

ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

MEETING OF THE
UNDERGROUND STORAGE TANK POLICY COMMISSION

Phoenix, Arizona
May 25, 2005
9:00 a.m.

Location: 1110 W. Washington
Room 250
Phoenix, Arizona

REPORTED BY:
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1 COMMITTEE MEMBERS PRESENT:
2
3 Gail Clement, Chairperson
4 Hal Gill, Vice Chairman
5 Jon Findley
6 Andrea Martincic
7 Michael O'Hara (Telephonic appearance)
8 Philip McNeely
9 Barbara Pashkowski, Esq.

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1 P R O C E E D I N G S

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3 With a slow start, we are going to say, the May
4 25th, 2005 UST or Underground Storage Tank Policy
5 Commission meeting is in order, and we will start with the
6 roll call.

7 Barbara, if you will start.

8 MS. PASHKOWSKI: Barbara Pashkowski with the
9 Attorney General's Office, appearing on behalf of Tamara
10 Huddleston.

11 MR. MC NEELY: Phil McNeely, ADEQ.

12 MR. GILL: Hal Gill.

13 CHAIRPERSON CLEMENT: Gail Clement.

14 MS. MARTINCIC: Andrea Martincic.

15 MR. FINDLEY: Jon Findley.

16 CHAIRPERSON CLEMENT: And then we have on the
17 phone Michael O'Hara, who is participating as a full
18 Commission member.

19 The first agenda item, Approval of the Minutes
20 from the April 2005 Meeting.

21 Question for Al on that before we get a motion.

22 MR. JOHNSON: Uh-huh.

23 CHAIRPERSON CLEMENT: We got the full court
24 reporter meeting minutes.

25 MR. JOHNSON: Yes.

1 CHAIRPERSON CLEMENT: Is the agency still going
2 to do the abbreviated version or have you stopped that?

3 MR. JOHNSON: Do you all want the abbreviated
4 version still? Do you still want us to do that?

5 MS. MARTINCIC: I do when the minutes are 130
6 pages.

7 MR. JOHNSON: You would like that? Okay.

8 MS. MARTINCIC: Yes. Print that up every month.

9 MR. JOHNSON: Okay. Well, I have a copy with me
10 if you'd like. It's just we didn't get it sent out.

11 CHAIRPERSON CLEMENT: But I think those are
12 helpful, if that's acceptable to the agency, because then
13 it summarizes the action items also, if we can get those
14 ahead.

15 MR. MC NEELY: I think we need to be careful,
16 though, that we realize these are draft minutes and not
17 the minutes you are voting on.

18 CHAIRPERSON CLEMENT: Correct, but they are
19 helpful to us, I think.

20 MR. JOHNSON: More of a summary.

21 MR. MC NEELY: I have a question, then. Phil
22 McNeely. Do we want to continue using the Court Reporter?
23 Is that something that the Policy Commission still wants?

24 MS. MARTINCIC: I wish that we could go back to
25 the way we had it before we actually get the minutes,

1 because electronically, I mean, I don't know -- I know why
2 you did it, but --

3 CHAIRPERSON CLEMENT: Which minutes?

4 MS. MARTINCIC: I liked it when we got the packet
5 in the mail, to be honest with you, and it was all
6 organized and you could look at it before the meeting, and
7 since that's kind of gone away, it's like, you know, we
8 get these reports the same day as the meeting now. And I
9 got the minutes, I think it was a day ago.

10 MR. GILL: Yesterday.

11 MS. MARTINCIC: Yesterday by e-mail, and it was
12 like 130 pages.

13 MR. GILL: Yeah, I didn't have time to look at
14 it.

15 MS. MARTINCIC: I mean, if it's possible, I would
16 like to see us going back to the way -- I don't know why
17 that stopped, if it was for budget reasons or what the
18 issue was, but, I personally liked getting the packet in
19 the mail.

20 CHAIRPERSON CLEMENT: I don't care if we get them
21 in the mail, but getting them ahead of time is very
22 helpful, because we actually do look at the materials
23 ahead of time and it gives us that momentum, but, we are
24 really off the agenda item, and I've got to be careful
25 with that.

1 Are we prepared right now? Has everybody had a
2 chance to look at your meeting minutes from last time, and
3 are we prepared to vote on them? Nobody?

4 MS. MARTINCIC: No.

5 CHAIRPERSON CLEMENT: Okay. We will move on.
6 Let's be prepared next time.

7 The other thing I noticed on this, this is not
8 the final agenda that I sent you. It's missing two items.

9 MR. JOHNSON: It is? Okay.

10 CHAIRPERSON CLEMENT: And I don't know what
11 happened to them. One was the agenda item about the UST
12 Policy Commission records retention policy.

13 MR. JOHNSON: Oh, yeah.

14 CHAIRPERSON CLEMENT: And the other one was the
15 vote on the quorum.

16 MR. JOHNSON: Okay.

17 CHAIRPERSON CLEMENT: And obviously I don't think
18 the -- I'm looking to Barbara, but I don't think we can
19 talk about either of those agenda items today, which was
20 the key vote, that's why we had Mike on the phone.

21 MR. JOHNSON: Okay. I apologize.

22 CHAIRPERSON CLEMENT: But we can still have a --
23 if you could make sure those are on the agenda next time,
24 I will call it to your attention.

25 MR. FINDLEY: What was distributed on the e-mail?

1 CHAIRPERSON CLEMENT: I've got that. On the
2 e-mail?

3 MR. FINDLEY: Yeah.

4 MR. JOHNSON: Yeah, the e-mail. I might have
5 made copies of them wrong.

6 CHAIRPERSON CLEMENT: Was it on the e-mail
7 version?

8 MR. JOHNSON: Distributed by e-mail.

9 CHAIRPERSON CLEMENT: And was it posted, though,
10 that's the main thing?

11 MR. MC NEELY: If it's posted in the lobby, it's
12 the most we can do it.

13 CHAIRPERSON CLEMENT: Would you mind checking? I
14 didn't print this out.

15 I got it. I got it. Okay. So we will just
16 check and make sure that if it's posted we can talk about
17 those things.

18 MS. MARTINCIC: It is. That's what was sent out
19 to the public.

20 CHAIRPERSON CLEMENT: Okay. But it also has to
21 be posted.

22 MS. MARTINCIC: That was the notice that was sent
23 out.

24 CHAIRPERSON CLEMENT: Okay. Then let's move on.
25 We can't approve the meeting minutes. We will put it in

1 the next agenda items, the next time, administrative
2 issues, such as when we get meeting minutes and when we
3 get packages, and then we can have a discussion of it at
4 the next meeting.

5 And then the third agenda item on the agenda is
6 the Discussion of Legislation and Rules Affecting the UST
7 Program, and, Mr. McNeely, director of the Tanks Program
8 Division.

9 MR. MC NEELY: Thank you, Chairman Clement. This
10 is Phil McNeely.

11 Legislation, there is no change from last month.
12 The sunset's four years that would affect us, and that
13 went through, the governor signed it.

14 The budget, the SAF fund actually changed a
15 little bit. In our statute, it's 21 percent or 5.7
16 million. They actually gave us a hard number of about
17 \$6,002,000, so it was -- and we're getting about \$30
18 million in this year for the SAF Fund, so if they had left
19 it alone, by statute we would be authorized 6.3 million to
20 spend for cost.

21 MS. MARTINCIC: So, it's slightly less.

22 MR. MC NEELY: About 270,000 less, but we should
23 be okay with that.

24 In terms of sweeps, we did not get swept the SAF
25 Fund, so we were okay on the budget.

1 In terms of rules affecting UST Program, I've
2 been committing to get the SAF Rules submitted to the
3 Secretary of State, and we still have not done that yet.
4 We've been working on the economic impact statement. We
5 have a contractor doing that, and we have a draft now.
6 We're trying to finalize the draft. It still has to go
7 through our director for approval before it goes to the
8 Secretary of State, so we're still shooting for June to
9 get it to the Secretary of State, which pushes the
10 schedule back a little bit because we have a 30-day public
11 comment period, it takes a couple of weeks to actually get
12 it published. There will be a couple of public meetings
13 and then before it gets submitted to GRRRC for review. So
14 it should be early to mid fall before -- of course, it
15 goes right before they're effective.

16 Another rule packet we're working on is the soil
17 remediation levels rule, and we had not started that
18 formal process. We're still working on doing research how
19 to actually implement that rule or change it. And there
20 should be public meetings starting sometime in July or
21 August.

22 That's all I have for legislation and rule
23 update.

24 CHAIRPERSON CLEMENT: Great. Thank you. We
25 wouldn't expect any more legislation this year?

1 MR. MC NEELY: No.

2 MS. MARTINCIC: Unless it comes from Congress.

3 CHAIRPERSON CLEMENT: Great. Thank you, Phil --
4 or Mr. McNeely.

5 Now we will go to the ADEQ updates, and you're on
6 it for the UST Program Update, also.

7 MR. MC NEELY: And Joe Drosendahl is on vacation,
8 so I will talk about his stuff, too.

9 The UST Program Update, we are making progress on
10 our computer, our database. That is still supposed to go
11 into effect on June 20th. We're supposed to have a new
12 database which will make things a lot more efficient.

13 Joe's been work with his group really trying to
14 streamline, clean up, and we're still pushing to clean up
15 -- according to Senate Bill 1306 -- clean up source areas,
16 and source areas aren't specifically on-site cleanup, the
17 source area clean up, wherever that may occur. That way
18 we can allow the dissolve phase to naturally attenuate.
19 So we're still internally trying to find out a way to push
20 that, get that to the public, and I think we will probably
21 talk with Hal and the Technical Subcommittee probably in
22 later summer, just pushing that.

23 We've still been trying to meet with stakeholders
24 more often -- not stakeholders necessarily, but
25 owner/operators, consultants on site specific, trying to

1 be more available to meet and discuss site specific issues
2 and come up with solutions to problems.

3 CAPS, we've been approving CAPS, significant
4 approval of CAPS, Corrective Action Plans, so we're
5 pushing cleanup.

6 Joe's numbers -- usually he gives reports, how
7 many reports, SCRs and CAPs we have, closures, but we're
8 not doing that until the new database comes into play,
9 because it seems like the numbers were bouncing around,
10 and I just wasn't very confident with the numbers we were
11 passing out, so in July or August we will get you a good
12 set of numbers.

13 I'm actually thinking about giving you, if it's
14 okay, just like an annual report, what we've done for the
15 year, how many reports we've reviewed, how many sites we
16 have open, how many we have closed, how many claims we
17 reviewed just to give you an idea of what we're doing in
18 the department.

19 CHAIRPERSON CLEMENT: What we will need also, Mr.
20 McNeely, is for the legislature's annual report in metrix
21 for the calendar year 2004, and we were holding off on
22 finalizing that report until we got your numbers because
23 we usually include that in there.

24 MR. MC NEELY: Okay. Are you waiting for those
25 numbers now?

1 CHAIRPERSON CLEMENT: Yeah, we are.

2 MR. MC NEELY: Okay.

3 CHAIRPERSON CLEMENT: So, whenever you have that
4 piece available, obviously I would like to get it out.

5 MR. MC NEELY: For 2004?

6 CHAIRPERSON CLEMENT: 2004.

7 MS. NAVARRETE: Calendar?

8 CHAIRPERSON CLEMENT: Calendar years, yes.

9 MR. MC NEELY: Okay. We will get those out soon,
10 and I can forward them to you directly?

11 CHAIRPERSON CLEMENT: Usually Al sends them to
12 me, whatever way you all work internally, and then I use
13 those numbers as an attachment to the annual report, and
14 then there is some verbiage, usually one or two
15 paragraphs, in the report itself that highlights those
16 numbers. So, I don't have that section written yet.

17 MR. MC NEELY: Okay. To continue on down the
18 ADEQ Updates, the Risk Assessment Update, at the last
19 meeting there was some comments that some of the risk
20 assessments have been in DEQ's possession for many years.
21 We did go through -- Joe and I sat down, we went through a
22 lot of those, and we've actually closed four of those risk
23 assessments in the last month. We're reviewing all of
24 them eventually, so we're going to make an effort to get
25 those out the door.

1 The Tier 2 software we're still working on. We
2 have it. It works, it works well. One thing we're doing
3 right now is -- as a matter of fact today we're going to
4 look at it, is -- to check the performance behind the
5 black box, to check performance with what we are doing
6 with our Soil Rule and models, so once we do that, we will
7 have to do a little bit of guidance documents before we
8 make it available to the public because there are certain
9 things we need to explain how to use it, but it's getting
10 pretty close. So I think that Joe committed a month -- he
11 said about a month last month to actually have it out
12 there. It's not quite ready yet.

13 CHAIRPERSON CLEMENT: What you actually said last
14 time was that there would be training sessions in June, if
15 I wrote this down right. Is that still on or will it be
16 delayed?

17 MR. MC NEELY: I think it should be more in the
18 July time frame.

19 CHAIRPERSON CLEMENT: And you will get plenty of
20 notice out to everyone?

21 MR. MC NEELY: Yes. Correct.

22 Then that's all I have for the updates.

23 Judy can do her SAF Update unless you have any
24 questions for me.

25 CHAIRPERSON CLEMENT: Any questions for Mr.

1 McNeely?

2 Let's move on to Judy Navarrete who will provide
3 us with an update on the State Assurance Fund.

4 MS. NAVARRETE: Seeing as how you just got your
5 handout this morning, we processed 101 applications last
6 month and got in 138. So, it put us a few -- we didn't
7 make any headway against that 400 last month.

8 On the appeals, we did have a few more formal
9 appeals filed, but nothing has actually gone to hearing.
10 Settling all those when they give us more information.

11 And then you've got the summary of where the
12 applications were located at the end of the month in the
13 process.

14 MS. MARTINCIC: What do you think, why is there
15 an increase like that in the appeals? You think it has to
16 do with the backlog or is it about the 400 that are still
17 kind of out there or is it other issues?

18 MS. NAVARRETE: Sometimes it's just we don't get
19 the information that we need to process the application,
20 and they don't get it to us. Everybody is so busy,
21 including the consultants, that they just don't get us the
22 information until they have to, and that gives them more
23 time, it buys them more time, the appeals process.

24 MS. MARTINCIC: It increased by an extra 20 some
25 appeals in one month.

1 CHAIRPERSON CLEMENT: It's a big number.

2 MS. MARTINCIC: Yeah. I've had a question, too.
3 I was going to ask about the -- I noticed on that front
4 page of the report, the reimbursements, there is a lot
5 that are still pending, less than 90 and more than 90, and
6 that looks like that's the bulk of the kind of active.
7 Can you tell us a little bit more about why that's the
8 case or what's happening with those?

9 MS. NAVARRETE: We had more reimbursement
10 applications than we do direct pays and preapprovals.

11 MS. MARTINCIC: So you just don't have the staff
12 to process it timely, is that strictly it?

13 MS. NAVARRETE: Uh-huh. We've been short on the
14 hydros for, I don't know, eight months, ten months now.

15 MR. MC NEELY: And one thing I'd like to add is,
16 as you see in April we did 101 applications as opposed to
17 52 in March, so we almost doubled our output, and while
18 we're doing that, we're still finalizing our database and
19 working with the SAF Rules. And now we're doing cost
20 ceilings and cost schedules. There is a lot that the SAF
21 staff is doing and they really do not have a whole lot of
22 staff to do all this stuff. We only have like three
23 technical people who are doing this stuff, so we've hired
24 another person on Monday, a new person started, so -- and
25 we're trying to hire more people, too. It's just a

1 continuous -- it's a real challenge to do all this work
2 when you only have three people reviewing it, but we
3 doubled with it, so that's good. I keep expecting this
4 input of 138 in April. I keep expecting that to drop and
5 it keeps coming. I'm not sure. I haven't really figured
6 out why that keeps happening, but at least we doubled our
7 output, and that's a positive sign, but more came in.

8 CHAIRPERSON CLEMENT: Still falling further and
9 further behind, that's the bad thing.

10 MS. MARTINCIC: Is the agency thinking at all
11 about maybe reprioritizing maybe some of the effort being
12 put into the SAF Rule when there's been obviously problems
13 from the stakeholders' standpoint on that, and now it's
14 the time line you're talking about slipping all the way
15 into fall, which is basically a few months before the
16 whole eligibility thing ends? So I guess I would maybe
17 pose to the agency, does it make more sense to maybe not
18 have so much effort placed on these other things going on
19 and focus on the program itself, maybe?

20 MR. MC NEELY: Right. The SAF Rules are done.
21 We're waiting for the economic impact statement. We've
22 just got to submit that.

23 MS. MARTINCIC: So, it's not internal that you
24 are waiting on that stuff?

25 MR. MC NEELY: Right now, that's not affecting

1 the staff. What's affecting staff right now is we're
2 still trying to get the database done, which is going to
3 happen in about four weeks, and I'm doing the cost
4 schedules. We're almost done with those, which has to
5 happen July 1st, so Judy's next priority is going to be
6 soon, we're going to be hitting these backlog sites very
7 quickly.

8 And we're going to hire people. We do have one
9 person who, as I said, started Monday, and we were looking
10 continuously. It seems like recently in the corrective
11 action we found some good hydros that were available, so
12 maybe it's looking better for hiring.

13 CHAIRPERSON CLEMENT: How many positions and what
14 categories again are open? And again, anyone out there
15 that knows people who would recommend to the agency.

16 MR. MC NEELY: Hydrologist IIIs is what we are
17 looking for, which are a geology degree with four years'
18 experience, hopefully in the field, and we have two
19 available still in Judy's section.

20 CHAIRPERSON CLEMENT: And those big bucks that
21 the state gives, get your friends in.

22 I just think that must be frustrating to see
23 these numbers. I want to compliment you from going from
24 52 to 101. I mean, that is a success, but the problem is
25 every month it looks like you're slipping further and

1 further behind, and until you get staffed, it's going to
2 be a tough challenge for you.

3 Is there anything that the Commission can support
4 you on in this?

5 MS. NAVARRETE: No. The only thing is, I think
6 the numbers are high. People submit multiple applications
7 so that they can -- so that their application fee will
8 cover the 10 percent, and it takes us just as much time to
9 review. You know, it has to go through the whole process.
10 If it's a \$10,000 application versus a \$20,000
11 application, it takes them the same time to process that
12 application. So, I don't know what can be done about
13 that. Nothing can be done about that.

14 CHAIRPERSON CLEMENT: There is no regulatory
15 control?

16 MS. MARTINCIC: I have a question, Phil, on the
17 cost schedule. Since that goes into place in July, is
18 that -- is that strictly going -- I mean, is the Policy
19 Commission going to see that then next month, or what's
20 the agency's thought process on that?

21 MR. MC NEELY: The plan is, and we've been
22 struggling to get this out, you know, July 1st is the
23 statutory deadline. We haven't -- pretty much -- we were
24 going to pass them out today, just pass them out, but we
25 weren't quite ready, so we're going to try to do it June

1 1st.

2 MS. NAVARRETE: June 1st. We're going through
3 internal review right now and, like Phil says, we wanted
4 everything reviewed before it goes out to anyone. But
5 we'll try and e-mail that out to everyone, especially the
6 Policy Commission, on June 1st, and maybe Al can help us
7 with that effort to get it out to the consultants, and we
8 will, of course, put it on the Web.

9 But Hal has graciously given us the Technical
10 Subcommittee meeting, some time in there to make a
11 presentation on the 8th. We're going to have training on
12 the 16th and training on the 23rd, and we will get that
13 advertisement out, too.

14 On the 16th of June, it will be from 9 to 12 in
15 this room, Room 250. And on the 23rd it will be from 1 to
16 4 p.m. We will have one in the morning and one in the
17 afternoon, Room 250, both of them.

18 CHAIRPERSON CLEMENT: Okay.

19 MS. MARTINCIC: I would just say that is less
20 than a month's notice for people to come to training. Is
21 the agency planning on doing additional training, also?

22 MS. NAVARRETE: No. I announced it last month,
23 also.

24 CHAIRPERSON CLEMENT: She did.

25 MS. MARTINCIC: At this Policy Commission

1 meeting?

2 All right. It's the first I've heard of it. I
3 guess I wasn't paying attention last month.

4 June 8th is going to be the technical meeting?

5 MS. NAVARRETE: Technical Subcommittee meeting.

6 MS. MARTINCIC: And is the training open to
7 anyone then?

8 MS. NAVARRETE: Yes.

9 CHAIRPERSON CLEMENT: Mr. Gill?

10 MR. GILL: I was waiting to bring this up during
11 this discussion, but I guess it can be brought also during
12 the rules discussion.

13 Now, you believe that it's going to be delivered
14 or sent out on the 1st?

15 MS. NAVARRETE: Uh-huh.

16 MR. GILL: Which means we're going to have to
17 vote on it on the 22nd --

18 MS. NAVARRETE: Yes.

19 MR. GILL: -- because it goes into effect the 1st
20 of July.

21 If there is big concerns, which means if we're
22 getting it on the 8th -- well, we have a week to look at
23 it, but we may -- you know, I may have to schedule a bunch
24 of meetings between the 8th and the 22nd for discussion
25 because, you know, we haven't really seen anything. We

1 have no idea what kind of changes there are going to be,
2 and I would suspect that there is going to be concerns and
3 questions, and so I don't know how we're going to -- it's
4 going to be really difficult to get all the discussion in.
5 If this one is anything like the last several years, I
6 just can't imagine how we can get it done in three weeks.

7 MR. MC NEELY: One thing, though, this is not
8 like the last several years of cost ceilings, because we
9 are keeping, in general, the same costs. We are not
10 changing cost. We've -- it's more reformatting our
11 applications. We have three different applications, and,
12 believe me, they are a lot simpler. They are very simple
13 compared to what we've seen in the past, and the costs are
14 going to be -- they're reformatting, but the costs are the
15 same except some of the costs where we have no cost
16 ceiling, we're going to try to defer equipment, maybe, but
17 really, the hourly rates, the reports, nothing is changing
18 in costs, so it's not really new costs. It might add a
19 few, and we will hear what you have to say between now and
20 July 1st.

21 But then the real change will occur after that
22 when we get the new rules in place, I'm thinking sometime
23 in the fall, maybe wintertime. There is really no
24 deadline for that. The real deadline is one cost
25 schedule, and then we can go through and try to modify the

1 schedule or change costs or have a lot more public input
2 to get a form.

3 MR. GILL: Do you mean after the 1st?

4 MR. MC NEELY: Well, the deadline is one cost
5 schedule on the 1st, so this is really going to be a cost
6 schedule, without changing costs. That's the thing. This
7 is going to almost the same schedule, just a different
8 format.

9 So then if we want to change costs and change the
10 way we do things, we have more time in the fall to do it,
11 because I know there is no way that we can completely
12 overhaul costs and the way we do things in a month. This
13 just isn't going to happen. So we're going to sort of
14 ease us into the new rules phase, incremental costs, ease
15 into the new forms keeping all of the same costs, and then
16 try to figure out -- maybe if we want to come up with a
17 more task costs, group things together, then we will have
18 time to figure out how that works.

19 MR. GILL: Madam Chair. Al, could you check and
20 see if we can get this room or a larger room for the 8th
21 meeting, because I suspect that there will be a large
22 group?

23 CHAIRPERSON CLEMENT: Should we plan another
24 meeting besides the 8th now while we're here? I know I
25 can't be there on the 8th, so I'm just selfishly would

1 rather have an opportunity to be there, also, just as a
2 backup.

3 MR. GILL: I can try the next week, the 15th if
4 the room is available.

5 CHAIRPERSON CLEMENT: What I'm saying is hold the
6 meeting on the 8th, but if you think you are going to need
7 another meeting, let's set it now.

8 MR. GILL: We can always cancel it, but let's see
9 if we can get a meeting on the 15th as well, then we meet
10 here on the 22nd. Although from what Phil is saying, it
11 sounds like there is not going to be hope of getting any
12 major issues, because I didn't understand that. I don't
13 think anyone did, actually.

14 MR. MC NEELY: Any major issues with the forms,
15 but the costs -- we're not messing with the costs except
16 on some of the equipment that has no cost right now. I
17 don't think we'll have too much issue with that.

18 CHAIRPERSON CLEMENT: For the things that have no
19 cost right now, ceilings or rate issues, how did you come
20 up with those numbers?

21 MR. MC NEELY: In terms of -- I'm talking about
22 equipment, like a water level indicator or a PID. We
23 called and got surveys from all the people that rent them
24 across the state, and they can -- I'm not sure actually
25 how we did it, but we just look at the range there and

1 we're taking some generous point in that range, so I don't
2 think it's too much of an issue, really.

3 CHAIRPERSON CLEMENT: I just wanted to make sure
4 it was fact based on what the market is.

5 MS. NAVARRETE: And also we have an application,
6 three new applications for the preapproval, direct pay and
7 reimbursement. They're all separate now, instead of one
8 form.

9 And the direct pay application will have one
10 certification statement that will cover the substitution
11 cost waiver and the request for costs that are reasonable
12 and necessary work that is not specified in the
13 preapproval work plan, so that will all be one now, just
14 one certification.

15 And I think -- I don't think anybody is going to
16 take issue with the new application at all. And the
17 reason I wanted to present the cost schedules, and the way
18 we're going to do our worksheets in Hal's group is, unless
19 you talk about it in context, it may not make any sense,
20 and then people are going to go, this doesn't make any
21 sense, but it will and it's much simpler.

22 CHAIRPERSON CLEMENT: Anything for simple is
23 going to be very good.

24 MS. NAVARRETE: Yes.

25 CHAIRPERSON CLEMENT: I will take -- if we are

1 done with this discussion, we will either hold comments
2 until the end or we will take them after each agenda item.
3 This is a small group. I like it to be interactive, so
4 when Phil is done, we will take comments.

5 MR. MC NEELY: I'm done. Are you done, Judy?

6 MS. NAVARRETE: Uh-huh.

7 MR. MC NEELY: Okay.

8 CHAIRPERSON CLEMENT: If you wouldn't mind also
9 filling out a slip so we can have a record. There is
10 speaker slips, and I noticed that Mr. Bunch, and I think
11 Mr. Kelley also had a comment.

12 Mr. Kelley, do you want to start? You've got
13 your slip?

14 MR. KELLEY: I just wanted to clarify, Judy, if
15 you could, please, then the meeting on the 16th and the
16 23rd of June, those are more or less application training
17 seminars? That's what they are?

18 MS. NAVARRETE: Application, yes, how to work --
19 how to fill out the worksheets.

20 MR. KELLEY: Not just to do with the cost
21 ceilings, because they're a big component of how you use
22 the new application, but also we're going to have a new
23 application, so it's an application/cost ceiling training
24 program?

25 MS. NAVARRETE: Yes. Form sheets, everything.

1 MR. KELLEY: Thank you.

2 MR. BUNCH: This is the first meeting I've been
3 to so I didn't know the protocol.

4 CHAIRPERSON CLEMENT: Thank you.

5 MR. BUNCH: Bill Bunch, Circle K.

6 Comment/question. The appeals resources that are
7 required by DEQ, Judy, would that -- does it take away
8 staff resources that are evaluating applications as it
9 would participate in the appeal process?

10 MS. NAVARRETE: Yes, it does.

11 MR. BUNCH: I apologize because most of my
12 information on those appeals is antidotal, but one of the
13 industry comments I've heard was that some of the same
14 issues are rehashed appeal after appeal, and I'm wondering
15 if staff looks at precedent when -- based on the outcome
16 of an appeal so that they make decisions moving forward,
17 they waive the decision to maybe start eliminating the
18 number or reducing the number of appeals and therefore
19 getting resources back into the application process.

20 MS. NAVARRETE: The number of appeals, sometimes
21 it's the same -- you are right, it's the same thing
22 happening over and over and over. We don't get the backup
23 information to pay.

24 MR. BUNCH: Oh, okay.

25 MS. NAVARRETE: That's mostly what 90 percent of

1 the appeals are about. Once the information is given to
2 us, we pay it.

3 MR. BUNCH: It's like hearing only one side of
4 the story.

5 MS. NAVARRETE: Yes, you are.

6 MR. BUNCH: We always hear that, geez, I thought
7 we worked this through the last time. But that's
8 encouraging to hear.

9 MS. NAVARRETE: Uh-huh.

10 CHAIRPERSON CLEMENT: And you are making an
11 effort, Mr. McNeely, to, once you establish a
12 decision-making process in the group, that it's
13 disseminated to the staff so that they know, you know,
14 because it's not always news.

15 MR. MC NEELY: Right. We talked -- in SAF we
16 talk all the time, all the new unit managers approve
17 everything. It's on a daily basis.

18 And the new process with Hal, Hal and I, we talk.
19 And I do. I've been committed. If there are issues that
20 pop up, I will look into, and we do, we all get around and
21 talk about it.

22 And in Joe's group, we had a meeting last week,
23 just getting everyone together and talk technical stuff,
24 and we're going to continue doing that every two weeks,
25 just sit around and bring up issues; so, yeah, we are

1 doing that. We are making an effort.

2 MS. PASHKOWSKI: Madam Chair.

3 CHAIRPERSON CLEMENT: Yes, Ms. Pashkowski.

4 MS. PASHKOWSKI: Barbara Pashkowski. It works
5 the other way also. And I think the consultants and the
6 owner/operators and volunteers need to understand that
7 there have been a number of decisions from the
8 Administrative Law Judge, the Director of this agency, the
9 Director of the program, and yet despite those decisions
10 we continue to see the same appeal issues from the
11 consultants and the owner/operators, even though they've
12 had decisions negative against them. It works both ways.
13 We are hoping that they will learn and take into
14 consideration those decisions that have come down.

15 CHAIRPERSON CLEMENT: Thank you. I also wanted
16 to compliment on Mr. McNeely. There were some issues that
17 were in the air and that he has personally gotten involved
18 with to resolve before they became appeals or became
19 bigger issues, and I really want to commend you for taking
20 your personal time before they became bigger issues.

21 So, we talked about this at the last meeting, but
22 I want to reiterate this, Mr. McNeely has made a
23 commitment that if something appears to be a continual or
24 pervasive problem, or an issue that's not being resolved,
25 he will look into it, he will take it on. So, you know, I

1 don't want to give out your phone number, but it's on the
2 Web page and, you know, he's very available, so I thank
3 you very much for doing that.

4 MR. MC NEELY: Thank you.

5 CHAIRPERSON CLEMENT: Okay. Anything else?

6 MR. BUNCH: From the Attorney General's Office
7 point, is there a way that we can get briefs on some
8 recent appeals as owner/operators, stakeholders so we sort
9 of understand ahead of time what to expect to reduce the
10 numbers of situations where we would be filing appeals?

11 MS. PASHKOWSKI: Madam Chair, there is no simple
12 process because I don't believe DEQ posts those decisions
13 on their Web site, but the Office of Administrative
14 Hearings posts -- well, they don't post, but you can
15 access the decisions from OAH, the Office of
16 Administrative Hearings from their Web site, but there is
17 no easy way to tell you how to get there because you need
18 to know the docket number, you will need to know that
19 there was a case and that it's been decided. So, short of
20 knowing that there is a case, and either speaking to the
21 consultant or the owner/operator or calling Judy or Phil
22 or someone and saying, I understand there's been a
23 decision. It is public record, so it should be available
24 to you, but there is no easy way to tell you how to get
25 there.

1 MR. BUNCH: Okay.

2 CHAIRPERSON CLEMENT: Mr. Gill.

3 MR. GILL: Madam Chair, why can't we put a
4 simplified version of it on the bulletin? That's kind of
5 what it was for was to get out new -- because this was one
6 of the things that I mentioned when I first tried to put
7 the bulletin in place is that a lot of the appeal problems
8 we're having is finding out during an appeal meeting that,
9 well, this is the new policy or this is a new rule or it's
10 in statute now or whatever. And so the bulletin could be
11 used to put things like that on in a simplified version
12 than just trying to read it in the -- whatever they call
13 it -- the final form from the Court is probably not going
14 to help, so if there is some way that when something like
15 that that affects everybody, again, that was the main
16 component of the bulletin, it affects everybody, that then
17 that's something that needs to be out to the public.

18 CHAIRPERSON CLEMENT: Ms. Pashkowski.

19 MS. PASHKOWSKI: Madam Chair, Hal, the only
20 concern I would have is that all these cases are very site
21 specific, and if you try and put something general, like
22 the bulletin, it may not be reflective of what is
23 applicable to everybody out there.

24 You know, perhaps DEQ can consider something like
25 indicating on the bulletin that there's been a case

1 decided and give the docket number and all the necessary
2 information for someone in the public to go access it and
3 read it and decide whether it's applicable to any of their
4 sites. But to sort of put a general summary may mislead
5 somebody into thinking I don't have a case or I do have a
6 case. It's very difficult because they're very site
7 specific. That's the only concern I would have about
8 doing some kind of general summary.

9 CHAIRPERSON CLEMENT: I also would have a concern
10 on the general summary, who would do it, and, I mean, it
11 would be a labor-intensive process because it would be a
12 legal process with limited resources. But I think the
13 idea of either having those issues or those cases posted
14 on the DEQ Web site or a mechanism that notifies people on
15 the DEQ Web site where they can find it and then post, you
16 know, at least enough information that it gives what the
17 case was about and how to find information about it, could
18 DEQ look into that and consider how you would manage the
19 bulletin?

20 MS. NAVARRETE: I can think about it. I do not
21 have the staff to implement that within the next couple of
22 months. I just don't, so that's what I would be afraid
23 of, and we don't have a legal --

24 MS. PASHKOWSKI: Paralegal?

25 MS. NAVARRETE: -- a paralegal now at all.

1 MR. MC NEELY: We will look into that. And I'm
2 not sure how helpful it would be, because it would still
3 require people to go down to OAH and pull the file, but we
4 can look into how --

5 MS. MARTINCIC: You can't access it all trying
6 with the docket number?

7 MR. MC NEELY: I don't think they have it. Is it
8 the entire file?

9 MS. MARTINCIC: All you have to do is have the
10 docket number on the bulletin as a link and just have it
11 automatically go to OAH.

12 MR. MC NEELY: I will look into how to do that.

13 CHAIRPERSON CLEMENT: Should there be any
14 objections by the parties, though? That's the only thing
15 I'm thinking of. If a case is decided, it's public
16 information so there shouldn't be an objection by the
17 parties involved.

18 MS. PASHKOWSKI: Madam Chair, the only other
19 thought that I have is the OAH decision is not the final
20 decision. The director's decision is the final decision,
21 and then if that is appealed, then if you go up to
22 Superior Court and the Superior Court Judge's decision
23 would then to be the binding decision unless that's
24 further appealed, so if you are going to do this, you are
25 going to have to track it all the way up.

1 CHAIRPERSON CLEMENT: There aren't that many, I
2 mean, there aren't that many cases that get appealed past
3 the director.

4 MS. PASHKOWSKI: No.

5 CHAIRPERSON CLEMENT: You would have access to
6 the director's decision for sure.

7 Mr. Gill?

8 MR. GILL: Madam Chair, remember what started the
9 discussion was, is that -- and granted that the
10 owner/operators, consultants need to -- well, basically
11 what you said, it goes both ways, because the consultants
12 need to know what is going on as well; so, even if it is a
13 continuing process, which I understand, it would be great
14 if everybody out there -- because like we find out the
15 appeals, because a consultant and/or operator do not
16 necessarily spread out to everybody what is going on. And
17 so if there is some way to know that something that is
18 going to affect everybody in different ways, it would be
19 site specific, is coming along -- well, again, we're
20 trying to stop appeals. If there is some way to find out
21 you better check into this before you do this particular
22 activity because of this happening or something.

23 CHAIRPERSON CLEMENT: Mr. McNeely?

24 MR. MC NEELY: The fact that Barbara has pointed
25 out about site specific, you know, I look at the appeals,

1 I talk to Judy and the managers review and stuff, there is
2 really nothing that is reaching across. In general, there
3 may be a couple of things, I look at it, and we've talked
4 about a couple, but really it's almost site specific,
5 billings, extensive billings on a site specific thing or
6 something that was not necessary. It's not really
7 something that would go across the board to affect
8 everybody.

9 And it's usually -- it's really probably the same
10 consultants almost over and over again. It's not a whole
11 -- I don't think it reaches -- some consultants we never
12 see ever, ever in appeals. I never hear from them ever,
13 and they are doing a lot of work. And others I see on a
14 daily basis, so I'm not sure it's a whole programwide
15 thing. It's almost site specific and it would be hard to
16 tag it what it is. So -- but I will look into how to put
17 that on the Web site. I'm not sure when we will do that.

18 CHAIRPERSON CLEMENT: Consider that, and maybe
19 you can give us some response at the next meeting. I
20 think it would be helpful to the community.

21 I'm going to jump agenda items really quickly
22 because we have -- Mr. O'Hara, are you still on the line?

23 MR. O'HARA: Yes.

24 CHAIRPERSON CLEMENT: Because I want to vote on
25 quorum and then you will be free to -- no, you need to

1 stay with us. I'm sorry, you won't be free. But I'm
2 going to jump to Agenda Item No. 7, the Definition of the
3 UST Policy Commission Quorum and a Vote.

4 And it's my understanding -- this was before my
5 time on the Commission, but the original decision by the
6 Policy Commission, which was what constituted a quorum,
7 was seven votes, even though we by number would only need
8 six, and we had broached this last time and added it to
9 the agenda this time.

10 Is there any discussion on this? How do feel
11 people feel about changing the quorum to reflect a simple
12 majority of the Commission members?

13 Mr. Gill.

14 MR. GILL: Madam Chair. And, Mike, you might be
15 able to help here. I don't remember that we had any
16 discussion as to why we made it seven. I can't remember
17 what the reasoning was or if there was any particular
18 reason.

19 MR. O'HARA: It seems to me, and I don't know
20 what the original statute was, but I thought it was the
21 number of Policy Commission members, a majority -- I
22 thought it was seven. Maybe I'm wrong, but I know we
23 agreed to seven.

24 MR. GILL: I remember that. I just don't
25 remember a particular reason why.

1 MR. O'HARA: I don't know. The statute's
2 changed. We have 11 members in the Statute now. Am I
3 correct?

4 CHAIRPERSON CLEMENT: Yes.

5 MR. O'HARA: I'm not sure.

6 CHAIRPERSON CLEMENT: Yes. Sorry. Ms.
7 Martincic.

8 MS. MARTINCIC: I move that we change our quorum
9 number to six for the Policy Commission.

10 CHAIRPERSON CLEMENT: Is there a second?

11 MR. GILL: I second.

12 CHAIRPERSON CLEMENT: Mr. Gill seconds.

13 All in favor?

14 (Chorus of ayes.)

15 CHAIRPERSON CLEMENT: Any opposed?

16 (No response.)

17 CHAIRPERSON CLEMENT: Great. The UST Policy
18 Commission quorum will be constituted by six members of
19 the Policy Commission. Thank you.

20 I think we should hold the meeting with him in
21 attendance.

22 Andrea's asked for a five-minute break before we
23 move into the regular agenda with the updates on the
24 Financial and Technical Subcommittees, so we will take a
25 five-minute break.

1 (A recess was taken at 9:58 p.m.; resumed at
2 10:09 a.m.)

3 CHAIRPERSON CLEMENT: We're going to reconvene
4 the UST Policy Commission Meeting May 25th, 2005, and we
5 will move on to the regular agenda, and the next agenda
6 item is the Financial Subcommittee's Update with Andrea
7 Martincic.

8 MS. MARTINCIC: We had a Financial Subcommittee
9 meeting this past week, actually on May 23rd, and we had a
10 guest come in from EPA, who's the manager of the UST
11 program for Region 9. His name is Steve Linder, and we
12 had asked him to attend and kind of give us a big picture
13 view of what he has seen happening with tank programs
14 across the country, and specifically in Region 9, and if
15 he had any advice or any way he could help us in trying to
16 get a handle on some of these insurance issues, as you
17 will remember, we have been trying to get a better handle
18 on.

19 We've heard that there may be a problem for small
20 owner/operators to obtain commercial pollution liability
21 insurance in order to meet financial responsibility
22 requirements, so we have been asked to look into the scope
23 of the problem and then make any kind of recommendations
24 that we might feel could help the situation.

25 So, it was a very good meeting, I felt, and I

1 think that most of the folks who attended felt the same
2 way. Steve Linder shared with us a number of interesting
3 things. One thing he mentioned was that the Zurich
4 decision, which is the insurance decision that recently
5 happened, is very likely to impact premiums and affect the
6 insurance market, and that really is what I've heard from
7 the AIG national person I spoke to as well a couple of
8 months ago, so I think the pollution liability insurance
9 industry is kind of struggling right now to understand how
10 that decision is going to impact them, and I know that
11 they're also heavily lobbying to try to put in some
12 protections for them as well, that's the insurance
13 industry, so that was something that the EPA gentleman
14 reiterated for us.

15 Another issue that we discussed was an issue that
16 Hal brought up is that a lot of the insurance companies,
17 he has heard, the only way that they're basically hovering
18 for leaks is if it was a leak detected by your leak
19 detection system. And so the problem with that, again,
20 gets to the issue of preexisting conditions that we're
21 hearing from a lot of the carriers that they don't want to
22 write coverage on sites where there is preexisting
23 conditions, so that was another issue that was reiterated
24 throughout the meeting.

25 We then got into a discussion as well about,

1 since this problem seems to be right now really affecting
2 the small owner/operators, the folks who have -- you know,
3 and I think that Ron said that sites with ten tanks or
4 less or an owner that has ten tanks or less is considered
5 a small owner?

6 MR. KERN: It's nine tanks or less.

7 MS. MARTINCIC: Thank you. So right now that's
8 what we're seeing right now is the main bulk of the
9 potential small owner/operators who may have preexisting
10 conditions could be having some issues.

11 I was hoping Karen Gaylord would be here today
12 because she was the one situation we knew of that was
13 having a problem, but unfortunately she is not here, and I
14 think that Phil told me that her client has now obtained
15 insurance, so that's good, but we will continue to kind of
16 research this.

17 We talked a little bit about inspections as well,
18 and the number of inspections that take place in the
19 state. Basically the main problems we identified that we
20 need to look into as a subcommittee more so that we can
21 report better to the larger Commission, is to basically
22 find out whether small owner/operators can even obtain
23 insurance if they have preexisting conditions. Now
24 Karen's client has been able to. That's a good sign, so
25 we will look into that and I will try to talk to Karen and

1 try and find out more about the policy that she's got, all
2 of that.

3 The other issue identified was the subcommittee
4 wants to look further into how insurance carriers are
5 defining preexisting conditions, and this could be kind of
6 a moving target, but we're going to do our best efforts to
7 better understand how the various carriers view that term,
8 and specifically want to know whether preexisting
9 conditions can include closed LUST sites. That's one
10 thing that people are concerned about.

11 And I've actually had some conversations with
12 some brokers who have also echoed that concern with me
13 that they're seeing problems because the agency is
14 reopening closed LUST sites. I don't know if that's -- I
15 thought that I've always heard the agencies say that they
16 are not doing that, but I heard from some brokers that
17 they opposite, that they are having the opposite
18 experience, so that would become a big issue, because I
19 have heard from carriers that if there is a no further
20 action from the agency, they are more comfortable in
21 writing a policy obviously for a site.

22 Now, if the no further action ends up not meaning
23 anything in the eyes of the agency, and they are going to
24 reopen those sites, that's going to throw another wrinkle
25 into this whole insurance thing, so, we will have to

1 further look into that, obviously, and talk to the
2 agencies some more and try to get some specifics from the
3 brokers that I talk to as well.

4 The other issue has to do with doing some
5 research to find out what carriers are actually paying
6 out, because as EPA pointed out, they don't want to see
7 owner/operators transitioning to commercial insurance but
8 then having the insurance carriers not pay for the work,
9 and then essentially sites not getting cleaned up and, you
10 know, you can see how that would progress. So, I'm going
11 to try to do some research on what the carriers are
12 actually paying out on claims so that we have some of that
13 available as well.

14 And then the other final issue that we wanted to
15 investigate is, since this does seem to be an issue that
16 right now seems to affect the small owner/operators, look
17 at the cost involved and understand, you know, what the
18 cost is for the small owner/operator to meet financial
19 responsibility now, so, you know, can they obtain it,
20 number one; number two, is it affordable. So, is it
21 something that they are going to be able to maintain over
22 the long haul, but I don't think we want to see smaller
23 owner/operators getting a policy and then having it fall
24 apart in a year, or something like that. So that was sort
25 of -- that is how we defined the problem, potential

1 problem that we want to look more.

2 When we started talking about solutions, one
3 thing became very obvious early on in the meeting,
4 actually, and that was the need for more educational
5 outreach to owner/operators, particularly to the small
6 owner/operators, primarily to help them in better
7 understanding how to shop for pollution liability
8 insurance and how to make sure that the policies that
9 they're looking at are adequate and are going to actually
10 cover them, so how to shop for it and how to acquire it.

11 We need to do, I think, a lot more outreach with
12 these folks and we've kind of talked about maybe that
13 could be a joint effort between the agency, and I know
14 APMA would be willing to help with that as well, because
15 we think that will probably happen. The problem is
16 reaching these folks, because it's a small owner/operator,
17 it's the folks that may be running the store themselves,
18 they're not able to get away to come to a meeting to learn
19 about this sort of thing, so it's going to be a challenge,
20 but I think it's something that we as -- you know, I think
21 it's a public service that we need to do, because I think
22 people need to be aware that they do need to have the
23 financial responsibility, and that there is a method to,
24 you know, knowing how to shop for it and knowing what to
25 look for in your policy.

1 So, that was something I think that was the
2 solution that we definitely need to get working on and
3 implement as quickly as possible, and I'd personally like
4 to see us get something going, like every two to three
5 months have a different workshop or something throughout
6 the state, because I think that these owner/operators are
7 actually in our rural areas, probably, and I think it's
8 going to make it easier for them to be able to attend
9 something that's near them.

10 The other issue that we've discussed as a
11 solution is really private sector, not something that I
12 don't think the government's going to be involved in, but
13 in looking at trying to see if some type of risk retention
14 group could be created or mutual insurance program. A lot
15 of other states who do not have state-run funds have these
16 private sectors sort of alternatives, so that's something
17 that industry can look into and investigate and see if it
18 makes sense.

19 CHAIRPERSON CLEMENT: Is there a mechanism for
20 this private sector program to move forward? Would that
21 be something APMA --

22 MS MARTINCIC: Part of the problem with this, and
23 this is a national issue because the more I'm talking to
24 my counterparts in other states who represent marketers,
25 this is a growing national issue. So there are a lot of

1 states out there who have never had funds that are
2 concerned because the number of carriers has decreased.

3 We also heard that from EPA, that the number of
4 carriers that were in their financial responsibility
5 brochure has decreased from twelve to three or four
6 nationally so, you know, this is not just a unique problem
7 to Arizona, and other marketers forming groups in other
8 states are looking at trying to create something. The
9 challenge in Arizona is we don't have the sheer numbers to
10 make it worthwhile or attractive for an insurance company,
11 so, personally, I think what's going to have to happen is
12 there is going to have to be enough of a momentum
13 nationally or regionally for a number of states possibly
14 to get together, try to create something.

15 The problem then, though, as I'm learning from
16 the insurance companies, is that all the states have
17 different regs and all the states have different rules, so
18 then how does insurance companies assess the risk when the
19 UST regulations vary by state. So it becomes a problem,
20 so we're looking at it.

21 The states that have these times of programs, you
22 know, Texas has a good one, Iowa has a good one, but, you
23 know, Iowa's was started with seed money from their State
24 Fund before it went away, and it's run by the State Fund
25 Administrator, who is extremely knowledgeable and, you

1 know, takes a very proactive preventative stance on some
2 of these things, so it's sort of a different ballgame as
3 far as I'm concerned. I don't have the number of members
4 to support something like that, or the finances.

5 But we will look into it. I've been trying to
6 look into this for the past two years, so I will keep
7 looking into it.

8 So, that's kind of an overview. We're hoping to
9 come back to the Commission with some more
10 recommendations. I would say right now the main one is
11 the educational outreach. We'd really like to maybe have
12 the Policy Commission recommend officially to the agency
13 that that's something worth pursuing. And, like I said, I
14 think that we can work something out, hopefully jointly,
15 and I know I'd be, you know, happy to advertise it and
16 promote it to my members, and we can also try to reach Luz
17 Reviews, who has members as well, owner/operators, and
18 members as well, and really let her understand that that's
19 a good service to offer for members as well.

20 So -- and then, you know, the other -- we also
21 talked about emergency fund issues in terms of helping
22 orphan sites, as the funds goes away, and the state is
23 obviously still going to have responsibility for orphan
24 sites, so that was also an issue to make sure. I think,
25 you know, it would depend on if Senate Bill 1306 ceases

1 its fruition in terms of, I think there was up to
2 60,000,000 that can be set aside for that.

3 So, other issues that we have asked to get back
4 from the agency, and I'm hoping you guys have some of that
5 for me today, but, we were trying to get a better handle
6 on the problem, and part of that is understanding how many
7 LUST sites there are in the state, so that would give us a
8 number of how many sites have preexisting conditions.

9 And then I think the other subset, which I doubt
10 you have for me today, but maybe we can get in June, is
11 the number of those sites that are owned by small -- you
12 know, the definition of a small owner that has less than
13 nine tanks, because that does seem to be right now where
14 the main concern would be for these folks to make sure
15 they know they have to have commercial insurance to meet
16 FR.

17 So, with that, I think that kind of summarizes
18 what we talked about this week, and I will answer any
19 questions, and if you want to jump in with any of the
20 numbers.

21 MR. MC NEELY: Sure.

22 CHAIRPERSON CLEMENT: Mr. McNeely?

23 MR. MC NEELY: Yes. We do have some numbers, not
24 all of them. There is 213 UST owners that have open LUST
25 numbers that are actually operating facilities. And out

1 of those 213 owners, they are operating 384 facilities
2 with an open LUST; so, the universe right now, they're
3 hoping LUST numbers are 384 facilities.

4 One thing we talked about, though, is to close
5 LUST numbers. We didn't run that as another query on our
6 database, so I don't know how many operating facilities
7 have closed LUST numbers that may be considered a
8 preexisting.

9 MS. MARTINCIC: Can you get that?

10 MR. MC NEELY: We are going to work on that. I'm
11 not sure how to get it yet because the database doesn't
12 query that way. That's something we need to do.

13 MS. MARTINCIC: Will the new database help in
14 another couple of months?

15 MS. NAVARRETE: You are going to have the same
16 data going over, if it can be taken over into our new data
17 base that we have right now.

18 MS. MARTINCIC: I guess, so the new database is
19 not going to allow you to search it differently or in some
20 way manipulate the query?

21 CHAIRPERSON CLEMENT: Mr. Kern.

22 MR. KERN: Madam Chair, Ron Kern. The issue
23 basically is closed LUSTs and operating facilities. We
24 don't know because of the status of the data, and it
25 doesn't matter what database we're using, how many closed

1 facilities there's been. We have got a fairly good idea,
2 but when we get down to the details looking at it, is that
3 closed LUST associated with an operating facility. Like
4 Phil said, we will look at it but we're going to be very
5 careful putting that out and maybe put some caveats with
6 that. We'll look at it.

7 MS. MARTINCIC: So the problem is going to be
8 cross-referencing it to know if it's a closed LUST site
9 owned by current owner/operators? Is that what I'm
10 hearing?

11 MR. KERN: Basically, yes.

12 MS. MARTINCIC: I just want to make sure I
13 understand what --

14 MR. KERN: Yeah, and you are looking at it from
15 an FR standpoint, so is it an operating facility with an
16 open tank or an open LUST or a closed LUST, still open,
17 and, you know, looking at the FR issue associated with
18 that then, so we will look at the various data.

19 MS. MARTINCIC: Thank you.

20 CHAIRPERSON CLEMENT: Thank you.

21 Mr. NcNeely.

22 MR. MC NEELY: What we're going to try and do is
23 out of those 213 owners, we will sort of break it down
24 into a large, medium, or small, and then what percentages
25 have that based on our database, that's what we're going

1 to try to do over the next month and then maybe develop
2 some outreach plans that hit the small ones.

3 MS. MARTINCIC: So, okay, this number that you've
4 just given us, 384 facilities with open LUSTs, say if
5 there are 2000 and some sites in Arizona, out of that
6 2000, this 384 number is sites that have open LUSTs?

7 MR. MC NEELY: Right.

8 MS. MARTINCIC: That are either in the process of
9 being -- that have either just been reported or in the
10 process of being cleaned up, I mean?

11 MR. MC NEELY: I don't know where they are.

12 MS. MARTINCIC: In the various stages, but --

13 MR. MC NEELY: There are 2000 -- about 2,600
14 operating facilities, in that ballpark, so really we have
15 got 200 facilities that don't fall into this category. So
16 it's a small percentage. That can still be a major
17 problem for those 213 operators.

18 MS. MARTINCIC: Right. Right.

19 MR. MC NEELY: We will look into that.

20 MS. MARTINCIC: And the 384 facilities are owned
21 by 230?

22 MR. MC NEELY: Right.

23 CHAIRPERSON CLEMENT: Plus, depending on how the
24 insurance companies evaluate preexisting conditions of a
25 closed LUST site at an open facility would also be part of

1 a universe of problems.

2 MR. MC NEELY: It's possible. And to address
3 your thing about opening up LUSTs, Arizona -- I'm not sure
4 if they are talking about nationally or what.

5 MS. MARTINCIC: This is specific to Arizona, and
6 that's why I was very -- I even told this gentleman, I
7 said, you know, that's interesting, and I asked for
8 specifics.

9 MR. MC NEELY: There is only one specific thing
10 I'm familiar with, and it was a site specific condition,
11 but we don't do that. As a matter of fact, it's very,
12 very, very rare. I'm only familiar with doing that once,
13 actually, so --

14 MR. MARTINCIC: Is it something that's recent or
15 in the past?

16 MR. MC NEELY: Recently.

17 MS. MARTINCIC: Maybe that's what it's about,
18 then.

19 MR. MC NEELY: But that's very site specific.

20 CHAIRPERSON CLEMENT: There is no impetus on the
21 agency's part to go back in and look at those LUST sites
22 unless new information comes in; is that correct?

23 MR. MC NEELY: Right. And his condition was, the
24 new owner put a well in and it was contaminated. Previous
25 people said it was soil only site, so it's site specific.

1 And we've always maintained that if a drinking well gets
2 contaminated, there is no new source, then we'll look. We
3 always have the authority to open up closed LUST sites,
4 but you have to have new information to come to our
5 attention and that doesn't happen very often.

6 CHAIRPERSON CLEMENT: Is there any impetus on the
7 agency's part when the new SRLs are closed to re-evaluate
8 any of the closed sites relative to the new SRLs?

9 MR. MC NEELY: No, we've never done that. From
10 the SRLs that were effective in, what, '96 and '97, the
11 SRLs that are effective now, the concentrations were
12 significantly lower on the new SRLs, and there was no
13 pressure to go back and look at the old ones.

14 And now we're looking at the old ones. They're
15 not going to change that drastically. The petroleum
16 contaminants are not going to change that dramatically.

17 MS. MARTINCIC: I should share this with
18 everyone, too, we talked about this in the Financial
19 Subcommittee as well. The energy bill that passed out of
20 the House has a number of LUST provisions in it. And in
21 my estimate, they will be pretty impactful here in Arizona
22 because they want a new sort of thing.

23 One issue they are looking at is allowing states,
24 this is at the federal level, allowing the states to
25 choose between going with secondary containment or

1 requiring installers and manufacturers of tanks to have
2 financial responsibility. And so the way it passed out of
3 the House was that it would basically become a state issue
4 of whether to do one or the other.

5 Another issue that's different that would impact
6 us here is that it calls for the agency, the state agency
7 to maintain an Internet roster of noncompliant tanks, and
8 then it becomes a civil penalty for a marketer to deliver
9 to a noncompliant tank, so that's a big change which would
10 impact us here in Arizona as well.

11 And then there was another issue that had to do
12 with training as well, requiring sites to train. The way
13 it's written right now it kind of requires anyone at the
14 site to be trained on UST systems.

15 And we're hoping that -- I know my national
16 association is hoping to kind of narrow that a little bit
17 in terms of making sure that it's someone that actually
18 deals with the tank. I don't think it's beneficial to
19 have retail clerks understand the inner workings of the
20 UST system when there is major turnover in that industry
21 to begin with.

22 So, some big changes on the federal level there,
23 and there is an appropriation language in the bill to
24 allow the states to get more LUST money, but the problem
25 is that it's not an actual appropriation. So, another

1 concern that we have as marketers nationally that, you
2 know, these are new requirements being put onto states,
3 and we'd like to see them get additional funding to be
4 able to do this, because without the additional funding, I
5 don't know -- I mean, we've been hearing all morning how
6 everyone's low staffed and it's difficult to run the
7 program as it is, so we need to add new regulations. It
8 would be nice if there was some additional funds for them
9 to do that.

10 And I think it also requires minimal every three
11 year inspections as well. So, some major change is coming
12 from the federal level possibly on UST issues.

13 And I know that one of my concerns was that if
14 the state were to choose the secondary containment issue,
15 that throws another major wrench in the insurance problem
16 or potential problem in that we have heard from carriers
17 that if an owner/operator is going to upgrade their site,
18 or wants to put in double-wall tanks, if they're looking
19 for insurance, an insurance company is not going to write
20 you a policy for that year that you are doing work. And
21 we heard this from the actual carriers in Arizona. So,
22 that would be a potential problem, you know, folks are
23 having to prospectively put in secondary containment and
24 at the same time be looking for insurance to meet federal
25 financial responsibility, but also now with the phase-out

1 of SAF to pay for cleanup as well, so lots going on in the
2 UST world here in Arizona and just nationally as well.

3 CHAIRPERSON CLEMENT: Any questions or comments
4 from the Commission?

5 Any public comments? We're taking public
6 comments after each agenda item for this meeting but we're
7 asking people to fill out speaker slips so that we have a
8 record. Thank you.

9 Mr. Bunch.

10 MR. BUNCH: Thank you. I've got a few. I know
11 it comes as a shock to everybody here.

12 Mr. McNeely, question regarding the number of
13 open LUST cases. I believe you qualified the number of
14 384 as those sites with open LUST cases that are being
15 cleaned up by the current owner/operator.

16 My question is, how many open LUST cases are
17 there overall regardless of who the responsible party is
18 in relation to the owner/operator status?

19 MR. MC NEELY: Like I said, 384 facilities that
20 are currently operating that have open LUSTs. I didn't
21 say who was cleaning those up.

22 MR. BUNCH: So it's 384?

23 MR. MC NEELY: That's open LUSTs.

24 MR. BUNCH: Because we represent about 50 percent
25 of those, then. Okay?

1 Andrea, I wanted to make a comment with respect
2 to the Financial Subcommittee. I attended the March
3 meeting, and one of the concerns I voiced there, and I
4 would like to address to the larger Commission, I think
5 the universe of recommendations that come out of that
6 meeting needs to be opened up, and I'd challenge the
7 Financial Subcommittee and the Commission in general to
8 keep an open mind in terms of what a proper recommendation
9 might be, to include maybe even a recommendation to the
10 legislature or even a position by the policy -- or this
11 Commission that maybe the State Fund is an appropriate
12 mechanism for dealing with releases in this state.

13 A couple of comments that Ms. Martincic
14 mentioned, that the carriers were going to include leaks
15 that weren't found through leak detection. I would like
16 to point out, and I can back this up with EPA studies, I
17 would say that 80 plus percentage of the releases that are
18 found in this state and elsewhere are not driven by
19 release detection methods, they're found through other
20 means. And most of our releases aren't coming from the
21 regulated components of the underground storage tanks or
22 your monthly monitoring techniques. They're small
23 releases. They are coming from under dispenser
24 containments, spill containers, all these components that
25 aren't regulated today and aren't required to be tested.

1 And the point of this discussion is that you
2 should start getting the sense that insurance carriers are
3 not going to be covering the majority of the releases that
4 are found. And so I appreciate the fact that the
5 Financial Subcommittee is focusing on insuring that people
6 can meet their financial responsibility requirements to
7 meet that regulation, but the broader issue is, are these
8 releases going to be funded for clean up. And we
9 shouldn't have the sense that because you have insurance
10 or an operator has insurance that they're going to be
11 given any relief in effecting cleanups.

12 I think you will find, and I mentioned this in
13 March, that there is going to be a lot of scenarios where
14 the insurance carriers are not going to fund the cleanup.
15 And if the ultimate aim is to get soil and groundwater
16 cleaned and provide funding and ensure that there are
17 dollars there, I don't think the insurance route in the
18 long-term is going to be a good option for folks.

19 I also want to point out that there is a problem
20 with insurance for large operators that's probably just as
21 difficult as small operators. The large operators that
22 operate under a single legal entity has to find insurance
23 throughout their network under that entity, and there are
24 very few carriers that will underwrite policies for any of
25 these very large entities. So we have problems as a very

1 large carrier finding a carrier that is going to cover us
2 for all the states within where we market and that will
3 write a policy that large.

4 And then the question on the energy bill or maybe
5 a suggestion, maybe things have changed, but when we
6 looked at the energy bill last year when it was going
7 through the House, one of the provisions was a requirement
8 for states to do an inspection of every facility every two
9 years. I don't know if that piece has been dropped out.

10 MS. MARTINCIC: It's not in this one. It's three
11 years.

12 MR. BUNCH: I was going to say, that's a major
13 funding or resource concern.

14 The other issue is the state roster, the
15 Web-based requirement for a state roster of noncompliant
16 operators. It's going to be a cost to the agency to do
17 that. Philosophically they're looking at holding the
18 transportation companies accountable. I believe that's
19 backwards. You really ought to hold the owner/operators
20 accountable, and that's something that API, and, you know,
21 the larger organizations disagreed on.

22 If the state has an opinion on that, I don't know
23 if you have any lobbying resources, but since you folks
24 are going to be the ones enforcing these rules and having
25 to keep the rosters current, you may want to consider, you

1 know, providing some testimony or providing some feedback
2 to the Senate or the House that maybe holding the
3 transportation companies and marketers accountable isn't
4 really the right way to go after recalcitrant operators.
5 It's an odd enforcement mechanism in my mind, at least, so
6 I just want to encourage you to at least consider that.

7 CHAIRPERSON CLEMENT: Thank you very much, Mr.
8 Bunch.

9 MR. BUNCH: You are welcome.

10 CHAIRPERSON CLEMENT: Any other public comments?

11 MS. MARTINCIC: May I respond to that?

12 CHAIRPERSON CLEMENT: Please do.

13 MS. MARTINCIC: I'm just going to respond. We
14 did -- we are concerned about whether they're going to be
15 paying the insurance carriers, and that's one of the main
16 issues of the Subcommittee that we want to look into
17 further. So, we are aware of that and we're just as
18 concerned about it.

19 And as far as the solution that you'd like to see
20 in terms of trying to maybe continue the SAF, you know, I
21 would encourage you to attend the subcommittee meetings,
22 because I brought that up and there really was not a major
23 -- anyone else there that felt that was a politically
24 viable option.

25 So, if you feel that that is, and you want us to

1 continue to look at that, I would just encourage you to
2 participate and be active and attend the meetings. So,
3 this is driven by public comment and by owner/operators'
4 comments, and we can only do as well as we have their
5 input; so, we will be continuing to meet monthly probably
6 until we come up with our final recommendations, so
7 thanks.

8 CHAIRPERSON CLEMENT: Mr. Bunch.

9 MR. BUNCH: The reason I didn't attend the last
10 meeting because I had thought that recommendation had been
11 excluded from the realm of potential recommendations.

12 MS. MARTINCIC: We were trying to brainstorm
13 anything we could. These are big issues, and there is no
14 -- I don't know that there is any one magic, you know,
15 solution, but, you know, I'm open to hear all crazy ideas
16 and we will look into them and debate them and bring them
17 to the larger Commission as well, so --

18 CHAIRPERSON CLEMENT: Mr. McNeely.

19 MR. BUNCH: I wouldn't refer to that as a crazy
20 idea.

21 MR. MC NEELY: One thing about changing the
22 statute, that requires changing the statute and the
23 legislature is very anti-tax, and they are the ones that
24 -- we had to push tax, push it up to 2013, so what we're
25 trying to do is work within the confines of what the

1 current law is and figure out a way to implement the
2 current law.

3 Any lobbying like that, you know, that can be
4 done on the outside parties for that, but I don't think
5 the legislature is going to be changing that this year
6 based on the members of the legislature, so you can try,
7 but I just don't think it's going to happen. So I think
8 we need to have reality and try to figure out how we're
9 going to implement the current law, so I think that's
10 going to happen.

11 CHAIRPERSON CLEMENT: Any other discussion or
12 observations on the Financial Subcommittee update?

13 MS. MARTINCIC: We're working for our next
14 meeting, I think, to be sometime during the week of June
15 13th, and the agency is working now to figure out what day
16 they can get their space available for us, so hopefully we
17 can know that by the end of the week. Do you think that's
18 possible? And we will get notice out by the end of this
19 week to everyone of when the next Financial Subcommittee
20 meeting will be.

21 CHAIRPERSON CLEMENT: Thank you, Andrea.

22 We will jump now to the Technical Subcommittee
23 update with Mr. Hal Gill.

24 MR. GILL: Thank you, Madam Chair.

25 I canceled the last technical subcommittee

1 meeting. We didn't have any huge issues that we were
2 ready to discuss, and plus the fact that I was judging the
3 International Science Fair, which was a huge mistake.
4 These are 4400 high school students from 14 to 17, and I'm
5 just now recovering from feeling completely inept. These
6 were an amazing group of kids. I was absolutely bowled
7 over.

8 But what I did in the meantime is I was
9 discussing with Phil, with Al and Joe Drosendaul in an
10 effort to keep from -- limit the number of appeals and to
11 get information out there, I came up with an idea that we
12 had been discussing for quite awhile now, is that the UST
13 Program and the work that's being done by the
14 owner/operators and the consultants has basically matured
15 from mostly site characterization to remedial programs,
16 and there is a lot of education that would be appropriate
17 and is needed on both sides of the table, the
18 owner/operator, the consultants, and the DEQ.

19 So, we came up with an idea of using the next
20 several subcommittee meetings to start discussing
21 remediation programs, so I came up with a -- just a draft
22 outline of remedial program activities, and there is major
23 components and, as I said, I just sent this to the
24 Commission members and to DEQ to start looking at it,
25 because now it looks like we're going to be postponing

1 that a little bit because we got to start looking at the
2 cost schedules; but ultimately what I want to do is get
3 into the discussions in the subcommittee meetings of the
4 remedial program, and I want to do it from beginning to
5 end, starting with the purpose of remedial testing for
6 either doing your CAP and/or designing your program. And
7 then I've got a number of major components.

8 Permitting, there is lots of permitting issues,
9 system installation issues, system startup, system
10 operation and maintenance and system shutdown,
11 confirmation sampling. Those are just the major
12 components.

13 And in the e-mail that I sent the DEQ, and I will
14 be sending it to consultants as well, in fact, we will
15 fill this in. There may be more major components that
16 certain people feel need to be a major component for
17 discussion, but then there is going to be lots of detail
18 under these -- and again, the idea is that in every one of
19 these components of remedial program there is lots of
20 problems. They're all different. Permitting in
21 particular, you've got city, state, county permitting.
22 Every city is different. Every county has different
23 requirements, and that's for air, whether it's a state air
24 or whether it's Pima County, or something like that, and
25 it just goes on and on. There are lots of issues, and I

1 think it is really important that DEQ and the
2 owner/operators, consultants come together and discuss the
3 problems they've had, the issues they've had, and try to
4 get an understanding of where the issues are and where the
5 costs come from that are being submitted so we try to
6 limit appeals.

7 And I told Phil that I'd make it real clear in my
8 e-mail and in these meetings that it's not a DEQ bashing
9 meeting. We are there to discuss the issues. We are
10 there to discuss the components and how the activities are
11 actually done in the field and where the problems are so
12 we can get an understanding and try to come to some middle
13 ground in areas where there is concerns about the costs,
14 and things like that.

15 And I will make it real clear at the meeting
16 that, you know, there is a lot of issues we can -- we want
17 to move through them as rapidly as possible, and I don't
18 want to have these meetings just, you know, for argument.
19 We need to hear the issues discussed, questions from both
20 sides about how it looks, look at the issue and come up
21 hopefully with a good understanding of how to move the
22 program, the remedial programs forward.

23 So that I will be finalizing this next month and
24 sending it out. And then as we discussed earlier, we will
25 meet on the June 8th to have a presentation by Judy

1 Navarrete on the new cost schedule.

2 And also, I also wanted to add my voice in
3 commending Phil McNeely in his communication. I've had
4 meetings and a number of e-mails and telephone
5 conversations with him, and he is indeed trying to respond
6 as best he can to the issues that are coming up, and I
7 have to commend him for that.

8 That's pretty much it.

9 CHAIRPERSON CLEMENT: Just to summarize, the next
10 Technical Subcommittee meeting will be on the new cost
11 schedule and the new applications. It's scheduled for
12 June 8th here from 9 to 12; is that correct?

13 MR. GILL: That's correct.

14 CHAIRPERSON CLEMENT: We are also holding
15 tentatively a second date in case those cost schedule
16 discussions go longer than we anticipate, and that will be
17 June 15th. We don't know the location yet and we don't
18 have a specific time yet, but that's only if we need that
19 meeting.

20 And then the discussion items regarding the
21 remediation programs will start in the July Technical
22 Subcommittee, and that July date is the 13th of July, 9 to
23 12.

24 MR. GILL: And we're not sure where the June 8th
25 meeting is going to be, because they're typically held in

1 4001-B, or wherever that is, and we could have a very
2 large crowd, so Al is going to look and see if he can find
3 a larger room.

4 CHAIRPERSON CLEMENT: Thank you very much.

5 And then as far as the Commission members, we
6 have received Hal's proposed discussion items. If there
7 is any comments, let's get comments back to Hal, then at
8 our June meeting we can discuss these agenda items as a
9 Commission formally or informally.

10 MR. GILL: In the meantime I put in more detail
11 because I put down what I could think of rapidly, but
12 there are other details under the major components.

13 CHAIRPERSON CLEMENT: Thank you very much, Mr.
14 Gill.

15 The next agenda we're already voted. The quorum
16 is now six members, not seven.

17 The next agenda item is the UST Policy Commission
18 Records Retention Policy, and this again arises from last
19 month's presentation. We were informed that every type of
20 correspondence, including our e-mails, we need to retain.
21 And my point of view would be, and I've had this
22 discussion with Mr. Johnson, is that anything that
23 originates or goes to the ADEQ, if the ADEQ could be
24 responsible for the Commission retaining those records if
25 you're not already doing that is what I wanted to talk

1 about.

2 Mr. Johnson, what are you doing now?

3 MR. JOHNSON: Right now we are retaining all the
4 records up on the 4th floor, and those records include
5 everything that's handed out here at the meeting, and also
6 items discussed in the subcommittees.

7 And what we haven't been keeping track of are
8 various e-mails. We haven't been keeping track of that.
9 If you would like us to start doing that, we certainly can
10 do it.

11 CHAIRPERSON CLEMENT: Somebody -- to say, based
12 on last month, I didn't know I had to do that either, so I
13 have not either, so I think we need to begin that. If you
14 could be responsible for that, that would help us all a
15 lot.

16 MR. JOHNSON: Okay.

17 CHAIRPERSON CLEMENT: And then there is only a
18 very limited amount of correspondence that does not go to,
19 from or include DEQ, and that is basically when the three
20 of us are working on the agenda or I'm trying to
21 understand what happened in a subcommittee meeting to add
22 to the agenda, and that's the only things I don't think
23 ever don't go to DEQ.

24 MS. MARTINCIC: I thought it was only if it was
25 going to the whole Commission.

1 CHAIRPERSON CLEMENT: What I understood is even
2 the correspondence between Al and myself saying this
3 agenda looks good has to be retained. So, anything
4 related to official Commission business is my
5 understanding.

6 MS. MARTINCIC: So we will just have to copy Al
7 on everything, then?

8 CHAIRPERSON CLEMENT: Yes, I think that would be
9 great.

10 MR. JOHNSON: I will have to rent a new room for
11 records storage.

12 CHAIRPERSON CLEMENT: There is both electronic
13 saving you can do and paper saving. I don't think that
14 the statutes require one way or the other, do they,
15 Barbara, do you know?

16 MS. PASHKOWSKI: Are you talking about electronic
17 archiving?

18 CHAIRPERSON CLEMENT: Yes.

19 MS. PASHKOWSKI: And I don't know what DEQ's
20 policy is. I don't know if Mr. McNeely has the capacity
21 to maintain all the records. I assume there's been some
22 discussion perhaps?

23 CHAIRPERSON CLEMENT: We will leave it to Mr.
24 Johnson.

25 MR. MC NEELY: We do archive. We do have the

1 capacity to archive e-mails.

2 MR. JOHNSON: But there's always a possibility
3 that you can't delete them.

4 MR. MC NEELY: You automatically archive them,
5 but pulling them out would be a challenge, too, so I think
6 we got to look at it and talk to our IT people about it,
7 because you probably can make a file and archive them in
8 that file.

9 CHAIRPERSON CLEMENT: Or you can just print them
10 out once and stick them in a long -- you know, basically
11 just a calendar file. Wouldn't even have to have a date.
12 It wouldn't be too bad.

13 Okay. Any other comments on that questions?

14 Okay. Thank you. I'm sorry. Mr. Kern?

15 MR. KERN: Ron Kern. Thank you, Madam Chair.

16 In the discussion that occurred at the previous
17 Policy Commission meeting, did it say how long we have to
18 retain records? I don't recall that.

19 CHAIRPERSON CLEMENT: I don't recall it either.
20 And I don't know that answer. Is there any way we can ask
21 someone from the AG's office how long we have to retain
22 those records?

23 MS. PASHKOWSKI: You'd probably want to inquire
24 of Victoria Mangiapane. There are state retention
25 requirements.

1 CHAIRPERSON CLEMENT: Right. Would it be
2 appropriate for me to give a phone call to Victoria?

3 MS. PASHKOWSKI: I think so.

4 CHAIRPERSON CLEMENT: Sorry about that. That is
5 my phone and it is going to stop eventually.

6 The next agenda item, Summary of Meeting Action
7 Items, and people will add to this, but we'll have an
8 agenda item next time on administrative issues which would
9 include what should be in our packets, what we will
10 receive, when will we receive them and how they will be
11 received, notice of who will be in attendance and who
12 won't, and we're going to ask all Commission members to
13 notify either Mr. Johnson or myself.

14 We're going to have additional information
15 regarding the breakdown on numerics of which sites, to the
16 best of the agency's, which sites are large, medium and
17 small, which sites are open that had a preexisting
18 condition, if it's possible. There were a couple of other
19 things.

20 We are going to have -- I am going to contact
21 Victoria regarding the time period for record retention.

22 If we are not going to have the presentation
23 today, the Route 66 presentation, we'd ask to have it next
24 time also.

25 The agency's going to get back with us regarding

1 posting information regarding the settled cases or the
2 decided cases on their Web site.

3 The agency's going to get back regarding outreach
4 efforts for small owners and operators, and you may want
5 to work that through the next Financial Subcommittee, more
6 discussion about that.

7 And those are the only actions items I had.

8 Did anybody else have anything else?

9 MR. GILL: Madam Chair.

10 CHAIRPERSON CLEMENT: Yes, Mr. Gill.

11 MR. GILL: I misunderstood the records retention
12 policy, and I thought I had requested it, but I may or may
13 not have. We need to discuss what the process was going
14 to be once we put a draft bulletin or draft document on
15 the bulletin, when that was to go nondraft because we had
16 a problem -- what was that -- the certification form, we
17 put it on there as a draft. And I remember, it was my
18 language, Judy read it to me, and basically it said we
19 will put it on the draft to see how it works so people can
20 use it, and then we all forgot to revisit it, so it's been
21 a draft for a while, so I don't know if we need to discuss
22 when that can occur and when it has to come back for a
23 vote from the draft or final or what.

24 CHAIRPERSON CLEMENT: Yes. That was not actually
25 something that we had under the records retention policy.

1 I think we're going to need to add that as an agenda item,
2 so its process and timing basically on draft bulletin
3 items versus final bulletin items.

4 MS. NAVARRETE: That wasn't on the bulletin, it
5 was under our forms.

6 CHAIRPERSON CLEMENT: So put bulletin slash
7 forms. Thank you.

8 No other agenda items? Then we will move on.
9 Action items and agenda items.

10 Any other agenda items for next time that we want
11 to include?

12 Mr. McNeely?

13 MR. MC NEELY: We have to include the vote on the
14 cost schedule applications for approval.

15 CHAIRPERSON CLEMENT: Okay.

16 MS. MARTINCIC: We're going to vote on cost
17 schedules on June 22nd, then, I mean, I think policy
18 Commission members need to try to attend those meetings.

19 MR. MC NEELY: Good point.

20 MS. MARTINCIC: How are they going to be informed
21 enough to vote?

22 CHAIRPERSON CLEMENT: Exactly. I would just
23 highly recommend that everyone try to attend the June 8th
24 -- what is it, June 8th?

25 MR. GILL: I will send out e-mail to policy

1 Commission members about the meeting.

2 CHAIRPERSON CLEMENT: For the record, I cannot be
3 there. I will not be in town that day, but I will make
4 sure that I'm as educated as I can be.

5 MS. MARTINCIC: On June 8th or the day we vote?

6 CHAIRPERSON CLEMENT: June 8th.

7 Any other agenda items for next time? Okay.

8 Great.

9 MS. MARTINCIC: We may want to provide the
10 Commission notice a couple of weeks before the June 22nd
11 to let them know a vote is on the agenda so we don't have
12 a problem with quorum again.

13 CHAIRPERSON CLEMENT: Okay. Thank you. Now this
14 is a general call to the public for any agenda items that
15 people didn't speak to after each point. Any other public
16 comment? Great.

17 The next Policy Commission meeting will be held
18 on June 22nd, 2005, 9 a.m. in Room 250 at the Arizona
19 Department of Environmental Quality located at 1110 West
20 Washington in Phoenix, Arizona. And with that we will
21 adjourn this meeting. Thank you, everybody.

22 MR. JOHNSON: July?

23 CHAIRPERSON CLEMENT: July.

24 MR. JOHNSON: Did you all want to have a meeting
25 in July? Did you decide on that?

1 MS. MARTINCIC: I think we ought to schedule it.

2 CHAIRPERSON CLEMENT: I think we will discuss it
3 in June.

4 MR. JOHNSON: Okay.

5 CHAIRPERSON CLEMENT: See where we are. Thank
6 you. Thanks everybody.

7 (10:57 a.m.)

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C E R T I F I C A T E

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 74 pages constitute a full true and correct transcript of said shorthand record all done to the best of my skill and ability.

DATED at Phoenix, Arizona, this 25th day of May, 2005.

Deborah J. Worsley Girard
Certified Court Reporter
Certificate No. 50477