

MINUTES
ENVIRONMENTAL QUALITY BOARD
August 19, 2008
Red River Technology Center Business & Industry Building
3300 W. Bois D'Arc
Duncan, Oklahoma

Approved
November 18, 2008

Notice of Public Meeting The Environmental Quality Board convened for a regular meeting at 9:30 a.m. in the Red River Technology Center Business & Industry Building, Duncan, 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 2, 2007. The agenda was mailed to interested parties on August 8, 2008 and was posted at the Department of Environmental Quality on August 14, 2008. Dr. Jennifer Galvin, Chair, called the meeting to order; and recognized several guests; and introduced new Board member, John Wendling.

Roll call was taken and a quorum was confirmed.

MEMBERS PRESENT

Brita Cantrell
Mike Cassidy
Tony Dark
Bob Drake
Jennifer Galvin
Jerry Johnston
Steve Mason
Kerry Sublette
John Wendling
Richard Wuerflein

MEMBERS ABSENT

David Griesel
Sandra Rose
Terri Savage

OTHERS PRESENT

Kelly Burch, Ass't Attorney General
Christy Myers, Court Reporter

DEQ STAFF PRESENT

Steve Thompson, Executive Director
Jimmy Givens, General Counsel
Wendy Caperton, Executive Director's Office
David Dyke, Administrative Services Division
Shellie Chard-McClary, Administrative Services Division
Eddie Terrill, Air Quality Division
Sarah Penn, Air Quality Division
Chris Armstrong, Customer Service Division
Gary Collins, ECLS
Scott Thompson, Land Protection Division
Glen Jones, Water Quality Division
Ellen Bussert, Administrative Services
Skylar McElhaney, Executive Director's Office
Karl Heinzig, Administrative Services
Myrna Bruce, Secretary, Board & Councils

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

Approval of Minutes Ms. Cantrell called for a motion to approve the minutes of the February 29, 2008 Regular Meeting, Mr. Johnston made the motion to approve as presented and Mr. Wuerflein made the second. Roll call as follows with motion passing.

transcript pages 10 - 11

Brita Cantrell	Yes	Steve Mason	Yes
Mike Cassidy	Abstain	Kerry Sublette	Yes
Tony Dark	Yes	John Wendling	Abstain
Bob Drake	Yes	Richard Wuerflein	Yes
Jerry Johnston	Yes	Jennifer Galvin	Yes

Rulemaking – OAC 252:100 Air Pollution Control Mr. David Branecky, Chair, Air Quality Council, stated that the proposed changes to OAC 252:100-1 and OAC 252:100-5 were housekeeping in nature removing some redundant definitions and making minor corrections. He added that the Air Quality Council had voted unanimously to ask the Board for permanent

adoption. Hearing no discussion, Dr. Galvin called for a motion for permanent adoption of the proposed rule. Mr. Mason made the motion and Mr. Dark made the second.

transcript pages 12 - 14

Brita Cantrell	Yes	Steve Mason	Yes
Mike Cassidy	Yes	Kerry Sublette	Yes
Tony Dark	Yes	John Wendling	Yes
Bob Drake	Yes	Richard Wuerflein	Yes
Jerry Johnston	Yes	Jennifer Galvin	Yes

Mr. Branecky stated that proposed amendments to OAC 252:100-8 would update changes made to the federal rule and would correct some existing errors. After discussion, Mr. Johnston made motion to adopt as presented Mr. Wuerflein made the second.

transcript pages 14 - 16

Brita Cantrell	Yes	Steve Mason	Yes
Mike Cassidy	Yes	Kerry Sublette	Yes
Tony Dark	Yes	John Wendling	Yes
Bob Drake	Yes	Richard Wuerflein	Yes
Jerry Johnston	Yes	Jennifer Galvin	Yes

Mr. Branecky continued with OAC 252:100:17 and requested Board approval for permanent adoption of proposed amendments that incorporate federal requirements relating to municipal waste combustors into the state rule. Mr. Drake moved for approval and Mr. Johnston made the second.

transcript pages 17 - 19

Brita Cantrell	Yes	Steve Mason	Yes
Mike Cassidy	Yes	Kerry Sublette	Yes
Tony Dark	Yes	John Wendling	Yes
Bob Drake	Yes	Richard Wuerflein	Yes
Jerry Johnston	Yes	Jennifer Galvin	Yes

Mr. Branecky explained revisions proposed to OAC 252:100-19 *Control of Emission of Particulate Matter* would clarify that the definition for particulate matter includes both the filterable and the condensable parts. He added that EPA is in the process of revising the test method which should address the difficulties in showing compliance. Questions and comments from the Board and public were fielded by Mr. Thompson and Mr. Eddie Terrill, Director, Air Quality Division. Public comments were heard from Mr. Rusty Kroll representing Public Service Company. Following the lengthy discussion, Dr. Galvin noted that a motion to adopt was made by Mr. Drake and Mr. Cassidy made the second.

transcript pages 19 - 59

Brita Cantrell	Yes	Steve Mason	Yes
Mike Cassidy	Yes	Kerry Sublette	Yes
Tony Dark	Yes	John Wendling	Yes
Bob Drake	Yes	Richard Wuerflein	Yes
Jerry Johnston	Yes	Jennifer Galvin	Yes

Executive Director's Report Mr. Steve Thompson announced that the Secretary of Environment, Miles Tolbert, had resigned his position. He added that the Governor had indicated that he would announce that replacement soon.

Mr. Thompson noted that he would be involved in a couple of House interim studies related to water and wastewater infrastructure and ozone nonattainment.

He advised that staff has attended several ceremonies with the Military Department and the Department of Central Services to return designated armories over for community use as the environmental cleanup had been finalized.

Mr. Jimmy Givens, General Counsel, gave a presentation and update on the legislative session. Mr. Givens also mentioned the statutory requirement for staff to disclose financial interests in any company that DEQ regulates.

Part 2 transcript pages 4 - 31

DEQ Operational Budget Request Mr. Thompson gave a complete review and request for approval of the FY 2010 operational budget and fielded questions from the Board. Dr. Galvin called for a motion to approve the budget as presented. Motion was made by Mr. Johnston and the second by Mr. Wuerflein.

transcript pages 31 - 40

Brita Cantrell	Yes	Steve Mason	Yes
Mike Cassidy	Yes	Kerry Sublette	Yes
Tony Dark	Yes	John Wendling	Yes
Bob Drake	Yes	Richard Wuerflein	Yes
Jerry Johnston	Yes	Jennifer Galvin	Yes

Annual Performance Review of Executive Director Dr. Galvin called for a motion to go into Executive Session. Mr. Drake made the motion and Mr. Dark made the second. Ms. Cantrell volunteered to take the Minutes.

transcript pages 40 - 41

Brita Cantrell	Yes	Steve Mason	Yes
Mike Cassidy	Yes	Kerry Sublette	Yes
Tony Dark	Yes	John Wendling	Yes
Bob Drake	Yes	Richard Wuerflein	Yes
Jerry Johnston	Yes	Jennifer Galvin	Yes

Dr. Galvin noted that a cake had been brought in to celebrate Mr. Thompson's birthday. She called for a motion to return to official business and mentioned that Mr. Dark had to leave for another commitment. Mr. Johnston made the motion and Mr. Cassidy made the second.

transcript pages 42 - 45

Brita Cantrell	Yes	Steve Mason	Yes
Mike Cassidy	Yes	Kerry Sublette	Yes
Tony Dark	Absent	John Wendling	Yes
Bob Drake	Yes	Richard Wuerflein	Yes
Jerry Johnston	Yes	Jennifer Galvin	Yes

Mr. Thompson expressed his personal appreciation to the staff for the Department's outstanding reputation. During the executive session, it was decided that a committee would be formed to evaluate appropriate compensation for Mr. Thompson. The committee volunteers were Jennifer Galvin, Tony Dark, and John Wendling. Mr. Drake made motion to set the Committee and Mr. Mason made the second.

transcript pages 46 - 49

Brita Cantrell	Yes	Steve Mason	Yes
Mike Cassidy	Yes	Kerry Sublette	Yes
Tony Dark	Absent	John Wendling	Yes
Bob Drake	Yes	Richard Wuerflein	Yes
Jerry Johnston	Yes	Jennifer Galvin	Yes

Calendar Year 2009 Board meeting dates and locations Following discussion, the Board set the following dates: Friday, February 27 at the DEQ Multipurpose Room; Tuesday, August 25 in Tulsa; and Tuesday, November 17 in Ada. Mr. Johnston made motion to approve those dates and locations. Dr. Sublette made the second.

transcript pages 49 - 53

Brita Cantrell	Yes	Steve Mason	Yes
Mike Cassidy	Yes	Kerry Sublette	Yes
Tony Dark	Absent	John Wendling	Yes
Bob Drake	Yes	Richard Wuerflein	Yes
Jerry Johnston	Yes	Jennifer Galvin	Yes

New Business – None

Adjournment - The meeting was adjourned at 1:45 p.m. The Board’s next meeting will be at the Tahlequah Municipal Armory, 100 Water Street on November 18, 2008.

1 DEPARTMENT OF ENVIRONMENTAL QUALITY

2 STATE OF OKLAHOMA

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8 TRANSCRIPT OF PROCEEDINGS

9 OF THE

10 ENVIRONMENTAL QUALITY BOARD

11 ITEMS 1-4D

12 HELD ON AUGUST 19, 2008, AT 9:30 A.M.

13 IN DUNCAN, OKLAHOMA

14 * * * * *

23 MYERS REPORTING SERVICE
24 Christy Myers, CSR
25 P.O. Box 721532
Oklahoma City, Oklahoma 73172-1532
(405) 721-2882

1 MEMBERS OF THE BOARD

- 2
- 3 JENNIFER GALVIN - CHAIR, PRESENT
- 4 BRITA CANTRELL - VICE-CHAIR, PRESENT
- 5 BOB DRAKE - PRESENT
- 6 DAVID GRIESEL - ABSENT
- 7 JERRY JOHNSTON - PRESENT
- 8 STEVE MASON - PRESENT
- 9 SANDRA ROSE - ABSENT
- 10 TERRI SAVAGE - ABSENT
- 11 RICHARD WUERFLEIN - PRESENT
- 12 MIKE CASSIDY - PRESENT
- 13 TONY DARK - PRESENT
- 14 KERRY SUBLETTE - PRESENT
- 15 JOHN WENDLING - PRESENT

16 ALSO PRESENT

- 17 STEVE THOMPSON - EXECUTIVE DIRECTOR
- 18 KELLY BIRCH - ASSISTANT AG
- 19 JIMMY GIVENS - GENERAL COUNSEL
- 20 MYRNA BRUCE - SECRETARY
- 21 GENE BROWN - MAYOR OF DUNCAN
- 22 DENNIS JOHNSON - STATE REPRESENTATIVE
- 23 LYLE ROGGOW - PRESIDENT OF DUNCAN AREA
- 24 ECONOMIC DEVELOPMENT FOUNDATION
- 25

MEETING

DR. GALVIN: I would like to call this meeting to order.

The August 19, 2008 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 2, 2007.

Agendas were mailed to interested parties on August 8, 2008 and posted at this facility and the Department of Environmental Quality, 707 North Robinson, Oklahoma City, on August 14, 2008. 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.

Well I have several guests that I would like to welcome today. I would like

1 to start -- I feel like I should stand up.

2 We have some great guests here.

3 Representative Dennis Johnson, we
4 would like to welcome you. Thank you for
5 coming today.

6 Also, Mayor Gene Brown, we would
7 like to welcome you. And Mr. Mayor has
8 more history behind him. He is one of the
9 original Environmental Quality Board
10 Members, so we extend him a special welcome
11 for coming today.

12 MAYOR BROWN: Thank You.

13 DR. GALVIN: Also from the AG's
14 office we have Kelly Birch, we would like
15 to thank you for coming as well.

16 And we have Lyle Roggow, who is
17 President of the Duncan -- there you are --
18 of the Duncan Area Economic Development
19 Foundation.

20 So we would like to welcome all of
21 you and thank you very much for coming
22 today.

23 In addition, we have a new Member to
24 the Board. We would like to extend a
25 special welcome to John Wendling, here on

1 my left. He is Jack Coffman's replacement
2 from OG&E. I'd like to read a little bit
3 about John's background so that you will
4 understand more about him.

5 John was appointed by Governor Henry
6 in March of 2008. He fills the
7 manufacturing representative position of
8 the Environmental Quality Board, previously
9 held by Jack Coffman. He was confirmed by
10 the Oklahoma State Senate this past
11 legislative session.

12 Mr. Wendling holds a Bachelor of
13 Science in Mechanical Engineering from
14 Oklahoma State University, and a Masters of
15 Business Administration from Oklahoma City
16 University.

17 Mr. Wendling joined OG&E in 1979 and
18 was promoted up through the organization.
19 He is currently Senior Vice-President of
20 Power Supply, and he has held that title
21 since 2007.

22 Mr. Wendling is involved in several
23 professional and community organizations.
24 He is a member of the American Society of
25 Mechanical Engineers, Oklahoma City

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4 1 National Memorial Board of Trustees,
5 2 Association of Edison Illuminating
6 3 Companies, and the Center for Energy and
7 4 Economic Development.

8 5 He and his wife, Vickie, live in
9 6 Edmond, Oklahoma. Welcome, John.

10 7 And with that, Myrna, will you do
11 8 the roll call.

12 9 MS. BRUCE: Good Morning. Ms.
13 10 Cantrell?

14 11 MS. CANTRELL: Here.

15 12 MS. BRUCE: Mr. Cassidy.

16 13 MR. CASSIDY: Here.

17 14 MS. BRUCE: Mr. Dark.

18 15 MR. DARK: Here.

19 16 MS. BRUCE: Mr. Drake.

20 17 MR. DRAKE: Here.

21 18 MS. BRUCE: Mr. Griesel is
22 19 absent. Mr. Johnston.

23 20 MR. JOHNSTON: Here.

24 21 MS. BRUCE: Mr. Mason.

25 22 MR. MASON: Here.

26 23 MS. BRUCE: Ms. Rose and Ms.
27 24 Savage are absent. Dr. Sublette.

28 25 DR. SUBLETTE: Here.

1 MS. BRUCE: Mr. Wendling.

2 MR. WENDLING: Here.

3 MS. BRUCE: Mr. Wuerflein.

4 MR. WUERFLEIN: Here.

5 MS. BRUCE: Dr. Galvin.

6 DR. GALVIN: Here.

7 MS. BRUCE: And we do have a
8 quorum.

9 DR. GALVIN: Thank you. I've
10 just been informed that Mayor Gene Brown
11 would like to say a few words.

12 MAYOR BROWN: First of all, good
13 morning to everybody. I consider this a
14 great honor and a privilege to, as Mayor of
15 the City of Duncan, Oklahoma to welcome you
16 to our city. I had the opportunity to
17 serve on this Board. I didn't have enough
18 seniority to get you to meet down here in
19 Duncan, Oklahoma. But someone got it done.
20 No, I'm just kidding. But it is a great
21 honor and a privilege to welcome you to
22 Duncan, Oklahoma. And it also gives me an
23 opportunity to thank you for the great job
24 that you're doing. You've been a great
25 service to the city of Duncan, you know,

1 rebuilding our water plant and also the
2 opportunity for the oil refinery south of
3 us here. We appreciate all of the
4 wonderful things and all of the wonderful
5 cooperation that we have had with you. And
6 it is just a great privilege to have you
7 here in Duncan, and also the Board. It
8 gives an opportunity to the citizens in
9 this area to come and share their ideas
10 with you. It is great to see you're
11 accepting those ideas.

12 I like to tell everybody this, this
13 is the home of the Lieutenant Governor,
14 Gerri Askins, you all probably already know
15 that, but we like to brag about that and
16 tell you that also. We are excited to have
17 you in Duncan. I was telling someone
18 outside that we would like to take the
19 credit for the weather being cooler, but we
20 can't do that. But again, we hope you have
21 a great meeting and enjoy yourself while
22 you're in Duncan. Thank you for being
23 here.

24 DR. GALVIN: Representative
25 Johnson, would you like to say a few words?

1 DR. GALVIN: Thank you. All
2 right.

3 MR. DRAKE: Madam Chairman.

4 DR. GALVIN: Yes, sir.

5 MR. DRAKE: Isn't it wonderful to
6 have people come and welcome us into their
7 community. It doesn't always happen that
8 way, and I thank you. We truly do
9 appreciate it. Thank you very much.

10 DR. GALVIN: Thank you. Jerry,
11 did you want to add anything?

12 MR. JOHNSTON: Nope.

13 MR. DRAKE: I just beat you to
14 the punch.

15 MR. JOHNSTON: Yeah.

16 DR. GALVIN: All right. I know
17 we are glad to be here in all this rain,
18 and in many instances, wonderful rain.

19 Moving on to Agenda Item Number 3,
20 Approval of the Minutes. Are there any
21 comments?

22 MR. JOHNSTON: I move to approve
23 the Minutes of the February 29, 2008
24 Regular Meeting.

25 MR. WUERFLEIN: I'll second that.

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5 2 DR. GALVIN: Okay. We're ready
6 3 for roll call, Myrna.
7 4 MS. BRUCE: Ms. Cantrell.
8 5 MS. CANTRELL: Yes.
9 6 MS. BRUCE: Mr. Cassidy.
10 7 MR. CASSIDY: Abstain.
11 8 MS. BRUCE: Mr. Dark.
12 9 MR. DARK: Yes.
13 10 MS. BRUCE: Mr. Drake.
14 11 MR. DRAKE: Yes.
15 12 MS. BRUCE: Mr. Johnston.
16 13 MR. JOHNSTON: Yes.
17 14 MS. BRUCE: Mr. Mason.
18 15 MR. MASON: Yes.
19 16 MS. BRUCE: Dr. Sublette.
20 17 DR. SUBLETTE: Yes.
21 18 MS. BRUCE: Mr. Wendling.
22 19 MR. WENDLING: Abstain.
23 20 MS. BRUCE: Mr. Wuerflein.
24 21 MR. WUERFLEIN: Yes.
25 22 MS. BRUCE: Dr. Galvin.
26 23 DR. GALVIN: Yes.
27 24 MS. BRUCE: Motion passed.
28 25 DR. GALVIN: The first item to be

1 considered this morning on the agenda is
2 Rulemaking for OAC 252:100, Air Pollution
3 Control. And we have a presentation by
4 David Branecky.

5 MR. BRANECKY: Thank you Madam
6 Chair and Members of the Board. I have
7 four rules that I'm going to ask for you to
8 consider today and I -- do we just want to
9 take this one at a time and vote on them
10 one at a time; is that how you want to do
11 it?

12 DR. GALVIN: Yes.

13 MR. BRANECKY: All right. The
14 first rule we are proposing today is
15 revisions to OAC 252:100-1, General
16 Provisions, and also 252:100-5. And the
17 amendments are primarily housekeeping
18 measures from these two Subchapters. We're
19 moving some definitions from Subchapter 19
20 into Subchapter 1. Subchapter 1 is the
21 subchapter that changes a lot of the
22 definitions that apply throughout the OAC
23 252:100. Other changes are that we've
24 added the definition for regulated air
25 pollutants in Subchapter 1 because it

1 covers more than one chapter. And we're
2 also explaining or adding the definition of
3 nanograms per rule.

4 So basically we are just moving some
5 definitions around from some subchapters to
6 another, and adding some additional
7 definitions.

8 Council considered this rule in
9 April, I think, and July, and we passed it
10 unanimously, and we are asking you to pass
11 it as a permanent rule.

12 DR. GALVIN: Thank you, David.

13 Any questions or comments from the Board?

14 Seeing none, any questions or comments from
15 the public?

16 MR. MASON: I move for approval.

17 MR. DARK: Second.

18 DR. GALVIN: All right. Roll
19 call, please.

20 MS. BRUCE: Ms. Cantrell.

21 MS. CANTRELL: Yes.

22 MS. BRUCE: Mr. Cassidy.

23 MR. CASSIDY: Yes.

24 MS. BRUCE: Mr. Dark.

25 MR. DARK: Yes.

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4 MS. BRUCE: Mr. Drake.
5 MR. DRAKE: Yes.
6 MS. BRUCE: Mr. Johnston.
7 MR. JOHNSTON: Yes.
8 MS. BRUCE: Mr. Mason.
9 MR. MASON: Yes.
10 MS. BRUCE: Dr. Sublette.
11 DR. SUBLETTE: Yes.
12 MS. BRUCE: Mr. Wendling.
13 MR. WENDLING: Yes.
14 MS. BRUCE: Mr. Wuerflein.
15 MR. WUERFLEIN: Yes.
16 MS. BRUCE: Dr. Galvin.
17 DR. GALVIN: Yes.
18 MS. BRUCE: Motion passed.
19 DR. GALVIN: Thank you, David.
20 MR. BRANECKY: Okay. Move on to
21 the next?
22 DR. GALVIN: Move on to the next.
23 MR. BRANECKY: All right. The
24 next one is OAC 252:100-8, Permits for Part
25 70 Sources. And we made some revisions to
this subchapter primarily to correct some
errors in the existing rule, and make
changes that we're required to make by

1 revisions to the Federal Title V, PSD and
2 NRS rules that were published in the
3 Federal Register. So we were making
4 changes primarily because of the EPAs
5 changes that were made in the federal rule
6 and corrected some existing errors. With
7 that we can go into further detail if you
8 would like, but I will just kind of leave
9 it at that. I'll be glad to answer any
10 questions.

11 DR. GALVIN: Any questions from
12 the Board?

13 MR. MASON: Can we redefine
14 responsible officials somewhere else?

15 (Members talking simultaneously)

16 MR. BRANECKY: That should be
17 defined in Subchapter 1.

18 MR. MASON: Okay.

19 MR. BRANECKY: It should be.

20 DR. GALVIN: Any other questions
21 from the Board? Are there any questions
22 from the public? Any further comments by
23 the Board or do I hear a motion for
24 adoption?

25 MR. JOHNSTON: Move to adopt.

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4 1 DR. GALVIN: Do I hear a second?
5 2 MR. WUERFLEIN: I'll second that.
6 3 DR. GALVIN: Roll call please,
7 4 Myrna.
8 5 MS. BRUCE: Ms. Cantrell.
9 6 MS. CANTRELL: Yes.
10 7 MS. BRUCE: Mr. Cassidy.
11 8 MR. CASSIDY: Yes.
12 9 MS. BRUCE: Mr. Dark.
13 10 MR. DARK: Yes.
14 11 MS. BRUCE: Mr. Drake.
15 12 MR. DRAKE: Yes.
16 13 MS. BRUCE: Mr. Johnston.
17 14 MR. JOHNSTON: Yes.
18 15 MS. BRUCE: Mr. Mason.
19 16 MR. MASON: Yes.
20 17 MS. BRUCE: Dr. Sublette.
21 18 DR. SUBLETTE: Yes.
22 19 MS. BRUCE: Mr. Wendling.
23 20 MR. WENDLING: Yes.
24 21 MS. BRUCE: Mr. Wuerflein.
25 22 MR. WUERFLEIN: Yes.
26 23 MS. BRUCE: Dr. Galvin.
27 24 DR. GALVIN: Yes.
28 25 MS. BRUCE: Motion passed.

1 DR. GALVIN: David, will you
2 continue.

3 MR. BRANECKY: Sure. The next
4 one is a proposed revision to Subchapter 19
5 that has to deal with incinerators. The
6 changes that we are making here today are
7 primarily the result of a new federal rule
8 that went into place, we're incorporating a
9 lot of the federal rules into the state
10 rule. Primarily, it will effect existing
11 -- new and existing municipal waste
12 incinerators; and revise some of the
13 emission standards, and it will also modify
14 some operating training requirements.
15 Basically, that's it. Primarily,
16 incorporation of the federal requirements
17 into the state rule. Council is asking
18 that you pass this as a permanent rule.

19 DR. GALVIN: Thank you, David.
20 Any comments or questions from the Board?

21 MR. BRANECKY: We do have one
22 facility in the state that would be
23 effected by this rule. It's not currently
24 operating, it's a municipal waste
25 incinerator in Tulsa.

1 DR. GALVIN: Thank you.

2 Questions or comments from the Board?

3 Hearing none. Are there any questions or

4 comments from the public? All right.

5 Any final comments or questions by

6 the Board? Do I hear a motion for approval

7 for adoption?

8 MR. DRAKE: Move for approval.

9 DR. GALVIN: Do I hear a second?

10 MR. JOHNSTON: Second.

11 DR. GALVIN: Thank you -- thanks,

12 Jerry. Myrna, roll call please.

13 MS. BRUCE: Ms. Cantrell.

14 MS. CANTRELL: Yes.

15 MS. BRUCE: Mr. Cassidy.

16 MR. CASSIDY: Yes.

17 MS. BRUCE: Mr. Dark.

18 MR. DARK: Yes.

19 MS. BRUCE: Mr. Drake.

20 MR. DRAKE: Yes.

21 MS. BRUCE: Mr. Johnston.

22 MR. JOHNSTON: Yes.

23 MS. BRUCE: Mr. Mason.

24 MR. MASON: Yes.

25 MS. BRUCE: Dr. Sublette.

1 DR. SUBLETTE: Yes.

2 MS. BRUCE: Mr. Wendling.

3 MR. WENDLING: Yes.

4 MS. BRUCE: Mr. Wuerflein.

5 MR. WUERFLEIN: Yes.

6 MS. BRUCE: Dr. Galvin.

7 DR. GALVIN: Yes.

8 MS. BRUCE: Motion passed.

9 DR. GALVIN: Thank you. David,
10 will you continue on to Section D.

11 MR. BRANECKY: All right. This
12 will be the last rule we're asking. This
13 is a revision to Subchapter 19; this is
14 Control of Emission of Particulate Matter.
15 Primarily what we are doing here today --
16 asking you to approve today is a
17 clarification that the standard, or test
18 method to show compliance -- it gets a
19 little technical -- there's a condensable
20 and filterable part of a particulate test.
21 The filterable part, the actual particles
22 that you can see, so they are actually in
23 place. Condensables are fine particulate
24 matter that forms after -- they are not
25 solids, they are gases and they form the

1 fine particulate matter.

2 We are trying to define in
3 Subchapter 19, that the word particulate
4 matter means both from naturals and
5 condensables or the filterables and
6 condensables both. There's been some
7 discussion in that. The state has always
8 required in the testing that the testing be
9 done including both the filterable and the
10 condensable. We are trying to clarify
11 that. There's been some concern that that
12 would not have been the case, but it's
13 always been the case. We recognize that
14 there is some issues with how those tests
15 were done, there are some inaccuracies,
16 some variability that may lead to some not
17 quite as accurate results. EPA is
18 recognizing that and actually revising the
19 test method that you use to show
20 compliance, because they recognize there
21 are some difficulties with the test. So
22 even though there may be some difficulties
23 in showing compliance at this time, EPA is
24 addressing that and once they revise that
25 test method that hopefully will solve a lot

1 of the problem.

2 Hopefully, I have explained that
3 enough.

4 DR. GALVIN: Thank you, David.
5 Are there any questions or comments from
6 the Board?

7 MR. DARK: I have a question. It
8 was well understood and well explained and
9 I understood it, but have you had any
10 strong feedback from the industrial sector?

11 MR. BRANECKY: Yes, we have. And
12 in fact, I think we'll have some comment
13 today of concerns. But the primary concern
14 was the variability in the test method, and
15 we feel that it is being addressed and we
16 did recognize that in addressing that
17 issue. And there's also -- if there is
18 some test that is done and there is some
19 concern about the variability, I think the
20 option is always there to retest to make
21 sure that the test is accurate.

22 MR. DARK: That is what I wanted
23 to clarify that we weren't really adhering
24 -- adhering to a test but just defining the
25 matter that we are trying to test; correct?

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4 MR. BRANECKY: What we are doing
5 today is defining that particulate matter.
6 When you do the test, you need to include
7 both the filterable and the condensable
8 parts.

9 MR. DARK: Has that not always
10 been included?

11 MR. BRANECKY: It has not been
12 very clear. It s always been required to
13 show compliance with the State Rule that
14 you do a filterable and a condensable. It
15 just hasn t been clear. So we are trying
16 to make that clear.

17 MR. DARK: And, of course, the
18 Committee recommends this?

19 MR. BRANECKY: Yes. The Council
20 approved it and asks the Board to adopt it
21 as a permanent rule.

22 DR. GALVIN: Thank you. Are
23 there any comments from the public?

24 Sir, please state your name and your
25 affiliation.

26 MR. KROLL: Good morning, Madam
27 Chair and Board Members. My name is Rusty
28 Kroll. I am an attorney representing the

1 Public Service Company of Oklahoma. Excuse
2 me, my voice is not so clear this morning.
3 PSO has been involved in the rulemaking
4 process with the Air Quality Council and
5 have stated our concerns on several
6 occasions.

7 Primarily, it boils down to this --
8 and I ll just make this short. We believe
9 that the prior rules did not include
10 condensable particulate matter. And that
11 this is a new rule requiring a new
12 substantive change of including this
13 material that exists as a vapor, but
14 condenses into a solid or liquid in the
15 testing apparatus???. This is important
16 for PSO s Oolegah facility because its
17 current pollutant control equipment does
18 not - is not capable of removing
19 condensable particulate matter from the air
20 emissions stream. So this rule has the
21 potential to affect the ability to comply
22 with existing regulations. We believe that
23 this rule has the impact to make the state
24 standard which is Subchapter 19, which
25 you re considering today, the potential to

1 make it two to three times more strict than
2 the equivalent NSPS Federal standard. And
3 in such case, there are certain State
4 Statute procedures required for the ODEQ to
5 do a cost benefit analysis to present
6 reasons why it would make sense to have a
7 more strict state standard. And those
8 procedures have not been followed. It
9 includes submitting this analysis to the
10 Governor and the State Legislature.

11 In addition, Mr. Branecky has made
12 reference to the primary reason why EPA
13 elected early on not to include
14 condensables, and that is the inconsistency
15 in the test results caused by chemical
16 reactions in the testing apparatus that
17 create artifacts of particulate matter that
18 would never be emitted into the atmosphere.
19 These are the concerns that we have. We
20 don't lightly come before the Board to make
21 these kind of presentations, but we believe
22 in this instance that it has the ability to
23 cause existing industries difficulty in
24 achieving compliance. Thank you very much.

25 DR. GALVIN: Thank you. Are

1 there any other comments from the public?

2 MR. TERRILL: I d like to address
3 some of the concerns that have been raised
4 here.

5 This originally came up, this whole
6 issue, when we were trying to deal with a
7 complaint situation that we had with a
8 facility that was affecting an entire town.
9 And when we were looking at remedies, it
10 became clear to us that one of the issues
11 they had was with, what we call the back
12 half part of their crane. In other words,
13 they had condensables that were going past
14 the stack and participating out and down
15 stream.

16 And in looking at it we realized
17 that even though we contend that we ve
18 always required this, that it was somewhat
19 unclear as to exactly what we were
20 requiring. That s what started a lot of
21 the discussions that you are seeing today.
22 We ve looked at all of the facilities in
23 Oklahoma. We ve had a lot of discussion
24 with the regulated community, and we ve
25 looked at it from an engineering

1 standpoint. We don't believe that this is
2 going to cause a compliance issue with any
3 of our existing facilities.

4 The NSPS require that we've
5 mentioned, that's got to do with the
6 filterables on the front end, that has
7 nothing to do with the overall particulate
8 matter load that we're addressing in this
9 rule. So we don't think that's an issue.
10 We don't think we've got any facilities
11 that have a compliance issue. Just as a
12 side note, I serve on the National
13 Committee, the National Policy Committee,
14 to EPA which ??? is the Executive Vice-
15 President of the ADP??, who is a parent
16 company of PSO. I've had conversations
17 with him about this when this came up. I
18 had a conversation with him as short as a
19 couple of months ago, and asked him if they
20 had any concerns about this rule, and he
21 said he'd get back with me, and he never
22 did. So they are aware of it at the
23 Corporate Headquarters. So I'm not sure I
24 understand exactly what they think their
25 compliance issues are if they are not aware

1 of them at Corporate.

2 Anyway, we've batted this rule
3 around for about a year now, and we think
4 we've addressed all the issues. The EPA is
5 aware that they do have some problems with
6 the 202. In fact GRDA?? had raised an
7 issue relative to this and they recently,
8 last week, sent me a letter saying they
9 withdrew their objections because they've
10 gotten a letter, which I have here from
11 EPA, stating how to deal with the
12 methodology so that the testing is more
13 accurate.

14 But EPA is addressing this as part
15 of rulemaking, and they are going to be
16 requiring all states to include back half
17 in their definition of total particulate
18 matter. So we just think we've been ahead
19 of the curve for about 25 years. We don't
20 think it's anything new that we're
21 requiring, we are just trying to clarify
22 things so we don't have the same type of
23 issue come up when we are trying to address
24 a complaint, similar to what happened three
25 years ago. That's really all we're trying

1 to do here.

2 DR. GALVIN: Thank you, Eddie.

3 Any other comments from the public?

4 Representative Johnson.

5 REPRESENTATIVE JOHNSON: The

6 gentlemen that just spoke, I just need some

7 clarification.

8 Did I hear him say that currently

9 EPA does not address this issue but they

10 are looking at addressing this issue?

11 MR. TERRILL: What they've done

12 in the past is they've encouraged states

13 that have not addressed what we call the

14 back half issue, to do so. But because of

15 a lot of issues, EPA -- mainly the problem

16 with the test method, EPA never did

17 formerly do that. But they are in the

18 process of both adjusting the test method

19 and making that a formal requirement in the

20 test method, and then also requiring other

21 states that have not already addressed this

22 issue, to do so.

23 REPRESENTATIVE JOHNSON: Thank

24 you.

25 DR. GALVIN: I'm sorry I did not

1 ask Mr. Terrill to identify himself.

2 MR. TERRILL: I m Eddie Terrill.

3 I'm the Air Director for the state of

4 Oklahoma.

5 DR. GALVIN: Mr. Branecky, would

6 you like to add any comments?

7 MR. BRANECKY: No.

8 DR. GALVIN: Any further comments

9 from the public? Questions or comments

10 from the Board?

11 MR. MASON: I have a question.

12 Eddie?

13 MR. TERRILL: Yes.

14 MR. MASON: I think you mentioned

15 that you think that with this new rule, all

16 your emitters are in compliance?

17 MR. TERRILL: Yes.

18 MR. MASON: But Mr. Kroll

19 indicated he thinks that he is not in

20 compliance. Is that what he said? So, I m

21 confused.

22 DR. GALVIN: He used the word

23 "potential" out of the compliance --

24 potentially out of the compliance.

25 Would you like to clarify that, Mr.

1
2
3
4 1 Kroll? I may have misrepresented what you
5 2 stated.

6 3 MR. KROLL: Thank you. It
7 4 depends on the amount of condensables that
8 5 are in the particulate matter results. And
9 6 that varies fairly dramatic for coal-fired
10 7 steam generators anywhere from 25 percent
11 8 of the total particulate matter up to 70,
12 9 to 80 percent.

13 10 So if the particulate condensable
14 11 portion of that is in the 80 percent
15 12 range, it can effect PSO s facilities
16 13 ability to comply, since it is very
17 14 variable. That is one of the problems that
18 15 we see with the rule. To date, the
19 16 facility has been in compliance with
20 17 performance tests. But because of the
21 18 variability of the condensable fraction, it
22 19 could very well be that on future tests,
23 20 the ability to comply would be in jeopardy.

24 21
25 22 MR. MASON: And have you tested
26 23 your condensable, and if so, what range
27 24 have you determined?

28 25 MR. KROLL: As a matter fact, in

1 the rulemaking process, we were asked to
2 present data to the Air Quality Council on
3 our condensable fractions from Oolegah
4 facility, as well as other facilities that
5 we have across the nation. And it s in the
6 public comments that we've made. And as I
7 recall, it s somewhere in range of 25
8 percent, up to as high as 70 to 75 percent;
9 which, again, is very variable. That
10 creates part of our problem.

11 MR. MASON: So based on your test
12 you believe -- so you tested 75 percent at
13 your plant? And you think that if this
14 rule passes it will take you out of
15 compliance?

16 MR. KROLL: It -- we -- as I
17 recall at the particular plant, it was up
18 as high as 70 percent. We have the
19 potential to be out of compliance, it
20 depends on a lot of different factors; the
21 throughput, a lot of things like that.
22 But, yes, at 70 percent it -- according to
23 the state Subchapter 19 standard is two to
24 three times as stringent as the federal
25 standard that applies to our facility. So

1 it has the ability to affect our ability to
2 comply with that standard -- with this new
3 Subchapter 19 standard.

4 While although, we may meet the
5 federal standard, we could have much
6 difficulty in complying with the state -
7 with this new state rule.

8 MR. DARK: Madam Chair.

9 DR. SUBLETTE: Can I ask a
10 question? How much is this --

11 DR. GALVIN: I m sorry, Tony has
12 the floor.

13 DR. SUBLETTE: Oh, I'm sorry.

14 MR. DARK: I apologize. This is
15 not a question but rather just a comment to
16 the Board that I need some help with this
17 logic.

18 If our staff believes that there
19 will be no compliance issues with regards
20 to this new testing methodology, and the
21 EPA has yet to define and come forth with
22 what we re trying to do -- it seems to me
23 that two things are happening.

24 We are setting rules and regulations
25 in a place that will have no effect on our

1 industry, irrespective of industries'
2 point. If we believe staff, then we need
3 to do that. If it has no bearing on
4 meeting permit, then why are we doing it?

5 And, B, I am concerned about getting
6 out ahead of the EPA. If the EPA are going
7 to be issuing standards, and defining what
8 we re trying to define in our testing
9 methodology, then why would it be incumbent
10 upon us to try to beat the EPA to that
11 definition when we have seen time and again
12 through the course of that testing, that
13 EPA changes their mind. And I would hate
14 for this Board to make a policy and reverse
15 that policy six months from now, or a year
16 from now if, in fact, that was changing. I
17 am telling you my thoughts. This is just a
18 comment. I am just asking for Board
19 comment.

20 DR. GALVIN: Mr. Branceky, would
21 you like to comment.

22 MR. BRANECKY: Well, the only
23 thing I can --

24 MS. BRUCE: Can you turn the mic
25 up?

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1 MR. BRANECKY: Oh, I am sorry.

2 What I would like to clarify is that the
3 requirement for front and back has been in
4 place for some time. This is just an
5 attempt to clarify, so that everybody
6 understands that that is the case.

7 In prior tests, prior to this rule,
8 the state has required front and back half
9 analysis in some --

10 MR. DARK: But the back half is
11 what is hard --

12 MR. BRANECKY: Right.

13 MR. DARK: We need to clarify
14 that. But at the same time it is my
15 understanding that -- I may have
16 misunderstood you but I thought the EPA was
17 going to come out with standards to help
18 define that back half and how that testing
19 was to be done.

20 MR. BRANECKY: There is a test
21 method in place --

22 MR. DARK: Right.

23 MR. BRANECKY: -- to do both the
24 front half and back half. But there is
25 some concern about how -- the inaccuracies

1 of the back half. So they are trying to
2 redefine or re-promulgate the test method
3 to make it more accurate.

4 MR. Dark: Would we not be better
5 served to wait until they did re-promulgate
6 that test method?

7 TER: No. Because all you re
8 really doing -- if you think about this,
9 what we are trying to do with any permit
10 with any facility is assess the impact of
11 pollutants on the public. The back half
12 is, in some cases, a significant part of
13 the total particulate matter impact on the
14 public. That s the reason we ve always
15 required it to be tested so we can have
16 some idea of what s going on in the overall
17 particulate matter impact that that
18 facility is going to have on the general
19 public and the people living downwind.

20 The fact that the EPA -- and they re
21 constantly, as you well know, are looking
22 at their test methods and trying to make
23 them stricter -- trying to make them more
24 accurate. And that s what they are doing
25 here. They ve always had a test method for

1 the back half, but there s always been some
2 problems with it that generally get worked
3 out between the facility and the regulatory
4 body, if it turns out they ve got an issue.
5 I don t know that we ve ever had an issue
6 with a company not being able to meet our
7 overall particulate matter standard when
8 they consider front and back half. I can t
9 recall any in the last ten years I ve been
10 here, that we ve had that issue. But it s
11 a tool for us to be able to address a
12 problem if a facility is impacting a
13 community because of their back half
14 emissions. This allows us to address that
15 problem.

16 We're not really going to be doing
17 anything we haven t already done except we
18 are just trying to clarify it. And the
19 discussion that we are having here is a lot
20 of the reason that it never did get
21 clarified because there is some confusion
22 about why this never was done to start
23 with. Which it should have been done. So
24 anyway I just don t think we re doing
25 anything -- we re not doing anything

1 different that we haven't always required.

2 And we really won't be coming back and
3 adding anything when EPA finally clarifies
4 their test method, because we've already
5 adopted that method as part of the way we
6 require testing.

7 MR. DARK: But how do you define
8 the pollutant? That volume, or that amount
9 of pollutant is still in question. In
10 other words, you can define that back half
11 and how you test it, but how you count it
12 toward a pollutant and its impact to the
13 community and its, I guess, impact to the
14 industry, is still in a grey area; correct?

15 MR. TERRILL: I don't think so.
16 I think all we're doing is defining what
17 the back half consists of which is
18 something that we've always required. We
19 believe it's in our SIP, we think it's part
20 of our State Implementation Plan, that the
21 front and back half to be tested when
22 you're looking, overall, PM. And we
23 believe that the PM limits that are in our
24 permits are set, using front and back half
25 added together.

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4 MR. DARK: And that s the way
5 national defines it as well, and EPA
6 defines it as well?

7 MR. TERRILL: Yes. But what
8 they re doing, they re going back, and for
9 those states -- there are some states that
10 don t look at back half, they just look at
11 what s been referred to as the NSPS
12 requirement, Federal requirement which is
13 the front half only. The part that comes
14 out on the filter, that s the part that if
15 the facility is subject to the national
16 standard, that s what they look at. But
17 all states are supposed to be looking at
18 particulate matter in their totality, both
19 front and back half which include the
20 condensables, which we ve always done.
21 There are some states that aren t doing
22 that, and EPA is in the process of
23 requiring those states that aren t doing it
24 now, to do it.

25 MR. DARK: Okay. Well, then, I
join you Steve, I am thoroughly confused.

MR. TERRILL: And EPA has
confused this issue. I mean this is just

1 one of several issues that they ve
2 confused.

3 DR. GALVIN: Mr. Thompson.

4 MR. THOMPSON: I think the Board
5 needs to keep in mind -- the argument --
6 we re very aware of the argumentrility to
7 being more stringent than the federal
8 government. And, we, in most cases comply
9 with it.

10 I think it s important for the Board
11 to focus a little bit on what Eddie said at
12 the beginning of his presentation. We had
13 a company who did not believe that they had
14 to include the back half in their emission
15 standards and in their permitting, and as a
16 result they dusted an entire community.
17 And, I mean, this is not a small community.

18 So I think it drove the Department
19 to ask the Council to clarify what we
20 believed that the rule said, and had always
21 said.

22 So there is the issue -- I
23 understand and agree with the issue of
24 being more stringent than the federal
25 government. I also understand that when we

1 have an industry that is having an impact
2 on a relatively large community, the
3 Department feels some responsibility to
4 bring that issue both to the Council and to
5 the Board. So that has to be kept in mind.

6 MR. DARK: I have just one last
7 question. Is there a way by which an
8 industry can operate so that they can push
9 particulate matter past the front end and
10 push it into the back end?

11 MR. TERRILL: You mean
12 deliberately?

13 MR. DARK: Yes, deliberately.

14 MR. TERRILL: I think that would
15 be awfully difficult. I don't know why
16 they would want to do that.

17 MR. DARK: Okay.

18 MR. TERRILL: Well one thing I
19 might add that I should have brought up,
20 when we did -- when we do our permits we
21 adjust the overall particulate matter to
22 include the back half, so it's not like
23 we're taking the federal requirement and
24 making that part of the permit.

25 We're aware that the condensables

1 will add quite a bit, depending on the type
2 of industry, to the overall particulate
3 matter load that s contemplated when it
4 goes into the permits. We ve got tables
5 that we look -- we use to adjust that so
6 that there is not a compliance issue.

7 That s the reason when we looked at
8 this, we didn t see any of our facilities
9 that were having a problem. And frankly,
10 that s the reason I had the discussion with
11 ADP, because Mr. Kroll had raised this
12 issue and we were concerned that we were
13 going to create a problem for a facility
14 that was unintended. And again, I don t
15 know what else we can do.

16 I talked to them and they haven t
17 indicated that they have a problem. So I
18 can t go any higher in their organization
19 than what I went.

20 So I would think that -- I mean, he
21 and I have a pretty good relationship, I
22 would have thought he would have said
23 something if they had an issue with this.
24 And we don t believe they do. We don t
25 believe that any of our facilities do.

1 DR. GALVIN: Thank you, Mr.
2 Terrill.

3 Dr. Sublette, you've been trying to
4 comment or ask a question.
5 cm stop *****

6 SUB: I wanted to ask a question.
7 Mr. Kroll, the invariability that you have
8 recorded on the condensables a few minutes
9 ago from 20 to 70 percent -- how much of
10 that do you think is due to the
11 invariability and that test, and how much
12 is due to the instillation?

13 KRO: That's a good question and
14 I honestly don't know the answer to it. I
15 do know though, from looking at industry
16 data on steam generation plants, that there
17 is a wide range of invariability that has
18 been reported in the condensable fraction
19 for the industry as a whole. And that
20 information I have included as part of our
21 public comments. So I think I can say
22 this, that based on publicly available
23 information, the condensable fraction
24 naturally varies, fairly extensively --

25 SUB: At an individual

1 installation.

2 KRO: Yes, at an individual
3 installation and at the steam generating
4 plants, in general, across the nation.

5 SUB: Well, I am trying to get an
6 idea on an individual installation, not an
7 industry as a whole. How much
8 invariability would you say is at the
9 individual installation?

10 KRO: The only, the best
11 information I have is fully supported on
12 our own facilities now. That is, I'll have to
13 have someone confirm me, but my memory is
14 this -- 25 to 70 percent -- 20 percent, 25
15 percent in one instance -- the condensable
16 fraction is part of the whole PM -- and 70
17 percent in another instance at another
18 facility.

19 SUB: Well has anyone look at
20 that to determine why?

21 KRO: I am sure someone, or a
22 company has done that. I know that it has
23 something to do with the coal that is
24 coming out of the ground. There is --

25 SUB: Sulfur content.

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2
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4 KRO: Sulfur content is part of
5 it, there s -- the primary reason the EPA
6 did not originally include condensables was
7 because of the invariability of the
8 condensable fraction. And that was largely
9 due to the fact that there were reactions
10 occurring in the devise -- which collects
11 the condensables -- and it had to do with
12 SO3 contents.

1
1 SUB: I understand that, but
2 that s why I am trying to get and idea
3 between the test method variability
4 produced by the test method, and the
5 variability produced by day to day
6 operation.

1
1 KRO: I don t think I can shed
2 anymore light than what I have, on that.

1
1 SUB: Thank you.

1
1 DR. GALVIN: Mr. Drake.

1
1 DRA: Chairmen, as a Member of
2 the Board, I have to rely on staff, the
3 Council s, to come to decisions. I always
4 hate when it disturbs part of industry.
5 Like right now, still I feel like a ?
6 that s been done. I feel like the Council

1 and the staff have performed admirably --
2 and I would like to move that we accept the
3 proposal as presented.

4 DR. GALVIN: Are there any
5 further comments from the Board?

6 CAS: Just a clarification, if I
7 could. I just want to -- I guess your
8 saying nothing is changing, yet we re
9 approving something stricter than the
10 Federal standards. I just want a
11 clarification as the way it is today.

12 Bra: Well, what I understand it
13 -- and you can correct me -- but the
14 Federal standard and the states standard
15 are not the same, the numbers are not the
16 same for a typical coal fire facility, and
17 ths NSPS number is 21 pounds BTU. ?? The
18 Federal, the state standard is .12.

19 There is a little bit of a difference
20 on the back half of condesables. They re
21 not quite the same. The Federal standard
22 only requires to meet the .1 of the front
23 half analysis. The state is called the
24 front end half.

25 TER: And that s not changing.

1 The front half, the front half analysis is
2 the Federal requirement and it is staying
3 exactly the same. What we re doing is,
4 looking at the total impact of that
5 facility relative to particulate matter
6 which adds in the back half. And if we
7 have a variability in that-- so that we
8 consider that when we permit that facility,
9 so that they don t have a problem meeting
10 the standard.

11 DAR: In the example that you
12 stated Steve, with regards to the town that
13 was dusted -- did our inability to measure
14 this back half or utilize this back half
15 measurement result in our inability to get
16 industry s attention to get the problem
17 resolved? Cause that s what we re here to
18 do is really solve those problems and does
19 this solve that problem? Does this change
20 in our rule solve that problem?

21 THO: My understanding was, their
22 interpretation of the rules was that they
23 didn t have to include the back half. And
24 that s why we came to the Council and came
25 to the Board asking for clarification.

1 I think it is, I think, in response to
2 Mr. Cassidy s question -- the answer is
3 probably, but not for long. But it is a
4 way we have always done it. And the impact
5 on industry in Oklahoma, we believe has
6 been negligible except in those cases where
7 they, this failure to interpret the rule,
8 has caused real, no kidding, on the ground
9 problems.

10 The department will come to Councils and
11 Boards rarely, but on occasion, with a rule
12 that is more stringent than the Federal
13 rule. And we will do so when there is,
14 what we believe is either an environmental
15 or public health issue, specific to the
16 state of Oklahoma. We have in the past and
17 we will probably continue. I think this
18 particular clarification in the rule falls
19 into that realm -- in my mind it does.

20 TER: If I might follow up on
21 that -- we actually believe this facility
22 did include back half when they did the
23 original permit, but they had some changes
24 at the facility that consequently cause
25 these problems that were brought to our

1 attention. So they were in violation of
2 their permit. But we do believe initially,
3 they did include back half in their permit,
4 and they were in violation of that -- that
5 is what caused the problem down stream.
6 Then they, when they contested that, we
7 decided that rather than go through this
8 every time the issue comes up -- because
9 this is the second time that, since I have
10 been here, this issue has come up. We need
11 to once and for all clarify this so that
12 there is no doubt that we require back half
13 of what that includes. So, it s a
14 clarification that we don t have to come
15 down this road again. And we believe the
16 facility in question did include that in
17 their original permit, made some changes at
18 the facility that cause problem in the back
19 half that showed up in the community. So.

20
21 CAS: Well, I just absolutely
22 hate raising something stricter than the
23 Federal limit, but I have to agree with
24 Bob, that we rely on the Council for
25 direction -- and I second the motion.

1 DR. GALVIN: All right I ve heard
2 a motion to adopt and second it. I don t
3 know that it s appropriate to ask for a
4 Board discussion. Mr. Mason.

5 MAS: Steve, if this rule is more
6 stricter than the Federal rule and we
7 follow the necessary protocol -- if this
8 rule is stricter than a Federal rule.

9 THO: I think, if we were
10 proposing a new rule, what we believe to be
11 a new rule -- we should go through a
12 different protocol than what we went
13 through. It s our interpretation -- I
14 believe the Council agree, that if this was
15 simply a clarification of an existing rule
16 and that process had been carried out -- if
17 it was required at the time the rule was
18 passed.

19 WEN: It s gentlemanly. I have a
20 question. If we pass this, and we test the
21 back and front half -- the questions I have
22 is, would we have to wait -- is there a
23 waiting fee that would take place until the
24 Federal Government decides on a new test
25 method? Or would we wait until a new test

1 method is approved by the Federal
2 Government -- that we would test
3 accordingly too.

4 TER: Actually, there are already
5 implemented -- they've been implementing
6 the change that they are going to formally
7 propose for awhile now. That's what the
8 letter that the GRDA got from Ron Meyers
9 at EPA. They had a list of all their
10 suggestions on how to modify the method --
11 if they testing company doesn't know about
12 them already -- to make the test more
13 accurate.

14 They've know about this, the change they
15 were going to make for a couple years now.
16 It's just taken this long for the
17 bureaucracy to go and say, that is some
18 of the other things we're working on, this
19 ?? level, of something they were pushing
20 along.

21 The methodology is out there, and the
22 way to do it -- and it exists. And when we
23 -- when a facility is testing and they send
24 their protocols, we make them aware that,
25 here's some of the things they need to look

1 at and test in the back half -- now that
2 will make it more accurate. So we re
3 already doing it -- and it s something we
4 won t have to wait on because we re already
5 require what the EPA -- well where not
6 require -- we are suggesting it, because
7 they don t have to do it, but it s in the
8 facility s best interest to that, because
9 it makes the results accurate, or more
10 accurate.

11 SUB: Madam Chairmen, may I ask
12 one more question.

13 DR. GALVIN: Sure.

14 SUB: In the past, when in the
15 PSO s permitting applications, have the
16 included their condensables?

17 TER: We believe that all
18 facilities -- with a few exceptions, that
19 your going to have when you have so many
20 people doing permits -- occasionally, we
21 believe maybe one out of a hundred, for
22 some reason, fail to include it -- but
23 we ve, we think we ve corrected all of it -
24 - but we believe that they do include that
25 when they got their permit. That s one of

1 the things we did -- we went back and
2 looked at all the major facility s to
3 verify that we didn t have issues with
4 their existing permit and this rule.

5 SUB: So in the past, they
6 believed they needed to include both
7 condensables and non-condensables.

8 TER: I don t know what they
9 believe, but we believe it s included in
10 the permit. I can t say -- they ve had a
11 permit for so long, that it s hard to know
12 -- I don t know who wrote their permits, to
13 tell you the truth. They were one of the
14 ones that raised the issue that we went
15 back and looked at.

16 SUB: Is it in their annual
17 compliance report?

18 TER: It should be, I am pretty
19 sure it is, yes,

20 SUB: They are reporting
21 condensables.

22 TER: Well they report
23 condensables as part of their total
24 particulate matter --

25 SUB: That is what I meant. I

1 guess what I am trying to get here is, if
2 in the past PSO has understood that they
3 need to include both condensables --

4 TER: We believe that to be the
5 case, yes.

6 BRAN: And I know I can speak --
7 OG&E has done at a test recently with both
8 front and back, and was able to meet the
9 standard.

10 DR. GALVIN: Ms. Cantrell did you
11 have a comment?

12 CAN: I just have one quick
13 comment.

14 DR. GALVIN: Ms. Cantrell, can
15 you turn on, thank you.

16 CAN: Yes, thank you. Is it the
17 case then, that prior to today, that what
18 industry has been working on is addressing
19 particulate matter -- just as that term
20 stands, particulate matter -- and that
21 this issue came up because certain aspects
22 of industry were trying to remove one
23 aspect of particulate matter from what was
24 always considered the definition of
25 particulate matter. Is that a fair

1 interpretation?

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BRAN: I think part of the issue is the Federal new source performance standards, at least as it applies to the coal and fire facility, has a particular standard in there and they only require -- the Federal standard only requires the front half analysis. This is a carry over from the NSPS, it was passed back in the '70s. The state rule has, as Eddie has said, has always required the front and back. So it actually predates the NSPS requirement that our rule which required front and back half for total particulate matter predates that NSPS requirement.

So when we -- when they pass the NSPS requirement, then we incorporated that, so really the main issue the facility looks at, is that we re not making them comply with the front half NSPS requirement.

We ve got eyes in there mainly to do -- so we do an accurate analysis of what the total impact of that facility is because we do have PM standards that we have to meet -- Federal PM standards -- and without

1 knowing what s in that back half, we would
2 have no way to do any kind of analysis. We
3 would have issues meaning either the annual
4 standard or the 24 hour standard.

5 Again, this only came up because we had
6 a facility that had a issue that manifested
7 itself in a complaint. And when they
8 alleged that the back half wasn t included
9 -- that was their defense, that they
10 shouldn't have to include the back half,
11 when we were alleging that they were
12 non-compliant with their permit. We think
13 they had it in there and they just made a
14 mistake when they did their modification --
15 and increased their emission without coming
16 in and asking us about modifying their
17 permit.

18 So again, this predates -- that s the
19 reason that we don t believe that we don t
20 believe we have to do this analysis -- cost
21 benefit analysis. Because this rule is
22 really is about 25 years old -- 25 or 30
23 years old. All we re doing is trying to
24 clarify so that we don t have a facility
25 come in again, after we get a complaint,

1 saying that it doesn't apply to them, when
2 they know it does.

3 DR. GALVIN: Any other discussion
4 by the Board? Any other comments? Thank
5 you, David. I am going to sum up what I've
6 heard and it may cause more discussion.

7 What I've heard is the State allows,
8 the Oklahoma State allows 1.12. EPA
9 emitters .1. But we're considering both
10 front half and back half -- and I'm looking
11 at the Board -- did you hear we're a little
12 less stringent than EPA but we are
13 considering both front half and back half
14 collection? We are also, with this, making
15 the methodology of collection more
16 accurate.

17 Mr. Terrill, Mr. Branecky did I
18 mis-characterize?

19 BRA: The .1 and the .12 are
20 specific to a coal fired electric utility
21 ????. Other industry -- other types
22 emitters will have different numbers.
23 That's just for those type.

24 DR. GALVIN: All right.

25 THO: Is the facility in

1 question?

2 DR. GALVIN: What Steve is saying
3 is, this is for the facility in question
4 that has some concern. Are there any other
5 comments from the public?

6 KRO: Just a clarification that
7 --

8 DR. GALVIN: Mr. Kroll would you,
9 push the blue button. Thank you, sir.

10 KRO: Just a clarification that
11 the .12 is a state standard for a
12 particular size of a coal fired steam
13 generator -- that would be the Subchapter
14 19 for a larger steam generation in it,
15 under Subchapter 19 when it -- I m sorry,
16 it s my understand that under -- for a
17 certain size steam generation unit the
18 standard would be .10 the same as the
19 Federal standard. So it is true that in
20 under certain circumstances, in a size, it
21 could have a state standard that is
22 somewhat larger although including both
23 front half and back half. But in others it
24 would still be the same.

25 So I think that it s still going to

1 be the situation where this rule -- it is
2 deemed a new rule, will be more stringent
3 than the Federal standard for which we ve
4 not followed proper procedure. PSO is not
5 against taking a look at condensables and
6 certainly reporting them to the extent that
7 they need to do that to meet whatever
8 requirements the state needs to meet. It
9 just need s to be studied, the effect on
10 existing facility s.

11 DR. GALVIN: Thank you. Any
12 other comments by the public? Did that
13 generate more discussion by the Board?

14 BRA: Madam Chair, can I make one
15 more comment?

16 DR. GALVIN: Yes, sir, Mr.
17 Branecky.

18 BRA: The .1 NSPS is for coal
19 fired electric utility waters that were
20 built prior to 1977 --I think, don t quote
21 me on that. The newer ones, the standard
22 is .03 pounds per minute. Permitted BTU s
23 is significantly lower now than it was.

24 DR. GALVIN: Thank you. We do
25 have a motion to adopt and second on the

1 floor. Is there any other discussion by
2 the Board? Comments? Hearing none.
3 Myrna, will you call the roll please?
4 MS. BRUCE: Ms. Cantrell.
5 MS. CANTRELL: Yes.
6 MS. BRUCE: Mr. Cassidy.
7 MR. CASSIDY: Yes.
8 MS. BRUCE: Mr. Dark.
9 MR. DARK: Yes.
10 MS. BRUCE: Mr. Drake.
11 MR. DRAKE: Yes.
12 MS. BRUCE: Mr. Johnston.
13 MR. JOHNSTON: Yes.
14 MS. BRUCE: Mr. Mason.
15 MR. MASON: Yes.
16 MS. BRUCE: Dr. Sublette.
17 DR. SUBLETTE: Yes.
18 MS. BRUCE: Mr. Wendling.
19 MR. WENDLING: Yes.
20 MS. BRUCE: Mr. Wuerflein.
21 MR. WUERFLEIN: Yes.
22 MS. BRUCE: Dr. Galvin.
23 DR. GALVIN: Yes.
24 MS. BRUCE: Motion passed.
25 DR. GALVIN: Thank you. And I

1 would like to say thank you to Mr. Kroll,
2 for his comments, other members of the
3 public, and the Board. Thank you.

4 We now will hear from Mr. Steve
5 Thompson, and I have our Executive
6 Director s report.

7 JOH: Thank you, Madam Chair. I
8 think Jerry wanted to make a comment at the
9 beginning of my report -- he didn t tell me
10 what it was, so I --. Jerry, did you have
11 a comment about the 15th anniversary?

12 MR. THOMPSON: Well, this was
13 just to thank you to the staff and
14 everybody involved in the 15th anniversary
15 celebration. It was just great food, and a
16 good job, and it was fun to be together
17 with all the staff, and celebrate 15 years
18 DEQ. I think I ve been here almost all of
19 them.

20 JOH: Well thank you Jerry -- on
21 behalf of the staff. If you have an
22 opportunity -- what we have was coffee and
23 desert -- and the desserts were made by the
24 employee s of DEQ. Among the many talents
25 that they have, dessert making is certainly

1 one of them. A wonderful time and we
2 appreciate if you're involved. Some
3 Council Members were able to be with us for
4 that 15th anniversary celebration.

(Proceeding Concluded)

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C E R T I F I C A T E

STATE OF OKLAHOMA)
) ss:
COUNTY OF OKLAHOMA)

I, CHRISTY A. MYERS, Certified
Shorthand Reporter in and for the State of
Oklahoma, do hereby certify that the above
meeting is the truth, the whole truth, and
nothing but the truth; that the foregoing
meeting was taken down in shorthand by me
and thereafter transcribed under my
direction; that said meeting was taken on
the 19th day of August, 2008, at Duncan,
Oklahoma; and that I am neither attorney
for, nor relative of any of said parties,
nor otherwise interested in said action.

IN WITNESS WHEREOF, I have hereunto
set my hand and official seal on this, the
2nd day of August, 2008.

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

DEPARTMENT OF ENVIRONMENTAL QUALITY

STATE OF OKLAHOMA

* * * * *

TRANSCRIPT OF PROCEEDINGS
OF THE
ENVIRONMENTAL QUALITY BOARD
ITEMS 5-10
HELD ON AUGUST 19, 2008, AT 9:30 A.M.
IN DUNCAN, OKLAHOMA

* * * * *

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BRITA CANTRELL - VICE-CHAIR, PRESENT

BOB DRAKE - PRESENT

DAVID GRIESEL - ABSENT

JERRY JOHNSTON - PRESENT

STEVE MASON - PRESENT

SANDRA ROSE - ABSENT

TERRI SAVAGE - ABSENT

RICHARD WUERFLEIN - PRESENT

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DEVELOPMENT FOUNDATION**

PROCEEDING

DR. GALVIN: We now will hear from Mr. Steve Thompson and I have our Executive Director's report.

MR. THOMPSON: Thank you, Madam Chair. I think Jerry wanted to make a comment at the beginning of my report -- he didn't tell me what it was, so I -- Jerry, did you have a comment about the 15th anniversary?

MR. JOHNSTON: Well, this was just to thank you to the staff and everybody involved in the 15th anniversary celebration. It was just great food and a good job. And it was fun to be together with all the staff and celebrate 15 years at DEQ. I think I've been here almost all of them.

MR. THOMPSON: Well thank you Jerry, on behalf of the staff. If you have an opportunity -- what we have was coffee and dessert. And the desserts were made by the employees of the DEQ. Among the many talents that they have, dessert-making is certainly one of them. A wonderful time and we appreciate that Jerry and Bob and some Council Members were able to be with us for that 15th anniversary celebration.

MR. JOHNSTON: I know it was good. My blood sugar went up 150 points.

MR. THOMPSON: As I'm sure many of you have read, the Secretary of Environment, Miles Colbert, has announced his resignation effective at the end of the month. He plans to return to the Crowe and Dunlevy, a law firm in Oklahoma City. He has an opportunity to run an environmental unit over there.

Miles and I went to lunch the day before the announcement and he told me, which was something of a surprise to me. And I told him that I knew he was gone make a lot more money, but his job was not to be nearly as interesting as it had been over the last five years, you know. But it didn't seem to faze him much, he's decided to move back into the private sector. We've always had a really good and productive working relationship with Miles. But as always, move on, the

governor has indicated that he will announce a replacement by the time that Miles leaves. So we look forward to welcoming a new Secretary of Environment for the State of Oklahoma.

I thought I would bring you up to date on some legislative interim studies that we have been involved in -- or will be involved in. Of course, there is always either legislation or interim studies about waste tires. This year is no different in both categories. We were a member of a legislative task force to look at compensation for waste tires among other issues. That report is completed. It was completed at the end of June. And basically what the task force decided to do was look at two issues in January.

One was a shortfall. The payouts for waste tires to processors, and tire derived fuel facilities is the fourth tier, and there is often a shortfall in the fourth tier. So the Agency has been tasked to look at what it would take to make up the shortfall in the fourth tier and present that to the Legislature in January to the task force members.

The other issue that the Department brought to the attention of the task force was that year before last, there was a reduction in the number of dump tires. Tires in dumps -- it had to be picked up to be eligible for funding. They reduced it from 5 percent to 2 percent. Since then, our information indicates that the number of tires showing up in dumps is on the way up again, after years and years of 5 percent of decline. So we are tracking that information and intend to provide that information and to make a pitch in the strongest possible terms that the Legislature needs to return to the 5 percent.

We have suggested that a variable rate would be fine. That if we went at a range and the data showed that we could see a continued reduction at 4 percent, give us the opportunity to vary that rate. The rulemaking or some other process. But we'll see how that works out.

It is also the fact that next week they're going to be -- we're going to be involved in a couple of house interim studies. Both on August the 28th. One is a joint presentation that I will make with the Dewayne Smith and the Oklahoma Water Resources Board, related to water and wastewater infrastructure and the needs of the state, in that area, which are great.

The second one, Eddie and I will be making a presentation on ozone nonattainment and where we stand with the new standard and what the process will be relative to that issue.

Then, the last one that I will mention -- and there is going to be a forum presentation today by Saba Tahmassebi. And I think Jimmy is going to talk about it a little later in the presentation and he is going to make about the sequestration of carbon dioxide.

There was a bill that was introduced last year by Sandra Myers and Representative Adkins. There was some discussion, I'll call it, between us and the Corporation Commission about jurisdictional issues during the session. That morphed into a task force that -- Sandra Myers is kind of a sneak. And so because of this issue, it made the Corporation Commission and the DEQ co-chairs of the task force. So in the interim, the federal rule on this issue has come out and we think we see a path for both agencies to go. So we will be -- but that is something that will be coming up in the fall. I think we are ready to go with the task force but we don't have all the appointments made yet. So we're waiting on the final appointments on the that and then we will move forward with that task force. That should be interesting.

I have been asked by the EPA Administrator and had accepted a position on a federal advisory committee. There is a federally cut advisory committee called the Environmental Finance Advisory Board. That Board looks at issues like financial assurance requirements from RCRA. There is a new and

emerging field of interest in financial assurance, where the sequestration of carbon dioxide issues related to infrastructure funding. We -- actually the Board just completed a pretty comprehensive study on the difference between those states that do direct logs in the SRF, like Louisiana and New Mexico, and those states that leverage those capitalization grants, to issue bonds and expand the opportunity to fund it for a revolving fund. And they saw that report and suggested Oklahoma as seen as being right on target with what SRF Administrators ought to be doing.

If not a bad gig, we meet twice a year, once in DC and once in San Francisco. I left Dallas, one day and it was 105, and I get to San Francisco when it was 70. So not a bad gig, but something were going to be doing over the next several years.

The Board will recall probably a couple years ago we were given funding from the fuel tax to cleanup armories in the state that are being returned to communities for their use. And we were given funding to do the environmental cleanup in those armories. A lot of them had lead based paint. A lot of them had lead in firing ranges. There was some asbestos problems in almost all of them. There are some others that had some site-specific problems, but generally that's what we've been working with. We have begun to have ceremonies with the Military Department and the Department of Central Services this summer to return those armories to the communities for their use. We have had ceremonies in Allen, Watonga, Chickasha, Atoka, Hartshorne, and next week we'll be going to Tishomingo for that ceremony. That program is moving right along with had really good attendance by legislators and community leaders at those ceremonies. The staff, Scott Thompson's staff, and Skylar McElhaney, our public information officer, have worked very hard and put any ceremonies together. So it's a good deal. I like those we get to -- I like to go out and see where we've actually done something. We've actually clean something up and we are actually returning it to a

community for their benefit. So that's been a lot of fun and we will continue to go through the fall.

Now at the first meeting after the legislative session, it has been my standard practice to bring to you a presentation about what went on with the Legislature. This year, I saw a presentation that Jimmy Givens gave to the Environmental Federation of Oklahoma, and I have to admit that his presentation is much better than my presentation. Which puts Jimmy at some rest, but probably as a more informative and better presentation than what I give. So I'm going to turn -- and I think he's got one other issue that he needs to deal with. So I'm going to turn the Executive Director's Report, with your permission, to Jimmy. So he can give do that work. While he is getting set up to do that. Let me say that it is vital for the Department to know as best they can. What is happening during the legislative session. So we can react to either positively or in some cases negatively to what those issues are. Nobody I have seen does a better job of both tracking legislation to let me know what's going on and in writing and has an input in, I'm sorry, proposed legislation where we think changes need to be made. So Jimmy is invaluable in that effort and probably the reason he knows so much more about the legislative session than I do although I am over there every day. So anyway, Jimmy, why don't you do that?

MR. GIVENS: Thank you, Steve, for the compliment. It is my pleasure to be able to give you a short overview of the legislative session for 2008. Excuse me. I don't know whether I can live up to Steve's expectations, but the one promise that I will make is that it will be easier to understand the Air Quality rule.

I also haven't timed this, quite honestly. I haven't rehearsed it and timed it. So while I think it will take 10, maybe 15 minutes, let's treat that more as a -- it's called, like, a time arising rather than time frame.

Are we running behind on our slides? The legislative session started off with quite a bang. Which you may recall, right at the outset of the legislative session there was a change in the Speaker of the House. You will recall that Lance Cargill had some problems with reports about his payment of taxes. That may have been his replacement as Speaker of the House by Chris Benge.

What that has meant in practical terms, I think, for the Report is that, quite honestly, it's been a little bit lower profile approach that the speaker has brought to the legislative session and may have been the case with the previous two speakers. Chris Benge is a little bit lower profile than both Lance Cargill and Todd Hiett were. I think the shrillness and some of the things that were said was a little bit lower. And that has led, I think, to possibly a little bit more cooperation across the aisle this past session. The other thing is, you may recall that again this year we have had an evenly split Senate, 24 Democrats and 24 Republicans. And literally to get anything done, there had to be some cooperation between two sides of the aisle on the seventh side. Let's go ahead and go to the next slide, Carl.

One thing that is amazing to a lot of people is just the sheer volume. There are about 2400 pieces of legislation, either resolutions or bills that are introduced in a given year.

This year there were no themes that particularly stood out above all others. But some of the more common ones were healthcare ethics and the bond issue that came along right at the end of the year, transportation and higher education. It was a relatively active year for environmental issues. I will touch only briefly on some of the bills, because I know that you've been receiving periodic reports about those but we will touch on a few of them. And if you have any questions, I will be glad to discuss more about them. Next slide, okay. Here we are.

Some of the major environmental themes -- if you go to several sessions you will see that there are a lot of times, themes that tend to be a little bit

more prevalent during a given session than other sessions. This year, what stood out more than some of the other environmental issues were water rights (inaudible) ongoing issue as you can well understand. Texas wanting more water. Some from southeast Oklahoma wanting to sell water, some of them wanting to preserve as much possible, at least until the comprehensive state water plant is completed. Recycling was pretty big this year and of course air emissions and greenhouse gases are big, not only in Oklahoma, but that is filtering down from a national level. And so it has become quite an important issue of discussion after the state legislative level.

What you have not seen so much this year that you would have seen in past years -- the past few years is talk about the environmental agency consolidation and got so much this year -- talk about bio-fuels. Probably because of the debate over whether that is driving up the price of commodities. Because of the use of some of those commodities providing fuels. So that has been a little bit of -- in this year, that the Report has tended to walk softly on this year.

As Steve mentioned, it is important, and I thought maybe I should throw this light in. You may wonder why we spend as much time as we do trying to look for, what is coming down the pipe in the legislative session. I can tell you that it is extremely helpful going into the session to go through all of the bills that have been introduced and have some sense of what the Report is most interested in and have some sense of what is most likely to impact the DEQ and environmental protection in Oklahoma in general. If you do this for a number of years you have a pretty good sense, most of the time, of what bills are real -- what are introduced to be true and substantive and what is there as a placeholder. And we try to track both. We try to have input at the very outset, and sometimes we request bills that are substantive to the nature. We also try to watch does however, that seem to be placeholders to see what develops during the course of the legislative session.

Highlight that last bullet, in particular. Not only do we have some need to know what's coming. (Inaudible) is extremely valuable, as you might imagine, to be prepared to answer questions about whatever legislation is pending. It may relate some way to environmental protection or to the DEQ in particular. We know what's out there. We are much better prepared to respond in a timely fashion.

Okay. Just quickly, a few of the important measures that did pass that relate to DEQ. Air emissions, you may recall last year we talked a little bit about blue skyways. This is blue skyways resurrecting and renamed, but it is essentially the same program. It would provide for grants for emission reduction. For example, wheat retrofitting, that sort of thing. Money remains to come into that program perhaps at a federal level. Maybe even eventually from a state level. But that would help us to achieve and maintain compliance with maintaining attainment. If we can provide for grants for that sort of thing. Also, there was a slight change in the way we pay our radioactive waste compact commission dues. We are going to mention this last one and, ethanol fuel is not our deal, really. But it illustrates how legislation develops over time. It was the DEQ request bill, because in a very broad sense. It had to do with energy. This was tagged late in the legislative session to become a vehicle as well for a legislative desire to acquire a motor fuel to be labeled, if it contains ethanol -- or more than 10 percent ethanol. And so that got put into this bill at the very end of the session. Next.

I am not a spend any time on this one. Steve already alluded to it and Saba will tell you a little bit more about it during the forum. But this is the bill that created the task force to look at carbon sequestration.

I felt compelled to add what Jimmy Kimball said about climate change, however. I think whether you agree or disagree with the current administrations approach to climate change, he had a great quote. President Bush

has a plan to combat global warming. He says, if we need to we can warn the temperature dramatically just by switching from Fahrenheit to Celsius.

We mentioned their recycling was a fairly prevalent thing throughout the session. Senate Bill 498 is a message. I think for the Report, and frankly it doesn't make a substantive change in what we do, but it is encouragement for us to work aggressively with various recycling groups and environmental interest groups in Oklahoma. The state goal of 10 percent recycling of solid waste stream by 2011. I will tell you, quite honestly, I don't know if anybody knows what the figure is at this point and how aggressive a 10 percent achievement would be, but it is a clear message from the Report that they would like to see the number go up.

The computer recycling, Senate Bill 1631, is an interesting piece of Report, and it grew out of unlawful mall that was presented -- that came up probably three years ago. There are a number of states now that have adopted something similar to this. With variations in each state.

In Oklahoma, this year, the bill that passed required manufactures if they sell more than 50 units, which virtually anybody that's going to sell is going to sell more than 50 units, they have a take-back program at the end of the useful life of that computer or monitor that only applies to personal-use computers and monitors so you can't gather up those account from your business and require the manufacturer to provide a way for you to recycle. But if it is for use in your home, the manufacturer is required to provide a way for you to recycle that computer. They can have events -- community events. They can provide for a mail-back program. They can come up with some other method and present to DEQ for approval. But they do have to provide some method that is convenient to the consumer to return that equipment at the end of it's useful life.

And the last one that I'm going to mention just very quickly about DEQ --

MR. THOMPSON: Let me comment in general on that one, we think that was a bill that was sponsored by Daryl. We thought it was a fine bill. We supported it, but we made it pretty clear to the authors and to the company that without an empty (inaudible) to operate all this plan review, it was going to be very difficult for the Agency to implement the program. We didn't get that FTE, and so we -- but this has an effective date of January 1, which is supposed to make session. And I think we will try to get re-energize the idea of getting somebody -- we would like to run the program. And we think it is a good program, but we -- I think as the Board knows, we are so tight on FTEs it is going to be difficult for us to find somebody to do this. It's just a sidebar comment on that.

MR. GIVENS: Through this last one up here you may wonder why we are really paying much attention to a bill that has to do with burning of copper wire and prohibiting scrap metal dealers from buying copper wire that has been burned. The reason I put this up here is because it illustrates that there are times that bills don't appear to have a whole lot of affect on DEQ actually do have some impact on us. Or we might have some reason to be interested in them. What we have found is that in locations where there is a lot of this copper wire that has been burned, we actually, literally have, technically speaking, a hazardous waste disposal site because of the lead. We're hopeful that this particular bill will cut down on not only the theft of copper wire and also the burning off of the installation and maybe help control to some extent, an environmental problem that we are facing. Next.

Water and Wastewater Works Advisory Council just wanted you to be aware that it was re-upped, if you will, this year. It was the only Council that is subject to the states sunset law which requires Report to review various wards, permissions, et cetera, every few years. It was re-created for another four years. So

in 2012, the Report will be taking another look at that Council, but we will anticipate that will be renewed at that time as well.

15 years, very quickly, a few other measures I thought I would mention, not directly related to DEQ. Aqua for recharge bill; there are a couple of bills out there, like Senate Bill 1410 and the one that follows the next lag, and I've forgotten the numbers -- 1627. Both relate to trying to make more efficient use of our water resources. First of all 1410 says, charges Water Resources Board with forming or coordinating rather, a group to study whether it is possible to enhance the recharge of aquifers.

The other bill -- go to the next one Carl. 1627 also has the Water Board, coordinating a group to look at whether there are additional uses that can be made once been turned in the bill, marginal quality wide, which basically means water that isolating or fractioning in some way. And so those particular study groups will be working on the course, not only on the coming months, but perhaps even coming years, because they are supposed to be included in the State Comprehensive Water Plan.

And finally 1423, relates to Corp Comm, primarily, but it does change the storage tank regulation act a little bit. For those of you who have an interest in the storage tank regulation act, you may want to look at the revised definition of petroleum. I have tried to figure out exactly what they were trying to accomplish in that bill and to be perfectly honest I haven't figured it out yet. If the Corporation Commission will share with you what they think they were doing, I would appreciate it if you would tell me.

Finally shifting gears one more time, just quickly, I'm not going to read through these. But I put up measures that did not pass. The reason I wanted to do that is just so you can see that they continue to illustrate some of the themes that we talked about earlier, like recycling, like emissions.

And down at the bottom, I did want to again pointing out that while there were a couple of resolutions introduced and disapprove the CPI, P adjustment rules that the Board asked earlier this year. Neither of those was taken up on the floor of the House. And so those rules did go into effect in July. And while it's always possible for the Report to revisit those in future sessions were hopeful that they will move them along, now that they are in place.

If you other measures that didn't pass, primarily related water again, as you can see water is a huge deal and will continue to be so for the foreseeable future.

In the last thing that I wanted to talk about, just briefly, is looking at the Reports that make up the Report itself -- look at the slide. We've been now going through a couple of rounds of term-limits. This time, if you want to see to is retiring because of term-limits. This is who is retiring in the House. If you are familiar with the Report. You can see that six out of those seven -- let's go back one slide, six out of those seven are Democrats, only one Republican. You might think that that would favor the Republicans in the coming election, and it may. But what is interesting, I think, is that even though there were far more Democrats are term-limiting out this time. There were about an equal number of Republicans, who decided not to run again. It is some fairly prominent Republicans deciding not to run again. For example, Greg Pieth, from Ardmore. Representative Winchester from Chickasha. Ron Petersen from Tulsa. I lost track of all of them, but I think there were about five or six of them that decided not to run again. So this in terms live only of the numbers comes out about even in terms of going into the general election. The incumbent who are returning or trying to return from the long road of Democrats and Republicans. Next slide.

On the Senate side, three out of five were Republicans, two were Democrats. Most of those who are already in the Senate that are not term-limited

are returning or are running again and at least made it to the general election. So that continues to look like it could very well be a near even split in the Senate. Most incumbents are saying, if it's not even split again. It will probably only be 25 to 23, 26 to 22, something like that.

I had to throw this in again here I don't know whether Representative Johnson would agree with this or not. We are here to share in this but I know how we feel and how I think most of the legislators feel about the end the session.

My attempt at poetry. Of all of the elegant words of men ever heard by ear, or seen by eye, the sweetest words of tongue have been "Mr. Speaker I move we adjourn".

Mr. Thompson: Tiny Dye.

Mr. Givens: Tiny Dye.

If there are any questions we will be happy to listen to those but there is one other thing I need to take care of as long as I am up here you may recall those of you that have been around in past years. That there is a statutory requirement by quality code that we have our employees disclose if they have any ownership, interest or receive compensation from any corporation or any company that the DEQ regulates. Most of those who have been disclosed in the past during annual updates. The only new disclosure this year was Karen Miles air quality division disclosing that she had obtained some stock in Chesapeake Operating, Inc. For those of you who have been around before you know that we are required to report this and employees are required to report this to the Executive Director and the Director is required to report it to the Board. And the way that we follow up on that is we send a memo to the manager and to the employee. So that both the manager and the employee are aware that that employee may not work on any permitting or enforcement of that that relates to the company in which they own an interest. Thank you.

Mr. Thompson: Any questions for Jimmy or me on the issues presented in the Executive Director's Report? Okay. Would you like to go on with the --

Dr. Galvin: Yes. I would. The next item is Item Number 6, the Operational Budget Report.

Mr. Thompson: Thank you, Madam Chair. Statutes requires, we certainly concur that the budget request of the agency come to the Board for approval each year. That these are funds that are being requested for the new programs for the agency that information is required to be at the Office of State Finance with the governors budget preparation by October 1 so at this meeting that we bring these proposals. There is a committee of the Board that meets prior to the Board Meeting Jerry and Steve and Richard and Brita and the chair are on that committee and we discuss these with them to seek their input prior to bringing them to you today.

The first of these is funding for the beneficial use monitoring program for the month. This is really an appropriation that goes to the Oklahoma Water Resources Board. The reason that we are asking the Board to approve this -- there is two reasons we have to suddenly turn out the listing for the Oklahoma Water Resources Board. It is a fact of the matter that at least 40 percent of the funding comes to the Department for our analytical work on the samples that are drawn by the Water Board. But what has inspired us this year to do so each year that the Department reports to Environmental Protection Agency report called 305B report which is an assessment of the waters of the state -- the quality of the waters of the state. As a part of that report or in conjunction with that report the Agency also prepares a 305B list which is a listing of the impaired waters of the state. Those waters not meeting their designated beneficial use.

Now the Department has been issuing this report for years and years to EPA. We have been reporting this dutifully to the EPA. The format changed in 2002 where there was more clarity to the issue of the 303D list and the level of impaired streams of the state. But I believe that it is fair to say that we have had -- that we went out and grabbed comments and we have had more comments on this 303D Report. I mean 303B Report and 303D List than all of the other list combined. There has been more press coverage, there has been more public interest and a lot of questions about the report. I would characterize those questions into two parts. One of them is there is a concern about the fact that we list something like 75 percent of the assessed streams in the state as impaired. Now that is not an unusual number for states across the country but if you look at it 75 percent is a big number. But there has been a lot of discussion there is a lot of reasons for that related to the standards and other things. But it is a very large number.

The other issue that there was a lot of comment on was the fact that we are only accessing about 25 percent of the waters in the state. Through a combination of modern programs at the Oklahoma Water Resource Board and Corporation Commission at the federal level with the USGS -- US Geological Survey. But, there is this rising concern about getting a better picture of the water - - quality of the water of the state. A more broad picture of the quality of the waters in the state. Now the Water Board has been funded for the DOC program at about 1.1 million dollars for the last ten years. That appropriation has not increased. It has been increased once by a hundred thousand dollars. So, our ability at least through the BELT program to monitor waters in the state is flat and actually going down because of the increasing cost of the low phase and seas phase. Not only the collection of the sample but the amount is necessary and the reporting that is necessary to create the 305B Report. So we are asking the Board to approve a giant request by the Water Resources Board and by the Department of Environmental

Quality for an increase in the beneficial use monitoring program to 2 million dollars. From 1.1 to 2 million dollars.

The second issue that we are asking for funding for and this in some parts -- great part due to the fact that we believe we have a champion in this issue. In that is the issue of sludge. I am sorry Glenn, bio-solids removal. Because you can't keep from calling it sludge. Bio-solids removal from a small community lagoons. The ability to do that is a huge stumbling block for communities to repair old non-functioning lagoons -- water treatment lagoons in the small communities. And Senator Myers has shown some interest in that and we clearly are interested in having more money to address this problem. We are asking the governor, and the legislator and the Board to approve a request for five hundred thousand dollars for sludge removal. Now this will do -- five hundred thousand dollars I think will do five lagoons. Maybe five systems depending on the size of the lagoons. So I don't know if we are going to have a huge impact on this issue in the beginning. But our hope is that we can start the program show success and grow the program down the road. We are going to have to crawl before we run on this issue. So with that explanation, Madam Chair, I will be happy to answer any questions.

DR. GALVIN: Thank you, Steve. Any comments or questions from the Board? Dr. Sublette?

DR. SUBLETTE: Yes. I have a question. Steve, regarding the bio-solids removal once these solids are removed, are they going to a land fill?

MR. THOMPSON: Generally not. They are -- landfills are approved to accept bio-solids. But the Department has a very active land application program and has had for years. And so we encourage land applications of bio-solids once they are removed from these lagoons. It is fair to say that the rules allow both.

DR. SUBLETTE: Are any of these small communities that have this reoccurring problem looking at using this bio-solids as a resource for energy generation.

MR. THOMPSON: I am not aware that they are. Eddie or Glenn do you know?

MR. TERRILL: I don't think the quantity warrants it for the size of the community that you are talking about it is going --

DR. SUBLETTE: I am not really talking about energy generation you know for community wide. You know if you look to what the Europeans are doing. Of course, they have been energy starved for a lot longer than we have. A lot of small communities in Europe will use these bio-solids to generate and maintain -- we send them power generators to supply all of the power required for their waste treatment plant. And it greatly reduces the volume of solids that needs to be disposed of.

MR. THOMPSON: It is a wonderful and the Department should look more closely at that. We will be in contact with you and we will have some discussions about that. But in answer to your question we are currently not -- I am not aware of anything like that they were doing. So it's a great idea.

MR. MASON: I have got a question.

DR. GALVIN: Mr. Mason.

MR. MASON: Steve, typically your labs on here are needing funding for once it's off. Would you comment on the financial improvements over there, I think for equipment, fees and such.

MR. THOMPSON: Yes. We did over the last several years ask for funding for routine equipment replacement. We did so in order to try and avoid fee increases to particularly small communities so that our laboratory would be viable in its replacement of equipment. I guess we weren't the best salesman in the

world with the Report because having failed to do that we are beginning to try to address that issue through feats.

DR. GALVIN: Any further questions from the Board? Any questions from the public? All right. Do I hear a move for approval of this budget?

MR. JOHNSTON: So moved.

DR. GALVIN: Do I hear a second?

MR. WUERFLEIN: I second that.

DR. GALVIN: Thank you. Myrna, roll call please.

MS. BRUCE: Ms. Cantrell.

MS. CANTRELL: Yes.

MS. BRUCE: Mr. Cassidy.

MR. CASSIDY: Yes.

MS. BRUCE: Mr. Dark.

MR. DARK: Yes.

MS. BRUCE: Mr. Drake.

MR. DRAKE: Yes.

MS. BRUCE: Mr. Johnston.

MR. JOHNSTON: Yes.

MS. BRUCE: Mr. Mason.

MR. MASON: Yes.

MS. BRUCE: Dr. Sublette.

DR. SUBLETTE: Yes.

MS. BRUCE: Mr. Wendling.

MR. WENDLING: Yes.

MS. BRUCE: Mr. Wuerflein.

MR. WUERFLEIN: Yes.

MS. BRUCE: Dr. Galvin.

DR. GALVIN: Yes.

MS. BRUCE: Motion passed.

DR. GALVIN: Thank you. All right we are moving to the next item number which is the annual review of the Executive Director, Mr. Thompson, at this time we normally move into the Executive Session. Which takes us out of the room, however, I do have to call for a vote. Does everyone agree that that indeed should happen? That closed session. Is there any discussion?

MR. DRAKE: I move.

MR. DARK: Second.

DR. GALVIN: Myrna, call the roll please.

MS. BRUCE: Ms. Cantrell.

MS. CANTRELL: Yes.

MS. BRUCE: Mr. Cassidy.

MR. CASSIDY: Yes.

MS. BRUCE: Mr. Dark.

MR. DARK: Yes.

MS. BRUCE: Mr. Drake.

MR. DRAKE: Yes.

MS. BRUCE: Mr. Johnston.

MR. JOHNSTON: Yes.

MS. BRUCE: Mr. Mason.

MR. MASON: Yes.

MS. BRUCE: Dr. Sublette.

DR. SUBLETTE: Yes.

MS. BRUCE: Mr. Wendling.

MR. WENDLING: Yes.

MS. BRUCE: Mr. Wuerflein.

MR. WUERFLEIN: Yes.

MS. BRUCE: Dr. Galvin.

DR. GALVIN: Yes.

MS. BRUCE: Motion passed.

DR. GALVIN: We do have one more item to take care of in open session. We need to designate a person during open session to take minutes. Because our note taker is not allowed to accompany us during closed session. Do I have a volunteer from someone on the Board to take minutes?

MS. CANTRELL: I will.

DR. GALVIN: Thank you, Ms. Cantrell. With that we will move into executive session and Ellen is going to show us where that is.

(Whereupon the Board Members go into executive session)

DR. GALVIN: We will continue the Board Meeting. All right, Mr. Dark had to leave for a prior commitment. At this time, we have a special presentation by Mr. Bob Drake. We were evaluating Mr. Thompson's performance, and I believe with that comment, Mr. Drake has a special comment to make.

MR. DRAKE: I'm not sure if I'm supposed to evaluate the performance or not, but good job. Now that took care of that.

For many of you that are in the room, you recognize that this is a big day in Steve is alive, and also (inaudible). A little difference in the celebration like about probably about 25 years ago. But both Steve and Wendy have birthdays today. In Steve turned 60, I won't tell you how Wendy is, I think, about 25. Give or take a year or two. But it is a real privilege give Steve the card and Wendy the card. And I understand, Ellen --

MS. BUSSERT: Yes, sir.

MR. DRAKE: Do we have a cake?

???: We have a terrible looking red cake back there.

MR. DRAKE: Well a red cake.

And we are awful pleased in the performance that we discussed without question both for Steve and the Staff. One of the highest marks that any Board could ever give a group of people. It is just a remarkable -- the amount of work that you do and how much we appreciate it and those that don't understand how much we appreciate it just don't know what you do. And so we intend to hold the time to tell them. Thank you all and certainly thank you, Steve. Happy birthday to you and to Wendy.

MR. THOMPSON: Thank you, Mr. President.

DR. GALVIN: Do you want to make a comment on that?
We're not doing an official business yet.

MR. THOMPSON: Well, Wendy, do you have any comments?
It sort of depends on your perspective. Anyway, well thank you all very much. It is a special day. I am 60 today but I feel younger every day. If you believe that -- thank you all very much. I really appreciate it. Thank you.

DR. GALVIN: And I would like to add that we are inviting any members of the public who may still be here to go in for cake after close here of this meeting.

All right. Moving on to more official business. Do I hear a motion to call the Board Meeting to order?

MR. JOHNSTON: So moved.

DR. GALVIN: Do I hear a second?

MR. CASSIDY: I second it.

DR. GALVIN: Thank you. The Board has moved and seconded, we are now back in session. Myrna, please take a roll call.

MS. BRUCE: Ms. Cantrell.

MS. CANTRELL: Yes.

MS. BRUCE: Mr. Cassidy.

MR. CASSIDY: Yes.

MS. BRUCE: Mr. Dark just left, according to Dr. Galvin.

MS. BRUCE: Mr. Drake.

MR. DRAKE: Yes.

MS. BRUCE: Mr. Johnston.

MR. JOHNSTON: Yes.

MS. BRUCE: Mr. Mason.

MR. MASON: Yes.

MS. BRUCE: Dr. Sublette.

DR. SUBLETTE: Yes.

MS. BRUCE: Mr. Wendling.

MR. WENDLING: Yes.

MS. BRUCE: Mr. Wuerflein.

MR. WUERFLEIN: Yes.

MS. BRUCE: Dr. Galvin.

DR. GALVIN: Yes.

MS. BRUCE: We are here and we all are guests.

DR. GALVIN: Thank you.

(Whereupon the Board Members return from Executive Session)

DR. GALVIN: I am simply going to repeat what Mr. Bob Drake said in closed session. We believe that the Department of Environmental Quality is one of the best Departments. It's one of the best run Departments in State Government. And no small part due to Steve Thompson. However, since it was his evaluation, I'll proceed on that in a moment. But we want to give his staff, as he does in closed session, a lot of credit for doing all the work that they do. The reputation of the Department is outstanding. And we appreciate all the work.

Obviously those of us who are on the Board think that Environmental Quality is very important. But we appreciate your work that is done by his staff. And we thank you all for that.

This closed session however was to evaluate Steve Thompson's performance. We do support and believe that Steve does an outstanding job. However, we reached a dilemma in closed session on how to appropriately compensate Steve. Therefore in open meeting we are recommending that a committee be setup to evaluate his compensation and any alternatives to compensation. And with that I am going to ask roughly three or four Board Members to volunteer to be on that committee. Are there people who would like to -

MR. JOHNSTON: I would like to volunteer Tony Dark.

DR. GALVIN: I think that is a great add to the committee, Jerry. I volunteer so that's two. Is there anyone else? Jerry, would you like to? I said I was not going to appoint, is there anyone else that would like to be on this committee? I think two is too few.

MR. JOHNSTON: I recommend the young man on the end. I think he'd be ideal on that committee. He has the knowledge and the leadership skills.

MR. WENDLING: That's fine.

DR. GALVIN: John, thank you. So with those three, we will move that forward. And we'll decide how to do that at a later time. Steve would like to make a comment.

MR. THOMPSON: I very much appreciate the confidence the Board has expressed in me, since it was my evaluation. But I think there is an understanding by the Board that we are blessed with very skilled and sometimes very seasoned staff and I want to express my personal appreciation to them for all

they do for the people of the state, because were it not for them we would not have, hopefully, the good reputation that we have. So thank you, to the Board and thank you to the staff.

DR. GALVIN: Thank you. My understanding is that we do have to have a roll call vote on setting up that committee. Does there need to be a motion made that that committee be made and seconded?

MR. DRAKE: So moved.

MR. MASON: I second.

DR. GALVIN: I have a motion and a second. Myrna, roll call please.

MS. BRUCE: Ms. Cantrell.

MS. CANTRELL: Yes.

MS. BRUCE: Mr. Cassidy.

MR. CASSIDY: Yes.

MS. BRUCE: Mr. Drake.

MR. DRAKE: Yes.

MS. BRUCE: Mr. Johnston.

MR. JOHNSTON: Yes.

MS. BRUCE: Mr. Mason.

MR. MASON: Yes.

MS. BRUCE: Dr. Sublette.

DR. SUBLETTE: Yes.

MS. BRUCE: Mr. Wendling.

MR. WENDLING: Yes.

MS. BRUCE: Mr. Wuerflein.

MR. WUERFLEIN: Yes.

MS. BRUCE: Dr. Galvin.

DR. GALVIN: Yes.

MS. BRUCE: Motion passed.

DR. GALVIN: Thank you. The 8th Agenda Item is setting meeting dates and locations for the year 2009. And in our packet there were dates proposed and one location proposed. I would also like to add that during this meeting that it has come to our attention that August 18th of 2009 is right in the middle of when kids start to school and that we move that by a week to August 25th. So if you'll make that change on the paper that we have provided to you. Let's proceed by asking ourselves if February 27th, in Oklahoma City, is that okay with the Board.

???: Yes.

DR. GALVIN: And my understanding right now we don't discuss dates unless there is some meaning of just because I can't make it we're not discussing individual issues but if there is an issue that affects a lot of people then we will change that date.

???: That February date is a Friday, isn't it?

MR. THOMPSON: It is a Friday.

???: It normally is, isn't it?

MR. THOMPSON: Yes. We try to do the February meeting on Friday because of the Legislative Session running Monday through Thursday. And we unfortunately our time is not our own during these sessions. So we try to do that on a Friday.

DR. GALVIN: Okay. Since there is no disagreement about Oklahoma City, let's move on to August 25, and is there discussion around what location? And if you'll look at the -- there is a State of Oklahoma map that was provided in your packet and it shows how many meetings where. And then if you'll look on the white sheet above that it gives you the location date.

MR. JOHNSTON: So everybody in Dow thinks that Oklahoma would want this?

MR. DRAKE: That's what their idea is. Jerry is asking that but there is some truth to that.

MR. JOHNSTON: They ask you if they want you. Right and that is why I was thinking these people. They recommended Tulsa because we haven't been there in quite a while so.

???: I would hope we would do. We would like to correct paper. I would hope we would do Tulsa. Because the great city state of Texas needs some attention.

???: What do you need a motion on Tulsa.

DR. GALVIN: No. We need some discussion around Tulsa and disagreement around Tulsa. All right. Do we need a -- there needs to be a motion. No. Okay so we are going to put Tulsa next to August 25th.

How about November 17th, what location? And as you can see down at the bottom of the white paper there are other locations that are proposed.

???: Again, you haven't had one in the Southeast for a while.

DR. GALVIN: Right.

MR. DRAKE: I don't know whether Ada would love us or not, someone would have to answer that one. Would Ada love us?

MS. BUSSERT: Yeah. We were suppose to have a meeting there a couple of years ago in June and it canceled. But I think the University would be very happy to be a host for the city.

MR. DRAKE: Okay. I think that would be great.

DR. GALVIN: Okay. Any discussion around Ada?

???: Agreed.

DR. GALVIN: All right. Ada on November 17, 2009. So we do have to have a vote or so my Agenda says. I can read those back to you quickly. February 27th, Oklahoma City, August 25th in Tulsa, November 17th in Ada. Do I hear --

MR. JOHNSTON: I move to approve.

DR. GALVIN: Do I hear a second?

DR. SUBLETTE: Second.

DR. GALVIN: All right. Thank you. All right. May we have a roll call?

MS. BRUCE: Ms. Cantrell.

MS. CANTRELL: Yes.

MS. BRUCE: Mr. Cassidy.

MR. CASSIDY: Yes.

MS. BRUCE: Mr. Drake.

MR. DRAKE: Yes.

MS. BRUCE: Mr. Johnston.

MR. JOHNSTON: Yes.

MS. BRUCE: Mr. Mason. He stepped out. Dr. Sublette.

DR. SUBLETTE: Yes.

MS. BRUCE: Mr. Wendling.

MR. WENDLING: Yes.

MS. BRUCE: Mr. Wuerflein.

MR. WUERFLEIN: Yes.

MS. BRUCE: Dr. Galvin.

DR. GALVIN: Yes.

MS. BRUCE: Motion passed.

DR. GALVIN: Thank you. The next Agenda Item is New Business. Any matter not known about in which could not have been reasonably foreseen prior to time of posting of this Agenda may be brought before the Board.

Do I hear any new business? All right, hearing none, that brings us to adjournment.

MR. DRAKE: I move adjournment.

DR. GALVIN: I was just going to say --

MR. JOHNSTON: Second.

DR. GALVIN: Thank you. Thank you. Roll call, Myrna.

MS. BRUCE: Ms. Cantrell.

MS. CANTRELL: Yes.

MS. BRUCE: Mr. Cassidy.

MR. CASSIDY: Yes.

MS. BRUCE: Mr. Drake.

MR. DRAKE: Yes.

MS. BRUCE: Mr. Johnston.

MR. JOHNSTON: Yes.

MS. BRUCE: Mr. Mason is still out. Dr. Sublette.

DR. SUBLETTE: Yes.

MS. BRUCE: Mr. Wendling.

MR. WENDLING: Yes.

MS. BRUCE: Mr. Wuerflein.

MR. WUERFLEIN: Yes.

MS. BRUCE: Dr. Galvin.

DR. GALVIN: Yes.

MS. BRUCE: Meeting adjourned.

DR. GALVIN: Thank you.

(Proceeding Concluded)

C E R T I F I C A T E

STATE OF OKLAHOMA)

) ss:

COUNTY OF OKLAHOMA)

I, CHRISTY A. MYERS, Certified Shorthand Reporter in and for the State of Oklahoma, do hereby certify that the above meeting is the truth, the whole truth, and nothing but the truth; that the foregoing meeting was taken down in shorthand by me and thereafter transcribed under my direction; that said meeting was taken on the 18th day of August, 2008, at Duncan, Oklahoma; and that I am neither attorney for, nor relative of any of said parties, nor otherwise interested in said action.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on this, the 2nd day of September, 2008.

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