

DRAFT MINUTES
RADIATION MANAGEMENT ADVISORY COUNCIL
September 9, 2004 Regular Meeting
Department of Environmental Quality
Multipurpose Room First Floor
707 North Robinson
Oklahoma City, Oklahoma

APPROVED RMAC
December 8, 2004

MEMBERS PRESENT

David Gooden
Nadine Barton
Rod Beuttel
Steve Clark
Monte Goucher
Karen Jennings
George MacDurmon
Steve Woods

DEQ STAFF PRESENT

Scott Thompson, Land Protection Division
Mike Broderick, Land Protection Division
Dale McHard, Land Protection Division
Pamela Bishop, Land Protection Division
Pam Dizikes, Legal Division
Shannon Tilly, Land Protection Division
Myrna Bruce, Secretary Board and Councils

MEMBERS ABSENT

Vacancy

OTHERS PRESENT

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

Notice of Public Meeting -- The Radiation Management Advisory Council convened for its regular meeting at 10:00 a.m. on September 9, 2004 in the Multipurpose Room at the Department of Environmental Quality, 707 North Robinson, Oklahoma City, Oklahoma. This meeting was held in accordance with 25 O.S. Sections 301-314 with notice of the meeting given to the Secretary of State on December 3, 2003 with an amendment on May 10, 2004. The Agenda was mailed to interested parties and posted at the entrance doors of the Department of Environmental Quality more than twenty-four hours prior to the meeting. Ms. Karen Jennings, Acting Chair, called the meeting to order.

Roll call was taken and a quorum was confirmed. Mr. Dale McHard introduced DEQ staff and members of the public.

Roll Call

Rod Beuttel	Yes	Karen Jennings	Yes
Monte Goucher	Yes	George MacDurmon	Yes
Nadine Barton	Yes		Motion Carried

Approval of Minutes – Ms. Barton made motion to approve the April 21, 2004 Minutes as presented. Mr. MacDurmon made the second.

Roll Call

Rod Beuttel	Yes	Karen Jennings	Yes
Monte Goucher	Yes	George MacDurmon	Yes
Nadine Barton	Yes		Motion Carried

Report on new Radiation Management Rules, effective June 11, 2004 - Mr. Mike Broderick advised that the Environmental Quality Board had approved the adoption of the NRC rules by reference.

Report on proposed revised Subchapter 19 Rules related to XRF instruments used for lead-based paint detection - Mr. Mike Broderick explained that this rulemaking did not go before the Board in order to allow for a comment period for the affected community. Mr. Broderick identified the changes and received comments on the proposal to be considered for approval at Council's next meeting.

Report on proposed new Rules – Mr. Mike Broderick advised that there would be rulemaking proposals for the following at Council's December 8, 2004 meeting: 10 CFR Part 35, Medical Use of Byproduct Material; fee revisions for medical use machines; fee revisions related to small entities; fee revisions related to late payment of fees; new fee proposed for inspection services related to decommissioning, decontamination, and reclamation or site restoration activities; and revisions to correct errors in the rules text. Mr. Broderick set forth the expected changes, answered questions, and received comments from Council.

Report on EQ Board activities and results of 2004 legislative session - Mr. Scott Thompson explained some of the budgetary issues relating to the Agency and answered questions.

Report on recent developments regarding the Central Interstate LLW Compact - Ms. Catherine Sharp, Land Protection Division Assistant Director, thanked the Council for serving, then went on to provide the background of the Central Interstate LLW Compact and to summarize the events that have taken place over the past ten years and explained the settlement that was reached in August.

Report by the Chairman - None

New business - None

Announcements of general interest – Mr. McHard announced a forum following the regular meeting for any comments relating to radiation management.

Mr. McHard announced Council's Special Meeting to be held, Wednesday, December 8, 2004 at Tulsa's Riverside Technology Center.

Ms. Bruce announced the 2005 meetings for the Environmental Quality Board: March 4; June 21; August 23; and November 15.

Ms. Jennings adjourned the meeting at 11:30 a.m.

A copy of the hearing transcript with reference index and the sign in sheet are attached and made an official part of these Minutes.

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DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF OKLAHOMA

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TRANSCRIPT OF PROCEEDINGS
RADIATION MANAGEMENT ADVISORY COUNCIL
HELD ON SEPTEMBER 9, 2004, AT 10:00 A.M.
IN OKLAHOMA CITY, OKLAHOMA

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REPORTED BY: Christy A. Myers, CSR

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MEMBERS OF THE COUNCIL

- MR. MACDURMON - MEMBER
- MR. WOODS - VICE-CHAIR
- MR. CLARK - MEMBER
- MR. JENNINGS - MEMBER
- MR. BEUTTEL - MEMBER
- DR. GOODEN - CHAIR
- MS. BARTON - MEMBER
- MR. GOUCHER - MEMBER

STAFF MEMBERS

- MYRNA BRUCE - SECRETARY
- MIKE BRODERICK - DEQ
- SCOTT THOMPSON - DIVISION DIRECTOR
- CATHERINE SHARP - ASSISTANT DIRECTOR
- PAMELA BISHOP - DEQ
- PAM DIZIKES - LEGAL
- DALE MCHARD - DEQ
- SHANNON TILLY - DEQ

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1 PROCEEDINGS

2 MS. JENNINGS: Okay. Call the
3 meeting of the Department of Environmental
4 Quality Radiation Management Advisory
5 Council to order. I'm going to read this
6 protocol statement first.

7 This regular meeting of the
8 Radiation Management Advisory Council was
9 called in accordance with the Open Meeting
10 Act. Notice was filed with the Secretary
11 of State on December 3rd, 2003, and amended
12 on May 10th, 2004. The agenda was duly
13 posted 24 hours prior to the meeting on the
14 doors of this DEQ facility, 707 North
15 Robinson, Oklahoma City, Oklahoma.

16 Only matters appearing on the posted
17 agenda may be considered at this regular
18 meeting. In the event that this meeting is
19 continued or reconvened, public notice of
20 the date, time and place of the continued
21 meeting will be given by announcement at
22 this meeting.

23 Only matters appearing on the agenda
24 of a meeting which is continued may be
25 discussed at the continued or reconvened

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1 meeting. Roll call, Ms. Bruce.

2 MS. BRUCE: Mr. Buettel.

3 MR. BUETTEL: Yes.

4 MS. BRUCE: Mr. Goucher.

5 MR. GOUCHER: Here.

6 MS. BRUCE: Ms. Barton.

7 MS. BARTON: Present.

8 MS. BRUCE: Ms. Jennings.

9 MS. JENNINGS: Here.

10 MS. BRUCE: Mr. MacDurmon.

11 MR. MACDURMON: Here.

12 MS. BRUCE: For the record,

13 absent are Dr. Gooden, Mr. Woods, Mr. Clark

14 and one vacancy.

15 MS. JENNINGS: Thank you. Mr.

16 McHard, would you introduce the members of

17 the public, please?

18 MR. MCHARD: Are you going to do

19 the Minutes?

20 MS. JENNINGS: Did I miss one?

21 I'm sorry. I missed that. First we're

22 going to consider the Approval of the

23 Minutes.

24 MS. BARTON: Okay. I make a

25 motion that we approve the Minutes from our

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1 last meeting of April the 22nd, 2004.

2 MR. MCHARD: Excuse me. I think
3 it's the 21st.

4 MS. BARTON: The 21st. I'm
5 sorry. I move that we approve the Minutes
6 from our last meeting of April the 21st,
7 2004.

8 MR. MACDURMON: I'll second the
9 motion.

10 MS. JENNINGS: Okay. The motion
11 has been made and seconded to approve the
12 April 21st Minutes. Is there any
13 discussion? Roll call vote, please.

14 MS. BRUCE: Mr. Buettel.

15 MR. BUETTEL: Yes.

16 MS. BRUCE: Mr. Goucher.

17 MR. GOUCHER: Yes.

18 MS. BRUCE: Ms. Barton.

19 MS. BARTON: Yes.

20 MS. BRUCE: Ms. Jennings.

21 MS. JENNINGS: Yes.

22 MS. BRUCE: Mr. MacDurmon.

23 MR. MACDURMON: Yes.

24 MS. BRUCE: Motion approved.

25 MS. JENNINGS: Thank you. Mr.

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1 McHard, now would you introduce the public?

2 Thank you.

3 MR. MCHARD: Sorry about that.

4 Well, first I'm going to make note for
5 official record that Dr. Jennifer Galvin is
6 here. She was not included on the roll
7 call because she's a Member of the
8 Environmental Quality Board of DEQ and she
9 is also the representative to the Council
10 and we very much appreciate you being that
11 representative and being here this morning.

12 I will mention for everybody's
13 information, I don't think any of this is
14 private, that Dr. Gooden is not here
15 because he's assisting in an operation that
16 requires his skills. Mr. Woods, our Vice-
17 Chairman, is not here. He's in Syranam
18 (phonetic spelling) acting as Red Adair
19 putting out an oil field fire. Mr. Clark
20 with Conoco-Phillips is out of the country
21 and perhaps Jennifer can tell us where he
22 is.

23 MS. GALVIN: He's in China.

24 MR. MCHARD: He's in China.

25 Okay. That left us with a dilemma, because

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1 neither the elected Chairman or Vice-
2 Chairman were going to be here, so we
3 somewhat arbitrarily looked at the
4 remaining five people on the Council to see
5 who was the most senior, and that's Ms.
6 Jennings. And so, therefore, today she
7 will be acting as our Chairman of the
8 Council and she's graciously agreed to do
9 so at the last moment. So we thank you,
10 Karen, for doing that.

11 Excuse me for a minute. I have to
12 go get the sign-in sheet.

13 MS. BRUCE: I'll get it.

14 MR. MCHARD: Okay. While we're
15 getting the sign-in sheet for this Council
16 meeting, I will remind everyone that we do
17 plan to have a forum immediately following
18 this Council meeting.

19 For those of you who are not
20 familiar with what a forum is, it is an
21 informal session where citizens have the
22 opportunity to ask questions of either
23 Council Members or the staff or they may
24 make a statement or both.

25 If you plan to attend that forum,

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1 you should go back to the table back there
2 and sign one of these sign-in sheets that
3 look like this, because if you don't do
4 that, then we really are not required to
5 hold the forum if nobody signs up to
6 actually take part.

7 Okay. Those people who are here who
8 are visitors are Ernie --

9 MR. BUSBY: Busby.

10 MR. MCHARD: -- I'm sorry, Busby,
11 with Advanced Inspection. Yes, sir. Mr.
12 Busby. And Mr. Bob Kellogg, who is an
13 attorney from Oklahoma City.

14 MS. BARTON: We should say also
15 that he is past Chief Counselor for the
16 DEQ.

17 MS. MCHARD: Yes, he is.

18 MS. BARTON: We have to recognize
19 all that service.

20 MR. MCHARD: Past Chief Counsel.
21 He's an old acquaintance and friend.
22 Debbie McKay with Kerr McGee. I'm glad
23 you're here. Patrick, is that --

24 MR. PATINO: Patino.

25 MR. MCHARD: -- Patino. May I --

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1 P-a-t-i-n-o; is that correct, sir?

2 MR. PATINO: That is correct.

3 MR. MCHARD: Okay. Mr. Patino
4 with American Airlines and John Edwards
5 with American Airlines is next to him to
6 his left. Have I missed any member of the
7 public who failed to sign in? I believe
8 I've got everybody.

9 MS. JENNINGS: Thank you for
10 coming. Mr. McHard, would you introduce
11 our staff members present today?

12 MR. MCHARD: All right. Shall I
13 introduce the Council Members in case there
14 is someone here that --

15 MS. JENNINGS: Yes.

16 MCHARD: Okay. To my left in the
17 white sweater -- t-shirt is -- whatever it
18 is, is Ron Buettel. He's with -- he's with
19 AEA Technology, I believe.

20 MR. BUETTEL: That's correct.

21 MR. MCHARD: And next to him is
22 Monty Goucher with Goucher and Associates
23 from Clinton. Mr. Goucher is an engineer,
24 does a lot of roadwork, I guess, and also
25 construction work and uses radiation gauges

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1 of various kinds.

2 Next to Ms. Jennings is Nadine
3 Barton, who represents the general public
4 on this Council. Nadine is a long-time
5 visitor to the Council meetings over many,
6 many years and she's been active in many
7 environmental causes and we were fortunate
8 to get her appointed to the Council.

9 MS. BARTON: Thank you.

10 MR. MCHARD: And next to me is
11 Karen Jennings. She is a science teacher
12 in the El Reno school system, which is
13 probably one of the best school systems in
14 the state of Oklahoma. And she has been on
15 the Council for a good while. We'll put it
16 that way, Karen.

17 MS. JENNINGS: Seven or eight
18 years.

19 MR. MCHARD: Okay. And to my
20 right is George MacDurmon, who is a
21 certified health physicist and he is also
22 the RSO for the University of Oklahoma and
23 Health Sciences Center. He's one of the
24 largest licensees of our program and,
25 therefore, important to our program and to

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1 the practice of science of medicine in the
2 state.

3 Behind me is Myrna Bruce, who is --
4 she is the overall -- she's actually my
5 boss. She's the overall coordinator of all
6 the Councils and the Environmental Quality
7 Board. And, therefore, she attends all of
8 those Council meetings and Board meetings.

9 The lady in the black coat is Pam
10 Bishop on the staff -- she's a staff
11 member, she's our senior physicist. Next
12 to her is my boss, Mike Broderick, and he's
13 the manager of the Radiation Management
14 Program.

15 And next to him is Shannon Tilly.
16 Shannon has never been introduced before,
17 so I will give a very brief invection for
18 her. She has a Bachelors of Science degree
19 in Biology from the University of Central
20 Oklahoma. She completed one and a half
21 years of graduate school at Oklahoma State
22 University in Environmental Science. She
23 was born in Oklahoma City and something
24 that's not on here, but it -- sometimes
25 it's confusing, she has a twin who works at

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1 DEQ. You didn't know I was going to say
2 that, did you?

3 MS. TILLY: I never introduce I
4 have a twin. I always say I have a sister
5 and so they get mad at me when I don't say
6 the twin part.

7 MR. MCHARD: Shannon is a
8 relatively new member of our staff. She's
9 turning out to be a very valuable one.
10 She's got some skills that we sorely need.

11 And if I may, I will also announce
12 at this time that we have had two staff
13 members who are no longer with us, they
14 have resigned. That was Carly Nichols, you
15 have met previously, and Mark Conley. They
16 both recently resigned. Okay.

17 The lady directly in front of me is
18 Catherine Sharp, our Assistant Director of
19 the Land Protection Division. The
20 gentleman in the yellow shirt next to her
21 is Scott Thompson, the Director of the Land
22 Protection Division. The lady in black is
23 our attorney, that's Pam Dizikes. And the
24 lady in red way back there is Shirley
25 Brown, she is the lady who handles all of

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1 the travel claim work for the Land
2 Protection Division, including this
3 Council.

4 Have I -- oh, we do have a
5 recordist, a transcriptionist, Christy
6 Myers. And I should announce for the
7 record that this meeting will be recorded
8 and transcribed. The Minutes will be word-
9 for-word, as is the usual case. It becomes
10 part of the legal record of this meeting.
11 Have I forgotten anybody?

12 MS. JENNINGS: I don't think so.
13 Thank you. I was just going to say, he was
14 probably paid to say that about El Reno,
15 because Steve Thompson, who is the Director
16 of DEQ, and I graduated together from El
17 Reno. I won't say what year.

18 MR. MCHARD: And I wasn't paid.

19 MS. JENNINGS: Okay. We'll just
20 go directly to this one?

21 MR. MCHARD: Yes, ma'am.

22 MS. JENNINGS: Okay. Next is the
23 Report on the New Radiation Management
24 Rules, effective June 11th. Mr. Broderick.

25 MR. BRODERICK: We did put into

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1 effect some -- the Council voted on almost
2 a year ago now and the Board approved
3 earlier this year, rules that basically
4 fixed our radioactive materials program.

5 Many of you were here attending
6 meetings when we became an agreement state.
7 We chose to do that in the fastest possible
8 manner by adopting the NRC rules by
9 reference. There is a huge hole in the NRC
10 rules covering accelerator-produced
11 materials and radium and -- that we had not
12 acknowledged, basically, that hole and we
13 left it that way when we became an
14 agreement state. And we're the only state
15 that does that. There's no difference in
16 the hazard from those materials versus the
17 ones that the NRC regulates.

18 So we closed that hole basically and
19 have brought those under the same scheme as
20 the -- as the NRC regulated materials. We
21 sent out a letter reminding people
22 basically of the various deadlines on this.
23 If you're a licensee, you probably -- you
24 or at least your RSO received one of those
25 and we've had a good response to that.

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1 Basically, new -- the next big
2 deadline, people who did not have an NRC or
3 agreement state license but who do have
4 accelerator-produced materials, they are
5 asked to get in an amendment by January 1st
6 of 2005 -- or pardon me, not amendment, but
7 a license application by January 1st of
8 2005. The other users of these who have
9 licenses, they have already been required,
10 they are already -- we're collating those,
11 sort of, now -- to put in a letter that
12 says, I promise to treat my radium, sealed
13 radium and accelerator-produced materials
14 the same way I treat my agreement state
15 material.

16 And they can continue to operate
17 under that so that nobody will have to stop
18 using, you know, shut down their program or
19 something because that wasn't the intent of
20 that. As far as I know, that has worked.
21 That certainly -- our intent was not to
22 disrupt somebody's program.

23 Basically, that's all I have on
24 that. Would you like me to go on to No. 7?

25 MS. JENNINGS: That would be

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1 fine.

2 MR. BRODERICK: Okay. Actually,
3 there is one other -- I should mention
4 there were some changes to the x-ray
5 radiography rules, also, that went into
6 effect. Some typos that were corrected.
7 Those, to my knowledge, there is nothing
8 worthy of discussion on this one.

9 As far as Subchapter 19 Rules,
10 that's the XRF instruments, as you know,
11 those of you who have been attending the
12 meetings, you passed -- or the Council
13 passed a change in those about a year ago.
14 Just before it went to the Board the --
15 many of the people who use those
16 instruments had not been active in the
17 Council process and they raised concerns
18 before it went to the Board.

19 So we went ahead and we pulled
20 those, basically, or we asked the Board not
21 to approve those because we want -- part of
22 our goal here is to make sure the people
23 that are affected by our rules, have an
24 opportunity to speak up and to participate.
25 So we did pull those.

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1 We have had a meeting with some of
2 the people who use those instruments. Dr.
3 Gooden, George MacDurmon and Nadine Barton
4 from the Council attended the meeting and
5 we had several representatives from the
6 industry there and we heard some of their
7 concerns. But what we're proposing to do,
8 we have considered some of their concerns
9 and we will have actual text and will ask
10 the Council to vote on that rule to do this
11 at the December -- I believe it's December
12 8th, whatever the December meeting date is.

13 Basically, some of the things that
14 we have found, they expressed concern about
15 lending the instrument. Currently, it is a
16 common practice in the industry to lease
17 these instruments to someone else or lend
18 them to somebody and that's a violation of
19 the NRC rules that we've adopted by
20 reference. We have talked to NRC since
21 that meeting to confirm that's what we
22 understood, that the NRC agreed with us,
23 that is a violation of their rules.

24 Now, I should say, they didn't seem
25 to regard it as an alarming, you know, as a

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1 dire issue, but they did -- they didn't
2 indicate they were interested in changing
3 the rules. They basically said, well, kind
4 of, this is a problem but they didn't
5 indicate there was any active or vigorous
6 effort to change the rules to recognize it.
7 They just acknowledged it's a case where
8 the rules lack business practice.

9 We have not reached a conclusion
10 here of whether to try to -- what, if any,
11 changes in the rules we should make because
12 of that.

13 One of the biggest concerns that
14 they have, regarded the fee that was to be
15 charged. The fee for the existing, the
16 machines that are regulated under -- I
17 should mention for those of you who weren't
18 involved in this from the beginning, the
19 fee was written for one category of machine
20 that was popular when this rule was
21 written, back about 1997.

22 Technology, and this is the case of
23 the rules not keeping up with technology,
24 technology sort of sidestepped our rule.
25 And in Oklahoma and nationally, a different

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1 type of machine that's available under a
2 general license from the NRC have become
3 popular. So basically one of the purposes
4 when we tried to change this was to bring -
5 - to make this across the board, the same
6 on all these machines.

7 The fee, basically, was a concern of
8 many of the users of these. The fee, for
9 several years, had been five hundred
10 dollars and we have several five hundred
11 dollars per year. We had several
12 registrants who were using these machines
13 and paying that fee. Several of the people
14 involved in this, complained basically that
15 they were small businesses and the five
16 hundred dollar fee would be crippling for
17 them.

18 We concur or we have acknowledged, I
19 should say, their concerns. We will
20 probably lower the fee when we bring you
21 the rules. We haven't set the exact, what
22 that will be, yet. We did some research in
23 other states. Nadine specifically asked us
24 to do some research on adjacent states. We
25 found for Louisiana, they have a fee --

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1 it's an application fee of a hundred
2 thirty-nine dollars when you apply for
3 these and a hundred thirty-nine dollar
4 annual fee.

5 For Texas, it isn't clear and we
6 haven't verified, the fee is either two
7 hundred and seventy-five dollars or seven
8 hundred and seventy-six dollars.

9 MS. BARTON: What a difference.

10 MR. BRODERICK: We think the
11 seven hundred and seventy-six dollar fee is
12 correct, but we haven't called Texas to
13 confirm that. By the way, I should
14 mention, we have been basically ignoring
15 people who bring these into the state for
16 demonstrations or for training on the
17 theory that they were not going to be
18 taking these into people's homes. And
19 that's one of the reasons that we were
20 concerned about these initially, because
21 these machines are designed to be taken
22 into people's homes and used often by
23 relatively untrained people.

24 But Texas charges a fourteen hundred
25 and ninety-six dollar fee for bringing it

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1 in for a demonstration or training or
2 sales, which I assure you we are not going
3 to propose a similar fee to that. That, we
4 think is too high. But anyway, the five
5 hundred dollar fee, we don't think was
6 grossly out of line, I'll put it that way.
7 We will probably recommend lowering it.

8 MS. BARTON: Do you know how much
9 -- by how much?

10 MR. BRODERICK: We haven't --
11 we're still -- there's a debate going on in
12 that within the staff, trying to -- so we
13 haven't come up with a final figure for
14 that. We will have one. In December we
15 will present the final language to you.

16 And the other concerns, basically,
17 the rule as written does not have any
18 specific addressing of training and we
19 probably need to address the training
20 requirements. That will probably be done
21 by basically requiring the manufacturers
22 training of any operator.

23 There were complaints about usage
24 logs being required and what they would
25 feel a usage log required. What we're

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1 going to recommend to the Council is that
2 requirement be retained, that when they
3 sign out a machine, they have to indicate
4 who it was signed out to, when it was taken
5 out, when it was returned. We think that's
6 reasonable and appropriate

7 There were complaints about the
8 dosimetry. Now, the rule does require
9 dosimetry records if dosimetry is used.
10 Most of these, the manufacturer should be
11 able to help the users with this. Most of
12 these machines we think will be eligible.
13 There is an exemption in our rules that if
14 you have less than, I believe it's twenty
15 percent of the dose, then you're not
16 required to wear a dosimetry and we believe
17 these machines will fall under that. So --

18 MR. MACDURMON: Ten percent?

19 MR. BRODERICK: -- ten percent,
20 pardon me. Ten percent. Pam was
21 whispering in my ear. Ten percent, not
22 twenty percent, thank you, George.

23 Anyway, we think those machines will
24 fall under that unless they wouldn't be
25 required to use dosimetry and they wouldn't

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1 be required to keep these records.

2 There was some confusion -- we
3 require a shutter test for these machines.
4 That with the older machines, we originally
5 were dealing with that, it had to be done
6 manually. Most modern machines do that
7 automatically and create a record of it as
8 the machine is starting up, create an
9 electronic record. And we think that
10 electronic record is perfectly satisfactory
11 and meets the requirements of this rule.

12 There was some confusion, some users
13 of these machines felt that that meant they
14 had to return the machine to the
15 manufacturer for a shutter test, that's not
16 the case.

17 There has been some talk of alloy
18 analyzers. There are x-ray fluorescent
19 alloy analyzers that are in use in
20 industry. And some people have expressed
21 interest in whether those should be used --
22 those should fall under this rule.

23 We originally wrote this rule
24 because lead-based paint in late the
25 1990's, it looked like it was going to

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1 become a major -- basically the renovation
2 of lead-based paint in homes was going to
3 become a major industry it appeared for a
4 while, in the 1990's. That didn't come to
5 pass. It is an industry that exists but
6 it's not a booming field.

7 But many of the people who got into
8 it and, for that matter, are in it or
9 getting into it, are people with very
10 little radiation training and they're, by
11 definition -- they're taking these things
12 into people's homes to check the level of
13 lead-based paint in people's homes. That's
14 part of the reason that we were concerned
15 about these machines and passed that rule
16 in the first place.

17 For the metal analyzers, they are
18 seldom, if ever, taken into homes. The
19 people who use them, typically, not always,
20 but typically -- or often have more
21 training. A number of industrial
22 radiography licensees have these machines.
23 And so at least the staff is not going to
24 recommend that this be extended to the
25 metal analyzers.

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1 If the Council or somebody wants to
2 take up that extension, you know, that's
3 certainly worthy of consideration. But at
4 least the staff at this point proposes to
5 keep the rule with the scope that it has.

6 One other minor change in 10-8(h),
7 it says that repair can only be done by
8 people who have a state agreement license.
9 We're going to add NRC license to that
10 list. And that's basically it for -- as
11 far as the XRF instruments.

12 Now, I didn't notice, maybe I missed
13 somebody, is there any representatives of
14 the affected industry here? Okay. Okay.
15 If it's acceptable to you, I can move on to
16 No. 8.

17 MS. JENNINGS: That would be
18 fine. Go ahead.

19 MR. BRODERICK: Okay. The first
20 item, the NRC has changed their rules on
21 the "Medical Use of Byproduct Material".
22 That part of their rule is known as 10 CFR
23 Part 35. It's a very important part of our
24 program. Medical use is an extremely
25 beneficial use. It's very important.

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1 And we are required to keep our
2 rules -- basically, to keep our rules
3 consistent with the NRC rules. We have
4 delayed doing that here in the state
5 because the NRC has kept modifying their
6 rules. They have kept modifying what we're
7 going to be required to adopt, but they
8 would not extend the date which we were
9 required to have it. But anyway, we have
10 delayed as long as we can and basically we
11 have to pass that in this upcoming year.
12 So we will be presenting that to you in
13 December.

14 Basically, the rules -- I'm not
15 going to go into great detail, because we
16 frankly just don't have much option on
17 this. We're required to be compatible with
18 the NRC rules and I don't expect them to be
19 controversial. The main differences and
20 Pam is marking down something for me to --
21 yes.

22 The main differences in the current
23 rules, this moves -- puts less burden in
24 the licensing process up front, but puts
25 more of it on the inspectors, the

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1 inspections. It also changes some of the
2 training and experience requirements.

3 Now, there is one place and I'm not
4 sure we'll have what I'm about to address
5 in December. There is one place where we
6 may ask to clarify the training experience
7 requirements. But again, this is a case of
8 new technology. One of the neat things
9 about this, it's frustrating but it's
10 really interesting, is technology is
11 advancing and we have to keep up with
12 technology. We can't sit on our laurels.

13 There is a relatively new technology
14 called Fluorine 18 -- or they're using
15 Fluorine 18 for imaging. It's called PET,
16 which is Positron Emission Tomography.
17 Because of the way it's manufactured, it's
18 not under NRC jurisdiction. The PET, that
19 isotope, it's really wonderful from a
20 radiation safety perspective. In one
21 sense, it's very short half-life. Its
22 half-life, I believe, is a hundred and ten
23 minutes; is that right? Roughly two hours.
24 That's wonderful, because it means if
25 something is spilled, you walk out, you

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1 close the door and you come back tomorrow,
2 it's gone. So that's wonderful from our
3 perspective, because there's not a long
4 term contamination problem. However, it is
5 pretty hot stuff for that brief time that
6 it is radioactive.

7 The diagnostic training experience
8 requirements for NRC, the stuff that NRC
9 regulates, that's used for diagnostic, is
10 pretty tame stuff, relatively speaking,
11 relatively low hazard stuff. There is
12 concern -- some states have expressed
13 concern and we are interested, I'll put it
14 that way, that it may be appropriate to
15 increase the training and experience
16 requirements slightly or to at least
17 require some specifics in regard to the
18 hazards that are associated with this
19 isotope.

20 Now, we may ask the Council to do
21 that, that's not something that concerns
22 the NRC, so we can do that. I am not sure
23 that we'll do that in December. There is a
24 good possibility that we will just ask you
25 to pass the NRC rule in December and

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1 certainly there will be a discussion over
2 it, over what to do about it. The Council
3 will certainly have a chance to discuss it
4 and consider our recommendations and make
5 sure that the Council is comfortable with
6 them.

7 Moving on, for "Medical Use", that's
8 not very clear. Actually, that should be
9 for X-ray machines. Our x-ray fees were
10 set in 1994. It's one blanket fee for all
11 categories of x-ray machines. Bluntly,
12 that's not a very good -- not a very
13 equitable system. We charge the same fee
14 for ones that are almost innocuous as we do
15 for the x-ray machines that are very, very
16 -- that are quite a hazard.

17 We will be bringing you or we expect
18 to bring you some changes in that. We will
19 probably basically increase the fees for
20 some of the more hazardous-types of
21 equipment and conceivably lower or
22 eliminate for certain types of equipment.
23 But we will change that. Basically, we
24 will ask that you consider changing that.
25 And like I said, the current fee was

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1 written, I said 1994, but it was actually
2 1993. So it's a very old fee.

3 Moving on to Item 8C, Fee Revisions
4 for Small Entities. When we became an
5 agreement state, we adopted the NRC's
6 program pretty much hook, line and sinker.
7 That includes a program they have where
8 basically a business that qualifies as a
9 small business, and that's defined in
10 several ways, but one of them is how much
11 income they had. Those businesses that
12 qualify as small businesses get a reduced
13 fee.

14 Now, to my knowledge, no other state
15 -- we haven't polled every state, but I'm
16 pretty sure no other state does that. That
17 is equitable in some ways but it creates
18 problems in others. One, that it creates
19 for us -- the NRC has a fairly large
20 license application fee that's charged to
21 all their licensees. We chose to try and
22 make our program as simple as possible, to
23 not charge a separate license application
24 fee, just charge an annual fee every year.

25 That's caused us some problems. For

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1 instance, we have had a new hospital, a
2 very large building with a very extensive
3 radiation safety program, brand new
4 hospital that's being established. They
5 submitted their application for a nuclear
6 medicine license, which was a very
7 substantial license. It was quite a bit of
8 work for us to review. And this was
9 certainly a large entity, it was not a
10 struggling small entity, it was a very well
11 financed -- admittedly new, but very well
12 financed business. But anyway, the
13 hospital paid two hundred and seventy
14 dollars to have their license reviewed,
15 which doesn't begin to cover our costs for
16 that.

17 Certainly, any time that you set out
18 one group of licensees that have small --
19 you have a separate fee for those, that
20 puts a bigger burden on the other
21 licensees. We've expressed concern about
22 that before and there's been some support
23 in the Council for changing that, at least
24 an initial step towards that, to cover that
25 situation of that hospital, the new

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1 business. That's happened to us a couple -
2 - similar things have happened several
3 times to us. We will probably be proposing
4 that basically when your permit is renewed,
5 that you pay the full fee, the full
6 licensing fee. That's what we expect, the
7 full annual fee, I should say, to expect to
8 do. We'll probably recommend that the
9 Council change that.

10 MS. BARTON: Well, if they went
11 into it paying the full fee, even though it
12 was two hundred and seventy dollars, are
13 you going to include them in that if you
14 raise the fee when their renewal comes up?

15 MR. BRODERICK: The way that this
16 -- at least that we propose to write it
17 now, it would include when their license
18 was renewed, yes. That would be basically
19 every ten years, roughly, that they would
20 have to --

21 MS. BISHOP: They probably aren't
22 staying a small entity.

23 MR. BRODERICK: In the case of
24 hospitals.

25 MS. BARTON: No, I'm talking

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1 about the hospital.

2 MS. BISHOP: Yeah, the hospital -

3 -

4 MS. BARTON: And do you have any
5 idea by how much you're going to raise it?

6 MR. BRODERICK: It would be
7 raised to whatever the fee is for that
8 license category. For most of our fees,
9 they are set by license categories. For
10 industrial radiography, for instance,
11 they're quite high. They're, I believe,
12 eleven thousand dollars a year or something
13 like that, was the whole fee. For nuclear
14 medicine, for typical nuclear medicine,
15 it's several thousand dollars. In a
16 hospital, I would expect that once the
17 hospital was a going concern, it would no
18 longer be a small business and it would pay
19 the full fee.

20 MS. BARTON: If I was an
21 attorney, I would probably wince at that a
22 little bit, because that was the full fee
23 at the time and, you know -- at the time
24 that you approved it.

25 MR. BRODERICK: Well, we aren't

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1 going to go out and retroactively charge
2 this, we are not proposing that, if that's
3 what you're referring to.

4 MS. BARTON: Yeah. Well, that's
5 what it sounded like.

6 MR. BRODERICK: Okay. Well, that
7 wasn't my intention. Basically, it would
8 be a forward looking -- as Pam Dizikes, our
9 attorney, would tell us, it's *expos facto*,
10 is that the right word? You can't pass
11 *expos facto* laws and we couldn't go back
12 and retroactively and charge people.

13 MS. BARTON: Okay.

14 MR. BRODERICK: It would be
15 basically for new license applications and
16 renewals from the point, assuming that the
17 Council approves --

18 MS. BARTON: So they wouldn't be
19 included? The hospital that you're talking
20 about.

21 MR. BRODERICK: The hospital
22 would have gotten the small fee and gotten
23 away with it.

24 MS. BARTON: They're on their
25 way.

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1 MR. BRODERICK: Yeah, we would
2 have done that and that's fine. That's
3 what the rules are and they're following
4 the rules and that's fine.

5 MS. BARTON: Okay. I just wanted
6 clarification. Thanks.

7 MR. BRODERICK: Sure. As far as
8 late fees, we have no late fee provision as
9 it is. There is a statute that basically
10 says we can charge a late fee if we pass a
11 rule. We will probably ask for you to
12 approve some late fee provisions. What
13 we're thinking in terms of is basically a
14 five or ten percent of whatever the fee is
15 overdue per month until the fee is paid.
16 This --

17 MS. JENNINGS: Mr. Broderick, let
18 me interrupt you just a second.

19 MR. BRODERICK: Sure.

20 MS. JENNINGS: Christy, how are
21 you doing? I just want to check and see if
22 you need a break.

23 THE REPORTER: I'm fine. Thank
24 you very much for asking.

25 MS. JENNINGS: Okay.

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1 MR. BRODERICK: I looked
2 occasionally and I noticed when I pause to
3 give you a chance to catch up, you usually
4 pause, so I assume you're keeping up.

5 (Off-the-record comment)

6 MS. JENNINGS: Okay. Go ahead.

7 MR. BRODERICK: I am going to
8 try, I know it's almost -- I seem incapable
9 of being terse and brief, but I'm trying to
10 be terse and brief.

11 8E, that description, we shouldn't
12 have put the word "new fee". Basically, if
13 you look at your handy dandy copy of our
14 rules, if you'll look at page 23 of that,
15 it's in 410-10-110, or decommissioning or
16 decontamination or reclamation or site-
17 restoration activities, our fee is and has
18 been an hourly fee. That's the way --
19 again, that's something we got from the
20 NRC. And it's charged at full cost.

21 We left out -- in the description,
22 we tried to shrink down NRC's description
23 of that, as we try to make our rules as
24 brief as possible, but historically the re-
25 write/de-wrong and other things, we left

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1 out the description of inspection in that.
2 That's one of the things in NRC and that
3 would be one thing that we would expect to
4 charge for. It's not something we charge
5 very often, by the way. But anyway, we
6 will ask you to add inspection in there and
7 make it very explicit that inspection is
8 included in that.

9 MR. MACDURMON: Mike, are you
10 proposing that the annual fee will not
11 include inspections, amendments, things of
12 that nature, that they will be charged
13 separately?

14 MR. BRODERICK: Not in a routine
15 basis. This would be for like a site being
16 shut down.

17 MR. MACDURMON: I see. Okay.
18 This is not routine.

19 MR. BRODERICK: Exactly.

20 MR. MACDURMON: Okay.

21 MR. BRODERICK: No, we aren't
22 proposing an inspection fee at all. No, we
23 are not proposing that.

24 MR. MACDURMON: Okay.

25 MR. BRODERICK: This is basically

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1 for, as Pam said, that's a good word for
2 it, non-routine things related to
3 decommissioning and decontamination. We
4 expect -- I don't have a specific list for
5 you, but in -- we expect to have some
6 errors. We continually find errors in our
7 rules that we've made despite our best
8 efforts to proofread and I expect to
9 continue to do that until the end of my
10 career with the DEQ.

11 But we will have, I anticipate, some
12 errors and typos, that we will find and for
13 your -- in some cases it's quite amusing,
14 but for your amusement and enjoyment, we'll
15 ask you to correct. And I think I talked
16 for less than about thirty minutes on that.

17 MS. JENNINGS: I'm impressed,
18 that was a lot -- a lot.

19 MR. BRODERICK: That's all I have
20 on Items 8.

21 MS. JENNINGS: Does anyone have
22 any questions? Okay. Thank you. Item No.
23 9, Mr. Thompson, Report on the EQ Board
24 activities.

25 MR. THOMPSON: Well,

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1 legislatively it's a fairly quiet session.
2 I think we covered some of this last time,
3 but I can't remember. There weren't really
4 any statutes that were passed that directly
5 effect real life issues. The primary
6 issues relate to financial things for the
7 agency that occurs in the radiation program
8 at some point which, as usual, we ask for
9 extra money for different things, we don't
10 get it. They take away some -- they took
11 away some of our fee money this time, but
12 then they gave us REAP money, which usually
13 is for water projects and infrastructure
14 projects for small towns and I didn't quite
15 understand the logic of that. I think
16 overall we lost a little bit in that
17 exchange, but not a substantial amount of
18 money.

19 And we floated some ideas on perhaps
20 raising some of this -- the hazardous waste
21 disposal fees, because that fee has been
22 nine dollars a ton for as long as I can
23 remember. I don't remember how long ago
24 that was set, but it's never been raised.
25 And I think I've given this speech before,

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1 too, but the volume of waste disposed in
2 the state of Oklahoma has shrunk, which I
3 guess is good news from the standpoint that
4 we have much, much less hazardous waste
5 disposed in the state of Oklahoma. But
6 that translates into the agency collecting
7 about a sixth of the original amount of
8 fees that we used to collect from that
9 source, which may affect our hazardous
10 waste program, as well as other programs in
11 this division or at least financially
12 across the Agency if we don't find some
13 income source to support those programs.

14 But overall, it's been pretty quiet.
15 We did get some new authorities on
16 accessing superfund sites. We had a couple
17 of crazy issues where we had a bunch of
18 heirs to a property and one of them
19 happened to be a lawyer who was dying of
20 cancer and decided to create a very
21 interesting time for us legally. But none
22 of that stuff would directly affect
23 radiological items or typical activities we
24 have in that arena. Anybody have any
25 questions?

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1 MS. BARTON: I have one. Where
2 do we stand on the Sequoyah Fuels
3 situation?

4 MR. THOMPSON: There are
5 negotiations ongoing with the Attorney
6 General's Office and the NRC and whatever
7 the name of the current owner is, Sequoyah
8 Fuels Corp, I guess is still the official
9 name. Basically, it's a subsidiary of
10 Atomic General. It's been --

11 MR. BRODERICK: It's not actually
12 a subsidiary. Well, it's at best a very
13 indirect subsidiary of Atomic General.

14 MR. THOMPSON: Yeah. I can't
15 really say anything about the details of
16 that at this time. It's not a done deal.
17 I am fairly optimistic about where we stand
18 on it.

19 MS. BARTON: Do you have any ETA
20 on when they're going to be finished with
21 all of this?

22 MR. THOMPSON: I believe there's
23 some deadline coming up fairly soon for the
24 NRC and they have to make a decision
25 whether to go forward with some sort of

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1 hearing or something. But -- which may
2 drive it, I can't recall the time frame but
3 I think we're in a fairly short time frame
4 to get this resolved.

5 MS. BARTON: By the end of the
6 year, do you think?

7 MR. THOMPSON: I think so. I
8 think if we haven't gotten it resolved by
9 the end of the year, it's going to devolve
10 into a much broader sort of fight. I don't
11 think there will be a major settlement.

12 MS. BARTON: Do you know if
13 there's going to be any public meeting for
14 the announcement or prior to?

15 MR. THOMPSON: I'm sure there
16 will be. The exact mechanisms for that,
17 I'm not clear on, because this site is
18 still under the jurisdiction of the NRC.
19 But we're weighing in pretty heavily,
20 especially because there are issues that
21 are non-radiological sites that are more
22 hazardous waste issues, RCRA-type issues,
23 that remain to be dealt with that the NRC
24 doesn't typically address. And so we're
25 trying to --

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1 MS. BARTON: Combine it.

2 MR. THOMPSON: -- yes.

3 MS. BARTON: Thanks.

4 MR. THOMPSON: Sure.

5 MS. JENNINGS: Thank you, Mr.

6 Thompson. Ms. Sharp. Item No. 10, the

7 report on recent developments regarding

8 Central Interstate Compact. I actually saw

9 an article in the paper that there was --

10 MS. SHARP: Did you?

11 MS. JENNINGS: -- another court

12 decision.

13 MS. SHARP: Yet another one.

14 MS. JENNINGS: Yes.

15 MS. SHARP: This is a real

16 important one --

17 MS. JENNINGS: Yes.

18 MS. SHARP: -- for those of you

19 who have been following the compact

20 interstate (inaudible). Before I delve

21 into that, I just want to take a minute

22 because I seldom get to talk to you all.

23 Number one, I want to thank

24 everybody who comes in for these meetings.

25 Anybody who serves on a Council for the

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1 DEQ, we really, really appreciate the work
2 you do. I know everybody has a lot of
3 stuff to do everyday. You all are taking
4 time out from whatever you normally have to
5 do, but it really helps us transact
6 business in a lot more obviously open way
7 and a lot more apparent way. and even like
8 today not voting on anything, for Mike to
9 be able to announce what's on the horizon
10 for rules and comment, it puts the word out
11 so people can begin thinking about it.

12 You wouldn't believe how much
13 difference that makes then showing up at
14 Council meeting with our rules drafted, you
15 know, we've already worked it all out in
16 our minds and then people who show up at
17 the meeting, they're hearing it for the
18 first time. So today's business is really
19 important to us and I'm glad everybody
20 came. I know some of you all had to drive
21 across the state to get here.

22 What I wanted to cover today real
23 briefly, and this is a hard topic to
24 compress, and some of you know a lot of the
25 background on this and some of you may not.

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1 Just real briefly, Oklahoma has been
2 a member of the Central States Compact with
3 four other states since about 1984. Its
4 purpose as sanctioned by federal and state
5 law is to attempt to site a low-level waste
6 facility somewhere in this five state
7 region. And we've been working on that for
8 a number of years. I have only been the
9 Commissioner, an envoy to the Compact for
10 about three and a half years. Before that,
11 H.A. Caves, when many of you know, was our
12 Commissioner. Before that, Mark Coleman
13 was the Commissioner, so it's been going on
14 for a long time.

15 For about the last ten years, ever
16 since Nebraska originally agreed to be the
17 host state and build a site, we have been
18 in the process early in that ten year
19 period of trying to get a license from the
20 State of Nebraska. Toward the end of that
21 process, they denied the license. It
22 became apparent to people in the Compact
23 that the license denial decision we did not
24 feel was based on scientific information.
25 It was clearly the political winds had

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1 changed. And so our only issue -- there
2 have been a lot of, like I say, lawsuits
3 and sub-lawsuits and probably through all
4 the briefs -- I mean, you don't even want
5 to know all that.

6 It wasn't that we had a big vendetta
7 against Nebraska. Our sole issue, our most
8 important issue was just like here at the
9 DEQ, if somebody sends in a permit
10 application or a license application, the
11 law tells us you've got to decide it on its
12 merits. And it was the feeling of the
13 other four states, us four states, non-
14 Nebraska states, which is Louisiana,
15 Arkansas, Kansas and us, that the decision
16 was not based on science. It was based on
17 a political decision at the Governor's
18 level to deny the application, and we
19 couldn't stand for that.

20 So the largest lawsuit that was
21 brought was when we sued the State of
22 Nebraska for bad faith. It's called bad
23 faith, it's a violation of the Compact's
24 bylaws, it's a violation of a variety of
25 things. And that suit was winding its way

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1 through its many processes until the summer
2 of 2002. I think I reported to you all on
3 that, that there was a nine week trial, an
4 actual trial in Lincoln, Nebraska, in
5 federal court where we argued all those
6 issues before Judge Koff, is his name, he's
7 been our judge on several of these
8 junctures. He knows -- he's been to the
9 site, he knows all the issues very well.

10 When the decision came down from
11 that judgment two years ago, they ruled in
12 favor of the Compact. They believed that -
13 - the Judge believed, after hearing just
14 abundant evidence that Nebraska had, in
15 fact, done what we alleged. They made the
16 decision because they just decided they
17 didn't want to host the site and that's a
18 violation of the Compact law. So they
19 awarded a judgment.

20 By that time, a lot of money had
21 been invested and his judgment at the end
22 of his opinion, which is a really
23 interesting read -- which is funny to say
24 about a federal judge's opinion, but it
25 actually is a very interesting read. It's

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1 not terribly long and he explains why he
2 arrived at what he decided at, he awarded a
3 hundred and fifty-one million dollars back
4 to the Compact. That's because the major
5 generators and the contractor and others
6 had invested that much throughout that
7 process. They invested about ninety to a
8 hundred million and then with interest over
9 time, the numbers came to about a hundred
10 and fifty-one million dollars. So that's
11 why it was such a huge decision.

12 It got the attention of Nebraska
13 Governor, the new Governor there now, not
14 the one who was called back to testify to
15 try to say that his office was the one that
16 had meddled in the decision. The Governor
17 now there, his name is Joe Hansen, the
18 former Governor is Ben Nelson, now Senator
19 Ben Nelson. Anyway, so all that is
20 background.

21 And there was one appeal on that
22 decision that was decided in our favor, as
23 well. The next step, and the final step,
24 was to go before the Supreme Court on that
25 matter and that was scheduled to happen

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1 this fall. And as that deadline got closer
2 and closer, their Attorney General's office
3 began talking to us about settlement. We
4 never thought they would consider a
5 settlement. We privately thought we had a
6 pretty good chance in front of the Supreme
7 Court but, you know, our lawyers, who we
8 think were pretty good lawyers, obviously
9 they have worked on this for ten years, had
10 a few minor reservations but they were
11 ready to go before the Supreme Court.

12 Anyway, we were somewhat amazed, I
13 have to say now at this point, that their
14 Attorney General's office, their Governor,
15 you know, on behalf of the state and
16 Governor, reached settlement with us. So
17 the big decision that came down about a
18 month ago, almost a month ago today, was
19 when they offered to settle and pay off
20 that debt, not the full one hundred and
21 fifty-one million, but they came up with a
22 number. I'm not going to go into how it
23 was derived, but a hundred and forty
24 million dollars they're going to pay to the
25 Compact.

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1 As it stands today, there are only
2 four states in the Compact because part of
3 what we went through was to dismiss
4 Nebraska from the Compact. Because when
5 somebody acts in bad faith, they can't
6 remain a member of the Compact and that
7 took years too, because they had due
8 process. But anyway -- and to be more
9 convoluted, and I don't want to take up a
10 lot of your time, but there's all these
11 kind of interesting nuances. Some of the
12 major generators paid in quite a bit of the
13 money to Nebraska power companies. They're
14 just caught in the middle. You know, they
15 paid, they wanted a site -- their
16 government squelched the site. They
17 invested, they're concerned, and bottom
18 line is, that's why it's a thing of
19 interest to everybody here, those of us who
20 are in kind of the waste business, whether
21 it's government or private industry,
22 whatever, we're trying to find a suitable
23 and safe environmentally protective method
24 of disposing of waste. That was our whole
25 -- that was our sole interest to begin

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1 with. And so that's what the power
2 companies still want, and still don't have.

3 At any rate, the settlement
4 agreement -- I have copies of it if anybody
5 wants to read it. It obligates Nebraska to
6 pay a hundred and forty million dollars and
7 some change over a period of four years,
8 starting next summer, starting this coming
9 summer, 2005. It does, and this was a
10 sticky point, it does absolve them of their
11 host state responsibilities. So we made a
12 last run at trying to hold them to that,
13 because we felt that was their obligation.

14 However, if they pay this off and
15 comply with a few other terms in the
16 agreement, at the end, when they finally
17 pay the last amount of money, they will not
18 have host state responsibilities for our
19 Compact. Where that leaves us --

20 MS. BARTON: They bought their
21 way out for a hundred and forty.

22 MS. SHARP: They did. But the
23 money is significant. And again, I don't
24 want it to sound like we were vindictive
25 toward Nebraska. We really -- I mean, I'm

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1 totally on good terms with the regulators
2 and deal with them on other matters, so
3 it's not about that.

4 The reason it's significant that we
5 get the money back is part of that helps us
6 search for other disposal options. Texas
7 thinks they might have a facility some day
8 and you probably read a little bit about
9 that. They are in the process -- they are
10 just starting the permitting process. I'm
11 not sure where that's going to go. We are
12 in a dialogue with EnviroCare in Utah,
13 perhaps make some kind of an arrangement
14 with our Compact to take at least some of
15 the waste out of this Compact.

16 One of the questions I might mention
17 that is germane to some of the people in
18 this room, is the Compact. We're the
19 government entity, and we're negotiating
20 with EnviroCare about what would be
21 reasonable rates and what kind of wastes
22 they can take and what would perhaps a
23 thirty year assurance contract look like
24 and that sort of thing.

25 I can't obligate generators in

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1 Oklahoma to use any particular site,
2 there's obviously not that many to choose
3 from, but what I want is some feedback from
4 the generators in Oklahoma about -- and I
5 will be in dialogue with you all when more
6 concrete terms come out about what is
7 suitable to you all. EnviroCare is
8 talking, they are very interested in rates
9 of our Compact. They like to sign long-
10 term deals that more or less ensure that
11 the waste from the other states is going to
12 go to their facility, obviously that is
13 their business. So they're talking rates
14 and that's what -- we've had one meeting
15 with one of their Vice-Presidents. The
16 State of Louisiana and the State of
17 Oklahoma are kind of a subcommittee of the
18 Compact dealing with this issue, so it's a
19 guy named Mike Henry and me and we've got
20 our lawyers because there is so many legal
21 questions in all this. We have another
22 meeting set with them probably in Utah in
23 late October.

24 So that's the status of things. And
25 the money is significant because to get

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1 involved in any other site or any other
2 Compact, for example, the states -- I've
3 heard that the Texas Compact, this is sort
4 of funny. They are partnered with, what,
5 one or two other states, it's like Maine or
6 New Hampshire, or somebody in Texas, that's
7 the Compact.

8 MR. BRODERICK: It's a surf and
9 turf compact.

10 MS. SHARP: Right. But they have
11 -- I don't know where this fee came from.
12 We heard that for a state to become part of
13 that compact, it would be twenty-five
14 million dollars per state, that's like --
15 it's sort of like a health club membership.
16 You pay an entry fee and then you keep on
17 going.

18 MS. BARTON: You keep paying.

19 MS. SHARP: So the entry fee
20 would be roughly twenty-five million. We
21 aren't in any way offering that as part of
22 this Compact and we aren't even talking
23 with Texas with numbers like that, because
24 we still consider the Texas situation to be
25 highly speculative. Let's look at how

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1 early they are in the process. And all of
2 us who have been through this process are,
3 like, let's let them progress a little
4 longer and see where it goes. I mean, I
5 wish them success. I hope it's a
6 successful process at siting these
7 facilities there. I know there's a lot of
8 things that go into that.

9 So that kind of tells you the lay of
10 the land. If anybody has any questions or
11 wants to talk about any of those issues,
12 I'm happy to talk about it. I think,
13 again, we were -- we felt somewhat
14 vindicated two years ago when Judge Koff
15 ruled in our favor. We are glad to have
16 this settlement. I think both sides are
17 pretty happy with this settlement.
18 Nebraska has a little bit of work to do and
19 they said they'll do it. They have to get
20 their Legislature to obviously appropriate
21 the money. They have four or five years to
22 pay it out, so it's doable. And they
23 worked on getting at least nominal approval
24 from their Legislature before they entered
25 into the deal. So we think it will come to

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1 pass. But we feel like it's an important
2 milestone and finally, after all that time,
3 we made a little bit of progress.

4 So that's where that stands. I
5 would be happy to answer questions now or
6 after the meeting. Yes, ma'am.

7 MS. BARTON: Okay. So now that
8 Nebraska has basically bought their way out
9 of this, so where does the Compact stand
10 for the next host state? Who is in line
11 for that?

12 MS. SHARP: You know, I really
13 think -- you know, that's obviously a
14 delicate question when we are in our
15 Compact meeting. I really think no state
16 in this current Compact is likely to take
17 on that role.

18 And I am just saying that, that's
19 just my opinion based on the dynamics in
20 the meetings. I don't think any state has
21 the political will, the -- you know, if you
22 think about what it would have to go
23 through to get a site and they look at what
24 happened in Nebraska and I think no one is
25 likely to volunteer to endure that.

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1 MS. JENNINGS: So what's the
2 purpose of it, then?

3 MS. SHARP: The purpose of the
4 Compact? Well, as I said, we're going to
5 represent our four states and use the
6 proceeds, some of the proceeds from this
7 lawsuit -- the money doesn't go back to the
8 states. The money is held by the Compact,
9 okay. It's in their -- it will be in their
10 bank account. The Compact is an entity
11 that has shrunk down to -- just so you know
12 what the office is. We have one office
13 manager and one temporary employee up there
14 in Lincoln, Nebraska. That's the Compact.
15 I've been to their office many times, I
16 read their audit. I just read this year's
17 audit just yesterday it came out. They
18 exist, they subsist by billing the
19 generators for just the bare minimum costs
20 to run that office. That's how they exist
21 right now. And anyway, to answer your
22 question, what we're hoping to do is use
23 some of our resources to look for disposal
24 options outside of this compact.

25 MS. BARTON: That's good.

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1 MS. SHARP: For example,
2 Barnwell, that site is a great option. It
3 has a sunset to it, the South Carolina
4 site. No one thinks it is a long-term
5 solution. What we would like to do for the
6 generators is find, you know, at least a
7 thirty year solution, something that
8 secures some sort of disposal option that
9 meets all our needs for thirty years out.
10 So that's what we're working on now.

11 The other thing that we're working
12 on, just so you know, that amount of money
13 got everybody's attention, as you would
14 guess. There's people who have been
15 involved in the Compact and think they're
16 entitled to some of that money. The
17 Village of Butte way out there in western
18 Nebraska, there are actually citizens for
19 and against this site. The local community
20 benefitted from investments -- in other
21 words, some of the money that supported the
22 Compact went to help rebuild and structure
23 their infrastructure out there. It's
24 community development money. So they've
25 been relying on that. So now they're

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1 concerned that none of that will be
2 available, you know, should some of the
3 money that's been paid back go back to
4 them.

5 The developer, U.S. Ecology, was
6 paid for some of their work but they
7 actually did some of their work on the
8 permit application gratis during the later
9 stages of it and that was an agreement. So
10 now they're looking at the settlement and
11 they're interested in money. Obviously,
12 all the major generators were paid in the
13 lion's share of that money, which is mainly
14 the power plants. They feel entitled that
15 that money should at least go to, as I've
16 described, securing a disposal site
17 somewhere or something. And so there's
18 likely to be claims on that money. And
19 what the Compact has to do now is sort
20 through any claims on the money, reserve
21 the resources and secure disposal options
22 elsewhere. That's our plan.

23 MS. BARTON: Were we next after
24 Nebraska?

25 MS. SHARP: There's no talk that

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1 I ever heard. And I went back -- I was
2 kind of new to this. I went back and read
3 some of the old Minutes because when we had
4 to get ready for the -- they were trying to
5 depose all the Commissioners, there were a
6 lot of different things going on, so I was
7 reading up on some of that. Never during
8 my tenure at the meetings when Nebraska was
9 the host site, did they talk about who was
10 next. And even going back and reading the
11 old Minutes, I couldn't see that there was
12 any indication that they ever had a second
13 choice.

14 MS. BARTON: Well, I thought that
15 was one of our -- because we kind of went -
16 - we took a deep breath because we figured,
17 well, they got forty years going for
18 Nebraska, you know, and we would be
19 further, way further down the line to not
20 have to really address it.

21 MS. SHARP: It hasn't been talked
22 about. What I would say about that is,
23 when you're a big generator -- I mean it's
24 logical that somebody who is deriving all
25 the benefits of nuclear power should maybe

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1 --

2 MS. BARTON: Well, that's a
3 logical conclusion.

4 MS. SHARP: -- yeah, if a host
5 site were even contemplated. Most of our
6 generators in Oklahoma, they are important
7 generators, as you all know, I mean,
8 they're medical facilities and they're
9 industrial generators and so forth and we
10 want to take care of them. But compared to
11 nuclear power, they are quite small. So I
12 can't see us -- I can't see an argument
13 being mounted for Oklahoma to be ever a
14 host state for that reason.

15 MS. BARTON: Except we're in the
16 middle.

17 MS. SHARP: Yeah, and I'm not
18 sure geography --

19 MS. BARTON: Plays a part in
20 that.

21 MS. SHARP: -- plays into that.

22 MS. JENNINGS: Which state of the
23 four is the most?

24 MS. SHARP: Geographically?

25 MS. JENNINGS: No, is the biggest

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1 generator?

2 MS. SHARP: You know, I looked at
3 those numbers the other day. Isn't
4 somebody here from Kerr McGee? The numbers
5 -- I should get those numbers to you. I
6 can't remember who it is. Because we had
7 some major clean-ups in Oklahoma that are
8 episodic generation, Kerr McGee -- one of
9 our Kerr McGee sites being large in that.
10 So if you look at just the last two years,
11 it looks like Oklahoma is, but it's
12 remediation waste, it's one-time generation
13 waste. So I would have to look that up. I
14 was so focused on that at the meeting we
15 were in and looking at how far back that
16 went and so forth.

17 DEBBIE: Yeah, you won't see that
18 again.

19 MS. SHARP: Right. So it's got
20 to be -- I just don't know which one.

21 MS. BARTON: What are the states
22 again, for those that don't know?

23 MS. SHARP: It's Arkansas,
24 Louisiana and Kansas and us. We're the
25 bottom --

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1 MS. JENNINGS: Arkansas is the
2 only one that has the electric --

3 MS. BARTON: Kansas does.

4 (Talking over each other)

5 MS. SHARP: They have at least
6 one power plant. Nebraska has two.

7 MR. BRODERICK: Nebraska has two
8 and Louisiana has two.

9 MS. SHARP: So they would be the
10 biggest generators.

11 MS. JENNINGS: But we don't have
12 any.

13 MS. SHARP: We don't have any.

14 MS. BARTON: Thanks to us. The
15 only successful intervener in the United
16 States to stop a nuclear plant from being
17 built legally in court. That's us, CASE.
18 I have to put that plug in because it saved
19 us millions and millions of dollars here.
20 That's my plug.

21 MS. SHARP: Other questions or
22 comments?

23 MS. JENNINGS: Well, that's good
24 news, really.

25 MR. MACDURMON: I would be happy

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1 to talk to you outside the meeting. And
2 I'm not sure how much detail to get into
3 now but as -- if Kerr McGee is done
4 remediating, I'm probably now the primary
5 generator of radioactive waste in the State
6 of Oklahoma. And I don't want to be that.

7 And the reason that I don't want to
8 be that is because of the way that the
9 Compact structures its fees. And it's
10 abysmal. You essentially force generators
11 not to ship, due to annual fees and
12 exorbitant export permit fees and I don't -
13 - if there is no intention for these four
14 states to site the facility, and I don't
15 think it would be economically viable to do
16 so, I don't understand what the reason for
17 the existence of the Compact is.

18 Therefore, you've got an entity
19 sitting there with now a lot of money
20 potentially. But the way to support it,
21 you are taking a very expensive process of
22 disposing of radioactive waste and
23 compounding that -- the difficulty of that
24 issue dramatically. As you know, if I ship
25 one drum of waste in a given year and

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1 nobody else in the state of Oklahoma ships,
2 I get a twenty-five thousand dollar
3 surcharge to go with my one drum of waste.
4 And the entire process, I think, is -- it
5 deserves a significant analysis as to
6 whether it's in Oklahoma's best interest to
7 remain a part of an entity that seems to
8 exist for no purpose.

9 MS. SHARP: And just so you know,
10 before the decision came down, the
11 settlement decision, we were thinking, at
12 least some of us, exactly like you're
13 thinking. Why have a Compact at that
14 point? And we weren't sure what the future
15 of the Compact would be. And as it's
16 evolved, now I see that our mission, I
17 think, is somewhat important to try to find
18 a secure disposal option elsewhere for the
19 generators in the four states.

20 MR. MACDURMON: It would seem to
21 me, though, that the ultimate issue of
22 radioactive waste disposal on a low level
23 will be driven by economics and not by
24 contracts with compacts. I mean, my sense
25 is that it will happen the way it's always

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1 happened. EnviroCare will have an economic
2 gain if we ship our waste there and they
3 will be glad to do business with the
4 generators in Oklahoma without having
5 another level of oversight in that process.

6 In other words, my fees are based on
7 a brokers fees to me, and that broker
8 negotiates fees for the use of that
9 facility. And so, you know, ultimately the
10 existence of the Compact has resulted in
11 extra costs. And, you know, if I wanted to
12 ship waste, I have to find out what the
13 Compact is needing and get my application
14 in and I get to pay the fee and it's -- I
15 will tell you that there have been times
16 when I have found out that Kerr McGee was
17 remediating its facilities and there was a
18 window of opportunity for me to get in on
19 their coattails, so to speak, as far as the
20 twenty-five thousand dollar fee. But I
21 didn't have the time to go through the
22 Compact process of getting an export fee
23 and getting the money together for an
24 export fee.

25 And so essentially I'm still trying

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1 to figure out if the Compact is not in
2 existence to site a facility, and I don't
3 think it should be, why it would be in our
4 interest to remain part of the Compact.

5 MS. SHARP: Just so you know,
6 Scott Thompson, our Director, one of the
7 first things he had us look into when it
8 became likely that we were going to settle,
9 was how to eliminate that twenty-five
10 thousand dollar fee. And it apparently is
11 stipulated in both federal and state law
12 during the formation of the Compact.
13 That's not something that we can change.
14 And -- because I'm like you. I don't think
15 it's necessary.

16 MR. MACDURMON: But I'm just -- I
17 am not going to ship radioactive waste if
18 anything is sitting there and essentially
19 what you're going to force generators to do
20 is to store waste indefinitely on their
21 site, which is not what you want.

22 MS. SHARP: Right. It's the
23 opposite of what we want. So we're
24 actually working on that issue a little
25 bit. I have a couple of ideas that are

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1 some of the possibilities on that issue.
2 Just so you know, that's the flip side.
3 Oklahoma's the only one -- we're not going
4 to get any sympathy from any other states
5 on that because we don't have the large
6 generators, as Mr. MacDurmon just said,
7 they share the burden of the fee. And so
8 the big -- you know, Nebraska or Arkansas,
9 Louisiana, they're absorbed by the major
10 generators, the twenty-five thousand fee is
11 not on their radar screen.

12 MR. MACDURMON: That's correct.

13 MS. SHARP: It's our problem. So
14 anyway, we have one or two ideas on that
15 and I totally understand your point.

16 MR. BRODERICK: The fee thing --
17 how it's allocated aside, I'm suggesting in
18 the short-term, at the very least, it's in
19 our interest to stay in the Compact, as
20 Catherine's talked about, there's a large
21 lump sum of money that's sort of on the
22 table right now of what happens to it. And
23 in my mind, if we want to maintain a voice
24 in what happens to that and make sure it's
25 (inaudible).

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1 MS. SHARP: Right. Right. So
2 for the time being, that's our stance. But
3 I have a couple of things I can talk to you
4 about without taking up everybody else's
5 time.

6 MR. MACDURMON: I would be
7 delighted.

8 MS. SHARP: But I understand
9 exactly what you're saying. We've agonized
10 over the same thing each year. I don't
11 like the fee. Other comments, questions?
12 Thank you for your time.

13 MS. JENNINGS: Thank you, Ms.
14 Sharp. Christy, how are you doing?

15 THE REPORTER: I'm fine. We're
16 at the end of our agenda.

17 MS. JENNINGS: Yeah, we're almost
18 -- okay.

19 THE REPORTER: I'm fine. Thank
20 you.

21 MS. JENNINGS: All right. Since
22 Dr. Gooden is not here, we won't have his
23 report. Is there any new business that was
24 not contemplated at the time of the
25 preparation of the agenda? We have

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1 announcements, Mr. McHard, about the forum.

2 MR. MCHARD: Yes, ma'am. I have
3 two announcements, basically. One is to
4 remind everybody in the room and certainly
5 the Council Members that are here, that we
6 have a special meeting of the Council
7 scheduled for December 8th, it's at the
8 Tulsa Technology Center Riverside. It's at
9 801 Northwest 91st Street in Tulsa. If
10 you're coming from the Turnpike from
11 Oklahoma City or from Clinton, Mr. Goucher,
12 it's very well signed out there. If you
13 just take that Turnpike entrance for the --
14 I believe it's called the Cimarron
15 Turnpike.

16 MS. BARTON: Creek.

17 MR. MCHARD: Creek, excuse me.
18 Wrong location. And it's very well signed,
19 as far as finding the place coming from the
20 west by the Turnpike. For those of you in
21 Tulsa, it is the one that's located
22 adjacent to the airport, the Riverside
23 Airport. And we will be in Room A1440,
24 it's the room that we met in previously. I
25 don't think anybody except Karen and Nadine

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1 have actually been in that room in previous
2 meetings.

3 That is a very important date and a
4 very important meeting because it will be a
5 rulemaking meeting where we will be
6 presenting to the Council for their
7 consideration for, I should say for its
8 consideration, the proposed rules that Mike
9 has given you information about today.

10 The second thing that I want to
11 announce is that we will have a forum
12 immediately immediately following the
13 adjournment of this Council Meeting
14 provided that there is anyone here who
15 wishes to take advantage of speaking or
16 asking a question during that forum. If
17 there is no one to do so, then the forum
18 will not be held.

19 We will probably be providing you
20 with a lot of information by mail. You
21 Council Members, with respect to the
22 December 8th meeting, please take notice
23 that it is a special meeting in the sense
24 that it was not previously scheduled. So
25 under the law it has to be called a special

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1 meeting. And it will be also a meeting
2 where we will set the two dates for our --
3 for the Council's meetings during calendar
4 year 2005. I will provide you with some
5 suggested dates that are clear of holidays
6 and other encumbrances at that meeting and
7 you can select the two dates that you wish
8 to meet.

9 MR. MACDURMON: Dale, which day
10 of the week is that December 8th meeting?

11 MR. MCHARD: It's on a Wednesday.
12 Is there a conflict?

13 MR. MACDURMON: I teach a course
14 on Wednesdays.

15 MR. MCHARD: Okay. Can I teach
16 your course so you can attend the Council
17 Meeting?

18 MR. MACDURMON: I don't think so.

19 MR. MCHARD: Okay. That's -- I'm
20 pretty sure it's on a Wednesday. Okay.

21 MS. BARTON: I have a question.
22 This special Council meeting that we're
23 having to pass these rules and regulations,
24 must we pass them by the end of the year in
25 order for them to be heard by the DEQ, in

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1 order for them to be signed and put into
2 effect, Mike?

3 MR. BRODERICK: We're under
4 something of a deadline for the Part 35.
5 We really want that to be passed by then
6 because we are, in order to try and not
7 have to pass Part 35 more than once to
8 accommodate the NRC's changes, we put it
9 off until the last minute.

10 MS. BARTON: Okay.

11 MR. BRODERICK: That avoided
12 multiple -- us multiple sessions, but it
13 pays that penalty and we really need to do
14 it at that meeting. Also, for the fees --
15 the proposed fees if you guys pass them, to
16 go into effect that year it would have to
17 be passed in December.

18 MR. MCHARD: An add-on to Mike's
19 answer is that the Council has to approve,
20 recommend to the Environmental Quality
21 Board those rule -- those proposed rules
22 that relate to fees or fee changes so that
23 that -- those proposed rules go before the
24 Board during its meeting during the
25 Legislative Session.

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1 And in that sense, there is a
2 certain deadline with respect to holding
3 this meeting in December and not holding
4 it, let's say, just to make up a date, next
5 June. Because the Legislature is only in
6 Session for a limited period of time and as
7 far as I know, I'll -- I'll ask Myrna if
8 she knows, but as far as I know, the
9 Environmental Quality Board is only
10 scheduled one meeting during the
11 Legislative Session. Do we know what that
12 date is, Myrna?

13 MS. BRUCE: March 4th.

14 MR. MCHARD: March 4th officially
15 will be the EQ Board meeting that will be
16 held during the Legislative Session.

17 MS. JENNINGS: Okay. Is there
18 any other --

19 MS. BRUCE: I'll add, for your
20 interest, that the Board meetings for 2005
21 are March 4th, June 21st in Watonga, August
22 23rd in Pryor, and November the 15th in
23 Braman, Oklahoma.

24 MS. BARTON: He got it again in
25 Braman.

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1 MS. JENNINGS: And where's the
2 June or the March 4th meeting?

3 MS. BRUCE: Here in this room.

4 MS. JENNINGS: Okay. Are there
5 any other comments, questions? Do I have a
6 motion for adjournment?

7 MS. BARTON: I make the motion
8 that the Radiation Council adjourn.

9 MR. MACDURMON: Second.

10 MS. JENNINGS: It has been moved
11 and seconded to adjourn the meeting. Do we
12 need a roll call vote for that?

13 MS. BRUCE: Mr. Buettel.

14 MR. BUETTEL: Yes.

15 MS. BRUCE: Mr. Goucher.

16 MR. GOUCHER: Yes.

17 MS. BRUCE: Ms. Barton.

18 MS. BARTON: Yes.

19 MS. BRUCE: Ms. Jennings.

20 MS. JENNINGS: Yes.

21 MS. BRUCE: Mr. MacDurmon.

22 MR. MACDURMON: Yes.

23 MS. BRUCE: We are adjourned.

24 MS. JENNINGS: Okay. We are
25 adjourned. Thank you.

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1 END OF PROCEEDINGS

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