Notice of Public Meeting  The Environmental Quality Board convened for a regular meeting at 9:30 a.m. in the Multipurpose Room at the Department of Environmental Quality, 707 North Robinson, Oklahoma City, Oklahoma. This meeting was held in accordance with 25 O.S. Sections 301-314, with notice of the meeting given to the Secretary of State on December 3, 2009. The agenda was mailed to interested parties on February 12, 2010 and was posted at the Department of Environmental Quality on February 24, 2010. Brita Cantrell, Chair, called the meeting to order. Ellen Bussert had announced her departure from the Agency and was honored by the Board and Staff. Roll call was taken and a quorum was confirmed.

MEMBERS PRESENT
Brita Cantrell
Mike Cassidy
Tony Dark
Bob Drake
Jennifer Galvin
Jerry Johnston
Steve Mason
Sandra Rose
Terri Savage
Kerry Sublette
John Wendling
Richard Wuerflein

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

MEMBERS ABSENT
David Griesel

OTHERS PRESENT
Clayton Eubanks, Assistant Attorney General
Laura Lodes, AQAC Chair
Jay Stout, SWMAC Chair
Mike Paque, WQMAC Vice-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 November 19, 2009 Regular Meeting. Mr. Johnston made the motion and Mr. Dark made the second.

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Election of Officers  Mr. Drake moved to elect the current officers by acclamation. Mr. Dark seconded. (Brita Cantrell – Chair and Jerry Johnston – Vice Chair)
Rulemaking – OAC 252:100 Air Pollution Control  Ms. Laura Lodes, Chair of the Air Quality Advisory Council advised that the proposal would amend Chapter 100, Subchapter 17, Parts 1 and 3 (Incinerators) to remove obsolete language and clarify the remaining provisions. And the proposal would revoke Appendix A, Allowable Emissions for Incinerators with Capacities in Excess of 100 lb/hr. and Appendix B, Allowable Emissions for Incinerators with Capacities Less than 100 lb/hr. Ms. Lodes stated that Council voted to revoke Appendices A and B and combine the provisions of both in a new Appendix A, Allowable Particulate Matter Emission Rate for Incinerators.

Additionally, DEQ proposed to re-organize and update Appendix Q, Incorporation by Reference, to match the organizational scheme of the federal rules and to incorporate new federal air quality regulations from July 1, 2008 to July 1, 2009. The proposed rulemaking required the revocation of the current Appendix Q and the adoption of the updated Appendix Q.

Questions and comments were fielded then Ms. Cantrell called for a motion. Mr. Mason moved approval with the second by Dr. Galvin.

Rulemaking – OAC 252:515 Solid Waste Management  Mr. Jay Stout, Chair of the Solid Waste Management Advisory Council, advised that staff recommended for Board adoption certain amendments to definitions and permit modification requirements in Subchapter 1, General Provisions, for Construction and Demolition (C&D) landfills and transfer stations; add a permit requirement for transfer stations to have a waste exclusion plan in Subchapter 3, Permit Provisions and Applications; amend Subchapter 15, Methane Gas Monitoring and Control, to remove the monitoring-and-control exemption for C&D landfills; amend Subchapter 19, Operations Requirements, to add a prohibition with exception for the disposal of unsorted, baled municipal solid waste at a disposal facility; amend Subchapter 29, Exclusion of Prohibited Wastes, to add the requirement for transfer stations to have a waste exclusion plan and to remove C&D landfills from certain notification requirements; and to add a new Subchapter 39, E-Waste Recycling, including rules and a fee structure pursuant to the requirements of the Oklahoma Computer Equipment Recovery Act (“Act”) which establishes DEQ’s authority to administer a collection, recycling and reuse program for certain computers and computer monitors and includes the adoption of fees necessary to cover DEQ’s costs of administering the “e-waste recycling” program.

Following discussion and comments, Mr. Johnston moved for approval as presented and Mr. Drake made the second.
Rulemaking – OAC 252:606 Oklahoma Pollutant Discharge Elimination System (OPDES) Standards

Mr. Mike Paque, Vice-Chair of the Water Quality Management Advisory Council, advised that the proposal would amend the OPDES rules to update the incorporation by reference of certain federal regulations from July 1, 2008 to July 1, 2009. Included for the first time in the incorporation is EPA’s “Water Transfer Rule,” which went into effect on August 12, 2008, and exempts the need for an NPDES permit for the transfer of raw water from one watershed to another. After discussion, Ms. Cantrell called for a motion. Mr. Drake made motion to approve the rulemaking with the second by Mr. Johnston.

Transcript pages 31 - 43

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Rulemaking – OAC 252:645 Septage Tank Cleaners

Mr. Mike Paque, Vice-Chair of the Water Quality Management Advisory Council, advised that the proposal would amend Chapter 645 for four primary reasons. (1) The first is to require training for individuals who are licensed to pump, haul, and store septage, operate a septage land application site, or treat septage as a means of final disposal. Requiring training will ensure that the licensed individuals have actual knowledge of the regulations. Facilities already permitted by DEQ’s Water Quality Division to accept septage would be exempt from having to obtain another license under this regulation. (2) The second reason is to allow the temporary storage of septage when the preferred disposal method is unavailable (e.g., land application site too wet, municipal wastewater treatment plant closed, etc.). (3) The third reason is to allow individuals to operate a treatment facility that specifically treats septage, which will provide another disposal option for septage pumpers and haulers. (4) The fourth reason is to establish a fee schedule that will help cover some of the costs of operating the program, which has historically been entirely supported by appropriated funds. Following discussion and comments, Ms. Cantrell called for a motion. Ms. Rose moved adoption with the second by Mr. Drake.

Transcript pages 44 - 51

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Rulemaking – OAC 252:690 Water Quality Standards Implementation

Mr. Mike Paque, Vice-Chair of the Water Quality Management Advisory Council, advised that the proposal would amend Chapter 690 to update the incorporation by reference of federal regulations from July 1, 2008 to July 1, 2009. The federal rules being incorporated in this Chapter also include the “Water Transfer Rule,” and the proposed changes update the list of federal hazardous waste management rules found in 40 CFR, Parts 260-279, which are also incorporated in Chapter 690. Finally, the DEQ proposes to remove the reference to “EPA, Region 6” from the Technical Acronym “MQL.”. Council voted unanimously to recommend to the Board for approval as proposed by the Department. Hearing no questions or comments, Ms. Cantrell called for a motion. Mr. Johnston moved approval and Dr. Galvin seconded.
Consideration of and Possible Adoption of Resolution in Support of the “Oklahoma Beverage Container Recycling Act”

Ms. Cantrell called upon Mr. Jimmy Givens, Deputy Director, to provide background information on the proposal. Following much discussion, there was support from the Board that the bill could be beneficial but it was decided to table the discussion allowing for staff to provide more details. Mr. Johnston moved to table this item until the next Board meeting. Ms. Rose made the second.

Executive Director’s Report – Steve Thompson, Executive Director, had several items to bring to the Board:

- He acknowledged that Steve Mason had been named by the Journal Record as one of Oklahoma’s Most Admired CEO’s
- Identified new leadership changes within the Department
- Reported on the Key Bills Track List
- Provided an update on budget issues
- As requested by EPA, provided a list of the three major high-profile priority issues
- Provided an update on the ARRA Stimulus Bill and DEQ
- Confirmed that the November 16 meeting would be in Stillwater. (There had been discussion as to whether that meeting would be in Tulsa or Stillwater)

New Business A suggestion was made that the Board start the meetings at 9:00 instead of at 9:30. No change was made.

Next meetings June 15, 2010 at 9:30 at Redlands Community College, El Reno
                 August 24, 2010 in Norman
                 November 16, 2010 in Stillwater

Adjournment Ms. Cantrell adjourned the meeting at 11:35 a.m.

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

STATE OF OKLAHOMA

* * * * *

TRANSCRIPT OF PROCEEDINGS

OF THE BOARD MEETING

HELD ON FEBRUARY 26, 2010

IN OKLAHOMA CITY, OKLAHOMA

* * * * *

MYERS REPORTING SERVICE

Christy Myers, CSR

P.O. Box 721532

Oklahoma City, Oklahoma 73172-1532

(405) 721-2882
BOARD MEMBERS

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

STAFF

STEVE THOMPSON - DIRECTOR
JIMMY GIVENS - ATTORNEY
CLAYTON EUBANKS - AG'S OFFICE
MYRNA BRUCE - SECRETARY
ELLEN BUSSELT
PROCEEDINGS

MS. CANTRELL: Good morning.

Thank you all so much for coming. Before we begin our meeting this morning, we have a special presentation that we want to make just right off the bat. And for this I'm going to turn it over to Steve Thompson.

MR. THOMPSON: I think that most of the Board knows by now that you and the Department are suffering a significant loss. Ellen Bussert, who has been with the State of Oklahoma for 19 years, and has been with the Department of Environmental Quality since the beginning in a number of different capacities and has served you and us in a manner that has been incredibly excellent over all those years.

So, Ellen, come up here a minute, if you would. We have a plaque that says "the Department of Environmental Quality commends Ellen Bussert on behalf of the people of Oklahoma for distinguished and outstanding service in her efforts to provide a better environment for the"
citizens of Oklahoma over a period of 19
years."

So we wanted to present this to you.

(Applause)

MR. THOMPSON: Because you have
worked, for the most part, out of the
office of the Executive Director that
office wanted to provide you or wanted to
give you this portfolio with your name
engraved at the bottom for your service
also.

MS. CANTRELL: Ellen, Jerry and
I, speak on behalf of the entire Board in
wishing you well in this new chapter with
your life as you make the next move, but
it's not without a sense of sadness and
loss because you have been here since the
first Environmental Quality Board meeting
and every meeting has run flawlessly. And
every aspect of the work that Ellen has
done for the Oklahoma Department of
Environmental Quality Board and the State
of Oklahoma has been flawless and superior.
And we can't thank you enough for your
outstanding work and your professional
dedication to the State of Oklahoma.

MS. BUSSERT: I guess now I'm responsible for the world.

MS. CANTRELL: Thank you.

MS. BUSSERT: It says, "Thank you for your superior work improving Oklahoma's environmental quality. The ODEQ Board."

Thank you, very much. I won't take long because I know you guys are dying to go over the rules. But I've actually been with the State about 24 years. And got involved in environmental work when I worked for Governor Bellman, who if you knew him, know that he really loved the land and he loved our state, and it was a privilege to be invited to come and work for the Health Department in the environmental programs. And I feel like you guys are family. And I don't know if I feel like I am -- I feel like I am leaving family but I just came to a point in my life where that turnpike has gotten awfully old. I've lived out of the metro area for about seven years and I'm ready not to drive it every week. I know the people
from ECLS don't feel sorry for me. It's --
I've really enjoyed working with all of you
and I know you'll keep up the good work.
And I appreciate Steve, and him being so
understanding, and the flexibility about my
husband moving me around the state every
three or four years, and still allowing me
to work.
So I will treasure my memories of
all of you, and thank you.

MR. JOHNSTON: You make being on
the Board an exceptional experience.
You're super.

MS. CANTRELL: This meeting is
now called to order. And Myrna, would you
please take the roll.

MS. BRUCE: Mr. Cassidy.
MR. CASSIDY: Here.
MS. BRUCE: Mr. Dark.
MR. DARK: Here.
MS. BRUCE: Mr. Drake.
MR. DRAKE: Here.
MS. BRUCE: Dr. Galvin.
DR. GALVIN: Here.
MS. BRUCE: Mr. Griesel is not
here yet but he is expected. Mr. Johnston.

MR. JOHNSTON: Here.

MS. BRUCE: Mr. Mason.

MR. MASON: Present.

MS. BRUCE: Ms. Rose.

MS. ROSE: Here.

MS. BRUCE: Ms. Savage.

MS. SAVAGE: Here.

MS. BRUCE: Dr. Sublette.

DR. SUBLETTE: Here.

MS. BRUCE: Mr. Wendling.

MR. WENDLING: Here.

MS. BRUCE: Mr. Wuerflein.

MR. WUERFLEIN: Here.

MS. BRUCE: Ms. Cantrell.

MS. CANTRELL: Here.

MS. BRUCE: And we have a full house. Thank you all for coming.

MS. CANTRELL: Thank you.

With that, the February 26, 2010 regular meeting of the Environmental Quality Board has been called according to the Oklahoma 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 February 12, 2010 and posted at this facility and the Department of Environmental Quality, 707 North Robinson, Oklahoma City, on February 24, 2010.

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

The first item on today's Agenda is the Approval of the Minutes of the November 19, 2009 Regular Meeting of the Board.

MR. JOHNSTON: Move to approve.

MR. DARK: Second.

MS. CANTRELL: There's been a move to approve and a second. Is there any discussion?

Myrna, will you please take the 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. Whoops, he's not here yet. Mr. Johnston.

MR. JOHNSTON: Yes.

MS. BRUCE: Mr. Mason.

MR. MASON: Abstain.

MS. BRUCE: Ms. Rose.

MS. ROSE: Yes.

MS. BRUCE: Ms. Savage.

MS. SAVAGE: 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: Abstain.
Moving now to Item 4 of the Agenda and Steve Thompson.

MR. THOMPSON: I just wanted to mention to the Board that your current officers are ending the first year of what has traditionally been with the Board a two-year stint as President and Vice-President.

MR. DRAKE: What does that mean?

MR. THOMPSON: That means that you all can do it again another year if you want to, if they don't want to kick you off.

MR. DRAKE: As soon as the Director quits speaking, we will go ahead and make the motion. I would move that we elect by acclamation our current officers.

MR. DARK: I second that.

MS. CANTRELL: Thank you.

There's been a motion and a second. Would you please call the roll.

MS. BRUCE: Mr. Cassidy.

MR. CASSIDY: Yes.
MS. BRUCE: Mr. Dark.

MR. DARK: Yes.

MS. BRUCE: Mr. Drake.

MR. DRAKE: You bet.

MS. BRUCE: Dr. Galvin.

DR. GALVIN: Yes.

MS. BRUCE: Mr. Johnston.

MR. JOHNSTON: Yes.

MS. BRUCE: Mr. Mason.

MR. MASON: Yes.

MS. BRUCE: Ms. Rose.

MS. ROSE: Yes.

MS. BRUCE: Ms. Savage.

MS. SAVAGE: 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: As we're moving now to the business section of the Agenda,
I'd like to introduce a new representative of the Oklahoma Attorney General, who is present with us today. We have Clayton Eubanks, who's been with the Oklahoma Attorney General as an Assistant Attorney General for four years. And we are grateful to have his help on the Board today. I would just like to introduce Clayton and ask him if he would like to say a few words to the Board before we begin.

MR. EUBANKS: Just, hi. Clayton Eubanks. I'd just like to say I'm happy to be here, look forward to meeting and working with all of you. This is my first DEQ Executive Board meeting, so I'm looking forward to seeing what takes place and participating in these with you in the future and try to help in any way that we can at the AG's office. Thank you.

MS. CANTRELL: Thank you, Clayton. We're glad to have you. We appreciate your help.

Moving to Item 5 of the Agenda, we have the first rulemaking item on the Agenda and this comes from the Air Quality
or Air Pollution Control Council. Item 5, I believe will be addressed by presentation to the Board. We will move now to Item 5.

MS. LODES: Madam Chair, and Members of the Board, the Oklahoma Air Quality Council on -- in January passed the changes to OAC 252:100-17, Subchapter 17 for Incinerators, Part 1, General Provisions; Part 3, General Purposes incinerators, through a vote of Appendix A, Allowable Emissions for Incinerators with Capacities in Excess of 100 Pounds Per Hour; and Appendix B, Allowable Emissions for Incinerators with Capacities Less than 100 Pounds Per Hour.

And we adopted a new Appendix A. The change -- the purpose the Department is proposing to amend Parts 1 and 3 of OAC 252:100-17. This is to remove obsolete language and clarify the remaining provisions and mirror federal definitions. The Department is also proposing to revoke the Appendix A and Appendix B. Oklahoma rules on rulemaking dictate the procedure
of revoking the old and creating an entirely new appendix. The current provisions of both appendices are proposed to be combined into a new Appendix A, Allowable Particulate Matter on Emissions of Incinerators. This new appendices utilizes that formula to increase precision in the emissions rate calculation and eliminates the graph to help reduce ambiguities.

Additionally, we did Appendix Q, Incorporation by Reference. This was our annual update of federal regulations that are incorporated by reference in DEQ's Chapter 100, Air Pollution Control Rules. Proposed changes to Appendix Q, of Chapter 100, will remove Appendix S to 40 CFR Part 51 in the list of federal regulations incorporated by reference. And Appendix S only comes into play in our permitting program if we had a non-attainment area and if the preconstruction review provisions of our SIP do not meet EPA requirements. In that event, EPA would either implement Appendix S, or delegate it
to the State. In either case, there would be no need to incorporate it by reference.

We also have incorporated by reference several new rules in Appendix Q. There -- these have been modified to more precisely reflect the titles as they appear in the Federal Regulations. In addition, the appendices was rearranged to mirror the Code of Federal Regulations.

Are there any questions?

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

DR. GALVIN: I have a question.

MS. CANTRELL: Yes.

DR. GALVIN: And I probably just missed it. Could you -- I heard you speaking about Appendix S, could you give me a little more detail around that, because I somehow missed that in my packet.

MS. LODES: Okay. We removed Appendix S (inaudible) to Appendix Q would remove Appendix S to 40 -- which referenced 40 CFR Part 51 from the list of federal regulations incorporated by reference.
Appendix S only comes into play in our permitting program if we had a nonattainment area and if the preconstruction review provisions of our SIP do not meet EPA requirements. In that event -- right -- what would happen is EPA would either implement Appendix S or delegate it to the State. In either case, there is no need to incorporate it by reference the way we have it -- currently done. It's more that it's repetitive, I guess, you would say. That's probably not the right way to describe it.

MR. TERRILL: Actually we adopted it by accident. We shouldn't have done it, but it just got caught up in the overall adoption and nobody caught it. We don't have any nonattainment areas so there's -- we don't need it. In the event that we do have nonattainment areas, we anticipate that we would adopt whatever was necessary to satisfy EPA's part of our SIP, but if we didn't, then those part of the federal regulations they hold that back so if the
states don't do what they deem necessary,
they can come in and do it for you.

          MS. LODES:  Yeah.

          MR. TERRILL:  So that's what that
means, and we just did it by accident.  But
we wanted to get it out so we start with a
clean slate in the event that we do have
nonattainment areas in the future.  It's to
correct our mistake.

          DR. GALVIN:  Okay.  I guess that
I don't [inaudible].

          MS. LODES:  As it is, it doesn't
really matter the way it's in there.

          MS. CANTRELL:  Laura, in the
summary of the proposed change, there is a
discussion about language that has been
removed because it's obsolete.  You may
have just answered that question, but what
is it that has become obsolete?

          MS. LODES:  This has to do with
Subchapter 17 which had more to do with the
incineration rules.

          MR. TERRILL:  This started with -
- the previous rule writer felt like that
some of the language we had in our existing
rule was more redundant than it was
obsolete because it's contained in other
federal regulations that we adopt by
reference as part of this. So in order to
eliminate confusion, and to clarify, we
hope clarify for those that this section
applies to, they struck it - the obsolete
language, the part that's been struck in
the --

MS. LODES: Subchapter 17
MR. TERRILL: Right. But it
doesn't change anything at all, it just --
there are things that are better explained
in other parts that are adopted by
reference and so we just took the parts out
that were no longer needed.

MS. LODES: Some of the -- well,
some of the definitions are in Subchapter
1. And we have been taking those out of
all the chapters as we open them up so that
they are not in two separate places.

MR. TERRILL: It's sort of a mini
rewrite/dewrong as we go along.

MS. CANTRELL: Thank you. Any
other questions from the Board?
MR. MASON: I have one question.  
This nonattainment Rule S, is it in this packet?  
MR. TERRILL: No.  
MR. MASON: Is that what we are voting on?  
MR. TERRILL: No. What you are doing -- it's incorporated by reference in that Appendix. So we just removed -- take that out and that will effectively remove it, but it's just because it's listed as incorporated by reference.  
MS. CANTRELL: Any other questions from the Board?  
MS. LODES: The reference to Appendix S should be on Page 1, where it says Appendix Q. As I try to remember where it is.  
MR. TERRILL: We provided a cheat sheet to our Council. There's where it was -- in our existing rule. So it's not in your -- the federal rule.  
MR. MASON: Thank you.  
MS. CANTRELL: Any further questions from the Board?
Mr. WUERFLEIN: Madam Chair? I just - the two equations they were using for under 100 pound incinerators and over, there was a gap or a pretty good discrepancy. I mean difference between -- the bigger incinerators had a lot lower particulate matter emission standard than if you were just under it. Is there a - are there any incinerators in that class, say, between small and very large that this would effect or would it encourage people to put up multiple small incinerators to get around the emission rule as to -

MS. CANTRELL: Are you asking between the 75 and 100?

MR. WUERFLEIN: If you are at a 100 pound emission rate with the one equation, you are allowed to -- it's about five times more emissions than if you were emitting at a 100 pound rate on the larger size formula.

MS. CANTRELL: Eddie, can you speak to that?

MR. TERRILL: I can't speak to the equation, I would have to take a look
at it, but let me just answer the bigger
question. Is this going to encourage more
of the smaller incinerators by what we are
doing? It absolutely won't, because there
are so many requirements, federal
requirements, that have been implemented.
What it has effectively done is, we've got
the one big incinerator that is in Tulsa,
the Municipal Waste Incinerator, and just
about everything else is gone. We have a
medical waste incinerator in Stroud that
has been there for quite a while and we
believe there might be -- the OU Medical
Center might have a small medical waste
incinerator but there are no incinerators.
I mean that really doesn't --

MR. WUERFLEIN: Very few, anyway.

MR. TERRILL: Right. And there
is no way -- because of the liability and
the other stringency that's applied to the
one (inaudible) incinerator, we don't think
there will be any constructed, unless it's
for a specific purpose that goes beyond
what you would normally think they would
use. We used to have a lot of small
incinerators all over the state but these
federal rules have effectively shut those
down, and by consequence we have very few
complaints. In fact, we have no complaints
anymore, we used to have them all the time;
because you're right, there used to be
these small incinerators everywhere.

They're gone.

MR. WUERFLEIN: Okay. Thank you.

MS. CANTRELL: Any questions from
anybody who has joined us for this meeting
today regarding the proposal? Do I have a
motion.

MR. MASON: I move approval.

MS. CANTRELL: Thank you.

Mr. Mason has moved approval. Do we
have a second?

DR. GALVIN: I second.

MS. CANTRELL: Myrna, will you
please poll the Board?

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: We have notice that Mr. Griesel is not going to come, so I will try to not call his name every time we go around. Mr. Johnston.

MR. JOHNSTON: Yes.

MS. BRUCE: Mr. Mason.

MR. MASON: Yes.

MS. BRUCE: Ms. Rose.

MS. ROSE: Yes.

MS. BRUCE: Ms. Savage.

MS. SAVAGE: 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: Thank you. Motion passed.

MS. CANTRELL: Moving now to Item
6 on our Agenda is proposal from Solid
Waste Management. Presentation to be made,
I believe, by Jay Stout. Is Mr. Stout present today?

MR. STOUT: Good morning. At our July '09 meeting, the Solid Waste Advisory Council discussed several concepts for future rulemaking including but not limited to, waste screening requirements for transfer stations, waste screening requirements for construction demolition landfills, the need to monitor for methane gas at construction demolition landfills as already required at other landfills; and the need to establish rules and fee structure for implementation of the computer waste recycling program as required by the Oklahoma Computer Equipment Recycling Act.

The Council asked the DEQ staff to develop information and draft a proposal for future discussion at future meetings and public input. And at both meetings, the July meeting and the January meeting, just recently, we did not receive any
public input.

The Council met again in September to review draft language on these topics, and solicit public input. Staff also suggested clarifying the definition of the term "citizens collection station". As requested by Council, the DEQ staff initiated formal rulemaking prior to the January 2010 meeting. This time as detailed in your Executive Summary, the DEQ did receive a few written comments and the Council received a few oral comments.

The Council considered these additional points of view and voted unanimously to recommend that you adopt the proposals that are before you.

Madam Chairman.

MS. CANTRELL: Thank you, Mr. Stout.

MR. STOUT: The proposals are ready for you to approve.

MS. CANTRELL: Thank you, Mr. Stout. Any questions from the Board?

I have a question. In reading through the materials that the Board received, there
was quite a bit of discussion lead by a commentator named Peggy Gastin regarding the mixing in - mixing in yard waste composting sites of paper and other food waste that was raising concern by a number of folks who were present at the Council meeting. Can you address whether or not that actually was resolved by the Council or what has transpired since that discussion took place?

MR. STOUT: I have my legal assistant here with me, Fenton Rood.

Fenton, would you respond please?

MR. ROOD: Madam Chairman, an additional concept that the Council has been working on is relating to composting facilities. As you noted, we have received a number of comments, and at the last meeting the Council deferred action on the composting language and so that is not before you today. The Council continues to work on that issue.

MS. CANTRELL: Thank you. I just wanted to make sure that we were not addressing that issue today. Any other
MR. DARK: I have a question or maybe it's clarification. In the definitions you strike -- in definitions you strike out the domestic septage as used in this Chapter, it doesn't include industrial or commercial. How is that handled? Is it just not - do you just consider that not a part of any system that (inaudible) haulers associated with it or what?

MR. ROOD: Sir, if your question is about domestic septage, that would be regulated by our Water Quality Division and sewage.

MR. DARK: So any haulers from that division would be regulated by their rules? That's what I don't understand is how --

MR. ROOD: These rules no longer include rules for septic tank pumpers. That is covered in another Chapter.

MR. DARK: Thank you.

MS. CANTRELL: Any other questions from the Board? Any questions
from those who are in attendance today regarding this proposal?

MR. STOUT: In the back of the room.

MS. CANTRELL: Yes.

MR. CANT: I am trying to get the rules on this --

MS. CANTRELL: Sir, if you don't mind going to the podium so that we can all hear you. Thank you.

MR. CANT: I am Jim Cant with WCA of Oklahoma. I am the General Manager of Landfill Operations. I feel little embarrassed because I'm late on these rules and stuff. I have only been here, like, six months. I was working in Florida. And I got this on the methane gas for the C and D landfills. Obviously, I have the C and D landfill, and two MSW landfills I take care of.

I am all for safety and environmental control, believe me. My thing is that I am hoping that since we don't have any capping on C and D landfills, we can do an assessment instead
of every quarter maybe once a year. Save me a little bit of aggravation. Obviously, if we have any hits or anything like that, then we have to do other assessments, but I'm hoping we can just do once a year for notice, to start out with, if that would be all right.

MR. STOUT: No.

MR. CANT: I tried. I tried.

MR. ROOD: Well, while there may be a difference of opinion about the necessity or frequency of monitoring for gas, if you would look in your rule package, to the existing rules, 252:515-15-1, it gives any facility that's regulated the opportunity to present a case to the Department that a different monitoring frequency would be appropriate. So I think his concerns are already covered in existing rules. Anything else?

MR. CANT: Not as far as anything else, that was the only thing I was really worried about. Thank you.

MS. CANTRELL: Thank you for coming.
MR. THOMPSON: Let me suggest to you that after the meeting, you sit down with Fenton and visit about your concern. I think he has a way that may be able to solve your problem. So if you would visit with him maybe we can help you with that.

MR. CANT: Thank you.

MS. CANTRELL: Any other questions regarding this proposal?

MR. JOHNSTON: Move for approval.

MS. CANTRELL: We have a motion for approval. Do we have a second?

MR. DRAKE: Second.

MS. CANTRELL: Thank you. Myrna, I guess we are ready 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.

MR. JOHNSTON: Yes.

MS. BRUCE: Mr. Mason.
MR. MASON: Yes.

MS. BRUCE: Ms. Rose.

MS. ROSE: Yes.

MS. BRUCE: Ms. Savage.

MS. SAVAGE: 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.

MR. STOUT: Thank you.

MS. CANTRELL: Thank you very much, Mr. Stout.

Item 7, the Oklahoma Pollutant Discharge Elimination System Standards is now on the floor and we have a presentation for rulemaking.

MR. PAQUE: Thank you, Madam Chair. Our Chairman, Lowell Hobbs, couldn't be here today. As Vice-Chair, I'll be assuming that role for this one
My name is Mike Paque and I am the Vice-Chair of the Water Quality Council.

The first Item Number 7 is Title 252 Department of Environmental Quality, Chapter 606, Oklahoma Pollutant Discharge and Elimination System, or OPDES, as we call it.

The Oklahoma Department of Environmental Quality proposes these changes to the Water Quality Management Advisory Council to update its rules concerning Oklahoma Administrative Code 252.

The Department proposes to update its rules concerning the date of the incorporation by reference of certain federal regulations. The change updates the publication date of the federal rules from July 1, 2008 to July 1, 2009.

Included for the first time, in the incorporation, is EPA's Water Transfer Rule at 40 CFR Section 122.3 which went into affect August 12, 2008. This Water Transfer Rule exempts the need of an NPDES
permit for the transfer of raw water from
one watershed to another.

The Department didn't receive any
oral or written comments concerning these
proposed changes and voted - the Council
took a unanimous vote to recommend to the Board
that you approve these changes to Chapter
606, as proposed by the Department.

MS. CANTRELL: Thank you, Mr. Paque. Are there any questions from the
Board?

I have a question. What if there is
a difference, and have you monitored for a
different - or any different in water
quality from one watershed to another prior
to transfer?

MR. PAQUE: I am glad you asked
that question. I'm just going to ask Don
Maisch to respond to some of that. One of
the reasons for this is there is a
difference between the requirements from
EPA Region 6 and what EPA Headquarters
requires, and the details of that
difference lies in some of the reason
for this change. Don.
MR. MAISCH: Ms. Cantrell, can you repeat your question, please?

MS. CANTRELL: Yes. In discussing a proposal regarding transferring from one watershed to another, how do you monitor, or is there a requirement for monitoring, if there is any difference in water quality between the two watersheds?

MR. MAISCH: As far as I know, there is no requirement for monitoring at this time, to monitor water that close from one watershed to another watershed. They do monitor the flow and the amount of water but additional monitoring beyond that is not required.

MS. CANTRELL: Was there any concern considered regarding, perhaps, transferring from a watershed of lesser water quality to a watershed of higher water quality?

MR. MAISCH: At this time, that was not an issue that was raised in the water transfer rule. I can tell you that, that, is a part of litigation at this time.
The Transfer Rule litigation has been filed concerning the rule, and that is making its way through the court system. That is one of the claims and arguments that is made, it concerns the fact that -- whether it's lesser quality or greater quality or there is different constituents between the water, that is something that is currently going through the court system at this time.

MS. CANTRELL: And is this litigation on the Federal level involve EPA?

MR. MAISCH: Yes. Yes it does, and I believe it is coming out of Florida at the present time.

MS. CANTRELL: And is it regarding the very rule that we are considering today?

MR. MAISCH: Yes, it is. In other words, there had been previous litigation filed, EPA stepped in, promulgated the Water Transfer Rule, which eliminated the litigation that was going on at that time. Litigation has since been
re-filed.

MS. CANTRELL: Was any thought given to postponing this proposal until after litigation had been concluded?

MR. MAISCH: There was some thought given to that, but given the fact that we do have certain water transfers going on in Oklahoma at this time, the belief was that we needed to promulgate the Rule for those specific water transfers here in Oklahoma at the present time to cover them, and to demonstrate that those specific water transfers did not need a permit at the present time.

MS. CANTRELL: What would be the risk to -- regarding those water transfers, what would be the risk of postponing this Rule to see how the Federal litigation results?

MR. MAISCH: It could open up those specific water transfers to litigation in and of itself, to -- through citizen suit or other provision to require them -- or to require the Agency to issue them an NP or an OPDES permit, a State
discharge permit, for those specific water
transfers.

MS. CANTRELL: Tony? You need to
push the button.

MR. DARK: Based on what I'm
hearing, and what little I know about this
permitting process, I believe what staff is
trying to do is a proper direction, as long
as -- I have confidence the staff is going
to track that Federal legislation and see
that we promulgate the rules pursuant to
whatever may come of that suit. We don't
know how long the suit is going to take.

Me, I would hate to see something
stopped in Oklahoma because someone's
following our rules and all of the sudden
because of some legislation at the federal
level, we've changed what we do in the
State. I think we are probably better
served to, do as staff suggests, at least
in my opinion, because of what's involved
in these rules, and what can come of them,
as long as we track what happens pursuant
to that lawsuit. I believe that is
probably our safest way to go.
MS. CANTRELL: Thank you, Mr. Dark. In picking up on that, Mr. Dark's comments, has the staff considered - does the staff have an opinion as to the benefit of this rule that is being proposed? Or I should say, benefit, as far as the impact on Oklahoma's environmental protection efforts.

MR. MAISCH: I think Mr. Thompson wants to --

MR. THOMPSON: I think the -- I would say that the Agency has been somewhat conflicted by this rule. We are not sure that - we are truly not sure that there is a benefit to the rule. Although, we could see in some watersheds where that would be the case, might be the case. We haven't monitored, so we don't know that. But the administrative burden of beginning to issue MPD as permits on water transfers, is significant. And given the current fiscal situation, might well be outside the scope of the capacity of the Agency, which means it would fall then to EPA anyway, who has a current rule for the transfer. So I think
it is -- we are tracking both in Water
Quality and out of my office, the progress
on this lawsuit. It may be that the
current administration may, absent a ruling
by the court in favor of not exempting
these transfers, EPA may come forward with
rulings to that effect. But it's just a
pretty high administrative bar for us to do
it now. And given the fact that this is an
EPA rule that exempts those things, if we
didn't do it, it would fall to the federal
government and they wouldn't do it either.
It's a tough call.

Ms. Cantrell: Any other
questions? Any other questions from the
Board?

Mr. Johnston: Did I
misunderstand or did the Region 6 and EPA
not even agree on this rule? Is that what
somebody said or was it just something --

Mr. Maisch: No. EPA Region 6 --
Region 6 does follow the Water Transfer
Rule at the present time.

Mr. Thompson: It may be fair to
say that the current EPA may be awaiting
the outcome of this litigation also, and
may act depending upon what the court
decides. But we are just tracking to see
what is going to happen.

MS. CANTRELL: One follow up
question on the fiscal issue. Would there
be any significant burden to postponing the
rulemaking on this topic until the next
Board meeting?

MR. THOMPSON: Well, I don't
think that there would be a burden -- there
wouldn't be a burden to the Agency if we
were not required to do permit transfers,
and we are not doing that at the current
time. So absent the requirement to permit
those transfers, there would be no burden.
What we were concerned about was -- I mean
we would not -- we cannot physically do the
work. So as far as the burden is
concerned, the burden then falls to, should
we not -- should the Board fail to address
this issue, the question of whether we
should be permitting those transfers
remains open. I think that is the problem.

MR. MAISCH: Number one. But
number two, we are under our Delegation Agreement, required to keep our rules up to at least those minimum standards as put forth by EPA to maintain our delegation of the NPDES Programs. Failure to update our rules, while this appears to be the only rule of significance that was changed from 2008 to 2009, that could cause us a problem with EPA and our Delegation Agreement. And may lend to non-fiscal, but other concerns that might arise from that as well.

MS. CANTRELL: One final question. If this rule is exempting the need for an NPDES permit, is this rule then in affect placing Oklahoma in a more stringent category than federal rules?

MR. MAISCH: No. Not at the present time. Well, in other words, are you saying that if we fail to adopt the Water Transfer Rule, could it be placing us in a position that is more stringent than the Feds? If we did not adopt the Water Transfer Rule, as Steve said, that would be delegated back to EPA to enforce that program, and then EPA would not be willing
to -- would have the rule and fall back on that. Could it then lead to some sort of litigation concerning the Agency for failing to issue such a permit? And could a court then render a decision that said under State law a permit would be required? The answer to that is, that would be a possibility. And if that were the case, then, yes, we would be more stringent at this time, if that were to occur, EPA current -- than current EPA policy.

MS. CANTRELL: Thank you. Any further questions? Any questions from anybody who has joined us today regarding this proposal?

MR. DRAKE: I would move that we follow the work that has been done and approve - move to approve the rulemaking.

MR. JOHNSON: Second.

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. Johnston.

MR. JOHNSTON: Yes.

MS. BRUCE: Mr. Mason.

MR. MASON: Yes.

MS. BRUCE: Ms. Rose.

MS. ROSE: Yes.

MS. BRUCE: Ms. Savage.

MS. SAVAGE: 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: No.

MS. BRUCE: Motion passed. Thank you.

MS. CANTRELL: Thank you, Myrna.

And thank you, Mr. Paque.

MR. PAQUE: Madam Chair, I may have gotten ahead of myself on that reference to EPA, I apologize. I had major
eye surgery a week ago and my eyes aren't what they were before that. So my apologies, I think I may have caused some confusion there.

The next item, Item 8 on your Agenda, Title 252, Department of Environmental Quality, Chapter 645, Septage Pumpers and Haulers.

There are four primary reasons for the Department to propose this rulemaking.

The first is to require training for individuals who are licensed to pump, haul, and store septage, operate a septage land application site, or treat septage as a means of vital disposal. Requiring training will ensure that the licensed individuals have actual knowledge of the regulations. Facilities already permitted by DEQ's Water Quality Division to accept septage, would be exempt from having to obtain another license under this regulation.

The second reason for the proposed rulemaking, is to allow the temporary
storage of septage when the preferred disposal method is unavailable.

For example, land application site is too wet, municipal waste water treatment plant is closed, et cetera.

The third reason for the proposed rulemaking is to allow individuals to operate a treatment facility that specifically treats septage, which will provide another disposal option for septage pumpers and haulers.

The fourth reason for the proposed rulemaking is to establish a fee schedule that will help cover some of the costs of operating the program which has historically been entirely supported by appropriated funds.

The Department did receive written and oral comments concerning the proposed rule modifications. A summary of those comments and responses to the comments are contained in the Executive Summary for Chapter 645. Changes to the proposed rule modifications were recommended by the Department pursuant to these oral and
written comments.

After discussion at the Council meeting, the Council voted unanimously to recommend that the Board approve the changes to Chapter 645 as amended.

MS. CANTRELL: Thank you, Mr. Paque. Any questions from the Board?

MR. DARK: Yes, I do. First, I want to say that if Ellen was the one giving us all the packets all these years, then someone needs to follow suit there, because I was spoiled. My packet is in perfect order. A good friend of mine got me what I thought was a full packet, and I had the wrong rule a moment ago when I was asking a question.

So here is the question I had a minute ago in regards to septage. It says that we have stricken the entire sentence about domestic septage as used in this chapter. It seems as though unless -- I am sure confused here. I just need someone to explain to me how these pumpers and transporters, how they address things outside of domestic sewage. Because I am
certain that it pumped and then hauled.

Where is that addressed?

MR. PAQUE: I going to ask the staff to answer. I did want to make one comment. The Water Quality Management Council has done what I think is kind of a -- made a good change. And as we think that something is going to be controversial or have a lot of public comment, we have a policy that was adopted in the last few years where we hear something at one meeting and then defer the action to another to allow more people to comment. And it's a system that allows the public a better discussion at our meetings.

This particular item we discussed in October and because things are resolved quicker than we thought they were, it was originally scheduled for this Board meeting and we thought we would be hearing in January. Because of that, in my memory and I think I have slept at least three times since then, I am going to ask the staff to answer your question. But I did want to point out that there was a time-lag between
our decision and recommendation to you, but
I think it is for a very good reason.

MR. HUBER: Good morning. My
name is Robert Huber. To your question, we
did delete the part about domestic septage.
We did that because we included the
definition of sewage in the rule to provide
us a better general overall description.

MR. DARK: So sewage is in now
for all of this?

MR. HUBER: Right. You will
notice as you go through, you will see we
made separate distinctions between what we
considered sewage, raw for what they pump
versus the actual septage that receives the
treatment.

MR. DARK: So everyone's treated
the same, irrespective of whatever they are
putting in the system?

MR. HUBER: Pardon me?

MR. DARK: Everyone is treated
the same, irrespective of what's put in the
system, correct?

MR. HUBER: Provided it is not an
industrial or commercial-type waste. They
are restricted by that.

MR. DARK: And those pumpers and haulers have different rules they have to abide by?

MR. HUBER: Commercial waste by this rule doesn't apply to it. And typically would be an industrial waste water. We have grease pumpings that go through water quality for permitting. And the industrial -- I believe would be under the hazardous (inaudible) waste management rules.

MR. DARK: My question is, beyond these rules, there are other rules that address those pumpers and haulers?

MR. HUBER: I believe so.

MR. DARK: Okay. Thank you.

MS. CANTRELL: Any further questions from the Board? Any other questions regarding this proposal? Do we have a motion?

MS. ROSE: I move to accept this.

MS. CANTRELL: We have a motion.

MR. DRAKE: Second.
MS. CANTRELL: And a second.

Thank you. Myrna, would you please poll the Board.

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. Johnston.
MR. JOHNSTON: Yes.
MS. BRUCE: Mr. Mason.
MR. MASON: Yes.
MS. BRUCE: Ms. Rose.
MS. ROSE: Yes.
MS. BRUCE: Ms. Savage.
MS. SAVAGE: 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: Thank you.
MR. JOHNSTON: I appreciate the extra step that the Council has done on this, to make it more safe for the public.
MS. PAQUE: Thank you. Madam Chair, next.
MS. CANTRELL: Yes. Thank you, Mr. Paque.
MR. PAQUE: Okay. Next item is Item 9 on your Agenda, Title 252, Department of Environmental Quality Chapter 690, Water Quality Standards Implementation.
The Department proposes to update the publication date of the Federal Rules adopted by reference from July 1, 2008 to July 1, 2009. Included for the first time in the incorporations EPA's Water Transfer Rule at 40 CFR Section 122.3, which went into effect on August 12, 2008. The Water Transfer Rule exempts the need of an NPDES permit for the transfer of raw water from
one watershed to another.

Initially, the proposed change was to update the list of incorporated Hazardous Waste Management rules found in 40 CFR Parts 260 to 279, as the list had become outdated. Finally, the Department proposes to remove the reference to EPA Region 6 from the technical acronym MQL. The Department did not receive any written or oral comments concerning the proposed changes.

Council voted unanimously to recommend to this Board approval of the changes to Chapter 690 as proposed by the Department. Any questions?

MS. CANTRELL: Thank you, Mr. Paque. Any questions from the Board?

MR. DARK: Is this just a cleanup of delegation?

MR. PAQUE: That's right.

MS. CANTRELL: Any other questions regarding this proposal? Do we have a motion?

MR. JOHNSTON: Move to approve.

MS. CANTRELL: Thank you, and do
we have a second?

DR. GALVIN: Second.

MS. CANTRELL: Thank you.

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. Johnston.

MR. JOHNSTON: Yes.

MS. BRUCE: Mr. Mason.

MR. MASON: Yes.

MS. BRUCE: Ms. Rose.

MS. ROSE: Yes.

MS. BRUCE: Ms. Savage.

MS. SAVAGE: 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. Thank you.

MS. CANTRELL: And thank you, Mr. Paque.

MR. PAQUE: Thank you all.

MS. CANTRELL: We have come to the end of our -- the work done by the Councils and I want to thank all three of you for coming today. And also for the excellent work of the Councils wrestling with these issues that you have put forward to solve problems. We appreciate your work and appreciate your time today. Thank you.

We are moving now to Item 10 on the Agenda. And this item originated with one of our Board Members, David Griesel, who unfortunately, is not able to be with us today. But the spirit of the proposal is alive and before us. I thought that what we might do, if I may -- Jimmy, would you mind if I called on you to speak a little bit to the history of this proposal because I think you have the background.
MR. GIVENS:  Madam Chair, Members

of the Board, as the Chair mentioned, this
was a proposal that was originally brought
by David Griesel.  We were asked in our
role as administrative support for the
Board to draft a Resolution.  We presented
it to David a few weeks ago, he was
satisfied with the result.  That particular
Resolution is what is in your packet.  The
reason I wanted to give you just a little
bit of background is because, as of
yesterday, the committees in both the House
and the Senate passed the deadline.
Yesterday was the deadline for the House,
and the week before was the deadline for
the Senate committees to act on pieces of
legislation.  And if they had not received
a favorable recommendation from the
Legislative Committee by yesterday, then
they are dead for the Session.

The three Bills that specifically
are the subject of the Resolution, in your
packet, all died as of yesterday.

So what we did this morning is to
re-draft the Resolution slightly to
recognize that those three Bills, that had
been pending, are dead. And what that
practically means is that if such a Bill
were to receive consideration in this
Session, it would have to be upended to
another Bill. And so, we prepared a
Resolution this morning recognizing the
developments of the past day. And it is
before you now to consider whether you want
to forward a Resolution that would
encourage the Legislature to consider
making this sort of concept a part of
another Bill.

MS. CANTRELL: Thank you, Jimmy.

And to relay to the Board, David Griesel's
work and interest in this Bill - David
described this as a win-win for Oklahoma.
It's a way to - for the Board to set forth
a concept that recycling and bottle cleanup
can be done with a private initiative
across the state, and felt that the
initiative itself, the concept of it, was a
positive for Oklahoma's environment.

Does anybody have any questions or
thoughts? Those of you who have spoken
with David, or who have considered this proposal, might have some more information to share.

MR. CASSIDY: I haven't spoken with David, but can you explain the cost of this?

MR. GIVENS: I'll begin, and Steve can help me out. I am going on recollection here, but the Bills that were pending did have a mechanism for collection of administrative costs as well as the deposit itself.

As I recall, the administrative costs were phased-in beginning with a quarter per container and going up to a penny per container over the course of a few years. That would have been used for the administrative costs of both the DEQ and the Tax Commission, who would have been responsible for administering the Bills. And our initial impression was the administrative costs probably would suffice to allow us to administer that program.

MR. THOMPSON: If I could, the Bills that were introduced, in my mind,
were very different than the traditional Bottle Bills that had been introduced over the years, all of which had failed.

The first one was that this had a - this Bill has a corporate sponsor. All of the glass manufacturers in the State of Oklahoma are very interested in glass recycling as a business - as a way to save money on their glass in the manufacturing. This company, and I think another glass company in the state, has joined with them now at about 300 employees. So they are very interested in this Bill. Particularly, related to glass.

Secondly, the traditional opposition to Bottle Recycling Bills in the state has been the petroleum marketers and that means convenience stores. And to some extent, grocery stores because of what they consider the administrative burden of handling bottles as they come back. These Bills had the beginnings of some very, I think, inventive ideas to ease the concerns of grocers and convenience stores, in that it anticipated that there
might be something like a reverse pop machine, where you put the glass bottle in and you get a nickel back out. There were convenience centers that were going to be considered independent of just returning it to the convenience store or to the grocer. So there was a recognition of the traditional opposition to these Bills. There was an effort to create situations that would ease that opposition. But I think what happened here, was that because these Bottle Bills had come up in the past, and there had been this traditional opposition, that they were just unable to have enough discussion with those folks to ease their concerns. And maybe they won't anyway, but what they decided to do is then take another year, work with these folks, explain what these other opportunities are that ease their burdens, and see if they can't get them on board.

It is, in my mind, as close as I have seen to getting a Bottle Recycling Bill, ever, in the state. I just think they ran into a situation, and probably
understandably so, where there was this
traditional opposition.

So they are going to take a year.
They are going to work with them. We will
work with them, and hopefully in another
year they can come back with a different
bill that has some opportunity to receive
their support.

MR. DRAKE: I have talked to
David at some length. And just since our
last visits, which was what, December or so
-- November or December. You know, the
work is being done nationally on plastic
bottles and some of the concerns that
groups were having about plastic bottles.

I know my wife won't buy them any
more, and that gets inconvenient. I would
love to have a reason to take those other
bottles back. But I think that this is
well formed. It's going to give them more
time to do what we used to do when I was
young - we did that, then, and it didn't
cause anybody too much problem. But I
think that anything that would help us
decrease the plastic going into our
landfills, and decrease the use of the plastics, would certainly be helpful. And I hope that we will pass this Resolution and carry it forward.

MS. CANTRELL: Thank you, Mr. Drake.

MR. DARK: In the same light, we were speaking just a moment ago, I would like to see if there is a possibility that staff can actually look into it, and give this Board a position on plastic.

The Bottle Bill is one thing, plastics is another. I realize we are talking about two different things. As far as this Resolution, I am in favor of it, but to further that, I really would like a position statement on plastics, I really would.

MR. THOMPSON: Probably be pretty easy for us since nobody knows more about this stuff than Fenton Rood. So we will get you something.

MR. CASSIDY: Does this include everything from milk cartons to water bottles?
MR. THOMPSON: It was amended - it started out with bottles, glass bottles, plastic bottles, there was some exemptions to that like milk bottles.

MR. GIVENS: The answer is mostly yes, but I do believe there was an exemption for dairy products, milk bottles, et cetera.

MR. THOMPSON: But I do think that there was the notion of this thing, as they discussed it, got tighter. There were more exemptions. I don't know where they left that. But that issue will be addressed in the legislation that comes back next year, and then we will be able to report to you what's going on. I don't think there is going to be anything in this Legislative Session. So, in their negotiations with folks that have an interest in this thing, they may broaden what's included in the recycling, and they may constrict it. We just don't know at this point. It depends on what all those interests are.

DR. SUBLETTE: Can I ask a
question? In the bills that are existing now, I haven't read them but let's suppose these bottles are returned to a convenience store or a grocer, what would the provisions for what was to be done with those? I assume that was addressed in the Bill? Whose responsibility is it now, they have been returned, the deposit has been returned, now what happens to the bottles? Whose responsibility is that, where they go?

MR. THOMPSON: I think there are a number - I think to answer your question as for the glass, there are a number of glass plants that are very anxious to be a part of this, and have that glass come to their facilities for recycling. There are a number of recycling centers throughout the state that are interested in recycling. Now the details of that, I don't know. But the folks that were preparing the Bill were working through that, and I think Fenton was working through that with them. But to give you specifics of that, other than this broad notion that there is recycling
available in the state, I don't --

DR. SUBLETTE: I understand ultimately where the material will go. But I am curious about whose responsibility is it to sort, to transport? The comment was made about how we all used to return bottles when we were kids, and I remember that. But the grocer always had stacks of wooden cartons and sorted the bottles by manufacturer, and the manufacturer came and picked those up when they delivered new products. So that wasn't much of a burden. But I am just curious as to - I mean, accepting the bottles and paying a deposit is one thing, but I can see that they might be very concerned about what their costs are going to be in terms of sorting, handling, transporting, et cetera. I think that is where most of the burden is.

MR. THOMPSON: Do you know, Jimmy? Do you know whether that was addressed in the Bill or do you recall?

MR. GIVENS: My recollection is -- and we may be able to get some help from Scott or Fenton on more specifics. My
recollection is that the Bill simply
specified, that whoever received these
would process them, and then transmit them
on to someone who would be responsible then
for using them or recycling them,
ultimately. I don't think it went into
great detail about how that was suppose to
happen.

MR. THOMPSON: I would suggest to
you, that maybe, that was part of the
problem with the Bill. That, that, was a
detail that needed to be worked out with
folks prior to the Bill moving on. That
may have been an issue also.

Scott may have better information.

MR. SCOTT THOMPSON: Okay. I
remember some of the details, although it
is a little bit vague. Basically, the Bill
set up recycling centers which could be a
variety of places. Could be a convenience
store, could be a grocery store, it could
be somebody set up just for recycling, like
an existing recycling center in a city; or
a private company that is set up to take
recyclables.
And then there was another tier player that was a processor, who would then receive the materials from the recycling centers, or I think the recycling center could also be a processor. And it was a five cent deposit per bottle, and five cent return per bottle, and then it was a one cent administrative fee -- it was a quarter of a cent, up to one cent, to start off with. So I would think the glass plants would probably be the processors because they would want to receive the waste -

DR. SUBLETTE: You think they would come pick it up and sort it from all the other --

MR. SCOTT THOMPSON: Yes. There are provisions in there for the recycling. You know, like a grocery store wouldn't have to be a recycling center. (1:15:07) This wasn't, like, a mandate that everybody who sold them had to be a recycling center, it just set up -- that some people could set up and become recycling centers. So it is voluntary to some extent.

They had to collect the money when
they sold it and submit that to the Tax
Commission, the way it was structured. But
then the Tax Commission would reimburse the
recycling centers and processors. There
were also some provisions for market value
as it moved from a recycling center to a
processor.

DR. SUB LETTE: So is there any
financial incentive for a processor? Or a
convenience store or grocery store? Do
they have any financial incentive? I mean
could you charge five cents per bottle and
refund for it?

MR. SCOTT THOMPSON: No. The
refund was based on if you got a full
refund, it was refunded. But there could
be money in there for the handling. Be
reimbursed from the fund. Basically, these
Bottle Bills work on -- not everybody --
not one hundred percent of the bottles come
back. So there is some margin there that
is usually significant, even though it is a
small percentage of the containers. Plus,
you have this administrative fee on top to
make sure you've got enough money to run
the program. And so there would be money
that would go to you as a recycling center.
I think they structured it -- it was hard
to follow completely, where the process was
for somebody in this. But if you are a
glass plant as a processor, you made a
profit if you get cheaper feed stock. But
if you are a recycling center, then I think
there is an opportunity to be reimbursed
for some of your handling costs. But you
can market the material to the processor
and work out a separate arrangement for
cost there. At times, depending on market
prices, there might not be value to the
material and the processor might just be
picking it up. At times, if it has enough
market value, there might actually be
profit from the recycling centers selling
it to a processor. It's pretty detailed.
It's - I am not sure that we fully
comprehend exactly how it would work, but
it seemed like a pretty reasonable
approach.

DR. SUBLETTE: Well I just hope
there is some financial incentive in there
somehow, someway, to compensate somebody for sorting and transporting. I mean I can see if there was, someone who wanted to add that as a component of their business, but if they're losing money, and they are losing time, they are not going to be happy participants.

MR. STEVE THOMPSON: I think there was this - there was recognition of that. That's why this Bill anticipated some convenience centers and recycling centers and these reverse pop machines that would be set up by those who would be doing this business, and that the business model was such that there was a profit in doing that. And it took the burden off of the convenience stores as the place that you must return it. But that was based on a - apparently what they believed was a viable business model that was not ours.

DR. SUBLETTE: If the convenience store is a place to return it, it is by definition a convenient place to return it; a place you are going anyway.

MR. STEVE THOMPSON: I
understand.

MR. DARK: Madam Chair, in support of this Bill, I think that the Bill in general, as a policy setting Board, by policy, we are taking a right direction in saying, hey, no risk and probably would benefit the Bottle Bill. I have to have confidence in capitalism to see that it probably wouldn't -- if it didn't work, it wouldn't go and we saw an opportunity to pass this Bill now. But it would be nice to have it out there. I think if the opportunity avails itself and it was a win-win, and our job is not to get into those details, at least not at this point. And probably would have an opportunity to comment on those if it does happen. So with that, I'd make a motion.

MS. CANTRELL: Thank you, Mr. Dark.

MR. DRAKE: I'll second it.

MS. CANTRELL: We have a motion, and we have a second by Mr. Drake.

MR. MASON: I have some discussion.
MS. CANTRELL: Yes.

MR. MASON: And it may be an observation. What is really weird to me here is as a child, economic forces were able to do, but for some reason we have to legislate now and pay someone a penny a bottle to do for us. So in my world, we go back to how we did it when I was a kid.

MR. DRAKE: We didn't have a choice. We had to do it because that's the way it was. We had the stores we -

MR. MASON: My point is though that returning empty bottles that someone wants to come and pick up is very different than what we are talking about here.

MR. WENDLING: You know I am just listening to the details we are talking about, and from a resolution standpoint, it seems like we are supporting a certain mechanism, okay, paying a deposit mechanism. The question I would have, are we getting into too much details here, with something that is still in the works? Maybe at another session we will be better suited to support something that is a
Recycle Bill to reduce waste and not be specific about calling out a deposit mechanism or something like that, just a general comment.

MS. CANTRELL: Thank you, Mr. Wendling. We had before us, and this goes to Mr. Wending's question. We had before us the redline version which takes into consideration the fact that the Bill as proposed, did not make it out of committee. Do we want to, as a Board, do we want to consider the motion that is on the table or do we want to accept a - or propose any friendly amendments to the motion that is on the table. Mr. Dark.

MR. DARK: If I may, in response to your comment, I agree, I am exactly where you are at. And had it not been for Steve watching this Bill pass, and he has watched a lot of these things die, and we see one that might have a breath of life in it. Only for that reason, would I actually go opposed to what you are saying, and say we need to, at least, provide some idea of a mechanism. I certainly wouldn't want to
dictate the mechanism. Because as I said, when it comes back up, we will have a chance to talk about it, I am certain.

MR. STEVE THOMPSON: Fenton, I'm struggling here. Come here. The question is - the concern is, there are a couple of concerns. Does the Resolution have too much detail relative to an existing Bill, one? I mean related to a Bill that is not going forward, I guess.

And two, what is the mechanism that once the material is collected somewhere, it gets ultimately to the processor that uses the material?

MR. ROOD: Well first of all, let me point out that this proposal is being advanced by the glass industry. Because it represents a cheap source of raw material for the three plants that are operating in Oklahoma. And they would be the first to tell you that they are still negotiating the proposed provisions with their chief opponents which are especially the convenience store operators that don't want to be the ones that handle the containers.
Secondly, in regards to your question of how does it get to the recycling end use? I would argue first and foremost, economic self-interest. Because what the deposit mechanism does, is it aggregates very clean well-separated materials, and once those materials are aggregated, whoever is holding them has an economic interest then in selling them to the recycling market.

MR. CASSIDY: Madam Chairman, I just don't understand how we, as a Board, can pass a Resolution on, first of all, a Bill that is already dead. And second of all, we don't know what's in it. Or what's going to be in it. If we are going to do it in the future. I don't understand why we are even taking this much time on it.

MS. CANTRELL: Well, Mr. Cassidy, thank you. And to answer your question, what we have on the floor is a motion to propose a conceptual Resolution to go forward from the Board saying that in concept that a Bottle Bill is beneficial to Oklahoma's environmental initiatives, and
is a positive from the Board's perspective for a number of reasons. And that is the proposal that is on the floor. The proposal recognizes that there is no current Bill before the Legislature, but there could be opportunities before the Legislative Session ends, for a proposal to make its way to the Legislature. Is that correct? And the proposal that is on the floor today for consideration by the Board, is for the Board to be on record saying that, in concept, it is our perspective that a Bottle Bill is a positive for Oklahoma. It is beneficial for the environment of Oklahoma. Does that answer your question?

MR. CASSIDY: Yes.

MS. CANTRELL: Maybe answers your question, but you still have a okay. Any other questions by the Board?

MS. SAVAGE: I hope this is not a non-sequitur, but we think -- when we say Bottle Bill, we automatically think of soda pop and glass containers. And very few people drink soda pop in glass containers.
And I did talk to David about this, and when he first proposed it, when he came up with the idea, and he told me about that it was supported by glass manufacturers.

The thing is, you know, when we think of Bottle Bill, you think of taking your coke bottle back and getting a nickel back for it. But nobody drinks soda pop - I shouldn't say nobody, but the vast majority of people who drink soda pop get it out of cans, or they get it in plastic containers. This speaks to what Tony said, we need something that addresses plastic. Because plastic is our problem.

And the glass factory that wants the glass, for the most part, if you think of glass you are thinking of liquor, you are thinking of Miracle Whip jars, and ketchup jars, and all kinds of glass. And I am so in favor of recycling, and I just almost don't want to sound like I am being negative here, but I agree that we could get in trouble if we are talking about a Bottle Bill without, especially something that would benefit the -- it's the glass,
you know, glass manufacturing wants it. I think we have to be very careful about what we are supporting. Because we don't know in - in the macro, I am in (inaudible) favor of anything for recycling. But if it's for, to help support, a company that is being supported by a specific industry or corporation, and we don't know all the facts, I don't know. I don't know if - these are just my thoughts. I just see this big container full of really filthy glass jars being taken to 7-11, and this is something we supported, so I don't know.

MS. CANTRELL: Thank you, Ms. Savage. Mr. Thompson I believe has some thoughts on that.

MR. STEVE THOMPSON: Again, we are talking about the prospect of a Bill that won't be introduced until next February. So maybe what we can do, with your approval, is one, go back and -- since this change has just occurred, work on some language with David for a Resolution that sort of addresses these needs.

The second thing maybe we can do is
to, at the forum at the next Board meeting,
have Fenton talk about the recycling
process and the recycling effort in the
state to give more context to any
Resolution that might come forward. Maybe
if we can educate ourselves about this
issue and then produce a Resolution that
the Board is more comfortable with, for an
issue that won't be addressed for probably
a year. Maybe that is the way to move
forward. That's just a suggestion.

MR. DARK: Madam Chair. I would
like to withdraw my motion regarding
approval as it is written, in light of what
Steve and everyone has discussed here. I
still want to see that the staff does
address the plastics issue, and I am not
talking about recycling plastics. I am
talking about a position on plastics. That
is a big piece of paper. That is what I
would like.

MR. STEVE THOMPSON: Would you
like for us to work on the Resolution and
provide a forum presentation by Fenton,
MR. DARK: I think that would be fantastic, if staff is willing to do it, that would be great.

MR. DRAKE: I withdraw my second. I thought this was so bland that even I could support it. But certainly I didn't anticipate that we would have a conference on it. So I will withdraw my second, with the understanding that we will have some additional information coming at our next Board meeting.

MS. CANTRELL: Thank you.

DR. SUBLETTE: Just to be clear, I want to make sure everybody understands my comments were not negative with regard to this particular Resolution. I do see it a conceptual Resolution, and it basically says that the Board is in favor of giving attention to this particular problem. My only point is the devil is in the details. And I am hoping that even if it does become a Bill, that all these economic factors that we are talking about here, are going to be addressed. Otherwise, it will be dead in the water when it hits the street.
MR. STEVE THOMPSON: And I think educating ourselves, including me, about this issue is important. Because you may well see a provision in a Bill that gets passed that says something like, based on rules determined by the Board. So if you are going to be in rulemaking on this thing, you need to understand the dynamics of recycling and we should educate -- Fenton should educate all of us.

MS. CANTRELL: I think that is a great idea. And where we are now, we have had motion and second withdrawn. We still have the Agenda Item.

Is there a motion by the Board to table this Item to our next Board meeting, with the request that staff be able to talk to us or speak to the issues that have been described as Mr. Dark had requested.

MR. JOHNSTON: So moved.

MS. ROSE: Second.

MS. CANTRELL: There is a motion and a second. Is there any further comment or questions from the Board?

I believe we are ready for our vote
then. Thank you, Myrna.

  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. Johnston.

  MR. JOHNSTON: Yes.

  MS. BRUCE: Mr. Mason.

  MR. MASON: Yes.

  MS. BRUCE: Ms. Rose.

  MS. ROSE: Yes.

  MS. BRUCE: Ms. Savage.

  MS. SAVAGE: 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: Thank you. And thank you, Fenton, and thank you for all the work that you have been doing in this effort. And we look forward to working with you on the next Board meeting.

Our next Item on the Agenda is the Executive Director's Report.

MR. STEVE THOMPSON: Thank you, Madam Chairman.

First of all, I want to let the Board know, acknowledge, one of our Board Members, Steve Mason, who is the CEO of Cardinal Engineering, has been named by the Journal Record, a newspaper in the state, as one of "Oklahoma's Most Admired CEO's". So we should congratulate Steve.

(Appause)

MR. STEVE THOMPSON: Secondly, since we met, I think we have made you aware of a number of changes that are going on in the leadership of the Agency. With the retirement of Jon Craig, Shellie Chard-McClarey has moved to become the Division
Director of the Water Quality Division.
And she moved from the position of Director
of Administrative Services for the Agency.
So Wendy Caperton, who was
previously the Director of Planning and
Policy for the Agency, has moved into the
position of Director of Administrative
Services.
Catherine Sharp, who was the
Assistant Division Director for the Land
Protection Division, has moved to become
the Assistant Division Director for
Administrative Services.
And as Wendy has left the
responsibilities for the Directorship of
Planning and Policy, she has taken with her
some of the annual planning activities that
she was doing in that job. She has taken
with her some of the strategic planning
related to our budget requirements for the
state, with her. And so, she has taken
part of that activity with her.
Jennifer Wright, who has been the
Agency's Executive Secretary, has now moved
into a position that we renamed Special
Assistant to the Executive Director; and
she, along with some of her previous
duties, has taken over the Legislative
Constituent issues for the Agency. A very
vital role, very important thing, that
Wendy has done in the past. So she has
taken on that responsibility.

They are all in place and have been
for a few months. I would suggest that all
of these folks are doing an extraordinary
job, and have gotten their feet on the
ground and taken off running in their new
responsibilities. One of the most
important things that they do, is make me -
- try to make me look good. And we all
understand what a high bar that is.

So anyway, we've done some
realignment in the Agency, and I believe
they are working out extremely well.

You should have at your place, the
Key Bills that we are tracking. It looks
like this. I want to go over those very
quickly with you.

As Jimmy mentioned previously, this
was updated last night, and this morning.
We have passed the deadline for Bills to move out of Committee of the House of Origin. And so, you will see that a lot of the Bills, particularly Shell Bills, have died.

The next major deadline is March 11th, where Bills have to be through the House of Origin, and so we are looking forward to that next deadline. So if you will go down the page with me.

The first one, the Clean Air Act Bill is dead because it was a Shell Bill. The Senate Bill 1678 is our Bill that was approved by the Board. This is to allow mutual recognition for Laboratory Certification Programs that come under the National Environmental Laboratory Accreditation Program, national accreditation. This was really a recommendation by the Lab Council. The industrial members and laboratory members believe that there was a cost saving with these, to them, with this mutual recognition in other states. So that Bill has been through committee, then come off
the floor in the Senate, and has gone to
the House for consideration.

House Bill 2310, would consolidate
the financial services, including all the
accounting services and all the requisition
services of all the agencies of the state
government, into one group. We find that
idea intriguing.

If you will move down, past the
Bills that are dead, to House Bill 3219,
another Bill that I find personally
intriguing, and so should you. This is a
Bill that anticipates that if a Federal
Official takes an action in the state of
Oklahoma, or if a State official takes an
action related to Federal Law in the state
of Oklahoma, they are subject to fine and
imprisonment. If this Bill passes, I am
retiring, and I would strongly recommend to
you, that you resign your position here.
That Bill is - we are tracking it very
closely.

The next Bill limits the terms of
Boards and Commissions. It's a Bill, that
in my conversations with the folks that
make appointments, invoke the House, and
the Senate, and the Governor have indicated
that it's already somewhat difficult to get
good people to fill these positions, and
maybe shouldn't make it any more difficult.
Another Bill we find intriguing and we
continue to follow.

If you move down to House Bill 2844,
this is -- a couple of years ago, the
Legislature passed a Bill for the licensing
of companies that do remediation --
hazardous waste remediation along our
highways. That Bill limited our ability to
license those people to people within the
state of Oklahoma. When that happened, I
came back to Jimmy and said, that is a
violation of Interstate Commerce Laws. And
Jimmy said, well, that's none of your
business, you are just suppose to -- I
pouted for a few minutes and then realized
he was right.

Anyway, in this particular case,
this expands the opportunity to be licensed
in the state of Oklahoma beyond our
borders.
Senate Bill 1695, is a Bill that is our Bill. And that Bill now simply excludes Homeowners Associations from operating shared sewer systems. I have a list in my office of 40 developments in the state that have as their operating body, the homeowners association for these shared systems, all of them in non-compliance, and all of them with nobody to take care of the problem -- effectively taking care of the problems. Homeowners are sometimes shocked to find that they are responsible for that lagoon out there. And we worked municipally rural water -- they have to become a public entity, or a known private utility, in order to carry out that function. And we worked with everybody, including the Homebuilders Association, and we have them on board. So we anticipate moving forward.

Senate Bill 1765 requires a certification for the construction of sewage treatment facilities, so that there is an accountability in the system. A Bill that is pretty - no one is opposed to.
That Bill has moved through the Senate and
is awaiting action of a Committee by the
House.

This next group of Bills requires
the affirmative approval of your rules. In
other words, by the Legislature. Always
before, the Legislature had to
affirmatively disapprove a rule. This
means, that they have to affirmatively
approve the rule. So every rule that goes
before every Board, or Council, in the
state has to come up, I guess, on the
Agenda in the House, or the Senate. And
have to be actively approved by those
bodies. I guess, if they can stand it I
can. They are going to have to look at all
those rules and vote on them. And I just
- we get 2,500 Bills introduced in the
Legislature now, and I don't know how many
rules are going to have to be approved. So
it will be interesting to see. They are
going to have some late nights if that
passes.

As we mentioned the Beverage
Container Recycling Act Bills are all dead.
There was a move, if you look down to House Bill 3416, that was a Bill to get tax credit for Brownfields, a really fine idea. But I will tell you that anything that has to do with a tax incentive or a tax credit, is dying in the Legislature because of the fiscal issues. I haven't seen one move forward yet and I don't anticipate they will. I think the Speaker and the Pro Temp have said, none of that.

If you look at Senate Bill 441, that is a really simple Bill that allows Ag tires, on a voluntary basis, to be in the waste tire recycling program. As with all Tire Bills, it has become a nightmare. Because of - this is a subsidy. The tire program is a subsidy program. And what it anticipates is that if you live at Fredrick, or if you live at Bremen, or if you lived out of the metropolitan areas, you are going to pay five or six dollars a tire to get your tire picked up. If you live in Oklahoma City, it will cost you a buck. Or a quarter. And what this does, is equalize the ability to equalize the
cost of getting a tire recycled across the
state. And as such, it is a subsidy
program. And as such, it always has a
dozen interest -- interested in getting
some share of the pie. So we are trying to
help the author of this Bill along and work
with processors. I think it will probably
move forward, but as with all Tire Bills,
it will be interesting.

If you move to Senate Bill 2241,
this requires you to set meth lab clean up
standards. If I were you, I wouldn't be
too concerned about this Bill because the
meth lab clean up standards are in the
statutory language. So it seems a little
redundant. And we are -- I have had some
conversations with the author of the
authors, and so we will see where that gets
us.

On the back of the page, they have
recreated the Geologic Carbon Dioxide
Storage Task Force. I am Co-Chair of that
task force along with Lori Rotenberry of
Corporation Commission. There was a
gathering of that group yesterday. There
are a couple of ideas that will go forward
as legislation. Some of the issues that
dealt with incentives, and some of the more
controversial issues, I think, there has
been a decision to wait for it another day.

And then the rest of these Bills are
Appropriation Bills. Questions about any
of those things?

MS. SAVAGE: Could we return just
a moment to 3219?

MR. STEVE THOMPSON: No. Of
course, we can.

MS. SAVAGE: I have a couple of
questions. We had a discussion in the last
ten years about the definition of an
environmental agency. And everyone thinks
of the DEQ as an environmental agency, but
the Department of Ag is an environmental
agency too, correct?

MR. STEVE THOMPSON: This is
directed specifically to our environmental
agencies that operate federal programs.

MS. SAVAGE: Do we have meat
inspectors?

MR. STEVE THOMPSON: Yes.
MS. SAVAGE: Is that not a federal --

MR. STEVE THOMPSON: Yes.

MS. SAVAGE: And if that comes under Ag, isn't Ag an environmental agency?

MR. STEVE THOMPSON: I don't -- well maybe and maybe not. If you are a meat inspector, that is probably food safety rather than the environment. But they do --

MS. SAVAGE: I thought that was the USDA, or something, but it's not USDA?

MR. STEVE THOMPSON: Not necessarily. But let me assure you that there are activities with the Department of Highways, Department of Transportation, relative to endangered species. There are activities -- the Department of Agriculture does have cooperative agreements to operate the CAFO Program with EPA. It has been my experience, that if you tell EPA that they can't do something, they will show you. So if you are in the regulated community, that one of the folks mentioned that -- one of
the regulated community that produces a product that powers our automobiles, mentioned that the fuel blending is inspected by the Environmental Protection Agency, and so what does that mean for that company, if you can't have a Federal Inspector review your fuel pumps?

So as I say, we find this intriguing and we are working with any number of other people to -

MS. SAVAGE: Well, that's kind of what I was wondering, are there other people who -

MR. STEVE THOMPSON: Yes. Yes.

MS. SAVAGE: Okay, that is what I wanted to know.

MR. STEVE THOMPSON: Questions?

MR. WUERFLEIN: Steve, would you review for me the difference between a Title being on or off? That always confuses me.

MR. STEVE THOMPSON: Oh, yes.

Jimmy probably does a better job of this, but really what taking the Title off is just a parliamentary activity that says
that this Bill can't ultimately pass until
you have an amendment to restore the Title.
So often, what you have is a work in
progress. Something that is a work in
progress or something that may not
necessarily -- may not end up being a
Statute. They take the Title Off, people
do work on the Bill - let's say it's a
work in progress.

MR. WUERFLEIN: So early in the
Session, it really doesn't have a whole lot
of bearing on the progress itself.

MR. STEVE THOMPSON: But
ultimately, there are different interests
on a Bill, and you don't satisfy all of
those interests. You have to actively have
a vote to restore the Title before the Bill
becomes law. So it's a way of giving
comfort to people that this bill - the
Title has to come back on it, before it
moves forward.

MR. DARK: After a Shell Bill
that -- this is a next step -

MR. STEVE THOMPSON: That is
right. Is that a fair assessment of it,
Jimmy?

MR. GIVENS: I think the simplest way to explain it is that typically, a Title is stricken in the House of Origin. Starting in the Senate (inaudible) -- starting in the House, it will be stricken in the House. And it's a way to guarantee to that body, that, that, Bill will come back to them.

MR. STEVE THOMPSON: So it's just a way to let people work on a bill and give comfort that it is -- a lot of things have to happen with the Bill before it actually becomes law.

Any other questions about that?.

Okay.

Moving to the budget. We, I guess -- it has been determined that our budget cut for this year will annualize be seven and a half percent, unless we have a shortfall. But it will be seven and a half percent for this year, which is what I think we anticipated when we met in November, we talked through those issues. The 2011 budget, we believe will be worse.
We still have some funds that they can use -- unless there is a significant upswing in the economy, there is some money, stimulus money, rainy day money, that can still be used in 2011 budget. We just will continue to work with the Legislature to see where we are for the coming budget year. Things are really going to have to change, or it will be beyond what we've taken. I would assume that it will be beyond what we have taken so far.

I will also tell you that we made a commitment. The Agency made a commitment that we would not make fee cases for the Councils and for you because I think everybody in this economy is probably struggling. And we have made a commitment to struggle along with them. But if this budget cut becomes significant in the out year, then we may have to think about some fee cases. Just a heads up to everybody about that.

We have been asked by the Environmental Protection Agency to list our three major - three issues, high profile,
or priority issues for us. We have named
-- EPA is moving to -- is revisiting the
Ozone Standard. They are revisiting based
on the notion that EPA should follow the
advise of the Clean Air Science Advisory
Committee who when this -- when the
standard was set at .075, recommended a
standard between .060 and .070. We don't
know where they are going to set that
standard, but we are -- they are guessing,
I guess, based on the conversations we have
had with them, that will either be .066,
.068, or .070.
In any event, absent an act of God,
both Oklahoma City and Tulsa will be in
nonattainment. It's on a schedule -- the
most interesting piece of this schedule, I
think, will be the fact that the Governor
will need to designate the areas of
nonattainment in January of next year. You
might recall that in November, we are going
to have an election. And we are going to
have a new Governor. So sometime between
the election of that Governor, and January
of 2011, we have got to get to the new
Governor and say, you have got to designate these areas. And the guidance for that is very much delayed, and we are working with EPA on this issue. But that is going to be a big thing for us. We thought at .0752, we would be in nonattainment, and we were very fortunate to have good weather, and a lot of things. But we are at -- even at .070, we are done.

The other issue that we are working with is the Illinois River, TMDL, that is being done by EPA.

Third item is related to the budget. We have said to EPA, there isn't any money for program administration, so how are we going to solve that problem?

MR. JOHNSTON: (Inaudible).

MR. STEVE THOMPSON: We are going to try to elevate that issue.

I wanted to call particular attention to the work that has been done on the American Recovery and Reinvestment Act or the Stimulus Funding. That Bill was passed on February 17th, or signed by the President on February 17, 2009, and gave us
and the Water Board one year to distribute
the 31.4 million dollars in drinking water
money and the 31.4 million dollars in Clean
Water Act money in that year. Well not
only did we do that, the people in Water
Quality did that. They did it a month and
a half ahead of schedule. The relatively
small state, by leveraging money that was
in the existing revolving account, the
relatively small state of Oklahoma, was
seventh in the county in the amount of
infrastructure financing that occurred in
the state. And we, along with Alabama, and
Maryland, were the first state in the
country to get the work done. And that is
incredible. But it is indicative -- in my
mind, it is indicative of the work that
goes on by the employees of the Department
of Environmental Quality. It is an
extraordinary thing, but it is indicative
of the work that gets done here.

And I am going to pay for this one,
but when I see bills that say we can make
government better. I don't know how in
the world you make it better than what we
are doing right here. Of course, my job, I
do my job well too, these people do all
that work and I get to run around taking
all the credit for it. Which I am very
good at, but I think what those folks did
is extraordinary and I am very proud of
that.

(Applause)

MR. STEVE THOMPSON: Okay. A
couple more things. You gave us the option
that we should have, in November, a Board
meeting in either Tulsa or Stillwater.
That is what you told us. So we were all
set to have a meeting in Tulsa, and then
somebody in the Agency popped up and said,
well, you know, you are having the meeting
in Norman this year. So we will be meeting
in Stillwater for our November meeting.
And the other thing is, that over
the past several years, we have not had a
meeting in June. We received some money to
distribute to folks for Brownfields work.
But because of the inclement weather, the
Hazardous Waste Council that had to develop
rules for us giving away the money, hasn't
had a chance to meet. So they are meeting in April and the deadline for getting this work done is July. So we will have to have a meeting in June. That meeting happens to be in El Reno. I will tell you in advance, that the people in El Reno will not always tell the truth. Particularly, about the way I acted in my youth. So if you hear anything like that, you should just ignore it. But we will be having meetings on June the 15th in El Reno, and on November the 16th in Stillwater.

Jimmy, is there anything I have forgotten?

MR. GIVENS: Just to clarify, we do have the August meeting.

MR. STEVE THOMPSON: Oh, yes, we will have that one too. That is the one in Norman, we're not going to miss that one.

DR. GALVIN: I have a quick question, I just want to make sure that the Stillwater meeting, that we are having that on campus at the ConocoPhillips Alumni Center. I get a double hit or double points for that.
(Multiple inaudible conversations)

MR. STEVE THOMPSON: It has been reserved and we are staying at the -- whatever that hotel is, motel or whatever it is you have there. I plan to be there for the meeting.

(Multiple inaudible conversations)

MR. STEVE THOMPSON: Madam Chairman, I probably have said more than I should have.

MS. CANTRELL: Thank you, Mr. Thompson. Well, we are now down to Item 12 which is new business, defined as any matter that is not known about, and which could not have been reasonably foreseen prior to the posting of the Agenda. Any new business today for the Board?

MR. WUERFLEIN: Madam Chairman.

It was brought to my attention last night that this Board meets at 9:30 in the morning because one of the earliest Chairmans couldn't make it at 9:00 o'clock. Why don't we start at 8:30 or 9:00 and be done by noon, as we always seem to be dragging past the lunch hour. I just
thought I would bring that up for future scheduling consideration.

MS. CANTRELL: Well, while we have everybody present, is there anybody opposed to starting at 9:00 as opposed to 9:30?

(Multiple inaudible conversations)

MR. CANTRELL: Okay, thank you, Mr. Wuerflein. Let's move then now to the -- I think Steve has already reminded everybody, the next meeting is in El Reno; August, Norman; November, Stillwater; and with that, I believe we are adjourned.

Thank you all for joining us today. We do not have anybody signed up for the Public Forum. Nobody signed our list, so there will be no Public Forum today in Oklahoma City.

Thank you all very much for coming.

(February 2010 Board Meeting Concluded)
CERTIFICATE

STATE OF OKLAHOMA  )  ss:
COUNTY OF OKLAHOMA  )

I, CHRISTY A. MYERS, Certified Shorthand Reporter in and for the State of Oklahoma, do hereby certify that the above meeting is the truth, the whole truth, and nothing but the truth; that the foregoing meeting was taken down in shorthand by me and thereafter transcribed under my direction; that said meeting was taken on the 28th day of February, 2010, at Oklahoma City, Oklahoma; and that I am neither attorney for, nor relative of any of said parties, nor otherwise interested in said action.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on this, the 6th day of April, 2010.

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