

DRAFT MINUTES SOLD WASTE MANAGEMENT ADVISORY COUNCIL OCTOBER 10,2002

**Department of Environmental Quality
Multipurpose Room 707 N. Robinson Oklahoma City Oklahoma**

Draft for EQBoard November 14,2002
For SWMAC approval January 30, 2003

Notice of Public Meeting – The Solid Waste Management Advisory Council convened for its regular meeting at 9: 15 a.m., October 10, 2002, in accordance with the Open Meeting Act, Section 311 of Title 25 of the Oklahoma Statutes. Notice of regularly scheduled Council meetings was filed at the Office of the Secretary of State and Agendas were posted on the entrance doors at the DEQ Central Office in Oklahoma City at least twenty-four hours prior to the meeting.

Mr. Purdy called the meeting to order and acknowledged Mr. Mason and Mr. Johnson from the Environmental Quality Board. A quorum was confirmed.

MEMBERS PRESENT

Ken Purdy
Casey Elliott
Steve Landers
Jeff Shepherd
Jay Stout
Bill Tometen

DEQ STAFF PRESENT

Scott Thompson
Catherine Sharp
Jon Roberts
Shirley Brown
Sonny Johnson
Mista Turner
Martha Penisten
Myrna Bruce

MEMBERS ABSENT

David Griesel
Guy Hylton
Ralph Triplett

OTHERS PRESENT

Sign-in sheet is attached as an official part of these Minutes.

Approval of Minutes – Mr. Purdy called agenda item number 3, Approval of Minutes of the April 18, 2002 Regular Meeting. Hearing no discussion, Chairman Purdy called for a motion to approve the Minutes as presented. Mr. Stout made the motion and second was made by Mr. Shepherd.

Roll call.

Casey Elliott Yes
Steve Landers Yes
Jeff Shepherd Yes

Jay Stout Yes
Bill Tometen Yes
Ken Purdy Yes

Motion carried.

Public Forum – No issues raised.

Rulemaking – OAC252:520 Solid Waste Management – Staff member, Jon Roberts, advised that at the April meeting, Council passed emergency amendments to OAC 252:520 with expectation of the need to pass more emergency amendments at the October meeting based on legislative actions late in the session. The Legislature did pass two bills, SB1406 and HB 2151, that affected the Tire Rules in OAC 252:520. Mr. Roberts pointed out the places in the Chapter 520 rules where those proposed changes would be reflected. In summary, the amendments dealt with use of waste tires in river

bank stabilization or other approved conservation projects and waste tire baling plans. Mr. Roberts fielded questions from the Council and addressed their concerns. Mr. Roberts requested emergency adoption of these amendments stating that the permanent adoption would be a part of the new Chapter 515 rules. Chairman Purdy called for a motion to approve the amendments as presented for emergency adoption. Mr. Shepherd made the motion. Mr. Stout made the second.

Roll call.

Casey Elliott Yes
Steve Landers Yes
Jeff Shepherd Yes

Jay Stout Yes
Bill Tometen Yes
Ken Purdy Yes
Motion carried.

Discussion of Revisions to OAC 252:515 – Again Mr. Jon Roberts represented the staff stating that at its April 18 meeting, Council passed the draft rules for OAC 252:515. Because SB 1406 and HB 2151 affected some of the rules in OAC 252:515, the Environmental Quality Board, at its June 25, 2002 meeting, continued rulemaking so that necessary changes to the waste tire rules could be incorporated. Mr. Roberts identified the revisions that were necessary to respond to those legislative actions. He added that on July 11, 2002, the EP A published a direct final rule amending the Federal Municipal Landfill Rules dealing with location restrictions near airports, with a planned effective date of October 9, 2002. Staff wanted to incorporate those amendments into Chapter 515. Mr. Roberts referred to the portion of the language that dealt with location restrictions for municipal landfills within six miles of public airports. He noted that the federal statute does not apply to any municipal landfills currently in existence in Oklahoma; but would affect any new municipal landfills. Mr. Roberts advised the Council that EP A withdrew the direct final rule a few days prior to the meeting and is now undergoing EP A's formal rulemaking process. He also noted that although EP A withdrew their proposed revisions, that does not change the fact that the federal statute still applies.

To clarify the proposed revisions to Chapter 515, Mr. Roberts referred to his document titled "Proposed Revisions to OAC 252:,515" which identified all of the changes. Mr. Roberts then introduced Mista Turner, staff attorney, who fielded questions regarding suggested revisions to OAC 252:515-3-2(a)(2).

Mr. Roberts reminded Council that because Chapter 515 was already in front of the Board, no formal rulemaking action was needed, but staff felt it would be beneficial for the Board to have the Council's concurrence that these changes were appropriate. Following discussion and comments from the Council and audience, Mr. Purdy entertained a motion in agreement with the recommendations as presented to reflect the consensus of the Council. Mr. Torneten made the motion and Mr. Landers made the second.

Roll call.

Casey Elliott Yes
Steve Landers Yes
Jeff Shepherd Yes

Jay Stout Yes
Bill Tometen Yes
Ken Purdy Yes
Motion carried.

Discussion of Solid Waste Program Fees/Expenditures – Mr. Fenton Rood advised that program fees and program expenditures are to be submitted to the Executive

Director, Governor, and Legislature by November 1 of each year. He referred Council to a report setting forth these items and fielded questions. Mr. Purdy noted that again Council had been presented with a Resolution to be adopted and forwarded to the Legislature. Mr. Stout made a motion to approve the proposed resolution and Mr. Shepherd made the second.

Roll call.

Casey Elliott Yes
Steve Landers Yes
Jeff Shepherd Yes

Jay Stout Yes
Bill Tometen Yes
Ken Purdy Yes
Motion carried.

Guidance Document Summary – Mr. Purdy called agenda item #6 for discussion. At its April 18, 2002, meeting, members of the Council agreed to develop a guidance document regarding protective cover permeability for leachate collection systems. Mr. Torneten advised that they had met with an expert in the landfill industry from the University of Wisconsin Extension Center to discuss the pros and cons of this issue. The consensus of that meeting was that not much formal research had been done. In the absence of any actual evidence that shows leachate breakout problems or other problems associated with use of lower permeability soil materials in the protective layer of the liner system, the recommendation was that each cell design and corresponding liner application be considered for approval based on the technical merits and the engineering calculations that support that design. There was more discussion concerning the need for the committee to go forth with putting a guidance document in written form to be evaluated by Council, industry, and staff. Suggestions were made as to what the document should address. Mr. Purdy requested that the agenda item be carried forward to the next Council meeting with an opportunity for discussion and to take action on any proposal that gets on the table.

New Business - None.

Public Forum continued – Issues were raised concerning the economic life of the disposal facilities. It was felt that excellent points were discussed and that they should be considered further. Mr. Purdy asked that this issue be an agenda item for the next regular meeting for discussion and possible modification at a subsequent date.

Election of Officers for 2003 – Mr. Purdy opened stating that it had been his pleasure to serve as Chair. Mr. Torneten nominated Ken Purdy to remain as Chair and Mr. Stout made the second.

Roll call.

Casey Elliott Yes
Steve Landers Yes
Jeff Shepherd Yes

Jay Stout Yes
Bill Tometen Yes
Ken Purdy Yes
Motion carried.

For Vice-Chair, Mr. Stout nominated Bill Torneten and Mr. Landers made the second.

Roll call.

Casey Elliott Yes
Steve Landers Yes
Jeff Shepherd Yes

Jay Stout Yes
Bill Tometen Yes
Ken Purdy Yes
Motion carried.

Setting of Dates and Times for 2003 Council Meetings – Discussion regarding the 2003 Calendar led to motion by Mr. Shepherd to approve dates and locations for January 30 in Oklahoma City; April 17 in Tulsa; July 24 in Piedmont; October 16 in Woodward. Mr. Elliott made the second.

Adjournment – Meeting adjourned by unanimous action.

A copy of the hearing transcripts are attached and made an official part of these Minutes.

DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF OKLAHOMA

TRANSCRIPT OF PROCEEDINGS
OF THE REGULARLY SCHEDULED MEETING
OF THE SOLID WASTE MANAGEMENT
ADVISORY COUNCIL

ITEM NO.5

HELD ON OCTOBER 10, 2002

AT 9:00 A.M.

AT 707 NORTH ROBINSON

OKLAHOMA CITY, OKLAHOMA

REPORTED BY: CHRISTY A. MYERS, CSR

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1

2 COUNCIL MEMBERS

3 Casey Elliott

4 Steve Landers

5 Jeff Shepherd

6 Jay Stout

7 Bill Tometen

8 Ken Purdy, Chairman

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10 STAFF MEMBERS

11 Myrna Bruce

12 Shirley Brown

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2 PROCEEDINGS

3 MR. PURDY: Good morning. This

4 regularly scheduled meeting of the Solid

5 Waste Management Advisory Council is being

6 convened in accordance with the notice of

7 regularly scheduled Council meetings on

8 file at the Office of the Secretary of

9 State, as required by the Open Meeting Act,

10 Section 311 of Title 25 of the Oklahoma

11 Statutes. This notice was filed with the

12 Secretary of State by December 15th, 2001.

13 The agenda for this meeting was

14 posted on the doors of the Oklahoma

15 Department of Environmental Quality, 707

16 North Robinson, right here in Oklahoma

17 City, twenty-four hours prior to this

18 meeting in accordance with Section 311 of

19 the Open Meeting Act.

20 In the event that this meeting is

21 continued or reconvened, public notice of

22 the date and time and place of the

23 continued meeting will be given by

24 announcement at this meeting. And the

25 agenda for such continuation will remain

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1 the same as today's agenda.

2 MS. BROWN: Ken, I would like to
3 introduce Myrna Bruce. She will be calling
4 roll today.

5 MR. PURDY: Very good. Thank you
6 and welcome.

7 MS. BRUCE: Casey Elliott.

8 MR. ELLIOTT: Here.

9 MS. BRUCE: David Griesel. Guy
10 Hylton. Steve Landers.

11 MR. LANDERS: Here.

12 MS. BRUCE: Jeff Shepherd.

13 MR. SHEPHERD: Here.

14 MS. BRUCE: Jay Stout.

15 MR. STOUT: Here.

16 MS. BRUCE: Bill Tometen.

17 MR. TORNETEN: Here.

18 MS. BRUCE: Ralph Triplett. Ken
19 Purdy.

20 MR. PURDY: Present. We have a
21 quorum?

22 MS. BRUCE: We have a quorum.

23 MR. PURDY : Our first item of
24 business is approval of the Minutes of the
25 April 18, 2002 regular meeting that have

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1 MR. PURDY: There is a motion to
2 approve.

3 MR. SHEPHERD: Second.

4 MR. PURDY: And a second by Mr.
5 Shepherd. Any discussion? Hearing none,
6 all in favor?

7 BOARD MEMBERS: (Unanimously) Aye.

8 MR. PURDY: I'm sorry. We need a 9 roll call.

10, MR. PURDY: Motion by Mr. Stout
11 and Mr .Shepherd seconded.

12 MS. BRUCE: Casey Elliott.

13 MR. ELLIOTT: Yes.

14 MS. BRUCE: Steve Landers.

15 MR. LANDERS: Yes.

16 MS. BRUCE: Jeff Shepherd.

17 MR. SHEPHERD: Yes.

18 MS. BRUCE: Jay Stout.

19 MR. STOUT: Yes.

20 MS. BRUCE: Ken Purdy.

21 MR. PURDY: Yes.

22 MS. BRUCE: Bill Tometen.

23 MR. TORNETEN: Yes.

24 MS. BRUCE: Motion passed.

25 MR. PURDY: Thank you. The next

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1 item is our public forum that we have at
2 this time in the meeting. If there is
3 anyone who would like to address any issues
4 before the Council at this time, feel free
5 to do so.

6 If there are none, we will move
7 right on into Item 5, which is our
8 Rulemaking Hearing on OAC 252:520, Solid
9 Waste Management. Jon.

10 MR. ROBERTS: Good morning. As
11 you know, at the last Council meeting in
12 April, you all passed some emergency
13 amendments to OAC 252:520. And we had
14 mentioned at that time that there may be
15 some more emergency amendments that need to
16 be done at this Council meeting, based on
17 late changes – late legislative actions
18 late in the session that happened, that
19 would have happened too late to have been
20 taken care of at the last meeting.

21 Those did come through. The
22 Legislature passed two bills late in the
23 session that effect the Tire Rules in OAC
24 252:520.

25 And so, first, I would like to just

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1 kind of briefly summarize what those two
2 bills were and then show where in the 520's
3 that those – the changes or where we're
4 proposing the changes be made.

5 The first one was Senate Bill 1406.

6 It made three changes to the Waste Tire
7 Statutes. The first change was that it
8 completely eliminated a tire dealer's
9 ability to exempt out of the State Tire
10 Program and cease collecting the state
11 disposal --the dollar disposal fee for
12 tires.

13 Now, all tire dealers in the state
14 are required to collect a dollar per tire
15 fee whenever they sell a new tire,
16 regardless of whether the waste tires that
17 are generated from the sale of those new
18 tires are managed in Oklahoma or out of
19 state. They are still required to charge
20 the dollar fee to the customer .

21 There was no changes that were
22 needed in the 520's to implement that
23 particular statutory change.

24 The second change was – authorizes
25 entities that install river bank projects

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1 using waste tires to collect truck tires
2 from tire dealers on a statewide basis.
3 Whereas, car tires, that they use
4 them in river bank projects, would still
5 have to be obtained from tire dumps on the,
6 PCL.
7 Before the change went into effect,
8 the river bank project installers had to
9 get all of their tires from tire dumps
10 across the state. They weren't eligible to
11 get any tires from tire dealers. But now
12 they are able to get at least truck tires
13 from tire dealers, as long as they collect
14 those truck tires on a statewide basis.
15 And the third change was – has to
16 do with reimbursements for playground
17 surface material using waste tires. It
18 allows entities that are receiving those
19 reimbursements to both assign payment of
20 the reimbursement to the contractor, rather
21 than having to get the payment themselves
22 and then they are write the check to the
23 contractor, they could just go ahead and
24 directly assign the payment to the
25 contractor .

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1 And then it also allows them to make
2 an application for reimbursement at the
3 time that the contract is executed, rather
4 than waiting until they completed the
5 project before they can get reimbursed. No
6 changes in the Tire Rule are needed for
7 that one, also.
8 As far as the changes regarding the
9 river bank projects, if you'll look on your
10 520 Rules, the changes to implement that
11 are on page ten. That's 520-21-15(b)(c).
12 And those are the new rules that are
13 designed to implement those statutory
14 changes regarding the ability to pick up
15 the truck tires from tire dealers and still
16 requiring the car tires to come from tire
17 dumps.
18 And this particular bill went –I
19 can't remember exactly when it was signed
20 by the Governor but --or the exact date.

21 But anyway, it was signed by the Governor
22 in June --in June of this year.
23 Are there any questions about that
24 one before I go on to the next one?
25 MR. SHEPHERD: What happens if

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1 all the tire dumps are cleaned up?
2 MR. ROBERTS: We're still a long
3 ways from having all the tire dumps cleaned
4 up, so that's not a concern that we're
5 looking at as being imminent. Clearly,
6 there would have to be some statutory
7 changes made if the tire dumps were cleaned
8 up.
9 MR. PURDY: Well, one of --I
10 don't know what the proportion of --I
11 mean, I know that the number of tires from
12 the ten percent constituent of the program,
13 either comes from the tire dumps or the
14 community clean-up events, collection
15 events.
16 MR. ROBERTS: Right.
17 MR. PURDY: But most of those
18 have come from the tire dumps to this date;
19 is that a fair statement?
20 MR. ROBERTS: The biggest part of
21 that ten percent came from tire dumps.
22 MR. PURDY: I will tell you that
23 in working with some of the certified tire
24 processors, though, for doing the
25 community-wide collection events, that they

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1 are starting to get hungry and very
2 aggressive about servicing the community-
3 wide collection events.
4 And so I think an increasing
5 proportion of tires are going to be coming
6 from that source, as opposed to the dumps.
7 MR. ROBERTS: The second bill
8 that affected our 520's was House Bill 2151
9 and this is a bill with an effective date
10 of November 1st. So, actually, it hasn't
11 come into effect yet. But by the time
12 these rules are passed, assuming the
13 Council passes them and they are passed by
14 the Board and adopted by the Governor, this
15 statute will be in effect, and so the rules

16 will be timely in that manner .
17 House Bill 2151. One of the things
18 that it did was establish a certification
19 program for trash cops. And, of course,
20 there is no rule changes that we need to do
21 to implement that.
22 The one that deals with the tires is
23 a change from what the Legislature did in
24 the 2001 session. If you'll recall, the
25 rules that we passed at the April meeting

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1 implemented the statute that was passed in
2 200 I about tire – local governments who
3 want to use tires or bale tires in
4 engineering projects, had to have a permit
5 for those projects. And the rules that we
6 passed at the April meeting implemented
7 that requirement.
8 This particular bill changed the
9 permitting requirement to a plan
10 requirement, where – to eliminate the
11 whole Tier III permitting process and
12 everything that they would have to go
13 through to get a permit for their tire –
14 bale tire projects.
15 So, basically, what we've had to do
16 is take the emergency rules that we passed
17 last time, essentially scuttle those
18 regarding the tire baling permits, and then
19 re-write the 520 emergency rules to
20 incorporate, basically, the permitting
21 requirements, but turn it into a plan
22 rather than a permit.
23 And there were several changes
24 needed in the 520's to do that. 523-1.1(b)
25 on page one sets out the requirement where

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1 they don't have to have a permit, but they
2 do have to have a plan for those
3 engineering projects.
4 And then on page eleven, 521-20 and
5 21-21, basically spell out the requirements
6 of the tire baling plans and the
7 eligibility requirements, what they need to
8 do to be able to be reimbursed for the
9 tires that they use in those engineering
10 projects.
11 And, essentially, these are pretty
12 much the same as what the permitting
13 requirements were that we passed at the

14 last meeting, but just changing them over
15 to a plan requirement rather than
16 permitting requirements.
17 And if anybody has any questions on
18 those, I'll certainly try to answer them as
19 best I can.
20 MR. PURDY: I'm slightly confused
21 about the certification issue with regard
22 to the enforcement officers. Have you all
23 given any thought as to what that means in
24 terms of the certification program that DEQ
25 is tasked with developing?

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1 MR. ROBERTS: Is Catherine here?
2 Scott or Catherine, can one of you all help
3 maybe?
4 MR. THOMPSON: We probably want
5 to defer that question until we get Fenton
6 in the room, because he knows the most
7 about that. I'll see if I can track him
8 down.
9 MR. PURDY: I'm just curious as
10 to what it does. It's – I think what the
11 statute was doing is that it allows
12 individuals like you and I, who are not
13 cleet-certified peace officers, that have
14 the authority to go out and do an
15 investigation, but they can't do any real –
16 -they can't really do any enforcement,
17 because they are not peace officers.
18 MR. ROBERTS: Yeah. I don't know
19 for sure.
20 MR. PURDY: We'll wait for
21 Fenton. Any other questions for Jon?
22 MR. ROBERTS: That's all I've
23 got.
24 MR. PURDY: Okay. Do we need to
25 adopt these provisions?

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1 MR. ROBERTS: Yes. That's what
2 we would like the Council to do.
3 MR. PURDY: I'm sorry. Were
4 there any questions from the public?
5 MR. JERRY JOHNSTON: It says
6 certified officers in the Bill. I don't
7 know how certified you need to be.
8 MR. PURDY: Yes. Can we adopt
9 this all at once?
11 MR. STOUT: I was going to say,
11 procedurally, due to the fact that there is

12 an emergency as well as the regular, that's
13 what I was wondering, the very same thing,
14 whether we had to do it twice or –
15 MR. ROBERTS: Well, we're just
16 asking that these be approved by emergency.
17 MR. STOUT: All of it?
18 MR. ROBERTS: Yes. We're not
19 asking for a permanent adoption on these,
20 because we're anticipating that when the
21 515' s pass, assuming that they will pass,
22 that there will be no more 520's.
23 MR. STOUT: Okay.
24 UNIDENTIFIED: Jon. Fenton is
25 here.

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1 MR. PURDY: I was asking a
2 question, Fenton, about the intention of
3 the statute regarding the certification of
4 –Jerry, help me out. What did it say
5 there again?
6 MR. JERRY JOHNSTON: Police
7 officers.
8 MR. PURDY: Certification of the
9 officers. Am I interpreting that
10 correctly, that what this is doing will be
11 allowing private individuals who are not
12 cleet-certified peace officers in the
13 state, it provides that – maybe a staff
14 member of a solid waste department at the
15 county or other level?
16 MR. ROOD: The objective of
17 county commissioners in pushing that was
18 that they are going to have to go through
19 regional districts that they are
20 establishing, that will be routinely
21 inspecting bridges, inspecting roads, and
22 in the places where we normally have
23 dumping problems.
24 And so their goal was to say let's
25 have that person also gather the evidence

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1 on the illegal dumping.
2 MR. PURDY: Okay.
3 MR. ROOD: Now, in terms of the
4 certification process, my thinking was that
5 we would do it in the same course that we
6 teach the trash cops, that the Solid Waste
7 Institute has traditionally sponsored.
8 MR. PURDY: Then that, in effect,
9 helps put more eyes out in the field?

10 MR. ROOD: That's certainly the
11 goal.
12 MR. PURDY: Yes.
13 MR. ROOD: Now, my recommendation
14 to everybody who has been interested in
15 trying to use it is, first and foremost,
16 talk to your local District Attorney.
17 Because if the District Attorney won't use
18 the evidence, then there is no point in
19 pursuing it.
20 MR. PURDY: I understand. Good.
21 Thank you. We have proposals before us. I
22 think that we were requested to act on them
23 all at once in their entirety.
24 So at this time, are there any other
25 questions by the Council on the proposals

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1 to the emergency adoption on the 520's? If
2 not, let's have a roll call vote, please.
3 MR. STEVE MASON: I have a
4 question.
5 MR. STOUT: There is no motion.
6 MR. PURDY: I'm sorry. Yes.
7 MR. STEVE MASON: If I could?
8 MR. PURDY: Yes, go ahead, Steve.
9 MR. STEVE MASON: I realize we're
10 passing these as emergency, confident that
11 515's will pass and become permanent next
12 June. But just knowing how things
13 sometimes happen, those things don't get
14 done. Would it not make sense to pass them
15 also as permanent, just in case these other
16 rules don't happen by next June?
17 MR. SONNY JOHNSON: The permanent
18 ones have already been revoked – before
19 the Board, to be revoked. So if we pass
20 them as permanent, then it attaches on to
21 the revoke. I say already –they've been
22 presented to the Board to be revoked and we
23 anticipate that they will be revoked at the
24 same time of passage of the 515's.
25 MR. MASON: Okay. Thank you,

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1 sir.
2 MR. PURDY: And I'm glad there
3 are others up here to keep me honest. We
4 are not nearly ready for a roll call vote,
5 because we don't even have a motion on the
6 floor yet for adoption of these.

7 I think that's probably the first
8 order of business. Thank you, Mr .Stout.
9 Is there a motion to approve?
10 MR. SHEPHERD: I make a motion to
11 approve.
12 MR. PURDY: Mr. Shepherd moves to
13 approve.
14 MR. STOUT: I'll second.
15 MR. PURDY: And Mr. Stout seconds
16 the motion. Any other discussion? Hearing
17 none, now may we have a roll call vote,
18 please?
19 MS. BRUCE: Casey Elliott.
20 MR. ELLIOTT: Yes.
21 MS. BRUCE: Steve Landers.
22 MR. LANDERS: Yes.
23 MS. BRUCE: Jeff Shepherd.
24 MR. SHEPHERD: Yes.
25 MS. BRUCE: Jay Stout.

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1 MR. STOUT: Yes.
2 MS. BRUCE: Bill Torneten.
3 MR. TORNETEN: Yes.
4 MS. BRUCE: Ken Purdy.
5 MR. PURDY: Yes. Motion
6 approved.
7 (End of Proceedings)
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2 CERTIFICATE

3 STATE OF OKLAHOMA ss: COUNTY OF OKLAHOMA

5 I, CHRISTY A. MYERS, Certified

6 Shorthand Reporter in and for the State of

7 Oklahoma, do hereby certify that the above a

8 proceedings is the truth, the whole truth,

9 and nothing but the truth, in the case

10 aforesaid; that the foregoing proceedings

11 were taken by me in shorthand and

12 thereafter transcribed under my direction;

13 that said proceedings were taken on the

14 10th day of October, 2002, at Oklahoma

15 City, Oklahoma; and that I am neither

16 attorney for nor relative of any of said

17 parties, nor otherwise interested in said le action.

19 IN WITNESS WHEREOF, I have hereunto

20 set my hand and official seal on this, the

21 20th day of October, 2002. 22

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

24 Certificate No.00310 24

25 25

DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF OKLAHOMA

TRANSCRIPT OF PROCEEDINGS
OF THE REGULARLY SCHEDULED MEETING OF THE SOLID WASTE MANAGEMENT
ADVISORY COUNCIL

Item No.6

OAC 252:510 AND 252:515

HELD ON OCTOBER 10, 2002

AT 9:00 A. M.

AT 707 NORTH ROBINSON

OKLAHOMA CITY, OKLAHOMA

REPORTED BY: CHRISTY A. MYERS, C.S.R.

Page 2

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2 COUNCIL MEMBERS

3

4 Casey Elliott

5 Steve Landers

6 Jeff Shepherd

7 Jay Stout

8 Bill Torneten

9 Ken Purdy, Chainnan

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11 ST AFF MEMBERS

12 Myrna Bruce

13 Shirley Brown

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3 PROCEEDINGS

4 MR. PURDY: Before we go into the

5 next item, I'm always backing up and

6 needing to take care of some of the

7 amenities, I guess, of the meeting. And I

8 would like to acknowledge Mr. Mason and Mr.

9 Johnston from the Solid Waste --or from

10 the DEQ Board, for being here again today.

11 We appreciate that.

12 And, also, I don't know who brought

13 the donuts in --was that EMI this morning?

14 BOB: Yes, sir.

15 MR. PURDY: I suspected as much.

16 Bob, as always, thank you, very much, for

17 the refreshments.

18 Our next item is revisions to the 19515. Jon.

20 MR. ROBERTS: Okay. This one is

21 kind of a complicated one. As you know, at

22 the April Council meeting, you all passed

23 the proposed new rules 252:515 that's going

24 to combine the 520's and the 510's into a

25 single set of rules.

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1 Those rules were presented to the
2 Board at their June meeting. And at that
3 meeting, because we anticipated these two
4 changes to the Tire Law, we have asked the
5 Board at that meeting to postpone any
6 rulemaking action on the 520's or the 515's
7 to their meeting next month to allow us to:
8 be able to incorporate these two new
9 statutory changes in the Tire Law into the
10 515's that were not part of the 515's when
11 you all approved them in April.
12 The Board did go ahead and continue
13 the 515's to their meeting next month and I
14 they didn't take any action on those at
15 their June meeting.
16 Since these two Senate bills or
17 these two Tire Bills were passed, EPA –
18 there were some other changes that we felt
19 needed to be incorporated into 515's, also.
20 One was on July II, 2002, the EP A
21 passed a direct final rule to amend the
22 location restrictions in the Federal
23 Municipal Landfill Rules dealing with
24 location restrictions near airports. And
25 the effective date on that was October 9th

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1 of this year.
2 And so we also wanted to amend the
3 515's to incorporate that –at least
4 language similar to what the EP A passed.
5 But then it turns out EPA, in their
6 infinite wisdom, keeps everything totally
7 confused for everybody, they withdrew their
8 direct final rule just a few days ago.
9 That particular rule that I'm referring to
10 has to do with location restrictions for
11 municipal landfills within six miles of
12 public airports. And if a new municipal
13 landfill it proposed to be –this is based
14 on the federal statute that was passed,
15 prohibiting new municipal landfills within
16 six miles of certain types of public
17 airports that are identified in the
18 statute.
19 That federal statute does not apply
20 to any municipal landfills currently in
21 existence in Oklahoma, so it doesn't affect
22 any of our existing municipal landfills.
23 But it would affect any new municipal

24 landfills that decided they want to get
25 permitted from whatever the implementation

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1 date was of that federal statute.
2 But like I said, EP A withdrew their
3 proposed revision to the Federal Municipal
4 Landfill Rules, but that doesn't change the
5 fact that the federal statute still
6 applies, even though there isn't an EPA
7 rule to take care of that.
8 What you --what I tried to do to
9 hopefully make this thing --make it all
10 clearer for you all, was in this document
11 titled "Proposed Revisions to OAC 252:515",
12 I went through and identified all of the
13 changes that needed to be made in the 515's
14 that you passed at the April meeting, to
15 incorporate both Senate Bill 1406 and House
16 Bil12151 to the two Tire Statutes, the
17 direct final rule that was passed by EPA,
18 and then, also, I had provided you with a
19 couple of letters after we had sent out the
20 initial Council package on a couple of
21 other minor changes that we thought were
22 needed in the 515's.
23 In the September 6th letter to you
24 all, I identified what I felt to be a very
25 minor change to 515-13-33(a), which deals

Page 7

1 with the drainage layer and the protective
2 layer deal on the leachate collection
3 system that we had finally got approved at
4 the Council meeting.
5 Basically, just some very minor
6 wording changes that I thought would help
7 clarify what the intent of the --what the
8 Council passed at the April 18th meeting.
9 And then, also, our Environmental
10 Complaints and Local Services Division had
11 identified a request for a change in the
12 515's to 3-2(a)(2), which I provided to you
13 all in a September 27th, 2002 letter, what
14 they were proposing to change --how they
15 were proposing that that particular rule be
16 changed.
17 And Mista Turner, who is the ECLS
18 attorney, is here to discuss that
19 particular change with you all if you have
20 any specific questions about why they were
21 asking for that change to be made.

22 Now, if I can go back to the
23 proposed revisions to OAC 252:515, in the
24 left hand column on the table, basically
25 identifies all the changes to the 515' s

Page 8

1 that are included in this –in the thick
2 packet that you have with you.

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1 And then the right-hand column
2 identifies the reasons for those changes.
3 And these are the changes that are in here
4 based on –from what you approved at the
5 April Council meeting.

6 And what we are asking the Council
7 to do today is, since the rules are already
8 in front of the Board, there is no formal
9 rulemaking action that needs to be taken by
10 the Council on these, but we would –we
11 believe that it would be beneficial for the
12 Board to at least have the Council's
13 concurrence that these changes would be
14 appropriate when we take them in front of
15 the Board next month. Is that clear as
16 mud?

17 MR. PURDY: I know which way
18 we've been headed with this. But I've just
19 always scratched my head a little bit about

20 why we don't have to take any official
21 action on the modifications as we would on
22 any other rule. Even though it's standing
23 –even though the Council hasn't addressed
24 it yet –I mean, the Board hasn't
25 addressed it yet. What's going on there?

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1 MR. SONNY JOHNSON: Well, you
2 have already sent a packet to the Board
3 with your recommendation for approval. So
4 the rulemaking action is now before the
5 Board legally. That is, with all the
6 public notices that have been given, that
7 is the next due process hearing date, is
8 that Board meeting.
9 So the –and the Board is the
10 regulatory authority on passing rule
11 changes. You recommend to the Board, it's
12 up to the Board to accept, adopt, change,
13 remand, make a final decision.
14 So these changes are what the DEQ is
15 going to recommend to the Board, to
16 incorporate some changes. So the DEQ staff
17 wanted to get the Council's concurrence
18 that these are, in fact, a good thing so it
19 has the weight of the Council to present to
20 the Board saying this, is a good thing and
21 we recommend that you, the Board, make
22 those changes. Clear as mud again?
23 MR. PURDY: Thanks.
24 MR. JOHNSON: It's part of the
25 overall rulemaking process, all this

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1 rulemaking –that's the rulemaking notice
2 that I think is in the packet, sets out
3 the dates that we have public comment. In
4 that rulemaking process, it's already
5 passed the Council. So the only official
6 rulemaking process to be made is before the
7 Board.
8 MR. LANDERS: So any proposal
9 before the Board can have changes made to
10 it without Council approval?
11 MR. SONNY JOHNSON: That's
12 correct. The Board, on its own, can make
13 any changes they desire, which they did
14 when the 515's were presented. They made
15 some changes to the 515's at that time.
16 MR. PURDY: So the staff is going
17 to recommend these changes and we're asking

18 for concurrence by the Council as a
19 procedural matter so that we don't have to
20 pull –
21 MR. JERRY JOHNSTON: The Board
22 wants your input.
23 MR. PURDY: Absolutely,
24 understood. Just procedurally, it's the
25 efficient mechanism that allows that set of

Page 12

1 rules to continue to go forward for
2 discussion and decision making by the
3 Board. Got it.
4 MR. SHEPHERD: The Board can
5 either adopt these changes regardless of
6 our concurrence or not.
7 MR. SONNY JOHNSON: That's right.
8 But I think it would be a great comfort to
9 the Board if the Council recommends those
10 changes.
11 MR. JERRY JOHNSTON: That's for
12 sure.
13 MR. PURDY: I am curious about
14 the issue with the household waste and the
15 definition and the problem that that's
16 causing. There could be some further –
17 MR. ROBERTS: This is Mista
18 Turner, and she will explain it all to you.
19 MS. TURNER: I'll try. When you
20 –which two chapters is first?
21 MR. ROBERTS: The 510's and 22 520's.
23 MS. TURNER: When 510 and 520
24 merged, I believe 510 had a definition for
25 household waste. And it was used

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1 specifically for subsections in the back.
2 And really, when you think about household
3 waste, you think about it as domestic waste
4 is kind of what they're defining domestic
5 waste. You can understand why it applies –
6 why it was applying in 510.
7 But when they merged it into one
8 chapter, there was this particular section,
9 which is 3-2 in Chapter 520 that also was
10 using the term household waste without a
11 definition.
12 But once you merged it, as it's
13 written right now, it says, disposal sites
14 used by persons for disposal of their own
15 household waste can basically be dumped on
16 their own land and you don't have to have a

17 permit.

18 But if you go up to the definition
19 of this in 510, it's not what was intended
20 by the statute. You don't want septage
21 from an RV on parks and stuff like that.
22 That wasn't a household waste. So there is
23 kind of a conflict.
24 So in order to get rid of the
25 conflict, we made several suggestions but

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1 all decided the easiest thing to do would
2 be to actually just mirror what the statute
3 says. Say solid waste from his or her
4 household, that way you're not
5 automatically, by default, referring up to
6 the definition of household waste.

7 MR. PURDY: Okay. But –and I guess my
8 only confusion is, that doesn't create any
9 confusion with the existence of the
10 definition of household waste as it would
11 stand in the 515's?

12 MS. TURNER: No, no. Once you
13 change it to say solid waste from his or
14 her household, you're not using the term of
15 art household waste anymore.

16 MR. PURDY: Okay.

17 MS. TURNER: So you can get
18 around it. That's not –I think
19 eventually some day maybe it would be
20 easier if we changed it to refer to the –
21 changed that definition to domestic waste,
22 but it was just too complicated. And this
23 way I think you can sufficiently get away
24 from that term. That's it. It's just kind
25 of a minor thing, but because I do all of

Page 15

1 the enforcement on it, it is a little
2 (inaudible).

3 MR. PURDY: Well, when you use
4 the phrase, term of art, I presume that's a
5 legal issue and that –

6 MS. TURNER: Yes.

7 MR. PURDY: Those are separate
8 deals, the definition of household waste
9 and the definition of household or the
10 usage of the term "household"?

11 MS. TURNER: Yes. What I'm going
12 to do is if people try to argue with the
13 term household waste, I'm going to say, no,
14 look in the dictionary under the term

15 "household".

16 MR. PURDY: Yes.

17 MS. TURNER: And try to get
18 around it. But that's why.

19 MR. PURDY: Thank you.

20 MR. ROBERTS: And I don't know if
21 you want to focus on it very much or not,
22 on page three of the proposed revisions to
23 515, you know, the top box there reflects
24 the changes that we had intended to make to
25 the 515's to make our language somewhat

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1 mirror more closely what the EPA's language
2 was on the airport issue.

3 But like I said, EP A has now
4 retracted that particular rule. And, you
5 know, at this point in time, it probably
6 wouldn't make any difference one way or the
7 other if we kept the original language that.

8 we had in the 515's, that the Rules
9 Development Committee came up with, to
10 implement that statutory change or that
11 federal change, or if we went ahead and
12 just kept EPA's --the resemblance to EPA's,
13 proposed language, even though they
14 retracted it.

15 MR. PURDY: Is there any insight
16 as to where they're headed?

17 MR. ROBERTS: There will — I
18 presume there will be a rule that will
19 probably be somewhat similar to the rule
20 that they retracted. They — when they
21 published notice for their direct final
22 rule, they said that they would retract —
23 they would retract it if they got any
24 adverse comments to the rule. And
25 apparently they got at least one adverse

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1 comment, although I don't know what it was.

2 But the federal statute that the
3 rule was based on is pretty clear, so I
4 don't see that there can be a whole lot of
5 difference between what EP A had proposed
6 and what the final rule was ultimately
7 going to come out to be after it goes
8 through their formal rulemaking process,
9 which is basically what it's doing now.

10 MR. PURDY: So there is some
11 reason to believe there wouldn't be an
12 awful lot of changes that would —that we
13 might need to make further down the stream,

14 if we left the wording as it was proposed
15 to be adapted to their rule change,
16 previously, in place?
17 MR. ROBERTS: Yes. I can't see
18 why there would be any significant changes.
19 MR. SHEPHERD: How can we have –
20 how would that affect somebody trying to do
21 a permit of a landfill? There is a federal
22 statute, but no rule.
23 MR. ROBERTS: They would still
24 have to comply with the federal –they
25 would still have to comply with the

Page 18

1 statutes whether there is a rule in place
2 or not, so they would have to work it into
3 their permit application somehow.
4 MR. SHEPHERD: Okay.
5 MR. ROBERTS: It's still the law,
6 even if there isn't a specific rule that
7 says that they have to do it.
8 MR. JERRY JOHNSTON: Is the law
9 five miles or six miles?
10 MR. ROBERTS: This particular one
11 is a six miles. Now there is two airport
12 restrictions. There is a five mile limit
13 and a six mile limit.
14 The five mile limit applies to
15 basically all the existing municipal
16 landfills.
17 And the six mile limit will apply
18 only to new municipal landfills that aren't
19 under construction as of yet. Expansions
20 of existing landfills that would go into a
21 six mile radius would not be effected by
22 this six mile rule. It only applies to
23 brand-new landfills.
24 MR. LANDERS: Jon, how is the –
25 how is the proposal of the Rules

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1 Development Committee different from this?
2 It seems like this is one of those items
3 that took a while to hash through, but
4 we're not going to use it.
5 MR. ROBERTS: Well, basically,
6 the federal statute talks about airports
7 that receive federal grant funds served by
8 general aviation aircraft and scheduled
9 flights of aircraft for sixty passengers or
10 less. That's in the federal statutes.

11 And the way we had incorporated that
12 and that is explained in this FAA Advisory
13 circular, published in August of 2000. And
14 so just by incorporating that, the
15 requirements of that advisory circular into
16 what the –when the Rules Development
17 Committee came up with the rule, that by
18 inference brought in those federal
19 requirements.
20 The EP A rule actually came out and
21 discussed specifically, you know, the
22 federal grants, the scheduled flights of
23 sixty passengers or less, et cetera. And
24 so we, in making this change, I just tried
25 to mirror more closely what the federal EPA

Page 20

1 rule is going to say in this and make it
2 more explicit than what we had in the –in
3 our proposed rule that the Rules Committee
4 came up with. But the effect of them is
5 going to be the same.

6 So that's why I said it really
7 doesn't make any difference one way or the
8 other, whether we just keep with what the
9 Rules Committee came up with or if we go
10 ahead and adopt the similar language that
11 EPA had, even though they retracted it,
12 it's not going to have the –

13 MR. LANDERS: No one has
14 commented on that?

15 MR. ROBERTS: No.

16 MR. PURDY: Any other questions?
17 Mark.

18 MR. ADAMS: I'm Mark Adams with
19 Waste Connections. I want to just make
20 sure I clearly understand the definition
21 here on the –in the airport rules on new
22 land disposal facilities, I think it is – I
23 think it's somewhat clarified in the
24 preceding sections on airports, but if a
25 landfill owner/operator were to expand

Page 21

1 their permit boundary so they have a newly
2 expanded permit boundary as part of a
3 lateral expansion, is that newly expanded
4 permit boundary considered as an expansion
5 or is that expanded portion actually
6 considered as a new land disposal facility?

7 MR. ROBERTS: That expansion is
8 an expansion and is not subject to a six
9 mile.

10 MR. ADAMS: Okay.

11 MR. ROBERTS: The six miles only
12 applies to a brand-new landfills that never
13 had a permit before.

14 MR. ADAMS: What if that
15 expansion were a non-contiguous expansion,
16 but it still holds the same permit number?

17 MR. TORNETEN: I don't think that
18 can be considered a lateral expansion if it
19 wasn't contiguous with the existing
20 landfill.

21 MR. ROBERTS: That's a good
22 question. I'm not sure, to be honest with
23 you. I think that it's pretty clear what
24 the federal statute is – I mean, it's very
25 clear that it applies to new, never before

Page 22

1 permitted landfills.
2 If it's a non-contiguous expansion
3 that would maintain the same permit number,
4 that would probably be subject to, I guess,
5 some interpretation.

6 MR. ADAMS: There are several
7 landfills in the state that have non –
8 contiguous disposal areas and so that's why
9 I'm bringing up that question. The ones
10 that I'm familiar with, this actually
11 doesn't apply, but it's a scenario, it's a
12 real scenario.

13 MR. ROBERTS: I don't have a good
14 answer for you, Mark. I'm sorry.

15 MR. ADAMS: Can I get one?

16 MR. ROBERTS: Anybody got one? I
17 can give you an answer, I don't know how
18 good it will be. Do you have a feeling for
19 that?

20 MR. SONNY JOHNSON: I think Bill
21 hit it directly that if it's – if you
22 tried – made application to the DEQ for
23 expansion of a permitted area that's not
24 contiguous with an existing permit, I don't
25 think the DEQ would look favorably on that

Page 23

1 being an expansion, a lateral expansion of
2 the landfill. It would need a new permit.

3 And I think there is language in this
4 circular that says this only applies to
5 facilities that have not yet been
6 constructed or permitted. There is
7 specific language to that.

8 MR. PURDY: Further questions?

9 MR. LANDERS: I just have one

10 other real minor comment. It looks like in

11 your proposed revisions at the bottom of

12 page one, very bottom, present to –it

13 looks like EOB.

14 MR. ROBERTS: That's EQB. That

15 was a change that the Board passed at their

16 June meeting. And what I wanted to do with

17 this was, you know, I give you a package of

18 this new 515, but basically what I wanted

19 to do with this was just to identify all

20 the changes that were in here that were not

21 (inaudible).

22 MR. LANDERS: It looks like an O,

23 I just wondered if it was a typo.

24 MR. ROBERTS: Well, it could be a

25 typo, but it's supposed to be a Q.

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1 MR. LANDERS: Okay.

2 MR. ROBERTS: So if it is an O,

3 I'll change it to a Q.

4 MR. LANDERS: Jon, I don't have

5 any questions on these proposed revisions,

6 but I did have a couple of questions on the

7 515's as they were written here –

8 MR. ROBERTS: Okay.

9 MR. TORNETEN: -- that you might

10 be able to clarify. 515-11-35on page

11 ninety-four – or, excuse me, forty-four.

12 MR. ROBERTS: 11 dash –

13 MR. TORNETEN: 35. Construction.

14 It says internal side slopes of disposal

15 areas to be lined with an FML must be no

16 steeper than three to one unless slope

17 stability calculations can support an

18 alternative design.

19 And then on 11-55, which is page

20 forty-four, we go on to say under slope

21 stability that the maximum grade of any

22 surface on which any FML is to be installed

23 shall be determined by slope stability

24 analysis, it's like we've contradicted

25 ourselves.

Page 25

1 In one area, we say you can use a

2 three-to-one without a slope stability

3 analysis. And then on the next – on

4 forty-four, we say that you have to have a

5 slope stability analysis, period. Am I

6 missing something?

7 MR. ROBERTS: Can you tell me

8 again where that first one is?

9 MR. TORNETEN: 11-35.

10 MR. ROBERTS: 11-35.

11 MR. TORNETEN: Page forty-two.

12 MR. ROBERTS: It would appear to

13 be kind of a contradiction there, wouldn't

14 it?

15 MR. TORNETEN: Well, yes, it

16 would appear that in one paragraph we're

17 saying, as long as it's three-to-one, you

18 do not have to support it with slope

19 stability calculations. But then we go on

20 in 55 and say, you do.

21 MR. PURDY: Well, but it says –

22 I guess what I'm picking up on, the 55 deal

23 is the term maximum. It says – and maybe

24 I'm misreading this. But in 11- 35 it says

25 that it must be no steeper than three-to

Page 26

1 one, unless slope stability.

2 And then you get over to 11-55 and

3 it says maximum grade of any surface shall

4 be determined by the slope stability

5 analysis. Is that an attempt to say that,

6 you know, you can have three-to-one but you

7 can't exceed that unless you do the slope

8 stability analysis. And then 11-55 is just

9 trying to reiterate that, the maximum –

10 the maximum grade beyond three-to-one.

11 MR. TORNETEN: Yes, but it

12 doesn't say that. It just says the maximum

13 grade of any surface.

14 MR. PURDY: Any surface.

15 MR. TORNETEN: Shall be

16 determined by slope stability analysis.

17 MR. SONNY JOHNSON: Not that I am

18 an engineer, but if this is helpful, the 34

19 is under the Part 3 of the reconstructive

20 clay liners and the other one is under

21 flexible membrane liners.

22 MR. TORNETEN: Right.

23 MR. SONNY JOHNSON: So, I don't

24 know if that's –

25 MR. TORNETEN: But they still

Page 27

1 both apply.

2 MR. SONNY JOHNSON: I know

3 (inaudible).

4 MR. ADAMS: Bill, I think it's

5 possible for the state to approve an

6 alternate liner system that has no FML

7 component in it.

8 And so I think what 55 is calling

9 out is if you have a design that has an FML

10 in it, which is not necessarily every case,

11 but in that particular case you would be

12 doing – basically you're going to be doing

13 the slope stability analysis.

14 But you may have a liner system

15 going up the slope that doesn't actually

16 have an FML component in it at all, it may

17 be four feet of clay as an alternate liner

18 system.

19 MR. TORNETEN: Yes, but this

20 says, the way it's worded, it says the

21 internal side slopes of the disposal areas

22 to be lined with an FML. So it's clearly

23 talking about liner systems that have FML

24 in them.

25 The reason I'm trying to clarify it

Page 28

1 is, in terms of submitting an application

2 for approval of a design, we need to know

3 whether or not we have to do slope

4 stability or not.

5 And in one instance it says, as long

6 as you use the three-to-one, you do not

7 have to do slope stability. But then in

9 that.

10 I mean, I guess you could argue one

11 is talking about a side slope and one is

12 talking about the surface on which the FML

13 is to be installed but, in fact, they are

14 one and the same.

15 MR. ROBERTS: I see –I

16 certainly see what your concern is.

17 MR. STOUT: Wouldn't it be simple

18 enough to, on the second one, to put slopes

19 anticipated in excess of?

20 MR. PURDY: That's what I was

21 thinking.

22 MR. TORNETEN: Yes, I think you

23 could change them so that the language

24 reads the same and eliminate the conflict.

25 I'm just not sure there was an intent there

Page 29

1 that we're not seeing

2 MR. PURDY: What was the

3 suggestion, Bill?

4 MR. TORNETEN: Just to change the
5 wording in 55 to be consistent.

6 MR. ELLIOTT: (Unintelligible) on
7 55 at the end of the sentence, if steeper
8 than three-to-one.

9 MR. PURDY: Yes. Or possibly at
10 the very beginning.

11 MR. TORNETEN: I don't know. Are
12 there any design folks from the Department
13 here, but unless they had an objection to
14 allowing three-to-ones without slope
15 stability calculations, then that would be
16 the easy fix, is just change 55 to agree
17 with 53 – I mean, 35.

18 MR. ROBERTS: Well, I don't
19 personally – it seems to me like they
20 ought to be the same.

21 MR. TORNETEN: Should we add that
22 language at the end of 11-55, then?
23 Actually, to be consistent, it should
24 probably read "for maximum grades of any
25 surface – maximum grades steeper than

Page 30

1 three-to-one".

2 MR. ADAMS: Bill, I think we need
3 to be a little careful, because there may
4 not – generally, what you put in a side
5 slope is a textured FML, but it's possible
6 that they may want to put a smooth side
7 slope that is less steep than three-to-one

8 but would have potentially some pretty
9 significant slope stability issues. But it
10 doesn't differentiate here between smooth
11 and textured.

12 MR. TORNETEN: Right. The other
13 side of that is to take out the allowance
14 of three-to-one in 35, although routinely I
15 know applications have been approved
16 without slope stability analysis, if you
17 submit them three-to-one.

18 MR. ROBERTS: If you like,
19 because I'm certainly no expert on these
20 engineering things, I could – we could
21 take a ten minute break or something, I
22 could run upstairs and get one of our
23 permitting guys, hopefully one of them is
24 here, that could maybe shed a little bit
25 more light on why the difference between

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1 the two.

2 MR. TORNETEN: All right.

3 MR. ROBERTS: If there was any
4 intention to have them different, between
5 the two.

6 MR. TORNETEN: Okay.

7 MR. ROBERTS: It may have been just
8 one of those things that was overlooked.

9 MR. PURDY: Let's do that. I was
10 going to ask that we do that after this
11 item, anyway. Are we okay with that?

12 MR. TORNETEN: Yes, that would be
13 fine.

14 MR. PURDY: Let's go ahead, if
15 there is no objection, let's – the Chair
16 would ask for a ten minute break while we
17 pull other resources together here.

18 (Short break)

19 MR. PURDY: Jon, you have the
20 floor still.

21 MR. ROBERTS: Okay. I talked to
22 Wes Squires, who is one of our permitting
23 engineers. Come up here, Wes, just in case
24 there is some more questions.

25 And I think to resolve the question

Page 32

1 that Bill had, DEQ doesn't intend in any
2 circumstances to have a slope stability
3 analysis done unless the slopes are steeper
4 than three-to-one.

5 MR. SQUIRES: That's correct.

6 MR. ROBERTS: Is that correct?

7 Okay. So we think that we can just do away:
8 with 11-55 altogether. And, of course,
9 we'll have to re-number all the sections
10 after that, which is no big deal. And then
11 just let 11- 35(a), on page 42, stand alone.

12 MR. SQUIRES: I think, as most
13 engineers would agree, it be prudent that
14 you did one but, no, not really required.

15 If everything slides downhill, it's kind of
16 up to the owner/operator anyway.

17 MR. TORNETEN: Well, I think you
18 all still have the discretion to look at,
19 you know, what's submitted and I think if
20 it wasn't a textured liner, I think that
21 would be something you would want to, you
22 know, ask about.

23 MR. SQUIRES: Right.

24 MR. TORNETEN: It sounds like a
25 fix to me.

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1 MR. SHEPHERD: So you're going to
2 strike 11-55 totally, is that what you're
3 saying?

4 MR. ROBERTS: Strike that one
5 totally and then re-number the sections
6 after that, appropriately. That would be
7 our proposal to take to the Board.

8 MR. LANDERS: Does it have any
9 bearing, if one falls under – as someone
10 brought up a minute ago, one falls under
11 Part 5 FML and the other falls under
12 reconstructive clay, does that have any –

13 MR. ROBERTS: Not really, you
14 know, Part 3 is a reconstructive clay liner
15 requirement. And all we're saying on 11-
16 35(a) is, if you're going to put an FML on
17 your reconstructive clay, however you've
18 got it, then you're going to have bigger
19 slope stability if it's more than three-to-
20 one. This wouldn't apply if you're just
21 going to have a clay lined landfill like C
22 and P landfills.

23 MR. LANDERS: Okay.

24 MR. SONNY JOHNSON: Is that going
25 to leave a void then with the reconstructed

Page 34

1 –I mean, with the FML section?

2 MR. TORNETEN: No, it shouldn't.

3 I mean, you've addressed the fact that the
4 slope on which you're going to put the FML
5 can't be greater than three-to-one without
6 stability .

7 MR. SONNY JOHNSON: So that
8 doesn't go to the FML itself, it's the
9 undergrade?

10 MR. TORNETEN: Right.

11 MR. SONNY JOHNSON: Okay.

12 MR. PURDY: Bill, do you have a
13 couple of more questions?

14 MR. TORNETEN: I had one on 515-
15 27-8(b). That's at the bottom of page
16 seventy-seven.

17 Paragraph one there, you say that
18 for existing landfills, the remaining areas
19 of waste disposal, according to the formula
20 in paragraph (a)(2), shall be determined
21 based on scale records for the previous
22 twelve months. That works.

23 But then you go on to say that the

24 density of the waste D and P, the
25 anticipated percentage of volume shall be

Page 35

1 based on the previous year's actual

2 operations.

3 There is a lot of landfills that

4 don't have the data that you would need to

5 calculate D, the density, based on actual

6 operations. They don't do annual surveys.

7 If they don't go out there and do some kind

8 of density testing or something on that

9 order, they're not going to have that

10 information.

11 MR. PURDY: Does the definition

12 of D, though, say that it must not be more

13 than a thousand pounds per cubic yards if

14 they don't have the operational history?

15 MR. TORNETEN: Well, no, it says

16 for new landfills where you don't have an

17 operational history , it says that. But

18 then for existing landfills it says, shall

19 be determined based on the previous year's

20 actual operations.

21 MR. PURDY: I see. I see.

22 MR. TORNETEN: My idea of a fix

23 there might be to change that to say that

24 alternative values for those used in the

25 Paragraph (a) calculation may be used for D

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1 and P if such values can be documented

2 based on previous years operations. You

3 can give them the option. They can either

4 use the maximum value that you specify up

5 in Paragraph (a), or they can recalculate L-

6 it based on actual operations.

7 MR. ROBERTS: Couldn't we just:

8 delete that line altogether and then by

9 default defer back up to what P and D, were

10 above which is either twenty percent –P,

11 would be either twenty percent unless you

12 can document it, otherwise D would be a

13 thousand pounds unless you can document

14 otherwise?

15 MR. TORNETEN: Yes, that would

16 work, too. You could just take it out all

17 together, I guess. I think it's good to

18 leave the --the fact that the W should be

19 calculated based on previous records,

20 because they're not necessarily going to

21 have those. Yes, that would probably –

22 that's an even easier fix. Just take that
23 last sentence out.
24 Up above in that same 27-8, I've
25 struggled a number of occasions with this

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1 term, "on the area to be initially
2 permitted for waste disposal". I'm still
3 not clear on what that means, "approved for
4 disposal". We've come across this a number
5 of times. Is there a definition of
6 approved for disposal somewhere or?
7 MR. ROBERTS: No, that's just the
8 area which you have if – it's gone through
9 all of the, you know, the permitting
10 process and everything and you've done the
11 design work and then submitted the drawings
12 and calculations and everything to show
13 that it was constructed properly. And then
14 DEQ gives the okay to start disposing in
15 that area. That's what approved for waste
16 disposal means.
17 MR. TORNETEN: So it would not
18 include – if you had a landfill permit
19 that specified a height restriction or a
20 height limit, it wouldn't include anything
21 above that?
22 MR. ROBERTS: That would be
23 correct.
24 MR. TORNETEN: So in order to get
25 that airspace included, you would have to

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1 get a permit mod for it?
2 MR. ROBERTS: Right.
3 MR. TORNETEN: How about for
4 permit applications, and this is done
5 typically where you' II have a whole series
6 of future new cells that are to be
7 included, you may have a half a dozen new
8 cells that are identified, but you only
9 have approval to build one cell at a time.
10 You've only submitted a permit application
11 for a particular new cell.
12 The others are still, you know, in
13 the permitted area, but they don't have the
14 new cell permit mod approved yet. Would
15 you be able to use those other cells or?
16 MR. ROBERTS: Just use the one
17 cell.
18 MR. TORNETEN: Okay. That's your
19 interpretation.

20 MR. ROBERTS: Yes.
21 MR. TORNETEN: Okay. That's not
22 consistent with what's being done, but
23 okay. So if it hasn't literally been
24 approved to receive waste, then it can't be
25 included in that permitted area.

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1 MR. ROBERTS: Right.
2 MR. TORNETEN: Okay. That's all.
3 That's all I've got.
4 MR. PURDY: Any other questions
5 or comments? So we have a proposal for
6 revisions to 252:515 that consist of those
7 delineated on the prepared seven page
8 document that was submitted to each of us
9 and, as well as, modification to 515-11-55,
10 which would be basically a deletion. And
11 the modification that we just discussed on
12 27-8(b)(I).
13 MR. ROBERTS: Just delete the
14 last sentence.
15 MR. PURDY: Delete the last
16 sentence on that. This is – since we
17 don't have an official rulemaking, but we
18 are being asked for consensus by the staff
19 on these proposed changes that would be
20 presented to the Board.
21 MR. ROBERTS: Plus –
22 MR. PURDY: Yes.
23 MR. ROBERTS: --the recommended
24 changes in our September 6th and September
25 27th, 2002, letters.

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1 MR. PURDY: Recommended changes
2 on the --oh, yes, okay, you're right. Got
3 it. Did you all catch that? Plus the
4 changes on the September 27th and the 6th
5 letters dealing one with definition of
6 household waste and the protective – the
7 liquid head on the protective layers.
8 I think that I would like to ask for
9 a motion from the Council to agree in
10 agreement with the recommendation of these
11 changes, even though we are not in official
12 rulemaking, just to reflect the consensus /
13 of the Council.
14 Chair will entertain a motion.
15 MR. TORNETEN: Motion to approve.
16 MR. PURDY: Motion to approve by
17 Mr. Torneten. Is there a second?
18 MR. LANDERS: Second.

19 MR. PURDY: And a second by Mr.
20 Landers. Any further discussion? Hearing
21 none, Myrna, will you please call the roll?
22 MS. BRUCE: Casey Elliott.
23 MR. ELLIOTT: Yes.
24 MS. BRUCE: Steve Landers.
25 MR. LANDERS: Yes.

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1 MS. BRUCE: Jeff Shepherd.
2 MR. SHEPHERD: Yes.
3 MS. BRUCE: Jay Stout.
4 MR. STOUT: Yes.
5 MS. BRUCE: Bill Torneten.
6 MR. TORNETEN: Yes.
7 MS. BRUCE: Ken Purdy.
8 MR. PURDY: Yes. You have a
9 consensus, I think. Thank you all, very
10 much.
11 (End of Proceedings)
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1
2 CERTIFICATE
3 STATE OF OKLAHOMA ss: 4 COUNTY OF OKLAHOMA
5 I, CHRISTY A. MYERS, Certified
6 Shorthand Reporter in and for the State of:
7 Oklahoma, do hereby certify that the above
8 proceedings is the truth, the whole truth,
9 and nothing but the truth, in the case
10 Aforesaid; that the foregoing proceedings
11 were taken by me in shorthand and
12 there after transcribed under my direction;
13 that said proceedings were taken on the
14 10th day of: October, 2002, at Oklahoma
15 City, Oklahoma; and that I am neither
16 attorney for nor relative of: any of: said

17 parties, nor otherwise interested in said
18 action.

19 IN WITNESS WHEREOF, I have hereunto
20 set my hand and official seal on this, the
21 28th day of: October, 2002. 22

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

23 Certificate No.00310 24

25

—

DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF OKLAHOMA

TRANSCRIPT OF PROCEEDINGS
OF THE REGULARLY SCHEDULED MEETING
OF THE SOLID WASTE MANAGEMENT ADVISORY COUNCIL

ITEM NO.7

HELD ON OCTOBER 10, 2002

AT 9:00 A. M.

AT 707 NORTH ROBINSON

OKLAHOMA CITY, OKLAHOMA

REPORTED BY: CHRISTY A. MYERS, C.S.R.

DEQ -SOLID WASTE MEETING

Page 2

- 1
- 2 COUNCIL MEMBERS
- 3
- 4 Casey Elliott
- 5 Steve Landers
- 6 Jeff Shepherd
- 7 Jay Stout
- 8 Bill Torneten
- 9 Ken Purdy, Chainnan
- 10

11 STAFF MEMBERS

- 12 Myrna Bruce
- 13 Shirley Brown
- 14
- 15
- 16
- 17
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Page 3

- 1
- 2 PROCEEDINGS
- 3 MR. PURDY: Our next item is Item
- 4 7, discussion of the Solid Waste Program
- 5 fees and expenditures. Fenton, I believe
- 6 this is your presentation.
- 7 MR. ROOD: Does everybody have
- 8 the form in front of you that provides the
- 9 number? I think it' s all pretty
- 10 straightforward. Do you have particular
- 11 questions that you want me to address?
- 12 MR. PURDY: Questions, comments?
- 13 We're being presented with basically the
- 14 same resolution as we've adopted for the
- 15 last couple of years.
- 16 MR. SHEPHERD: Is this saying
- 17 that we're eight hundred fifty-five
- 18 thousand under your budget, revenue 4.8,
- 19 expenses 3.2?

20 MR. ROOD: We budgeted less than
21 we took in and we spent less than we
22 budgeted. Now –
23 MR. SHEPHERD: Where did that
24 surplus go?
25 MR. ROOD: --you should –okay.

Page 4

1 Good question. You do need to be aware
2 that there is one other significant expense
3 that is not shown on this report, and that
4 is a fifteen percent assessment for
5 indirect costs. And that amount would be ...
6 six hundred and fifty-three thousand, four
7 hundred and forty-eight.

8 And then, where did the rest go? It
9 was carried over in a balance for this
10 fiscal year of eight hundred and thirteen
11 thousand. Since this is fee money, it
12 continually revolves in the fund.

13 MR. SHEPHERD: Some day you'll be
14 able to –It sounds to me you're still –
15 you're carrying over eight hundred and
16 something thousand dollars. How many years
17 in a row now have we carried over money?

18 MR. ROOD: Well, this last fiscal
19 year and this current fiscal year, we were
20 deliberately very conservative based on
21 hard financial times throughout the state
22 government.

23 If you'll recall, in the past, we've
24 actually had a number of years where we
25 spent more than that year's annual income

Page 5

1 because we had accrued monies from previous
2 years. We pretty well spent that surplus.
3 And any accrual, like this eight hundred
4 and thirteen, is coming from our current
5 deliberate conservatism.

6 MR. SHEPHERD: Well, does this
7 accrual of eight hundred and thirteen
8 thousand, does that leave it open for
9 somebody to take?

10 MR. ROOD: I guess, in theory, it
11 can always be raided. And that's been one
12 of our concerns in the past. By the same
13 token, we also feel like we have a duty to
14 be prudent.

15 MR. SHEPHERD: I understand that.
16 But I would hate to leave it out there for
17 somebody to raid and to –

18 MR. ROOD: I understand.
19 MR. PURDY: What is Caldwell
20 Environmental Associates? Seventy-two
21 fifty.
22 MR. ROOD: That would have been,
23 I believe, the state contract to pick up
24 abandoned waste. Normally, that's budgeted
25 for serious hazardous waste, but I think in

Page 6

1 this particular instance it turned out to
2 be non-hazardous.
3 MR. SHEPHERD: Then what's this
4 payment to ASCOG?
5 MR. ROOD: That's the Association
6 of South Central Oklahoma Governments.
7 That is the land restoration program for
8 southwestern Oklahoma.
9 In other aspects, though, land
10 restoration, we typically contracted with
11 conservation districts, like the Oklahoma
12 County Conservation District.
13 In Southwestern Oklahoma, all the
14 conservation district leaders also sit on
15 the ASCOG Board, so they asked us to work
16 through the broader organization.
17 MR. PURDY: Okay. Is there any
18 insight as to how fruitful the request of
19 the Legislature may be this year, with
20 regard to appropriations for promoting
21 improvements in county solid waste
22 programs?
23 MR. ROOD: Well, we're making the
24 same request for appropriations this year
25 that we made last year. And in the solid

Page 7

1 waste arena, that is exclusively for
2 projects that we would fund the local
3 governments for cleaning up illegal dumps,
4 more trash cops, all the types of programs
5 that we've traditionally worked on.
6 I think it's fair to say that of all
7 the things that we requested money for last
8 year, that was the most popular among the
9 legislators, but we were unsuccessful last
10 year. And it seems to me that we're
11 looking at even harder times –
12 MR. PURDY: I think so.
13 MR. ROOD: --this year. So I'm

14 not that optimistic.

15 MR. PURDY: I think it's an

16 important message to continue to convey in
17 the resolution. I'm glad to see it there.

18 I wish it were more –there were more of a

19 possibility of it. Real funds may be

20 generated at some point in time to help get

21 some of those efforts off the ground.

22 MR. ELLIOTT: Previously, this

23 was brought up before, but by action of the

24 Legislature that DEQ provide some of the

25 major funding to the Oklahoma City and

Page 8

1

2 City and County Health Department. Is that

3 still that way?

4 MR. ROOD: It is still that way

5 and it is broken out specifically on your

6 report.

7 Now, understand that it's not to the

8 Health Department directly. It is to

9 support the people who previously worked

10 for those organizations in an environmental

11 function that were transferred to DEQ to do

12 environmental work.

13 MR. ELLIOTT: Okay.

14 MR. ROOD: And I would also note

15 that we have diligently worked to reduce

16 that amount. If you will recall, the

17 original amount that they were taking was a

18 million dollars.

19 MR. ELLIOTT: Right.

20 MR. PURDY: Any further questions

21 by the Council? Anyone in the audience

22 have any questions?

23 MR. mRRY JOHNSTON: Just a

24 statement. It's going to be a tough year.

25 This is one of the healthiest of

Page 9

1 departments. When you get into air and

2 water, there are so many things coming down

3 that there is no funding for, that it's

4 just scary .

5 MR. SHEPHERD: Which makes it all :

6 –

7 MR. JERRY JOHNSTON: Huh?

8 MR. SHEPHERD: -- which makes it

9 all a reason to raid the surplus, I think.

10 MR. JERRY JOHNSTON: Yes. But

11 maybe if it doesn't show up, they won't

12 find it or something. I don't know. In a
13 lot of other departments there is nothing
14 there to raid, I'll tell you.
15 MR. PURDY: Yes. Well, but
16 hopefully –the Legislature only seems to
17 tweak its eyes, when it gets in the million
18 dollar-plus range, in the past. So maybe
19 by holding it slightly under they won't get
20 too interested.
21 MR. JERRY JOHNSTON: That's what
22 happens when you're frugal, sometimes it
23 helps.
24 MR. PURDY: That's right. The –
25 we have a resolution before the Council.

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1 Chair will entertain a motion to approve
2 the proposed resolution.
3 MR. STOUT: So moved.
4 MR. PURDY: Motion to approve.
5 Is there a second?
6 MR. SHEPHERD: Second.
7 MR. PURDY: Motion by Mr. Stout
8 and a second by Mr. Shepherd. Myrna, will
9 you please call roll?
10 MS. BRUCE: Casey Elliott.
11 MR. ELLIOTT: Yes.
12 MS. BRUCE: Steve Landers.
13 MR. LANDERS: Yes.
14 MS. BRUCE: Jeff Shepherd.
15 MR. SHEPHERD: Yes.
16 MS. BRUCE: Jay Stout.
17 MR. STOUT: Yes.
18 MS. BRUCE: Bill Torneten.
19 MR. TORNETEN: Yes.
20 MS. BRUCE: Ken Purdy.
21 MR. PURDY: Yes.
22 MS. BRUCE: Motion approved.
23 MR. PURDY: Thank you.
24 Guidance Document Summary .This is
25 the document that three or four of you, I

Page 11

1 believe, Mr. Torneten, Mr. Shepherd, I
2 believe Mr. Landers?
3 MR. LANDERS: No.
4 MR. PURDY: No? Bill and Jeff.
5 MR. TORNETEN: Primarily. By way
6 of summary, Jeff did a little bit of
7 research, I did a little bit of research,
8 and I think Wes Squires was heavily
9 involved in this issue and he also did a

10 little research.

11 The three of us met with a gentleman
12 from the University of Wisconsin extension
13 center, a fellow by the name of Phillip
14 O'Leary, who is kind of a recognized expert
15 in the landfill industry, and discussed
16 this issue, pros and cons and, you know,
17 what was out there that he had heard of.
18 And the consensus of that meeting
19 was that there really isn't much in the way
20 of evidence to address this subject.
21 Research has not really been done that any
22 of us knew of and that we could find.
23 I think everybody at the meeting,
24 Wes included, agreed that it would be nice
25 if we could convince somebody to sponsor

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1 some research and maybe that's the kind of
2 project we could use some of our surplus
3 monies for. Wes thought it might be a good
4 idea if we could convince one of the major
5 landfill companies to do a little bit of
6 research on the subject. I
7 But I think, based on that meeting :
8 and some of the conversations that I've had
9 with Jeff, our consensus was that in the
10 absence of any actual evidence that shows
11 leachate breakout problems or other
12 problems associated with these lower
13 permeability soil materials in the
14 protective layer of the liner system, that
15 it would be our recommendation that each
16 cell design and corresponding liner
17 application be considered for approval,
18 based on the technical merits and the
19 engineering calculations that support that
20 design, which is really pretty much the
21 situation now.
22 We just didn't feel like there was
23 information out there that would say, this
24 is what you need to do as a hard and fast
25 rule.

Page 13

1 In most cases that's going to point
2 to a help-model analysis, which is what is
3 frequently done now. And at our meeting,
4 I think everybody agreed the help-model is
5 not a perfect tool, it's got some flaws,
6 but it's still probably one of the better
7 tools that's widely used and accepted and
8 it's probably, until something better comes

9 along, going to be the tool that's used for
10 modeling liner systems.

11 So really it's not really a
12 solution. We're still kind of putting it
13 back in the hands of the Department to
14 review every application as it comes in,
15 based on its own merits. By and large, we
16 just didn't find a whole lot of information
17 out there.

18 MR. SHEPHERD: I think that we
19 would just maybe like to have a little bit
20 more thought by the Department given to
21 individual designs. Sometimes they look at
22 it and they just automatically say, no,
23 it's not going to work versus looking at
24 the engineering and looking at how it's set
25 up and what the future possibilities are.

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1 They just sometimes are automatically
2 saying no.
3 The rule is pretty –says it shall
4 maintain less than twelve inches of head.
5 I think that any numerous types of
6 materials can accomplish that. And the –
7 sometimes the staff doesn't take that into
8 account. So we have to come to some sort
9 of an agreement on that and that's the
10 difficult part.

11 MR. TORNETEN: Well, I think the
12 technical standard that applies is what the
13 Department is still going to be looking at,
14 and that's that the cell design submittal
15 must include a demonstration, that the
16 proposed liner design, including the
17 protective layer, will meet the performance
18 standard in 252:515-13-31, and that's the
19 one for the head standard.

20 To the extent that the design meets
21 that standard and provides documentation,
22 then I think, you know, it's kind of hard
23 to deny it.

24 The Department certainly may still
25 have concerns and, you know, if there's

Page 15

1 questions, I think they should raise those.

2 But by and large, that's the only standard

3 that I think we can point to.

4 MR. PURDY: Okay. Mr. Stout.
5 MR. STOUT: I was not able to
6 attend this July meeting because I was out
7 of state, but I did meet with the industry
8 separately and the DEQ staff separately.
9 And I got the impression of both of
10 them wanting us to establish something,
11 especially the industry .Because I think I
12 understood them to say that right now DEQ
13 doesn't even follow what's on the books.
14 So it would be nice for all parties
15 involved to know what they're doing.
16 It was also the consensus of what
17 you reported with this person you met with
18 in July, that there is nothing out there
19 yet to prove what would be the best way to
20 go.
21 But you've got to start somewhere,
22 so let's start. Let's not throw it back to
23 the DEQ to let them decide on a case, by
24 case, basis. Everything else in the rules
25 are specified. I think we need to go

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1 forward on this, as well. And I think –
2 of course, that's been a while since I met
3 with both sides. I think they could come
4 to a consensus on how to do this. I don't
5 want to give the numbers just yet, because
6 it's been a while. I need to reconfirm
7 both sides, but I think both sides are.
8 wanting something to take place.
9 MR. TORNETEN: Well, I think the
10 standard is there. I mean, I think at the
11 same time you have to allow some
12 flexibility for any kind of new or
13 innovative design that's submitted, but the
14 standard is there.
15 You have to make this demonstration
16 that you won't – that your design will not
17 result in more than one foot of head on the
18 liner system and that's the standard.
19 That's what you have to meet. Your
20 submittal has to support that.
21 Now, I don't think we can put
22 anything in writing that says, and this is
23 how you support it. I mean, there is
24 different tools out there, there is
25 different models, there is, you know, there

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1 is different ways of – I think the

2 equations are pretty much the same, but
3 there is different ways you can estimate
4 the head on the liner system.
5 But by and large, I think any valid
6 calculation that's done and submitted, I
7 think the Department is going to give it a
8 fair review. I know the cell design
9 submittals I have personally submitted have
10 gotten a fair and valid review on the part
11 of the Department. And unless there was
12 some, you know, over bearing reason as to
13 why it couldn't be approved, I think
14 they've approved it.
15 MR. PURDY: So where's the rub?
16 They just --there's a general --
17 MR. TORNETEN: Well, there's been
18 some inconsistency.
19 MR. PURDY: --consensus they
20 won't consider the --
21 that the staff won't
22 consider --
23 MR. TORNETEN: There has been
24 some inconsistency in the past, as far as
25 submittals. Some submittals have been
26 approved and some have been denied. So

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1 really it's been a case of there hasn't
2 been a lot of consistency in it.
3 MR. STOUT: I'm not going to put
4 it as well as you did, but when you were
5 talking about the head, which to me means
6 the overflow.
7 MR. TORNETEN: Well, it really
8 isn't an overflow. It is literally the
9 amount of leachate that would pond on top
10 of the liner system.
11 MR. STOUT: Oh, okay. I got the
12 impression from just discussing that with
13 the staff that there is -- they don't
14 anticipate anything is going to work for a
15 long period of time.
16 MR. TORNETEN: And they may be
17 right. There is legitimate concerns and --
18 but like we were saying, there is no
19 research that points to, you know, when
20 this is a specific problem and that any
21 particular design will result in a problem.
22 There are legitimate concerns
23 associated with clogging and leachate
24 breakouts. These are definitely legitimate
25 concerns. We just don't have information

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1 that allows you to, you know, make a hard
2 and fast rule about what the permeability
3 of this protective layer needs to be to
4 prevent those things from happening.
5 We don't know what's going to happen
6 to the permeability of a certain material
7 over time. We know in a lot of cases it's
8 –clogging has been a problem and it's
9 greatly reduced the permeability of the
10 protective layer. That's happened and it's
11 been a problem irrespective of what kind of
12 material you put in there, you know, and we
13 debated that.
14 I think Wes's concern was there is
15 evidence to show that even if you put a
16 real permeable material, a sand or a
17 granule material in the protective layer,
18 that over time, due to clogging, the
19 permeability can be greatly reduced.
20 At the same time, if you use a lower
21 permeability material, you're not going to
22 have quite the same potential for a
23 reduction in permeability that you would
24 with a granule material, because it's a
25 tighter material. And there is also design

Page 20

1 things that you can do to help prevent
2 clogging and I think those need to be part
3 of your submittal. That's part of your
4 demonstration of your design. What are you
5 going to do to prevent clogging. I think
6 that needs to be addressed in the .
7 application and that's the sort of thing
8 the Department is looking for in a cell
9 design submittal. You know, these are
10 potential problems, how does this design
11 address those. And I'm not sure that we
12 can improve on that based on the
13 information that we have.
14 MR. STOUT: Since this was for
15 discussion this time, what do we do about
16 our recommended document?
17 MR. PURDY: I don't think we have
18 any authorization under this agenda to take
19 any action.
20 MR. STOUT: No, I didn't mean
21 that. But I –
22 MR. PURDY: Okay. What we can

23 do, I think, are allowed --I think I know
24 where you are headed --is that we can
25 continue to engage in this discussion and

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1 work with the staff and move towards that
2 document if you think there is one that's
3 achievable.

4 MR. STOUT: Well, I think what
5 needs to be done, otherwise we're going to
6 sit here and spin our wheels forever, is
7 something like he suggested be put in
8 written form for everyone to see and
9 evaluate. And if there is a different mind
10 set, that be put in writing and then we can
11 make a decision. Until we get something in
12 writing, we're going to sit here and debate
13 all --forever.

14 MR. PURDY: Well, I guess my
15 reaction is that I think that's --the
16 charge of the Committee that you sit on, is
17 that you have the ability to do that, as a
18 Committee, to put that together in writing
19 and bring it back and have it presented for
20 discussion, you know, with --work it out
21 with the staff even before you get here but
22 then have it presented for discussion at
23 this level and adopt it as a guidance
24 document.

25 MR. STOUT: The ideal situation

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1 is to work with both sides of the house, so
2 that they both know. And when we get to
3 the point to approve, we're not in a three
4 hour debate.

5 MR. PURDY: Agreed.

6 MR. TORNETEN: I'm not sure if
7 we're ever really going to come to a
8 consensus, there is just more or less a
9 difference of opinion. And I know,
10 probably rightly so, the Department would
11 prefer to err on the conservative side
12 whereas industry, for the most part, does
13 not want to be bound by a restriction
14 that's going to cost them a lot of money if
15 there is no real evidence of a problem.
16 So you've got kind of two schools of
17 thought on the subject out here and they're

18 probably – about all they're going to do
19 is agree to disagree. We're not going to
20 get a consensus from those two groups. I
21 don't know a way around that. I think
22 other than the approach we've taken to this
23 point is, we could offer up – I don't
24 know, you could call it a guidance
25 document, but we could offer up, you know,

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1 a policy statement.
2 But by and large, that's, I think,
3 what the Department is bound by now is the
4 demonstration that whatever the liner
5 design is, that it's supported and that it
6 meets the standard. That's what they're
7 bound to.
8 MR. PURDY: Well – yes.
9 MR. SELF: Dale Self, with Allied
10 Waste.
11 MR. PURDY: State your name
12 again, please, sir.
13 MR. SELF: Dale Self, with Allied
14 Waste.
15 MR. PURDY: Thank you.
16 MR. SELF: Are we looking for –
17 you basically decided there wasn't enough
18 information or study presented to you guys
19 at your meeting with Jeff and yourself to
20 determine if you could use less permeable
21 materials in the protective cover; is that
22 correct?
23 MR. TORNETEN: No. What we
24 didn't find was any evidence that showed
25 there's a specific problem associated with

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1 using lower permeable materials in the
2 protective layer. That's what we're
3 looking for. If you use, you know, lower
4 permeable material in this layer, does it
5 result in leachate breakout or is it going
6 to necessarily result in a clogging
7 problem, you know, a future problem that's
8 not in evidence according to the design
9 that you submitted. That's the kind of
10 stuff we were looking for. Had research
11 been done on that, was there anything
12 published.
13 MR. SELF: Well, let me look at

14 the inverse of that.
15 MR. TORNETEN: Okay.
16 MR. SELF: If we presented
17 information on how this less permeable
18 material worked in other areas, other
19 states, other landfills, would you guys
20 entertain using less permeable materials?
21 MR. STOUT: I would.
22 MR. TORNETEN: They are – they
23 do entertain using less permeable
24 materials.
25 MR. SELF: I kind of agree with

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1 what the previous person has stated, is
2 that I'm not convinced that there is an
3 open mind to alternatives other than, you
4 know, a minus three or something like that.
5 And I would like for us to – if the data
6 was presented to you folks, and it would
7 make sense to look into that, that would
8 help us a lot.
9 MR. TORNETEN: Sure. We would
10 love to have some – well, I think there is
11 evidence, I mean, you can do with the help-
12 model and other models and calculations,
13 you can show that you can meet this
14 standard.
15 What's difficult, and maybe you have
16 some research that we didn't have the
17 benefit of, to show that, you know, with
18 future waste disposal, what's going to
19 happen. That's the issue that's really
20 difficult. Are these concerns going to
21 really come to bear about clogging and
22 reduced permeability, what happens over
23 time with the liner system.
24 And that's the kind of data that we
25 really didn't have, you know, and anything

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1 that supports either side of that would be
2 welcome.
3 MR. SELF: So would we present
4 that on a specific permit mod built for one
5 specific cell, or would we present that and
6 say, okay, you guys are going to come up
7 with a guidance document, that way we can
8 apply it to all of our sites and other
9 people's (inaudible).
10 MR. STOUT: Write us what you
11 want. Keep it simple.
12 MR. SELF: Pardon me?
13 MR. STOUT: Write us what you

14 want.

15 MR. TORNETEN: It's not a dead
16 issue, I think, you know, it's still open
17 for discussion. And if you've got some
18 information you think would help come up
19 with – help the Department, really, on
20 design reviews, I would encourage you to
21 submit it and make the case.

22 MR. STOUT: I'd like –as the
23 way I understand it, since there is no
24 proof of anything, I'd like for us to keep
25 an open mind and arrive at something that

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1 we try.

2 We can always change it later if it
3 doesn't work, but this in between stuff I
4 don't think is acceptable.

5 MR. TORNETEN: There is a lot of
6 variables involved and it's kind of hard to
7 make, you know, a simple decision out of
8 it. This is what's going to apply in all
9 cases, because each and every design is a
10 little bit unique and I think you have to
11 have some flexibility here.

12 But at the same time, you know, if
13 we've got information that says, you know,
14 it worked here and it worked there and over
15 time there hasn't been a problem, I think
16 that's good information to have.

17 MR. SELF: That's kind of what we
18 see is that in other areas of the country ,
19 they are using less permeable material with
20 success.

21 MR. TORNETEN: Right.

22 MR. SELF: Therefore driving the
23 cost of our self construction –

24 MR. TORNETEN: Right.

25 MR. SELF: --way high, compared

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1 to what other people seem to be adhering to
2 the standards and that's what we would like
3 (inaudible).

4 MR. TORNETEN: You bet.

5 MR. PURDY: There is an interest
6 in continuing, I gather –there is an,
7 interest in continuing this process. –

8 MR. TORNETEN: You bet. It's an
9 open debate.

10 MR. PURDY: It is. And we are

11 not positioned to take action on a guidance
12 document at this point in time. So I would
13 say let's continue this as an agenda item –
14 -let's carry this agenda item forward to
15 the next Council meeting, as well, and see
16 if there is new or other issues or new
17 information or other proposals that might
18 be put on the table at that point in time.
19 MR. STOUT: Jon, what's our time
20 frame on this as to when we want to make a
21 final decision and approve it?
22 MR. ROBERTS: Well, at the last
23 Council meeting, you all had agreed to have
24 this guidance document –
25 MR. STOUT: Today.

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1 MR. ROBERTS: --no, available
2 for a first cut at the first Council
3 meeting in 2003.
4 MR. STOUT: So we've got time?
5 MR. ROBERTS: Right.
6 MR. STOUT: Okay.
7 MR. ROBERTS: I think we usually
8 have it in February.
9 MR. STOUT: Yes. I just didn't
10 want to put you guys behind the eight ball,
11 you know.
12 MR. ROBERTS: No, we've got
13 plenty of time.
14 MR. STOUT: Okay.
15 MR. PURDY: I think we can
16 probably fashion, you know, a couple of
17 paragraphs --I don't want to call it a
18 guidance document, but guidance language.
19 We can probably put something together that
20 leaves it open, that says, you know, in the
21 absence of future evidence that points to a
22 particular problem, this is what we should
23 do.
24 We could put something together
25 right now to that effect. That's --we

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1 don't have a lot of research or information
2 that we can point to that makes the case
3 real strong in either direction.
4 MR. STOUT: Did you just declare 5 a continuance?
6 MR. PURDY: Yes, I did. And I
7 would like to see us carry this as an

8 agenda item to the next Council meeting
9 with an opportunity for discussion and
10 action by the Council.

11 MR. STOUT: All right. Do you
12 need to add to that, that we have suggested
13 documentation in writing rather than just
14 discussion?

15 MR. PURDY: I just asked for
16 action by the Council. So we can take
17 action on any proposal that gets on the
18 table, I think, at that time. Absolutely.
19 New Business is our next agenda
20 item. Is there any new business? Jon,
21 anything coming up on your end?

22 MR. ROBERTS: No, not that I know
23 of.

24 MR. PURDY: All right. Public
25 Forum. Mark Adams.

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1 MR. ADAMS: I would like to
2 apologize. I came in at the tail-end of an
3 item that Bill had raised concerning the
4 economic life of the disposal facilities,
5 which was in this 515-27-8. It's the
6 section that talks about –well, actually
7 it was the section that talks about new
8 disposal sites as well as existing disposal
9 sites.

10 And I guess I just wanted to point
11 something out, and maybe it's the intent of
12 the DEQ to do this, but I think I need to
13 point it out. The way this is now
14 structured for or what's proposed for trust
15 funds, trust funds essentially will now be
16 rendered nonviable for any new landfill.
17 The reason is, is that because of
18 the large cost of cell construction, any
19 new landfill will only construct a years
20 worth of airspace or thereabouts. But I
21 think what this is saying, and I've not
22 reviewed it as carefully as Bill has,
23 evidently, but as I scanned through this,
24 what it appears to me to suggest is that
25 for new disposal sites, a landfill

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1 owner/operator would need to front whatever
2 the amount may be for closure and post-
3 closure, say four million, five million

4 dollars and essentially put it right into
5 that trust fund, because the life of that
6 first cell is probably only going to be a
7 year or a year and a-half. I think that's
8 what that says.
9 And, clearly, if that is the case,
10 there isn't --I can't imagine any landfill
11 operator that's going to throw a million --
12 four million dollars or five million
13 dollars or whatever it is in a fund right
14 off the bat. They will select, obviously,
15 an alternative mechanism.
16 In terms of existing land disposal
17 sites, similarly, really --really with the
18 exception of those landfills in the state
19 that have already a very broad waste
20 footprint such as a site like Canadian
21 County has a broad waste --existing waste
22 footprint but they have a lot of potential
23 to go higher without having to build more
24 cells.
25 You know, a site like that is in a

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1 position to simply spread out it's trust
2 fund payments. But most sites are in the
3 situation today where they're building new
4 cells every year or year and a-half or
5 thereabouts, because of the sheer cost, the
6 capital cost of cell construction. And I
7 think what this is saying for existing
8 disposal sites is that if you're in that
9 latter scenario, which is the common
10 scenario, that as opposed to being able to
11 spread out the trust fund payments
12 throughout the life of a permitted, you
13 know, site permitted life, that you are
14 reducing that time frame to perhaps only
15 one or two years. Which means, you know,
16 once this goes into effect, you will have a
17 very sizeable balloon payment, if you like,
18 of potentially several million dollars
19 going into a trust fund, which again
20 renders trust funds nonviable as a
21 mechanism. I think that's --am I
22 interpreting?
23 MR. TORNETEN: Yes, you are and
24 that's why I raised the question is --
25 MR. ADAMS: And I'm sorry I came

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1 in late. I couldn't pick that up without
2 reviewing it but --and maybe it is the
3 intent of the DEQ to --for whatever
4 reason, to consider trust funds as not one
5 of the better forms of mechanisms and
6 they're introducing this language to deter,
7 essentially, owners/operators from using
8 that mechanism. But I want to make sure
9 everyone understands that those sites that
10 use trust funds today with the exception of
11 very few, I think, will be transitioning to
12 a different mechanism because it's just not
13 viable.

14 MR. PURDY: Jon, do you want to
15 respond to that?

16 MR. ROBERTS: Yes, I'll respond.
17 I think Mark is exactly right. We're not --
18 --certainly not trying to eliminate any
19 particular type of financial assurance
20 mechanism or, you know, prefer one over the
21 other. You know, we've --I think we've
22 made it fairly clear through the whole
23 rules development process when we were
24 discussing that particular rule, that
25 that's what the implication was of the rule

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1 as we had it drafted. The purpose was to
2 try to set up a rule that we believe met
3 the statutory requirement, which sets a --
4 for trust funds and escrow accounts, sets
5 up a fifteen year maximum pay-in period or
6 economic life of disposal facility. And I
7 think through the whole rules development
8 process that we went through, I thought we
9 had made it pretty clear through all that,
10 that we believe the economic life of the
11 disposal facility meant how much life they
12 have left in their Ctlffent areas that are
13 permitted for disposal. And we had
14 discussed that in the Rules Committee and
15 that's what came out of it.

16 SO, yes, Mark is exactly right.
17 Whoever uses trust funds or escrow
18 accounts, you know, if they have one year
19 of waste disposal capacity left and they
20 are currently approved for --they would
21 have, essentially, a balloon payment or
22 whatever to come into compliance.

23 MR. PURDY: We need to look at
24 alternatives. Greg.

25 THE REPORTER: I'm sorry, who are

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1 you?

2 MR. GARBER: I'm Greg Garber.

3 (Inaudible). Due to the language we're

4 using in (inaudible) federal (inaudible,

5 due to noises) services.

6 MR. ROBERTS: Well the trust fund

7 description does with the fifteen year pay-

8 in period or the economic life of the

9 disposal sites are a statutory requirement

10 in Oklahoma.

11 MR. GARBER: So I guess it's not

12 designed in DEQ (inaudible) statutory

13 requirements comply with our use of federal

14 language result in (inaudible).

15 MR. TORNETEN: I think, to a

16 large extent, it revolves around an

17 interpretation of what permitted for waste

18 disposal means. Because everything hinges

19 on how you interpret that term. If, in

20 fact, you interpret the term to mean

21 everything inside the permitted boundary,

22 that's one interpretation that's going to

23 give you a lot of airspace and will easily

24 give you a long economic life.

25 Contrarily, if you approve it to

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1 mean just that area, specifically, approved

2 to receive waste, i.e., a particular cell,

3 then as Mark said, you are going to end up

4 with a life of no more than a few years.

5 In a lot of cases maybe only one or two

6 years. So it really hinges on the

7 interpretation of that term, permitted for B waste disposal.

9 MR. ROBERTS: And as I said, in

10 the whole rules development process,

11 thought we made it pretty clear that's

12 exactly what we meant. But whatever is

13 permitted for actually --to actually

14 have trash put into it at that time is --

15 MR. ADAMS: My comments are not

16 meant as a criticism, just a reality of the

17 trust fund mechanism will essentially go

18 away. And for all intents and purposes, it ,

19 is not --this is not consistent with --at

20 least with the other states I'm familiar

21 with, the trust fund payment period is more

22 a function of the permitted life and not,

23 you know, your next cell or what the next

24 cell gives you, which is what this is

25 essentially doing.

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1 So Mr. Torneten is exactly correct
2 in terms of it's a definition thing, on are
3 we talking permitted life, are we talking a
4 waste disposal area that's approved.
5 Mr.T: And as a practical matter,
6 the cost to close a subtitle D cell is so
7 much higher than the cost to close pre-
8 subtitle D footprints, that really as you
9 add these new cells, yes, you increase the
10 economic life, but your closure costs, in a
11 lot of cases, go up so much more that your
12 annual payment still doesn't go down even
13 though the life went up. So, you know, I
14 don't --that's just the reality of it. I
15 don't know that we're doing any great
16 disservice to this mechanism as being an
17 option. But I do think it's important to
18 understand that this is how we're
19 interpreting, this is the definition, and
20 be consistent with it. And I guess we're
21 there.

22 MR. MASON: I'm Steve Mason.
23 Previously when we used this formula a year
24 or two ago, did we use it based on
25 permitted life of site instead of what had

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1 actually had been built?
2 MR. ROBERTS: I think there has
3 been a lot of --I think we used several
4 different methods of calculating what the
5 fifteen year pay-in period or the economic
6 life of the site should be.

7 MR. TORNETEN: It hasn't been
8 consistent.

9 MR. ROBERTS: It hasn't been
10 consistent.

11 MR. TORNETEN: Because I've
12 submitted different ones myself.

13 MR. MASON: So in my
14 understanding, we've used the permitted
15 life, the whole hundred acres, not just the
16 two-acre cell, that's been built.

17 MR. TORNETEN: It's been
18 interpreted that way in some cases.

19 MR. ROBERTS: Sometimes we have,
20 other times --

21 MR. MASON: Right.

22 MR. ROBERTS: -- it's not been

23 consistent.

24 MR. MASON: Right. And if we're
25 still searching for what we mean by

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1 protective cover on this Committee, I think
2 what we're going to use, whether it's the
3 hundred acres that's permitted or the two
4 acres that's been built, will be another
5 huge source of contention.

6 Certainly, on behalf of the clients
7 that we work for, we will advocate and
8 that's I think the policy, the historical
9 policy here, that you base it on the
10 permitted area, the whole hundred acres.

11 MR. ELLIOTT: That's how it was
12 interpreted originally.

13 MR. ROBERTS: We'll make it clear
14 in the whole rules process that it's going
15 to be the area permitted for waste
16 disposal. We went through the whole rules
17 development process, we've had a lengthy
18 discussions on that and this is what the
19 Rules Committee finally ultimately agreed

20 to. 21 MR. MASON: Okay. But it's not
22 written down. I presume --I think we're
23 hinging on this B definition in this
24 formula?

25 MR. ROBERTS: It's written down

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1 in the rules.

2 MR. TORNETEN: No, it really is
3 not defined. The best definition of it is
4 in 27-8(A) there, where it shall be based
5 on the area to be initially permitted for
6 waste disposal, not on the total permitted .
7 area.

8 MR. SHEPHERD: But if you have a
9 hundred acres permitted that would be the
10 initial permitted areas for waste disposal.

11 MR. TORNETEN: That's the total
12 permitted area.

13 MR. ROBERTS: Not necessarily.

14 MR. SHEPHERD: Not necessarily.

15 You could have five hundred acres permitted
16 and only a hundred acres permitted for
17 waste disposal. Correct?

18 MR. TORNETEN: Well, that was my

19 question. Is it considered to be permitted
20 for waste disposal if it's a series of
21 cells that have been identified and are
22 within the permitted boundaries of this is
23 where we're going to place waste, but we
24 only have one cell approved or two cells
25 approved.

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1 MR. SHEPHERD: Well, I guess it
2 depends on how you go in there for
3 approval. I would think that if you went
4 in and said this whole area is what we're
5 going to build, this is what we're going to
6 permit, this hundred acres, and then when
7 you're ready to build the cell, all you do
8 is submit the construction documents.
9 You're not submitting a permit application
10 or anything like that. Your hundred acres
11 is permitted for waste disposal, period.
12 MR. TORNETEN: But you're still
13 submitting a permit mod for a new cell; are
14 you not?
15 MR. SHEPHERD: You don't have to
16 do that. You don't have to submit a permit
17 mod for a new cell.
18 MR. TORNETEN: Okay.
19 MR. SHEPHERD: As long as it's
20 already permitted, as I understand it. All
21 you have to do is submit the construction
22 drawings for DEQ's information or if
23 there's any changes you're making, minor
24 changes, say to a product or a protective
25 cover, then it's a minor modification.

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1 MR. TORNETEN: So then it would
2 go to how your permit mod was initially
3 submitted or how you crafted that?
4 MR. SHEPHERD: I would think that
5 if you permitted the entire hundred acres
6 up front and said this is OI. If permitted
7 area for waste disposal, then you should be
8 able to count that entire –
9 MR. ROBERTS: So you're going to
10 build --you're going to submit plans for a
11 one hundred acre cell that you're going to
12 build?
13 MR. TORNETEN: No, series of
14 cells.
15 MR. SHEPHERD: We're going to

16 submit a plan for a hundred acre landfill
17 that's going to have this big huge mound,
18 that's going to have all this volume and
19 then all of the details will be submitted
20 at that time. You'll just submit, every
21 two years, or every five years, you 'll just
22 submit for reference or for Information to
23 DEQ, the construction plans and the
24 drawings. You're not necessarily
25 submitting a permit modification. That's

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1 the way I would interpret that.
2 MR. ELLIOTT: When this whole
3 trust fund thing started, as I remember,
4 eight, nine, ten years ago, the original
5 version --and I think it's still that way,
6 and possibly still that way in states that
7 adopted subtitle D verbatim, on the
8 estimated life for remaining of the
9 permitted acreage. There was no fifteen
10 years, there was no twenty-five years. If
11 you had forty years of life, that trust
12 fund will start up to be paid in across
13 forty years. Somehow all during this
14 process, legislatively and by what we have
15 adopted, that has been changed to fifteen
16 years and gotten away from that. But that
17 was the original version and still is in
18 the final draft of the federal rules.
19 MR. ROBERTS: We have to go with
20 what our Legislature gave us, though, which
21 is more restrictive.
22 MR. ELLIOTT: But the
23 Legislature, when they approved the fifteen
24 years --you go back and research the
25 language, it will say, across the estimated

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1 remaining life of the permitted acreage or
2 area.
3 MR. ROBERTS: I'm not sure
4 exactly what the exact language is, except
5 I do know it's fifteen years or the .
6 economic life of the disposal facility,
7 whichever is shorter.
8 And so we had to come up with what's
9 the economic life, because the Legislature
10 didn't define what they meant by economic
11 life, and that's what was ultimately agreed
12 to, I thought, in the whole rule

13 development process that we went through,
14 where everybody had their input and
15 everything. But the economic life is going
16 to be based on areas that are actually
17 approved for waste disposal at that time.
18 So I guess I'm kind of surprised,
19 so-to-speak, that all of a sudden this is
20 becoming an issue now so late in the
21 process, because I thought we had had all
22 these discussions before.
23 MR. SHEPHERD: I think it's an
24 interpretation but I don't know if it is an
25 issue.

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1 MR. ROBERTS: You permit a
2 hundred acre cell.
3 MR. SHEPHERD: It's not a cell,
4 it's a hundred acre landfill.
5 MR. ROBERTS: A hundred acre
6 landfill, okay.
7 MR. SHEPHERD: Yes.
8 MR. ROBERTS: Is that entire full
9 one hundred acres going to be permitted for
10 disposal all at the same time, so that
11 you're going to lay your plastic over the
12 whole thing with waste any where in it?
13 MR. SHEPHERD: No, eventually it
14 will be a full one hundred acre landfill
15 comprising of ten ten-acre cells.
16 MR. ROBERTS: So we would be
17 giving approval for you to put waste down
18 in each one of those ten-acre areas; is
19 that right?
20 MR. SHEPHERD: Correct.
21 MR. ROBERTS: I think our
22 interpretation would be that when you get
23 approval for that ten acres, that's how
24 much airspace you have and that's what
25 you're pay-ill period is.

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1 MR. SHEPHERD: If you're using
2 the trust fund.
3 MR. ROBERTS: Yes. This all
4 applies.
5 MR. SHEPHERD: This only applies
6 to the trust fund?
7 MR. ROBERTS: Yes.
8 MR. SHEPHERD: But I would think

9 even if it was a trust fund, it would still
10 be a hundred acre volume of airspace that
11 you should use your –base your
12 calculations on for economic life.
13 MR. ROBERTS: Well, we're trying
14 to, you know, set the thing up based on
15 what we believe the statutory intent is
16 which, of course, is to protect the state
17 from liability if we have to go in and
18 ultimately close the landfill. And if
19 you've got a hundred acre site and you're
20 funding your trust fund for forty years –
21 let's say if the hundred acre thing goes
22 for forty years and then after you do your
23 first ten acres you decide to jump ship or
24 go bankrupt or something, then the state
25 doesn't have enough money in the bank, so

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1 -to-speak, to close that out because the
2 payments have been too small. Enough money
3 needs to be in the bank for the state to go
4 in and close that ten acres and not
5 one/tenth; do you see what I'm saying? And
6 so that's what the --that's where our
7 interpretation comes from.

8 MR. SHEPHERD: Okay.

9 MR. TORNETEN: The other side of
10 that, Jon, is that in interpreting only the
11 area permitted to receive waste then you
12 can calculate your closure costs based just
13 on that one cell, five acre cell. Not the
14 closure cost to close the whole landfill
15 but just that five acre cell, because
16 that's the only area that's permitted to
17 receive waste. So basically, your closure
18 costs are going to be a fraction of what
19 they would be if you included the whole
20 permitted area.

21 MR. ROBERTS: Sure.

22 MR. PURDY: But that's the
23 exposure, though, right, that the state
24 has?

25 MR. TORNETEN: I think

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1 technically it is. I think technically it
2 is. It's just the area that could possibly
3 --that's the maximum area that could have
4 waste in it. So as far as an operator out
5 there, I'm not sure we're doing them any
6 great disservice with this interpretation.
7 It kind of leaves it open both ways. If he

8 had to include in his closure cost the
9 whole area that has a permit, then his
10 closure costs are going to be very high.
11 And whatever mechanism he uses, whether
12 it's a bond or whatever, you know, he's
13 going to have some high costs that he's got
14 to work with. So, you know, on the one
15 hand it allows them to just look at a small
16 part of the landfill for figuring costs.
17 But in terms of using the trust fund
18 mechanism, it just kind of makes it
19 obsolete.
20 THE REPORTER: Mr. Chairman, I
21 have about ten minutes of paper left, I
22 will have to stop and change. I always let
23 you know ten minutes ahead.
24 MR. PURDY: Okay. I would
25 suggest that maybe that ten minutes of

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1 paper might do the job here, if we move
2 this on. It's an interesting discussion,
3 and some excellent points. I understand
4 your frustration, Jon, having gone through
5 a very long process and thought we had some
6 resolution on that. But by the same token,
7 you know, I certainly understand how you
8 can read something a second time and all of
9 a sudden have a new question arise from it.
10 And Mark, thanks for opening the can of
11 worms.
12 MR. TORNETEN: He didn't really
13 open it. I opened it.
14 MR. PURDY: That's true. Bill
15 opened it, Mark helped him to make sure
16 that we all really understood that it was a
17 can of worms.
18 No, excellent question and a point
19 that needs to be, I think, considered
20 further .
21 MR. TORNETEN: I think my only
22 thought on it would be as long as the
23 Department is consistent in their
24 interpretation and application, then we're
25 all right.

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1 MR. MASON: Mr. Purdy, I would
2 like to offer a comment.
3 MR. PURDY: Yes, please.
4 MR. MASON: And you're right,
5 Bill, the consistency is important and I

6 think what everyone is fully realizing
7 today and Jon, may be realized it six
8 months ago, was at the beginning of time,
9 as Casey remembers, the pay-in was roughly
10 twenty-five years. And then it went to
11 fifteen. And then about four years ago in
12 our rules, we finally started the fifteen
13 year clock going, and I think we're down to
14 about eleven years now? So right now these
15 landfills are at about an eleven year pay-
16 in. And with this interpretation, we're
17 going to go from an eleven year pay-in to a
18 one year pay-in.

19 MR. TORNETEN: Well, there is
20 still a few that have enough old original
21 footprint, pre-subtitle D, that they're
22 going to have some life, some airspace
23 left. But there are not very many. They
24 are disappearing fast.
25 MR. MASON: I think the important

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1 issue that everyone now understands and
2 maybe Jon may have understood before, is
3 for some landfills we've gone from an
4 eleven year pay-in to a one year pay-in.

5 MR. TORNETEN: Have rendered the
6 trust fund obsolete.

7 MR. MASON: Thank you.

8 MR. ELLIOTT: That's exactly
9 what's happened. It went up to that point
10 and we went from about nine or ten years to
11 one year.

12 MR. TORNETEN: I will say the
13 trust fund still has some application in
14 terms of C and D landfills, but not really
15 municipals.

16 MR. PURDY: I don't want to keep
17 going over it. I just want to make sure
18 that --we have an opportunity to come back
19 and address that, if that's what we feel we
20 need to do any further. We're not going to
21 resolve it at this point on this agenda for
22 this meeting today.

23 MR. STOUT: Put it on the agenda
24 next time.

25 MR. PURDY: Well, it can very

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1 well go to that and we'll fix that with

2 staff if we think we would like to.
3 MR. MASON: Unfortunately, the
4 Board is going to worry about this in
5 November. It's going to happen in
6 November. You all can study it next year,
7 but it will already happen and it will be
8 implemented.

9 MR. TORNETEN: In effect, it has
10 already happened.

11 MR. PURDY: I understand that. I
12 guess what I'm thinking, though, is that in
13 lieu of the discussion that's necessary ,
14 the proposals that are necessary to reach
15 conclusion on that, which I'm highly
16 skeptical that we can do in the remainder
17 of this day, it seems to me to be the most
18 prudent thing to go forward with what we
19 have and come back for modification at a
20 subsequent date.

21 MR. STOUT: Unless the Board
22 changes it.

23 MR. MASON: And certainly in
24 November, I personally am interested if a
25 resolution needs to occur or we can worry

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1 about it at the Council level next year .
2 MR. PURDY: With six minutes of
3 steno tape remaining, let's move to our
4 Item No.11. Election of Officers for
5 2003. It has been my distinct pleasure to
6 have been your Chairman over the last year
7 and go through the –and the only thing I
8 can really figure out, this is all about,
9 you know, just making sure you stay humble.
10 They send you to the DEQ Board every once
11 in a while and you stand up and say I
12 really don't know much of anything, you
13 know, talk to Jon, here, DEQ staff, they're
14 really the ones that have all the
15 information. But it has been a pleasure to
16 do that. As I have said for the last
17 couple of years, I've had the privilege of
18 sitting with a number of other people who
19 are fully capable, qualified, and have all
20 the qualities to lead this Council in the
21 future.

22 MR. STOUT: So what are you
23 getting at?

24 MR. PURDY: Well, you know, if
25 anybody else wants to step up, go for it.

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1 This is a --I'm with you guys. If you
2 want me to do this again, I'm there. But
3 probably one more year at the most. If
4 anybody else feels like they would like to
5 be Chair, please, raise your hand and
6 volunteer.

7 MR. TORNETEN: I nominate Ken
8 Purdy as Chairman.

9 MR. STOUT: I'll second.

10 MR. PURDY: There is a nomination
11 on the floor. Be ready for next year for
12 this not to be accepted. For Ken Purdy to
13 remain as Chair --let's see, we have also
14 another position, don't we? Have we done
15 that separately? I think we have.
16 Nomination has been made, motion has been
17 made for Ken Purdy to remain as Chair,
18 second by Mr. Landers --Mr. Stout. Okay.
19 Any further discussion? If not, Myrna,
20 please call the roll.

21 MS. BRUCE: Casey Elliott.

22 MR. ELLIOTT: Yes.

23 MS. BRUCE: Steve Landers.

24 MR. LANDERS: Yes.

25 MS. BRUCE: Jeff Shepherd.

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1 MR. SHEPHERD: Yes.

2 MS. BRUCE: Jay Stout.

3 MR. STOUT: Yes.

4 MS. BRUCE: Bill Torneten.

5 MR. TORNETEN: Yes.

6 MS. BRUCE: Ken Purdy.

7 MR. PURDY: Yes. Or abstain or;
8 please let me out.

9 Our next office is --what do we
10 call it, Vice-Chair, I believe, and it's
11 currently held by the very capable and soon
12 to be 2004 Chair, Bill Torneten.

13 MR. STOUT: I nominate him for
14 the same position.

15 MR. PURDY: The motion to
16 reappoint Bill Torneten as Vice-Chair. Is
17 there a second?

18 MR. LANDERS: Second.

19 MR. PURDY: And a second by Mr.
20 Landers. Further discussion? Myrna,
21 please call the roll.

22 MS. BRUCE: Casey Elliott.

23 MR. ELLIOTT: Yes.

24 MS. BRUCE: Steve Landers.

25 MR. LANDERS: Yes.

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1 MS. BRUCE: Jeff Shepherd.

2 MR. SHEPHERD: Yes.

3 MS. BRUCE: Jay Stout.

4 MR. STOUT: Yes.

5 MS. BRUCE: Bill Torneten.

6 MR. TORNETEN: Abstain.

7 MS. BRUCE: Ken Purdy.

8 MR. PURDY: Yes.

9 Thank you all or to heck with you

10 all. Anyway, we'll do the best we can and

11 look forward to new bodies next year.

12 Our dates and times for the 2003

13 Council meetings. We have the –what kind

14 of leeway do we need, Mr. Johnson, on

15 advanced notice for DEQ Board meetings, in

16 terms of getting things on an agenda, from

17 a practical matter?

18 MR. JOHNSON: At least two weeks.

19 MR. PURDY: At least two? Okay.

20 Our meetings this year were February 21st,

21 April 18th, we had a July 11th scheduled

22 that was canceled and, of course, then,

23 we're meeting today. Once a quarter is our

24 general target. DEQ Board is going to meet

25 on –February 28th, July 8th, September

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1 9th and November 18th are their schedules.

2 So I would suggest early February, late

3 January to be our first. And that puts us

4 somewhere in the arena of the 24th of

5 January, is a possibility.

6 MR. STOUT: That works.

7 MR. PURDY: The 31st. Does that

8 work for everybody? The 31st is a

9 possibility.

10 MR. TORNETEN: Sure.

11 MR. PURDY: Go with the first,

12 January 24th?

13 MR. TORNETEN: Yes.

14 MR. PURDY: Typically, we've done

15 that here in Oklahoma City, keep that at

16 the same spot here in this room?

17 MR. ROBERTS: That's on a Friday.

18 MR. PURDY: I'm sorry. I meant

19 the 23rd, thank you. No –yes, Thursday

20 is the 23rd.

21

22 (Discussions on meeting dates for 2003)

23

24 MR. PURDY: I think that's it.

25 So we have January 23rd in Oklahoma City;

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1 April 17th in Tulsa; July 24th, Piedmont;

2 October 16th, Woodward. All right.

3 MS. BRUCE: Gentlemen, if you're

4 not adamant on this January 16th, I mean

5 the 23rd, Hazardous Waste is teetering on

6 using that date.

7 MR. PURDY: Well, teetering

8 doesn't mean it's set.

9 MS. BRUCE: Well, they're

10 teetering because of me, though.

11 MR. PURDY: The 30th --is there

12 any problem with the following Thursday,

13 which is the 30th? I don't think we have

14 any other kinds of dates that are coming up

15 there. Let's do the 30th.

16 MS. BRUCE: Thank you.

17 MR. PURDY: Yes. Motion to

18 approve those dates?

19 MR. SHEPHERD: I make that

20 motion.

21 MR. ELLIOTT: Second.

22 MR. PURDY: Mr. Shepherd moves to

23 approve. Second by Mr. -- Casey.

24 Discussion? Hearing none, please call the

25 roll, Myrna.

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1 MS. BRUCE: Casey Elliott.

2 MR. ELLIOTT: Yes.

3 MS. BRUCE: Steve Landers.

4 MR. LANDERS: Yes.

5 MS. BRUCE: Jeff Shepherd.

6 MR. SHEPHERD: Yes.

7 MS. BRUCE: Jay Stout. -

8 MR. STOUT: Yes.

9 MS. BRUCE: Bill Torneten.

10 MR. TORNETEN: Yes.

11 MS. BRUCE: Ken Purdy.

12 MR. PURDY: Yes.

13 I think we need a motion to adjourn.

14 MR. SHEPHERD: I make a motion to

15 adjourn.
16 MR. LANDERS: Second.
17 MR. PURDY: We have a motion by
18 Mr. Shepherd to adjourn, seconded by Mr.
19 Landers.
20 Myrna, would you please call the
21 roll.
22 COUNCIL MEMBERS: {Unanimously)
23 Aye.
24 {End of Proceedings)
25

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1
2 CERTIFICATE
3 STATE OF OKLAHOMA
4 ss:
5 COUNTY OF OKLAHOMA
6 I, CHRISTY A. MYERS, Certified
7 shorthand Reporter in and for the State of,
8 Oklahoma, do hereby certify that the above
9 proceedings is the truth, the whole truth,
10 and nothing but the truth, in the case
11 aforesaid; that the foregoing proceedings
12 were taken by me in shorthand and
13 thereafter transcribed under my direction;
14 that said proceedings were taken on the
15 10th day of October, 2002, at Oklahoma
16 City, Oklahoma; and that I am neither
17 attorney for nor relative of any of said
18 parties, nor otherwise interested in said
19 action.
20 IN WITNESS WHEREOF, I have hereunto
21 set my hand and official seal on this, the
22 ____ day of _____, 2002.
23 CHRISTY A. MYERS, C.S.R.
24 Certificate No.00310
25

Resolution of the Solid Waste Management Advisory Council

Whereas, the Oklahoma Solid Waste Management Act (27A O.S. §2-10-802(E)) requires the DEQ to annually report to the Solid Waste Management Advisory Council its income from solid waste fees and its expenditures of those monies during the previous fiscal year; and

Whereas, this Council is required to develop comments comparing income with program expenditures;

Be it therefore now resolved that this council finds solid waste fee income to be adequate to support the solid waste management programs for which it was originally intended, and

Be it further resolved that:

This Council supports the statutory direction that solid waste fees, and other environmental fees such as those deposited to the Waste Tire Recycling Indemnity Fund, be used only for the purposes for which they were collected; and

Since the Legislature has continually directed DEQ to use solid waste fee revenue for purposes other than originally envisioned, it has forced DEQ to reduce budgets in programs previously funded by the solid waste fees that were designed to directly help county and local governments improve solid waste management; therefore,

This Council strongly endorses DEQ's request for appropriations for those programs that beneficially reuse solid waste and help make local improvements where the needs are the greatest.

Adopted by majority vote in open meeting this 10th day of October, 2002.

ATTEST:

Ken Purdy, Chairman

Solid Waste Management Advisory Council

Shirley Brown, Secretary