider those to be draft
6 permits and eventually to federalize the
7 permit, for lack of a better term. That's
8 caused a lot of heartburn, a lot of comments
9 on that which are now under consideration.
10 And so we'll have to see what comes out of
11 that when the rule is finalized in the next
12 year or so.

13 Finally, Method Update for the
14 Analysis of Effluent. I put this up here
15 just because of the workload that is
16 involved, not only for DEQ but the lab in
17 particular, trying to keep up with all the
18 more stringent requirements for sampling and
19 analysis. But it also affects the
20 laboratories that -- our lab at Krebs, so
21 there is an impact not only on the State
22 agency itself, but on a lot of entities that
23 we regulate and the other labs that we accredit.

24 I'll pause one more time for any
25 questions, questions on any of the Federal

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1 mandates, components that we just talked
2 about? If not, I'll wrap up with a quick
3 look at what we are proposing on legislation.

4 Moving ahead, we have only one
5 more request to present to you for your
6 consideration and approval as part of the
7 Environmental Quality Report. For those of
8 you who have been to our facility and have
9 been out to our parking garage, you know
10 that it's been in serious need of some
11 repairs and renovation. We've talked about
12 this with you before.

13 We actually went before the
14 Capital Planning Commission and made a
15 presentation. They agreed that this could
16 move ahead, but they specified it should
17 move ahead in the form of bond financing.
18 So we're presenting to you today is a
19 request that we be allowed to go to the
20 legislature and be authorized to use bond
21 financing to fund the repair of our parking
22 garage. Exactly how that will play out, I
23 can't tell you. I know very little about
24 bond financing, but the critical issue for
25 today is that we have to have legislative

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1 authorization to move ahead with the
2 process. So that's our bill request for
3 this year is to be allowed to ask the
4 legislature for permission.

5 And that is all I have except to
6 try to answer any questions or find somebody
7 who can to help.

8 MR. MUNSON: Do we have any
9 questions or discussion on the part of the
10 Board?

11 MR. SIMS: If the legislature would
12 approve that, would that have to be voted on
13 by a vote of the people?

14 MR. GIVENS: I do not believe the
15 bond financing would have to go to a vote of
16 the people for that. This would be -- this
17 would be, I believe the bonds are issued by
18 another entity, not by DEQ, and we would
19 simply make the payments out of whatever
20 revenue that we have had to make payments out
21 of.

22 MR. NICHOLSON: How much money are
23 we talking about?

24 MR. MUNSON: Homer asked the
25 question of how much money are we talking about.

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1 MR. GIVENS: I think we're looking at
2 approximately 9 million dollars; eight or nine
3 million dollars.

4 MR. MUNSON: Any other questions or
5 discussions on the part of the Board?
6 Anything from the public?

7 Thank you, Jimmy. All right, I
8 would entertain a motion to approve the Annual
9 Environmental Quality Report as presented.

10 MR. GRIESEL: So moved.

11 MR. NICHOLSON: Second.

12 MR. MUNSON: We have a motion and a
13 second. Can you take a role call, please?

14 MS. FIELDS: Mr. Blankenship?

15 MR. BLANKENSHIP: Yes.

16 MS. FIELDS: Mr. Griesel?

17 MR. GRIESEL: Yes.

18 MS. FIELDS: Mr. Kinder?

19 MR. KINDER: Yes.

20 MS. FIELDS: Ms. Kunze?

21 MS. KUNZE: Yes.

22 MS. FIELDS: Mr. Mason?

23 MR. MASON: Yes.

24 MS. FIELDS: Mr. Nicholson?

25 MR. NICHOLSON: Yes.

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1 MS. FIELDS: Mr. Paque?
2 MR. PAQUE: Yes.
3 MS. FIELDS: Mr. Sims?
4 MR. SIMS: Yes.
5 MS. FIELDS: Mr. Munson?
6 MR. MUNSON: Yes.
7 MS. FIELDS: Motion passed.
8 MR. MUNSON: Thank you very much.
9 Now we'll move on to the agenda, that's item
10 12, Executive Director's Report. Scott.
11 MR. THOMPSON: Thank you. One item
12 I would like to note is that we have a new
13 member of the Environmental Quality Board, Ken
14 Hirshey. I think he's a businessman out of
15 Tulsa who works in the environmental field.
16 He could not attend today, but I assume he
17 will be at the next meeting.
18 Let's see, also I'd like to
19 introduce Debbie Nichols. She's our regional
20 manager for this area for our county offices.
21 Hi, Debbie, thanks for coming. And we have a
22 new general counsel. I think most of us have
23 been notified that Rob Singletary's come back
24 to the agency and is going to be our general
25 counsel. He could not attend today's meeting

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1 because he had a previous commitment that I
2 said he could go to when I hired him, so...
3 The -- some of the projects that
4 we've done in the last year, we've worked on
5 an armory here in Tahlequah, and they had lead
6 based paint contamination, and it delayed
7 really -- some of this started in 2013. We
8 performed base paint abatement and dust
9 abatement. Cleaned up the farm lands; worked
10 on some other stuff and cleaned up probably
11 and had to replace the doors and windows and
12 the ceiling where that occurs in most of those
13 and spent about \$50,000. And it's being
14 currently used by the City and is now being
15 used by the Tahlequah Police Department. And
16 interestingly the previous -- there was a
17 previous -- in Tahlequah that is now city hall
18 which is an excellent reuse of that facility
19 if you haven't been there. It's pretty cool.
20 So the -- I mentioned earlier that
21 we did a joint storage research and recovery
22 research project done in Ada with Kerr Lab
23 with EPA and East Central University and the
24 Oak Institute and some other folks involved in
25 that. I think that's a very exciting project,

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1 and I'm really glad to be able to work with
2 the Kerr Lab because it's been difficult to do
3 so in the past for unknown reasons. It's kind
4 of unusual, but -- and we've made some inroads
5 recently with the new administration with
6 working with the regional office and assigning
7 coordinators for science and technology
8 research needs, as well as Superfund
9 coordination. They're doing all in regions so
10 we can get more interaction between the states
11 and the research labs. And Ken Wagner, who's
12 been appointed by Administrator Pruitt to work
13 with the States' regional offices and
14 relationships there. He's highly supportive
15 of the research labs in those kind of efforts
16 because, you know, we've done about as much as
17 we can with continuously changing the rules
18 and setting of standards. We have to have
19 technological solutions that are affordable to
20 go forward. Because the small players out
21 there cannot afford for us to just keep -- you
22 know, having the Federal Government set a new
23 standard that's extremely low and then hoping
24 that somebody will come up with practical ways
25 to get there.

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1 When you are dealing with numbers
2 up here, it was possible. We're dealing with
3 numbers that are so low you could barely
4 measure them sometimes now, and so it's a
5 different world in the costs to do that; it's
6 really critical. So the involvement in the
7 states getting to work directly more with the
8 research labs is great, and so we support that
9 part of the EPA continuing to fund it because
10 we have to have solutions.
11 Then we had mentioned in earlier
12 meetings that we were launching a strategic
13 plan initiative. We sent out survey results.
14 I assume that many of you got those, and we
15 have compiled some of the results of the
16 surveys that were sent to you. We have a
17 two-day meeting coming up in-house to discuss
18 some of that among our directors to go through
19 those, those recommendations and work and move
20 forward on the strategic plan.
21 The -- Kathy will present some
22 things later on some of our program
23 prioritization efforts which are similar
24 to these items. These two efforts will
25 dovetail together very well.

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1 One of the things we've done
2 recently as part of energy conservation that
3 really our staff headed up, but we had energy
4 champions in every division work on this to
5 try to reduce our energy use to be more
6 efficient and save money for us in the State
7 of Oklahoma.
8 We've reduced the energy consumption
9 in our parking garage by 75 percent by
10 retrofitting the light fixtures with LED bulbs.
11 And the DEQ maintenance staff did the wiring
12 and fixtures themselves. They figured out
13 how to do it, to buy the parts and to change
14 out instead of having to pay someone extreme
15 amounts of money to come in and do it for
16 us. So buying brand new complete fixtures
17 we were able to retrofit the existing
18 fixtures. Yes?
19 MR. MASON: Did we get a rebate
20 check from OG&E then?
21 MR. THOMPSON: We did. That's
22 coming later. We got a big comp check. I
23 don't know where it is. Supposedly it's been
24 tweeted or put on Facebook or a different
25 thing. They were going to live Facebook it,

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1 but I was scared of having, with my
2 involvement so... so it's – there's been new
3 evidence out there somewhere, evidence of a
4 big comp check.
5 So the LED light fixtures really
6 pay off. They pay off fairly quickly. It's
7 excellent, just that I think in two or three
8 years or something like that you get a pay
9 back.
10 So inside the building we also
11 converted 2700 light fixtures and reduced the
12 number of bulbs. And we may have some of
13 those folks show up at our next meeting, but I
14 don't know if it's going to be in Oklahoma
15 City or not in our building, and you guys can
16 show your appreciation for that directly to
17 the people that actually did the work.
18 We changed our extra lights to
19 fixtures that don't require power. I know
20 that didn't involve a rebate program, but who
21 knows. As a result of these projects we
22 continue to save money each month, and we
23 estimate in calendar year 2018 we will average
24 a 44 percent to 45 percent savings in
25 electrical consumption, which equates to about

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1 56 to 57 percent total savings in money
2 compared to our 2012 baseline year that we
3 started with. So cost savings for electricity
4 compared to 2012 in dollars is \$637,592.86,
5 so, and that's an annual savings, or is that
6 accumulative? It's accumulative, isn't it?
7 Okay, so over natural gas and water
8 we've saved approximately \$118,000. We've put
9 in some new fixtures in some of our restrooms
10 and modified some of our plumbing and our gas
11 use, so we're doing good. We also, staff have
12 developed an energy efficiency handbook for
13 governmental agencies that's available on our
14 website. And I would assume many of the
15 things we've done would apply to private
16 business or other entities as well, so that's
17 really good. Like I said, we got a \$75,000
18 rebate check, which the guy that presented it
19 from OG&E said he'd never seen one that big.
20 So they were very impressed with the amount of
21 efficiency that we've gained.
22 In terms of some of the national
23 stuff going on. The ECOS Group, the
24 Environmental Council of States, I have spent
25 a lot of time working with. We're working on

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1 a Superfund reform project. Again, Mr. Pruitt
2 nominated an Oklahoman, "Kell" Kelly, to head
3 up that reform effort, and we've worked with
4 Mr. Kelly. We formed a – did a workup
5 through ECOS to work with other states, and we
6 have people like the State of California
7 involved. Mr. Kelly is very gracious, so is
8 Ken Wagoner in terms of dealing with other
9 states and EPA staff. And regardless of their
10 political background or whatever, and
11 seriously entertaining and asking people to
12 call them direct and to contact them with any
13 concerns they have or ideas they have about
14 how to do things. So we've had some very open
15 discussions with multiple states about how to
16 approach this. And their performance will
17 work with the existing framework already or
18 regulations that have been targeted, such as
19 speeding up, cleaning up, decision making,
20 streamlining the process that – promoting
21 redevelopment and trying to be more innovative
22 in this type of technology in a different way
23 and being more collaborative. A whole lot of
24 this boils down to people talking more and
25 getting engaged in different levels within the

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1 EPA. If there's some disagreement over how we
2 proceed with a project or select a remedy or
3 look at the long-term costs versus the
4 short-term costs; there are some states that
5 want to spend a little more in the short term
6 because it can save million of dollars over
7 the long-term life of the operation of
8 maintenance of a remedy at a Superfund site.
9 And sometimes you get staff that will go the
10 cheap route and put off the costs on the back
11 end, which is a burden for the states. And
12 really, you know, with states' funding
13 situations -- our's is one of the most dire --
14 but numerous the state issues and situations,
15 we are close to it. So I'm on kind of a
16 charity that I work through for ECOS and, you
17 know, we've had a lot of experience. I grew
18 up in the Superfund program, and so we've got
19 some ideas about how to make things work
20 better. And most of it boils down to trying
21 to develop more ways to control the costs and
22 being interactive with different levels of the
23 agency and make sure we'll all get the best
24 information to make decisions for the states
25 and to make our pitch for what we think needs

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1 to happen. We may not get our way, but we
2 should have the opportunity to speak our
3 piece, whether it's Oklahoma or California.
4 Amy Brittan is also -- she's from our
5 Superfund staff. She's a manager of our
6 program. She chairs the ASTSWMO, the
7 Association for the State Territorial and
8 Solid Waste Management Officials. She's doing
9 part of working on that through ASTSWMO, as
10 well as it's work group for ECO, so that's
11 good timing for her to be in that position at
12 this point.
13 We're also working on other aspects
14 of projects. ASTSWMO is helped with working
15 on the delegation of the coal ash residual
16 permitting programs to -- and delegating those
17 to states.
18 We're working on a project, a
19 quality assurance project plan reform.
20 Anytime you get a Federal grant they're going
21 to go out and do some field work. You've got
22 to have a quality assurance project and say
23 how you collect the samples and how's the
24 lab's going to analyze the samples or use the
25 data. You have to get that validated.

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1 Numerous players can make comments on that; at
2 times that process has been extremely
3 cumbersome. But one of the different aspects
4 about this is the people who were most
5 concerned about it at this point in time were
6 some of the tribal folks because they've been
7 getting kind of -- the experience that we've
8 had at states over time, and you get different
9 directions from different people and sometimes
10 even within the same region. They're telling
11 one tribe one thing, and telling a different
12 tribe totally different on how to proceed or
13 changing the procedures frequently. It's very
14 difficult for tribes to be able to report
15 their data, et cetera, so... Because you have
16 ways, this up-front process so it's kind of
17 the tail wagging the dog a little bit.
18 We've worked through some of those
19 issues at states, but we've also had very
20 similar issues over time. So one of my staff,
21 Karen Khalafian is an expert at working
22 through QWA process and making this stuff
23 work. So I have tasked him with getting on
24 this work group and helping other states and
25 tribes streamline the QWA process so it makes

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1 more sense and it's easier to do. And so
2 there's tribal representatives on that as
3 well, so we look forward to helping make that
4 process a little smoother.
5 You know, ECOS, if you haven't read
6 enough times before, but there's a Cooperative
7 Federalism 2.0 document that ECOS has prepared
8 that details what states' consensus,
9 essentially unanimous consensus of states with
10 the Federal, State rule ought to be. And in
11 light of that we've -- we've been able to work
12 more closely with the EPA in the region in
13 terms of trying to modify some things.
14 You may have read recently that
15 Macy's got a big fine nationally. They
16 operate nail salons or something so they have
17 waste in acetone, and the fumes like that they
18 get rid of. They were sending it to the right
19 place, but they weren't dotting their i's and
20 crossing their t's; they weren't reporting on
21 the right categories of the hazardous waste
22 generator and so EPA tagged them. They also
23 tagged Whole Foods and some people like that.
24 It's just sort of mind boggling. You think
25 surely there's got to be a worse actor out

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1 there. So they're kind of -- they're doing
2 something that I don't have a problem with
3 philosophically, but I have a problem if
4 that's all they do. They're sort of mining
5 the data from places that need to dispose of
6 it to find these kind of -- to prioritize, and
7 they go after those folks. And then, well,
8 they need to do the right thing to make them
9 straight and fly right. And we weren't
10 terribly interested in participating in a
11 financial settlement for the Macy's stores in
12 Oklahoma. We were more interested in having
13 Macy's develop a training program for their
14 own staff for all their stores, as well as it
15 would be available to other retailers out
16 there on how to comply with the rules
17 appropriately.
18 And so the EPA was willing to adopt
19 that as a part of the national settlement with
20 Macy's, and said that is Oklahoma's
21 contribution to that, that problem. And so we
22 expect that it will be offered to at least 400
23 retailers here in Oklahoma and Texas, and I
24 think they're going to do a video or an
25 online-type training that might develop even

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1 more people. So we thought that was a more
2 appropriate settlement than going for big
3 piles of cash for something that was a
4 relatively minor violation.
5 This summer we had a meeting with
6 the Office of Research and Development, EPA
7 and folks from other states and, again, we
8 we've worked on communication there and
9 coordination, and they had a project I think
10 was really excellent because it's given us
11 that keystone project to really change that
12 relationship and begin to work closer together.
13 I've never understood why they
14 weren't doing research on Oklahoma sites that
15 were, quote, extra work, for the Superfund
16 so... We do have the DEQ annual report that's
17 available, and we've got a card in front of
18 you. There may have been some handed out
19 today in the back that gives you a link to the
20 report that's electronic. We've been told not
21 to produce big, glossy expensive reports doing
22 the advertising for ourselves. And so we're
23 doing it online because we have recently -- so
24 it's there. It's available. I do have one
25 printed copy, but don't tell anybody. But if

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1 anyone wants to peruse that today it will be
2 available up here. Yes, pass that around,
3 that's excellent.
4 So that summarizes some of the
5 activities we have that we haven't covered
6 today. There's a report -- some of the stuff
7 that wasn't mentioned in the Water Quality
8 Section in the rules. Feel free to peruse
9 that and grill us if you have any questions,
10 and that is all I have. Thank you. Unless
11 you guys have any questions for me, we'll do
12 Kathy's presentation on budget. Okay.
13 MR. MASON: So, Scott, on your OG&E
14 rebate, with a 245 million dollar renovation
15 at our State Capitol there's lots and lots of
16 light fixtures replaced, and we only received
17 a \$10,000 check, so why don't we ask you to go
18 over there and get them a higher check?
19 MR. THOMPSON: Sure, I'll set it up.
20 MR. MASON: Thank you.
21 MR. MUNSON: Any other questions
22 for Scott? Thank you, Scott.
23 All right, why don't we move on to
24 the next item, Item 13, an update on the
25 financial overview, Kathy Aebischer.

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1 MS. AEBISCHER: Good morning. So
2 we give you updates on the financial situation
3 of DEQ as we know it today. On our -- and
4 this is for the first quarter of the year,
5 July through September 30th. It was requested
6 that I add what was last year's actuals, so
7 you'll see this in the second -- and the
8 colors don't show up here -- but in a column
9 FY 2017 actuals. That's the actual revenue
10 that the agency received from last year
11 compared to the budgeted projected amount.
12 So we did receive a little over a
13 million more than we projected, so our
14 projections are right on. And if we look at
15 the amount that's been received to date, we
16 have three divisions that are in pretty good
17 shape. We have no concerns to this point.
18 You'll see that air, water and land
19 is under new projections at this point. We
20 don't believe there's any concerns. There's
21 some timing we believe that these will be
22 brought into projections within the few months.
23 On land, theirs is actually 300,000
24 more because this time last year we received a
25 660,000 in reimbursement for the tire

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1 recycling. So that just kind of skews the
2 numbers a little bit, so they're not in the
3 negative or the revenue side as it appears to
4 be. Because on the tire recycling program, we
5 have to spend the money and then reimburse, so
6 that's the difference on land.
7 So we are, as you see, we're 50
8 percent of our revenue protections have been
9 collected already, so that's -- when they're
10 looking at our revolving fund it's, you
11 know, it looks like we have a high balance,
12 but this has to last us for the rest of the
13 year, and we're pretty on par to where we
14 were last year at 51 percent.
15 Do we have any questions on the revenue?
16 Okay, when we look at the budget,
17 this is all funding sources. This is state,
18 federal and our revolving fund. To date we
19 have spent a little over 11 million. We've
20 encumbered almost 50 million. We have a
21 remaining 22 million that's not encumbered,
22 and that's due to Federal funds that we
23 haven't been awarded yet, but we're anticipating
24 and we have a few projects that are in the
25 bid process right now.

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1 And if we look at by fund, this
2 is how it's distributed out by funding, and
3 you'll see that 7.7 million remains to be
4 encumbered out of the revolving fund. And
5 there's a few projects that are in the bidding
6 processed; that's where that is. We also
7 have 6.7 in Federal funds that remain to be
8 encumbered, but they haven't been awarded to
9 us yet.
10 So right now expenditure-wise we,
11 we're doing good. There hasn't been anything
12 unexpected, and that's the first quarter.
13 Do you have questions on
14 expenditures?
15 MR. MASON: Are we any better off
16 in protecting our revolving funds from
17 legislative session, or are we still ready to
18 be raped?
19 MS. AEBISCHER: Well, I know that
20 we're actively trying to educate those that
21 are making the decisions on what the revolving
22 fund is, and so I know Michelle is actively --
23 and last week we spent time trying to educate
24 them that this is really DEQ operating funds,
25 and that State appropriations is a very small

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1 portion. It's really needed, but this fund is
2 our operating that pays the majority of the
3 payroll, leasing for our offices and utilities
4 and those type things. It's not extra money.
5 So I know we're actively trying to educate
6 those to what that is.
7 So before I move on as what we know
8 about the State appropriations, we're
9 currently in special session, as everyone
10 knows, and right now we've been asked, you
11 know, for three scenarios of cuts; anywhere
12 from one and a half to 5 percent in the State
13 appropriations, so we've communicated that
14 back what that would mean to DEQ.
15 We've also been told they're
16 looking at our revolving fund, and it's been
17 anywhere from ten million to a million. But
18 we don't have any definitive numbers so we're
19 just waiting on final decisions to be made,
20 and I think it will depend on what legislation
21 gets passed. So, as I said, we're actively
22 trying to get the message out of what our
23 funding sources are and what -- and how
24 important they are to the agency. But at this
25 point, we don't have any definitive actions

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1 that have been made to kind of update our
2 budget so that's still in the process.
3 So as we've been updating you, we,
4 as a result of these budget situations, we
5 have as an agency have taken upon ourselves to
6 take on measures to not only save money
7 through our building and operations staff
8 doing energy efficiency projects, but as an
9 agency we're taking a look at every program
10 that we do and making sure that we run them
11 the most efficient way. But also understanding
12 the, kind of prioritizing those that affect
13 the most people and prioritize them so that
14 we have information available when we have
15 to make important decisions. So at this point
16 we structured this project. We have a work
17 group which has the mid-level managers, and
18 we initiate the process there, and they go
19 out and have staff meetings to gather input
20 into the process. It's brought back to the
21 work group, and then we form a recommendation
22 that then goes to the executive oversight
23 committee, which those are the directors and
24 the assistant directors.
25 Currently, we just finished step

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1 two Friday, so we've identified the programs
2 that DEQ has, and we've established agency
3 priorities. We have eight priorities
4 maximum that were finalized Friday in the
5 executive oversight committee. We're now
6 going to be working on evaluation criteria
7 to be used for each program to be able to
8 prioritize. And also through that process
9 we can find maybe some efficiencies to
10 reduce some costs. And after we get the
11 evaluation criteria we'll evaluate each of
12 the programs. I don't know if you can see
13 that; we came up with eight priorities of
14 the agency, and these priorities are protect
15 and improve air, Oklahoma's air quality.
16 Protect, preserve and restore Oklahoma's
17 water; protect, preserve and restore
18 Oklahoma's land; respond to natural disasters,
19 environmental emergencies and citizen
20 complaints; provide expertise, technical
21 assistance and outreach; provide fair,
22 consistent and effective regulation and
23 oversight; develop and maintain agency
24 resources to be efficient, effective and
25 fiscally responsible. And the final one,

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1 implement agency programs to enhance economic
2 development. And I just put this in last
3 night so you don't have a copy, but we'll
4 send these out to you so that you can have them.
5 Do you have any questions?
6 MR. MUNSON: Any questions on the
7 presentation from Kathy?
8 And I thank you very much. All
9 right, we'll move on to Item Number 14, Annual
10 Performance Review of Executive Director.
11 Among the statutory duties of the
12 Board are responsibilities to appoint and set
13 the compensation of the Executive Director and
14 to assist the DEQ in conducting periodic
15 reviews and planning activities related to the
16 goals, objectives, priorities and policies of
17 the DEQ. In connection with these
18 responsibilities, the Board has determined
19 that it should conduct a performance review of
20 the Executive Director pursuant to Title 25,
21 Oklahoma Statutes Section 307(B)(1). The
22 Board can, if it so chooses, go into executive
23 session to discuss those items. And I would
24 ask at this point does the Board desire to do
25 so?

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1 MR. GRIESEL: So move.
2 MR. KINDER: I second.
3 MR. MUNSON: Okay, I have a motion
4 and second. Roll call, please?
5 MS. FIELDS: Mr. Blankenship?
6 MR. BLANKENSHIP: Yes.
7 MS. FIELDS: Mr. Griesel?
8 MR. GRIESEL: Yes.
9 MS. FIELDS: Mr. Kinder?
10 MR. KINDER: Yes.
11 MS. FIELDS: Ms. Kunze?
12 MS. KUNZE: Yes.
13 MS. FIELDS: Mr. Mason?
14 MR. MASON: Yes.
15 MS. FIELDS: Mr. Nicholson?
16 MR. NICHOLSON: Yes.
17 MS. FIELDS: Mr. Paque?
18 MR. PAQUE: Yes.
19 MS. FIELDS: Mr. Sims?
20 MR. SIMS: Yes.
21 MS. FIELDS: Mr. Munson?
22 MR. MUNSON: Yes.
23 MS. FIELDS: Motion passed.
24 MR. MUNSON: Thank you. Before we
25 go into executive session I also need you to

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1 designate someone to keep the minutes during
2 the executive session. Do I have anybody that
3 would like to volunteer for that?
4 Not everybody raise your hand at
5 once.
6 MRS. MARTIN-DIEHL: I will.
7 If you do that, that would be great.
8 MR. MUNSON: Okay, so at this point
9 does anybody need to take a break? Okay, why
10 don't we take a short break, a very short
11 break and then come back in here and the Board
12 members will come back into this room. We'll
13 ask everybody else to stay out in the hall and
14 then we'll come and get you at the finish of
15 the executive session.
16
17 (CLOSED DOOR EXECUTIVE SESSION)
18 RECONVENED INTO OPEN SESSION at 12:52 P.M.
19 *****
20
21 MR. MUNSON: Okay, we're going to
22 reconvene and go into open session now.
23 MR. GRIESEL: So moved.
24 MR. MUNSON: I have a motion. Do I
25 have a second?

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1 MR. NICHOLSON: I second.
2 MR. MUNSON: Okay, I have a motion
3 and is seconded to reconvene.
4 Quiana, can we have a roll call,
5 please?
6 MS. FIELDS: Mr. Blankenship?
7 MR. BLANKENSHIP: Yes.
8 MS. FIELDS: Mr. Griesel?
9 MR. GRIESEL: Yes.
10 MS. FIELDS: Mr. Kinder?
11 MR. KINDER: Yes.
12 MS. FIELDS: Ms. Kunze?
13 MS. KUNZE: Yes.
14 MS. FIELDS: Mr. Mason?
15 MR. MASON: Yes.
16 MS. FIELDS: Mr. Nicholson?
17 MR. NICHOLSON: Yes.
18 MS. FIELDS: Mr. Paque?
19 MR. PAQUE: Yes.
20 MS. FIELDS: Mr. Sims?
21 MR. SIMS: Yes.
22 MS. FIELDS: Mr. Munson?
23 MR. MUNSON: Yes.
24 MS. FIELDS: Motion passed.
25 MR. MUNSON: Thank you. I'd like

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1 to just make comments. We were -- the
2 executive session didn't go as stated. There
3 were no votes or anything taken, everything
4 being discussed in open session.
5 I would like to share with the
6 public that the Board strongly supports Scott
7 in his efforts. We're very happy with his
8 progression as leader of the organization. I
9 think he's doing a lot of things that are very
10 beneficial to all of the agency, and we
11 support him whole heartedly.
12 And at this time I would ask if
13 there are any motions or comments that would
14 like to be made to the Board?
15 MR. BLANKENSHIP: I do. Based on
16 the comments of the performance review, I move
17 that we approve a 5 percent increase, which is
18 approximately 0128, a percent and a half per
19 year for '15, '16 and '17.
20 MR. GRIESEL: And I'll second it.
21 MR. MUNSON: Okay, we have a motion
22 and a second. Any discussion on that?
23 Okay, take the roll call, please?
24 MS. FIELDS: Mr. Blankenship?
25 MR. BLANKENSHIP: Yes.

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1 MS. FIELDS: Mr. Griesel?
2 MR. GRIESEL: Yes.
3 MS. FIELDS: Mr. Kinder?
4 MR. KINDER: Yes.
5 MS. FIELDS: Ms. Kunze?
6 MRS. KUNZE: Yes.
7 MS. FIELDS: Mr. Mason?
8 MR. MASON: Yes.
9 MS. FIELDS: Mr. Nicholson?
10 MR. NICHOLSON: Yes.
11 MS. PAQUE: Mr. Paque?
12 MR. PAQUE: Yes.
13 MS. FIELDS: Mr. Sims?
14 MR. SIMS: Yes.
15 MS. FIELDS: Mr. Munson?
16 MR. MUNSON: Yes.
17 MS. FIELDS: Motion passed.
18 MR. MUNSON: Thank you. All right,
19 now we'll move on to Item 17, new business.
20 Do we have any new business; any matter not
21 known about which could not have been
22 reasonably foreseen prior to time of the
23 posting of the agenda that we need to address
24 today?
25 Okay. Our next meeting will be

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1 February 16th, 2018 at Oklahoma City at the
2 DEQ offices. And at this time I would
3 entertain a motion for adjournment.
4 MR. SIMS: I move.
5 MR. GRIESEL: I'll make a second.
6 MR. MUNSON: Roll call, please?
7 MS. FIELDS: Mr. Blankenship?
8 MR. BLANKENSHIP: Yes.
9 MS. FIELDS: Mr. Griesel?
10 MR. GRIESEL: Yes.
11 MS. FIELDS: Mr. Kinder?
12 MR. KINDER: Yes.
13 MS. FIELDS: Ms. Kunze?
14 MS. KUNZE: Yes.
15 MS. FIELDS: Mr. Mason?
16 MR. MASON: Yes.
17 MS. FIELDS: Mr. -- excuse me, Mr.
18 Nicholson?
19 MR. NICHOLSON: Yes.
20 MS. FIELDS: Mr. Paque?
21 MR. PAQUE: Yes.
22 MS. FIELDS: Mr. Sims?
23 MR. SIMS: Yes.
24 MS. FIELDS: Mr. Munson?
25 MR. MUNSON: Yes.

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1 MS. FIELDS: Motion passed.
2 MR. MUNSON: All right, the Board
3 meets several times a year at different
4 locations across the State to hear the views
5 and concerns of all Oklahomans about
6 environmental issues. This opportunity is
7 informal, and we have invited anybody who
8 wishes to come up to the front to speak, and
9 we do have a few names. If you wish to speak
10 and you haven't already filled one of these
11 out, now's the time to do so in the back.
12 I have a little statement I need to
13 make here. I'd like to welcome everybody to
14 this public forum of the Environmental Quality
15 Board, and we welcome your participation. If
16 you desire to make comments in today's forum
17 but you did not sign the sheet on the
18 information table when you came in, would you
19 please -- or would you please raise your hand?
20 Please try to limit your comments
21 to five minutes. I will advise you when your
22 time is up. Forums allow you to make
23 suggestions or to express concerns about the
24 environmental laws or rules or policies;
25 however, concerns or actions or decision in a

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1 specific case or matter, such as a particular
2 permit application or enforcement cases should
3 be communicated directly to the Department.
4 The Board cannot and does not intervene in
5 those case-specific decisions.
6 We'd also ask that you not use the
7 forum to advertise or criminalize commercial
8 products or services. Because of the nature
9 of the issues that are appropriate for the
10 forum, you may not receive an immediate
11 response to your comments. Department staff
12 and the Board generally may need some time to
13 evaluate comments and respond to it.
14 So at this point I have three
15 people that signed up. I'm not sure if
16 they're still here. I will ask is Ed
17 Brocksmith here? Okay. Jahna Hill? Okay.
18 Bud Ground? Bud's stayed the course.
19 MR. GROUND: I wanted to make sure
20 this is working.
21 It's not.
22 MR. GROUND: Now? Okay, thank you.
23 So I'm Bud Ground, president of the
24 Environmental Federation of Oklahoma, and I've
25 described earlier who I represent so I won't

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1 go back into that. But today I wanted to stay
2 and actually make a request of the DEQ Board,
3 and that request is to actually develop and
4 submit a resolution to the legislature telling
5 them that basically you don't like them taking
6 your revolving funds.
7 I went to the Air Quality Council
8 this last year, and they developed a resolution.
9 Your -- the Solid Waste Management Advisory
10 Council always does -- also does their own
11 resolution, so this is something that the
12 DEQ has done. And I was wanting to request
13 the Board, do it on the Board level. And
14 basically what we've seen -- and as industry
15 we pay in a lot of fees, a lot. I've
16 known -- Kathy didn't really go into detail
17 on, you know, the breakdown in the budget,
18 but the amount of fees that we pay, we have
19 companies paying over, you know, a million
20 dollars a year in fees between air, water,
21 waste-type issues. And we really feel that
22 we pay those fees, and we've worked hard to
23 keep -- put those fees at a place where we,
24 the service that the DEQ provides, this fee
25 pays for that service. Anytime this fee

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1 that we pay in is not used for that service,
2 we think it's wrong. That fee was paid in
3 for its services at DEQ, and we think it
4 should only be used for that service.
5 And over the last four years the
6 legislature has taken from the DEQ more
7 funds than what they've appropriated, so
8 that we know that they're getting into fees
9 when they take more money from the DEQ than
10 what they're giving than they know because
11 they can't take Federal funds. So they are
12 getting into fees, and we believe that's
13 wrong, so I'm just really asking that you do
14 a resolution. And I know that Jimmy Givens
15 and others are very familiar with what that
16 would actually entail. It's not necessarily
17 that it really holds a lot of weight, but
18 you see the legislature doing resolutions on
19 their own trying to tell someone what they
20 would like them to do. But this is
21 something that Michelle can use when she
22 goes to the legislature, and we as industry
23 can use when we go in and tell them to,
24 "Leave the -- leave the fees alone." Leave
25 the -- the fees and revolving funds should

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1 be off limits, so that's our request.
2 MR. MUNSON: Okay. Anybody on the
3 Board have any comments or questions for Bud
4 on that point?
5 Okay. If not, we will take that
6 under advisement, and we appreciate your
7 comments, Bud. So at this point there's
8 nobody else that had signed up, raised their
9 hands, so we will adjourn. And we'll see you
10 February 16th, 2018 in Oklahoma City. Thank
11 you.

12 (MEETING ADJOURNED 12:55 P.M.)
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1 CERTIFICATE
2
3 STATE OF OKLAHOMA)
4) ss.
5 COUNTY OF TULSA)
6 I, Elizabeth Ann Behles, a Certified
7 Shorthand Reporter in and for the State of
8 Oklahoma, do hereby certify that the above
9 and foregoing meeting was taken by me by
10 means of shorthand, and that the same was
11 thereafter transcribed; that the same is true
12 and correct; and that the same was taken on the
13 7th day of November 2017 starting at 9:30 a.m.
14 in the City of Tahlequah, County of Cherokee
15 and State of Oklahoma. I am not related to
16 nor attorney for any of said parties nor
17 otherwise interested in the event of said
18 action.

19 IN WITNESS WHEREOF, I have hereunto
20 set my hand this 17th day of November, 2017.
21
22

23 ELIZABETH ANN BEHLES, CSR
24 Certificate Number 121
25 Expires: December 31, 2017

34 (Pages 130 to 131)



ENVIRONMENTAL QUALITY BOARD

Attendance Record

November 7, 2017

Tahlequah, Oklahoma

NAME and/or AFFILIATION

Address and/or Phone and/or E-Mail

Quiana Fields	ODEQ
Cindy Pappas	ODEQ
Paul	ODEQ
Jimmy Giveus	ODEQ
Richard McDannel	ODEQ
Eddie Terrell	ODEQ
Mike Paave	ENV BD
Kathy Aebischer	ODEQ
Billy Sims	DEQ Board
Quane Winegardner	WQMAC.
GREG CARR	ODEQ
Stephan Boldige	ODEQ
Kelly Dixon	DEQ
Buel Ground	EFO
Debbie Nichols	ODEQ
Hilary Yore	ODEQ
Mark Hibbard	ODEQ
Shellee Orndorff	DEQ
Chris Amstrong	DEQ
Jimmy Kincaid	DEQ Board
Lloyd Kirk	DEQ
Erin Hatfield	DEQ
Homer Nicholson	DEQ Board
Lee Grater	DEQ Board
Van L Kunze	EQ Board
April Hathcoat	Cherokee Nation EP



ENVIRONMENTAL QUALITY BOARD

Attendance Record
November 7, 2017
Tahlequah, Oklahoma

NAME and/or AFFILIATION

Address and/or Phone and/or E-Mail

Dan Blankenship

Board

Laura Lodes

A&C

Cathy Cordell

Secretary of Energy & Environment

Ed Brocksmith (STIR)

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Michelle Wynn

DEQ

Mike Edwards

DEQ