MINUTES
ENVIRONMENTAL QUALITY BOARD
June 22, 2004
OSU Student Union
Stillwater, Oklahoma

EQB Approved
August 24, 2004

Notice of Public Meeting The Environmental Quality Board convened for a regular meeting at 9:30 a.m. June 22, 2004 in Room 280 OSU Student Union, Stillwater, Oklahoma. This meeting was held in accordance with 25 O.S. Sections 301-314, with notice of the meeting given to the Secretary of State on October 13, 2003 and amended on May 19, 2004. The agenda was mailed to interested parties on June 10, 2004 and was posted on June 18, 2004 at the meeting facility and at the Department of Environmental Quality. Richard Wuerflein, Chair, called the meeting to order. Roll call was taken and a quorum was confirmed. Mr. Wuerflein introduced the two new Board members: Sandra Rose and Tony Dark.

MEMBERS PRESENT
Richard Wuerflein
Brita Cantrell
Mike Cassidy
Jack Coffman
Tony Dark
Bob Drake
Jerry Johnston
Steve Mason
Herschel Roberts
Sandra Rose

MEMBERS ABSENT
Jennifer Galvin
Ken Purdy
Terri Savage

DEQ STAFF PRESENT
Steve Thompson, Executive Director
Jimmy Givens, General Counsel
Eddie Terrill, Air Quality Division
Scott Thompson, Land Protection Division
Jon Craig, Water Quality Division
Judy Duncan, Customer Service Division
Myrna Bruce, Secretary, Board & Councils

OTHERS PRESENT
Susan Krug, Assistant Attorney General

The Attendance Sheet is attached as an official part of these Minutes.

Approval of Minutes Mr. Wuerflein called for motion to approve the Minutes of the February 27, 2004 Regular Meeting. Mr. Johnston made motion to approve the Minutes as presented. Mr. Wuerflein pointed out a change to be made on page two changing a sentence to read, “Ms. Krug, Assistant Attorney General, advised that the rules could be approved.” With that change, Mr. Drake seconded the motion.

Roll call.
Brita Cantrell     Yes     Jerry Johnston     Yes
Mike Cassidy      Abstain    Herschel Roberts    Yes
Jack Coffman      Yes     Sandra Rose         Yes
Tony Dark         Abstain    Richard Wuerflein   Yes
Bob Drake         Yes

Motion carried.

Rulemaking - OAC 252:020 Emergency Planning and Community Right to Know Ms. Judy Duncan, Customer Services Division Director, advised that under this rule facilities storing hazardous substances over threshold amounts are required to annually provide the DEQ the Hazardous Chemical Inventory or Tier 2 Form. Ms. Duncan explained that Board approval to update 252:020 would incorporate by reference the most current 40 CFR, July 1st, 2003, to reflect the exemption of retail gasoline stations for Tier 2 reporting, the current mailing addresses for Tier 2 forms that are sent to DEQ, as well as the current mailing addresses for claims of confidentiality sent to EPA. Mr. Wuerflein called for questions or comments from the Board and the public. Seeing none, he entertained a motion for approval as presented as a permanent rule. Mr. Mason made the motion and Mr. Coffman made the second.

Roll call.
Brita Cantrell     Yes     Jerry Johnston     Yes
Mike Cassidy      Yes     Steve Mason          Yes
Jack Coffman      Yes     Herschel Roberts    Yes
Jerry Johnston    Abstain    Sandra Rose         Yes

Motion carried.

Rulemaking - OAC 252:100 Air Pollution Control  The Air Quality Council Vice-Chair, Mr. David Branecky, advised that the Air Quality Council had made some minor revisions to Subchapter 8, Permits for Part 70 Sources that were driven by the need to move references in 252:2 to 252:4. The Council also approved minor textual changes for clarity purposes. With no questions from Board or the public, Mr. Wuerflein called for a motion. Mr. Johnston moved for approval as set forth by Mr. Branecky and Mr. Drake made the second.

Roll call.
Brita Cantrell Yes Jerry Johnston Yes
Mike Cassidy Yes Steve Mason Yes
Jack Coffman Yes Herschel Roberts Yes
Tony Dark Yes Sandra Rose Yes
Bob Drake Yes Richard Wuerflein Yes
Motion carried.

Rulemaking - OAC 252:300 Laboratory Accreditation  Ms. Judy Duncan presented staff proposal as Anthony Bright, Laboratory Services Advisory Council Chair, was unable to attend the meeting. Ms. Duncan advised that the amendment would add radionuclides to the list of drinking water categories for which a laboratory may be accredited. She pointed out that when the rules were first adopted, accreditation under the drinking water category for radionuclides was not offered because the DEQ did not have the capability to provide inspections of laboratories that did radionuclide analysis. She related that with the advent of the National Environmental Laboratory Accreditation Program, the DEQ could now provide this service. She provided a copy of Appendix A which adds the radionuclides category explaining that it was unintentionally left out of the Board’s information packet. Ms. Duncan proposed amendment of the text in 252:300-20 to add the radionuclides category and then also to adopt the new Appendix A that provides the specifics for that category. Ms. Duncan stated that compelling public interest necessitates the seeking of emergency certification of the rule and encouraged Board to adopt as an emergency. Mr. Wuerflein entertained a motion for finding of an emergency for adopting this rule. Mr. Coffman made the motion and Mr. Dark made the second.

Roll call.
Brita Cantrell Yes Jerry Johnston Yes
Mike Cassidy Yes Steve Mason Yes
Jack Coffman Yes Herschel Roberts Abstain
Tony Dark Yes Sandra Rose Yes
Bob Drake Yes Richard Wuerflein Yes
Motion carried.

With that approval, Mr. Wuerflein called for motion for emergency adoption of the rule and Appendix A as presented. Ms. Cantrell made that motion and Mr. Johnston made the second.

Roll call.
Brita Cantrell Yes Jerry Johnston Yes
Mike Cassidy Yes Steve Mason Yes
Jack Coffman Yes Herschel Roberts Abstain
Tony Dark Yes Sandra Rose Yes
Bob Drake Yes Richard Wuerflein Yes
Motion carried.

With that approval, Mr. Wuerflein called for motion for permanent adoption of the rule and Appendix A as presented. Mr. Coffman made that motion and Ms. Cantrell made the second.

Roll call.
Brita Cantrell Yes Jerry Johnston Yes
Mike Cassidy Yes Steve Mason Yes
Jack Coffman Yes Herschel Roberts Abstain
Tony Dark Yes Sandra Rose Yes
Bob Drake Yes Richard Wuerflein Yes
**Annual Performance Review of Executive Director**  Mr. Wuerflein advised that one statutory function of the Board is to appoint and set compensation and review the performance of the Executive Director. Mr. Wuerflein advised that a room was available to meet in Executive Session if that would be the Board’s desire. Mr. Mason made motion to enter into Executive Session. Ms. Rose made the second. Ms. Bruce was asked to take minutes during the session. Roll call was taken and the Board adjourned to the Executive Session at 9:55 a.m.

At 10:30 a.m. Mr. Wuerflein called for motion to return to general session. Mr. Johnston made the motion and the second was from Mr. Coffman.

Mr. Wuerflein advised that during Executive Session, the Board agreed to increase Mr. Thompson’s salary by $1400 to the current legislative salary cap. Mr. Johnston made motion to accept that amount but wanted the record to show that is the only amount the Board could approve at this time due to the salary cap. Mr. Cassidy seconded that motion. After discussion, Mr. Johnston asked to amend his motion to reflect that all of the Board members are very pleased with Mr. Thompson’s performance and that a $1400 raise in salary is the maximum allowable by law. With the motion made and amended, Mr. Wuerflein asked for roll call to accept the decision made by the Board during Executive Session.

**New Business**  Mr. Wuerflein encouraged Board members to attend the Council meetings within their realm of interest. He felt that some personal feeling of what items were discussed and what issues were brought before the Councils would be important to the Board’s decision-making.

**Executive Director’s Report**  Mr. Thompson thanked the Board for the performance review and their vote of confidence.

Mr. Jimmy Givens, General Counsel, updated the Board on the statutory requirements to provide financial disclosures advising that Wayne Craney was the only disclosure.

Mr. Thompson reported that all pieces of the legislative package approved by the Board in November were passed by the Legislature adding that a particularly important one was the elimination of the Biomedical Waste Certificate of Need.
Mr. Thompson reported that the budget was probably a little bit better than a wash, although there still remains concern about the ability to protect fee funds from uses outside of what they were intended.

Mr. Thompson was proud to mention that the Department received the Governor's Economic Development Team and the Department of Commerce Economic Development Partner of the Year award, adding that they were particularly congratulatory to the Air Quality Division and the Customer Services Division.

Mr. Thompson handed out a list of sample requirements showing an increase in the Laboratory sample load due to federal requirements. He added that DEQ is working very hard both with the Legislature and with the federal government to help meet the fiscal needs of those mandates, both for the Department and for local communities.

Mr. Johnston commented that he is excited to be back on a local government committee that meets directly with the EPA. He added that they meet four times a year in the regions and a couple of times in Washington, D.C. He stated that they have a designated federal officer that is really interested in listening to the needs of small communities; therefore, he would pass information on through the committee. Mr. Johnston asked particularly for input about how arsenic rules or rules like that really affect people and how extremely expensive they are for small communities.

Mr. Thompson added that the DEQ became the banker/paymaster for the Governor's relocation effort at Tar Creek stating that task would be handled within the Administrative Services section under David Dyke.

With no further questions or comments, Mr. Wuerflein called for a motion to adjourn. Mr. Coffman made the motion and Mr. Dark made the second. Roll call unanimous. The meeting adjourned at 10:50 and the Public Forum followed.

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

* * * * *
TRANSCRIPT OF PROCEEDINGS
OF REGULAR MEETING
HELD ON JUNE 22, 2004, AT 9:30 A.M.
IN STILLWATER, OKLAHOMA

* * * * *

REPORTED BY: Christy A. Myers, CSR
MEMBERS OF THE COUNCIL

Richard Wuerflein - Chairman
Brita Cantrell
Jack Coffman
Bob Drake
Jennifer Galvin
Jerry Johnston
Steve Mason
Herschel Roberts
Terri Savage
Don Ukens
Anthony Dark

STAFF MEMBERS

Myrna Bruce - Secretary
Jimmy Givens - General Counsel
Steve Thompson - Executive Director
Susan Krug - Assistant Attorney General

Christy A. Myers
Certified Shorthand Reporter
MR. WUERFLEIN: I notice the Board is all seated, it's 9:30, we'll call the meeting to order. This regular meeting of the Environmental Quality Board has been called according to the Oklahoma Open Meeting Act, Section 311 of Title 25 of the Oklahoma Statutes.

Notice was filed with the Secretary of State on October 13th, 2003, and amended on May 19th, 2004.

Agendas were mailed to interested parties on June 11th, 2004. The agenda for this meeting was posted on Friday, June 18th, 2004, at the Department of Environmental Quality, 707 North Robinson, in Oklahoma City and at OSU, Sequoyah Room 280 of the Student Union Center, Stillwater, Oklahoma.

Only matters appearing on the posted agenda may be considered. If this meeting is continued or reconvened, we must announce today the date, time and place of

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the continued meeting and the agenda for
such continuation will remain the same as
today's agenda.

I already misplaced my agenda.

Myrna, are you ready for roll call?

MS. BRUCE: Ms. Cantrell.
MS. CANTRELL: Here.

MS. BRUCE: Mr. Cassidy.
MR. CASSIDY: Here.

MS. BRUCE: Mr. Coffman.
MR. COFFMAN: Here.

MS. BRUCE: Mr. Dark
MR. DARK: Here.

MS. BRUCE: Mr. Drake.
MR. DRAKE: Here.

MS. BRUCE: Ms. Galvin is absent.

Mr. Johnston.

MR. JOHNSTON: Here.

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

MS. BRUCE: Mr. Purdy is absent.

Mr. Roberts.

MR. ROBERTS: Here.

MS. BRUCE: Ms. Rose.
MS. ROSE: Here.

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MS. BRUCE: Ms. Savage is absent.

Mr. Wuerflein.

MR. WUERFLEIN: Here.

It appears we have a quorum. Item No. 3 on the agenda is Approval of Minutes of our last Board meeting.

MR. JOHNSTON: Move to approve.

MR. WUERFLEIN: I've had a request for one change on page 2, where Ms. Krug wants to have her title -- she doesn't want to be General Counsel for the Board, she wants to be listed as Assistant Attorney General.

And, also, it says expressed support. She says it's not her position to express support, but she advised -- change that to advise that the rules are -- excuse me, the rules could be approved. That was the only -- but one other typo, but I think that will be okay. The one where it says make instead of made. Do I have a second?

MR. DRAKE: Second.

MR. WUERFLEIN: Bob Drake seconded. I guess we need a roll call for the Minutes.
MS. BRUCE: Ms. Cantrell.

MS. CANTRELL: Yes.

MS. BRUCE: Mr. Cassidy.

MR. CASSIDY: Abstain.

MS. BRUCE: Mr. Coffman.

MR. COFFMAN: Yes.

MS. BRUCE: Mr. Dark.

MR. DARK: Abstain.

MS. BRUCE: Mr. Drake.

MR. DRAKE: Yes.

MS. BRUCE: Mr. Johnston.

MR. JOHNSTON: Yes.

MS. BRUCE: Mr. Mason.

MR. MASON: Yes.

MS. BRUCE: Mr. Roberts.

MR. ROBERTS: Aye.

MS. BRUCE: Ms. Rose.

MS. ROSE: Aye.

MS. BRUCE: Mr. Wuerflein.

MR. WUERFLEIN: Yes.

MS. BRUCE: Motion approved.

MR. WUERFLEIN: I forgot to introduce our new Board Members joining us for the first time today.

Sandra Rose. And Sandra grew up in

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El Reno, attended OSU as a 4H scholarship, transferred and got her degree at the University of Oklahoma with a Bachelor of Science while working in medical research. Received a science degree from Baylor University, and has lived and raised two children in Norman. She has been involved in many volunteer activities with the school systems, cub scouts and other community organizations. Has served on the Norman Future Committee, which works to update land use, transportation plans and municipal plans. Active in the Oklahoma Chapter of the Sierra Club and the Red Earth Group, where she has been involved in many chapters of legislative and political committees. And we welcome you and look forward to your input.

Also joining us is Tony Dark. Welcome, Tony. Tony is -- used to own FHC Engineering Firm, who he sold to Tetra Tech. He now works for Tetra Tech. The last several years or since 2001 has been Global Director of Homeland Security, where he has traveled the nation -- and I don't

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know if I'm going to read all of this, but worked on many security pursuits with the Homeland Security, with the Corps of Engineers and EPA, works with many municipal systems, ports and public water systems. He was born and raised in Broken Arrow, still lives there and raised his kids there and we welcome you.

Back to our agenda. Item No. 4.

I'll turn the floor over to Judy Duncan.

This is Chapter 252:20.

MS. DUNCAN: Good morning.

Chapter 252:20 is -- it covers Emergency Planning and Community Right-to-Know. And under the Emergency Planning and Community Right-to-Know rules, facilities storing hazardous substances as defined by OSHA, and have their substances over threshold amounts are required to report to DEQ annually. This report is known as the Hazardous Chemical Inventory or Tier 2 Form.

The current rule, it incorporates by reference the 40 CFR Parts 355, 370 and 372. The version of 40 CFR that is cited

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in the current rule is July 1st, 1994. In 1999, EPA changed Part 370 to exempt most retail gasoline stations with underground storage tanks. And DEQ has been operating according to the most recent EPA change, although our rules do not reflect that change.

So what we're proposing to do here today is to update 252:020 to incorporate by reference the most current 40 CFR, which is that of July 1st, 2003. And that will - the rules will then reflect the exemption of retail gasoline stations from Tier 2 reporting.

In addition, the rule would change - we changed to reflect the current mailing addresses for Tier 2 forms that are sent to DEQ, as well as the current mailing addresses for claims of confidentiality, which are sent to EPA.

MR. WUERFLEIN: Thank you. Are there any questions or comments from the Board? Any questions from the public? Open this up to public comment. Seeing none, any final questions or comments from

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the Board? If not, I'll entertain a motion to approve this as a permanent rule.

MR. MASON: So moved.

MR. WUERFLEIN: Steve. Second?

MR. COFFMAN: Second.


MS. BRUCE: Ms. Cantrell.

MS. CANTRELL: Yes.

MS. BRUCE: Mr. Cassidy.

MR. CASSIDY: Yes.

MS. BRUCE: Mr. Coffman.

MR. COFFMAN: Yes.

MS. BRUCE: Mr. Dark.

MR. DARK: Yes.

MS. BRUCE: Mr. Drake.

MR. DRAKE: Yes.

MS. BRUCE: Mr. Johnston.

MR. JOHNSTON: Yes.

MS. BRUCE: Mr. Mason.

MR. MASON: Yes.

MS. BRUCE: Mr. Roberts.

MR. ROBERTS: Aye.

MS. BRUCE: Ms. Rose.

MS. ROSE: Yes.

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MS. BRUCE: Mr. Wuerflein.

MR. WUERFLEIN: Yes.

MS. BRUCE: Motion approved.

MR. WUERFLEIN: Okay. Item No. 5 is 252:100, Air Pollution Control. David is speaking for that instead of Sharon.

MR. THOMPSON: David Branecky.

MR. WUERFLEIN: David Branecky.

MR. BRANECKY: Good morning.

Thank you, Mr. Chairman. What I'm bringing you today is Subchapter 8, Permits for Part 70 Sources. The Council, the Air Quality Council, made some minor revisions. The revisions were primarily driven by the change in the 252, Chapter 2, which was moved to 252, Chapter 4. There were references in Subchapter 8, that referenced Subchapter 2, so we had to revise those.

And while we were at it, there were other minor textural changes for clarity purposes. We heard the revisions on April 14th of this year, and I'm bringing those to you today.

And rather than go through all the changes, I'll just answer any questions.
that anyone has at this time.

MR. WUERFLEIN: Okay. We'll open it up to questions from the Board. Okay. I see none at this time. We'll open it up to public comment. Are there any questions from the public? Seeing none, I'll return to the Board. Any final comments from the Board? If not, we'll entertain a motion.

MR. JOHNSTON: So moved.

MR. WUERFLEIN: Jerry Johnston. Is there a second?

MR. DRAKE: Second.

MR. WUERFLEIN: Second, Bob Drake. No further comments. We'll have a roll call.

MS. BRUCE: Ms. Cantrell.

MS. CANTRELL: Yes.

MS. BRUCE: Mr. Cassidy.

MR. CASSIDY: Yes.

MS. BRUCE: Mr. Coffman.

MR. COFFMAN: Yes.

MS. BRUCE: Mr. Dark.

MR. DARK: Yes.

MS. BRUCE: Mr. Drake.

MR. DRAKE: Yes.

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MS. BRUCE: Mr. Johnston.

MR. JOHNSTON: Yes.

MS. BRUCE: Mr. Mason.

MR. MASON: Yes.

MS. BRUCE: Mr. Roberts.

MR. ROBERTS: Aye.

MS. BRUCE: Ms. Rose.

MS. ROSE: Yes.

MS. BRUCE: Mr. Wuerflein.

MR. WUERFLEIN: Yes.

MS. BRUCE: Motion passed.

MR. WUERFLEIN: Item No. 6, 252, Chapter 300 on Laboratory Accreditation. And since Tony Bright is not here, I'll return to Judy Duncan to explain this.

MS. DUNCAN: Tony sends his apologies. Some of his requirements at his workplace didn't allow him to be here today, so I am substituting for him today.

The proposed amendment to Subchapter 21 of Chapter 300, adds radionuclides to the drinking water categories for which a laboratory may be accredited. When we first adopted these rules at the time that DEQ was formed, we didn't offer...
accreditation under the drinking water category for radionuclides because, at that time, we didn't have the capability to provide inspections of laboratories that did radionuclide analysis.

With the advent of the National Environmental Laboratory Accreditation Program, we are now able to take advantage of the services that the other states may provide. And so we have several laboratories in state that have become accredited as drinking water laboratories for radionuclides, other states. We can accept those inspections and we would like to be able to allow those people to provide that service to our public water supplies in the state.

And so this action means that it simply adds to the categories under the drinking water accreditation, a radionuclides category. And we found out this morning that we failed to send out a part of the actual text of the rule to you. The part that we failed to send out was the Appendix A. And what we sent to

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you -- the Appendix A had six
subcategories, we added a seventh
subcategory for radionuclides, and the
specific radionuclides that we will be
offering accreditation for, if you pass
this rule, are gross alpha, radium 226 and
288, uranium, gross beta, tritium and
strontium 90.

And these are the radionuclides that
our drinking water supplies are required to
test for, essentially required to test for.
So what we're proposing here today
is to amend the text of 252:300, Subchapter
20, to add the radionuclides category and
then also to adopt the new appendix that
provides the specifics for that category.
In addition, we're requesting that
this rule be passed by emergency and we
find the compelling public interest
necessitates the seeking of emergency
certification of the rule to be adopted
today.

And recent changes to the monitoring
requirements for public water supplies
under the Safe Drinking Water Act have

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expanded the scope of monitoring for radionuclides in drinking water, and the revision that adds the radionuclide category for drinking water laboratory accreditation, so that accredited laboratories can monitor and offer that service to public water supplies.

The proposed rule -- radionuclide testing is a very specialized service that very few laboratories are qualified to perform and we want to give the opportunity for laboratories in the state and out of state to offer this service to public water supplies in the state.

MR. WUERFLEIN: Thank you. Any questions from the Board? I've got one. Since you're asking for emergency, does this take two votes? One to find emergency and one to pass it, or can it all be done at one time?

MS. KRUG: You should probably find an emergency first.

MR. WUERFLEIN: Okay. Two separate votes. Any other discussion from the Board? We'll open it up to public

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comment. Any questions or comments from
the public? Seeing none, I would entertain
a motion to find the emergency for adopting
this rule.

MR. COFFMAN: So moved.

MR. WUERFLEIN: That's Jack Coffman. Second?

MR. DARK: Second.

MR. WUERFLEIN: Second is Tony Dark. Roll call.

MS. BRUCE: Ms. Cantrell.

MS. CANTRELL: Yes.

MS. BRUCE: Mr. Cassidy.

MR. CASSIDY: Yes.

MS. BRUCE: Mr. Coffman.

MR. COFFMAN: Yes.

MS. BRUCE: Mr. Dark.

MR. DARK: Yes.

MS. BRUCE: Mr. Drake.

MR. DRAKE: Yes.

MS. BRUCE: Mr. Johnston.

MR. JOHNSTON: Yes.

MS. BRUCE: Mr. Mason.

MR. MASON: Yes.

MS. BRUCE: Mr. Roberts.

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MR. ROBERTS: Abstain.

MS. BRUCE: Ms. Rose.

MS. ROSE: Yes.

MS. BRUCE: Mr. Wuerflein.

MR. WUERFLEIN: Yes.

MS. BRUCE: Motion passed.

MR. WUERFLEIN: Okay. So that finds the emergency. Now we need a motion to adopt the rule as presented and rule on Appendix A.

MS. CANTRELL: So moved.

MR. WUERFLEIN: Brita Cantrell.

Second?

MR. JOHNSTON: Second.


MS. BRUCE: Ms. Cantrell.

MS. CANTRELL: Yes.

MS. BRUCE: Mr. Cassidy.

MR. CASSIDY: Yes.

MS. BRUCE: Mr. Coffman.

MR. COFFMAN: Yes.

MS. BRUCE: Mr. Dark.

MR. DARK: Yes.

MS. BRUCE: Mr. Drake.
MR. DRAKE: Yes.

MS. BRUCE: Mr. Johnston.

MR. JOHNSTON: Yes.

MS. BRUCE: Mr. Mason.

MR. MASON: Yes.

MS. BRUCE: Mr. Roberts.

MR. ROBERTS: Abstain.

MS. BRUCE: Ms. Rose.

MS. ROSE: Yes.

MS. BRUCE: Mr. Wuerflein.

MR. WUERFLEIN: Yes.

MS. DUNCAN: Thank you.

MR. WUERFLEIN: Thank you, Judy.

MR. GIVENS: Mr. Chairman, may I raise a point of order? I'm not clear whether we have adopted only by emergency or by emergency, as well as permanent. And my understanding is that we are proposing a permanent adoption simultaneously with the emergency adoption.

MS. DUNCAN: That's true. I'm sorry.

MS. KRUG: That wasn't clear from the agenda.

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MR. WUERFLEIN: Let's just make that clear and do a re-vote. The understanding is that this is a motion to adopt by permanent and emergency and we'll --

MR. COFFMAN: You already have the emergency.

MR. WUERFLEIN: We already have the -- okay.

MR. COFFMAN: So let's just vote on the permanent.

MR. WUERFLEIN: Vote on permanent. Okay.

MR. COFFMAN: And I'll so move.

MR. WUERFLEIN: That was Jack Coffman. I think Brita made the original motion. Is that still fine to put you as a second?

MS. CANTRELL: Yes. Absolutely. I'll second.

MR. WUERFLEIN: Okay. So, to clarify that, we'll just vote that and we are voting for permanent adoption.

MS. BRUCE: Ms. Cantrell.

MS. CANTRELL: Yes.
Item No. 7 is the Annual Performance Review of the Executive Director. That is -- the statutory function of this Board is to appoint and set compensation and review the performance of the Executive Director.
So we have the opportunity to go into Executive Session. There is a room available at the back. If that is the Board's desire, we'll need to have a motion to go into Executive Session.

MR. MASON: So moved.

MR. WUERFLEIN: Steve Mason.

Second?

MS. ROSE: Second.

MR. WUERFLEIN: Okay. Sandra. I heard from both sides here. That probably takes a roll call vote then, too. Roll call vote then.

MS. BRUCE: Ms. Cantrell.

MS. CANTRELL: Yes.

MS. BRUCE: Mr. Cassidy.

MR. CASSIDY: Yes.

MS. BRUCE: Mr. Coffman.

MR. COFFMAN: Yes.

MS. BRUCE: Mr. Dark.

MR. DARK: Yes.

MS. BRUCE: Mr. Drake.

MR. DRAKE: Yes.

MS. BRUCE: Mr. Johnston.

MR. JOHNSTON: Yes.

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MS. BRUCE: Mr. Mason.

MR. MASON: Yes.

MS. BRUCE: Mr. Roberts.

MR. ROBERTS: Aye.

MS. BRUCE: Ms. Rose.

MS. ROSE: Yes.

MS. BRUCE: Mr. Wuerflein.

MR. WUERFLEIN: Yes. We need to determine who can take minutes. Myrna, would you be able to take minutes for us during Executive Session?

MS. BRUCE: Yes, sir.

MR. WUERFLEIN: Okay.

MR. THOMPSON: The room that we're going to use for Executive Session is the room with the door now open to the left, back by Ellen. So we'll adjourn back there.

(Whereupon, the Board went into Executive Session after which the following took place.)

MR. JOHNSTON: I would move --

MR. WUERFLEIN: Call Jerry Johnston, move to --

MR. JOHNSTON: -- we go back into
regular session.

MR. WUERFLEIN: Motion to come back into open regular session. And that was seconded by Jack. So we'll have a roll call vote to enter executive session -- or open session.

MS. BRUCE: Ms. Cantrell.

MS. CANTRELL: Yes.

MS. BRUCE: Mr. Cassidy.

MR. CASSIDY: Yes.

MS. BRUCE: Mr. Coffman.

MR. COFFMAN: Yes.

MS. BRUCE: Mr. Dark.

MR. DARK: Yes.

MS. BRUCE: Mr. Drake.

MR. DRAKE: Yes.

MS. BRUCE: Mr. Johnston.

MR. JOHNSTON: Yes.

MS. BRUCE: Mr. Mason.

MR. MASON: Yes.

MS. BRUCE: Mr. Roberts.

MR. ROBERTS: Aye.

MS. BRUCE: Ms. Rose.

MS. ROSE: Yes.

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

Now we would entertain a motion to address the issues discussed in Executive Session. One was the -- to accept the legislative increase to the salary cap of $1,400.

MR. JOHNSTON: I would move that.

MR. WUERFLEIN: Jerry Johnston moved to accept that.

MR. CASSIDY: Second.

MR. WUERFLEIN: Seconded by Mike Cassidy. Any other discussion? We'll ask for a roll call vote.

MS. BRUCE: Ms. Cantrell.

MS. CANTRELL: Yes.

MS. BRUCE: Mr. Cassidy.

MR. CASSIDY: Yes.

MS. BRUCE: Mr. Coffman.

MR. COFFMAN: Yes.

MS. BRUCE: Mr. Dark.

MR. DARK: Yes.

MS. BRUCE: Mr. Drake.

MR. DRAKE: Yes.

MS. BRUCE: Mr. Johnston.

MR. JOHNSTON: Yes.
26

MR. MASON: Yes.

MS. BRUCE: Mr. Roberts.

MR. ROBERTS: Aye.

MS. BRUCE: Ms. Rose.

MS. ROSE: Yes.

MS. BRUCE: Mr. Wuerflein.

MR. WUERFLEIN: Yes.

MR. JOHNSTON: I think it probably needs to show that that is the only increase that we could do, the most that we could do.

MR. WUERFLEIN: There was discussion on having the staff look into making sure that our staff was receiving the maximum in benefits and salary package that is possible. We all want to make sure we're leaving something on the table, because legislatively we think -- we feel we are at the cap and we don't want to -- don't want to miss anything.

MR. JOHNSTON: It also needs to be mentioned somehow that his -- the Executive Director's -- we're extremely satisfied with the Executive Director's

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work.

MR. WUERFLEIN: Correct.

MR. JOHNSTON: And it needs to get in there somehow.

MS. KRUG: Maybe you should just amend your motion to include that you --

MR. JOHNSTON: Okay.

MS. KRUG: -- reviewed his performance and are pleased with his performance and you're raising him the maximal allowable by law --

MR. JOHNSTON: Okay.

MS. KRUG: -- in the amount of $1,400.

MR. JOHNSTON: So moved.

MR. WUERFLEIN: So accepted. I think that is the general consensus of the group. If you understand what we're talking about, include that in the motion to accept the salary cap as a vote of confidence. Okay.

Moving on to Agenda Item 8, New Business. Do what? We took a vote on accepting the fourteen and we roll called it.

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MS. KRUG: All right.

MR. WUERFLEIN: And now we've just kind of amended it, we clarified the motion is what we were doing at the end.

MS. KRUG: Very good. All right.

MR. JOHNSTON: Just clarifying.

MR. WUERFLEIN: One item that is not anything we need to act on today, that is the representation on Councils by members of this Board and it hasn't been updated in a while. We have several new members.

But for your information, we have tried to name a member of this Board to attend as a non-voting member at Council meetings so that when issues do come before this Board, there is some personal feeling of what discussion and what issues were brought up at the Councils, besides just the Chairman of the Council making their report of rule changes.

And we ask that -- staff has come up with a list of, you know, the seven or eight different Councils, Air Quality, Water Quality, Water Systems, Lab Systems,
that are available to be reviewed and they
are going to be sending out a list of which
ones have vacancies now.

And if you want to -- if you've been
assigned to one in the past and you'd
rather attend some other Council's
meetings, we're going to reschedule that
between now and the next general Board
meeting.

I know the Air Quality Council, both
of our -- both of our Board Members have
been replaced by, you know, new Board
Members that were serving on that Council.
That is open. The Water and Wastewater
Division Council's position is open.

We don't have, you know, anybody
else. You'll be receiving a letter on that
and, you know, send it back to me or to the
office and we'll get those assignments made
so that all the Councils are covered.

I'll turn it over to Steve for
Executive Director's Report.

MR. THOMPSON: Thank you, Mr.
Chairman. And I thank the Board for their
vote of confidence.
First, I'm going to call on Jimmy to make some disclosures relative to financial disclosures that are statutorily required.

MR. GIVENS: Members of the Board, you will recall, if you have been on this Board for very long at all, that we are required by statute to disclose to you, after the employees have disclosed to the Executive Director, any interest they have in any entity that we regulate.

If they either receive compensation from an entity that we regulate or, much more commonly, if they have any stockholder interest in any entity that we regulate.

And the only change that we have to report this time is that Wayne Craney of the Water Quality Division has disclosed that he now holds shares in OG&E.

For your information, if you haven't been a part of this process before, we not only report this to you so that you can perform your general oversight function, but I follow-up on this with a memo to the Division Director of any divisions who have had employees report interest.

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I highlight for them the employees that have made that disclosure and they, in turn, are required to take that, go to the immediate supervisor of that particular employee, and ensure that that employee has no work that relates to the entity that they hold an interest in. That's the way we follow-up on that disclosure after making it to you today.

If there are any questions, I would be glad to entertain them, but that's the only disclosure that we have.

MR. THOMPSON: Any other questions? Okay. Thank you, Jimmy.

Just a couple of items from me. This is the first Board meeting after the legislative session. And I will generally report to you -- you will recall, we bring to you legislative issues that the Department believes are important to address in November and the Board approves that package.

All pieces of the legislative package that you approved in November were passed by the Legislature. I think one of

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the ones that was of particular importance
to the Board was the issue of the --
issuing the biomedical waste certificate of
needs. That was eliminated and I think
that's something the Board was very
interested in.

I would also report to you that as
session goes along, there are issues that
are of concern to the Agency and most of
those -- well, all of those issues that we
believed were of concern, failed to gain
passage. So in some sense, we had a pretty
successful legislative session.

I will report to you that relative
to the budget, our original budget included
only general revenue money for the
percentage of general revenue funds that
the Agency received.

So it was only about 20 percent of
the need to cover the $1,400 per employee
cost of the pay raise mandated by the
Legislature. We argued very strongly that
just because we're only funded 20 percent
did not mean -- we didn't get automatic fee
increases or federal funds increases when

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they raise people's salaries. And that, in
fact, was a budget cut.

So the Legislature restored full
funding for the salary increase and then
took $400,000 out of our fee account. But
we're talking about ongoing money as
opposed to one-time money.

Now, we're going to have to do some
things, some accounting -- take care of
some accounting issues and take care of
some priority issues to avoid having that
size fee fund going into the Session next
year and we're going -- we've identified
some ways to accomplish that.

We did receive back the opportunity
for $400,000 in funding from the gross
production tax. We're second on the
priority list, which means that sometime
later in the fiscal year we'll probably
receive that $400,000 in funding.

So as far as the budget is
concerned, it was probably a little bit
better than a wash, although we remain
concerned about our ability to protect fee
funds from uses outside of what they were

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intended.

One item that I failed to mention in February that I think we're particularly proud of -- I did mention it in the evaluation form, but the Department received from the Governor's Economic Development Team and from the Department of Commerce, the Economic Development Partner of the Year Award. And they were particularly congratulatory of our Air Quality Division and our Customer Services Division.

What we do when a -- when there is a new prospect in the state is send a permit assistance team out to meet with that facility. We think that does a couple of things.

It enhances their understanding of what their requirements are going to be so they have an understanding going in what they're going to need to do.

And it helps them schedule their construction and operation so that we can meet our permit requirements in conjunction with their planning.

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So it's proven to be a pretty effective tool, we believe, for both economic development and for the environment and we were given that award by the Governor's Economic Development Team and by the Department of Commerce this year.

One other thing I want to pass out is, we have talked a little bit about the impact of federal requirements in the public water supply.

This is a list of our sample requirements in the lab over the last several years, including the first part of this year. There is no clear pattern, but you can see in some of the analysis of the number of samples we run, that we are beginning to see an increase in the sample load due to the federal requirements.

I think you will see that only increase over the next couple of years and we are working very hard both with the Legislature and with the federal government to help us meet the fiscal needs of those federal mandates, both for the Department

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and for local communities.

With that, Mr. Chairman, unless there are any questions, that concludes my report.

MR. JOHNSTON: I would like to make --

MR. WUERFLEIN: Jerry.

MR. JOHNSTON: -- a statement, if I could. I am currently, thanks to Steve, back on a -- it's called a -- it's local government advisory committee that meets directly with the EPA. We meet four times a year, we meet in the regions and a couple times in Washington, D.C.

And we do have pretty fair input. In the 95 Act of Congress, it says that we need to have this local government small community people that has some input in what goes on.

Actually, they do, which is kind of bogus, but anyway we get to holler at them one on one up there. If you have, especially companies that are directly involved with small communities and towns and have some really good facts I can use.

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about how arsenic rules or rules like that
really affect your people and how extremely
expensive they are, in some cases
impossible, in most cases impossible to
treat, it's usually a new water supply, but
any information like that that I can use
when I get up there one on one with those
people, I would really appreciate it.
Because they are actually -- we have a new
DFO, which is Designated Federal Officer,
that is really interested in listening to
us now and we haven't had one in the past
and it's kind of exciting to be back up
there.

But you do have -- well, it's kind
of more influence than the average bear, I
want to say, but you do have a chance to
talk to people that do make the rules and
talk to enforcement. And one of the bright
lights in all this is to come to a
different understanding of what you can and
can't do in a rural community.

You know, before they said we can
make you do anything, which is impossible
if they come in and fine you $10,000 a day

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and your whole budget is $5,000, there

isn't a whole lot you can do above that.

You know, you can say, you can take
all our money, we haven't fixed anything,
now what do we do. And they don't want to
run a town, I found that out. But any
information like that can really be helpful
to me to bring the facts up to them. We
went to a meeting in Ada and at the Kerr
Foundation and any of the problems in
Norman with their water, none of the ten
solutions that they made to work, none of
them will work. I mean, they will work if
everybody wants to pay a hundred dollar a
month water bill, but none of them really
work. Basically the only thing to work is
to find some -- a different supply of
water, or more supplies that doesn't have
arsenic in it.

So anything like that that you can
do -- I know Jack's been working on some
things, anything that you can do like that
will help me more represent it to of the
people in the state, I really appreciate
it.

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MR. WUERFLEIN: Thank you, Jerry.

I've got a question, Steve, this one on Tar Creek. It says to we're designated as the banker --

MR. THOMPSON: I'm sorry.

MR. WUERFLEIN: -- for the Governor's buyout. Where do we -- do we get any administrative fees from that deal or what's the compromise?

MR. THOMPSON: No. Just more work. We did become the banker for the Governor's relocation effort at Tar Creek.

MR. DARK: There's your opportunity for $400,000, right?

MR. THOMPSON: Exactly. Well, there may be less high profile opportunities. I think actually it was a situation where -- I don't know how to describe this other than to say there were certain fractions on both sides of this that looked for somebody that both of them trusted to place the money and that turned out to be us.

Our responsibility will be simply to, as being the paymaster, although

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anytime you're involved in something of this magnitude, we're going to have to look at very closely how those kinds of decisions were made. And we work extremely closely with the Governor's office about that.

So it's another issue like the asbestos program that we didn't go looking for that seemed to come our way. But we'll be -- we'll work through the issues and we'll be fine with it, but we are, in fact, the banker for that effort.

MR. WUERFLEIN: That's handled by Customer Services Division?

MR. THOMPSON: No, we had two choices really to do that. We could put it in Land Protection and Scott would do everything he could to take the money and use it for some other purpose, or we could put it in Administrative Services, which is a paymaster function.

And we decided discretion was the better part of valor and we put it in Administrative Services. So David Dyke is the guy that will be responsible for that.

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MR. WUERFLEIN: Okay. Any other questions for Steve? If not, that concludes the agenda and we'll entertain a motion adjourn.

MR. COFFMAN: So moved.

MR. DARK: Second.

MR. WUERFLEIN: Jack. I heard a second, but I didn't catch from where. Tony over here. Do we need a roll call to adjourn or just a voice vote? No roll call vote. All in favor, say aye.

(Board voted unanimously to adjourn.)

(END OF PROCEEDINGS)

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CERTIFICATE

STATE OF OKLAHOMA )
COUNTY OF OKLAHOMA ) ss:

I, CHRISTY A. MYERS, Certified Shorthand Reporter in and for the State of Oklahoma, do hereby certify that the above proceedings is the truth, the whole truth, and nothing but the truth; that the foregoing proceedings were tape recorded by me and thereafter transcribed under my direction; that said proceedings were taken on the 22nd day of June, 2004, at Stillwater, 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 11th day of July, 2004.

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

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