

ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

MEETING OF THE
UNDERGROUND STORAGE TANK POLICY COMMISSION

Phoenix, Arizona
July 26, 2006
9:00 a.m.

Location: 1110 W. Washington
Room 250
Phoenix, Arizona

REPORTED BY:
Deborah J. Worsley Girard
Certified Reporter
Certificate No. 50477

WORSLEY REPORTING, INC.
Certified Reporters
P.O. Box 47666
Phoenix, AZ 85068-7666
(602) 258-2310
Fax: (602) 789-7886

(Original)

1	INDEX FOR THE AGENDA ITEMS	
2		
3	AGENDA ITEMS:	PAGE
4	1. CALL TO ORDER AND ROLL CALL	4
5	2. APPROVAL OF MINUTES FROM APRIL AND MAY 2006 MEETINGS	5
6	3. DISCUSSION OF RULES AFFECTING THE UST PROGRAM	5
7	4. ADEQ UPDATES	9
	A. UST PROGRAM UPDATE	9
8	B. UST CORRECTIVE ACTION MONTHLY UPDATE	15
	C. RISK ASSESSMENT and TIER II MODELING UPDATE	17
9	D. SAF MONTHLY UPDATE	18
10	5. TRAVEL REIMBURSEMENT FOR UST POLICY COMMISSION MEMBERS	21
11	6. 2005 UST POLICY COMMISSION ANNUAL REPORT	23
	A. REVIEW AND VOTE FOR APPROVAL	
12	7. FINANCIAL SUBCOMMITTEE UPDATE	25
	A. FEDERAL ENERGY POLICY ACT EPA IMPLEMENTATION GUIDANCE	
13	8. TECHNICAL SUBCOMMITTEE UPDATE	34
	A. ADEQ RESPONSE TO REMEDIATION MATRIX	
14	B. ADEQ RESPONSE TO UIC WELL REGISTRATION	37
15	9. SUMMARY OF MEETING ACTION ITEMS	44
16	10. DISCUSSION OF AGENDA ITEMS AND SCHEDULE FOR NEXT COMMISSION MEETING	46
17	11. GENERAL CALL TO THE PUBLIC	47
18	12. ANNOUNCEMENTS: (Cancelled)	46
	A. NEXT POLICY COMMISSION MEETING WILL BE HELD ON AUGUST 22, 2006 AT 9:00 A.M. IN ROOM 250 AT ADEQ LOCATED AT 1110 W. WASHINGTON, PHOENIX, ARIZONA.	
19		
20	13. ADJOURN	47
21		
22		
23		
24		
25		

1 COMMITTEE MEMBERS PRESENT:

2

3 Gail Clement, Chairperson

4 Hal Gill, Vice-Chair

5 Ronald Kern

6 Andrea Martincic

7 Theresa Foster

8 Jon Findley

9 Myron Smith

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

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

2

3 CHAIRPERSON CLEMENT: We're here on the
4 Underground Storage Tank Policy Commission July 26, 2006.

09:06 5 The meeting is now in order.

6 And we will ask Myron to start with the roll
7 call, please.

8 MR. SMITH: Myron Smith.

9 MR. KERN: Ron Kern for Phil McNeely, DEQ.

10 MR. GILL: Hal Gill.

11 CHAIRPERSON CLEMENT: Gail Clement.

12 MR. MARTINCIC: Andrea Martincic.

13 MR. FINDLEY: Jon Findley.

14 MS. FOSTER: Theresa Foster.

09:06 15 CHAIRPERSON CLEMENT: Thank you.

16 The approval of the April 2006 meeting minutes,
17 did everybody receive those and have a chance to review
18 them?

19 Is there a motion to approve the April 2006
09:06 20 meeting minutes?

21 MR. SMITH: I will move that the April meeting
22 minutes be approved as written.

23 MS. MARTINCIC: Second it.

24 CHAIRPERSON CLEMENT: All in favor?

09:07 25 (Chorus of ayes.)

1 CHAIRPERSON CLEMENT: Anyone opposed?

2 The motion passes. The April 2006 meeting
3 minutes have been approved.

4 Has everybody received and had an opportunity to
09:07 5 look at the May 2006 meeting minutes?

6 Okay. Is there a motion to approve the May 2006
7 meeting minutes?

8 MS. MARTINCIC: I will move that we approve the
9 May 2006 meeting minutes.

09:07 10 MR. SMITH: I will second it.

11 CHAIRPERSON CLEMENT: All in favor?

12 (Chorus of ayes.)

13 CHAIRPERSON CLEMENT: Anyone opposed?

14 Great. Okay. Our next agenda item is discussion
09:07 15 of rules affecting the UST program. Ron Kern is here
16 today replacing Phil McNeely, who is on a well-deserved
17 vacation.

18 MR. KERN: Well-deserved?

19 CHAIRPERSON CLEMENT: That's what he told me.

09:07 20 MR. KERN: Okay. Basically I would just like to
21 talk about the proposed soil remediation rules, and we
22 plan to have those published by the Secretary of State for
23 formal comment, beginning formal comment on July 28th, so
24 it looks like it's this coming Friday, so that formal
09:08 25 comment period will extend through September 5th, and we

1 will have public meetings, one in Phoenix on August 30th,
2 and one in Tucson on August 31st.

3 At that point we will try to get on GRRC's
4 agenda, Governor's Regulatory Review Counsel agenda in
09:08 5 December, and if everything goes swimmingly, we will get
6 GRRC approval and propose to implement those new rules in
7 February of 2007.

8 CHAIRPERSON CLEMENT: The February 2007 date will
9 be implementation?

09:08 10 MR. KERN: Yes.

11 MS. MARTINCIC: Will we need to download that
12 rule from the Secretary of State's page or will it also be
13 on DEQ's?

14 MR. KERN: I think it will have to be downloaded
09:09 15 from the Secretary of State's web page, so that will be
16 the official version of the draft rule, proposed rule.

17 CHAIRPERSON CLEMENT: Just recently DEQ sent out
18 a copy of the revised rule to a group of stakeholders, so
19 I will forward that to anybody interested.

09:09 20 MR. KERN: Okay.

21 CHAIRPERSON CLEMENT: That came out through the
22 other group, through the program.

23 MR. KERN: Amanda Stone, the Waste Program
24 Division Director, and Phil McNeely, the Tank Program
09:09 25 Director, have been handling that, so it came out through

1 the Waste Program. That can be forwarded to him.

2 CHAIRPERSON CLEMENT: Yes. But you may want to
3 also get the Secretary of State's version because that
4 will be the official version.

5 MR. KERN: Right.

6 CHAIRPERSON CLEMENT: Anything controversial that
7 we could anticipate being a problem to DEQ?

8 MR. KERN: I haven't been informed of such.
9 Basically there is going to be some updates of the
09:09 10 predetermined remediation levels. There will be the
11 replacement of the Voluntary Environmental Mitigation Use
12 Restriction, VEMUR, to the Declaration of Environmental
13 Use Restriction, DEUR. There is going to be a couple of
14 things in there. I haven't heard from Phil that it will
09:10 15 be controversial in that, but that's about all I can say
16 right now.

17 CHAIRPERSON CLEMENT: They're using ten to the
18 minus six as a risk number for known carcinogens, ten to
19 the minus six for carcinogens, known carcinogens, so I
09:10 20 think that they tried to find a middle ground there in
21 terms of new standards without, you know -- without
22 upsetting too many people would probably be a good way to
23 say it.

24 MR. KERN: Okay.

09:10 25 CHAIRPERSON CLEMENT: Any other rules that we

1 should be aware of at this time?

2 MR. KERN: Right now those are the ones I think
3 we just want to focus on right now as an agency.

4 CHAIRPERSON CLEMENT: What is the process? I
09:10 5 know you've got another set of rules regarding the
6 technical requirements for MNA solutions, et cetera. When
7 do you expect to see the first draft or technical decision
8 on that?

9 MR. KERN: Is this the reference to the no
09:11 10 further action --

11 CHAIRPERSON CLEMENT: Yeah, the no further
12 action.

13 MR. KERN: -- of natural attenuation?

14 CHAIRPERSON CLEMENT: All of that.

09:11 15 MR. KERN: I think we will probably start.
16 Again, we want to go get through the whole Soil Rule
17 process. We're pretty well through that, and then I
18 expect that we will start working drafting up the rules
19 that are required on Senate Bill 1306, probably start on
09:11 20 those in September or so.

21 CHAIRPERSON CLEMENT: What is the process? Will
22 you have a series of informal meetings similar to what
23 we've done in the past?

24 MR. KERN: I think basically pretty much what
09:11 25 we've done in the past is kind of draft the rules and then

1 go through the meeting process.

2 MS. MARTINCIC: Will anybody be able to be
3 involved in that process is or is it going to be more
4 closed, kind of like the soil remediation rules?

09:11 5 MR. KERN: I can't say at this time. That's
6 pretty much up to Phil and folks.

7 CHAIRPERSON CLEMENT: Given what we anticipate to
8 be a controversial set of rules because you are taking on
9 a whole new policy direction in terms of the State and
09:12 10 aquifer remediation and restoration, I just advise you get
11 as many people involved as early as possible to work out
12 as much, because I do think even in this group there will
13 be people on one side or the other on these issues. That
14 would be my recommendation.

09:12 15 MR. KERN: Okay. I will pass that along to Mr.
16 McNeely.

17 CHAIRPERSON CLEMENT: Thank you.

18 Any other on that agenda item, Ron?

19 MR. KERN: No.

09:12 20 CHAIRPERSON CLEMENT: Thank you. Let's move.
21 You're still aboard for the UST program update, Mr. Kern.

22 MR. KERN: Okay. Let's see. We haven't met in a
23 couple of months so I will go over a few things, and I
24 think you are all aware that the updated SAF rules went
09:12 25 into effect on June 4. We had Tara and folks, Tara Rosie

1 and folks had stakeholder training during June which
2 addressed the implementation of the new rules plus all the
3 new forms associated with the rules.

4 The forms also address the whole withdrawal
09:13 5 process which had been an issue of the Policy Commission,
6 and the web site now has been updated with all the new
7 forms, such as applications, the waivers, et cetera, and
8 also the new July 1st, 2006 cost schedule.

9 And we did -- I think everybody is aware that
09:13 10 Senate Bill 1306 had one rate date in it, and that was the
11 June 30th, 2006 date, and that was phased out of SAF
12 eligibility for new releases reported after that date, and
13 that's kind of come and went, and really we haven't heard
14 too much feedback on that, but we did have a lot of
09:13 15 outreach, we really stepped it up in the months before
16 June 30 to make sure that all of our stakeholders,
17 regulated public, general public, were well aware of the
18 implications and considerations associated with the June
19 30th phase-out date.

09:14 20 So our web site has got a tremendous amount of
21 information. We sent certified letters to all of our
22 underground storage tank owners and operators informing
23 them that releases that were reported after June 30th
24 would not be able to be eligible for SAF, and that the SAF
09:14 25 would no longer be used as a mechanism for compliance with

1 financial responsibility after June 30th.

2 We had newsletters, and one recently here in May
3 and June just to kind of get everybody again with that.

4 We did postcards and fact sheets. We have a very good
09:14 5 financial responsibility brochure that we coordinated with
6 APMA and Andrea Martincic, and we sent that out to folks.
7 We've also had a fair amount of handouts and discussions
8 during inspections and other meetings with our regulated
9 public to let them know of the implications and the like
09:15 10 associated with June 30th.

11 So, basically I think that June 30th kind of came
12 and went with a minimum of uproar.

13 CHAIRPERSON CLEMENT: It certainly was an
14 extensive effort by DEQ to reach the regulated community
09:15 15 and the public, and I do want to comment that I think you
16 did everything anybody could think of to do, so thank you
17 very much.

18 MS. MARTINCIC: Is there any way -- I know in the
19 past you talked about -- I guess I'm trying to find out
09:15 20 going through the folks that you've contacted, have the FR
21 now on file with you or if there is still an issue about
22 it at all, or is that something that we should be
23 concerned about or does it seem that most folks have
24 gotten the message and have gotten their certificates to
09:15 25 you or --

1 MR. KERN: Okay. That's a fair question.
2 Basically just about everybody we're aware of who is
3 supposed to have FR responsibility and the majority of our
4 owners and operators, short of state and federal agencies,
09:16 5 but basically, yeah. I mean, we've been checking that
6 since about April of 2004 during our inspections. That's
7 been our really face-to-face factual sort of information,
8 and we know that in the course of all those inspections,
9 77 percent of our owners and operators have shown evidence
09:16 10 of compliance with FR at the time of the inspection with
11 follow-up within 45 days we typically give folks to come
12 into compliance with our requirements. After the
13 inspection, we've gotten that level up to 95 percent
14 compliance with FR. Is everybody compliant? Obviously
09:16 15 not.

16 MS. MARTINCIC: But you easily estimate it at 95
17 at the amount?

18 MR. KERN: Right now, based on those statistics,
19 which is factual, it would be 95, because it is a snapshot
09:17 20 in time, because the requirements for FR are pretty much
21 on an annual basis, so people are kind of continually
22 coming and going in and out of compliance or coverage is
23 lapsing and the insurance companies had it reupped or
24 renewed or something like that, so --

09:17 25 MS. MARTINCIC: I thought, Ron, too, that you had

1 sent out a letter and asked -- like to all owner/operators
2 and asked them to send ADEQ a copy of their -- was I --
3 did I misunderstand that?

4 MR. KERN: That's correct. Our rules require
09:17 5 that we have that documentation of compliance on file at
6 DEQ, so their current instrument, and it doesn't have to
7 be the exact policy, or anything like that. It has to be
8 a certification per the federal requirements, which we
9 have adopted, that they must have on file with us.

09:17 10 So, some do kind of hand the riders over to us,
11 or something like that, or even the policy, but it really
12 is just a certification by the appropriate owner/operator
13 or responsible party that we have to have on file.

14 MS. MARTINCIC: So the agency feels good about
09:18 15 where it's at on that?

16 MR. KERN: Well, we will always strive for better
17 compliance. We are going to continue the outreach to
18 insure compliance, and we are also going to continue the
19 inspections, checking that at the time we do inspect to
09:18 20 make sure that their compliance for FR is up-to-date.

21 CHAIRPERSON CLEMENT: What about the other 5
22 percent, or whatever the small percentage is, are they
23 able to get FR, are they unable to get FR? What is the
24 compliance issue there?

09:18 25 MR. KERN: First, as far as ability to get FR, we

1 have not recently heard of any of our owner and operators
2 who have not had the capability of getting financial
3 responsibility. It still appears to be affordable out
4 there. It still appears to be a viable mechanism. Again,
09:18 5 I suspect that there is always going to be a small
6 percentage of people who are making a business decision
7 that to let us chase us, but the agency has the right to
8 enforce against these folks.

9 CHAIRPERSON CLEMENT: Okay. I understand. Thank
09:19 10 you.

11 MS. MARTINCIC: Thank you, Ron.

12 MR. KERN: One other little piece, suspected
13 releases, that was the issue in the April meeting, and the
14 Policy Commission had suggested that we kind of personally
09:19 15 contact the -- I think there was 48 or 49 or 50 suspected
16 releases that had been -- were still open since January
17 1st of 2005, so there were more of the recent type of
18 suspected releases. There was 26 owners and operators
19 associated with those suspected releases. We actually
09:19 20 physically contacted by phone or left messages on phone or
21 in one case fax'd information to somebody, say, hey, you
22 know, June 30th is coming, so we kind of did what we said
23 we were going to do by June 6th.

24 CHAIRPERSON CLEMENT: Thank you. Did you get any
09:20 25 kind of a surge in terms of reported releases prior to the

1 cut-off date for SAF eligibility?

2 MR. KERN: I don't know if it's a surge. Joe
3 will be addressing that in his corrective action report in
4 a little bit, but we did have 30 confirmed releases for
09:20 5 June, and that was definitely higher than the previous
6 month, which was, I think, about seven confirmed releases
7 in May.

8 CHAIRPERSON CLEMENT: Thank you.

9 MR. KERN: So it increased.

09:20 10 CHAIRPERSON CLEMENT: But not like thousands or
11 hundreds or anything?

12 MR. KERN: No, definitely not.

13 CHAIRPERSON CLEMENT: Which reflects, again, the
14 outreach effort has probably been successful.

09:20 15 Thank you. That's it for Mr. Kern.

16 We will turn to UST corrective action monthly
17 update or bimonthly update. Mr. Drosendahl.

18 MR. DROSENDAHL: My name is Joe Drosendahl, the
19 manager of the Corrective Action Section. In your packet
09:20 20 you have the bean counts for the Corrective Action
21 Section, and you can see that with the new LUSTs from May
22 1st to June 30th, it's about 34. So, you know, it
23 reflects what Mr. Kern just said.

24 We closed 63, so we are about 81 percent for a
09:21 25 total number of reported releases that have been closed,

1 so, that's still inching up, which is good.

2 We have about 36 documents in-house that are
3 under review. That's the same number as last month,
4 although the different types are a little different, and
09:21 5 the data on the municipal tank closure program.

6 The one other activity that we, you know, are
7 continuing to do is the Route 66 Initiative, and I gave
8 you a handout of -- kind of like a two-year anniversary
9 report that we put up on the Department's web site, just
09:22 10 to show what has been done over the last two years with
11 all the people involved in the Route 66 Initiative. And
12 we're still -- you know, we've implemented case management
13 again. Some sites have active case managers. We're --
14 unfortunately, we're going to be losing one of our case
09:22 15 managers, so we're going to definitely see how our new
16 system actually works in practice, so hopefully his work
17 load can be just given to one of the other staff that was
18 not previously a case manager.

19 Also in regards to staffing, unfortunately, we
09:22 20 are going to be losing one of our state lead people, so
21 hopefully that will be it for a while with losing people.
22 Hopefully, we will gain a few in the next few months,
23 hopefully.

24 And that's it for the corrective action update.

09:23 25 CHAIRPERSON CLEMENT: Are there any questions or

1 comments for Mr. Drosendahl?

2 Thank you very much.

3 And now you have the risk assessment and Tier 2
4 modeling update.

09:23 5 MR. DROSENDAHL: Basically, the contract that we
6 had regarding the initial development of the Tier 2
7 software, that's come to an end, and at the end, some of
8 the glitches in the software were corrected by the
9 contractor. We're currently in the process of kind of,
09:23 10 you know, reviewing the software, and we will be getting
11 the new version up on the web. There is going to be a
12 continual discovery of new glitches. We will deal with
13 those in the future.

14 The next meeting, I will give you an update on
09:24 15 whether the new version is up on the web, and when we put
16 it up on the web, we will give kind of like a summary of
17 the problems that were corrected.

18 CHAIRPERSON CLEMENT: Are you -- so you are now
19 without contract support, Mr. Drosendahl, for that?

09:24 20 MR. DROSENDAHL: For that, we are. We are going
21 to be starting the process of developing a new contract to
22 kind of continue with the updating and the revising of the
23 software.

24 CHAIRPERSON CLEMENT: That would be advisable,
09:24 25 because in-house, I think it's pretty limited in resources

1 to have that extra piece available, and it's part of your
2 budget, isn't it, Joe?

3 MR. DROSENDAHL: Yes.

4 CHAIRPERSON CLEMENT: Okay. Any questions or
09:24 5 comments regarding that?

6 MR. GILL: I don't really know exactly how the
7 model works, but I assume there shouldn't be any real
8 problems once it goes into effect. It is just changing
9 the -- putting in the new numbers.

09:25 10 MR. DROSENDAHL: I wouldn't think that any
11 changes would be that major to perform. We will have to
12 see where the Soil Rule ends up and everything and make
13 the necessary corrections.

14 CHAIRPERSON CLEMENT: Thank you. Anything else
09:25 15 for Mr. Drosendahl?

16 Let's move on. Thank you. We will talk about
17 the SAF monthly update with Tara Rosie.

18 MS. ROSIE: Hi, I'm Tara Rosie, State Assurance
19 Fund. As you'll notice, our numbers of determinations are
09:25 20 creeping up again. That's because we were able to timely
21 up our tech review staff to three. We had a low of one at
22 one point this year, so we are feeling good about that.
23 And with the influx of additional applications, we bring
24 you our cross-training between the admin staff that work
09:26 25 on the front end taking applications in and the staff that

1 enters the information after technical review to do the
2 payment determinations. So, by making sure that everybody
3 is cross-trained, we should be able to keep everybody
4 buried in work equally.

09:26 5 Aside from that, we didn't have anything that
6 went to hearing in June. I don't think there were any
7 other noticeable changes. Ron mentioned the use of the
8 forms in the training session we had. I think we had a
9 lot of good comments come out of the training session. We
09:26 10 updated some forms based on those comments, as far as
11 mostly verbiage clarification, and the withdrawal forms
12 have been being used. I think that may address some of
13 the concerns that the Commission had.

14 CHAIRPERSON CLEMENT: I notice that obviously you
09:26 15 have this huge blip in the camel that swallowed the snake
16 or the snake that swallowed the mouse, or whatever, in
17 April, May. How long do you think that it's going to take
18 to catch up with the new staff you've got?

19 MS. ROSIE: We're running as fast as we can, and
09:27 20 luckily, because many of those applications were subject
21 to a settlement agreement, the parties involved in the
22 settlement agreement agreed not to go to formal appeal for
23 a 90-day time frame.

24 CHAIRPERSON CLEMENT: So you've got --
09:27 25 everything, you're managing all of it kind of

1 simultaneously?

2 MS. ROSIE: We're working hard to do that.

3 MS. MARTINCIC: I would just like to thank Tara
4 for the workshop that they did in June. I attended that,
09:27 5 and I think Theresa came to that as well, and I was
6 curious to know if anybody had contacted you about
7 concerns about that. I haven't heard anything from my
8 membership.

9 MS. ROSIE: I haven't either.

09:27 10 MS. MARTINCIC: It was pretty well laid out and
11 for the most part pretty well self-explanatory, so, I
12 guess, you know, I would encourage you, if you do start
13 hearing about the way the withdrawal forms are working or
14 people have questions, we can always kind of try to vent
09:27 15 that out more in one of the subcommittee meetings, but it
16 seems to be doing okay.

17 MS. ROSIE: Thank you.

18 MS. FOSTER: I want to say thank you. It was so
19 nice to receive an e-mail. All my applications that were
09:28 20 user friendly and I could give them to my consultant and
21 they could do their thing, so thank you for that.

22 MS. ROSIE: Thank you.

23 CHAIRPERSON CLEMENT: I do think the SAF portion
24 of the program, giving the staffing level you have had and
09:28 25 your work load, you guys are working really, really,

1 really hard, so we appreciate that level of work, and the
2 same for your staff.

3 MS. ROSIE: Thank you.

4 CHAIRPERSON CLEMENT: Any other questions or
09:28 5 comments for Ms. Rosie?

6 Okay. Next agenda item is mine. And I just want
7 to remind people, as gas prices go up, that the State will
8 reimburse us for our mileage and our travel costs, and
9 when we have someone coming down from Tucson or up from
09:28 10 Tucson, further south, that meant something, you know, but
11 as gas prices go up, you may want to take the time to
12 actually fill out the form to be reimbursed, and I just
13 wanted to remind the Commission members that they are
14 eligible for those claims.

09:29 15 I got a form once, and it was frankly so
16 burdensome that I decided my time was better spent, but
17 given the gas prices at that time, but other people may be
18 in a different situation, and the forms are available
19 through Ms. Rosie. Do you have the forms?

09:29 20 MS. ROSIE: I don't, but Ron and I were talking
21 about that yesterday, and I think we are going to talk to
22 Mike Clark about that.

23 MR. KERN: Yes. Bottom line, I know there is a
24 form on the web site right now for compensation for
09:29 25 travel expenses and incidental expenses and the like. The

1 one that's on the web site now specific to it, there isn't
2 one I've seen for the Policy Commission, but I think we're
3 going to put one out specifically for the Policy
4 Commission and tell people, make sure there is guidance
09:29 5 there, where do I turn it in, what do we do with it, so we
6 will be taking care of that hopefully before the next
7 Policy Commission meeting.

8 In the meantime, I would guess that if you do
9 want to turn in one of those, turn it in through me and I
09:30 10 will make sure that it gets addressed appropriately.
11 After that, we will make sure that there is good
12 instructions on who you do turn it into.

13 CHAIRPERSON CLEMENT: I do know we've used them
14 in the past, because when Mr. Roger Beal was on the
09:30 15 Commission, we would fill them out, and he would ask me to
16 sign them, and then I think he knew exactly who they went
17 to, so there was money being disbursed.

18 MR. KERN: There is money for the Policy
19 Commission for expenses.

09:30 20 CHAIRPERSON CLEMENT: You have a budget?

21 MR. KERN: Yes.

22 CHAIRPERSON CLEMENT: So, just to remind people,
23 if they would like to be reimbursed for the mileage, it's
24 mainly mileage, unless you are going from some distance;
09:30 25 is that correct?

1 MR. KERN: I think it's primarily mileage, but
2 the law, the statute, I think kind of talks about
3 expenses. I think it's primarily mileage. That's kind of
4 a no brainer.

09:31 5 CHAIRPERSON CLEMENT: I don't think we could
6 charge \$1,000 lunches or anything like that. Sorry.
7 Sorry. No great benefits.

8 MR. GILL: No golf trips?

9 CHAIRPERSON CLEMENT: No golf trips to Scotland,
09:31 10 or anywhere else.

11 But I did want to remind people, as gas prices go
12 up, they might really need to do that.

13 Okay. The 2005 UST Policy Commission Annual
14 Report was sent out for review. Did everybody receive
09:31 15 their copy and have a chance to review it? The only
16 comments -- first, let me step back.

17 I want to thank Mr. Gill and ADEQ and Ms.
18 Martincic for their contributions, because I didn't do
19 that in an isolated way. I put that report together from
20 input I received from the agency and from the
21 subcommittees, the Financial and Technical Subcommittees,
22 so I really thank them for their input. It was very
23 helpful.

24 And the only other comments I received were
09:31 25 comments that were primarily -- well, actually, once we

1 worked it out, were just typographical errors from Theresa
2 Foster. I have a copy of the edited version with the
3 typographical errors corrected, so that if we are ready to
4 vote on approval of it, you know what you're actually
09:32 5 voting on, this is an edit mode. I will just pass it out.
6 It was only capitalizations. There is nothing substantive
7 in any way between the version that you received and the
8 version I am passing out now.

9 And I apologize, my computer was down for almost
09:32 10 a week, and I just got it up yesterday afternoon where I
11 can send out e-mail, so I would have sent these out to
12 you, but I figured by that time it was just as easy to
13 give them to you this morning and give you something to
14 look at. But there is no changes, I believe, other than
09:32 15 capitalization. I found a few programs.

16 Any comments, questions, discussion?

17 MS. FOSTER: Yes.

18 CHAIRPERSON CLEMENT: Yes, Ms. Foster.

19 MS. FOSTER: Can I move that we approve the
09:33 20 annual report with the corrections made in it?

21 CHAIRPERSON CLEMENT: Yes. Is there a second?

22 MR. GILL: I will second.

23 CHAIRPERSON CLEMENT: All in favor?

24 (Chorus of ayes.)

09:33 25 CHAIRPERSON CLEMENT: Anyone opposed?

1 The annual report is approved with the
2 typographical changes as distributed this morning.

3 Now, the last time you did this, Mr. Johnson, I
4 sent you a cover letter that I had, a hand signature, and
09:34 5 then your staff handled distribution.

6 MR. JOHNSON: Yes.

7 CHAIRPERSON CLEMENT: Is that still acceptable to
8 you?

9 MR. JOHNSON: Sure.

09:34 10 CHAIRPERSON CLEMENT: That really saves me a lot.

11 MR. JOHNSON: Yeah, that will work.

12 CHAIRPERSON CLEMENT: Okay. So I will do that,
13 but then you have to remember to give me a copy.

14 MR. JOHNSON: Oh.

09:34 15 CHAIRPERSON CLEMENT: So I will get the cover
16 letter to you in the next couple of days.

17 MR. JOHNSON: Okay.

18 CHAIRPERSON CLEMENT: Next. Financial
19 Subcommittee update. Ms. Martincic.

09:34 20 MS. MARTINCIC: We didn't have a meeting the last
21 couple of months. We were going to see if there were any
22 issues with those new forms, and, as I said earlier, there
23 didn't seem to be any concerns brought to my attention.

24 But I did get some copies of some guidance, EPA
09:34 25 guidance on the Energy Policy, the USC Compliance Act and

1 the Energy Act of 2005, and I didn't know if others have
2 seen those guidance documents. I'm assuming you guys got
3 those, too; right? I just didn't know if that was
4 something that the Commission would want to see copies of.
09:35 5 I could get that to Al at the meeting or, if no one's
6 really interested, but basically it's going to require
7 some changes to the program, I think, in the State, so, I
8 would assume it's something we will be looking at over the
9 next year or so.

09:35 10 CHAIRPERSON CLEMENT: I would appreciate a copy
11 of the guidance.

12 MS. MARTINCIC: Could you do it over the e-mail?

13 MR. KERN: It's available on the web site, on
14 ADEQ's web site.

15 MS. MARTINCIC: Oh, is it on there? Okay.

16 MR. KERN: Not all the guidances are addressing
17 all of the requirements of the act. There is guidance
18 related to secondary containment, guidance related to
19 delivery prohibition.

09:35 20 MS. MARTINCIC: Is the operator training one out?
21 MR. KERN: Operator training is not out yet.
22 Public record is out, and certification, and FR
23 requirements are out.

24 CHAIRPERSON CLEMENT: Ms. Foster?

09:36 25 MS. FOSTER: Madam Chair, wasn't there some issue

1 with that act dealing with how close to a water system you
2 can install a tank system, and there wasn't a true
3 definition of what a water system is, so a water meter
4 could be part of a water system?

09:36 5 MR. KERN: Okay. Basically, the issue relates to
6 secondary containment, and it didn't say a UST could not
7 be installed. It said, if, and this is the act, and then
8 the draft guidance that EPA put out said basically that if
9 a tank is installed within a thousand feet of a drinking
09:36 10 water well or a public water supply system, which could be
11 any part of the system, distribution system, piping,
12 whatever, that has water associated with it, water meter,
13 et cetera, then it must be secondarily contained, and
14 that's the tank, the piping and under dispenser, too.

09:37 15 If there is a replacement of a system, i.e., a
16 tank or piping, and it didn't say how much piping or
17 dispenser complete, then there must be secondary
18 containment with interstitial monitoring. That's what the
19 language is currently.

09:37 20 CHAIRPERSON CLEMENT: That would mean pretty much
21 everywhere, wouldn't it? I mean, am I missing something?
22 Wouldn't that just pretty much mean everywhere, unless you
23 were not served by a public water system, your service
24 station --

09:37 25 MS. MARTINCIC: It's kind of a de facto mandate.

1 MR. KERN: I think that in discussions with all
2 the other states, and the EPA, and people who are really,
3 really interested in the bill, and there is broad interest
4 in the bill, that people recognize the way it is defined
09:37 5 right now, secondary containment, is that that's pretty
6 much everywhere.

7 CHAIRPERSON CLEMENT: Okay. That's what I would
8 think.

9 MR. KERN: Even if somebody doesn't have a water
09:38 10 supply system, you are going to have a drinking water
11 well.

12 CHAIRPERSON CLEMENT: They have to have a water
13 supply to their facility somewhere, because they have to
14 have a restroom.

09:38 15 Could you link us -- could you send us or have
16 DEQ send out to the Policy Commission the link and then
17 just a brief list of those guidance documents that are
18 available, if you could? And I think that would make it
19 easier for us, and we could get to, then you wouldn't have
09:38 20 to physically distribute anything.

21 MR. KERN: Yes, we can definitely do that.

22 CHAIRPERSON CLEMENT: Thank you. I think that
23 will be helpful, give people a heads up once they're
24 headed down the road here.

09:38 25 MS. MARTINCIC: That's really all I have, so I

1 don't know if we want to have meetings to kind of discuss
2 these documents or --

3 CHAIRPERSON CLEMENT: Is there interest on the
4 Commission's -- or should we wait until we see what they
09:39 5 say or is there interest already to have some of these
6 topics be handled by the Financial Subcommittee?

7 MS. MARTINCIC: Representing owner/operators,
8 we're very interested in all of these new compliance
9 requirements, so, whether or not the Commission wants to
09:39 10 do anything on it, I know that, I mean, as a
11 representative of owner/operators, yeah, it's a big deal.

12 CHAIRPERSON CLEMENT: I know it's a big deal, but
13 I'm trying to figure out what needs to be done from our
14 perspective. Is it an education component? Is it a
15 comment back from EPA?

16 MS. MARTINCIC: Well, it might just be reviewing
17 the documents and moving forward.

18 CHAIRPERSON CLEMENT: Are the documents final
19 now, or are they draft?

09:39 20 MR. KERN: The guidance was still in the draft
21 form at this time.

22 MS. MARTINCIC: But it's up to the states to
23 implement, so the state is going to have to implement and
24 the guidance is meant as a guide for the states so --

09:39 25 CHAIRPERSON CLEMENT: I mean, help us understand

1 what the best utility of the Financial Subcommittee would
2 be at this stage. I mean, I am certainly willing to
3 support whatever you think needs to be done.

4 MS. MARTINCIC: Well, in talking to Ron, it
09:40 5 sounds like the agency is not set yet in terms of how
6 they're going to pursue potential legislation that they
7 are going to need in order to implement these new guides
8 or new requirements. But because they are some huge
9 changes, and I think they are going to impact everyone in
09:40 10 Arizona, because, you know, we don't have delivery
11 prohibition, we don't have operator training requirements
12 in this state, so it's all new stuff, you know. My point
13 of view is that you start talking about it as soon as
14 possible and get as many people involved as soon as
09:40 15 possible, because I think it is going to be controversial.

16 So, you know, I'm one Commission member, so I
17 don't know what the role of the Commission will be
18 necessarily, but it might be smart for the Commission to
19 at least be educated about what the requirements are, and
09:40 20 then wait once the agency puts forth, I guess, what they
21 plan on doing.

22 CHAIRPERSON CLEMENT: I agree. I do see the
23 educational component is going to be critical. Is that
24 better handled in a subcommittee format or is that better
09:41 25 handled in the full Policy Commission meeting? Does

1 anybody have a thought on that?

2 MR. SMITH: I think as always, it's always good
3 to work out the details in a subcommittee and then bring
4 the recommendations to a full Commission. And as Andrea
09:41 5 said, I think there is going to be a financial impact, how
6 many people have secondary containment or interstitial
7 monitoring at every site.

8 MS. MARTINCIC: It doesn't exist.

9 CHAIRPERSON CLEMENT: So, would you like to take
09:41 10 that on and schedule a Financial Subcommittee meeting? We
11 have one tentatively scheduled.

12 MS. MARTINCIC: Yeah. I've heard next week in
13 August and I'm not here. I think it's usually the first
14 Thursday.

09:41 15 CHAIRPERSON CLEMENT: Al, is that correct?

16 MR. JOHNSON: Yep.

17 MS. MARTINCIC: I could probably move it to the
18 second Thursday.

19 CHAIRPERSON CLEMENT: We had the August 3rd as
09:42 20 the next date, so the second Thursday would be the 10th.

21 MS. MARTINCIC: Will that give people enough time
22 or should we move it out even a little further?

23 CHAIRPERSON CLEMENT: It's up to you. I have a
24 conflict on that day.

09:42 25 MR. KERN: The only thing I'll add to this --

1 MS. MARTINCIC: He may want to -- can you guys be
2 at that meeting, too?

3 MR. KERN: I mean, obviously, we have a distinct
4 interest in the policy and how that's going to be
09:42 5 implemented and to what extent it will be implemented in
6 Arizona. There is a lot of ifs and questions at this
7 point, not the least of which is EPA's guidance is still
8 draft. The Energy Act itself is pretty brief and leaves
9 lots of questions, and the draft guidance has not answered
09:43 10 a lot of those questions at this point, so --

11 MS. MARTINCIC: And there is no final funding.

12 MR. KERN: -- what requirement EPA is going to
13 impose on the states, if you will, is way up in the air at
14 this point, so there is a lot of questions on the -- when
09:43 15 this hits the pavement or how it's going to hit the
16 pavement.

17 CHAIRPERSON CLEMENT: Are you suggesting we are
18 premature, then, for discussion at this point?

19 MR. KERN: I wouldn't suggest it, but I just
09:43 20 wanted to add that there is a lot of issues that still
21 haven't been resolved that will have to be resolved before
22 the pen gets put to paper on this thing.

23 MS. MARTINCIC: That's why I think it's smart now
24 to start talking about it. It's not going to go away, and
09:43 25 the issue is that the states have no funding for it, so

1 that's a huge issue, and it's pretty much all new stuff
2 for Arizona. I mean, it doesn't really impact California
3 a lot because they're already doing that.

4 CHAIRPERSON CLEMENT: Let's set up an August --
09:43 5 whatever works for your calendar, let's try to set up an
6 August Financial Subcommittee meeting today so that people
7 are informed.

8 MS. MARTINCIC: Are other Commission members
9 interested in talking about this? It's easier to plan to
09:44 10 like do it like the 24th of August, later in the month.

11 CHAIRPERSON CLEMENT: Ms. Foster.

12 MS. FOSTER: I would recommend waiting until a
13 lot of the guidance documents become finalized, because if
14 you meet now and you are not sure of EPA's opinion, and
09:44 15 it's not going to happen overnight, because it's got to
16 change state statute and state regulations, so I would
17 suggest waiting until a couple of more of the guidance
18 documents are finalized.

19 MS. MARTINCIC: I guess my only concern about
09:44 20 that is, you know how EPA's time lines work, and
21 implementation requirements are like 2007, I believe, for
22 some of this stuff.

23 MR. KERN: Some of it begins, I think, in
24 September of 2007, but that's public record. Those are
09:44 25 some of the easier things to address. Some of those which

1 require amendments to the statutes, those are pushed out a
2 little bit further and there is no certainty. I mean,
3 there is requirements, but when they actually will be
4 required to be implemented is up in the air on some of
09:45 5 these.

6 CHAIRPERSON CLEMENT: Well, what we could use
7 this, both in terms of information and a planning meeting,
8 where you could set up a structure of how to proceed in
9 the future in a more, you know, interactive format. It's
09:45 10 up -- I mean, I'm not --

11 MS. MARTINCIC: I will hold the meeting, and if
12 I'm the only one there, I'm the only one there, and I will
13 have a good plan of action, so let's go for August 10th, I
14 guess.

09:45 15 CHAIRPERSON CLEMENT: And those meetings start at
16 one?

17 MS. MARTINCIC: Two; two to four, the heat of the
18 day.

19 CHAIRPERSON CLEMENT: And we will try to find a
09:45 20 room somewhere in DEQ for that meeting, if that's
21 possible. The next four Thursdays I'm out of town, so,
22 sorry.

23 Great. Okay. Anything else from the Financial
24 Subcommittee?

09:46 25 MS. MARTINCIC: That's it.

1 CHAIRPERSON CLEMENT: Technical Subcommittee
2 update, Mr. Hal Gill.

3 MR. GILL: We haven't had a subcommittee meeting
4 since March. We were waiting for DEQ to put their
09:46 5 responses to the discussion items and recommended
6 solutions or recommended language, or whatever came out of
7 the discussions, we were waiting for DEQ to make their
8 response to that for the discussion items as well as the
9 permitting matrix that we put together.

09:46 10 And so that's -- and as I mentioned in the March
11 meeting, that's what we're waiting for, so we're still
12 waiting.

13 CHAIRPERSON CLEMENT: Does DEQ have a time line
14 for when they will be providing response and how we can
09:47 15 get our arms around some of these items?

16 MR. DROSENDAHL: This is Joe Drosendahl. Not
17 specifically. I will talk with Phil and see what his, you
18 know, input would be, and as soon as we know, we will let
19 the Commission know and, you know, definitely Hal know.

09:47 20 CHAIRPERSON CLEMENT: Would it be helpful to
21 schedule a Technical Subcommittee to sort of drive the
22 process or are there other technical issues that we need
23 to address in your term?

24 MR. GILL: I don't know what more we could do.
09:47 25 The technical issues come out of -- well, nothing has been

1 sent to me as far as the technical issues. They
2 typically, if they're not directly from the stakeholders,
3 then I bring them to the Commission to move forward and/or
4 the Commission will say to move this forward, so nothing
09:48 5 has come through.

6 I don't know what more we could do in meetings
7 because we've already, you know, discussed, had
8 discussions on all of the issues that were raised. And as
9 I said, the only thing we are waiting for is DEQ to add
09:48 10 their responses to, you know, some of the issues, what DEQ
11 believes they would do or whether they agree with or
12 whether it's something to go forward with for further
13 discussion, so we can't do anything until we hear from
14 DEQ.

09:48 15 CHAIRPERSON CLEMENT: I would ask Mr. Drosendahl,
16 when you get with Mr. McNeely -- there has been a lot on
17 everyone's plate, and we recognize that, but if you could
18 carve off pieces of this so we could keep the ball moving
19 forward, it would be very helpful. Perhaps you could
09:48 20 discuss with Mr. Gill what are the highest priority pieces
21 to carve out. I know there was a lot of work associated
22 with that, but March to July is a long time, too, so I
23 would hope that we have either some resolution by the next
24 Policy Commission meeting, a clear time frame for a
09:49 25 resolution by the next Policy Commission meeting, or, you

1 know, you will hear a little bit more strongly from the
2 Commission at the next meeting.

3 There is a lot of work that Mr. Gill does in the
4 Technical Subcommittee, participants, and I think it's
09:49 5 frustrating to them when something gets put out there and
6 there is no response back in a timely manner; so, again,
7 recognizing the work load and the priorities of DEQ, but
8 we don't want to lose sight of this.

9 So, any other comments or questions on that
09:49 10 issue?

11 And then the second agenda item under the
12 Technical Subcommittee was the response regarding the UIC
13 well registration.

14 MR. GILL: I haven't heard anything.

09:50 15 CHAIRPERSON CLEMENT: At our last meeting --
16 Oh, Mr. Drosendahl.

17 MR. DROSENDAHL: Yes. I think Theresa Foster
18 brought up the issue of UIC permits regarding -- UIC
19 issues regarding class 5 injection wells. I've been on
09:50 20 the various EPA web sites. I've contacted the point of
21 contact with Region 9 to find out clarification on exactly
22 what types of remedial wells is applicable to the UIC
23 program. I've gotten some conflicting information, and
24 we're trying to get a definitive, you know, answer to what
09:50 25 types of wells need to comply with the UIC rules, with

1 wells that actually inject, you know, fluids into the
2 ground. That seems pretty clear, but whether air sparging
3 wells need to comply with the UIC, that's the big
4 question.

09:51 5 So, we're continuing to do that. We've gotten
6 some information, but there doesn't seem to be a lot of
7 consistency or definitive statements on exactly what is
8 required when, but I will continue to look into that.

9 CHAIRPERSON CLEMENT: That was a big issue
09:51 10 several months ago. There was an e-mail that crossed my
11 desk that basically the consultant had been told that
12 their air sparging injection wells had to be registered,
13 and apparently DEQ disputed that. And, obviously, if
14 you've taken some time to research it and it's still not
09:51 15 clear, I don't know what to tell the regulated community.
16 I mean, we do need to know what's required of them, and
17 then, if it's required, whether it's going to be eligible
18 for the SAF reimbursement. So, I don't know how to -- I
19 mean, don't they have people at EPA that actually run the
09:52 20 program that should be able to give you a definitive
21 answer?

22 MR. DROSENDAHL: There are contacts, yes.

23 CHAIRPERSON CLEMENT: You know, you may want to
24 -- you may want to think about putting it through your
09:52 25 grant people, you know, in writing, because this is a

1 program problem.

2 I never knew that -- until I saw that e-mail, I
3 didn't even know it was an issue. I never have registered
4 those types of wells through the UIC program.

09:52 5 MR. SMITH: Joe, is this a technical issue or a
6 legal issue?

7 MR. DROSENDAHL: From what I've been hearing and
8 talking about, it's both. You know, it's kind of both.
9 I've looked at the regulations that actually specify what
09:52 10 a Class 5 well is. It doesn't seem to be real clear that
11 remedial wells are really a part of that, but then all the
12 guidance said that I've seen, sometimes they say, oh,
13 yeah, if you are injecting fluids, definitely. Part of
14 the guidance, air is considered a fluid.

09:53 15 MS. FOSTER: Hydrogen peroxide is a liquid.

16 MR. DROSENDAHL: Right, but they also consider
17 air or a gas or a fluid, also, which seems to be kind of
18 confusing.

19 MR. SMITH: My thought is that if there is some
09:53 20 legality to it, maybe get USEPA off the dime so we can
21 request the ADEQ's legal counsel or the State AG to
22 request an opinion and put them on notice.

23 CHAIRPERSON CLEMENT: I agree with you. I think
24 we should move it up a notch. Our recommendation per Mr.
09:53 25 Smith would be, put some pressure on EPA, either legally

1 or through -- my thought would be through the grant
2 program, to get a definitive response back to the agency.
3 The regulated community wants to be in compliance. But
4 SAF eligibility is if they're in compliance doing the
09:54 5 required task, and so this thing just keeps festering.

6 MR. SMITH: But it's not just a state problem.
7 We may get an answer here, but it's going to affect
8 countrywide, but nowhere else air sparging wells are being
9 registered that I know of.

09:54 10 CHAIRPERSON CLEMENT: Any feedback from the
11 agency, Mr. Kern, Mr. Drosendahl, on how you could pursue
12 this more aggressively regarding the suggestions you've
13 just heard?

14 MR. KERN: I think we will take this one back to
09:54 15 Phil and talk to Phil about it and see if we can't get
16 some idea.

17 CHAIRPERSON CLEMENT: Yeah, because, you know,
18 it's real time and real money to people and everybody
19 wants to be in compliance.

09:55 20 Okay. So that's an action item for DEQ.

21 Anything else from the Technical Subcommittee?

22 MR. GILL: No. That's it.

23 CHAIRPERSON CLEMENT: I had a couple of calls
24 regarding free product removal and timeliness and failure
09:55 25 to get preapproval for free product removal and failure to

1 get payment then. How does that work? The federal rules
2 and regulations are very clear. You must, it's not you
3 can, you should, it's you must remove free product to the
4 extent practical. And the site at least that I got the
09:55 5 calls from based on what I was told, again, it's not my
6 site, I didn't do any individual research, seemed to be
7 one of those cases where it was certainly in the best
8 interest of the public, the environment, the agency, the
9 owner and operator, the regulated community to get that
09:56 10 free product under control.

11 How does that work when you have a federal
12 requirement, you have a real risk, yet you have a SAF
13 program that requires preapproval? Where does -- what
14 happens with that?

09:56 15 MR. KERN: I will start very briefly with that,
16 and maybe Joe can kind of help out here because it's a
17 little outside of my program area specifically, but our
18 regulations are essentially adopted from the federal
19 regulations, and regardless of the State Assurance Fund,
09:56 20 someone should go forth and remove the potential dangers
21 associated with the free product. They go forth on their
22 own. There is nothing that says they have to get
23 preapproval on the State Assurance Fund for any of that.
24 They have the requirement to get that under control.

09:57 25 CHAIRPERSON CLEMENT: Then how does that work if

1 it's a site, for example, a voluntary site where you have
2 a preapproval requiring that? Then are those expenditures
3 unfunded out of SAF because they didn't meet that
4 requirement? How does that work, Mr. Drosendahl?

09:57 5 MR. DROSENDAHL: About the only thing I can say
6 is, you know, if a person who is not an owner/operator is
7 volunteering to do corrective actions, the statute
8 requires them, that if they want to volunteer, they also
9 have to meet the requirements of 1005, which relates back
09:57 10 to the federal regulations. So, a volunteer, if they have
11 free product, I think they would also be, you know, held
12 to the same standards for going out and removing free
13 product, just like an owner/operator.

14 In regards to, you know, SAF reimbursement, you
09:58 15 know, the statute says that for volunteers, you know, the
16 requirement to go through preapproval, and I can't
17 really -- you know, Ms. Rosie isn't here, so I can't
18 really address the SAF process.

19 CHAIRPERSON CLEMENT: I think it would be very
09:58 20 helpful to get some response to that question, because
21 people who are quite up in arms in my correspondence, and
22 I didn't hear back from them so I think this particular
23 case got resolved, but I don't know that for a fact.

24 Mr. Kelley might have something additional.

09:58 25 MR. KELLEY: Madam Chair, if I could comment on

1 this having been down this road many times.

2 Your concern about how this federal and state
3 requirement to conduct free product removal to the maximum
4 extent practical as soon as possible intersect with SAF
09:58 5 payment. We very carefully addressed that issue in the
6 legislation, and so for volunteers, they have a 45-day
7 window. When you have discovery of free product, you have
8 45 days to go out there and get after it. That's deemed
9 preapproved. In the statute, those 45 days are deemed
09:59 10 preapproved. The idea is to give you time to put a free
11 product removal work plan and get the agency to respond
12 and continue with the free product removal.

13 Where the rubber meets the road, and to be
14 honest, I'd have to support the agency's position on this.
09:59 15 Where the rubber meets the road on the payment of the free
16 product removal is people want to run these gore
17 absorbers, these passive skimmers, charge a lot of money
18 per gallon recovered, and it's not cost-effective. It
19 doesn't meet the requirements of reasonable and necessary
09:59 20 of the cost-effective requirement.

21 So, if it's costing \$1,000 a gallon using a gore
22 absorber or a passive skimmer, that's not -- for me,
23 that's not where I want my tax dollars spent. Where the
24 rubber meets the road is how are you doing that free
10:00 25 product recovery, and pretty much, if you are not going

1 with active vapor extraction enhanced recovery system, you
2 are going to have trouble getting passive free product
3 removal paid for.

4 CHAIRPERSON CLEMENT: Thank you, Mr. Kelley, for
10:00 5 the public input on that issue.

6 Okay. Anything else from the technical side of
7 it, Mr. Gill?

8 MR. GILL: I'm trying to think if I received any
9 letters just recently that aren't in appeal. I don't
10:00 10 think there are.

11 CHAIRPERSON CLEMENT: Okay. Wow. Summary of
12 meeting action items. Okay. Moving right along today.

13 MR. GILL: I'm sorry, there is one question I
14 wanted to ask Joe.

10:01 15 Have we ever seen the guidance documents on the
16 risk assessment, whatever that was called?

17 MR. DROSENDAHL: Oh, The How To Tier 2? No, no.

18 MR. GILL: Because we need that still.

19 CHAIRPERSON CLEMENT: What is the time frame for
10:01 20 that?

21 MR. DROSENDAHL: Maybe, because we're in between
22 the contracts right now, you know, maybe we can get it out
23 -- it will probably be just real, you know, generic in the
24 beginning. We can always build on it if we need. I will
10:01 25 add that to the list of things I will talk to Phil about

1 in regard to time frames.

2 CHAIRPERSON CLEMENT: That would be great.

3 That's been in process for many, many months.

4 MR. DROSENDAHL: Uh-huh.

10:01 5 CHAIRPERSON CLEMENT: Anything else before we
6 move to action items?

7 Okay. I'm going to forward to Andrea my copy of
8 the SRL rules.

9 Anybody else need it from my desk? Okay.

10:02 10 We are going to hear from DEQ regarding their
11 time frame for response, the Technical Subcommittee
12 remediation matrix and other materials.

13 We are going to hear from DEQ about how they've
14 been successfully able to petition EPA to respond to the
10:02 15 UIC well registration for air sparging wells, and other
16 remediation wells.

17 We are going to hear from DEQ regarding the
18 guidance for the Tier 2 software, when will it be
19 available.

10:02 20 And I am going to provide a cover letter to Mr.
21 Johnson for the annual report.

22 DEQ is going to make available some guidance on a
23 new form for reimbursement for mileage and expenses for
24 the UST Policy Commission.

10:03 25 Was there anything else that I failed to capture?

1 Anybody else capture any other action items?

2 MR. KERN: I will send the link to EPA's web
3 site, Energy Policy Act Guidance.

4 CHAIRPERSON CLEMENT: Thank you very much.

10:03 5 That's it.

6 Let's talk about the schedule for the next
7 meeting. Is there any impetus to hold the August meeting,
8 or should we do -- yes, Mr. Smith.

9 MR. SMITH: For the next agenda item, you were
10:03 10 discussion of the agenda items, when we hold the next
11 meeting, I would like to bring up the issue of going to a
12 permanent bimonthly schedule again.

13 CHAIRPERSON CLEMENT: Okay. I will add that to
14 the agenda for next time.

10:04 15 I also -- does September work for everybody? I
16 don't see anything pressing that's on our -- September
17 27th is the next scheduled -- after August, the next
18 scheduled UST Policy Commission meeting, so let's hold the
19 September 27th meeting will be our next meeting.

10:04 20 Any agenda items in addition to what Mr. Smith
21 provided, please send them on to me in a fairly timely
22 manner. I do know from having spoken with Mr. McNeely,
23 the status of the Commission reappointments, it's my
24 understanding Ms. Campbell is no longer going to be with
10:04 25 the Commission. She has taken a position internal to DEQ

1 in water programs, so she will no longer be a member of
2 the Policy Commission.

3 I do have a name potentially for a replacement of
4 someone that's interested.

10:05 5 The other, as far as I know from Mr. McNeely, the
6 other open seats have not been replaced. Nothing has
7 moved forward, and that's the status as he provided to me.

8 So we will continue as a Commission with our
9 current membership until that changes. Okay.

10:05 10 Any other agenda items, discussion, regarding our
11 schedule for the next meeting?

12 Now we will move to a general call to the public.
13 Are there any comments from the public? We must be doing
14 a great job.

10:05 15 Okay. The next Policy Commission meeting will be
16 held on September 27th. It is tentatively scheduled -- it
17 is scheduled for 9 a.m., and then we also have this room,
18 as I understand it, Room 250, and if there is nothing else
19 for the Commission, we are adjourned. Thank you very much
10:06 20 everyone.

21 (10:06 a.m.)

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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 47 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 26th day of July, 2006.

Deborah J. Worsley Girard
Certified Reporter
Certificate No. 50477