MINUTES
ENVIRONMENTAL QUALITY BOARD
November 16, 2010
Oklahoma State University Alumni Center
Click Family Alumni Hall
Stillwater Oklahoma

EOB approved
February 25, 2010

Notice of Public Meeting The Environmental Quality Board convened for a regular meeting at 9:30 a.m. at Oklahoma State University Alumni Center at Stillwater, 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. The agenda was mailed to interested parties on November 5, 2010 and was posted at the Department of Environmental Quality on November 12, 2010. Brita Cantrell, Chair, called the meeting to order. Roll call was taken and a quorum was confirmed.

MEMBERS PRESENT
Brita Cantrell
Mike Cassidy
Tony Dark
Bob Drake
Jennifer Galvin
David Griesel
Jerry Johnston
Sandra Rose
Kerry Sublette
John Wendling
Richard Wuerfein

MEMBERS ABSENT
Steve Mason
Terri Savage

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
Beverly Butchlet-Smith, 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
Tim Ward, Water Quality Division
Fenton Rood, Land Protection Division
Jennifer Wright, Executive Director’s Office
Myrna Bruce, Secretary, Board & Councils

OTHERS PRESENT
Clayton Eubanks, Assistant Attorney General
Laure Lodes, AQAC Chair
Lee Caster, HWMAC Chair
Christy Myers, Court Reporter

The Attendance Sheet becomes an official part of these Minutes.

Approval of Minutes Ms. Cantrell, Chair, called for motion to approve minutes from the August 24, 2010 Regular Meeting. Mr. Drake made the motion and Mr. Dark made the second.

*transcript pages 5 - 6*

Mike Cassidy Abstain Sandra Rose Yes
Tony Dark Yes Kerry Sublette Yes
Bob Drake Yes John Wendling Yes
Jennifer Galvin Yes Richard Wuerfein Yes
David Griesel Yes Brita Cantrell Yes
Jerry Johnston Yes

Rulemaking - OAC 252:100 Air Pollution Control Ms. Laura Lodes, Air Quality Advisory Council Chair, explained that the proposed emergency changes to Subchapters 1 and 8 would assure that state Prevention of Significant Deterioration (“PSD”) rules and Part 70, as well as Subchapter 7, permitting rules affected by recent changes to the U.S. Environmental Protection Agency’s (EPA’s) policies and programs for greenhouse gas
("GHG") emissions are not more stringent than the corresponding federal requirements. Ms. Lodes explained that the proposed rules should prevent confusion within the regulated community and therefore prevent unnecessary permit applications from smaller sources of greenhouse gases in Oklahoma. The proposed Subchapter 1 modification adds the definition of "greenhouse gas" to Chapter 100.

Mr. Eddie Terrill, Air Quality Division Director, explained that all three proposed revisions are necessary as emergency measures for clarity in order to avoid serious prejudice to the public interest. Without the proposed emergency adoptions, there is likely to be confusion within the regulated community as to which permitting thresholds apply to Title V sources, minor sources and PSD sources as a result of EPA's new light duty vehicle GHG emission standard. Mr. Terrill noted that the goal of the proposed emergency adoptions is to clarify that those permitting thresholds will not be triggered by small sources and to make it clear that it is unnecessary for these small sources to submit permit applications or take other costly steps to comply with EPA's new GHG requirements.

Mr. Thompson pointed out the need to have a rule in place as an emergency and then it would be brought before the Council for permanent rulemaking. Ms. Cantrell called for a motion to consider the rulemaking request for emergency status for Subchapters 1, 8 and 7. Mr. Dark made the motion and Dr. Galvin made the second. No vote was taken, and after further discussion, Ms. Cantrell again called for a motion to consider the rulemaking as an emergency. Mr. Johnston made that motion and Mr. Drake made the second.

Ms. Cantrell called for a vote on the merits of the proposal as presented as emergency rulemaking. Mr. Griesel made that motion and Ms. Rose made the second.

**Rulemaking – OAC 252:205 Hazardous Waste Management** Mr. Lee Grater, Chair, Hazardous Waste Management Advisory Council, advised that the DEQ proposed permanent amendments to its Hazardous Waste Management rules to update the incorporation by reference of federal hazardous waste regulations found in 40 CFR Parts 124 and 260-279 revised as of July 1, 2010. The updates would include revisions pertaining to the import and export of hazardous waste. Although states do not receive authorization to administer the import/export rules, state programs are still required to adopt these provisions in order to maintain their equivalency with the federal program. Otherwise, the revisions to the federal regulations include technical corrections and
clarifications and are not expected to have a substantive impact on the DEQ’s hazardous waste program. Hearing no discussion or comments, Ms. Cantrell called for a motion of approval as presented. Mr. Griesel made the motion and Ms. Rose made the second.

Consideration of and Action on the Annual Environmental Quality Report Mr. Jimmy Givens, Deputy Executive Director, advised that the Oklahoma Environmental Quality Code requires the DEQ to prepare an “Oklahoma Environmental Quality Report” and to submit it to the Governor, Speaker of the House and Senate President Pro Temp by January 1st of each year. He provided a PowerPoint presentation outlining the prescribed purpose of this report which is the DEQ’s annual funding needs for providing environmental services within its (1) to show jurisdiction, (2) reflect any new federal mandates, (3) and summarize DEQ-recommended statutory changes. Mr. Givens fielded questions and comments. Following discussion, Ms. Cantrell called for a motion for approval of the report. Mr. Griesel made the motion and Ms. Rose made the second.

Executive Director’s Report – Mr. Steve Thompson provided information regarding the changes in Legislative staff and relating to the election of the new Governor. He also advised the Board of the personnel changes within the DEQ; talked about the DEQ 101 meetings; and rolled out the 2010 Annual Report.

Mr. Thompson asked for presentations from Eddie Terrill, Air Quality Division Director and Shellie Chard-McClary, Water Quality Division Director, regarding upcoming rulemaking they will be presenting to their Councils in January 2011.

New Business None

Next meeting February 25, 2011, DEQ Multipurpose Room

Adjournment Ms. Cantrell adjourned the meeting at 11:45 a.m.

The transcript and sign-in sheet becomes an official part of these Minutes.
DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF OKLAHOMA

* * * * *
TRANSCRIPT OF PROCEEDINGS
OF THE ENVIRONMENTAL QUALITY
BOARD MEETING
ON NOVEMBER 16, 2010, AT 9:00 AM
IN STILLWATER, OKLAHOMA
* * * * *

MYERS REPORTING SERVICE
Christy Myers, CSR
P.O. Box 721532
Oklahoma City, Oklahoma 73172-1532
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Welcome everybody to the EQB meeting here in Stillwater, beautiful Stillwater. I believe before we get started we have an announcement from the Board.

Dr. Galvin.

DR. GALVIN: I had to take off my jacket and show everyone that I came incognito this morning but for those of you that are orange-phobic I'd like to welcome you to OSU but just to make you feel welcome I've got ConocoPhillips on this sleeve and the color of that company is red, white and black. So for the great state of Oklahoma I'd like to welcome you all to Stillwater and OSU and the ConocoPhillips Alumni Center.

(Appause)

MS. CANTRELL: Thank you.

I guess now we'll turn to our roll call, please, Myrna.

MS. BRUCE: Good Morning.

Mr. Cassidy.

MR. CASSIDY: Here.

### Proceedings

The November 16, 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, 2009.

Agendas were mailed to interested parties on November 5, 2010 and posted at this facility and at the Department of Environmental Quality, 707 North Robinson, Oklahoma City, on November 12, 2010.

Only matters appearing on the posted Agenda may be considered today in this. 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.

With that, we will now turn to our agenda for this meeting. I want...
The next item on the Agenda is the approval of the minutes of our August 24th, 2010 meeting.

MR. DRAKE: I would move approval.

MS. CANTRELL: We have a motion to approve.

MR. DARK: Second.

MS. CANTRELL: And a second.

MS. BRUCE: Mr. Cassidy.

MR. CASSIDY: Yes/Abstain.

MS. BRUCE: Mr. Dark.

MR. DARK: Yes.

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: Dr. Sublette.

The first rulemaking item on our Agenda today comes to us from the Air Quality Advisory Council. And I believe we have present today to make the proposal from the Council, Laura Lodes, who is the Chairman of the Air Quality Advisory Council.

Good morning.

MS. LODES: Good morning,

Madam Chair and Members of the Board.

We have several changes.

The first is the proposed changes to Subchapters 1 and 8. The Department proposes to modify Parts 5 and 7 of Subchapter 8 to clarify the applicability thresholds for the PSD and Part 70 programs from appearing to be more stringent than the corresponding federal rules. The modification to deal with the permitting of greenhouse gas emissions also includes the addition of the definition of greenhouse gases or GHG to Subchapter 1 at OAC 252:100-1-3.

EPA proposed the Greenhouse Gas Tailoring Rule in the Federal Register on October 27th, 2009 and promulgated the final rule in the Federal Register on June 3rd, 2010, making it impossible for the department to promulgate a permanent modification clarifying EPA's deferring of PSD of Part 70 applicability thresholds for greenhouse gases before the January 2, 2011 deadline. Because of this, a large number of smaller sources of greenhouse gases that would be excluded by the federal Greenhouse Gas Tailoring Rule could interpret current department regulations to subject them to the lower thresholds of PSD and Part 70 programs contained...
in the current state rule; thus, negating the relief from the overwhelming permitting burden afforded by the Greenhouse Gas Tailoring Rule. This interpretation can be costly to the small sources that prepared and submit these permit applications to the department which must process and respond to these permit applications. For this reason, the Department is asking the proposed changes to Subchapter 1 and Subchapter 8 be approved as an emergency rule change.

We're also proposing changes to Subchapter 7. The Department is proposing to modify the minor facility permit program to assure the state permitting rules which may be affected by recent changes to the US EPA's policies and programs for greenhouse gas emissions are not interpreted to be more stringent than the corresponding federal regulations. The Federal Clean Air Act does not require that minor source programs be applied to greenhouse gas emissions. The Department proposes to amend Part 1 of the Minor Facility Permitting Rule 605 CAC 252:100-7 by the addition of the new section 605 CAC 252:100-7-2.1. This section clarifies that greenhouse gas emissions are excluded from the minor facility permitting program.

Council does recommend that both of these emergency rules be passed.

MS. CANTRELL: Chairman Lodes, just as a matter of framing the issues for the Board, I show that we have -- you have presented this in two packets. You have Subchapter 1 and Subchapter 8 as one proposal, and then you have Subchapter 7 as a second proposal. Does it -- are you suggesting that we consider them all as one package or is there any reason that we need to segregate them at this point?

MS. LODES: There is no reason you need to segregate them at this point. These are both emergency rules. Well, actually -- well, there may be -- okay. They are both emergency rules; also the Subchapter 7 will be a permanent rule.

(Pause)

MS. LODES: I'm sorry.

They are both emergency rules. This is to get us to the next Council meeting. The January Council meeting, we will go through and look at the permanent rulemaking for both of these chapters and then we will be bringing the permanent rules before the Board next year, because we had to get something in place prior to January 2nd, and so that's what we're doing. As an emergency rule to get these in place to cover things until we can have more time to get to the January Council meeting.

MS. CANTRELL: Eddie, did you have something else to add?

MR. TERRILL: Yes. Let me just clarify something. My name is Eddie Terrill, I'm the Air Director. We originally thought about not even bringing these to the Council or the Board because we believe we've got the authority under our existing statutory authority to regulate greenhouse gases as far as just the permitting aspect of it, but we thought that in order to absolutely clear in our rules so there was no ambiguity of sources not knowing what they were supposed to do and also to have a dialogue with the affected sources and the public about what our role in this, we felt like it would be best to clarify the rules by bringing them to the Council, bringing them to the Board and then give the Legislature an opportunity to say -- if they just say they don't want to regulate greenhouse gases at all or permit
them, we're not regulating greenhouse gases, all we're doing is meeting the federal requirements of the permit. If they say we don't want you doing it, also what they've done in Texas, then we wouldn't do that. But we believe we've got the authority; we believe we've always had the authority, we just want to make sure that everybody understands what's going to happen on January the 2nd so that they -- if they are a PSD source they have to get a permit; if you're a Part 70 source you have to get a permit; if you're a minor source you don't have to get a permit unless you want one. So this is mainly to answer any questions and clarify for the public that the permitting requirements that EPA is going to impose in January. We're doing it as a -- we're bringing them back as a permanent rule because we've got sections open that we need to put some 2.5 changes that EPA just recently finalized. And if we close those -- if we did these as permanent and closed them before we could incorporate those PM 2.5 changes it would be a year before we could do that. So that's the reason that we're bringing them as an emergency so that they are in place on January 2nd, it gives us time to go to our Council in December with these PM 2.5 changes -- or in January rather, with the PM 2.5 changes and bring them back as permanent next year to the Board. So that's the only reason we're doing it as an emergency, is because we didn't have time because of the way the feds promulgated the PM 2.5 portion, get that done prior to today. So I think that's it. MS. CANTRELL: Eddie, one point of clarification, then, if the Board were to pass this as an emergency measure now then one point that you want the Board to consider in favor of an emergency status is the fact that if the Board then was to consider the same issue at the 2011 -- the next 2011 Board meeting that even if permanent rules are passed at that point there would be a lag time before they were to go in place and that this emergency rule would cover that lag time. Is that correct?

MR. TERRILL: That's right. It otherwise -- technically we probably still have the authority but it clears up any ambiguity and it also prevents any doubt for the sources that want to get permits in that interim time that they can move forward with us as opposed to having to deal with EPA relative to greenhouse gas portion. If we were to say, for instance, we weren't going to do greenhouse gas permitting at all, our sources would be subject to a citizens suit for failure to consider that as part of their permitting activity with us and then EPA would also permit that part of the permit separate from the other portions that we would do. So it's a convenience for our sources to clarify that we do have the authority for all of the permitting activities so they only have to deal with us and not have (inaudible) process where they have to do part of it with us and part of it with EPA. MS. CANTRELL: Okay.

MR. TERRILL: And there is also -- I do want to clarify that there is also a provision in here if for some reason EPA loses the authority to regulate greenhouse gases either through a court stay or it gets overturned then we revert back to our existing rules so that we don't have something more stringent than what the feds have. So we do have a clause in here that protects our sources from being regulated in the event that EPA loses
MS. CANTRELL: We'll open this proposal for discussion. But we're going to need to do it in two parts. We're first going to need for the Board to consider the request that this proposal be given an emergency status, and then we'll need to then look at the rule proposed on its merits.

Do we have a proposal from the Board as to emergency status so that we can just put that issue on the table for discussion?

MR. DARK: So moved.

DR. GALVIN: Second it.

MS. CANTRELL: We have a motion and a second as to the emergency status of the proposal that is brought to the Board today.

Is there any discussion? Are there any questions from any who have joined us today regarding the proposal before the Board in the request of a finding of emergency status?

MR. WUERFLEIN: Madam Chairman, I'm kind of at a loss. This is unusual to deal with something on temporary -- temporary is probably the wrong term but it -- we will be addressing this issue later on a permanent basis?

MR. THOMPSON: Richard, the rule -- the federal rule requires us to have something in place -- and this is the way I try to understand this, by January 2nd. And absence this rule we are much more -- there are two things that happen. We're much more stringent because what they've done is lopped off a bunch of sources that under the old permitting provision would be gathered up in this greenhouse gas permitting dilemma. And so this reduces the number of sources, at least for now, to a relatively small number. And if we don't do that by the 2nd then there are a couple of things that happen in my mind. First of all we don't reduce the number of sources, and second thing is there is a potential for our industries to fall into a regulatory black hole in which there is at least a limited -- if this doesn't pass, the Department is going to take it as a signal from public policy makers in the state of Oklahoma that they don't want the Agency to regulate greenhouse gases. I don't know how to say it any other way.

Now there -- in my mind there are consequences whether you believe greenhouse gases ought to be regulated or not, it's not a debate that the Agency is going to get in to. But there are consequences for failure to do that, that people have to consider.

The first one is this regulatory black hole because the feds aren't going to be ready to do this, they tell us, for a year. And so if you're an existing source it may be that you will be just fine. But if you want to permit a new source and there is no permitting authority, what do you do?

Now EPA has said they are not going to stop construction but that doesn't mean that a third party couldn't file a court action to stop construction. Pretty convenient. So that's the first thing.

The second thing is that if the state of Oklahoma does not permit greenhouse gases, a new facility in particular, would have to go to two permitting authorities ultimately.

They would have to come to the DEQ for everything except greenhouse gases and they would have to go to EPA for greenhouse gases. Now this is assuming that it doesn't get overturned in court and it doesn't get stayed and all that stuff.

I can tell you from my personal experience that when we have
Condensed Transcript

Sheet 7 Page 22
1  a new economic development
2  opportunity in the state of Oklahoma,
3  the Department has some anxiety about
4  getting that permitted. We do it
5  right; we're not going to cut any
6  deals; we're not going to give any
7  breaks, but that's one of the things
8  that our customer services' group
9  does is design a process that where
10  we get the permitting done in as
11  much accordance with the new
12  facility's schedule as possible. And
13  if you have a federal permitting
14  authority, I think you'd lose that.
15  I don't know that there will be any
16  anxiety at the federal level to get
17  those sources permitted that there is
18  at the state.
19  And third -- and we are --
20  when we've inquired of EPA about this
21  we get, well we don't know, and we
22  could or we might not but we don't
23  think we are so we're not -- we
24  don't get a firm answer on
25  this. The Board needs to keep in

Page 23
1  mind that there is a presumptive
2  federal fee for these things, for
3  major source permits, and the DEQ --
4  and at this point is, I think, seven
5  or eight dollars less than the
6  federal fee. But it could be that
7  someone seeking a permit from both
8  permitting authorities could pay the
9  state fee and they could pay a
10  federal fee. So you might be double
11  feed if you're seeking a permit.
12  So as long as, I think,
13  everybody understands the
14  consequences of failure to do this
15  then public policymakers, starting at
16  the Board level and on up, could
17  make a decision on what they think
18  is best for the state.
19  Have I've too terribly
20  misspoken, Eddie?
21  MR. TERRILL: Well, that's
22  pretty close.
23  MR. THOMSON: Let me tell
24  you -- never mind, Eddie, it's close
25  enough.

Page 24
1  MR. TERRILL: To get to the
2  emergency part of it, the emergency
3  that we've got here is you've got a
4  Section open in our PSD rules,
5  Subchapter 8, where these greenhouse
6  gas requirements fit. And if we get
7  the permanent rules at the same time
8  as we do an emergency, which we
9  could do on the greenhouse gas
10  itself, that would close that rule
11  for a year. And we've got PM 2.5
12  requirements that we've been waiting
13  on EPA for almost a year to
14  promulgate so that we can get those
15  into our rules to implement the
16  standard changes they made a year ago
17  so that our sources that have PM 2.5
18  requirements both modeling and
19  permitting in order to get a permit
20  from us, know what the requirements
21  are. So that's the reason we wanted
22  to keep -- we didn't have the timing
23  that EPA released -- their final
24  rulemaking did not coincide with our
25  ability to notice that for the last

Page 25
1  Council meeting, so we need to leave
2  this part of the rule open, which
3  includes greenhouse gas, so we can
4  put the PM 2.5 requirements in there
5  and bring those back to you hopefully
6  in February. We think we're going
7  to get it done in January. But
8  that's the primary legal reason why
9  we need to do this as emergency
10  because we do not wish to bring this
11  as permanent and close this rule and
12  forego for a year our ability to
13  implement these requirements that our
14  sources have to do now relative to
15  the PM 2.5.
16  MR. THOMPSON: So I
17  understand --
18  MR. TERRILL: And that's the
19  policy part of it and that's the
20  rest of the story.
21  MR. THOMPSON: I understand
22  that, but I did -- it would be
23  unfair to this Board not to have the
24  context in which all this is going
25  on.
MR. TERRILL: Exactly.

MR. THOMPSON: That's what I'm trying to frame for you is the context in which at least the notion of regulating greenhouse gases is coming forward. I mean Eddie's right. EPA and -- we both think that we currently have the authority to do that. And we wouldn't -- we could just regulate greenhouse gases under an existing permitting authority. But quite frankly, that's really a decision that's going to have to be made above my (inaudible). And so we're bringing this thing to you. There are typical reasons to do it but you ought to have the context in which the rule (inaudible).

And with that, I will be quiet for a while.

Was that a very long answer to a very simple question, Richard, but I --

MR. WUERFLEIN: Yeah, you got the answer to my question in there but I was just curious as to why are we addressing two meeting in a row and you clarified that. Thank you.

MR. JOHNSTON: Pin it on the feds.

MS. CANTRELL: When is the scheduled -- the next scheduled Air Quality Council meeting?


This also gave us more opportunity to have industry comment on the regulation. I know Eddie has his reason but by doing it as an emergency rule, we patched it and through -- this also gave everybody more time to look at it. The EPA really has released all this stuff with very little time for anybody to -- for the Agency to prepare a rule and for industry to comment on a proposed rule. And by doing emergency rulemaking at our current thresholds of 100 tons per year, to put it in perspective for you all, two large hot water heaters in your house may trigger a 100 tons of CO2 which would trigger Title V permitting if we don't have the tailoring rule. To put it -- on how low the emission -- I mean how much CO2 emissions are. Complete combustion is at that level. That's the whole goal of good combustion practices on industry is to convert VOC and CO2 -- CO2 on water. That's what industries strive to do for decades and because of that it's a very disproportionate amount of CO2. And that's the reason for this, to get it in, we get it in place and we're not triggering a lower level.

MS. CANTRELL: Any other questions regarding the emergency status of this rule? And when I say this rule, we're contemplating both proposals together. We're contemplating the Subchapter 1, Subchapter 8, and Subchapter 7 as one measure brought before the Board today.

Any other questions regarding the emergency status of these proposals coming from the Air Quality Council?

MR. DARK: I have a curious question. Did industry engage at all in these meetings?

MS. LODES: Yes. Our Council meeting was quite long last month. To get in -- a lot of it was really to get in the clause that took out of our regulations if it is stayed, vacated, delayed, anything down on the federal level and the industry has been commenting. I started receiving comments from industry pretty much the day that the proposed rule got posted on the DBQ website and industry submitted quite a few comments and was out in force.
at the Council meeting, and on the
federal level has been making a lot
of comments.

MR. DARK: That's good to
hear.

MS. CANTRELL: Any other
questions? Are we ready for a vote
on the emergency status of the
proposal before us?

MR. JOHNSTON: I would move
that.

MR. DRAKE: I'll second.

MS. CANTRELL: All right.

We have a motion and a second to put
forth the emergency measure before
the Board for a vote.

MS. BRUCE: Mr. Cassidy.

MR. CASSIDY: Yes.

MS. BRUCE: Mr. Dark.

MR. DARK: Yes.

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: Dr. Sublette.

DR. SUBLETTE: 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: Now that the
emergency portion has passed we will
vote on the merits of the proposal
and this is for Subchapter 7,
Subchapter 1, and Subchapter 8
proposals before the Board. We are
now considering the merits of the
proposal.

Any further questions? I know
we've already talked about this in
some length, with respect to the

And thank you for the work of the
Air Quality Advisory Council. I know
that there will be notices going out
about the next Air Quality Council
meeting where I think this will be
considered further.

We are now moving to Item 5 on
the Agenda as a proposal regarding
hazardous waste management. I
believe we have a proposal here today.
from the Hazardous Waste Management Advisory Council, Chairman Lee

MR. GRAT: Thank you.

MS. CANTRELL: Good morning.

MR. GRAT: The DRQ has proposed permanent amendments to its Hazardous Waste Management rules to update the incorporation by reference of federal regulations -- federal hazardous waste regulations at 40 CFR Parts 129 and 260 through 279, revised as of July 1, 2010. These updates give two principal issues. First the changes to the federal regulations for this time period include hazardous waste, technical corrections and clarifications. These include fixing typographical errors and incorrect or out of date citations and omissions. These changes wouldn't be either be more or less stringent than the existing federal regulations.

The second issue to be updated deals with the incorporation by reference to changes made to federal programs governing import and export of hazardous waste and tagging for recovery. Because the federal government's role in matters of foreign policy, EPA does not authorize states to administer federal import/export functions. Because they are more stringent than the existing regulations states are required to adopt the provisions. However, for the reasons just stated, authorized states will not be implementing the changes. They will continue to be implemented by the federal government, therefore, these changes will have no substantive impact on the hazardous waste program implemented by the Department of Environmental Quality.

MS. CANTRELL: Thank you.

Is there a motion from the Board for consideration of this proposal?

MR. GRIESEL: So moved.
1 what I want to talk about today is a
2 little bit about what we see coming
down the road.
3
4 For those of you who have not
5 been involved in this process before,
6 I think all of the Board is probably
7 familiar with it, but some in the
8 audience may not be, there are a
9 couple annual reports that DEQ is
10 required by statute to present.
11 The first is appropriately
12 enough named the Annual Report. And
13 it's a little bit of a retrospective
14 on the past year.
15
16 The second is what is called
17 the Environmental Quality Report, has
18 more forward looking; it's more of a
19 policy document, and for that reason
20 the statute requires they be brought
to the Board and that the Board
21 consider it and review it and give
22 approval before it's forwarded then
23 from DEQ to the Governor and the
24 Legislature for their consideration.
25

1 Report consists of three main
2 components.
3 Annual needs. In other words,
4 our appropriation requests to the
5 Legislature.
6 Federal mandates. Just a
7 review of some of the most important
8 requirements that are coming down the
9 road from the federal government that
10 the DEQ will be involved in
11 implementing or otherwise involved in
12 helping advise about.
13 And then legislative
14 recommendations. Those things that
15 the DEQ proposes to introduce as
16 bills in the coming state legislative
17 session.
18
19 I won't spend much time on the
20 appropriations request because you
21 considered this at the August Board
22 meeting. In order for us to make
23 the deadline of October 1st for us
24 to submit our appropriations request,
25 this is always considered in the
26 August Board meeting just by way of

1 refresher. We've talked to them
2 about DEQ requesting a standstill
3 appropriation of 8.1 million dollars.
4 We are also proposing to ask, with
5 limited optimism for success, for
6 restoration of small community
7 technical assistance the opportunity
8 for us to do a better job of
9 actually recovering some money that
10 was taken a way in the past where we
11 can help small communities with their
12 water and wastewater issues; and then
13 the air toxics program helping with
14 monitoring, et cetera, restoring
15 about five hundred and fifty-thousand
16 dollars there. So our total request
17 that was approved in the August Board
18 meeting was for about 8.9, almost 9
19 million dollars in general
20 appropriations.
21 Moving from the appropriations
22 request to the second component,
23 federal mandates portion. Some of
24 this we have already talked about so
25 I won't spend a lot of time on it.
<table>
<thead>
<tr>
<th>Page 42</th>
<th>Page 44</th>
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| 1 among you might question whether it makes -- whether there are certain advantages to issuing this sort of highly charged and controversial proposal in the period between Christmas and New Years. You ought to be ashamed of yourself for thinking that sort of thing. Greenhouse gases, we've already spent a lot of time on this morning. I don't think I'm going to spend any more time. I certainly couldn't add anything to what the discussion has already been. But you will note up there that we are again talking about the adoption of the tailoring rule to keep everybody and their dog from being captured by that at this point. I wish everybody and their cow could be captured by that at this point. Clean Air Transport Rule was proposed in August, would involve Oklahoma, unlike the CAIR rule that was remanded. Emissions reduction would take

| 1 program were that option to be taken away. The final rule is due almost any time now. In coal combustion residues, again, EPA has proposed more stringent regulations that may include their -- be designated as a hazardous waste. The concern there, again by DEQ, is with somehow constructing -- what we consider to be very beneficial uses of that material in construction. We've commented on our concerns that whatever EPA does should not cause the opportunity for those beneficial uses to go away. On Water Quality front, I'm not going to try and describe each one of these, partially because there are so many of them. Partially, because I couldn't give you very many details myself, anyway. I'm sure Shellee or one of her staff would be glad to visit with you about these. Many of these that you see up on the board

| 1 effect in 2012 for SO2 and NOx on power plants. And a federal implementation plan is likely on that because of the timing involved. So that's some of the more important things that we're looking at on the Air Quality front. In Land Protection we've already had a couple of references to these. First of all the definition of solid waste, EPA is considering to refining that definition with respect to non-haz secondary materials that have burned. The secondary material is basically the by-product of the manufacturing of commercial process. What that means for Oklahoma is that there is a potential for dramatically curtailing burning of waste tires -- old waste tires in cement kilns. And since it's already been alluded to, that is of concern to us because that is where most of our waste tires go and would dramatically impact our waste tire recycling

| 1 -- up on the screen are things that are in effect now but are being tightened in one form or another, and in particular there will be an impact as there always is on municipalities, especially smaller municipalities with a lot of these wastewater and water rules that are pending at this point. And it certainly requires more work by Water Quality both implementing new requirements when they happen and providing customer assistance to municipalities and others who are involved in the regulated communities. There is an initiative by EPA that's called the Clean Water Act Action Plan. It is an effort to be both more aggressive and more transparent. I think that you will see that there are increased requirements for data, for inspection, for enforcement, obviously more work for the state, and just to add insult to injury, I
1 guess, more hoops to go through to
2 get federal grant funding.
3 Shifting gears slightly, in the
4 Safe Drinking Water Act Rules these
5 are provisions -- requirements that
6 we have talked to you about in the
7 past but we are now in the process
8 of seeking primacy. Seeking
9 authorization for the state to
10 implement these rules which we did
11 not undertake when they initially
12 came out. Certainly it's to the
13 advantage, we believe, to
14 municipalities and those in the
15 regulated community for the state to
16 take that on. So we are trying to
17 simplify matters by now assuming
18 primacy of those requirements.
19 Now I put this up here in part
20 because it illustrates something that
21 I think is an important point for us
22 to cover. And that is that when we
23 talk about requirements like the
24 water quality requirements that we
25 just talked about, sometimes it may

1 appear that that impacts only our
2 Water Quality Division or whichever
3 division the particular rule that
4 we're looking at is primarily
5 assigned to. But that often is not
6 the case. For example, the
7 groundwater rule that we just
8 mentioned we are seeking primacy for
9 now, not only affects the Water
10 Quality Division but it affects our
11 Customer Services Division, more
12 specifically the State Environmental
13 Lab, because we have to provide
14 analytical support associated with
15 that rule, along with a number of
16 other rules; and we have to be
17 involved in educating private labs
18 and drinking water systems on how you
19 go about meeting the requirements for
20 analysis -- sampling an analysis
21 associated with that rule. So many
22 times the rules that come down not
23 only affect a particular division but
24 more than one division within the
25 DEQ.

1 probably goes without saying that
2 they seldom come with additional
3 money.
4 And by the way, all of that
5 plays into obviously your
6 responsibility as Board Members
7 because it relates to your oversight
8 of the budget, the appropriations
9 process, it relates to rulemaking, it
10 relates to your general policymaking
11 authority. So it is important for
12 you to understand what is coming from
13 the federal government.
14 Finally, the third component of
15 the Environmental Quality Report,
16 what are we proposing to take to the
17 Legislature this year? We actually
18 have more bills that we are asking
19 you to approve for our taking this
20 year than we have had in recent
21 years.
22 First is procedures for water
23 and wastewater operator
24 certifications. The statute
25 currently requires that when we issue
1 certifications to operators of our
2 water and wastewater plants, that all
3 of those be renewed annually. And
4 it actually sets the date of renewal
5 as July 1st. Well, there are
6 literally thousands and thousands of
7 these certifications. And so what
8 happens is that when it comes time
9 for the annual renewal during the
10 summer we have -- we have to
11 supplement our permitting staff with
12 a number of temporary staff just to
13 meet that lag all in a short period
14 of time.
15 There really is no particular
16 reason for us to do this on an
17 annual basis. Obviously there has to
18 be some period (inaudible) that makes
19 sense to make sure that people
20 maintain the certification and
21 maintain their expertise in their
22 training. But it makes as much
23 sense in our opinion to do it every
24 two years as it does to do it every
25 year. And perhaps more importantly,

1 the statute by stating that they all
2 have to be done on July 1st or
3 thereabouts creates a tremendous
4 amount of work within a very short
5 period of time. But if we had the
6 ability to simply stagger the renewal
7 dates, we could do a much more
8 efficient job getting that work done
9 without having to supplement with
10 additional staff on a temporary
11 basis. So this proposal will simply
12 be to allow us to do something we
13 think makes good sense from an
14 economic and efficiency standpoint
15 and spread out those renewals over a
16 little bit more time.
17 We have a problem and if
18 you've read the paper over the course
19 of the last couple of years you know
20 that we have a problem with sometimes
21 weighing in to small public water
22 supply systems that are not permitted
23 and have not been constructed
24 correctly and they create public
25 health issues. Many times these are

1 associated with restaurants or
2 convenience stores. We know that
3 there are a number out there that
4 are not permitted. They're supposed
5 to have a permit. They are supposed
6 to get a construction permit before
7 they ever construct. But the problem
8 that we face is what do we do about
9 them when they are already in
10 existence? We know that there are a
11 number out there and the proposal
12 that we are putting forward is to
13 require those systems to get what we
14 will probably call a supply permit,
15 for lack of a better term. It's
16 based on going back and picking up
17 people who should have already had a
18 permit but don't. And our intent is
19 simply to go look at the system that
20 is there and make sure that it has
21 the capability to supply safe
22 drinking water to the customers of
23 that establishment. And if not, they
24 enter into some sort of consent order
25 or other agreement with the facility

1 to make sure that that happens and
2 simply cannot afford to run the sort
3 of risk that we have seen produce
4 results here in the past couple of
5 years.

Moving more to the Land
Protection issue. Again, if you've
read the paper, particularly -- well,
I won't say what area of the state
but generally this -- say the
northeast quadrant in the state, some
where around Wagoner that we run into
problems with landfills from time to
time. And one of the issues that
has complicated matters for us is the
slope that we find on some of these
landfills. They are required by rule
to have at final closure, an external
slope, no steeper than four to one.
But there are some landfills out
there that, frankly, don't pay very
close attention to that during their
operating life. And there are a
couple of issues in particular that
that causes for us.
<table>
<thead>
<tr>
<th>Page 55</th>
<th>Page 56</th>
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| 1 One is, if there is a problem,  
2 like a fire, that requires equipment  
3 to reach wherever the working face  
4 is, sometimes it's impossible to get  
5 the emergency equipment where it  
6 needs to go, because the slope is  
7 simply too steep during the operating  
8 life.  
9 The second is that with slopes  
10 that are that steep there is also a  
11 tendency for people to walk away  
12 before the slope eventually reaches  
13 four to one. So we are proposing  
14 some legislation that will try to  
15 prevent those sorts of problems from  
16 coming to fruition and will simply  
17 require that during operation, slope  
18 be no greater than three to one.  
19 That gives us some assurance that we  
20 can get equipment where it needs to  
21 go and that if the landfill closes  
22 before the estimated final closure we  
23 have some part we can work with  
24 without the slope being faced with  
25 the tremendous outlay of money just  
| 1 from wherever seems to be the most  
2 efficient. What the statute says now  
3 is that customer assistance functions  
4 will be within the Customer Services  
5 Division. Well that makes pretty  
6 good sense on its face but what has  
7 happened is that we have evolved over  
8 time and technology has evolved to  
9 where a lot of the functions that  
10 are referred to as customer  
11 assistance in the statute are now  
12 systemic to the organization.  
13 For example, the assignment was  
14 made to the Customer Services  
15 Division to provide copies of rules  
16 to the public and to the regulated  
17 community. Well in 1993, what that  
18 meant was we had a lot of people  
19 involved in literally copying hard  
20 copies of rules and mailing them to  
21 people who need these. That no  
22 longer is the case. Very few people  
23 request hard copies of rules anymore.  
24 It's all handled via our website.  
25 Conducting public meetings and  |
| 1 to get it in shape to close.  
2 A few years ago, those of you  
3 who have been on the Board for -- I  
4 can't recall how long ago this was,  
5 maybe five to ten years ago, we made  
6 some changes to the Oklahoma  
7 Environmental Quality Code that  
8 allowed DEQ a little bit more  
9 flexibility in where functions were  
10 located within the Agency.  
11 Back in 1993 when DEQ was  
12 created there -- the statutes were  
13 fairly prescriptive on a lot of  
14 fronts about this particular function  
15 will be in this particular program or  
16 division. That was revised a few  
17 years ago to give the DEQ more  
18 flexibility to do whatever seemed to  
19 make the best sense organizationally  
20 at the time. For some reason this  
21 was overlooked or we simply didn't  
22 address it at the time.  
23 What we're proposing is to  
24 allow customer assistance functions  
25 within the Agency to be administered  |

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related to each other. Basically they cover situations where there is an emergency created by a spill of a hazardous material. And they are designed to make sure that the various state agencies that have some responsibility know who does what in those circumstances. The Office of Emergency Management, DEQ, the first responders like the highway patrol, have to understand who has what responsibilities. The acts could use a little bit of clean up and that really is all there is to it. There are some other statutory changes that have not been picked up in these particular statutes. And we think -- for example, just by way of example, I think this is mentioned in your reading materials as well. The statute -- one of these current (inaudible) acts firmly says that the DEQ will supervise local emergency planning committees. Well, we don't really supervise them, we certainly coordinate with them. We provide information to them, but we don't supervise them. So it's those sorts of minor clean-ups that we'd like to take care of. Not any sort of earth shattering change that's needed, like would be helpful to clarify how the agencies relate to each other. And honestly this is one of the fields that, as you know, we always try to have a bill out there that we could use as a vehicle for something that comes up during the legislative session. This is a likely candidate to be a vehicle if we should need one for another subject that comes up down the road that we don't anticipate right now. Okay. I think that is enough for the overview. If you have any questions about any of that, I'll be happy to try and answer them or to refer them to someone who can. MS. CANTRELL: Thank you, Jimmy, for an excellent presentation.

over a broad array of topics. I'm sure there are questions from the Board and from those in attendance. I have a question. When you talked about creating these supply permits for the currently unpermitted public water supplies. How does the legislation define what is a public water supply? How do you determine what is an unpermitted public water supply by definition?

MR. GIVENS: How is -- how do you define what is a public water supply?

MS. CANTRELL: Yes. How broad is that scope, I guess is my question.

MR. GIVENS: My layman's explanation is that if you're providing water to members of the public, then you're likely to be a public water supply. But there is actually a regulatory definition. And Gary -- where's Gary? Can you help me with -- or Shellie?

MR. COLLINS: I think Jimmy is right. Basically the way the statute is defined -- defines a public water supply is basically anybody that serves water to the public. So if you've got one house -- you have -- you're serving water to your family, that's a private water supply. If you put two houses together and they are on one well that becomes a public water supply. So there is all -- and there is all different sizes. We have minor water systems which are those that are small, you can service, say, less than 15 connections. And then you go up to a non-community, and then a full public water supply (inaudible) serves the town.

MR. THOMPSON: And I think it's fair to say that we don't search for somebody serving to one other person. But when they come up, they are a public water supply. In this case, I think we have any
number of restaurants that are out
there that are not permitted and, in
tfact, may be operating outside of
what we would require if they were
permitted. Well, we've got to have
a significant level of assurance that
the water particularly in those cases
that is being served to the public
in restaurants is safe. And we've
got to -- this is an effort to
address those kinds of issues. And
there may be -- we may come to you
with more stringent monitoring
requirements for those situations.
But we've got to get -- as Jimmy
said, we've had problems in the past
and this is something that we've got
to get a handle on.

MS. CANTRELL: Thank you.

Any other questions for Jimmy while
we have the opportunity to think
ahead and look toward the future in
the next legislative session?

MR. WENDLING: This is John Wendling. Jimmy, I've got a

question.

MR. GIVENS: Sure.

MR. WENDLING: Regarding --
when I read through this I was
looking at the content and also
looking at, you know, the way you
presented it to us. And it seems to
me in the report we have some really
significant issues coming our way,
whether it's the Clean Air Transport
Rule, the Solid Waste Rule, things of
that nature. And we identify, you
know, the types of risks we might
have. I was just curious, since
this is going to the Governor and
the Legislature, how do we identify
in here the significance that this
could have on the state from either
a financial impact on the state, an
impact also to industry? I mean we
could refer to that it will have an
impact, but I don't see in here
where we raise the flag and say,
well, this is real -- pretty
significant and here's some examples

of ranges of impact it could have on
the state. So just the thoughts on
content to really let people know
this is significant?

MR. GIVENS: I'm looking at
Steve to see if he wants to address
that, since he typically is involved
more at the Capitol than I am, or
not.

MR. THOMPSON: Certainly, I
think that it's a point well taken
and we're interested in expressing to
the Legislature and the Governor of
the impacts of these things in
whatever way we can. The question
arises as to process for today. We
have -- this thing is due by
December -- we'll not have another
Board meeting before this is due to
the Governor. So the Board would
have to give us some opportunity to
address that without revisiting it.
Which we're happy to do and try to
incorporate some of those kinds of
comments in there, but the Board has

to understand that we have a
statutory deadline that we have to
meet. I think we -- maybe what
happens, John, is it -- like the
coal combustion waste thing and the
-- those kinds of issues, we're so
used to talking to people both inside
the state and within EPA and within
the Congressional Delegation about
those things that we don't give any
emphasis to it in the report that
maybe we should. I mean I don't --
that's not a -- well, it is an
excuse, but it's not a good one. So
we're willing to make an effort to
fix what you're talking about but you
have to understand that this is --
today's probably the only kiss of
death particular thing that the
Board's going to handle.

MR. GIVENS: It's probably
fair to say -- I'm just following up
on what Steve mentioned, that we have
been much more aggressive and much
more attentive to explain what the

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1 consequences are, and once it becomes
2 a rule that we have to adopt. And I
3 think your point's well taken. We
4 can do a better job of looking at
5 what the impact is of rules that we
6 are facing that are coming down the
7 road. Like -- obviously when it
8 becomes -- it comes to the point
9 where we adopt the rule that is --
10 we're incorporating by reference a
11 federal rule or in that being some
12 fashion that's driven by a federal
13 rule, we have to have a rule impact
14 statement. We have to have an
15 economic analysis associated with
16 that, and we probably intended to
17 focus or that more than, probably all
18 of them in the process.
19 MR. THOMPSON: We can try
20 to do better in the future. But I
21 mean there are -- I mean we
22 understand -- for instance, the coal
23 combustion rule, if EPA declares coal
24 fly ash a hazardous waste, I have no
25 idea what we're going to do about

1 we've expressed it to others and will
2 continue to do so.
3 MR. WENDLING: Thank you,
4 Steve. It was just a suggestion.
5 Because when I went through it, it
6 just seemed to me that we are
7 alluding to the fact that this is
8 going to have an impact but in some
9 instances, each of these will have a
different impact than others. And I
10 wasn't sure how we would -- what
11 would be the appropriate forum to
12 raise that, and how early it
13 should be raised.
14 MS. CANTRELL: Any other
15 questions? Do we have a motion to
16 approve the report?
17 MR. GRIESEL: So moved.
18 MS. ROSE: Second.
19 MS. CANTRELL: We have a
20 motion and a second.
21 Any further questions before we
22 submit this for a vote? Okay.
23 Thank you. Myrna, I believe we're
24 ready.

1 that and I have really no idea what
2 those that produce fly ash are going
3 to do about it. My understanding is
4 that we have in the country about --
5 in the existing hazardous waste
6 landfills about a six-month window in
7 which if that stuff started going to
8 those landfills before they are full, 
9 that things like fly ash are viable
10 to the cement industry and how do
11 they -- what does that mean if there
12 is risk related to this thing somehow
13 being a hazardous waste. I mean
14 what -- how do those liability issues
15 get addressed?
16 There are a lot of those
17 things -- and we don't, as an
18 Agency, those kinds of costs and
19 those -- beyond that, the Agency
20 really doesn't know, so we would have
21 to rely on others to help on that.
22 But they're big deals. Some of
23 these are really big deals. And we
24 can at least while we may not have
25 expressed it we -- in the report,
<table>
<thead>
<tr>
<th>Sheet 19 Page 70</th>
<th>Sheet 19 Page 72</th>
</tr>
</thead>
<tbody>
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<td>1 together, not only the federal mandates that are on the horizon, but also distilling for us the legislative recommendations for the following year. We look forward to following it. We're now at Item 7 on the Agenda. The Executive Director's Report.</td>
<td>1 A couple of personnel changes that I wanted to talk to you about, within the Agency. You may recall that Catherine Sharpe who had served as the Assistant Division Director for Land Protection, moved to our Administrative Services Division as the Assistant Division Director there. That left that position open and Kelly Dixon has been named by Scott to be the new Assistant Division Director for Land Protection. Long time and terrific employee of the Agency, and so we look forward to supporting Kelly in her new position. In addition, Don Maisch who had for a number of years served as the lead attorney in the Water Quality Division was offered and has accepted a position as the General Counsel of the Health Department. That left us with a situation in which we could either fill that position or because of the</td>
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<td>10 MR. THOMPSON: Thank you, Madam Chairman. Well, let me first start by saying that you may have noticed that we had an election between today and the last time that we met. And as we anticipated and as Jimmy reported to you at the last meeting, we have a new Pro Tem, a new Speaker, and a new Governor. The Pro Tem, Chris Steele, is from Shawnee. I mean the Speaker, I'm sorry. And the House Pro Tem is Jeff Hickman from Fairview, both of which we have worked with in the past. The Senate Pro Tem is Brian Bingman and the Majority Leader is Mike Schulz from down at Altus. Brian is from Sapulpa. Senator Bingman was the Chair of the Energy and Environment Committee in the Senate prior to this appointment as Pro Tem and so we have a long and good relationship with both of those. We are awaiting the Governor's appointments, particularly the Governor's appointment as Secretary of Environment. We are also anxious to know who the new Chairs of the Environment Committees in both the Senate and the House are. Those have not yet been named but we look forward to them being named in the near future. All of the legislation -- it would be good to know that because all the legislation -- it's always good to have authors on those committees when you run these legislations, so we're looking forward to those committees being formed and beginning that process.</td>
<td>11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 similarities of the activities in the Water Quality Division and the ECLS, we could take the opportunity to get some efficiency and to combine those two into one legal unit. After some discussion with Martha, and with Shellie, and with Gary, and with Jimmy, we made -- I made the decision to combine those under the leadership of Mista Turner-Burgess who had been the lead attorney in ECLS. So we continued to look in times of budget struggle to find efficiencies within the Department. A lot of the -- or at least some of the legislative changes that we've talked about are along those lines but where those opportunities present themselves we are looking for them and without, I think the support -- I am particularly pleased with the support that Shellie and Gary gave to that idea. You know, I don't know about you but when I got my own thing, I like to keep my own thing,</td>
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1 and they were very gracious in saying
2 we think we could make this thing
3 work and we did it. So Misty will
4 be caring out that new role.
5 There has been over the past
6 couple of years a desire by
7 policymakers across the state to take
8 a much closer look at beneficial
9 reuse of wastewater. A committee has
10 been formed to look at that issue
11 and Shellie and her folks are working
12 with them to determine what the safe
13 reuses of that water are. But as an
14 indication of the Department's
15 dedication to that and with the
16 cooperation of the Water Quality
17 Council, we will open a new
18 subchapter for water reuse in the
19 near future. Now that chapter won't
20 have anything in it because those
21 things, I think are pretty sensitive,
22 that we need to take a very close
23 look at before we make any
24 recommendation to the Council and
25 ultimately to the Board, but it does

1 show our commitment to fully engage
2 in the notion of reuse -- beneficial
3 reuse of wastewater.
4 It was clear to me that the
5 Board had great interest in an effort
6 to bring technical assistance to
7 small communities and in a time of
8 decreasing resources we have tried to
9 be thoughtful about how we could do
10 that. We, along with -- well the
11 Customer Services Division -- well,
12 all of the divisions of the
13 Department have come together to
14 develop what we are calling DEQ 101.
15 And that is just an effort to go out
16 to particularly small communities and
17 sit in a room around a table much
18 like this and discuss the issues that
19 they have and to better -- to
20 provide a better understanding of
21 what and why the DEQ does what it
does. And we held the first one of
22 those meetings about a month ago in
23 Chickasha under the stewardship of
24 Representative Phil Richardson and
25

1 Senator Ron Justice. And I just
2 thought it was a really good meeting.
3 I just really thought we had some
4 real honest gut level communication
5 with the communities that showed up.
6 And they, I think, went away with a
7 better understanding of what the DEQ
8 does, and we came away with a better
9 understanding of the problems that
10 they face. So we plan to continue
11 that.
12 The second one of those will
13 be on November 30th in Medford,
14 sponsored by Senator David Myers and
15 Representative Dale DeWitt. And if
16 those continue to be as productive
17 as, I think, the first one was, we
18 will continue to go out and have
19 those meetings across the state.
20 Finally for my part, we're
21 going to -- I want to ask Eddie and
22 Shellie to make a presentation to you
23 during the Executive Director's
24 Report, but the last thing that I
25 will have other than answer questions

1 related to what Shellie and Eddie
2 have to say is that we did, in fact,
3 mail to you in your packet, this
4 year's Annual Report. I hope you
5 are as pleased with that effort as I
6 am. It always surprises me. Maybe
7 I shouldn't admit this. Maybe it's
8 wrong for me to admit, but when the
9 Annual Report comes out I'm always
10 surprised at the range of activity
11 and all the good work that's going
12 on in the Agency. I intuitively
13 know that this stuff is going on,
14 but when it gets condensed into one
15 report, you get a chance to look at
16 it, and what's gone on in the last
17 year I always find it heartening that
18 we have a level of extraordinary
19 employees that we have and the kinds
20 of work that they do. And that's --
21 acknowledging that, 80 percent of
22 what we do gets condensed into the
23 appendices; all the permitting,
24 enforcement, inspections, and all
25 that stuff is just in tables at the
<table>
<thead>
<tr>
<th>Sheet 21 Page 78</th>
<th>Page 80</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 back. So I commend that document to you. I hope you get a chance to look it over because I think it's a great document. And Skylar MacElhaney is here. She is the -- stand up Skylar. Go ahead and stand up. She is the editor of that document and puts it together for us. We accumulate stories and all of the divisions have a big part in doing that. But she's the one that makes it readable for others and so -- and that's her job and I think she does a terrific job of it.</td>
<td>1 allowed treated wastewater to be used for cooling and electrical generation. There is an occasion or two where that's occurred. But it's very site specific and we have to be very, very careful about it. So there are a lot of examples, the folks that are interested in this are bringing a lot of these examples to us and we're going to examine all of those and then we will bring them to the Council for their review.</td>
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<td>MS. CANTRELL: Yes.</td>
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<td>MR. THOMPSON: So with that, let me pause for a moment before we get Eddie and Shellie up here and ask if there any questions about anything that I said before we move</td>
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<td>MS. CANTRELL: Okay. I have one quick question.</td>
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<td>MR. THOMPSON: Okay.</td>
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<td>MS. CANTRELL: Regarding the beneficial reuse of wastewater, do we have examples from other states that are pursuing similar initiatives or thoughts as far as beneficial reuse?</td>
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<td>MR. THOMPSON: We do. And we are looking at those, but you have to understand that there are certain circumstances. This is most prevalent in the more arid states, Arizona and Nevada and places like that. And so the situation is a little different in Oklahoma than it is out there. But there are great examples out there that we are looking at. It's not to say that we're not already doing beneficial reuse. I mean when we do irrigation systems, land application systems, that's a beneficial reuse. There have been situations where we have</td>
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<td>1 and Shellie to come forward to discuss some of the things that they are talking with their Council about and if and how we're going to address that. Now what you're going to hear is not settled by either Council but because of the nature of what is being talked about, I thought it was important that the Board have at least some kind of a heads-up about what we're considering. So with that, I'm going to turn it over. I guess, Eddie, you're going to go first.</td>
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<td>MR. TERRILL: I guess you wanted the most important division to go first. That's what I took this to mean.</td>
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<td>MR. THOMPSON: It was not my decision.</td>
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<td>MR. TERRILL: Oh. No offense, Shellie. Steve's right. We've done this presentation -- or I didn't do it but staff did a</td>
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| Page 82 | Pay for the last three years. This is just our fixed cost increases for benefits and retirement that for the most part make up the bulk of this increase.
|---|---
| Page 83 | Totals of the operating fees are down. You can see that we've gone from about 8.6 million down to about 7.7. The economy being down is part of it, but we've also had a good thing for the environment, we've had sources that have for a variety of reasons have become minor sources that are major sources that cut their emissions. But regardless, our workload hasn't gone down any but our workload hasn't gone down any but our
| Page 84 | -- the amount of the revenue that we expected through our Title V and minor source fees have gone down about a million dollars -- eight hundred and sixty thousand to be exact.
| Page 85 | This gives you a bar graph of interpretation of our major and minor sources. You can see our major sources emissions have gone down over the last ten years and our minor sources have continued to go up. Part of that's because we have more minor sources, but like I said, part of it is because we've got synthetic minor sources that major sources becomes synthetic minors and minor sources in order to avoid the requirements that major sources have on them.
| Page 86 | Division workload keeps going up. And this is a big deal for us as far as trying to balance not only the minor revenue but the fact that we continue to have this increased workload from EPA. I want you -- I'm not going to go into a lot of detail but these are the big ticket items that we have to address -- or already addressing or will address in the coming months.
| Page 87 | Since 2005 they've had 24 MACT standards that have been implemented. I think they've got about that many to go. These are federally --

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| Sheet 22 | Presentation to our Council last meeting and we're going to bring back another presentation for them in January. We felt like rather than take up a lot of time at the meeting and then in February talk about how we've gotten to what ever resolution the Council decides to brings before you, we give you the background that we're giving them. I will go through this real brief. I've got a lot of slides but I'm going to be real brief about it, so stop me if I go too fast or -- but this is mainly for you to think about and know what goes into this before we come back to you in February with what I hope is some sort of an increase for our program.
|---|---
| Page 83 | Well, we've got to why and the how we're going to get there. The why is in several parts. The legislative appropriations are down as Steve alluded to; for us there is a chart for the last several years but the high water mark for us was about 1.5 million in 2009. We anticipate that we will have something around two hundred forty-five thousand dollars for FY 2012. So we've that significant drop in appropriated dollars to run our program that we're going to have to make up somehow or other.
| Page 84 | Cost of employee benefits are up. This is the line -- the blue line is where we are on the filled positions now and hope we will be with all positions filled with the increases that we're anticipating. These costs include salary, longevity insurance, and retirement. We have not had salary increases for staff for at least three years now except for those staff increases that you get when you've been there and move from -- with Environmental Specialist I I to II to III to IV or whatever. Same way with our engineering staff but we've had no increases in staff

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1 federal requirements that are driven
2 by court decisions for the most part.
3 So EPA has to do these. They've
4 dragged their feet on a lot of these
5 for a number of years and it's
6 difficult -- there are so many
7 sources that are caught by this and
8 it's a very difficult thing to get
9 their arms around. It's very
10 technical and how you implement this
11 is very much of a drain on our
12 resources as well as industry that
13 has to do these as well. But the
14 big ones are the reciprocating engine
15 MACT, they've got eighteen thousand
16 engines in the first round. We
17 anticipate another six thousand --
18 seven thousand in the next round.
19 The gasoline dispensing facility
20 service stations, about three
21 thousand stations with 228 bulk
22 terminals that we have to regulate
23 and then the boiler MACT we have
24 somewhere around 820 boilers. That's
25 a guess estimate. That's a pretty good

1 sources make up about 30 percent of
2 our budget, fee base. And then 20
3 percent for the minor sources.
4 That's probably about right for the
5 workload, give or take, but it still
6 doesn't do anything for the burden
7 that the mobile source component of
8 our air shed bears and how you
9 spread that cost out. Those are
10 primarily NAAQS driven things that
11 the mobile sources contribute to.
12 But you also have some toxics as
13 well. But none of that is born by
14 the public, and capacity depending on
15 the EPA grant and appropriated dollars to
16 cover that and you've seen that we're
17 losing that, so we're looking for a
18 way to increase that.
19 Just a little bit about area
20 sources, these are the things that
21 we're going to try to levy a fee on
22 for the first time ever. These are
23 the ones that these MACT sources --
24 MACT standards that I talked about
25 apply to, like, gas stations, auto

1 guess.
2 Then we've got greenhouse gas
3 rules and the permitting parts of
4 that. Then we've got the NAAQS, and
5 I'm not even going to get into the
6 NAAQS because each one of those has
7 its own separate set of requirements
8 that requires to do things.
9 So the total of how much we're
10 asking our Council for is 1.23
11 million for the legislative
12 appropriations, cost for our benefits
13 over the next five years is about a
14 million, and total annual operating
15 fees are down about a million but
16 the total is 2.95 million and that
17 was the overall budget request
18 increase that we asked the Council
19 for, for a variety of sources. I'll
20 get to it in just a second.
21 One of the things that we've
22 been concerned about for a number of
23 years is the fact that we don't have
24 a mobile source component for our fee
25 structure. Right now the major

1 body shops, paint shops, dry
2 cleaners, these are the big ones that
3 we have but they are all sources
4 that are less than 10 tons of
5 pollutant or 25 tons of any
6 combination of and there is a lot of
7 them that are primarily a toxics
8 issue. They are primarily a local
9 issue because of their localized
10 impact as opposed to being what I
11 call statewide and regional impact.
12 But they all have individual
13 requirements and they all require a
14 federal permit of some sort.
15 This is just another outline of
16 the MACTs and what we're having
17 implement and what we're trying to
18 figure out how we can implement that.
19 It gives you kind of an indication of
20 the breath of the sources that are
21 covered and the substances that are
22 covered. But they're all -- MACT is
23 Maximum Achievable Control Technology
24 and it's designed to reduce toxic
25 pollutants -- hazardous air
pollutants rather at these small sources.

Now to the main part of our presentation; that's the proposal itself. What we proposed to the Council last month was that we would fee the criteria of pollutants the same. The major and minor source fees, Title V fees would stay the same. We proposed a fee for hazardous air pollutants to make up for the loss that we had in appropriated dollars that was funding our toxic program which includes our mercury monitoring program. It was a little bit confusing to Council being that when it says fifty dollars a ton, that doesn't mean we're going to add fifty dollars a ton to the cost of the fee right now. There is a lot of these HAPs or at least some of the HAPs are also VOCs and so they're feed at a criteria pollutant range of about 34 something -- 41 per ton. What we're proposing is to raise that to fifty dollars for the -- if it's a hazardous air pollutant which is an increase of $16.00 for the major source, an increase of $25.00 a minor source. So it's not $50.00 on top of what we're already charging for a major and minor source.

We're proposing to roundup for sources that have less than one ton of a HAP so that we're seeing at least one ton at a facility if they have a federal requirement that they have to get a permit for. We're proposing to -- we proposed to raise mercury to $100.00 per pound, lead at $50.00 per pound, and the reason for that is because of the toxicity of both of those pollutants and try to encourage those sources to reduce the amount of mercury and lead that they are emitting.

We're proposing a flat $250.00 per year fee for area sources that aren't subject to a -- they're subject to an air pollution standard which is a federal air pollutant standard but not subject to getting a permit from us otherwise. And then we're also proposing a mobile source component for the first time in a -- since the Agency's been formed. And we did this on a sliding scale depending on the throughput of a service station of 250, 500 dollars, and 750 dollars for the big one. We anticipate the bulk of these facilities will fall in the 500 to 750 dollar per year category.

We did meet -- I met with the Petroleum Marketers Association last week. They are the ones that represent the bulk of these sources. Obviously they are not extremely thrilled about being feed, but they are going to work with us to look for some alternate sources. I will say this that the proposals that we'll bring to you all, hopefully in February, has a clause in it that says if we get appropriated dollars or if we get fees or funds from another source which would have to be legislative driven -- I'll have a slide on that in just as second -- that we will not fee these sources that we're asking for approval. If we get it in another method we won't fee -- we won't implement this fee source. So I'll talk a little bit about that later.

To break it down, and I'll try to hurry up a little bit because I know that I'm taking Shellie's time. But the mercury/lead, and the HAPs all generate about half a million dollars, give or take; service stations are about 1.5 million; the gasoline distributors is 715 million, and all the other area sources and that's a best guess. It could be less than that and it could be a lot more than that. It all comes to about 2.9 million. If it turns out that we have a lot more area sources
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<th>Page 94</th>
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now. Same way with how we're going to implement the area source MACT standards, we have to figure out how to implement what EPA proposes. And to be honest, we have not done that with any of those sources yet. There are so many of them and we're just trying to keep our head above water that we haven't figured out a way to do that. But with fee increase and the ability to add some additional staff that we'll probably -- well, we have to figure how we would do that. Otherwise EPA is going to cme in and do audits of these programs and we don't want them taking enforcement action against these sources when it's our responsibility to regulate them. So we'll figure out a way to do it that's least intrusive as possible because to be honest a lot of these standards don't get a lot of environmental benefit so we're going to try to figure out ways where it doesn't produce much environmental benefit to do outreach and education, things that are least intrusive as possible. And on the regs that do have an environmental benefit then we'll try to figure out a way to audit those sources that are supposed to be doing certain things under the federal requirement to make sure that they are to satisfy what EPA expects as far as federal oversight.

And I'll be glad to answer any questions.

Ms. CANTRELL: Thank you, Eddie. What is the time frame on this? You said that these issues or this presentation was brought to the Air Quality Council, their last meeting. Is it on the Agenda for the January 23rd meeting as well?

Mr. TERRILL: Yes, ma'am.

We're going to try -- with the adjustments to the construction permitting and operating fees we're going to basically bring the same proposal back, but we will have some options in there relative to construction permits and then we're hoping to get something passed along from the Council to the Board in February. And that was the reason for doing this now, because you probably don't want to go through all of that. You're going to have several fee proposals I would expect in February, so at least you will have some idea of the need; why we need it and what went in to the thought when the Council considered the recommendations they will have for you in February.

Ms. CANTRELL: Thank you.

Mr. TERRILL: One thing I would mention, I probably didn't hit hard enough, is we also made a commitment to the Council that -- like I said before, we only have a certain number of PTEs and that's all we're going to get. We're not going to have anymore for the foreseeable future. But right now we're unable to fund about 12 of those positions. Those are the ones that we would use to address any of the greenhouse gas permitting requirements in the future and also the MACT standards and the requirements we're going to have for the NAAQS, SO2, NOx and ozone. We think if we have the ability to fill those 12 positions that will give us the flexibility to expand as needed to meet that workload. And our commitment was that we would not ask for any kind of a greenhouse gas fee no matter what EPA -- well, assume EPA doesn't do anything more than what they proposed, which I doubt seriously if they do, but let's say they will fully implement that greenhouse gas program to the maximum extent that they've envisioned which is right now five years out, I don't think that we will need to add more than one or two permit engineers in order to evaluate that. Possibly
three. My staff will even have to
to add 10 or 12 but I just don’t see
it. I think we can do it with some
making some efficiencies in some
other areas, and a lot of this is
going to be kind of on the industry
to come to us with a good permit
application. So we’ll be doing some
things to try to educate the
consultants and the industry as to
what we’re looking for and maybe get
a better job of getting a good
product in. Some do good job; some
don’t do such a good job. And so
we’re hoping that that will keep us
from having to do so much work on
our end of it. And hopefully, EPA
will also provide a little bit of
money to offset some of that too.
So that’s our commitment is no
greenhouse gas fee as part of the
Title V program if we got to -- to
where it would spread these costs out
to include sources that we haven’t
feed in the past.

Page 103

1 MR. THOMPSON: Okay.
2 Shellie.
3 MS. CHARD-McCLARY: Okay.
4 And the good news continues. Some
5 of this I’m going to go really
6 quickly because Eddie covered it.
7 But basically why are we raising
8 fees?
9 Well, general revenue is going
down. We’re estimating that, based
on what we’ve seen, the Water Quality
Division will have no general revenue
by 2016. So we’re looking at
raising about -- a little over 4
million dollars in our fees to
account for a little over a million
dollars in our employee costs and
then about 3 million shortfall in
general revenue.

20 We also -- you know, some of
21 us at dinner last night were talking
22 about how the State’s budget is going
23 to get more and more interesting this
24 year as will ours, because we did
25 have a chunk of ARRA funding for the
The most interesting piece of that is the federal data systems can only collect that data that is currently being reported on DMRs, Discharge Monitoring Reports. The federal data system cannot accept electronics submittals of the array of reports that are required either on a monthly, semiannual or annual basis.

And, oh, well we'll just figure that out later, which seems to be a common phrase we're hearing from the EPA. Well we're going to make the rules and we'll figure out how to deal with the words later. Which usually means, well, we're going to punish the states and the regulated community until they come up with a way to comply.

One of the other issues of the electronic reporting rule that's going to get interesting, EPA keeps saying that well, it's not a big deal. All you need is high speed internet and a computer that's compatible and everybody has a computer, and if you're the one person in town who doesn't you can go to the public library just down the street.

So there's been a lot of, excuse me, have you been in rural America? And, of course, the answer is no. Actually some of the EPA regions are actually helping the states on the electronic reporting rule because they are implementing programs in American Samoa who they pointed out in some places does not even have electricity, let alone computers and high speed internet access.

The SSO Wet Weather Rule. All that's old is new again. This rule was actually scheduled for publication and it was George Bush's first act as President to withdraw the publication notice. It was scheduled to be published the next day. With the NRDC's general counsel now being the Deputy Administrator for water -- Chief or Assistant Deputy Administrator, whatever that is, she brought it back from the dead. The last version we saw that requires every SSO, Sanitary Sewer Overflow to be reported. Even a single drop of sewage, a leak, a pipe, a manhole or a pump it must be reported to the state agency and to the federal data system which, you know, is going to be mandated under the electronic reporting rule and have 300 required data elements to create a record and the system can't even accept any of those things yet.

They also talk about requiring public notification and basically systems would be doing a consumer confidence report-type document on their wastewater system similar to what they do for drinking water. It's interesting, to say the least.

The 316(B) Cooling Water Rule has been really getting a lot of play. Jimmy and I, were discussing this morning that EPA is close to an agreement with certain environmental organizations and industry that may delay implementation of that rule. That's good news and it's bad news. The good news is, okay, so the new provisions don't go into effect.

The bad news is when the rule was remanded by the court back to EPA one small piece -- one sentence of the rule remains in effect and that's the piece that EPA is hanging their hat on today and will continue and that is the permit writers shall use best professional judgment in order to address what is necessary by the industry to protect the fish that may be sucked into those cooling water structures. The problem is the last permit we sent down to EPA they sent back ten pages of what they considered best professional judgment requirements which was basically
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<th>Page 110</th>
<th>Page 112</th>
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| 1 implementing the only rule in its entirety. We negotiated and battled back and forth and have reduced it to about a page and a-half to two pages but that's not a lot of comfort to some of the larger industries, particularly the power companies that are having to deal with it. So that's just getting more and more interesting. The ELGs for Stormwater Effluent Limitation Guidelines. We typically have operated under general permits for construction sites. General permits are easy to obtain; they are very cost effective; they are very quick and to issue. But basically under the Clean Water Act Action Plan, basically stormwater permits that now have very general requirements, pollution prevention-type actions are going to be requiring individual limits. There will be limits that apply to all of the permits and then individual limits based on the stream segment. So that's going to create a lot more work for the staff having to address. And then the whole effluent toxicity is getting ready to -- there are a lot of changes on that. Steve? MR. THOMPSON: Well I don't look, more data is better than less data. Okay. And more public notification is better than less public notification. Okay. But that's in -- you've got all the resources that you would ever want. And what I think this is causing us to do is to make decisions between data and doing. Are we going to do inspections; are we going to fix SSOS; are we going to go down that path; or do all our resources go toward collecting data so that we can be transparent? And I will tell you that you can tell by the tone in Shellie's voice and you tell -- I will tell you that we believe doing is more important for the environment than some of this other stuff. Because we will never be able to do it all. Sorry, Shellie. MS. CHARD-MCCLARY: After last week, Steve and I had a knockdown-drag-out with EPA and we're still shaking our heads saying did they really say that? So it's going to be interesting the next few years. On drinking water Jimmy kind of touched on some of these. Basically what has happened, the drinking water provisions have been expanding at rate that we just could not keep up. We don't have enough time, energy, resources. We could not do all of the things that were required under these new regulations. So EPA was actually implementing these three; the disinfectant byproducts in the (inaudible) service water treatment rule, and groundwater rule. We were playing a support function, helping EPA get maps, helping them find the systems and then they were actually going out and doing the inspections, doing the audits, issuing the enforcement orders. And what we found was they first sent a letter to the congressional delegation which arrived about three days before the system got the letter, and our letter arrived about a week to two weeks later trying to figure out what in the world was going on and why we were having all of these phone calls. So we took time to look at what could we do as these -- some of the preliminary work is getting completed we are working with EPA to transfer the implementation to us. But, again, part of why we're seeing a lot of the fee increases, these things we can't cut and we can't -- not do, what are we -- how do we fund them? How are we going to address all of these issues? But we recognize the need to do it because of the confusion that it is causing
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<td>1 for communities, particularly smaller communities.</td>
<td>1 symbolizes where we are in this process, unfortunately, in looking at where we are and what we're going to have to do in order to fund a lot of these programs. We have so many different types of programs and types of fees in our structure; I'm not going to go through all of these, just going to get the very in depth detailed version in February. But just to give you an idea of what we're doing to try and eliminate that four million dollar gap. We've added some application fees when we have not had them. Our wastewater fees have been calculated based on a work sheet based on type of wastewater, the types of pollutants, the volume of wastewater. It's been a system that's been in place since the Agency was formed and was actually used at predecessor state agencies, but we are just increasing the dollar per point. We're also looking at in the past we have -- if you had four</td>
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<td>And then we have two rules that we will be dealing with from the onset of -- for any logical contaminant rule, it's already out there, been in place for sometime. There's a revised total coliform rule, the final rule was just published in the last -- about 60 days.</td>
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<td>For our Drinking Water State Revolving Fund which is a great program where we get to provide money for systems, try and help them comply with all of these new regulations. EPA is helping us out again. They went from a system where they audited one possibly two facilities in a year to doing twice a year audits of a minimum of eight facilities. That sucks up our staff time instead of working with the communities, helping them through this process, to sitting in our office with an office full of EPA people explaining to them how we did in fact follow all of the federal laws associated with this program. They also have included the green reserve and subsidization percentages that have to be followed, but by American Provisions and the Data State Act Provisions. Basically these were put into the ARRA funding that EPA has now carried them over to all SRF funded projects and it's more documentation, more inspections of the labels that are on pipes and pumps and not on actually helping communities come into compliance with the provision. It drives up costs to communities and it certainly drives up the implementation costs on our part. So we're talking about this, and the one comment that I kept getting was, really, does an arrow have to be that big? But nothing but a big red arrow kind of</td>
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<td>1 EPA people explaining to them how we did in fact follow all of the federal laws associated with this program.</td>
<td>1 surface impoundments you only paid for one, basically the highest single fee would have. So we're looking at -- we still have to do all of the work on all of those units, so we're looking at increasing that where it isn't paid by the number of service impoundments. That was something that came out of discussions at the October Council meeting. And also looking at -- we will have a cap so it's not advantageous to build a giant surface impoundment that really should be three or four to try and find some happy medium. But that is something that the Council had asked us to look at. On drinking water, I'm going to talk real specifically about some of those changes and what some of that means, but we are also looking at more of a per capita approach than we have used in the past and our construction plan review fees will be increasing.</td>
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The existing fee structure was basically -- it rewarded systems that were either very large or did very little treatment. Groundwater did not have to receive the same level of treatment as surface water. Large municipalities obviously it's an economy of scale. So their fees were significantly lower. Ada, up there at eight cents per person, they are a groundwater system. They had significantly less treatment than some other facilities. Oklahoma City, although they had very complicated treatment technology, when you look at the cost based on the number of customers they serve is very low.

Again, one of the issues that kept coming back is we need to look at some way to level the playing field. We need to -- we can't just kill Oklahoma City and Tulsa and make them pay the lion's share but they should pay more than some systems.

When you look at Ada, McAlester, and Oklahoma City in this example, if we have looked at what we're calling a declining block system on the per capita cost component. So that's where you see some -- you know, Ada goes up significantly that is tied to population even though their treatment is still fairly low, when the two components are added together, then you end up with fees that are more equitable.

The structure. Basically what we did is look at, well, we have all of these systems that are very small, so where we have the smallest population served in zero to five hundred it is still 75 cents per capita but it does -- you take the same staff time to drive to the location and inspect, pull the samples, do the things we have to do. But as you see as it goes up the per capita cost does go down.

but you also have the treatment cost added to it that we'll talk about in just a minute.

But when we apply the whole system that we were looking at, when you take into account the per capita cost and then the actual inspection or the cost of regulating the facility, what we did is we found that by doing this those smaller systems actually pay less of the program than they had been paying before. And then by the time you get to the very large systems, Oklahoma City and Tulsa, have an increase of about a hundred thousand dollars combined between those two systems. The bulk of our systems aren't in those little groups and they do have increases but it is, at least -- the places where we have the most systems are where we have the most increases; not per system but that's where we're generating most of the money. What happens, we don't have to change any statutes to do these increases, which was good. We were not sure if we would be able to do some of this without some statutory increases -- or changes because of language that limits what we have at 30 cents per month per residential user. That is the maximum their fees can increase no matter what we do. And what we found is we have some systems that go down under this proposal and we have some systems that max out at the 30 cents per month per residential connection. But what we also found was, before we were looking at this last item, no system shall pay less than four cents per service connection. Oklahoma City and Tulsa were at that four cents per connection and yet you had several that were in the two, three, four dollar per connection rate. So that's why you saw that one group drop the 30 thousand dollars.
1 decrease, but it gets made up in the
2 others.
3 Industrial wastewater fees.
4 These programs have been supplemented
5 by general revenue. We are shifting
6 that general revenue to the municipal
7 systems until it actually goes away
8 by 2016, so that's why you see the
9 large increases there.
10 At 2011, 2012 those go up much
11 more dramatically there, but by 2014
12 they're stable because the general
13 revenue isn't really changing.
14 When you look at what does
15 this mean for some of the fees? The
16 discharge permit fees will generate
17 an increase of about 250 thousand
18 dollars. The state component or the
19 total retention of land application,
20 that's about a 150 thousand increase.
21 The categorical users which are
22 industries that meet the federal
23 definition of a categorical user that
24 discharged to a POTW, they have
25 certain requirements that they have

1 to follow. We don't have a lot of
2 those but they do have about a 13
3 thousand dollar increase into the
4 fees.
5 So in looking, we have
6 significant increases early by the
7 end, some of them you see go up
8 quite a bit. Not quite three times,
9 but when you start looking at some
10 of the smaller facilities they're
11 doubling or a little more than
12 doubling, but that depends on the
13 type of facility, they have the type
14 of wastewater they are generating and
15 which of the various fee structures
16 they fall under.
17 We look at our municipal NPDESs,
18 these are the dischargers. It's
19 about three times what they are
20 paying today. We recognize that
21 that's a problem for the systems.
22 We have invited them to participate
23 in discussions and the Council has
24 asked that the staff do some public
25 outreach. We will be having a

1 couple of public meetings in December
2 and then all of the language will
3 then go back before the Council in
4 January before it comes to you in
5 February.
6 So, those of you who know me,
7 I'm -- you know, my other job is I'm
8 a mom. And my boys now are almost
9 nine. And, you know, I've learned a
10 lot from Dr. Seuss over the years.
11 So what did Dr. Seuss teach us?
12 Well, I'm the Grinch who stole
13 Christmas, and I'm sorry. Are you
14 going to cuff me, beat me up, blind
15 me with pepper spray?
16 You heard him, officer, he
17 admitted it. I'd go with the pepper
18 spray.
19 And the kind officer, so I
20 hope you will be kind to me after
21 hearing all of that bad news and
22 yes, I turn them off at night. He
23 said he was sorry. So I am sorry to
24 be the bearer of such bad news.
25 I also wanted to share with

1 you a little bit, very quickly, some
2 things that the Water Quality
3 Division is doing to kind of help
4 heal the pain and that is we have
5 eliminated two managers positions and
6 consolidated staff and kind of
7 rearranged their work assignments so
8 we're not doing as much of the
9 technical assistance and outreach
10 that maybe we would like to do.
11 Those individuals are focusing more
12 on the permitting and the compliance
13 and enforcement activities that we
14 have to do in order to maintain our
15 grant funding. We have eliminated
16 four clerical positions with another
17 one to be eliminated before the end
18 of the year, which always plays well.
19 And oh, well, everybody doesn't need
20 their own secretary, but actually we
21 recognize that but when we eliminate
22 clerical positions we're having this
23 huge increase in data entry and, you
24 know, we'd rather pay a clerical
25 staff to do data entry rather than
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<tr>
<th>Sheet 33 Page 126</th>
<th>Page 128</th>
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<td>1 an engineer or environmental specialist who we would prefer out doing inspections. So we're trying to figure out how to balance some of those issues. And then we have eliminated some engineering and environmental specialists positions. I think right now we've got four or five that until we increase our funding they will just simply have to remain vacant. And we'll have to try to figure out how we continue to reassign and re-prioritize. With all that good news, does anybody have any questions?</td>
<td>1 than the feds? Because without it we can't do it. It is just that simple. I know that there is some -- we're in a period of declining general revenue, but we're also bearing state statutory mandated costs for benefits. If we had general revenue money to cover those costs, those ever increasing costs, we would be millions of dollars better off. And to the extent that we can, we've heard the message about -- it is, I think, fundamentally unfair, particularly in drinking water, if you're talking about protection of the public, that small communities are bearing such a significant per capita cost as opposed to folks in Oklahoma City and Tulsa. So we're trying to look at -- and I think Shelle's presentation reflected that. Our job is to protect drinking water supplies for the entire state and that is not a system issue. That is a global -- that is a personal issue of the cost of protecting your water supply. And so we're going more to a per capita -- or trying to -- to the extent that we can reduce those costs to smaller systems and increase it to larger systems by using a -- to the extent that we can, a per capita approach to our needs. So that's sort of what I think you've heard in a nutshell from out folks. But it isn't going to be easy.</td>
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we went back and we have made
adjustments to our thinking and some
approaches. And I believe that the
date is January 11th, although I
can't swear to that. Myrna is
nodding at me. So January 11th and
at that point we will ask the
Council -- you guys are going to
hate me by the end of that Board
meeting in February because I think
we have something like 11 chapters of
fee rules or something, because they
are broken out by all the different
programs. But all of those rules
will go to the Council in January
and then to you all in February.
Also at the Council, we will be
doing -- we did, we'll call it,
informal presentation of costs and
actions we're taking to contain
costs but we will be doing a little
bit more formalized presentation to
them at that point on those aspects
in addition to the actual fee rules.

MS. CANTRELL: I wonder, it
might be helpful for the Board --
for both the Air Quality Council and
the Water Quality Council if the
Board could receive perhaps emailed
transcripts, once those minutes are
ready if they happened to be ready
in advance of the Board packets. I
know the timing is fairly tight but
it might be helpful to allow the
Board an extra opportunity to read
and work through the information
prior to the next Board meeting.

MR. DARK: I think that
would be a great suggestion. Is
that meeting on the 11th -- what
time is that meeting?

MS. CHARD-MCCLARY: At 1:00.
The Water Quality Council meets at
1:00.

MR. DARK: Thank you.
MR. THOMPSON: I'm looking
at our -- I assume we can get that
available?

MS. CHARD-MCCLARY: Eddie
was asking, do you want transcripts

MS. CANTRELL: I think it
would be helpful to have both since
it's all the same topic.

MR. THOMPSON: I think if
you're going to -- for any meeting
that -- now, the informal meetings
there won't be transcripts, but the
formal meetings -- to the extent that
we have those -- and I don't know
whether you guys are going to have
to have the meetings after the 11th.
I mean I don't know that they are --
I mean there could be -- continue to
be questions that need to be -- so
there may be more than -- maybe.
I'm not suggesting that we would like
there to be.

MS. CHARD-MCCLARY: The
Water Quality Council is scheduled on
the 11th and we counted days just to
make sure that if we do need to have
a continued meeting that we could
possibly do that. We're hoping not,
Condensed Transcript

Sheet 35

1 petroleum marketers and they knew
2 they were going to -- they didn't
3 get a chance to talk with me before
4 the meeting and cancel, so they met
5 with me last week and they are the
6 ones that want to look for a
7 legislative fix for this whether it
8 be the car tag or something like
9 that. But that won't be captured in
10 the transcript but everything else
11 relative to the fee discussion is in
12 that transcript and we'll get that to
13 you.

14 MR. THOMPSON: I don't know
15 how to say this any other way than
16 to say it. To have a fee, like on
17 the gas stations, in place with a
18 provision that if we find some other
19 source of funding at the Legislature
20 is very inspiring to the people
21 effected by that. They are out
22 there -- the energy they put into
23 trying to find another source of
24 funding is significantly enhanced
25 when you have a fee in place that is

Page 135

1 going to be mitigated by some other
2 fee. So we're talking with them
3 about that, too.
4
5 MS. CANTRELL: Steve, do you
6 have any other information?
7 MR. THOMPSON: That's all.
8
9 No. That's all.
10
11 MS. CANTRELL: Thank you,
12 very much.
13
14 The next item on the Agenda is
15 new business, which is any matter not
16 known about and which could not have
17 been reasonably foreseen prior to the
18 time of the posting of this Agenda.
19
20 Is there any new business?
21
22 Hearing none, we move on to
23 the next item which is the
24 announcement of the next meeting of
25 the Board which is February 25th,
26 2011. This will be in Oklahoma City
27 at the QB in the multipurpose room.
28
29 And with that, this meeting is
30 adjourned. Thank you all, very much.
31
32 (Meeting Concluded)

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