Notice of Public Meeting  The Environmental Quality Board convened for a regular meeting at 9:30 a.m. at Redlands Community College, 1300 South Country Club Road, El Reno, Oklahoma. This meeting was held in accordance with 25 O.S. Sections 301-314, with notice of the meeting given to the Secretary of State on December 3, 2009 and amended on June 22, 2010 to change the location. The agenda was mailed to interested parties on August 12, 2010 and was posted at the Department of Environmental Quality on August 20, 2010. Brita Cantrell, Chair, called the meeting to order. Roll call was taken and a quorum was confirmed.

MEMBERS PRESENT
Brita Cantrell
Bob Drake
Jennifer Galvin
David Griesel
Jerry Johnston
Steve Mason
Sandra Rose
John Wendling
Richard Wuerflein

MEMBERS ABSENT
Mike Cassidy
Tony Dark
Terri Savage
Kerry Sublette

OTHERS PRESENT
Clayton Eubanks, Assistant Att’y General
David Branecky, AQAC Member
Lee Grater, HWMAC Chair
Rep. Phil Richardson
Christy Myers, Court Reporter

DEQ STAFF PRESENT
Steve Thompson, Executive Director
Jimmy Givens, Deputy Executive Director
Martha Penisten, General Counsel
Wendy Caperton, Administrative Services Div.
Catherine Sharp, Administrative Services Div.
Eddie Terrill, Air Quality Division
Judy Duncan, Customer Service Division
Gary Collins, Env. Complaints & Local Services
Scott Thompson, Land Protection Division
Shellie Chard-McClary, Water Quality Division
Fenton Rood, Land Protection Division
Rita Kottke, Land Protection Division
Monte Boyce, Administrative Services Div.
Roy Walker, Administrative Services
Jennifer Wright, Administrative Services
Myrna Bruce, Secretary, Board & Councils

The Attendance Sheet becomes an official part of these Minutes.

Approval of Minutes  Ms. Cantrell, Chair, called for motion to approve minutes from the February 26, 2010 Regular Meeting. Mr. Johnston made the motion and Ms. Rose made the second.

Rulemaking – OAC 252:100 Air Pollution Control  Mr. David Branecky, Air Quality Advisory Council Member, stated that the proposal would add a new Part 4, Biomedical Waste Incinerators, to Chapter 100, Subchapter 17, Incinerators. He added that the proposed rulemaking would include design requirements, emission standards and control
technology for this type of incinerator. Additionally, Mr. Branecky explained that the proposed rulemaking will close certain regulatory gaps in Subchapter 17, Part 7 (Hospital, Medical and Infectious Waste Incinerators) when pathological waste, low-level radioactive waste and chemotherapeutic wastes are incinerated. Following comments from Council and hearing no comments from the public, Ms. Cantrell called for a motion. Mr. Griesel moved approval and Mr. Drake made the second.

**Rulemaking – OAC 252:220 and 252:221 Brownfields** Mr. Lee Grater, Hazardous Waste Management Advisory Council Chair, advised that the proposal would revoke Chapter 220 and replace it with a new Chapter 221 and would modify and re-organize the current Brownfields rules to make them consistent with recent amendments to the Oklahoma Brownfields Voluntary Redevelopment Act, which eliminated permitting requirements for Brownfield program participants. The proposed changes also allow for timely expenditure of federal stimulus funds for Brownfields projects in Oklahoma. Ms. Rita Kottke, DEQ Brownfields Manager fielded questions and comments. Ms. Penisten, DEQ General Counsel explained that staff was recommending emergency and permanent adoption of the new Chapter 221 and emergency and permanent revocation of Chapter 220. Ms. Cantrell called for a motion for emergency adoption of Chapter 221. Mr. Drake made the motion and Mr. Mason made the second.

Ms. Cantrell called for a motion for permanent passage of Chapter 221. Mr. Mason made the motion and Dr. Galvin made the second.

For the emergency revocation of Chapter 220, Mr. Griesel made the motion and Mr. Wuerflein the second.

For consideration by the Board for permanent revocation of Chapter 220. Mr. Johnston made the motion and Ms. Rose made the second.
Rulemaking - OAC 252:4 DEQ Rules of Practice and Procedure  Ms. Kottke stated that this proposal refers to the Uniform Permitting Act required the program to be defined in terms of tiers for permitting purposes in OAC 252:4, Part 5, Land Protection Division Tiers and Time Lines, and the DEQ proposed to revoke 252:4-7-61, 4-7-62 and 4-7-63, which were made obsolete by the recent amendments to the Oklahoma Brownfields Voluntary Redevelopment Act. Mr. Johnston made a motion for emergency adoption and Mr. Drake made the second.

For permanent adoption, Mr. Johnston made the motion and Ms. Rose made the second.

Consideration of and Possible Adoption of Resolution in Support of Recycling in Oklahoma  Mr. Fenton Rood, Land Protection Division, provided information on recycling in Oklahoma for the Board to consider a Resolution in support of future legislation concerning beverage container recycling in Oklahoma. The adopted Resolution would then be forwarded to the Governor, the Speaker of the House, the President Pro Tempore of the Senate, and the Chair of the Senate Energy and Environment Committee by the DEQ. Following much discussion, Ms. Rose moved adoption of the Resolution and Mr. Drake made the second.

DEQ Operational Budget Request  - Mr. Steve Thompson, Executive Director, provided a presentation outlining DEQ’s budget requests to the Governor through the Office of State Finance which require approval of the Board. The operational budget request for State Fiscal Year 2012 (beginning July 1, 2011) must be submitted to the OSF by October 1st of
this year. The law requires that all state agencies submit a five-year budget. The request for the coming year, SFY 2012, is the most critical. Within the overall request for general revenue funds, DEQ will specifically request to restore funding for its Air Toxics program and for technical assistance for small communities. Following comments, Ms. Cantrell called for a motion of approval. Mr. Johnston made the motion and Mr. Mason made the second.

Disclosure of Employee Financial Interests Ms. Martha Penisten, General Counsel, reported as required by Title 27A Oklahoma Statutes Section 2-3-101(C) for informational purposes only. No action by the Board is required.

Executive Director’s Report Mr. Thompson called on Mr. Jimmy Givens, Deputy Director, who provided a presentation related to the Office of Personnel Management Annual Report. He also provided an update on the legislative season.

Annual Performance Review of Executive Director Among the statutory duties of the Board are responsibilities to appoint and set the compensation of the Executive Director and to assist the DEQ in conducting periodic reviews and planning activities related to the goals, objectives, priorities, and policies of the DEQ. In connection with these responsibilities, the Board has determined that it should conduct its annual performance review of the Executive Director. Ms. Cantrell called for a motion to take the Executive Director annual performance review into Executive Session. Mr. Griesel made the motion and Ms. Rose made the second.

Mr. Wuerflein moved to reconvene from the Executive Session. Mr. Drake made the second.

Ms. Cantrell related that following discussion, the Board recommended a salary increase to be effective July 1, 2010. Mr. Griesel moved approval and Mr. Wendling made the second.
Dates/Locations 2011 Calendar Year 2011 Board meeting dates and locations
Discussion led to the selection of the following dates/locations for Calendar Year 2011. February 25 at the DEQ; June 14 in Enid; August 23 in Tulsa; and November 15 in Norman.

New Business  None

Next meeting  November 16, 2010 in Stillwater

Adjournment  Ms. Cantrell adjourned the meeting at 1:00 p.m.

The transcript becomes an official part of these Minutes.
DEPARTMENT OF ENVIRONMENTAL QUALITY

STATE OF OKLAHOMA

* * * * *

TRANSCRIPT OF PROCEEDINGS

OF THE MEETING

ENVIRONMENTAL QUALITY BOARD

HELD ON AUGUST 24, 2010,

AT 9:30 AM

HELD IN EL RENO, OKLAHOMA

* * * * *

MYERS REPORTING SERVICE

Christy Myers, CSR
P.O. Box 721532
Oklahoma City, Oklahoma 73172-1532
(405) 721-2882
MEMBERS OF THE BOARD

BRITA CANTRELL - CHAIR
TONY DARK - MEMBER
DAVID GRIESEL - MEMBER
JERRY JOHNSTON - VICE-CHAIR
STEVE MASON - MEMBER
SANDRA ROSE - MEMBER
RICHARD WUERFLEIN - MEMBER
KAROL SAVAGE - MEMBER
KERRY SUBLETTE - MEMBER
JOHN WENDLING - MEMBER
JENIFER GALVIN - MEMBER
BOB DRAKE - MEMBER

STAFF
STEVE THOMPSON - DIRECTOR
JIMMY GIVENS - ATTORNEY
CLAYTON EUBANKS - AG'S OFFICE
MYRNA BRUCE - SECRETARY
MARTHA PENISTEN - LEGAL
PROCEEDINGS

MS. CANTRELL: Good morning. The meeting is called to order.

The August 24, 2010 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 December 3, 2010, and on June 22, 2010 to change the location. Agendas were mailed to interested parties on August 12, 2010 and posted at this facility and the Department of Environmental Quality, 707 North Robinson, Oklahoma City, on August 20, 2010.

Only matters appearing on the posted Agenda may be considered today. 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. And with that, Myrna, will
you please call the roll.

MS. BRUCE: Good morning. Mr. Cassidy is absent, Mr. Dark is absent.

Mr. Drake.

MR. DRAKE: Here.

MS. BRUCE: Dr. Galvin.

DR. GALVIN: Here.

MS. BRUCE: Mr. Griesel.

MR. GRIESEL: Here.

MS. BRUCE: Mr. Johnston.

MR. JOHNSTON: Here.

MS. BRUCE: Mr. Mason.

MR. MASON: Yes.

MS. BRUCE: Ms. Rose.

MS. ROSE: Here.

MS. BRUCE: Ms. Savage is absent.

Dr. Sublette is absent.

Mr. Wendling.

MR. WENDLING: Here.

MS. BRUCE: Mr. Wuerflein.

MR. WUERFLEIN: Here.

MS. BRUCE: Ms. Cantrell.

MS. CANTRELL: Here.

MS. BRUCE: And we do have a quorum.
MS. CANTRELL: Thank you, Myrna.

With that, we have -- the item on the Agenda is the Approval of the February 26, 2010 Meeting Minutes. I believe those were distributed to the Board in the packet.

Do we have a motion?

MR. JOHNSTON: Move to approve.

MS. CANTRELL: Is there a second?

DR. GALVIN: Second.

MS. CANTRELL: All in favor?

Roll call, please, Myrna.

MS. BRUCE: Mr. Drake.

MR. DRAKE: Yes.

MS. BRUCE: Dr. Galvin.

DR. GALVIN: Yes.

MS. BRUCE: Mr. Griesel.

MR. GRIESEL: Yes.

MS. BRUCE: Mr. Johnston.

MR. JOHNSTON: Yes.

MS. BRUCE: Mr. Mason.

MR. MASON: Yes.

MS. BRUCE: Ms. Rose.

MS. ROSE: Yes.
MS. BRUCE: Mr. Wendling.

MR. WENDLING: Yes.

MS. BRUCE: Mr. Wuerflein.

MR. WUERFLEIN: Yes.

MS. BRUCE: Ms. Cantrell.

MS. CANTRELL: Yes.

MS. BRUCE: And thank everyone for that also.

MS. CANTRELL: Thank you, Myrna.

And now before we go on further on the agenda, our Director, Steve Thompson, has a few items.

MR. THOMPSON: First of all, welcome to El Reno. I am resident and proud resident of El Reno and proud graduate of El Reno High School as are other Members of the Board, Sandra Rose --

MR. JOHNSTON: And an outstanding alumni.

MR. THOMPSON: Well, that too. Jerry, apparently the Board that picked me is an outstanding alumni didn't know me in my youth, they must -- must have recently moved to El Reno.

Ms. Rose and Mr. Griesel also
residents and natives of the area. And I just wanted to give a sense of the kind of town that El Reno is.

El Reno is the kind of town that will -- whose citizens will do anything for a good cause. And as evidence of that, I want to pass this item around to you for your review.

(Passed out item)

MR. THOMPSON: If you will look at the pictures on the second page, the fellow in the upper left-hand corner is the Mayor of El Reno.

The gentleman in the upper right-hand corner with the big glasses is my college roommate and the best man at my wedding. And I think if you look closely at the person in the bottom picture, you might recognize him also.

So I thought this was appropriate to give the Board a sense of the kind of people that we have in El Reno.

MR. JOHNSTON: You look pretty good with hair, David.

MR. GRIESEL: Thank you, very
MR. THOMPSON: Thank you.

MS. CANTRELL: Well, thank you to the folks at Redland's Community College. Do we have any representatives of the College joining us today for this meeting? Well, it's a lovely facility. And very nice not only to be in El Reno with the esteemed alums of Steve Thompson and David Griesel and Sandra Rose, but also to be at this facility. It's nice to see this school.

Let's go on then to the first item of rulemaking on our agenda. The first item comes to us from the Air Quality Council. And it's an air pollution control rulemaking agenda item.

Good morning.

MR. BRANECKY: Good morning, Madam Chair, Members of the Board. What the Air Quality Advisory Council is bringing you today is a revision to chapter 100, subchapter 17.

What we're doing, we're proposing to amend subchapter 17 to add an additional
part, Part 4, dealing with bio-medical waste incinerators.

Currently there are two incinerators in the state; one in Oklahoma City, and one in Stroud. They are currently permitted had to be -- current operating permits.

But when in 2007 subchapter 41 which dealt with the type of the emissions from the incinerators was revoked, there was a little bit of a void so we needed to bring back a new rule to cover that and also there was some regulatory gaps in subchapter 17 that we needed to address.

That's the purpose of the rule. And if you look, I wanted to make one correction. If you look at the rule, I think it was in your packet, it's a totally new rule. The last part 3, on the second page, is not underlined, that is also new. Just didn't get it underlined during the process. So the whole thing is new. Like I said, we have two facilities in the state and this will address those facilities and any new facilities that may decide to locate in the state. This is not a high
probability for any new facility just coming into the state, but in case there is, then we'll have a rule in place to address those.

With that, the Air Quality Council reviewed this in October of last year, and in January and April of this year. And we're asking the Board to pass it as a permanent rule.

MS. CANTRELL: Thank you very much. Are there any questions from the Board?

I have a question.

MR. BRANECKY: Yes.

MS. CANTRELL: Why were these requirements revoked in 2007?

MR. BRANECKY: Well, subchapter 41 just dealt with air toxics, that whole rule has been revoked and redone. But there wasn't any gap because these facilities had permits. And in the permits it spelled out the requirements to meet the emission limits. So it may look like even though we revoked subchapter 41 in 2007 that there was a gap, there was not,
because the permits were still in place for these facilities.

MS. CANTRELL: Thank you.

Hearing no questions, is there a motion?

MR. GRIESEL: So moved.

MS. CANTRELL: Is there a second?

MR. DRAKE: Second.

MS. CANTRELL: Myrna, will you please take a roll call vote?

MS. BRUCE: Mr. Drake.

MR. DRAKE: Yes.

MS. BRUCE: Dr. Galvin.

DR. GALVIN: Yes.

MS. BRUCE: Mr. Griesel.

MR. GRIESEL: Yes.

MS. BRUCE: Mr. Johnston.

MR. JOHNSTON: Yes.

MS. BRUCE: Mr. Mason.

MR. MASON: Yes.

MS. BRUCE: Ms. Rose.

MS. ROSE: Yes.

MS. BRUCE: Mr. Wendling.

MR. WENDLING: Yes.
Our next item of rulemaking is Item 5 on our Agenda pertaining to Brownfields. And I believe we have Lee Grater, who is present to make that presentation.

MR. GRATER: On April 22, the Hazardous Waste Council unanimously approved the proposed rulemaking to the DEQ Brownfield Program with one minor change regarding approved definition of resources for terms not defined in the rule. Actually there were some things that EPA put in the rule that wasn't adequately defined.

Rule changes were prompted by the 2009 legislative changes to the Oklahoma Brownfield Voluntarily Redevelopment Act in DEQ's formal transitioning of its Brownfield Revolving Loan Program to assert
13

the --

MS. CANTRELL: Mr. Grater, if you
wait just a minute, I'm afraid maybe your
microphone is not on.

MR. GRATER: Usually, people say
I'm too loud.

Should I start over?

MS. CANTRELL: If you don't mind.

MR. GRATER: Okay. On April 22,

2010, the Hazardous Waste Council
unanimously approved the proposed rule
changes to the DEQ Brownfield Program with
one minor change regarding approved
definition of resources for terms not
defined in the rule.

Essentially, EPA made some
references that were not adequately
defined.

The rule changes were prompted by
the 2009 legislative changes to the
Oklahoma Brownfield Voluntary Redevelopment
Act in DEQ's formal transitioning of its
Brownfield Revolving Loan Program to assert
the 104K loan (inaudible).

DEQ transitioned a loan fund in
order to be eligible for the American
Recovery and Reinvestment Act in the annual
Brownfield Revolving Loan Fund Supplemental
Funding.

The legislative changes to the Brownfield law include definitional changes
for the Brownfield certificates and
specifically amend what's clarified in the certificates are not permits as defined in
27A OS Section 214-103.

The new requirements for adequate sites -- for adequate site characterization, new requirements for institutional controls, long-term stewardship plans and long-term compliance with the industrial controls. Provisions for DEQ to audit the sites for compliance with the certificates is also in the rule.

The proposed rule changes include revocation of 252:220, the current rules;
and revocation of 252:4-7-61 through 252:4-7-63, defining the permitting tiers for the program.

The proposal of a new chapter 252:221 for Brownfield rules includes a new
administrative structure for the program to replace the former administrative requirements for the permitting rules.

Implementation of requirements for the legislative changes, administration changes to the revolving loan fund to comply with the requirements of CERCLA 104K; provisions for sub-grants for the revolving loan form.

The changes to the program rules are all administrative in nature and are not substantive. The characterization, risk evaluation and cleanup requirements for the program remain the same.

The changes are intended to implement the legislative amendments and to make the process less cumbersome for program participants.

DEQ and the Hazardous Waste Council requests the Environmental Quality Board find that in the public's interest it would be best served by immediate implementation of the proposed emergency rules. Due to winter weather, the Hazardous Waste Council was unable to be meet the January and February time frame. Provisions for the
rules will allow DEQ to distribute over 1.9
-- five million dollars in American
Recovery and Reinvestment Act Funding. DEQ
must make responsible progress in
distributing the ARRA funds by the end of
the calendar year or risk losing the funds.

Questions?

MS. CANTRELL: Are there any
questions from the Board?

MR. MASON: I have a question.

It's my understanding that currently the
Department is reviewing both grants and
revolving loan fund requests. And there's
a lot of detail in here about the revolving
loan fund criteria. Where are the criteria
that are being used for the grants?

MR. GRATER: I will defer to
Rita.

MS. KOTTKE: I'm Rita Kottke, I'm
the Brownfield Manager, DEQ. The question
is how the --

MR. MASON: The question is that
in these rules there's quite a bit of
detail about the criteria for the revolving
loan fund. But I can't find any criteria
for the grants.

MS. KOTTKE: It's the same.

MR. MASON: But it doesn't say

that. It says revolving loan funds.

MS. KOTTKE: I'm sorry.

(Inaudible) loan -- it has, slash, grant.

And each time you see borrower, it has,

slash, grantee. So all the requirements

are the same for both.

MR. MASON: Thank you.

MS. CANTRELL: And actually while

you're there, a question on the funds in

our October deadline. This really has to

do with the Board's charge to find an

emergency with regard to this rule. Would

you explain what is at stake with this

October deadline?

MS. KOTTKE: The American

Recovery Reinvestment Act funds came with a

deadline and EPA wants to see reasonable

progress by the end of the first year which

would be December -- the end of the federal

fiscal year they're going to start pulling

funds from non-active grants.

In other words, if we don't perform,
EPA takes the money back and gives it to someone else. And they gave us a year to make our first grant or our first loan.

MS. CANTRELL: Okay. Thank you.

Any further questions?

MR. MASON: I have a second question. In the history of the Brownfield program there's been some suggestions that because it tends to be -- previously had occurred under the rulemaking process and was cumbersome and there was more of a desire to (inaudible) more just to -- less permit driven and more just (inaudible).

Is that in here?

MS. KOTTKE: The legislation itself says that -- it redefines the permits saying -- redefines the certificate as not being subject to the Uniform Permitting Act. So what we did was since all the administrative requirements are program depending on Uniform Permitting Act we had to recreate the administrative requirements. I'm not sure that answers your question.

But it's less cumbersome we hope,
and it kind of balances the need to perfect
the environment and make sure all the
substantive part of the programs are
adhered to. But at the same time trying to
be responsive to the customers of the
program.

MR. MASON: Okay.

MS. CANTRELL: Any further
questions?

MR. DRAKE: Understanding that
we're revoking 252:220 and passing 252:221,
I'm assuming to make things easier and
there hasn't been a whole lot of change in
anything we're doing, I would make a motion
that we accept this as presented.

MS. CANTRELL: There's a motion
on the floor to pass the proposal as
presented.

MR. MASON: Is this the emergency
or permanent that we're voting?

MS. CANTRELL: First, we'll need
to make a finding of emergency and the
Board will have to approve the emergency
status of this rule and then we'll go from
there to a vote on the rule itself.
MR. MASON: I will second Mr. Drake's motion.

MR. DRAKE: Based on -- and I will make it an emergency.

MS. CANTRELL: What we are then -- the question on the floor then for the Board is the, first of all, the emergency status. And the Board will need to make a finding of an emergency situation that requires passing this bill as an emergency measure, and we're talking specifically about revoking Chapter 220 and replacing it with a new Chapter 221. In the materials that were provided to us by the DEQ, you see the analyses that sets forth the reason for the emergency and you've also heard a description from Mr. Grater regarding the emergency status of the bill that has to do with funding that will -- the opportunity for funding that will terminate in October of this year, 2010, prior to our next Board meeting.

Are there any questions from the Board regarding the issue on the table
which is finding that this is an emergency measure?

Are there any questions or comments from the public?

Mr. Wuerflein.

MR. WUERFLEIN: Just for clarification. My packet had like duplications of all this. Did they print out the whole rule for permanent enactment and emergency enactment? The only thing I could see different was the cover page; one of them had permanent adoption and one has emergency adoption. Was there some other changes involved with one of those that I didn't catch?

MS. PENISTEN: I think I can help with that. Yes. There is -- there should be in total six sets of documents. One for emergency adoption of Chapter 221, that's the new chapter; permanent adoption of 221; emergency revocation of Chapter 220, that's the existing chapter; permanent revocation of 220; and then the same thing for the Chapter 4 amendments.
MS. CANTRELL: To set the framework and for further clarification would it be your recommendation, then, that we proceed first with an emergency finding with respect to the revocation of 220 and then move from there to a permanent finding of the revocation of 220, followed by an emergency passage of 221, followed by a permanent passage of 221. Would that be the correct procedure for the Board to follow?

MS. PENISTEN: I think that would be fine. My legal mind says to adopt the new chapter before you revoke the old -- the existing chapter in case we're struck by lightning or something like that.

MR. DRAKE: Then my motion stands.

MS. CANTRELL: To repeat the motion on the floor; the motion on the floor is the emergency passage of 221 that is before you, in your packets, and the specific item on the floor is the finding of an emergency with respect to that proposed rulemaking.
And we've had a motion by Mr. Drake.

Did we have a second?

DR. GALVIN: Yes. Steve Mason.

MS. CANTRELL: Any further questions?

Myrna, I think we're ready for a vote on the emergency passage of Section 221 -- I should say Chapter 221.

MS. BRUCE: Mr. Drake.

MR. DRAKE: Yes.

MS. BRUCE: Dr. Galvin.

DR. GALVIN: Yes.

MS. BRUCE: Mr. Griesel.

MR. GRIESEL: Yes.

MS. BRUCE: Mr. Johnston.

MR. JOHNSTON: Yes.

MS. BRUCE: Mr. Mason.

MR. MASON: Yes.

MS. BRUCE: Ms. Rose.

MS. ROSE: Yes.

MS. BRUCE: Mr. Wendling.

MR. WENDLING: Yes.

MS. BRUCE: Mr. Wuerflein.

MR. WUERFLEIN: Yes.

MS. BRUCE: Ms. Cantrell.
MS. CANTRELL: Yes.

MS. BRUCE: Motion passed.

MS. CANTRELL: Following advice of counsel, the second item now for consideration is the permanent passage of the same Chapter 221, which is before the Board for consideration.

Do we have any questions regarding the permanent passage of Chapter 221?

Do we have a motion?

MR. MASON: I move approval.

MS. CANTRELL: Do we have a second?

DR. GALVIN: Second.

MS. CANTRELL: We have a motion and a second, and we are ready for a vote.

MS. BRUCE: Mr. Drake.

MR. DRAKE: Yes.

MS. BRUCE: Dr. Galvin.

DR. GALVIN: Yes.

MS. BRUCE: Mr. Griesel.

MR. GRIESEL: Yes.

MS. BRUCE: Mr. Johnston.

MR. JOHNSTON: Yes.
MS. BRUCE: Mr. Mason.
MR. MASON: Yes.
MS. BRUCE: Ms. Rose.
MS. ROSE: Yes.
MS. BRUCE: Mr. Wendling.
MR. WENDLING: Yes.
MS. BRUCE: Mr. Wuerflein.
MR. WUERFLEIN: Yes.
MS. BRUCE: Ms. Cantrell.
MS. CANTRELL: Yes.
MS. BRUCE: Motion passed.
MS. CANTRELL: Thank you, Myrna.

The next topic that is before the Board is
the finding of an emergency to revoke
Chapter 220 as presented by the Council.
Are there any questions regarding
finding an emergency to revoke Chapter 220?

Is there a motion?

MR. GRIESEL: So moved.
MR. WUERFLEIN: Second.
MS. CANTRELL: There's been a
motion and a second to find -- moving to
find that it is appropriate to revoke
Chapter 220 on an emergency basis.
I think we're ready for a vote.

Ms. Bruce: Mr. Drake.

Mr. Drake: Yes.

Ms. Bruce: Dr. Galvin.

Dr. Galvin: Yes.

Ms. Bruce: Mr. Griesel.

Mr. Griesel: Yes.

Ms. Bruce: Mr. Johnston.

Mr. Johnston: Yes.

Ms. Bruce: Mr. Mason.

Mr. Mason: Yes.

Ms. Bruce: Ms. Rose.

Ms. Rose: Yes.

Ms. Bruce: Mr. Wendling.

Mr. Wendling: Yes.

Ms. Bruce: Mr. Wuerflein.

Mr. Wuerflein: Yes.

Ms. Bruce: Ms. Cantrell.

Ms. Cantrell: Yes.

Ms. Bruce: That motion passed.

Ms. Cantrell: And with respect to this portion of the Brownfield Rules,

the next item for consideration by the Board is the permanent revocation of

Chapter 220 as presented by the Council.
That is the item currently before the Board.

Are there any questions regarding permanent revocation?

Is there a motion?

MR. JOHNSTON: So moved.

MS. CANTRELL: A second?

MS. ROSE: Second.

MS. CANTRELL: I believe we're ready for a vote on that item when you get a chance, Myrna.

MS. BRUCE: Mr. Drake.

MR. DRAKE: Yes.

MS. BRUCE: Dr. Galvin.

DR. GALVIN: Yes.

MS. BRUCE: Mr. Griesel.

MR. GRIESEL: Yes.

MS. BRUCE: Mr. Johnston.

MR. JOHNSTON: Yes.

MS. BRUCE: Mr. Mason.

MR. MASON: Yes.

MS. BRUCE: Ms. Rose.

MS. ROSE: Yes.

MS. BRUCE: Mr. Wendling.

MR. WENDLING: Yes.
We now move, I believe, to Item 6 on the Agenda and Mr. Grater we are now, I believe, before you with OAC 252:4 which has to do with the permitting requirements.

MS. KOTTKE: Are you referring to the tiers?

MR. THOMPSON: Yes, tiers and time lines.

MS. KOTTKE: Okay. What that refers to is under the Uniform Permitting Act. We had to define our program in tiers; Tier 1, 2 and 3. So we're just revoking that since the Uniform Permitting Act no longer applies.

MS. CANTRELL: And this is also being presented for emergency adoption; is that correct?

MS. KOTTKE: Yes.

MS. CANTRELL: Are there any
questions by the Board? Are there any
questions from those in the audience? And
as before, the first item before the Board
is a finding that this needs to be passed
on an emergency basis.

Do we have a motion?

MR. JOHNSTON: So moved.

MS. CANTRELL: Do we have a
second?

MR. DRAKE: Second.

MS. CANTRELL: We have a motion
and a second. And I believe, Myrna, we're
ready for a vote.

MS. BRUCE: Mr. Drake.

MR. DRAKE: Yes.

MS. BRUCE: Dr. Galvin.

DR. GALVIN: Yes.

MS. BRUCE: Mr. Griesel.

MR. GRIESEL: Yes.

MS. BRUCE: Mr. Johnston.

MR. JOHNSTON: Yes.

MS. BRUCE: Mr. Mason.

MR. MASON: Yes.

MS. BRUCE: Ms. Rose.

MS. ROSE: Yes.
MS. BRUCE: Mr. Wendling.

MR. WENDLING: Yes.

MS. BRUCE: Mr. Wuerflein.

MR. WUERFLEIN: Yes.

MS. BRUCE: Ms. Cantrell.

MS. CANTRELL: Yes.

MS. BRUCE: Motion passed.

MS. CANTRELL: Thank you. The remaining item with respect to Brownfields is the same passage that is before you and the consideration for the Board is passage on a permanent basis.

Are there any questions regarding the permanent passage of this item?

Do we have a motion?

MR. JOHNSTON: So moved.

MS. ROSE: Second.

MS. BRUCE: Mr. Drake.

MR. DRAKE: Yes.

MS. BRUCE: Dr. Galvin.

DR. GALVIN: Yes.

MS. BRUCE: Mr. Griesel.

MR. GRIESEL: Yes.

MS. BRUCE: Mr. Johnston.

MR. JOHNSTON: Yes.
MS. BRUCE: Mr. Mason.
MR. MASON: Yes.
MS. BRUCE: Ms. Rose.
MS. ROSE: Yes.
MS. BRUCE: Mr. Wendling.
MR. WENDLING: Yes.
MS. BRUCE: Mr. Wuerflein.
MR. WUERFLEIN: Yes.
MS. BRUCE: Ms. Cantrell.
MS. CANTRELL: Yes.
MS. BRUCE: Motion passed.

[Off-the-record Discussion]

MS. CANTRELL: Thank you. All right. Thank you, Mr. Grater. Now we are moving on to Item 7 on our Agenda, which is a recycling proposal. I believe -- is Fenton Rood here today?

And there is Fenton. Good morning.

MR. ROOD: Good morning. I'm Fenton Rood. Your proposed resolution deals with deposit container legislation and I was asked to present you with an over bill of the legislative concepts. It is commonly called a Bottle Bill because it
was originally passed in an era when that was the principal beverage container. And so we'll just go over in general how various states' programs function.

We have ten states today that have deposit container legislation, and basically what this means is that you and I as consumers, whenever we buy a beverage that's covered, we also pay a deposit on the container and that deposit is refunded to us when we return that container.

So deposit container system involves the fundamental consumers. It typically involves either the retailer or some alternate recycling center and then the reprocessing or remanufacturing the container material.

The advocates that support this cites reductions in litter; promotion of recycling and especially from the point of view of the industries that want the material to recycle, it does tend to produce a higher quality industrial raw material.

The people who generally oppose this
type of legislation are typically the businesses that sell us the beverages, the businesses that produce the beverages, and historically the businesses that make the beverage containers. Now that is beginning to change, especially in Oklahoma.

If you study this map correctly and you know where to find Delaware, you will find that we've actually got 11 red states identified instead of ten. This would have been accurate if I'd given you this presentation when you were originally scheduled to hear it, in the meantime Delaware has changed their program. They no longer have deposit container legislation, that was replaced in Delaware with mandatory curbside recycling.

In looking at the different types of approaches, I wanted to focus first on Michigan which was the second state to adopt deposit container legislation in 1976. You can see that ten cents is the typical container deposit and as a customer, after I drink my beverages, in Michigan I will take them back to the store
where I bought them. And we're not all perfect. All the beverage containers don't always make it back, and 25 percent of the extra deposits that are not claimed in Michigan get to be retained by the retailers.

In Michigan the program is operated through a system of reverse vending machines. Here is an example. And this cost is imposed on the retailer.

In California, note that they passed their statute 11 years after Michigan. They tweaked the deposit system a little bit and there was great concern that not all of the retailers wanted to be recycling centers for the empty containers and so California set up a system of redemption either through the retailer or through a certified recycling center. And as a result of this type of system they had to create it such that the deposits flowed to the state and then the state administers the program. And here's an example of a typical recycling center that is not associated with a retailer and they are
obviously all over the state of California.
The experience in all the deposit container
states is that the recycling rates for the
material increased dramatically and that's
especially true for glass and plastic,
which are the low value items in the
recycling stream for deposit containers.

And again, you can look at national
performance here and see that the lion's share
of beverage container recycling does come
from the ten or in this case 11 because the
data included Delaware [inaudible].

We're trying to recycle plastic
bottles in Oklahoma. I know that OEMA, the
public trust that operates the system here
in El Reno has a recycling program for
plastic bottles. But this clearly
indicates that virtually all of the plastic
bottle recycling is coming out of deposit
states because the deposit creates that
mechanism that provides the incentive to
bring it back to the recycle channel.

Aluminum tends to be the highest
value commodity in the recycling stream and
even when premium price is offered for
aluminum recycling we still have far better
performance from deposit states.
       Now this is the reason that we're
actually considering this in Oklahoma
because the deposit proposal is being
advanced by the state's glass industry. We
have three glass container plants left in
Oklahoma and from their point of view
recycled glass is their cheapest raw
material and their business problem about
being located in Oklahoma, they are here
because originally we had cheap natural gas
but their problem today is that none of
their markets are in Oklahoma so they have
to make their glass containers and ship
them elsewhere. So they are looking for
ways to reduce their costs.

One of the examples that the glass
industry presents from one of the companies
is that their plant in Massachusetts, which
happens to be the furthest away from their
raw material which is located in Wyoming,
has the lowest production price and that is
-- or the lowest production cost and that
is because Massachusetts is a deposit state
and most of what they manufacture at the Massachusetts plant is made from recycled glass instead of from the raw material from Wyoming.

So that's basically an overview of how it operates. I think that your resolution contemplates a general concept as opposed to specifics. Because clearly if anything advances in Oklahoma it will have to be negotiated between the glass industry and the chief opponents right now, which tend to be the convenience stores that don't want to become the recycling centers.

Thank you, very much.

MS. CANTRELL: Thank you, Fenton.

MR. THOMPSON: The glass industry introduced a bill last year in the Legislature that was met with the -- typically those folks that opposed it. That legislation ultimately was withdrawn. The glass industry has retained a government relations expert, some people call them lobbyist, but in any event they
retained a person and I've had a couple of conversations with him, both, as the legislation was introduced and after it didn't move forward or whatever happened with it. And I expressed to him that there was a long and sad history of bottle bills in the state of Oklahoma that had been -- that had run into opposition, and in order for the glass industry to move this forward they were going to have to overcome that opposition.

There was a sense by the -- those folks that it might be helpful if this Board had a resolution that would in concept promote the idea of glass and aluminum and plastic recycling. In sort of working on the language, we tried to acknowledge that issue in the fourth "Whereas Clause" where it says, Whereas for a beverage container law to be successful it must be as convenient as possible for consumers, those redeeming the material and manufactures.

So that is language that -- well, I tried to incorporate into the resolution
that addresses this issue. I think that
the glass industry is taking a somewhat
different tack than they've previously been
taking. They are moving this issue forward
as an economic development or as a
retention of current facilities issue. I
suspect that that will have more traction
ultimately than past attempts. It is the
intent of their government relations person
to work with the effected -- with those
that have typically been opposed to it to
come to some as much -- to some
accommodation on their issues. And I
believe that -- I believe that they will
work with them whether they come to some
accommodation, that remains to be seen.

But it is in that context that this
idea of a resolution in support of beverage
container deposit legislation is brought.
I guess with that, Fenton or I, will
try to answer any questions that you have.

MR. JOHNSTON: I have a question.
My son is a vendor in Oklahoma, and the
decal cost that they put on at the end of
the session cost their company $400,000.00
just for new decals on their machine.

Here is says the Michigan retailers imposed costs depending upon retailers,
average reverse vending machine cost them $15,000.00. What does a reverse vending machine cost -- what does the mean?

MR. ROOD: The Michigan system is based on the reverse vending machine that is located at the retailer. And it is literally a vending machine that takes your containers back. It operates through the barcode that is on every container.

MR. WUERFLEIN: Does the retailer retain something for their handling of this stuff -- the material or is it just an added expense to buy that reverse recycling machine to comply with the law?

MR. ROOD: It depends on the approach of the individual states. And that is obviously a detail that the parties would have to negotiate. The most recent deposit container laws provides some compensation for the retailers. The earlier laws did not.

MR. THOMPSON: I think as they
negotiate this thing, this business of
convenience for retailers and for others,
that compensation has to be a part of the
language in any -- any bill that goes
forward. So I think that's probably a very
important piece of the negotiation that
will go on, on this bill between the glass
industry and the convenience stores.

MR. WUERFLEIN: So that will be
one of the practical matters, the details,
we're just supporting the general idea of a
recycling bill but not any particular
practices.

MR. THOMPSON: No. And I think
that is also a piece of this provision that
it has to be -- and this is in very general
terms -- as convenient as possible.
Convenience can mean the physical
convenience of going through the recycling
process; in a broader term convenience can
mean compensation for doing the activity.
I'm not, and I don't know that we are
experts on the economics of this thing how
the economics work out so that it is both
profitable to the glass industry and the
convenience stores get the compensation
they need to be able to do it. I'm
unfamiliar with that. But that will be
very much one of the key issues that will
have to be determined. But this doesn't
address that. It just says we think that
recycling is a good idea. We understand
that it has to be convenient for folks that
are going to -- for both the public, the
retailers, and the manufacturers and it is
in that context that the Board would
support, in my view, in the language of the
resolution, it would be in that context
that the Board would support the motion of
bottle recycling.

MR. JOHNSTON: Is this a good
time when we're fighting for survival to
have the National Grocers Association and
American Beverage Association and National
Beer Wholesaler, can manufacture,
(inaudible) counsel against us? It's just
a question.

MR. THOMPSON: Well, it -- your
question sort of presupposes and maybe
that's a good assumption, that they won't
be able to work this issue out. I'm not

convinced -- I think that the glass

industry, in my conversation with them,

understands that concessions will have to

be made to satisfies those issues.

So while this resolution may support

a concept, it does not necessarily support

any piece of legislation that might be

introduced, that might be looked at on with

disfavor by those folks.

MR. JOHNSTON: I was just talking

about (inaudible).

MR. THOMPSON: I understand. I

understand.

MS. CANTRELL: Fenton, in talking

with your colleagues in the states of

California and Michigan who have announced

they are veterans of this type of a

program, do they have any wisdom as to --

with very different demographics in both

states, do they have any wisdom as to how

to present these sorts of proposals and

what are the issues that are likely to

confront Oklahoma in pursuing a recycling

bill?
MR. ROOD: Well, if I could offer my personal opinion as opposed to those of my colleagues, it looks to me like if there is a compromise it's going to have to be fashioned more after the California approach than the Michigan approach.

MS. CANTRELL: And what is the strength of the California approach? Is that providing compensation to the retailers?

MR. ROOD: There is that but probably the most significant aspect is that it does not require retailers to be the recycling center. It sets up another mechanism to designate recycling centers.

MR. GRIESEL: I think at this point in time we have an industry in the state that has three processing facilities. Currently they import into Oklahoma about 14 percent of the material needed to produce the glass bottles that they produce. And that material, Fenton, comes from, was it Iowa?

MR. ROOD: Wyoming.

MR. GRIESEL: Wyoming. Was that
the recycle content material?

MR. ROOD: No. That's the raw sand. The sand that they make glass with.

MR. GRIESEL: Actually the recycle content of 14 percent they bring in from another state is from Iowa, isn't it?

MR. ROOD: Mostly from deposit states. Yes.

MR. GRIESEL: Yes. And their cost of operation will actually lower if we have something in place in Oklahoma that will supply them with a glass (inaudible).

And right now, if I'm not mistaken, from what the glass industry individuals in the state have said, it's hard for them to keep the plants in there, and thus, those employees in the state if they are continually having to ship the recycle product as well as the raw material into the state. I think from being in other states that actually have these deposit legislations, they are actually cleaner states than Oklahoma. They have less roadside litter. I'm not sure about the
exact dollar amount but the Oklahoma
Department of Transportation spends a
tremendous amount of money every year in
picking up roadside litter off the
highways. The cost to counties in the
state as far as damage to tires on their
equipment, mowing the ditches, is very
high, due to people throwing glass bottles
out. So at minimum, I think we should be
supportive of a resolution concerning
glass, since we have an industry with three
plants that we could say we risk of losing
those employees. At minimum we should look
at supporting glass deposit legislation.

MS. CANTRELL: Any further
questions? Mr. Drake.

MR. DRAKE: Madam Chairman, I'm
not usually one that would want to add to a
burden of the retailers. Jerry and I, grew
up with deposit bottles. Some of you
probably didn't. You might have been on
the edge of it. It was a lot cleaner.
Glass is not mentioned here, it does say,
by the way, beverage containers. It will
clean up everything. I have trouble
speaking in favor of anything that California and Michigan and those states up through there are a part of, when I look to see that there are no states around us doing it. But, however, after speaking with my friend last night, I realize that in some areas we may be a little bit behind -- thank you, Sandra -- that we might need to give some serious thought about maybe making a few changes. And I do think that this would be very difficult to get by in this new Legislature, and signed. But I think we're going to have to start somewhere, because it's ridiculous now. So while it's very difficult to wholeheartedly say, oh, let's just go, I'm certainly going to support this in deference to a good friend to my right who gave you all, all the good reasons, I'm just giving you the emotional reasons that I think that we do need to do something. It wasn't so bad when we kept things clean. It wasn't that difficult; it can be done; it can be handled. So I would hope that we would pass this. This is nothing more than
saying we're supporting something. They're
going to have to work out the details. I
doubt there's too many of them, David, and
maybe one more too that will either be for
it or against it. It's going to be a
little more difficult on some of Steve's
operations. But I do think it's that time
that we need to look at starting to clean
up our roads in the state.

MS. CANTRELL: Thank you, Mr. Drake.

MS. ROSE: I'd like to move
adoption of this resolution at this time.

MS. CANTRELL: We have a motion.

Is there a second?

MR. DRAKE: I will second that.

My good friend Sandra.

MS. CANTRELL: We have a motion
and a second. I think we're ready for a
vote.

MS. BRUCE: Mr. Drake.

MR. DRAKE: Yes.

MS. BRUCE: Dr. Galvin.

DR. GALVIN: Yes.

MS. BRUCE: Mr. Griesel.
MR. GRIESEL: Yes.

MS. BRUCE: Mr. Johnston.

MR. JOHNSTON: I'm voting yes for

my grandkids.

MS. BRUCE: Mr. Mason.

MR. MASON: Yes.

MS. BRUCE: Ms. Rose.

MS. ROSE: Yes.

MS. BRUCE: Mr. Wendling.

MR. WENDLING: Yes.

MS. BRUCE: Mr. Wuerflein.

MR. WUERFLEIN: Yes.

MS. BRUCE: Ms. Cantrell.

MS. CANTRELL: Yes.

MS. BRUCE: Motion passed.

MS. CANTRELL: Thank you, Fenton.

We are now moving to Item 8 on the agenda which is the DEQ Operational Budget Request. And for that we have a presentation from the Executive Director.

Mr. Thompson.

MR. THOMPSON: Thank you, Madam Chairman.

Well, it's clear to me that based on
the last Agenda Item we're going to have to have fried chicken more often.

The issue before you is the budget request that the Agency will make through the Governor's office and the Legislature for not the existing years budget but the coming year's budget, FY 2012. But we thought that it was important to give you some context in which that request is made. We're not at all certain that 2012's legislative situation will be any different than 2011, in that we simply didn't make a budget request because of the fiscal condition of the state. Nevertheless, because the statutes require you to approve the budget request, we thought it was important to bring some issues to you so that in case we were allowed to make requests, we would have gone through the process of your approval. But in order to give you some context in which this request is being made we wanted to talk a little bit about the things that have happened over the last couple of years.
Now I'm going to use PowerPoint presentation. Monty is going to try to keep up with me or to make sure that I'm talking about what is on the screen, which is difficult for (inaudible) Richardson.

REP RICHARDSON: Is that a heads up?

MR. THOMPSON: And that's very difficult. Monty has the toughest chore, so this is somewhat scripted, but we will visit more in depth about this at the end of it.

So let me start by saying that over the past two years the general revenue funding for the Agency has gone from about 9.7 million dollars to about 8.1 million dollars, which is a decrease of a million five hundred eighty-nine thousand dollars. At the same time the legally mandated cost to the Agency primarily for insurance and retirement costs has increased at about 2.9 million dollars. And while the increase in these costs are not directly tied to general revenue funding, it is a bit of an indication of the fiscal challenges that
the Agency, and in fact all Agencies across state government, are facing.

Now in FY 2009 or two years ago, of the 9.7 million dollars in general revenue available, 3.6 million dollars approximately was dedicated to response to environmental complaints.

While we have tried desperately to - as you are probably aware the DEQ has a reputation of never seeing a fee that it did not like. We have tried desperately to find a way in which a person would call with a complaint and we would say if you will send us a check for $500.00 we will run that right out there. We don't think that's going to work. So it's clear to us that there has to be general revenue funding for complaints. About 2.1 million dollars was dedicated to technical assistance and laboratory cost reduction to communities, particularly small communities. About 1.5 million dollars was dedicated to the support of air quality programs, including air toxics. And the remaining 2.5 million dollars was dedicated
to support public water supply supervision and water quality programs.

Now of the 1.6 million dollars in reductions, one million five hundred and eighty-nine thousand dollars in reductions, support for environmental complaints was reduced by three hundred eighty-nine thousand dollars ($389,000.00) for this -- for the current budget year. Now it's fair to say that because some support for environmental complaints and local services comes from activities related to construction -- residential and commercial construction and because of the decline in both of those the work load for ECLS has decreased, we currently have five -- I'm sorry. We currently have seven -- or -- actually when I was putting this together I think we may have hired one person since then. Seven vacancies in the ECLS. Our plan is to fill two of those and keep the other five vacant until the construction industry increases and we have that need.

The support for technical assistance, particularly to small
The support for the air toxics program was reduced by $485,000.00. And then support for other water quality costs were reduced by $34,000.00, to get you to the -- our current general revenue appropriation of 8.1 million dollars.

Now the Department has traditionally believed, and the statutes confirm, that one of its highest priorities is response to citizen complaints.

When the DEQ took responsibility for the environmental programs in Tulsa and Oklahoma County in about 1998, the Legislature authorized the use of one million dollars in solid waste funding on the promise that the general revenue funding would be provided in the future for those activities, particularly those complaint response activities.

Representative Richardson was not in the Legislature at that time so we won't blame him. But the fact of the matter is that promise of one million dollars in general revenue money to support that has
never come to us and so we continue to use that million dollars in solid waste funding for purposes that are clearly outside what the fee was intended.

And we've continued to have to use those funds in ECLS. And now we're beginning to see impacts to our traditional solid waste programs from the use of that money. So we must at some point relieve the burden on solid waste funding so that its use for other purposes does not become a burden on our solid waste programs.

The Department has been dedicated and is concerned about the level of funding cuts to technical assistance and laboratory cost reductions, particularly to small communities. And when we met with the Board Budget Committee recently to discuss our budget request, they expressed to us similar concerns. I will tell you that the decision to cut technical assistance to small communities was not taken lightly. There was some indication that -- that in developing budget cuts we should cut pass-throughs based on that indication about
$500,000.00 of this money -- of money that was cut from technical assistance in the nature of pass-throughs to support laboratory costs, were cut to those small communities and we are -- we continue to be dedicated to that idea.

So now let's talk -- so that sort of sets the stage about where we've been, where we find ourselves. So based on the memo that I sent you in the Board packet, the Department has chosen to address these issues through two strategies.

The first is that for the 2012 budget request that we bring to you today, we are requesting that $300,000.00 to replace some of the losses to our technical assistance effort.

In addition, we're requesting $554,000.00 for the Air Toxics Program. Now I've never figured out how you take politics out of a political process. Quite frankly, the reason that we have chosen to key up these two issues is because we believe we will have outside political support, outside champions, for those two
ideas.

We hope and believe that the Oklahoma Municipal League and the Rural Water Association will support the $300,000.00 for technical assistance. And we hope and believe that the industrial community will support the $554,000.00 or $555,000.00 almost, for the Air Toxics Program.

So that's our first strategy, to try to get the money, if there is money available from general revenue increases for the next year.

The second strategy probably -- well, undoubtedly, at some point may involve the Board depending upon what Council action is. Because we -- the second strategy is to begin to move general revenue funding away from programs that can be supported by fees, and for our friends in the audience, particularly the Air Quality Program. And also in the Water Quality Program to support our -- and to move general revenue money away from them and to have those programs more supported
by fees, that money would go to both our
complaints effort where necessary, and to
our Technical Assistance Programs.

So I've asked the Air Quality
Division that regardless of the outcome of
our effort to replace toxic fundings, we
must begin to move general revenue funding
away from the division and into our
complaints and technical assistance efforts
beginning next year. In addition, I've
advised the Water Quality Division that we
will begin to rigorously analyze their
capacity to move general revenue funding
away from non-technical assistance
programs. Both divisions will be asked --
we will ask their Councils and I will ask
the Board should the Councils approve of
those ideas instead of the replacement of
funds with fees, as those fee cases go
forward for current and future needs.

The Water Quality Division is in
somewhat of a -- we are in a bit of a
dilemma because if we cut, for the most
part, funding in the Water Quality Division
it is sort of defacto cuts to -- to
supporting municipal activities. And so we don't get the level of bang for the buck in the Water Quality Division that we do -- we might in the Air Quality Division.

But we are trying to address the issues of these two vital elements; environmental complaints and technical assistance, in two ways. First through a budget request and finally a decision that I have made and given to the division directors to begin to try to move general revenue money away from those divisions to supports those efforts and to have those replaced by fees.

With that, Madam Chairman, I would pause for questions.

How did I do on it? Did I follow -- did you keep up, did you do well?

MONTY: You did very well.

MR. THOMPSON: Okay. Thank you.

MS. CANTRELL: Thank you, Steve.

Do we have any questions for Steve or for Monty?

Mr. Wuerflein.

MR. WUERFLEIN: Yes. I was under
the impression at one time that most of our environmental complaints involve septic tanks. That's just on a volume of number.

I guess my question is, do we have a defined structure for that or do we -- is that just kind of a last resort on complaints?

MR. THOMPSON: I will defer to Gary. He probably has these figures more readily available than I do. I think probably 40 percent, or more, of our complaints are septic systems.

The program that -- that the complaints have grown exponentially almost over the past several years have been stormwater, open dumping is still a big issue. What am I missing? Is that pretty much it?

MONTY: That's about right.

MR. THOMPSON: About right?

Those are the big three. In answer to your question, our enforcement process has always been, Richard, that we will impose a penalty and then waive it if they meet the
requirements of the law within a certain
time. So if we have a surfacing septic
system, we will say to you, there is a
$500.00 penalty attached to that. It is
waived if you replace that system or repair
it within a time frame that's in each of
the orders. Often this is a regulatory
action that impacts individuals and it's
been our view that there's going to be
significant cost in replacing or repairing
those systems and to that extent that
people are moving forward actively to fix
the problem, we will waive the penalty.

MS. CANTRELL: Do we have any
further questions regarding fee proposal?

MR. MASON: Mine is more of, I
think, a comment along with I think, what
Steve's been discussing. I think as we
look at where do we use the resources that
are provided to us by the Legislature, it's
clear those resources need to be used in
areas where it's hard to collect a fee.
The best sample being complaints. As Steve
said we can't send them a bill before we
check out a complaint. And I think in the
past we've also prided ourselves very much
on our support of small communities,
realizing that it's very difficult for them
to comply with our ever-expanding rules. I
think we've been very proud of the amount
of technical assistance we provide the
communities and we've subsidized laboratory
costs. And those priorities need to
continue.

As a result though, as Steve spoke,
as our appropriations continue to diminish
we have to look at fees. And as an Agency
we do a very, very good job of collecting
fees so we're less burdened when we have
problems with the Legislature. And along
time ago the solid waste group became self-
supportive through the solid waste landfill
fees. And I think where we're heading, and
Steve mentioned it, is increasing the fees
so that both the air and water quality
groups are more self-supportive than they
are now. And we really have very little
choice to do that if we don't want to
abandon these small communities and
environmental complaints.
MR. THOMPSON: I would just say that I appreciate your comments. It's important to us and we do try. The fact of the matter is that the Land Protection Division is the only -- I think is the only division that is totally funded by fees. Everything that goes on in Land Protection is fee based. They get no general revenue money. That's because of the income that we get from the solid waste and from the hazardous waste fees and other fees that we impose.

I think it's the only one that is totally fee funded. But I think that in support of your comments that other divisions probably over time and as these numbers -- particularly if these numbers continue to fall, we will see the need for -- exactly what you're saying.

MR. DRAKE: Madam Chairman, I see the need with what you're saying, but I see a good friend of mine sitting out in the audience that can see the -- maybe some of the comments that I might make and how important it is for our legislators to
understand that we can only raise fees so far and so long. We can't identify all of the areas that we need to be responsible for to know who to charge. Because the EPA in their wisdom continues to give us more and more to do.

I had a legislative candidate say the other day and gave a great compliment to our DEQ, he didn't know anybody in the room that was part of it, and he was talking about what can you do about EPA? Well, little or nothing. Jim Inhofe has tried but it's very difficult. But in all due respect to the Legislature we do as much fee based operations as we can. We've passed them and passed them. And it will -- there will come a time when we will either have to do away with some of the functions that we're doing and allow someone else to do it and God, help us, that will be EPA; or we have to recognize that if we're going to keep control in our state we have to be funded to such an erratus with the resources to do that. I hope that we'll be able to get
across and I hope that some of us can
perhaps can talk to these folks that it's
understood that we will do what we can to
protect Oklahoma with fees. They need to
do what they can to protect Oklahoma with
the necessary funding that keeps DEQ
operational and keeps EPA at bay.

MS. CANTRELL: Thank you, Mr. Drake. Any further comments or questions
from the Board? Any questions or comments
from those in the audience?

MR. WENDLING: I've got a question. Steve, you are you asking to
start moving all of the funding from the
general revenue requirements over to fees
for both these two areas, or just those
that you feel are at shortfall?

MR. THOMPSON: Well, we would not
move more than we thought was necessary to
support those activities. But I suspect
that if we don't get money for toxics --
the Air Quality Division has traditionally
gotten general revenue money. And as we
see the need to fill gaps for these other
programs, that's the first -- that's the
logical way in which we're going to do it. So in answer to your question, we're just not going to (inaudible) send money over there, but I suspect that a third of about a million dollars that they receive in general -- about $900,000.00 in general revenue money, we will probably move not this year but in the coming year, and over time if general revenue continues to fall that will be the first place that we will look to fill those general revenue shortfalls in the assistance and in the complaints program. I don't know where else to get it, quite frankly.

Again, Water Quality is another area where we might be able to do some of that, but again, so much of that money is dedicated to municipal support anyway, that when you cut the money out of Water Quality you're sort of taking -- robbing Peter to pay Paul. So we're going to have to be thoughtful about how that we do that and that mandate to Shellie who is now eight months into her new job, and bless her heart. We're going to have to be much more
thoughtful in Water Quality but I don't see -- assuming that -- and I think the budget figures are a little better, look a little better than they have in a while. So maybe we're digging our way out of this as a state. We're in pretty good shape in the DEQ compared to some -- I mean, I think we've been able to handle through attrition and through cutting back on a lot of capitol purchases and -- those are sort of the management things we've done to try to deal with these shortfalls. But when we had to cut that five hundred thousand dollars ($500,000) to support the very smallest communities and their lab costs, that was a pretty bitter pill, and I don't have any sense that we're going to get that money back through the Legislature, we may, we're hopeful, but to begin to fill -- we already had that hole that we've got to begin to fill back in. If it's going to be a priority for the Agency to do technical assistance to communities, that hole has to be backfilled someway.

MS. CANTRELL: Yes.
MR. GROUND: I just wanted to know what is the total income from fees right now on water and air?

MR. THOMPSON: The total income -- from water and air? I don't know, Bud. About 36 million dollars in fees. About 36 million dollars budgeted from fees; is that right? Where did Monty go?

We are right now about -- these are rough numbers, we're about 12 percent general revenue funded; we're about 33 or 34 percent federally funded; and whatever that leaves, 52 to 53 percent fee funded.

But it is also fair -- now, the administration has proposed -- another thing that could happen is the administration has proposed fairly significant increases in federal funding to states. That is in compute. And if Congress approves that, then we -- at least the federal portion goes up and the need for fees. But I don't have any sense -- I think we're going to get continuing resolutions is what I think we're going to get. And that means that those funds will
remain the same. So all of these things count. But you've got to look at whether that really is going to happen, whether we're going to get increased federal money. And I suspect reasonable men could argue about this, I'm not particularly confident that we will. But we'll see. But we are now, I would suspect, more than 50 percent fee funded. As that number goes down, and if the federal money remains flat, which I suspect, and we've done the administrative things necessary to tighten down the Agency which I believe we've done, and as we get new programs from the federal government as Bob suggested, you tell me where the money is going to come from.

MS. CANTRELL: Any further questions? What we have before us the proposal of the Department to restore funding -- to request the restoration of funding in the two areas outlined; small community technical assistance, as well as the air toxics program. This would be a proposal for 2012 for the budget request that would be coming from the Department of
Environmental Quality to replace funds that had been previously funded to fill those holes.

Are there any further questions regarding this proposal by the Department?

Do we have a motion?

MR. JOHNSTON: I move approval for these requests.

MS. CANTRELL: Do we have a second?

MR. MASON: Second.

MS. CANTRELL: We have a motion and a second. We're ready for a vote.

MS. BRUCE: Mr. Drake.

MR. DRAKE: Yes.

MS. BRUCE: Dr. Galvin.

DR. GALVIN: Yes.

MS. BRUCE: Mr. Griesel.

MR. GRIESEL: Yes.

MS. BRUCE: Mr. Johnston.

MR. JOHNSTON: Yes.

MS. BRUCE: Mr. Mason.

MR. MASON: Yes.

MS. BRUCE: Ms. Rose.

MS. ROSE: Yes.
MS. BRUCE: Mr. Wendling.
MR. WENDLING: Yes.
MS. BRUCE: Mr. Wuerflein.
MR. WUERFLEIN: Yes.
MS. BRUCE: Ms. Cantrell.
MS. CANTRELL: Yes.
MS. BRUCE: Motion passed.
MS. CANTRELL: Thank you.

Item Number 9 on the Agenda is disclosure of employee financial interests. I believe that presentation will be made by Martha Penisten.

MS. PENISTEN: Thank you, Madam Chairman. As you and the Board knows, the Environmental Quality Code requires that certain DEQ employees involved in issues for enforcing permits disclose financial interests they hold in entities regulated by the DEQ. Then in turn, the DEQ is required to submit these disclosures to the Board and make them part of the Minutes.

This year we have two employees who submitted new disclosures and they are Chris Armstrong of the Customer Services Division. He reported that he's a
stockholder in a few oil and gas and energy related companies, including Chesapeake Energy.

And we have Joseph Mashburn of the Air Quality Division, he reported he is a stockholder in Valero Energy. And in order to avoid conflicts for these employees, the Agency notifies the Division Director by memo and asks the Director to ensure that the employee is not involved in any permitting or enforcement with respect to those entities they interests in. I think that's it.

MS. CANTRELL: Thank you, Martha.

And next on the agenda, Mr. Thompson will recognize a special guest who is with us today.

MR. THOMPSON: Yes. You may have heard me say that Representative Phil Richardson is here. He is a strong supporter of the DEQ, good friend and (inaudible) the Board believe that we have abandoned small communities. We are working with Representative Richardson in his area to put on a presentation called
DEQ 101 at his recommendation or as we've talked about it that helps small communities understand what the DEQ does, if anybody can. And so we are pleased to have him with us and would ask if he had any comments he would like to make?

We tried to let something pass before -- after the budget discussion before we called on you.

REP RICHARDSON: And that was a very realistic look at the budget. I don't think any of us know what we're going to be dealing with. I've got to brag on the Director here too. I'm on the A&B Committee for the 27 natural resource agencies and we struggle every year -- we're the first ones to get (inaudible). We take the full cuts every year. And Representative Dewitt from Bramen is the Chair of the Committee and we fight every year to try to get all we can but we're bucking up against education and transportation, it's a tough sell. And like Director Thompson said, I want to see the EPA stay in Dallas and that's kind of
the way we approach to try to keep that --
they're very cooperative. And realizing
that -- you know, I represent real small
communities with independent water systems
and they are hard pressed to find anyone
competent to do the things that are
required of them. And this lead to this
DEQ 101 that we're going to try to do in
the Grady County area just to try to let
them know what we're trying to get done.
They've been very cooperative and I'm
looking forward to trying to get that
program established. I don't think we
still know -- looks a little more
encouraging, maybe we won't have to do
another -- another round of cuts but I'll
bet we'll we awful close to -- hope to
establish our goal, or we are going to be
probably -- I'll consider that a real
victory about that. Anyway, appreciate the
job that you guys do and the Director.
We'll get through it. Thank you.

MR. THOMPSON: Thank you.

MS. CANTRELL: Thank you. We
appreciate you taking your time
Representative Richardson to join us today for our meeting and appreciate all that you do.

We're now moving on to Item 10 which is the Executive Director's report. Steve Thompson.

MR. THOMPSON: One of the important things about managing an agency is to hire good people and to delegate. So Jimmy is going to do a couple of presentations and then I want to fill in the, probably, no gaps, but there are a couple of items we wanted to bring to your attention.

MR. GIVENS: Madam Chair, Members of the Board, also those of you in the audience, I will try to be brief. I notice Item 11 on the Agenda is the annual performance review of the Executive Director. I know you are all anxious to get to that so I'm going to move through this pretty quickly.

One of the things that we decided to look at presenting to you this year, that we have not done in the past. Every year
the Office of Personnel Management puts out an annual report that includes what they call a workforce summary. And the summary looks at all the state employees. And then for the past few years they have broken down several of the factors that they look at by individual agency. So we thought it might be useful to the Board in particular to see when we talk about DEQ employees, kind of how they stack up against the employees of the state, as a whole. There are almost 38,000 or there were up until FY 2009, almost 38,000 state employees. I'm sure that is a little lower now; 555 of those in FY 2009 were DEQ employees.

You can see from the slide, that the average age of the DEQ employees was a little bit lower. The average years of state service is actually slightly higher and the average years to retirement eligibility a little bit higher. So we have a relatively young workforce at DEQ compared to the state as a whole.

Now I know what some of you are thinking, which is with Steve and I
included in this, how can we have a younger workforce than the state as a whole. I did the math. It actually works out.

As far as representation of minorities, we are pretty much the same as the state as a whole. We are over represented by males as compared to females compared to the state as a whole. I suspect that is in part because many of the professions that we employ have typically had historically been dominated by males.

I did look back just as a matter of interest and in the past four years, which is the period that as far as I can tell OPM began bringing all of these figures out by Agency, that the percentage of females has increased by seven percent at DEQ over that period. So we're on the right track at least.

And 93 percent of our employees are classified much higher than the state as a whole. What that means is that we hire based on merit. The merit system applies and we have to go through a rigorous process of interviewing and testing and we
hire based upon those interviews. The only people in the Agency who are not classified, are the Division Directors in an above level, and the lawyers, and then a handful of others. But most state agencies have quite a few other positions that are unclassified. We are very high on the classified grid.

We have a very high percentage of what are categorized by OPM as professionals. That would include the environmental specialists, the engineers, the lawyers, the accountants, the chemists. We have about ten percent that are classified as officials and administrators like in some of the higher management positions in the Agency that's a little bit higher than other agencies. I suspect that it's due in part, if you will recall two or three years ago we came to you and told you that we were adding what we called Level Three Managers, which essentially are right below the Assistant Division Director level. There was a good reason for that. We were looking at the Division Directors
in particular as well as some of the other positions in the Agency and we saw a need to train people to move into those leadership positions. Because we had a number of people -- in fact, you've seen over the course of the last year or so quite a few retirements among the upper levels of management in the Agency. So we are trying to make sure that we have the next group of leaders ready to pass the baton to, in the next few years.

And the last slide that I have in this presentation is salary. Our overall salary is higher by quite a bit in the state agencies as a whole. That is in large part due to the nature of the positions that we hire for. As I mentioned, very much higher on the professional category than most other agencies are. You can see how that breaks out between classified and unclassified.

The last thing on here is the turnover rate. For the last several years as I looked back over these annual reports our turnover rate has been significantly
lower than the turnover rate of the state employees as a whole. Now it's probably due in part to higher pay. We hope it's due in part to a level of satisfaction with working at DEQ. We believe, quite honestly, that it serves you well to have a lower turnover rate. Those of you who work on the Board, and those of you who are in industry and municipalities, if you have someone with whom you are familiar and who really knows what they are doing it effects the bottom line. It effects the bottom line of Agency and it effects the bottom line of the industry. So we are proud of the fact that we are able to retain as many people as we do.

I think that's all I have except just to kind of reiterate what -- what I've already covered:

Slightly younger workforce at DEQ; a fairly diverse workforce; most of DEQ is in classified positions; a professional workforce and a relatively low turnover rate.

Now if you want me to explain why
all of those things are the way they are,
I've speculated on a couple of them. I
don't have the answer. The workforce
report doesn't go into the analysis of why
that's the case. So I can speculate, but
that's about all I can do. However, that
said, if you have any questions I will be
happy to try to answer them as best I can.

If not, let me move on to round two,
which is the legislative update. Some of
you have heard this before and if you want
to take a bathroom break or get something
to drink, I won't blame you.

This is a look back at the
legislative session from February through
May of this year. One of the things that
we like to highlight for you is not just
the bills that effect DEQ but also a little
bit of the context. And one of the things
that is unique as far as I can recall at
least in the time that I've been working in
this area, is the degree of turnover that
we are going to have in the state
leadership. We literally have a turnover
of what arguably are the top five positions
in state government, at least in the executive and the legislative branches, because both the Speaker of the House and the Minority Leader, the President Pro Tem of the Senate and Minority Leader and the Governor will all be replaced before we come into the next legislative session.

Who will be there? Well, we have an idea for the most part but obviously we still have a gubernatorial election and we don't know who the Senate President Pro Tem will be.

Why does that matter to us? Well, as an Agency we become accustomed to working with leadership both of the House and Senate and of certain committees within those bodies. They kind of know how we operate; we understood what their needs are and how we can best accommodate those. So it will be a bit of adjustment for everybody as we move into new leadership of the House and the Senate and presumably of some of the committees.

The bill total was pretty representative of what it's been for the
last few years, about 2400 bills.

Obviously, budget was the big deal above all else, (inaudible) discussion of states rights and making government more efficient and germane. Now that may not be a term that is overly familiar to you but it's pretty important when you're taking about legislation.

Our Constitution in Oklahoma requires that every bill have a single subject and that that subject be represented in the title of the bill, and in theory from the time a bill is introduced until the time it either dies or is passed, it should relate to the same general subject matter.

Well, that has become more and more a big deal as I watched the process over the course of the last year or two. There is a lot more opportunity for legislators to raise the issue that a bill has changed over time so that it no longer looks like what it started out to be. There have actually been a few bills that have either been withdrawn or died because that issue
was raised. And, in fact, one of the more celebrated shouting matches I would have to say of this session was between the Speaker and the Senate President Pro Tem over whether the House was correct in questioning a bill that came over from the Senate and whether it was still germane to the original subject matter. So I think you will see that a little bit more as we go along.

Not any predominate environmental thing this year. Quite a bit of attention on energy. Quite a bit of attention to water rights.

Let me move into a quick overview of some of the bills that did pass. The first three that we are going to talk about relate to things that you have already seen because these are the bills that we brought to you last November and said, here's one we intend to seek during this coming legislative session. We were successful in getting the laboratory accreditation bill passed that allows for mutual recognition between our environmental lab -- our
accreditation program and those in other
states. If they meet the same standards,
if they use the same processes to determine
whether they are performing quality work,
then our state recognizes accreditation
from another state and vice versa.

A couple of sewage system bills that
we mentioned to you, if you'll remember.
One, to require the public entity ownership
of shared sewage systems. What that
essentially means is no homeowners'
associations will own sewer systems any
longer. It became too big an issue, too
big a problem when those systems began to
fail the homeowners' associations generally
didn't know how to operate them, didn't
know how to fix the problem and didn't
really have a vested interest ensuring that
they continued to operate properly. So now
it will be required either for a single
owner to the home to own the entire system
or some sort of public entity.

Certifications. A problem that we
ran into that we mentioned to you is that
many times the builder or the homeowner
will not be entirely accurate in reporting to the installer the size of the system that's needed either in terms of the volume of water flow or the number of bedrooms which is how we judge what is needed for an individual residence. So the systems that were being put in were undersized and, of course, they failed. Well, now there is a requirement that whoever is contracting for the installer putting the system in certify that correctly so that we know whose fault it is if something happens.

Quickly on solid waste, a new solid waste fee that applies to commercial incinerators, there is only one in the state at the moment, but this will bring in about a quarter of a million dollars or so is our estimate because of this fee being imposed. It was already imposed for landfills, it's sort of leveling the playing field by it applying to commercial incinerators. We've tried for a couple of years and this year we are successful in negotiating for that to become law.

And 1554, pathogen treatment
standard for landfill sludge. I'm not going to spend any time on that. That simply codifies in the statute what was already in our rules. So it really doesn't change anything it just highlights it a bit more.

Recycling fees for agricultural tires. Beginning this year the smaller AG tires will become part of the tire recycling program. In 2013 the larger tires, I think it's larger than 14 by 44 or something like that will be added to the program, so all AG tires will become part of the recycling program with a fee applied and then the (inaudible) from that being used to reimburse haulers and processors to reuse those tires. It will be 2013 before that comes to full fruition.

Geologic storage of carbon dioxide task force has been in existence for a few years now. It's been extended one more time through -- until December of this year. There's some loose ends that they want to continue to talk about in the injection of CO2. And so that will give
another three or four months here for them
to have additional meetings with that task
force.

As I mentioned earlier clean and
renewable energy was a pretty big deal
during this session. Renewable energy and
natural gas bill. What this bill does is
essentially say that new production from
power plants ought -- where possible may
come from either renewable sources or from
natural gas which is obviously plentiful in
Oklahoma. There is goal of 15 percent of
our power production coming from renewable
energy by 2015.

Wind turbine decommissioning
requirements simply sets up a process for
the decommissioning of these wind turbines
sites (inaudible) at the beginning of their
useful life. What is the assurance that
they will be taken care of at the end of
their useful lives. So there is financial
assurance requirements associated with
that.

And finally, severance of airspace
for the purpose of putting in wind turbines
or solar energy facilities is prohibited.

I think, I don't know a lot about that, I think that was a concern for the protection of land owners.

Moving a little bit beyond just the environmental side of things. Looking more at government in general and operations of government. You passed some emergency rules today, there will be an additional requirements associated with those. I don't know that it changes a whole lot, quite frankly. It does require the Governor to make a specific finding that the Agency had a need to pass these as emergencies and the need for the emergency had nothing to do with the Agency delaying or being negligent in getting to this forum. But it does add a little bit of a later requirement to the emergency process. So when we bring emergency rules to you in the future we will have to make sure that we observe those.

Agencies have to put statutes and rules on the website. We already do that. We're going to refine it a little bit but
it really doesn't change the way that we do
things at DEQ.

Reimbursement fund to aid agencies
with employee buyouts. We didn't utilize
this. We did not go through a buyout
process at DEQ. Many agencies did. There
has always been or for many years there has
been a process in place for agencies to buy
out employees because of financial
conditions of the agency. This bill simply
set up a pool of money at the state level
from which agencies could apply to be
reimbursed their cost to reduce their level
of employees and it allowed them to go in
and make these buyouts where they might not
have been able to do so otherwise. The
trade off though was that relinquishing
those positions, they relinquished those
FTEs for at least three years. So you have
to make sure if you're going to use this
mechanism that you're not going to need
that level of staff for at least three
years.

Eastern Red Cedar Board, there is a
lot interest in how can we control the
proliferation of these trees and maybe more importantly for this Board what use can be made of them. So that Board will take a look at how we can more profitably use the wood from these eastern red cedars.

Some measures that didn't pass, consolidation of natural resource agencies and I'll let Steve talk a little bit more in a minute about that if he wants to.

You'll see, we'll have an interim study on that. Same for the state attorney's -- to the Attorney General's office, the proposal was to take all state attorneys and move them under the Attorney General rather than have them spread among the various agencies.

Prohibition on enforcement of federal environmental laws is one that was of particular interest to us. The bill essentially said that a federal environmental law could not be enforced by a state environmental official or agency and with a -- with actually a criminal penalty associated in one version of the bill. Now it depends on how you interpret
that. In one sense we don't enforce federal law. I mean we get delegated programs and we adopt state rules and we enforce the state rules. But on the other hand those state rules in some cases adopt by reference, in other cases largely parrot what the federal rules say. We have to do that in order to maintain delegation. So it made us a little bit nervous as you would expect to say we cannot enforce federal environmental laws because it depends on how you interpret that whether we have the ability to abide by that or not.

Legislative approval of administrative rules. Right now as you know, the Legislature has to -- the Governor has to approve, the Legislature has to not disapprove. Well, this would make the system change to where the Legislature, like the Governor, would have to affirmatively approve the rules before they would become effective. There was also a proposal that would allow only one house instead of both houses to vote
to disapprove the rules and reject them in that way.

Term limits on State Board of Commissions didn't get too far. That would have limited those of you on boards and commissions to a six year term.

Some other things -- I'm not going to run through all of these, I've probably taken enough time with the overview. You can take a glance at some of the other things that were considered including the beverage container deposit bills that we talked about earlier. There were several of those that didn't make it through this time. Several bills that had to do with tax credits that, frankly, really had no chance with the budget situation the way it was this year.

I mentioned interim studies. We have some that are going to be of particular interest, including several that were carry-overs of subject matter that was considered during this past session. You can see some of the things that we've already mentioned that will be coming up
for an interim study sometime between now
and the beginning of the legislative
session. And usually those happen in
September, October, November. I don't
think that any of these have been scheduled
yet.

Do you want to talk more about that
now or --

MR. THOMPSON: No, I'll talk
about it in a minute.

MR. GIVENS: And with that I will
wrap up. If there are any questions --
anybody have anything that either Steve or
I can take a shot at.

MR. THOMPSON: I just have a few
comments related to the legislative
session. Jim does an excellent of tracking
legislation. We would not -- I would not
know what was going on necessarily in the
legislature without his good work.

A couple of things that I did want
to mention to you. We talked at some
length about the budget cuts that we took
over the last two years. Nevertheless, I
think it's fair to say that in '09 while
most general revenue -- most natural resource agencies of our size were taking seven percent cuts, we took 5.5 -- I'm sorry, 4.4. In the last year while most natural resources agencies of our size took another seven percent, we took 5.5. Our reductions were smaller than the reductions that were taken by other natural resource agencies. So we're proud we were able to work through those issues.

The issue that Jimmy mentioned about the incinerator fee, that is something that we've worked on very hard for two years. We were finally able to establish that fee this year and as Jimmy said, while we had losses in general revenue we were able to make at least a portion of that back up as a result of the incinerator fee.

Finally, as Jimmy went over all the things that we were -- we supported, passed, generally the things that we thought would have a negative impact on the Agency failed to pass. I don't know whether it's my age or the budget or whatever, but this was clearly the most
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grueling legislative session that I've ever
been through. I mean it was tough.
For example, in the last week we
received calls about cutting FTEs. We
received calls about our fee accounts,
which can only mean one thing. The issue
of moving the lawyers from the agencies to
the Attorney General's office which --
REP RICHARDSON: I had nothing to
do with that.
MR. THOMPSON: All right. Good.
It was not one of our favorite ideas I will
tell you -- came up in the last week and
the consolidation bill that came up on the
last day at the same time that the Oklahoma
County -- I mean, town hall on the
comprehensive water plan was going on in
Norman. I wore out a perfectly good car
driving between Norman and the Capitol on
all of these issues. But I just wanted to
mention that we have good friends in the
Legislature. Representative Richardson is
a good friend and particularly the leaders
of our appropriation sub-committee in both
chambers; in the House, Dale DeWitt; and in
the Senate, David Myers, were a great help
to Agency on all of these budget issues and
we are particularly grateful to them for
their support of the Agency -- them and
others.

With that, I guess we'll answer any
questions.

MS. CANTRELL: Are there any
questions for either Steve or for Jimmy
regarding the past legislative session or
anything that appears to be coming on the
horizon? Representative Richardson,
is there anything that you would like to
say regarding either the last session --

REP RICHARDSON: I'd like to make
one more comment. This last session for
whatever reason, environmental issues were
not a part of our committee chairs and in
the session before I had the environmental
-- DEQ, Water Resources Board, and the
Conservation District were part of a -- and
that's what we (inaudible) under
(inaudible) for that. We will have a
committee that will handle these
environmental issues because they wound up
getting sent ever direction. And they need
to be under a committee that reviews it and
environmental -- and that will be -- I have
his assurance (inaudible).
MR. THOMPSON: That is really
particularly good news because our bills,
we never knew what committee they were
going to last year without an environmental
committee and with the advent of that we
will be able to plan more -- I don't know
if that's a good thing or a bad thing but
we will be able to plan what we need to do
on the house side. So that's good news.
We're grateful for that.
MS. CANTRELL: Thank you. Well
we come to item on the Agenda, Number 11
and it's our annual review working with the
Executive Director, but as you'll notice on
the Agenda the process is spelled out. In
order for us to go into Executive Session
which is our traditional mechanism for
discussing this agenda item we need to have
a vote of the Board taking us first into
Executive Session after we have announced
that that is the purposes of this Executive
Session to consider the annual performance
of the Executive Director.

Do I have a motion to take the
Executive Director annual performance
review into Executive Session?

MR. GRIESEL: So moved.

MS. CANTRELL: Do I have a
second?

MS. ROSE: Second.

MS. CANTRELL: All in -- Myrna,
would you like to poll the Board? I just
so much want to do it by acclamation. I
just can't stand it.

MS. BRUCE: Mr. Drake.

MR. DRAKE: Yes.

MS. BRUCE: Dr. Galvin.

DR. GALVIN: Yes.

MS. BRUCE: Mr. Griesel.

MR. GRIESEL: Yes.

MS. BRUCE: Mr. Johnston.

MR. JOHNSTON: Yes.

MS. BRUCE: And for the record,
Mr. Mason has left.

Ms. Rose.

MS. ROSE: Yes.
MS. BRUCE: Mr. Wendling.

MR. WENDLING: Yes.

MS. BRUCE: Mr. Wuerflein.

MR. WUERFLEIN: Yes.

MS. BRUCE: Ms. Cantrell.

MS. CANTRELL: Yes.

MS. BRUCE: Motion passed.

MS. CANTRELL: Thank you, Myrna.

And before we depart we also need to
designate the person who will take notes
regarding the Executive Session. Is there
anybody who would like to do that? Hearing
none, I happened to bring a note pad with
me, but I wanted to give everybody the
opportunity. We'll now move into Executive
Session. Thank you.

(Whereupon, the Board went into
Executive Session)

(Whereupon, the Board came out of
Executive Session and the following took
place)

MR. WUERFLEIN: Madam Chairman,
I'll move that we reconvene from Executive
Session.

MR. DRAKE: I'll second.
MS. BRUCE: Mr. Drake.
MR. DRAKE: Yes.

MS. BRUCE: Dr. Galvin.
DR. GALVIN: Yes.

MS. BRUCE: Mr. Griesel.
MR. GRIESEL: Yes.

MS. BRUCE: Mr. Johnston.
MR. JOHNSTON: Yes.

MS. BRUCE: Mr. Mason. He left.

Ms. Rose.

MS. ROSE: Yes.

MS. BRUCE: Mr. Wendling.
MR. WENDLING: Yes.

MS. BRUCE: Mr. Wuerflein.
MR. WUERFLEIN: Yes.

MS. BRUCE: Ms. Cantrell.
MS. CANTRELL: Yes.

MS. BRUCE: Thank you.

MS. CANTRELL: Members of the

Board, we met in Executive Session and discussed the annual review of the Executive Director, Steve Thompson, for the Oklahoma Department of Environmental Quality. And pursuant to our statutory directive the Board also considered the --
our responsibility to appoint and fix an
appropriate compensation for the
Department's Executive Director.

Based on our statutory role and
statutory duty we have made the following
findings that are now on the table for the
Board's consideration.

Number One, that a key to the
success of the Oklahoma Department of
Environment Quality has been consistent and
stable leadership of an excellent quality;
that the consistency and stability is
important in this Agency that is vested
with such significant responsibility for
the state of Oklahoma.

Another point raised in the
discussion is that the Oklahoma Department
of Environmental Quality Board in
conducting its statutory obligation to
review an appropriate compensation for the
Executive Director's salary has considered
market analysis, we've considered
comparable salaries and more importantly we
considered the Oklahoma Department of
Environmental Quality Board as compared to
the Office of Personnel Management's Fiscal Year 2009 Compensation Report that the state of Oklahoma prepared. According to the fiscal year 2009 Compensation Report, compensation of the Department of Environmental Quality reported at 29 percent below market value in terms of compensation pay. And according to that report the proposed salary for the -- or the current salary for the Director of the Department of Environmental Quality fell significantly behind. During the last two years this Board has met in similar fashion during calendar years 2008-2009. In both of those years we reviewed the excellent work of the Oklahoma Department of Environmental Quality and the exemplary leadership of the Executive Director. However, given fiscal responsibilities to the state of Oklahoma we felt like we could not propose an increase in salary during either of those calendar years. As a result, the Executive Director has last received a raise in compensation three years ago in 2007.
Again, the Board met in Executive Session and the discussion entertained was that it was still a difficult and challenging times for the state of Oklahoma. However, in reviewing comparable salaries paid to individuals in positions similar to the Executive Director in neighboring states, we find that the Executive Director of the Oklahoma Department of Environmental Quality is paid significantly below his peers.

Based on our analysis and based on our responsibility to assess an appropriate compensation for the Executive Director, and based on the Board's consideration that the consistency and stability in this Agency is important, we bring this proposal now to the Board for a vote.

The consideration on the table currently for the Board given the points that we've discussed in Executive Session is the application of six percent raise to the Executive Director's current salary based on Consumer Price Index.

Given the difficult and challenging
budget year issues approaching the state of
Oklahoma the Board is now considering that
use of the Consumer Price Index would be a
more appropriate mechanism for establishing
the salary of the Executive Director. And
in that regard the consideration before the
Board currently is a six percent CPI
increase to the Executive Director's
current salary. The salary increase would
be effective July 1, 2010 should the Board
approve that increase.

Are there any questions of the Board
on the item before it?

Are there any questions or concerns
from anybody in the audience?

Is there a motion from the Board?

MR. GRIESEL: So moved.

MS. CANTRELL: Is there a second?

MR. WENDLING: Second.

MS. CANTRELL: Myrna, we have a
motion and we have a second. I believe
we're ready for a vote.

MS. BRUCE: Mr. Drake.

MR. DRAKE: Yes.

MS. BRUCE: Dr. Galvin.
DR. GALVIN: Yes.

MS. BRUCE: Mr. Griesel.

MR. GRIESEL: Yes.

MS. BRUCE: Mr. Johnston.

MR. JOHNSTON: Yes.

MS. BRUCE: Ms. Rose.

MS. ROSE: Yes.

MS. BRUCE: Mr. Wendling.

MR. WENDLING: Yes.

MS. BRUCE: Mr. Wuerflein.

MR. WUERFLEIN: Yes.

MS. BRUCE: Ms. Cantrell.

MS. CANTRELL: Yes.

MS. BRUCE: Motion passed.

MS. CANTRELL: The next item on the agenda is to examine the calendar year 2011 Board meeting dates and locations. The proposal before the Board for 2011 have been modified based on input we have received from Norman. As you can see, we have February 25, 2011, the meeting to take place in Oklahoma City at the DEQ, is as our tradition. We had August 23 for Norman, proposed; and November 15 for Tulsa. However, the
feedback from Norman is that August 23 is absolutely a crazy time to try and hold a meeting in that town given the people just coming back to school and the beginning of football season. So the thought is to switch the places of Norman and Tulsa and have the August 23 meeting held in Tulsa, and the November 15 meeting held in Norman.

Finally, as to the June 14 meeting in Enid, I would suggest that we asterisk that with the condition that it be as needed. There are times when we have not needed a June meeting but if we should need a June meeting, the proposed location for the Board's consideration is Enid.

MR. DRAKE: The date would still be a little bit questionable if we did it.

MS. CANTRELL: And the date would still be a little bit questionable. These are targets at this point.

Any questions or comments from the Board?

MR. DRAKE: I move this Board selection dates that you have just given us.
MS. CANTRELL: Is there a second?

MS. ROSE: Second.

MS. CANTRELL: Myrna, I believe we have a motion and a second.

MS. BRUCE: Mr. Drake.

MR. DRAKE: Yes.

MS. BRUCE: Dr. Galvin.

DR. GALVIN: Yes.

MS. BRUCE: Mr. Griesel.

MR. GRIESEL: Yes.

MS. BRUCE: Mr. Johnston.

MR. JOHNSTON: Yes.

MS. BRUCE: Ms. Rose.

MS. ROSE: Yes.

MS. BRUCE: Mr. Wendling.

MR. WENDLING: Yes.

MS. BRUCE: Mr. Wuerflein.

MR. WUERFLEIN: Yes.

MS. BRUCE: Ms. Cantrell.

MS. CANTRELL: Yes.

MS. BRUCE: Thank you.

MS. CANTRELL: The next item on the agenda is new business.

Are there any matters of new business that could not have been placed on
the formal agenda of this Board meeting?

Seeing none, we move on, then, to announcements. The next meeting of this Board will be November 16, 2010 in Stillwater, Oklahoma.

And with that, we will adjourn the meeting. This meeting is adjourned.

(Meeting Concluded)
CERTIFICATE

STATE OF OKLAHOMA    )
COUNTY OF OKLAHOMA   ) ss:

I, CHRISTY A. MYERS, Certified Shorthand Reporter in and for the State of Oklahoma, do hereby certify that the above meeting is the truth, the whole truth, and nothing but the truth; that the foregoing meeting was taken down in shorthand and thereafter transcribed by me; that said meeting was taken on the 23rd day of August, 2010, at El Reno, 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 4th day of October, 2010.

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