Notice of Public Meeting The Environmental Quality Board convened for a regular meeting at 9:30 a.m. November 16, 2004 at the Miami Civic Center, Miami, Oklahoma. This meeting was held in accordance with 25 O.S. Sections 301-314, with notice of the meeting given to the Secretary of State on October 13, 2003. The agenda was mailed to interested parties on November 2, 2004 and was posted on November 12, 2004 at the meeting facility and at the Department of Environmental Quality. Mr. Steve Mason, Vice-Chair, called the meeting to order. Mr. Mason recognized Representative Larry Roberts and Miami City Manager Michael Spurgeon. Roll call was taken and a quorum was confirmed.

Approval of Minutes Mr. Mason called for motion to approve the Minutes of the August 24, 2004 Regular Meeting. Mr. Drake made the motion and Mr. Johnson made the second. Motion carried.

Consideration of and Action on the Environmental Quality Report Mr. Mason called upon Mr. Craig Kennamer, DEQ Deputy Director. Mr. Kennamer set forth the components of the legislative recommendations within the Environmental Quality Report. He and Mr. Steve Thompson fielded questions and comments from the Board. Public comments on the air quality methods to address mobile source contribution to air pollution were entered into the record by Mr. Jim East, Vanguard Car Rental USA; Bill Walker, Dollar Thrifty Automotive, Inc.; Mike James, Enterprise Rent-A-Car; and David
Branecky, OGE. Following discussion, Mr. Drake made the motion to accept the proposal as presented. Mr. Dark made the second to the motion. Mr. Mason thanked industry and the rental car companies for their input.

**Roll call.**

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<tr>
<td>Brita Cantrell</td>
<td>Yes</td>
<td>Jerry Johnston</td>
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<td>Tony Dark</td>
<td>Yes</td>
<td>Sandra Rose</td>
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<td>Bob Drake</td>
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<td>Steve Mason</td>
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<td>Jennifer Galvin</td>
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Motion carried.

New Business   None

**Executive Director’s Report** Mr. Steve Thompson announced that he would be serving as the ECOS President for the upcoming year and that he had upcoming meetings with EPA and would be speaking at the National Environmental Summit in D.C. Mr. Thompson provided an update on issues related to treatment of states for tribes. He also distributed the Oklahoma Environmental Quality Fiscal Year 2004 Annual Report.

At 11:10 a.m., Mr. Mason called for adjournment announcing the Public Forum to follow. Following a forum presentation by Mr. Scott Thompson, Land Protection Division Director, a tour of the Tar Creek Superfund site was offered.

Transcript and sign-in sheet are attached as an official part of these Minutes.
DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF OKLAHOMA

* * * * *

TRANSCRIPT OF PROCEEDINGS
OF REGULAR MEETING
OF THE ENVIRONMENTAL QUALITY BOARD
HELD ON NOVEMBER 16, 2004, AT 9:30 A.M.
IN MIAMI, OKLAHOMA

* * * * *

REPORTED BY: Christy A. Myers, CSR

MYERS REPORTING SERVICE
(405) 721-2882
MEMBERS OF THE COUNCIL

BRITA CANTRELL - MEMBER
MIKE CASSIDY - MEMBER
JACK COFFMAN - MEMBER
TONY DARK - MEMBER
BOB DRAKE - MEMBER
JENNIFER GALVIN - MEMBER
JERRY JOHNSTON - MEMBER
STEVE MASON - VICE-CHAIR
KEN PURDY - MEMBER
SANDRA ROSE - MEMBER
TERRI SAVAGE - MEMBER
RICHARD WUERFLEIN - CHAIR

STAFF MEMBERS

MYRNA BRUCE - SECRETARY
STEVE THOMPSON - DEQ
CRAIG KENNAMER - DEQ
WENDY CAPERTON - DEQ
EDDIE TERRILL - DEQ
GARY COLLINS - DEQ
JON CRAIG - DEQ
SCOTT THOMPSON - DEQ
JAMI FANNIN - DEQ

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

Notice was filed with the Secretary of State on November 13, 2003. Agendas were mailed to interested parties on November 4, 2004. The agenda for this meeting was posted on Friday, November 12, 2004 at the Department of Environmental Quality, 707 North Robinson in Oklahoma City and here at the Miami Civic Center, 129 Fifth Street Northwest, Miami, Oklahoma.

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

MR. THOMPSON: For the local officials here, too -- excuse me, Mr. Christy A. Myers

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Chairman, for the local officials here,
this Board does promulgate rules for Solid
Waste Management, so.

MR. MASON: We have a lot of
people that are hosting us today. We might
take a moment to recognize them. We have
Representative Roberts, who represents this
district, who's done a lot of advocacy
for how Tar Creek has been handled.

Representative Roberts, would you like to
say a few words?

REPRESENTATIVE ROBERTS: Thank
you, Mr. Chairman. I just want you to know
that's the sound of progress that you're
hearing outside. We're very proud of our
community and all of the events that occur
here, not withstanding this one. This is
very important for us, also. I take this
opportunity to welcome you to Miami, to
Ottawa County, and I understand you're
going to tour the superfund site later
today. It's a pleasure for you to be here,
especially today, because I have about two
and a half hours left as the State
Representative. My term is ending at noon

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today and all the new members are being
sworn in at the State Capitol. It's been
an exciting 21 years and I hope that we've
done something right and made a difference
in the way we live here in Northeastern
Oklahoma. I would like to welcome all of
you. I know this is the first time some of
you perhaps have been here. We certainly
want you to take the tour and enjoy
yourselves while you're in our community.
And again, we thank you for holding this
meeting here in Ottawa County.

MR. MASON: Thank you,
Representative Roberts. Michael Spurgeon
is the City Manager of Miami. Would you
mind introducing -- I think you have some
council members here and such. Thanks for
allowing us to be here.

MR. SPURGEON: Thank you, Mr.
Chairman. Absolutely. We are also glad to
have you here this morning and hope that
you will enjoy your tour in Ottawa County
and specifically Miami. We have today two
members of the Miami City Council. First,
we have Councilman Kit Catcher, who is from

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the Northeast Ward. And we also have Scott Tressler who is from the Northwest Ward. And on behalf of Scott and Mr. Ketcher, along with Mayor Brassfield and the other two members of the Council, I would like to welcome the Board for being here today. And also, just to thank you for the support and assistance that you've given my staff and the city on a number of projects that we've been working on, specifically, the lead remediation that we have been doing in the City of Miami. I believe that is going very well. And we're also looking at several other ventures that we're going to be working with in conjunction with the DEQ for projects here. We also have a Consent Order that we are trying to close out and you have been working with us on that and there is one item that we need to finalize and you've also been very helpful, your staff specifically, in making sure that we continue to move forward and meet your obligations, as well as the challenges we had. So once again, thank you for your support and we hope you enjoy your day.

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MR. MASON: Thank you, sir. All right. Myrna, let's see if we have a quorum.

MS. BRUCE: Ms. Cantrell.

MS. CANTRELL: Here.

MS. BRUCE: Mr. Cassidy is absent. Mr. Coffman is absent. Mr. Dark.

MR. DARK: Here.

MS. BRUCE: Mr. Drake.

MR. DRAKE: Here.

MS. BRUCE: Ms. Galvin.

MS. GALVIN: Here.

MS. BRUCE: Mr. Johnston.

MR. JOHNSTON: Here.

MS. BRUCE: Mr. Mason.

MR. MASON: Here.

MS. BRUCE: Mr. Purdy is absent.

Ms. Rose.

MS. ROSE: Here.

MS. BRUCE: Ms. Savage is absent and so is Mr. Wuerflein, but we do have a quorum.

MR. MASON: Thank you. Before us, we want to look now at approving our
Minutes of the August 24th meeting.

MR. DRAKE: Motion to approve, I so make.

MR. MASON: Thank you.

MR. JOHNSTON: Second.

MR. MASON: We have a motion to approve and a second. Is there any discussion? Can we have a roll call vote, please.

MS. BRUCE: Ms. Cantrell.

MS. CANTRELL: Yes.

MS. BRUCE: Mr. Dark.

MR. DARK: Yes.

MS. BRUCE: Mr. Drake.

MR. DRAKE: Yes.

MS. BRUCE: Ms. Galvin.

MS. GALVIN: Yes.

MS. BRUCE: Mr. Johnston.

MR. JOHNSTON: Yes.

MS. BRUCE: Ms. Rose.

MS. ROSE: Yes.

MS. BRUCE: Mr. Mason.

MR. MASON: Yes. The next item on our agenda is Consideration of the Environmental Quality Report. I think

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Craig Kennamer is going to do the presentation.

MR. KENNAMER: Thank you, Mr. Chairman. Good morning, Board. I'm here to present the Environmental Quality Report and seek approval of that report. There are three parts to the Environmental Quality Report. And I hope you can hear me, the mike's not quite tall enough for me.

The first part was the budget part. And we had -- we came to you in August and sought approval of that and you approved our budget. So I will not go over that part again. But if there's any questions, I would like to pause right now and see if you have any questions on the budget that you may want to present to this forum.

MR. MASON: So for everyone that's following this, there's an Environmental Quality Report, which I think is on the table up front when you checked in and he's going over it. So are there any questions about the first six pages that we talked about at the last meeting?
MR. THOMPSON: If I could just --

Mr. Chairman, I think it's important, what we did, we did bring the budget request forward to you last time for approval, which was accomplished. At this meeting, we bring our legislative recommendations. That's really the centerpiece of the report that you're looking at today. At least on a couple of the legislative recommendations that we have, I think it's important that you recognize the connection between our budget request, which really has to do, to a significant extent, with air quality issues and with public drinking -- public water supply issues and our legislation. Because there is a clear connection between the two. We try to take multi-pronged approaches to funding for the Agency. So there is -- that's represented by both the budget request and our legislative request.

MR. KENNAME: Well, it appears there's no questions, so I will continue with my presentation. There is one mandate that we continue to be faced with and that impacts all the communities in Oklahoma who

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supply water. It also impacts some businesses who supply water. And those are -- the mandate is the federal disinfection by-product rules. And those rules have been phased in since 2002 and continue to be phased in through 2006. So each year, up until 2006, we'll be faced with costs, pretty significant costs, and efforts by both the state communities, and businesses who supply public water or have public water supplies. So we wanted to make sure that everybody was informed about this mandate and this ongoing burden to our state and our communities. I'm going to pause again at this time for any comments or questions on the federal mandate. And it is in the second portion of this handout that Steve Mason, our Chairman, talked about.

MR. MASON: So you're on page 7 now?

MR. KENNAMER: I'm now on page 7.

MR. MASON: Okay.

MR. KENNAMER: Okay. Seeing no questions or comments on that, I will move...
to our proposed legislation. Now, this is
the third part of our Environmental Quality
Report, which we're seeking approval of
today. Basically, we have four legislative
proposals and then there are two additional
legislative -- two additional pieces of
legislation that you have an interest in
and we want to make you aware of them
today.

I'm going to present each piece of
legislation and then I'll pause in between
for questions and comments, because I am
pretty certain the first one will receive a
number of questions, if not comments, on
it. So we'll give enough time for everyone
to present questions and comments.

The first one is the air quality
legislation and it has -- it's a
legislation that deals with or its methods
to address mobile source contribution to
air pollution. To give you a background,
mobile sources represent about 35 percent
of air pollutants. They -- in Oklahoma
City and Tulsa, they're estimated to be
about anywhere from a half to two-thirds of

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our ozone emissions. Currently, the only entities that are paying fees for managing the air quality program, for dealing with air toxics and ozone emissions for the permitting and for the other efforts. Modeling, air studies, those kinds of things are the stationary sources. The mobile sources pay no fees. So this legislation is to provide equitable funding by having a fee system for mobile sources. It limits the increases to businesses and industries who are currently overburdened or at least paying their fair share of the cost of running the air program and meeting the federal requirements. It also helps us meet all the planning and monitoring goals for air toxic and ozone studies. It keeps us off the nonattainment list and I guess most importantly, it helps us develop a statewide toxic program, so that we don't have numerous small programs funded by EPA. What we're proposing today is a dollar per rental vehicle per day.

And to give you a little background of what we've tried to do in the past to

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raise money, we've tried to raise money for
the last five years through appropriated
dollars, through general revenue dollars.
We have yet to be successful on that. And
then most recently in the last year, we
went out with a license tag fee of one
dollar and we were unsuccessful with that
attempt. This dollar per rental car per
day we estimate will raise between 1.5
million and 1.75 million. It is -- now
this is just an estimate, because we were
unable to get the Tax Commission to give us
real dollars. But we believe this is a
fairly accurate number. We have an
underfunding of about $850,000 and the
remainder of that money that this would
generate would go towards that state toxic
program. I'm going to pause at this time,
because that's kind of an overview of the
legislation and allow for comments and
questions from the Board and turn it over
to Steve Mason.

MR. THOMPSON: Relative to this
issue and my comments earlier, we are also
asking for general revenue funds to address

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the equity issue. So we will -- we have
already submitted the budget request that
you all approved last time. That included
a figure of about $833,000 for the air
program as a general revenue item. We will
work hard to try to get approval of that
budget, but as Craig has told you, for the
last four years you've approved a budget
item for that and we've been unsuccessful
in getting the general revenue
appropriation for it.
I'll only take half the blame for
that, Mark Coleman was here two years and
we were unable to do it and I've been here
two years now and the same is true. So --
but we continue to believe that there
should be some mobile source contribution
and after a number of attempts to do -- for
a general revenue contribution, we finally
determined that we should go forward with
this or make this recommendation, at least,
to you.

MR. MASON: Thank you. Questions
from the Board?

MR. DARK: This recommendation

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for revenue from the state, is that in
concert with the dollar per vehicle, or
would that -- if they did, in fact, pass
that, would that give some relief to what
we may impose to the private sector?

MR. THOMPSON: It would. And if

we were -- our strategy is to run them
concurrently. And as -- if we get the
sense that one is going -- if the general
revenue is going to be successful in our
discussions with our appropriations
chairman and with those folks, then we
would probably drop the other. On the
other hand, if we felt like the general
revenue appropriation was not going to be
successful, we would continue to pursue the
other. So it's an either/or kind of a
thing.

MR. DARK: Well, in that vein

then, would it not make sense, I mean, it's
not done until it's voted on, that we could
-- we could run the appropriations request
ahead of the dollar per vehicle?

MR. THOMPSON: We could.

MR. DARK: Would that make sense?
MR. THOMPSON: Sure. Sure. We will try -- we will work with the authors to schedule it in such a way that we can read what's happening in the appropriations process prior to introduction. Now, there's deadlines -- 

MR. DARK: Sure.

MR. THOMPSON: -- that we have to be aware of. And so we'll have to work within the legislative deadlines, but we'll certainly try to do that.

MS. ROSE: I'm curious as to what the Legislature's rationale was for not approving this.

MR. THOMPSON: Well --

MS. ROSE: Is that a difficult question?

MR. THOMPSON: -- no, it's a pretty easy question, actually. I would suggest to you that -- I don't want to shoot myself in the foot here. But there are competing -- there's a lot of competing needs out there in state government and --

MS. ROSE: I understand.

MR. THOMPSON: -- and it is --
the other thing is, it's pretty difficult -
- a lot of those competing needs are crisis-based. We've got a pretty good --
we are in pretty good shape in the air program. What we're trying to do here is move beyond what we're doing, particularly relative to toxics and to build the staff capacity to keep us in attainment. So we're being -- we're trying to be, quite frankly, proactive in making sure that air quality in the state stays as good as it is and improves. So the natural competition for funds, one. And two, the fact that we are, quite frankly, not in as great a crisis as some other places are relative to air quality probably -- probably causes us some problems.

MR. DARK: So it would be safe to say that the strength of our lobby is somewhat less than others?

MR. THOMPSON: That would be very safe to say.

MS. ROSE: Thank you.

MR. MASON: Craig, why are the mobile sources so much higher in Oklahoma
City than Tulsa?

MR. KENNAME: Well, because the -- why are the mobile sources higher in Oklahoma City.

MR. MASON: 66 to 43 percent.

MR. KENNAME: I'm not sure.

I'll have to defer to Eddie Terrill.

MR. TERRILL: I assume it's based on vehicle miles traveled. We get those numbers from the INCOG in Tulsa and ACOG in Oklahoma City, and I'm almost positive that it's based on the vehicle miles traveled. We just have more traffic in a larger area, it's a larger area in Oklahoma than there in Tulsa -- in Tulsa there's a lot of traffic, but there's not that many -- it's a pretty compact city compared to Oklahoma City, so when you look at it over the overall geographic area, Oklahoma City, that's the reason it's a greater percentage.

MR. MASON: Does ACOG not look at the entire county, of Oklahoma County?

MR. TERRILL: Well, yeah, but we've also got other stationary sources

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that contribute in Tulsa that we don't have
in Oklahoma City, too, that's another
reason. So it's a percentage of
stationary sources versus the mobile
sources.

MR. THOMPSON: I would suggest,
if I could, Mr. Chairman, that the
industrial base in Tulsa is just larger.
And when you combine that with the vehicle
miles traveled, the size of Oklahoma -- the
geographic size of Oklahoma City, that's
probably the reason for the difference.

MR. MASON: Other Board comments?
I think we're ready for comments from the
public and if you might step to the podium,
please, and introduce yourself.

MR. EAST: Good morning. I'm Jim
East, I'm the Vice-President of Government
Affairs for Vanguard Car Rental USA. I
know that there are others here to speak on
the dollar fee, including Dollar Thrifty,
which is also based in Tulsa, and
Enterprise. And I'm speaking, as well, for
Hertz and Avis, both of which have large
presence in Oklahoma and employ a large

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amount of people.

First, I wanted to extend appreciation to both Steve and Eddie. They met with me last week concerning this issue. Much of the information that I will speak to today came from that, as well as to try and provide some additional information to the Board, as you all focus on this issue.

Vanguard is a relatively new company. We've been in existence a little over a year ago we purchased the assets of Alamo National and we are in the process of moving our headquarters from Fort Lauderdale, Florida, to Tulsa, Oklahoma. The -- we were recruited extensively by the State of Oklahoma to move here and we are in the process currently of hiring people to headquarter in Tulsa.

The car rental industry, as you may or may not know, like many industries, including my brethren, at least two of them behind me from PSO and AEP, the stationary sources, are taxed just like most other entities, state sales tax, four and a half

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percent. In addition, the car rental
industry is taxed an additional six percent
by the State of Oklahoma. So in effect, we
are now putting into the state general
fund, the fund that you all are talking
about asking for $835,000 from, we're
sending in roughly 10.5 percent. I think
that's probably a little bit more than the
industries and companies that you represent
that are here on this Board. I think it's
also -- go ahead, Tony.

MR. DARK: What does that relate
to in dollars, that 10.5 percent, any
estimate?

MR. EAST: Again, we have not
called the Tax Commission to provide that.
That information is available to the DEQ
Board, just as all the others from the Tax
Commission, but I don't know the exact
amount. We rent a substantial amount of
cars in Tulsa and Oklahoma City and
Enterprise does throughout the State of
Oklahoma. Again, I think I probably would
rather have the Tax Commission do that. As
you could imagine, as a large corporation,
we are prohibited from talking about our financial information among the car rental companies.

MR. DARK: Sure.

MR. EAST: And so we don't really know what the others do, except for that information that's provided through the state. I think it's also important while - to note that while it was nice to point out the things that DEQ is trying to do aggressively, this is not a mandated program, this toxics program. It is something trying to ensure that we're not - we don't go into attainment, but it is not a mandated program like some of the others we talked about having to do with water quality.

I think the other point that I would make about the car rental industry, we are exactly the type of cars that you want on the road. At Vanguard, we turn our cars over every year and our cars are some of the best maintained, because that is the nature of our business. I think that Eddie and Steve would tell you that if they could
ensure that all the mobile sources in the State of Oklahoma were only one year old, that it would have a substantial impact on mobile source emissions. So in effect, this issue is going to penalize the industry that is probably -- should be held up as a model citizen.

The fees on stationary sources, I understand, were last charged or increased in 2001. And ODEQ had told us that they're generally among the lowest in the surrounding states. That's important, I think, to note for this discussion because the fee that is being suggested here, a dollar, and if we use the figures that ODEQ is using, between 1.5 and 1.75, raised from the car rental industry, you're going to end up with a substantial balance left over up against the $835,000 that you have requested from the state. Again, my understanding from our conversations is, that balance somewhere between $600,000 and $900,000 dollars would be used or be proposed to the ODEQ to reduce the stationary source cost. I'm sure that this

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Board and I'm sure that the state does not want to get into the business of pitting one industry against another in Oklahoma. I am sure that all of us are interested in attracting additional growth and businesses and not pitting, whether it be the major utilities, against the car rental industry, that has a substantial impact in this state.

I think that probably the most troubling thing that — about this to all of us is that we feel we are being singled out. I recognize the political difficulties to passing a tax on mobile sources. We have fought those issues in many, many states around the country, California, New Jersey, et cetera. And to say that they have been controversial is the understatement. I mean, in effect, it was a big issue in the recall of Governor Davies in California and the election of Governor Swartzeneger. At the same time, we understand that that happens occasionally in these states, with these broad based taxes. We do not face a tax

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like this in any other state. There is none. There are taxes specifically on car rental industry. For example, in Florida we have a two dollar or 2 percent surcharge on all car rentals. But that is used primarily to boost tourism. So in effect, they are leveraging that tax to generate economic development.

Last, I'd probably point out again, we were heavily recruited by the State of Oklahoma to move our corporate headquarters. I think that all of us know about the number of corporate headquarters that have left Oklahoma or gone out of business. We're hiring currently around -- we'll be up to around 600 to 700 people in Tulsa. These are jobs, and I can say this as part of the state quality jobs program, that are making somewhere between $55,000 and $60,000 dollars a year. The message was clear that they wanted us to be here. The message is clear to Dollar Thrifty that they want them to be here. The message is clear to Hertz and to Avis, who have very large call centers in Tulsa and Oklahoma.
City, that they want them here. What we are troubled by is an action that would focus solely on us. It definitely sends the wrong message to our industry and we would respectively request that you remove from the report any recommendation for the one dollar fee increase. I stand ready to answer any questions. I've got a little handout that I would pass out. I know that my colleagues from Dollar Thrifty and Enterprise also would like to speak. So, Mr. Mason, however you would like to proceed.

MR. MASON: Are there any Board questions for Mr. East? Let me ask one question of you. A lot of this is kind of about equity and our difficulty of getting mobile source money. From an equity standpoint, what would you suggest we do as far as mobile sources helping pay for their impacts?

MR. EAST: I spend the majority of my time doing politics in Florida, California, New York, Hawaii and Texas. I don't spend much time in Oklahoma, because

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we don't rent that many cars here. We are
a, in effect, a net giver to the state,
rather than a taker, as it relates to our
payroll and our use of various vendors.
Speaking personally, not as the company, I
think that the approach that Steve took in
2004 on the tags is a much more equitable
way, if the decision is made to fund this
program by its -- the people that would
benefit from it. We have roughly, I think,
3 million automobiles in the state. I'm
not sure why we wouldn't look at that.
That is more typical of what we find in
other states. But clearly, every state has
different politics. And we are emerging on
a new Legislature. I would imagine that
DEQ will have new chairmen, both in the
Senate and the House side that know nothing
about DEQ, know nothing about your programs
or what they have heard. But, you know,
we're going to be in a learning curve with
that Legislature. But I think that is
really more a discussion for this body,
rather for me to come up with a suggestion.
But clearly, what we see in other states

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are broad-based issues, whether it's about
tires, whether it's about batteries and air
quality issues. There are a few airsheds
in California that have specific programs
but they are currently in nonattainment.

MR. DARK: In the states that you
do deal with, I guess, New York, Florida,
California and Texas, Hawaii, do those five
states have surcharges to your industry?

MR. EAST: For?

MR. DARK: Or is it just Florida

that has the 2 percent surcharge on
tourism?

MR. EAST: No, there's surcharges
all around the country as it relates to
something specific, that is correct. That
is correct.

MR. DARK: So they may have a
surcharge dedicated to a specific issue,
but it's not a surcharge that goes back
into the general fund of the state and then
--

MR. EAST: No, some of them are
usually for a specific thing but there are
not that many of them, Tony. There are a

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few. Most -- a lot of the states, unlike Oklahoma, tax services, you know, like engineering companies, you know. The --

MR. DARK: Well, that would be a bad idea.

MR. EAST: I'm sure there -- I'm sure there are at least two votes on this panel that wouldn't be for that. But, I mean, but there are a lot of places that do that. So, you know, the different types of

--

MR. DARK: It actually wouldn't bother us at all we'd just pass it through.

MR. EAST: -- say what?

MR. DARK: I said it wouldn't bother us at all, we'd just pass it through.

MR. EAST: So I think that you see a lot of -- I think you see a lot of different taxes. I think it is rare for a state and a state agency to pick a specific industry and target it for something. The only time that -- where we see that more is not at the state level, we see it when we're asked to pay for arenas and stadiums

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and in that case, as recently in one area,
we launch a rather large effort to stop it.
But we see more of it on municipal than at
a state level.

MR. DARK: Well, it seems that
the last effort failed miserably, with
regard to the tag issue. I think this is -
in staff's defense, a way to try to get
this program rolling. And as you said, we
all recognize there is going to be a
learning curve, more importantly there is
going to be a teaching curve by industry
and the lobby for industry and the state
agencies. And if there's some way that
those groups can sing from the same cue,
then there may be success for both parties.
And I think it's important to try to find a
win/win solution. There is a recognizable
need.

MR. EAST: I don't think there is
any doubt, and having worked with you on
legislative matters previous, in previous
lives, it's always better to have a broad
coalition that is working on a specific
issue. But what we have here right now,
you're asking one industry to fight another
industry. The stationary source people
have a very, in my opinion, a legitimate
issue about parity. But you are asking,
this Board would be asking the car rental
industry to go to battle with the other
industries and I do not think that is what
all of us have as our desire for this
state, is industry versus industry.
Because in that case, everybody loses.
Thank you.

MR. MASON: Thank you, sir.

MR. THOMPSON: Jim, before you
leave, there was a couple of things if I
could Mr. Chairman that you said that I
think we need to expand on a little bit and
you may want to comment on it.
Relative to the cost of Title V fees
in Oklahoma, it's not a bad deal. We're
probably, what, Eddie, 45th in the country
in the cost of Title V fees. But we won't
stay there. We will not stay there because
of the need -- the growing needs of the
program. I mean, we -- this is, again, a
three-pronged approach. We will -- we have
asked to pursue this issue. We will aggressively pursue general revenue dollars. If neither of those works, we are left with no option other than to continue to raise Title V fees. So the issue of whether they stay that low or in the alternative, a toxics fee, by the very people that are currently paying the Title V fee. So -- and I can't tell you exactly where we would land after that happened, but it probably wouldn't be as low as we are now.

The second thing that I think Jim mentioned was that this is not a mandate, and that is certainly true in the traditional sense of a mandate, where there is a rule by which you have -- that you have to follow. What is happening, though, is that as toxics programs grow across the country and they are growing, they have a significant toxics program in Texas, they have a significant toxics program in Louisiana, all around us toxics programs are growing. And what EPA, quite frankly does, is offer the money for toxics

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programs to other entities. They offer it to municipalities and they offer it to tribes. And we think and we believe it's been our experience that the Board believes that on these kind -- on air quality issues, consistency across the state -- it's very important, to have a consistent program across the state. So while it is not clearly in the sense of a traditional mandate, there are pressures that are being brought to bear that sort of dictate that we move forward with a toxics program.

MR. EAST: If I could just make one comment -- it is, those are both correct. I would just add one thing, is I think before you come to the car rental industry and ask us to impose a fee, is that you have that discussion with the COG's, as I noted to both Steve and Eddie when we met last week, is I knew that the legislative consortium in Tulsa has approved a measure to go to the state and ask for $350,000 out of general fund money for their own program. I mean, you ask the very specific question about legislative,
you know, approach. Or actually, it was Steve. I mean, the fact is that, again, going back to it, I mean the last thing you want to do when you meet your new chairman of whether it's the House or the Senate, is that they're going to ask that question. Why are there so many requests for the same basic programs. So it's kind of like, you know, my response back, Steve, on your issue is that to me, from a legislative approach and a policy approach, it's probably the imperative that the Board gets a cohesive coalition from the COG's and these other entities first. It may be the Board's decision to go from a state approach, but if they're getting mixed messages at the Legislature, nobody is going to get any funding.

MR. DARK: But what you're saying is that the COG in Tulsa is going after that money?

MR. EAST: Mr. Lasker advised me, because I called asking about what the status was and that they had approved an agreement as part of their legislative
agenda. Now, as you know, nothing is set, as Representative Roberts, I mean, it's early, you know. I mean now is the time to be talking about legislative programs in December, not in January and February. But that is a -- from your all's perspective, a very mixed message that you're going to be giving the Legislature about your request.

MR. MASON: Thank you, Mr. East.

MR. EAST: Thank you.

MR. MASON: Eddie.

MR. TERRILL: Let me just clarify a few points that were brought up.

MR. MASON: This is Eddie Terrill who runs our air program.

MR. TERRILL: I'm sorry. Eddie Terrill, the Air Director. It's not exactly true that there's not a federal mandate for this toxics program. The MACT standards, the Maximum Achievable Control Technology standards that EPA puts out -- promulgates -- puts a definite federal requirement as that's money directed toward the stationary sources, there's no doubt about that. But we've still got to have a

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way to fund that. They still have 18 MACT standards that they have not promulgated yet and I'm at the point where I'm going to have to make a decision whether or not we're going to accept delegation for those programs. If I don't have the resources to run those programs the way they need to be run, I'm just going to have to tell EPA we're not going to accept that delegation. Now, that's probably a year down the road because it takes a little while to get these things done, but they're under a court order to get these standards promulgated. So there is a federal mandate component to this. But the one thing that we're looking at improving is our local community-based toxics program and that's the program that Steve alluded to that Steve -- that EPA funds through grants. They are looking at implementing these things at a local level and they want either the state to look at them on a local level or the community to look at it and that's where the grant will be located and that's where we feel like consistency is
needed.

Relative to the INCOG request for
money, what they're asking for is $300,000
dollars to do additional modeling for ozone
in the Tulsa and Broken Arrow area. I got
an email from them the day before yesterday
where they had asked our contractor for
some additional information, so we're
really asking for two different pots of
money from two different sources. I have
no idea why they want to do that modeling,
in that we're doing that already through
our contractor, but that's what they're
asking for. So it's not for toxics, it's
to do additional ozone modeling in the
Tulsa area.

MR. THOMPSON: I would suggest,
though, that Jim is right. We need to get
with them and have a coordinated approach
on that issue. If we don't, we'll look
pretty silly, so we will do that.

MR. DARK: This is just a
question for Jim and it may be a rhetorical
question here but, having suffered through
the whole issue of primacy with waste water

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issues, I would think the last thing that
we would want as a state or that you would
want as an industry is for EPA Region 6 to
be dealing with your industry as opposed to
the State of Oklahoma through DEQ.

MR. EAST: Well, I think that
there are always -- there is always a good
policy discussion between state rights
versus federal issues are remedial because
we are in every state, in every providence
throughout Europe, we end up dealing with
all the issues, whether it be EPA or state,
our specific airsheds, it would be really
nice if we just had one place to go to but
that's not the way the world is. But, you
know, I think that the primacy issue and
the local permitting issue, you know, it's
always easier to be able to get in a car
and drive down to Oklahoma City rather than
drive down to Dallas. But, you know, we
are prepared to drive wherever we need be.

MR. DARK: And I don't know about
the air side as well as I do about the
waste side, but I can assure you that even
historically now that we've done it, we're

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-- the municipalities are in much better
shape because of dealing with DEQ as
opposed to EPA, even though it's the same
rules, the same regs, the same issues, it
seems like when they're at home there's a
better understanding of the needs and a
better understanding of how to work through
those. So I would think we would want
primacy if there was any way we could do
it. If there is a year deadline, it's
probably incumbent upon both of us to
figure out a way to get there.

MR. MASON: Thank you. Other
public comments?

MR. WALKER: Good morning. I'm
Bill Walker, I'm the Legislative Director
for Dollar Thrifty Automotive, Inc., in
Tulsa, Oklahoma, that's our worldwide
headquarters. And also just seconding what
Jim East had to say about opposing the car
rental tax, I'm not going to repeat all the
excellent points he made, because he hit
all the substantive points. But I want to
speak as a representative of a corporate
citizen who has long-time ties to Oklahoma.
MR. WALKER: Dollar Thrifty operates two car rental plans and you probably all have seen it advertised on T.V. or at the airport, Dollar Rent-A-Car and Thrifty Car Rental. Our primary markets are -- can you hear me?

MR. THOMPSON: Try to either flip the mike up or speak a little louder, please.

MR. WALKER: Okay. Can you hear me now? We operate Dollar Rent-A-Car and Thrifty Car Rental plans -- those are our chief plans and those are -- our primary customers are leisure customers that are going to leisure destinations, such as Hawaii, Florida, California, Nevada and we're about the fifth largest domestic car rental company. Our nationwide airport market share is about 12 or 13 percent. Alamo National is a step bigger than we are. We are a publicly-traded company, a Fortune 1000 company. Our roots in Oklahoma go back to Thrifty Car Rental being started in Tulsa, Oklahoma in 1950. Chrysler then came along in the late 1980's
and bought that company. It also bought Dollar Rent-A-Car and moved its headquarters from Los Angeles to Tulsa and put those two companies together. In 1997, Chrysler decided to spin-off the companies in an IPO and the Dollar Thrift Automotive Group, Inc., the current configuration publicly-traded company was born.

We employ about 1,600 people in the State of Oklahoma and we have a payroll of over $55 million dollars and given our roots and ties to the community, we try to do everything that a good corporate citizen does, you know, we support -- I had a list of companies that I forgot to bring with me, but literally dozens of charitable organizations. In 2004, our charitable giving exceeded a million dollars, including principally our contributions to the United Way was $850,000 dollars. Our management, you know, various members of our management teams serve on boards of these civic and charitable organizations. We also try to be active for political causes that we think benefit the state.

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We're a member of Oklahoman's for Lawsuit Reform, pushing tort reform that we think would benefit the state. Oklahomans for Jobs Now, trying to push for workers' compensation reform that we think would benefit the state. We also joined up on Oklahoman's -- the Oklahoma Prosperity Project, which was a get out the vote voter education program. So we try to be involved and do things that benefit the state and no one would argue that air quality is an important issue for the state. And I'm a native Oklahoman, Jim is, you know, we want our state to be the best state in the nation, everybody does, and air quality is part of it. But being singled out for this tax is, I guess to put it politely, distressing in your own home state. There's got to be a better way to go about this. And so we are opposed to it and, you know, we'll fight it. We don't think it's fair. Thank you.

MR. MASON: Any questions for Mr. Walker? Other public comments? Thank you.

MR. JAMES: Good morning. My

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name's Mike James, I'm with Enterprise Rent-A-Car. I want to thank you for the opportunity to come and speak with you this morning. I also wanted to thank Mr. East and Mr. Walker and as Mr. Walker stated, I'm not going to spend a lot of time rehashing some of their comments. I agree with every one of them.

The one thing I would like to do is just bring you up to speed on Enterprise. And although Enterprise's corporate home is in St. Louis, Missouri, we're really a local company because we're part of Enterprise Rent-A-Car, we're a privately held company, but we're part of Enterprise's -- it's called Enterprise's Leasing Company Southwest, which is based in Oklahoma City. So we employ well over 300 people just in Oklahoma alone and we're all local citizens. And over 70 percent of our market share is locally driven. It's not retail driven, if I can say retail driven, airport driven, leisure travel driven, it's not. It's local business. And, you know, at the risk of taking up

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time, I wouldn't ask for a show of hands to
see how many of you have rented a car from
Enterprise on a weekend special or because
your car was in the shop or because your
car was damaged or because your car was
stolen, because your car broke down,
whatever the case might be. But the thing
is, what we're talking about is, if this
proposal does pass, we're talking about
everybody in this room being effected when
they want to go rent a car, to rent a car
on the weekend, to get out of town for the
weekend or when their car's in the shop or
whatever the case might be, that that fine,
that dollar tax per day is going to be
levied on every one of us, not just that
guy person flying into town. And with 70 --
over 70 percent of our business being
locally driven, that's everybody in this
room. That's not the person that's flying
into Oklahoma. Now, that person will be
effected, as well. But, again, what my
concern is that over 70 percent of my
customers and actually more than that,
because 70 percent is just what we call a

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replacement base customer. Another 10 to 15 percent is our corporate-based customers, our friends from PSO and others, ONG, OG&E, those folks, as well. So more than 80 percent of our customer base are residents of Oklahoma that are going to pay this dollar per day fee. You know, with all due respect, I'm not a math major, but I was just sitting there and was figuring it out. You know, if we have over 42 offices in the State of Oklahoma, we're just not in the metro area. We have an office right here in Miami, right when you come in, if you've seen it, it's in a strip center on the way into town. We have offices in McAlester, we have offices in Altus, we have 42 offices across the State of Oklahoma and most of those are in outlying areas. There's a cost of doing business in an outlying area, it's a little more expensive than in a metro area. But the thing is, the sales tax varies in every city and as Mr. East pointed out, we have a six percent vehicle rental tax that's levied on our cars. So if you were in a

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car and I don't know, forgive me for not knowing what the sales tax is in Miami, but I'm just going to use simple math for my mind, but if the sales tax on a car is eight percent and then you factor in six percent on top of that per vehicle rental tax, now you're -- I mean, that's just every day today. You're looking at a 14 percent tax today on your rental car. Now, if the average price of a compact car on the replacement side, which is my side of the business, it's going to be different on our airport traffic. Our airport traffic average cost of a compact car may be $50.00. But even on a replacement side rental stance, the average price of a compact car is $30.00. So that means your rental tax at 14 percent is going to be anywhere from four and a half to five dollars a car, per day. Now, we take that dollar we're talking about and throw it onto that, now your cost just went up to five dollars and fifty cents a day on taxes alone. Then again, that's just approximate. I'm not a math major. But

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then when I heard Mr. East mention the fact about, you know, our cars being -- our cars are also one year old cars or younger, newer. So they're one year old or less. So we talk about cleaner emissions, then we're talking about, you know, we have x-amount of hundreds and hundreds and thousands of cars on the road in Oklahoma with just the three of us combined, thousands which are clean-emission cars. Well, then, why not levy a tax on the tag agencies, you know, when you go to renew your tag? I know that that was brought up once before. So I was sitting here thinking, okay, if we raise -- if we impose this dollar per fee -- dollar per day fee and it passes, then our costs go up from 14 percent, which is about four fifty a day to five a day, so that's a dollar per day for everybody in here that wants to rent a car to go out of town on the weekend or go to the Big 12 Championship or go down to OU/Texas, so that's a dollar per day additional you're going to pay. Whereas, if we charged even an additional, if there

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are 300,000 cars registered in the State of Oklahoma, we charge an additional fifty cents per year on those cars, it's going to raise $150 million dollars a year, which on page 7, I think, is the amount you were trying to get to, so if we raise $150 thousand dollars per year by imposing a fifty cents a day or fifty cents per year tax on the tag, that saves every one of us a dollar a day that we're trying to impose and basically it costs every family a candy bar a year. I don't know, that's my simple math, that's how I look at things. So basically we're looking at raising -- everybody in here's going to have to pay an additional dollar a day when you want to rent a car, when you have family come into town, when you rent a car to go away on the weekends, when you rent a car when your car's in the shop, regardless of what it is, it's going to cost every one of us, including myself, an additional dollar a day every time we rent a car or if we levy this charge against our tags, I'd rather pay one candy bar a year myself. So I

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agree with my colleagues, Mr. East and Mr. Walker, and say with all due respect, folks, we'll lace them up tight and go after it to reject this proposal. And I appreciate you giving me the privilege to speak this morning. Thank you, very much.

MR. MASON: Thank you. Any questions? All right.

MR. JAMES: Thank you.

MR. BRANECKY: Good morning, Members of the Board, I'm David Branecky and today I'll represent OG&E. Well, I also sit on the Air Quality Council, so I'll give you a little bit of history. I also sit on the Air Quality Council Financial Committee and we've looked at the Air Quality Division's finances over the years and Title V -- I just wanted to make it clear that Title V program pays for itself. The stationary sources that pay the fees that fund Title V program, this year will be breaking even, it's paying its way. What's not paying its way in Air Quality are the non-Title V sources.

So I just wanted to make that clear,
that as you remember, I work for OG&E, that
we pay our fees, we pay our fair share and
we are paying our way. We don't think it's
fair, and I'm speaking as OG&E now, that
for us to have to pay additional fees to
fund non-Title V sources or non-Title V
parts of the program. So I'm afraid if
some other means of funding are not passed,
we'll have to come back to an increase in
Title V fees and we'll fight that, because
we feel we're paying our way and we don't
feel it's fair to have to pay for the whole
program.

MR. MASON: Any questions? Other
comments? Thoughts from the Board.

MR. DARK: I'll offer up a
thought.

MR. MASON: All right.

MR. DARK: As I understand and
correct me if I'm wrong, Steve, but we --
this Board has failed in its attempt to try
to put something on car tags, correct?

MR. THOMPSON: The Board -- the
Board approved last year our -- us going
forward with the car tag fee --

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MR. DARK: And it was dismissed.

MR. THOMPSON: -- and the Agency went forward with that and it was dismissed in the Legislature.

MR. DARK: And knowing, having fought for those dollars in the Legislature for many, many years, that's a very tough fight. Knowing that politics is the art of compromise, if you don't have anything to compromise with, you won't get there. I think we would be remiss to try to go back to a car tag fee because we've seen that fail. And based on the other initiatives that I know are going on, I don't think it stands a chance this year, frankly.

However, if we go forward with something, what may ultimately come out of the system could be something that's hopefully based on just these gentlemen's comments, something totally different. But if we start with nothing, I can assure you what we'll get. So I would still be in favor of pushing this with the most earnest request that industry get in lockstep with the DEQ and let's find something that does

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work, let's find some way that we can get enough pressure on our Legislature. And I assure you guys that if this thing comes from staff and industry decides that they don't want it, they won't get it. But if there's some way that we could get industry to join hands with us and figure out a way to get those non-Title V people to belly up to the bar, if you will, either through appropriations or through some other method, we could get this in the form of a bill and then change it through the legislative process and get something that works for both of us.

However, I believe when we start with nothing, we will get nothing. So I would still be in favor of pushing this forward in hopes that we could get something more fair to all parties.

MS. ROSE: I have a question.

What was the fee that was proposed last year that did not pass? Was it considerably more than 50 cents per vehicle or what was that?

MR. THOMPSON: It was a one
dollar -- where we started, what was approved by the Board was a one dollar per tag fee on vehicles in the State of Oklahoma. As Mr. Dark mentions, that's kind of where you start. We, as you go through the legislative process, you're well aware, we talked about limiting that to the impact areas of Oklahoma City and Tulsa. We talked about going from a dollar to 50 cents. The kind of negotiations in compromise once we get approval of something like this, we sort of take the initiative to do. It's -- I would say to the Board that clearly we have generated some interest in this issue. It's clear that we've generated interest in it. The question of how much interest will remain if you don't go forward with this proposal is, I think, problematic.

I will commit to the Board personally that we will work with everybody to try to find the most equitable fee that gives us the opportunity to have some success in building our air program. I've asked, I asked -- and Jim, I don't want to

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put words in your mouth, I said, Jim, what

do you suggest that works? What would you

suggest? We tried the tag fee, what would

you suggest? And maybe somebody out there

has an idea that works other than this. I

just am not yet -- I'm just not yet

(inaudible).

MR. DARK: My fear is that the
easiest thing to do is to kill the bill and

by doing this, I wouldn't want it to

motivate industry just to go kill a bill

but rather let's see if you can figure out

something that will work and if it doesn't,

then kill the bill. I mean, that's a phone

call from one of you guys, you know that as

well as I do. So if there's some way that

we could get this rolling and get it

through the door, I think it would be

fantastic and allow us again, I think this

primacy issue is an important issue and it

will become an important issue someday.

MR. MASON: Other Board thoughts?

MS. ROSE: Well, I assume that

staff has looked at all of the other

options. I mean, I don't know, I'm new on
the Board, this is not an issue that I know anything about except what I've heard today. So I'm assuming then that you have looked into other methods of financing this, so. And you believe that in view of what happened last year in the Legislature, that this is the best way to proceed; is that correct?

MR. THOMPSON: I think that's correct. That's not to say that we are not also pursuing, again, for the -- I guess now for the fifth year general revenue. And so we will address (inaudible) of that. But given our -- I can't promise much, given our past track record. We've had very limited success on the dollar fee and so this is an idea that really -- and it's my understanding that while this is an idea that really kind of came out of Florida. And while I'm -- I don't believe that they dedicate the fee money in Florida to -- or at least a portion of the fee money in Florida to air quality, they do dedicate it to tires and batteries. I think there's a piece of that. So it is -- I would suggest

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to you -- and I think there are other
states that do that. So it is -- while
this may be unprecedented relative to an
air program, it is not unprecedented in
other states relative to what would be
considered environmental programs.

MR. MASON: As a Board, do we
want to approve the legislative packet or
just change it as a whole packet or do we
want to approve or change this
individually?

MR. DARK: Is it being presented
as a packet or as individual items? As a
packet?

MR. THOMPSON: Well, it's the
Board's decision. We put together the
report that's required by the Legislature
that has, I think, four items in it and so
we can -- it would be at the Board's
discretion to approve each segment or
approve the package as a whole, it's up to
you.

MR. DRAKE: Let's go ahead and
have the rest of this report presented and
then decide on that.
MR. MASON: That's fine. We'll do that. You still here, Craig?

MR. KENNAME: Hopefully, this next one will be noncontroversial. The next one really is something very simple. The old Hazardous Waste Management Act had a definition for qualified interest groups. We have subsequently passed the Uniform Permitting Act that provided us processes and procedures for public participation for all permitting in the DEQ. So this qualified interest group was a group that was allowed -- that could challenge a permit. And -- or could ask for a hearing on a permit, public participation on a permit. And the permit that it could ask for a public participation on was a construction permit, hazardous waste construction permit. We no longer have those. So this is an obsolete definition that we'd like to remove and the legislation that's presented today for this is just to strike that definition, because it's confusing. We've got a Uniform Permitting Act and then you've got another
provision in another act that talks about who can -- what group can ask for a public meeting on a permit. So we'd like to have the Uniform Permitting Act stand as the Agency's statutory authority on who can ask for hearings on permits and leave it in that body of the law and not have a separate definition that talks about permits that we don't even have anymore, they're obsolete.

MR. DARK: So this is more of a housekeeping issue than anything else?

MR. KENNAMER: That's exactly what it is. So if there's any questions and comments on that, I'll take them at this time.


MR. KENNAMER: The next one is water legislation and there's three components to this legislation. The first is the public water supply fee statute. And when the Legislature passed the public water supply fee statute, it was one of the -- ones, if not the only statute that sets

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requirements for fees. Most of our fees, as you know, come through the Council and the boards for approval. This one was set by statute and it mandated that the Agency charge for the actual costs of regulatory services, but at the same time it put a 30 cent per month per residential user cap on the fee that we could raise annually. And so as programs have been added and all these new federal mandates have been added to the public water supply program, we have seen costs rise. Our actual cost for regulatory services have risen, but we cannot meet the demands because we have this 30 cent per residential user cap. And so as each year progresses and we get more federal mandates come into play, we have this limit. And what has also happened about four years ago, we had our appropriated dollars cut for our water programs. So at the same time our appropriations were cut, costs have risen and the 30 cent cap keeps us from raising fees. So what we’d like to do and what we’re proposing to do today is to have the

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legislation that would remove that cap and
return that authority to the Board to set
the fees. There is still a cap in the fee
rule for public water supplies, in that
rule. And it's the same cap, it's a 30
cent cap. But we could then go to the
Council and go to the Board and say what is
the appropriate fee based on our actual
cost and the councils and boards could make
that determination instead of limiting us
and having this gap widen every year
between our actual costs and what fee
income we can generate. So if you have any
questions on that one, I'll pause before I
go to the next component of the water
piece.

MR. MASON: Board or public
questions?

MR. THOMPSON: I would suggest to
you again that -- a couple of things. Last
year I guess our budgetary success was that
we got some money to replace equipment in
our laboratory, which is part of our
ongoing cost for this. We haven't received
it yet, but we anticipate that towards the

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end of the year we will. Again, we are asking for general revenue money. We brought that to you last year to offset the cost not necessarily of our cost, although we will have administrative cost for that, but a piece of it is for our assistance to community cost and a piece of it is to mitigate the cost to the communities for analysis. So we continue to ask -- take a multi-pronged approach, give us some money to offset these costs or give us the ability to really look -- for the Board and the Council to really look at the cost of our program operation and then make adjustments accordingly.

MR. KENNAME: And I think that is a very good point. We will always continue to get appropriated dollars, but in cases where we can't, we need to make up for the gap in income and the actual cost and so that's what we're trying to do today.

MR. DARK: So you're not -- I mean, you stated earlier in this first paragraph there is a -- it's based on flow,
not connection, which is easy to understand
and I certainly agree with. But down here,
you're asking to still tax it at the
connection.

MR. KENNAMER: Well, that's actually a different piece of legislation.

MR. DARK: Okay. Okay. They are
totally separate?

MR. KENNAMER: Yeah, they're separate.

MR. DARK: Okay.

MR. KENNAMER: That's on small public sewage systems.

MR. THOMPSON: He took the easy one first.

MR. DARK: I see. Okay. I was trying to read through that and put them together. Okay.

MR. KENNAMER: The -- is there any other comments then on the first part?

MR. GIVENS: That may be what's confusing, the way it's laid out in the narrative. You're covering the second item.

MR. KENNAMER: I'm sorry. I

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apologize for that. I took the fees first because if we're going to have any issues, it's going to be on the fee issues probably. I will move right into the small public sewage systems now.

MR. THOMPSON: And that's the first paragraph.

MR. KENNAME: That's the very first paragraph. In the definition of small public sewage systems, there is two components. One is if you are determined to be a small public sewage system, you have less than 10 connections or you have a flow of 5,000 gallons per day. Historically, we have always looked at those as two separate criteria that determine whether you fall under that definition. And this must be a real interesting topic — so what you have here is a system set-up that small public systems are regulated by both residential units or flow. And what we look at as an agency is flow, because that is what has the impact on the environment. You can have 15 units, but if your flow is less

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than 5,000 gallons per day, that's what we care about. So what we're doing is trying to take that confusion out and try to take the universe of systems that would be regulated out and base them on flow.

MR. DARK: If that's the case, do you dictate where that flow is measured, because you know as well, that's the most critical point, is do you measure it at the residence or do you measure it at the collection of those residences?

MR. KENNAMER: Well, we measure - I think we measure at the collection. I'll let Gary Collins speak to that, because these systems are --

MR. DARK: Well, I notice you're changing --

MR. KENNAMER: -- but it's usually based on a calculation of how many gallons per day they believe those units will generate. And they have --

MR. DARK: -- so it's not actual measurement?

MR. KENNAMER: No, it's not actual measurement but it's based on a
calculation.

MR. DARK: So you're just guessing (inaudible).

MR. COLLINS: (Inaudible).

MR. DARK: (Inaudible).

MR. KENNAMER: Sometimes you look at water usage to measure and so there's a number of ways to do it. But it's more critical that we look at the design of the facility and how much it can hold and what we estimate to be the flow rather than the units. So what we're proposing today is to remove that connection requirement and keep it at 5,000 gallon flow per day. There is also a change in the definition that eliminates public and commercial, because those are terms that we don't commonly use. Using terms to us, what we try to do is talk about systems in terms of being industrial or nonindustrial and that's why that language is changed from nonindustrial to public or commercial systems. Those are the changes to that section and I'll ask for any question or comments at this time.

Okay. Hearing none, we'll go on to

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operator certification. This is a mandate by federal law that certain systems have a certified operator. Those systems that have been expanded under federal rule to have a certified operator are the non-transient, noncommunity public water supply systems. For those of you who don't know what those are, those would be, like, schools, daycares and small businesses. They serve 25 of the same persons over six months period and if we fail to do so -- if the state fails to do this, make this change, we'll lose federal funding for the operator certification program and for the public water supplies. What this also does is clarify that those small public sewage systems that we're talking about are not included and are not required to have a certified operator and it also clarifies that industrial facilities don't have to have a certified operator. So the changes just apply to these non-transient, noncommunity public water supply systems.

MR. DARK: So this is just to maintain our federal funding?
MR. KENNAMER: That's correct.

MR. DARK: Question, does our own staff -- are they allowed to participate in that federal funding for certified operators? In other words, our inspectors in the field, are they certified operators or is there a plan to make them certified operators?

MR. KENNAMER: Well, actually, we've been looking into that. There is a -- we've been looking at how to provide the training and get as many people as we can as certified operators. We're looking into how the state can pay for that and whether or not the grant dollars can pay for that operation, so it's kind of a legal issue at this time. But I think we're going to get over that hurdle and try to have as many of our staff who are in position to regulate certified operators, have that certification.

MR. DARK: I would encourage staff to try to figure out a way through that. I don't know the process, the logistics of it, however, I do know the
problems in the field when you have an ODEQ representative inspecting a treatment facility, be it water or wastewater, that is non-certified, trying to dictate or suggest or even propose a problem to a certified operator in a plant for a municipality. I hear that all over the state and I think it's a valid concern.

MR. KENNMER: Yeah. I would like to say that most of our field staff has -- have science or engineering degrees and so they do have some understanding of the operations. But you're correct, it would be good to have some practical knowledge of what they go through to operate a program.

MR. THOMPSON: Let me step in here. We -- I think as much as anything that the perception issue is out there, that you're not certified and I have to be and you're inspecting me. And Jon and I have talked at length about that and it's my understanding that Chris, Jon, is working very diligently and it won't be long before we'll begin to certify our
operators and move forward with getting
that done.

MR. DARK: Well, as you said,
perception is reality.

MR. THOMPSON: That's exactly
right.

MR. DARK: Whether it's true or
not.

MR. KENNAMER: Is there any other
comments or questions on that one?

MR. THOMPSON: This is a real
life federal mandate.

MR. DARK: We don't have a choice
here.

MR. THOMPSON: No. I wish we
did.

MR. KENNAMER: Okay. The last
and final piece of legislation in our
Environmental Quality Report has to do with
the forums that the Board holds. Currently
the law requires four forums, one each
quarter. And we would like to remove that
(inaudible) and hold a forum in connection
with the Board meetings, because there are
occasions due to weather or whatever that

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the Board may only meet three times in a year and it's fairly costly and expensive for the state to go out and hold a separate forum. So we would like to just tie those forums to Board meetings. We have -- I can only think of one year maybe that we had three Board meetings instead of four, so it's not really going to change that much. But it would be, I think, a good or at least an economic advantage to the state that we tie the forums to the Board meetings, so if we do cancel one, that we don't have to go out and then hold a forum. Any questions or comments on that issue?

MR. THOMPSON: Let me go ahead and -- the last two are really sort of other legislation with special interest. One has to do with our discussion about the salary of the Executive Director and you all are very aware of that. Finally, there will always be a tire bill and we are not -- we are not sponsoring a tire bill this year but we do believe that there is some opportunity to change the way the tires are done. The tire program -- change the tire
program in such a way that we don't have to
raise -- we've talked a lot about raising
fees today. We think there's a way to do
the tire program so that we -- so that the
Legislature will not have to raise fees and
we're going to, by sending the tires to the
end users, the people that actually destroy
the tires. And so we're going to suggest
to the Legislature a way in which we might
adequately get tires processed without a
raise in the fees. So we -- we come down
on both sides of that issue.

MR. DARK: How about another
dollar to those tires that comes right back
to us?

MR. THOMPSON: I'm sorry. That
would be -- anything saved that could come
back for air quality, we could do.

MR. KENNAME: Well, that
concludes the Environmental Quality Report.

It's now in your hands. Thank you.

MR. MASON: Thank you, Craig.

What I might suggest is we have a Board
discussion and then some very brief public
comments of two minutes or less, then the

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Board action.

MR. DRAKE: Well, I was going to make a motion, but if you would rather have a discussion, we'll do it that way.

MR. MASON: Well, let's do your motion.

MR. DRAKE: Let's do the motion.

MR. MASON: All right.

MR. DRAKE: I'm going to move that we accept this in total and I reserve comment as soon as someone seconds it, if they do.

MR. DARK: Second.

MR. DRAKE: Comment. There's that old saying that Russell used to say, don't tax me, don't tax thee, tax that man behind the tree. And I believe it. And if I were these gentlemen with the rental car business, I would do the same thing they're doing. If you mess with agriculture, that's where I'd be or anything else that I'm involved in. However, the State of Oklahoma and the EPA, through their wisdom, gave us a lot of edicts that we don't always have funds for and we don't know

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where to get these funds. So I'm going --
I moved this because fully recognizing that
the car industry is going to come after it,
I would if I were them, but also
recognizing that we're going to put
something on the table that maybe someone
will help us figure out where to get some
money, because we're going to have to have
some money to do what we've been told to do
and we have to do.
So with that in mind and with a full
realization that certainly I wouldn't be
happy if I were them, the full realization
we don't know where else to go, we'll try
the tag law, we'll try the -- any other
avenue that we can have, but I know that
we're going to be generating some excellent
comment because I've already heard it today
from, I believe, three gentleman, maybe
four, very articulate and very well done.
So with that in mind, Mr. Chairman,
I've made that motion and that's the
comment because we need to move forward and
find some funds and maybe someone will help
us find them.
MR. MASON: Thank you, sir. Is there any public comment of two minutes or less per person? Okay. Any additional Board discussion?

MS. ROSE: Well, I would like to say something about that, also. I feel very uncomfortable in taxing the car industry. I think this -- it would be much better if we had across the board tax, knowing what the staff, what has happened in the past, perhaps then this is the best way to go. And this isn't something that's just necessarily that we've been told we must do this, we need to have cleaner air in Oklahoma and be sure that we maintain the clean air that we have today. But that's beside the fact of what we need to do today. But I do want to go on record as saying that I think this is perhaps unfair and we all need to work to bring something else to the table.

MR. MASON: I think we're ready for a vote. Does everybody understand Mr. Drake's motion to accept the proposal as presented? All right.

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1  MS. BRUCE: Ms. Cantrell.
2  MS. CANTRELL: Yes.
3  MS. BRUCE: Mr. Dark.
4  MR. DARK: Yes.
5  MS. BRUCE: Mr. Drake.
6  MR. DRAKE: Yes.
7  MS. BRUCE: Ms. Galvin.
8  MS. GALVIN: Yes.
9  MS. BRUCE: Mr. Johnston.
10 MR. JOHNSTON: Yes.
11 MS. BRUCE: Ms. Rose.
12 MS. ROSE: Yes.
13 MS. BRUCE: Mr. Mason.
14 MR. MASON: Yes.
15 MS. BRUCE: Motion passed.
16 MR. MASON: Thank you.
17 MR. DRAKE: Further, Mr.
18 Chairman, I'll pledge that I'll talk to
19 whoever's necessary and I know a few of
20 them, to find, help to find some of the
21 funds because I do not want to penalize any
22 companies in Oklahoma that have been so
23 wonderful to come in here, but we are going
24 to generate some comment.
25 MR. MASON: Thank you.

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MR. DRAKE: Thank you.

MR. MASON: I think as a Board and as an Agency, we appreciate those industries and the rental car folks taking time to come up here and help us and your input helps. Thank you, very much. New Business. Executive Director's Report.

MR. THOMPSON: Well, I reported to you at the last Board meeting that I would -- was going to offer my name in nomination for President of ECOS, which is the national and state environmental commissioners association. I don't know whether out of sympathy or fear, but no one ran against me. So for over the next year I'll be serving as President of that organization. A number of you -- of our Board Members were able to attend the meeting. I hope they found it somewhat stimulating. It can get pretty boring at times, but I hope you found it interesting. Just to let you know, over the next couple of months we will be meeting with or I will be meeting with Administrator Levitt and with Senator Inhofe and his staff to

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discuss the direction that EPA will take over the next four years. And so we will hope to have productive discussions about that and about the role that state environmental agencies play in environmental protection in the country. I think it's -- I'll also be speaking at the National Environmental Summit in D.C., which is in the first part of December. And as a result of that, I will automatically serve as Past President for another year, so I will be working in the leadership of ECOS over the next couple of years.

Myrna, do you want to go ahead now and pass out the Environmental Quality Report? Annually we bring a report to the Board. This serves not only as a report to the Board of the activities of the agency, it serves as the report to EPA about what we've done and to the Legislature and any number of people, so this is a document that we use for a lot of reasons. I don't want to go over the document in total, but I would draw your attention to I think

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really beginning on page 11. What we have documented here is some of the special awards and recognition of our employees and of the Agency that we've received. If we're good at all as an Agency, it's because of our employees and I think there are a lot of -- and our employees receive a lot of recognition over the past year and we want you to be aware of that.

The other thing, if you want to know the range or the number of activities that we're doing, that's in the back of the book. Our bean counts are in the back, I'll draw your attention to that. And then the rest of the document is really some stories about projects or enterprises that we've taken on over the years or over the past year and so we are pretty proud of the document. We would draw your attention to that.

MR. THOMPSON: Yes, that's produced in-house. If you'll look on page -- well, I should recognize a couple of people. If you'll look on page 11, Denise Harkins, the lady who was our employee of

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the year or at least our co-employee of the year, is the person that formats and does
the graphics on this report. So she does
an excellent job for us. Wendy Caperton,
who is our Director of Policy and Planning
at the Agency coordinates the development
of the document, so this is done totally
in-house. Wendy's the lead and once we get
all the document put together, she gets the
document put together and then Denise
formats and does the graphics on it. So
it's a document we produce in-house.

Mr. Dark: There won't be a quiz
to the Board?

Mr. Thompson: There will not be
quiz to the Board or the Executive
Director, for that matter. I have kept the
Board updated on issues related to
treatment of states for tribes, I think
it's something of interest to a lot of
people. Recently, EPA awarded treatment of
states to the first tribe in Oklahoma, that
was the Pawnees. We have looked,
potentially at poor water quality
standards. So we'll be watching that. We

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do know a little bit about our legislative leadership this year. Senator Richard LeBlanc of McAlester has been named the Chair of the Senate Energy and Environment Committee. Senator Mary Easley is the Co-Chair of that Committee. Senator Jeff Rabon of Hugo is the Appropriations Subcommittee Chairman for the Environment, so we know who our leaders are on the Senate side. We have not yet -- I'm not sure the House has got itself organized because of the change yet, to determine those things. But as we do learn who they are, we'll begin to develop those relationships. Some of these folks are past friends of ours and some we need to build new relationships with.

MR. MASON: Steve, could you put an email out to the Board Members as soon as that's finalized, so we all know --

MR. THOMPSON: Yes.

MR. MASON: -- on those things.

MR. THOMPSON: We sure will. I guess there's a couple of other things that I will mention briefly. One is, you know,
we -- Mr. Dark talked a lot about
delegation of programs and that means EPA
oversight when you're delegated a program
and we recently went through agency-wide
our enforcement review. And I would
classify the review as saying, we've
got good enforcement programs, we do a good
job. We were dinged on one thing and that
was the timeliness issue. I think that's
because we negotiate with folks, rather
than simply going out with unilateral
orders. I think that because we do
negotiate, they did not say that our
penalties were inappropriate because we
negotiate, they simply said it takes you a
little longer than it should, to get them
done. And my response to that is, it's
just going to continue to take a bit
longer. We believe in negotiation, we
believe we believe we get a better product,
we get a better education and we believe we
get better environmental protection through
negotiated orders rather than unilateral
orders and that will continue to be our
practice.

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The other thing that I would mention is that we were recently in Duncan for a ceremony that really kind of honored Conoco-Phillips. The Duncan County Commission thanked DEQ for the work that we're doing to renovate the old Duncan Refinery down there. When you can get the company and the government and the locals together and not only clean up a property but provide it for an economic development benefit to that community, that's the best of all possible worlds. That's the iteration above just negotiation. That's the iteration of not only considering health and environment, but also considering economic development for local communities. And Scott Thompson and his group were the spearhead of that and we're very proud to be a part of that effort. And it's the kind of thing we want to do in the future.

With that, I'll take any questions.

MR. DRAKE: How many members do we have right now on the Board? We're missing just one?
MR. THOMPSON: Missing one.

MR. DRAKE: One spot?

MR. THOMPSON: We're missing a spot for the environmental professional, not -- there's more to that description. It's not associated with a municipality or something. I can't -- Jimmy, you might (inaudible). It's Herschel's spot. It's environmental professional, but there's more to it in the statute than that. But anyway -- I'm sorry.

MR. GIVENS: I have it, if you want it.

MR. THOMPSON: Yes, if you would.

MR. GIVENS: It's a slot for a certified or registered environmental professional. Such member shall be an environmental professional experienced in matters of pollution control, who shall not be an employee of any unit of government.

MR. THOMPSON: Okay. That's it, not a unit of government. But that's --

MR. MASON: Thank you. Any questions for Steve? If there's no other business, we're going to adjourn. We're

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going to take about a ten minute break and
then we'll have the public forum and then
we're going to have a little lunch and then
we have a two hour tour of Tar Creek.
Right?

MR. THOMPSON: That's exactly
right.

MR. MASON: Okay. Ten minute
break.

(End of Proceedings)

CERTIFICATE

STATE OF OKLAHOMA

) ss:

Christy A. Myers

Certified Shorthand Reporter
COUNTY OF OKLAHOMA

I, CHRISTY A. MYERS, Certified Shorthand Reporter in and for the State of Oklahoma, do hereby certify that the above proceedings is the truth, the whole truth, and nothing but the truth; that the foregoing proceedings were tape recorded by and thereafter transcribed under my direction; that said proceedings were taken on the 16th day of November, 2004, at Miami, Oklahoma; and that I am neither attorney for nor relative of any of said parties, nor otherwise interested in said action.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on this, the 10th day of December, 2004.

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