

UST POLICY COMMISSION MEETING

REPORTER'S TRANSCRIPT OF PROCEEDINGS

Phoenix, Arizona

June 25, 2003

9:19 a.m.

UST POLICY COMMISSION

MARISA L. MONTINI, RPR
Certified Court Reporter
Certificate Number 50176

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1 THE MEETING OF THE UST POLICY COMMISSION held
 2 on June 25, 2003, at 9:19 a.m., at 1110 West Washington,
 3 Conference Room 250, Phoenix, Arizona, in the presence
 4 of:
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 6 Harold Gill, Vice Chairman
 7 Roger Beal
 8 Gail Clement
 9 Andrea Martincic
 10 Shannon Davis
 11 George Tsiolis
 12 Theresa Foster
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1 determinations, and in May in the ranking round of 93 --
 2 Ranking Round 93, we made 450 claims payable, and in --
 3 we just did Ranking Round 94 this week, and there's
 4 another 150 claims that are going to be payable. So the
 5 cost -- not the cost review, but the application review
 6 unit is very, very busy trying to get out all these
 7 letters because there's a lot of them all together that
 8 we've thrown on them in the last month. So have a little
 9 patience. We'll get them out as soon as possible.
 10 VICE-CHAIRMAN GILL: Judy, is it is 450 and
 11 150 in May and June?
 12 MS. NAVARRETE: Uh-huh. And there's been
 13 personnel changes that I wanted to announce this morning,
 14 and one of them is Tara Rosie has been reassigned. She's
 15 going to be taking over appeal issues and other special
 16 projects as assigned for the SAF section, and also Kim
 17 Marsh will be the manager of the cost review unit. And
 18 we also have a new environmental attorney, Michelle, and
 19 she's right there sitting by Barbara. So I wanted to say
 20 hello and welcome aboard this morning.
 21 And also new items. We have started an
 22 implementation of when we receive an application, if we
 23 have an e-mail address for that consultant and applicant,
 24 we e-mail them their application number. So hopefully
 25 you've been receiving those. And if you don't, please

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1 Phoenix, Arizona
 2 June 25, 2003
 3 9:19 a.m.
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 5 P R O C E E D I N G S
 6
 7 VICE-CHAIRMAN GILL: We'll go ahead and get
 8 started and call to order the June 25th meeting of the
 9 Policy Commission and start with a roll call.
 10 MR. TSIOLIS: George Tsiolis.
 11 MS. FOSTER: Theresa Foster.
 12 MS. HUDDLESTON: Tamara Huddleston.
 13 MS. DAVIS: Shannon Davis.
 14 VICE-CHAIRMAN GILL: Hal Gill.
 15 MR. BEAL: Roger Beal.
 16 MS. MARTINCIC: Andrea Martincic.
 17 VICE-CHAIRMAN GILL: We evidently did not
 18 get copies of the May minutes prior to the packet that
 19 was at your seat, so we will not be voting on this until
 20 the next meeting. So let's move on to Item Number 3,
 21 which is the ADEQ updates, and 3(a) is SAF monthly report
 22 by Judy Navarrete.
 23 MS. NAVARRETE: Good morning. Judy
 24 Navarrete for the record.
 25 Last month we had 162 determinations and 67
 26 appeal determinations, that's informal appeal

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1 let me know because I know it's good for your tracking
 2 that you receive that application number as soon as
 3 possible. And electronic reimbursements are included.
 4 We're going to be sending out the application numbers for
 5 those.
 6 We'll also be adding a page to our website,
 7 which will be SAF updates, and the little presentation
 8 that Tara is going to do today is going to be on that
 9 website. So any time we do little educational things or
 10 have a change in process, like e-mailing the application
 11 number on applications and electronic reimbursements, we
 12 want to put that up there for everybody to see.
 13 I think that's about it that I have this month.
 14 VICE-CHAIRMAN GILL: Judy, I know we talked
 15 at the -- I think it was the program conference, and you
 16 had mentioned that Tara was working on -- and I can't
 17 remember what she was working on, to clarify -- remember,
 18 I keep bringing up we need to identify the actual
 19 activity that we're sampling or reporting or some kind of
 20 activity so we know -- have a better handle on exactly
 21 what the informal and formal appeals are on, and you
 22 mentioned that Tara is --
 23 MS. NAVARRETE: Tara is working on that.
 24 She's going to mention something about that in her
 25 presentation today.

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1 VICE-CHAIRMAN GILL: Thanks. Okay. Any
 2 discussion on the report? I also haven't received any --
 3 this is going to be a long and difficult meeting to get
 4 through, so I need to get speaker slips for anybody that
 5 wants to speak and just put down the number and the
 6 letter of the item you want to speak on.
 7 MS. FOSTER: Mr. Chairman, I'd like to ask
 8 a question in regards to the State Assurance Fund status
 9 as of the May 30th report that we got recently, and Judy,
 10 help me here if you can. I look at the bar graph at the
 11 bottom and it says in May, only 22 SAF applications were
 12 received, but when I look at this report, it says 83 were
 13 received, and I can't relate the 83 to May. I started to
 14 add March, April and May together and that didn't work.
 15 I'm real curious on how these numbers correlate to each
 16 other.
 17 MS. NAVARRETE: Well, I can see why you're
 18 curious about that.
 19 MS. FOSTER: So I can believe that only 22
 20 applications came in in the month of May?
 21 MS. NAVARRETE: That's true.
 22 MS. FOSTER: Which is a significant
 23 decrease from all the previous months?
 24 MS. NAVARRETE: Right. I'm going to have
 25 to check on that because either my table didn't get

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1 updated or I ran it at the wrong time. I'm sorry. I
 2 can't answer that question.
 3 VICE-CHAIRMAN GILL: Any other questions?
 4 Discussions from the members?
 5 Okay. Go on to 3(b), UST corrective action
 6 workload status report. Ian and/or Phil.
 7 MR. BINGHAM: Good morning. For the
 8 record, Ian Bingham, manager of the UST corrective action
 9 section.
 10 In your packet, you should have received the
 11 status update for the section of this. I'll quickly
 12 highlight some of the numbers. It should have been right
 13 behind the SAF.
 14 VICE-CHAIRMAN GILL: I have it in the
 15 packet.
 16 MR. BINGHAM: Just quickly running down.
 17 Closure requests for the month of May, we received nine,
 18 processed an additional nine. We also initiated 10
 19 closures and processed and approved an additional ten
 20 LUST case closures during the month of May. Site
 21 characterization reports, we received four in the month
 22 of May and reviewed six. Corrective action plans,
 23 received one, reviewed three. And all the backup behind
 24 this cover sheet for each of those reports, you'll see
 25 the listing by LUST numbers so that numbers of those

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1 reports received, approved and those that we have
 2 reviewed, whether we approved them or issued notice of
 3 deficiencies or ultimate disapprovals; for example,
 4 failure to respond to a notice in deficiency or in the
 5 case, say, a site characterization report that the site
 6 was not characterized, that would result in a disapproval
 7 also.
 8 The appeals down at the bottom, received two
 9 informal appeals during the month of May, one for
 10 preapproval work plan, one for a corrective action plan.
 11 The next there shows you how many appeals we currently
 12 have in process in the informal stage. We're looking at
 13 a total of seven that's ongoing right now. We received
 14 one formal for work plan, and actually that was one
 15 interim decision that became final and the appellant
 16 missed the time frame for filing an informal appeal so it
 17 became formal at that stage. And then the formal
 18 process, the section is working two formal appeals right
 19 now.
 20 Any questions?
 21 VICE-CHAIRMAN GILL: The backup is great
 22 with the LUST numbers. I received calls from a number of
 23 consultants, and I did not have time to check these
 24 numbers with the May ones, but I can meet with you
 25 afterwards because there was one LUST closure number that

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1 wasn't on the April one and there was five CAPs that were
 2 not on the April one.
 3 MR. BINGHAM: Okay. You can shoot me an
 4 e-mail or we can talk, whatever.
 5 VICE-CHAIRMAN GILL: And they very well
 6 could be on this one. I just didn't have time to compare
 7 them.
 8 MR. BINGHAM: The whole point is for
 9 cross-referencing and making sure we're not missing
 10 anything.
 11 MS. MARTINCIC: Can you just go through the
 12 status report? Like, explain what each column kind of
 13 means because I'm new.
 14 MR. BINGHAM: Which one? Any or all?
 15 MS. MARTINCIC: Are they different? No.
 16 It looks like it's the same categories.
 17 MR. BINGHAM: It's essentially the same.
 18 The first one on -- mine is the CAP, just go through the
 19 CAP status report.
 20 MS. MARTINCIC: I'm curious to know what
 21 each column means.
 22 MS. DAVIS: CAP is the second page on here.
 23 MR. BINGHAM: That first column is the ID
 24 number. That's the number assigned to a particular
 25 location, street address for underground storage tanks

<p style="text-align: right;">Page 10</p> <p>1 that are registered. The second column gets into the 2 LUST ID. Once a release has been reported to the 3 Department, we assign different release numbers. The 4 third column is suffixes. We may have more than one 5 releases at a site. So for 01 -- 6 MS. MARTINCIC: So you don't create a new 7 LUST ID number; you just add a suffix to the LUST ID 8 number? 9 MR. BINGHAM: Exactly. And for the SAF 10 applications, you may see for that first column, LUST 11 247.02. There might be a different set of numbers for 12 SAF applications. So for the 02 release, you can start 13 with application 00 all the way through ten, for example, 14 if there's a total of 11 SAF applications. And then 15 document type is just our tracking. The data was 16 received. The due dates and at the bottom will tell you. 17 For CAPs, we have a statutory time of 120 days in which 18 we need to issue a determination or that becomes an 19 appealable action on the informal statutes. So that's 20 how we track are we meeting the statutory time. The 21 response date is when we actually issued some formal 22 response to the owner/operator and the type of response 23 is N.O.D., notice of deficiency. 24 MS. MARTINCIC: So that means like if 25 they've left something out of their application?</p>	<p style="text-align: right;">Page 12</p> <p>1 April -- February and March was really busy and April? 2 MR. BINGHAM: You're looking at two 3 different programs. The first one is Judy's. 4 MS. FOSTER: The numbers should be the 5 same. 6 MR. BINGHAM: No, they should not. SAF, 7 that first package, represents what Judy has at her shop 8 for the State Assurance Fund, what is being appealed on 9 the State Assurance Fund applications. What I'm giving 10 you has nothing to do with SAF applications. These are 11 just strictly technical reports. So the numbers will 12 never match. 13 MS. FOSTER: All right. 14 MR. BINGHAM: These are just SCRs, purely 15 on an SCR issue, not related to an SAF application or a 16 preapproval work plan itself, just a technical document. 17 That's what you will see on my report. Whereas an SAF 18 application or they're seeking payment for an SCR, for 19 example, if they're appealing a determination on that, 20 that will show up on her report, not on mine. 21 MS. FOSTER: Could it also be double 22 counted if it's -- 23 MR. BINGHAM: No. The way we have it set, 24 it could not be. 25 VICE-CHAIRMAN GILL: So this is before it</p>
<p style="text-align: right;">Page 11</p> <p>1 MR. BINGHAM: Exactly. 2 MS. MARTINCIC: What is status request? 3 MR. BINGHAM: For a CAP in this situation, 4 say we wanted like maybe another round of sampling or 5 just some additional information, there's a question out 6 there, the report itself isn't deficient but we have a 7 CAP question. So we're asking for just some additional 8 information to clear that up so we can better understand 9 what is being submitted to us in a report. 10 MS. MARTINCIC: Thank you. 11 VICE-CHAIRMAN GILL: I'll just tell you to 12 have N.O.D. down at the bottom to describe it for future. 13 I don't think it's anywhere else. 14 MR. BINGHAM: Will do. Anything else that 15 we use? I'll go through and make sure everything is 16 defined at the bottom. 17 VICE-CHAIRMAN GILL: I guess you could just 18 give your explanation for the status request, too, so 19 that everyone knows what that is. 20 Any more questions on the -- 21 MS. FOSTER: Mr. Chairman, Ian, I look at 22 one document, formal appeals filed from February, March 23 and April, and I get a total of 28. I look at another 24 document, and they say that there's only two formal 25 appeals somewhere in process. Is it because March and</p>	<p style="text-align: right;">Page 13</p> <p>1 goes -- 2 MS. MARTINCIC: So your report shows 3 appeals before they've reached the SAF? 4 MR. BINGHAM: It could be applications 5 being processed. The SCR could be in-house. There's 6 also an application where the SCR is a part of that 7 application. If you're appealing the SCR in our 8 determination and also appealing the SAF, those are two 9 separate appeals, two separate programs handling it and 10 both would be reflected, but it would not be double 11 counted because the appeal is on different items. 12 MS. FOSTER: Couldn't the issue be the same 13 thing? 14 MR. BINGHAM: I highly doubt it. 15 MS. FOSTER: I'm seeing a nod from Tara 16 that says -- 17 MS. ROSIE: Tara Rosie, SAF. I think I 18 know what Theresa is referring to, and in the instance 19 where you might have an SAF denial because an SCR has 20 been denied, you might also have a simultaneous UST 21 appeal related to that denial of the SCR, and so it would 22 be over the SCR but it would be a different issue. The 23 SAF aspect would be the cost to the SCR, and Ian's 24 group's issue would be actual denial of the SCR on a 25 technical basis.</p>

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1 MR. BINGHAM: And on something like that,
 2 ours would have to be resolved first before the SAF could
 3 be resolved.
 4 MS. DAVIS: Mr. Chairman, if I may,
 5 Theresa, I think you asked a really good question, and it
 6 was just a little less than a year ago when Director
 7 Schaffer split out and made sure all the cost review was
 8 under one management team and then all the technical
 9 under another, and that's, I think, helped us to resolve
 10 interim review conflicts, and right now how we're doing
 11 at resolving what the appeals are formal and informal
 12 technically, which is in the corrective action shop, and
 13 then financially which is over in admin. And I can say
 14 at least internally, it's helped us a great deal to be
 15 more clear and more precise and to communicate better.
 16 If at some point in time you want us to roll stuff up
 17 together, we can do that. Right now, I think we're able
 18 to provide much better information with having technical
 19 documents and then the financial requests and SAF
 20 applications.
 21 MS. FOSTER: But I can think of one formal
 22 appeal that's against the SAF that's purely technical.
 23 MS. DAVIS: Is there a different way we
 24 can -- this is a form that's helping us internally. So
 25 if there's a different way that the Commission would like

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1 to see things, we can look at that, too. I just know
 2 that this has been a very valuable tool.
 3 VICE-CHAIRMAN GILL: I think this is the
 4 best way to do it is keep them separate but the issue --
 5 the confusion is going to continue because sometimes --
 6 and it's because the applications are overlapping with
 7 the approval of the technical document. I think we
 8 understand now how they are different. The issue could
 9 be similar, but the resolution is different.
 10 MS. DAVIS: Let us know if there's some
 11 way -- I'm assuming that these particular ones where
 12 there's overlap are the minority and not the majority,
 13 and if there's some other way you'd like to receive
 14 information, please let us know.
 15 VICE-CHAIRMAN GILL: I think it's going to
 16 be pretty common, because if you've got denials on the
 17 technical side, those items have been sent in for
 18 reimbursement, and they're going to be denied because
 19 it's being -- it's in appeal or it has been denied on the
 20 technical side, too.
 21 MS. FOSTER: If you look at your report, a
 22 third of them are technical. So that's a little bit more
 23 than a small percentage.
 24 MS. MARTINCIC: I guess I don't understand
 25 that, because once you have your technical work

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1 preapproved for -- so in other words, you're doing
 2 everything simultaneous, getting a preapproval plan
 3 technically and you're also submitting a preapproved plan
 4 for the financial at the same time.
 5 VICE-CHAIRMAN GILL: Once it's -- once it's
 6 been approved.
 7 MS. FOSTER: But if it's not a preapproval,
 8 it's not going in that direction.
 9 VICE-CHAIRMAN GILL: Let the record show
 10 that Gail Clement has joined us.
 11 It is an issue, but I don't really know of a
 12 way to make it clearer. I think this is the best way to
 13 keep track of the appeals and informal appeals. It is a
 14 confusing issue because many of the informal and formal
 15 appeals are technical.
 16 MS. MARTINCIC: Well, I just wonder how
 17 that correlates with Arizona's high appeal rate, if it's
 18 processed or not.
 19 VICE-CHAIRMAN GILL: Well, I think the one
 20 reason you do get the overlap is that, again, the
 21 unwritten policy or maybe it's written when you can turn
 22 in applications is every 20,000 or every quarter or at
 23 the end of a phase, and that will overlap.
 24 I was told by Judy that she can answer your
 25 question now, Theresa.

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1 MS. NAVARRETE: In that first row, Theresa,
 2 I left out under 90 days. So if you look on the second
 3 page, it has an amount. So there's 15 in application
 4 staging actually.
 5 MS. FOSTER: But if that's 90 days, when I
 6 added 22, 33 and 48 together, I didn't get 83.
 7 MS. ROSIE: If I may, it's the active
 8 applications that haven't been in-house 90 days, and so
 9 what you would be adding together is the 83 plus the 90,
 10 the 113 and the 241 to get you to the 527, which are the
 11 total number of active applications. And if you look at
 12 the backup page, the active applications that show up is
 13 83 under 90 days old.
 14 MS. FOSTER: But if that's the case, then,
 15 your applications received in March, April and May should
 16 equal 83 and it does not on your bar chart because that
 17 would be your 90 days.
 18 MS. ROSIE: Except electronic --
 19 MS. NAVARRETE: The electronic
 20 reimbursements are counted as applications also.
 21 MS. ROSIE: In the active applications.
 22 VICE-CHAIRMAN GILL: So there should be
 23 seven of those.
 24 MR. BINGHAM: Is it also possible some of
 25 what you received in March has already been processed so

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1 it's no longer active?
 2 MS. NAVARRETE: Yes. It just prints out as
 3 of that day. It's a snapshot.
 4 MS. MARTINCIC: The bar prints out as that
 5 day?
 6 MS. ROSIE: The bar is the summary for the
 7 month, and then the actual numbers that are reported on
 8 the table is a snapshot.
 9 VICE-CHAIRMAN GILL: So if the backup and
 10 the bar and the table were all done on the same day,
 11 would they be the same?
 12 MS. ROSIE: The bar is a summary of the
 13 whole month's activities.
 14 MS. MARTINCIC: Whereas the
 15 chart -- whereas the part above it --
 16 MS. ROSIE: Is a snapshot as of that point
 17 in time.
 18 MS. MARTINCIC: Just May 30th.
 19 MS. FOSTER: Mr. Chairman, I have one other
 20 question. Is there a way on this lovely chart that we're
 21 getting from Ian that maybe on the backup pages we can
 22 know what differences have occurred? I'm looking at risk
 23 assessment status report for May, and I'm curious if
 24 anything has changed on this report since April or is it
 25 the same report being resubmitted.

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1 VICE-CHAIRMAN GILL: It is different
 2 because I have both. It's less.
 3 MR. BINGHAM: You're looking for a
 4 comparison month to month?
 5 MS. FOSTER: Or maybe just bold the items
 6 that are new.
 7 MS. DAVIS: Mr. Chairman, Theresa, tell me
 8 what you're looking for on that chart? Do you want to
 9 know what work has been done?
 10 MS. FOSTER: Or what changes have occurred
 11 from one month to the next.
 12 VICE-CHAIRMAN GILL: It looks like there
 13 was five approvals in April. So those probably dropped
 14 off.
 15 MR. BINGHAM: Those dropped off.
 16 VICE-CHAIRMAN GILL: Because it is shorter.
 17 MS. DAVIS: We'll see if we can't roll
 18 something in.
 19 VICE-CHAIRMAN GILL: Actually, I guess what
 20 you could do, rather than just reproduce it, is just down
 21 below there, put the ones that dropped off from last
 22 month.
 23 MR. BINGHAM: Dropped off or added. Well,
 24 let's see, what's a nice clean way without turning this
 25 thing into a 20-page book because six months from now --

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1 VICE-CHAIRMAN GILL: Any other questions on
 2 the UST corrective action report?
 3 MR. BINGHAM: Since I'm up, I'll just pick
 4 up the next agenda item.
 5 VICE-CHAIRMAN GILL: Okay. C, the
 6 volunteer determination.
 7 MR. BINGHAM: It should be the last page of
 8 your packet that we added. Last month did not contain
 9 this report for the volunteer requests. Here are all the
 10 volunteer determinations that we're working on, and for
 11 the ones that you see blank, those happen -- those have
 12 been assigned. Actually, I think two of them we have not
 13 had received formal requests for the determination. We
 14 just kind of know they're coming. So they're on the
 15 list, and we're ahead of the curve waiting for that
 16 formal request, but we have information or know that they
 17 will be requesting volunteer status soon. So we just
 18 want to provide that since we've committed to provide
 19 that list, and we'll be doing this on a monthly basis
 20 also.
 21 VICE-CHAIRMAN GILL: So the assigned column
 22 are the ones that have received determinations?
 23 MR. BINGHAM: They've been assigned to the
 24 paralegal working in Phil's group to help do the
 25 research, contacting the county assessor's office, that

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1 kind of information to find out who owns the property,
 2 figuring out when the tanks were last used, are the
 3 current property owners -- do they meet the
 4 owner/operator definition and essentially determining
 5 whether or not the person requesting does meet the
 6 statutory definition of volunteer.
 7 MS. MARTINCIC: Is there like a time line
 8 that has to be completed for volunteer sites?
 9 MR. BINGHAM: There's no statutory time
 10 frame, and part of the problem with that is it's really
 11 how fast you contact someone down in Greenlee County, how
 12 fast is that person going to get you the information
 13 regarding that property for you to review it. We're
 14 really at the mercy of the people we're contacting to
 15 respond to us.
 16 MS. CLEMENT: How long does it typically
 17 take to do that analysis? I mean, give me a range and
 18 then an average.
 19 MR. BINGHAM: You know, for, say, in
 20 Maricopa County, doing research of that, especially when
 21 we can just drive and get it ourselves, we're talking
 22 weeks. When you're talking small rural communities, in
 23 many cases the city doesn't even have planning and
 24 zoning. You've got to go to the county. That could be
 25 months. We often ask for as much assistance from the

<p style="text-align: right;">Page 22</p> <p>1 person who's requesting, you know, to provide us some 2 information, and also more often than not in those 3 situations, a consultant working with them actually does 4 a lot of the legwork for us. They're in there. They're 5 able to talk to people and able provide some of that 6 information. So for some of the smaller rural 7 communities, speed really depends on the assistance we 8 can get. In the past, Christina Jensen at times would 9 actually drive to these cities to try to collect some of 10 that information. I'm not about to put that burden on 11 Phil's staff to go drive down there. 12 MS. MARTINCIC: If it hasn't been assigned, 13 what does that mean? You're waiting on more from the 14 applicant? 15 MR. BINGHAM: We just haven't given it to 16 them yet. We just started feeding it to them, but all 17 but two have been assigned, and the two that we haven't 18 assigned yet are the ones we've not received a formal 19 request for volunteer determination. We just have it on 20 the list knowing it's something we're going to have to 21 work on once somebody requests a formal from us. 22 VICE-CHAIRMAN GILL: 5561 has been a year 23 and two days. 24 MS. MARTINCIC: I don't understand that. 25 So how do you know it's out there if they haven't</p>	<p style="text-align: right;">Page 24</p> <p>1 status of the SAF rule writer. 2 MS. NAVARRETE: We've still not hired a 3 rule writer. 4 VICE-CHAIRMAN GILL: Any idea on -- did you 5 say last time that has been approved? 6 MS. DAVIS: Mr. Chairman, this isn't 7 particularly my shot, but I'm going to speak to the 8 agency perspective, if I can. As you know, Director 9 Owens has taken on an internal review of the program, and 10 I imagine after July and the beginning of August when 11 everybody gets back from vacation, he's going to be 12 convening an outside group to talk about it. One of the 13 things that both Cunningham and Owens continue to talk 14 about or float, if you will, is the idea of an audit 15 program. The chamber of commerce has written the agency 16 a letter about why don't you consider an audit program, 17 because one of the things we've run into in the program, 18 both internally and in the regulated community, is the 19 whole concept of nitpicking, how many appeals we get. 20 It's just a constant battle trying to pay attention to 21 details, and the more we pay attention to details, the 22 more details seem to surface that we need to pay 23 attention to. It seems like a never-ending battle the 24 way things are set up with cost ceilings and work orders 25 and tasks as such.</p>
<p style="text-align: right;">Page 23</p> <p>1 formally requested it? 2 MR. BINGHAM: Like an SAF application comes 3 in, and we know -- 4 MS. MARTINCIC: So they're requesting 5 payment. They want money but they haven't given you the 6 technical information. 7 MR. BINGHAM: Exactly. Do you meet the 8 definition of an applicant? Well, you're not an 9 owner/operator. Are you a volunteer? So we just kind of 10 be aware that it's out there. We just start looking. 11 MS. MARTINCIC: Do you have a way to, like, 12 contact those people? Do you think it's that they don't 13 know that they have to do a formal? 14 MR. BINGHAM: We usually call them. 15 VICE-CHAIRMAN GILL: Any more questions? 16 Discussion on the status? Any questions and discussion 17 on any of the lists? 18 MR. BINGHAM: So we can talk at the break, 19 Hal? 20 VICE-CHAIRMAN GILL: Yeah. I'll do that. 21 MR. BINGHAM: Thank you. 22 VICE-CHAIRMAN GILL: We'll move on to 3(e), 23 process and status of revising the UST guidance document. 24 MS. FOSTER: Did you skip 3(d)? 25 VICE-CHAIRMAN GILL: I'm sorry. 3(d),</p>	<p style="text-align: right;">Page 25</p> <p>1 I see, and I don't have a crystal ball and 2 there's certainly no decisions that have been made, but 3 my leadership keeps talking about the idea of an audit 4 program, and that would dramatically shift the way that 5 these programs -- how the costs go out, how 6 reimbursements go out, cost ceilings. You know, from my 7 perspective, I think that to push for a rule writer is a 8 little bit of the cart before the horse. I mean, we 9 certainly could be getting it on, but we don't want a 10 rule writer to start writing rules for our current 11 program. Because I'm hoping in a year from now, we're 12 looking at the different animal to administer in this 13 agency. So I want to toss that out that I think right 14 now, a rule writer for SAF isn't necessarily going to 15 resolve anything. I think the big picture adjustments 16 are going to be what drives the job of a rule writer. 17 And I don't mean to punt that out down the road and kick 18 the can. I just think it's the realistic thing that's 19 going on with the agency. 20 VICE-CHAIRMAN GILL: I understand that it 21 would be a complete 180-degree change. So it wouldn't 22 make sense to start writing rules and then have to redo 23 them all. 24 MS. DAVIS: It's a very specialized job. 25 So it's difficult. I just wanted to offer that up.</p>

<p style="text-align: right;">Page 26</p> <p>1 VICE-CHAIRMAN GILL: Any other questions? 2 Discussion on that? That makes perfect sense to me. 3 Now, 3(e), Joe Drosendahl and the process -- 4 status of the UST guidance document, and I just had a 5 couple of questions after you're through. 6 MR. DROSENDAHL: My name is Joe Drosendahl. 7 I work for the UST corrective action section, and I've 8 been trying to get to the revision of the guidance. With 9 everything else that's going on, I haven't been able to 10 do that. I'm going to be talking with internal 11 management to come up with a revised schedule of when I 12 might be able to get to that. 13 VICE-CHAIRMAN GILL: Okay. I guess what I 14 was getting at by the process is that we had originally 15 put in place -- because this is a document to be 16 revisited, and we had originally put in place six months, 17 which obviously isn't workable. I think now that we have 18 the bulletin in place, because the reason we had put six 19 months as a time period to revisit it, is that a year to 20 put new policies, new processes in place, you know, 21 wouldn't create a lot of appeals. And so we were trying 22 to speed it up a little bit, but I think now that we have 23 a bulletin in place, that is the format to get these 24 issues that are creating and causing appeals in a format 25 to where the owner/operators can see them and hopefully</p>	<p style="text-align: right;">Page 28</p> <p>1 program or goes to an audit program, that would not 2 change what we do in the field, the work out in the 3 field. The problem is once it's done and you turn it in 4 for reimbursement is where we have the problem that 5 Shannon was talking about. And so changing that program 6 for reimbursement shouldn't affect what we're doing 7 technically to collect the data. 8 MS. CLEMENT: Mr. Chairman, maybe I can ask 9 Shannon Davis, couldn't there be some changes, though, in 10 the corrective actions depending on how you move forward? 11 MS. DAVIS: Mr. Chairman, Gail, yes, there 12 could be. I don't think probably -- I mean, who knows 13 what we're going to get after this. I mean, who knows. 14 I think SAF would probably be much more dramatically 15 affected because that's where the majority of the appeals 16 come or the nitpicking and the details and all that. I 17 think -- I definitely think the corrective action 18 guidance could change. I mean, it certainly can because 19 it just depends -- I mean, my whole dream is that we 20 marry up the interests of getting people their money and 21 getting sites closed and then maybe how SCRs -- it's less 22 SCR driven and how you get it done, who knows. So it's 23 not going to be so much of the detail of corrective 24 action as getting stuff done and making sure that it 25 stays done, but that's a dream on my part.</p>
<p style="text-align: right;">Page 27</p> <p>1 reduce the appeals. 2 So I'm wondering if we shouldn't look at 3 changing the -- how often we revisit the guidance 4 document from six months to a year. That was one issue I 5 wanted to bring up because it appears that's the time 6 period to get recommendations and questions and comments 7 in from the regulated public and then another time period 8 to try to get that into the document. So I would like to 9 put on the table discussing whether we could increase 10 that period. So it's on the table. 11 MS. MARTINCIC: Wouldn't this fall into 12 line as well -- sort of along the same line as the SAF 13 rule writer issue or not? 14 VICE-CHAIRMAN GILL: No. This -- 15 MS. MARTINCIC: Program changes. Doesn't 16 the guidance document need to -- 17 VICE-CHAIRMAN GILL: No, because the SAF 18 rule writer would do the SAF rule. This follows the 19 corrective action rule. 20 MS. MARTINCIC: Right. But I'm saying, if 21 this program changes, wouldn't that affect the corrective 22 action rules? 23 VICE-CHAIRMAN GILL: No, it shouldn't, 24 because the guidance document is for the technical work 25 in the field, and the SAF, whether it's as the current</p>	<p style="text-align: right;">Page 29</p> <p>1 So yes and no. I guess my question would be, 2 Joe, what -- I mean, what revisions do you have on the 3 table? I mean, are there pressing issues right now that 4 need to get into that guidance, would be the question. 5 MR. DROSENDAHL: There's two different 6 things here. It's like the revision I was -- I'm 7 planning on working on are revisions to the existing 8 guidance. The bulletin, you know, is for issues that 9 don't have guidance right now. So I think that both of 10 the processes then go together. I mean, basically when I 11 revise different sections of the existing guidance, 12 basically the announcement of the approval of that would 13 go on the bulletin, and then likewise, all the approved 14 bulletin issues would eventually get put into the 15 guidance document the next time it's revised in its 16 entirety. So I think the two processes are basically 17 interwoven. 18 VICE-CHAIRMAN GILL: Well, I think it's a 19 different issue. We don't want to wait on the guidance 20 document because that's how to do the work in the field. 21 If there's some confusion about the way we're doing 22 things, we don't want to wait for the SAF to be redone. 23 MR. BEAL: It seems by not updating the 24 guidance document for forcing people to know every little 25 cubbyhole that something might be stuck into that they</p>

<p style="text-align: right;">Page 30</p> <p>1 need to do the work properly. I certainly -- I mean, I 2 wouldn't want to say, okay. Well, we're not doing to 3 guidance document. Go look at the bulletin board or the 4 other way around to know what it is that you're supposed 5 to be doing, at least the current position. So I'm 6 really reluctant to lose the identify of the guidance 7 document being a guidance document. That's worked well 8 with the rules just to have the bulletin board be more 9 expeditious.</p> <p>10 VICE-CHAIRMAN GILL: And also because it is 11 a guidance document, it's something that can be changed 12 much more simply than the rule.</p> <p>13 MR. BEAL: But I think we ought to stay to 14 that thought in making sure that somebody comes on board 15 and you've got the rule and you've got the guidance 16 document that goes with it. These are the tools that you 17 need to proceed with your project, not know how to find a 18 particular web page and see what's written or what was 19 written there how far back.</p> <p>20 VICE-CHAIRMAN GILL: I think it's going to 21 be important for the owner/operators and their 22 consultants to look in both locations because the newest 23 issues are going to be in the bulletin because they can't 24 revise the guidance document every month.</p> <p>25 MR. BEAL: I understand that, but it seems</p>	<p style="text-align: right;">Page 32</p> <p>1 So it's not the whole guidance document that has to be 2 revised and the whole thing goes. The way we set it up 3 is it's going to be section by section, and some sections 4 there might be just real small changes. So it will be 5 done piecemeal.</p> <p>6 MS. CLEMENT: Just one follow-up question. 7 Is the current guidance document consistent with the 8 current rules?</p> <p>9 MR. DROSENDAHL: Yes.</p> <p>10 MS. CLEMENT: So at least we have that and 11 all you're talking about now is improving it to make 12 things clearer to address additional issues?</p> <p>13 MR. DROSENDAHL: Right.</p> <p>14 MS. DAVIS: Mr. Chairman, I think an 15 important distinction to make, too, is that how we 16 administer the SAF is the State's prerogative. It could 17 be through legislation. It could be through rules. It's 18 the State's prerogative. It's the State's money. But 19 when it comes to the actual corrective action, we have to 20 be as stringent as the federal requirements. So the 21 corrective action part about cleaning up and definitions, 22 owners and operators, those kinds of things, must meet 23 the federal definition, and you don't have that with the 24 money piece. That's a State program. So that's an 25 important distinction to make.</p>
<p style="text-align: right;">Page 31</p> <p>1 like it's on the side of the edge when you're saying you 2 can look there as opposed to you need to look there to 3 find out what the latest guidance is that hasn't been 4 added to the guidance packet, and that's sort of how I'm 5 hearing what you're saying. It's like, we don't need to 6 update because it's going to be on the bulletin board.</p> <p>7 VICE-CHAIRMAN GILL: Well, that's true, but 8 the reason I'm saying I want to go from six months -- or 9 was recommending going from six months to a year, is I 10 don't see us ever meeting the six months, and so -- but 11 at the same time, I'd like -- I mean, I don't have any 12 problem just because and maybe because I understand the 13 bulletin a little more, but I don't have any problem 14 going to one year, but I'd also like to make sure it gets 15 done in a year because we want to make sure that it is 16 done to meet your requirements, that there is something 17 in place that has everything up to the date of that 18 revision.</p> <p>19 MS. CLEMENT: What's the typically length 20 of time it takes to revise the guidance document or is 21 there such a thing?</p> <p>22 MR. DROSENDAHL: Anywhere between a day and 23 a year. It kind of depends on the issue and how many 24 changes per section. I mean, if I get a section revised, 25 I can just give that to the Policy Commission to look at.</p>	<p style="text-align: right;">Page 33</p> <p>1 VICE-CHAIRMAN GILL: One thing I was going 2 to say, Joe, and the reason I put in the process, is 3 there really hasn't been a process in place of how to do 4 this, and the reason I think that's important is that we 5 kept -- I think it was at least two or three meetings 6 that I mention each time, "make sure you get your 7 comments in," so when I say "process," I think we need to 8 put in -- or DEQ needs to put in place that we're going 9 to allow one month for the comments, questions, concerns 10 to come in. Then based on that, then you can say, okay, 11 now I can have this done in this period of time because 12 I'm not going to be getting any more. You can't keep -- 13 so that's why I say put in process. I think you need to 14 put a process in place to where you know I've got 15 everything, now I can work on it, then I can give Gail an 16 answer of how long it's going to take.</p> <p>17 MS. FOSTER: Mr. Chairman, Shannon, the 18 audit that the chamber of commerce wants to do, is it 19 just on SAF or is it on the entire UST program?</p> <p>20 MS. DAVIS: Mr. Chairman, Theresa, it would 21 be on the entire program, but we won't be able to use the 22 Massachusetts model because it spans over three different 23 agencies, the Department of Revenue. So I think, 24 Theresa, it's more the concept of an audit program.</p> <p>25 MS. FOSTER: Then I'm real concerned that</p>

<p style="text-align: right;">Page 34</p> <p>1 we're taking the development of SAF rules off the table 2 because of being audited, where we're going to spend 3 months, if not years, on writing a guidance document 4 that's not enforceable by law. Why doesn't the same idea 5 consist for both of them, that if we're waiting for the 6 audit, let's wait for the audit for both of them. Why 7 are we just waiting for SAF rules, which we dearly need, 8 and we continue to produce a guidance document that's not 9 enforceable.</p> <p>10 MS. CLEMENT: I think there might be some 11 confusion, and maybe you can explain it better, Shannon, 12 but what they're talking about for the audit program 13 isn't auditing the SAF program. It's -- instead of going 14 through each and every submittal, it's taking -- I think 15 this is how it works -- it's taking a percentage and 16 focusing on different elements. So it's changing the way 17 they do the whole program. It's not an audit of the 18 program.</p> <p>19 MS. FOSTER: That's what I took out of 20 that, and they've done it before.</p> <p>21 MS. DAVIS: I just want to answer the 22 question, but I'm not sure I understand it.</p> <p>23 VICE-CHAIRMAN GILL: Let me reiterate 24 again, and again, maybe it is -- we're not exactly 25 thinking about the same thing, but my understanding of</p>	<p style="text-align: right;">Page 36</p> <p>1 is making the SAF an audit program versus what it is now, 2 which is looking at each and every piece of paper in 3 great detail. So I think that's clear. And then the 4 only thing that isn't clear to me is in terms of the 5 guidance document, I mean, is there an overwhelming need? 6 Do we have to vote changing the six months to a year? 7 VICE-CHAIRMAN GILL: I don't think so. I 8 mean, it's not anything -- it's just that I can see that 9 it's not workable to do in six months, but I think the 10 key thing I wanted to get across was the process needs to 11 be put in place so it doesn't just keep waiting to even 12 start on it.</p> <p>13 MS. DAVIS: Mr. Chairman, the agency would 14 bring back a revised schedule for how we're going to 15 address amendments or edits to the corrective action at 16 the next meeting.</p> <p>17 MR. BEAL: I guess I'd like to let it go, 18 but I can't. I probably can. But if I'm hearing it's so 19 easy to change the guidance documents from a day to a 20 year, then why can't they be summarized every six months? 21 What is the problem, whether it's taking things that are 22 on the bulletin board, finding areas that aren't working 23 as projected and making a correction at that point or 24 nine months or almost as necessary when you've got 25 something that needs to be done. I'm just concerned that</p>
<p style="text-align: right;">Page 35</p> <p>1 the audit program really would affect the technical 2 components of it in a small way. I mean -- and if 3 something comes out -- if an audit program were to be put 4 in place if something comes out, that's completely 5 different, and the guidance document is just that. It's 6 a guidance document that you can easily take that out 7 immediately. It doesn't take the rule process to go 8 through the guidance document. It could be changed 9 rapidly. But because it does take us a long time to get 10 rules in place, we can't be -- if there's something in 11 the guidance document that's based on the current rule 12 that needs clarification, that has to be clarified now 13 because we're going to be using this guidance document or 14 rule until something else comes in place. So I really 15 think we do need to get the corrections done. I don't 16 think it behooves us to keep discussing it because 17 there's really nothing in place yet. It's just a 18 concept. So until we know what happens, we're kind of 19 talking in circles because nobody knows exactly what 20 we're talking about or where the concerns or questions 21 could be.</p> <p>22 MS. CLEMENT: Well, I think we have 23 discussed, though, that the agency would prefer that we 24 don't address SAF rules until they've looked at the 25 entire program, and one of the areas they're looking at</p>	<p style="text-align: right;">Page 37</p> <p>1 when we give guidance to people as to how to proceed with 2 work, it's important that that be current, and they 3 shouldn't have to sift through every cubbyhole in the 4 department to figure out how to get the job done right. 5 There should be something to say this is the most current 6 set of guidance. There may be additional things on the 7 bulletin board that we're now looking at, but certainly 8 the process of getting things on the bulletin board and 9 corrective action guidance changes are not the same.</p> <p>10 VICE-CHAIRMAN GILL: I understand your 11 concern, and actually I think it is a valid one. I guess 12 what I'd ask DEQ to do because I think the reason it's 13 gone on and on and on is because there really was not a 14 process in place to say, stop. I don't want any more 15 things to come in so I can get started on this. When DEQ 16 looks at they're developing a process and a schedule, if 17 you could report back to the Commission next month as to 18 whether or not you believe, once this process is in 19 place, it could actually be done every six months. 20 Because like Joe said, I think once there may have been 21 more this first time because this was a brand new 22 guidance document, and I know I had six pages of 23 questions and comments myself. This one might have been 24 a lot more than you will see in the future. But I think 25 if very few come in, and like you said, you're not</p>

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1 turning out the entire document every time. You'll just
 2 turn out a page or three pages or a section or whatever
 3 the changes are and that could be done relatively
 4 quickly. So why don't you -- when you look at the
 5 process schedule, whatever, let us know at the next
 6 meeting whether you think it may be possible to do it in
 7 six months.
 8 Any more discussion?
 9 Okay. Let's move on to 3(f), the status of the
 10 capacity development FTE for RBCA.
 11 MS. DAVIS: Mr. Chairman, I think -- I'm
 12 hoping this is good news. This one has wheels. It's on
 13 its way. I think it's being advertised now. So it's out
 14 there, and I just wanted to report that. I know that was
 15 an item that was of particular interest regarding the
 16 RBCA rule.
 17 VICE-CHAIRMAN GILL: It is advertised now?
 18 MS. DAVIS: It is being advertised, and
 19 then we have to go through interviews. It's on its way.
 20 VICE-CHAIRMAN GILL: And I remember you had
 21 a discussion, I believe, at the last meeting. Have you
 22 decided on -- what's the right word -- I guess the
 23 experience level of that person? Because you had
 24 discussed last time that it didn't necessarily need to be
 25 a rocket scientist or a technician type because I

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1 remember that was discussed, I think, at the last
 2 meeting.
 3 MS. DAVIS: Mr. Chairman, I don't have the
 4 MQs with me. If that's something the Commission is
 5 interested in, I can get it at the next meeting.
 6 MS. MARTINCIC: Can you briefly just sort
 7 of go over again what that position will be doing within
 8 the RBCA.
 9 MS. DAVIS: They're going to be reviewing
 10 spreadsheets. We've been approved to purchase the
 11 software for the owners and operators and consultants to
 12 use, and so the owners and operators and consultants will
 13 actually be plugging the numbers in used to calculate
 14 whether or not the site needs to be closed. This
 15 position would be the one making sure that the right
 16 parameters were used like a data review and data entry.
 17 MS. MARTINCIC: Reviewing what they submit?
 18 MS. DAVIS: And having a lot of, I would
 19 call it a spreadsheet jockey, to be able to look at the
 20 spreadsheets that come in.
 21 MS. FOSTER: Mr. Chairman, Shannon, does
 22 DEQ anticipate that they can fill that position at the
 23 salary range that it's posted at?
 24 MS. DAVIS: Yeah, I hope so. And also, I
 25 think, Mr. Chairman, an important -- this person is not

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1 going to come in with a great backlog. We're working
 2 both with Jeanene Hanley, risk assessor, and then the
 3 current risk assessments to clear out the entire backlog.
 4 So this person is not going to come in overwhelmed and
 5 swamped.
 6 VICE-CHAIRMAN GILL: Any more discussion?
 7 Okay. Go on to the technical subcommittee
 8 update, and I think each of you should have a summary in
 9 your packet. Basically, there were three main issues on
 10 the meeting last time. I'm going to take them in the
 11 order that they are on the agenda.
 12 We discussed the technical subcommittee and
 13 then ultimately the Policy Commission has to come up with
 14 recommendations to pass on to the legislature concerning
 15 the groundwater study. So we started by looking at
 16 the -- reviewing the groundwater study finding of facts.
 17 We wanted to make sure that we -- rather than initially
 18 the recommendations, which were unofficial
 19 recommendations that Dr. Johnson had handed out, we
 20 wanted to make sure that we were responding to and
 21 ultimately would make recommendations based on exactly
 22 what was in the report, and that was the groundwater
 23 study finding of facts.
 24 There was just -- and next meeting we will
 25 actually also look at the unofficial recommendations as

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1 well. But in the finding of facts, there was just two of
 2 them at this point that we had come up with
 3 recommendations, and that would be, A, it was identified
 4 that there was an inaccuracy in groundwater elevations,
 5 whether it's the survey or taking the elevation readings
 6 as well. It was identified that based on the differences
 7 in grading directions on many of the reports that ASU
 8 identified, some of them were identified that it was
 9 indeed a flip-flopping water table due to a pumping well
 10 or due to the Colorado River or something like that, but
 11 it was identified that there was indeed questions and
 12 concerns about all the different water -- groundwater
 13 grading they were seeing on the sites.
 14 So we asked -- one of the recommendations is
 15 that we'll come up with a language to describe the need
 16 for consistency in techniques and equipment when
 17 measuring water levels and the survey measuring points,
 18 and there's five bullets there that will -- once the
 19 language is finalized, it will include something like
 20 checking the GPS survey data with the level, having the
 21 same person collect the data each time at a site, survey
 22 all wells whenever new wells are added, using the same
 23 instrument when collecting measurements because that was
 24 found to be a big, big difference between the instruments
 25 used for measuring water level. That was the highest

<p style="text-align: right;">Page 42</p> <p>1 percentage of error. It had to do with the different 2 instrument itself, and consistently using same measuring 3 point, which is a mark on the -- supposed to be on the 4 well casing. But anyway, so that was one of the areas we 5 were looking at is recommending language to address the 6 inaccuracy. 7 MS. CLEMENT: Mr. Chairman, how did they 8 distinguish between actually changing water level 9 directions and flow directions versus errors in 10 collection of data? 11 VICE-CHAIRMAN GILL: Actually, in the data 12 they collected, they can't because -- there's nothing in 13 the data that tells you -- well, you could look and see 14 this person did the sampling this time. So what they did 15 is they went out and on, I don't remember how many sites, 16 they did a study where -- and I remember they had three 17 different people measure the water levels at however many 18 different sites with the same instrument, and then 19 switched instruments and found -- because they were 20 wondering why are we seeing all of this change in grading 21 direction on all these sites. 22 MS. CLEMENT: Well, so many sites do have a 23 change in grading direction depending on the time of 24 year. That's very common. And so what I'm -- I mean, I 25 agree. I'm not having a difficulty in what you're</p>	<p style="text-align: right;">Page 44</p> <p>1 probably not going to get the same instrument, but I 2 think it is important to just raise everyone's knowledge 3 level to know that you really do have to look at this. 4 And the main point of this was is that they had concerns 5 that, well, if the water table gradients are not 6 completely accurate, is your -- 7 MS. CLEMENT: I understand. Thank you very 8 much. 9 MS. MARTINCIC: Mr. Chairman, I was going 10 to ask, if the technical subcommittee developed language, 11 is that language then going to go to a guidance document? 12 What are you talking about putting this language to, so 13 to speak? 14 VICE-CHAIRMAN GILL: Well, initially it 15 will come to the Policy Commission for a vote to accept 16 the language or to change it for the recommendations 17 going to the legislature. Then we'll look at it, and I'd 18 say probably at the same time we'd assume the Policy 19 Commission would also vote whether or not to put it in 20 the guidance document if it is a change from what is 21 already in the guidance document. 22 MS. MARTINCIC: So I guess it's not enough 23 to change it in the guidance document, but it would be an 24 actual recommendation to the legislature hoping that 25 they're going to take action in some way on it?</p>
<p style="text-align: right;">Page 43</p> <p>1 suggesting that maybe come out as a recommendation, but 2 I'm having a difficulty with saying that the database may 3 be inaccurate when there's no real way for them to say 4 that. 5 VICE-CHAIRMAN GILL: Well, I don't think 6 they said it was inaccurate. They just said that they 7 noted the different gradients. So based on that, they 8 decided to do a test and found that this could possibly 9 be an explanation why or even if it isn't an 10 explanation -- I don't think they ever said that the data 11 that they were seeing was inaccurate. They just said 12 based on that data, they went out and did a study, and 13 the study showed that on the sites that they did, there 14 was inaccuracies due to these particular techniques or 15 whatever, and so -- and I've -- and we've known this in 16 the committee now for years. I mean, when you send out 17 two people, you could very well get some different data. 18 And the thing is that it's so important in this instance 19 because you're looking at a hundredths of an inch, and on 20 very flat gradients, that can make your water table do 21 this. 22 So it is really important to make sure that 23 you're measuring it accurately, and you may not -- very 24 well may not be able to do all this. I know a lot of 25 companies rent their instruments each time. You're</p>	<p style="text-align: right;">Page 45</p> <p>1 VICE-CHAIRMAN GILL: Well, that was just 2 what we were -- my understanding was what we were 3 required to do was to send a report to the legislature 4 once the study was done, and that's really kind of a 5 different issue. 6 MS. MARTINCIC: So just specifically on 7 a -- from the groundwater study to the legislature? 8 VICE-CHAIRMAN GILL: Yes. If a 9 recommendation shows something that the Policy Commission 10 believes needs to be a change in the process that we're 11 doing now in the field, then we can recommend that as 12 well, which would go into the bulletin and the guidance 13 document. 14 Any more questions on that? 15 That was the one issue. The other issue that 16 we came up was is the language be developed describing 17 when it is necessary to perform aquifer testing to 18 determining hydraulic conductivity. One of the findings 19 of the study was that, I think, 32 sites in the state had 20 had an aquifer test, a slug test and/or a pump test done, 21 and I think they did ten of them. So there was only 22 22 that were done outside of the study, and it was discussed 23 in the meeting that if we -- if the owner/operators and 24 the consultants have to make determinations for site 25 classification on how long it's going to take a</p>

<p style="text-align: right;">Page 46</p> <p>1 particular release to reach a receptor, we can't do that 2 if we don't know how fast the aquifer is moving. But at 3 the same time, the question was raised, well, do we want 4 to do it on every single site? And there very well could 5 be site-specific conditions where you can look at that 6 site and for whatever the site-specific conditions are, 7 you could decide whether or not that is necessary to do 8 one. So that's what that recommendation was to look at 9 language that would meet that requirement, is it needed 10 every time.</p> <p>11 Questions? So we'll be looking at that 12 language, as I said, in the next meeting. We'll also be 13 going into the unofficial recommendations as well and 14 revisiting any of findings of fact as necessary.</p> <p>15 MR. BEAL: Did the technical subcommittee 16 place any significance on the fact that they're finding 17 these errors in groundwater direction, what I as a 18 layperson would assume means that sites may have been 19 improperly characterized and closed based on erroneous 20 data?</p> <p>21 VICE-CHAIRMAN GILL: Well, we didn't really 22 get into that, but remember, the study is not saying that 23 the groundwater gradients were wrong. They just pointed 24 out that they noticed sometimes drastically changing 25 water levels on any number of sites, most of the sites,</p>	<p style="text-align: right;">Page 48</p> <p>1 in, it did not say it's flip-flopping for any particular 2 reason.</p> <p>3 MR. BEAL: I guess I'm not really talking 4 about gradient determination and technique as much as I 5 am about the fact that the program seems to have run, and 6 I'm looking at the study as people are looking at data 7 and being unable to come up with a common conclusion as 8 to what was going on because it's been, for whatever 9 reason, so inconsistent; and it makes me ask the question 10 in my own mind that if we don't know what the water has 11 been doing, then how do we know we've been doing the 12 right job? I've got to ask that question, and we're 13 talking about a 20-degree deviation from the flow in 14 order to have a valid downstream well. If we can't get 15 it in there because of whatever and you put it 40 degrees 16 off, it's meaningless.</p> <p>17 So I guess I'm just concerned that somebody has 18 looked at our data after years and come up with a finding 19 that it doesn't seem to be all that reliable, and then 20 we're looking at writing techniques to make it reliable 21 and perhaps we could, but what about the work that we've 22 been doing? Is it accomplishing the goals, and then I 23 have to be careful because it's not like consultants 24 haven't done a good job. I think we've done a real good 25 job giving what it is that we've known about, but we've</p>
<p style="text-align: right;">Page 47</p> <p>1 and that raised a concern that is this truly what's 2 happening, and if it is, where do you put your 3 down-gradient well. And that was the other finding, is 4 they based on that finding, they were concerned that the 5 down-gradient wells were not necessarily all in the right 6 direction. And they also pointed out that there are 7 other reasons why that could occur. Many times where 8 you'd like to put a well, you can't. You can't get 9 access on that property. There's overhead lines, any 10 number of reasons why you can't put it exactly where 11 you'd like to based on your gradient. But I think the 12 overall gist of it is that if your gradient directions 13 are as accurate as you know them to be, at least you're 14 starting it in the right place. At least you know when 15 you're looking at where to put the down-gradient well, it 16 could be as close to that gradient as possible if you're 17 confident that your gradient direction is accurate.</p> <p>18 But I don't think they really said that these 19 were all wrong because there's no way they could tell 20 that because there was no -- you know, all they can do is 21 go on what's in the file. They just noted a big 22 difference in gradient directions on one site back and 23 forth, and they stipulated that that can be -- it can be 24 any number of reasons why it's happening. Unfortunately, 25 in most of the reports as the groundwater studies came</p>	<p style="text-align: right;">Page 49</p> <p>1 never even had the ability to look at the data en masse 2 like we've just done, and this is a brand-new question 3 that if flows change, then maybe our techniques aren't as 4 good as we had hoped that they were going to be and we 5 need to examine how we are solving the problem of 6 leakage.</p> <p>7 VICE-CHAIRMAN GILL: Well, I think --</p> <p>8 MR. BEAL: I'm asking is the technical 9 committee seeing that as well. Are we looking at that or 10 are we just looking at the detail of measurement? I 11 think it's one thing to say -- to go out and test. We've 12 done a level with GPS. We've done garden hose, and we 13 come up with different results with different people 14 using the same thing, but the methodology may have some 15 room for improvement, but the fact is that it's not very 16 solid to begin with. But that's the basis, and it's not 17 good enough to me to say, if that's all we can do, then 18 maybe we need to realize that we're not able to get the 19 job done, and I'll stop there, but it has raised some 20 questions.</p> <p>21 MS. CLEMENT: Mr. Chairman, Mr. Beal, it's 22 not uncommon for water levels to fluctuate over time. In 23 this Valley, I've got sites that they can actually almost 24 reverse depending on where the production systems are and 25 how robust those production systems are. So you can't</p>

<p style="text-align: right;">Page 50</p> <p>1 say, and I think Hal's point, you have to be very careful 2 to say that they can't tell by looking at these data sets 3 whether it represents inaccurate measurements or accurate 4 measurements of changing fluctuating situation. So as a 5 scientist, you not only look at the water levels, you 6 look at the contaminant patterns, determine flow 7 direction. There's a whole range of things that they 8 have in their arsenal to understand and characterize the 9 site. It's just not water levels. So I'd be cautious on 10 assuming or being overly concerned that because there's 11 fluctuating water levels or flow directions in water 12 levels, that somehow they have inaccurately characterized 13 a site. That may be exactly what's happening at that 14 site, and it's very common to see that in Arizona. 15 MR. BEAL: See, I don't have a problem with 16 that statement at all, and I'm very comfortable with it. 17 What I have is problem with is that when they looked at 18 the data and saw the change, now that was an alarm to 19 them so they went out and did a test on methodologies 20 with people, quite independently of anything else, and 21 that showed to be a problem. Different people, same 22 technology got different results at the same site. So 23 I'm saying that that is an issue, but also the fact that 24 it's been known that this happens, and we've 25 characterized sites based on this data that we sort of</p>	<p style="text-align: right;">Page 52</p> <p>1 that's two things that got sent in and it got approved. 2 MS. DAVIS: Mr. Chairman, Gail, I think I 3 understand what you're saying, just because the 4 groundwater flow direction changes wouldn't necessarily 5 change the characterization or the remediation of the 6 site, that that's a variable that you take into account 7 when you're designing a system. My question would be 8 kind of jumping over SCRs and remediation. When we have 9 those kinds of variables like groundwater flow, water 10 table fluctuation, what are the kinds of things that we 11 need to take into account to close a site and say it's 12 clean? How do we do that in this business? 13 MS. CLEMENT: I think depending on the 14 complexity of the site, you're going to have to look at 15 that in very different levels and also where the 16 receptors are. It seems to me that there's a major 17 philosophical issue that the department has in front of 18 you, whether you're going to push this program to closure 19 using risk-based characterizations or you're going to try 20 to remediate and close them that way. I mean, so 21 depending on which direction you go, if you're going to 22 characterize and risk away, then you have to have a much 23 more intensive data effort because you have to be 24 predictive in that. 25 If you're going to collect data so you can</p>
<p style="text-align: right;">Page 51</p> <p>1 admit might not be exactly correct. 2 MS. CLEMENT: I guess my position would be 3 as a technical person, I wouldn't admit that it's not 4 exactly correct if you do it properly. These techniques 5 that we would recommend or that are on this list are not 6 new. You can see them in other guidance documents. If 7 you are a competent professional, these are the kind of 8 things that you can do on your sites. This is not -- 9 this is not very esoteric or difficult. This is very, 10 very straightforward elementary stuff, and we don't know 11 if people aren't doing these things. We know that ASU 12 looked at water levels and saw that their flow directions 13 had changed over time. Well, there are flow directions 14 that change over time all over the state. 15 MR. BEAL: But it isn't just the water 16 level measurement. For example, they talked about one 17 well that was damaged in the source zone and that 18 wasn't -- that was damaged. So they went to an adjacent 19 well to do a sample that was -- that came back clean and 20 they closed the site. You know, that's the kind of 21 things that this review showed in our data that makes me 22 kind of wonder about the quality of work. So when we 23 look at the groundwater study, I think it's important to 24 look at what it tells us, but it's also important to look 25 at what it doesn't tell us and why it might be there, but</p>	<p style="text-align: right;">Page 53</p> <p>1 remediate a site, it's the actual data that you collect 2 that will tell you what you've got at the end. So I see 3 as I'm sitting through a lot of these meetings that there 4 seems to be a philosophical sort of split almost in terms 5 of which direction the agency may be moving forward, and 6 in this next year as you revamp the program, I think you 7 need to consider that pretty carefully because you can 8 spend an awful lot of money on characterization and get 9 nowhere close to removing the risk, the long-term risk on 10 these sites, but you might be able to close them with a 11 deed restriction and all the other stuff that will have 12 to be done with a DEUR, or you can spend that money 13 putting an SBE in the ground, sucking it out and taking 14 some samples and going home and everybody is happy. So, 15 you know, obviously a little biased towards cleanup, but 16 I do think that that's part of why this ASU study is a 17 little difficult is because for me personally it doesn't 18 take the philosophy of the agency into any kind of 19 account or -- I have a lot of concerns basically. 20 MS. DAVIS: Thank you. 21 VICE-CHAIRMAN GILL: I think to address 22 Roger's point, I think the key thing that I take out of 23 this, and I agree with you completely, and we've seen it 24 on all of our sites, we do have fluctuating water tables 25 at every one of our sites and as long as -- and I think</p>

<p style="text-align: right;">Page 54</p> <p>1 it is important to point out these -- and to get some 2 language in place to make sure everyone is getting their 3 best data to establish their gradient, but the thing is 4 that they do indeed see that they have a fluctuating 5 gradient direction and they're confident that they have 6 collected all -- measured everything correctly and they 7 believe that this is indeed fluctuating, then especially 8 with MTBE coming on board for investigation, then one 9 down-gradient well may not be adequate. Benzene and MTBE 10 act completely differently, and it will be extremely 11 important that your down-gradient well is exactly down 12 gradient for MTBE and if you indeed have fluctuation, you 13 need two. So that's the kind of things that you get out 14 of this report, but keep in mind that they're not saying 15 that the data that was collected was wrong. They're 16 saying this is what we see, and one of the possibilities 17 could be errors in collecting, errors in machine, 18 whatever.</p> <p>19 MS. FOSTER: Mr. Chairman, one other thing 20 they didn't include in the report, at least I didn't see 21 it, we're almost into our fifth year of a drought. We've 22 got groundwater sites that are down 20 feet in five 23 years. All the sudden, groundwater is going from one 24 direction to another based on SRP canals. SRP pumpage 25 and everything else. So I don't think we can ever come</p>	<p style="text-align: right;">Page 56</p> <p>1 the issues that we need to vote on. But basically -- and 2 I would like to get through those rapidly. We have C 3 through F and we should be able to do that rather fast. 4 The only other two -- one of the other issues that was 5 discussed at the subcommittee meeting was Paul Gallen 6 gave a brief presentation on ASU's recommendation for a 7 remediation study, and he's going to be giving us some 8 more details on costs to the extent possible on what the 9 research would entail, the costs for the study per site 10 and the number of sites proposed at the next subcommittee 11 meeting. We wanted a little more information before we 12 decide whether or not to bring it forward to the Policy 13 Commission.</p> <p>14 The other thing that we've been working on for 15 a long time was the groundwater level measurement and 16 groundwater sampling matrices and the DEQ had provided a 17 water level measurements and groundwater sampling table 18 and a UST groundwater monitoring guidance implementation 19 plan at the last Policy Commission. We reviewed that 20 again. There was just some minor changes made just in a 21 couple of words that the stakeholders had addressed, and 22 so basically I'm bringing them forward now to the 23 Commission for discussion and a vote, and I guess just 24 basically the table -- water level measurements and 25 groundwater sampling table establishes the frequency for</p>
<p style="text-align: right;">Page 55</p> <p>1 to a determination whether we're operating correctly or 2 not. There's going to always be risk involved to create 3 doubt.</p> <p>4 VICE-CHAIRMAN GILL: Also, another bit of 5 language that we need to put in there is that the report 6 needs to stipulate to the best of their knowledge why it 7 is fluctuating, if they know, whether it's a pumping 8 level, it's a canal, and that's what the reports have not 9 been saying. But remember, the study didn't go in and 10 review and report. They just reported what they saw as 11 far as the gradient direction, but that is another thing 12 is that if you do have a fluctuating water table and you 13 can report why it is occurring, you need to say that.</p> <p>14 MS. CLEMENT: That would go with the 15 characterization, what's happening on your site? That is 16 elementary and should be included.</p> <p>17 VICE-CHAIRMAN GILL: Those were the two 18 recommendations thus far for the legislature or to look 19 at language. So let's take a break right now, and then 20 I'll go into the other two issues that we discussed in 21 the subcommittee.</p> <p>22 (Whereupon, an eighteen-minute recess 23 ensued at 10:33 a.m.)</p> <p>24 VICE-CHAIRMAN GILL: There's basically two 25 more issues on the subcommittee update before we go into</p>	<p style="text-align: right;">Page 57</p> <p>1 measurement -- water level measurement and groundwater 2 sampling prior to the site characterization report being 3 approved, and then once approved, there will be a letter 4 that stipulates the frequency that these activities 5 through the CAP and once the CAP is approved, then the 6 CAP will be the frequency for the same activities from 7 that point forward based on the time period of the CAP.</p> <p>8 Any discussion on the table itself?</p> <p>9 MS. CLEMENT: Mr. Chairman, this is a 10 consensus document?</p> <p>11 VICE-CHAIRMAN GILL: Yes, it is. Yeah. 12 There was just a couple little word changes that was all 13 that was added. If there's no discussion, if someone 14 could -- we need to vote on these, and once these are -- 15 if they are approved, they would go into the -- actually, 16 the implementation plan. Why don't I just do that as 17 well, and we just do it as one thing.</p> <p>18 MS. HUDDLESTON: Mr. Chairman, I would move 19 that we recommend that it be approved.</p> <p>20 VICE-CHAIRMAN GILL: Okay. Let me kind of 21 describe the implementation plan because it is a little 22 bit different.</p> <p>23 MS. FOSTER: Mr. Chairman, is DEQ 24 comfortable with the bottom of the water level 25 measurements and groundwater sampling form talking about</p>

<p style="text-align: right;">Page 58</p> <p>1 an example rationale because we had some discussion at 2 the technical subcommittee? 3 VICE-CHAIRMAN GILL: Which one is this now? 4 MS. FOSTER: The bottom portion, there was 5 some discussion do we really need that section. 6 MS. DAVIS: These two down here? I think 7 staff is good to go with that. The agency is good to go. 8 Thank you for asking. 9 VICE-CHAIRMAN GILL: Rather than do them 10 separately because they're connected, the implementation 11 plan is -- basically what it covers is the sites that 12 have already had a site characterization report submitted 13 and/or approved, and there's no -- there's not been a 14 frequency established for the monitoring and sampling 15 activities. So basically this -- the table is for sites 16 from this point forward. The implementation plan is for 17 sites that the site characterization report has already 18 been approved and there's no frequency, and the 19 corrective action plan was previously submitted but not 20 yet approved by DEQ. So we had to cover the universe of 21 sites that were already in the process where the table is 22 for sites from this point forward. And again, this 23 implementation plan was a consensus document as well. 24 MS. CLEMENT: Just one quick question, 25 Mr. Chairman, under the scenario versus appropriate</p>	<p style="text-align: right;">Page 60</p> <p>1 VICE-CHAIRMAN GILL: Place the documents on 2 the bulletin has been moved and seconded. All in favor 3 say aye. All opposed? The ayes have it. 4 So the water level measurements and groundwater 5 sampling table and the UST groundwater monitoring 6 guidance implementation plan will be placed on the 7 bulletin. 8 Judy, how long does that typically take? 9 MS. NAVARRETE: I'll get the electronic 10 copies. I'd say at least a week. 11 VICE-CHAIRMAN GILL: Okay. I'll send out 12 an e-mail to all the consultants and the list of 13 stakeholders I have, as well, saying that this will be 14 coming forward. 15 The other -- that was the final issue on the 16 technical subcommittee summary. Going on to item -- that 17 was actually 4(c) and (d) as well. 4(e) is the -- and I 18 don't know if that letter was put in the packet, but it 19 was a previous letter that had been signed by Bob Rocha 20 and Shannon Davis and all of the issues that were put in 21 as topic request items were from that letter, and DEQ 22 just suggested putting the entire letter in on the 23 bulletin rather than breaking out as individual items. 24 And so the letter -- 25 MS. DAVIS: Al, is there a copy of that</p>
<p style="text-align: right;">Page 59</p> <p>1 action, it looks to me like the only appropriate action 2 that uses this guidance directly is the first scenario 3 where the SCRs previously -- 4 VICE-CHAIRMAN GILL: Yes. 5 MS. CLEMENT: So everything else you have 6 to go back to the agency and get an approved monitoring 7 frequency? 8 VICE-CHAIRMAN GILL: Yes. The first 9 scenario is basically if you have a report that has 10 already been submitted but has not been approved yet. 11 MS. CLEMENT: But I just want to be clear 12 that I'm reading this right. So the last two scenarios, 13 you still would have to go to the agency; you wouldn't 14 implement this? 15 VICE-CHAIRMAN GILL: Yeah. You have two 16 options. You could either send in a letter saying we 17 propose this sampling and monitoring frequency or wait 18 for the DEQ to come to you and say -- once they find your 19 site, if there's no frequency, they can send a letter to 20 you. 21 Any further questions? 22 MS. HUDDLESTON: Mr. Chairman, I would 23 amend my motion to move that we recommend that both 24 documents be put on the bulletin. 25 MS. CLEMENT: Second.</p>	<p style="text-align: right;">Page 61</p> <p>1 letter in the packets here? 2 MR. JOHNSON: No. 3 MS. DAVIS: Do you have a copy of that 4 letter? 5 MR. JOHNSON: I do not have a copy of that 6 letter. 7 VICE-CHAIRMAN GILL: I have one here. 8 MS. DAVIS: If we could circle back to 9 that. I'd like everyone to see it, and it's already 10 implemented policy. 11 VICE-CHAIRMAN GILL: The other -- somewhere 12 in here I have language that was provided to the 13 Commission. When you sat down, there was language that 14 the department has come up with for the -- 15 MS. DAVIS: Which item are you on? Did we 16 go to (f)? 17 VICE-CHAIRMAN GILL: Yes. Preapprove the 18 contract language on the bulletin, and this was provided 19 to the Commission. Al came around and handed out a copy 20 to everybody. 21 MS. MARTINCIC: What's the title at the 22 top? 23 VICE-CHAIRMAN GILL: ADEQ State Assurance 24 Fund determining applicable schedule of corrective action 25 costs.</p>

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1 MS. MARTINCIC: Is it under a particular
 2 tab?
 3 VICE-CHAIRMAN GILL: It was handed out
 4 separately. Does everyone want to take a minute to read
 5 that or do you want to wait until the next meeting to
 6 approve it because we haven't seen the language until
 7 now?
 8 MS. CLEMENT: I think we need a few minutes
 9 to digest this. I'd frankly prefer to read it and vote
 10 on it next time, if that is not a hardship to anybody.
 11 MS. FOSTER: Mr. Chairman, does this mean
 12 that anything placed on the bulletin has to go through
 13 this Commission and get voted on?
 14 VICE-CHAIRMAN GILL: We ultimately want to
 15 approve whatever is put on the bulletin.
 16 MS. FOSTER: It seems awfully time
 17 consuming so that if somebody wanted to do a quick
 18 update, you couldn't until the next month when we meet.
 19 MS. MARTINCIC: Well, if it's urgent, we
 20 could just call a conference call.
 21 MR. BEAL: If you're using the guidance and
 22 the bulletin board, I think that you need to have some
 23 kind of an approval to put it on there. Otherwise, you
 24 just get stuff put on the bulletin board that becomes
 25 guidance without any approval at all.

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1 MS. HUDDLESTON: Just a point of order,
 2 pursuant to the statute, this Commission recommends to
 3 the director the documents are brought to the Commission
 4 for approval. They're brought to the Commission for
 5 recommendation.
 6 MS. DAVIS: Mr. Chairman, I think that's a
 7 good point and here's how I think we can kind of separate
 8 this. I think the letter that Mr. Rocha and I signed
 9 months ago should have just been on the website, just get
 10 it on in a day or a year or whatever it takes to get on.
 11 I just think it just needs to be on and it doesn't need
 12 to come through here for approval. I think that an
 13 important distinction to make, if we want to put
 14 technical guidance on there and we want to vet that
 15 through the technical subcommittee and up there here and
 16 put that on the bulletin as recommendations from the
 17 Policy Commission, but again as Tamara says, they are
 18 recommendations, and I think it would serve the program a
 19 lot better to have some things just be able to go through
 20 like policy. There was a letter negotiated with
 21 Mr. Pearce some time ago about legislation, that letter
 22 was written over a year ago and it just doesn't make
 23 common sense that it has to be approved by the
 24 Commission, has to go through the Commission to get on
 25 the website. It should just be on there.

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1 MS. MARTINCIC: So maybe to clarify, if
 2 it's not directly coming from the Department, then it
 3 would go through this process, but if it's a statement
 4 directly from DEQ that you guys -- you can obviously be
 5 able to post whatever you want on your own website.
 6 MS. DAVIS: Exactly.
 7 VICE-CHAIRMAN GILL: But where that created
 8 the problem was when things show up on the bulletin
 9 without any discussion, that's what we wanted to do. We
 10 wanted to know if there was a new process, policy,
 11 whatever that came out, and from the Department as well,
 12 we -- if it's something that the public had never heard
 13 before, we would want to discuss it because that was the
 14 issue with -- the whole point of the bulletin is discuss
 15 whatever process, policy or guidance that was coming
 16 forward and come to a consensus on this is truly the way
 17 that we want to operate from this point forward.
 18 MR. TSIOLIS: Mr. Chairman, I don't see
 19 that we couldn't have that discussion after the
 20 Department put that information on the bulletin board.
 21 VICE-CHAIRMAN GILL: Except that it could
 22 change.
 23 MR. TSIOLIS: Exactly. I could see a need
 24 for the Department to use its own website the way it sees
 25 fit for the benefit of the public, and then if we feel

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1 like there's something in there that needs further
 2 discussion, we could always change it after the fact.
 3 MS. MARTINCIC: I thought the main point of
 4 the bulletin, too, is for technical subcommittee to
 5 generate things that maybe aren't being discussed or the
 6 general public doesn't know about, and so those things, I
 7 think, would go through the process. But like this
 8 letter is from 2002, does it need more discussion a year
 9 later?
 10 VICE-CHAIRMAN GILL: The purpose of the
 11 bulletin was to allow for discussion and basically have a
 12 format to where all the owner/operators and regular
 13 public could look and find out the policy, guidance or
 14 any changes that are affecting all owner/operators, and
 15 some of them can go right to the bulletin, but I think
 16 the Policy Commission needs to know what is going on
 17 there because there could be a lot of discussion. I
 18 mean, for instance, when the insurance item showed up on
 19 there, there was rumors that things were being done, and
 20 then there it is and nobody discussed anything and it
 21 caused all kinds of heartburn. So that was the concept
 22 is that if the regulated public or the DEQ have some
 23 issue that they're going to be using this format or this
 24 process or this policy from this point forward, we need
 25 to come forward so we can discuss it and see where it's

<p style="text-align: right;">Page 66</p> <p>1 going to cause problems, and if not, then it goes right 2 on the bulletin. But the concept was just to have some 3 place to where the regular public could look to see what 4 the latest guidance policy was, and I don't 5 have -- again, I don't necessarily have a problem with it 6 going on there. It could cause some heartburn having to 7 discuss it after the fact. That was what happened last 8 time. That was the only concern.</p> <p>9 MS. DAVIS: First, I don't think -- I think 10 we're a long way off from having a heartburn in this 11 program, so that's not my benchmark anymore, but a couple 12 of things is -- a couple things are, there will be things 13 that the agency chooses to put on that bulletin, period. 14 That's just the agency's prerogative to do that, and I 15 don't mean that in an arrogant way, but this letter from 16 Bob and I should be on there. It shouldn't come through 17 here. So maybe a distinction that we can make is to add 18 to our notebook of reporting that we're preparing every 19 month for the Policy Commission is to prepare a list of 20 everything that has been on the bulletin in the last 21 month. Some of those things will be coming before the 22 Commission, Hal, out of your technical subcommittee, and 23 some of the things I think the agency will just place on 24 it, and then if the Commission wants further discussion 25 on those things that have been placed on it. I don't</p>	<p style="text-align: right;">Page 68</p> <p>1 VICE-CHAIRMAN GILL: My understanding is 2 it's a simple explanation of what is in the -- 3 MS. DAVIS: Mr. Chairman, John or Judy, can 4 you address that? Is this new? Is this a clarification? 5 What is this? 6 MR. ALSPACH: For the record, my name is 7 John Alspach with the State Assurance Fund section. This 8 is the same way the Department has been doing business 9 probably since, I don't know, whenever the 491054(c) was 10 changed to require things to do done in accordance with 11 the contract date. So that's been, I would say, four or 12 five years anyway. It shouldn't be new to anybody, I 13 don't think, that's working regularly with SAF 14 applications. 15 MR. TSIOLIS: For what it's worth -- this 16 is George. For what it's worth, that's exactly how it 17 was included in the SAF rule in '99. 18 MS. CLEMENT: This is? 19 MR. TSIOLIS: Yeah. 20 MS. FOSTER: Mr. Chairman, there doesn't 21 seem to be any controversy, other than people might want 22 more time to review it. Why don't we just allow DEQ to 23 allow it to post it on the bulletin and have them include 24 it in next month's packet of information, and if anyone 25 has any problems, at that point, we can bring it up in</p>
<p style="text-align: right;">Page 67</p> <p>1 mean to set it up as a heartburn situation, but I don't 2 think we want to stall some simple business of getting on 3 there. So what we can bring next month is a list of 4 everything that's come on the bulletin in that last 5 month, and again, there will be things coming from the 6 technical and I'm assuming financial, maybe, subcommittee 7 over time that will want to be vetted with a 8 recommendation from the Policy Commission.</p> <p>9 VICE-CHAIRMAN GILL: And it could be 10 anything that affects all owner/operators. 11 MS. MARTINCIC: And then that way there 12 would be an ongoing item on the agenda, so that way if 13 there was one on there that someone wants to discuss, 14 it's already on the agenda. They don't have to wait 15 until next month to talk about it. 16 VICE-CHAIRMAN GILL: So I guess we need to 17 discuss what we want to do with the -- we have received 18 the letter, but with the language that we were just 19 provided today, do people want to take time to review it 20 if you don't feel that you can do it justice before next 21 meeting. 22 MS. MARTINCIC: Is this new information? 23 Is this a clarification of process that's already been in 24 place on Item 4(f)? That would be my question. Is this 25 document new information? Is it --</p>	<p style="text-align: right;">Page 69</p> <p>1 discussion. 2 MR. TSIOLIS: I just want to clarify that 3 we're not allowing DEQ to do anything; we're recommending 4 that they put it on the bulletin board or not put it on 5 the bulletin board. 6 VICE-CHAIRMAN GILL: Okay. I don't have 7 any problem with that. I mean, we can -- seeing how we 8 can -- if there's big issues that arise, it could go down 9 to the technical subcommittee for discussion to come back 10 again on any document or any -- so if everyone believes 11 that this -- has no problem with it without taking the 12 time to review it, I guess we can vote on it, and I guess 13 the same thing in the letter. The letter basically is 14 already on the -- there's no real reason to vote on the 15 letter because it can go on there because it's a fact. 16 It's a letter. 17 MS. DAVIS: If we don't get it on there, it 18 will change, Hal. It will be old. 19 VICE-CHAIRMAN GILL: And along those same 20 lines, I guess this language, if this is what's in the 21 statute, there's nothing really to vote on anyway. 22 MR. TSIOLIS: It pretty much is. 23 VICE-CHAIRMAN GILL: And so understanding 24 that anything that we put on or recommend on the bulletin 25 can be questioned and brought up for further discussion</p>

<p style="text-align: right;">Page 70</p> <p>1 in the technical subcommittee and here, then we'll just 2 go ahead and go on and include those on the bulletin. 3 Okay. Any more discussion on the technical 4 subcommittee update? 5 I've got three slips here. I don't know which 6 section they're for, though. Leon, was your questions in 7 this section? 8 MR. VANNAIS: One of the speaker slips was. 9 Leon Vannais. 10 I just wanted to point out the process, as far 11 as I am aware, using the cost schedule at the time the 12 work plan was submitted was implemented by the 13 Department, that owner/operators performing corrective 14 actions under preapproval work plan did not exceed the 15 encumbered amount. That's changed. You don't encumber 16 anymore, and although there's been some inference to the 17 statutory how to -- really, the statute just says, based 18 on the contract between the owner/operator and service 19 provider. There's nothing in the current statute or rule 20 that says anything about a contract or an owner/operator 21 and the Department as far as what costs schedule should 22 be used. 23 As I said, the need that previously existed for 24 the Department to use this process to ensure that the 25 encumbered funds were not exceeding that need, I'm not</p>	<p style="text-align: right;">Page 72</p> <p>1 we got from Mr. Pearce -- who's back there. You can all 2 see him -- on June 6 asking for a clarification on how 3 we're going to handle SAF claims when the claimant has 4 submitted a claim to their insurance company but hasn't 5 gotten a definitive denial or acceptance of coverage 6 determination from the insurance company. And John's 7 letter pointed out that that can put the claimant in an 8 awkward position for some period of time where they're 9 not getting anything from their insurance company, and if 10 we say that we won't pay the claim until they have a 11 definite denial of the claim, that's when we would pay it 12 if the claim is denied, then they're kind of left in 13 limbo for a while, and he was asking basically for the 14 Department to come up with some form of guidance on this, 15 and we really felt that this wasn't necessary, that the 16 statute answered this particular question. And the 17 portion of this statute that I quote in this letter is 18 from 49-1054(e) which is the insurance provision, and it 19 says that an "owner or operator shall not receive payment 20 until they've submitted a claim against applicable 21 coverage, and" -- and this is the key language, "has 22 certified to the Department the amount of any benefits or 23 reimbursement that the owner or operator has received or 24 will receive from any insurance coverage that might apply 25 to the costs of the corrective action."</p>
<p style="text-align: right;">Page 71</p> <p>1 aware it exists anymore. So I would ask the Policy 2 Commission to take a look at that. Before recommending 3 anything to the director, maybe you should have some 4 discussion. That's all I have to say on that issue. 5 Thank you. 6 VICE-CHAIRMAN GILL: Okay. I'll talk with 7 you and also with the SAF and see if we need to discuss 8 it further so we understand it because I don't understand 9 it. 10 Okay. Any other discussion? 11 Okay. Let's move on to Number Five on the 12 agenda which is discussion of insurance issues; A, ADEQ 13 response to John Pearce letter to ADEQ regarding 14 documentation of payment denials by insurance companies. 15 Who is responding? 16 MS. DAVIS: Mr. Chairman, I believe we have 17 Steve Burr, who's special counsel to the agency, who's 18 helped with this. So he can address that. 19 VICE-CHAIRMAN GILL: Can you kind of give 20 us an idea of what it is. 21 MR. BURR: I thought I would just go right 22 into the answer before I got the question. Keep things 23 interesting that way. 24 Let me just hand out the letter that I'm going 25 to be talking about. This is a response to a letter that</p>	<p style="text-align: right;">Page 73</p> <p>1 So that essentially is saying that as a 2 condition to payment, we have to get a certification from 3 the owner or operator on the benefits that they have 4 received or will receive from the insurance company. 5 Now, on the one hand, I think it's pretty clear from that 6 that we don't have to wait for a definitive determination 7 from the insurance company before we can pay a claim 8 because it talks about benefits that will be received. 9 And so if an owner or operator is in a position to tell 10 us that they know a claim will not be paid, they have a 11 good-faith basis for making that statement and as we 12 indicate later on in the letter, they can provide some 13 backup for that, some documentation, then that's a claim 14 that we can pay. 15 On the other hand, if the owner or operator is 16 in an uncertain position, if they don't know whether the 17 claim will be paid or not, then in our view, they're not 18 going to be able to make the certification. They're not 19 going to be able to certify the amount of the benefit 20 that they have received or will receive, and we're just 21 going to have to wait until they can make that 22 certification, whether it's until the insurance company 23 takes final action or they get sufficient information to 24 make the certification, but we're going to have to wait 25 for it before we can make the payment. We believe the</p>

<p style="text-align: right;">Page 74</p> <p>1 statute is clear on that point. 2 So that is the approach that the Department 3 intends to take, and I'm sure that's all clear as mud to 4 you. Are there any questions from the Commission? 5 MS. CLEMENT: Mr. Chairman, and sir, Number 6 Two in the second-to-last paragraph here, "provide 7 documentation and reason justification to support the 8 certification," what does that documentation consist of? 9 MR. BURR: Well, I think it's going to 10 depend on what you are relying on to tell us that you 11 know a claim will be denied or you believe a claim will 12 be denied. It could be correspondence from the insurance 13 company, you know, indicating that they're probably going 14 to deny it but they haven't made their final 15 determination. It could be something you've already 16 submitted, which would be the policy. You may say, this 17 policy has this particular exclusion, and we've always 18 had claims denied based on that exclusion in the past. 19 We have no reason to believe that that will change in the 20 future. But it's going to depend on the particular 21 circumstances. 22 But if you're -- it's just if you're in the 23 situation where you don't have an exclusion that clearly 24 applies and the insurance company is just kind of taking 25 their time to process your claim, you don't know how</p>	<p style="text-align: right;">Page 76</p> <p>1 their insurance and then when we took a look at this 2 issue, we realized that that form didn't really address 3 this situation. So we've amended it, and -- well, it's 4 not attached to this version of the letter, 5 unfortunately, but you can get it through the Commission, 6 I'm sure. We've revised the form to ask specific 7 questions that relate to this issue and to help the 8 owner/operator to provide us with the information we need 9 because we really didn't ask in the previous form 10 information that was designed to get at the question of 11 what -- when you haven't received a determination from 12 your insurance company but you have other information 13 that shows what you think will happen, submitting that to 14 us. Now, we are specifically asking for that kind of 15 information. 16 MS. MARTINCIC: So I guess in the case 17 where it's still sort of gray and if you're waiting to 18 find out from an insurance company, I guess basically I'm 19 hearing from the Department that you don't feel that the 20 statute says that you can reimburse. If they get payment 21 from an insurance company, then they would have to pay 22 back the Department for the difference. 23 MR. BURR: Right. We think the repayment 24 portion is basically there for when you make the 25 certification but you make a mistake. It turns out you</p>
<p style="text-align: right;">Page 75</p> <p>1 they're going to act, and that's the situation where 2 we're not going to be able to pay the claim or deny it. 3 We're going to have to wait until we have better 4 information. 5 So I think it relieves some of the stress that 6 John was talking about in his letter. It doesn't relieve 7 all of it. It doesn't get you out of limbo when you're 8 in a truly uncertain situation, and you can't tell us 9 whether or not the insurance company will pay. 10 MS. MARTINCIC: Mr. Chairman and Mr. Burr, 11 is there -- is the Department providing some type of -- I 12 guess I would request that for the owner/operators I 13 represent, if there's some way to simplify the process so 14 that it's like one form that they use, and they can check 15 that I'm attaching correspondence with my insurance 16 agency or -- 17 MR. BURR: Actually -- 18 MS. MARTINCIC: -- is there something like 19 that that has gone out to all owner/operators so that 20 it's understandable? Because I guess it still sounds 21 like there's a little bit of a gray area there still, but 22 any chance to make it more clear would be appreciated. 23 MR. BURR: Sure. And we've tried to do 24 that by -- we had an existing form that was going out to 25 the owners or operators asking them for information on</p>	<p style="text-align: right;">Page 77</p> <p>1 actually do get payment, then you're going to have to 2 reimburse the Department for what you received. 3 MS. MARTINCIC: So there's no way that you 4 would consider doing that for a small owner/operator 5 who's not able to get a letter from their insurance 6 company to deal with that limbo stage? 7 MR. BURR: Yeah. The determination of the 8 Department is that if you're -- again, if you're really 9 in that uncertain position, you're going to have to wait, 10 but you should take a look at the particular 11 circumstances and what's driving the insurance company to 12 delay. 13 MS. MARTINCIC: You just don't have control 14 over that. I mean, an owner/operator can't be on the 15 hold line. 16 MR. BURR: I would say just because you 17 haven't gotten a determination from your insurance 18 company, don't automatically assume from that that you 19 can't get payment from the Department. You need to take 20 a look at why. Again, if it's an exclusion, and you may 21 be able to get assistance from your trade association or 22 something on exclusions that are resulting in nonpayment. 23 MS. MARTINCIC: Can the Department supply 24 me with that information, then? If I don't know what the 25 exclusionary language is, I can't -- I mean, personally</p>

<p style="text-align: right;">Page 78</p> <p>1 don't have --</p> <p>2 MR. BURR: I don't think -- we're not the</p> <p>3 insurance experts, either. You'll have to resort</p> <p>4 elsewhere.</p> <p>5 MS. DAVIS: Andrea, you raised good</p> <p>6 questions about what about the small owners and</p> <p>7 operators, and I think we're trying to weave through this</p> <p>8 as an agency, and then out of Steve's presentation comes</p> <p>9 the issue of what about some compliance assistance for</p> <p>10 that, and I think I'd like to talk with you off line</p> <p>11 about that. I think this is a prime piece that we need</p> <p>12 to think about in terms of making recommendations and</p> <p>13 reform to the director.</p> <p>14 I was reading through some old stuff back in</p> <p>15 the early '90s when the State Assurance Fund was created</p> <p>16 and it was actually a loan program established for small</p> <p>17 paybacks. So as this comes up this morning, in just</p> <p>18 having read some of the history on the program, I think</p> <p>19 that's something else that should be considered because I</p> <p>20 don't think so it's a good thing to get the agency, whose</p> <p>21 core mission is protection of public health and</p> <p>22 environment, you don't want us doing insurance work.</p> <p>23 That's just not what we're trained to do, but Judy and I</p> <p>24 can sit down and chat, but this is also a bigger picture</p> <p>25 thing. So we need to put that on our list of what's a</p>	<p style="text-align: right;">Page 80</p> <p>1 take questions?</p> <p>2 MR. SERENA: I think the only overview I'd</p> <p>3 like to provide is that the insurance companies are</p> <p>4 watching what's going on in this state, and it's a wait</p> <p>5 and see to see what's going to come out. So it's very</p> <p>6 important to, I believe, mold something that is in the</p> <p>7 best benefit of the state, of the fund because what's</p> <p>8 being done now will very much carry through in</p> <p>9 determining how the insurance companies do react in the</p> <p>10 next few months.</p> <p>11 VICE-CHAIRMAN GILL: I know there were a</p> <p>12 number of questions before. Do we have questions?</p> <p>13 MS. HUDDLESTON: Just for clarification, so</p> <p>14 the Commission fully understands, just for the record,</p> <p>15 does your insurance -- do you represent a particular</p> <p>16 insurance company, and if so, do they have an application</p> <p>17 before the Department?</p> <p>18 MR. SERENA: I do not as a broker represent</p> <p>19 all carriers that are in this business. So I have no</p> <p>20 favor. It's in the best interests of my clients, not the</p> <p>21 insurance companies.</p> <p>22 MS. MARTINCIC: I guess I would just ask,</p> <p>23 you know, sort of getting back to the previous issue in</p> <p>24 terms of owner/operators waiting for letters from</p> <p>25 insurance companies, from your standpoint, is there</p>
<p style="text-align: right;">Page 79</p> <p>1 reasonable recommendation for the program.</p> <p>2 VICE-CHAIRMAN GILL: Any further questions?</p> <p>3 Thank you.</p> <p>4 MR. BURR: Thank you.</p> <p>5 VICE-CHAIRMAN GILL: 5(b), discussion of</p> <p>6 insurance issues. Shannon.</p> <p>7 MS. DAVIS: I'm not a representative of a</p> <p>8 brokerage firm. To me, there are two sets of</p> <p>9 relationships in the insurance issue. One is the one</p> <p>10 that Steve Burr just laid out for us, is how are we</p> <p>11 implementing and what's the outcome between the agency</p> <p>12 and the regulated community on the insurance issue, and</p> <p>13 the second one is one that Andrea has raised, among</p> <p>14 others, is how is the implementation of the statute, the</p> <p>15 insurance statute going to affect people who buy</p> <p>16 insurance policies, and again, that's not our business,</p> <p>17 but we've asked -- Dave Serena has been kind enough to</p> <p>18 come. He's with the brokerage Marsh and Associates, and</p> <p>19 he's going -- I'd like you to ask questions, and he can</p> <p>20 give you an overview of insurance issues, and then he's</p> <p>21 agreed to take what the questions and concerns are and</p> <p>22 then come back at the next Policy Commission meeting and</p> <p>23 attempt to answer those in more detail. So Dave came on</p> <p>24 short notice, and I appreciate that. So if folks just</p> <p>25 want to -- Dave, did you want to make any overview or</p>	<p style="text-align: right;">Page 81</p> <p>1 something that can be done to facilitate that, make it</p> <p>2 move more quickly? Are there exclusionary clauses that</p> <p>3 you can provide to owner/operators that they can look for</p> <p>4 in their policy if it's standard language? I guess</p> <p>5 that's kind of what I would want to know so that I could</p> <p>6 let owner/operators know, you know, look in your policy</p> <p>7 for this language. If it's not there, then you're going</p> <p>8 to have to obviously come up with something else to</p> <p>9 provide the Department, but I guess anything that we</p> <p>10 could get from the insurance companies, I -- you know, I</p> <p>11 haven't been able to get anything in writing.</p> <p>12 MR. SERENA: You know, all these policies</p> <p>13 are all unique to the companies, and so they have to be</p> <p>14 reviewed in that context. Another sticking point is when</p> <p>15 the insurance was in place, which will help determine</p> <p>16 whether or not this is a covered claim or not. So</p> <p>17 unfortunately, it's very difficult to say here is the set</p> <p>18 criteria or set policy language that you would find in an</p> <p>19 insurance policy form that will say --</p> <p>20 MS. MARTINCIC: Not like there's a magic</p> <p>21 word or magic bullet you can look through for it.</p> <p>22 MR. HUTZ: Well, typically like Dave said,</p> <p>23 most of these policies each -- I'm with an insurance</p> <p>24 company, AIG, and you'd have to look to see what type of</p> <p>25 policy was a claim made. In other words, the claim had</p>

<p style="text-align: right;">Page 82</p> <p>1 to have occurred during the policy period or was it an 2 occurrence policy. For environmental, we're getting away 3 from those or we have gotten away from those. In other 4 words, the claim had to just occur when you had the 5 insurance policy in place. So the policy could have 6 expired five years ago, but you had the insurance in 7 place when the risk or when the loss occurred, you would 8 be covered under that current policy. But I would say 9 just in general, when you're looking for this type of 10 language, every company has their own policies. What I 11 would say is recommend your clients read their policy and 12 look in the exclusion sections. There may be a pollution 13 exclusion. There may be specifically excluded tanks. 14 Then the second section where you would look is in the 15 endorsements. Typically, we would modify a policy rather 16 than create a whole new policy. We would have in the 17 back of the policy their enforcements, and that's where 18 you find additions to coverage or specific exclusions to 19 coverage. 20 With the older type general liability policies, 21 there's a period in the '70s, early '80s where they 22 were -- the insurance companies had taken a lot of losses 23 from environmental risks that they didn't believe they 24 were insuring at the time, and a lot of them are still in 25 litigation, in settlement up to this date 20 years later,</p>	<p style="text-align: right;">Page 84</p> <p>1 mediation. So in your go-forward language, you'd want to 2 put that into the policy so that you would have to 3 respond or the insurance company would have to respond 4 within a certain amount of time to give you a denial of 5 claim or an acceptance of the claim. It doesn't help you 6 for stuff that's in existence now, but for those, I would 7 say just be diligent, work through your broker or your 8 risk manager or whoever is handling your insurance, maybe 9 an attorney at this stage now if it's gotten that far in 10 the dispute resolution, but just have them continuously 11 contact the insurance company to say it's for a 12 determination. Explain why you need it, that you need it 13 because you're looking to put in a claim against the tank 14 fund, and you can't get that until my insurance has 15 either been denied or accepted the coverage. 16 MR. TSIOLIS: Gary, in your experience or 17 in your knowledge, are the insurance companies typically 18 responsive to those types of requests, hey, I need 19 something quickly because the SAF is -- 20 MR. HUTZ: Typically, my claims, I feel -- 21 I'm probably biased in that -- I think most insurance 22 companies if you pester them enough, and Dave -- and I 23 know David is with another brokerage firm here -- they 24 can respond because they typically take their clients' 25 losses and then will follow up with the insurance company</p>
<p style="text-align: right;">Page 83</p> <p>1 but the newer policies are designed -- new environmental 2 policies are designed to actually give you coverage for 3 this environmental risk that the old general liability 4 policies took away. 5 So depending on if your client had an old 6 general liability, which is an occurrence policy, when 7 did the leak occur, you know, in '75, '76, they may have 8 coverage under those old policies. So you need to look 9 at it, and typically like Dave said, he represents the 10 clients. So you could look to see who the broker was or 11 who your new broker is, and they could be a starting 12 point for your client to find out what coverage they have 13 for those old policies. 14 MS. CLEMENT: I'd ask both gentleman: Is 15 there any way to leverage or to encourage the insurance 16 companies to respond more promptly to the requests by 17 owners and operators to determine if they have coverage 18 or not? 19 MR. HUTZ: I would say just be diligent and 20 follow your claims to the person that's assigned or have 21 your broker contact the claims manager. In any kind of 22 go-forward policy, that is a lot of concerns with 23 clients, and they have specific language in there to 24 address that claims must be responded to within 90 days 25 or we have the right to go to an arbitration or</p>	<p style="text-align: right;">Page 85</p> <p>1 and badger the insurance company if they need to, but if 2 somebody really is pressed for an issue like this and if 3 you keep calling, they will give you a response. 4 MS. CLEMENT: This is an interpretation of 5 the law that is being implemented. In either of your 6 opinions, do you think this is going to cause insurance 7 costs to increase? Is there any sense of that at this 8 point in time? 9 MR. HUTZ: Well, traditionally since like 10 the 9/11, a lot of insurance companies took a lot of 11 losses, unexpected losses, just rates across the board in 12 general have gone up. A lot with the mold now. They're 13 saying a lot of the settlements that -- again, insurance 14 companies are paying a lot of losses that they did not 15 anticipate to pay. The only way that they can recoup 16 that is to charge more for future premiums that they're 17 going to charge. 18 The environmental policies since they've been 19 incepted, maybe about 25 years now, have traditionally 20 been getting less in costs and more in coverage. So I 21 think the trend is kind of going the other way. We're 22 getting just a lot of new chemicals that we didn't have 23 clean-up standards. So we're trying to get the premiums 24 up to cover some more risk exposure, but I'd say in 25 general, something like this tank fund is something that</p>

<p style="text-align: right;">Page 86</p> <p>1 we, as an insurance industry, have our arms around so I 2 don't think this trend for insurance for tank coverage is 3 probably going to go up because I think with all the 4 advocacy of the new testing, the new implementation of 5 tanks, the leak detection, I think the risk for the 6 insurance companies has gotten smaller with the advocacy 7 of these new tank programs. So these rates I don't think 8 have really gone up at all.</p> <p>9 MR. SERENA: I would just add to that. I 10 agree with what Gary just said. It's what we're in right 11 now is what's called a hard market where rates overall 12 have gone up. I don't think they've gone up as much in 13 the environmental arena as in other lines of insurance, 14 but we've been working under the premise -- the insurance 15 company has been working under the premise in Arizona 16 that there has been this state assurance fund that would 17 cover that first half million, million dollars, whatever 18 bucket you fall into, and with the changes that are 19 perhaps on the horizon now, that's changing or is in the 20 process of changing so there is going to be a change in 21 review of the carriers of the risks that they're going to 22 be taking on now. So I don't think it's that far to leap 23 that rates would be going up if the carriers are now 24 expected to pay from first dollar versus in the past.</p> <p>25 MR. BURR: I would just like to address</p>	<p style="text-align: right;">Page 88</p> <p>1 a long time, we can say we've underwritten tank programs 2 for 30 years. This is our loss category, and that's kind 3 of where we would project our premiums to see are the 4 loss trends looking like it's worse, does it look like 5 the losses are getting better. If they're getting 6 better, we can lower the premiums and that becomes a soft 7 market. If the loss trends are getting worse, we're 8 paying a lot more losses, then we would probably need to 9 increase premiums, but I would just say one specific 10 state's tank fund did not dramatically impact on our loss 11 findings, especially when you have, like I said, the 12 deductibles. That deductible -- the insurance company is 13 not responsible for it; the client is responsible for it. 14 They would probably in turn looking for the tank fund to 15 pick up that loss, but the insurance company is not 16 involved in that deductible layer. So if they can get it 17 from the tank fund, great. If they can't, then they have 18 to pick it up themselves.</p> <p>19 VICE-CHAIRMAN GILL: Is there any more 20 questions from the Commission? 21 MR. BEAL: When was the statute -- 22 MR. BURR: 1996. 23 MR. BEAL: This is all memory, and I don't 24 have any papers in front of me, but we've always had 25 financial responsibility, and one of the things that was</p>
<p style="text-align: right;">Page 87</p> <p>1 that point. I know in my view, any insurance company 2 would have been looking at the statute this entire time 3 and not necessarily looking at what the Department's 4 practice was. The Department's practice was so 5 inconsistent with the statute that I find it hard to 6 believe that any decent insurance company would have been 7 projecting its risk based on the interpretation rather 8 than on the statute. So I really don't see how the 9 Department's so-called interpretation of the statute, to 10 the extent it is an interpretation, is going to result in 11 an increase of the premium costs.</p> <p>12 MR. HUTZ: They typically go hand in hand. 13 Our insurance policies, if you can design them around is 14 there going to be a tank fund, and it may not 15 specifically address a tank fund. Usually, a client will 16 say, I'm going to take 100 or \$150,000 deductible if they 17 believe they are going to get that money from a tank 18 fund. If they don't get it from the tank fund, it comes 19 out of pocket. They pay the first 150,000. For that, 20 just like any insurance you buy, you become a 21 self-insurer in that aspect. You get a lower premium.</p> <p>22 So we traditionally don't look at legislation 23 and specific states when we come up with our premium 24 pricing. We're traditionally looking at actuarial 25 tables. Like a tank program that's been in existence for</p>	<p style="text-align: right;">Page 89</p> <p>1 required was the insurance be a part of things back in 2 '90. I don't believe that the insurance was available 3 until such time as about '93 when the fund was in a 4 position to take that first 100,000 or whatever it 5 happened to be at that time did we start seeing insurance 6 be written at all for USTs. It was a real period in 7 there that the requirement for insurance is getting 8 pushed back, and I can only assume because people weren't 9 able to obtain it, then after they did, of course, it's 10 been whether the insurance company always said there's a 11 deductible in front and a person is applying to the fund 12 for that deductible and the insurance kicks in. Where we 13 are with the statute now that you have to go to the 14 insurance before you can even apply for that deductible 15 amount.</p> <p>16 MR. BURR: That's not what I said. Your 17 insurance coverage is what it is. If you've got a 18 deductible, we recognize that. It's only -- the only 19 question is to the extent you have coverage under your 20 policy. So it's the amount above the deductible, and the 21 data is what the fund will not cover. The insurance 22 company should know that. We're not asking people to 23 cover their deductible.</p> <p>24 MR. BEAL: So if I have a deductible, then 25 I can go to the SAF for that deductible?</p>

<p style="text-align: right;">Page 90</p> <p>1 MR. BURR: Yes.</p> <p>2 MR. TSIOLIS: Mr. Chairman, can I follow up</p> <p>3 with that? So in other words, if I'm a tank owner or</p> <p>4 operator and I'm looking for insurance, I can get a</p> <p>5 really low premium from the insurance company on my</p> <p>6 election of a \$300,000 deductible and the fund is going</p> <p>7 to cover that?</p> <p>8 MR. BURR: Well, you have to comply with</p> <p>9 the financial assurance.</p> <p>10 MR. TSIOLIS: And that will be addressed in</p> <p>11 the financial assurance compliance part.</p> <p>12 VICE-CHAIRMAN GILL: Any other questions?</p> <p>13 MR. VAN DYKE: Dave Van Dyke with Miller</p> <p>14 and Associates. The current UST policies essentially</p> <p>15 were modified after the federal guidelines were changed</p> <p>16 in December of '98. So the availability of insurance on</p> <p>17 a broad scale throughout the United States for UST has</p> <p>18 significantly increased as a result of those</p> <p>19 requirements. So we've got kind of two phases of this</p> <p>20 discussion; one is past sins and one is going forward in</p> <p>21 terms of availability, and it's significantly more</p> <p>22 available on a per site or multiple location purchase</p> <p>23 basis through independent agents throughout the United</p> <p>24 States. AIG provides the coverage. Zurich provides the</p> <p>25 coverage. Great American provides the coverage, and most</p>	<p style="text-align: right;">Page 92</p> <p>1 those folks that are in a state of limbo and would like</p> <p>2 to see something crafted or allow them to move forward</p> <p>3 with the process and either certify or come up with</p> <p>4 something that they will -- obviously if there's payment</p> <p>5 made, they're required to pay that back just so that they</p> <p>6 aren't losing their space in line, and that as Shannon</p> <p>7 said, cleanup can move forward because that's the bottom</p> <p>8 line. So I just would reiterate that.</p> <p>9 VICE-CHAIRMAN GILL: I had two speaker</p> <p>10 slips. John Pearce.</p> <p>11 MR. PEARCE: Thanks. A couple questions</p> <p>12 arose in my mind during the discussion from the insurance</p> <p>13 is whether a policy expresses that it is a success only</p> <p>14 over any other available source of recovery including but</p> <p>15 not limited to funds and other insurance and so forth,</p> <p>16 which is claims that you see from time to time in</p> <p>17 policies; whether that kind of language would be</p> <p>18 acceptable to the Department as policy language, that</p> <p>19 still lies with financial responsibility.</p> <p>20 MR. BURR: As Shannon pointed out, we're</p> <p>21 not insurance experts. I think we'd have to take a look</p> <p>22 at that. It's possible.</p> <p>23 MR. PEARCE: That would not constitute</p> <p>24 adequate financial responsibility for an owner/operator</p> <p>25 to hold a policy.</p>
<p style="text-align: right;">Page 91</p> <p>1 independent agents have access to those programs.</p> <p>2 The rating structure is significantly improved</p> <p>3 also as a result of that because you have those mandatory</p> <p>4 requirements for upgrades. So as far as insurance</p> <p>5 availability right now, it's excellent. There is still,</p> <p>6 as Dave Serena indicates, some question on the carriers'</p> <p>7 parts as to the issues in Arizona with respect to how the</p> <p>8 fund has been previously managed versus going forward and</p> <p>9 the way the payments are going to be made. One of the</p> <p>10 key concerns that you have to watch in the insurance</p> <p>11 policies is some policies will say they are excess only</p> <p>12 over any other available insurance, where others the</p> <p>13 provision of the policy form says that they are primary</p> <p>14 and that other insurance, including state fund, is</p> <p>15 excess. So there are certain provisions within the</p> <p>16 policy forms that have to be addressed but the agents</p> <p>17 typically can do that at the time the policies are</p> <p>18 negotiated.</p> <p>19 VICE-CHAIRMAN GILL: Any more questions</p> <p>20 from the Commission?</p> <p>21 MS. MARTINCIC: I guess I would just --</p> <p>22 I'll talk to Shannon about this, I guess, off line, too,</p> <p>23 but I would just -- you know, primarily this is affecting</p> <p>24 small owner/operators who are self-insured, and until I</p> <p>25 guess everything is sorted out, I have a real concern for</p>	<p style="text-align: right;">Page 93</p> <p>1 MR. BURR: Whether that would constitute</p> <p>2 accurate financial responsibility, no. How could it?</p> <p>3 Barbara, do you want to just go ahead and</p> <p>4 address that?</p> <p>5 MS. PASHKOWSKI: Barbara Pashkowski. If</p> <p>6 I'm understanding your question, and Shannon, you can</p> <p>7 correct me if I'm wrong, but I think the director made a</p> <p>8 decision on this question if there is an insurance policy</p> <p>9 that says we will only pay excess after you collect from</p> <p>10 State Assurance Fund or some other policy, the director</p> <p>11 has determined, I think, that that is not sufficient,</p> <p>12 that if you have an insurance policy, it has to, one,</p> <p>13 meet financial responsibility requirements and we're</p> <p>14 thinking that may possibly not meet financial</p> <p>15 responsibility requirements; and two, that it's -- the</p> <p>16 State is not going to fund corrective actions because you</p> <p>17 have brought a policy that says we're going to only</p> <p>18 subrogate to another policy. Is that what the director</p> <p>19 determined, Shannon?</p> <p>20 MS. DAVIS: Yes.</p> <p>21 MR. PEARCE: So folks that have policies</p> <p>22 with that language in it in the past are and it may have</p> <p>23 claims that are in the hopper for decision are going to</p> <p>24 find that those policies have -- will not provide a basis</p> <p>25 for coverage from State Assurance Fund.</p>

<p style="text-align: right;">Page 94</p> <p>1 MS. PASHKOWSKI: That's correct. 2 MR. PEARCE: Furthermore, they're going to 3 find out that those policies do not constitute a 4 financial responsibility requirement. 5 MS. PASHKOWSKI: I don't know the direct 6 answer to that question. I'd have to look at the 7 financial responsibility requirements. 8 MR. PEARCE: Let me just submit that that's 9 a big issue for, I submit, for the Department to look at 10 as soon as possible because that could well be the 11 direction the policies are written in Arizona on a 12 going-forward basis, unless there's some directive that 13 those policies will not comply with financial 14 responsibility because I strongly believe that any policy 15 that is dollar honest is going to be a heck of a lot more 16 expensive. 17 MS. PASHKOWSKI: You have insurance people 18 shaking their head no. 19 MR. HUTZ: From an insurance standpoint, if 20 we're serving as financial responsibility guarantor, we 21 usually know that. We'll usually issue a certificate 22 that goes along with it. Under the EPA regulations, 23 you're assuring that their served with that assurance 24 where basically you know your responsibility, you know 25 your coverage and you are primary and that you are</p>	<p style="text-align: right;">Page 96</p> <p>1 MR. PEARCE: So we have someone from AIG 2 telling us that it's unlikely that policies will be 3 priced more expensively if they include this financial 4 responsibility certifications that the policies will 5 suffice for financial responsibility. 6 MR. HUTZ: I didn't say anything about the 7 pricing. Dave may have said something about the pricing. 8 I just said if we are serving as financial 9 responsibility, we would issue a certificate and that 10 would be reflective in our price, and serving as 11 financial guarantors, there's more liability than just 12 being an insurance carrier. Basically you're bonding a 13 company, and you want the financial guarantor. So it 14 would be probably more expensive than an insurance policy 15 that had a deductible and was going to apply in excess of 16 other coverages of unavailable coverages. 17 MR. PEARCE: I'd like to know, Dave, what 18 do you think? 19 MR. VAN DYKE: Well, we see the typical UST 20 policy which has a \$10,000 deductible, a limited 21 liability of a million dollars. It's issued on an annual 22 basis, and if there is an issue with primary versus 23 excess, it's incumbent upon the agent to determine in 24 this jurisdiction here in Arizona that you want to, as 25 Gary indicated earlier, use an endorsement to modify the</p>
<p style="text-align: right;">Page 95</p> <p>1 serving as the financial responsibility vehicle, but 2 lacking that certificate of insurance, it's just 3 insurance and then the terms of the agreement, the 4 deductible and other coverage is available, that would 5 pertain. So I think that's where you need to look, see 6 what the policy design is. Our policy is typically the 7 State will not serve as financial responsibility and 8 remove that exclusion if we believe we are serving as a 9 certificate of responsibility for financial assurance 10 vehicle. 11 MS. PASHKOWSKI: Is that common with all 12 insurance carriers or only speaking from AIG? 13 MR. HUTZ: I can't speak for everyone. I 14 particularly just work with AIG group; these guys work 15 with all the carriers. I would say typically that from 16 an insurance standpoint, I would say all carriers are 17 probably looking at that, their financial responsibility 18 vehicle is insurance. They would probably want to issue 19 a certificate and know that because there's a lot of 20 other legal ramifications than just being an insurance 21 policy. 22 MR. PEARCE: Let me follow up a little bit 23 and just make sure I'm getting the right message. 24 You're with AIG, correct? 25 MR. HUTZ: Correct.</p>	<p style="text-align: right;">Page 97</p> <p>1 excess-only provision of the policy so it is in fact 2 primary. But the pricing issues are significantly more 3 related to the technical issues of the tanks and the age, 4 the piping, et cetera, and much less so with respect to 5 the excess versus primary, and he mentioned earlier the 6 issue of the statute. 7 It was contemplated early on that the state 8 fund would be excess rather than primary, although it 9 hadn't been administered that way. So the insurance 10 industry for all intents and purposes has looked at 11 Arizona as a primary insurance basis, even though they've 12 been successful in not having to pay on a primary basis. 13 MR. PEARCE: So it sounds like on companies 14 international in scope, that you have several 15 considerations that transcend with one state's 16 particularly about primary or secondary with respect to 17 their state funds, and obviously the condition of the 18 tanks and release is going to be huge in pricing 19 policies. 20 MR. VAN DYKE: Right. 21 MR. PEARCE: Do you think that because of 22 this turn of events, that there may be a movement among 23 the insurance companies to look at Arizona as a state 24 that has a special issue that may make some businesses 25 rise on policies going forward basis? I don't want to</p>

<p style="text-align: right;">Page 98</p> <p>1 force this issue, but -- 2 MR. BURR: I think he's already answered 3 that question. 4 MR. PEARCE: Well, we're not in a 5 deposition. 6 MR. HUTZ: Arizona is not unique, if the 7 question was addressed to me. There are a lot of states 8 that are having trouble with their tank funds or have 9 inadequate tank funds, and again, that will show 10 reflective in your -- so we don't particularly have rates 11 of insurance for tank owners in Arizona, and I guess with 12 all insurance companies, but I think our pricing, we use 13 the same rating model in every state. So I think we look 14 more toward overall loss trends than particular states. 15 If you look at particular states, again, that's where I 16 think we're looking at not so much the state but the 17 individual insured site for the risk and loss 18 particulars, not so much the state overall state. 19 So I would say that if we see more insurance 20 funds failing or going away, I'd say traditionally our 21 losses go up. We would probably increase our premium. I 22 wouldn't think that one state would impact our rating 23 that significantly, but like I said, this is not a 24 one-state problem. This is happening across the country 25 with a lot of states, I believe, because we've been</p>	<p style="text-align: right;">Page 100</p> <p>1 but if people start to, I don't know that the Department 2 has ever had policy, but those are thoughts that have 3 crossed my mind. 4 MR. TSIOLIS: If I could amplify on that, 5 would it be possible for the Department's attorneys to 6 just point out for us maybe in a future meeting if there 7 are any statutes or rules in place that guide the 8 selection of a deductible. 9 MR. ALSPACH: Actually, what I was going to 10 put forward has been very nicely addressed by our 11 colleagues in the insurance business. 12 VICE-CHAIRMAN GILL: Another speaker slip. 13 MR. KELLEY: Dan Kelley is my name, for the 14 record. I had one question, and then since Shannon 15 offered up your time, Dave, maybe two suggestions that 16 you could come back with for next meeting or two 17 requests. But the first question is maybe better for 18 Gary and somebody -- I think Andrea had asked about how 19 do I motivate my insurance company to give me an answer 20 promptly, and you pointed out a lot of AIG policies have 21 this response-time clause in the policy. But the problem 22 is that many of the policies we're arguing over, are they 23 past sins versus those that don't have that. So I'm 24 asking you bluntly, if I -- 25 MR. HUTZ: I just said if it was me, I</p>
<p style="text-align: right;">Page 99</p> <p>1 talking to a lot of states about supplementing their 2 fund. In fact, Florida replaces the fund where people 3 can buy insurance that serves as first dollar because 4 they know there is going to be no recourse for the fund. 5 MR. PEARCE: Let me get off of that topic 6 and wrap up. I do think it's important for the 7 Department to let people know if their policies that have 8 the excess-only language are going to be deemed to be 9 financially -- a source of financial responsibility 10 whether they need to go against something else to be 11 financial responsibility is because that has all kinds of 12 consequences. Furthermore, to follow up on George's 13 question, the same question I have, why not save a buck 14 and make your life easier by going and getting a policy 15 of \$100,000 deductible if the Department is going to pay 16 the deductible without hassles. Maybe there needs to be 17 a look at what kind of deductible. You know, you pay 90 18 percent of the deductible so you pay the first \$90,000 of 19 a \$100,000 claim and the policy would be from there. But 20 maybe there ought to be some guidance or thought when 21 they're buying policies from now on so that there's not a 22 risk that they'll be deemed not to have satisfied 23 financial responsibility for the deductible. I mean, 24 most policies I've got are in the 10-, \$25,000 range. I 25 don't know anyone buying \$100,000 deductibles right now,</p>	<p style="text-align: right;">Page 101</p> <p>1 would be calling every day or if I was in a litigation 2 mode, I'd have my attorney calling every day because like 3 anything else, the squeaky wheel gets the grease. And I 4 have clients that I have sold insurance programs to that 5 if they have a claims problem, they'll call the broker or 6 one of the brokers who placed the coverage for them and 7 say, "Isn't that part of what you're going to help me 8 when you placed this insurance?" And I don't know. The 9 broker may not be the same broker that the client is 10 using now, but the attorney or short of that, I would 11 make the calls myself. If I have a medical problem and 12 somebody denies coverage, I get the denial letter, I'm on 13 the phone until I get an answer, and if I don't like the 14 answer that person gave me, I want to speak to his boss. 15 I mean, that's the way I would handle something, and I 16 would say the same method should be used with your 17 clients. 18 Just persistently call the insurance people, 19 send them letters, certified letters, make sure that they 20 know they're getting responses, and just say, "I'd like 21 to get a resolution on this." It may not be a resolution 22 you like, but just say, "I need a resolution. Am I 23 covered or am I not covered?" I would just keep calling 24 and make sure you speak to the same person, get that 25 person's name in the claims department who's working on</p>

<p style="text-align: right;">Page 102</p> <p>1 on your case and say, "I'd like to talk to you and set up 2 a meeting in a week," and people will do that to me, the 3 underwriter. I don't know where these policies are or 4 those people may long have since been gone, but you just 5 need to call up and start again with the carrier that's 6 still in business and just follow up with their claims 7 people and get a record of who you're speaking to and 8 just keep badgering that person, say "I need to know when 9 you're going to make a determination. Can I call you 10 back in a week and find out?" But that's been the 11 successful route that I have seen taken and have taken 12 myself.</p> <p>13 MR. KELLEY: Can you tell me if going to 14 the Insurance Commission is becoming too squeaky of a 15 wheel to the insurance?</p> <p>16 MR. HUTZ: I would say if you had enough 17 problems and enough level of dissatisfaction, that that 18 may be an area to resolve that. I would say, "Look, I 19 have one claim. I better go to the Insurance 20 Commission," but if you see a series of claims where 21 you're not seeing any resolution and it's a group of 22 insurance carriers or one big set of claims for one 23 carrier, then I would say, yeah, that would be an avenue, 24 to talk to the Insurance Commission.</p> <p>25 MR. KELLEY: Okay. Then there's two issues</p>	<p style="text-align: right;">Page 104</p> <p>1 State Assurance Fund, but we're certainly not going to 2 resolve insurance companies and what they say the claims 3 are going to be. So I'm not really sure of the role you 4 want the agency to play.</p> <p>5 MR. KELLEY: I want the agency to be well 6 informed when it's going down this road making public 7 policy decisions, because one of those decisions that 8 we're making right now that's being bantered around is, 9 this is fund, stamped, sealed, approved by the EPA for 10 half a million dollars of coverage. I know many clients 11 that buy a policy with a million-dollar deductible. The 12 SAF is their financial responsibility assurance for the 13 first half million and that policy is it for the next 14 half million, and they believe they're in compliance with 15 federal law.</p> <p>16 You need to come out today and make a decision 17 on that and put it on the table, what is -- is that going 18 to be the interpretation of financial responsibility 19 interpretation, and that decision will affect if we make 20 certain decisions that's going to make it impossible to 21 get UST insurance in this state.</p> <p>22 MS. DAVIS: I understand. Thank you.</p> <p>23 MR. KELLEY: Now, the last thing that, 24 Shannon, I think we need to get from Dave and Gary and 25 whoever will answer up, is: Gary, AIG policies don't</p>
<p style="text-align: right;">Page 103</p> <p>1 that I think, Shannon, you need to get resolved as this 2 gets resolved. As I'm sitting here and I'm looking at 3 the statute on insurance companies that's been there 4 before us, and as an environmental engineering 5 consultant, we do a lot of work through AIG-funded 6 policies and our experience is that AIG never asks us to 7 prepare a claim for presentation to any state fund 8 anywhere in the state. They understand they're primary 9 and they don't want to go down that road. But then 10 Federated Insurance, on the other hand, has always asked 11 for the money. So we have the full spectrum in front of 12 us, and on one end, I'm hearing Gary say this new 13 interpretation by the DEQ or this new whatever Steve 14 wants to call it, interpretation, application of the law, 15 whatever, AIG is saying, no, it's not going to have any 16 affect on rates. What I'm hearing Dave saying, you 17 better watch out. They're watching. This may affect 18 rates. I don't hear a definitive answer to that 19 question. AIG is saying no; Dave is saying possibly, 20 maybe, watch out.</p> <p>21 MS. DAVIS: So do you want me to --</p> <p>22 MR. KELLEY: Well, you offered up his free 23 time.</p> <p>24 MS. DAVIS: Mr. Chairman, I think that that 25 affects the owners and operators and how they access the</p>	<p style="text-align: right;">Page 105</p> <p>1 have a thing called coordination of benefits, do they? 2 Have you ever heard of this?</p> <p>3 MR. HUTZ: Again, I'm not 100 percent sure.</p> <p>4 MR. KELLEY: Dave, I don't know if you know 5 about the Federated clause, the coordination-of-benefits 6 clause for Federated, that clause says this, in essence 7 in layman's language, we'll keep paying your insurance 8 claim as long as the State Assurance Fund keeps 9 reimbursing us. If we're ever precluded from getting 10 money from the State Assurance Fund, your policy is void. 11 Now, you as a policy decision maker need to decide, am I 12 going to cut my nose off to spite my face, because by 13 denying payment to this insurance company under 1054(e), 14 I'm going to cancel the policy, and I'm going to be left 15 paying the bill for this site. The SAF is paying the 16 bill either way under these sites and just canceling the 17 clients, the owner/operators' policy because of a literal 18 interpretation of 1054(e), which is going to get you 19 right back to where you are today, doesn't seem to make 20 sense to anybody. The State Assurance Fund is leveraging 21 its money by having these companies that have a 22 coordination-of-benefits clause out there, paying for 23 these claims and standing around waiting for the SAF to 24 reimburse them. The SAF is going to pay that money 25 either way. So that's a distinct universe of the past</p>

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1 sins that needs to be evaluated, and if our firm is
 2 representative, that's about 33 percent of the policies
 3 that are out there that are in this realm of insurance
 4 issues, that's about one-third of the policies that have
 5 this coordination-of-benefits clause. So we need to get
 6 that issue answered also.
 7 That was all I had. Thank you, Mr. Chairman.
 8 VICE-CHAIRMAN GILL: Okay.
 9 MR. PEARCE: Can I just add something? I'm
 10 sorry, I want to back up with what Dan just said about
 11 there are statistics that are becoming available about a
 12 portion of the universes coordination-of-benefits
 13 policies that vary significantly, and I didn't even know
 14 you had clients that had those kind of policies, but
 15 there are lots of them. And one thing I want to try and
 16 find out again, not to beat a dead horse, is whether
 17 those kinds of policies with that kind of language are
 18 going to be deemed by the Department to comply with
 19 financial responsibility.
 20 And Shannon, I agree with you. It's not really
 21 your business to get into how much the policies costs and
 22 so forth. We appreciate the opportunity to have this
 23 forum available for that debate, but I think it is really
 24 important for the Department to take a hard look at what
 25 kind of policies of financial responsibility so that

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1 people are compliant, and we've got the deductible issue.
 2 How much -- how large the deductible before you crash the
 3 ceiling and end up with noncompliant policy? There's the
 4 coordination-of-benefit policies, and there's policies
 5 that just flat out say that they're secondary to any
 6 other source for reimbursing the state fund, or maybe
 7 even without saying the state fund, they're interpreted
 8 that way. I just really appreciate picking up again
 9 further, if not before then, then the next Policy
 10 Commission meeting. Thanks.
 11 VICE-CHAIRMAN GILL: As I was going to say,
 12 we're reached the end of our time, and I want to
 13 apologize to Allan because he came here, I think,
 14 specifically for the next item.
 15 So basically the agenda items for the next
 16 meeting are going to be Six, Seven, Eight and Nine, and I
 17 guess Shannon, do you want me to give you a call as far
 18 as what other insurance issues would be on the agenda for
 19 next meeting?
 20 MS. DAVIS: You can run all those through
 21 Ron Kern.
 22 MR. TSIOLIS: I'm going to run a couple of
 23 additional agenda items through Ron Kern as well.
 24 MS. MARTINCIC: When is our next meeting?
 25 VICE-CHAIRMAN GILL: Actually, there was

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1 one other important thing, which I think was the last
 2 thing, Number 12, is there enough people here for the
 3 July 23rd meeting for there to be a meeting?
 4 MS. DAVIS: Any of us that won't be here?
 5 VICE-CHAIRMAN GILL: Okay. The last couple
 6 years, we've canceled that because people are going to be
 7 gone. Okay. So the next meeting will be July 23rd.
 8 Thanks for coming. The meeting is adjourned.
 9 (Whereupon, the proceedings were concluded
 10 at 12:05 p.m.)
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1 COUNTY OF MARICOPA)
) SS.
 2 STATE OF ARIZONA)
 3
 4 I, MARISA L. MONTINI, Certified Court Reporter,
 5 Certificate Number 50176, State of Arizona, do hereby
 6 certify that the foregoing pages, numbered from 1 to 109,
 7 inclusive, constitute a full, true, and accurate
 8 transcript of all proceedings had in the foregoing
 9 matter, all done to the best of my skill and ability.
 10 WITNESS my hand and seal the ____ day of
 11 _____, 2003.
 12
 13
 14 MARISA L. MONTINI, RPR
 Certified Court Reporter
 Certificate Number 50176
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