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

Phoenix, Arizona
September 27, 2006
9:00 a.m.

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Room 250
Phoenix, Arizona

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1 COMMITTEE MEMBERS PRESENT:

2

3 GAIL CLEMENT, Chairperson

4 HAL GILL, Vice-Chair

5 PHILIP McNEELY

6 KAREN GAYLORD, Esq.

7 TAMARA HUDDLESTON, Esq.

8 ANDREA MARTINCIC

9 THERESA FOSTER

10 JON FINDLEY

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1 PROCEEDINGS

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3 CHAIRPERSON CLEMENT: Good morning, everybody.

4 This is the September 27th, 2006, UST Policy

5 Commission meeting. We'll call it to order, and then if we

6 could start with Tamara we'll start our roll.

7 MS. HUDDLESTON: Tamara Huddleston.

8 MR. McNEELY: Phil McNeely.

9 MR. GILL: Hal Gill.

10 CHAIRPERSON CLEMENT: Gail Clement.

11 MS. MARTINCIC: Andrea Martincic.

12 MS. GAYLORD: Karen Gaylord.

13 MR. FINDLEY: Jon Findley.

14 MS. FOSTER: Theresa Foster.

15 CHAIRPERSON CLEMENT: Okay. Let's see, we have

16 missing today Myron and Michael O'Hara. There is some

17 uncertainty about whether Cynthia Campbell has resigned or

18 not, as I understand, but apparently she has a new job at

19 ADEQ so we assume she's no longer a Policy Commission

20 member.

21 MR. McNEELY: Yes. I'm not sure how you

22 officially resign. I don't think we said anything to the

23 Governor's office about resigning yet, but she won't be

24 assisting.

25 CHAIRPERSON CLEMENT: We'll take her off the

1 Commission list that everybody has with her name on it that
2 everybody has, if that's acceptable.

3 Did everybody receive and have an opportunity to
4 review the July 2006 meeting minutes? I did not.

5 When did they come out, does anybody even know?

6 MS. MARTINCIC: I just reviewed it five minutes
7 ago.

8 CHAIRPERSON CLEMENT: I didn't see them come out,
9 and I don't think anybody, unless they got here early, had
10 an opportunity to read them. Al Johnson is usually our
11 contact person for these kinds of things. I haven't gotten
12 an e-mail, any correspondence from anybody at ADEQ
13 regarding a couple of things that are outstanding.

14 Is there somebody here today that fills that role
15 so we can find out what's going on?

16 MR. KERN: Ron Kern will fill that role today. If
17 there's something you're missing, I'll try to get it for
18 you.

19 CHAIRPERSON CLEMENT: Two things. Right now we're
20 missing getting the minutes out ahead of the meeting so we
21 actually have an opportunity to read them.

22 Second thing is at the last meeting we were all
23 supposed to receive a copy of the annual report. I have
24 not received a copy of the annual report. This has
25 happened before.

1 MS. MARTINCIC: I got a hard copy.

2 CHAIRPERSON CLEMENT: I did not.

3 So who did receive it and who didn't?

4 I did not, but if you need to send out another
5 contact list please do that by e-mail and we will confirm
6 once again what our contact information is if that's a
7 problem, but I did not receive a copy. I need that for my
8 records.

9 MR. McNEELY: And, Gail, we have in the packet a
10 hard copy. We'll try to get you an electronic copy.

11 CHAIRPERSON CLEMENT: I don't need an electronic
12 copy. If it's in the packet, great; but we don't get the
13 copy until we walk in here. I did get no correspondence
14 regarding the agenda, whether it was going to be okay or
15 not.

16 Usually Al and I have communication. I got no
17 communication this time whatsoever from the ADEQ. So if we
18 could in the future make sure whoever is assigned that role
19 I'm informed and that they communicate with me.

20 MR. McNEELY: That's Al's role, but if you're not
21 getting it you could always call me.

22 CHAIRPERSON CLEMENT: That's another issue, but we
23 can talk about that later, but if you could make sure since
24 this is your responsibility that someone communicates with
25 the Chairperson before these meetings it would be helpful.

1 MR. McNEELY: Okay.

2 CHAIRPERSON CLEMENT: Let's see, we're going to
3 wait to approve the meeting minutes because we didn't have
4 them.

5 The next agenda item is rules affecting the UST
6 Program, and that's Mr. McNeely.

7 MR. McNEELY: Well, thank you. Rules affecting
8 the UST Program, we do have the Soil Remediation Standards
9 Rule out for formal public comment right now. The public
10 comment period ends on October 13th at 5:00 p.m., which is
11 a Friday. We are having a public hearing on October 11th
12 at 1:30 p.m. That's the DOA Building Room 300, Phoenix;
13 and then we're also having a public hearing in Tucson on
14 Thursday, October 12th at 1:30 p.m.

15 So those rules after October 13th when the public
16 comment period ends, we'll try to quickly get them, have a
17 responsive summary and get them in to your staff hopefully
18 within a month or so. So at the earliest they won't be
19 effective -- if they go through without a hitch, it will be
20 about March time frame they will be effective.

21 MS. MARTINCIC: March of 2007?

22 MR. McNEELY: Right. Looking at the rules in
23 terms of UST and pet, there is not a whole lot of changes
24 in the benzene levels. There is some changes in the
25 xylenes and toluenes. It's lower, but it's the saturation

1 level. The levels we have currently are above saturation
2 so it shouldn't really affect our cleanup standards, and it
3 still allows site specific risk assessments.

4 The second rule packet that we're just starting is
5 very important to the UST. It's the no further action rule
6 that's the Attenuation Rule and the Regulatory Substance
7 Rule. We opened that docket a couple weeks ago so we're
8 gonna try to start having public meetings on that packet
9 probably starting in November, December and January. This
10 rule won't be anywhere near as lengthy as the SAF Rule in
11 terms of verbiage. It will be a much smaller rule packet,
12 but in terms of concept it may be a technically-challenging
13 rule to go through.

14 That's all I have for the rules.

15 CHAIRPERSON CLEMENT: A question on that rule
16 package, Mr. McNeely. Is there going to be no opportunity
17 for the Technical Committee -- when we originally talked
18 about that rule package at least some meetings ago, there
19 was the concept we would have some informal discussions
20 before it became a formal meeting.

21 Is that now off the table?

22 MR. McNEELY: Well, I'm not sure what you're
23 considering a "formal meeting." These meetings in November
24 and December are informal.

25 CHAIRPERSON CLEMENT: Okay, they are informal.

1 MR. McNEELY: Trying to develop the rules and then
2 once we get that -- once we get the actual rules, sort of a
3 draft form, then we'll give the UST Policy Commission an
4 opportunity -- the Technical Subcommittee an opportunity to
5 make comments on that.

6 CHAIRPERSON CLEMENT: The informal rules, who will
7 be invited to participate in the informal rules process?

8 MR. McNEELY: We are still trying to compile that
9 list. I would actually like to have it open to the public,
10 but at the same time I need talk to the AGs about this; but
11 if we have a quorum of UST Policy Commission members there,
12 I'm not so sure if we can actually do that. So that's
13 something I'll have to talk to Tamara about.

14 CHAIRPERSON CLEMENT: So there will not be -- and
15 I don't know if you've had an opportunity to talk to
16 Mr. Gill about this directly. So there will be no
17 participation by the Policy Commission Technical
18 Subcommittee formally in this process?

19 MR. McNEELY: That's not correct. We're going to
20 have an informal rule process to develop the rules. At
21 that point once you have the stakeholder developing these
22 rules, then we'll sit down and present them to the Policy
23 Commission and the Policy Commission will have the
24 opportunity to review them formally and the Technical
25 Subcommittee, and then once we work through that we will

1 actually have a formal rule packet which the Policy
2 Commission can comment on.

3 CHAIRPERSON CLEMENT: Okay. So let's just
4 reiterate what you have just said to us regarding your
5 process.

6 In November and December there will be informal
7 public meetings regarding these draft rules that have not
8 yet been drafted, apparently, and that may or may not be an
9 open public meeting. That may or may not be a concern in
10 terms of a Policy Commission quorum in attendance.

11 After that when you've conceptualized and drafted
12 those rules, there will be an opportunity for the Policy
13 Commission through the Technical Subcommittee meeting
14 structure that we've done in the past regarding rules, and
15 then the third step would be the formal process; is that
16 correct?

17 MR. McNEELY: Correct.

18 CHAIRPERSON CLEMENT: Okay.

19 MS. MARTINCIC: Does the agency have a draft
20 available to look at to know where you're going with this
21 for these meetings in November, January or is that when
22 that's going to be presented to the work group or --

23 MR. McNEELY: We're internally trying to work on
24 that right now. We haven't really hashed it out.

25 MS. MARTINCIC: So nothing's been posted with the

1 Secretary of State?

2 MR. McNEELY: In your packet is the actual opening
3 of the docket and it says "the subject matter of the
4 proposed rule." There's items one, two and three is what
5 we're trying follow on our rules and you'll see.

6 MS. MARTINCIC: But you don't have -- if we go to
7 the Secretary of State's web page, you just open the
8 docket, it's nothing there?

9 MR. McNEELY: It's this. This is all we have
10 posted.

11 MS. MARTINCIC: So you don't have a straw man or
12 initial yet?

13 MR. McNEELY: Not yet, no, we don't. Hopefully
14 that will be November.

15 MS. MARTINCIC: If there is some kind of problem
16 legally with Policy Commission members being involved in
17 that draft process, can the Commission members receive a
18 copy of the work that that informal group is doing so we
19 have a draft of what is being discussed at the very least?

20 MR. McNEELY: Sure.

21 CHAIRPERSON CLEMENT: In follow-up to that
22 question, when will we know what the decision is regarding
23 our participation in those informal meetings, whether it's
24 gonna be a quorum issue or problem?

25 MR. McNEELY: Probably a couple weeks. I just

1 need to talk to the AGs about that.

2 CHAIRPERSON CLEMENT: And you'll inform us in some
3 way?

4 MR. McNEELY: We'll e-mail it to you.

5 CHAIRPERSON CLEMENT: Okay.

6 MR. McNEELY: Gail, I don't know if there's an
7 e-mail issue, but we did just go through a conversion on
8 our e-mail, the agency did. Maybe that's some of the
9 problem. I'm not sure.

10 CHAIRPERSON CLEMENT: Anything else, Mr. McNeely,
11 regarding that?

12 MR. McNEELY: That's all.

13 CHAIRPERSON CLEMENT: Then we'll move into the
14 ADEQ updates and you're first.

15 MR. McNEELY: One thing I passed around to
16 everybody is this Route 66 partnership. I just wanted to
17 briefly talk about that.

18 This is an EPA publication. They've really jumped
19 on board with Arizona's program. We've talked about it a
20 couple of times. I don't think we've actually done a
21 presentation for you.

22 We've talked about it, but it composes the
23 Municipal Tank Closure Program trying to actually pull
24 orphan tanks out of the ground. It's a state-lead program
25 where you have sites that are orphaned or volunteered or

1 the property owner wants the states to actually clean it up
2 and there's volunteer work doing work with consultants and
3 there's owner/operator. We have Holbrook, Tucson and
4 Winslow and Flagstaff along the Route 66 area and we've
5 been really focusing on trying to get these old gas
6 stations cleaned up as quickly as possible.

7 So it's been some good publicity the EPA got on
8 board and now they publish this document, even though if
9 you open the first cover it's EPA's work. EPA's done a
10 good job of compiling it and participating it. They've
11 worked with other federal agencies, the park service and
12 preservation societies, all these different agencies that
13 want to actually maintain the Route 66 as almost like a
14 park in the way they self-preserve it.

15 They've published this. Other states are actually
16 calling EPA on it. I know Missouri's pushing this,
17 Oklahoma's pushing this. Arizona's got a lot of publicity
18 from this initiative, and it's actually worked pretty
19 well. Bill Engstrom is here. Bill is our project manager
20 sitting in the office. He's our overall project manager.
21 Then we have a site specific project manager.

22 CHAIRPERSON CLEMENT: You turned what was an
23 extremely hostile, negative situation around to, you, know,
24 a national benchmark and it's remarkable and I compliment
25 the State and the management to moving this direction. I

1 mean, really, two years ago, four years ago you weren't
2 here.

3 Mr. Drosendahl.

4 MR. DROSENDAHL: Part of that goes -- the credit
5 goes to the city and joint officials, the owners and
6 operators, the volunteers and the consultants, too. It
7 basically was a big joint effort. So I just wanted to
8 mention that.

9 MR. McNEELY: The communication is helping.

10 CHAIRPERSON CLEMENT: But remarkable, really, when
11 you consider where you were about four years ago to where
12 you are now with this, so congratulations.

13 MR. McNEELY: Thank you. For the program update,
14 we're still trying to hire people. We're probably about
15 six Hydro IIIs short. It's very difficult to hire people.
16 We might try a new strategy trying to hire fresh people
17 from ASU, graduate students, and try to train them. It's
18 typical you want someone with four years experience or a
19 master's degree, but you can't pay that type of salary.

20 A lot of people we find, we think they're good and
21 they'll want about ten or fifteen thousand more than we can
22 actually pay. So it's not getting any easier to find
23 people.

24 Talking about the new members, we do have
25 Cynthia's position available and a lot of our positions are

1 expired on the Policy Commission and we really haven't had
2 a whole lot of interest really, not too many -- I've had
3 Gail mention one person, and I've had one other person
4 mention they might be interested. So if anyone's
5 interested, there is an on-line application for the
6 Governor's office. You have to send us a resume. We
7 haven't got any at the Governor's office at all yet. I
8 think they're probably pretty busy. You have to put a
9 packet together. We don't have a whole lot of interest
10 right now. I'm not sure how to advertise we have vacancies
11 or if anyone's interested in trying to join the Commission.

12 CHAIRPERSON CLEMENT: Well, let's be clear about
13 what vacancies we actually have and what changes in the
14 Commission you've already talked about that might result in
15 a vacancy so people will know what you're looking for.

16 MR. McNEELY: I didn't bring the list, but I think
17 the terms have expired for the small owner, the medium
18 owner, the large owner, the technical person, the City, and
19 I think Cynthia Campbell, she's going to have to resign and
20 I haven't talked to Mike O'Hara. He doesn't seem to attend
21 very often.

22 CHAIRPERSON CLEMENT: I did have an opportunity to
23 have some correspondence with Mike. He said he's very
24 interested in participating and he did not intend to
25 resign.

1 MR. McNEELY: So if there's no interest, you know,
2 right now we're all serving. I think we serve until our
3 time -- until we get replaced, even if we're expired or we
4 could -- if there's no interest, we can just reassign to
5 people there if they're interested still, but it would be
6 nice to actually have interest in the Commission, but it
7 doesn't seem like there's a whole lot of interest in
8 serving besides the people on here currently.

9 MR. GILL: You mean the ones that have expired
10 have to also reapply; is that what you're saying?

11 MR. McNEELY: I think we have to reappoint them.
12 We actually don't have to -- I think you can keep serving
13 as expired, but I think it would be better if you were
14 reappointed.

15 MS. HUDDLESTON: They serve until the Governor
16 does appoint someone, but if you're still interested you
17 probably need to --

18 MR. McNEELY: Reapply.

19 MS. HUDDLESTON: Yeah, let that be known.

20 CHAIRPERSON CLEMENT: So basically -- and maybe we
21 can talk individually, but those of us that are on the
22 Commission whose terms have expired, we need to reapply or
23 at least renounce that we're still interested in
24 continuing, and then those folks who want to change
25 potentially what slots they have in the Commission I think

1 they also -- looking directly at you, Karen, they also, I

2 think, need to apply.

3 The only communication I've had is from a legal
4 representative that was interested in participating. Is
5 the legal person on the team? I don't have any personal
6 preference. We've got some very good, high quality people
7 on the Commission now including, frankly, everybody who's
8 present, in my opinion, and I would certainly encourage any
9 of you who are interested, you know, to please ask to be
10 reappointed or move into whatever slot you think is more
11 appropriate for your representation; but I would really
12 encourage those folks who are here today because it's been
13 a real asset on the Commission.

14 Should we get a newsletter or a notice out on the
15 bulletin board that you're interested in certain slots? Is
16 there something that we can do through the trade groups
17 perhaps or -- I just don't think the word is out in a big
18 enough way for people that might be interested to know.

19 MR. McNEELY: I think we have like what, nine
20 hundred or a thousand e-mail addresses. Send them out
21 saying, "Hey, anyone interested." We could do that by
22 e-mail and we could put them on the web . We could try
23 that.

24 CHAIRPERSON CLEMENT: Let Phil know, though, if
25 you want to maintain your role on the board. So does that

1 work for people? Because for me from my perspective not
2 knowing if we're gonna have a quorum and having members
3 that have consistently not participated is not a happy
4 thing, and we really need people that care enough to show
5 up and to actually do work and, you know, whatever
6 political persuasion they represent is not my issue, it's
7 the Governor's issue, but participation is really key.

8 Okay, thank you very much.

9 MR. McNEELY: You're welcome. That's all I have
10 for program update.

11 MR. GILL: Just one more thing. Could you let us
12 know if we need to reapply with a resume and all that
13 again?

14 MR. McNEELY: I'll find out.

15 MR. GILL: Because I think I had to do that. It's
16 been a while.

17 MR. McNEELY: Yeah, I think I remember having
18 packets for everybody, resumes and stuff, but I'll check
19 into that again.

20 CHAIRPERSON CLEMENT: And then another point
21 before we leave this issue that I'd want to make is I'm
22 more than happy to allow anyone who is seeking the
23 opportunity of greater responsibility to take over the
24 chair. I'm kind of ready for that. So if anybody is
25 interested in that, please speak up because we could hold

1 an election next time if there was an interest in that

2 position, okay? Thank you.

3 Is that it?

4 MR. McNEELY: Yeah.

5 CHAIRPERSON CLEMENT: Then next is the Update on
6 the Corrective Actions, Mr. Joe Drosendahl.

7 MR. DROSENDAHL: Yes. In your packet you have the
8 current count for the Corrective Action Program with the
9 number of open and closed LUST sites, and currently we've
10 closed 82 percent of all reported LUSTs and, basically, we
11 have 39 documents that are in-house that require a review.

12 And the information on the Municipal Tank Closure
13 Program. We've gotten a few more applications lately so
14 maybe by next month the number of USTs removed will go up,
15 and we're still working on the Route 66 initiative, as we
16 talked about earlier.

17 Also in your packet are two long-awaited
18 documents. One is the Remediation Matrix that Hal and the
19 Technical Subcommittee has been working on; and, Hal, I
20 sent you this electronically yesterday. I don't know if
21 you got it or not.

22 MR. GILL: Yes, I did. We didn't get this one.

23 You didn't send this one?

24 MR. DROSENDAHL: No. And the other document that
25 Hal was referring to is EPA Region 9 information on Class V

1 injection wells. This is basically information that I
2 pieced together. This is not ADEQ guidance or
3 information. This is purely from the Region 9 EPA web
4 site.

5 I did talk with the Region 9 contact people and
6 they do consider the injection of air part of the Class V
7 injection well. So I'm just passing this on for people's
8 information.

9 CHAIRPERSON CLEMENT: In addition to this being
10 distributed to the Policy Commission, is this going to be
11 available to your staff, too, so they know when they get
12 input from the regulated community?

13 MR. DROSENDAHL: Yes, we could probably put this
14 up on your web site, too, maybe in the bulletin area; but,
15 once again, this is just EPA information that already
16 exists, and there's a contact name and number at Region 9
17 if anybody has any questions.

18 CHAIRPERSON CLEMENT: This seems so confusing,
19 these various interactions that you all and others have had
20 with EPA. Do you believe -- you know, I know you did it to
21 the best of your ability. Is this firm?

22 MR. DROSENDAHL: Um, I'm pretty sure. It seems
23 like other regions actually go even further where you
24 actually have to get a permit approved before you can even
25 install it.

1 Region 9 is not like that. Region 9 is just if
2 you install one, just notify them. Other regions also seem
3 to imply that the injection of air is a part of the Class V
4 Injection Well Program. That's what I found out.

5 MR. McNEELY: Part of the problem is in the
6 definition of "fluid" they include gas. I never considered
7 air as gas when I was doing these air sparging wells, but
8 it really is technically gas so. . .

9 CHAIRPERSON CLEMENT: One of the things is RCRA
10 solid waste regulations are the definition of contained
11 gases, basically, and what I've seen happened in the past
12 is ambient air that you're circulating is not considered a
13 gas; but if there was attainment of a vapor or attainment
14 of a gas and you used that, that was considered a gas and
15 there may be some distinction here; but obviously this is
16 the best work the program has. We should follow this.

17 MR. DROSENDAHL: When I talked with the EPA
18 representatives, I specifically mentioned air-sparging
19 wells and they said, "Yeah, air is a gas. Gas is a fluid
20 so it applies."

21 CHAIRPERSON CLEMENT: So, basically, for people in
22 the program that are using air-sparging wells, if they
23 haven't provided notification regarding those wells, they
24 should probably do that then.

25 MR. DROSENDAHL: Right.

1 CHAIRPERSON CLEMENT: Yes, Ms. Foster.

2 MS. FOSTER: Madam Chairwoman, on some of the
3 attachments you have here it sounds like in Section 144.3
4 Definitions under "Fluid" gas is definitely involved
5 there.

6 The question I have is what constitutes an
7 underground source of drinking water? If I have an aquifer
8 that is highly polluted, it does not supply water to a
9 public water system and it does not have sufficient
10 quantity of water to either supply current supplies --
11 under the definition, at what point can I get out of
12 applying for this injection well series?

13 If I'm in an aquifer that is polluted, that will
14 never be used for a public water system, do I still fall
15 under this definition of underground source of drinking
16 water?

17 MS. HUDDLESTON: Well, under the statute every
18 aquifer is designated drinking water unless reclassified.

19 To my knowledge, none have been reclassified yet.

20 MR. DROSENDAHL: Well, here it gives some
21 exemptions such as it contains fewer than 10,000 milligrams
22 per liter for tds. So it seems like EPA's putting more of
23 a control on it.

24 MS. HUDDLESTON: That I couldn't tell you.

25 MR. McNEELY: Theresa, I think you have to talk to

1 an EPA person. They run this program. Our interpretation
2 of what they do may not be how they interpret it.

3 MS. FOSTER: And will ADEQ SAF fund pay for any of
4 the documentation that's required?

5 MR. McNEELY: Sure, but if you look at it, you
6 know, you just send a form and it's very quick. They don't
7 even respond to you unless they think there's a danger to
8 the aquifer. You just send it in. You never hear from
9 them again.

10 MS. FOSTER: What do they mean by RCRA number? Is
11 that the --

12 CHAIRPERSON CLEMENT: It's a specific number
13 assigned to a facility at a --

14 MS. FOSTER: Is RCRA ID a LUST number?

15 CHAIRPERSON CLEMENT: No, it's not a LUST number.
16 It's an EPA, I think, number and you would wouldn't need
17 that unless you had to have it for your facility. So you
18 wouldn't -- at least in my advice you wouldn't go out and
19 get a RCRA number to report a UIC well because then you're
20 on the whole gambit of RCRA stuff.

21 Well, that's very interesting. That's a good use
22 of regulatory time. What else can you do, huh?

23 Mr. Drosendahl, you're still on.

24 MR. DROSENDAHL: Unless there's any other
25 questions, I'll just continue on to my next bullet point.

1 CHAIRPERSON CLEMENT: Okay.

2 MR. DROSENDAHL: Basically, the Tier II Risk
3 Assessment, we have gotten a new version of it. We're
4 going to be putting on the web; but if anybody wants a copy
5 of it before it's up on the web, please just e-mail me and
6 we can definitely get you a copy. We still are planning to
7 do some further refinements on the software in the future,
8 but there will be a new version available for people if
9 they want to use our Tier II software, which they're not
10 required to.

11 CHAIRPERSON CLEMENT: In the new version,
12 Mr. Drosendahl, are the previous problems corrected or are
13 we still carrying through all the problems that were in the
14 previous version?

15 MR. DROSENDAHL: I think as many as could be
16 changed and fixed was. The problem with it using an old
17 version of Excel, I think, that could not be fixed. We're
18 hoping we can maybe change that in future revisions but
19 that -- for the current revision that wasn't possible.

20 MR. GILL: How about the "How To Tier II"
21 document?

22 MR. DROSENDAHL: Basically, we decided that we're
23 not gonna go forward with the "How To Tier II" document.
24 Basically, if anybody has any questions, there is the
25 operation manual for the software or if you have any other

1 specific questions, definitely just e-mail me and we'll get
2 right to you and we'll help you with that.

3 MR. GILL: There was a couple places in the manual
4 that refer specifically to the Tier II document for some
5 documentation.

6 MR. DROSENDAHL: Right. In the future revisions
7 we'll probably be revising the owner's manual, too, to
8 eliminate that. We can put something up on the web when we
9 put it -- you know, that there is not going to be any way
10 to Tier II so people don't go looking for it.

11 MR. McNEELY: Can I give a little bit of rationale
12 why Joe was saying that?

13 There's risk assessment guidance all over, the EPA
14 ASTM guidance, EPA guidance. We really don't have the
15 staff to recreate a new risk assessment document. Risk
16 assessments are pretty much the same across the country.
17 This model is just having a form to plug in, but still the
18 principles of risk assessment are the same. We can't seem
19 to get to writing this thing.

20 It's readily available -- there's documents all
21 over that are available. So we have two different
22 options: If you have problems using it, you can call us,
23 we can help you; or, secondly, you don't have to do it.
24 You can just submit your information and we'll run the Tier
25 II model for you.

1 CHAIRPERSON CLEMENT: And the person that folks
2 should call directly would be Mr. Drosendahl if there's
3 problems?

4 MR. DROSENDAHL: Yes.

5 CHAIRPERSON CLEMENT: You're taking those calls?

6 MR. DROSENDAHL: Or I would suggest e-mailing me
7 the problem.

8 CHAIRPERSON CLEMENT: Okay. And you'll respond to
9 that and perhaps if there's, like, a number of problems of
10 the same type you can alert the Commission and particularly
11 the subcommittee so that they'll save you time hopefully in
12 the future?

13 MR. DROSENDAHL: That I will.

14 CHAIRPERSON CLEMENT: And then when do you
15 anticipate a revision to the latest version?

16 MR. DROSENDAHL: That is unknown. We would have
17 to go through the contracting process and -- I'll inform
18 the Policy Commission when -- on further developments on
19 that.

20 CHAIRPERSON CLEMENT: I'm gonna ask a very blunt
21 question. Are you trying to -- a lot of effort and time
22 and money has been put into this Tier II software and a lot
23 of angst on the regulated community side.

24 Is your ultimate goal to get out of this thing or
25 is your ultimate goal to make it really user friendly,

1 accurate and available? Do you have an ultimate goal
2 there?

3 MR. McNEELY: We have no problem using it. It
4 works pretty well for us. It seems like on the outside
5 there's issues. Our ultimate goal initially was to make it
6 very friendly. I don't know if we'll ever get there. We
7 don't have the resources to keep redoing this software.
8 You can use any software you want. We thought this would
9 be easier, but apparently it doesn't seem to be easier for
10 people so we need the right -- we have other rules imminent
11 that need to get done. It seems like we're spinning our
12 wheels on the risk assessment guidance issue when there's
13 other things out there you can use.

14 CHAIRPERSON CLEMENT: So to paraphrase that and
15 summarize it, just to be clear, ADEQ intends to continue to
16 use it internally. You're not having a lot of problems
17 with it. You're not going to put a lot of resources,
18 though, towards making it more user friendly and putting
19 together a large guidance document?

20 MR. McNEELY: I'll paraphrase that a little bit.
21 We think it is -- the new one that we put on the web site,
22 which should be coming any time now, hopefully will fix
23 some of the problems people were having.

24 So it should be more user friendly, and if there
25 are specific issues, maybe we can have frequently asked

1 questions to answer that rather than doing a whole guidance
2 document. Maybe just the ten percent of things we need to
3 answer so maybe it will be more efficient doing it that
4 way, "These are the problems people have," so it could be
5 more user friendly maybe more efficiently.

6 CHAIRPERSON CLEMENT: And then do you have a
7 list -- and, again, I'm not familiar with this so I'm
8 having questions that may have already been answered, but
9 do you have a list of other software that is acceptable to
10 ADEQ in terms of this risk assessment process or does that
11 even come up?

12 MR. DROSENDAHL: I know that the EPA has a Tier II
13 toolbox, I think. So, you know, definitely the EPA one
14 seeing that they're basically kind of our boss, that may be
15 applicable. There may be other software packages out
16 there. I personally don't know, you know, how good they
17 are.

18 CHAIRPERSON CLEMENT: But if you got -- for
19 example, if you've got an EPA Tier II analysis using their
20 software, that would be something the agency would be
21 normally looking at. It wouldn't be something new or
22 dramatic. You'd be comfortable with that?

23 MR. DROSENDAHL: Right. We would have to see if
24 it complied with all, you know, Arizona statutes and rules;
25 but, you know, we'd accept that software.

1 CHAIRPERSON CLEMENT: Any other issues?

2 Mr. Gill.

3 MR. GILL: Madam Chairwoman, I'd suggest we have a
4 subcommittee meeting to discuss the issues that the rule
5 since its inception -- not the rule, the risk assessment
6 tool since its inception has caused because we've run into
7 lots of problems with it and its use by ADEQ and the
8 regulated public, and now that it appears there's going to
9 be some more questions -- and I don't know how much we can
10 discuss it.

11 I guess it's on the agenda so we can get into it.
12 We've had problems getting paid for using another type of
13 model, primarily because the type of uses that the ADEQ are
14 using this particular model for are really, really simple
15 sites for the most part. There's one and two well.
16 There's very little contamination. The people on the SAF
17 side are saying, "Well, it's only taking ADEQ two hours to
18 do this. That's all we're going to pay you for."

19 Well, in the real world where you aren't being
20 paid to gather all the files and get all the information
21 you can out of it, pick the correct date and put it into
22 the model, you're not doing that in two hours.

23 They're saying, "\$3500 for this risk screen is
24 astronomical. There's no way we can pay you that. It
25 should take you two hours to do this," and that doesn't

1 happen. So these are the kind of problems we're running
2 into. So we need to sit down and clarify some issues with
3 how the model's used, what exactly is being done.

4 One problem is there's nowhere in the rule or in
5 the language we used for a risk screen, and that's what
6 we're doing, unless it shows that it is dirty and we need
7 to go forward. So that's creating problems. I think we
8 need to have a meeting to -- we're having a real hard time
9 using something other than this model in the SAF.

10 They just won't accept it because they think the
11 ADEQ's model is so easy and quick that anything else you
12 use is going to be way, way too costly.

13 CHAIRPERSON CLEMENT: Well, that's really
14 significant because I think what I've heard over these many
15 months is all the problems with the Tier II software and,
16 yes, there's other options and there's certainly a lot of
17 different guidance regarding risk assessments; but if the
18 agency is having a difficulty accepting some of that stuff,
19 whether technically or for payment, you know, that's an
20 issue that we need to clarify, I agree with you.

21 When is the next Technical Subcommittee scheduled
22 for, do you know?

23 MR. GILL: The second Wednesday --

24 CHAIRPERSON CLEMENT: In October?

25 MR. GILL: -- in October, whatever that date is,

1 two weeks from today.

2 CHAIRPERSON CLEMENT: Would you be available and
3 would ADEQ be available if we wanted to set that as a
4 potential item for that meeting?

5 MR. GILL: Let me see what date it is.

6 MS. HUDDLESTON: It's the 11th.

7 MR. McNEELY: It's a soil hearing, but it's at
8 1:30. Yours is at 9:00 o'clock.

9 CHAIRPERSON CLEMENT: So will you be prepared --
10 Mr. Drosendahl, would you be prepared in that period of
11 time to have a meeting in that nature since you're ready to
12 release the next version anyway?

13 MR. DROSENDAHL: I mean, if it's going to be
14 discussed at the Technical Subcommittee, we can definitely
15 take down all the issues and discuss what we can, you
16 know. With a lot of issues we may not be able to give, you
17 know, an answer right at the moment.

18 CHAIRPERSON CLEMENT: Okay.

19 MR. DROSENDAHL: But, you know, we can definitely
20 hear what the problems are.

21 CHAIRPERSON CLEMENT: When do you anticipate
22 releasing the next version, the timing for that?

23 MR. DROSENDAHL: Basically, it's available now.

24 CHAIRPERSON CLEMENT: So when will you get it on
25 the Net?

1 MR. DROSENDAHL: Hopefully by next week.

2 CHAIRPERSON CLEMENT: So people that are here
3 today can get that directly through Mr. Drosendahl if they
4 need it before it's released on the web, and the rest of
5 the regulated community will have notice and be able to get
6 it on the web site sometime next week. So that will give
7 people enough time -- what I'm trying to do is make sure
8 people have had enough time to look at this if they want to
9 before we talk about it at a subcommittee meeting.

10 Anything else, Mr. Gill, on that?

11 MR. GILL: That's fine, thank you.

12 CHAIRPERSON CLEMENT: Is that all that you had,
13 Mr. Drosendahl?

14 MR. DROSENDAHL: I guess it is.

15 CHAIRPERSON CLEMENT: Thank you.

16 Then we go to the SAF Monthly Update with backup
17 by Mr. McNeely.

18 MR. McNEELY: In your packet you have the bar
19 graphs June, July, August. You can see in July we
20 processed 116 applications and received 56. So we actually
21 cut down the backlog of 60.

22 In August we had a good month, 154 applications
23 processed, 71 received. So it was like 83 more than
24 received; and this month we're doing about the same, 100
25 and something. So we're in a positive territory of doing

1 more.

2 If you look at the bottom numbers, most of those
3 282 are the Conoco Phillips applications that we had the
4 settlement on. So we are really focusing on trying to get
5 these applications out within 90 days, the ones that are
6 non-Conoco Phillips. Conoco Phillips agreed they would not
7 appeal if we went over 90 days with all of their
8 applications. So we're making progress.

9 If you look at the next page, the staging, it's
10 sort of skewed for over 90 days, also, but a lot of those
11 are the Conoco Phillips ones.

12 If you go to the third page, appeals, in July we
13 had 16 informal appeal requests, and in July we actually
14 had 57 determinations made informal appeal. In August we
15 had 26 informal appeal requests and in August we had 48
16 determinations made. So we're working out the backlog of
17 appeals; and then how many formal appeals we had, we had
18 nine in August and then we processed 54 appeals. A lot of
19 those were the Conoco.

20 We're not really getting buried too much with
21 appeals even though we are short staffed. We are
22 implementing the new rules and we're processing these
23 claims.

24 CHAIRPERSON CLEMENT: It looks like you have an
25 awful lot of formal appeals right now. Is that --

1 MR. McNEELY: A lot of those were the Conoco

2 Phillips appeals.

3 CHAIRPERSON CLEMENT: So that's 53?

4 MR. McNEELY: We had like 60 or 70 other ones that

5 were a part of the settlement but in a different category

6 that we had to handle. So that's what we're getting out.

7 CHAIRPERSON CLEMENT: This gives us a nice

8 three-month snapshot, but it doesn't give us cumulative.

9 You have a time frame for the appeal process that you have

10 to meet, the ADEQ and the applicants have to meet?

11 MR. McNEELY: Right.

12 CHAIRPERSON CLEMENT: So could there be cumulative

13 outstanding past certain dates that are required?

14 MR. McNEELY: That's difficult to do because a lot

15 of these we have settlement negotiations and then both

16 parties agree, especially when it goes to formal. It's up

17 to the OAH judge and they just delay for settlement

18 reasons. So it's really hard even with the Conoco

19 Phillips. Our process, once it's over 90, I don't really

20 separate it on my database saying, "Well, they've agreed

21 it's okay, they won't appeal it." So I don't have a

22 database to track it that way.

23 CHAIRPERSON CLEMENT: These are the best numbers

24 you can get?

25 MR. McNEELY: We're really focusing on not letting

1 things sit. We are pushing hard to get things processed
2 and out the door.

3 CHAIRPERSON CLEMENT: And then I notice this last
4 paragraph in your handout. Is this a message that we
5 should --

6 MR. McNEELY: It's always there. Maybe we should
7 take that off.

8 CHAIRPERSON CLEMENT: Thank you.

9 MS. MARTINCIC: I read it every time.

10 MR. McNEELY: It's the same language.

11 CHAIRPERSON CLEMENT: Okay. Anything else
12 regarding the SAF that you want to share with us at this
13 point?

14 MR. McNEELY: I think the SAF rules have been
15 implemented pretty well. I haven't heard really any
16 complaints. The process hasn't been too bad for us
17 internally. Externally it is, too. I haven't heard.

18 CHAIRPERSON CLEMENT: I haven't gotten an enormous
19 amount of complaints. I don't know about anybody else. It
20 must be working.

21 I notice that Mr. Johnson's not here, but this was
22 a carryover from our last meeting and the issue, Mr. Kern,
23 was that we are eligible for travel reimbursement as Policy
24 Commission members, and the previous forms we had were so
25 burdened I never bothered to fill them out and there was

1 going to be some new process that was going to make it
2 easier for people to get reimbursed for their mileage.

3 MR. KERN: Yes, Ron Kern and, basically, I'm not
4 sure what we're going to provide you is going to be any
5 easier because I've checked with our CFO and he basically
6 informed us that for the purpose of the various boards and
7 commissions that are kind of working with the agency that
8 they want the commissions to use the employee travel form,
9 and it's a little bit onerous, but it has been used
10 previously by previous Policy Commission members, and I've
11 got copies of it.

12 It's not available on the web or anything like
13 that so I have copies for anybody who wants to use it and
14 we will work with you to the best of our abilities to help
15 you fill it out so you get appropriate compensation for
16 mileage, et cetera.

17 CHAIRPERSON CLEMENT: And I really do encourage
18 people as gas prices go up -- we're all volunteers and
19 we're putting a lot of time in, particularly those who
20 don't represent a large organization who don't have their
21 expenses and time paid, especially Mr. Findley.

22 I really encourage people to get their time
23 reimbursed so could you make sure we each get a copy of
24 that claim form.

25 MR. KERN: I will give it to anybody who wants

1 whenever they want it. If you all want it now, I'll be
2 more than happy to pass it out now.

3 MR. McNEELY: You don't have to fill this out
4 every time you travel. You can fill it up for the whole
5 year and make sure you have your dates and your mileage.

6 MS. HUDDLESTON: I think they will prefer if they
7 do it around March or April so they're not crunched at the
8 end of the year.

9 CHAIRPERSON CLEMENT: Good luck, but everybody
10 else has to do it so I guess we can figure it out if we
11 want to. So thank you very much, Mr. Kern, for that.

12 The annual report, everybody now including the
13 Chairperson has their copy.

14 Financial Subcommittee Update, Ms. Martincic.

15 MS. MARTINCIC: We didn't have a meeting. We've
16 been waiting to figure out what process is going to be for
17 the Federal Energy Act Provision. You didn't report on
18 that for the rules affecting the UST Act. I don't know if
19 you have an update on that, Phil, or not.

20 MR. McNEELY: We've made a request of the
21 Governor's office if she wants to pursue legislation trying
22 to implement this energy act. We won't hear back until
23 October time frame if she's even interested in pursuing
24 that.

25 MS. MARTINCIC: Well, doesn't the agency risk

1 losing federal dollars if we don't implement it? So I'm
2 sort of surprised it's not being looked at.

3 MR. McNEELY: Well, it is being looked at, but
4 they haven't made a decision. The problem with losing
5 dollars is it's going to cost a lot of dollars to implement
6 it. EPA is really not providing us more dollars, and to
7 implement this is going to cost a lot more dollars. So it
8 may be a wash if you implement it or not implement it in
9 terms of losing dollars -- or have the Legislature give us
10 a whole lot of dollars to implement a program which is
11 being mandated by the federal government which is being
12 unfunded.

13 MS. MARTINCIC: Do you know when you're going to
14 hear from the Governor in terms of which direction Arizona
15 wants to take on this?

16 MR. McNEELY: Sometime this fall.

17 MS. MARTINCIC: I would just ask that you inform
18 the Commission, and if there needs to be legislation that
19 the Financial Subcommittee could assist in the process.

20 CHAIRPERSON CLEMENT: Okay.

21 MS. MARTINCIC: That's the end of my report.

22 CHAIRPERSON CLEMENT: Next is the Technical
23 Subcommittee update with Mr. Gill.

24 MR. GILL: Thank you. We haven't had a meeting in
25 the last several months waiting for ADEQ's response, which

1 we received. As Joe mentioned, I received it yesterday. I
2 haven't had a chance to look at it. I was doing my civic
3 duty on jury duty yesterday afternoon. I haven't had a
4 chance to even look at it, but what I will do is send it
5 out to all the consultants that are on my list, as well as
6 can I get a copy of -- an e-mail of the Class V and I'll
7 send that out to everybody and then I'll wait for any --
8 I'll review it and I'll wait for any comments I get back
9 from the consultants and then we may or may not have it on
10 the October meeting agenda; but as was mentioned, I'll put
11 together an agenda for the October 11th meeting and it will
12 deal with just discussing the risk assessment issues, and
13 then if I happen to get comments back I'll go ahead and put
14 the ADEQ response on the agenda as well.

15 That's all.

16 CHAIRPERSON CLEMENT: Okay. So we do have a
17 Technical Subcommittee scheduled for October 11th at
18 9:00 a.m., three agenda items to date. One will be the
19 Risk Assessment Tier II. Also, the U.S.C. I think will be
20 -- I mean, even if it's just informing people and then this
21 list of Technical Subcommittee issues, which obviously
22 probably can't be covered in one meeting.

23 Mr. Smith is not here so the next agenda item was
24 his issue, and what we've done historically was schedule a
25 monthly meeting but then dependent on whether we had enough

1 interest and enough important topics to talk about we would
2 either hold that meeting or we would hold a meeting every
3 other month; and lately after the SAF rules were finalized
4 and put in place we really have not had a lot of
5 significant agenda items that required us to have a monthly
6 meeting so Mr. Smith's opinion was that why don't we just
7 in the future schedule all our meetings on an every other
8 month basis, and I'm certainly open to that discussion
9 item.

10 I think I didn't put down here that we could have
11 a vote on it and I apologize to everybody if we decide to
12 change that.

13 MS. HUDDLESTON: It's up here.

14 CHAIRPERSON CLEMENT: Okay, okay. So is there
15 discussion about that or how do people -- I don't mind
16 having a meeting scheduled every month and we make the
17 decision in the previous meeting whether we're gonna have
18 it. I don't personally mind either way. I don't have an
19 opinion.

20 MR. GILL: I have no problem with having them
21 every other month. I just always thought it would create
22 an issue if we eliminate the every month because then we
23 would not necessarily have the room if we need to hold that
24 meeting.

25 MS. MARTINCIC: I would kind of echo that

1 concern. It seems like it's easy enough to cancel a
2 meeting if there's not enough on the agenda to make it
3 worth everyone's while. It seems like it's better to have
4 it scheduled and then cancel rather than like if this new
5 no further action rule becomes a major technical endeavor,
6 which Phil kind of alluded that it may be kind of a big
7 issue for folks, I would think it makes more sense to
8 continue with the current process of having a monthly
9 meeting and then if we need to we can easily cancel.

10 MR. GILL: You also don't have a lot of control
11 over when the decisions are finalized in the subcommittees
12 or something like that and if it happens you finally -- if
13 we're having monthly subcommittee meetings, Financial or
14 Technical Subcommittee meetings, and the decision comes out
15 and it's ready to be brought to the Policy Commission and
16 it's a month and a half away and it's something to be done
17 right away, you would have to call a special session
18 because you didn't have one already, you know, set up with
19 a room and everything.

20 CHAIRPERSON CLEMENT: It sounds to me from the
21 people that are here that have an opinion that we're better
22 off keeping our current agenda on a monthly basis or our
23 current schedule on a monthly basis and then making a
24 decision if we want to hold a monthly meeting or making it
25 the following month.

1 Do you have an opinion on that, Mr. McNeely?

2 MR. McNEELY: I think having a meeting every
3 month -- because Hal is going to have his technical
4 subcommittee so every month you really can't report out.
5 There's not much to say on a monthly basis but, on the
6 other hand, you're in session or when rules are trying to
7 get finalized, then I think you do need to have a couple
8 pretty quickly in a row to vote on things; but currently I
9 don't see October 24th as being necessary because I don't
10 see anything happening between now and October 24th. So I
11 can go either way personally.

12 CHAIRPERSON CLEMENT: I think we all can -- I
13 mean, from a logistic standpoint and now having worked with
14 this Commission and its members for a while it is much
15 easier for me to have a meeting on the agenda and then
16 cancel it than try to pull a group of very busy
17 professionals together for a date in less than a month's
18 time just to get a quorum.

19 So, you know, from an administrative standpoint
20 it's easier for me to have a scheduled meeting every month
21 and then cancel versus the other way. What?

22 MS. GAYLORD: Oh, no, no, no, sorry.

23 CHAIRPERSON CLEMENT: Let's just keep it the way
24 it is then because nobody's here to advocate anything
25 else. That's okay with everybody? Okay.

1 Action items. I put that on a different piece of
2 paper. Okay. ADEQ is going to recirculate the contact
3 list again for the Policy Commission and make sure we are
4 all actually represented both in terms of our e-mail, phone
5 numbers and addresses because we continue to have
6 communication problems.

7 Second, ADEQ is going to e-mail the UST Policy
8 Commission regarding the decision about the informal
9 meeting rule participation by the Policy Commission,
10 whether there is a quorum concern or not. The ADEQ is
11 going to send out an e-mail notice regarding the open
12 Policy Commission positions and asking for people who are
13 interested to let you know.

14 The Policy Commission members whose terms have
15 expired or who would like to reapply for a different
16 position on the Commission are going to get in touch with
17 Phil directly and fill out the required application.

18 Regarding the Tier II software, those folks who
19 are interested in getting that software package, the
20 revisions are available now through Mr. Drosendahl. If
21 there are any questions, Mr. Drosendahl asks that you send
22 them to him via e-mail and he will capture questions, he
23 will respond, and then he will also try to categorize if
24 there's certain issues that are issues for a lot of people
25 to make sure that that becomes -- the answers to those

1 issues will become part of the response on the web site.

2 We're also going to have a Tier II discussion in
3 detail at the next Technical Subcommittee meeting, which is
4 October 11th.

5 Ron distributed -- Mr. Kern distributed travel
6 reimbursement. For the USPC members, for those folks who
7 come a long distance or are not reimbursed through other
8 means please see Mr. Kern how to fill this out and in what
9 frequency he would like to receive them. Probably not at
10 the very end of the annual period right before the fiscal
11 year, probably not.

12 That's what I have. Anything else from anybody?

13 Okay. Next on the agenda items are schedule for
14 the next Commission meeting. I think we've had some
15 discussion about whether the next scheduled meeting was one
16 that would even be necessary, the October meeting. Is
17 there any discussion regarding that?

18 Yes, Mr. Findley.

19 MR. FINDLEY: It says October 24th, which is a
20 Tuesday. Maybe we should not have the meeting on the 24th
21 instead of not having it in October.

22 CHAIRPERSON CLEMENT: That's a good point.

23 MR. GILL: There were some changes, if I remember
24 right.

25 MR. FINDLEY: Oh, because of the rooms.

1 CHAIRPERSON CLEMENT: But we asked them to put all
2 the dates back so it was the Wednesday with the 9:00 a.m.
3 start time. So maybe -- Mr. Kern, could you do us a favor
4 and resend out the scheduled meeting dates and the room
5 numbers and then we can verify that.

6 MR. KERN: Okay. I will also check on the web
7 site, too, because everybody should be on the web site and
8 it should be current.

9 CHAIRPERSON CLEMENT: But besides the date
10 confusion, is there an interest or a need to have an
11 October meeting at this time from anybody's perspective?

12 Mr. Gill.

13 MR. GILL: I just see a problem the next meeting
14 date would be near Thanksgiving.

15 CHAIRPERSON CLEMENT: I think we had it the second
16 week in November, if I recall. We pushed it away from
17 Thanksgiving so we should be okay. I don't see any need
18 for it so I want to make sure everybody's okay.

19 So we will not have an October policy -- UST
20 Policy Commission meeting. We will have a November UST
21 Policy Commission meeting. I don't have that piece of
22 paper with me.

23 MR. FINDLEY: It would be the 15th if it was up a
24 week to avoid the normal 22nd, which is the fourth
25 Wednesday.

1 CHAIRPERSON CLEMENT: So the next meeting date to
2 the best of our knowledge at this time is November 15th,
3 9:00 a.m.

4 MR. FINDLEY: If it was moved.

5 CHAIRPERSON CLEMENT: But we're going to resend
6 that. If anybody needs to reschedule that, get back with
7 me right away. I can see Mr. McNeely having a little --

8 MR. McNEELY: No, I'm trying to check November's
9 calendar, but I don't know how to use my Blackberry very
10 well.

11 CHAIRPERSON CLEMENT: Then we have a general call
12 to the public regarding any comments -- public comments at
13 this time. Yes, Mr. Vannais.

14 MR. VANNAIS: Leon Vannais. I've got two
15 comments. The first has to do with the agenda itself and
16 these Policy Commission meetings.

17 Placing the agenda items for the next meeting
18 prior to the public comment, the Policy Commission doesn't
19 have an opportunity to listen to the public to see whether
20 or not something should be considered on the next agenda
21 meeting. So if they say there's no meeting, then it's kind
22 of backwards.

23 So I guess at this point my second issue, which is
24 my real issue, which I hope to be discussed I guess during
25 the next Policy Commission when they discuss agenda items

1 for the following meeting, so we're talking two months away
2 now, there has been some discussion about interim
3 determinations issued by SAF and the ripening of these
4 interim determinations from an informal determination to a
5 final determination pursuant to the law that talks about
6 time frames and it's now in the new rule, also, and we've
7 had some informal meetings.

8 I think there was SAF informal training about two
9 months ago where the idea was expressed that SAF will be
10 issuing interim determinations, and unless the applicant
11 filed an appeal of that interim determination that that
12 interim determination would ripen to be a final
13 determination.

14 In other words, the ADEQ would not be issuing --
15 automatically issuing two letters, an interim and a final.
16 That document would ripen to a final determination which
17 you had 30 days to appeal. If an applicant did appeal an
18 interim determination, that as a result of that appeal the
19 ADEQ was committed to issuing a written final
20 determination.

21 The problem with this is that the Department has
22 fifteen days after the cessation of the informal appeal
23 process to issue a final determination, and if that
24 determination issued in the interim becomes the final and
25 you have 30 days to formally appeal that.

1 Through nobody's fault those time frames can be
2 exceeded completely unintentional. There can be a lot of
3 work on the Department's end before they issue a written
4 final determination, but the applicants are put in the
5 position of either holding out in the hopes that final
6 determination will actually come or on that 45th day filing
7 a formal appeal of that determination on the interim
8 determination with full expectation that the Department
9 should be issuing a final, but you lose all your rights
10 since there's no resubmittal these days.

11 It gets very important and we're being put in the
12 position of filing a formal appeal pending -- a premature
13 formal appeal, basically, which is costing a lot of money,
14 a lot of concern.

15 If we had a policy statement that reflected what I
16 understand ADEQ's intent is, which is to always issue a
17 final written determination following a written appeal, a
18 policy statement, we'd have more reliance in waiting for
19 that determination to be issued.

20 So I hope -- I would like the Policy Commission to
21 bring this up on some agenda somehow in whatever manner
22 that can be brought up to see whether it's a concern or
23 they can recommend a policy statement be implemented that
24 reflects what I understand is their express intention or
25 just tell me to go away, and that's all I have to say.

1 CHAIRPERSON CLEMENT: Thank you, Mr. Vannais.
2 Those -- both those points seem to be relevant and we can't
3 talk about them because of the nature of the open meeting
4 law, but we definitely will consider that for the next
5 agenda. Thank you.

6 MR. VANNAIS: Thank you.

7 CHAIRPERSON CLEMENT: Any other public comments?

8 I want to express my appreciation for your
9 attendance and your participation, the general public
10 that's here, and if there's nothing else we will adjourn
11 our meetings. Thank you very much everybody.

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13 (Whereupon the proceedings were concluded at
14 10:09 a.m.)

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CERTIFICATE

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 49 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 20th day of October, 2006.

Certified Court Reporter