

**MINUTES**  
**ENVIRONMENTAL QUALITY BOARD**  
**June 21, 2005**  
**Roman Nose Resort Park**  
**Watonga, Oklahoma**

EQB Approved  
 August 23, 2005

**Notice of Public Meeting** The Environmental Quality Board convened for a regular meeting at 9:30 a.m. June 21, 2005 in the Black Coyote Room, at Roman Nose Resort Park, Watonga, Oklahoma. This meeting was held in accordance with 25 O.S. Sections 301-314, with notice of the meeting given to the Secretary of State on November 24, 2004. The agenda was mailed to interested parties on June 9, 2005 and was posted on June 17, 2005 on the door of the Black Coyote Room at Roman Nose and at the Department of Environmental Quality. Mr. Steve Mason called the meeting to order and welcomed David Griesel to the Board. Roll call was taken and a quorum was confirmed.

**MEMBERS PRESENT**

Brita Cantrell  
 Mike Cassidy  
 Tony Dark  
 Bob Drake  
 David Griesel  
 Jerry Johnston  
 Steve Mason  
 Terri Savage  
 Richard Wuerflein

**MEMBERS ABSENT**

Jack Coffman  
 Jennifer Galvin  
 Sandra Rose  
 Vacancy

**DEQ STAFF PRESENT**

Steve Thompson, Executive Director  
 Craig Kennamer, Deputy Executive Director  
 Jimmy Givens, General Counsel  
 Eddie Terrill, Air Quality Division  
 Scott Thompson, Land Protection Division  
 Jon Craig, Water Quality Division  
 Judy Duncan, Customer Services Division  
 Gary Collins, ECLS  
 Wendy Caperton, Office of Executive Director  
 Ellen Bussert, Administrative Services Division  
 Jamie Fannin, Administrative Services Division  
 Myrna Bruce, Secretary, Board & Councils

**OTHERS PRESENT**

Susan Krug, Assistant Attorney General  
 Ellen Phillips, Assistant Attorney General  
 David Branecky, Member, AQC

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

**Approval of Minutes** Mr. Mason called for motion to approve the Minutes of the March 4, 2005 Regular Meeting. Mr. Drake made the motion and Mr. Dark made the second.

**Roll call.**

Brita Cantrell	Yes	David Griesel	Abstain
Mike Cassidy	Yes	Jerry Johnston	Yes
Tony Dark	Yes	Terri Savage	Yes
Bob Drake	Yes	Richard Wuerflein	Yes
		Steve Mason	Yes

**Motion carried.**

**AQC 252:100 Air Pollution Control** Mr. David Branecky, Member of the Air Quality Council, stated that proposed amendments to *Subchapter 41, Control of Emission of Hazardous Air Pollutants and Toxic Air Contaminants* partitions the existing Subchapter 41 into two subchapters. Proposed amendments would clarify and modify the state-only requirements for emissions from stationary sources and relocate those requirements into the new Subchapter 42 and Appendix O. He related that Subchapter 41 would contain the federal requirements for hazardous air pollutants and asbestos and that the new Appendix O would provide a list of toxic air contaminants and set maximum acceptable ambient

concentrations for these substances. Mr. Branecky pointed out that the Air Quality Council held four hearings on this rule and passed the rule for permanent adoption at its April 20, 2005 meeting. He told the Board that since then the legislature had approved funding for the program and that the Council now recommended that the Board approve the proposal for both emergency and permanent adoption so that the program might be instituted more quickly. Mr. Eddie Terrill fielded questions and comments regarding the proposal. Mr. Tony Dark made motion to approve as a permanent and emergency rule. The second was made by Ms. Savage. Ms. Susan Krug, Assistant Attorney General, requested that first there must be a finding of emergency. Mr. Dark amended his motion to reflect the need for emergency adoption and Ms. Savage made that second.

*See transcript pages 7 – 22*

<b>Roll call.</b>		David Griesel	Yes
Brita Cantrell	Yes	Jerry Johnston	Yes
Mike Cassidy	Yes	Terri Savage	Yes
Tony Dark	Yes	Richard Wuerflein	Yes
Bob Drake	Yes	Steve Mason	Yes

**Motion carried.**

Mr. Dark then made his motion to approve as a permanent rule and Ms. Savage made the second. Following discussion, Ms. Bruce called the roll.

*See transcript pages 22-30*

<b>Roll call.</b>		David Griesel	Yes
Brita Cantrell	Yes	Jerry Johnston	Yes
Mike Cassidy	Yes	Terri Savage	Yes
Tony Dark	Yes	Richard Wuerflein	Yes
Bob Drake	Yes	Steve Mason	Yes

**Motion carried.**

**Annual Performance Review of the Executive Director** Mr. Steve Thompson provided information to the Board relating to the FOCUS document that sets forth the goals, objectives, priorities, and policies of the Department. Mr. Mason called for a motion to adjourn to Executive Session. Mr. Drake made the motion with Mr. Griesel making the second. At 10:15 a.m. the Board members adjourned to Executive Session in an adjacent room. Ms. Bruce was requested to take the Minutes of the Executive Session.

<b>Roll call.</b>		David Griesel	Yes
Brita Cantrell	Yes	Jerry Johnston	Yes
Mike Cassidy	Yes	Terri Savage	Yes
Tony Dark	Yes	Richard Wuerflein	Yes
Bob Drake	Yes	Steve Mason	Yes

**Motion carried.**

Following initial discussion, Mr. Thompson was called into the room to answer questions. The Public Meeting reconvened at 11:00 a.m. and Mr. Mason called for action by the Board. Ms. Savage expressed that it would be a “win-win” situation to give Mr. Thompson the maximum raise allowable by law. Mr. Jerry Johnston made the motion to raise Mr. Thompson’s salary to the salary cap - \$89,450.00 effective July 1, 2005. Mr. Drake made the second.

*See transcript pages 31 - 43*

<b>Roll call.</b>		David Griesel	Yes
Brita Cantrell	Yes	Jerry Johnston	Yes
Mike Cassidy	Yes	Terri Savage	Yes
Tony Dark	Yes	Richard Wuerflein	Yes
Bob Drake	Yes	Steve Mason	Yes

**Motion carried.**

**New Business** Mr. Mason thanked Ellen Bussert for all the arrangements that had been made for the meeting. He also introduced Senator Ron Justice who represents District 23.

**Executive Director's Report** Mr. Thompson called upon Mr. Jimmy Givens for disclosure of certain DEQ employee financial interests as required by statute. Mr. Givens reported that only one staff member had disclosed shares in a regulated company and that employee has been advised that he cannot work on matters related to that facility.

Mr. Thompson thanked the Board members for their willingness to attend Council meetings and Mr. Johnston noted the importance of the Board support of the Councils.

Mr. Thompson provided information regarding the key bills pertaining to the Agency and handed out the DEQ Mission Statement and Major Issues for FY 2006.

He announced that this was Ms. Susan Krug's last meeting and thanked her for her time serving the Board. Ms. Krug introduced Ms. Ellen Phillips, her replacement with the Attorney General's Office.

*See transcript pages 44 - 61*

**Adjournment** At 11:30 am, Mr. Mason called for adjournment, announcing the Public Forum to follow.

The next regular meeting of the Environmental Quality Board will be August 23 at the Mid-America Expo Center, Mid-America Airport, Pryor, Oklahoma.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

DEPARTMENT OF ENVIRONMENTAL QUALITY

STATE OF OKLAHOMA

\* \* \* \* \*

TRANSCRIPT OF PROCEEDINGS

OF THE REGULAR MEETING

ENVIRONMENTAL QUALITY BOARD

HELD ON JUNE 21, 2005, AT 9:30 A.M.

IN WATONGA, OKLAHOMA

\* \* \* \* \*

REPORTED BY: Christy A. Myers, CSR

MYERS REPORTING SERVICE  
(405) 721-2882

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

MEMBERS OF THE COUNCIL

- BRITA CANTRELL
- MIKE CASSIDY
- JACK COFFMAN
- TONY DARK
- BOB DRAKE
- JENNIFER GALVIN
- DAVID GRIESEL
- JERRY JOHNSTON
- TERRI SAVAGE
- RICHARD WUERFLEIN
- STEVE MASON - CHAIRMAN

Christy A. Myers

Certified Shorthand Reporter

1 PROCEEDINGS

2 MR. MASON: My name is Steve  
3 Mason and I am Chairman of the  
4 Environmental Quality Board.

5 This regular meeting of the  
6 Environmental Quality Board has been called  
7 according to the Oklahoma Open Meeting Act,  
8 Section 311 of Title 25 of the Oklahoma  
9 Statutes. Notice was filed with the  
10 Secretary of State on November 24, 2004.  
11 Agendas were mailed to interested parties  
12 on June 9, 2005.

13 The agenda for this meeting was  
14 posted on Friday, June 17, 2005 at this  
15 facility and at the Department of  
16 Environmental Quality, 707 North Robinson,  
17 in Oklahoma City, Oklahoma. Only matters  
18 appearing on the posted agenda may be  
19 considered.

20 If this meeting is continued or  
21 reconvened, we must announce today the  
22 date, time and place of the continued  
23 meeting and the agenda for such  
24 continuation will remain the same as  
25 today s agenda.

Christy A. Myers

Certified Shorthand Reporter

1 All right, we re going to do a roll

2 call to see who s here, please, Myrna.

3 MS. BRUCE: Good morning.

4 Ms. Cantrell is absent for now.

5 Mr. Cassidy.

6 MR. CASSIDY: Here.

7 MS. BRUCE: Mr. Dark.

8 MR. DARK: Here.

9 MS. BRUCE: Mr. Drake.

10 MR. DRAKE: Here.

11 MS. BRUCE: Mr. Griesel.

12 MR. GRIESEL: Here.

13 MS. BRUCE: Mr. Johnston.

14 MR. JOHNSTON: Here.

15 MS. BRUCE: Ms. Savage.

16 MS. SAVAGE: Here.

17 MS. BRUCE: Mr. Wuerflein.

18 MR. WUERFLEIN: Yes.

19 MS. BRUCE: Mr. Mason.

20 MR. MASON: Yes.

21 MS. BRUCE: And for the record

22 also absent are Mr. Coffman and Ms. Galvin.

23 MR. MASON: So we have a quorum?

24 MS. BRUCE: And we do have a

25 quorum.

Christy A. Myers

Certified Shorthand Reporter

1                   MR. MASON: Great. First of all,  
2 I d like to welcome David Griesel who s  
3 joining our Board. He was appointed by  
4 Governor Henry to fill the Solid Waste  
5 Industry position on the Board. He has  
6 served as the General Manager of the  
7 Canadian County Solid Waste Disposal  
8 Authority over near El Reno for  
9 approximately 27 years.

10                   When this agency was started back in  
11 1993, he was actually one of the first -- a  
12 member of the Solid Waste Advisory Council  
13 when it began. Thanks for all of your  
14 years down there working on solid waste  
15 issues. He s also on the Board of  
16 Directors of the Solid Waste Association of  
17 North America and he s the General Manager  
18 of Griesel Motor Ford in Okarche. Thanks  
19 for being here David.

20                   MR. GRIESEL: Thank you, very  
21 much.

22                   MR. MASON: Item Three is an  
23 approval of Minutes from the previous  
24 meeting.

25                   MR. DRAKE: So moved.

Christy A. Myers

Certified Shorthand Reporter

1 MR. DARK: Second.

2 MR. MASON: Is there any  
3 discussion?

4 Can we have a roll call please.

5 MS. BRUCE: Mr. Cassidy.

6 MR. CASSIDY: Yes.

7 MS. BRUCE: Mr. Dark.

8 MR. DARK: Yes.

9 MS. BRUCE: Mr. Drake.

10 MR. DRAKE: Yes.

11 MS. BRUCE: Mr. Griesel.

12 MR. GRIESEL: Abstain.

13 MS. BRUCE: Mr. Johnston.

14 MR. JOHNSTON: Yes.

15 MS. BRUCE: Ms. Savage.

16 MS. SAVAGE: Yes.

17 MS. BRUCE: Mr. Wuerflein.

18 MR. WUERFLEIN: Yes.

19 MS. BRUCE: Mr. Mason.

20 MR. MASON: Yes.

21 MS. BRUCE: Motion approved.

22 MR. MASON: Item Four is  
23 rulemaking regarding Air Pollution Control.  
24 Is Dave Branecky here?

25 MR. BRANECKY: I m here. Thank

Christy A. Myers

Certified Shorthand Reporter

1 you, Mr. Chairman. Good morning Members of  
2 the Board. What we have -- what I have to  
3 bring to you this morning really has three  
4 separate rules. They re all interrelated  
5 so I ll address them as one. You can t  
6 really pass one without the other foot.  
7 So, I m not expecting you to.

8           What the Department proposes is to  
9 amend Subchapter 41, of OAC 252:100.  
10 Subchapter 41 is Control of Emission of  
11 Hazardous Air Pollutants and we want to  
12 add, in addition to modifying Subchapter  
13 41, we want to add another new Subchapter  
14 42 and a new Appendix O. What we re trying  
15 to do with 41 -- the old Subchapter 41  
16 contains the requirements for both state  
17 and federal hazardous air pollutants.  
18 Subchapter 41 contains requirements for  
19 state only and federal requirements. What  
20 we were trying to do with this rulemaking  
21 is to separate the State requirements into  
22 one subchapter and Federal requirements  
23 into the other subchapter.

24           Subchapter 41, as proposed to you  
25 today, if passed, would contain only the

Christy A. Myers

Certified Shorthand Reporter

1 Federal requirements. The new Subchapter  
2 42 would be the state-only requirements and  
3 Appendix O is associated with Subchapter  
4 42.

5           What I want to do is kind of briefly  
6 step you through how the new Subchapter 42  
7 will work. Because Subchapter 42 and  
8 Appendix O is a kind of new approach for  
9 controlling Air Toxics in Oklahoma. So, I  
10 want to kind of step you through how we  
11 envision the new process working.

12           We believe the new Subchapter 42  
13 will be less burdensome, not only on  
14 industry but also on DEQ. Subchapter 41  
15 just -- existing 41 became too unwieldy.  
16 It was unenforceable and wasn't doing any  
17 good. We needed to step back and look and  
18 start fresh with a new approach. That's  
19 what we're proposing today.

20           So, here's how the rule is going to  
21 work. Appendix O, OAC 252:100 (inaudible)  
22 change the list about 21 -- charges 21 air  
23 toxins. Which we've identified -- DEQ has  
24 identified as being emitted in Oklahoma and  
25 have -- we have set the emission levels,

Christy A. Myers

Certified Shorthand Reporter

1 maximum ambient-air concentrations, 24-hour  
2 standard, that we feel are necessary to  
3 protect public health. Anything above that  
4 could endanger public health. But we've  
5 set the (inaudible) 21 toxics and a  
6 corresponding 24 hour maximum ambient-air  
7 concentration. Both in parts per million  
8 and (inaudible).

9           If, based on a complaint from the  
10 public or from DEQ's own investigation from  
11 emission inventory data or from EPA  
12 reports, it is determined that there may be  
13 a problem with one of these toxins in  
14 Oklahoma, DEQ will initiate ambient  
15 monitoring. Actually go out to the  
16 suspected area, set up monitoring equipment  
17 and see if there is a problem. The list in  
18 Appendix O, the toxics were -- only those  
19 that have proven monitoring capabilities  
20 are listed. In other words, we didn't put  
21 a toxic in Appendix O that we didn't go out  
22 and monitor. So, those -- we have  
23 monitoring capabilities for those 21 listed  
24 in Appendix O.

25           If, based on the results of the

Christy A. Myers

Certified Shorthand Reporter

1 monitoring data it s determined that there  
2 is a problem in that area, DEQ will make  
3 those what we call an area of concern,  
4 around where the area that s been  
5 monitored. Once that area of concern is  
6 identified, DEQ will work with the industry  
7 in the area, hold info meetings in with the  
8 community leaders and say, hey, we think  
9 there s a problem in this area. After  
10 that, we will actually have a public  
11 meeting to educate the public that after  
12 the monitoring and the investigation, we  
13 think there is a problem. After the public  
14 meeting, after input from industries in the  
15 area, after the input from community  
16 leaders, the DEQ then will make the final  
17 decision to designate that as a true area  
18 of concern. Initially, with the proposed  
19 areas of concern, we ll hold meetings,  
20 we ll hold public hearings and then we ll  
21 make a final determination to make it a  
22 true area of concern. If an area of  
23 concern is decided upon, we ll develop a  
24 control strategy. We ll go out into the  
25 area and say how can we -- what do we need

Christy A. Myers

Certified Shorthand Reporter

1 to do in these areas to get these levels --  
2 the ambient levels down below those listed  
3 in Appendix O. And that may require  
4 rulemaking. We may have to go back through  
5 the Council to look to requiring stationary  
6 sources in that area, if there is a  
7 problem, if they are the problem, to put on  
8 a control to reduce the toxics in that  
9 area.

10           Once the levels have been brought  
11 down to those below Appendix O, the  
12 Director will then re-designate that area  
13 as being in compliance. And so that  
14 compliance will be demonstrated through  
15 monitoring -- additional monitoring (  
16 monitoring or model.

17           Following the re-designation of the  
18 area by the Director, we ll have another  
19 public meeting and tell everybody who, you  
20 know, we had a problem -- it s been through  
21 the control strategies and now it s down  
22 below the acceptable levels.

23           So we believe what we ve done in  
24 subchapter 42 is far better than what was  
25 in (inaudible). It s improved. It

Christy A. Myers

Certified Shorthand Reporter

1 integrates -- it separates federal and  
2 state and we think it s best for Oklahoma.

3           The Council, when we passed the  
4 rule, realized that this was a new  
5 approach. So we asked the Department to  
6 come back to us in a year, kind of review  
7 and see how it s working and we ll make any  
8 adjustments at that point.

9           We felt, since it was such a new  
10 program, we wanted to make sure that if we  
11 needed to make any adjustments, that we  
12 could do that at that time.

13           We held a public meeting on this  
14 rule on July 21st, 2004. We held another  
15 meeting on December 9th, 2004; January  
16 19th, 2005; and finally on April 20, 2005  
17 we passed this rule. So, we had several  
18 public hearings. I know Ms. Cantrell and  
19 Ms. Galvin were there from the Board, at  
20 our Council meetings. We had substantial  
21 input from industry and from the public and  
22 the Department took those comments under  
23 consideration and we came up with this rule  
24 that we want to present to you today.

25           What we are asking for you today to

Christy A. Myers

Certified Shorthand Reporter

1 do is to pass this, not only as a permanent  
2 rule but also as an emergency rule. We  
3 feel that because 41 is not really working  
4 well at this point in time, it s a burden  
5 on industry, it s a burden on DEQ, so the  
6 sooner we get this in place, the better.  
7 The problem is, when the Council passed the  
8 rule in May, we passed it as a permanent  
9 rule because at the time we did not have  
10 funding. And there is being funding being  
11 considered by the legislature, but at that  
12 point in time when we had the Council  
13 meetings, we weren t sure if that funding  
14 was going to be there.

15           If the legislature was not going to  
16 give us funding, we were going to come back  
17 to the Council at the July meeting and ask  
18 for funding. So, what we did, we just  
19 passed it as a permanent rule. However,  
20 since then, the legislature has provided  
21 funding for this rule and that s why we  
22 think the Board has the ability to not only  
23 pass this as a permanent rule, but as an  
24 emergency rule. And that s what we are  
25 asking for you guys to do today, is to pass

Christy A. Myers

Certified Shorthand Reporter

1 this as an emergency rule and a permanent  
2 rule.

3 I have staff here to answer any  
4 questions. Eddie, do you want to say  
5 anything about that?

6 MR. TERRILL: Let me just talk  
7 just a little bit about the emergency part  
8 of this. Another consideration we had in  
9 not taking this as an emergency, is that if  
10 we didn't get the funding through the  
11 legislature appropriations, which we  
12 thought was real important because not only  
13 -- it was an equity issue really, because  
14 toxics are more so than any other pollutant  
15 are really directed -- or tied to mobile  
16 sources. So, really we didn't feel like it  
17 was fair for the stationary sources, the  
18 Title V sources, to pay the majority of the  
19 funding for a rule that was really tied  
20 quite a bit to the mobile source problem  
21 that we may or may not have here in  
22 Oklahoma.

23 But if we hadn't got any funding  
24 through the legislature, we just didn't  
25 have the funds to move forward and if we

Christy A. Myers

Certified Shorthand Reporter

1 had to go back and ask for the Council and  
2 the industry to approve a fee increase, it  
3 would have taken about 15 months once they  
4 had passed that rule, for us to actually  
5 get the money in. And so that was a lot of  
6 the consideration that we had in not asking  
7 for an emergency on this. I think David is  
8 exactly right. Subchapter 41, even though  
9 we re only looking at probably nine months  
10 of implementation, we ve got about 269  
11 permits that are out there pending. All of  
12 them will probably require some form of  
13 analysis under the old subchapter 41, maybe  
14 only two or three toxics, but some sources  
15 may have 50, 60, or 70 toxics but they have  
16 to be analyzed.

17 Most of the time all that happens is  
18 you do a modeling exercise, you determine  
19 that nothing can be done to control the  
20 toxics, you give them a permit and move on.  
21 But that requires a lot of work on our  
22 part, a lot of work on the industries part  
23 and we anticipate some cases where some of  
24 the sources may have to add control  
25 equipment in order to meet a standard that

Christy A. Myers

Certified Shorthand Reporter

1 won't exist in about nine months that may  
2 cost two or three hundred thousand dollars  
3 to implement and we just think it is a  
4 waste of money. Plus it really doesn't get  
5 us to the public health issue and that's  
6 really what this issue -- what this rule is  
7 designed to do is to address the public  
8 health issue of toxics in Oklahoma, not  
9 just be an exercise in modeling and  
10 permitting. So, you know, it's a little  
11 bit unusual but our legal folks have done  
12 the research and believe that there is the  
13 ability for you all to pass this as  
14 emergency. We believe there is ample need  
15 both from a financial and practical  
16 standpoint to do that and we would ask your  
17 consideration on it.

18 MR. MASON: Questions from the  
19 Board?

20 I have a question. If you look five  
21 years out, where do you think we'll end up  
22 with areas of concern and what do you think  
23 we're going to have to do to fix it?

24 MR. TERRILL: You know, we don't  
25 know. And that's a lot of the reason that

Christy A. Myers

Certified Shorthand Reporter

1 we wanted to come back and look at this  
2 rule in a year. We designed this rule with  
3 what we believe to be the approach that  
4 EPA s going to take with their -- they call  
5 it the care rule, similar to the interstate  
6 transport, but it s a community -- public  
7 community based toxic s program. We think  
8 that s what this -- our program will allow  
9 us to address it like that. It could be  
10 that we won t have any areas of concern.  
11 Because we will -- our first -- probably  
12 first challenge is going to be to take the  
13 National Air Toxic Assessment, the second  
14 round has been done, and verified that  
15 those numbers are correct. That s what we  
16 did in the Ponca City area and we found  
17 that they had over estimated some of the  
18 areas that they thought were concerns, by  
19 modeling only, and they actually go out and  
20 do the monitoring. So, that would be one  
21 of the first things that we would do is try  
22 to hone our skills and try to see what the  
23 -- what the feds have done with their  
24 assessment, see how close they came and go  
25 from there.

Christy A. Myers

Certified Shorthand Reporter

1           But it s really hard to say because  
2 this will probably be complaint-driven and  
3 EPA-driven more so than anything else.  
4 We ll do some analysis of our own through  
5 inventories and things like that, but it s  
6 just really kind of hard to say what it s  
7 going to look like in five years.

8           But the whole idea here is not to  
9 designate areas of concern. The whole idea  
10 here is if we ve got a problem, work with  
11 the community to address that problem and  
12 fix it. A lot of this is going to be  
13 collaborative effort. This is not a --  
14 really a command and control-type rule that  
15 we, you know, we normally have in these  
16 situations because we don t think it calls  
17 for that. We may even have situations  
18 where a community decides that there s  
19 nothing that can be done about this  
20 particular problem and it s something that  
21 is an acceptable risk. But, you ve got to  
22 remember that there s a safety factor  
23 built-in to these ambient levels. And so  
24 even though there is concern, there is  
25 enough of a factor that it may be an

Christy A. Myers

Certified Shorthand Reporter

1 acceptable risk for the community, based on  
2 all the factors. That s the reason we ll  
3 do a lot of -- if we ever have a closed  
4 meeting, we ll ( ) call a meeting round.  
5 Probably have a number of meetings before  
6 we leave the affected industry and the  
7 community leaders to discuss the  
8 (inaudible) and hopefully arrive at a  
9 solution without ever having to designate  
10 an area. Because that would be the  
11 preferable solution, right then, if we have  
12 a problem, fix it and go on.

13 MR. THOMPSON: I think though  
14 it s fair to say in the most general sense  
15 that where you find some fairly heavy  
16 concentrations in this industry -- an  
17 industry and where you find fairly heavy  
18 concentrations of mobile sources, you can  
19 begin to find potential areas of concern in  
20 that way. Is that fair to say?

21 MR. TERRILL: Sure. And that s  
22 probably one of the first things that we ll  
23 do is try to find a couple of folks that we  
24 believe we ll be able to train to be our  
25 toxic expert, if you will. We re going to

Christy A. Myers

Certified Shorthand Reporter

1 start looking at the mobile source issues  
2 in Oklahoma, Metropolitan Area especially.  
3 Because we really never have taken a look  
4 at what their impact had on the air quality  
5 in the Metropolitan Area. So, without  
6 getting a handle on that, it s going to be  
7 very difficult to pull out the things that  
8 we can actually do something about, if we  
9 do demonstrate a problem. Understanding  
10 mobile source component of our toxic s air  
11 shed will be one of the first things that  
12 we ll do.

13 MR. DARK: Mr. Chairman, I d move that Item  
14 Number 4 be approved as a permanent rule,  
15 with a designation as an emergency rule.

16 MR. MASON: All right. Is there  
17 a second?

18 MR. SAVAGE: Second.

19 MR. MASON: Second from Terri.

20 Is there any discussion from the public?  
21 Are we doing this correctly for emergency?

22 MS. KRUG: I feel like you first  
23 need to make a finding of emergency. And  
24 make that vote first. And then make your  
25 adoption of a permanent rule.

Christy A. Myers

Certified Shorthand Reporter

1                   MR. DARK: Have we not already  
2 adopted this as a permanent rule as you  
3 said earlier?

4                   MR. BRANECKY: The Council has  
5 adopted it.

6                   MR. DARK: The Council, okay.  
7 All right. I didn't think the Board had.

8                   MS. KRUG: The Board has not.

9                   MR. BRANECKY: The Board has not.  
10 This is the first time to come through.

11                   MS. KRUG: But since that time  
12 you -- things have changed, where you feel  
13 like you've met the emergency criteria and  
14 that's what I would like you to do is make  
15 that finding.

16                   MR. DARK: Okay. I'll amend then  
17 my motion to reflect Counsel's suggestion.

18                   MR. MASON: Are you declaring  
19 that an emergency?

20                   MS. KRUG: Yes.

21                   MR. MASON: Do we need to vote on  
22 that first and then take a second vote?

23                   MS. KRUG: Yes. That's what I'd  
24 advise you to do.

25                   MR. DARK: I'd make a motion that

Christy A. Myers

Certified Shorthand Reporter

1 it be applied as an emergency rule.

2 MS. SAVAGE: Second.

3 MR. MASON: Terri, second. All

4 right. Let s vote please. Myrna.

5 MS. BRUCE: Ms. Cantrell.

6 MS. CANTRELL: Aye.

7 MS. BRUCE: Mr. Cassidy.

8 MR. CASSIDY: Yes.

9 MS. BRUCE: Mr. Dark.

10 MR. DARK: Yes.

11 MS. BRUCE: Mr. Drake.

12 MR. DRAKE: Yes.

13 MS. BRUCE: Mr. Griesel.

14 MR. GRIESEL: Yes.

15 MS. BRUCE: Mr. Johnston.

16 MR. JOHNSTON: Yes.

17 MS. BRUCE: Ms. Savage.

18 MS. SAVAGE: Yes.

19 MS. BRUCE: Mr. Wuerflein.

20 MR. WUERFLEIN: Yes.

21 MS. BRUCE: Mr. Mason.

22 MR. MASON: Yes.

23 MS. BRUCE: Motion approved.

24 MR. DARK: I d also like to move

25 that it be placed as a permanent rule.

Christy A. Myers

Certified Shorthand Reporter

1 MS. SAVAGE: Second.

2 MR. WUERFLEIN: Steve, might I  
3 ask a question before we vote?

4 MR. MASON: Uh-huh.

5 MR. WUERFLEIN: I didn't get to  
6 read through all the comments in the packet  
7 and I'm not sure if the comments I read  
8 were from an earlier hearing or most  
9 recent. But I still come back to, if you  
10 declare an area of concern versus what  
11 David called a true area of concern, after  
12 the studies, what does the scientific basis  
13 of the -- what determines an area we're  
14 going to study versus what one we're going  
15 to increase the regulation of the  
16 (inaudible)?

17 MR. BRANECKY: Initially, we'll  
18 do the monitoring. Well, first we'll input  
19 the data, if we have a complaint on it.  
20 (Inaudible) we have a suspected area, we'll  
21 do the monitoring, then we'll propose an  
22 area of concern. Before we actually say  
23 this is a true area of concern, we'll have  
24 some meetings with industries and community  
25 leaders and then we'll have some public

Christy A. Myers

Certified Shorthand Reporter

1 hearings, and after all that, they ll take  
2 all that into consideration and if they  
3 still feel that it is a true area of  
4 concern, then we ll make that (inaudible).

5 MR. TERRILL: One thing that we  
6 need to remember though, is this rule does  
7 not require anything additional as far as  
8 requirements, on anyone other than what s  
9 already in the rules. That s the reason  
10 that once we identify them and do have an  
11 area of concern -- and part of that  
12 discussion period is to verify that the  
13 facilities that we believe are truly  
14 problems are meeting all of the federal and  
15 state requirements. Because if they  
16 aren t, then we ve got to evaluate it. Is  
17 it cost effective, is it the communities  
18 wishes that we go beyond that to address  
19 this area of concern. And it may be that  
20 the community decides that, well, the cost  
21 of controls are not -- there s a risk --  
22 it s an acceptable risk not to require  
23 additional controls. This is really a  
24 community decision. That s really what  
25 this is all about is (inaudible), the

Christy A. Myers

Certified Shorthand Reporter

1 individual communities to be aware of  
2 health issues in their communities and make  
3 an informed decision with us, using the  
4 science that s best for them.

5 I guess in extreme cases if the  
6 citizens were saying one thing and the  
7 community was saying something else and it  
8 was feasible for us to require additional  
9 control, we may go to Council and do that.  
10 But anything additional beyond what is  
11 already in our rules, would have to go back  
12 through the Council.

13 So there will be a lot of  
14 opportunity for input from the affected  
15 sources and the citizens. And this is  
16 something we take very seriously because  
17 toxins are a very emotional issue and there  
18 is a lot of discussion on both sides of  
19 what the safety levels are and it s not  
20 something that -- you know, we ve been  
21 looking at this for about four years now  
22 and so this is something that -- so this is  
23 the way we ve come up tp address it.

24 MR. MASON: Did he answer your  
25 question?

Christy A. Myers

Certified Shorthand Reporter

1                   MR. WUERFLEIN: Kind of, sort of.  
2 Who makes that determination -- is it the  
3 Council or Eddie or --

4                   MR. TERRILL: It s just me. I m  
5 the one that will actually make the final  
6 decision. But that will be through --  
7 after a lot of consultations with the  
8 community and the industry and probably the  
9 Council too. Because this brings a lot of  
10 attention, if you will, to not only the  
11 Department but the Council as well. So,  
12 it s not something that we would take  
13 lightly.

14                   MR. BRANECKY: If there s an  
15 effort that this (inaudible) -- if there s  
16 any hope that this will be made into a  
17 rule, that would definitely be the Council.

18                   (Inaudible Conversations)

19                   MR. WUERFLEIN: I can say that,  
20 you know, from the public relations  
21 standpoint -- if you can get a media blast  
22 on the issues and blow it out of proportion  
23 in a local area and you got to have a  
24 scientific --

25                   MR. TERRILL: Well, that s our

Christy A. Myers

Certified Shorthand Reporter

1 responsibility.

2 MR. WUERFLEIN: Where s the  
3 scientific levels -- it s all kind of  
4 ambiguous, isn t it?

5 MR. TERRILL: Well, that s where  
6 the monitoring comes in. Monitoring of --  
7 actual monitored data, would be a better  
8 tool for evaluating toxins than anything  
9 else. But you re exactly right and that s  
10 something that we looked at, especially if  
11 we get a situation where it s just  
12 determined there s nothing that can be  
13 done, we got an issue with the toxics and  
14 you just can t -- because of the nature of  
15 the where the facility is and the nature of  
16 the force component or a number of factors,  
17 nothing can be done and at that point it is  
18 a public relations problem.

19 But we decided that, one, EPA was  
20 moving forward with this community based  
21 toxics approach, we felt like for a change  
22 we needed to be out in front of this rather  
23 than behind it so we can be able to react  
24 with our program and be smart about this.  
25 Because my biggest concern -- right now EPA

Christy A. Myers

Certified Shorthand Reporter

1 is going around with a pot of money trying  
2 to entice folks to -- not government  
3 agencies necessarily but local communities  
4 can apply for this money to go in and see  
5 if they've got a problem. Well, they  
6 monitor the problem but they won't come up  
7 with any solutions, they dump that back on  
8 us to figure it out and that's not the way  
9 to go about this. That's where you get  
10 this uproar of concern with no way to fix  
11 it. Our approach, I think, is if we  
12 identify the problem, work with the  
13 community really before we become public  
14 with this and try to fix it before it  
15 becomes a public relations problem.

16 MR. BRANECKY: EPA has been  
17 behind and in support of the rule. And in  
18 fact, I think several other states have  
19 inquired to DEQ about this rule that they  
20 like the lengthy approach.

21 MR. TERRILL: In fact, we're one  
22 of four states that's being considered as a  
23 model state program nationwide. So, the  
24 staff really did a good job with this. I  
25 think they did an excellent job putting

Christy A. Myers

Certified Shorthand Reporter

1 this together. Again we ll just have to  
2 see how it works. We may be back to the  
3 Board in a year or so, fine tuning it, or  
4 over hauling it or whatever because this is  
5 supposed to be a good tool for the citizens  
6 of Oklahoma, not a beat you on the head  
7 tool.

8 MR. WUERFLEIN: Thank you.

9 MR. MASON: Any questions or  
10 input from the public? All right. So I  
11 think we have Tony s motion for permanent  
12 rulemaking? I guess we ll have a roll call  
13 vote on that please, Myrna.

14 MS. BRUCE: Ms. Cantrell.

15 MS. CANTRELL: Yes.

16 MS. BRUCE: Mr. Cassidy.

17 MR. CASSIDY: Yes.

18 MS. BRUCE: Mr. Dark.

19 MR. DARK: Yes.

20 MS. BRUCE: Mr. Drake.

21 MR. DRAKE: Yes.

22 MS. BRUCE: Mr. Griesel.

23 MR. GRIESEL: Yes.

24 MS. BRUCE: Mr. Johnston.

25 MR. JOHNSTON: Yes.

Christy A. Myers

Certified Shorthand Reporter

1 MS. BRUCE: Ms. Savage.

2 MS. SAVAGE: Yes.

3 MS. BRUCE: Mr. Wuerflein.

4 MR. WUERFLEIN: Yes.

5 MS. BRUCE: Mr. Mason.

6 MR. MASON: Yes.

7 MS. BRUCE: Motion approved.

8 MR. MASON: Thank you. The  
9 Senator from District 23, Ron Justice, has  
10 joined us and Senator, thank you for being  
11 here. Would you like to say a few words?

12 MR. JUSTICE: I just appreciate  
13 the opportunity to be here and again I just  
14 came to learn.

15 MR. MASON: All right. Thank  
16 you. And you re from Chickasha? Does this  
17 include your District? Are you up this  
18 far?

19 MR. JUSTICE: Yes, it is. This  
20 is a portion of my District. District 23  
21 actually goes just north of Hitchcock. So  
22 this includes this area and down to a big  
23 portion of Blaine County on down into Caddo  
24 County, south of Anadarko. So, it includes  
25 Hydro, Geary, Watonga, and then south of I-

Christy A. Myers

Certified Shorthand Reporter

1 40 over through Mustang. So, this being a  
2 part of it and I learned how they  
3 (inaudible), I wanted to come and just get  
4 some additional information. So, I  
5 appreciate you talking to me.

6 MR. MASON: Thanks for making the  
7 drive. I bet you get some mileage. Item 5  
8 is the annual performance review of  
9 Executive Director. Do you want to start  
10 this Steve or --

11 MR. THOMPSON: I can.

12 MR. MASON: Okay.

13 MR. THOMPSON: As a -- what we  
14 did was provide to the Board a document  
15 that is a part of the agency's annual plan,  
16 the Focus Document. Every employee in the  
17 agency has a piece of that plan, including  
18 the Executive Director. What we -- and  
19 that document looks like this. What we do  
20 as an Agency -- and I think during the  
21 Executive Director's Report, I'm going to  
22 talk a little bit more about the process by  
23 which we set our mission and our goals and  
24 some of the activities we want to address  
25 for the coming year.

Christy A. Myers

Certified Shorthand Reporter

1           The Agency really operates off of a  
2 set of five goals that have to do with  
3 administrative efficiency and work with the  
4 federal government.

5           Our second goal is really about  
6 permitting.

7           The third goal is related to public  
8 assistance, customer assistance and clean-  
9 up programs.

10           The fourth is our response program  
11 to complaint.

12           And our fifth goal relates to our  
13 enforcement programs. So, what I ve  
14 provided to the Board for that evaluation  
15 is my piece of our annual plan of my  
16 responsibilities and then some comments  
17 that were related to some of the things  
18 that we believe the agency accomplished  
19 this year, some of the things that we  
20 really need to work on, some comments on  
21 some of the more routine pieces of the  
22 agency as a mechanism for that evaluation.

23           Rather than go through that  
24 document, I would be glad to respond to  
25 comments. I think it s also fair -- I

Christy A. Myers

Certified Shorthand Reporter

1 think that the Board is aware that due to  
2 the efforts of you and others, that the  
3 legislature did raise the cap for the  
4 Executive Director s salary this year from  
5 \$83,400.00 to \$89,450.00. So the Board has  
6 an opportunity to act on that, raising the  
7 cap, if that s their choice.

8 Over all, I think the Agency runs  
9 well. To a huge extent it runs well  
10 because of the work and dedication of its  
11 Division Director. We are blessed in  
12 Oklahoma to have a set of very experienced,  
13 very knowledgeable leaders, national  
14 leaders, in our Division Directors. I  
15 suppose that the very best choice that I  
16 made, and also in our -- the leader of our  
17 legal group. I think that the very best  
18 choice that I made last year was the  
19 selection of Greg Kennamer as my Deputy  
20 Executive Director. I think he has the  
21 respect of the Division Directors with -- I  
22 don t know about Eddie, but -- Eddie  
23 respects no one.

24 MR. TERRILL: That s right David.

25 MR. THOMPSON: I think he -- I

Christy A. Myers

Certified Shorthand Reporter

1 think he has the respect of the Division  
2 Directors and has done an excellent job and  
3 has allowed me greater latitude to deal  
4 with legislative issues during the  
5 legislative session. I think I've reported  
6 to you in the past that last year I was  
7 elected president of ECOS, which is the  
8 National Environmental Commissioner's  
9 Association and I reported to you that that  
10 would take some of my time and that has  
11 proven to be the case.

12 We are at the national level working  
13 very hard on issues related particularly to  
14 public water supply and waste water  
15 infrastructure. We are almost in crisis  
16 mode in this country relative to shoring up  
17 the infrastructures of our communities,  
18 particularly our small communities.

19 One of the things that I think we  
20 will -- I will talk a little bit more about  
21 this, but one of the things we will  
22 dedicate ourselves to a little bit more in  
23 the coming year is, maybe the  
24 infrastructure funding process in the State  
25 of Oklahoma, makes sense, maybe it does.

Christy A. Myers

Certified Shorthand Reporter

1 But I m just not -- I am going to educate  
2 myself on that issue.

3           There are community block  
4 development grants or development block  
5 grants, excuse me, that are available for  
6 infrastructure funding. There s rule  
7 development money that is available for  
8 infrastructure funding. There are federal  
9 and state revolving loan monies that are  
10 available for infrastructure funding. The  
11 question I have is, are we directing grant  
12 and loan money to the places where we get  
13 the most bang for the buck. We need to  
14 know that. Because if we re going to ask  
15 our legislature and if we re going to ask  
16 Congress for additional funding for  
17 infrastructure, we re going to have to be  
18 able to make the case that we re using the  
19 money that s provided to us, wisely. And  
20 because -- the Department of Environmental  
21 Quality really has nothing to do with those  
22 funds, other than the fact that we re the  
23 ones that write the enforcement orders that  
24 send communities scrambling that -- for  
25 violations that send communities scrambling

Christy A. Myers

Certified Shorthand Reporter

1 for money to fix their problem.

2           Dewayne Smith at the Water Board and  
3 I often have discussions about we re two  
4 ends of the same horse. I show up with the  
5 enforcement orders and Dewayne shows up  
6 with the phone checks to fix the problem.  
7 So you can imagine what end of the horse I  
8 represent. It is time for, I think, the  
9 Department of Environmental Quality to  
10 understand better infrastructure funding in  
11 this state and to step up to the plate. So  
12 that is amongst the many things we intend  
13 to try to get a little better handle on  
14 this year. There s others that I ll talk a  
15 little bit more about in the Executive  
16 Director s Report.

17           I would suggest we ll talk a little  
18 bit more about legislation this year. I  
19 would suggest that we had, what I believe  
20 is the most successful legislative session  
21 in the Agency s history this year, and I  
22 would be very happy to take full credit for  
23 that but that would not be the case.

24           What we ve done this year, I think  
25 better than any other year in my memory --

Christy A. Myers

Certified Shorthand Reporter

1 and I ve been with the Agency from the very  
2 beginning -- was get the cooperation of  
3 this Board and the people associated with  
4 this Board and with industry to take a  
5 unified message to the legislature about  
6 the needs of the Department and the needs  
7 of the public -- for the issues that the  
8 Department has authority for. And I think  
9 it is that cooperative effort, that team  
10 effort that has caused this very successful  
11 year. I would have liked to have been more  
12 successful but there s always next year.

13 So, I ve really kind of run out of  
14 gas here. I ll be glad to answer questions  
15 of the Board, or I ll be glad to answer any  
16 questions that you have.

17 MR. MASON: I think as a Board,  
18 we can continue in this open session. If  
19 we want to go into Executive Session to  
20 discuss his performance and employment  
21 actions, we can. It s kind of whatever our  
22 preference is right now. Yes, ma am.

23 MS. SAVAGE: We re not having an  
24 Executive Session?

25 MR. MASON: We need to decide

Christy A. Myers

Certified Shorthand Reporter

1 what we want to do.

2 MS. KRUG: You may move to do so  
3 if you feel like you need to go into --

4 MR. DRAKE: I move to go into  
5 Executive Session.

6 MR. GRIESEL: I ll second.

7 MR. MASON: We have a second. Is  
8 there any discussion? Public discussion?  
9 Myrna, are you ready to vote?

10 MS. BRUCE: Thank you.  
11 Ms. Cantrell.

12 MS. CANTRELL: Yes.

13 MS. BRUCE: Mr. Cassidy.

14 MR. CASSIDY: Yes.

15 MS. BRUCE: Mr. Dark.

16 MR. DARK: Yes.

17 MS. BRUCE: Mr. Drake.

18 MR. DRAKE: Yes.

19 MS. BRUCE: Mr. Griesel.

20 MR. GRIESEL: Yes.

21 MS. BRUCE: Mr. Johnston.

22 MR. JOHNSTON: Yes.

23 MS. BRUCE: Ms. Savage.

24 MS. SAVAGE: Yes.

25 MS. BRUCE: Mr. Wuerflein.

Christy A. Myers

Certified Shorthand Reporter

1 MR. WUERFLEIN: Yes.

2 MS. BRUCE: Mr. Mason.

3 MR. MASON: Yes.

4 MS. BRUCE: Motion approved.

5 (Whereupon, the Board went into  
6 Executive Session)

7 (Whereupon, the Board returned from  
8 Executive Session)

9 MR. MASON: Okay. We re going to  
10 return from Executive Session under Item 5  
11 Annual Performance Review of the Executive  
12 Director. I think we re at item C, any  
13 discussion by the Board?

14 MS. SAVAGE: Is this regarding  
15 Steve s salary?

16 MS. KRUG: Yeah.

17 MS. SAVAGE: So this would be the  
18 appropriate time if you wanted to make a  
19 statement?

20 MR. MASON: Yes, ma am.

21 MS. SAVAGE: Well, I would just  
22 like to say that I was put on the Board in  
23 1997 and the first call that I got was from  
24 Mark Holman and the second call that I got  
25 was from Steve Thompson. So, I ve gotten a

Christy A. Myers

Certified Shorthand Reporter

1 chance to work with him since that time and  
2 got to know him and I will tell you that  
3 Steve is an unusual talent and I have  
4 always thought that he was smarter than the  
5 average bear and that we are exceptionally  
6 lucky in the State of Oklahoma to have him.  
7 And I think that had he wanted to move, he  
8 could have moved anytime, anyplace and  
9 anyone would have been just thrilled to  
10 have him. And I just think that we re --  
11 something about the State of Oklahoma,  
12 people don t want to move. But Steve could  
13 have left, he s talented enough that if he  
14 just set his sights on Colgate/Palmolive he  
15 could have done it. And I think that even  
16 when we give him, you know, the salary  
17 that s at the top of the cap, we are still  
18 paying him a pittance of what he is worth  
19 to the Agency and to the State of Oklahoma.  
20 And I am personally very proud and anxious  
21 to give him the maximum rates that we can  
22 and I think that it s -- and I think that  
23 everyone else is -- I think everyone on the  
24 Board shares that and I think that it will  
25 be good for the State, it will be good for

Christy A. Myers

Certified Shorthand Reporter

1 the Agency, it will be good for everyone.

2 I think this is win-win for everyone.

3 MR. JOHNSTON: Following that, I  
4 would move that we do that.

5 MR. DRAKE: And I would second  
6 that we do that. I couldn't beat that  
7 speech.

8 MR. MASON: Your motion is for  
9 how much, Jerry?

10 MR. JOHNSTON: Top of the cap.

11 MS. SAVAGE: The top of the cap  
12 is \$89,450.00.

13 MR. MASON: Okay. That's your  
14 motion?

15 MR. JOHNSTON: Yes.

16 MR. DRAKE: And I second that.

17 MR. MASON: A second from Bob.

18 Is there any discussion amongst the Board?

19 MR. CASSIDY: You need to make  
20 that effective July 1st. Does that matter?

21 MS. SAVAGE: Yes. Immediately or  
22 July 1st or sooner.

23 Mr. THOMPSON: The statute would  
24 be -- according to statute, July 1st.

25 MS. SAVAGE: Effective July 1st.

Christy A. Myers

Certified Shorthand Reporter

1                   MR. MASON: Thanks Mike. Is that  
2 fine, that amendment? Okay. Any  
3 discussion from the public? Any more  
4 discussion from the Board? Myrna, can we  
5 vote, please.

6                   MS. BRUCE: Ms. Cantrell.

7                   MS. CANTRELL: Yes.

8                   MS. BRUCE: Mr. Cassidy.

9                   MR. CASSIDY: Yes.

10                  MS. BRUCE: Mr. Dark.

11                  MR. DARK: Yes.

12                  MS. BRUCE: Mr. Drake.

13                  MR. DRAKE: Enthusiastic yes.

14                  MS. BRUCE: Mr. Griesel.

15                  MR. GRIESEL: Yes.

16                  MS. BRUCE: Mr. Johnston.

17                  MR. JOHNSTON: Yes.

18                  MS. BRUCE: Ms. Savage.

19                  MS. SAVAGE: Yes.

20                  MS. BRUCE: Mr. Wuerflein.

21                  MR. WUERFLEIN: Yes.

22                  MS. BRUCE: Mr. Mason.

23                  MR. MASON: Yes.

24                  MS. BRUCE: And motion approved.

25                  MR. MASON: Thank you.

Christy A. Myers

Certified Shorthand Reporter

1                   MS. BRUCE: Enthusiastically, I  
2 might add.

3                   MR. THOMPSON: Thank you, very  
4 much.

5                   MR. MASON: Steve, any comments?  
6 And congratulations.

7                   MR. THOMPSON: Well, thank you  
8 very much for the kind words. I will again  
9 say what I said earlier, any success that I  
10 have is in large part due to an  
11 extraordinarily talented staff, and good  
12 folks to work with, good folks of the State  
13 of Oklahoma and a Board that has always  
14 been supportive of the things that the  
15 Agency has tried to do when they were  
16 right. And I just hope we can continue to  
17 have your confidence as we go forward. I  
18 look forward to -- I enjoy what I do, I m  
19 having fun except for the times when I have  
20 to deal with Don Pendegraft, who you don t  
21 know, but -- and it s exciting work when  
22 you think you re maybe just a little bit  
23 making a difference in folk s lives, that s  
24 a pretty good salary too. So, anyway,  
25 thank you very much. I appreciate it.

Certified Shorthand Reporter

Christy A. Myers

1                   MR. MASON: Thank you Steve.  
2                   Any new business? I want to thank  
3 Ellen Bussart for arranging all this.  
4 Thank you Ellen. It s wonderful, all the  
5 things you do for us. We appreciate it.  
6                   Executive Director s Reports, Steve.

7  
8                   MR. THOMPSON: The first thing  
9 that we wanted to do -- want to do is, by  
10 statute, we have the responsibility to  
11 disclose certain employee financial  
12 interest. I m going to ask Jimmy to  
13 provide that to the Board. I m going to  
14 ask Jimmy to provide that information.

15                  MR. GIVENS: The Board Members  
16 who have been around will recall that we do  
17 this once per year. There is a statutory  
18 requirement that we disclose financial  
19 interest held by employees who are in  
20 technical supervisory or administrative  
21 positions that relate to the review  
22 issuance or enforcement of permits. And  
23 the obvious reason for this, first of all  
24 it s required to be reported to the  
25 Executive Director and then, in turn, to

Christy A. Myers

Certified Shorthand Reporter

1 the Board. And the obvious reason is that  
2 we want to insure anybody in a position  
3 where they might have a conflict of  
4 interest, that that is recognized. Then we  
5 follow-up on that by specifically sending a  
6 memo through the Division Director, down  
7 the Chain of Command to the manager and the  
8 employee himself or herself, that requires  
9 that that person not have any involvement  
10 in an action that would relate to an  
11 enforcement action or permit relating to  
12 any entity that they have an ownership or  
13 financial interest in.

14 The only update to that report from  
15 the last time we made the report is that  
16 Joe Don Willingham, Water Quality Division,  
17 has disclosed that he has acquired some  
18 shares in General Motors. We have already  
19 sent the memo through John Craig to  
20 Mr. Willingham, and specified that he will  
21 not be working on any matters that relate  
22 to General Motors. And that s all I have  
23 this year.

24 MR. THOMPSON: Okay. I think  
25 Steve has contacted you all now about

Christy A. Myers

Certified Shorthand Reporter

1 attending Council meetings so that you are  
2 supportive -- or you can explain issues  
3 that come before the Council. I think in  
4 conversations with people on the Council  
5 and on the Board, they find that to be a  
6 very useful mechanism and so we appreciate  
7 your willingness to serve in that capacity.  
8 Is there anything else I need to say about  
9 that.

10 MR. JOHNSTON: That s very, very  
11 important and I ve stressed this before.  
12 You have to work on something a full year  
13 and you set down on that Council and you  
14 know what s going on and then if you re not  
15 careful -- if you don t do that, then it  
16 comes to this Board and half of us second  
17 guess the Council -- that s why you do need  
18 at least one or two persons from the Board  
19 to sit in on the Council. It s very  
20 important. The Council is probably one of  
21 the best part of DEQ s structure, I think.  
22 Because that s where the real information  
23 comes from and the people that have to  
24 devise those rules and execute them, do the  
25 things that they need to do. So, I think

Christy A. Myers

Certified Shorthand Reporter

1 the Council is very, very important. I  
2 think they should get recognized maybe a  
3 little more than we recognize them because  
4 they do an excellent job.

5 MR. THOMPSON: Okay. I wanted to  
6 talk a little bit about, really the month  
7 of June. June is a transition month for  
8 the Department each year. I've provided a  
9 couple of documents that sort of describe  
10 that transition.

11 First of all, you should have in  
12 front of you a document that says all Key  
13 Bills, 2005 Session. This is the document  
14 that we track legislation by, Jimmy  
15 prepares it for us and updates it every  
16 week. At Tony's suggestion, at the last  
17 meeting, we began to forward this document  
18 to all the Board Members so they'd have a  
19 simple mechanism to track legislation.

20 MR. DARK: I appreciate those as  
21 well. It's been helpful.

22 MR. THOMPSON: Good. Good. June  
23 ends a really intensive four month time for  
24 the agency in working on legislative  
25 issues. I wanted to just highlight a

Christy A. Myers

Certified Shorthand Reporter

1 couple of issues that were important to us  
2 during the legislative session. If you  
3 look under HUD, Senate Bill 272 was the  
4 mobile source fee on rental cars. That was  
5 an idea that we brought to you at the  
6 November meeting and was, I would suggest  
7 somewhat controversial at the time and  
8 remained controversial throughout the  
9 session. That motion morphed into the  
10 \$800,000.00 General Revenue Appropriation  
11 that we received for the Toxic Program and  
12 the Air Quality Program. So, while we  
13 didn't get the fee on rental cars, we did  
14 get the \$800,000.00 General Revenue  
15 Appropriation. Which, quite frankly,  
16 represents four times more than any non-  
17 salary general revenue appropriation that  
18 we've ever received as an agency since --  
19 we became an agency in '93.

20 MR. DARK: It's a well fought  
21 political battle.

22 MR. THOMPSON: It was a well  
23 fought political battle joined by many and  
24 the credit for that goes to many. And you  
25 know who you are and we thank you all.

Christy A. Myers

Certified Shorthand Reporter

1           I did want to say a special thanks  
2 to Bud Ground, who tracked that language,  
3 and others would work very hard. He  
4 probably owes me lunch, but, no, he worked  
5 extremely hard on this as did many other  
6 people and we want to thank Bud for his  
7 work on that. That was House Bill 1114, if  
8 you look under DEQ, it became our  
9 appropriations bill in which the budget  
10 limits were increased. We received full  
11 funding for this statutory salary increase,  
12 the \$800,000.00 for the Air Program and did  
13 not -- we had no fee funds taken from the  
14 agency this year. And that, from a budget  
15 standpoint, is a remarkable year for the  
16 agency.

17           You look down under LPD, House Bill  
18 1606, the issue that we spent the very most  
19 time this year on, that should be no  
20 surprise to anybody, was tire legislation.  
21 I was charged by Representative Don Arms,  
22 who was the Chairman of the House  
23 Environment Committee, to get all the  
24 competing interest in the tire program in a  
25 room and come to consensus. Clearly by

Christy A. Myers

Certified Shorthand Reporter

1 some act of a higher power, that we were  
2 able to accomplish that, that notion became  
3 House Bill 1606. It is the Bill that gets  
4 money to the people that take waste tires  
5 out of the waste stream and did so without  
6 a fee increase to the tire-buying public.  
7 One of the things that we will be tracking  
8 is the implementation of that legislation  
9 this year to see how successful we were. I  
10 believe we will be, but that remains to be  
11 seen.

12           Also, if you will look under LPD,  
13 Senate Bill 599, that is the Request Bill  
14 of the agency to align forums at Board  
15 meetings so that we have forums every time  
16 that we have Board meetings but only at the  
17 time that we have Board meetings and that  
18 was passed.

19           House Bill 1238 was our Bill to  
20 simplify small, public sewer systems. That  
21 Bill was, quite frankly, a pretty easy Bill  
22 to pass and we were successful in doing  
23 that.

24           Then, also, under Water Quality,  
25 House Bill 1467 was not on our Bill. It

Christy A. Myers

Certified Shorthand Reporter

1 was the AG-NPDS Bill that provided the  
2 framework for the Department of Agriculture  
3 to seek delegation of the NPDS Capitol  
4 Program. I would have to say that Tina  
5 Gunner with the Department of Agriculture,  
6 was very good, I think Jimmy will support  
7 that, with providing the agency with  
8 information about that Bill, so that we  
9 felt comfortable with the Bill all the way  
10 through. I think she was good with  
11 everybody concerned. It s really none of  
12 our business except that we do support  
13 delegation of program.

14 We think you get better government  
15 at the local level. That s an obvious  
16 philosophy of the Department of  
17 Environmental Quality because every time a  
18 program is eligible for delegation, we seek  
19 it. Now I have also told the Department of  
20 Agriculture that when it comes to funding  
21 of this program, we expect equity relative  
22 to fees and federal money and state money,  
23 just like the industrial group in Oklahoma  
24 and they ve agreed that s a good -- that s  
25 a good solid goal and so we ll see how that

Christy A. Myers

Certified Shorthand Reporter

1 works. This Bill does not give them  
2 delegation, it simply establishes a  
3 framework by which they can seek delegation  
4 from the Environmental Protection Agency.

5  
6 The final Bill that I would call to  
7 your attention is the last Bill on the  
8 list. Senate Joint Resolution 18, which  
9 would have disapproved two of our  
10 industrial wastewater rules, rules that  
11 this Board has established. That popped up  
12 early in the session. A number of people  
13 had discussions with the author and it went  
14 dormant and remained dormant for the end of  
15 the session, which is where it should be.  
16 So, all-in-all, the things that we were  
17 requesting, we got. The things that we  
18 didn't want, died. Pretty successful  
19 session.

20 Are there any questions of the Board  
21 related to that?

22 MR. DARK: Can we just call Jimmy  
23 if we want copies of this legislation?

24 MR. GIVENS: That would be fine.

25 MR. THOMPSON: Yes. The other

Christy A. Myers

Certified Shorthand Reporter

1 document that I gave you is a document that  
2 looks like this, a two-page document. The  
3 first page represents the Agency s Mission  
4 Statement. Clean, attractive, prosperous  
5 Oklahoma, we think that s important for our  
6 quality of life for Oklahoma citizens. I  
7 briefly went through our goals -- our  
8 annual goals which remain fairly constant  
9 over time.

10 First having to do with  
11 efficiencies; second, permitting; third,  
12 assistance; the fourth one, citizen  
13 complaints; the fifth, enforcement program.  
14 That represents the 95 percent that the  
15 Agency does. I think you will -- I hope  
16 you will see in there two values that we  
17 try to incorporate into out goals. The  
18 first being customer service and the second  
19 being problem solving. We view our self as  
20 problem solvers. And I am sure there are  
21 folks that don t think we always get the  
22 job done but that s how we view ourselves.  
23 And if we -- we always must remain within  
24 statutory and regulatory constraints but to  
25 the extent that we can break with tradition

Christy A. Myers

Certified Shorthand Reporter

1 and go solve a problem within those  
2 context, that s our intent.

3           And the second page, briefly, are  
4 some of the things that, for the coming  
5 year, that we think are going to be  
6 important for the Agency. You ve heard at  
7 the last Board meeting, our discussion of  
8 the effort to set a mercury standard. You  
9 will hear at this forum about the process  
10 by which we set that standard and how we  
11 intend to implement it. I did take a  
12 chance that you would pass the toxic s  
13 program -- toxic s rule this time and  
14 listed the evolution of the Air Toxics  
15 Program.

16           As you listened to David and Eddie s  
17 explanation of that program, it is an  
18 evolution, it s an evolutionary process by  
19 which we try to protect public health but  
20 do it in a common sense manner and that  
21 will require lots of input and lots -- and  
22 probably some changes and refinement over  
23 time and so we will be watching that.

24           I also mentioned earlier our need to  
25 understand the infrastructure needs across

Christy A. Myers

Certified Shorthand Reporter

1 the state. I have a meeting with the  
2 Director of the Water Resources Board, in  
3 mid-July, to begin that process. We have  
4 got to know where our infrastructure money  
5 is going. We have to know, as a State,  
6 that it s being used wisely and then if we  
7 identify real needs, we need to go to  
8 public policy makers to seek funding for  
9 that. Not only at the State level but at  
10 the Congressional level and as both, the  
11 Director of the DEQ and the President of  
12 ECOS -- and I picked this up just so you  
13 guys will know I am not operating under  
14 false colors. There s the President s  
15 Corner for ECOS, in their magazine. But we  
16 need to work on that. Again, we re going  
17 to have to review the progress with the new  
18 waste tire legislation. Something that we  
19 had talked about at some length in the  
20 Agency, since the session was over, and  
21 that was our concern that with communities,  
22 and particularly with small communities, we  
23 have become that thing which we dread the  
24 most and that is bureaucratic paper  
25 shufflers.

Christy A. Myers

Certified Shorthand Reporter

1           We allowed Consent Orders to  
2 municipalities who have no capacity to  
3 solve the problems that are addressed and  
4 scheduled in most Consent Orders. What I  
5 think we want to try to do is get back to  
6 what I call, "In my facility philosophy."  
7 To ingrain within the employees -- and John  
8 is all over this thing -- of the Water  
9 Quality Division and the Customer Services  
10 Division and the Environmental Complaints  
11 and Local Services Division, the notion  
12 that a water -- public water supply or  
13 waste water facility is their facility.  
14 And they have the responsibility to provide  
15 good sound technical advice to that  
16 facility to the extent that we can, to  
17 provide them avenues to seek funding, to  
18 seek those problems, to really take those  
19 facilities as our own. Now, quite frankly  
20 when you have a facility that doesn't  
21 respond to that, I am less patient with  
22 them from an enforcement standpoint than I  
23 am otherwise. But we want to -- we're  
24 shuffling too much paper and we're not  
25 solving a lot of problems in that area, and

Christy A. Myers

Certified Shorthand Reporter

1 we need to really think about what we are  
2 doing. And we've begun that process.

3           One of the things that will always  
4 -- that seems to always take a lot of our  
5 time in the last two or three years are  
6 tribal issues. We continue to try to  
7 negotiate agreements with the 39 individual  
8 tribes in the State of Oklahoma that are  
9 good for us all. But that is a very time  
10 consuming issue. I visited with you  
11 briefly in Executive Session about this  
12 notion of consistent enforcement across the  
13 States. While I was at the legislature, I  
14 have to tell you that Craig Kinnamer and  
15 Wendy Caperton took -- the yeoman's work  
16 and are moving that process forward and I  
17 hope to be able to spend a little bit more  
18 time with that as the session has ended.

19           And finally, over the past two  
20 years, it historically, as federal funding  
21 for State programs has risen or been flat,  
22 so has EPA's. They've been generally on  
23 the same track. And we've always relied on  
24 the Environmental Protection Agency to  
25 negotiate what is called the STAG Grants,

Christy A. Myers

Certified Shorthand Reporter

1 State and Tribal Assistance Grants, which  
2 is the federal money that we received off  
3 of (inaudible).

4 Over the last two years, while the  
5 EPA budget has gone like this, the money  
6 for State programs and State infrastructure  
7 programs has gone like this. And as the  
8 President for ECOS, I am not any longer  
9 confident that I can rely on the  
10 Environmental Protection Agency to  
11 negotiate my budgets.

12 I think ECOS is going to have to  
13 step to the plate and negotiate our needs  
14 directly with Congress. And I think that  
15 many of my peers in State Agencies across  
16 the country are beginning to agree with me.  
17 That will take more work. When you let  
18 them negotiate your deal for you, it  
19 doesn't take any work at all. When you are  
20 negotiating your own deal, it takes a lot  
21 of work. It's something that we think is  
22 important.

23 Eighty percent of the programs that  
24 are eligible to be delegated in this  
25 country, have been delegated over the last

Christy A. Myers

Certified Shorthand Reporter

1 15 years. That means that the state  
2 environmental agencies in this country are  
3 doing almost all of the day-to-day work on  
4 environmental protection. That is a  
5 message that I understand and that my peers  
6 understand, it s not a message that I think  
7 Congress and OMB and CEQ and all that  
8 alphabet soup of folks that we deal with,  
9 do understand. We got to do a better job  
10 of that.

11 So those are the kinds of issues  
12 that we ll be working on in the future. I  
13 think -- first I ll take questions on any  
14 of that.

15 Okay, I think we have -- yes.

16 W: How many tribes have been  
17 designated as states or (inaudible)?

18 MR. THOMPSON: Only the Pawnee.

19 w: Pawnee. I knew we have a  
20 couple of (inaudible).

21 MR. THOMPSON: That was issued  
22 and withdrawn, then issued. The Department  
23 filed suit in Circuit Court to block that.  
24 We did it as an exercise because there were  
25 time limits to do that to continue the

Christy A. Myers

Certified Shorthand Reporter

1 negotiations with the Pawnee about getting  
2 a state -- compact or state agreement. And  
3 our intent is to continue to negotiate.  
4 But only -- now there is an application for  
5 the Cherokee s for air that is in EPA.  
6 We ve commented on that. There s some that  
7 the Quapahs have developed water quality  
8 standards but have not developed treatment  
9 of state application as far as I know.  
10 Those are the three that we know that are  
11 (inaudible).

12 I think we have one presentation,  
13 Mr. Chairman. Any other questions of that  
14 report? Thank you.

15 MR. MASON: As you know, we have  
16 -- always have an attorney from the  
17 Attorney General s Office that helps us  
18 work through these meetings and Susan has  
19 been our attorney for four years. I think  
20 you are leaving us to go to greener  
21 pastures.

22 MS. KRUG: Well, some would say,  
23 maybe not. But I am staying with the  
24 Attorney General s Office. I m going to be  
25 Chief of the Victim Services Unit. We are

Christy A. Myers

Certified Shorthand Reporter

1 inheriting some of those duties from the  
2 Department of Mental Health, beginning July  
3 1.

4 MR. MASON: God bless you. I  
5 think that s harder than what we do.

6 MS. KRUG: Thank you.

7 MR. MASON: We have a card for  
8 you. If you d like to say a few words and  
9 I think your replacement is here if you  
10 want to introduce her.

11 MS. KRUG: Yes. I want to  
12 introduce Ellen Phillips. She comes to us  
13 most recently from the House, has a vast  
14 experience with administrative rules,  
15 that s what she did for the House staff. I  
16 think she s going to be a wonderful fit for  
17 this Board.

18 And I have appreciated working with  
19 each and every one of you. I know it s  
20 been challenging at times but I also have  
21 found it very rewarding, and I appreciate  
22 it. Thank you, very much.

23 MR. MASON: Thank you Susan.

24 If there is no other business, we  
25 will adjourn and start our public forum.

Christy A. Myers

Certified Shorthand Reporter

62

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

(Meeting Concluded)

Christy A. Myers

Certified Shorthand Reporter

