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ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY
MEETING OF THE
UNDERGROUND STORAGE TANK POLICY COMMISSION

Phoenix, Arizona
July 27, 2005
9:00 a.m.

Location: Arizona Department of Environmental Quality
1110 West Washington
Phoenix, Arizona

By: Tammy Gillett
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(ORIGINAL)

1 COMMITTEE MEMBERS PRESENT:

2 Gail Clement, Chairperson

3 Hal Gill, Vice Chairperson

4 Andrea Martincic

5 Tamara Huddleston

6 Cynthia Campbell

7 Judy Navarrete

8 Karen Gaylord

9 Myron Smith

10 Theresa Foster

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1 22 to 23, rather than the words with Howard, period, data
2 base operates is catching resubmittals, period, it should be
3 with, quote, with how our data base operates in catching
4 resubmittals, unquote, end quotes. That's one correction
5 that we have. Did anybody else see anything on the draft
6 minutes, any other comments for discussion? With that minor
7 change, is there anyone --

8 MR. SMITH: I move to accept the minutes as
9 amended.

10 MR. GILL: Second.

11 CHAIRPERSON CLEMENT: All in favor.

12 (Response.)

13 CHAIRPERSON CLEMENT: All opposed. The June 2005
14 meeting minutes are passed with the minor correction as
15 noted.

16 Okay. The next agenda item, discussion of rules
17 affecting the UST program, and Ms. Navarrete is filling in
18 for Mr. McNeely who is on vacation.

19 Just for the record, we have had another member
20 join us. Tamara Huddleston has just joined us.

21 MS. NAVARRETE: The SAF rules have been submitted
22 and will be published August 12th of '05, and I furnished
23 the Policy Commission with a paper that shows you all of the
24 dates, the open meetings. And for the public that is in
25 attendance, we will have an open meeting September 21st from

1 10:00 to 12:00 p.m. at the Industrial Commission and then on
2 September 22nd from 10:00 to 12:00 p.m. at the Southern
3 Regional Office. And I am sure these will be posted and Hal
4 will probably get out an e-mail to the regular public.

5 Then we will accept your written comments and then
6 we have to respond to them, but we don't look for the rules
7 to be effective until at least February of '06.

8 CHAIRPERSON CLEMENT: Any other news on the rule
9 package? I know they are working on the redrafting of the
10 SRLs, soil remediation levels, and other cleanup standards.

11 MS. NAVARRETE: Phil didn't give me an update on
12 that. If anyone else has an update?

13 CHAIRPERSON CLEMENT: Okay. Thank you. And any
14 other questions, we will move on to the next agenda item.
15 Judy again -- Ms. Navarrete, again, has the UST program
16 update for Phil.

17 MS. NAVARRETE: I just gave it except for a couple
18 of things. Effective Monday, Ms. Tara Rosie will be section
19 manager for the State Assurance Fund. I will be moving to
20 Waste Programs, and so that is the update from State
21 Assurance Fund.

22 CHAIRPERSON CLEMENT: That's an awfully big smile
23 on your face. Congratulations to Ms. Rosie and to you, Ms.
24 Navarrete.

25 MS. NAVARRETE: Thank you.

1 MS. MARTINCIC: Judy, when was the ruling going to
2 be posted? I am sorry, I missed that. I see the date --

3 MS. NAVARRETE: It is published August 12th.

4 MS. MARTINCIC: August 12th. So we can pull that
5 off the Secretary of State's or are you going to have that
6 posted also on the ADEQ, or do you know?

7 MR. JOHNSON: If you all want to put a link to
8 the -- either the Secretary of State Web Site, or if you
9 want to put the rule -- however, you want to do it, we will
10 get something available.

11 MS. MARTINCIC: It might be nice just to have a
12 link or something.

13 MR. JOHNSON: Sure.

14 MS. MARTINCIC: Thank you.

15 CHAIRPERSON CLEMENT: Should we move on, then, to
16 the corrective action monthly update. You are complete.

17 MS. NAVARRETE: Corrective action update.

18 CHAIRPERSON CLEMENT: Mr. Drosendahl.

19 MR. DROSENDAHL: Yes. I am Joe Drosendahl, the
20 manager of the Corrective Action Section. We are still
21 working out the bugs of our new data base and everything,
22 so, unfortunately, right now, reporting of numbers and
23 everything isn't possible right now. So we are hoping to
24 have that in the near future.

25 In regards to other things in the Corrective

1 Action Section, as I said at the last meeting, Tim Irwin,
2 the manager of the enforcement unit, has taken another
3 position within the agency. We are currently in the process
4 of filling that position. That will probably be a while.

5 We are still moving forward with the Route 66
6 Initiative. A few weeks ago, we made a presentation to the
7 Board of the City of Winslow, and we are currently arranging
8 to do a similar meeting in front of the City of Holbrook to
9 bring them up to date. The other cities along Route 66 have
10 been assigned to two case managers, and they are going
11 through the process of getting updated on the status of all
12 those leaking underground storage tank sites. We are going
13 to be increasing our web site to include the other cities on
14 our web site.

15 The Municipal Tank Closure Program is moving
16 forward. We are still getting applications, not only along
17 Route 66 but throughout the rest of the State of Arizona.

18 And kind of moving on to the Risk Assessment
19 Update, we are continuing to work out tweaks to the new Tier
20 2 Software. We have extended the contract with the
21 programmers to help us work out some of the bugs that
22 internal staff have been bringing up, and also, you know,
23 external stakeholders, so that's still moving forward. And
24 we are still working on cleaning up the backlog of Risk
25 Assessments. So, hopefully, the next time we give you

1 numbers on the productivity of the UST section, those
2 numbers will be greatly reduced.

3 CHAIRPERSON CLEMENT: Mr. Gill.

4 MR. GILL: Mr. Drosendahl, any idea when the --
5 how the Tier 2 document will be available, because there is
6 a number of questions in the model that we can't answer
7 until that is out and everything?

8 MR. DROSENDAHL: Right. Yes, Jeanene Hanley is
9 currently working on that, and with all the tweaks to the
10 software and all the problems of using it coming up with
11 staff, basically, that's being -- constantly being reworked
12 right now. So we are hoping to get that out soon because we
13 figure that is going to help a lot of people.

14 We are also going to be starting to develop a list
15 of commonly asked questions to be put on our web site for
16 both internal and external staff to kind of use to see if
17 that would help, too.

18 CHAIRPERSON CLEMENT: Mr. Drosendahl, do you have
19 a time frame that things will be able to be accomplished,
20 the finaling of the software and also getting the document
21 out?

22 MR. DROSENDAHL: I wish I could say, you know,
23 every day, there's a new little bug that comes up, and
24 Jeanene has to call the programmers, and, you know, they
25 come up with a solution and everything, so I wish I could.

1 Hopefully, maybe at the next Policy Commission, I'll have a
2 better handle of exactly, you know, we are narrowing down
3 the list of bugs, or I can try to give you a better idea at
4 that time.

5 CHAIRPERSON CLEMENT: And the status right now is
6 it has been released to the public, and some folks -- it is
7 not the testing period, but it has actually been released?

8 MR. DROSENDAHL: Right.

9 CHAIRPERSON CLEMENT: And, then, so as people have
10 tried to use it, they have identified problems and notified
11 the agency?

12 MR. DROSENDAHL: Right.

13 CHAIRPERSON CLEMENT: Okay. Plus your internal
14 staff?

15 MR. DROSENDAHL: Yes.

16 CHAIRPERSON CLEMENT: Thank you. Any other
17 questions or comments? That's it. Mr. Gill.

18 MR. GILL: I am sorry, one more thing. Joe, I
19 would recommend, because I am using the model, and I have
20 found a couple little bugs. I recommend that Jeanene put --
21 some of the issues need to be out there right now because if
22 you are trying to use the model, there is some things in the
23 manual that are incorrect, and so you are inputting and it
24 won't work so that kind of information needs to get out
25 right away so when people are using it right now and don't

1 understand why it is not working. I had to call Jeanene
2 finally and resolve what the problem was, and it is working
3 fine, but again, not everybody knows that. If they are
4 trying to -- they are getting as frustrated as I was.

5 MR. DROSENDAHL: Oh, yes. No, I wasn't planning
6 on developing the whole list of, you know, commonly asked
7 questions or solutions, because, you know, I can imagine
8 that is going to just keep changing, you know, over the
9 months and years. So, no, I will try to get something up on
10 the web just as soon as possible because I agree.

11 MR. GILL: Great. Thank you.

12 CHAIRPERSON CLEMENT: Thank you. We will move on
13 to the SAF monthly update with Ms. Navarrete.

14 MS. NAVARRETE: Ms. Rosie is going to give the
15 update this month.

16 MS. ROSIE: Tara Rosie, State Assurance Fund.
17 Thank you, Judy. I think you should all have the package
18 that Judy prepared. You will notice that in June, we
19 received 414 applications. It was actually 415, but at the
20 time we ran this report, it was 414. And 92 determinations
21 were made. The total number of active applications at the
22 end of June was 445. The reason this 445 doesn't reflect
23 that in the original -- in the 414 applications received, I
24 think, can be explained if you look at the supplemental form
25 that, I think, Judy passed out this morning.

1 MS. NAVARRETE: It is in the back of the other
2 packet.

3 MS. ROSIE: We actually received, as I said, 415
4 applications. Of these, over 300 were received from major
5 oil, and there were many of these that had eligibility
6 issues as far as whether we could process the application
7 due to eligibility questions. And so for these, we made
8 final determinations, and I anticipate those will be things
9 that may be resolved in upcoming appeals.

10 CHAIRPERSON CLEMENT: That's a huge spike.

11 MS. ROSIE: Yes.

12 CHAIRPERSON CLEMENT: Do we anticipate that trend
13 in terms of the numbers of applications continuing on that
14 level or do you see it --

15 MS. ROSIE: I don't. I don't believe so. I
16 believe that this was something that happened, just one of
17 those things.

18 CHAIRPERSON CLEMENT: Hopefully.

19 MS. ROSIE: Hopefully.

20 CHAIRPERSON CLEMENT: Yes, that would be a lot to
21 do.

22 MS. ROSIE: And if you will notice on the Work in
23 Progress Summary, there are two applications that show up as
24 over a year old. Those are actually electronic applications
25 that were made during the appeal process. So the initial

1 applications had determinations and they were appealed, so
2 subsequently, those were created. That's why they are a
3 year old.

4 CHAIRPERSON CLEMENT: You know, I look at the
5 appeals, also. Do you want just to give us a little update
6 on that?

7 MS. ROSIE: The appeal numbers, I think, are
8 reflective of the number of determinations that were made.
9 There wasn't anything anomalous as far as what we noticed
10 with the numbers of either informal or formal appeals. And,
11 again, the determinations that were appealed had to do with
12 the same types of issues we have seen before. Most of these
13 issues are corrected during the appeals process.

14 CHAIRPERSON CLEMENT: Any questions or comments?

15 MS. ROSIE: Excuse me. Hal, I wasn't sure if you
16 were going to bring up the certification statements as part
17 of the technical solution?

18 MR. GILL: I would say handle it now because it
19 wasn't part of our discussion with the subcommittees.

20 MS. ROSIE: Okay. One of the other things we were
21 working on is revising the Applicant Certification
22 Statements and Service Provider Certification Statements for
23 the new applications, and I think everyone has got a copy of
24 the revised statements. I tried to highlight the language
25 that was changed to hopefully make it easier to identify,

1 and I believe when you take a look at it, it addresses the
2 concerns that were raised in previous meetings.

3 CHAIRPERSON CLEMENT: This was the larger of the
4 two issues that we had relative to the new cost schedule.
5 It was actually certification language in the application
6 that was the most problematic --

7 MS. ROSIE: That's what I recall.

8 CHAIRPERSON CLEMENT: -- in the regulating
9 community. So this will be an important -- and I think we
10 are going to need some time to look at that language unless
11 people feel comfortable commenting right now.

12 What is the status in terms of the new
13 application -- this is the new certification language. In
14 terms of the application, when will you be trying to use it?

15 MS. ROSIE: We are hoping to use it September 1st
16 and to have it available in an electronic format before that
17 time.

18 CHAIRPERSON CLEMENT: Okay. If any of the Policy
19 Commission members have any concerns about this language,
20 our next meeting is going to be in August, the end of
21 August. It is not going to give them a lot of time. So I
22 think perhaps we could address that in either of the
23 subcommittees, so that we get a little bit of a -- you know,
24 a little bit of heads up on the issue, so that we are not
25 surprising you at the Policy Commission with any concerns

1 that we have.

2 MS. ROSIE: That would be very helpful. Thank
3 you.

4 CHAIRPERSON CLEMENT: So in terms of which group
5 should address that, is this more of a Technical or a
6 Financial Subcommittee issue, and who wants to kick in?
7 Mr. Gill, do you have a preference? I don't have a
8 preference, so I think we should just decide, so we can --

9 MS. MARTINCIC: I think one of my meetings is
10 scheduled the first Thursday, the Financial Subcommittee, so
11 it would be August 4th; is that right?

12 CHAIRPERSON CLEMENT: That is possible. So what
13 we will do --

14 MS. MARTINCIC: Do you want to do it then?

15 CHAIRPERSON CLEMENT: It will be earlier rather
16 than later. So what we will do, any regulating community
17 members that have an interest in this, we will discuss this
18 at the next UST Financial Subcommittee meeting which is the
19 first Thursday of the month. And that is -- let me just
20 check before -- it will be August 4th, and that's usually an
21 afternoon meeting.

22 MS. MARTINCIC: 2:00 to 4:00 is what it is usually
23 scheduled for.

24 CHAIRPERSON CLEMENT: And then any comments,
25 particularly from the Commission, regarding this language,

1 if you cannot attend the meeting, make sure that they get to
2 Andrea, and let's kind of -- so we all know where we are
3 coming from. And then they will be able to be more
4 responsive to the agency. So if you could have somebody
5 that would be able to discuss this from the DEQ perspective
6 at the Financial Subcommittee Meeting, I think that would be
7 helpful.

8 Anything else? Anything else you want to share in
9 terms of the new application or anything else that would be
10 informative?

11 MS. ROSIE: Most of the feedback we have received
12 is very positive about the new application, and we have had
13 several consultants start using it, and they have been very
14 positive about what they have seen. They just want it in
15 electronic format.

16 CHAIRPERSON CLEMENT: Yes. That's eventually your
17 goal; right?

18 MS. ROSIE: Yes, it is.

19 CHAIRPERSON CLEMENT: As soon as you finalize the
20 language and roll it out, it will be available
21 electronically; is that correct?

22 MS. ROSIE: Yes.

23 CHAIRPERSON CLEMENT: For the record, Ms. Foster
24 joined the Policy Commission.

25 Okay. Any other questions, comments on the SAF

1 monthly update? Let's move on to the Financial
2 Subcommittee, and Ms. Martincic will address that.

3 MS. MARTINCIC: Did everybody get these reports
4 because I didn't see them in the packets up there?

5 CHAIRPERSON CLEMENT: I thought we were going to
6 try to distribute those at this meeting. Could we do that
7 because it is very informative.

8 MS. MARTINCIC: Yes, there is kind of no point --

9 CHAIRPERSON CLEMENT: Why don't we move on to the
10 Technical Subcommittee, then come back, because this
11 actually --

12 MS. MARTINCIC: Do you have them?

13 MR. JOHNSON: Yes.

14 MS. MARTINCIC: Oh, okay.

15 CHAIRPERSON CLEMENT: Once you get them --

16 MS. MARTINCIC: You want to move on to the
17 Technical?

18 MR. GILL: That's Fine.

19 CHAIRPERSON CLEMENT: Okay. We will move on to
20 the Technical Subcommittee. Mr. Hal Gill will brief us on
21 the Technical Subcommittee update.

22 MR. GILL: Okay. At the subcommittee meeting we
23 were at, you will find in your packets just a brief summary
24 of the issues that we discussed, and basically, the
25 subcommittee was passed by the Policy Commission to review

1 and provide recommendations on any outstanding issues in the
2 scheduled corrective actions. And they were specifically to
3 review and evaluate language for remedial systems operations
4 and prorate of costs incurred based on system run time,
5 review and evaluate newly established cost ceiling amounts
6 for equipment rental, and review and evaluate models
7 charges. And I summarize those in the sheet that you have
8 in your packet, but I will go through them briefly.

9 But, basically, the DEQ had added some final
10 language to General Note No. 6, and it is out of the
11 sentence at the very end of it which basically stated that
12 the owner-operators and their consultants can provide as
13 much backup as they think is needed to explain reasons why
14 the remedial unit had not operated 75 percent of the time.
15 And it was agreed that this was -- that this was a good
16 change in the language and we had some discussion.

17 The consultants would have liked a little bit more
18 language added just to -- for more explanation, but it was
19 agreed that it was difficult to do that. And, therefore, we
20 had consensus that the language as it stood with the -- in
21 the final version was okayed, and so we recommended that
22 that change be approved by the Policy Commission.

23 The second issue was the changes in some of the
24 equipment costs, and this was a new list in the cost
25 schedule of rental equipment, and there was four in

1 particular that the consultants had problems with because if
2 you go to rent or buy these specific items, they are more
3 expensive than the original cost that was in the cost
4 schedule.

5 The first one was Item Code No. 27 which was the
6 1.6 inch diameter disposable bailers. That was increased by
7 a dollar, so from five to six. Item Code No. 28, which is
8 3.3 inch diameter disposable bailer which was changed from
9 16 to \$20. Item Code No. 31, the cost wasn't changed, but
10 the Tedlar bag size was specified to a half liter because
11 that makes a difference. Some of the larger bags are, you
12 know, are used in some instances, and they are more
13 expensive than the \$15. So if you specify that the
14 half-liter bag is \$15, then the others -- anything that
15 isn't on this list, the consultant's owner-operator could
16 just include the invoice or receipt for that item.

17 And Item Code No. 33 was the generator cost. The
18 cost was changed from \$50 to \$80, and then the size was
19 specified at less than six kilowatts. That was a change as
20 well because it wasn't ten kilowatts, which is one you
21 basically have to pull with a truck, and you can't get that
22 for \$80. So they specified the size less than or equal to
23 six kilowatts and changed the -- left the cost at \$80 which
24 had been changed from the original \$50.

25 Those were the four items on the new list that was

1 in the cost schedule that we discussed, and again, there was
2 consensus with the stakeholders and DEQ, and again, the
3 subcommittee recommends that the Policy Commission approve
4 these changes. If there's any questions during any of this
5 discussion, you can stop me.

6 Item No. 3 was DEQ had mentioned that one of the
7 big problems that the auditors had was the cost for mileage
8 which was \$2.00 and \$4.00 a mile, and we understand that the
9 \$2.00 and \$4.00 includes the hourly rate for the individual
10 traveling, but I don't know if the auditors understood that,
11 but they had a hard time with that cost.

12 So we discussed changing that, and it was agreed
13 to change it to the State's mileage rate which is 37 and a
14 half cents per mile, and then I am assuming, because this
15 is -- I don't know if this is written somewhere in the
16 language, but what I put in my summary is the mileage rate
17 was single and two people respectively was changed from two
18 and \$4.00 to 37 and a half cents per mile and the hourly
19 rate of the personnel traveling for the time spent.

20 MS. ROSIE: Correct.

21 MR. GILL: So that appears to be accurate. This
22 makes it much more accurate as far as what is actually
23 happening. And, again, there was consensus on that. We
24 just needed to wait and find out what the DEQ was going to
25 come back with as far as the mileage, and they went with the

1 State, what the State required.

2 MS. MARTINCIC: State mileage is less than the
3 Federal?

4 MR. GILL: Yes.

5 MS. MARTINCIC: Interesting.

6 MR. GILL: What is it?

7 MS. MARTINCIC: It is 40 something.

8 MR. GILL: 40 and a half, yes. But I guess the
9 State thought they were probably required to use the
10 State's, so that's what they did.

11 And, again, the subcommittee recommended that the
12 Policy Commission approve this change or these changes.

13 The final issue was not on our discussion. It was
14 something that I was notified during -- after the meeting,
15 that one of the reports in the cost schedule which is on the
16 corrective action completion report, which was Item Code No.
17 154, it was noted in there that it was previously titled
18 Post Remediation Closure Report, and it was indicated to me
19 that these were indeed different reports.

20 And I looked in the rule and it was true. I
21 notified Tara Rosie and she looked into it, and they have
22 made that change. Now, that Corrective Action Completion
23 Report is a Time and Materials Report.

24 Now, is the Post Remediation Closure Report still
25 a dollar per report? Is that still a cost issue?

1 MS. ROSIE: We haven't looked into how we are
2 going to address that yet, but if there are any that are
3 still being done, they should be done under the preapprovals
4 or work should be under this new schedule, so --

5 CHAIRPERSON CLEMENT: Just for clarification,
6 Mr. Gill, are those -- I am confused, are those two separate
7 reports, different titles?

8 MS. MARTINCIC: Yes, it is previously titled, so I
9 thought that was the same report.

10 MR. GILL: That was the issue is that in the phase
11 list, the list of phases, this is where it said previously
12 titled Post Remediation Closure Report, but if you look up
13 the description of that report, it is not the Corrective
14 Action Completion Report. The Corrective Action Completion
15 Report is in the rule, and it has a long list of items. The
16 Post Remediation Closure Report is a two-page summary plus
17 the data. So they are completely two different reports.
18 And so when -- I was notified of this and I notified Tara
19 and she looked into it, and now the Corrective Action
20 Completion Report is the T and M. It is a different report.

21 And they are still going to look and see whether
22 the Post Remediation Closure Report is required from this
23 point forward. It may not be except in preapproval work
24 plans that have always been done.

25 CHAIRPERSON CLEMENT: So should we keep that

1 language previously titled since they are two separate
2 things?

3 MR. GILL: I think that's taken out. If you look
4 in the --

5 CHAIRPERSON CLEMENT: What you are saying, that's
6 the original name?

7 MR. GILL: It is right here.

8 CHAIRPERSON CLEMENT: That has been changed.

9 Okay. I get it.

10 MR. GILL: The thing is -- now, it is actually --
11 it is not going to be in there at all, is it, because
12 anything that is T and M isn't on the list.

13 MS. ROSIE: What we did is because of the number
14 issue is we struck it and put T and M. So it is the one
15 item on the cost schedule currently that is T and M.

16 CHAIRPERSON CLEMENT: Okay.

17 MR. GILL: Okay. And we have -- yes, we recommend
18 that that change is accepted as well.

19 CHAIRPERSON CLEMENT: Are there any questions on
20 that? Just to comment, I thought we had a very good
21 meeting, and there was a lot of participation by the
22 regulating community, and there was a lot of back and forth,
23 and I think we made a lot of progress. And at least from my
24 understanding, the regulating community and DEQ should be
25 pretty happy at this point in time with the cost schedule.

1 So congratulations. That's a major accomplishment.

2 Do we need, then, now to have a motion approving
3 the additional changes as a recommendation? Probably.

4 MR. GILL: I guess because we have to do a final
5 letter.

6 CHAIRPERSON CLEMENT: So do I have a motion to
7 approve these?

8 MR. GILL: I'll make a motion to approve the
9 changes that the DEQ State Assurance Fund has made.

10 MR. SMITH: I will second it.

11 CHAIRPERSON CLEMENT: All in favor.

12 (Response.)

13 CHAIRPERSON CLEMENT: Anyone opposed. No. It
14 passes.

15 MR. GILL: I just wanted to mention that the next
16 meeting of the subcommittee is on August 10th, and what I am
17 going to start from this point forward is what we had
18 proposed previously in that we are going to start going
19 through the remediation process from beginning to end, have
20 discussions on the issues, the concerns, basically just
21 exactly what happens in the remediation process from the
22 testing, the pilot testing, all the way through final
23 closure.

24 But what I wanted to do in the first meeting
25 because I just did -- we did some research and found out

1 that, actually, Joe Drosendahl and Al Johnson and I had a
2 meeting in '96 on these same issues. So what I want to
3 establish in this meeting, and it will probably be a short
4 meeting, is I want to determine first what are we going to
5 discuss. We need to have a discussion on just exactly how
6 we are going to organize this discussion, because primarily
7 I want to find out what we are going to get out of the
8 meeting.

9 So since this has been going on since '96, it
10 would nice if we could actually resolve something and get
11 something published on whatever, whether it is in the
12 bulletin or determine how the information is going to get
13 passed from the meeting to the stakeholders and to DEQ, and
14 also who is going to be there because it is really critical
15 because the consultants have been coming to these meetings
16 for a long time, and I am sure they will continue, but it is
17 a three-hour meeting. That's a big block of time that we
18 are not getting paid for.

19 And so it is important that the stakeholders that
20 are going to be coming to these meetings understand exactly
21 that they are indeed going to get something of out of these
22 meetings. Something is going to happen. At the same time,
23 it is extremely important that we know who from DEQ is going
24 to show up. We understand that it is a block of time there
25 as well, but it is really important. At the very minimum,

1 we need to have the technical person from SAF and UST if
2 they want to be involved in it as well, but we have to have
3 some technical people there.

4 And as I said, we need to establish how the
5 information is going to be passed on, so we know that
6 everybody is hearing it, because as we said, every year
7 since we started this thing, it is communication and
8 consistency or inconsistency in questions and problems that
9 really causes all the appeals. So if we can get this
10 information to the people that matter on both sides, then
11 hopefully, we can start reducing the appeals.

12 So that's what I want to do in that first meeting.
13 It may only be an hour, maybe two hours, but I don't think
14 it will go three hours, but I think it is really important
15 to get this established up front so we can really accomplish
16 something at the meeting.

17 CHAIRPERSON CLEMENT: Okay. Thank you. I have to
18 say, again, to both the Commission members and the
19 participants here, the real work gets done in the
20 subcommittees. They are more informal. If you have issues
21 relative to technical or financial in the UST Program really
22 participate because it is important. We get a lot done
23 there. We will move on to the Financial Subcommittee.

24 MS. MARTINCIC: The Financial Subcommittee had a
25 meeting on July 7th. Basically, Gail and I and DEQ met, and

1 we were tasked from the previous Policy Commission Meeting
2 to talk about the details involved with what we wanted to
3 recommend to the agency in terms of doing any outreach on
4 financial responsibility to try to get more owners and
5 operators, make sure everyone understands that eligibility
6 ended on June 30, 2006.

7 So Ron provided us with these charts which I think
8 are very valuable. I don't know if Ron wants to -- do you
9 want to go through them and explain them, so that I don't
10 inaccurately portray something as I am known to do
11 occasionally?

12 MR. KERN: Ron Kern, DEQ. I will try very, very
13 quickly. Basically, the Policy Commission had asked DEQ to
14 put together some information where possible, and the
15 majority of this information is based on our old data base.
16 We don't have too many reporting capabilities right now in
17 the new data base which we will work out eventually, so most
18 of the stuff is quote, unquote valid as of June 15 on here.

19 One of the first ones that the Policy Commission
20 asked DEQ to do was to try to get information to you on the
21 pre-existing condition situation. So, basically, there is
22 one in here, UST FR Pre-Existing Condition Information, and
23 it basically runs down small business owners, medium
24 business owners, large business owners as defined in the
25 given information. And it relates to the operators or

1 owners of operating facilities. So an operating facility
2 has one or more open tanks, and the pre-existing condition
3 situation was they have an open and/or a closed LUST,
4 Leaking Underground Storage Tank.

5 So I think most of that is fairly self-explanatory
6 in that particular table. I mean, it shows those that have
7 FR, or financial responsibility, those without. It shows it
8 in terms of facilities. It shows it in terms of owners
9 and/or operators. Mind you, Federal and State owners are
10 not on there because they don't have to have financial
11 responsibility.

12 MS. MARTINCIC: And, also, as Ron pointed out to
13 Gail and I, the FR, I mean, that basically means whether
14 they have supplied the agency with their Certificate of FR.
15 So this is kind of, you know, a worst case scenario in terms
16 of these folks, you know, may have FR, they just haven't
17 provided a certificate to the agency. So that's something
18 we discussed in the meeting as well.

19 MR. KERN: Yes. And, basically, as opposed to
20 Federal regulations require that the documentation must be
21 kept at the facility, we have written our rules such that
22 the documentation must be provided to us so it is on file
23 here. So as Andrea said, this is a worst case scenario.
24 Some of these folks may have financial responsibility and
25 just haven't given us the documentation or it is en route.

1 Another thing that the Policy Commission wanted to
2 know was basically there was concern that owners of tanks
3 older than 20 years old, aren't or have more difficulty
4 getting financial responsibility to meet the requirements,
5 and so we did a quick query of our old data base on tanks
6 that were installed prior to July 1st, 1985, and we
7 basically found in that that there was 1,000 or about 1100
8 tanks that are out there currently operating that are older
9 than 20 years.

10 And you can kind of see the breakdown on those,
11 whether the owner has financial responsibility for those
12 tanks or does not, and it is about 44 percent and 56
13 percent. And, again, it is broken down by facility, then it
14 is broken down by owner. And that is for the small business
15 owners, the medium business owners, and the large business
16 owners all have financial responsibility for their range of
17 tanks.

18 MS. MARTINCIC: But there is close to 500 tanks
19 that are over 20 years even with the large owners.

20 MR. KERN: Right. Right.

21 CHAIRPERSON CLEMENT: Ron, just for clarification,
22 what is the total number of tanks in the State,
23 approximately?

24 MR. KERN: Approximately, we have about 7600 tanks
25 right now that we are aware of in operation.

1 CHAIRPERSON CLEMENT: So, approximately, the venue
2 would add 1138 to 463, about 1500 of those tanks are over 20
3 years old.

4 MR. KERN: Correct. And the last table is just
5 something that I give to Phil McNeely on a monthly basis.
6 On April 26 of 2004, we implemented or included financial
7 responsibility determinations into our facility inspection,
8 operation, and compliance inspection, and since that time,
9 we have managed to conduct 909 inspections as of the end of
10 June this year. And we have had, during those inspections,
11 we have determined that 76 percent of those facilities had
12 appropriate financial responsibility.

13 We either did that because they had the
14 documentation here or they were able to provide it to us
15 when we went on the inspection. And with our 45-day return
16 to compliance period, we have had -- that gets boosted up to
17 93 percent of those 909 facilities have given us their
18 documentation for compliance with financial responsibility.

19 So for those facilities we have inspected, which
20 is an important part of the whole process, leading up to
21 June 30, 2006, we want to make sure that we have face time
22 pretty much, at least that is the goal to have face time
23 with all the owners and operators out there to insure that
24 they have, they know what they are required to have, and
25 that we are going to be checking that they do have the

1 financial responsibility documentation available, and they
2 maintain it since it is on an annual basis.

3 So any questions about any of those tables?

4 MS. CAMPBELL: Actually, I have a question. What
5 is the difference -- I am looking at the UST Financial
6 Responsibility Pre-Existing Information, that table. Ron,
7 can you tell us the difference between when it says FR
8 Status Facilities and FR Status Owners. What is the
9 difference between facilities having financial
10 responsibility and the owners having financial
11 responsibility?

12 MR. KERN: That's basically a good question, and
13 pretty much, each -- for all the open tanks, open and closed
14 tanks, that still have a LUST, there must be evidence of
15 compliance with FR requirements. And the majority of the
16 owners deal with all the facilities and all of their tanks
17 holistically.

18 However, there are some that will provide
19 certification for, say, nine out of ten tanks, and
20 at that point, even though that might be at three or four
21 different facilities, and three of the four facilities must
22 be in compliance, the owner is not in compliance because
23 they don't have compliance across the board.

24 Does that make sense?

25 MS. CAMPBELL: I think I understand that, yes.

1 MR. KERN: So most of the facilities could be in
2 compliance for the owner because they missed a tank, we say
3 it is operating and not compliant. So this is pretty
4 strict.

5 MS. CAMPBELL: I guess I had one other question.

6 MR. KERN: Sure.

7 MS. CAMPBELL: On the chart that talks about the
8 USTs installed prior to July 1st, 1985, maybe I shouldn't
9 presume, but could I presume that of these number of
10 operating tanks, they have all been upgraded in accordance
11 with the upgrading requirement?

12 MR. KERN: Yes. Good question. And that's a
13 reasonable presumption, and we basically do not find anybody
14 out there with an existing tank, i.e., one that was
15 installed before December 22nd, 1988, and that isn't
16 upgraded or didn't move to meet the upgrade requirements
17 and/or close and/or temporarily close, so pretty much the
18 presumption is good.

19 MS. MARTINCIC: I just want to thank the agency
20 for finally getting these reports out to us. And I know
21 Gail and I found them very helpful in the meetings to go
22 over, and I wanted them to be made available to the
23 Commission members as well so you guys would have a better
24 understanding of the potential problem out there.

25 We also discussed what the agency can do to better

1 educate owner-operators about the phase out and the end of
2 eligibility for SAF. And one thing that we decided that we
3 thought would be beneficial would be to put together some
4 type of a trifold that the agency could use when they are
5 out doing inspections, like a leave-behind for the
6 owner-operators. It could also be mailed out to all
7 owner-operators.

8 And we kind of talked in the meeting about what
9 that would include, and basic FR, you know, language, what
10 they are required to have. I thought it would be helpful to
11 have a piece in there about how to shop for insurance, very
12 general in terms of what you need to look for and analyze in
13 a policy and that sort of thing. So I agreed to work on
14 getting that into DEQ because they don't feel they have an
15 expertise in that to add to that brochure.

16 So I wanted to bring it to the Commission to see
17 if anyone had any other ideas about anything they thought
18 would be important to be included in that because I
19 basically would like the Commission to make recommendation
20 today to the agency that that moves -- that the development
21 of that brochure moves forward and try to get it done
22 quickly, since it is less than six months down the way, I
23 guess.

24 CHAIRPERSON CLEMENT: The other thing we talked
25 about, I think, that I would add is are there any other

1 techniques or tools that the Commission is aware of or would
2 like to explore to get outreach to the regulating community?
3 We went back and forth about, you know, road shows and
4 meetings and that kind of thing, and really, the community
5 that is most likely to have problems with this is also most
6 likely not to attend those types of meetings and outreach
7 efforts according to the DEQ.

8 So we didn't want to waste a lot of effort of
9 staff time, our time, trying to conduct something that is
10 not going to be useful, but does anybody have any other
11 ideas that would be helpful? We couldn't, this is where we
12 got to.

13 MS. CAMPBELL: I have a question, and this is
14 outside the realm, obviously, of what the Commission does,
15 but is it possible that like telemarketers would have maybe
16 some kind of a mailing organization that might have --

17 MS. MARTINCIC: I mail to my organization stuff
18 all the time. The problem is the chart shows it is the SBOs
19 that are primarily potentially the hardest hit in terms of
20 no FR for their facilities and owners.

21 MS. CAMPBELL: Those are probably outside the path
22 of your organization.

23 MS. MARTINCIC: They are not members of my
24 association.

25 CHAIRPERSON CLEMENT: And we talked about, well,

1 should there be outreach to other trade organizations that
2 they might be members to, and members at, or excuse me,
3 members of, that's the word, and, you know, really nobody
4 came up with a good umbrella organization to reach these
5 folks. So at least if we have a pamphlet or a brochure, you
6 know, that can be used in whenever we have contact or DEQ
7 has contact with small owner-operators, it is going to be
8 one more mechanism. I don't know if it is going to be
9 sufficient, but it is going to be a mechanism.

10 MS. FOSTER: Ms. Chairwoman, have we thought about
11 going to the people who deliver the fuel, and every time
12 they make a fuel drop or when they make a fuel drop to UST
13 to have a brochure in hand that is clipped to that bill that
14 gets sent to their accounting office, and that accounting
15 office would probably be the ones responsible for making
16 payment for financial insurance, so that might be another
17 avenue.

18 MS. MARTINCIC: I can make that proposal to my
19 association. I know that a lot of times workers don't feel
20 like they should be the police of, you know, their
21 customers. So just I'd like to point that out, and they are
22 doing -- if they agree to that, it may be piecemeal.
23 Certain marketers may agree to do that, others may not.

24 Really, you are kind of putting marketers in a
25 place of doing outreach that I think is really the job of

1 the State to be quite honest, but it may be an alternative
2 way to reach them. I can discuss that with my membership.
3 Again, I mean, it may not reach 100 percent.

4 The other thing we talked about was the need to
5 set up some kind of a central collection point for when some
6 people do start having problems, you know, getting insurance
7 to their sites or finding affordable insurance to have some
8 place they can call and we can track that information. Gail
9 and I and the agency talked about the fact that right now it
10 doesn't seem to be a huge outpouring, you know, amongst the
11 regulating community, but again, that probably won't happen
12 for a while.

13 So we were trying to think what the best way to
14 capture that information might be, and part of the concern
15 was that if we use an ADEQ number, then people may not be as
16 free to call in and be worried about retribution for not
17 having FR. So I wanted to bring that to the Commission as
18 well and see if anyone has any good ideas of a way to set
19 something up.

20 CHAIRPERSON CLEMENT: Just to back up a little
21 bit, you know, we have been tasked by the Director to try to
22 give recommendations on phase out and insurance availability
23 and that whole issue. And what we are finding, I think, is
24 that the problem isn't apparent at this point in time, but
25 as insurance companies begin to get claims once the SAF

1 eligibility goes away, I think that's when, you know, we are
2 going to see some kind of a response in terms of premiums or
3 conditions on their policies, and we have no mechanism to
4 capture that in a formal way so that we know when it is
5 going to be coming.

6 Because right now, we can't tell the Director, I
7 don't think, hey, put a State Assurance Fund Program, you
8 know what I mean, there's nothing substantive to provide,
9 you know, who should try to capture that kind of
10 information, and should it come to the Commission? Should
11 it come to DEQ? Should it come to AZMA? Should it come
12 to -- I mean, what are your ideas on that because I think
13 that's the best way we are going to handle that is feedback
14 from the group. I am open.

15 MS. CAMPBELL: Could you explain, again, what
16 substantive information you are referring to. I am not sure
17 I am understanding exactly what it is you are trying to
18 capture.

19 MS. MARTINCIC: Well, if an owner-operator cannot
20 find insurance, earlier in the year, you know, Karen had a
21 client that was having difficulty, and we discussed it in
22 the Financial Subcommittee, and we were wondering if this is
23 going to become a bigger problem down the road, and if so,
24 how are we going to capture how many owner-operators can't
25 get insurance. If it is an affordability issue, you know,

1 what is the threshold, you know, those sorts of things
2 because you can't make recommendations without some kind of
3 data to understand there truly is a problem.

4 CHAIRPERSON CLEMENT: Ms. Gaylord.

5 MS. GAYLORD: Well, I work with a small group of
6 small business owners who own one tank, basically, eight
7 different individuals. What I did was polled them and ask
8 them to poll everyone they knew. I talked to the
9 consultants and asked them about their clients, and it
10 appears that there is not a current problem. So it is
11 really hard to figure out what we should do if in the
12 future -- as a matter of course, if we start hearing things,
13 then it could be the individual Commission members will
14 bring it to the attention of the Commission. I don't know.
15 I don't really have any ideas for how we formalize a
16 complaint system to make sure we get early indications of a
17 problem.

18 CHAIRPERSON CLEMENT: We would all be much better
19 off if we could get early indications so we can address the
20 problem before it becomes huge and people are all out of
21 compliance. I don't know if it would be appropriate, and I
22 certainly would be -- I would be willing, because I have the
23 title, or whoever would be, I wouldn't want to speak for the
24 future Policy Commission Chair, but I mean, as the Chair, I
25 would be willing to take in comments, you know, that

1 wouldn't be a compliance issue.

2 Is that appropriate though? Is there any conflict
3 that we have as a Commission? Is that a problem to anyone
4 here or the agency? I mean, that's the only neutral --

5 MS. MARTINCIC: It would be a third-party neutral
6 kind of --

7 CHAIRPERSON CLEMENT: I am not in the insurance
8 industry. I do almost no UST work. It is not a personal
9 conflict.

10 MS. MARTINCIC: Even if we could set up an
11 account, an e-mail account, and then we could e-mail
12 information, and have it saved.

13 MS. CAMPBELL: That might not be a good idea. I
14 mean, in terms of if you are trying to -- if you are trying
15 to provide these people with a way to contact you where they
16 would be -- they wouldn't be subject to enforcement, the
17 problem with an e-mail account is because you are a public
18 body, that's a public record. And so anybody could come in
19 and say I want a copy of all those e-mails that you have
20 received, and then, you know, say a competitor who is not
21 very happy with this person says I want a copy of all those
22 public records, and then they get a copy of the public
23 records and see I don't have financial responsibility, then
24 they turn them in to DEQ. You see what I mean? If you are
25 really trying to offer these people -- as a public body, I

1 think you might have a problem just with that aspect.

2 CHAIRPERSON CLEMENT: Would I have the same
3 problem if I took phone calls? I guess my records would be,
4 either way would be available to --

5 MS. CAMPBELL: Any records that you have had a
6 phone call.

7 CHAIRPERSON CLEMENT: The only reason I would keep
8 records is to keep, not necessarily the name and corporation
9 of the individual, but the problem and how many of those
10 problems are we seeing, and is that a disingenuous approach
11 or is it a real -- is that acceptable?

12 MS. HUDDLESTON: I don't know that we can decide
13 this here. I mean, obviously, I can't give you legal advice
14 to my client here, but I think that it depends on what you
15 are collecting, because there is a difference between these
16 are my financials and I can't afford to where I can afford
17 it, I just don't want to pay that much. I mean, it depends
18 on the reasons that are given and what you are getting. I
19 am not certain what information you are collecting and
20 exactly how useful it would be.

21 CHAIRPERSON CLEMENT: I think the information that
22 would be useful is, No. 1, I have had insurance, just give
23 you some examples, I have had insurance for 20 years or
24 whatever, five years, and now I have a new policy and new
25 conditions for that policy, and those conditions are I can't

1 have any tanks over 20 years old. I have to have secondary
2 containment. I can't have a previous LUST.

3 Gathering that kind of information would be very
4 helpful because then we know we are on the edge of a real
5 insurance problem probably.

6 MS. MARTINCIC: Maybe what we can do is put it
7 back on the agency, then, since they were tasked with
8 finding a solution. We can tell them that they need to
9 figure out a way to capture the information. Then they can
10 work with their attorneys to find out what is acceptable,
11 because it sounds like it will become a legal issue, and
12 maybe let's ask the drafter and the agency to figure out how
13 they want to proceed.

14 MS. NAVARRETE: The thing is if these companies
15 try and get insurance and they can't because of pre-existing
16 conditions, then they would probably turn that into Ron.

17 CHAIRPERSON CLEMENT: At some point.

18 MS. NAVARRETE: At some point.

19 CHAIRPERSON CLEMENT: In your three-to-five year
20 inspection period for sure.

21 MS. NAVARRETE: Then they still would be in
22 compliance. It is people that do not try to get insurance,
23 and you are never going to capture that.

24 CHAIRPERSON CLEMENT: Well, I don't care -- I
25 mean, the people who don't try to get insurance, that's a

1 compliance issue.

2 MS. NAVARRETE: But the ones who try, can either
3 get it or they can't get it because of pre-existing
4 conditions, and that would put them in compliance with Ron.
5 So either way, it seems, you know, they are in compliance.

6 MS. MARTINCIC: They are in compliance if they
7 have a pre-existing condition and can't get insurance? You
8 consider them in compliance?

9 CHAIRPERSON CLEMENT: Mr. Kern.

10 MR. KERN: Ron Kern, DEQ. No, I wouldn't consider
11 them to be in compliance, but I think I have the wherewithal
12 to use some enforcement discretion as to am I going to
13 enforce against somebody who is honestly out there trying,
14 has documented that they are trying and getting rejected for
15 this. So I can't say so generically. I can say odds are I
16 am not going to be going after that person. They are
17 actually trying. I would rather focus on those folks who I
18 am aware of aren't doing anything out there.

19 MS. NAVARRETE: So, eventually, you would come up
20 with your market of people who can't get insurance that are
21 trying to get insurance.

22 MS. CAMPBELL: And I think it needs to be
23 clarified, too, because can't means can't because of
24 pre-existing conditions. Saying I can't afford it, it is a
25 cost of doing business, and so --

1 MS. MARTINCIC: We were asked to look into
2 affordability as well, though, because it does have
3 consequences in the marketplace. So if you end up with 400
4 small business owners going out of business because they
5 can't get insurance, it does impact the State, and it
6 impacts the ability for folks to get fuel.

7 MS. CAMPBELL: No, I didn't mean in terms of not
8 gathering information. I am just saying when Ron is saying
9 his enforcement discretion, I mean, if everybody comes in
10 and says I just can't afford it, I don't know that he's
11 saying he could use his discretion.

12 MS. MARTINCIC: Well, I don't think Ron would go
13 for that anyway.

14 MS. CAMPBELL: I think that was my point.

15 MS. MARTINCIC: All right. Well, I will just make
16 a motion on the first issue of the trifold, and I would move
17 that the Policy Commission at this time recommend to the
18 agency that they move forward in developing an informational
19 trifold type brochure that can be left behind when they are
20 going on inspections. They can be made available to the
21 regulated community for distribution as well, and they will
22 have input and help from me and anyone else who is willing
23 to assist them in getting the research and information
24 needed to complete that.

25 CHAIRPERSON CLEMENT: I will second that. All in

1 favor.

2 (Response.)

3 CHAIRPERSON CLEMENT: Anyone opposed? Passes.

4 Thank you.

5 MS. MARTINCIC: So we will keep thinking about the
6 collection idea, and I think maybe from the discussion here
7 today, it sounds like it is something maybe the agency is
8 going to have to work on themselves, and I think the
9 regulated community will start hearing problems anyway.

10 MS. CAMPBELL: Is it possible, and I am jumping
11 into this, but on that trifold just at very the end, just
12 say if you want more information or if you have any
13 questions, please contact, and just put DEQ's number.

14 MS. MARTINCIC: We just thought that people would
15 be less likely to contact them.

16 MS. CAMPBELL: I understand.

17 MS. MARTINCIC: The other thing I was going to
18 mention, it is kind of -- I don't know if it is related
19 necessarily, is there were a lot of UST provisions in the
20 energy bill that are likely to go through now that require
21 mandatory secondary containment perspective, red tagging,
22 mandatory inspection of tanks at State level, no extra
23 Federal LUST dollars to the States, and it also requires FR
24 for installers.

25 So there's a lot of new stuff coming down from the

1 Feds, it sounds like, without any extra money. So I just
2 thought I would let everyone know.

3 CHAIRPERSON CLEMENT: If you could be so kind to
4 kind of keep your eye on that, because, obviously --

5 MS. MARTINCIC: Hopefully, I can maybe provide a
6 little summary or something at the next meeting. The other
7 thing I wanted to bring up -- is it all right if I
8 mention --

9 CHAIRPERSON CLEMENT: Just let me go over that
10 one, if you wouldn't mind. Just so everyone knows, the
11 Director has tasked us with providing some direction in
12 terms of this insurance issue. We have distributed that
13 letter previously, and I don't have it with me to give you
14 the exact language, but we are not going to be in the
15 position, nor have we provided any information as a
16 Commission regarding preferred insurance brokers, preferred
17 carriers, preferred anything. That is not our job. That is
18 not what we are going to do and we have not done that.

19 And what other Commission members do, you know, in
20 their own practice is another question entirely. So I just
21 want to make that very clear that the Commission has not
22 endorsed any carriers or any brokers or any vendors of any
23 type regarding insurance.

24 MS. MARTINCIC: Nor would we.

25 CHAIRPERSON CLEMENT: Okay.

1 MR. SMITH: The next Financial?

2 MS. MARTINCIC: Yes, the next Financial

3 Subcommittee is August 4, 2:00 to 4:00, and we will be

4 talking about the -- whatever those sheets --

5 CHAIRPERSON CLEMENT: The certification language.

6 MS. MARTINCIC: Yes, the certification language

7 and application.

8 CHAIRPERSON CLEMENT: So that is a very important

9 meeting because that was the hot plate issue within the cost

10 schedule and applications.

11 Okay. Everybody good to move on? The next agenda

12 items are the Commission's Policy -- Commission's Records

13 Retention Policy, and Ms. Huddleston, I had sent you an

14 e-mail. Did you get that?

15 MS. HUDDLESTON: No, I didn't.

16 CHAIRPERSON CLEMENT: Oh, well, there you are.

17 After our last meeting, I sent you an e-mail. Okay. Let me

18 request your assistance with this.

19 MS. HUDDLESTON: When did you send it, because we

20 did have a couple of days they were deleted out?

21 CHAIRPERSON CLEMENT: I can't recall the date. I

22 do have it, though, so I will attach it.

23 MS. HUDDLESTON: Would you resend it?

24 CHAIRPERSON CLEMENT: I will resend it. This is

25 something very simple, but we have to have some type of a

1 records retention policy. We don't know right now how long
2 we have to keep our records for. There's a few basic
3 things.

4 MS. HUDDLESTON: Wait a minute. Did this ever go
5 through records retention? I think Lori was looking into
6 that. Didn't she send you some information from records
7 retention?

8 CHAIRPERSON CLEMENT: I haven't gotten anything
9 yet, so I just wanted --

10 MS. HUDDLESTON: Because I saw an e-mail from her
11 to you --

12 CHAIRPERSON CLEMENT: I haven't received that.

13 MS. HUDDLESTON: -- that dealt with records
14 retention.

15 CHAIRPERSON CLEMENT: After this meeting, let's
16 make sure we have the right e-mail addresses, and if you
17 could resend it.

18 MS. HUDDLESTON: I saw an e-mail from her to you.

19 CHAIRPERSON CLEMENT: Because I haven't seen
20 anything. And this should be very simple. It shouldn't be
21 a big deal to anybody, but we need to do it.

22 Then the next agenda item is the UST 2004 Policy
23 Commission Annual Report, and that went out to all of the
24 Commission members, and just for clarification, this is the
25 2004 report, so I didn't write it so that I was updating

1 about the things that happened in 2005.

2 So even though I know now that certain things
3 happened in 2005, I did not include them in the report on
4 purpose. So the corrections or additions I got from folks,
5 I didn't take those in. I did have one new change, let's
6 see, that came in from Ms. Foster. It was a very simple
7 change. I will just pass it out so you will know what it
8 is. I didn't make enough copies, so if you wouldn't mind
9 sharing them. It is a very, very simple change, but I want
10 to make sure that we all know what the change was. Could we
11 get one more of those back. I don't know what I was
12 thinking.

13 Okay. The only thing that was made to the
14 document that you all had a chance to review was in the
15 first page notification was, and this was from Ms. Foster,
16 notification was inserted in the second paragraph after No.
17 1. So it is UST Notification Inspections Compliance and
18 Leak Prevention, and then also in the following sub-bulleted
19 items, the numbered items, notification was inserted there.

20 That was the only change that anybody provided me
21 subsequent to the distribution of the Policy Commission, so
22 that is what we are going to use.

23 Yes, Ms. Gaylord.

24 MS. GAYLORD: Is there time for additional?

25 CHAIRPERSON CLEMENT: Yes, please.

1 MS. GAYLORD: On Page 2 in Paragraph 3, the second
2 full paragraph, last line, it says monitored natural
3 national policy, I think we need to insert attenuation
4 there.

5 CHAIRPERSON CLEMENT: Yes. Any other changes,
6 additions, comments on that? Thanks for catching that.

7 Is there a motion to approve the 2004 Annual
8 Report for the Commission?

9 MS. MARTINCIC: I will move that we approve the
10 year end report for 2004.

11 MS. FOSTER: I second it.

12 CHAIRPERSON CLEMENT: All in favor.

13 (Response.)

14 CHAIRPERSON CLEMENT: Anyone opposed. It passes.
15 Great. We will get that out with DEQ's assistance.

16 Okay. Boy, we really rolled through this, and I
17 see, did you have a chance to review it because we can --
18 because I don't want to -- I try to get things out, they are
19 not always timely. So if you need more time, just let me
20 know if you need it.

21 The action items, summary of action items, let me
22 find my notes. DEQ has agreed to put a link to the web site
23 where the SAF rule will be published so people can directly
24 link from UST Divisions Program web site.

25 The cost schedule, excuse me, the application

1 language will be reviewed and discussed in detail at the
2 Financial Subcommittee on August 4th. I will draft a letter
3 to the DEQ Director regarding the Commission's
4 recommendation to approve the cost schedule with all the
5 various changes that we have worked through.

6 DEQ is going to work with Ms. Martincic and others
7 on putting together a trifold brochure that will be
8 distributed to owners and operators.

9 Andrea is going to keep us informed regarding the
10 new Federal Energy Legislation that has pretty significant
11 UST Provisions.

12 And I am going to contact Tamara and vice versa
13 regarding our e-mails and make sure if something has been
14 done that we address it at the next meeting regarding
15 records retention.

16 Okay. Anything else? Anybody else?

17 Okay. The general call -- the discussion of
18 agenda items for the next Commission meeting, I think we are
19 just going to keep rolling in terms of the topics that we
20 have discussed. We will come back from the Financial and
21 Technical Subcommittees with updates. The SAF Rule will be
22 published by then, and then I think at that point, we can
23 take a look, hopefully, and see what level of effort we are
24 going to need to address the revisions of the SAF Rule and
25 how we want to do that subcommission because that is pretty

1 substantive to the future program. Anything else?

2 MS. MARTINCIC: I am going to be out in August. I
3 don't know if we need me to call in.

4 CHAIRPERSON CLEMENT: Okay. That goes to really
5 kind of what is critical to the Operations Commission, and
6 if we -- I was very worried about this meeting not having a
7 quorum. So if you are not going to participate, either let
8 Al or myself know, so that we don't drag a bunch of people
9 in here and not have a quorum. We actually, not the last
10 time, but the time before, we had to get somebody on the
11 phone because we were not even going to have a meeting.

12 So it is really important if you can't
13 participate, we need at least -- there is a lot going on in
14 the program right now, and also to just inform either Al or
15 myself so that we know if we are not going to have a quorum.

16 Now, a general call to the public, if there are
17 any public comments. I have got one. Mr. Kennedy.

18 MR. KENNEDY: Yes, John Kennedy, environmental
19 consultant. I had something come up with a Tier 2 came out.
20 After it came out, we began or the owner-operator requested
21 we conduct a Tier 2 evaluation on the property. We moved
22 forward and started that, and then we received the closure
23 letter that the Department had completed the Tier 2, and
24 therefore, it was not necessary for any other corrective
25 actions to occur.

1 So I was wondering if the Department is going to
2 undertake Tier 2s on a specific property of the
3 owner-operators, possibly they could notify them, so they
4 don't hire someone to start that same activity because the
5 rule requires a number of items to be incorporated into a
6 report for a Tier 2. It is not just a small thing. And I
7 can see an SAF issue that we were undertaking, and then the
8 closure comes and who is going to get paid for what.

9 CHAIRPERSON CLEMENT: And would it be appropriate
10 for DEQ to respond to that right now?

11 MR. DROSENDAHL: Good point. This is Joe
12 Drosendahl, the Corrective Actions Section Manager, yes, we
13 will talk about that internally, because I agree, there
14 could -- well, it would just create confusion and possible
15 problems.

16 MR. KENNEDY: Overlapping of efforts, then you get
17 reports in where you are already working on it, then it can
18 create another review.

19 MR. DROSENDAHL: Thank you.

20 CHAIRPERSON CLEMENT: Good point. Perhaps at the
21 next Commission and/or Technical Subcommittee will have a
22 response to that. Any other general comments?

23 Okay. The next Policy Commission Meeting will be
24 on August 24th at 9:00 a.m. in Room 250 at DEQ Offices
25 located at 1110 West Washington, Phoenix, Arizona. And if

1 there's no other business, we will adjourn. Thank you very
2 much.

3 (Whereupon the proceedings were concluded at 10:15
4 a.m.)

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C E R T I F I C A T E

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BE IT KNOWN that the foregoing proceedings were taken

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by me in shorthand and thereafter transcribed under my

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direction and that the foregoing pages contain a full, true,

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and accurate transcript of all proceedings all to the best

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of my skill and ability.

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DATED at Phoenix, Arizona, this 17th day of August,

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2005.

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TAMMY GILLETT

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Certified Court Reporter

No. 50430

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