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ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

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MEETING OF THE

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UNDERGROUND STORAGE TANK POLICY COMMISSION

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Phoenix, Arizona

8

June 23, 2004

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9:00 a.m.

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Location: Arizona Department of

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Environmental Quality

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Conference Room 250

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1110 West Washington

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Phoenix, Arizona

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Reported by:

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COMMITTEE MEMBERS PRESENT:

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Gail Clement, Chairperson

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Hal Gill, Vice Chairperson

4 Roger Beal
5 Shannon Davis
6 Theresa Foster
7 Tamara Huddleston
8 Michael O'Hara
9 Andrea Martincic
10 George Tsiolis

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P R O C E E D I N G S

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CHAIRPERSON CLEMENT: Good morning. Welcome to
the June 23rd, 2004 UST Policy Commission meeting. We're
glad you're here.

A couple ground rules. We have a court reporter.
And this room is not really well designed to hear very

8 clearly, particularly from the back.

9 So if you have something that you want to speak
10 out in terms of speaker slips, please come forward and
11 make sure that the court reporter can hear you and the
12 people in the back can hear you.

13 And if anybody has any problem hearing the
14 Commission members, please let us know because we really
15 want everybody to hear what's going on. So we have had
16 some problems in the past with that.

17 And also, because we have a court reporter,
18 please speak clearly and slowly. And if we're using
19 acronyms, make sure he has a chance to understand what
20 they are. And that would be very helpful for everyone.

21 Let's see. We'll start with the roll call.

22 MS. FOSTER: Theresa Foster.

23 MR. O'HARA: Michael O'Hara.

24 MS. MARTINCIC: Andrea Martincic.

25 CHAIRPERSON CLEMENT: Gail Clement.

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1 MR. GILL: Hal Gill.

2 MR. BEAL: Roger Beal.

3 MS. DAVIS: Shannon Davis.

4 CHAIRPERSON CLEMENT: And has everybody had a
5 chance to read and review the May 2004 meeting minutes?

6 (Response)

7 CHAIRPERSON CLEMENT: Any questions, comments?

8 (No response)

9 CHAIRPERSON CLEMENT: Is there a motion to
10 approve the May 2004 meeting minutes?

11 MR. O'HARA: I'll move that we approve the
12 minutes.

13 CHAIRPERSON CLEMENT: Second?

14 MR. BEAL: I'll second the motion.

15 CHAIRPERSON CLEMENT: All in favor?

16 (Positive response)

17 CHAIRPERSON CLEMENT: Approved.

18 For the record, Tamara Huddleston has joined the
19 Policy Commission. Thank you.

20 The next agenda item, Shannon Davis has asked to
21 switch Agenda Items 3 and 4.

22 So if everyone is okay with that, we'll go to
23 Agenda Item 4 next which is the ADEQ Updates.

24 The first is the SAF Monthly Update.

25 I believe that Tara is going to provide us that
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1 update because Judy is on vacation.

2 MS. ROSIE: Tara Rosie, State Assurance Fund.

3 Judy prepared the package before she left town,
4 and I believe everyone has a copy of it.

5 It should be the standard format that you're used
6 to seeing with the application status and tracking as well
7 as some notes about the SAF appeals.

8 And I believe the last page should be an example
9 of an Attachment II which, in previous meetings, we were
10 discussing trying to develop ways to more effectively
11 communicate with the regulated community regarding
12 determinations made on the SAF applications.

13 And this is what we have been using to try to
14 meet that need.

15 CHAIRPERSON CLEMENT: Did everybody get that in
16 their packet or have a copy of that?

17 Because there is an attachment that looks more
18 complete up there.

19 If you wouldn't mind, just give us a moment to
20 look at it, those folks who didn't receive it
21 (Discussion off the record)

22 CHAIRPERSON CLEMENT: Tara, are all of the
23 decisions, the reviews that you have now, do they include
24 an attachment similar to this?

25 MS. ROSIE: My understanding is that everything
0006 1 that's not in approval would include something like this.

2 For example, if the only item is (inaudible)
3 average preparation and the other items are approved, then
4 an Attachment II would not be attached.

5 But if there are denials and we want to explain
6 fully what those denials are, this should be standard on
7 most of the determinations going out.

8 CHAIRPERSON CLEMENT: This is certainly a lot
9 more detail and a lot clearer than materials I have seen
10 in the past.

11 Does anyone have any questions or comments in
12 terms of the SAF Monthly Update?

13 (No response)

14 CHAIRPERSON CLEMENT: Tara, any other highlights
15 you want to --

16 MS. MARTINCIC: I was going to ask a question.

17 I notice that there were a lot more active

18 reimbursement applications than the others.

19 I don't know if it's just the nature of what's
20 coming in or if there's a reason that there's more of
21 those, sort of, that have been around longer.

22 MS. ROSIE: I believe historically we have had
23 more reimbursement applications than preapprovals and
24 direct pays.

25 MS. MARTINCIC: You've just had more in house of
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1 that?

2 MS. ROSIE: And we received more monthly,
3 correct.

4 CHAIRPERSON CLEMENT: Do those take longer to
5 process?

6 MS. ROSIE: It depends. I think usually the
7 direct pays, if they are new direct pays, we have got
8 those preapproval tracking sheets that I believe we have
9 shown the Policy Commission in the past. Those facilitate
10 matching up direct pays with newer preapprovals.

11 So I believe that it makes it more efficient and
12 speeds it up.

13 MS. MARTINCIC: That speeds it up?

14 MS. ROSIE: That speeds that up.

15 CHAIRPERSON CLEMENT: Thank you. Mr. O'Hara?

16 MR. O'HARA: Yes. Madam Chair, I just want to
17 thank DEQ for preparing this because I really think this
18 is going to be helpful in reviewing determination letters
19 and deciding whether to appeal, not to appeal, providing
20 additional info.

21 So I just thank you for doing this and hope you

22 continue to use it. Thanks.

23 CHAIRPERSON CLEMENT: This should save a lot of
24 problems in terms of uncertainties and miscommunication,
25 et cetera. It's a good effort.

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1 Any other questions? Mr. Gill?

2 MR. GILL: Tara, on, I guess the third page of
3 the handout, the one, the Most Frequently Appealed Denial
4 Codes, D35, where is the denial there?

5 MS. ROSIE: D35 shows up as a denial code because
6 the costs are not approved for payment. They get credited
7 to the co-pay but they show up through our tracking
8 database as a denial.

9 So that's why they end up on the list.

10 MR. GILL: Okay. Thank you.

11 CHAIRPERSON CLEMENT: Ms. Foster.

12 MS. FOSTER: Madam Chairwoman, after having a
13 number of applications, it's a breeze now. You get this
14 final form with a summary. You can respond back to it
15 even before you get to an informal appeal request.

16 And it works wonderful. We have been going
17 through a few lately and I see it as a streamline and easy
18 to take care of.

19 CHAIRPERSON CLEMENT: Very good.

20 Anything else on the SAF Monthly Update?

21 The Commission? Tara?

22 (No response)

23 CHAIRPERSON CLEMENT: The next agenda item is SAF
24 Rule Update. And again, I believe Tara --

25 Or excuse me, Shannon Davis.

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1 MS. DAVIS: Madam Chair, what I'd like to do is
2 when I do the legislative piece when we get our materials,
3 then I will roll that in because the rule is probably the
4 most -- one of the biggest chunks of it, yes.

5 CHAIRPERSON CLEMENT: Okay. Sounds great.

6 Mr. Drosendahl, the UST Corrective Action and
7 Risk Assessment Monthly Update.

8 MR. DROSENDAHL: Yes. In your report you have
9 all the normal graphs and statistics for the Corrective
10 Actions Section.

11 Let me know if you have any questions on them.
12 There's definitely room for improvement on getting things
13 out, you know, quicker. And we're trying to do that.

14 And in regards to the risk assessment, I'll have
15 to plead a little ignorance in that. That's a different
16 unit. The data, I guess, speaks for itself.

17 Just a very generic update on the Tier II
18 software. They are working on finalizing that software
19 and we're hoping to be getting it out soon.

20 Exactly how soon, I'll have to plead ignorant on
21 that. But I can talk to Ren Willis-Frances and provide an
22 update at the next meeting.

23 CHAIRPERSON CLEMENT: I did have a conversation
24 with Ren Willis-Frances. I always get her name wrong.
25 And she had asked if she could not be here day. If you
0010 1 would just, you know, give her a quick update.

2 The other thing that she and I discussed -- and I
3 don't know, Joe, if you're prepared.

4 She's been re-evaluating the whole question about
5 what QAQC requirements are necessary in the UST program to
6 perform risk assessments, basically, and to meet the
7 criteria for risk assessment.

8 MR. DROSENDAHL: That's correct.

9 CHAIRPERSON CLEMENT: And she had said that most
10 of the criteria are in existing statute and rule or
11 guidance. And she was pulling together the various
12 citations and how it would all fit together.

13 And I asked her if we could have a projected
14 schedule when that would be available to the regulated
15 community. And I don't know if either Ms. Davis or Mr.
16 Drosendahl can comment on that.

17 MR. DROSENDAHL: I can't but I can definitely
18 talk to Ren and find out unless Shannon knows something.

19 MS. DAVIS: Madam Chair, Ren and I had a meeting
20 a week or two ago about this. And she did tell me that
21 the pieces of UST QAQC were embedded in different
22 regulatory portions.

23 And as the division director, we're going to need
24 all that pulled out and put into our divisional QAQC
25 program, and each one have a plan. And so there's some,
0011 1 you know, bureaucratic/administrative things to be done.

2 The second piece that's going to need to happen
3 is that everyone in Joe's section is going to need to be
4 trained to make sure that the components of that are being
5 met rather than being buried in differ pieces of statute,
6 rule, and guidance.

7 And I think that we're aiming for the end of the
8 summer, both on the Tier II piece and the QAQC.

9 And I can check back with Ren on that, but that's
10 my recollection a couple weeks ago.

11 And the delay really is on my part because I want
12 to make sure that it's consistent with everything else,
13 because of our EPA requirements, and that staff is trained
14 on that. So we're pulling that together.

15 I think we're really close but we're not going to
16 be sure until all the pieces are pulled together, if that
17 makes sense.

18 CHAIRPERSON CLEMENT: That would be very helpful.
19 And I think as soon as you have those criteria spelled out
20 in a format that you can release to the regulated
21 community, I think it's going to be really helpful --

22 MS. DAVIS: Okay.

23 CHAIRPERSON CLEMENT: -- so they know what the
24 target is very clearly, no confusion.

25 I'm sorry, Joe. I know you have a whole
0012 1 presentation.

2 MR. DROSENDAHL: No. I think I was pretty much
3 done unless anybody else has any questions or comments or
4 anything.

5 CHAIRPERSON CLEMENT: Just let me interrupt for
6 just a second.

7 For the record, Mr. George Tsiolis just joined
8 us. Ms. Foster?

9 MS. FOSTER: Madam Chair, I still have some
10 concerns that we have 28 risk assessments still

11 outstanding. And even if we get this new software in,
12 it's not going to help the existing assessments that are
13 already in the pool.

14 And even though DEQ has told us that they are
15 completely staffed up now, when you see, since January,
16 only six risk assessments have been finalized and 28 are
17 still open, it's very -- it's very frustrating.

18 CHAIRPERSON CLEMENT: Any other comments or
19 questions on the UST Corrective Action and Risk Assessment
20 Update?

21 MR. GILL: Joe, any activity on the language that
22 we were waiting for?

23 I know we didn't have a technical subcommittee
24 this month. But I'm just wondering what the status of the
25 different language we're waiting for is.

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1 MR. DROSENDAHL: I've been working on the release
2 confirmation and LUST number assignment policy. And I'll
3 make that available by the next meeting.

4 And the other language was in regards to pilot
5 testing and feasibility studies. I'll give that to
6 someone else to kind of finalize up and submit that
7 hopefully by the next meeting too.

8 MR. GILL: Okay. Thank you.

9 CHAIRPERSON CLEMENT: Would that be the next
10 technical subcommittee meeting?

11 MR. DROSENDAHL: Yes.

12 CHAIRPERSON CLEMENT: Okay.

13 Are you planning a technical subcommittee meeting

14 in July, then?

15 MR. GILL: Yes. I was unable to have one this
16 month, so it would be the second Wednesday in July.

17 CHAIRPERSON CLEMENT: Okay. Great.

18 Any other comments, questions, observations?

19 (No response)

20 CHAIRPERSON CLEMENT: Thank you very much, Joe.

21 Appreciate your work.

22 MR. DROSENDAHL: You're welcome.

23 CHAIRPERSON CLEMENT: I think we'll jump back to

24 both the Rule Update and the Legislative Update with

25 Shannon Davis.

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1 MS. DAVIS: Thank you, Madam Chair.

2 For Commission members, what Al Johnson and I

3 have worked on for the Commission, and I think parts of

4 this will just become, you know, part of the literature

5 that we hand out to educate people on two bills.

6 And first of all, Senate Bill 1306 was the huge

7 UST rewrite, if you will, and then House Bill 2651 was the

8 expansion of the Municipal Tank Closure Program.

9 So we just looked at that as another tool and

10 that's why we roll them all together.

11 Included in your packet, the first page, are the

12 priorities from the round table.

13 The second piece is an overview of the provisions

14 of the bills, the summaries.

15 The third piece are important dates. That's

16 going to be a big one.

17 And then the next page is simply just an

18 implementation of how we're going to implement that.

19 And then the last piece is something on the MTCP
20 program.

21 So just walking through the first page, as you
22 know, what I reported out on last time, taking us back to
23 the beginning of things, what the results of the
24 director's round table, the priorities that came out of
25 the round table and the director's response to that.

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1 And those are those 10 points, which I think we
2 might need work on all of those, but those are just
3 numbered out there.

4 On the Senate Bill 1306 and the Municipal Tank
5 Closure Program, what you have there in front of you, I
6 just had everything clumped together, you know, rather
7 than one by one, and clumped them into the State Assurance
8 Fund. And the first one is the State Assurance Fund.

9 And, by far, the rule is the most important
10 piece. When we sat down and we said, you know, what is it
11 in the rule package that we need to do?

12 It was a no-brainer that the SAF rule needed to
13 occur. And the drafting has already begun on that.

14 We have kind of been putting together a team
15 internally to do that. I can't give you what the time
16 frame is on that sitting right here right now, but the
17 major rewrite of that draft has come.

18 And just to put everybody on notice on that major
19 rule revision, there will be a public process for that.

20 We're under particular specific public comment periods

21 with our rule writing.

22 It will not resemble in any way, shape or form
23 the agony that we went through on the Corrective Action
24 Rule where there was just this, you know, 100-and-some
25 meetings of back-and-forth and back-and-forth and
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1 back-and-forth. We'll never get an SAF Rule out if we do
2 it that way.

3 So I would imagine that there will be some
4 drafting of it that will reflect all of the needs from
5 1306 and a draft will hit the street and there will be a
6 period to review that and comment period.

7 I'm sure there will be a couple of public comment
8 periods, but there will not be 100-and-some meetings on
9 the SAF Rule like there was for the Corrective Action
10 Rule.

11 And I don't say that in the spirit of: We don't
12 want public comment.

13 We do. But we need to get a rule out. It's so
14 critical in the execution and implementation of 1306.

15 So just, please, everybody here that wants to
16 participate in that, when the draft comes out, you need to
17 review that and try to get all your comments in in a chunk
18 and then we'll incorporate those and, I'm sure, have a
19 couple of public meetings on that.

20 So that's the deal for the rules.

21 Let's see. Corrective Actions. We went through
22 some of those last meeting.

23 I want to talk a little bit about the volunteer
24 provisions and also talk about the last page here.

25 One of the agreements that the Agency has made,
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1 and I think it's actually a really fun project, is we have
2 the Route 66 Initiative.

3 And this was Speaker Flake's desire, along with
4 other public and elected officials from Navajo County, to
5 work more closely with the department and really identify
6 sites that need to be cleaned up, identify sites that are
7 eligible for the Municipal Tank Closure Program, and
8 really to move these existing sites through the process
9 for cleanup and payment.

10 We have spent a lot of money up in that, but we
11 haven't been very successful in actually getting things
12 cleaned up and closed.

13 And the Holbrook project is well under way.

14 Joe and Chris Henninger went up and met up with
15 our community liaison, Byron James, and they met with a
16 series of folks in Holbrook and Winslow on Friday.

17 And this evening we'll be having a public meeting
18 in Holbrook. And Speaker Flake can't be there. He wanted
19 to be, but the State land reform is taking his attention.

20 But Representative Konopnicki will be there as
21 well as the City of Holbrook is hoping to provide
22 facilities and cohost.

23 So that's a project where the train has left the
24 station. I think the Agency is very clear where its
25 accountability is and we look forward to working with all
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1 of the volunteers and the owners and operators up there to
2 get things done.

3 So that's a project that's out of the gate right
4 now.

5 CHAIRPERSON CLEMENT: Shannon, a question on
6 that. Are you looking at Holbrook, I guess, technically,
7 as one thing, because the hydrogeology is the same, and
8 trying to develop consistency between the various release
9 sites so that you can approach it in a more comprehensive
10 way?

11 MS. DAVIS: Madam Chair, I'm sorry Chris
12 Henninger isn't here. He's the project manager that we
13 put on Holbrook to do that.

14 And yes we are. And the first thing that we want
15 to do is try to take some of the noise down up there and
16 be more, you know, customer service oriented and do
17 things.

18 And then we also want to meet with some of the
19 consultants. There is a half a dozen -- there's 28 sites
20 altogether in Holbrook, 28 sites that we want to look at.
21 Half of those are volunteers. Half of those are owners
22 and operators, roughly.

23 And we want to be able to talk about the Holbrook
24 project this evening.

25 And then Chris and Joe will talk with the
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1 consultants or the owners and operators who are working on
2 those sites as well to get it consistent.

3 So it's outreach. It's technical. It's getting
4 (inaudible).

5 CHAIRPERSON CLEMENT: Is that a public meeting,
6 then, tonight?

7 MS. DAVIS: Yes, it is.

8 MS. MARTINCIC: I would have liked to have gotten
9 that out to -- I have members in that area.

10 MS. DAVIS: Madam Chair, Andrea, what we did was,
11 we did a -- what we first did was we targeted -- we sent
12 individual letters -- and I don't know if we did phone
13 calls as well -- to the people who have the 28 sites up
14 there.

15 MS. MARTINCIC: Okay. So you've already notified
16 them all up there?

17 MS. DAVIS: Yes, we did.

18 MS. MARTINCIC: Okay. I just wanted to make
19 sure.

20 MS. DAVIS: We did 28 outreach pieces on that
21 because we didn't want to miss anyone. And we have done
22 outreach with public and elected officials.

23 And then the third piece, I don't remember the
24 name of the newspaper up there, but we did a general
25 notice because we want people to come forward who know
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1 where there are old sites where there may be orphan tanks.

2 So those are the three pieces that we did;
3 individual outreach, 28 public and elected officials, and
4 general: Come tell us if you know.

5 So those are the volunteer provisions.

6 The technical appeals panel we went through
7 before, basically expanding the membership and adding
8 alternates and strengthening the conflict of interest
9 provisions, the regulated substance account.

10 And probably the establishment of the regulated
11 substance account and how it works is probably one of the
12 most complicated pieces.

13 And the good news here is, we won't transfer
14 monies until 2011 so we don't have to figure stuff out
15 immediately on that.

16 It's a complex -- or it seems complex at this
17 point. It might not be later on down the line. But
18 again, we're focusing a lot more on the rule that needs to
19 be written for the State Assurance Fund piece of it.

20 And then I talked about MTCP. And probably,
21 really for execution, this third piece is really going to
22 be important because it has all the dates, you know, where
23 things are going to be driven.

24 Of course SAF as the primary financial assurance
25 mechanism, it's already -- it's retro to the first of '03.

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1 And then it just rolls through all of the dates on that.

2 And there will be a more extensive presentation
3 of the bill, probably expanding on this piece right here,
4 at the program conference.

5 And I think we're looking at that as being
6 sometime early October at this point.

7 But I think this is a -- I mean, it gives people
8 a good starting point for, you know, what the dates are,
9 what the major pieces are, and will certainly at least,
10 you know, be a starting point to ask questions.

11 And again, the full text of both bills are online
12 if you would like them. I'm happy to answer any questions
13 if anyone has them.

14 MR. MARTINCIC: I appreciate this.

15 Is this available -- I know it says "draft" on
16 it, but I mean, can we disseminate this as a draft format?
17 I mean, is that all right with the Agency?

18 MS. DAVIS: Sure. Public document. You bet.

19 CHAIRPERSON CLEMENT: It can be very helpful to
20 people for that training and outreach. Just putting these
21 dates together, I think, is a big effort here.

22 MS. MARTINCIC: Shannon, did the Agency do
23 anything else with the process in which folks who need to
24 re-review their applications, or whatever, based on the
25 primacy issue, because I know that that date's kind of
0022 coming up on us, January 1, 2005.

2 And I'm just worried that if it doesn't get out
3 until October, that's not an awful lot of time for folks
4 to, if they are going to need to do additional -- I don't
5 know what the Agency is going to want from them, but I
6 just want to make sure that folks have enough time to --

7 MS. DAVIS: Madam Chair, Andrea, I know that
8 there has been a meeting of both the AG's office and Judy.

9 Were you at that meeting?

10 MS. ROSIE: Yes, I was.

11 MS. DAVIS: Will I put you too much on the spot?

12 Do you have anything to report out on that?

13 MS. ROSIE: What we discussed was how to develop
14 an implementation to address what you brought up using the
15 web site was one of the discussion items.

16 And I don't recall the rest of the details, but

17 we're in the process of trying to create something to
18 communicate in the way you just expressed.

19 MS. DAVIS: And, Madam Chair, Andrea, in my
20 conversations with Judy, she made it very clear that these
21 applications have already been reviewed and she doesn't
22 want to put them in the line to go through again because
23 they have already been evaluated and they don't need to go
24 through that process again.

25 And so I think they were trying to come up with a
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1 hybrid of sort of reaccepting the application, reaccepting
2 the reviewed application and getting them done.

3 But I don't anticipate --

4 She was trying to make it as simple as possible
5 because a lot of the review work had already been done.

6 So that was the principle that she was --

7 But that was before the attorneys got involved.

8 MS. MARTINCIC: I would just ask, as soon as that
9 process is, you know, (inaudible) to let me know so I can
10 transfer that to my membership.

11 CHAIRPERSON CLEMENT: And you will be posting it
12 on the web?

13 MS. DAVIS: Yes.

14 CHAIRPERSON CLEMENT: Good.

15 MS. DAVIS: And if it comes up in a, you know, in
16 a narrative way, we can also just distribute that to the
17 Policy Commission members and you can get it out as well.

18 CHAIRPERSON CLEMENT: Mr. Gill.

19 MR. GILL: Madam Chair, I just have a concern
20 about your first statement and having to do with the SAF

21 Rule. And I understand perfectly well what you're saying
22 about, we don't want to get bogged down in dozens of
23 meetings because unfortunately I was bogged down in those
24 meetings.

25 But we'd like as much lead time as possible to
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1 get it through the Policy Commission so we can, you know,
2 come up with a very good document because this is --

3 We're now under absolute deadlines. And so it
4 has to work well. We want it to be as good a document as
5 possible. So I'm just hoping that we can have as much
6 lead time for reviewers as possible.

7 MS. DAVIS: And, Madam Chair, I would hope that
8 we'd be able to use the infrastructure of the Policy
9 Commission both through the financial and the technical
10 subcommittee to review that before it comes to the full
11 Commission as well, using both of those review mechanisms.

12 CHAIRPERSON CLEMENT: I think that works pretty
13 well, and they have been extremely functional groups that
14 can, you know, go into the details that we don't have time
15 for in the full meeting.

16 Any other questions from the Commission on the
17 proposed rule and legislative update? Comments?

18 MS. DAVIS: Madam Chair, if I could, just on
19 important dates, there's a typo here on the fourth row on
20 July 1, 2005. Volunteers must use preapproval process if
21 cumulative claims exceed 100,000, not 500. 500 is the
22 primary. Thank you.

23 CHAIRPERSON CLEMENT: Any other comments?

24 (No response)

25 CHAIRPERSON CLEMENT: My only comment, Ms. Davis,
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1 is that I have heard many people complain about it, so it
2 must be a really great legislative bill.

3 Because we have that many special interests
4 saying it's bad, you know you hit it right on the mark.

5 MS. DAVIS: I do have a love-hate relationship
6 with it as well.

7 CHAIRPERSON CLEMENT: I think as a Commission
8 we're pleased that at least those items that we thought
9 were of highest priority to the Commission and the
10 regulated community were addressed. We appreciate that.

11 The next agenda item is the Financial
12 Subcommittee Update. And Andrea Martincic will provide
13 that, Subcommittee Chairperson.

14 MS. MARTINCIC: We met June 1st. There weren't a
15 lot of folks there. And I think we're going to try to get
16 the notices out in a little bit more timely manner to
17 hopefully draw some more folks to the meetings.

18 But we did manage to identify some areas that the
19 financial subcommittee ought to discuss further in
20 relation to Senate Bill 1306 and its implementation.

21 So what we did was, I have about 10 bullet points
22 here that were captured from that meeting that I'd be glad
23 to share with the larger Commission.

24 And I guess I forget, kind of, what the process
25 is in terms of, does the full Commission need to approve
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1 our ability as the subcommittee to kind of further look at
2 those issues?

3 I can't remember what we said about that at prior
4 Commission meetings.

5 MR. GILL: Madam Chair, that's -- what you just
6 said is basically what we decided as far as the technical
7 subcommittee. We would bring forward issues that had been
8 brought to us from the regulated community --

9 MS. MARTINCIC: Okay.

10 MR. GILL: -- and owner-operators and then we
11 would decide which ones were -- we felt should go forward
12 with further discussion.

13 MS. MARTINCIC: Okay. Great. Well, I'll just go
14 through, then, the issues that we identified. And I'm
15 sure this is not, obviously, an exhaustive list, but it's
16 what I recall, sort of, on the get-go.

17 Primarily there were Sections 1, 2 and 9 of the
18 bill that we identified that had provisions in it that
19 would possibly require, you know, rule making or guidance
20 from the Agency to assist in the implementation of it.

21 So more specifically, though, these are the ones
22 that kind of came up.

23 One issue had to do with the No Further Action
24 Letter Language and the Reopener Clause. That was brought
25 up in the meeting.

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1 The Monitored Natural Attenuation Fund and
2 payment, that's going to be a big one.

3 But like Shannon said, I know that's a little
4 further off, but I think it's still important for us to be
5 thinking about how that is going to work.

6 The third bullet was Changes to the SAF Cost
7 Ceilings.

8 The fourth was Various Issues Surrounding the
9 Regulated Substance Fund.

10 Again, that goes back to the 2011 fund.

11 What aspects of the bill can be implemented
12 immediately and what should wait for rule?

13 We had asked from the Agency to kind of outline
14 what the issues will be and whether they feel that it will
15 need to be taken care of in that SAF rule or if they feel
16 it's something that they can do through guidance.

17 And so hopefully it looks like they are on the
18 track of getting there with the reports that Shannon has
19 provided.

20 The next issue had to do with Processing for
21 Reviewing SAF Submittals Denied Due to Lack of Financial
22 Responsibility.

23 And this is the issue that I brought up in terms
24 of, if folks have to have their application re-reviewed by
25 January 1, 2005, what process, you know, do they need to
0028
1 follow to make sure that that happens within the new time
2 frame.

3 The next issue had to do with SAF Payment for
4 Technical Reports Not Required By Rule.

5 This was brought up by a member at the meeting.
6 So that was an issue.

7 And another issue was SAF Copayment Obligations,
8 how that's going to be handled for volunteers.

9 The next issue is Language for SAF Payment

10 Certification Requirements.

11 And then the final one was When and How ADEQ Will
12 Request Certification of Copayments from Applicants.

13 CHAIRPERSON CLEMENT: Could I have the
14 second-to-last one?

15 MS. MARTINCIC: Sure. Language for SAF Payment
16 Certification Requirements. I think in the bill it had
17 language in there that says ADEQ will require that the
18 copayment be certified.

19 And I think the -- correct me if I'm wrong, but I
20 think the issue was, how will that -- what will be
21 required or what, you know, method for that certification.

22 So these were the initial issues that kind of,
23 you know, cropped up at that meeting.

24 Our next meeting is scheduled for next week, July
25 1st, at 2:00 o'clock.

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1 And we have been keeping the meetings relatively
2 condensed, or trying to, so that, you know, if you come
3 you won't be there for four hours.

4 MR. GILL: Andrea, could you send the members the
5 list?

6 MS. MARTINCIC: Yes. Actually, I mean, Al kind
7 of already typed it up in the format of the draft minutes
8 from that meeting. So maybe if Al can just forward that
9 to the Commission members because I just read directly off
10 that list.

11 MR. JOHNSON: I think it's in the packet.

12 Did you all get the packet?

13 MR. GILL: Not yet.

14 MS. MARTINCIC: It wasn't in the electronic, I
15 don't think.

16 MR. JOHNSON: Okay. I'll send the electronic
17 version to you all.

18 CHAIRPERSON CLEMENT: We do continue to have
19 problems getting packets. I don't think many of us got
20 packets.

21 MS. MARTINCIC: I didn't get a packet. And it
22 wasn't included in the initial e-mail.

23 MR. JOHNSON: I'll send it electronically.

24 MR. GILL: Thanks.

25 MS. MARTINCIC: So we'll probably review these
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1 issues again at our July 1st meeting and then look to see
2 if there's any additional issues. And then we can review
3 the draft documents that Shannon's provided that the
4 Agency's working on.

5 So I would encourage everyone to attend if you
6 have questions about the bill, how things are going to be
7 implemented.

8 And like Shannon said, I guess we'll be probably
9 putting some of those SAF rule issues through the
10 subcommittee.

11 CHAIRPERSON CLEMENT: Do you have a sense of
12 priorities in terms of your list at this point in time?
13 And what exactly are you looking for from the Commission?

14 MS. MARTINCIC: Well, I guess, from a priority
15 standpoint, I mean, if we go off the time line, that's
16 probably what we ought to do is cross reference these

17 issues with the time line so that the issues that are
18 going to be impacting the regulated community first are
19 taken care of as quickly as possible.

20 And I can maybe do that quickly during the
21 meeting here. I should have done that ahead of time.

22 But I mean, I think these are all important
23 issues. And I'm assuming and hoping that a lot of these
24 will be addressed in the rule process.

25 So I don't know. Until we get a copy of that
0031 draft rule, I don't know how much more we can -- I guess
1 we can keep talking about the issues.

2 But would the Policy Commission like these
3 prioritized? Is that what I'm hearing, Gail?

4 CHAIRPERSON CLEMENT: It seemed like a laundry
5 list at this point in time. And I think, just for the
6 expedience of what you're trying to do, you're going to
7 need to prioritize them. Mr. O'Hara?

8 MR. O'HARA: Madam Chair, I just have maybe a
9 question of maybe Shannon or someone in the department,
10 whether it would be helpful for not only the subcommittee
11 but the full Commission to review some of these issues and
12 make recommendations as to how the Committee thinks these
13 things should be implemented in rule or guidance.

14 And would that be helpful in writing that rule so
15 that you don't write the rule and then --

16 It seems like what she's saying is, the process
17 may start with the rule, but maybe the guidance might help
18 the department in writing the rule? I'm not sure.

20 MS. DAVIS: Madam Chair, Mike, I think that's a
21 good suggestion. Maybe what would be helpful -- I'm
22 thinking of Joan Card drafting the rule. I'm thinking of
23 the actual, like, how it's going to work.

24 And I know she's working very closely with, like,
25 John Alspach and those who have a history of the program.

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1 And what might be good is if the subcommittee can
2 raise some issues that they think are important to
3 address. But your turnaround on that is going to have to
4 be fairly quick in order to get that information as Joan
5 drafts the rule. And that would be my recommendation.

6 If the financial subcommittee wants to be
7 helpful, you know, sit down and tease out, you know, think
8 through the implementation.

9 And you can pose the questions of: Is it going
10 to work this way or is it going to work that way; this
11 would be helpful, this wouldn't.

12 You know, you can go through that, and then give
13 it to Joan because she's going to have to weave all of
14 that stuff together.

15 And that's where I can see, you can front load it
16 right now, it would be helpful, but in the middle of the
17 rule writing process, I don't think so. It would be
18 better to wait until the draft came out.

19 MR. O'HARA: So in terms of your subcommittee
20 that you have next week, maybe if we do not come up with a
21 recommendation, at least identify the important issues in
22 your meeting next week?

23 Is that what you were saying, basically, Shannon,

24 identify the important issues?

25 MS. MARTINCIC: I think that's what this list is,
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1 in my mind, anyways. I mean, we identified the main
2 areas. And just quickly looking at this based off the
3 time line, I mean, I'd say the top three are basically the
4 process for resubmittal or whatever, the re-review of
5 those claims on the insurance issue.

6 MR. O'HARA: Is there any more detail to your
7 letter than what you -- just subjects, topics on that
8 letter, or is there actual more ferreting out and saying,
9 okay, in terms of the MNA process, here's what the
10 concerns were from the people?

11 MS. MARTINCIC: No. I mean, we basically just
12 identified the issues. But I mean, are you saying you
13 want the subcommittee to actually come up with what kind
14 of process we would like to see?

15 MR. O'HARA: Well, at least identify the issues
16 so that when Joan's writing, she can say, okay, this is
17 important to capture in that rule. Otherwise you may get
18 a rule that may not even match --

19 MS. MARTINCIC: Yes. Some of the early ones,
20 though, I don't think necessarily have to do with the
21 rule. I mean, that process is not going to be part of the
22 SAF rule, I wouldn't imagine.

23 Is it? I mean, that wouldn't need to be --

24 MS. DAVIS: Madam Chair, Andrea, what we have
25 done internally that we can cross reference with your list
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1 is, I have got a set of tables that basically lay out

2 three pages of activities that need to occur with the
3 bill.

4 And what I'll ask staff to do is cross reference
5 these issues. What we can do, we can bring to the meeting
6 on Thursday, next week, is just all the issues that we
7 see associated right now with the rule.

8 MS. MARTINCIC: That would be great.

9 MS. DAVIS: And those are the priorities for the
10 Agency. That's where our focus is going to be.

11 The NFA letter, the MNA Fund and payment, those
12 we looked at as, that's our second round. And we are
13 putting those in a basket and we're not touching those
14 right now because we really see that the SAF rule, you
15 know, is the important thing.

16 So what we'll do is we'll bring to the meeting on
17 the 1st, Andrea, just a list of what the Agency sees as
18 the components that go in the SAF rule and then the second
19 sort of phase-two, round-two, priority-two issues; okay?

20 MS. MARTINCIC: Yes. That would be great.

21 MS. DAVIS: And then what the committee can do is
22 say, does this meet all the -- is there anything else off
23 these lists? All right.

24 MS. MARTINCIC: That would be great.

25 Thank you, Shannon.

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1 MS. DAVIS: You're welcome.

2 CHAIRPERSON CLEMENT: Do we, as a Commission,
3 need to take any action on this?

4 I don't think so but I --

5 MR. O'HARA: Unless there's objections to what

6 they are going to be looking at.

7 MS. MARTINCIC: Yes. Unless there's any
8 objections to these issues, at least, for us to look at.

9 MR. BEAL: It's not an objection but it certainly
10 is an observation. We have said that we are going to have
11 to expedite the rule-writing process and we're going ahead
12 without the traditional input from the Commission that's
13 been there in past rules.

14 And, you know, it makes sense to push forward
15 like that. We have got a Commission that's looking at one
16 meeting's worth of interactivity with 1306 that hasn't
17 been developed.

18 There's probably going to be some feedback which
19 we have just done, and we have got a subcommittee meeting
20 that's going to develop that that's less than the full
21 Commission.

22 I think we need to recognize that if the
23 Commission is going to have input running parallel with
24 the development of the rules, whether you accept it now or
25 during or in the end, it's probably going to be there.

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1 And so if there were a mechanism to get the
2 topics out, that's certainly a positive step, but it
3 doesn't -- I'm a little uncomfortable with the idea of,
4 okay, the Commission's here but let's forget about the
5 input. We'll just write the rule and at the same time --

6 MS. MARTINCIC: I don't think that's the --
7 that's not my impression of what's going on here.

8 MR. BEAL: Well, I don't think so but --

9 MS. MARTINCIC: It's a public meeting. I
10 encourage anyone to come to these subcommittee meetings.
11 You know, it's open to all of the Policy Commission
12 members as well as the public. And all of the work that
13 goes on in those subcommittees is then presented to the
14 full Commission. So I mean, I guess --

15 MR. BEAL: The time line is such that --

16 And I didn't mean to say that there was anything
17 underhanded about it at all. It's just a fact of life, if
18 you have a meeting next week, when's the next meeting that
19 the Policy Commission's going to meet? And when is the
20 rule, the rough draft going to be done?

21 I mean, they are almost going to be there
22 simultaneously.

23 So there isn't a lot of comment from the
24 Commission as a whole on things that you've been working
25 on to get to the rule writing process. And that's the way
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1 I'm hearing that.

2 CHAIRPERSON CLEMENT: And there has been --

3 I think to Roger's point, there has been a push
4 by the Commission to hold less frequent meetings and
5 potentially even not have a July meeting, where the timing
6 on this might not actually be advantageous to hold less
7 frequent meetings.

8 MR. BEAL: We're just kind of crunched for time.

9 CHAIRPERSON CLEMENT: Right.

10 MR. BEAL: I'm not disagreeing with anything.
11 It's just, we have to realize that if there's going to be
12 Commission input from the whole Commission, that gives

13 Andrea time to bring stuff back to it, look at it, and
14 then comment on rules.

15 It's just tight and it's going to run parallel.
16 I don't know how to get it back and forth. I don't
17 disagree with anything that's being done. I think
18 everything that's being done, it makes sense in every
19 sense. But how is it going to work is a little rough.

20 CHAIRPERSON CLEMENT: And I think we all can
21 think about that as we decide, you know, what our future
22 schedule's going to be because there has been quite a bit
23 of discussion about, you know, do we really need to meet
24 monthly?

25 And we're not going to have an opportunity to be
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1 timely in terms of comment unless we have at least a
2 monthly schedule. Mr. Gill?

3 MR. GILL: Madam Chair, Andrea, I agree with what
4 Mike was saying because I think in the next -- the
5 financial subcommittee meeting, the issues that are --
6 prioritizing the issues that are most important for
7 getting input into the rule and actually coming up with
8 what we -- not just mentioning, this is the issue, but
9 actually going into it and getting some language -- not
10 language for the rule, but get the issue and more of a
11 discussion to --

12 MS. MARTINCIC: And I agree completely.

13 So unless people show up to the meeting to
14 provide that detail, it's not coming out of my head; okay?

15 So I would encourage anyone whose concerned about

16 these issues to attend the meetings so we can get more
17 detail. I have no problem working with everyone to get
18 the list prioritized.

19 And I think it's pretty --

20 You know, it will be fairly easy to do with the
21 time lines that are built into the bills.

22 So I'll work to get as much detail as I can but I
23 need bodies there too so --

24 MR. O'HARA: We need input from the people that
25 are actually affected by this bill so that owner-operators
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1 (inaudible).

2 CHAIRPERSON CLEMENT: We really recommend the
3 regulated community get involved, stay involved, give us
4 input. We are trying to be very responsive and to get
5 these issues out as quickly as possible. And I think we
6 have been fairly effective, looking backwards.

7 MS. MARTINCIC: That's my report.

8 CHAIRPERSON CLEMENT: Any other comments or
9 questions?

10 There has been some discussion because of --

11 You know, our agendas are getting shorter, but
12 now with the new statutory changes, I think they may be
13 getting longer again.

14 And there's a lot of issues that have been
15 brought out in terms of the new statutory language and
16 what it's going to mean.

17 There was a proposal. I think there was a brief
18 discussion at the last meeting about whether we wanted to
19 hold a July meeting or not or skip July.

20 I think last year --

21 Did we skip a summer meeting last year?

22 MR. BEAL: The last two years.

23 CHAIRPERSON CLEMENT: Yes. And then the other
24 proposal that Mr. Smith whose not here to represent it
25 today, but he has mentioned it several times, is that we
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1 hold meetings every other month rather than monthly.

2 And, you know, I'm open.

3 I am concerned, though, with the time frame and
4 the rule development and the new legislation, that if we
5 don't have a frequency of once a month, we're going to
6 lose an opportunity to be, you know, thoughtful in our
7 comments, and helpful.

8 MR. O'HARA: Just a suggestion on that. And
9 Myron's not here. I know he proposed it.

10 I would suggest that, given what you've just said
11 and the fact that Myron's not here, we should probably
12 table that. It's not an appropriate time, it seems, with
13 all the things going on. It may be appropriate down the
14 road to have bimonthly meetings, but right now it seems
15 kind of bad timing.

16 CHAIRPERSON CLEMENT: And we have been pretty
17 expeditious in terms of our time that we're spending in
18 the meetings. And I think if we can keep doing that it
19 won't be so much of a burden on people to be here and
20 spend, you know, three or four hours at a time.

21 Roger, how do you feel about that?

22 MR. BEAL: I think it's very important to have

23 the monthly meetings. I mean, it's just --

24 If you want to comment, if you want to be a part
25 of it, then we have to be here to do that.

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1 And so much activity's going to take place
2 because of 1306. 2006, to me, is tomorrow.

3 CHAIRPERSON CLEMENT: It will be.

4 MR. BEAL: And there's an agenda to be completed
5 before then.

6 CHAIRPERSON CLEMENT: Do we have general
7 agreement that we'll table discussion any more about the
8 bimonthly schedule?

9 Do we want to discuss further adjourning for one
10 of the summer months, not having a July or not a having
11 a -- I think we need a July meeting, personally, and then
12 potentially hold off on whether we need an August meeting?

13 I mean, I'm certainly willing to be here every
14 month. It's not a problem to me.

15 MS. MARTINCIC: I don't have any problems
16 meeting.

17 MR. GILL: Madam Chair, I think, from what I
18 remember in the past, if we weren't --

19 The Commission wasn't necessarily just saying,
20 let's not have a July meeting or August meeting.

21 We really basically found out who was going to be
22 here. And if there was not going to be enough people
23 here, then we would cancel the meeting.

24 CHAIRPERSON CLEMENT: Okay.

25 MR. GILL: But I agree with you. I think we
0042
1 really are going to have to have a July meeting.

2 MR. BEAL: Just keep on trucking.

3 CHAIRPERSON CLEMENT: Do we have commitments from
4 all attending that they will be at the July meeting or can
5 be at the July meeting?

6 Let me put you on the spot right now because we
7 do have a few vacancies in the Commission and we're
8 looking for them to being filled and encouraging people to
9 participate.

10 Any other general discussion on that or should we
11 just agree -- I don't think we need to vote on this in any
12 way, but we'll agree that the July meeting as scheduled
13 will go forward as scheduled and we'll address the
14 potential for not having another meeting as it comes up,
15 whose available and whose not. Okay.

16 There were a couple of other things that were not
17 on the agenda so we're not going to talk about them. I'm
18 just going to point them out.

19 And that is, we have now a copy of the annual
20 report from last year that was just handed out this
21 morning.

22 And so I would ask the Commission members to take
23 a look at this, provide -- any comments will go to --

24 Would that be Al Johnson?

25 (Response)

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1 CHAIRPERSON CLEMENT: Al Johnson directly and the
2 other Commission members directly, if you would, so we can
3 see what your comments are, and then be prepared at the
4 next meeting, hopefully, to approve this report.

5 MS. MARTINCIC: Has this gone out?

6 CHAIRPERSON CLEMENT: Just to us is my
7 understanding.

8 MS. DAVIS: Madam Chair, if I could request that
9 the Commission members get their feedback to Al in two
10 weeks. And, Al, you just trigger a reminder and that will
11 give us time to incorporate that to final draft. Just
12 jumping ahead a little bit.

13 CHAIRPERSON CLEMENT: Great. So this will be an
14 agenda item on the next --

15 Al's going to give us a notice, a drop-dead date.
16 Your comments will be in by then or probably not
17 considered.

18 MR. JOHNSON: Why don't we set that now.

19 CHAIRPERSON CLEMENT: That sounds great.

20 MR. JOHNSON: Get out your calendars. Two weeks
21 from today? Would that be doable?

22 CHAIRPERSON CLEMENT: Okay.

23 MR. JOHNSON: Sounds good.

24 CHAIRPERSON CLEMENT: And, Mr. Johnson, you'll
25 send out a reminder?

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1 MR. JOHNSON: I certainly will.

2 CHAIRPERSON CLEMENT: Thank you. A reminder
3 after today's meeting and then a reminder two days before
4 the due date, perhaps?

5 MS. DAVIS: 48 hours? Is that what you use?

6 CHAIRPERSON CLEMENT: And then the other handout
7 that we didn't have on the agenda was just a copy of the
8 example e-mail that I prepared and sent out per the

9 Commission's request regarding Senate Bill 1306.

10 So that went to a variety of people. I just made
11 one copy so that you could see what the language was that
12 we sent out.

13 Okay. Let's move on to discussion of agenda
14 items for the next Commission meeting.

15 We'll have a technical subcommittee and we'll
16 have a financial subcommittee. We're going to talk about
17 the annual report.

18 Any other issues that are not part of the
19 customary agenda that we'd like to include in the next
20 meeting? Ms. Davis?

21 MS. DAVIS: Madam Chair, if I could make a
22 request of Andrea and of Hal to just be clear where you
23 want to split the lines between technical and financial on
24 the NFA letter language and reopener clause and the MNA
25 funded payment.

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1 I see the technical subcommittee coming up and
2 evaluating the costs, the technical piece of, you know,
3 the MNA, what that's going to involve technically, and
4 then transferring that information over to the financial
5 subcommittee in terms of cost.

6 But if I could just ask that you two get -- the
7 financial and technical get together on how you want to
8 split those up so we're not duplicating or coming out with
9 inconsistent recommendations on the overlap.

10 MR. GILL: Madam Chair, Shannon, I think we
11 should be able to do that at the July 1 meeting during our

12 discussions, try to figure out where the division will be.

13 MS. DAVIS: I want to make sure that the
14 technical people have their say. And they don't
15 necessarily show up to the financial subcommittee meeting.

16 That's all.

17 CHAIRPERSON CLEMENT: Okay.

18 MS. MARTINCIC: Has the technical subcommittee
19 identified issues related to Senate Bill 1306 yet?

20 MR. GILL: No.

21 CHAIRPERSON CLEMENT: But would that be an item
22 on your agenda for the next meeting?

23 MR. GILL: Yes, it would.

24 MS. MARTINCIC: When is that?

25 MR. GILL: The second Wednesday of July.

0046

1 CHAIRPERSON CLEMENT: Okay. General call to
2 public? Mr. Kelly?

3 MR. KELLY: Thank you, Madam Chair.

4 Could you please give me the place and time for
5 the financial subcommittee meeting?

6 MS. MARTINCIC: Yes. It's scheduled for July
7 1st. And I believe they meet in what, 4005, A1?

8 MR. JOHNSON: Yes. The fourth floor.

9 MS. MARTINCIC: 2:00 o'clock.

10 CHAIRPERSON CLEMENT: Well, this is a record.

11 There are no other Commission or general public
12 comments. I'm sure we have made a record today.

13 Thank you all very much. Really appreciate your
14 input.

15 (Meeting adjourned at or about 10:20 a.m.)

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C E R T I F I C A T E

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I HEREBY CERTIFY that the proceedings had
upon the foregoing hearing are contained in the shorthand
record made by me thereof and that the foregoing pages
constitute a full true and correct transcript of said
shorthand record all done to the best of my skill and
ability

15

16

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June, 2004.

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