

MINUTES
ENVIRONMENTAL QUALITY BOARD
November 15, 2005
Braman Town Complex 302 Broadway
Braman Oklahoma

EQB Approved
February 24, 2006

Notice of Public Meeting The Environmental Quality Board convened for a regular meeting at 9:30 a.m. November 15, 2005 at the Braman Town Complex, Braman, 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 November 24, 2004. The agenda was mailed to interested parties on November 2, 2005 and was posted on November 14, 2005 at the meeting facility and at the Department of Environmental Quality. Mr. Steve Mason, Chair, called the meeting to order. Mr. Johnston welcomed everyone to Braman and introduced Sheriff Edward Van Husen and Senator David Myers. Roll call was taken and a quorum was confirmed.

MEMBERS PRESENT

Tony Dark
Bob Drake
Jennifer Galvin
David Griesel
Jerry Johnston
Sandra Rose
Richard Wuerflein
Steve Mason

MEMBERS ABSENT

Brita Cantrell
Mike Cassidy
Jack Coffman
Terri Savage
Vacancy

DEQ STAFF PRESENT

Steve Thompson, Executive Director
Jimmy Givens, General Counsel
Wendy Caperton, Executive Director's Office
Shellie Chard-McClary, Executive Director's Office
Scott Thompson, Land Protection Division
Gary Collins, Env. Complaints & Local Services
Jon Craig, Water Quality Division
Ellen Bussert, Administrative Services Division
Jamie Fannin, Administrative Services Division
Myrna Bruce, Secretary, Board & Councils

OTHERS PRESENT

Ellen Phillips, Assistant Attorney General
Christy Myers, Court Reporter

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

Approval of Minutes Mr. Mason called for motion to approve the Minutes of the August 23, 2005 Regular Meeting. Mr. Wuerflein made the motion to approve as presented and Mr. Johnson made the second. Roll call as follows with motion passing.

Tony Dark	Abstain	Jerry Johnston	Yes
Bob Drake	Yes	Sandra Rose	Yes
Jennifer Galvin	Yes	Richard Wuerflein	Yes
David Griesel	Yes	Steve Mason	Yes

Rulemaking – OAC 252:205 Hazardous Waste Management Mr. Bob Kennedy, Vice-Chair of the Hazardous Waste Management Advisory Council, asked the Board to consider rule modifications which would incorporate by reference federal hazardous waste regulations in Title 40 of the Code of Federal Regulations; would eliminate rules that pertain to a revoked statute; update regulatory citations for other DEQ rules; would apply various minor formatting changes to simplify reading; and would incorporate a later 40 CFR amendment relating to the management of certain mercury-containing equipment. Mr. Kennedy further identified and explained these proposed amendments

and asked that the Board approve for permanent adoption. Mr. Kennedy and staff fielded questions and comments from staff and members of the public. Mr. Mason called for action by the Board. Mr. Johnston moved to approve and Ms. Galvin made the second. Roll call as follows with motion passing.

(see transcript pages 8 -21)

Tony Dark	Yes	Jerry Johnston	Yes
Bob Drake	Yes	Sandra Rose	Yes
Jennifer Galvin	Yes	Richard Wuerflein	Yes
David Griesel	Yes	Steve Mason	Yes

Consideration of and Action on the Environmental Quality Report Mr. Steve Thompson, Executive Director, advised that the Environmental Quality Report requires Board approval and is sent to the Governor, Speaker of the House, and to the Senate Pro Tem each year. He added that the purpose of this report outlines the DEQ's annual needs for providing environmental services within its jurisdiction, the report reflects any new federal mandates, and it contains DEQ's legislative recommendations for the year. Mr. Thompson then explained in detail these requests and answered questions from Board and public. Mr. Mason called for approval by the Board. Mr. Griesel made the motion and Mr. Drake made the second. Roll call as follows with motion passing.

(see transcript pages 21 - 47)

Tony Dark	Yes	Jerry Johnston	Yes
Bob Drake	Yes	Sandra Rose	Yes
Jennifer Galvin	Yes	Richard Wuerflein	Yes
David Griesel	Yes	Steve Mason	Yes

New Business None

Executive Director's Report Mr. Thompson first gave an update on Mr. Craig Kenamer's medical condition, then pointed out several items in his report related to staff and areas that the DEQ would be involved with in the coming year. He advised that DEQ staff member, Jay Wright, would be helping the Secretary of Environment with a study of mercury levels in fish. He noted that staff has been working with the Oklahoma Hazardous Materials Emergency Response Commission on a proposal to require online reporting of Tier II reports; and suggested that this proposal probably would come before the Board in the next year. He related that staff would host an informational seminar on November 21, 2005 for those who will be affected by the arsenic rule. Mr. Thompson reported that with grant money, staff had shared in a problem-solving venture to help a Lake Keystone community with lagoon issues providing individual septic systems for homes in the development. He added that the DEQ Green Team had received the first-place Government Agency Award for Environmental Improvement in the Keep Oklahoma Beautiful Statewide Environmental Excellence Competition. Mr. Thompson also provided an update on an environmental spill near Pawnee. He mentioned the Agency's 'My Facility' initiative and he provided copies of the 2005 DEQ Annual Report.

Adjournment The meeting adjourned at 10:45 and the Public Forum followed.

DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF OKLAHOMA

* * * * *

TRANSCRIPT OF PROCEEDINGS
OF THE ENVIRONMENTAL QUALITY BOARD
OF THE REGULAR MEETING
HELD ON NOVEMBER 15, 2005, AT 9:30 A.M.
AT THE BRAMAN TOWN COMPLEX
302 BROADWAY
IN BRAMAN, OKLAHOMA

* * * * *

MYERS REPORTING SERVICE
Christy A. Myers, CSR
(405) 721-2882

MEMBERS OF THE BOARD

BRITA CANTRELL - MEMBER

BOB DRAKE - MEMBER

JENNIFER GALVIN - VICE-CHAIR

DAVID GRIESEL - MEMBER

JERRY JOHNSTON - MEMBER

STEVE MASON - CHAIRMAN

SANDRA ROSE - MEMBER

RICHARD WUERFLEIN - MEMBER

MIKE CASSIDY - MEMBER

JACK COFFMAN - MEMBER

TONY DARK - MEMBER

TERRI SAVAGE - MEMBER

STAFF PRESENT

STEVE THOMPSON - DIRECTOR

JIMMY GIVENS - STAFF ATTORNEY

SCOTT THOMPSON - DEQ

JON CRAIG - DEQ

JUDY DUNCAN - DEQ

GARY COLLINS - DEQ

ELLEN BUSSERT - DEQ

MYRNA BRUCE - DEQ

PROCEEDINGS

MR. MASON: Good morning. My name is Steve Mason and I m the Chairman of this meeting.

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 November 24, 2004. Agendas were mailed to the interested parties.

The Agenda for this meeting was posted one week in advance of this meeting at this facility and at the Department of Environmental Quality, 707 North Robinson, in Oklahoma City, 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

today s Agenda.

Myrna, let s see if we have a quorum, please.

MS. BRUCE: Mr. Dark.

MR. DARK: Here.

MS. BRUCE: Mr. Drake.

MR. DRAKE: Here.

MS. BRUCE: Ms. Galvin.

MS. GALVIN: Here.

MS. BRUCE: Mr. Griesel.

MR. GRIESEL: Here.

MS. BRUCE: Mr. Johnston.

MR. JOHNSTON: Here.

MS. BRUCE: Ms. Rose.

MS. ROSE: Here.

MS. BRUCE: Mr. Wuerflein.

MR. WUERFLEIN: Yes.

MS. BRUCE: Mr. Mason.

MR. MASON: Yes.

MS. BRUCE: For the record, absent are Ms. Cantrell, Mr. Cassidy, Mr. Coffman, Ms. Savage and we have one vacancy, but we do have a quorum.

MR. MASON: Thank you. The next Agenda item is the Approval of Minutes from

our August 23 Meeting.

Actually, before we do that, let s
introduce some people. Mayor Johnston,
thanks for having us here today.

MR. JOHNSTON: Welcome,
everybody. We re always pleased to have
Braman, America have so many important
people in it and we re very proud of our
little city, we re proud of our little town
complex.

But if you -- the restrooms are down
the hall on the left and if there s
anything that you don t see that you need,
we ll find it for you.

And I would like to introduce our
Sheriff, Edward Van Husen, who is our -- is
all of the law that we have in town and
we re very proud of him.

And do you want me to introduce the
Senator?

MR. MASON: Please.

MR. JOHNSTON: Okay. And our
Senator, Senator David Myers, he s a good
friend and he s been

SENATOR MYERS: Thank you, Mayor.

MR. JOHNSTON: -- very responsive to our needs. Would you like to say a few words?

SENATOR MYERS: I can't.

MR. JOHNSTON: I never -- I never

SENATOR MYERS: I can't say anything because I didn't sign in. The Sheriff said if I didn't sign in, I couldn't say anything. I brought him as my bodyguard. We're going to keep each other's backs if something happens.

Well, thank you all for coming and being in my District today. District 20 includes the Town of Braman, America and we're all proud of Braman and what goes on here. And we're really thankful that you've come to this part of north central Oklahoma to hold your meetings because we, as citizens, want to have the input that's necessary. And we appreciate the fact that you've come all the way up here to listen to us and let us voice our complaints and our praises, also. I hope there's some of those.

So thank you all for coming.

Welcome to my District and I hope you have a good day. And I know if you're going to stay for lunch, the Methodist Church ladies have a great meal for us, because they always do. Thank you, very much.

MR. MASON: Thank you, Senator Myers. The next item is Approval of our Minutes. Is there a motion to approve?

MR. WUERFLEIN: Mr. Chairman, I move that we approve them as printed.

MR. JOHNSTON: I'll second.

MR. MASON: We have a motion from Richard and a second from Jerry. Is there any discussion? Can we have a roll call vote, please.

MS. BRUCE: Mr. Dark.

MR. DARK: I have to abstain. I was not there.

MS. BRUCE: Mr. Drake.

MR. DRAKE: Yes.

MS. BRUCE: Ms. Galvin.

MS. GALVIN: Yes.

MS. BRUCE: Mr. Griesel.

MR. GRIESEL: Yes.

MS. BRUCE: Mr. Johnston.

MR. JOHNSTON: Yes.

MS. BRUCE: Ms. Rose.

MS. ROSE: Yes.

MS. BRUCE: Mr. Wuerflein.

MR. WUERFLEIN: Yes.

MS. BRUCE: Mr. Mason.

MR. MASON: Yes.

MS. BRUCE: Motion passed.

MR. MASON: Thank you. The next

agenda item regards Hazardous Waste Management. I believe Bob Kennedy has a presentation for us.

MR. KENNEDY: Good morning to the Board and everyone here today. I appreciate the opportunity to come here. And I grew up in a small town in New York of about 2,000 people, although that probably would seem like a big town relative -- it was a small town and I just appreciated the drive out here and the access off of I-35 was excellent.

Although we could talk about the benefits of Oklahoma City in the multi-purpose room, we could go on and on about

that, right? It is nice to get away sometimes and to be in different parts of the state.

I am going to be referencing some prepared text, just so I stay on task and communicate as clearly as possibly. So

MR. JOHNSTON: This -- excuse me. This information is available over here that he s going to read from, if you would like those.

MR. KENNEDY: Okay. Today we are asking the Board to consider various rule modifications for DEQ s Hazardous Waste Program. As you know, DEQ is authorized by the EPA to manage the Federal Hazardous Waste Management Program in Oklahoma. An integral part of that authorization is ensuring Oklahoma s program is equivalent to the federal program.

DEQ ensures this equivalency by incorporating by reference the Federal Hazardous Waste Management Regulations found in 40 CFR. The rule revision before you -- revisions before you are designed to accomplish four things.

One, is to incorporate by reference both the Federal Hazardous Waste Regulations found in 40 CFR as they existed on July 1, 2005 and an amendment to 40 CFR that took effect after July 1, 2005.

The second is to eliminate rules that pertain to a revoked statute.

And the third is to upgrade -- update regulatory citations for other DEQ rules referenced in the Hazardous Waste Rules.

And the fourth is to apply various minor formatting changes to simplify reading.

The incorporation by reference -- the actual incorporation by reference only involves a revision to OAC 252:205-3-1. And that is to change 40 CFR the 40 CFR date from July 1, 2004 to July 1, 2005 and to include a reference to 40 CFR published in the Federal Register, with an effective date of August 5, 2005.

However, there are three important revisions to 40 CFR that will be incorporated under Oklahoma s Hazardous

Waste Management Program once these rules are finally adopted.

Number one, one 40 CFR revision will affect all facilities in Oklahoma that generate, transport, treat, store or dispose of hazardous waste through changes to the Hazardous Waste Manifest Regulations and the manifest form.

There is a 12 month delayed compliance period for this change beginning on September 6, 2005 and ending on September 5, 2006. During this transition period, these existing manifest forms and requirements will continue to be implemented and the new requirements will be fully in effect as of September 5, 2006.

Number two, another 40 CFR revision adds an additional Hazardous Waste Code, which is K181, to the list of hazardous wastes found in 40 CFR 261, Subpart D. The new waste is a hazardous non-wastewater generated from the production of certain dyes, pigments, and food, drug and cosmetic colorants. The federal effective date of

the list is August 23, 2005 and the state modification deadline is July 1, 2006.

While no facilities in Oklahoma generate this waste, commercial treatment, storage and disposal facilities that wish to accept this waste must modify their permits in order to include this waste.

And the third amendment, taking effect after July 1, 2005, expands the scope of Universal Waste Rule to include all equipment containing various quantities of elemental mercury that is integral to the function of the equipment. Mercury-containing compounds, such as the dental amalgam (phonetic spelling) or process waste that exhibit a mercury characteristic are not included within the scope of this rule and must continue to be managed as hazardous waste. The federal effective date is August 5, 2005.

Previously, only mercury-containing thermostats could be managed under the less restrictive Universal Waste Rules. The DEQ is now electing to incorporate this provision now so that Oklahoma generators

who generate mercury-containing equipment can manage those wastes under less restrictive universal waste requirements when these rules are finally approved by the Legislature in 2006. If the provision is not adopted now, it will have to wait until the next incorporation by reference and will not be effective in Oklahoma until the summer of 2007. So that's why we brought that one now, that was after the July 1, into this time.

And I might add, we normally address this particular thing, which we do every year in our January meeting and bring it before you in February but sometimes, weather permitting, January can be unpredictable as far as travel and people being together to have a quorum. So we backed that up to our October meeting just to give time for this to take place.

The next item is the revoked statutes. In 2000, the Legislature replaced the statute establishing the Oklahoma Hazardous Waste Reduction Program, which was designed to provide tax credits

to Oklahoma businesses that increased employment while reducing the amount of hazardous waste generated. As a result, the DEQ rules that implemented the program are no longer needed.

And other changes, the remaining modifications are designed to update references to other DEQ rules, apply formatting changes to simplify reading and other minor clerical changes.

Because the incorporation by reference is necessary to ensure DEQ's Hazardous Waste Program remains equivalent to the federal program and because of the benefit to Oklahoma generators regarding the mercury-containing equipment, the Council recommends that the Board approve these rules. Now, if you have any questions, I would be happy to take them.

MR. MASON: Questions for Mr. Kennedy? Do you know -- and this may be a staff question. Have many businesses taken advantage of this tax credit for hazardous waste production, historically?

MR. ROBERTS: No. And that's why

the Legislature revoked the statute, as I understand it because it wasn't being taken advantage of.

MR. GIVENS: I don't believe -- I don't believe anyone ever took advantage of that particular provision and it's been on the books for a number of years.

MR. MASON: And is that Subchapter 23 or where is that in here, the revoked one?

MR. KENNEDY: It looks like Subchapter 17 on the strikethrough on Page 1.

MR. GIVENS: That's right, Subchapter 17.

MR. ROBERTS: Steve, I think what had happened was back when the Legislature repealed that statute, we had Subchapter 17 -- a large part of it was devoted to rules for that statute and those rules were revoked when the -- in Subchapter 17, when the statute was revoked. But there were other references in the Hazardous Waste Rules, such as 205-1-1 and -- which still had the statutory reference in it. So it

was just kind of a clean up to get all of the references out of it.

MR. MASON: But 17 is remaining as a tax credit?

MR. ROBERTS: The tax credit and the hazardous waste reduction thing are two different -

MR. MASON: Okay.

MR. ROBERTS: -- programs.

MR. GIVENS: Yes, I mis-spoke.

It s -- 17 remains and that s a different credit than what we re talking about here. I m sorry.

MR. MASON: So we re just revoking -- this Appendix A is whatever -- what the legislation got rid of?

MR. GIVENS: Right.

MR. MASON: Okay. Have we paid out many tax credits that are in Subchapter 17?

MR. GIVENS: I don t know how many, but I think there have been some that have applied under that provision.

MS. DUNCAN: I can t remember the dollar figure. We put that together a few

months ago, but it escapes me at the moment. But we average about three to four applications a year for that tax credit and they vary in size.

MR. JOHNSTON: Why didn't the other one work? Is it just nobody needed it or wanted it or what?

MR. GIVENS: In my opinion, it was just too complex and resulted -- if you actually went through the math, you went through an incredibly complex process and ended up with a very small credit, if any. Excuse me.

MS. DUNCAN: It's possible that the Quality Jobs Act that was -- that came into effect about that -- you know, some years ago, also, was used more extensively than this. The tax credits that are available through the Quality Jobs Act.

MR. MASON: Okay. So Appendix A that we're revoking, where is it referenced back in the rules -- in a strikeout?

MR. ROBERTS: To be honest with you it was left over from Subchapter 17 when the rule previously got revoked.

MR. MASON: Okay.

MR. ROBERTS: That related to the tax credit. Okay. They revoked the rule, but they failed to revoke the Appendix. And then also other references in 205 that referred back to the statute were not revoked, either. And so this is just a clean up to get rid of everything that pertains to that. Make sense?

MR. MASON: Yes, sir. So what do I get a tax credit for doing?

MR. ROBERTS: I m not that familiar with it so

MR. SCOTT THOMPSON: The one that they re using currently?

MR. ROBERTS: Yes.

MR. SCOTT THOMPSON: I believe it s for installing equipment to reduce waste volume or production of new waste. So it s a waste minimization idea and that s why Judy knows about it, because it s mostly used through the P2 Program.

MS. DUNCAN: Right. And the process for that is that the Applicant applies to the Tax Commission for that

credit. The Tax Commission sends that application to us, we review the documentation they have about the capital expenditure that they're claiming the credit for and document that -- assure that that did take place and that it did reduce their waste, their generation of waste. We certify that back to the Tax Commission, who gives the credit.

MR. KENNEDY: Other questions?

MR. MASON: I'm done. Comments from the public?

MR. MARTY SMITH: I have a comment to ask, or a question to ask.

MR. MASON: Would you mind speaking at the podium and introduce yourself, please.

MR. MARTY SMITH: I'm sorry.

MR. MASON: Thank you.

MR. MARTY SMITH: On that particular problem that you've stated -- my name is Marty Smith, I'm just a concerned citizen. But on the certification itself, do you all go out and inspect to make sure that that equipment is installed?

MS. DUNCAN: Yes, sir, we do.

MR. MARTY SMITH: You do do it to
prove the certification?

MS. DUNCAN: Yes, we do.

MR. MARTY SMITH: Okay. Thank
you.

MR. MASON: Other public
comments? Is there an action by the Board?

MR. JOHNSTON: Move to approve.

MS. GALVIN: Second.

MR. MASON: We have a motion from
Jerry and a second from Jennifer. Is there
any discussion?

Myrna, let s see if it passes.

MS. BRUCE: Mr. Dark.

MR. DARK: Yes.

MS. BRUCE: Mr. Drake.

MR. DRAKE: Yes.

MS. BRUCE: Ms. Galvin.

MS. GALVIN: Yes.

MS. BRUCE: Mr. Griesel.

MR. GRIESEL: Yes.

MS. BRUCE: Mr. Johnston.

MR. JOHNSTON: Yes.

MS. BRUCE: Ms. Rose.

MS. ROSE: Yes.

MS. BRUCE: Mr. Wuerflein.

MR. WUERFLEIN: Yes.

MS. BRUCE: Mr. Mason.

MR. MASON: Yes.

MS. BRUCE: And, yes, it did

pass.

MR. MASON: All right. Item 5 is the discussion of our Environmental Quality Report by Steve Thompson.

MR. THOMPSON: Thank you, Mr. Chairman. As indicated on the Agenda, the Environmental Quality Report is a report that requires Board approval and is sent to the Governor, to the Speaker of the House and to the Senate Pro Tem every year by January the 1st. That report has three sections.

The first section deals with what is called annual needs which is, in fact, our budget request for the year. Because the budget request information is required by the Office of State Finance on October the 1st, we bring that piece of the Environmental Quality Report to the Board

at the September meeting.

The second piece is a section on Federal Mandates. There is a short section in the report that deals with probably the most resource-intensive area that we will be dealing -- or that we are dealing with now and will deal with in the future and that is requirements for public water supply. And that outlines the sort of series of public water supply requirements that the Agency, and probably, clearly more importantly, communities will be asked to deal with in the future. And you will recall that our budget request is an effort to deal with the impacts to small communities.

The final piece of the report is our legislative recommendations for the year. We have four recommendations this year which will, with Board approval, become our legislative package for the year.

The first one deals with our FTE limits, which is Full Time Equivalency. The Legislature sets the number of Full Time Equivalencies or Full Time Employees,

if you like, that any Agency can have. Because of the number of programs and the stress on the Agency relative to public water supply, TMDLs, because of the ongoing need for FTEs in order to deal with federal programs, we are nearing our limit.

Now, as a part of our budget request, we did ask for an increase in FTEs. I think the number was six. But there is another way that we think we can deal with the FTE issue without raising the limit. And that is that the Agency hires a lot of college students to do somewhat mundane work, filing, data entry, building maintenance. We don't -- we pay them somewhat above minimum wage, but not a lot. And we find it a fairly efficient way to get those kind of mundane activities accomplished. But those -- and they are non-contract, they're not hired through an employment agency, they're simply college students that come to our attention that want a part-time job to help them get through college. But those FTEs do count against our FTE limit.

So what we will ask the Legislature this year to do is to not count those folks against our limit. And if they will agree, that gives us more margin under the current established limit to hire full-time employees that the Agency is going to need. And if you have questions about these, there s four of them, I m going to go through them. You can ask questions. Please interrupt me if you have a question about any of them.

The second issue is in Air Quality and, quite frankly, this is just cleanup language. When the DEQ -- when the Air Quality Program was moved from the Health Department to the DEQ, there was a provision in the statute that said that the Health Department rules were in place until this Board repromulgated the rules. Well, that has long since happened, since we were established in 1993. But that provision remains on the statute books.

And periodically, we ll get a call from either an attorney or a consultant that has read that and it causes some

confusion. They're wondering what they need to do with the Health Department in order to be in compliance with the rules.

So we simply want to remove that language from the statutes. And in all earnestness, particularly in the area of Air Quality, we like to have a piece of legislation out there that is beyond a shell bill, but simply allows us to address any Air issues that come along, so it has really a dual function.

I think the third one listed in the report is the hazardous waste fee. I would like to move on to probably the simpler one and come back to the hazardous waste fee increase.

As a result of the pressure that is being put on communities, particularly small communities, to meet the federal mandates, what we are trying to do is find ways that allow small communities to operate more efficiently.

And one of the ways that we have talked about doing this is to allow -- well, let me first explain that -- the law

requires that communities have certified operators for both water and wastewater. They are certified at a level that matches the sophistication of the wastewater or water treatment facility. And what that has traditionally meant is that each community has its own certified operator and they bear the cost of that certified operator.

The Agency has promoted the notion that an operator can serve multiple communities and that those communities can share the cost of that operator. I would say that we have been -- not been particularly successful in that effort.

And so what we're trying to do with this piece of legislation is simply elevate the notion that a consortia of cities or a large city that wants to share operators with smaller communities or that the local planning districts can work in this area to provide certified operators to multiple communities, we just think that's a good idea that the Legislature should provide some substance to. And so that's what we

will do.

Now, the question that -- sort of the question that's asked often is, well, how many communities can an operator serve. You know, how many, I mean, is it 10 or 15 or 20. And quite frankly, we don't intend to try to address that issue in the statute. We probably will ask the Water Quality Council to address that issue and come to you for a determination on that. So there will be a provision where those kinds of things are handled by rule. But this is just to really tee up the notion that there is some efficiency that could be found in multiple -- in one operator serving multiple jurisdictions.

Finally -

MR. DARK: Steve, can I make a comment before you go on?

MR. THOMPSON: Certainly.

MR. DARK: In regards to the operator issue, obviously you can't dictate that. I mean, it also depends on the quality -- I mean, that's directly proportional to the quality of the

operations they're operating and overseeing, so there's really no way you can do that. I agree with that notion.

However, just a voice of concern regarding allowing substate planning districts to get into that game, I'm quite concerned about that, having experienced that from the private sector. And I just offer maybe a word of caution

MR. THOMPSON: Okay.

MR. DARK: -- to go to substate planning districts and allow that. They seem to get into things that are far beyond their capabilities as it is today.

MR. THOMPSON: Well, I will tell you, Mr. Dark, that we have -- that's where we started and we haven't had a lot of success. And so I think OML and even independent communities have expressed an interest in this and that may be where this issue finds some traction.

MR. DARK: And the notion of small communities utilizing operators that are in the larger nearby communities is a great idea. I think it's fantastic.

However, taking that one step further into a plant, well, look at the names, a planning district. They are not engineers, they are not operators, and I just -- I've seen that operation and DEQ has had some real problems in the past on the modeling and those sorts of thing, so

MR. THOMPSON: Okay. Finally, the last time that the Agency went to the Legislature to ask for an increase in our hazardous waste fees was in 1993. That fee remains at \$9 a ton.

While I suppose there will be some argument about the figures that we've used, as best as we can determine, the fee in the State of Texas is somewhere around \$35, although we think their law is illegal, but we're not surprised by that. As best we can determine, the fee in Louisiana is somewhere around \$40.

We really need some more funding in our Hazardous Waste Program. We are short, based on the analysis that you'll hear about in the forum, based on the analysis there, we are about four FTEs short in

being adequately staffed in our Hazardous Waste Program. And I will tell you, as an Agency Director or Environmental Agency Director, the last place you want to be short-staffed is in your hazardous waste effort.

Secondly, as that -- as the volume of hazardous waste has gone down, so has our income, from a high of about \$3,000,000 to currently about \$800,000. When we were bringing in more money as -- and quite frankly, it was a result of more waste being treated at the one facility that this really affects, which is Lone Mountain, we use that money for Superfund match. And because of the reduction in the income in that program, we now have to ask the Legislature for individual match for Superfund projects, which is sometimes important to the person in the district where the Superfund project is, but not often of great concern to some other folks.

And finally, there are a lot of orphan sites out there, hazardous waste sites that don't rise to the level of

Superfund but, nevertheless, are things that really need to be cleaned up. In southeastern Oklahoma, there are any number -- I'm not sure we even know, Scott, how many of those post-treating (inaudible) there are that just sit there unguarded.

And it is, quite frankly, it is a concern for children and safety and environmental health and all of those kinds of things. And there is no real funding mechanism to address those.

So what we're asking is that -- and I will tell you that any time you do a fee case in the Legislature, it is a negotiation. We would like to ask for \$35. If we got that amount, all of the things that we discussed, I think that Scott and his group did an analysis of our employee needs, of the future Superfund needs and at least a partial list of the non-Superfund sites that we would like to begin to take a look at and clean up.

So we're asking for approval to go forward with an increase in fees for our Hazardous Waste Program. Again, that will

be -- we re currently at \$9, we will introduce the legislation at \$35 and we ll see where we end up.

With that, Mr. Chairman, I would be happy to ask -- answer any other questions.

MR. MASON: Questions.

MR. THOMPSON: Yes, sir.

MR. DARK: (Inaudible) obviously, at least all of us know how important that is and how understaffed the Agency is, there is an opportunity, hopefully, this session to talk about salaries for all staff. I saw something in the back of this report regarding that. But the only thing I can see that may come up during the course of that discourse may be the positions of staff and your requirements for those positions. In other words, the qualifications to get -- they re looking at, I mean, they ll throw the quality issue out, I m certain of that.

And I was wondering if I might see or we might discuss, not at this meeting but maybe a future meeting, the requirements for the different positions

for each one of the divisions and take a hard look at that, because I think that would be an argument you ll need to debate at some point to the Legislature.

MR. THOMPSON: Yes, we can -- we would be glad to do that. We -- the process is that there are minimal requirements for state employees with the Office of Personnel Management. And then the Agency really has made decisions about the level of expertise that is necessary to fill certain positions.

We are in a -- we re in an economic situation in the State of Oklahoma where for state agencies to be able to hire environmental specialists, for us to be able to hire and particularly hire and retain chemists, I don t know what the count is now, Judy, but at one time we had lost about seven chemists, I think, six or seven chemists -

MR. DARK: (Inaudible) six months ago, I know that.

MR. THOMPSON: -- to the oil industry. The same is true of engineers.

So the Agency is always hopeful that we can take -- and we have traditionally, I mean, the Department of Environmental Quality, I don't think it's any secret that we are the training ground for industry. We bring engineers in and environmental specialists in and we train them for about five years and the private sector offers them twice the amount of -- folks, you know, in the private sector.

MR. JOHNSTON: Tony did that.

MR. THOMPSON: I'm glad you said it. Tony offers them, you know, a 50 percent increase in salary. So, I mean, it's a tightrope relative to having quality employees doing the training and sustaining a viable workforce. I really think that the Division Directors do a, under those kinds of stressors, do an extraordinary job. But if it gives the Board comfort to talk about that, I think Shellie will talk a little bit about that in her presentation for the forum but --

MR. DARK: It's just so crucial and that's what the -- one of the

responsibilities of this Board is to set policy. And if policy regarding positions is something that we can help you with in setting requirements and then if those are impossible to meet, I think it s a pretty good argument for the Legislature to increase some salaries, as well, to keep those people on.

MR. THOMPSON: Yes, may be.

MR. DARK: Or at least get them hired for a few years before I can hire them.

MR. THOMPSON: Yes, I know, you want to hire a quality person before you can hire them, right?

MR. DARK: I m going to ask the State Board of Registration, as well, to consider that we re finding in the private sector the same problem, is that we ll hire young engineers with no field experience. And because of the economics of the situation, find it very difficult to send a kid into the field for a few years and get the experience they need and all of a sudden, you have a Registered Professional

Engineer with not a lot of field experience and that s a dangerous place to be. I m going to ask the State Board of Registration to look into that.

MR. THOMPSON: Okay.

MR. MASON: Other questions?

MS. GALVIN: I have a question.

On Page 7 of your report --

MR. THOMPSON: Yes.

MS. GALVIN: -- I was just curious why the costs of Superfund fluctuates so dramatically, projected to be in 2007 to be \$83,000/\$84,000. Why do those numbers fluctuate, in general?

MR. THOMPSON: I think that what was -- what happened was, we tied those to when we thought we would need match at specific sites. So I don t know what those -- I don t know what they are but, I mean, we ve got Imperial Refining and we ve got Tulsa Fuels and we have any number of Superfund match issues that come up.

And I think they calculate -- what they did was calculate the projected cost of the Superfund and then took 10 percent

of that for each of those projects and just -- when are we going to be able to do a specific site and the match that that would be. That's why it fluctuates to that extent.

There is a -- I would say -- and quite frankly, there is some risk in using fees for Superfund match because we collect them continuously and we spend them episodically and that means that there is some opportunity for fee theft by folks. But I sense that the days when the Legislature -- I think that if you can make the case that you have a good use for that money now, that there's less of an opportunity for that to occur than there was maybe in years past.

MR. MASON: And what's the difference between a Superfund and an orphan site?

MR. THOMPSON: The orphan sites don't rise to the level of a Superfund.

MR. MASON: So we pay 100 percent of the orphan sites?

MR. THOMPSON: That's right.

MR. WUERFLEIN: So there is no overlap there?

MR. THOMPSON: So, you either -- I mean, I'll let -- I'm not the Superfund expert. I'll let Scott say where I've mis-spoken, but there is a calculation that's done as to whether you meet the criteria for Superfund or not and either you do or you don't. Now, there are some opportunities for emergency cleanups under Superfund for sites that haven't qualified under Superfund and we sometimes are able to take advantage of those. And where we can, we will in this arena. But what we're talking about here are sites that at least have not qualified under the Superfund program and we just have to look at what if there was federal funding available to help with those.

MR. MASON: And on Page 7 we have Globe Oil in Blackwell for \$200,000. Are we familiar with that site?

MR. JOHNSTON: That's where the hospital is.

MR. SCOTT THOMPSON: There is an

old historic refinery site. It's not obvious from the surface at all. And right about where the hospital is (inaudible).

MR. JOHNSTON: East and a little bit north, yes.

MR. SCOTT THOMPSON: We see some groundwater impacts. We discovered this as we were looking at the smelter site in Blackwell and looking at the groundwater impacts from the smelter site. They do somewhat overlap. But it's under investigation currently. And that's just a projection that it's possible we could need some match down the road for that site.

We don't have to pay any match for investigation or remedial design. We only pay match when we are doing a cleanup. And so we're projecting we might have a cleanup on that site about that time.

MR. THOMPSON: And I think it's fair to say that as we have the capacity to investigate more of these sites, they may well qualify under Superfund. I mean, we would not dismiss them from the Superfund notion if we had enough evidence that where

they would score for Superfund.

MR. SCOTT THOMPSON: There s
times that we ve taken three or four runs
at EPA to try to get a site qualified,
either on the National Priorities List or
through the Emergency Response Cleanup
Program and hasn t made it the first couple
of times but we eventually convince them
that it s worthy of it and get it done.
Some of those we don t have to match for
some of the emergency cleanups and some of
it we do. It s 10 percent state match. So
if we can get EPA dollars in here to help
fix it, it s a lot better deal. But there
is some of them they just won t bite off
on, even though we think they are worthy of
it.

MR. DARK: Is there any allowance
for soft match from us for that 10 percent?
Is there any way by which you can do that?

MR. SCOTT THOMPSON: Yes. There
are times we do that through in-kind
services through using our laboratory
analysis. We provide that sometimes, in a
lot of our work. And then they re pretty

flexible on that and we've done it quite a few different ways.

MR. THOMPSON: I think relative to the hazardous waste fee, there is a provision in the law that allows us to waive the fee if we can get the feds to use -- consider that as match for Superfund. So if we have an in-state Superfund site and the feds will allow us to waive the fee and count that against our match, we can do that, also.

MR. WUERFLEIN: You mentioned this orphan site list. The significant ones, I'm just kind of curious how much longer is the total or are there a lot of sites?

MR. THOMPSON: Lots.

MR. WUERFLEIN: Lots of sites.

MR. THOMPSON: Lots of sites.

Lots and lots.

MR. WUERFLEIN: Is it significant just on the cost of the cleanup or is it the environmental impact or are they related?

MR. THOMPSON: Well, you -- the

real issue is the environmental impact. But it is clear that you have to consider cost, consider what sites you can do with the money you have. And so it is a match between the highest risk sites and the capacity of the Agency to -- fiscal capacity of the Agency to deal with them.

If we had a site that was -- if we had \$200,000 and we had a higher risk site that was going to cost \$300,000, we would go ahead and do the \$200,000 site because we had the capacity -- we might have the capacity to do it. It s a matter of -- it s a juggling act. It s a continuing evaluation of our fiscal capacity to do it and the risk, public risk.

MR. MASON: Public questions?

SHERIFF VAN HUSEN: I have one, just for those of us who don t know. What qualifies it to be a Superfund cleanup? Is it necessarily the area involved or the contaminant involved or a combination or what does it have to do to be qualified as a Superfund?

MR. THOMPSON: I ll let Scott

take a run at that, he's our Superfund expert.

MR. SCOTT THOMPSON: It's a pretty complicated answer, but it boils down to EPA has a model that you evaluate sites on. And it's very qualitative, meaning that the number that comes out doesn't necessarily really represent the real risk from the site.

EPA doesn't consider -- EPA tries to make the model kind of level across the country and some sites you may have a lot of information about and some sites you don't, so they just use a subset of information that would be available for any site in the country.

And so if it scores above a 28.5 on this EPA model based on how many people could be impacted through groundwater use or surface water use and the types of contaminants, then it can be addressed, you can get it on the National Priorities List, which is the official Superfund site list everyone thinks about.

Now, even if it doesn't qualify for

that but we can establish there's an imminent substantial endangerment to people or the environment, we can sometimes get EPA to do it through their Emergency Response Program, which usually deals with smaller sites. And we've kind of gotten to where we've gotten EPA to bite off on some larger sites than they're supposed to through that, which has been a good deal for us.

But generally, you could have the same site in Oklahoma not qualify that would qualify in New Jersey, primarily because of the number of people around it within a given distance from the site that might have private wells or something like that. So it's kind of a little bit of a game, as well as how much real risk there is.

MR. DARK: Okay. What is the name of that model? I'm just curious, the acronym?

MR. SCOTT THOMPSON: Hazard Ranking System, HRS model.

MR. DARK: HRS.

MR. MASON: Are there other Board
or public comments?

MS. MCALLISTER: I would like to
ask

MR. MASON: Would you introduce
yourself first, please.

MS. MCALLISTER: I m sorry.

MR. MASON: Thank you.

MS. MCALLISTER: Della
McAllister. On this Globe Oil in
Blackwell, when was this company in
operation? Do you know that?

MR. JOHNSTON: 20's.

MR. SCOTT THOMPSON: It would
have been

MR. JOHNSTON: Early 20's.

MR. SCOTT THOMPSON: -- I can
get you that information, but I would say
it was -- I m going to guess it was the
30's.

MR. JOHNSTON: 20's and 30's.

MR. SCOTT THOMPSON: 20's and --
yes.

MR. THOMPSON: I think it would
be -- I think it would be better -- I mean,

we ll be happy to take your name, I think we already have it, and get you more specific information. I hate to -- I hate to guess.

MS. MCALLISTER: Okay. I appreciate it.

MR. THOMPSON: We would be happy to do that.

MS. MCALLISTER: Thank you.

MR. MASON: Other public or Board comments? And I guess we need to approve this?

MR. GRIESEL: I make a motion to approve.

MR. DRAKE: I ll second.

MR. MASON: Motion from David and a second from Bob. Any other discussion?

Myrna, take a vote, please.

MS. BRUCE: Mr. Dark.

MR. DARK: Yes.

MS. BRUCE: Mr. Drake.

MR. DRAKE: Yes.

MS. BRUCE: Ms. Galvin.

MS. GALVIN: Yes.

MS. BRUCE: Mr. Griesel.

MR. GRIESEL: Yes.

MS. BRUCE: Mr. Johnston.

MR. JOHNSTON: Yes.

MS. BRUCE: Ms. Rose.

MS. ROSE: Yes.

MS. BRUCE: Mr. Wuerflein.

MR. WUERFLEIN: Yes.

MS. BRUCE: Mr. Mason.

MR. MASON: Yes.

MS. BRUCE: Motion approved.

MR. MASON: Is there any new

business? I guess we re ready for your
Executive Director Report, please.

MR. THOMPSON: Thank you. Each
of you received, I think, a blue sheet on
your -- in front of -- on the table that
indicated the progress that Craig is
making, Craig Kennamer. Briefly, I would
suggest that given the circumstances, it s
about as good as it could be. I mean, he s
-- he didn t have to go through radiation,
and stem cell transplant has been
accomplished and now we re sort of in a
waiting period to see how well that -- how
well those stem cells are engrafted, so

we re -- we did provide you with his address. We would ask that you send cards, but no plants. So, if you would, please.

The second thing that I wanted --

MR. JOHNSTON: Can you explain who Craig Kennamer is?

MR. THOMPSON: Craig Kennamer is our Deputy Executive Director and he has lymphoma and is -- but is progressing well toward recovery. And we re -- he s going to be gone for about, I don t know, about two months or three. I know the Division Directors are very anxious to have him back, as am I. So anyway, things seem to be going well there.

You might have noticed that our General Counsel came into the meeting on crutches today. Mr. Givens has a birthday tomorrow. It is a birthday that ends in a zero. We have suggested that Mr. Givens might want to take up croquet rather than basketball, but that s probably a personal decision.

MR. GIVENS: Just leave it alone.

MS. PHILLIPS: And then the next

day is the Attorney General's birthday.

MR. THOMPSON: Well, happy birthday. Does yours end in an 0", also?

MS. PHILLIPS: Not yet. It's getting there.

MR. THOMPSON: A couple of years ago we did some monitoring below Tar Creek and we found elevated levels of metals in fish and was spreading in the Neosho River below Tar Creek. What a surprise. At that point, we issued a general advisory. We have been seeking funding to replicate that study and this year we received \$165,000 from the Office of the Secretary of Environment to be able to do that. That study should begin in January, so we -- sometime next year we will have the result of that study.

Some of you will remember Jay Wright from the presentation that he gave on issues related to mercury in fish. Jay has been -- we've asked Jay to help the Secretary of Environment with natural resource damages at Tar Creek. Natural resource damages are damages that go beyond

those that are covered by Superfund. So Jay will do -- I know will do a great job there.

This is a bit of a heads-up. Over the past few months, Judy's staff has been working with the Oklahoma Hazardous Materials Emergency Response Commission on a proposal to require online reporting of Tier II reports, Tier II reports being those reports that you must report hazardous materials above a certain threshold level.

Our ability to do online reports was developed last year under a grant that was given to us by David Fleishaker, the Secretary of Energy. So we've been using the Emergency Response Commission to vent that idea, because we really don't have a council that those reports go through. And for the public, I think it's important to understand really the importance that the Councils have. They take up issues first, they look at the technical issues to some extent and then bring them to the Board for final approval. So they are a very

important part of what the Agency does.

Anyway, we went out for comment on that issue and we got a pretty positive response. Two sort of caveats. One was that if we're going to have a required online reporting -- I should say that Tier II reports go to the Department, go to the DEQ, they go to the local Emergency Planning Commission and they go to the local fire department.

Well, the folks that do this reporting said fine, we'll do online reporting, but you have to then take the information and ensure that the local Emergency Planning Commissions and the fire departments get it. And we said, not a bad notion, but we don't have the money to do that.

And the other caveat was that for small filers, we give them some grace period and some training that would allow them to do it.

So we've been about looking at restructuring the fee for Tier II reporting. And probably next year, that

issue will come before the Board.

I mentioned the pressures on communities relative to public water supply issues. One of the most difficult, although probably not the most widespread is our issues with the arsenic rule, we're going to have a seminar in the multipurpose room on November the 21st. We've invited Mayors and City Managers and technical folks that are going to be affected by the arsenic rule to attend that meeting so that we can provide a range of information on the rule.

MR. DARK: What time is that?

MR. THOMPSON: Do you know, Jon?

MS. DUNCAN: It's either 1:00 or 1:30, I can't remember.

MR. DARK: An afternoon meeting?

MS. DUNCAN: Yes, it is. If you like, we can get you the information on that.

MR. DARK: That would be great.

MS. DUNCAN: Okay.

MR. THOMPSON: And one issue I wanted to mention that sort of falls under

the title of some things take longer than others, there has been a community out by Lake Keystone that for about 20 years has had a discharging lagoon, quite frankly. This was sold as a development and when it was sold, nobody took -- had responsibility for the lagoon, so we struggled for a long time to solve that problem. Finally, Jon Craig and Gary Collins and their folks got together and decided we were going to solve it through individual septic systems.

We provided some grant money, we provided free soil profiles, we've done some things. With 24 homes that were in the development, now all but three have had individual treatment systems installed and the remaining systems are scheduled to be installed in the next three months. So we pride ourselves as being a problem-solving agency. Sometimes it just takes a little longer to solve a problem than at other times.

MR. DARK: I heard Jon also agreed to maintain those systems in perpetuity.

MR. THOMPSON: Jon did? Yes, he did, at his own personal expense is the way I understood it.

It s always good to get recognition. On November the 3rd, the DEQ Green Team received the first-place Government Agency Award for Environmental Improvement in the Keep Oklahoma Beautiful Statewide Environmental Excellent Competition. Now, we give grant money to Keep Oklahoma Beautiful, but I should say that the award -- the judging panel, was in Tennessee. So there is no pressure by the Agency to get the award.

As one might wonder what the Green Team is, well, me, too. When Fenton Rood accepted the award, he described it as an ADHOC unauthorized group of folks who get together at lunch and look at ways to make the Agency -- be an environmental steward as we ask others to do. They ve done a lot of work in recycling. They ve done a lot of work in beautification of the building. And so we were -- actually, here s what the out of state Judging Panel commented:

An Extremely creative group , which since Fenton s involved, you can imagine, with commitment and resolve, the DEQ Green Team should be an absolute role model for all government agencies . So while it is ADHOC and unauthorized, I do take some pride in their accomplishment.

This was something that did make the paper on July the 11th. We received a complaint from a volunteer fire department concerning a spill at a place called Blackstar Performance near Pawnee. That investigation revealed that 20 to 30 drums had been shoved off a trailer and at least 55 gallon drums of unidentified solvent had been spilled at the site.

We ordered the property owner to initiate a cleanup. When he failed to do so, we sent our state contractor to the site where we removed a 20 by 20 by 7 foot section of contaminated soil and replaced that with clean soil.

The next issue, of course, when you have something of this nature is the effects to groundwater. So we began to

sample private wells in the area. We found one well contaminated above the MCL level.

We also sampled across -- along the pipelines for the rural water district there and we found no contamination there.

So we met with the rural water district, Jon's folks met with the rural water district. We agreed to forgive their fees if they would run water to the person that has had -- that had his private well contaminated, to help support the replacement of that cost, and so that has been done. And we'll continue to pursue enforcement on this issue under both -- well, under RCRA, and we will begin to evaluate the site under Superfund.

But I think it's important to note that both Scott's folks and Jon's folks -- now I didn't say Scott and Jon, I said their folks, I think, in this situation, responded quickly and appropriately. And so we thought we would pass that information along to you.

MR. JOHNSTON: Spell out RCRA.

MR. THOMPSON: Pardon me.

MR. JOHNSTON: Spell out RCRA.

MR. THOMPSON: RCRA is Resource Conservation Recovery Act and it is the Act that -- under which we regulate hazardous waste.

MR. DARK: No one told you there would be a quiz, did they?

MR. THOMPSON: No. And he surprised I knew.

MR. DARK: Steve, a question. Whenever you find -- staff finds sites like that, that are in fact in violation and we have to come out and remediate it and/or do whatever needs to be done, do we investigate that? Do we have private investigators that look into that, to try and really find out exactly the cause, the people that caused that problem or do we stop there?

MR. THOMPSON: Well, we do -- we do a couple of things. We do civil investigation first. That's where they start. If it rises -- if there's information that it rises to the level of

criminal activity, we do have a couple of criminal investigators. In a case like this, though, often we will -- and in this case, we called in EPA. So we have access to not only our criminal -- some effort on the Agency to do criminal investigation, but we can call in EPA for help.

MR. DARK: So EPA has their own investigators, as well?

MR. THOMPSON: That s true.
That s correct.

SHERIFF VAN HUSEN: On the contaminated well, and you checked several wells around there and you found one contaminated, is that the only time you check?

MR. THOMPSON: No.

SHERIFF VAN HUSEN: Is there a period of time you continue to check and see if it affects the others?

MR. THOMPSON: We ll continue to monitor until we re pretty sure that we solved the problem. There was a well -- there was one of those wells where the -- where we had an indication of the solvent,

but it was not above the maximum
contaminant level. So we'll particularly
continue to watch that. Judy.

MS. DUNCAN: We're also going to
do additional monitoring of the public
water supply lines in the area, just to
make sure that they don't become
contaminated.

MR. THOMPSON: Okay. I know this
is long, but I'm about to the end.
Relative to what Tony talked about, our
effort to retain people where we can. The
Agency was able this year to give a one-
time stipend based on pay for performance.
We awarded four percent, not as a part of
the base salary, but as a one-time payment
to those in the Agency that had exceeded
standards on their personnel evaluations;
Two percent for those who had met standards
and nothing for those that either did not
meet or needed improvement.

It wasn't a lot, but it was an
indication that we value our employees and
when we have the opportunity -- when we
lose a lot of employees that we're trying

to hire back, it does give us some room to value those that have stayed with us. And so we did award that stipend this year.

Finally, I will draw your attention to the annual -- the DEQ Annual Report. There are copies of it at your places at the table. There are also copies for the public. It is a document that we're pretty proud of for a number of reasons. We think it tells a lot of really good stories about people within the Agency. It documents -- it does a pretty good job of documenting the bean counts that we are responding to, the number of inspections, number of enforcement actions, the fine levels, those kinds of things.

It is, rather than preparing a separate document for our reports to the Environmental Protection Agency for the grant money that they give us, we use this one report not only to report those activities to EPA, but as a document for the Agency, for the public.

It is a coordinated effort of all the divisions in the Agency. The leader is

Wendy Caperton of the Executive Director's Office. She often draws a responsibility of getting all the divisions in the agency to agree on certain issues, which is a pretty tough job. But I think, in this case, that we've come together and provided both the public, the Board and the Legislature and the Environmental Protection Agency with a document of value. So I ask you to take a look at it.

With that, Mr. Chairman, I will answer any questions. If there are no questions, that completes my report.

MR. MASON: Questions for Steve from the Board? Any public questions?

SENATOR MYERS: Mr. Chairman, I'm Senator Myers. And I would just like to make a comment that I appreciate the help that the DEQ has given to a lot of our small cities in the area of wastewater and water supply. And I think they're doing a great job in helping our smaller towns because, in many cases, we face some impossible tasks out there. And I just wanted to say we appreciate the help you

give us.

MR. THOMPSON: Well, I very much appreciate that. We're trying to position ourselves to do more. We've -- I didn't mention this in my report, but we have an initiative going in the Agency that we -- I guess I named the My Facility Initiative, where an individual in the Agency really has the responsibility for a community and particularly a small community and that -- and they have that responsibility to shepherd them through the funding issues, the technical issues. Now, we're not going to get in the consulting business, but to the extent that we can, help communities and particularly small communities run the traps to get the funding that they need, to build the infrastructure that they need. I think it's as important as an environmental or an economic development engine for a small community as it is a large community, to have good water and wastewater infrastructures. I appreciate the kind words.

MR. MASON: Any other comments,

questions for Steve?

MR. WHITE: Warren White, Kay County. I have one question.

MR. THOMPSON: Yes, sir.

MR. WHITE: Where does the line run between the DEQ, and is it the OERB that does the cleanup sites for oil, past well sites -- where is the decision made between the responsibility of DEQ and that other organization.

MR. THOMPSON: The line is really OERB is responsible for the cleanup of orphan exploration and production sites for petroleum, so petroleum E and P sites. Other sites that may have, well, other waste issues outside of that arena are typically our responsibility.

MR. WHITE: Is there any chance that the waste disposal sites in the future could become a cleanup site?

MR. THOMPSON: I m not sure I -- I m sorry, could you --

MR. WHITE: Or a waste disposal site such as the one in (inaudible), is there any chance that those could become a

pollution (inaudible).

MR. THOMPSON: I see. Are you talking -- well, if you're talking about -- are you talking about a solid waste site?

MR. WHITE: Yes.

MR. THOMPSON: Are you talking about a solid waste landfill?

MR. WHITE: Yes.

MR. THOMPSON: I'm not surprised. The answer to your question is, anything can happen. But the requirements for solid waste, corroborating solid waste landfill, are much more stringent now than they were 10 or 15 years ago. Where -- and Jon, you know, please jump up and say what Mr. Thompson meant to say.

MR. ROBERTS: So far you're doing fine.

MR. THOMPSON: You can act like a Division Director in this one circumstance. The requirements for post-closure, at one time you had to do eight years post-closure monitoring. Now you must have 30 years post-closure monitoring. I would say that over time, the technology related to liners

has advanced. I think that probably the Agency's effort to inspect solid waste facilities is probably more vigorous than it has been in the past.

So there is a lot of safeguards against that happening, but anything can happen. I mean, I can't -- no one can give you a 100 percent guarantee that that wouldn't happen. But the safeguards -- reasonable safeguards are often in place.

MR. MASON: Other questions as part of our Executive Director Report? Before we adjourn, let's visit about lunch. The last Board meeting I attended here was about six years ago and the highlight was lunch at the Mayor and Marilyn's church. So before everyone runs off, do you want to talk about lunch, Jerry?

MR. JOHNSTON: We -- they will be ready anytime after 11:30. We'll see how it plays out. It's not like a restaurant, so when it's ready, we probably need to go eat and see where it breaks and anywhere between 11:30 and 12:00 we need to go to lunch.

MR. MASON: And I would encourage everyone that rather than hopping in your car and running home, it's worth the 45 minutes. The lunch will be great and I think it supports the church. And where are we going from here?

MR. JOHNSTON: It's a block west and a block north.

MR. MASON: All right.

MR. CANNON: I have a question.

MR. MASON: Yes, sir.

MR. CANNON: I'm Larry Cannon, I'm from Blackwell out here. My experience is Oklahoma has a lot of Indian reservations, a lot of nations and stuff. How do you deal with those or do they have to give you permission to come on to their nations and stuff? Several years ago there was an inspector (inaudible) checking around and I appreciated it, but how do we help the Indian nations? We have casinos, they have a lot of money, so maybe they could help you with the DEQ fund. It's just kind of a wild deal.

MR. THOMPSON: Well, Tribes are

sovereign nations with the right to
sovereignty.

MR. CANNON: Right.

MR. THOMPSON: And that means
that where issues arise under our
jurisdiction, we have been somewhat
shielded from addressing those issues.
Now, sometimes we can have and often do
have cooperative agreements with Tribes.
But if -- as Tribes move to exert their
sovereignty within the State of Oklahoma,
we have 39 federally-recognized Tribes.
And the opportunity for a patchwork of
regulations drew the concern of a lot of
folks.

So as a result of that, Senator
Inhofe had caused to have a provision put
in the Transportation Bill this past year
that says that if -- that a -- one of the
issues is EPA treating that Tribe as if it
were a state for environmental regulation.
And that was a lot -- there were a lot of
people concerned about that.

So Senator Inhofe caused in the
Transportation Bill that if, before EPA

could grant treatment of state to a Tribe, they had to have an agreement with the Agency Director that had responsibility for the program that EPA was granting treatment of state for. In the case of the DEQ, that would be hazardous waste and solid waste and air quality and public water supply and the whole range of things that we do. In the case of water quality standards, it would be the Oklahoma Water Resources Board.

So I think that sort of said that we need to have a set of standards, a set of regulations in the state that are seamless, so that people will know what the regulations are.

The other provision in the Transportation Bill was that the Director of the Agency could request in writing or notify, not request really, but notify in writing the Environmental Protection Agency that that Agency was going to exert its authority on Tribal land and in that case, it could do so. The Agency could do so.

Now, to date, since that passed, we

haven't -- the DEQ at least has not written such a letter because there has not been an issue of major public policy that has -- like, for instance, a Tribe wanting to put a hazardous waste facility or a solid waste facility on Tribal land. So we haven't had something that rises to the level of -- that level of concern. If we do, what we now have is the capacity to address that issue through a letter to the EPA.

So I would say a year ago there was a lot more concern about Tribal sovereignty and this patchwork of regulation than there is today.

MR. CANNON: Thank you.

MR. THOMPSON: Okay?

MR. CANNON: Thank you.

MR. MASON: There being no other business, we're going to adjourn for about five minutes and then we'll have the public forum and we can ask Steve more questions, I think. So we'll get about a five minute break and get organized for the public forum. Is there any other business?

UNIDENTIFIED: Can I say

something?

MR. MASON: Yes, ma'am, please.

UNIDENTIFIED: I just talked to the church ladies, they are having brisket, either barbequed or plain. They are having scalloped potatoes, baked beans. They are just now putting homemade rolls in the oven. They are going to have all kinds of salads and every kind of pie you've ever heard of. And so at noontime they'll be ready to serve us and it will be \$7. And it's all you can eat, if you want to go back, so.

MR. THOMPSON: You did that so we would hurry the forum along, didn't you?

UNIDENTIFIED: No.

(END OF PROCEEDINGS)

