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ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF ARIZONA

UNDERGROUND STORAGE TANK POLICY COMMISSION MEETING

Phoenix, Arizona
November 19, 2003
9:00 a.m.

PREPARED BY:
Jean M. Albright, RPR
AZ Certified Court Reporter No. 50256

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The UNDERGROUND STORAGE TANK POLICY

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COMMISSION MEETING was held at 9:00 a.m. on November

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19, 2003, at Carnegie Public Library, Basement, 1101

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West Washington, Phoenix, Arizona.

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MEMBERS PRESENT:

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Mr. Mike O'Hara, Chairman

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Mr. Roger Beal

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Mr. Myron Smith

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Ms. Gail Clement

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Mr. Hal Gill

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Ms. Theresa Foster

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Ms. Andrea Martincic

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Ms. Shannon Davis

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Ms. Tamara Huddleston

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1 Phoenix, Arizona
2 November, 19, 2003
3 9:00 a.m.

4 CHAIRMAN O'HARA: I would like to call this
5 meeting to order. Would everyone please take a seat.
6 Thank you. I'm going to call this meeting to order.
7 I'd like to welcome everyone to the November meeting
8 of the UST Policy Commission. I'd like to begin with
9 a call to order and role call starting with Tamara.

10 MS. HUDDLESTON: Tamara Huddleston.

11 MS. DAVIS: Shannon Davis.

12 MS. MARTINCIC: Andrea Martincic.

13 MS. FOSTER: Theresa Foster.

14 CHAIRMAN O'HARA: Mike O'Hara.

15 MR. GILL: Hal Gill.

16 MS. CLEMENT: Gail Clement.

17 MR. SMITH: Myron Smith.

18 MR. BEAL: Roger Beal.

19 CHAIRMAN O'HARA: I'd like to note that
20 George Tsiolis sent me an e-mail. I think he's got a
21 doctor's appointment. He will try to make it at some
22 point, but he might not.

23 I notice that Leandra Lewis -- we got an
24 e-mail on this -- she's no longer working for the
25 organization that she was previously working for. I

1 know she hasn't been to the last several meetings, and
2 I'm wondering maybe if Hal can check on that.

3 MS. DAVIS: Mr. Chairman?

4 CHAIRMAN O'HARA: Yes.

5 MS. DAVIS: I ran into Leandra last night.
6 Dr. Robison (ph.), who's been with your agency for 17
7 years, had a retirement party last night, and Leandra
8 was there. And she's no longer on the commission.
9 She's switched over so we will get that formally on
10 the record.

11 CHAIRMAN O'HARA: Do you guys want to
12 recommend, or are we taking recommendations for
13 someone to replace her?

14 MS. DAVIS: There are several spots on the
15 commission in addition to the Technical Appeals Panel,
16 and the director is wanting names. It's a very slow
17 process for the Governor's office to get those done
18 right now, but, yeah, yes.

19 CHAIRMAN O'HARA: Thank you. The next item
20 on the agenda is the approval of the minutes from
21 October. Did everyone receive the minutes and have an
22 opportunity to review those? Any comments, changes?

23 Motion to approve those?

24 MR. SMITH: I move to approve the minutes.

25 MR. BEAL: I'll second it.

1 CHAIRMAN O'HARA: All those in favor of
2 approving the minutes from October, please say aye.

3 GROUP OF VOICES: Aye.

4 CHAIRMAN O'HARA: All opposed?

5 (No oral response)

6 CHAIRMAN O'HARA: Motion passes.

7 Let's move on to Item 3 ADEQ updates. First
8 item on the agenda is ADEQ report.

9 MS. DAVIS: Just me. Mr. Chairman, a couple
10 of things that I wanted to share with the group as far
11 as a request from the Commission, the first
12 announcement that was announced actually at the round
13 table, but I wanted to make it to the Commission is I
14 have Ian Bingham is no longer the Section Manager of
15 the program. He is still with Waste Programs
16 Division, but will be coordinating on enforcement,
17 with two lawyers for bosses, binding and coordinating
18 enforcement. And all the legal aspects have increased
19 dramatically.

20 I've asked Joe Drosendahl -- I'm sure
21 everyone knows Joe sitting there, to step in as
22 acting.

23 I think the most important thing is we need
24 to keep our momentum going. I think we have made
25 tremendous strides as an agency over the last year,

1 tremendous strides, and also, as I refer to it as the
2 UST Committee, and that includes the agency, the
3 regulating community, just everyone who has a piece of
4 the program.

5 So Joe comes -- one of the reasons I selected
6 Joe is because of his longevity with the program, his
7 credibility and good relationships with SAF as well as
8 the regulating community. Joe has a lot of technical
9 expertise. And seeing as biology is my background,
10 I'm going to be relying on Joe a lot for his
11 technical. He will continue to work closely with the
12 Technical Subcommittee with those issues.

13 Usually in an agency bureacracy, when you
14 name someone acting, it usually means that they're
15 just kind of holding steady. That's not the case
16 here. He and I will be working with staff and the
17 Commission and the management to continue to
18 implement, I think, the good work that has gone on.

19 And so, Joe, welcome.

20 MR. DROSENDAHL: Thank you.

21 MS. DAVIS: Thank you for stepping up. You
22 may be sorry. Thank you.

23 And also, Joe will be bringing a few more
24 members of staff. We have a couple of -- Dave
25 Brouchard (ph.) and Laurie Evans in the back. They

1 are two of our case managers. And then Chris
2 Henninger here at the front, he was instrumental in
3 the backlog, getting the backlog down, and he will be
4 filling some of Joe's responsibilities that Joe had
5 prior to being acting. And Chris has experience in
6 the private sector and has come to us and does have
7 this job. So we are going forward.

8 The next thing has to do with one of our
9 favorite themes, if you will, and that is of
10 communication. And the agency has a lot of things to
11 look at in terms of communication and the timing of
12 that and the notification, including people up front
13 being proactive and all those kinds of things,
14 technically money-wise.

15 I have a request of the Commission to help us
16 in that way. And it's important to the Commission to
17 be very discerning about the information that you've
18 asked of staff to bring back. We are really working
19 double time, and we are happy to do that, but I want
20 to make sure that the requests that come from the
21 Commission for the kinds of work and research fold
22 into the plan.

23 And the other thing is to be really clear
24 about what you want from the agency, and part of that
25 also will fold into sending out the agendas. And I'm

1 really committed that we get packets out, that we're
2 able to mail those from the agency on the Friday
3 before. So that means that we need to understand all
4 the agenda item requests because when we see a line on
5 the agenda, we don't necessarily know what is needed
6 and back. And Al is the guy responsible for making
7 sure that everything works and flows with the
8 Commission.

9 So, Mike, when people send agenda items to
10 you, if you could just be clear on what's needed.
11 It's very difficult when we get something on a Friday
12 to turn it around, to get the right staff and to get
13 the information. We want to serve and get the right
14 information. So I ask your help in getting stuff in a
15 really clear way and in a prioritized way.

16 So that's what I have.

17 CHAIRMAN O'HARA: Great. Thank you. Just I
18 want to make a short comment on that. I know that we
19 are trying to -- I have tried to move all agenda items
20 to discussion at this meeting so that there are no
21 surprises. And, hopefully, there aren't on this one,
22 unless there is an emergency item.

23 The only issue that I think Hal and I have
24 struggled with on the agenda and getting it out
25 somewhat earlier is the fact that he has Technical

1 Subcommittee meetings. To the extent that this is
2 okay, the way we did it at this point, that it's just
3 a blank subcommittee that doesn't really go into
4 details, and we can go ahead and get that out in a
5 couple of weeks.

6 Any other comments or questions for Shannon?

7 MS. DAVIS: Mr. Chairman, I would, from an
8 open meeting point of view of Hal just to make sure,
9 and Joe, that when we put stuff on the agenda and
10 there is a decision to be made around an issue, we
11 need to get that on the agenda, just Open Meeting Law.
12 We need to let folks know what, as a public body, what
13 we're taking action on, okay?

14 MR. GILL: Yeah. The only reason it's been
15 blank the last couple of meetings is because there has
16 been nothing specific to go into. But definitely, if
17 there is something we are going to be voting on or
18 something specific, obviously.

19 CHAIRMAN O'HARA: That brings back the issue,
20 what is the timing of trying to incorporate that into
21 the agenda? As we have just discussed, your meetings
22 were usually a week or two before this one.

23 MR. GILL: And what we had decided last time
24 is that meetings are typically on Wednesday. They
25 fluctuated last month, but we try to have the summary

1 and the agenda items by the following Monday. That
2 gives two weeks.

3 CHAIRMAN O'HARA: Okay. Any comments or
4 questions for Shannon?

5 Thank you for the update, Shannon.

6 Moving on to Item B is the SAF monthly
7 report. I believe Tara Rosie is going to present
8 that.

9 MS. ROSIE: I believe you have a copy of the
10 individual reporting for the SAF status. We made 101
11 interim determinations last month, and 72 new
12 applications came into the door. Our total SAF
13 applications are under 200. There is also attached
14 snapshot picture of the SAF formal appeals.

15 CHAIRMAN O'HARA: Great. Any other questions
16 for Tara and on the update?

17 MS. MARTINCIC: I have a question. It looks
18 like from the graph there, actually since August,
19 there's been an increase in applications. I mean, is
20 there any kind of reason for that? Do you think --

21 MS. ROSIE: An increase in applications
22 received?

23 MS. MARTINCIC: Yeah.

24 MS. ROSIE: I'm not sure.

25 MS. MARTINCIC: By quite a bit.

1 CHAIRMAN O'HARA: Compared to last year.

2 MS. MARTINCIC: Yeah.

3 CHAIRMAN O'HARA: Any comments or questions
4 for Rosie?

5 Keep up the good work. That's great.

6 Moving on to Item C, UST corrective action
7 workload status report from Joe Drosendahl.

8 MR. DROSENDAHL: Again, in your packet, you
9 have our productivity for the month of October. And
10 as I calculated, during October there were 29
11 decisions made by the Section.

12 And in the future, I'm going to work with
13 Shannon to make our reporting as clear as possible
14 which might include adding some graphs showing the
15 trends.

16 MS. CLEMENT: Mr. Chairman, question for Joe.

17 Joe, did you have -- When I look at these
18 numbers, it looks like you're still having a time
19 delay in terms of being able to review documents. Are
20 you still trying to catch up, or is it just the normal
21 flux that you see in the program?

22 MR. DROSENDAHL: On here it doesn't say, you
23 know, how many are over a certain period of time. I
24 talked with Pezman (ph.) yesterday, and pretty much
25 there's not many over 120 days. So pretty much, I

1 think, the majority of the reports that are
2 outstanding to be reviewed are less than 120 days. So
3 pretty much, you know, anything over 120 days would be
4 kind of like a backlog. This kind of reflects just
5 our workload.

6 MS. CLEMENT: Thank you.

7 MR. GILL: Mr. Chairman, Joe, on your Cap
8 Status Report, I don't know if you were going to go on
9 to that or if this was all-inclusive.

10 MR. DROSENDAHL: You know, basically, if
11 anyone has any questions on any others, let me know.

12 MR. GILL: The question I have again, the
13 concern I have again, is similar to what we did with
14 SAF and asking SAF to come forward to try to figure
15 out what they felt were the largest number of reasons
16 for denials or reasons for appeals or whatever.

17 I notice again on the Cap Status Report that,
18 with the exception of one of the 15 or 20 that are
19 here, there is one approved, and all the rest of them
20 are notice of decisions. Is that what that is?

21 MS. DAVIS: Deficiencies.

22 MR. GILL: So basically, it looks like things
23 are not moving for whatever reason. I wonder if there
24 is any way that you can look at that, and is there an
25 easy way to find out what is it that is causing all

1 the denials.

2 MR. DROSENDAHL: Yeah. I'm in the process of
3 talking to staff to develop like the top 10 reasons
4 why caps are found to be deficient. And I'm going to
5 be, you know, putting that out on the Web and also
6 presenting to the Policy Commission. I'm also going
7 to be doing the same thing for secularization reports
8 and Lust case closure reports. If there is any kind
9 of major report that we have, just come up with the
10 top 10 reasons why we are finding them to be deficient
11 and giving them out to people.

12 MS. MARTINCIC: I brought that up at the last
13 meeting too, and I appreciate that, that you're going
14 to do that. Is there any way that you can include as
15 well as with the top 10 list if there was particular
16 information you need for that, like people saying one
17 of the top 10 is that -- I don't know, give me an
18 example -- If there's a remedy, I guess, for that, can
19 we include it?

20 MR. DROSENDAHL: Oh, yeah. I'll make it
21 clear that what we --

22 MS. MARTINCIC: If someone sees a top 10
23 list, that's helpful, but then they may say: What
24 specifically do I need to do to address that issue?
25 And that's the reason I'm asking.

1 MR. DOSENDAHL: I'll make it clear what they
2 need to do to not come under the top 10.

3 MS. DAVIS: Mr. Chairman, could I speak to
4 this chart?

5 One of the things in senior management that
6 there's been a focus on over the last year has been
7 corrective action plans. We are not receiving as many
8 as we used to. If you just take a look on the status
9 report of the caps, there's 13 where notice of
10 deficiencies were given.

11 But I think the important thing is to look at
12 when those were received. We were dealing with a, you
13 know, old caps that we hadn't gotten to and were
14 digging out. Those were received all the way from the
15 year 2000 ,or 1999 up until this year, '03. So a lot
16 of those caps were old. And anytime you try to review
17 an old cap, we are going to run into problems on it.

18 So I think, in part, this also reflects the
19 backlog that corrective actions were getting out, and
20 they were old. And those are going to tend to be more
21 problematic with deficiencies than something that is
22 in the current review cycle that we are staying on top
23 of in an interim way.

24 So I wanted to offer that. A lot of those
25 were old, and the notice of deficiencies, the 13 of

1 them spread over like a four-year period. So I think
2 that's important for the data.

3 MS. MARTINCIC: I have a question, and I
4 don't know if really there is an answer for it. On
5 the request for Lust closure status report, there's a
6 number of disapprovals where the agency has not
7 approved a request for closure. Are those denials --
8 is there any way that you can do a similar thing that
9 you are doing for the NRD, or are they two separate?

10 MR. DROSENDAHL: Oh, no. I'm going to do the
11 same for those, what the top 10 reasons are why those
12 might be --

13 MS. MARTINCIC: Be denied.

14 MR. DROSENDAHL: Denied, right.

15 MS. MARTINCIC: Gotcha'. Thank you.

16 CHAIRMAN O'HARA: Any comments or questions
17 for Joe?

18 Joe, did you address -- I know you did the
19 second item there, common deficiencies of corrective
20 action plan, and you're developing a list of 10.
21 Maybe I missed. The number of new releases, is that
22 also forthcoming?

23 MR. DROSENDAHL: Oh, yes. As you can expect,
24 it's been a little crazy.

25 CHAIRMAN O'HARA: Yeah, I'm sure.

1 MR. DROSENDAHL: And I will get that.

2 CHAIRMAN O'HARA: Okay, great. Thank you
3 very much.

4 MS. CLEMENT: You know, Joe, when you do
5 that, one of the questions we asked last time, and
6 this is, I think, one of the points Shannon was
7 making, we wanted to know, for the new releases, what
8 type of tanks were being -- causing or, you know,
9 associated with the new releases, so if there's a
10 pattern. Is it possible to capture that, or are you
11 going to have to do that site specifically?

12 MR. DROSENDAHL: It depends on what
13 information we have and lost track. So basically,
14 what it says here is the number of new releases from
15 upgraded tanks.

16 Basically, you want to know, of the new
17 releases, how many are from updated tanks; how many
18 are from old tanks; how many are from a like
19 abandoned, you know?

20 MS. CLEMENT: That, and even if it's an
21 upgraded tank, whether it's double-walled or another
22 system, you know, I guess what we are trying to get
23 our arms around is: How do we stop releases from
24 occurring, and is it associated with this type of tank
25 that is in place?

1 MR. DROSENDAHL: The information I will be
2 able to provide depends on what information is
3 captured and lost track. We may not capture some of
4 that information, but I'll do my best.

5 MR. SMITH: Do we need a discussion on
6 upgraded/not upgraded? I think we are -- there's some
7 confusion on what the definition is. Really, all
8 operating facilities that dispense gasoline have to be
9 upgraded. And I think we are confusing upgraded/not
10 upgraded maybe with double-walled
11 systems/non-double-walled systems or steel tanks or
12 whatever. So we need a discussion really on what
13 upgraded means and better defining for Joe and for Ron
14 when we ask for information.

15 MS. CLEMENT: What I'm looking for is the
16 type of upgrading also, not just --

17 CHAIRMAN O'HARA: Do you understand that?

18 MR. KERN: No, I don't. I'd just like to
19 clarify -- This is ADEQ, Ron Kern. I'd just like to
20 clarify what the upgrades required, and that was on
21 existing tanks that were in place before 1988.
22 Upgrades only related to overfill and spill, which
23 essentially is at the fill port, and corrosion
24 protection. It doesn't really relate to release
25 detection or anything like that or types of tanks

1 specifically.

2 So I just want to clarify for the Commission
3 where the upgrade requirements, federal upgrade
4 requirements, dealt with the tank system.

5 MS. CLEMENT: Mr. Chairman, Ron, do you
6 capture in your database, Ron, though, the type of
7 tank that's in place?.

8 MR. KERN: Yes, we do, but, as Joe said, I'm
9 not sure how much we capture it because basically it
10 boils down to we don't have any authority right now on
11 the type of tank that's put into the ground. That may
12 come up in federal legislation. I don't know. So we
13 capture it, but I'm not sure how diligently we have
14 captured it.

15 MR. SMITH: But in the database, there is
16 information as to exactly what type of tank is in the
17 ground.

18 MR. KERN: We basically say that FRP is
19 steel, double-walled. We ask for that information.
20 We may or may not get it in the notification form. We
21 take that straight from the notification form, which,
22 in effect, is a registration form we receive from the
23 owner/operator.

24 MR. SMITH: Right. And from the 14-day
25 report, which is due on the discovery of a leak, in

1 that 14-day report, it should identify where the leak
2 came from, right?

3 MR. DROSENDAHL: Uh-huh.

4 MR. KERN: Within reason, it does.

5 MR. SMITH: Yeah, all within reason, but
6 nothing is really, truly electronic. It could be
7 sorted easily. This I believe, and correct me, Joe,
8 Ron, if I'm wrong, would be quite a diligent effort on
9 the part of the ADEQ to really go through the records
10 and come up with where the leak was and then go to Ron
11 and say, okay, the leak came from this type of system.
12 It's there, but it's in papers and files.

13 MR. KERN: I think we basically understand if
14 we want that request from the Commission, Joe and I
15 can look at what kind is do-able and get back to you
16 as to what sort of, and the quality of, information
17 that we can provide you, what caveats might be
18 associated with that information.

19 MS. CLEMENT: Mr. Chairman and Ron, when you
20 come back to us, also tell us if the cost benefits are
21 there. If it's going to take five people 40 days,
22 that's not going to be worth it, I think, in terms of
23 your overall responsibilities right now.

24 CHAIRMAN O'HARA: Is that clear?.

25 MR. KERN: Yes.

1 CHAIRMAN O'HARA: Any comments?

2 Item Number D is the number of double-walled
3 versus other types of tanks, similar subject. Ron?

4 MR. KERN: For the record, Ron Kern, ADEQ.
5 And here's another situation whereby I pulled the best
6 available information off the database. I'll just put
7 in the general disclaimer that it's the best available
8 information.

9 And pretty much, we regulate currently,
10 actively, say active tanks out there, we regulate
11 about 7,500 UST throughout the state. And our best
12 available information shows that roughly 2,400 of
13 those are double-walled, which means roughly a third
14 of those tanks out there are double-walled.

15 CHAIRMAN O'HARA: And the other ones are just
16 a mix of --

17 MR. KERN: They're just a mix of everything
18 else out there, single-walled, secondary containment,
19 across the board.

20 MS. DAVIS: Mr. Chairman, and you can shoot
21 me for this, Ron, do we have any correlation between
22 the double-walled and leak prevention? Has there
23 been, not necessarily in our database in our state,
24 has there been a correlation made anywhere between
25 double-walled and better leak prevention? Have you

1 seen that anywhere?

2 MR. KERN: Yeah. The answer is yes. There
3 are various states that have looked at it. California
4 has been big into that one. In fact, they are
5 requiring double-walled tanks right now and all FRP,
6 or fiberglass reinforced plastic, tanks.

7 And there is a move in federal legislation,
8 pending which bill goes through and what version of
9 the bill goes through, to either go with some form of
10 secondary containment or, in some respect,
11 double-walled systems with your interstitial
12 monitoring.

13 So basically, at least intrinsically, there's
14 this belief that releases will continue from tanks,
15 and we have got to have some way to capture that
16 release. So that's being looked at on the federal
17 level. And various states have opted to go with new
18 systems and with replacement of old systems with
19 double-walled type systems.

20 CHAIRMAN O'HARA: So there may be, either on
21 a state basis or federal basis, another round of
22 upgrades and tank removals?

23 MR. KERN: It's possible. I mean, again,
24 Arizona marches to the federal. But I mean there are
25 various members here who know that there is federal

1 legislation out there on the congressional legislation
2 right now. There's various bills. I was just talking
3 with John Kennedy this morning. Apparently a bill
4 made it through the whole house. It's gone back to
5 the senate for approval. The senate was the original
6 perpetrator of the Underground Storage Tank Compliance
7 Act of 2003.

8 So it looks like there's something coming our
9 way. What that bottom line is, that again relates to
10 inspection cycles, be it two or three year; that
11 relates to operator training; that relates to
12 capturing releases. I've seen things related to
13 secondary containment to double-walled to having the
14 federal government sponsor or facilitate a meeting
15 between the states and the feds to say what sort of
16 systems should we be talking about in rule to capture
17 releases adequately, recognizing that releases will
18 continue to occur.

19 CHAIRMAN O'HARA: So, you mean if this was
20 California, we would have had those type of
21 regulations that would require double-walled tanks,
22 that two-thirds of ours would not have those
23 requirements and have to be upgraded?

24 MR. KERN: Yeah. And I'm afraid -- Maybe
25 somebody else knows. I don't know if they have a

1 retrofit requirement. I mean you can basically
2 retrofit it by doing it inside. That's a little bit
3 expensive, but all new systems, I think across the
4 board in California, are supposed to be double-walled
5 with interstitial.

6 CHAIRMAN O'HARA: Do you know how long they
7 have had that?

8 MR. KERN: A year or two.

9 MR. SMITH: I know Florida, at the onset of
10 the '98 regs, put in a state regulation of, I believe,
11 by 2010 all tanks had to be double-walled tanks in the
12 state of Florida.

13 To Ron's comment on going inside of a tank
14 and either lining or building another tank inside of a
15 tank, it's about half the cost of installing new tanks
16 in a system.

17 CHAIRMAN O'HARA: Okay. My only thought is
18 if you were going to put in new tanks, you may get a
19 lot more releases related to that. If you're saving
20 the lining without invading the ground, you probably
21 wouldn't get releases. Great, thank you.

22 Any comments or questions?

23 Moving on to Item E, status of the Maricopa
24 versus non-Maricopa funds and the possibility of
25 combining the two funds. And I think the outstanding

1 item from the minutes was to get some type of a legal
2 opinion of doing it internally versus of getting some
3 type of legislation or change in statute.

4 MS. HUDDLESTON: Barbara is out sick. She
5 spoke to me late last week. And if I can summarize
6 what she said, it will take a legislative change. I
7 don't know enough about the statutes to walk you
8 through her argument because the statutes speak in
9 terms of the funds being placed in separate accounts.
10 It never actually talks about what comes out of those
11 accounts, if I followed correctly.

12 So we need to have Barbara give you a better
13 understanding next time, but it was her position it
14 would take a legislative change even for a one-time
15 payment.

16 MS. CLEMENT: Mr. Chairman, my question was:
17 Is there any kind of an accounting process that one
18 could follow to borrow from one and then pay back over
19 time?

20 MS. HUDDLESTON: That would be out of my
21 area.

22 MR. ROCHA: Good morning. My name is Bob
23 Rocha for the record. To answer your question, there
24 are many different accounting processes that you can
25 use. The issue remains to be a legal question in

1 state accounting. We are, by law, a cash basis and
2 many attorney generals' opinions have been put forth
3 that the State of Arizona is on a cash basis.

4 Borrowing is not an option that is available
5 to an organization at its own discretion because it's
6 constitutional prohibited, lending. And us, as public
7 officials, are prohibited from exercising powers we do
8 not have within the statutes. So the answer is no.

9 MS. CLEMENT: No, okay. Thank you. Since
10 the legislature borrows, I thought maybe the program
11 could borrow.

12 MR. SMITH: No. Why don't you ask Ron what
13 it undertakes.

14 MS. CLEMENT: I'm being polite.

15 MR. SMITH: I'm not.

16 CHAIRMAN O'HARA: Any other comments or
17 questions on this issue? I know members of the
18 regulatory community feel very strongly about these
19 funds being separated.

20 MS. MARTINCIC: I'll just reiterate for the
21 record that APMA is opposed to transferring funds from
22 the rural areas to pay for Maricopa County releases.
23 I think that was reflected in the last meeting's
24 minutes, and I'll put it on the record again.

25 CHAIRMAN O'HARA: So just from an information

1 standpoint, do we want to study this issue further?
2 And, obviously, the legislature may see a pot of money
3 in non-Maricopa. Does the Commission want to make a
4 recommendation regarding Maricopa versus non-Maricopa
5 funding, or is it more of a political issue?

6 MR. SMITH: The only thing I would weigh in
7 on is if ADEQ or Bob Rocha can give us some insight on
8 how we can protect non-Maricopa funds.

9 MS. HUDDLESTON: Spend it.

10 MR. SMITH: Other than spend it.

11 CHAIRMAN O'HARA: There are not claims. Or
12 there may be claims. I don't think I've ever made
13 any claims.

14 MS. MARTINCIC: Well, and that's the point
15 I've been bringing up at these meetings, that, you
16 know, a large portion of my members are located in
17 non-Maricopa, and I've been told by them that, you
18 know, they're in a state of limbo due to the current
19 insurance situation. And, you know, depending on how
20 much those claims are worth, that's an issue to
21 consider, so --

22 MR. GILL: So, in other words, there may not
23 be a surplus after all.

24 MS. MARTINCIC: Yeah, that's my belief.

25 CHAIRMAN O'HARA: We will continue to monitor

1 that situation. I really want to commend the
2 department and Judy for bringing forth and proposing
3 that solution because it's really in the interest of,
4 like the unencumbering funds, it's really in the
5 interest of owner/operators to get paid sooner. This
6 is another solution that would further that goal. We
7 will just monitor it as it goes along.

8 MS. DAVIS: Mr. Chairman, I think it's
9 germane to remind this is strictly a political comment
10 that our leadership at the legislature, both on the
11 house and the senate side, represent rural areas, so
12 Senator Bennett and Representative Flake. And that
13 would also have a tremendous influence on that. So I
14 think that's important to put in the record.

15 CHAIRMAN O'HARA: Thank you.

16 Any other comments or questions at this time?

17 Moving on to Item F, website information on
18 other states' assurance funds, update by Ron Kern.

19 MR. KERN: Yes. At the last meeting, there
20 was a request for what the other states are doing.
21 And we mentioned that the Association of State and
22 Territorial Solid Waste Management officials had some
23 information. They had information through their 2002
24 fund results. And I e-mailed that to everybody on
25 October 27th, so, hopefully, everybody was able to

1 access that.

2 What hadn't been updated was the 2003 fund
3 survey. And you will notice that in your packets
4 under "Other Business" is the information related to
5 the 2003 fund survey. Basically that draft -- I've
6 talked with the people in Washington about that --
7 it's still draft, and that's why it's not up on the
8 website because New York and Texas -- I believe it's
9 New York and Texax -- have not -- yeah, have not
10 finalized their information in that.

11 So this is still open, but this is for your
12 reading pleasure, I suppose. And I guess if you have
13 specific questions about that, I'll look over to Tara
14 Rosie or Judy Navarrete or Bob Rocha to talk about the
15 fund related issues, or we can look on this. It goes
16 across the program types of information that are
17 there. So we can look at who might be the appropriate
18 person to field any questions you might have.

19 CHAIRMAN O'HARA: Thank you, Ron.

20 MS. DAVIS: Mr. Chairman, I was at a
21 conference last meeting, so I wasn't here for this
22 discussion. Actually, I was sitting in meetings where
23 they were talking about these kinds of things.

24 But I think what's missing for me is: What
25 would the Commission like to see? I wasn't quite

1 sure. I mean I know there's other -- there's 49 other
2 ways this thing works. And I just want to know what
3 the Commission would like to get out of it, so if
4 there was an analysis of a particular piece of it
5 or --

6 CHAIRMAN O'HARA: Well, specifically,
7 Shannon, it was related to the discussion on
8 phase-out, if I recall. We wanted to see -- In the
9 discussion of phase-out, we were going to propose a
10 phase-out date. There were questions asked to whether
11 insurance becomes much more expensive, affordable or
12 available given the fact that there were some states
13 that have already had a phase-out in place.

14 We wanted to try, first of all, see how many
15 states had a phase-out. Then maybe once we get this
16 information and go forward and say: Let's see if we
17 can get some assurance information from those states
18 and see how their premiums are on there.

19 MS. MARTINCIC: Right. I picked up a copy of
20 that survey a couple of weeks ago from Ron. There are
21 nine states that have transitioned to private
22 insurance. They're not our surrounding states. And
23 our surrounding states don't have an eligibility
24 phase-out date. I thought that was interesting.

25

But I also found, in doing some more research

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30

1 through that website, there is available a checklist
2 on this very issue of transitioning a state assurance
3 fund to private insurance. It's almost three or four
4 pages of very serious questions that need to be
5 answered that touch all bases of the program.

6 And I just think this would be a good
7 starting point for both ADEQ and the Commission to
8 really, you know, analyze and research what kind of
9 impact this kind of a movement has. So I'd be glad
10 to -- Like I said, I pulled it off their Web. It's
11 available for everyone. It was done in 2002, December
12 of 2002. It speaks to the very issue that I think is
13 at the heart of everything here.

14 CHAIRMAN O'HARA: Can we have this discussion
15 in about two more items?

16 MS. MARTINCIC: Yeah. I was going to bring
17 it up on the insurance, but I know it's the same
18 source as the survey of the states.

19 CHAIRMAN O'HARA: I know you are aware,
20 Andrea, and I don't know if everyone is aware, that we
21 have several owner/operators who want to testify on
22 the phase-out issue. So I want to make sure they're
23 available for that time.

24 MS. MARTINCIC: Sure.

25

CHAIRMAN O'HARA: Thank you, Ron, for

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31

1 providing that draft. I assume when it's finalized,
2 it will be posted to the website.

3 MR. KERN: That's my assumption.

4 MS. CLEMENT: I just have one question,
5 Mr. Chairman and Ron. When I look at this, and maybe
6 I'm not reading it very carefully, but they have a
7 price on Table 1 for cleanup, I think it is. It's
8 average cost per site at closure. And it's one, two,
9 three, four, five, six, seven, eight, nine, ten,
10 eleven, twelve, thirteen, fourteen, fifteen down.

11 CHAIRMAN O'HARA: On the very first page?

12 MS. CLEMENT: Yeah, on the very first.

13 CHAIRMAN O'HARA: Summary or Table 1?

14 MS. CLEMENT: The very first page of the
15 materials we received. Is that the actual total cost
16 of the investigation and mediation on an average basis
17 for all the sites that are in this database?

18 MR. KERN: That's my assumption. There is a
19 little bit more detail within the tables. It's
20 difficult when you're compiling information like this
21 to say: Is this all apples and apples, or what are
22 they reporting in some of this information.

23 I will tell you, just, going through this

24 whole set of tables, I do see some wrong information.
25 So all I can say is yes, I think the intent is that is

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32

1 the average cost at closure. Wait a second. This
2 site doesn't need any remediation. It's closed all
3 the way to a tremendous groundwater clean-up site.

4 MS. CLEMENT: But this is what the average
5 number appears to come out to. How that would relate
6 to the cost in Arizona, are we in this range, or are
7 we way, way much higher?

8 MR. KERN: Some of the details might be
9 there, and, again, I don't know how that was reported.

10 MS. MARTINCIC: There are like three
11 separate-- I'm kind of familiar with the survey.
12 There are three separate actual tables, and they each
13 cover different issues. You have to kind of look at
14 them because it will go through each state for each of
15 the different headings of issues, and they do get into
16 a little more detail.

17 MS. CLEMENT: But it would be our assumption
18 that our numbers would be higher than this
19 considerably or not?

20 MS. DAVIS: Mr. Chairman, you know I'm at
21 60,000 feet on this, but generally what I've seen
22 nationwide would be closure costs of from \$100,000 to
23 \$200,000, and that is from characterization through

24 closure, on closure, up to and unrestricted, I would
25 say.

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33

1 I don't have the same numbers here, but
2 generally speaking, I would say our numbers are
3 higher. But I think that's an important thing for us
4 to evaluate before we come out and say that.

5 MS. CLEMENT: What I'm trying to get at is
6 the cost issue.

7 MR. SMITH: Gail, I just quickly looked
8 through here. It's the third table. If I'm reading
9 this right, Arizona average cost per site is being
10 listed at approximately \$51,000.

11 MS. CLEMENT: \$51,000?

12 MR. SMITH: That's what is on the table.

13 MS. FOSTER: If you can read the table.

14 MR. SMITH: Well, it's Table 3.

15 MS. CLEMENT: You have better eyes than I do.

16 MR. SMITH: No. I have bifocals.

17 MR. GILL: I think a lot more work needs to
18 be done looking at the individual states before we can
19 rely on any of this data because that makes no sense
20 compared to what I'm familiar with.

21 MR. KERN: As I mentioned, there is a
22 disclaimer with this table.

23 CHAIRMAN O'HARA: It might be math pay out

24 versus the number of sites because it looks like it's
25 billed that way.

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34

1 MS. MARTINCIC: The other thing I think is
2 interesting to look at whether you're looking at other
3 states, to look at the states, surrounding current
4 states, because that's going to affect your market and
5 all of that, obviously.

6 I think it's interesting to try to compare
7 the states. They give you the total number of sites
8 in a state. And so what may work for a state that has
9 much less UST sites than Arizona is just something to
10 keep in mind. I found a lot of valuable information
11 in it.

12 CHAIRMAN O'HARA: Any comments on the website
13 information?

14 Thank you, Ron. I appreciate it.

15 Moving on to Item 4 is an update of UST
16 stakeholder meetings. Shannon Davis.

17 MS. DAVIS: Just to report out to the people
18 here who aren't on the round table, we had -- the
19 process that we followed is we had a series of six
20 meetings, the first with the director of the agency;
21 the next four were a working group, three-hour
22 meetings. Then we followed up with a final meeting
23 for this phase with the director last Friday.

24 Essentially what that group has done is,
25 through starting out with a brainstorming, is to list

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35

1 out all of the issues that were raised within the
2 rule. We did a go-around. And then we also received
3 a dozen or two pieces of correspondence whose issues
4 or concerns were also folded into that process. So
5 concerns both from the people at the round table, from
6 their constituencies, the people that they represent
7 and then also correspondence that was encouraged from
8 the outside to get the issues on the table.

9 And there were nine issues, or nine areas,
10 shall we say, and then those areas were prioritized.
11 But I want to stress, as I always do, that there were
12 nine issues that made the page that people felt that
13 those nine issues were important. And I'll roll
14 through those quickly. Management issues within the
15 agency, phasing out of the SAF, which we are going to
16 get to in a minute here, the insurance issue whether
17 insurance is primary or the SAF is primary, issue of
18 leak prevention, clean-up and closure requirements,
19 technical issues, cost containment, legal issues and
20 volunteer issues.

21 And there is a chart that lists out these
22 kinds of the concerns. It's more of a definition of
23 those and potential solutions. I'm not going to dive

24 into that. It would take a long time, but, Al, we
25 need to get people, anybody who's interested, copies

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36

1 of these packets that list out the concerns or the
2 tables where they're bedded.

3 So the next step is really what this has done
4 is laid out a very, very large framework, I think, for
5 what this program and what the community needs to be
6 addressing as we go forward. And I mean, this
7 whole -- This is a very comprehensive look at the
8 program, and there's not going to be a piece of
9 legislation that addresses this. I think that there
10 will be iterative legislation over time.

11 There will be work issues on the management
12 issues side that will be developed with time lines and
13 performance measures. The technical issues, the group
14 recommended that those technical issues go through a
15 current working technical subcommittee and the policy
16 commission. One way I've also looked at it is what
17 needs to happen in the rule, what needs to happen in
18 statute and what the agency can take on. I think the
19 agency has some of its charts set out before it.

20 Legislatively Ron's report that there was the
21 desire expressed at the round table with my director
22 that any legislation that come out looking at things
23 specifically, like making the State Assurance Fund the

24 primary financial mechanism and any financial
25 responsibility. The secondary mechanism, and that was

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37

1 probably the most forceful recommendation, that would
2 probably need to occur in legislation and some other
3 issues along with that.

4 And I met with my director late yesterday,
5 and I think we need to sort of sit down and see how
6 much of a consensus bill that we can develop. I know
7 that the Governor doesn't want, you know, people
8 fighting out on the house and senate floor, and I
9 don't think any of us do either. I think we can
10 slowly move ahead on consensus legislation on issues
11 that wraps in some of the issues from the round table.

12 I think the other issue I want to bring up,
13 especially in meetings when the insurance issue came
14 up and the strong recommendation to make the state
15 insurance primary, the primary pool of money for the
16 clean-up, it was immediately coupled with, are we
17 going to phase out the eligibility of the State
18 Assurance Fund. And we are all pretty clear on where
19 we want to head on the insurance piece of it, which I
20 think is some consensus legislation.

21 But I think we're not clear on what the
22 trigger points would be on the phasing out of the
23 eligibility for SAF. Just to deliver to the

24 Commission, my director would certainly, seeing as the
25 Policy Commission is charged with the fund, and when

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38

1 it gets phased it, he would like to see, I think, some
2 brain work and some good discussions and a
3 recommendation coming from the Commission on that. So
4 we have got a lot of issues to address.

5 Another issue that came up, which we didn't
6 spend a lot of time on, but on the page, was the issue
7 of volunteers. What I will be doing is circling back
8 and asking some of the people on the round table to
9 again give me a couple of meetings of time as well as
10 a couple of representatives of the volunteer community
11 to specifically address that basket of issues with
12 volunteers.

13 So I think I've covered the guts of that.

14 Some of you were there so you can speak up. But I
15 really do want to say to the Commission is that I
16 think it's important for us to take on the SAF
17 eligibility, talk about phase-out. One, the director
18 would like to see that; and, two, I think if we go
19 down to the legislature on anything, the legislature
20 is going to ask of us or anybody who stands up and
21 talks about this program. We are going to need to
22 come with some thoughtfulness around what do we
23 recommend or what do we see as the future of the fund.

24 One other point I've got, Chris Horton is
25 with the auditor's office. He has been doing a

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39

1 tremendous amount of research on underground storage
2 tanks specifically with the SAF program.

3 Chris, if I'm remembering right, your folds
4 are going to be coming to the agency with
5 recommendations drafted in February. So the auditor
6 will also be coming forward with some recommendations.
7 So lots of stuff coming together with recommendations
8 from the round table, the legislative study committee
9 that's in session now, who owes recommendations by the
10 end of the year, and the auditor's report drafted in
11 February.

12 So just know there is a convergence of
13 recommendations coming.

14 CHAIRMAN O'HARA: Thank you, Shannon.

15 MS. CLEMENT: I just want to emphasize that
16 one thing that came out as a consensus point, and it's
17 very important shift in the program, is active
18 clean-up versus risk assessment and process. And for
19 the abandonment of all, we felt that the program needs
20 to focus on cleaning up the environment and protecting
21 the public's health instead of fund preservation and
22 long-term liabilities that continue on over time. So
23 I think that's going to create a completely new

24 paradyne in some cases. I'm really excited about
25 that.

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40

1 CHAIRMAN O'HARA: Shannon, I know during the
2 stakeholder meeting, there were certain items that we
3 said require statutory change. There were certain
4 items I think we wanted to send to the Commission to
5 get some recommendations on. One was phase-out. I
6 know of phase-out. Are there others that you want
7 this Commission to make some recommendation on? If
8 there are, would you bring those forward.

9 MS. DAVIS: Thank you. Mr. Chairman, that's
10 a great suggestion. Ron had drafted a table for me
11 that put in the statutes and rule and what internally.
12 And then what we will do is a fourth call and then
13 maybe perhaps lay out the Commission's homework for
14 you a little bit better.

15 CHAIRMAN O'HARA: Any comments or questions
16 for Shannon at the round table? Thank you.

17 Let's move on to the big issue today. As
18 Shannon mentioned, this Commission has been mandated
19 since it's inception to make recommendation on phasing
20 out the State Assurance Fund -- or let me rephrase
21 that -- phasing out eligibility of the State Assurance
22 Fund. We have studied the issues several times in the
23 past and been unable to make a recommendation, but

24 we're going to try again.

25 And what I want to start with as a good

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41

1 segway is the recommendation that came from the round
2 table. And let me just read that for the benefit of
3 those of you who haven't seen it. The round table
4 suggests that eligibility should be that phased out in
5 the 2005 to 2007 time frame contingent upon ADEQ
6 addressing specific issues, for example, the NGBE
7 issue, new contaminants, potentially new federal tank
8 standards and the effect of ethanol on tanks. Cost
9 associated with new releases should then be addressed
10 by the UST owner financial responsibility mechanism.

11 Part of that solution also spoke about
12 exclusions that should be considered including orphan
13 tanks and the administrative cost requirements of ADEQ
14 to regulate the program going forward. So with that
15 recommendation, I want to put that out there.

16 MS. MARTINCIC: I would just like to clarify,
17 too, that that's a draft recommendation by the round
18 table, that it was not decided that that was the final
19 recommendation because there were a number of the
20 people in the stakeholder group that, you know, were
21 in a little bit of dissension on a number of those
22 issues related to phase-out. So for the record, I'd
23 like that recorded.

24 CHAIRMAN O'HARA: This is a draft, Ron?

25 MR. KERN: Yes.

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42

1 CHAIRMAN O'HARA: So this isn't the final. I
2 probably should have said that. Anyway, let's get
3 back to the phasing out. We discussed it at the last
4 meeting. The first item I want to look at is review
5 of state information. I know you had a comment about
6 something on the website. There is a list of items
7 which we should --

8 MR. MARTINCIC: Yeah. I'd be glad to go
9 through it. I think these are really valuable
10 questions that have not been answered. For example,
11 what type of petroleum release sites are eligible for
12 coverage under the current program? What type of
13 sites will not be covered under commercial insurance?
14 What issues are driving the evaluation of commercial
15 insurance as a replacement or enhancement of the State
16 Financial Assurance Department? Are there
17 environmental or economic benefits to commercial
18 insurance to the regulator, tank owner/operator or the
19 state funds mechanism? Are there programmatic risks
20 or benefits to commercial insurance? Will there be
21 sufficient competition among providers of commercial
22 groups and liability insurance to maintain a fair and
23 reasonable premium for the long run? If commercial

24 insurance becomes the primary financial resource
25 mechanism, is there a responsibility mechanism; is

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43

1 there a need for a backup or alternative means for
2 financial assurance if commercial insureds decide to
3 slow or cease providing coverage? How will sites with
4 preexisting contamination be addressed, whether the
5 UST owners and operators will be unable to obtain
6 commercial insurance coverage, and if so, how is the
7 implement agency going to address that situation?
8 What type of site information will commercial
9 insurance with insureds require before a grant to
10 insure UST sites? I think that that was brought up in
11 the last meeting by an environmental consultant that,
12 you know, a lot of insurers now are requiring certain
13 requirements that are not required by the State in
14 order to insure them. What type of complaints,
15 information will the commercial insurer require from
16 the owner/operator? And is the agency prepared, from
17 a management standpoint, to provide that type of
18 compliance information to owner/operators so that they
19 can get the insurance they need? What documentation
20 or certification is provided to the insureds? What
21 kind of deductible is the commercial insurer offering?
22 What operational requirements will the commercial
23 insurer impose on the insureds? What are the

24 exclusions in the UST pollution and liability policy,
25 and what do the exclusions eliminate from coverage?

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44

1 And I think that's a huge issue that a lot of members
2 are seeing right now with the recent ADEQ decision.
3 Do the inclusions include denial of coverage due to
4 paper violation, such as a failure to report inventory
5 records within an allotted time frame, how the premium
6 rates vary between UST systems? What factors will
7 cause insurance premiums to increase? For example,
8 are the premiums going to increase as the tank system
9 ages? We just heard that two thirds of the tanks here
10 are not double-lined. So will pollution and liability
11 insurance coverage be provided to all tanks including
12 bare steel tanks with cathodic protection that has
13 been added? How is the insurance company going to
14 distinguish between old contamination and new
15 contamination?

16 I mean, you know, there's just a lot of
17 really good questions here. I didn't pull these out
18 of thin air. They actually were questions that were,
19 you know, provided by people that do UST program work
20 across the country. It's their association, you know.
21 I just think that a lot of this is extremely
22 premature, and I don't feel that there's been enough
23 research and analysis really for us to be talking

24 about specific dates when there's this many ambiguous
25 items that have not been addressed.

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45

1 CHAIRMAN O'HARA: Let me just for a second
2 back up. This issue is sufficiently complicated, and
3 some of the things you just mentioned are good
4 examples, that I would recommend that we study these
5 issues in a subcommittee form and maybe more than one
6 meeting. Because speaking to the round table, there
7 was a desire to have some type of recommendation
8 available before the current legislative session,
9 which means having some recommendation in the January
10 time frame. If the Commission feels that's
11 appropriate, to have some recommendation that quickly,
12 then it's obviously going to require several meetings
13 to address issues such as these.

14 MS. MARTINCIC: Mr. Chairman, I would just
15 remind the Commission that two months ago we voted, as
16 a commission, and agreed that the insurance issue was
17 an important enough issue that needed to be addressed
18 this legislative session. And I think, you know -- I
19 have my members here to testify today, and I think I
20 just brought up some real good questions that
21 obviously haven't been thought out in terms of
22 phase-out and shifting completely to commercial
23 private insurance.

24 I would argue, you know, that, as Shannon
25 said, as a stakeholder process, we are not going to

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46

1 have one bill that's all comprehensive. My concern is
2 trying to tie the insurance issue in with some of
3 these other issues that we don't have agreement on and
4 possibly moving stuff to subcommittees and that
5 taking potentially two months or more. You know, we
6 are talking about not addressing this issue. I know
7 for my membership, that's not a possibility.

8 CHAIRMAN O'HARA: I got a sense in the round
9 table that these issues were somewhat linked together.
10 If the statutory change makes State Assurance primary,
11 then we need to somehow phase it out. But I wanted to
12 get some more --

13 MS. MARTINCIC: Yeah, and I guess that's sort
14 of the question. I don't know that was the overall
15 consensus, that that had to be webbed together.

16 MS. DAVIS: Mr. Chairman, in terms of I think
17 using our brain trust at the table, I think an
18 important thing to do maybe initially is to unhook
19 the phase-out with insurance. I think we are really
20 clear about where we want to go with insurance.
21 Period. And I think the questions that Andrea raises
22 are excellent and, you know, need to be answered.

23 But I do think it's important for this group

24 to start: What do people think about the phase-out of
25 the SAF? Gail has raised, you know, like no matter

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47

1 what, we need to make sure that the orphan tanks or
2 the needs of the smaller ones are taken care of. And
3 I think that's the kind of conversation that we need
4 to have right now and maybe even give some direction
5 for a smaller subcommittee to explore.

6 But I would like to hear what my colleagues
7 on the Commission think about, you know, the funds and
8 perpetuity. Do we want to look at addressing treating
9 groups differently, or -- I mean, I just haven't
10 heard. I think that would be a good discussion to
11 have.

12 CHAIRMAN O'HARA: Consensus or comments from
13 members? How do members feel about phase-out, period?

14 MR. BEAL: My unorganized thoughts on this
15 are that the program isn't well enough defined in
16 purpose and impact to talk about doing away with the
17 funding mechanism that allows a lot of things to take
18 place. We seem to have been reactive for the past 10
19 years. We have not looked proactive in terms of what
20 are the requirements that are coming; what is the
21 impact of future legislation going to do to the
22 people?

23 Certainly as a small owner/operator, any

24 legislative action impacts them very strongly. But to
25 go back and refit with double-walled tanks will impact

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48

1 everybody significantly. It's easy to say that the
2 tanks that are put in the ground today should be
3 eligible for SAF; but, on the other hand, we have not
4 looked at the impact. An example might be if we used
5 Rebecca (ph.) process, how many consulting firms do
6 exist if everybody goes to Rebecca process? Are we
7 going to lose the people that are doing the work over
8 remediation? Is there something that is going to be
9 required financially in there that we haven't even
10 thought about yet?

11 That's just a, you know, remote possibility
12 that as work diminishes, the people available to do
13 the work may reach a critical mass and not be able to
14 exist. So we might have to look at how we are doing
15 that and what money is it going to take, the
16 effectiveness of the program. What if we discover
17 that what we thought we have been doing has been
18 accomplishing the tasks that we intended to do, and we
19 have to go back and do more of that?

20 There are just so many unknowns that until we
21 have the program defined in terms of chemicals of
22 concern, in terms of process, in terms of long-range

23 impact, I don't think we should do away with the fund
24 right now. Like I said, that's unorganized thinking,
25 but there are just a lot of unknowns in my own mind as

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49

1 to why we would need money.

2 It's good to look at a surplus in the fund
3 right now, but we have not looked at compliance hard
4 enough, and we have not been proactive in preventing
5 releases. The information here we talked about today,
6 how many tanks are double-walled, and where are the
7 leaks coming from, and if it's a lot of work, it's
8 going to cost us a lot of money, but what we are
9 perceiving expensive right now may be the cheap part
10 of preventing future problems. And we are not looking
11 at that. And so the Commission needs to -- the
12 program, not just the Commission, but we need to
13 become more proactive.

14 It's a lot like the pipeline running from
15 Tucson to here. It's 50 years old. Surprised it
16 leaks. What's the design thought in replacing it?
17 These are multiple lines inside the casing. What is
18 the engineering design to prevent that? It should
19 have been anticipated 50 years ago that it might leak.
20 How do you detect that? How do we build pipelines
21 today? That same kind of logic needs to be applied to
22 how are we putting tanks in the ground and how do we

23 know that they're not leaking or doing what they're to
24 do.

25 I just don't think we are there yet. It's a

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50

1 different -- something different, a different purpose
2 for the same money.

3 MR. GILL: I've got just one comment on the
4 point that Shannon just made. As far as separating
5 the discussion on phase-out from insurances, we can
6 discuss the issues separately. We have done that in
7 the past. But unfortunately, the entire concept of
8 phase-out is predicated on the insurance being there
9 and appropriate and affordable. So we can't -- the
10 entire process can't continue separated. At some
11 point you've got to bring them together to make sure
12 the insurance is working and going to be there to have
13 a phase-out.

14 CHAIRMAN O'HARA: I think specifically she
15 was talking about the statutory change to make the
16 fund primary and whether or not that statute change
17 would in some ways be giving the benefit of is it
18 going to be controlled somehow in the back and then
19 somehow phase-out. At some point, if we are going to
20 have insurance be secondary, we, at some point down
21 the road, want to make sure it becomes primary.

22 MR. GILL: Well, that's what phase-out does.

23 Once it goes to phase-out, it has to be there and
24 appropriate and applicable and going to pay the, you
25 know, for the clean-ups.

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51

1 MS. CLEMENT: Mr. Chairman, I support
2 Shannon's comment about unlinking these statutorily
3 because we all recognize there's a real need right now
4 regarding making the SAF primary. And I think
5 politically it might really hinder work on the
6 eligibility issue. So, obviously, insurance has got
7 to be in place. We have got to consider all these
8 things, but I strongly support Shannon's
9 recommendation to unlink these right now.

10 I think we should get legislation because we
11 have a lot of support for it that SAF becomes primary
12 because it always has been until the recent statutory
13 interpretation. But I think the eligibility issue is
14 much more complicated. There are a lot of unanswered
15 questions whether you are talking about the agency's
16 financial needs or the regulating communtiy's
17 financial needs as we move into a new system. I think
18 we need to take our time and do it properly and give
19 reasonable and thoughtful recommendations.

20 CHAIRMAN O'HARA: So if I hear you correctly,
21 we shouldn't be constrained by the timing of the
22 legislature in regard to phase-out?

23 MS. CLEMENT: I'm committed to do as much as
24 I probably can to meet the legislative time frame. If
25 it means that we short-circuit the analysis, I would

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52

1 not be in favor of that.

2 CHAIRMAN O'HARA: So probably the best way to
3 address that is to have these subcommittee meetings on
4 specific issues and see where it goes from there and
5 flush out the issues, number one. Meetings would be
6 great. If not, we can come back with the Commission's
7 recommendation to continue. I do want to hear from
8 you.

9 MS. FOSTER: Mr. Chairman, in regard to
10 whether to separate or not separate the insurance
11 versus phasing out the program, I would agree with a
12 couple of other comments made, that it should be
13 completely separate. I have a real hard time thinking
14 that people who have insurance have to use that as a
15 primary force for payment when self-insureds don't
16 have that same requirement. To me, that is unfair
17 that people who are insured have that primary, that is
18 primary, while self-insureds do not. So I think it
19 out be separated out, and the question should be:
20 Should the SAF be primary for everyone until that
21 point in that a phase-out occurs.

22 I'd also recommend that we pick a date or

23 arrange a date for phasing out the fund. I don't see,
24 after everyone upgraded their tanks in 1998, there's
25 not the great need for reimbursement since the tanks

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53

1 meet the engineering design not to leak. If they do
2 leak, it's very small compared to the leaks that
3 occurred in the eighties. So the financial need is
4 not as great if the owner/operator has installed his
5 tanks according to the standard and is maintaining
6 them as appropriately.

7 So I think a phase-out date between 2005 and
8 2007 is something we should do now. I think we should
9 go out on a limb and do it and not continue to study
10 this to death for another 10 to 15 years. Thank you.

11 MS. DAVIS: Mr. Chairman, Theresa, are you
12 saying all phasing out of eligibility?

13 MS. FOSTER: Yes, eligibility on future
14 releases.

15 MS. DAVIS: Okay, thank you.

16 CHAIRMAN O'HARA: Any comments? I want to
17 hear from --I know we have quite a few members of the
18 public that want to speak. Prior to that, going
19 procedurally, what specific items does the Commission
20 want the subcommittee to look at? We can schedule a
21 meeting in the next week or so, but I know probably to
22 look at some of these issues you brought up.

23 MS. MARTINCIC: I mean, I think this is a
24 great -- I didn't create this. I mean, it's out
25 there. It's been out there for a year. I'm a little,

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54

1 you know, amazed that the materials are out there, and
2 yet we aren't using them.

3 CHAIRMAN O'HARA: And maybe the first
4 subcommittee meeting is really identifying the issues.

5 MS. MARTINCIC: I still think I'd like us to
6 hear testimony on insurance.

7 CHAIRMAN O'HARA: No question. I'm going to
8 hear that now. But I just want to make sure the
9 Commission is on board, have a subcommittee meeting,
10 flush out the issues and we'll go forward with
11 assignments as we get information for us regarding
12 insurance.

13 MS. MARTINCIC: I would just ask to make sure
14 that we give everyone on the Commission and the public
15 enough time to be at those meetings.

16 CHAIRMAN O'HARA: Is that okay? With that,
17 at this point I'd like to go to members of the public.
18 I have a comment from -- speaker slip. If anybody
19 didn't get an opportunity to fill out a speaker slip,
20 feel free to do one now.

21 Debbie Powdrill.

22 MS. POWDRILL: I'm actually speaking today on

23 behalf of the Arizona Petroleum Marketers Association.
24 As I sat and listened to the things you were talking
25 about, it seems like I couldn't take notes fast enough

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55

1 to change what I had written down. But I think I'll
2 try to stick to what I was originally planning to say.
3 I think it's generic to the overall question of the
4 issue of separating and moving ahead with the date.

5 And first and foremost, I would say that
6 moving forward with a date that is close range I think
7 is poor business and more politics and very
8 detrimental to the owner/operators in our state.

9 We have issues that are moving towards this
10 other area as well, that is, you guys are going to
11 get rid of SAF in our state. We have got issues that
12 are now shrinking the industry. That will make the
13 original 1998 tanks that went into the ground
14 potentially become obsolete under insurance standards.
15 We have got some real issues facing us in our state.
16 As I go through this, hopefully, I can lend a little
17 understanding on that.

18 The first thing I just wanted to discuss
19 briefly for you as a group is the state of the market
20 in Arizona as we know it today. The state here has
21 always been primarily a branded market with large
22 refiners or large entities owning the majority of our

23 underground tanks.

24 In the very near future, and I say near,
25 within six to eighteen months, a major piece of those

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56

1 tanks are going to be sold back into the small
2 business operators' market. They are leaving the
3 state. All of the branded markets are leaving. Some
4 of them have actually sold clumps of their stores to
5 entities that will run the flag but will essentially
6 become owner/operator. They're unbranded with small
7 capital P&Ms or net worth. That's a very, very viable
8 thing about what you're looking at.

9 The average owner/operator has one to three
10 stores. That's what he is, okay? He might have a net
11 worth of \$300,000 or \$400,000 or half a million
12 dollars, and that's it. And that's something you have
13 to keep in mind when you're looking at insurance and
14 how he gets his insurance.

15 With that, let me step into the state of the
16 insurance market. There isn't anybody in this room
17 who's not been impacted by the increase of insurance,
18 specifically even after 9-11. And it ranges anywhere
19 from health care to homeowner's insurance to car
20 insurance. And each one of us has seen increases.
21 And if you haven't, you're just biding your time
22 before it happens.

23 Insurance insurability has standards that
24 they use for a claims ratio. If you have experience
25 with your car insurance, and some of you guys are

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57

1 probably aware of this, if you haven't had injury or a
2 claim in seven to nine years, you're going to get an
3 increase in your insurance because the odds are within
4 the next six to twelve months you are going to have an
5 accident. That's just the way they operate. All
6 other insurances are basically the same.

7 When you're talking about low risk insurance,
8 we have been seeing increases in those areas as
9 employers under health benefits, Worker's Compensation
10 and levels of anywhere from 15 to 35 percent in the
11 last two years. Those are substantial increases for a
12 small operator. And in many cases, he has to step
13 back -- and let me also address this -- that in the
14 jobbing market in Arizona, our primary insurers have
15 left the state. We are now out looking for benefits
16 for our employees from other providers now because
17 that person could no longer stay in our market. So,
18 obviously, there's going to be an increase in that
19 cost.

20 They've had an increase in their Worker's
21 Compensation. They have had increases in fleet
22 management. But as the risk of that insurance

23 increases, whether it's fleet liability and cargo or
24 it's property and environment both, now we're talking
25 about increases that are substantial. In the last two

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58

1 years, we have seen insurance on fleet, and a lot of
2 these guys have their own trucks or their own pieces
3 of equipment doing their business, as high as 500
4 percent. Many of these people have had to sell their
5 fleets to get out from underneath them at well below
6 their market value and taking substantial losses on
7 those fleets to remove themselves from that level of
8 insureds.

9 Now let's talk about environmental
10 insurance. Yesterday in a meeting with a large group
11 of our organization, we had one of our members say
12 that his insurance had just notified them that on
13 December 1 their insurance would be going up 34
14 percent, which included his environmental coverage.
15 That's with no claims. What happens if you move this
16 into a primary position and the claims ratio goes up?

17 The other part was the high risk insurance
18 market that has been happening in the last two and a
19 half years and consolidation. A lot of companies left
20 the industry. In the current market in Arizona, we
21 have gone from six providers for environmental
22 insurance down to three.

23 six companies to the table, as they determined how
24 many, and I'll use fleet, how many trucks you had in
25 your fleet, then you determined who would consider

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60

1 insuring you. Then after they considered who would
2 consider insuring you, then each of those people would
3 get to dictate to you what they were willing to
4 insure. In other words, your drivers had to have two
5 years of tank experience. They couldn't have any
6 exceptions on their initial commercial driver's
7 license.

8 What this industry and the environmental
9 industry will begin to do, they will begin to dictate
10 to these owner/operators what they can and they cannot
11 insure. If a man has three tanks, he might be
12 insurable. If he has 25 tanks, someone might say:
13 You know what? That risk is a little too high for us
14 in Arizona. We are not going to do it.

15 So you need to take a very honest look at the
16 relationship of available insurance agencies, what
17 they're willing to insure in the marketplace and what
18 the profile of the owner/operators really looks like.
19 Just assuming that everything is 1998 or sooner under
20 the lack of available people to go out and look into
21 the ground and confirm that, we're assigning a
22 self-risk, a political risk, to that situation.

23 CHAIRMAN O'HARA: Debbie, sorry to interrupt
24 you. I've got about 12 speakers left. Can you wrap
25 that up?

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61

1 MS. POWDRILL: I'm almost done. Anyway, from
2 an APMA standpoint, our first and primary position is
3 to ask you to revert back to the original
4 interpretation. As was mentioned by Theresa, she
5 didn't feel it was fair that, you know, financial
6 insurability versus insurability, until that level --
7 until that playing field is level, from our position,
8 we are going to put our owner/operators out of
9 business because they are not going to be able to get
10 insurance, quite frankly.

11 CHAIRMAN O'HARA: Thank you very much. And
12 I'll just ask for general comments. There won't be
13 time enough, but if we could keep our comments to
14 three minutes or so, we have got a lot of people
15 wanting to speak, and we're limited in our time.

16 The next person is Bob Daniel.

17 MR. DANIEL: Bob Daniel. I'm with 3-D
18 Petroleum. We have 12 service stations, five of which
19 we've branded independent and seven which are still
20 Chevrons. And, you know, our concern with this, and I
21 would agree with Mr. Gill, I think that timing is an
22 issue, and all the answers need to be answered, all

23 the questions need to be answered before everybody
24 decides just to shut the door and leave us out to dry
25 because if there is no insurance there and if

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62

1 everybody says let's pull the insurance apart from
2 everything else and there's no insurance there, we are
3 going to go out of business. It's pretty plain and
4 simple. Then I would have to look at stores that are
5 marginal stores today and determine whether or not
6 they would have to shut down.

7 Everybody knows that the major oil companies
8 are leaving this market. If you don't, all you have
9 got to do is look around. There are more independents
10 coming every day. Some of those independents are very
11 small operators, one store. And a lot of those guys
12 won't even bother to buy insurance. In my mind,
13 that's a big hassle. All it's going to do is put more
14 pressure on us. We're all legal and do need to
15 cooperate.

16 So we ask that you just take your time and do
17 it right. And insurance is a big concern of ours,
18 whether we stay in business or not.

19 CHAIRMAN O'HARA: Thank you. Bob Kec.

20 MR. KEC: Yes, Bob Kec from Western States
21 Petroleum. I've been a petroleum jobber for 30 years.
22 I wanted to come to this this meeting to explain a few

23 issues that we are faced with.

24 We are what they call a full-line distributor
25 in petroleum products. We have our own trucks; we

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63

1 have our own folks. We bring in product by rail car;
2 we bring in product by truck. We have service
3 stations with underground tanks. We have above-ground
4 tanks in an old boat probably built in the nineteen
5 thirties and forties. So we run the full gamut of
6 petroleum products.

7 In speaking with the issues of insurance,
8 last year, in order to keep our premium at like a 25
9 percent increase, we had to increase our deductible
10 from a \$10,000 deductible to a \$50,000 deductible. So
11 we have tried to save that money in case of a major
12 catastrophe, but I'll guarantee you \$50,000 deductible
13 on an underground tank is, in my opinion, hard to live
14 with. But in order to keep my premium in a 25 percent
15 increase, I would have gone up -- I don't know. We
16 didn't go that far, but it was huge.

17 The issues that Debbie portrayed on the
18 issues of tanker and liability insurance issues, we
19 have had, knock on wood, have had no problems with our
20 liability, and our premiums are still going up. So
21 I'm here to say that we need the SAF fund.

22 We need it for another issue, an issue that

23 is really concerning me. We have spent money over the
24 last year until this new program came out about the
25 insurance. That money is really in limbo. We can't

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64

1 get paid for the work that we did. And our
2 consultants, who we depend on to help us get through
3 this quagmire of environmental problems, they can't
4 get paid. So they're looking to us for payment, and
5 we are looking to you for payment, and nothing is
6 being done. That's really a big issue.

7 And I depend on our consultants because my
8 expertise is in delivering that petroleum products to
9 the end customer. I have to use an environmental
10 consultant to help me solve these problems, and they
11 are a part of our team. We meet probably once a month
12 to talk about issues. But they're getting a little
13 bit upset with me too because I can't pay them when I
14 have money tied up in the funds.

15 So I just urge you to take that into
16 consideration.

17 CHAIRMAN O'HARA: Thank you, Bob. Just to
18 clarify, this Commission has made a recommendation to
19 the Governor and the legislature and director to
20 correct that problem in the statutes so the State
21 Assurance Fund is primary for owner/operators. We
22 have made that recommendation.

23 MR. KEC: Super.

24 CHAIRMAN O'HARA: Kathye Brown?

25 MS. BROWN: Good morning. I'm Kathye Brown

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65

1 with Brown, Evans Distributing Company, and I can
2 pretty much just echo what Bob Kec has said. It's
3 real important to us that you recognize it, about the
4 recommendation that you have made.

5 My business is very similar to Bob's. It's a
6 60-year-old business. We own about four Chevron bulk
7 plant facilities that were built in the early nineteen
8 twenties, nineteen thirty time frame. My husband and
9 I got involved in the business in about 1980.

10 And at that time, the climate in the industry
11 was very different. We didn't even do Phase I or
12 Phase II environmental studies before we purchased the
13 business. We inherited properties that were old, that
14 had always been used for petroleum distribution. We
15 are still using a lot of those properties.

16 Some of those, we have nine unattended
17 commercial cardlock facilities in Maricopa County. A
18 lot of those facilities -- I would say at least five
19 or six of them -- are facilities that were previously
20 retail stations, and so they also have a long history
21 of petroleum related uses. And today with the
22 environment that we have now, of course, we would be a

23 lot more prudent in the properties that we operated
24 on. We would go and we would do due diligence before
25 we bought the property and put the tanks on.

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66

1 So one of my concerns about going away from
2 the SAF fund is that a lot of people don't realize or
3 even know what kind of issues are on some of these
4 older properties. Until you go to remove the tanks,
5 you don't know really what you're going to find if the
6 retail facilities has been there for 30, 40 years.

7 So when you're talking about new regulations
8 for the USTs and removing some of these steel tanks
9 that are still all over the state, there could be all
10 kinds of issues involved when those tanks are removed,
11 things that the operators don't have any knowledge of
12 currently, but don't discover.

13 And certainly related to what Debbie was
14 saying about insurance, we have -- in the last five
15 years, we have seen 20, 25 percent increases in all of
16 our insurance. We have 50 employees. And our health
17 insurance that we have, we just got notified that our
18 health insurance, starting January 1st, is going up 50
19 percent. I renew my general liability policy in
20 February. I'm starting to look at quotes.

21 And, first of all, I'm concerned about what

22 carriers are even here to insure us. Then like Debbie
23 was saying, we had no claims for all of 2002; and when
24 we got our on insurance increase, we still had that 25
25 percent increase. And I increased, as Bob indicated,

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67

1 I increased the self-insured retention portion from
2 \$50,000 to \$75,000. So I'm bearing that first \$75,000
3 basically as self-insured.

4 So this is a very serious issue for all of
5 us, and we really need some thoughtful analysis of the
6 insurance issues that we're faced with. So I really
7 appreciate you taking on this task.

8 CHAIRMAN O'HARA: Thank you. Jon Trejo has a
9 letter which I believe everyone has received.

10 John Pearce?

11 MR. PEARCE: I won't speak long. I thought
12 that Debbie and Bob and Kathye did a good job of
13 laying out some sobering realities that we are looking
14 at in the future here when it comes to the smaller
15 owner/operator of which there will be more and more in
16 Arizona rather than less and less.

17 You know, I work on matters where mom-and-pop
18 businesses are truly threatened by this. What happens
19 is their money, when the State Assurance Fund is held
20 up, they are unable to pay their consultants, and the
21 consultants don't pay the subcontractors, i.e., the

22 drillers that work on the site, and the drillers file
23 a lien, a mechanical lien on the property. And I've
24 got one right now at the AG's Office where they're
25 about ready to foreclose on the property and put the

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68

1 mom and pop out the business because of insurance
2 delays.

3 So it really is something that needs to be
4 corrected. It shouldn't be litigated another 18
5 months. There needs to be an answer. It needs to be
6 legislative. The Policy Commission needs to address,
7 and address now: Okay, how do we fix it? And clearly
8 legislation is needed.

9 I think ADEQ, from the director, deputy
10 director, Shannon has shown strong good faith in my
11 opinion. I think others share the opinion in their
12 interest and cooperating with the solution. I am
13 deeply appreciative and I applaud their cooperation
14 because what we're hearing is that they are willing to
15 support legislation. If the 9th floor will support it
16 as well, that will fix this problem, and not only fix
17 it prospectively, but it's just as equally important to
18 fix it retroactively as well.

19 The question is whether, from a political
20 reality, that fix needs to be coupled with anything
21 else? Does it need to be coupled with a phase-out of

22 the SAF? And possibly not. If this Policy Commission
23 comes out with a recommendation that the fund should
24 be primary and the legislation is required to clarify
25 that both prospectively and retroactively, then

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69

1 perhaps that is what is needed to push a bill through
2 the legislature with the administration's support in
3 curing this problem.

4 If it turns out that the legislature wants
5 some assurance that there is going to be a phase-out
6 in the future, perhaps a proponent of the bill can be
7 a study committee to analyze all the variables, that
8 NTP issue, additive issue, the double-walled issue,
9 anything else that needs to be evaluated to thoroughly
10 discuss the issue and try to flush it out and render a
11 recommendation by a certain, date, by 2005, for
12 example, if that's a necessary part of that bill. If
13 it's not a necessary bill to pass in the legislature,
14 maybe it doesn't need to be included at all.

15 But for goodness sakes, this Policy
16 Commission was clearly viewed by the round table as
17 being the catalyst for a solid proposal, unequivocal
18 proposal, calls for legislation to be enacted this
19 coming session. You will respond, and I urge you not
20 to leave here today before you are crystal clear that
21 you have made that recommendation.

22 CHAIRMAN O'HARA: That has been made. That
23 was made last month. If it requires statutory change,
24 we are behind it a hundred percent. So whatever the
25 department and the Governor and the people who have

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70

1 gotten an interpretation of that statutory change, we
2 were behind that. Everybody has seen that
3 recommendation. We passed it out last meeting.

4 MS. CLEMENT: Just a question. That was a
5 letter actually that came out under your signature; is
6 that correct?

7 CHAIRMAN O'HARA: Yes.

8 MR. PEARCE: Okay. Then I'm beating a dead
9 horse. And I think Shannon has raised a request that
10 people consider the kinds of situations that in the
11 future, whether it be necessary legislation now or
12 some study committee needs to consider as far as
13 legislation in the future about what to do about
14 phase-out. Some of the things have already been
15 discussed.

16 Among those things that need to be evaluated
17 would be the preexisting conditions and situation
18 because people can go out and they can buy insurance
19 that will be effective, say, by 2007 or 2006 or
20 whenever the phase-out date begins. That insurance
21 will not cover a release that took place prior to the

22 inception date of the coverage. So if your coverage
23 begins July 1 of 2006, and you operate in 2007, and in
24 2007, you find that you have had a release from the
25 subsurface, that doesn't mean you're going to have

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71

1 insurance for that release. What it means is that the
2 insurance company is going to embark on an analysis
3 whether that release took place prior to July 1, '06
4 when your coverage began or whether it began after you
5 had coverage.

6 So in order to avoid problems, the same kinds
7 of problems we are experiencing now, I think it's
8 important to make clear, Number 1, any kind of
9 phase-out, be it a phase-out of eligibility, or is it
10 the top three correct for new releases, new releases,
11 releases that begin after the phase-out date. For
12 those releases, yes, you can get insurance. For
13 releases that take place prior to, you're not going to
14 be able to obtain insurance. That's where it's going
15 to be difficult.

16 And we have to deal with the double-walled
17 issue. And people need funding. If the state of
18 Arizona does not have laws that require a certain kind
19 of a tank and the insurance companies require a
20 certain type of a tank in order to be insurable, we

21 need to make sure that there's consistency.

22 CHAIRMAN O'HARA: A shift of burden to the
23 insurance.

24 MR. PEARCE: That needs to be dealt with
25 somehow, whether there is a funding mechanism

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72

1 available for people to change their tanks to meet
2 insurance requirements or some other means. But we
3 need to make sure that we don't miss each other on
4 direction.

5 CHAIRMAN O'HARA: Let me clarify something
6 you had said. If we set an eligibility phase-out
7 date, at which point new releases will be covered by
8 your insurance, you're saying there may be an
9 exception where it is discovered after that date but
10 the release actually occurred sometime prior, and the
11 insurance wouldn't cover that?

12 MR. PEARCE: Right. I think we can loosen
13 our language in saying we can report it out.

14 MS. MARTINCIC: That's a conclusion in the
15 insurance policy, correct?

16 MR. PEARCE: Just because the release is
17 reported after the inception of the policy coverage
18 doesn't mean it's insured.

19 CHAIRMAN O'HARA: Because your insurance
20 policy is based on current, not before?

21 MR. PEARCE: That's been my experience.

22 MR. GILL: I'm sure, knowing all insurance
23 companies, they're going to deny it and try to prove
24 that it was before.

25 CHAIRMAN O'HARA: Okay, thanks, John.

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73

1 One more comment, and we will take a break.

2 Leon Vannais.

3 MR. VANNAIS: Leon Vannais with the
4 Aerodynamic Company. I'll keep this short, Mr.
5 Chairman and members of the committee.

6 As we enter this legislative session, right
7 now the non-Maricopa fund is particularly ripe. I was
8 wondering if the committee would be willing to request
9 a meeting of ADEQ for you to see all the claims that
10 have been denied because of this insurance issue. How
11 many are we talking about here? What is -- The scope
12 of the problem is if indeed we do a retroactive
13 correction of the interpretation, is the fund still
14 flush, or are we going to be hurting if we present it
15 as flush at one the point and then go ahead with that?

16 CHAIRMAN O'HARA: Well, we're afraid it's not
17 just that. I think it's the way you set it up. It
18 didn't have to be submitted, correct? So it's not
19 denied. It's just --

20 MS. MARTINCIC: Yeah, I've heard from some of

21 my members that they're still waiting to get letters
22 from their insurance companies before they can move
23 forward in the process.

24 CHAIRMAN O'HARA: That wouldn't really even
25 quantify the whole problem, so I don't know the

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74

1 solution. But maybe going forward with the department
2 when they present this in front of the legislature.
3 There is a basket of claims that's never been --
4 there's an issue that money is not just free.

5 Any other comments?

6 MR. SMITH: Yeah, one other comment. As we
7 go forward with our recommendations to the
8 legislature, you know, they may be so inclined to come
9 back and say: We want a phase-out date. So we will
10 need the help of the regulated public out there. Go
11 to your legislator and say let's not rush into this,
12 because the legislature does its own thing, has it's
13 own ideas and may come back with strings attached: If
14 you want X, we want Y. So we aren't just a small
15 voice here. So I put it out to all of you who have
16 taken your time out of your businesses to come talk to
17 us, to not only talk to us but also talk to your
18 legislator as to the issues that are out there.

19 CHAIRMAN O'HARA: Before adjourning, I just

20 want to say that I just thank all of you for attending
21 and giving us your opinions. A lot of times we make
22 decisions that affect you guys, and we really want to
23 hear from you and are grateful. So thanks.

24 Any other comments? Without objection, we
25 will adjourn for a 15-minute break.

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75

1 (A recess ensued from 10:35 to 10:50 a.m)

2 CHAIRMAN O'HARA: The meeting is back in
3 order.

4 Just to follow up on the last item,
5 phase-out, it's my expectation -- and, Ron, if you
6 could help me set up a meeting, is a week enough time,
7 do you think?

8 MS. HUDDLESTON: No. That's Thanksgiving.

9 MS. FOSTER: Not next week.

10 CHAIRMAN O'HARA: Correct. Around the first
11 of the year? First of the year or somewhere around
12 there?

13 MS. FOSTER: First of the month?

14 CHAIRMAN O'HARA: Thank you. My head is
15 swimming. Okay, somewhere around then? Would that be
16 enough time? December 1st, 2nd? Okay. We will send
17 out an e-mail as soon as we get our subcommittee
18 meeting cleared.

19 Moving on to Item 6, update of groundwater

20 study. I know it has my name beside it, but I think
21 Myron, who's the specialist on the groundwater study.

22 MR. SMITH: I guess it's me, and I don't have
23 an update.

24 CHAIRMAN O'HARA: Well, the issue is really,
25 I think, Gail is going to e-mail just wondering about

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76

1 contractually about what the proper or approved uses
2 of the study were.

3 MR. SMITH: With the absence of -- nobody
4 from Procurement, we can certainly ask them to come to
5 the next meeting. It was my understanding that they
6 completed their contract and produced a public
7 document. And as such, and I don't want to speak for
8 Procurement or the A.G. or anything out of, you know,
9 state law of how you use something that was produced
10 by state funds is now a public document. You know I
11 don't have the knowledge or expertise to say that any
12 one particular person or company could or could not
13 use that study in talks, presentations, written
14 articles. I just don't know. And we could certainly
15 ask Kathleen Doherty (ph.) to come to the next meeting
16 and give us --

17 CHAIRMAN O'HARA: An update on that?

18 MR. SMITH: Yeah, whether it is possible or
19 not possible.

20 CHAIRMAN O'HARA: Let's make sure. If Ron is
21 going to be the contact, that either Kathleen or
22 Bambi -- Bambi is it?

23 MR. SMITH: I would say Kathleen.

24 MR. KERN: I would prefer to talk to
25 Ms. Doherty because she is the supervisor in

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77

1 Procurement.

2 CHAIRMAN O'HARA: So let's be clear on what
3 we're asking.

4 MS. CLEMENT: I think I started the question
5 Mr. Chairman, and Ron. My question was that I had
6 gotten a couple of reports from folks that the
7 groundwater study that was performed by ASU for the
8 Policy Commission was being used as an analysis of the
9 state program in national and state meetings. And,
10 obviously, we haven't approved the report or approved
11 recommendations or conclusions from the report.

12 And my concern was that we may or may not
13 agree with ASU on some of the findings in that report.
14 And I felt it was premature for anyone to be out
15 touting it as a final document. So I was curious
16 about the contractual arrangements and whether ASU had
17 the authority or had been granted the approval for
18 using it for the purposes that they have been using it
19 for.

20 And then the second piece of that is: Where
21 are we in terms of the Policy Commission's piece of
22 this? If I can say this, right now we are waiting for
23 ADEQ to do a summary for us of the recommendations and
24 conclusions. Then we are going to review that and
25 discuss that. And we don't have that yet; is that

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78

1 correct?

2 CHAIRMAN O'HARA: I think so.

3 MR. GILL: I'll address that at the next --
4 That is basically the case.

5 Mr. Chairman, I did find out that basically
6 the initial contract required comments from DEQ, the
7 Quality Commission of the Public, or whoever, within
8 about 30 days. And if it didn't come within that time
9 frame, it was a moot document.

10 MS. CLEMENT: I guess in response to that, is
11 that standard DEQ language or Policy Commission
12 language? It certainly is my experience in consulting
13 it's not standard language, that the client is
14 required to meet a due date for review and approval.
15 And I don't recall that the Policy Commission was ever
16 given that information so we could have responded in
17 that time frame.

18 This is an important document. We have spent
19 half a million dollars on it, and I am concerned about

20 some of the technical work within it. So I'd just like
21 to have the facts and then make a decision once we
22 have those facts on how to proceed.

23 CHAIRMAN O'HARA: Okay, thank you. Is that
24 clear, Ron, on what we're requesting?

25 MR. KERN: Yes, I believe it is.

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79

1 MS. CLEMENT: Thank you.

2 CHAIRMAN O'HARA: Moving on to Item Number 7,
3 technical subcommittee update, from Chairman Hal Gill.

4 MR. GILL: Unfortunately, you do not have
5 copies of the agenda for the subcommittee meeting or
6 the summary report in your packet. But I'll just go
7 down briefly through what we discussed. And it was a
8 good meeting. For probably only the second time since
9 we were established as a subcommittee, we got actually
10 through the entire agenda.

11 The first thing on the agenda was basically
12 looking at the eight or so, nine issues that were
13 being discussed as part of the groundwater study. As
14 Gail mentioned, where it is right now is that we were
15 waiting for DEQ to come with the language on each one
16 of those issues that we can basically discuss and
17 develop and come up with recommendations. Whether
18 it's for changes within the program or what or

19 something that goes on the bulletin remains to be
20 seen.

21 In the meeting, George Rodefled,(ph.) the new
22 section head, mentioned that most of the language is
23 completed now, and it probably will be forthcoming in
24 a couple of weeks, is what I had written down. At
25 that point, we will have a point to start discussions

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80

1 in the subcommittee which is basically what we've been
2 waiting for.

3 The second issue was the status of -- let me
4 see -- ADEQ volunteer cap schedules and the ability to
5 include waiting for SAF funding as part of the
6 schedule. This was an issue that was brought up
7 several months ago in the Policy Commission initially
8 and then sent forward to the subcommittee. And what
9 we have been waiting for was for this issue to be
10 taken up to upper management for them to look at. I
11 assume that it's part of the discussion at the round
12 table on volunteer issues, but I'm not sure. But
13 anyway, that's where it was left. We have yet to hear
14 back from upper management of ADEQ on that issue.

15 The next issue was a general discussion of
16 language for reporting issues. And primarily, there
17 was issues with the ADEQ and SAF requirements for
18 interim status reports. And this basically dealt with

19 the issue where there's ongoing work at a site. And
20 in many cases, it seems the SAF rule says that
21 approval of work is based on a report of work. And if
22 the report of work for site characterization is
23 considered the best disposition report, we have been
24 waiting a year to get paid for \$100,000 or \$200,000
25 worth of work.

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81

1 In the past, the consultant has been allowed,
2 and the owner/operator has been allowed to turn in
3 applications every -- \$20,000 every quarter, the
4 end-of-phase work such as this. But there's been some
5 problems in the near past that -- with what exactly
6 was required for this interim status of payments. And
7 so basically, the SAF program is coming up with
8 language, is what we were told, on what their
9 requirements would be.

10 Another issue was the discussion that
11 monitored national attenuation. And seeing how there
12 was a large section in the new guidance manual
13 document that had to do with this, basically what we
14 were going to do is to review the guidance document
15 language that's in there and see if there's any
16 suggestions or recommendations or changes that need to
17 be made in the meantime to that. And basically, that
18 gives us a point for discussion. It gives us

19 something to work on, and work from, similar to the
20 language of the groundwater study. So that's what we
21 are going to be doing for next language, is come back
22 with any suggestions based on the existing guidance.

23 Another discussion item was general discussion
24 of the feasibility studies and pilot test issues. And
25 again, ADEQ is coming up with language on ADEQ

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82

1 definitions for feasibility study and pilot test.

2 And one thing we decided at the meeting was
3 rather than revise language for the definition, we
4 revised the language to reflect what each study or
5 each study or test does rather than what it is,
6 because that gives you a more clear understanding of
7 what the issue is. So that's -- again, we're waiting
8 for that language.

9 And that was basically what we discussed. So
10 generally, we are waiting for language from DEQ to
11 start the final discussions on all these issues.

12 CHAIRMAN O'HARA: Joe?

13 MR. DROSENDAHL: In regards to the meeting
14 notes, I will help Hal to expedite getting those
15 meeting notes, you know, as quick as possible, seeing
16 there is a short period of time between his meeting
17 and the full meeting.

18 CHAIRMAN O'HARA: Thank you.

19 MS. CLEMENT: Mr. Chairman, how should we
20 take the round table technical issues and vent them in
21 front of the technical subcommittee? Should we be
22 having a vote on which issues or how -- or what is the
23 process we should be following?

24 CHAIRMAN O'HARA: Well, ideally, an issue
25 comes to the full commission to be assigned unless

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83

1 there is a timing issue, unless there is a delay in
2 there.

3 MS. CLEMENT: Perhaps I can propose two
4 issues today, and maybe we can get them on the agenda
5 because I think they're pretty important for a lot of
6 reasons. And one would be a follow-up on the
7 monitored attenuation and make sure it becomes a
8 priority, how the agency is implementing that
9 approach.

10 The second one would be the vapor and risks
11 posed by vapor and vapor intrusion and how the agency
12 is going to handle that whole issue.

13 And I guess I have a third one. And the
14 third one is additives, particularly FETV (ph.).
15 These are all very large issues that may take some
16 time for the agency and stakeholder to put their arms
17 around. But in the terms of priority, take action.

18 MS. DAVIS: Mr. Chairman, Gail, are you
19 recommending that we push MNA vapor and additives to
20 study by the subcommittee next month?

21 MS. CLEMENT: As soon as they would be able
22 to deal with it.

23 MS. DAVIS: Because I think that's some of
24 the things that Joe has talked about, and he and I can
25 sit down in the next week or so and talk through some

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84

1 of that stuff. He talked about, I think,
2 subcommittees waiting for management to nod at the
3 guidance and a couple of other things. And I think
4 that these are important to tackle at the next
5 technical subcommittee meeting so there's something
6 brought back to the Commission in December, if that
7 works.

8 MR. GILL: Well, MTV and MNA are on there
9 already. So vapor would be a new one.

10 CHAIRMAN O'HARA: Any objections to that
11 being studied in subcommittee?

12 MR. KERN: Just for reference, I don't think
13 all of the Commission members have seen the solutions
14 table that some of these technical issues are coming
15 up with. I will e-mail everybody so the whole group
16 here have what the solutions were related, proposed
17 solutions, recommendations, were coming out in the

18 programming form, stakeholder meeting. It included
19 the technical issues. It will kind of wind us out
20 throughout a little bit better so you can see what the
21 full deck is basically.

22 MR. GILL: There is actually one more item we
23 discussed. There was some discussion in the meeting
24 about the importance of soil descriptions that are
25 done during the site characterization investigation

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85

1 and how it relates to system design and further work
2 at the site. And so it was decided that some language
3 will be forthcoming, but also some training looking at
4 the issues of training for DEQ staffing, consultants.
5 And that's as far as we went. We just realized that
6 training was definitely needed because it is something
7 extremely important that is overlooked.

8 CHAIRMAN O'HARA: Any comments or questions
9 for the subcommittee? Any other comments on the
10 technical subcommittee.

11 MR. GILL: Is that what you said you would be
12 sending?

13 MR. KERN: Yes.

14 MS. MARTINCIC: Should we read for the
15 record?

16 MS. DAVIS: Mr. Chairman, for the record,

17 technical issues would be the basic pathway into our
18 air quality, (2), area-wide groundwater contamination,
19 appropriate monitoring strategies and remedial
20 objectives that's specific to every White's
21 contamination that has chlorinated solvents and
22 offsites (ph.) and also petroleum contamination. The
23 third issue of validity and appropriateness of data.
24 Fourth, consistency between remedial programs or
25 voluntary UST and then also the monitored natural

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86

1 attenuation that Gail brought up. And then in
2 addition to that would be the additives, and the
3 additives are part of the round table consideration,
4 but they're in another box. But we will do that here.
5 For the record, those were the technical issues.

6 CHAIRMAN O'HARA: Thank you, Shannon.

7 MS. CLEMENT: I was just trying to, off the
8 cuff, prioritize what I considered to be the top
9 three, and I certainly don't want to dictate that to
10 anyone as long as we can agree on that.

11 CHAIRMAN O'HARA: All the issues were posed
12 at the subcommittee, correct?

13 MS. CLEMENT: Yeah, all of the issues were
14 posed.

15 CHAIRMAN O'HARA: Without objection. Thank
16 you. Thank you, Hal.

17 Moving on to Item 8, I'm actually going to
18 postpone that again. That was George Tsiolis' issue,
19 and he is unavailable this morning, the discussion of
20 process for assigning issues to subcommittees.

21 And moving on to Item 9, a discussion of the
22 agenda items for the next commission meeting, one I
23 know that will be on the agenda is an update of our
24 subcommittee meetings on phase-out.

25 Are there any other issues that commission

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87

1 members would like to discuss at the next meeting
2 other than what we have already talked about?

3 MS. CLEMENT: I'd like to see if there is any
4 legislation in the hopper, some kind of presentation
5 or information regarding the various legislative
6 efforts that are going forward because I don't think
7 any of us will have success unless we are not really
8 trying to hit the top issues and get consensus on
9 these and the peripheral issues. And everybody is
10 going to have their own agenda.

11 CHAIRMAN O'HARA: So we'll have an update on
12 the outstanding agenda legislation. Any other items?

13 MS. MARTINCIC: I would add an update on the
14 federal legislation energy bill, the provisions in
15 that, and also an update on Joe Hart's legislative
16 committee.

17 CHAIRMAN O'HARA: Who is going to give us an
18 update federal? Is that something DEQ can do or
19 should do?

20 MR. KERN: We can do that.

21 CHAIRMAN O'HARA: And then legislative
22 subcommittee or something?

23 MS. MARTINCIC: Uh-huh. Joe Hart has a
24 legislative committee.

25 CHAIRMAN O'HARA: Can you make a

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88

1 recommendation on who can present on that?

2 MR. KERN: I think Fred Merrill has a public
3 comment.

4 MR. MERRILL: Mr. Chairman, members of the
5 commission, my name is Fred Merrill. Just by way of
6 invitation, some of you know, others do not, that
7 there is a house study committee, and we have been
8 charged by the speaker to examine the UST/SAF programs
9 of DEQ. And the charge given the committee by the
10 speaker is to produce a report to the speaker and
11 present senate by December 31st to include legislative
12 recommendations and non-legislative recommendations.
13 The chair is Representative Hart. He is the house
14 environmental chair and also Representative Pearce is
15 the vice-chair, and he enforces also the chair of the
16 house appropriations committee.

17 We have had one meeting. I'm not sure right
18 now of the absolute next meeting. I think it's on the
19 26th, the day before Thanksgiving. But, of course,
20 you are all invited. It will be at 9:00 in the
21 morning. So that's by way of announcement.

22 MS. DAVIS: Mr. Chairman, the meeting is
23 actually Tuesday, the 25th, from 9:00 to noon. I
24 don't know what hearing room it's in. I will be
25 presenting. I'm not sure everything will be

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89

1 presented. I'm hoping what I want to present is the
2 results of the round table. And I'm sure there will
3 be some departmental background and presentation.

4 MR. MERRILL: It's Tuesday then?

5 MS. DAVIS: Well, I think it was the day
6 before Thanksgiving. I know it was meeting on
7 Wednesdays, but that was a little close to the
8 holiday.

9 CHAIRMAN O'HARA: Shannon, would you be the
10 appropriate person to give us an update on the
11 committee or would somebody on the committee be?

12 MS. DAVIS: Mr. Chairman, I would assume a
13 bit of a tag team. I'll be presenting next Wednesday,
14 but I don't necessarily have the broad overview of it
15 yet. But between -- You go to all of those.

16 MR. MERRILL: I'm a member of that
17 committee, Mr. Chairman, and I'll be happy to provide
18 whatever information, and this kind of goes along with
19 what Gail was saying, I'll be happy to provide any
20 information.

21 CHAIRMAN O'HARA: Okay, that would be great.
22 Thank you. Any comments or questions on that? Any
23 other agenda items you would like to see next meeting?
24 Going once. Okay, thanks.

25 Moving on to Item number 10, which we may

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90

1 have flushed out but maybe there's some remaining
2 issues, discussion of action items for next commission
3 meeting. That wasn't my item, so I don't know.

4 MR. JOHNSON: The action I have -- this is Al
5 Johnson. The action items are: What is expected by
6 the commission to be delivered to them at the next
7 meeting and who is originating that expectation and
8 what is the focus and purpose of that expectation? So
9 that would be the question.

10 CHAIRMAN O'HARA: You know, one thing I
11 liked about the minutes you did for the last several
12 meetings, is you had a very clear section that says
13 action items. It's very specific. I'm wondering, are
14 you going to continue to do that?

15 MR. JOHNSON: Yes, I'm going to continue to

16 do that. In the past, I've been pulling the action
17 items out of the text of my minutes. What I was
18 hoping to get is, at the end of the meeting is to get
19 a summary from the commission specifying what those
20 action items are so I don't have to use my own
21 guesswork to figure out if it's an action item or not.

22 MR. DAVIS: Mr. Chairman, Al, I think that's
23 a great way that we can work that because you have
24 done such a good job. Internally what we do is we
25 have a pre-commission meeting and a post-commission

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91

1 meeting, and we go through all the rough drafts and
2 then the actual all items.

3 Al, I think what would be very helpful is if
4 you, as soon as you get that actionable item, you
5 know, go back and transcribe it and send it back out
6 to the Commission. Then they can see what that looks
7 like on the page and then have that Commission get
8 back. I think that might be a good way to do it. How
9 we reflect on the page is often a little different or
10 misheard. If that works for the Commission.

11 MR. JOHNSON: That would be good because what
12 I'm trying to achieve is some clarity in the action
13 item itself so we don't miss the boat, so to speak.

14 CHAIRMAN O'HARA: That goes along with the

15 comments Shannon made earlier about clarifying exactly
16 what we need as the Commission. As we go through
17 these meetings, if there's anything you're unclear on
18 at all, let's make sure it's clear. Just ask. That's
19 a great idea.

20 Any other comments?

21 MS. CLEMENT: Mr. Chairman and Al, maybe what
22 we can do, as we are going through the meeting, is say
23 action item. Then it's real clear that this is a
24 follow-up item because I, frankly, today didn't keep
25 track of all of those to give you, but, you know, just

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92

1 so it's real clear because we appreciate the effort
2 the department makes.

3 CHAIRMAN O'HARA: Thank you for providing
4 that. It's real helpful.

5 MR. JOHNSON: Sure.

6 CHAIRMAN O'HARA: Any other questions or
7 comments?

8 Moving on to Item 11, general call to the
9 public. I've got -- I believe, Fred, you have already
10 addressed your issue today -- comment by Mr. Brian
11 Beck.

12 MR. BECK: Brian Beck, Mr. Chairman. Am I
13 being called on?

14 CHAIRMAN O'HARA: Yes.

15 MR. BECK: I have five different items. The
16 first one is from just the general groups I'm dealing
17 with. They would like to see the presentation
18 materials, the materials that are given to you in the
19 packets actually made available on the website so when
20 the meetings notes come up, they're also available to
21 see what you guys are reviewing. I think that would
22 be extremely useful.

23 The second thing is going back to two months
24 ago with Mr. Bird,(ph.) the UPC, you actually asked
25 the agency to come up with the definition of

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93

1 substantive policy and also of guideline and when
2 they're supposed to respond to this particular issue.
3 That's still an outstanding issue.

4 Then we have another thing that the SAF was
5 talking about, that there was a sudden little
6 increase, or apparent increase. Well, that should be
7 expected because at the end of every quarter and in
8 request with the SAF application, there should be
9 some, \$20,000 for every quarter. Then I know a lot of
10 consultants are waiting for the quarter to come up.
11 And there will be increases on every quarter, at least
12 there should be on these particular types of
13 commissions. Also there is going be a larger
14 increase on the number of submittals because of

15 consultant change-outs on existing projects to other
16 consultants. One group is actually getting their SAF
17 applications together for change-out according to the
18 contract. There's going to be a bunch of things
19 coming in there.

20 The other thing too on cost recovery, to aid
21 some things with Andrea, I'm working on four of the
22 sites going back to old customers, recovery of old
23 denials. Right now we are now looking at over
24 \$700,000 that we will be pre-filing for here shortly.
25 That's only on, again, a very small number of sites.

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94

1 There's a lot of people starting to do that type of
2 thing. There is a lot more money coming back as far
3 as cost recovery and previous denials.

4 Those previous denials were things like older,
5 the ADEQ could not tie a specific report back to the
6 work being done. So it was denied on that particular
7 aspect, or some other item was not supplied during the
8 time frame. The thing we are doing for these people,
9 a lot of these guys were afraid to file appeals, and
10 so we're actually going back on that. There's some
11 money we've now gotten, which had been denied. They
12 have to go back and seek cost recovery for them.

13 The other thing on today's agenda was UST
14 volunteer co-pay, how much money has actually been

15 denied as far as the preparation fees.

16 CHAIRMAN O'HARA: Okay, thank you. I don't
17 believe there's an outstanding issue on definition of
18 guidelines or substantive policy. Correct me if I'm
19 wrong, but I thought we had a definition of
20 substantive policy from Steve Bird (ph.). And then as
21 we got into the discussions, Shannon said anything
22 that kind of met the guidelines or met that statute
23 would be brought forward and left it at that. I don't
24 think we are waiting for any kind of definition, are
25 we? Correct me if I'm wrong. Great.

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95

1 Comments from Jeff Trembly?

2 MR. TREMBLY: Jeff Trembly. My committee is
3 updating you regarding substantive policy statements
4 for your review. And this a xerox of a single page
5 from the Board of Technical Registration newsletter
6 that they send out quarterly. And this is how the
7 Board of Technical Registration deals with substantive
8 policy statements. I just wanted to provide this as
9 an example of how other agencies are dealing with
10 these matters. I'd like to read a couple paragraphs
11 really quickly into the record.

12 This is the opening quote. These substantive
13 policy statements are advisory only. A substantive
14 policy statement does not impose additional

15 requirements or penalties on regulated parties or
16 include confidential information for rules made in
17 accordance with the Arizona Administrative Procedure
18 Act. If you believe that these substantive policy
19 statements imposed additional requirements or
20 penalties on regulated parties, you may petition the
21 agency under Arizona Revised Statute Section 41-1033
22 for review of these statements. Close quotes.

23 That is their introductory paragraph into
24 their substantive policy statements. It's setting up
25 right up front either advisory, or if you think

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96

1 they're more than advisory, then here's what you can
2 do. Petition us.

3 And, again, this is November of 2003. This
4 is from -- I'm going to read one more paragraph here
5 just to show an example further of how they're doing
6 it. Opening quotes. Item one, alteration of plans
7 during plan checks. Questions have also been brought
8 forward relating to the altering of sealed plans by
9 building officials during the plan review check
10 process. After reviewing the statutes and rules, the
11 board developed this substantive policy statement.
12 This substantive policy statement is offered as
13 guidelines to persons interpreting board statutes and
14 rules. Close quote.

15 And it goes on from there to give what their
16 guidance is for people interpreting that rule and
17 statute. Me? I think this is just marvelous. Any
18 member of the regulating committee can look at this
19 and know how the agency is going to be interpreting a
20 given rule or statute, and there's advice to them that
21 if they think this is actually quoted in a rule on
22 this, how they can respond.

23 I'd just like to send this to you for your
24 consideration. Thank you.

25 CHAIRMAN O'HARA: Thank you. Any other

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97

1 public comments?

2 Moving on to Item 12, the next meeting will
3 be December 17th. And I believe it's here, isn't it,
4 Al?

5 MR. JOHNSON: I believe so.

6 CHAIRMAN O'HARA: I've got an e-mail saying
7 both of them are going to be in the Carnegie Library
8 building.

9 MR. JOHNSON: Right. So I will let you know
10 where.

11 CHAIRMAN O'HARA: Okay, great. Thank you.
12 And we will get them out now on the subcommittee issue
13 forthcoming.

14 Without objection, we'll adjourn the meeting.

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(Meeting adjourned at 11:20 a.m.)

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98

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C E R T I F I C A T E

JEAN M. ALBRIGHT, the Court Reporter herein,
hereby certifies that the proceedings had in the
foregoing matter are contained fully and accurately in
the shorthand record made thereof, and that the
foregoing typewritten pages constitute a full, true
and accurate transcript of said shorthand record, all
done to the best of my skill and ability.

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DATED this 1st day of December, 2003.

Jean M. Albright, RPR
Certified Court Reporter No. 50256
For the State of Arizona

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