

MINUTES
ENVIRONMENTAL QUALITY BOARD
August 24, 2004
Gordon Cooper Technology Center – Seminar Center
One John C. Bruton Boulevard
Shawnee, Oklahoma

Approved EQB
November 14, 2004

Notice of Public Meeting The Environmental Quality Board convened for a regular meeting at 9:30 a.m. August 24, 2004 in Room at Gordon Cooper Technology Center in the Seminar Center, Shawnee, 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 August 11, 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.

MEMBERS PRESENT

Richard Wuerflein
Brita Cantrell
Mike Cassidy
Tony Dark (arrived at 9:45)
Bob Drake
Jennifer Galvin
Jerry Johnston
Steve Mason
Sandra Rose
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
Dave Dillon, Customer Service Division
Myrna Bruce, Secretary, Board & Councils

DEQ STAFF PRESENT

David Dyke, Administrative Services Division
Beverly Botchlet-Smith, Air Quality Division
Ellen Bussert, Administrative Services Division
Jamie Fannin, Administrative Services Division
Monty Elder, Customer Services Division
Kendal Stegmann, ASD Legal Division
Matt Paque, ASD Legal Division

MEMBERS ABSENT

Jack Coffman
Ken Purdy
Herschel Roberts

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 June 22, 2004 Regular Meeting. Mr. Johnston made the motion the Minutes and Ms. Galvin made the second.

Roll call.

Brita Cantrell	Yes	Jerry Johnston	Yes
Mike Cassidy	Yes	Steve Mason	Yes
Bob Drake	Yes	Sandra Rose	Yes
Jennifer Galvin	Yes	Terri Savage	Yes
		Richard Wuerflein	Yes

Motion carried.

Rulemaking - OAC 252:100 Air Pollution Control Mr. David Branecky represented the Air Quality Council. He advised that the proposal would correct a reference error in Section 3-4 that had been previously overlooked when the PSD requirements were moved from Subchapter 7 Part 5 to Subchapter 8 Part 7. This change was recommended as a permanent rule. With no questions from Board or the public, Mr. Wuerflein called for a motion. Ms. Cantrell moved for approval and Mr. Johnston made the second.

Roll call.

Brita Cantrell	Yes	Jerry Johnston	Yes
Mike Cassidy	Yes	Steve Mason	Yes
Bob Drake	Yes	Sandra Rose	Yes
Jennifer Galvin	Yes	Terri Savage	Yes
		Richard Wuerflein	Yes

Motion carried.

Rulemaking - OAC 252:100 Air Pollution Control Mr. David Branecky made the presentation for the rulemaking. He advised that changes had been made to clarify confusion on the rules that would apply to de minimis cotton gin facilities and grain, feed and seed facilities. Mr. Terrill explained that the de minimis facilities would not be held to more stringent standards than facilities with larger emissions that require permits. Following questions and comments, Mr. Wuerflein called for a motion of approval. Mr. Johnston made the motion with Mr. Drake making the second.

Roll call.

Brita Cantrell	Yes	Jerry Johnston	Yes
Mike Cassidy	Abstain	Steve Mason	Yes
Bob Drake	Yes	Sandra Rose	Yes
Jennifer Galvin	Yes	Terri Savage	Yes
		Richard Wuerflein	Yes

Motion carried.

Rulemaking - OAC 252:110 Air Pollution Control Lead-Based Paint Management Mr. David Branecky advised that the proposal would amend Subchapters 3 and 5 to update the incorporations by reference of 40 CFR 745 and would amend Subchapter 3 to make corresponding changes. Amendments to Subchapter 9 and 11 would clarify requirements for accredited lead-based paint training programs and certificate requirements. Amendments to Subchapter 13 would make the DEQ Radiation Managements Rules consistent with EPA standards. Mr. Wuerflein called for motion to approve, which was made by Mr. Mason. Ms. Rose made the second.

Roll call.

Brita Cantrell	Yes	Jerry Johnston	Yes
Mike Cassidy	Yes	Steve Mason	Yes
Bob Drake	Yes	Sandra Rose	Yes
Jennifer Galvin	Yes	Terri Savage	Yes
		Richard Wuerflein	Yes

Motion carried.

DEQ Operational Budget Request Mr. Craig Kenamer, Deputy Executive Director, provided a background on the budgeting process. He and Mr. Steve Thompson set forth the SFY 2006 operational budget requirements for the DEQ. Mr. Wuerflein thanked the Environmental Quality Board Budget Sub-Committee and entertained a motion to approve the budget as submitted. Mr. Mason moved approval and Ms. Galvin made the second.

Roll call.

Brita Cantrell	Yes	Jerry Johnston	Yes
Mike Cassidy	Yes	Steve Mason	Yes
Tony Dark	Yes	Sandra Rose	Yes
Bob Drake	Yes	Terri Savage	Yes
Jennifer Galvin	Yes	Richard Wuerflein	Yes

Motion carried.

Calendar Year 2005 Board meeting dates and locations The dates and locations discussed were: March 4 in Oklahoma City; June 21 at Roman Nose State Park near Watonga; August 23 at Pryor; and November 15th in Braman. Mr. Drake made motion to approve those dates and locations and Mr. Dark made the second.

Roll call.

Brita Cantrell	Yes	Jerry Johnston	Yes
Mike Cassidy	Yes	Steve Mason	Yes
Tony Dark	Yes	Sandra Rose	Yes
Bob Drake	Yes	Terri Savage	Yes
Jennifer Galvin	Yes	Richard Wuerflein	Yes

Motion carried.

New Business None

Executive Director's Report Mr. Thompson called upon Ms. Catherine Sharp, Land Protection Division Assistant Director, to provide an update on the Central States Low Level Radioactive Waste Compact.

Mr. Thompson announced upcoming meetings:

The Board and Council Orientation on September 14 at the DEQ;

The Environmental Federation of Oklahoma (EFO) meeting on September 30 where he would be the keynote speaker;

The Environmental Council of the States (ECOS) meeting would hold its national meeting of state environmental commissioners October 3 –5 at the Cox Convention Center.

Mr. Thompson mentioned some the Agency's "good news stories" and congratulated staff for awards received in many areas.

At 10:40 a.m., Mr. Wuerflein called for adjournment announcing the Public Forum to follow.

Transcript and sign-in sheet attached as an official part of these Minutes.

DEPARTMENT OF ENVIRONMENTAL QUALITY

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IN SHAWNEE, OKLAHOMA

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REPORTED BY: Christy A. Myers, CSR

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MEMBERS OF THE BOARD

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

STAFF MEMBERS

- MYRNA BRUCE - SECRETARY
- EDDIE TERRILL - AQD

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PROCEEDINGS

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MR. WUERFLEIN: 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 13, 2003 and amended on May 19, 2004. Agendas were mailed to interested parties on August 11, 2004. The agenda for this meeting was posted on Friday, June 18, 2004 at the Department of Environmental Quality, 707 North Robinson, Oklahoma City and at Gordon Cooper Technology Center in the Seminar Center, Shawnee, Oklahoma.

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

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1 today's agenda.

2 I thank everybody for coming. Roll
3 call, Myrna.

4 MS. BRUCE: Ms. Cantrell.

5 MS. CANTRELL: Here.

6 MS. BRUCE: Mr. Cassidy.

7 MR. CASSIDY: Here.

8 MS. BRUCE: Mr. Coffman is
9 absent. Mr. Dark is expected later. Mr.
10 Drake.

11 MR. DRAKE: Here.

12 MS. BRUCE: Ms. Galvin, absent.

13 Mr. Johnston.

14 MR. JOHNSTON: Here.

15 MS. BRUCE: Mr. Mason.

16 MR. MASON: Yes.

17 MS. BRUCE: Mr. Purdy is absent.

18 Mr. Roberts is absent. Ms. Rose.

19 MS. ROSE: Here.

20 MS. BRUCE: Ms. Savage.

21 MS. SAVAGE: Here.

22 MS. BRUCE: Mr. Wuerflein.

23 MR. WUERFLEIN: Yes. We've got

24 one coming in.

25 MR. JOHNSTON: Jennifer's here.

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1 MS. BRUCE: Okay. And Jennifer
2 is here.

3 MS. GALVIN: I am here. Sorry
4 I'm late.

5 MR. WUERFLEIN: The next item on
6 our agenda is the Approval of the Minutes,
7 which were included in your packet. Are
8 there any comments, corrections or changes
9 to the Minutes we received?

10 MR. JOHNSTON: Move to approve.

11 MR. WUERFLEIN: Moved by Jerry
12 Johnston.

13 MS. GALVIN: I'll second.

14 MR. WUERFLEIN: Second by
15 Jennifer Galvin. We're ready for a roll
16 call, Myrna.

17 MS. BRUCE: Ms. Cantrell.

18 MS. CANTRELL: Aye.

19 MS. BRUCE: Mr. Cassidy.

20 MR. CASSIDY: Yes.

21 MS. BRUCE: Mr. Drake.

22 MR. DRAKE: Yes.

23 MS. BRUCE: Ms. Galvin.

24 MS. GALVIN: Yes.

25 MS. BRUCE: Mr. Johnston.

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1 MR. JOHNSTON: Yes.

2 MS. BRUCE: Mr. Mason.

3 MR. MASON: Yes.

4 MS. BRUCE: Ms. Rose.

5 MS. ROSE: Yes.

6 MS. BRUCE: Ms. Savage.

7 MS. SAVAGE: Yes.

8 MS. BRUCE: Mr. Wuerflein.

9 MR. WUERFLEIN: Yes.

10 MS. BRUCE: Motion passed.

11 MR. WUERFLEIN: Item No. 4 on our

12 agenda is Rulemaking concerning Section --

13 Chapter 252, Section 100 of Air Pollution.

14 This will be presented by David Branecky.

15 It proposes reference errors in Sections 3

16 and 4. I'm just going to turn it over to

17 you, David, to go through all of this.

18 MR. BRANECKY: Thank you, Mr.

19 Chairman. Good morning, Members of the

20 Board. What I would like to address first,

21 I guess there is two items on this

22 particular agenda item. We corrected an

23 incorrect -- well, at one time it was

24 correct, the reference in chapter --

25 Subchapter 3, but when the Council went

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1 through Subchapter 7 and made some
2 corrections and changes, the reference
3 moved from that location to another
4 location. So all we did, we had -- we
5 finally realized in Subchapter 3 that there
6 was an incorrect reference, so we had to
7 correct that to point to the right
8 location, to Subchapter 7.

9 So it's a fairly simple change,
10 something we didn't realize at the time
11 when we did the changes to Subchapter 7,
12 but we discovered it and we need to correct
13 it. So we're asking that you pass this as
14 a permanent rule.

15 MR. WUERFLEIN: Any questions
16 from the Board? If not, are there any
17 comments from the public? Questions or
18 comments, open it up to public discussion.
19 Seeing none, any other final questions from
20 the Board? If not, I'll entertain a motion
21 to approve the changes.

22 MR. JOHNSTON: As a permanent
23 rule, so moved.

24 MS. CANTRELL: Move approval.

25 MR. WUERFLEIN: As a permanent

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1 rule. We've got Brita and Jerry Johnston,
2 one or the other, kind of spoke up together
3 there.

4 MR. JOHNSTON: Brita.

5 MS. BRUCE: I'm going to say
6 Brita made the motion. Mr. Johnston made
7 the second. Ms. Cantrell.

8 MS. CANTRELL: Yes.

9 MS. BRUCE: Mr. Cassidy.

10 MR. CASSIDY: Yes.

11 MS. BRUCE: Mr. Drake.

12 MR. DRAKE: Yes.

13 MS. BRUCE: Ms. Galvin.

14 MS. GALVIN: Yes.

15 MS. BRUCE: Mr. Johnston.

16 MR. JOHNSTON: Yes.

17 MS. BRUCE: Mr. Mason.

18 MR. MASON: Yes.

19 MS. BRUCE: Ms. Rose.

20 MS. ROSE: Yes.

21 MS. BRUCE: Ms. Savage.

22 MS. SAVAGE: Yes.

23 MS. BRUCE: Mr. Wuerflein.

24 MR. WUERFLEIN: Yes.

25 MS. BRUCE: Motion passed.

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1 MR. WUERFLEIN: Go ahead, David.

2 MR. BRANECKY: The next item we
3 have is a revision to Subchapter 7. And we
4 made some changes here to clarify what we
5 thought would be possibly some confusion on
6 what rules would apply to those de minimis
7 cotton gin facilities and grain, feed and
8 seed facilities.

9 The way the rule was written prior
10 to our changes, if a cotton gin or grain,
11 feed and seed facility was a de minimis
12 facility that didn't require a permit, it
13 could have been interpreted that even
14 though it was de minimis, certain more
15 stringent rules could apply.

16 Subchapters 23 and 24 apply to
17 cotton gins and the grain, feed and seed
18 facilities for particulate matter
19 emissions. Subchapters 25 and 29 also
20 apply to or pertain to particulate
21 emissions but from other facilities.

22 The way the rule was written -- I
23 hope that I can make this clear. If a
24 facility was de minimis, de minimis with
25 respect to obtaining a permit, it could

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1 have been interpreted that it was -- and it
2 complies with 23 and 24, that it could
3 still be subject to 25 and 29, which is
4 more stringent.

5 And so this is just an attempt to
6 make it clear that if you're de minimis and
7 you comply with 23 and 24, 25 and 29 do not
8 apply to your facility. That's the big
9 picture. If I can make it simple. It's
10 not that easy to understand, but basically
11 that's what we did. We just wanted to make
12 sure that -- it could be interpreted that
13 if you're de minimis, you're subject to 23
14 and 24, you're not subject to 25 and 29,
15 and that's what we did.

16 MR. WUERFLEIN: All right. Any
17 questions from the Board?

18 MR. MASON: Hey, Dave.

19 MR. BRANECKY: Yes.

20 MR. MASON: How do the rules
21 differ in 23 and 24 versus 25 and 29, for
22 these -- for fugitive and visible?

23 MR. BRANECKY: Maybe staff can
24 help me on the details, but 25 and 29 are
25 more stringent. So if a cotton gin or

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1 grain, feed and seed were subject to 25 and
2 29, it would be subject to more stringent
3 standards than if they were subject to 23
4 and 24.

5 MR. TERRILL: I think the opacity
6 limit is stricter in our opacity rule than
7 they were in 23 and the ones the applies to
8 specifically cotton gins and to the grain,
9 feed and seed facilities.

10 MR. MASON: Thank you.

11 MR. WUERFLEIN: Any further
12 questions? Jennifer.

13 MS. GALVIN: So let me restate,
14 they are complying with the more stringent
15 regulations in the beginning?

16 MR. BRANECKY: No. The cotton
17 gin and grain, feed and seed industry is
18 subject to Subchapters 23 and 24. The way
19 the rule is written, if they are de minimis
20 with respect to permitting, and less than 5
21 tons per year, that could have subjected
22 them to Subchapters 25 and 29 and that was
23 not the intent.

24 MR. WUERFLEIN: Further
25 questions? If not, I'll open it up to

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1 public comment. Still can't hear me? Are
2 there any questions or comments from the
3 public? I'll just speak up a little
4 louder, I guess. Seeing none, return it
5 back to the Board. Any other further
6 comments from the Board? I still need to
7 entertain a motion to approve, to accept
8 the chapter.

9 MR. JOHNSTON: So moved.

10 MR. WUERFLEIN: Jerry Johnston
11 moved.

12 MR. DRAKE: Second.

13 MR. WUERFLEIN: Bob Drake second.

14 Roll call, Myrna.

15 MS. BRUCE: Ms. Cantrell.

16 MS. CANTRELL: Yes.

17 MS. BRUCE: Mr. Cassidy.

18 MR. CASSIDY: Abstain.

19 MS. BRUCE: Mr. Drake.

20 MR. DRAKE: Yes.

21 MS. BRUCE: Ms. Galvin.

22 MS. GALVIN: Yes.

23 MS. BRUCE: Mr. Johnston.

24 MR. JOHNSTON: Yes.

25 MS. BRUCE: Mr. Mason.

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1 MR. MASON: Yes.

2 MS. BRUCE: Ms. Rose.

3 MR. ROSE: Yes.

4 MS. BRUCE: Ms. Savage.

5 MS. SAVAGE: Yes.

6 MS. BRUCE: Mr. Wuerflein.

7 MR. WUERFLEIN: Yes.

8 MS. BRUCE: Motion passed.

9 MR. WUERFLEIN: I think you're
10 still up, David, for Item No. 5 on our
11 agenda, Lead-Based Paint.

12 MR. BRANECKY: Right. The Air
13 Quality Council considered this rule to the
14 Lead-Based Paint Management Subchapter.
15 Actually, it's not strictly an air rule,
16 but we felt that some Council should review
17 it before it came to the Board, so the Air
18 Quality Council took it upon themselves to
19 review or take this under our wings and
20 review 252:110, the Lead-Based Paint
21 Management rule.

22 And we've made several changes and
23 I'll just kind of summarize the changes
24 that we made and if you have any questions,
25 you can ask me at that time. There were

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1 several revisions that were made to
2 incorporate some amendments in the federal
3 rule that were passed in May of this year.

4 A change was made that required
5 training providers to include a hands-on
6 component for each course that they taught.
7 The changes made that we require course
8 curriculum to have a review of the Oklahoma
9 Lead-Based Paint Management Rule as part of
10 the curriculum. We limited the time that a
11 guest speaker would be allowed to instruct
12 in the Lead-Based Paint Management courses.
13 We require accredited training instructors
14 to take and pass a certification exam every
15 three years. The revisions would not allow
16 accredited instructors to submit a lead-
17 based paint certificate for themselves for
18 courses that they taught.

19 We revoked a notice of lead-based
20 paint projects and notice of course
21 offering. These are now included in
22 different sections. We just deleted them
23 and moved them over to 110-5-1, Section 4.
24 And we updated references in this rule to
25 the radiation management rules. That's

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1 kind of the summary of what we did to these
2 rules and I can answer any questions at
3 this time.

4 MR. WUERFLEIN: Any questions
5 from the Board?

6 MR. BRANECKY: We're asking for
7 adoption as a permanent rule.

8 MR. WUERFLEIN: As permanent,
9 okay. You did say that the testing is
10 required every three years, yet?

11 MR. BRANECKY: Yes.

12 MR. WUERFLEIN: That caught me.
13 One is struck through but I didn't see
14 where it -- but I haven't studied that, but
15 it is still in there that it has to be
16 every three years?

17 MR. BRANECKY: I believe so.

18 MR. WUERFLEIN: On page 6, they
19 struck through it in one place but on page
20 4 they put it back, put it in. Okay. Just
21 moved it to a different section. Thank
22 you.

23 Any questions or comments from the
24 public? Back to the Board. Any further
25 comments from the Board? I'll entertain a

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1 motion to accept or approve this by

2 permanent rule.

3 MR. MASON: So moved.

4 MR. WUERFLEIN: Steve Mason.

5 Second.

6 MS. ROSE: Second.

7 MR. WUERFLEIN: Second by Sandra.

8 Roll call when you're ready, Myrna.

9 MS. BRUCE: Ms. Cantrell.

10 MS. CANTRELL: Yes.

11 MS. BRUCE: Mr. Cassidy.

12 MR. CASSIDY: Yes.

13 MS. BRUCE: Mr. Drake.

14 MR. DRAKE: Yes.

15 MS. BRUCE: Ms. Galvin.

16 MS. GALVIN: Yes.

17 MS. BRUCE: Mr. Johnston.

18 MR. JOHNSTON: Yes.

19 MS. BRUCE: Mr. Mason.

20 MR. MASON: Yes.

21 MS. BRUCE: Ms. Rose.

22 MR. ROSE: Yes.

23 MS. BRUCE: Ms. Savage.

24 MS. SAVAGE: Yes.

25 MS. BRUCE: Mr. Wuerflein.

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1 MR. WUERFLEIN: Yes.

2 MS. BRUCE: Motion passed.

3 MR. WUERFLEIN: Thank you. Item
4 No. 6 is the Operational Budget. I'll call
5 on Craig Kennamer.

6 MR. KENNAMER: Good morning, Mr.
7 Chairman, Members of the Board. I'm going
8 to present the budget this morning for
9 fiscal year 2006. It's our budget request.
10 I want to go through the process on how we
11 got to where we are today in terms of what
12 we're requesting first, so you'll have a
13 little background. Okay. Is that better?

14 MR. WUERFLEIN: Yes.

15 MR. KENNAMER: Due to our
16 experience and our involvement nationally
17 in all medias, we are able to pick up on
18 new federal requirements and new federal
19 initiatives, long before the Legislature
20 and the public becomes aware of them.

21 Because of that presence, we can
22 kind of get out in front of a lot of
23 things. We can also do some education in
24 the state about upcoming things before they
25 happen. And we try to be proactive in our

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1 approach instead of reactive, because when
2 we're dealing with the Legislature and
3 we're dealing with appropriated dollars,
4 they don't want to hear it when it's a
5 crisis. They want to be informed, they
6 want to know about it so they can kind of
7 take some informed approach at looking at
8 the situation.

9 What we do is, we bring back these
10 ideas, we bring back the initiatives and
11 new requirements and we talk about it in
12 the Director's meetings. We rank them, we
13 set priorities, and we look at our current
14 budget and see whether we can fund these
15 things through the current budget. And
16 those items that are really big and
17 important deals and we can't fund them,
18 then we present them to a subgroup of the
19 Board. Those Board Members are presented
20 with our concepts for the new -- for the
21 increased budget. And then after that, we
22 take it to you.

23 And in previous years, our budget
24 has been, in appropriated dollars, about
25 five point nine million. Those dollar

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1 amounts cover a couple of things. They
2 cover the Environmental Complaints Program.
3 They cover the Customer Service Program and
4 they cover what we call mitigation dollars
5 to help mitigate costs to communities to
6 implement many of the federal requirements.

7 We have not had an increase in our
8 budget now for about six to seven years;
9 isn't that correct, Steve? I think, in
10 fact, our budget has dropped by two
11 million, in terms of appropriated dollars.

12 MR. THOMPSON: If you look at the
13 appropriated dollar amount when we became
14 an agency, we were appropriated in the
15 range of seven and a half million dollars.
16 Our appropriated dollars for last year were
17 five point nine million dollars. So about
18 a million and a half dollar increase -- I'm
19 sorry, decrease, in appropriated dollars.
20 In real dollars, I don't know what that is,
21 but it's large. I think Craig will get
22 into the fact that last year we did -- we
23 were successful in getting some monies to
24 assist small communities relative to
25 mitigation of fee increases from REAP

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1 money, but those are not considered
2 appropriated dollars. They're sort of
3 bonus monies. But obviously when you are -
4 - when you have that trend, you make up the
5 difference in -- you have to try to make up
6 the difference in fee money.

7 MR. KENNAMER: That's right. So
8 this year we're asking for about one point
9 nine million dollars for three basic
10 categories of items to be funded.

11 The first is in the public water
12 supply area. We've been talking about this
13 for quite a while now. There are some new
14 requirements for public water supplies.
15 And --

16 MR. THOMPSON: Could I -- if
17 there are other comments or questions from
18 the Board, apparently we're going to have
19 to get right on top of the mike for people
20 to hear, so if you'll do that, please.
21 Sorry, Craig.

22 MR. KENNAMER: We've been talking
23 about the public water supply requirements
24 that were coming down the pike for a couple
25 of years. We are now seeing them come into

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1 fruition. They are going to be implemented
2 real soon. It's going to be very costly to
3 the communities. And in Oklahoma, to kind
4 of put it in perspective, seventy-five
5 percent of our public water supplies are
6 under ten thousand in population. So it's
7 a great burden and expense to these public
8 water supplies to implement these new
9 rules. So what we're doing is asking for
10 some money in several different areas to
11 help mitigate and alleviate some of the
12 expense and cost that the public water
13 supplies will incur.

14 There's one category of costs for
15 analysis in new equipment. Steve mentioned
16 the REAP money. We were successful in
17 getting REAP money to pay for the new
18 equipment that will be needed to run the
19 analysis on the new requirements. The new
20 requirements are for the disinfection
21 byproducts, which are a byproduct of the
22 treatment of public water supplies. EPA
23 has discovered that there are concerns
24 about byproducts in the treatment process
25 that can also cause public health issues.

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1 And the other is arsenic, and many of you
2 have probably heard about the arsenic. The
3 arsenic level was lowered and it brought a
4 lot of Oklahoma communities and public
5 water supplies into the compliance realm,
6 because the arsenic level was lowered.

7 What this means is that we're asking
8 for approximately five hundred and thirteen
9 thousand dollars to support sampling and
10 analysis and testing public water supply
11 systems. The state is the primary
12 laboratory and analysis for public water
13 supply systems and these are new costs.
14 These are not additional costs. And if we
15 don't get the money, we'll have to pass it
16 on as fees to the public water supplies,
17 which is going to greatly inhibit their
18 ability to do what they need to do, because
19 they're already pretty strapped.

20 The other area of costs is for
21 regulatory --

22 MR. THOMPSON: I might say, on
23 that piece of it, people need to understand
24 that we will not need to do a fee increase.
25 We would not ask the Board for a fee

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1 increase. We would simply charge our
2 current analytical fee to the small
3 community. But that would mean an increase
4 in the total cost that those communities
5 would need to pay for analysis. What we're
6 asking for is to -- is for the Legislature
7 to mitigate that cost to those communities.

8 MR. KENNAMER: That's right. And
9 the next area is regulatory services. To
10 help prepare the facilities with operation
11 issues and maintenance issues, analytical
12 issues, we propose hiring four new FTE's
13 and the cost for that would be two hundred
14 and forty thousand dollars.

15 We are also in a real bind with our
16 existing equipment. The equipment that we
17 purchased years ago, even before we became
18 the DEQ, we're still using and that was a
19 one-time fund. The equipment needs
20 maintenance, it needs repair, it needs
21 replacement, and that's for existing
22 analytical runs, not on these new
23 analytical requirements. So it's
24 approximately two hundred and fifty
25 thousand for that.

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1 I'm going to pause now and take any
2 questions on the public water supplies
3 side, if there are any.

4 The next area of the budget is the -
5 -

6 MR. THOMPSON: The one thing that
7 I think we need to add, on the two hundred
8 and forty thousand dollars, we will
9 probably bring -- in November we bring to
10 you our request for legislation. To meet
11 that cost, we will need one of two things.
12 We will need general appropriations or we
13 will need a statutory change that allows us
14 to pass that cost along to rate payers. So
15 it is not a rule, that piece is not a rule,
16 it's a statute, so we want to run
17 concurrent with the budget request
18 legislation that will allow us to recover
19 those costs if the Legislature chooses not
20 to fund it.

21 On the routine laboratory equipment,
22 that is an issue that we have typically
23 found little pots of money to keep this
24 machinery going where we could. But it is
25 becoming of an age that unless we can find

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1 a routine way to replace that equipment, we
2 are either going to have to come back and
3 ask this body to increase fees or get a
4 general appropriation for it. This,
5 I think, is a huge concern for us because
6 to a large extent, the floor of your
7 regulatory programs exist on your capacity
8 to do good analysis. And as our equipment
9 becomes more antiquated, our ability to
10 have assurance relative to our regulatory
11 programs becomes problematic. So we think
12 this is pretty important and past time.

13 MR. KENNAMER: Yes. I would also
14 like to point out that that equipment is
15 not only used for public water supplies,
16 but it also supports the RCRA side of our
17 program, the SuperFund analysis, so that
18 equipment that is aging is really important
19 to all of the divisions in the agency.

20 The next area that we're asking for

21 --

22 MR. WUERFLEIN: Craig.

23 MR. KENNAMER: Yes.

24 MR. WUERFLEIN: I might ask one
25 question on the statutory language for the

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1 fees. Is that like an either/or situation,
2 you either appropriate money for this or
3 you give us -- is that correct?

4 MR. THOMPSON: That's correct.

5 MR. WUERFLEIN: So does that go
6 through the same committee or do we happen
7 to coordinate the budget request now and
8 then ask for a statutory request for fee
9 changes to a different committee or
10 different process and work the two
11 committees?

12 MR. THOMPSON: That's correct.

13 What we'll need to do is, this will go --
14 this budget request will go to the
15 Subcommittee for Environment, for Budget
16 and Appropriations. A request for a fee
17 increase will go through the typical
18 legislative process and will go to the
19 committees maybe on environment, maybe on -
20 - maybe go -- may go to the larger
21 appropriations and budget committees. So
22 we'll have to see. And the answer to your
23 question is, we'll have to see where they
24 get assigned. That could go either way,
25 but I expect they'll go on separate tracks.

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1 We'll just have to let the Board know how
2 that turns out.

3 MR. WUERFLEIN: Normally,
4 appropriations doesn't get finalized until
5 the last week of session. So with the fee
6 deal, there will probably be another
7 session down the road or --

8 MR. THOMPSON: These are May
9 bills. These are both May bills.

10 MR. KENNAMER: Any other
11 questions? The next area is for toxics
12 monitoring. We are proposing three hundred
13 and thirty-five thousand dollars for air
14 toxics monitoring. The EPA has proposed
15 thirty-two toxics that they have listed in
16 urban areas that are of health concerns.
17 We are also looking at a toxics list, I
18 think we have approximately forty.

19 MR. TERRILL: We don't know what
20 we're going to come up with, yet. It
21 depends on -- we're in the process of
22 revising our toxics rule and that's
23 something that we'll work through the
24 Council and it will be something like,
25 maybe initially it will be expanded, it

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1 could be as many as a hundred, we're just
2 not for sure, yet.

3 MR. KENNAMER: These dollars will
4 help us gain the capacity to do modeling
5 and sampling in air quality work and
6 designs. It will keep us in the front of
7 things, as opposed to following EPA's lead
8 in this area. And it's extremely important
9 for us to stay out in front. We've done
10 work in Tulsa and Ponca City on urban
11 health effects of air toxics and we want to
12 continue that work. The grant dollars are
13 drying up and so we're going to need
14 appropriation dollars to continue that
15 work. Are there any questions?

16 The next area is on mobile source
17 funding. Under the Title V program, you
18 know that mobile sources have not been --
19 there is no fee source in that area and the
20 Title V fee payers are paying for the bulk
21 of the air quality work in that area. And
22 the Board has requested in the past that we
23 seek some kind of funding for the mobile
24 sources. We have looked at all kinds of
25 things. We've ran a license plate tag idea

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1 that didn't work. We are now looking at an
2 idea out of Florida, where you charge a
3 dollar per rental car, per day, and it
4 looks like it generates about five hundred
5 thousand dollars, is our estimate.

6 MR. THOMPSON: Well, that's a
7 guess.

8 MR. KENNAMER: That's a guess.

9 MR. THOMPSON: We have asked --
10 let's see -- we have asked the Tax
11 Commission to provide us that information
12 and we are still waiting to get better
13 information from the Tax Commission. I
14 guess that's the easiest way to say it.

15 MR. KENNAMER: But apparently a
16 lot of corporations use lease cars now
17 instead of buying cars, so that's where a
18 lot of the money is generated. Also, just
19 from the general tourism traffic. So it
20 may be a good source of funding, but we're
21 going to try to run it through those traps
22 on the mobile source side. We're asking
23 for five hundred thousand in that area.
24 And we have been covering those costs
25 through our current budget, but we have

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1 been, you know, robbing Peter to pay Paul
2 in this area and so at some point we're
3 going to have to get some source of
4 funding, either through increased fees or
5 appropriations for mobile sources.

6 MR. THOMPSON: The air program is
7 going to do nothing but grow. I mean, it's
8 clear that the toxics program is a piece of
9 that. We've been very fortunate with the
10 weather, that we haven't gone into
11 nonattainment, particularly in Tulsa, it
12 looks like we may escape again this year.
13 But the Board has always agreed that there
14 is an equity issue relative to the non-
15 contribution of mobile sources to this
16 effort. And our ability to ask for
17 contributions for the mobile source side,
18 while I would quickly add we're probably
19 not going to stop increases in Title V
20 fees, would certainly mitigate the increase
21 over time. The notion that we came across
22 last -- at the end of last session about
23 rental cars, to quote David Branecky, he
24 said you're going to get me for Title V
25 fees or you're going to get me when I rent

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1 cars from my fleet, either way you get me.
2 But it does -- it does tie back to the
3 notion of mobile sources, mobile source
4 contribution. So again, we will -- and it
5 seems like a pretty soft target, quite
6 frankly. So we will, again, as a part of
7 the package that we will bring in November
8 for approval of legislation, we will look
9 at -- we will ask you to approve that
10 notion when it comes back in November so
11 that we either get appropriations or we
12 have this idea for mobile source fees. A
13 lot of these two things are connected. One
14 either general appropriations. The other
15 is, here is another source of funding that
16 we can pursue.

17 MR. CASSIDY: Steve, are you
18 talking about lease cars and rental cars?

19 MR. THOMPSON: I'm talking about
20 rental cars.

21 MR. CASSIDY: Just rental cars?

22 MR. THOMPSON: To the best of my
23 -- as I understand the Florida program --
24 of course, it's Florida, so they probably
25 generate a lot of money from rental cars,

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1 but that's at least what we think we're
2 going to do now. If that changes, we'll
3 bring it to the Board. But right now, our
4 idea is simply rental cars.

5 MR. KENNAMER: Is there any other
6 questions? The last item is on mercury.
7 And this one is a combination of an EPA
8 initiative and a new requirement that is
9 scheduled for 2006, to lower the fish flesh
10 level to .3 milligrams per liter in fish
11 flesh. We have been looking at this issue
12 for a while. And in Oklahoma, we have a
13 limited monitoring effort on fish flesh for
14 mercury. We also have a limit at 1.0
15 milligrams per liter. And we've looked at
16 the states that are around us and they are
17 lower than that. This is an area that
18 there's a lot of uncertainty, but we feel
19 like because of the health concerns
20 regarding mercury, especially in pregnant
21 women, nursing women and children, that
22 it's something that we need to get a head
23 of. So we're proposing a hundred thousand
24 dollars to start studying the mercury
25 issue.

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1 Is there any questions on this?
2 That sums up the budget request, one point
3 nine million is the total. Is there any
4 other questions?

5 MR. WUERFLEIN: Thank you, Craig.

6 MR. KENNAMER: Thank you.

7 MR. WUERFLEIN: I don't see any
8 questions from the Board. We'll open it up
9 to public comment. Are there any questions
10 or comments from the public?

11 I want to thank our budget review
12 committee. We met partially by conference
13 call and partially at the office. Brita
14 and Steve Mason, Jerry Johnston, Jennifer,
15 I think that's who was on the phone, and
16 myself.

17 We had a number of questions about
18 how previous years' budget requests tied
19 with this one and how the priorities have
20 changed and how some of the previous years'
21 requests were incorporated, especially on
22 the air toxics.

23 So I should comment, Tony slipped in
24 about a quarter to ten. I don't know if
25 you didn't make the last roll call, but we

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1 want to make sure you're recorded as being
2 here, Tony.

3 MR. DARK: I apologize for my
4 tardiness. I'm not too tolerant of people
5 who are late.

6 MR. WUERFLEIN: Okay. Any other
7 comments or questions from the Board? We
8 entertain a motion to approve the budget
9 request for the Legislature?

10 MR. MASON: So moved.

11 MR. WUERFLEIN: Steve Mason.
12 Second.

13 MS. GALVIN: Second.

14 MR. WUERFLEIN: Jennifer. Myrna.

15 MS. BRUCE: Ms. Cantrell.

16 MS. CANTRELL: Yes.

17 MS. BRUCE: Mr. Cassidy.

18 MR. CASSIDY: Yes.

19 MS. BRUCE: Mr. Dark.

20 MR. DARK: Yes.

21 MS. BRUCE: Mr. Drake.

22 MR. DRAKE: Yes.

23 MS. BRUCE: Ms. Galvin.

24 MS. GALVIN: Yes.

25 MS. BRUCE: Mr. Johnston.

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1 MR. JOHNSTON: Yes.

2 MS. BRUCE: Mr. Mason.

3 MR. MASON: Yes.

4 MS. BRUCE: Ms. Rose.

5 MR. ROSE: Yes.

6 MS. BRUCE: Ms. Savage.

7 MS. SAVAGE: Yes.

8 MS. BRUCE: Mr. Wuerflein.

9 MR. WUERFLEIN: Yes.

10 MS. BRUCE: Motion passed.

11 MR. WUERFLEIN: Thank you. The

12 next item of business is to approve our

13 calendar of meeting locations for next

14 year. I think everybody should have a list

15 of where we've been in the last ten years

16 and potential locations. I put my plug in

17 now, for June I would like to keep it

18 closer to northwest Oklahoma. I would

19 recommend Roman Nose State Park Lodge.

20 They've rebuilt the lodge, they say it

21 looks good now. Any other comments or

22 suggestions?

23 MS. BRUCE: Was that June?

24 MR. WUERFLEIN: That was for

25 June.

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1 MR. JOHNSTON: We don't have
2 those kind of facilities, but Braman would
3 always like to host you, maybe in November?
4 I was thinking about a fish fry. Our
5 catfish in the Chikaskia River doesn't like
6 mercury, so you don't have to worry about
7 that.

8 MR. WUERFLEIN: And the landfill
9 is not upstream, yet.

10 MR. JOHNSTON: But we would love
11 to host you.

12 MS. BUSSERT: Can the church
13 ladies feed us that lunch again?

14 MR. JOHNSTON: We could probably
15 arrange that.

16 MS. BUSSERT: We could do another
17 fundraiser.

18 MR. THOMPSON: Ellen, he said
19 we're going to have a fish fry, Ellen. I
20 love the church ladies, but he said fish
21 fry.

22 MR. JOHNSTON: This is a night
23 before the fish fry.

24 MR. THOMPSON: Okay.

25 MR. JOHNSTON: I've already got

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1 that lined out.

2 MS. GALVIN: What date was that,
3 Jerry?

4 MR. JOHNSTON: It would be
5 November 15th, if the Board so approved.

6 MR. DARK: It would seem prudent
7 if we're going to do those, we would
8 probably want to put two of them in the
9 northeast, in Tulsa or in that area.

10 MR. WUERFLEIN: I was going to
11 say, it needs to be somewhere on the east
12 side of the state, so northeast or
13 southeast.

14 MS. BUSSERT: We can't hear the
15 discussion up here. You all need to talk
16 up.

17 MR. WUERFLEIN: We're trying to
18 discuss -- if we're going to have two of
19 them to the northwest, north and northwest,
20 we need to kind of move the third location
21 to the east, either Tulsa or somewhere else
22 in the eastern side, southeast Oklahoma.

23 MR. THOMPSON: Those that don't
24 have the list, we typically have our Board
25 meeting -- the Board meeting during the

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1 Legislative Session in Oklahoma City. So
2 that's set for March the 4th in Oklahoma
3 City. Roman Nose on June the 21st and
4 Braman on November the 15th and now the
5 discussion is where on the eastern side of
6 the state for August the 23rd.

7 MS. CANTRELL: I vote for Tulsa.

8 MS. GALVIN: I would like to open
9 the discussion for Pryor, since we went to
10 Tulsa last year. Pryor is just very close
11 to Tulsa and we were in Tulsa last year,
12 just to move it into a small community.

13 MR. WUERFLEIN: I'm not aware of
14 what's available in Pryor, I guess, to know
15 why to go there. Okay.

16 MS. GALVIN: It is on your list
17 of suggested locations.

18 MR. THOMPSON: Pryor is the home
19 of the Mid-America Industrial Park, very
20 nice industrial park that is, in fact, a
21 state facility. And there is a -- I'm sure
22 that they would -- they have facilities
23 that could accommodate us or --

24 MR. DARK: Actually, they have a
25 very nice conference room out there. It's

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1 an old ordinance works plant from World War

2 II.

3 MR. JOHNSTON: I'm sure I could
4 get somebody from Pryor municipal
5 government to take care of that for you.

6 MR. WUERFLEIN: Do we need to
7 take a straw poll between Tulsa and Pryor?

8 MR. JOHNSTON: Pryor sounds good
9 to me.

10 MR. WUERFLEIN: Go with Pryor?
(Talking over each other).

11 MR. THOMPSON: If Brita's okay
12 with it.

13 MR. WUERFLEIN: If Brita's okay
14 with it.

15 MS. CANTRELL: I think Pryor
16 sounds great.

17 MR. WUERFLEIN: Okay. Work with
18 Ellen on locations. Okay. So we have a
19 proposal now for the June meeting to be at
20 Roman Nose State Park at Watonga or between
21 Watonga and Kingfisher. And August for
22 Pryor, and November 15th at Braman. Are
23 there any other suggestions or comments?
24 If not, we'll entertain a motion to
25 approve.

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1 MR. DRAKE: So moved.

2 MR. WUERFLEIN: Bob Drake.

3 MR. DARK: Second.

4 MR. WUERFLEIN: Second by Tony.

5 Does that need a roll call vote or is that
6 just a Board -- we'll let the staff work
7 with those suggestions.

8 MR. THOMPSON: We'll work with
9 those suggestions.

10 MR. WUERFLEIN: New Business. Is
11 there any new business to be brought before
12 the Board? Anything that's come up? Do
13 you have anything, Steven?

14 MR. THOMPSON: Not new business.

15 MR. WUERFLEIN: Okay.

16 MR. THOMPSON: I have some
17 information on the Director's Report.

18 MR. WUERFLEIN: Getting ready for
19 the next item. Okay. Seeing no new
20 business, we'll turn the floor over to
21 Steve Thompson for his Director's Report.

22 MR. THOMPSON: Thank you, Mr.
23 Chairman, Members of the Board. First of
24 all, I think that you all are all now aware
25 that Steve Mason's wife, Kim, had a very

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1 severe accident. I'd like to give the
2 floor to Steve so he can give us an update
3 on progress there.

4 MR. MASON: Thank you, Steve.
5 First of all, we appreciate everyone's
6 cards and their thoughts. Kim returned
7 home last Wednesday and we're waiting for
8 the bones to heal, which is a slow process,
9 but everything is occurring according to a
10 slow schedule. Thank you.

11 MR. THOMPSON: Thank you. There
12 is a number of things I wanted to visit
13 with you about or have others visit with
14 you about today. I suppose you're aware
15 that Congress has a habit of enacting laws
16 that -- and then allowing the state to take
17 the lead. Generally, they are somewhat
18 controversial issues, issues like TRI and
19 community-right-to-know and SARA Title III
20 issues that come with no funding, only
21 responsibility.

22 Another example of that is some
23 framework legislation that Congress passed
24 a number of years ago that allowed states
25 to form compacts to deal with the issue of

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1 low level radioactive waste. Something the
2 states were very anxious, I'm sure, to deal
3 with. Subsequent to the passage of that
4 law, Oklahoma joined with Arkansas,
5 Louisiana, Kansas and Nebraska in forming
6 the Central States Low Level Radioactive
7 Waste Compact. To say that the activities
8 surrounding that Compact and some of its
9 member states have been controversial would
10 be to soften the notion. Probably the most
11 difficult time for the Compact has occurred
12 over the last couple of years.

13 Catherine Sharp, who is our
14 Assistant Division Director for Land
15 Protection Division, has been our delegate
16 to that Compact. And over the last year --
17 is it year or two years? Two years, she
18 has served as its Chairman during probably
19 the most controversial period in the entire
20 Compact's life. And I doubt very seriously
21 if that we would have come to a good
22 conclusion, as good a conclusion as we have
23 without the excellent leadership skills
24 that Catherine displayed that which she
25 obviously learned from me. She didn't

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1 giggle. So anyway, I want Catherine to
2 come forward and give the Board a little
3 bit of an update on what's been going on
4 with the Compact over the last couple of
5 years.

6 MS. SHARP: I'll try to be brief
7 here. But as Steve mentioned, the Compact
8 has been in existence for almost twenty
9 years. It's the result of federal and
10 state legislation that actually set up
11 states on the course to try to basically
12 site and get permitted low level
13 radioactive disposal facilities in our
14 regions.

15 The reason it's on the agenda today
16 to talk about, we hit a very important
17 milestone lately where we -- it was
18 actually the 9th of August, this month,
19 that we actually settled. They call it a
20 large lawsuit, it's like Steve said, the
21 understatement of the world. But anyway,
22 to give you a little bit of background,
23 Oklahoma has been in a five state compact
24 in trying to site a facility for a number
25 of years.

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1 And several years ago when we got
2 started on this, Nebraska, one of the
3 states in our compact, agreed to be the
4 host state and began the process of siting
5 and permitting a facility, licensing a
6 facility, as they call it. And that went
7 along fairly smoothly at first. It had
8 political support and they located an area
9 to build the site in west Nebraska, Boyd
10 County. And then over the course of
11 several years, I think the political winds
12 changed and the application was being
13 reviewed by the Nebraska DEQ. And at first
14 we thought it would be approved and years
15 went by and as agencies do, they asked for
16 more information and reiterations were sent
17 in.

18 Anyway, in about 1998 or '99,
19 Nebraska, the State of Nebraska, decided to
20 deny the application. They refused it.
21 And the reason it's significant, it's not
22 just any application, but a bunch of money
23 had been spent through that time, mainly by
24 the major generators. Now, Oklahoma has
25 small generators of low level waste that

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1 need a place to dispose of their waste, but
2 the big power plants and the other states
3 had put up quite a bit of money to the
4 point where about ninety million dollars
5 had been invested at that point.

6 So when the Agency denied it, in our
7 Compact, us, the states besides Nebraska,
8 which are Kansas, Arkansas, Louisiana and
9 Oklahoma, we felt that the decision had not
10 been made on its merits. We felt that it
11 had been politically influenced and we just
12 hadn't gotten a fair review of that
13 application.

14 So at that point, the Compact
15 brought suit against the State of Nebraska,
16 alleging bad faith. And this started
17 several series -- several years of
18 litigation and there were some splinter
19 lawsuits that I won't go into. One of the
20 things that was difficult over the last
21 couple of years is when I was chairing the
22 Compact, we had to throw Nebraska out of
23 the Compact. That wasn't pleasant. We
24 tend to meet in Lincoln, Nebraska, so it's
25 not a good place to throw them out. But

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1 anyway, so there have been a number of
2 milestones that I won't go into.

3 But two years ago, we had a nine
4 week trial in Lincoln, Nebraska, in front
5 of a federal judge and he heard, as you
6 might imagine, massive testimony from
7 former -- well, from the Governor, now
8 Senator Ben Nelson, but then the Governor,
9 and some of his employees, who we felt we
10 were alleging through this lawsuit, had
11 influenced the process adversely.

12 So anyway, to make a long story
13 short, the Judge ruled after that trial
14 about two years ago that, in fact, Nebraska
15 had acted in bad faith and had not reviewed
16 the application on its merits. Well, all
17 this time when the clock is ticking,
18 interest is accruing on that money. So he
19 awarded a judgment back to the Compact of a
20 hundred and fifty-one million dollars and
21 ordered Nebraska to pay that.

22 So they appealed and they have about
23 exhausted all of their appeal options.
24 They were going before the Supreme Court
25 this year and then their Governor and their

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1 Attorney General started to make signs that
2 they wanted to negotiate a settlement with
3 us. And so that started this Spring and we
4 were shocked, but we actually reached a
5 settlement agreement with the State of
6 Nebraska, which will -- it will pay back
7 almost all of that money. It will pay back
8 -- it orders them to pay back what --
9 they've agreed to it and then it will be
10 actually sanctioned by the federal court to
11 order them to do this, they will pay a
12 hundred and forty million dollars, plus a
13 little bit of interest, over a five year
14 period starting now back to the Compact.

15 The good thing about that is, what
16 we feel like, it validated some of the
17 things we were alleging, obviously, but it
18 also gives the Compact resources so that we
19 can again start -- we don't want to start
20 the process we just went through, but what
21 we're doing is negotiating with some other
22 options, some other states that might have
23 disposal options for our generators and the
24 generators within our Compact region.

25 We are negotiating with -- the state

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1 of Utah has a facility and then some of
2 you, if you read the news, you probably
3 noticed that Texas thinks they might build
4 a facility in the coming years. So we now
5 have the resources to negotiate, hopefully,
6 for disposal options for our generators.

7 So it's been a long, arduous
8 process. It's a program that doesn't get
9 that much of a spotlight but we feel like
10 the people who generate radioactive sources
11 in Oklahoma and in our region should have
12 some means of safe and economical disposal
13 for that, so that's what we're trying to
14 do. So it's settled and everybody's amazed
15 and now we're looking for other options,
16 so.

17 MR. THOMPSON: But I think we
18 need to reiterate to the Board, Catherine,
19 that the hundred and forty-eight million
20 dollars, we don't get a fifth of that.

21 MS. SHARP: Right. When I say
22 we, I mean on behalf of the Compact.
23 Oklahoma doesn't actually get any of that
24 money. We get -- there's a small amount.
25 We're still sorting this out. When you get

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1 a large judgment, now everybody is
2 obviously looking at that money, the major
3 generators, the power plants that put the
4 money in, some of whom are Nebraska power
5 plants. But anyway, they're looking at
6 that money because they feel like they have
7 a right to it. And they're actually --
8 they may file claims against it. The
9 states put up -- we pay a fee, to be in the
10 Compact, every year and then we put up some
11 community development money years ago to
12 help the people who were suing against the
13 facility, so they had the means to bring
14 legal actions. But anyway, some of that
15 could come back to the state, it's a small
16 amount. The developer believes they're
17 entitled to some of the money. So right,
18 it doesn't go to Oklahoma, but it does go
19 to the Compact, the remaining four compact
20 states, so hopefully we'll find a solution
21 to this problem.

22 MR. THOMPSON: And if we can find
23 a way to get it back, we will.

24 MR. DARK: I assume the Nebraska
25 site is now off the table, was that part of

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1 the settlement, that that wouldn't happen?

2 MS. SHARP: Well, that was one of
3 the stickiest issues to negotiate, because
4 people feel like if Nebraska agreed to be a
5 host state, they should be the host state.
6 The way the agreement is written, they do
7 not lose their host state responsibilities
8 until the last dime is paid at the end of
9 the four and a half years. So --

10 MR. THOMPSON: In the meantime,
11 there's been a little interest by another
12 community, as I understand it, in Nebraska
13 to site the facility.

14 MS. SHARP: That was cooking
15 around before the agreement was signed.

16 MR. THOMPSON: Okay.

17 MS. SHARP: Their now governor
18 was -- he looked around briefly for another
19 site to see if they could start down that
20 road and I think they decided they
21 couldn't. So they will no longer -- the
22 agreement is written so they will no longer
23 have host state responsibilities once the
24 debt is paid.

25 MR. THOMPSON: There is really

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1 only two viable sites, one in Utah and one
2 in Texas.

3 MS. SHARP: Yes.

4 MR. THOMPSON: There is only two
5 viable -- one in Texas and one in Utah.

6 MS. SHARP: Yeah, I don't think
7 anybody has the stomach to start the siting
8 process again, you know, if there were a
9 site.

10 MR. DARK: So we prefer to go to
11 Texas.

12 MR. THOMPSON: Absolutely.
13 Questions?

14 MR. WUERFLEIN: Where is the
15 stuff -- where is the waste going while
16 they're waiting for a site?

17 MR. SHARP: Well, there is --
18 right now, yeah, there's three -- there's
19 two facilities, really, that are open to
20 most generators. There is one in Barnwell,
21 South Carolina and then there is the Enviro
22 Care facility in Utah. People don't
23 consider the Barnwell site in South
24 Carolina a long-term solution because it's
25 really got a finite -- it's got a finite

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1 capacity within about eight years. They
2 keep saying they'll close and then they
3 extend it. But nobody thinks it's a long-
4 term solution. Environmental Care is a
5 long-term solution for about eighty to
6 ninety percent of the waste. They can't
7 take every class of low level waste and
8 that's why we can't solve the problem with
9 the current means. There has to be a new
10 site somewhere, that's why a lot of people
11 are looking at Texas and hoping that if
12 that did get through the licensing process
13 and get built, that could solve a lot of
14 people's problems.

15 MR. THOMPSON: Thank you.

16 MS. SHARP: Thank you.

17 MR. THOMPSON: If there's no
18 other questions, thank you, Catherine.

19 MS. SAVAGE: Yes. I would like
20 to make a comment. This has been, as you
21 stated, I've heard about this since I've
22 been on the Board and I think there needs
23 to be an applause or some acknowledgement
24 that this has taken a lot of effort and I
25 don't know if Catherine is to be commended

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1 or --

2 MS. SHARP: It's not me. I --

3 MR. THOMPSON: Yes, it is.

4 MS. SHARP: -- I was kind of late
5 to it. My predecessor, H.A. Caves, who
6 many of you know, and before him, Mark
7 Coleman, they were our Compact
8 representatives and it has been a long
9 fight. One way to put it in context is,
10 you know, a lot of other states formed
11 compacts. There's a lot of other compacts.
12 We're the last one standing. They've all
13 fallen by the wayside and just can't figure
14 it out. We're not saying we figured it
15 out, but we did stick with it and try to
16 get a solution and the solution obviously
17 isn't ideal.

18 MS. SAVAGE: And you succeeded.
19 Thank you.

20 (APPLAUSE)

21 MR. THOMPSON: The Environmental
22 Federation of Oklahoma is holding its
23 annual meeting September the 30th and they
24 have asked me to be the keynote speaker for
25 that meeting. The theme of that meeting is

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1 going to be, as you might suspect,
2 politics. Now, I don't -- I wouldn't -- I
3 don't have a crystal ball relative to
4 national or statewide or local elections, I
5 don't have any idea how that's going to
6 turn out. So that won't be what I will be
7 talking about. But my crystal ball does
8 tell me that we're going to have -- we have
9 lost the long-term Chairman of the Senate
10 Environment Committee. We have lost the --
11 not the long-term but the Chairman of the
12 House Environment Committee, Natural
13 Resources Committee that we had built a
14 relationship. We have lost the Chairman of
15 our Appropriations and Budget Subcommittee
16 in both the House and the Senate, all of
17 them term limited. Plus, we're going to be
18 facing forty-four -- at least forty-four
19 new members in the State Legislature. So
20 my talk will be around the theme of
21 relationship-building. We are going to, in
22 the next legislative session, have to do a
23 huge amount of work with the Legislature to
24 get our story across. It will be a -- it
25 will be challenging but it will also be

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1 fun, so we're looking forward to that
2 challenge.

3 The Environmental Council of the
4 States meeting, which is the meeting of the
5 national -- the National Organization of
6 State Environmental Commissioners will be
7 meeting in Oklahoma City October the 3rd
8 through the 5th. We would invite any of
9 the Board Members who care to come and see
10 what a bunch of state commissioners do when
11 they get three days together, to attend.
12 I'm currently serving as the Vice-President
13 of that organization and unless they come
14 to their senses, will probably serve as the
15 President of that organization next year.
16 So we look forward to hosting that meeting
17 in Oklahoma City.

18 I think you're all aware of the
19 Board and Council orientation that we're
20 holding September the 14th. We certainly
21 encourage you all to attend that. We want
22 to give information about the agency and
23 about the Board and Councils and about
24 their responsibilities, but I've seen Jon
25 Craig's presentation and there will be a

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1 little humor in it, too. So we look
2 forward to your attendance there.

3 The only other thing that I wanted
4 to talk with you a little bit about is
5 every day some news clip hits my desk and
6 at the end of the week I get them all.
7 Typically, it is not good news. We should
8 probably -- Terri tells me all the time I
9 need to do a better job of getting news
10 stories -- good news stories out, but I
11 think it's important -- I thought it was
12 important, so I asked our folks to give me
13 some highlights of what the Agency's have
14 done that are really frankly pretty neat,
15 good news stories and I wanted to share
16 those with you.

17 Our Complaints and Local Services
18 folks respond to between five and six
19 thousand environmental complaints a year.
20 And many of those are on open dumping and
21 surfacing sewage. And taken individually,
22 they're probably not a big environmental
23 issue. So what we began to do is track the
24 total impacts of our complaint effort. And
25 in the last fiscal year, that group was

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1 responsible for cleaning up fifty-two
2 thousand cubic yards of solid waste and
3 over eight and a half million gallons of
4 surfacing sewage. So I think the story
5 here is that individually they're not big
6 deals. Collectively, it's a pretty big
7 story.

8 The Agency recently initiated it's
9 first award for heroism. One of our
10 environmental specialists, a fellow by the
11 name of Don Neal that works out of our
12 Wagoner office, suffered a very serious
13 heart attack in that office a while back.
14 Two of our other environmental specialists,
15 fellows by the name of Paul Richardson and
16 Jonathan Robinson were in the office at the
17 time and they administered CPR and called
18 911 and are accredited with saving Don's
19 life. So it was my pleasure to present
20 them with our first heroism award and they
21 also received a citation from the City
22 Council in Wagoner. So their ability to
23 respond quickly, in fact, saved Don's life.

24 In our Land Protection Division,
25 several years ago we were at the dedication

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1 of a new shopping center in Sand Springs
2 called the Cimarron Plaza Shopping Center.
3 That was a former smelter site there that
4 has been turned into useless land turned
5 into productive land and as a result, the
6 developer is receiving a Regional Phoenix
7 Award for those kinds of reclamation
8 projects. That was done with the able
9 assistance of our Brownfields folks,
10 particularly, Dr. Rita Kottke who leads our
11 Brownfields program. So we're very proud
12 of that work that was done there.

13 A while back, we had a meeting at
14 Cushing and I think many of you drove right
15 by the old refinery site, because it had
16 been turned into green pasture. There is
17 still a lot of work to do at Cushing, but
18 more recently we began -- we completed the
19 demolition of the old ORC site at Cyril.
20 So while a lot of work continues, at least
21 the skeleton structures of those refineries
22 have been taken down. A lot of times, you
23 hear about facilities that have been bad
24 actors. I think it's good to acknowledge
25 those facilities that have been good

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1 actors.

2 This year, the Pentagon recognized
3 Tinker Air Force Base with the 2004 General
4 Thomas D. White Award for having the best
5 environmental restoration program in the
6 Department of Defense. Of all the
7 facilities in the Department of Defense,
8 Air Force, Army, Marine, Naval bases, they
9 won that award. Last year, Tinker won the
10 award for the best overall environmental
11 management program. So it's good to have
12 good environmental neighbors that are
13 winning those kind of awards.

14 We have been very aggressive in our
15 -- in the field of GIS. Much to my chagrin
16 sometimes, it seems to cost a lot of money,
17 but the point of GIS is really, I think, to
18 get good information to the public. And
19 one of the ways we have tried to get good
20 information to the public is through our
21 DEQ data viewer, which is on our website.
22 And this year, that website, that viewer,
23 won a special achievement award from the
24 Data Users Conference, not the Tech-people
25 but the people who actually use those kind

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1 of sites, and was selected from one hundred
2 thousand other user sites across the world.
3 And so David Pruitt, who works in our Water
4 Quality Division, is to be congratulated
5 for his work there.

6 And finally and probably most
7 unbelievably, there is a very prestigious
8 national award called the Paul Eastman
9 Environmental Statesman Award that is given
10 for lifetime achievement in improving water
11 quality. And this year's recipient of that
12 award is our own Jon Craig, Division
13 Director of Water Quality.

14 There was -- when Jon received this
15 award, it's called the Environmental
16 Statesman Award. There was a lot of
17 discussion about the statesman part but, in
18 fact, Jon has dedicated a career to
19 improvement in water quality, not only in
20 the State of Oklahoma, but across the
21 country and so it is well deserved.

22 I'm sure there's a lot of good stuff
23 going on in Air Quality, but they didn't
24 give me any highlights, so maybe we can do
25 that next time.

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1 MR. TERRILL: We're too busy.

2 MR. THOMPSON: With that, Mr.
3 Chairman, if there are no questions, that
4 concludes my report.

5 MR. WUERFLEIN: Are there any
6 questions for Steve?

7 MS. SAVAGE: Mr. Chairman, when
8 Steve talks about the things that the DEQ
9 has done as an Agency, the thing that I've
10 always noticed about the DEQ, that it's a
11 very humble agency. And when he says we do
12 this and do that, what he doesn't say is,
13 is that the DEQ, can reach out and change
14 the life of a family. And I've seen that.
15 I mean, one little family. And they'll
16 also reach out and maybe change for the
17 better a whole community. And that's
18 something that I would say most people
19 don't even know. I mean, there are people
20 out there that have been impacted in their
21 lives just because of Jon Craig, Eddie, so
22 many people, you know, just people will
23 respond. And it will be several people,
24 will do amazing things and I don't think
25 that's something that the people know about

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1 and it's something I cherish about this
2 Agency. And I'm just saying it FYI,
3 because I don't think people really know
4 what a decent bunch of people we have and
5 how hard they work and that they actually
6 do touch lives. I've seen it, so.

7 MR. JOHNSTON: Here, here.

8 MR. THOMPSON: Thank you.

9 MR. WUERFLEIN: I noticed on the
10 table there was some information about
11 education grants. Does anybody from staff
12 want to comment on that?

13 MS. BUSSERT: I'm glad you asked.

14 We are starting our grant process for the
15 environmental education license tag grant.
16 There is extra copies out there on the
17 handout table. We have grants for outdoor
18 classrooms for a thousand dollars, five
19 hundred dollars for supplies. This is for
20 a teacher or youth leader, 4-H, Boy Scouts,
21 Girl Scouts, if you need to buy hand-held
22 microscopies, if you want to plant trees,
23 if you need videotapes, books, anything to
24 help your program, you can apply for it.

25 And then we have a special program

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1 for high schools called environmental field
2 trips. And that is to pay money for the
3 bus driver and the bus mileage to take high
4 school classes on an environmental field
5 trip, like to a plant where they can meet
6 people who are environmental professionals,
7 like chemists or engineers, to learn more
8 about how they could pursue a career in the
9 environment.

10 If you have any questions
11 afterwards, feel free to ask me. It's
12 going to be on our website. We have about
13 fourteen thousand dollars to give away.
14 All of you that have environmental
15 education license tags on your vehicles, we
16 thank you very much because that's what
17 funds the program.

18 MR. WUERFLEIN: Thank you, Ellen.

19 MS. BUSSERT: Thank you, Mr.
20 Chairman.

21 MR. WUERFLEIN: Would you be
22 interested in a break before the public
23 forum. Sounds like we'll take a ten minute
24 break and then reconvene for the public
25 forum.

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(END OF PROCEEDINGS)

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