

ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

MEETING OF THE
UNDERGROUND STORAGE TANK POLICY COMMISSION

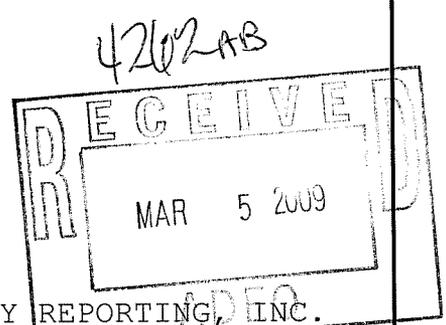
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1 COMMITTEE MEMBERS PRESENT:

2 Ms. Gail Clement, CHAIRPERSON

3 Mr. Jon Findley

4 Ms. Karen Gaylord

5 Ms. Tamara Huddleston

6 Mr. Bill Bunch

7 Ms. Cathy Chaberski

8 Ms. Tricia Johnsen

9 Mr. Mike Fulton

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P R O C E E D I N G S

09:03:55

CHAIRPERSON CLEMENT: Welcome to the January
28th, 2009, UST Policy Commission Meeting.

09:03:55

09:03:59

We'll start with a roll call. Tamara
Huddleston, if you will start.

09:04:04

09:04:07

MS. HUDDLESTON: Tamara Huddleston.

09:04:09

MR. FULTON: Mike Fulton, DEQ.

09:04:12

MS. JOHNSEN: Tricia Johnsen.

09:04:13

MS. CHABERSKI: Cathy Chaberski.

CHAIRPERSON CLEMENT: Gail Clement.

09:04:15

MR. BUNCH: Bill Bunch.

09:04:17

MS. GAYLORD: Karen Gaylord.

MR. FINDLEY: Jon Findley.

09:04:19

CHAIRPERSON CLEMENT: Well, welcome, everyone.
This is our first meeting of the new year. We haven't
had a meeting since October 2008, so we have a little
bit of work to do today.

09:04:21

09:04:23

09:04:27

09:04:31

But before we do that, I'm just going to
briefly move the agenda around because we've asked Mr.
Phil McNeely to join us this morning. And the
Commission wanted to express their very sincere and deep
appreciation for Mr. McNeely's efforts over the years,
both to support the commission to improve the UST
Program and all the other work you've done with the

09:04:33

09:04:35

09:04:39

09:04:44

09:04:47

09:04:52

09:04:55

1 agency. 09:04:59

2 And, so, Phil, if you could come up for a 09:05:00

3 minute. And like to present this plaque in honor -- in 09:05:01

4 recognition of your dedication and contribution to 09:05:10

5 Arizona Underground Storage Tank Policy Commission. So 09:05:13

6 thank you very, very much, Phil. 09:05:16

7 MR. MCNEELY: Thank you. 09:05:19

8 (Clapping.) 09:05:20

9 MR. BUNCH: What about that song you were 09:05:24

10 rehearsing? 09:05:27

11 CHAIRPERSON CLEMENT: I don't know that one. 09:05:28

12 MR. MCNEELY: Well, okay. Well, I gave a 09:05:29

13 speech last time I was here. 09:05:31

14 CHAIRPERSON CLEMENT: I know, but you are stuck 09:05:33

15 again. 09:05:36

16 MR. MCNEELY: You know, I was on this 09:05:36

17 commission almost, really, 10 years. I was off for 09:05:38

18 four, but back on. I think it's done a lot of good. 09:05:41

19 But you guys really supported us on the 09:05:52

20 program, and we need the support, because the 09:05:54

21 legislature didn't necessarily support us all along. 09:05:56

22 So, I always appreciated it. And it was always a pretty 09:05:59

23 good relationship, too, I think. And Joe, and Ron, and 09:06:02

24 Tara is not here, but you know they run the program. So 09:06:05

25 things are going to be -- even with Mike here, you will 09:06:09

1 Tara is not here, but you know they run the program. So 09:06:05
2 things are going to be -- even with Mike here, you will 09:06:09
3 have a great thing. 09:06:11

4 CHAIRPERSON CLEMENT: A special month, right? 09:06:12

5 MR. MCNEELY: Things are going to be seen, and 09:06:15
6 except for the budget policy. 09:06:19

7 CHAIRPERSON CLEMENT: Could you say something 09:06:21
8 about your new position and how people may get in touch 09:06:22
9 with you if they have any issues or recommendations for 09:06:25
10 the city of Phoenix? 09:06:29

11 MR. MCNEELY: Issues with the UST, or -- 09:06:30

12 CHAIRPERSON CLEMENT: No, just the world in 09:06:33
13 general. 09:06:34

14 MR. MCNEELY: Well, yeah. I'm the manager of 09:06:35
15 the Office of Environmental Programs, which sort of 09:06:38
16 oversees all the policy for the city of Phoenix. Even 09:06:41
17 though the city is a big organization, so every 09:06:44
18 Department has -- like the water Department has their 09:06:47
19 own environmental staff, and aviation has a huge 09:06:49
20 environmental staff. But our role is just to make sure 09:06:53
21 everyone complies. So, with any NOV's, or any issues, or 09:06:58
22 any permit problems, or anything like that 09:07:00
23 environmentally, it comes to our office, and we make 09:07:05
24 sure it gets the attention it needs. 09:07:07

25 So we do other stuff, alternative energy.

1 We're trying to -- we got a greenhouse or carbon 09:07:11
2 footprint, and we have inventory of that recently. All 09:07:13
3 the air pollution, dust control stuff, so we do a lot of 09:07:18
4 different things as the overall city our office runs. 09:07:22
5 So, I don't know why anyone would ever want to 09:07:25
6 complain about the city or have any issues about the 09:07:27
7 city, but you can get ahold of me. And my phone number 09:07:30
8 is on the Web. I can say it, but nobody really has it. 09:07:33
9 But it's 602-256-5654. And it's Carrie Reagan's old 09:07:36
10 phone number, so I took it over. 09:07:45
11 So, thank you for the plaque and thank you for 09:07:47
12 the letter and gift card. Appreciate that. 09:07:48
13 CHAIRPERSON CLEMENT: You're welcome. 09:07:50
14 MR. MCNEELY: Really nice, and nice letter. 09:07:52
15 CHAIRPERSON CLEMENT: Thank you. We're very 09:07:55
16 appreciative of all the efforts you made. 09:07:56
17 MR. MCNEELY: Thank you very much. 09:07:59
18 (Clapping.) 09:08:00
19 CHAIRPERSON CLEMENT: Just for the audience, we 09:08:03
20 as a Commission took up a collection before the holidays 09:08:05
21 and sent a letter of recognition and thank you to Phil, 09:08:08
22 associated in addition a gift certificate for R.E.I., 09:08:11
23 because Mr. McNeely uses the R.E.I. quite frequently. 09:08:16
24 So, I think that worked out very well. And I thank the 09:08:23
25 Commissioners very much for your generosity. 09:08:28

1 And thank you. Now, you don't have to stick 09:08:31
2 around unless you want to. 09:08:35

3 MR. MCNEELY: I'm going to get the box. 09:08:37

4 CHAIRPERSON CLEMENT: Thank you. Thanks a lot 09:08:39
5 for everything. 09:08:41

6 Okay. That was a good note to start 2009, and 09:08:42
7 hopefully, the rest of the meeting goes just as well. 09:08:45

8 We'll start with -- go back to the original 09:08:48
9 agenda. Did everybody receive the October 22nd, 2008, 09:08:51
10 meeting minutes? Have you had a chance to review them? 09:08:55

11 MR. BUNCH: Thoroughly. 09:09:01

12 CHAIRPERSON CLEMENT: Any comments or questions 09:09:04
13 regarding the minutes? 09:09:05

14 Is there a motion to approve? 09:09:07

15 MR. BUNCH: I move we approve. 09:09:11

16 CHAIRPERSON CLEMENT: Is there a second? 09:09:12

17 MR. FINDLEY: Second. 09:09:15

18 CHAIRPERSON CLEMENT: All in favor? 09:09:16

19 (Chorus of ayes.)

20 CHAIRPERSON CLEMENT: Anyone opposed? No. The 09:09:20
21 October 22, 2008 UST Policy Commission Meeting Minutes 09:09:21
22 have been approved. 09:09:25

23 And then we just finished number three, so 09:09:27
24 we'll go on to number four, which are the ADEQ updates. 09:09:30
25 And we welcome Mike Fulton who is now the Office of 09:09:34

1 Underground Storage Tank Program Director, and we're 09:09:38
2 happy to have you here. 09:09:40

3 MR. FULTON: Thanks. Two months on, it's been 09:09:42
4 interesting research. Catching up to what the -- what 09:09:45
5 has transpired in the last 20 years isn't easy, but Phil 09:09:50
6 has left the program in a good position. 09:09:55

7 I think today I'll be talking about some of the 09:09:59
8 challenges that face us in the future about budget, 09:10:03
9 that's going to be kind of the focus of my discussion 09:10:06
10 here today. 09:10:09

11 Let's just follow on with what the usual 09:10:11
12 reports have been. Talked about the statistic sheets, 09:10:16
13 they should be in your packet. Comparing November to 09:10:21
14 December, early trends, you can see up front October, 09:10:27
15 November, December, the weekly underground storage tank 09:10:31
16 statistics we're not seeing a whole lot of variance 09:10:35
17 between. 09:10:40

18 CHAIRPERSON CLEMENT: Hold up one second. Does 09:10:42
19 everybody have it? 09:10:44

20 MS. CHABERSKI: Yeah, I got it. 09:10:45

21 CHAIRPERSON CLEMENT: Thank you. 09:10:47

22 MR. FULTON: We're not seeing much variation 09:10:48
23 from November to December in terms of pluses reported. 09:10:50
24 Stat numbers there they're. Really kind of holding 09:10:54
25 steady. Corrective action documents, pending review 09:10:57

1 unlisted. MTCP, still got 98 claims. I don't know what 09:11:00
2 we had last month. I don't know if we received any new 09:11:08
3 applications since last month. 09:11:12

4 CHAIRPERSON CLEMENT: And MTCP is the Municipal 09:11:15
5 Tank Closure Program? 09:11:19

6 MR. FULTON: Correct, I'm sorry. 09:11:19

7 Second page, State Assurance Funds. 09:11:21

8 CHAIRPERSON CLEMENT: Before you move on to 09:11:23
9 that, does anyone have any questions regarding the LUST 09:11:25
10 statistics? I had a couple questions. Does anyone 09:11:29
11 else? 09:11:31

12 MR. BUNCH: I have a question. Mike, we had 09:11:32
13 received a concern from the general public about LUST 09:11:36
14 closures. If it would be worth noting and bring it up 09:11:39
15 today, because we are facing the sunset of the 09:11:45
16 reimbursement. Folks have submitted for closure, puts a 09:11:48
17 consultant in an awkward spot in that they believe they 09:11:52
18 were done, they're not getting confirmation from the 09:11:55
19 State. The concern would be that at some point, as we 09:11:58
20 get nearer the deadline, staff may come back and say: 09:12:02
21 No, we're not going to close it. And then it doesn't 09:12:06
22 get enough time really to get anything meaningful 09:12:09
23 accomplished. So... 09:12:13

24 MR. FULTON: Right. 09:12:14

25 MR. BUNCH: So maybe a way to put focus on 09:12:15

1 those reviews. 09:12:18

2 MR. FULTON: I might have talked to the same 09:12:19

3 person that brought that up to you. We've been putting 09:12:21

4 a big effort on that so that's really been done 09:12:24

5 successfully. With the -- with the deadline coming up 09:12:30

6 June 30, '010 for making new claims, it's important for 09:12:34

7 those who are seeking to get closure and get 09:12:39

8 reimbursement from the program to get timely feedback 09:12:42

9 from the corrective action group so they can adjust the 09:12:45

10 plans and do any more work they might need to do that's 09:12:49

11 eligible for payment. 09:12:53

12 So we recognize that. And as that deadline 09:12:54

13 gets closer and closer, our timeliness needs to be as 09:12:56

14 good as it can to get people the direction they need to 09:13:00

15 achieve closure before the claims window closes. So, 09:13:03

16 recognize that. And we're going to -- there might be 09:13:09

17 some particular cases that are more complicated than 09:13:12

18 others, but that throughput is very important right now. 09:13:15

19 MR. BUNCH: Thank you. 09:13:19

20 CHAIRPERSON CLEMENT: And the numbers don't 09:13:20

21 seem to be very excessive. I mean, you got six closure 09:13:21

22 requests based on your statistics since January 13th, 09:13:25

23 and it doesn't have a time period from when -- how long 09:13:29

24 those closures have been waiting for a response. But 09:13:32

25 the numbers don't seem very excessive in terms of the 09:13:35

1 documents that you have in-house as of that date. 09:13:38

2 Do you have -- in your opinion, do you have the 09:13:42

3 appropriate and -- and number of staff available of your 09:13:43

4 technical group? 09:13:49

5 MR. FULTON: I believe we do. I know that 09:13:50

6 the, obviously, the number of closure requests is varied 09:13:52

7 among those that are requesting closure, but I think we 09:13:57

8 got enough folks on board, it's just a matter of getting 09:14:00

9 reviews moved along, and if there's any kind of 09:14:04

10 discontinuity between case managers, making sure that 09:14:10

11 doesn't disrupt the review flow. 09:14:14

12 CHAIRPERSON CLEMENT: And I know that Mr. 09:14:16

13 McNeely had a policy that if, you know, things were 09:14:18

14 problematic, he had an open-door policy, open-phone 09:14:22

15 policy. Are you going to continue that direction? 09:14:26

16 MR. FULTON: Uh-huh, I am. 09:14:28

17 CHAIRPERSON CLEMENT: Okay. 09:14:30

18 MR. FULTON: It's not Phil's old number, 09:14:31

19 though. 09:14:33

20 CHAIRPERSON CLEMENT: Give it to us then. 09:14:33

21 MR. FULTON: I have a card. It's 771-4209. 09:14:35

22 CHAIRPERSON CLEMENT: And I know in the past we 09:14:40

23 certainly have not had any significant issues regarding 09:14:43

24 technical review times, but just because this has come 09:14:46

25 up, you know, we want to make sure you're aware of it 09:14:51

1 also. 09:14:54

2 MR. FULTON: I think everybody gets kind of 09:14:54

3 anxious as the window gets narrowed. It's important for 09:14:56

4 us to give people enough time to make adjustments. 09:15:00

5 CHAIRPERSON CLEMENT: Ms. Gaylord. 09:15:03

6 MS. GAYLORD: I was just wondering, the 09:15:05

7 concerns that were expressed, were they regarding sites 09:15:06

8 that have ground water contamination? 09:15:09

9 CHAIRPERSON CLEMENT: I'm not clear about that. 09:15:12

10 MR. BUNCH: I'm getting an indication that that 09:15:13

11 may be the case. 09:15:16

12 MS. GAYLORD: Well, just for what it's worth, I 09:15:17

13 think that we wouldn't want to urge the Department to 09:15:20

14 truncate its review to the extent it doesn't satisfy any 09:15:24

15 concerns about ground water contamination that might 09:15:29

16 remain after closure. Clearly, I haven't heard any 09:15:33

17 concern about simple closures. I, you know, haven't 09:15:36

18 heard any concerns with the Department in dealing with 09:15:41

19 those very efficiently. And I would be concerned if 09:15:44

20 we -- if we had someone who is complaining about a slow 09:15:48

21 review time for a ground water contamination site. I 09:15:53

22 would be concerned about weighing in before we knew the 09:15:57

23 facts about what kind of residual might remain. 09:16:01

24 MR. FULTON: I'm sorry, if I might? 09:16:06

25 CHAIRPERSON CLEMENT: Please. 09:16:09

1 MR. FULTON: A need for more interaction 09:16:10
2 between review steps. If there is a question, need more 09:16:12
3 information, that's the kind of feedback that needs to 09:16:15
4 be more timely I think is what I'm hearing, not 09:16:17
5 necessarily that we're being pressured to close sites 09:16:21
6 that aren't closed yet. That's not what I've heard at 09:16:25
7 all. It's about feedback. So the working party can 09:16:28
8 continue working based on comments from the corrective 09:16:32
9 action group, if they need to. 09:16:35

10 CHAIRPERSON CLEMENT: And we certainly -- I 09:16:38
11 don't think the Commission in any way wants to put 09:16:40
12 pressure on the Department to accelerate a review 09:16:43
13 process that's necessary or additional technical details 09:16:46
14 necessary to be supplied to complete your analysis. 09:16:50
15 That's certainly not my intent. So, thank you. 09:16:53

16 MR. FULTON: Okay. SAF Stats are on the next 09:16:58
17 two pages. These are -- these are claims coming in. 44 09:17:08
18 received this month, that would be December. We're now 09:17:14
19 almost through January, we don't have those numbers yet. 09:17:18
20 And the determination numbers are shown there. 09:17:22

21 If you look at the trends, they are -- I guess, 09:17:25
22 they're entirely dependent on what claims are made. So, 09:17:29
23 it's really about an up or down in trends. We're not 09:17:34
24 seeing a tremendous increase or decrease in the number 09:17:41
25 of claims made. 09:17:44

1 Second page shows what we talked about before, 09:17:46
2 which I know has been a big emphasis for a long time on 09:17:52
3 the State Assurance Fund is timeliness of those reviews. 09:17:56
4 Everything we've got there has been under 90 days, 09:18:01
5 nothing over 90 on any of those categories or 09:18:05
6 administrative technical review of payment process. 09:18:08

7 That chugs along. It's a well-oiled machine. 09:18:14
8 It doesn't mean there's not appeals or interm decisions. 09:18:19
9 It's just a routine thing. But it's -- we're not seeing 09:18:23
10 a huge number of appeal increases either, they're kind 09:18:27
11 of holding steady. 09:18:31

12 If you think any of these reports need to be 09:18:35
13 changed or supplemented to answer questions you might 09:18:42
14 have regularly, these -- I've only started looking at 09:18:45
15 these in great detail preparing for this meeting. You 09:18:49
16 guys have seen those for a couple of years, or several 09:18:52
17 years. If you think they should be adjusted to help us 09:18:55
18 track any of the things we talked about here today, we 09:18:59
19 can certainly do that and will be happy to do that for 09:19:02
20 you. And that might be an evolving discussion over 09:19:05
21 today as we talk about today's budget stuff. 09:19:09

22 CHAIRPERSON CLEMENT: The one question that I 09:19:12
23 received was: What's posted on the Web are the meeting 09:19:13
24 minutes and the meetings that we've had, but the 09:19:17
25 associated supplemental documents are not posted on the 09:19:22

1 Web. And I think it would be very helpful since they 09:19:25
2 are public information, if it's not a huge 09:19:28
3 administrative or, you know, technology burden, that if 09:19:31
4 we could post the information -- all the information 09:19:36
5 that's sent out to the Policy Commission on the Web 09:19:39
6 after the meeting. 09:19:42

7 MR. FULTON: Okay. We can do that. 09:19:43

8 CHAIRPERSON CLEMENT: Okay. That's good. 09:19:45

9 MR. FULTON: Unfortunately, that -- I'm not -- 09:19:48
10 we can certainly do that. It just doesn't give many 09:19:50
11 people that weren't at the meeting the context for the 09:19:55
12 handout. It is also because the handouts aren't always 09:19:57
13 typed up, verbally descriptive of what we're trying to 09:20:02
14 explain. That could cause somebody to look at it and 09:20:06
15 wonder what this handout was supposed to achieve. But, 09:20:09
16 that's okay, we can. 09:20:12

17 CHAIRPERSON CLEMENT: And they're free to call 09:20:13
18 you, or myself, or anyone else on the Commission for 09:20:15
19 further clarity if they need it. We also have detailed 09:20:18
20 meeting minutes since we do have a court reporter. 09:20:22

21 Mr. Kern? 09:20:25

22 MR. KERN: Ron Kern, DEQ. Just to clarify a 09:20:26
23 question on that, I think we can post this additional 09:20:30
24 information on the Web. Should we do it at such time as 09:20:33
25 the meeting minutes are approved and put it up lock, 09:20:36

1 stock, and barrel? Or phase it in? Or what would you 09:20:41
2 prefer? 09:20:44

3 CHAIRPERSON CLEMENT: I think that since, I 09:20:45
4 guess, since these materials are not approved by the -- 09:20:47
5 by the Commission, only our meeting minutes are actually 09:20:51
6 approved by the Commission, the materials that come with 09:20:53
7 the agenda I think could go up after the meeting. The 09:20:57
8 meeting minutes themselves though should be posted after 09:21:01
9 approval. And I know there was a little glitch as 09:21:05
10 people, you know, find their way in their new jobs and 09:21:08
11 such. It's not a problem, but I think that works. 09:21:12

12 And then I think -- and the main reason I say 09:21:15
13 that is because we're not meeting every month. If we 09:21:17
14 were meeting on a monthly basis, then I would be fine 09:21:20
15 with waiting to post everything until we approved the 09:21:22
16 previous month's meeting minutes. But as this program 09:21:25
17 tapers down, we're going to have an even greater period 09:21:29
18 of time between meeting. It's been since October. It's 09:21:33
19 a three-month span. So I think we should be more timely 09:21:36
20 than that. Any other comments on that? 09:21:41

21 Thanks. 09:21:44

22 MR. FULTON: Back up. One more thing I didn't 09:21:45
23 mention, which is probably not unknown to anybody, 09:21:48
24 really, is our Director has resigned, Steve Owens 09:21:52
25 resigned, and Patrick Cunningham is the acting director 09:21:57

1 until further notice with a new director's name. So I 09:22:01
2 didn't -- I neglected to mention that one. 09:22:07

3 The next item here was the State Assurance Fund 09:22:12
4 status. And that's represented on a sheet, all the 09:22:16
5 assurance fund status FY 2009. We're talking with Gail 09:22:24
6 about what it is you might be interested in and trying 09:22:30
7 to summarize as best I could the current status of the 09:22:32
8 fund, and also be able to show some of the impacts from 09:22:35
9 budget transfers that might be coming to the fund. So, 09:22:42
10 if you will bear with me, I'll try to walk down through 09:22:44
11 that list. 09:22:48

12 I think it's safe to say there's not a single 09:22:50
13 DEQ or state program that hasn't been or will be broadly 09:22:53
14 affected by some of these budget cuts. I don't think 09:22:59
15 the State Assurance Fund is any different. I want to 09:23:02
16 talk about what the number looks like for the year and 09:23:05
17 what it is we might be doing, that we're planning to do 09:23:08
18 to prepare for some contingency if cuts get even deeper 09:23:11
19 still. 09:23:18

20 The '09 budget. And this, again, when you look 09:23:18
21 at the sheet, all this stuff is contingent on budget 09:23:23
22 bills that may be introduced or not introduced. The '09 09:23:27
23 budget bill you've heard is going to come through this 09:23:31
24 week sometime. I don't know if it's going to be a 09:23:34
25 comprehensive bill or bits and pieces. And fiscal year 09:23:38

1 '10 beyond that soon thereafter. But '09 has been 09:23:42
2 pretty rough, and every indication we have is fiscal 09:23:44
3 year 2010 will be just as, if not a tougher year in 09:23:47
4 terms of budget. 09:23:51

5 All that said, we were able to still, with the 09:23:54
6 budget we have, I think, and I'll go through this 09:24:00
7 line-by-line, still manage the program as we have been 09:24:05
8 programatically. We're still labeling claims. We're 09:24:08
9 still working on state lead sites. We still emphasize 09:24:12
10 holding our spending low on the admin side, the 09:24:15
11 personnel. Continuing Phil's trajectory here of not 09:24:19
12 really filling positions that become vacant unless they 09:24:24
13 are absolutely essential. So we don't have a heavy 09:24:28
14 staff load on the program and we're placing them. 09:24:31

15 So, we're making all those resources available 09:24:35
16 for claims and state lead work. So, however, the 09:24:38
17 budgets, the cuts that are being proposed are cutting 09:24:43
18 our margins for error. The fund used to have great -- 09:24:48
19 not a great, but a larger balance than I think it's 09:24:52
20 going to have at the end of the year, which puts us in a 09:24:55
21 tougher position to be flexible to any kinds of changes 09:24:59
22 we might see in the program throughout the year. So, 09:25:02
23 that will be evidenced as we talk about the list here. 09:25:04

24 So if you take a look at the fund status list, 09:25:08
25 attached to which are the sources of the information I'm 09:25:11

1 presenting to you. And there are -- there are two 09:25:17
2 sources, and I don't want you to look at those in great 09:25:20
3 detail yet, but I'll show you these. These are both 09:25:23
4 publically available documents on the JLBC Website, 09:25:27
5 which is fiscal year 2010 JLBC booklet, and which I 09:25:31
6 pulled the number out, and 09/10 Appropriation Chairmen 09:25:39
7 Budget Options. 09:25:42

8 Just to be real -- be simpler about this, let 09:25:43
9 me talk about beginning balance, these are directed from 09:25:47
10 the JLBC baseline book, and they match up very nicely 09:25:50
11 with our state -- with our own budget numbers. 09:25:55

12 Beginning balance of about \$30 million. And 09:25:59
13 that was beginning of this fiscal year to which, for the 09:26:02
14 Maricopa/non-Maricopa accounts, projected revenue is 09:26:07
15 about \$30 million. So, for a total of about \$60 million 09:26:14
16 is available for the year. 09:26:19

17 CHAIRPERSON CLEMENT: And, excuse me, one 09:26:21
18 second. Your fiscal year starts July 1st, and that's 09:26:22
19 why this breakdown is from July 2st? 09:26:25

20 MR. FULTON: Right. So, that's when we begin. 09:26:27
21 Right now we're about seven months in, okay? 09:26:29

22 So, our projected expenditures, which we're 09:26:33
23 still on track with, we're about 30 -- 36 of them. 09:26:38
24 That's -- this is everything in the program, that's 09:26:42
25 personnel, that's claims, state lead work. So, we're 09:26:46

1 still on track pretty much for that. 09:26:50

2 As a -- as a note here, I believe we are -- 09:26:53
3 we're now into July, and our estimate on State Assurance 09:27:00
4 Fund claims was about \$14 million for the whole year. 09:27:08
5 Of course, we don't know until the end of the year what 09:27:12
6 claims come in. And to date, being actually just 09:27:16
7 yesterday, we hit about \$8.7 million. So, we're not out 09:27:20
8 of whack with the -- with the amount of time elapsed in 09:27:24
9 the year versus our payments. So, we keep a very close 09:27:28
10 look at that so we can see if there's any -- any big 09:27:31
11 changes. 09:27:35

12 We try to have an idea of what large claims may 09:27:35
13 be out there, which ones are on the books. But that 09:27:38
14 number and the rate of payment out of claims can really 09:27:42
15 vary depending on if one big, large claim comes through, 09:27:46
16 it can change the numbers quite a bit. So, we're still 09:27:50
17 on track for expected expenditures. 09:27:54

18 Now, here's where it gets interesting is the 09:27:58
19 transfers out. Transfers out seen proposed, and you 09:28:00
20 will see in the JLBC baseline book are about 09:28:05
21 \$23-and-a-half million. Now, there was a \$12 million 09:28:09
22 transfer talking actually implemented I think in 09:28:16
23 January. And there is a -- and these are program-wide. 09:28:20
24 This is UST. SAF is a component of the whole number, 09:28:25
25 but we've seen about \$27.7 million of transfers proposed 09:28:30

1 for the entire fund, of which about 23-and-a-half will 09:28:36
2 probably go toward -- come from the State Assurance 09:28:40
3 Fund. 09:28:44

4 So, if we look at the math here and the summary 09:28:46
5 form, the projected revenues of \$60- -- almost \$61 09:28:50
6 million, I'll call these uses, those are between claims 09:28:55
7 and transfers. Out of about \$60 million, \$60.2, that 09:28:59
8 leaves just about \$600,000 in there. 09:29:04

9 Now, add on top of that the -- if you will 09:29:08
10 refer to the -- the Chairmen's Proposals. These are 09:29:13
11 still just proposals, because we're -- the 09:29:19
12 appropriations chairmen budget options refer to the 09:29:22
13 appropriations chair, the whole House, and Senate have 09:29:27
14 made proposal for budget adjustments. And within that, 09:29:29
15 they actually target what they call a -- an excess 09:29:34
16 balance transfer from State Assurance Fund of about 09:29:40
17 \$500,000. 09:29:45

18 And another addition down below, if you see -- 09:29:48
19 I'm sorry, source three notes there, there's another 09:29:52
20 million nine they call a fund reduction and transfer. 09:29:57
21 We're not quite sure how that might be applied to the 09:30:00
22 program or to the Department as a whole for a 09:30:05
23 non-appropriated fund like the State Assurance Fund is. 09:30:09
24 So, I put that down there as a note. I'm not calling it 09:30:13
25 a transfer yet, but it's out there, and we're not quite 09:30:16

1 covered in rules and statutes in a fairly detailed 09:32:00
2 manner. But setting up the machinery to do that if we 09:32:03
3 had to do it, we're doing a little bit of homework on 09:32:06
4 that. But it's not something we would ever want to do, 09:32:10
5 but it's just one of the things that could happen. 09:32:14

6 So, that's kind of my summary of the '09. 09:32:16

7 CHAIRPERSON CLEMENT: Very detailed and very 09:32:22
8 thorough. 09:32:24

9 Questions from Mr. Bunch? 09:32:24

10 MR. BUNCH: Yeah, I got a question. Mike, can 09:32:27
11 you explain how the projections were made for 09:32:29
12 expenditures for the year. 09:32:31

13 MR. FULTON: Well, to -- to the extent that 09:32:34
14 history is a great teacher, we look at claims from the 09:32:39
15 past. We might make some adjustments if we know there's 09:32:43
16 some big claims out there that are coming in, but we 09:32:47
17 kind of look at past budget, and personnel lines have 09:32:50
18 been pretty flat, meaning the same from year to year. 09:32:54
19 We're assuming a similar staffing level from year to 09:32:57
20 year, so it's based on -- 09:33:00

21 MR. BUNCH: Based on history? 09:33:01

22 MR. FULTON: -- prior years, yes. 09:33:03

23 MR. BUNCH: One of the suggestions I had made 09:33:04
24 before, and it seemed to be practical, we in the 09:33:06
25 industry have to approve for all our liabilities, so we 09:33:11

1 always go through the process of quantifying the 09:33:14
2 liabilities that are out there. And knowing how 09:33:17
3 tempting it is for the state legislature to use these 09:33:21
4 funds, I'm wondering if it makes sense for the 09:33:24
5 Department, to help protect the fund, to try to do some 09:33:28
6 sort of quantitative analysis of what's out there. 09:33:31
7 Because we only have 18 months left of claims, and my 09:33:34
8 suspicion will be as you get closer to the deadline, you 09:33:37
9 will see claims ramp up. 09:33:41

10 MR. FULTON: Yeah. 09:33:43

11 MR. BUNCH: If human nature is consistent. 09:33:44

12 MR. FULTON: Sure. People wait until the last 09:33:46
13 minute. 09:33:49

14 MR. BUNCH: Absolutely. I'm wondering if 09:33:49
15 there's a practical, you know, what historically we 09:33:51
16 spent this, but \$20, \$30, or \$40 million more than we 09:33:56
17 typically might see, whatever that number might be. 09:34:00
18 Something to think about. 09:34:04

19 MR. FULTON: There are JLBC meetings scheduled 09:34:05
20 for next month, for which we are preparing just that, 09:34:08
21 that you speak of, what is the status of the fund and 09:34:11
22 trying to assess outstanding liabilities, of which one 09:34:15
23 -- which I haven't talked about yet, but I was going to 09:34:19
24 carry on as a footnote to this table was, what's the 09:34:23
25 remaining balance termination of the fund? It's 09:34:27

1 supposed to roll in to become the regulated substance 09:34:30
2 fund and fund the orphan sites beyond the stationary 09:34:35
3 fund determination. You can see that balance isn't 09:34:39
4 building up at all, and it may not next year. And with 09:34:42
5 the termination coming sooner than later, there may not 09:34:46
6 be the \$60 million that was anticipated to carry on for 09:34:51
7 other obligations of the program beyond the State 09:34:56
8 Assurance Fund.

9 So, that's kind of what we're looking at here, 09:35:00
10 and that's kind of going to be another snapshot looking 09:35:03
11 forward. And, you know, that also rolls into our 09:35:06
12 September 1, '09 section log of 1306. Bill 1306 09:35:10
13 required us to put together a report to describe -- I 09:35:15
14 have it here, "To prepare and submit a report to the 09:35:23
15 Governor, President of the Senate, Speaker of the House 09:35:27
16 regarding the anticipated financial liability of UST 09:35:30
17 Assurance Account based on application for payment 09:35:33
18 submitted to the Department by June 30, '09." 09:35:36

19 We started thinking about what that report is 09:35:39
20 going to look like and that's some of the omens you 09:35:41
21 brought up are going to be in it. Along with, of 09:35:45
22 course, we haven't set up the -- really settled on what 09:35:48
23 that format or content would be, but it would seem 09:35:52
24 logical to talk about beyond that even. What kinds of 09:35:56
25 -- do we have any idea what orphan sites might still be 09:36:00

1 out there that we're anticipating to be remedied out of 09:36:04
2 the regulated substance fund. 09:36:08

3 MR. BUNCH: Is the M&A cost supposed to be 09:36:11
4 funded through that same source? 09:36:15

5 MR. FULTON: Yes. And, you know, that's -- 09:36:18
6 I'm probably at risk for thinking out loud here. If we 09:36:19
7 see applications to come at M&A Fund, and I'm not seeing 09:36:24
8 any funding available to manage these sites, I'm not 09:36:29
9 sure what we're going to do with that. I don't want to 09:36:32
10 bring on obligations that we don't have resources. We 09:36:35
11 can't follow through. If we can't follow through, we 09:36:40
12 need to talk about it. That's the longer term. Right 09:36:44
13 now we're looking at '09; but, certainly kind of 09:36:46
14 cascading effects from budget transfers, from fund 09:36:50
15 transfers that we need to look at real closely and game 09:36:53
16 that a little bit better. 09:36:58

17 MR. BUNCH: And then if you do go to a ranking 09:37:00
18 strategy, I guess that would mean that certain 09:37:05
19 corrective action would be sort of pushed beyond normal 09:37:07
20 time frames. You know how that might impact eligibility 09:37:13
21 for State Assurance Fund reimbursement, if you had a 09:37:17
22 claim that was referred for priority, yet at some point 09:37:20
23 we still need to do something? 09:37:24

24 MR. FULTON: I don't. 09:37:26

25 MR. BUNCH: There's two problems. 09:37:28

1 MR. FULTON: Two state lead sites. We rank 09:37:29
2 those by risk. If you look at the rules, they talk 09:37:32
3 about priority ranking for the times is heavily weighted 09:37:37
4 to the financial need of the claim. 09:37:41

5 MR. BUNCH: Oh. 09:37:44

6 MR. FULTON: Yeah. So, it might be worth 09:37:46
7 discussion further down the line, but depending on how 09:37:49
8 budgets go in '09 towards into '010, whether we want to 09:37:53
9 have a more detailed discussion about that process. It 09:37:58
10 has changed since the last time it was ranking when the 09:38:02
11 rules were put in place. Probably worth talking about. 09:38:07
12 I don't want to be gloom and doom. I want to put it on 09:38:10
13 the table. 09:38:14

14 MR. BUNCH: Sure. 09:38:15

15 MR. FULTON: These are contingencies we need to 09:38:16
16 look at as our pending balance gets smaller and smaller. 09:38:19
17 But right now, income to the fund is sufficient to carry 09:38:23
18 on our operation. But we're just not building up any 09:38:25
19 excess. 09:38:30

20 MR. BUNCH: Thank you. 09:38:31

21 CHAIRPERSON CLEMENT: Thank you very much. And 09:38:32
22 I think we'll really need, as this evolves, to stay on 09:38:34
23 top of this, because the legislation was very clear 09:38:37
24 about the ending of the tax and the ending of the 09:38:40
25 payout. And if because of other budgetary constraints, 09:38:43

1 the state legislature uses SAF money, we may be in a 09:38:47
2 position to have to lobby or have to write new 09:38:52
3 legislation to make this go for a longer period of time 09:38:56
4 if necessary. 09:38:59

5 MR. FULTON: Right. I know that is a factor 09:39:00
6 that's been mixed. When people are talking about even 09:39:02
7 the '09 budget bill, is that's a factor known about 09:39:06
8 termination of fund. There could be something in '09 or 09:39:09
9 '010 that talks about, you know, extending the fund next 09:39:16
10 year extra years. I don't know. I don't know, so... 09:39:19

11 CHAIRPERSON CLEMENT: If you would keep us 09:39:24
12 posted if anything significant evolves. And we may make 09:39:25
13 this a standing agenda item, and if there's nothing to 09:39:29
14 report, there's nothing to report. But just so we keep 09:39:33
15 it in the midst of our minds and provide the support to 09:39:35
16 the agency and the fund that's necessary, because we 09:39:39
17 have made an obligation to the regulated community and 09:39:42
18 that obligation must help the fund. 09:39:46

19 MR. FULTON: Just to recap the '09 budget, it 09:39:51
20 will come out this week, so we're watching that very 09:39:55
21 close, and '010 very soon thereafter, and for those who 09:39:58
22 are interested in the gory details, you can go to the 09:40:01
23 JLBC Website, look at all -- these excerpts were just 09:40:05
24 two pages out of hundreds that talk about programs 09:40:10
25 statewide that are being -- where transfers are going to 09:40:13

1 ensue either naturally or maybe in the future. 09:40:19

2 So not just the State Assurance Fund by any 09:40:26

3 stretch, but these are causing some big challenges in 09:40:29

4 our remediation programs for sure. 09:40:32

5 CHAIRPERSON CLEMENT: Any other questions or 09:40:35

6 comments for Mr. Fulton? 09:40:37

7 That was excellent. Thank you very much for 09:40:39

8 the thorough and thoughtful presentation. 09:40:41

9 MR. FULTON: Okay. 09:40:45

10 CHAIRPERSON CLEMENT: The next -- you're still 09:40:48

11 up. The next agenda item is discussion of recent 09:40:49

12 legislation and rules affecting the UST program. I 09:40:54

13 think we all know, maybe we don't all know. 09:40:58

14 MR. FULTON: Right. Talk about rules first. 09:41:01

15 The one rule we had in the pipeline -- not really in the 09:41:05

16 pipeline, just being conceived, was our -- the rules to 09:41:10

17 implement parts of the energy act for the operator 09:41:14

18 training rules. And so we were just a very small part 09:41:21

19 of the Department's overall rules docket and agenda for 09:41:25

20 the year. Governor Brewer came in and one of her first 09:41:28

21 acts was basically put a pause on all rules for now. 09:41:34

22 That included her -- her directive to every agency 09:41:39

23 director and acting director, just for your information. 09:41:44

24 It's been publicized in the Register and also through 09:41:47

25 press release. 09:41:51

1 I'll just point to number -- Item No. 2 is 09:41:52
2 where we were sitting pretty much with our operator 09:41:55
3 training rules. We hadn't really even entered informal 09:41:59
4 rule make -- informal stakeholder dialogues, we were 09:42:03
5 planning on it after we had drafted kind of a straw man 09:42:08
6 proposal. We're still working on that, but we've been 09:42:13
7 told to pause on all of those activities until April 09:42:16
8 30th of '09. 09:42:20

9 That was the -- those rules were not up against 09:42:21
10 a tight deadline to come into compliance with the energy 09:42:26
11 act. We have until 2012 to actually get that kind of -- 09:42:29
12 those rules in place. We wanted to get them in place 09:42:34
13 sooner than later, so operators can make adjustments and 09:42:36
14 training could be made available. We recognize that, 09:42:41
15 but we're on a bit of a pause until -- until at least 09:42:44
16 April of '09. Again, we were just a blip on the radar 09:42:48
17 for the entire agenda for the rules. 09:42:55

18 CHAIRPERSON CLEMENT: It's a pretty thorough 09:43:01
19 list of what activities must be ceased. Somebody really 09:43:03
20 knew their rule process very well. I don't think 09:43:08
21 there's any loopholes in this. 09:43:10

22 MR. FULTON: You can't just say everything, you 09:43:12
23 have to list by number. So, it's pretty much a pause. 09:43:14
24 It's not unusual for administrative changes for 09:43:18
25 everybody to kind of hold off for a bit and take a look. 09:43:22

1 I already talked about state legislation. 09:43:25
2 Obviously, we got the budget bills we need to keep an 09:43:34
3 eye on. And I already did mention the terms of our 09:43:37
4 other legislation implementations are September 1, '09. 09:43:40
5 The same statute which is going to be, I imagine, that 09:43:44
6 will make its way onto the agenda sometime. In the 09:43:48
7 future, we will give an update on how we're doing with 09:43:53
8 that. 09:43:57

9 The bigger piece of the legislative report is 09:43:57
10 everybody has read a bit about the federal stimulus 09:44:04
11 bill. It's called the -- what is it called? 09:44:10

12 The American Recovery and Reinvestment Act of 09:44:18
13 2009. As it's been introduced in the Congress and the 09:44:23
14 House, is working its way through the House, we're 09:44:28
15 keeping an eye on that, actually EPA is as well. 09:44:31
16 Currently as drafted, there's \$200 million being made 09:44:35
17 available potentially for a list of things, then come 09:44:41
18 out to states arguably. We don't know what the 09:44:46
19 conditions of that will be. We're keeping an eye on 09:44:49
20 that. We're working with EPA to understand the 09:44:53
21 condition of what money would be attached to those kinds 09:44:56
22 of funds, and also brainstorming and thinking about what 09:45:00
23 list of sites we might have that could be eligible for 09:45:05
24 the funding, even though the eligibility hasn't really 09:45:08
25 been ironed out yet. 09:45:12

1 But I'll just read a bit from some of the 09:45:13
2 information we've been given. It says, "The primary 09:45:15
3 purpose of that money is to create jobs and help the 09:45:18
4 economy getting clean-ups done is an important segment 09:45:21
5 of that, but it's job creation." He's going to create 09:45:26
6 that so it receives the emphasis. So, whatever it is we 09:45:31
7 decide or we propose the funding might be used for has 09:45:34
8 to talk about job creation, which could be interesting 09:45:38
9 how we might do that. Or, I'm not sure how we would. 09:45:41

10 There's going to be an overriding desire to 09:45:45
11 move quickly, get some money going out the door quickly. 09:45:47
12 And, of course, there's going to be some accountability 09:45:52
13 for it, which is expected. Have to report back and what 09:45:56
14 form that would be, whether we're going to get a 09:46:01
15 separate grant from what we've already received from the 09:46:03
16 federal government, or a supplement to an existing 09:46:07
17 grant. That's still up in the air. That's another 09:46:12
18 dynamic that's going on our -- with the budget impact. 09:46:14

19 Then it's one of those things we might use as, 09:46:19
20 depending on eligibility, we might think about using 09:46:21
21 some of those stimulus money that's offset for things, 09:46:25
22 for some things we had already or thought about bringing 09:46:28
23 the state those sorts of things if the eligibility 09:46:31
24 requirements are broad enough. We're really looking at 09:46:35
25 that, and that's really kind of one of the intended uses 09:46:38

1 of the money, I think. 09:46:41

2 MS. CHABERSKI: Is it just USTs? Or is it for 09:46:43

3 other remediation programs or does it specifically say 09:46:46

4 UST claim? 09:46:50

5 MR. FULTON: The \$200 million, as far as I 09:46:52

6 know, and that's part of a how many billion dollar -- 09:46:55

7 \$850,200,000,000 was for LUST clean-ups. I don't know. 09:47:05

8 I haven't dug through it to see if there's other 09:47:07

9 remedial acts or -- I do not know that. 09:47:11

10 CHAIRPERSON CLEMENT: There are other monies 09:47:14

11 for super fund, but I don't know the dollar amount. 09:47:16

12 MR. FULTON: We're working with Region Nine, 09:47:19

13 who is working mostly with their headquarters because 09:47:21

14 they're going to have to get the trigger pulled very 09:47:25

15 quickly. So, they're working, trying to help us 09:47:28

16 understand eligibility. Of course, there's still in the 09:47:32

17 House Bill, Senate Bill the way it's been done, we're 09:47:35

18 doing our homework to be ready to propose projects that 09:47:39

19 will be eligible so we can take advantage of that if it 09:47:43

20 comes down. 09:47:47

21 CHAIRPERSON CLEMENT: Any further questions? 09:47:49

22 MR. FULTON: That's all I have on that. 09:47:50

23 CHAIRPERSON CLEMENT: Thank you for the update. 09:47:53

24 I think we'll move on. And Mr. Bunch, you are 09:47:56

25 up with the Evaluation Subcommittee Update Report 09:48:01

1 discussion of January 8, 2009, evaluation meeting. 09:48:05

2 Typo. 09:48:10

3 MR. BUNCH: We had a very exciting evaluation 09:48:10
4 subcommittee meeting. We almost hit the 10 participant 09:48:13
5 mark, which is a high water mark for the committee since 09:48:17
6 I participated. 09:48:22

7 We talked about the draft stop use orders and 09:48:23
8 the draft termination of the stop use orders. And there 09:48:28
9 were really no issues around the actual documents 09:48:32
10 themselves, except for a couple clarification questions 09:48:36
11 asked about what written confirmation or written 09:48:39
12 receipt, those types of details. But the real decision 09:48:42
13 that was made, was that probably the most important work 09:48:46
14 we could do, and hopefully at some point we can provide 09:48:50
15 a recommendation to the Policy Commission about, how to 09:48:53
16 incorporate those stop use orders or those draft 09:48:56
17 documents into the ADEQ Compliance and Enforcement 09:49:00
18 Handbook. And the Department has been open enough to be 09:49:05
19 willing to listen to our recommendation. 09:49:10

20 I personally believe that's the best way to 09:49:14
21 ensure that the intent as communicated through the state 09:49:17
22 voting process is going to be met, that you know all the 09:49:21
23 different things that should happen before it rises to 09:49:24
24 the level of the stop use order of the director or 09:49:26
25 actually memorialized in the document, and that seemed 09:49:30

1 to be the best format. 09:49:33

2 We're going to meet in February, schedule an 09:49:35

3 outing, start doing some work on making a recommendation 09:49:38

4 in how to incorporate those documents into the overall 09:49:42

5 enforcement process and bring it to the Policy 09:49:47

6 Commission at some point and go from there. 09:49:49

7 CHAIRPERSON CLEMENT: Do you have a meeting set 09:49:52

8 up for your next evaluation subcommittee? 09:49:53

9 MR. BUNCH: We don't, and I'm not sure what 09:49:56

10 date it would be. And I might have an offer in 09:49:59

11 February. Somebody usually spoon feeds me that 09:50:03

12 information. 09:50:06

13 CHAIRPERSON CLEMENT: We have in the packet, we 09:50:07

14 have meetings for the year. So it is February 5th now, 09:50:08

15 and maybe if you do need to change that, this would 09:50:12

16 be -- 09:50:15

17 MR. BUNCH: Yeah, I'll -- I'll work with June. 09:50:15

18 I don't know if she's in this morning. 09:50:19

19 CHAIRPERSON CLEMENT: She's not. 09:50:21

20 MR. BUNCH: Okay. But February 5 I do have a 09:50:22

21 conflict. So, what I will do is e-mail June and see if 09:50:25

22 we can't do it the next week or some availability for a 09:50:29

23 facility, or room, or whatever. 09:50:32

24 MR. FULTON: If I might chime into that 09:50:34

25 conflict, I was at that meeting, we talked about these 09:50:37

1 orders and we're fully intending to adjust our handbooks 09:50:40
2 to include these orders. There are new orders that we 09:50:44
3 have authority to issue, but our intent, just like every 09:50:48
4 other order that the Department issues, is to move from 09:50:51
5 informal enforcement to formal in all cases. And the 09:50:55
6 exception in handbook for all of those matters is if 09:51:01
7 there -- if there is some kind of condition that argues 09:51:06
8 going right to the order, that right is reserved. But, 09:51:11
9 as a matter of normal course of business, it's starting 09:51:13
10 from the low end of the enforcement spectrum to the high 09:51:16
11 end of the order. 09:51:21

12 That's the intent here with these orders 09:51:22
13 requiring approval by the director, as all other orders 09:51:25
14 are in the Department. So, we intend to move in that 09:51:29
15 direction, just memorializing it and new revision of the 09:51:33
16 compliance enforcement handbook. 09:51:38

17 I've talked with our administrative council and 09:51:41
18 it's on the list of things to do, it's just not on the 09:51:44
19 highest list of things to do. But we're going to work 09:51:48
20 with them to get that -- there's many other revisions 09:51:51
21 that need to go into that 600-plus page document, so 09:51:54
22 it's a big one, and there's other things to adjust, 09:51:58
23 so... 09:52:01

24 CHAIRPERSON CLEMENT: How often do they adjust 09:52:01
25 that document? 09:52:04

1 MR. FULTON: I don't know that there's a 09:52:05
2 regular frequency. 09:52:07

3 CHAIRPERSON CLEMENT: Just as necessary? 09:52:08

4 MR. FULTON: Yeah, I'm trying to make the -- 09:52:09
5 just add to the list and try to encourage that to happen 09:52:12
6 sooner than later, because as a -- as this handbook is 09:52:15
7 the -- it's a policy of the Department, so it goes 09:52:19
8 through policy review process. So that's how this 09:52:21
9 pragmatic topic of stop use orders become a policy in 09:52:31
10 the Department is through handbook. We recognize that. 09:52:35
11 We will work with you and talk about whatever 09:52:38
12 you might have as a concern for implementation. 09:52:40

13 CHAIRPERSON CLEMENT: Thank you. 09:52:44

14 MR. BUNCH: I appreciate that. Thank you. 09:52:45

15 CHAIRPERSON CLEMENT: Any questions or 09:52:47
16 comments? 09:52:49

17 We do have a "to do": Mr. Bunch will get 09:52:50
18 together with June Shellberg and set up a meeting date 09:52:55
19 for the next evaluation subcommittee. 09:52:58

20 Okay. Now, anything else? 09:53:01

21 MR. BUNCH: No, that's it. 09:53:04

22 CHAIRPERSON CLEMENT: Number eight, technical 09:53:05
23 subcommittee update. This should be very quick and 09:53:07
24 easy. 09:53:10

25 MS. CHABERSKI: We have not met. We have not 09:53:11

1 received any agenda items. And we do have a meeting on 09:53:14
2 February 11th, I guess, scheduled. And if we don't -- 09:53:18
3 per the way the Commission runs or the rules, we receive 09:53:22
4 a new item, we have to first get approval from the 09:53:27
5 Commission. We have not received any new items. We 09:53:32
6 received -- I'm just kind of doing this as a summary 09:53:35
7 because we haven't talked about it before. 09:53:39

8 If we receive something we have talked about 09:53:41
9 previous, we can meet. I don't want to cancel a meeting 09:53:43
10 just yet in case with a continue meeting, but we have 09:53:47
11 nothing for this meeting. 09:53:52

12 CHAIRPERSON CLEMENT: So, at least at this 09:53:53
13 point in time, it's unlikely that there will be a 09:53:54
14 technical subcommittee meeting? 09:53:58

15 MS. CHABERSKI: Yes. 09:54:00

16 CHAIRPERSON CLEMENT: Okay. Okay, great. Any 09:54:01
17 questions or comments? 09:54:04

18 We'll move on to number nine, selection of 09:54:06
19 committee vice chairperson. When I was preparing for 09:54:09
20 the October 2008 ADEQ LUST U.S. Conference, I reread the 09:54:12
21 statute and I noticed that there is a statutory 09:54:20
22 requirement that we have a vice chair on this 09:54:25
23 Commission, which to my knowledge, we've never done. 09:54:27
24 And we've always set up our subcommittees as operational 09:54:31
25 subcommittee, but they're allowed by statute, but 09:54:36

1 they're not required. I introduced this subject the 09:54:39
2 last time and asked for a volunteer, and I do have one 09:54:42
3 volunteer that I coerced slightly, Ms. Chaberski. 09:54:45

4 If there is anyone else interested in the 09:54:52
5 position, please speak up. And if not, I would make a 09:54:55
6 motion that -- if you're still willing. 09:55:01

7 MS. CHABERSKI: Since yesterday, yeah. 09:55:04

8 CHAIRPERSON CLEMENT: That Ms. Chaberski be 09:55:07
9 voted in as our vice chairperson. And just as a backup, 09:55:11
10 really. It shouldn't increase the level of output or 09:55:15
11 commitments too much, because basically, it's just if 09:55:19
12 I'm not present, that person, if they're present, 09:55:23
13 becomes the one who runs the meeting. But I still will 09:55:27
14 have the responsibility for the annual report and, you 09:55:30
15 know, putting the agendas together and those types of 09:55:33
16 things. So, hopefully, it won't be an additional 09:55:36
17 important burden on Cathy, so... 09:55:40

18 Okay. So, I make a motion that Ms. Chaberski 09:55:42
19 becomes the UST Policy Commission vice chairperson. 09:55:47

20 MS. GAYLORD: Second. 09:55:49

21 CHAIRPERSON CLEMENT: Second from Ms. Gaylord. 09:55:50
22 All in favor? 09:55:52

23 (Chorus of ayes.)

24 CHAIRPERSON CLEMENT: Anyone opposed? No. 09:55:55

25 MR. BUNCH: Cathy says. 09:55:57

1 CHAIRPERSON CLEMENT: Ms. Cathy Chaberski is 09:55:59
2 now the vice chairman of the UST Policy Commission. 09:56:02
3 Thank you very much. 09:56:06

4 Actually, number 10 is our next agenda item, 09:56:07
5 UST Policy Commission annual report. We now have a very 09:56:11
6 smooth process in place between the Commission and DEQ. 09:56:16
7 They have been very responsive in the case. I think Mr. 09:56:19
8 Kern has taken that responsibility on previously, or 09:56:24
9 your staff. 09:56:28

10 MR. KERN: Uh-huh. 09:56:29

11 CHAIRPERSON CLEMENT: And what we like to do is 09:56:30
12 what we did last year, provide whatever you can to me, 09:56:31
13 and then I draft it from those documents. I think even 09:56:34
14 last year we wrote it in the format of the previous 09:56:37
15 annual report, which was just great. And then also, the 09:56:41
16 subcommittee chairs do have to provide me a summary of 09:56:44
17 what you accomplished in 2008. And this does take me 09:56:47
18 some time, so the sooner I get this the better. And 09:56:54
19 maybe we can establish a due date based on your 09:56:56
20 availability and time, like, within the next three 09:57:00
21 weeks. Would that be possible or do you need longer? 09:57:03

22 MS. CHABERSKI: I -- this one question maybe to 09:57:07
23 ADEQ, I guess. I didn't, being a new member, I didn't 09:57:10
24 know we would do this report, and I have short-term 09:57:14
25 memory loss for my age. So, I know that Joe, ADEQ and 09:57:17

1 subcommittee meeting, we have minutes. Is it possible 09:57:24
2 that you can pull those minutes since we've been on 09:57:27
3 board with this -- and I don't even remember the date we 09:57:30
4 started -- so we could use those summaries and get it to 09:57:33
5 you quickly instead of trying to figure it out what our 09:57:36
6 decisions were; is that a possibility? 09:57:41

7 MR. FULTON: I'm sure it is. 09:57:43

8 MS. CHABERSKI: Okay. Thanks. 09:57:44

9 CHAIRPERSON CLEMENT: Thank you. 09:57:46

10 MR. FULTON: I don't think Bill shredded those. 09:57:47

11 CHAIRPERSON CLEMENT: Shredded much. 09:57:50

12 MS. CHABERSKI: And I guess my question to you, 09:57:53
13 while -- maybe I should just read a copy of the old 09:57:56
14 report -- we discuss a lot of things, but not 09:57:59
15 necessarily have an action, because we do just chat 09:58:02
16 about things that need to be changed. Is there some 09:58:05
17 guidance, or -- 09:58:09

18 CHAIRPERSON CLEMENT: There's really -- I 09:58:09
19 jumped into this with an incomplete report and no 09:58:11
20 guidance. And so the guidance is all what DEQ and I put 09:58:14
21 together. I'll send you each an old report. If you 09:58:21
22 have any questions, just call. 09:58:23

23 If it was a substantive discussion, substantive 09:58:25
24 discussion but wasn't action, it was an accomplishment 09:58:29
25 made and the regulatory community participated in this. 09:58:34

1 So we want to capture that. If there wasn't, if it was 09:58:38
2 just a passing three-minute kind of thing, you wouldn't 09:58:42
3 necessarily want to capture that. But we've had in the 09:58:46
4 past some very significant discussions regarding 09:58:49
5 monitoring, national contamination, source control, that 09:58:52
6 didn't necessarily result in any change of policy or 09:58:56
7 documented, but really flushed out the technical kind of 09:58:59
8 understanding, the mutual technical understanding that 09:59:03
9 we had as a regulated community of an agency. So, if 09:59:05
10 that helps. 09:59:10

11 MS. CHABERSKI: We talk a lot about the 09:59:11
12 consistency, so we amended the appendix. So I will give 09:59:13
13 you more than less, so we can maybe talk through that to 09:59:18
14 see what's appropriate. 09:59:22

15 CHAIRPERSON CLEMENT: And this, like other -- 09:59:23
16 even, you know, we have the open meeting law, but this 09:59:24
17 is a requirement. And to function as a Commission, I do 09:59:27
18 need to interact with subcommittees on this. And so we 09:59:30
19 will do that, and then the final product will, 09:59:34
20 obviously, may also be product, but the final product 09:59:37
21 will be a public document, but there has to be some 09:59:43
22 interaction to get things accomplished. 09:59:47

23 MS. CHABERSKI: That was my next question. 09:59:49

24 CHAIRPERSON CLEMENT: It's just practical. 09:59:51

25 MR. BUNCH: We talking calendar year 2008 or 09:59:54

1 fiscal year? 09:59:56

2 CHAIRPERSON CLEMENT: This is calendar year and 09:59:57
3 not fiscal year. And what I really, you know, we 09:59:59
4 haven't been particular timely, frankly. More of my 10:00:02
5 responsibility than anyone the first year that I had the 10:00:05
6 responsibility, because I got pieces and really got it 10:00:08
7 in March. Not the agency's concern. I didn't get it 10:00:11
8 out until May. But, what I would really like to see is 10:00:15
9 if we can get it out by the end of February. I think 10:00:18
10 that would be a good due date, given our -- because we 10:00:21
11 have to as a Commission review it. And as a Commission, 10:00:25
12 we have to vote on it before it can go. 10:00:28

13 So, I have to draft it. Everybody has to give 10:00:31
14 me the material, I have to draft it, we got to vote on 10:00:33
15 it. So there's a cumbersome process. That's an 10:00:36
16 untimely process we have to go through also. So the 10:00:39
17 sooner I get the materials, the sooner I can draft it, 10:00:43
18 the sooner you have to review it before the next 10:00:47
19 meeting. 10:00:50

20 So my goal would be to have it out at least a 10:00:50
21 week or two before the next Policy Commission meeting so 10:00:54
22 you all can read it. I know last time we had a few 10:00:57
23 comments, they weren't particularly significant, we made 10:01:00
24 the changes, I think Ms. Gaylord had some good edits, we 10:01:03
25 made the changes in the meeting and then we approved it, 10:01:07

1 and then I was able to turn it around quickly. 10:01:10

2 And then I'll send out to the full Commission 10:01:13

3 the 2007 report so you know, for the new members 10:01:17

4 particularly, what we are talking about. 10:01:21

5 MS. CHABERSKI: Thanks to DEQ for sending the 10:01:24

6 summary of the technical meetings. I don't know if you 10:01:27

7 need that or not. 10:01:31

8 CHAIRPERSON CLEMENT: Given that time frame, 10:01:33

9 could we have your materials within two weeks? Is that 10:01:35

10 possible? 10:01:39

11 MS. CHABERSKI: I'll try. I have some 10:01:39

12 projects, but I'll give it a go. 10:01:41

13 CHAIRPERSON CLEMENT: Okay. Mark that down. 10:01:44

14 Is that a possibility with DEQ support? 10:01:46

15 MR. KERN: Yes. 10:01:50

16 CHAIRPERSON CLEMENT: Thank you. Any other 10:01:50

17 questions or comments on the annual meeting? 10:01:52

18 Now we jump to a general call to the public. 10:01:54

19 And we have some regular and new participants here 10:01:57

20 today. Are there any comments? 10:02:01

21 Okay, no one is standing up, so we'll move on. 10:02:04

22 We'll go through the summary of meeting action item. 10:02:08

23 This is always helpful, I think. Let me get my notes. 10:02:11

24 We've made a decision to post all of the 10:02:19

25 associated meeting materials on the Website after the 10:02:21

1 Policy Commission meeting, except for the unapproved 10:02:26
2 meeting minutes, and the meeting minutes once approved 10:02:29
3 will be posted. That's DEQ. 10:02:33

4 We're going to make a standing agenda item, the 10:02:38
5 SAF status moving forward regarding budget, et cetera, 10:02:43
6 so that we're staying on top of that and that we can 10:02:47
7 support the agency as necessary for the next few months 10:02:51
8 as the budget process evolves. 10:02:56

9 Mr. Bunch will be scheduling the evaluation 10:02:59
10 subcommittee meeting and that notice will get out. June 10:03:03
11 has been very helpful and we appreciate the 10:03:07
12 administrative support we get from the agency. 10:03:11

13 I will send out the 2007 annual report to the 10:03:14
14 Commission, and the agency and the two subcommittees 10:03:17
15 will provide to me information so that I can prepare the 10:03:22
16 2008 report, hopefully in time for the February meeting, 10:03:25
17 so we can look at it in time and vote on it. That may 10:03:28
18 be a little ambitious, but that's a goal. And if not, 10:03:32
19 we'll make it in a much better time. 10:03:36

20 And those are the only other action items I 10:03:40
21 had. Did anybody else pick up anything? 10:03:43

22 Any -- the next one is agenda items and 10:03:47
23 schedule for next Committee meeting. The next meeting I 10:03:50
24 believe is February 25th. I would like to keep that on 10:03:55
25 the calendar because between the budget process and 10:04:00

1 annual report, I think we have stuff substantive, and 10:04:02
2 the evaluation subcommittee, we have some substantive 10:04:04
3 issues to cover. 10:04:09

4 Sorry, Cathy, but I am not going to be here. 10:04:11
5 How do you like that? I didn't actually realize it 10:04:14
6 until recently, but I will be on vacation whale watching 10:04:18
7 in Baja and a tour. 10:04:22

8 MS. CHABERSKI: That's great. 10:04:23

9 CHAIRPERSON CLEMENT: So I hate to put you in 10:04:26
10 the fire so quickly. 10:04:27

11 MS. CHABERSKI: I should be here. 10:04:29

12 CHAIRPERSON CLEMENT: You will be okay. Okay. 10:04:30
13 Good. Thank you. 10:04:32

14 MS. CHABERSKI: I ask the committee members to 10:04:33
15 tell me if I'm violating any rules as we're moving along 10:04:35
16 with the meeting. 10:04:39

17 CHAIRPERSON CLEMENT: Any other agenda items 10:04:40
18 that anybody would like to bring on the calendar at this 10:04:42
19 point? 10:04:45

20 What I try to do is, this is an open process. 10:04:46
21 I don't -- if a Policy Commission member wants an agenda 10:04:51
22 item, I don't -- we put it on the agenda, there's no 10:04:55
23 ifs, ands, or buts, you know. There is an open process, 10:04:58
24 and this is a wonderfully talented group of people to 10:05:02
25 work with. And so, you know, appreciate all of the 10:05:05

1 support that I've gotten. 10:05:08

2 Okay. And the next Policy Commission meeting 10:05:11

3 is now scheduled for February 25th, 2009 at 9:00 a.m. in 10:05:15

4 the same room, Room 250, ADEQ. 10:05:20

5 And if there are no other items, the January 10:05:24

6 28th UST Policy Commission meeting is adjourned. Thank 10:05:27

7 you all. Happy new year. 10:05:32

8 10:05:34

9 (Whereupon the proceeding concludes at 10:05 10:05:34

10 a.m.)

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C E R T I F I C A T E

I, Angela Furniss Miller, Certified Court Reporter, do hereby certify that the foregoing pages numbered 1 through 47, inclusive, constitute a full and accurate printed record of my stenographic notes taken at said time and place, all done to the best of my skill and ability.

DATED, at Phoenix, this 5th day of February, 2009.


Angela Furniss Miller, RPR
Certified Court Reporter (AZ50127)

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