

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

\* \* \* \* \*

MEETING OF THE DEPARTMENT OF WILDLIFE  
TAKEN ON OCTOBER 19, 2004 AT 7:00 PM  
IN JENKS, OKLAHOMA

\* \* \* \* \*

Reported By: Jody Graham, CSR, RPR, RMR, CRR

1 CHIEF: And he's going to make sure  
2 everything is being picked up on the mike and  
3 recording things that are said here. Is that right?  
4 You do all that?

5 UNIDENTIFIED SPEAKER: That's right.  
6 I do.

7 CHIEF: In case -- you know, we've had  
8 meetings before where people see a crowd or  
9 something's going on and they come in the  
10 building and they really don't know what's going  
11 on. They just see a crowd and they want to go a  
12 meeting.

13 So in case you don't know what this  
14 meeting's about, it is to discuss with you and to  
15 receive from you your input with regard to a  
16 decision that the Wildlife Department has to make  
17 regarding stocking trout in Spring Creek in  
18 northeast Oklahoma.

19 And this was a request that came to us  
20 from a private trout angling group who have  
21 requested permission from our director to stock  
22 trout in the Spring Creek; okay. That's what we  
23 intend to talk about.

24 There are other meetings that we have  
25 scheduled besides this one tonight. We will have

1 meetings -- two other meetings. One tomorrow  
2 night in Muskogee at the Muskogee library.

3 UNIDENTIFIED SPEAKER: Yeah. Public  
4 library.

5 CHIEF: Public library. And also  
6 Thursday night at Locust Grove in the community  
7 center; okay. They'll all begin at 7:00 o'clock.  
8 We're going to try to get out of here tonight -- if it  
9 goes this long at 8:45. We've got to be out of here  
10 by 9:00. So I think if we can start filing out  
11 about 8:45 and complete our business, that's what  
12 we need to do; okay.

13 Like I said, the reason for the meeting is  
14 to get your input on this issue. And there are  
15 some handouts that we've provided you with some  
16 information on them. We have a tape recorder  
17 here that we would like to record your comments,  
18 your voice comments, if you would care to do that.

19 And if you would like to come and speak  
20 to get your comments on record, you can do it that  
21 way. Or if you would rather not, we have  
22 handouts that will be going out here right now.

23 PAUL: Basically we have forms for  
24 written comments.

25 CHIEF: Forms where you can fill in and

1 write your comments. You can do both, if you  
2 would like to. We don't care. We just want to get  
3 your comments regarding this issue.

4 (An inaudible statement was made.)

5 CHIEF: Now, if for some reason, you  
6 know, others that couldn't make it tonight and  
7 you know they may want to have some input into  
8 this issue, they can write us at the Wildlife  
9 Department. We'll take written comments, E-mail  
10 all through the week up till Friday the 22nd.

11 What we will do with these comments is  
12 that we'll incorporate them into the other  
13 information that we in the department will use to  
14 evaluate the request, biological information we  
15 have, other information that has focused in on  
16 trout stocking in Spring Creek to make a decision.  
17 And we'll try to do that as soon as possible, make  
18 that decision after we get these meetings over and  
19 try to make a decision as soon as possible, one  
20 way or the other. But, hopefully, no later than  
21 the end of the month. That's our -- that's our  
22 intent.

23 Just so that we -- we need some ground  
24 rules, I think, if you don't mind. And, hopefully,  
25 this is agreeable to the group. I think with the

1 time allotted and the number of people here, if we  
2 could keep your comments to somewhere around  
3 three to five minutes each time so that we could  
4 allow everyone who had anything they would like  
5 to say an opportunity to say it. After you're done,  
6 you can sit down. Someone else can speak. And  
7 then after everybody has spoken on the issue, they  
8 would like to stand up and say more, they can do  
9 it again. In other words, just trying to give  
10 everybody the opportunity to have input as long as  
11 they took the time to come.

12 We would like, while someone has the  
13 floor, that the individual not be interrupted or  
14 disturbed in any manner while they're speaking.  
15 If you have something to say, you can get those  
16 comments out the next time you stand up.

17 We're happy to answer any questions that  
18 we can to the best of our ability about this issue.  
19 However, this is not meant to be a debate. We  
20 want to hear from you and get your input as to  
21 how you feel about this issue; okay.

22 Those are basically the ground rules that  
23 I think we could live with. Is everybody agreeable  
24 to that? Okay. I didn't introduce Doug Frazier,  
25 game warden in Osage County, also one of our

1 lieutenant supervisors, has agreed to be here  
2 today or tonight and thank him for coming. Thank  
3 you all for coming.

4 Let me start by giving a brief background  
5 of things that have led up to and information that  
6 you might not know about this issue. Later on I'll  
7 ask Paul to give a little bit more information  
8 about a study that we did. And then I'll ask  
9 Randy later to give you some information on the  
10 latest fisheries data that we have with regard to  
11 Spring Creek.

12 Okay. In October of 1998 the department  
13 received a request from the Spring Creek anglers  
14 club -- angling club for permission to stock  
15 privately purchased trout into Spring Creek in  
16 northeast Oklahoma. The club had leased the  
17 fishing access rights to Spring Creek from a  
18 private landowner. The state, however --

19 UNIDENTIFIED SPEAKER: Could you tell  
20 where that area is, please.

21 CHIEF: Where the club has its lease?

22 UNIDENTIFIED SPEAKER: Yeah.

23 CHIEF: Paul, could you speak to that.

24 PAUL: Sure. That lease was near the  
25 Rolling Ranch store north of Beggs. And it was on

1 the Rolling Ranch property.

2 UNIDENTIFIED SPEAKER: Upstream  
3 from 82 bridge?

4 PAUL: Basically upstream. Some  
5 downstream, also. Mostly upstream.

6 UNIDENTIFIED SPEAKER: How many  
7 miles of creek was involved?

8 PAUL: Two.

9 CHIEF: Thank you.

10 UNIDENTIFIED SPEAKER: Thank you.

11 CHIEF: Okay. Yes, sir. When you make  
12 your comments on points here, we're going to ask  
13 you if you would -- and want to be recorded, to try  
14 to maybe come up closer, grab the mike and first  
15 give us your name and then give us your comment;  
16 okay.

17 All right. So we had the request for  
18 permission -- no. We had a request to stock the  
19 trout. And by state statute, state statute requires  
20 that any person who wants to stock fish in any  
21 public waters in Oklahoma must get approval from  
22 the director of our agency. That is in the state  
23 statute. Our wildlife commission has no authority  
24 to give permission, only the wildlife director. So  
25 the staff gives its recommendation to the director

1 and the director makes a decision.

2 So after we got this and following onsite  
3 inspection and a review of the literature that we  
4 had relative to stocking trout in warm water  
5 streams and looking at all the biological concerns  
6 that surrounded this type of stocking, we had  
7 meetings with representative stake holders about  
8 the issue and those were both stake holders who  
9 approved or agreed with the stocking and those  
10 who were opposed to the stocking.

11 And after we reviewed that all back in  
12 1998, the staff with the Wildlife Department  
13 recommended that the director deny the request  
14 until such time as a study could be conducted to  
15 address the concerns related to stocking trout  
16 into a stream containing -- containing native fish  
17 and genetically distinct and geographically unique  
18 populations of small-mouth bass; okay.

19 That three-year research study was  
20 initiated in April, 1999; and it was -- the purpose  
21 was to evaluate rainbow trout stockings on native  
22 fishes in northeast Oklahoma, Ozark stream. And  
23 because we didn't want to use Spring Creek as the  
24 test sample, we moved it to another stream, Brush  
25 Creek in Delaware County.

1                   And I'm going to ask Paul to give you a  
2                   brief summary of what the results were of that  
3                   study; okay.

4                   PAUL: Thank you, Chief. My name's Paul  
5                   Balkenbush. I'm with the Oklahoma Department  
6                   of Wildlife Conservation, and I act as -- one of the  
7                   hats I wear is the streams program coordinator.  
8                   And we started our streams management program  
9                   in 1998.

10                   It's one of the newest programs in our  
11                   fisheries division. And since that time it's started  
12                   from just one person in an office with not much to  
13                   work with and it's grown now to where we have a  
14                   fully staffed streams management crew in the  
15                   northeast part of the state where Spring Creek is.  
16                   And we've been quite involved with Spring Creek  
17                   ever since the program began.

18                   Some of the things we do is sample fish  
19                   in the northeast part of the state. One of the  
20                   streams we sampled every year since the program  
21                   began was Spring Creek. And we've also  
22                   conducted two demonstration projects on how to  
23                   stabilize stream banks, which is one of the  
24                   concerns on Spring Creek from a fisheries  
25                   management perspective and also a little bit of

1 stream restoration.

2 And both of the projects -- in fact, the  
3 only two restoration projects we've worked on in  
4 the northeast part of the state were on Spring  
5 Creek. We've had the good fortune of working on  
6 Spring Creek quite a bit and in dealing with some  
7 of the constituents up there that live on the  
8 stream and have been a part of that stream  
9 ecosystem for their lives. And it's been a really  
10 good experience.

11 We began the study that the chief told  
12 you about based on the concerns about the  
13 potential to introduce trout into Spring Creek  
14 from a private angling club. The Spring Creek  
15 angling club. The study was conducted from the  
16 Oklahoma Department of Fish and Wildlife  
17 Research. And it was not a consensus among the  
18 landowners on Spring Creek at our meeting to  
19 conduct the study on Spring Creek itself. But  
20 rather we found a surrogate stream that was an  
21 Ozark stream. That is one that has clear, cool  
22 base low spring water even during dry periods, as  
23 Spring Creek does. And that was conducted up on  
24 Brush Creek in the northern part of Oklahoma.

25 In that study it was conducted over three

1 years, there was several significant findings. And  
2 it was up to the researchers to interpolate that  
3 because the streams were common in nature at  
4 least to the extent that they knew at the time that  
5 the findings on Brush Creek could be similar to  
6 what one might expect on Spring Creek.

7 Several things were found. We looked at  
8 four objectives. The first objective was to  
9 evaluate the trout performance by estimating  
10 movement, habitat, use and survival of trout that  
11 were stocked in Brush Creek. These trout, once  
12 they were stocked, they weren't fished for. So  
13 there really wasn't a lot of take or harvest going  
14 on by anglers. They were just stocked. And the  
15 researchers wanted to look and see what the  
16 impact would be of those trout on the fish  
17 community in Brush Creek.

18 The second objective of the study was to  
19 evaluate the native fish composition. That is  
20 looking at the whole community of fish. Not just  
21 one fish in particular, but the native fish that  
22 naturally live in Brush Creek. There were no  
23 exotics found in Brush Creek. So it was just the  
24 fish that have always been there and the fish that  
25 are there today. And we wanted to look and see

1           how native fish would react after trout were  
2           introduced into Brush Creek.

3                       The third objective was to evaluate the  
4           small-mouth bass and shadow bass abundance,  
5           movement and condition before and after trout  
6           introduction. Condition just means how healthy  
7           the fish is. If a fish is -- is of the proper length  
8           and weight, then it's considered to be in good  
9           condition. If it's skinny for its length, for  
10          example, you might consider it to be in poor  
11          condition.

12                      So we wanted to look at that as an  
13          indicator of how trout might impact those  
14          populations of small-mouth bass and shadow bass.

15                      And the fourth objective was to compare  
16          food habits of trout with small-mouth bass,  
17          shadow bass and blue gill sunfish to determine  
18          diet overlap and competition. That is, did trout  
19          compete for the food that those three species of  
20          native fish eat naturally. Did they eat those fish  
21          and compete with those native fish for the food  
22          items that were available in Brush Creek.

23                      The study was completed in 2003. I'm  
24          going to give you a brief summary of the results.  
25          Really there's several points I want to make. So

1 one of the best ways I know how to do it is to just  
2 read to you the high points that we found in the  
3 study.

4 From objective number one, looking at  
5 trout performance by estimating movement,  
6 habitat, use and survival we found some  
7 interesting things that we believe to be key in the  
8 decision that was made. One is over-summer  
9 survival. That is the trout to survive past  
10 wintertime into the summer and throughout  
11 summer was found to be low because of the high  
12 stream temperatures.

13 There was not suitable cold water refuge  
14 in Brush Creek or at least none was found during  
15 the studies for us to see trout carrying over all  
16 the way through the warm summer months. It just  
17 simply got too warm. Trout are a cold water fish,  
18 and they require cool temperatures. And once the  
19 temperature get up into the upper 70s, you start  
20 seeing trout mortality.

21 The researchers concluded there's little  
22 chance the rainbow trout would establish a  
23 naturalized population in Brush Creek or similar  
24 creeks in the region. Naturalized meaning that  
25 they would stay in the creek and they would

1 reproduce in the creek and just become a part of  
2 the stream system in Brush Creek. And they  
3 found that that wouldn't happen in Brush Creek or  
4 similar streams to Brush Creek.

5 They did not rule out, however, the  
6 possibility that these trout could over-summer  
7 and survive year round in some of the larger  
8 streams in northeastern Oklahoma; okay. Streams  
9 (inaudible) than what they looked at which was  
10 Brush Creek.

11 They did see that some trout disbursed  
12 through the system. In other words, they moved  
13 from the stocking site at times: But most of the  
14 trout that were stocked stayed at the stocking  
15 site; okay. There wasn't much movement found;  
16 all right. They mostly stayed where they were  
17 stocked, but occasionally some did move. And  
18 that was most of the time during high water  
19 periods.

20 They did tell us that the movement of  
21 stock trout in larger streams, streams larger than  
22 Brush Creek was a possibility. They couldn't  
23 really speak to that because they only looked at  
24 Brush Creek.

25 They found that the condition of trout

1 decreased after they were stocked and that the  
2 total mortality of the trout that were stocked was  
3 high and would even be higher (inaudible). To  
4 address those points, meaning they decreased  
5 after stock, they began to not be shown up in  
6 samples immediately after they were stocked and  
7 subsequent times that they sampled after that the  
8 number of fish that they found decreased.

9 If there was take, in other words harvest  
10 people fishing for them, they said that that  
11 carryover where the number of fish over time after  
12 they were stocked would even be less. But they  
13 found that the mortality was high or death of  
14 trout was high.

15 The researchers concluded that the  
16 limited short-term stocking would be unlikely to  
17 have any long-term impacts on Ozark stream  
18 systems. And that's basically because they found  
19 once you put them in, they begin to immediately  
20 disappear from the system and they didn't  
21 oversummer. So if you stock fish on a short-term  
22 basis, there would not be long-term impacts on  
23 the ecology of the creek.

24 In the second objective, if you'll  
25 remember it was to evaluate the native fish

1 composition before and after trout introductions.

2 The researchers found the following highlights.

3 They found that the trout may impact  
4 species structure in pool habitats. The reason  
5 why they say pool habitats is because that's the  
6 only place they found trout of any consequence  
7 after they stocked them. They did not occupy  
8 riffles. They did not occupy run habitats. But  
9 they occupied pools. Those are the three major  
10 stream habitats (inaudible).

11 They also found that the abundance of  
12 small-mouth bass and shadow bass was negatively  
13 correlated with high densities of trout; okay. In  
14 other words, once you stocked -- the higher the  
15 density of trout that were stocked in the pool, the  
16 fewer small-mouth bass and shadow bass you  
17 would find.

18 So apparently -- they didn't say that the  
19 small-mouth bass and shadow bass would die. It  
20 just was a displacement. The density overall  
21 remained about the same of those fish in the study  
22 reached as a whole, that they would move out of  
23 the pool habitats to some degree, the higher the  
24 number of trout that were stocked.

25 They did indicate that the changes in the

1 composition in pool habitats of these trout could  
2 have been contributed to environmental barriers  
3 such as (inaudible) or localized stream  
4 temperatures in combination with the trout  
5 stocking. Over three years and all the  
6 interactions that are found in stream systems, it's  
7 hard to put your finger on the exact cause when  
8 you just look at things over that short amount of  
9 time, three-year study. So they didn't want to  
10 really put their finger on exactly why that was.

11 They did indicate that long-term  
12 monitoring was necessary to determine how trout  
13 introductions and environmental factors working  
14 together can contribute to fish assembling  
15 changes after trout stocking.

16 As I said earlier, they did find the trout  
17 used pool habitats exclusively. That's the only  
18 place they were found. Not in ripples and not in  
19 runs.

20 They did not see any impacts on native  
21 fish in ripple habitats. And they could not state  
22 conclusively whether trout stocking negatively  
23 affected native fish assembled in Brush Creek;  
24 okay. Even though they looked at it for three  
25 years, they didn't feel like they had conclusive

1 enough information to talk about significant  
2 changes to the native fish assemblage in the  
3 extended Brush Creek system.

4 As far as objective number three is  
5 concerned, to remind you it was to evaluate  
6 small-mouth and shadow bass abundance. That's  
7 how many there are out there in the system.  
8 Movement and condition, how heavy they are.  
9 Before and after trout introduction. The results  
10 from objective three were that overall trout did  
11 not appear to have any negative impact on  
12 movement patterns, condition (inaudible).

13 They didn't see that throughout the study  
14 reached that they affected movement of the native  
15 spore fish population and the condition of these  
16 fish was not impacted. In other words, the  
17 condition of the fish, they were as heavy as they  
18 were for their length before and after trout  
19 introduction over a three-year process.

20 And, lastly, in objective number 4, they  
21 were to compare the food habits of trout with  
22 small-mouth bass, shadow bass and blue gill  
23 sunfish to determine diet overlap and competition.  
24 We wanted to see if trout ate the same things as  
25 the native spore fish in Brush Creek. And if they

1 did, did we feel like that competition would  
2 negatively impact the native fish community.

3 And the objective four results indicated  
4 that the competition for food resources did not  
5 occur between trout stock and the small-mouth  
6 bass, shadow bass and blue gill. They did find the  
7 trout diet more overlapped with species that relied  
8 on snakes. Really what they found was -- and this  
9 is common throughout other research on this  
10 issue -- is that trout that are stocked from a  
11 hatchery into an natural system like Brush Creek,  
12 it takes them a while to switch over to the natural  
13 food items.

14 And what they found in their gut was  
15 rocks, leaves, twigs, cigarette butts, things of  
16 that nature. And it's a little bit humorous. But  
17 what it boils down to is that they are fed for so  
18 long and raised on pellets and food and that's  
19 what they're trained to do.

20 Over time these fish may switch over to  
21 natural food items, as you'll see later in our  
22 presentation. But in the short time they were in  
23 Brush Creek before they experienced mortality  
24 from the high summer water temperatures, they  
25 did not switch over to natural food items so they

1 did not negatively compete with the natives for  
2 food items in Brush Creek.

3 We are probably getting towards Randy's  
4 portion of the discussion. And that is to talk  
5 about what we found since the permit was issued  
6 based on the results that were found in the study.  
7 After the study was done, the Wildlife Department  
8 concluded the short-term and localized stockings  
9 were not likely to have long-term impacts on Ozark  
10 stream systems.

11 Some credible biological concerns did  
12 exist in the study because there were several  
13 times that the results that were found in the  
14 study that they were inconclusive and they were  
15 not willing to put their foot out far enough to say,  
16 "This is going to happen," or, "This is not going to  
17 happen."

18 But none of the concerns that they  
19 demonstrated were significant enough for the  
20 Wildlife Department to have a blanket denial on  
21 trout stockings in Ozark stream systems. There  
22 was nothing out there that was really tangible  
23 enough to voice a strong enough concern for us to  
24 say it should never have happened in any Ozark  
25 stream.

1                   So based on that information, the  
2                   Oklahoma Department of Wildlife -- basically the  
3                   people you see here and some others --  
4                   recommended to the director that a trout be --  
5                   permit be issued in November of 2003. A very  
6                   limited stocking on Spring Creek that was 746  
7                   pounds per mile of leased stream. As you heard  
8                   from our chief, it was a two-mile stretch of leased  
9                   stream near the Rolling Ranch.

10                   After those two miles of stream were  
11                   stocked -- they were stocked twice -- once early in  
12                   the fall and once later in the winter, which is  
13                   really early in 2004, we began to look at, as  
14                   promised, the impacts or the potential impacts of  
15                   those introduced trout on Spring Creek. We did  
16                   that through a series of surveys. And what I want  
17                   Randy Highland to do -- he's the northeast  
18                   streams biologist -- is to tell you about what we  
19                   found in those surveys since those trout have been  
20                   stocked. These surveys were conducted just  
21                   recently over the past three or four months.

22                   CHIEF: Can everybody hear all right?

23                   RANDY: Just go ahead and raise your  
24                   hand or something if you're in the back and can't  
25                   hear me. I'll speak up even louder. First of all,

1 has everybody had a chance to sign in with the  
2 sign-in sheet? Has everybody got copies of the  
3 handouts?

4 For those that have the handouts already,  
5 you can kind of turn back here to page number 3.  
6 Lot of the results from what we have found this  
7 summer are listed there. I'm probably not going  
8 to cover every single point in there, but I'll try to  
9 get the gist of what we found out to you; and you  
10 can read into it a little bit more.

11 Really, you know, there were still some  
12 biological concerns out there, particularly, you  
13 know, the study was done in a different stream  
14 and it wasn't necessarily done in Spring Creek.  
15 And we wanted to go in and make sure, try to get  
16 some information to see basically if the trout were  
17 surviving through the summer months and if they  
18 shifted their diets to natural prey items.

19 We also wanted to look into some of the  
20 reasons -- possible reasons why the trout may  
21 have survived through this summer. And what we  
22 did was we used the combination of electrofishing  
23 surveys and some scuba diving in some of the deep  
24 holes primarily through August and September  
25 this month -- or this year.

1           In August we went out and we did  
2           electrofishing in two of the deeper holes. One was  
3           at the stocking site. Another one was just  
4           downstream from there. And in the middle of  
5           August we ended up collecting 14 trout.

6           We also looked at some water  
7           temperatures at the time. The water temperatures  
8           were below legal limits of those fish in August.  
9           And we also wanted to look at some of the  
10          important diets to see if they were eating natural  
11          prey items.

12          So of those 14 fish we used some  
13          examples from them, took samples back to the lab,  
14          sorted them, identified them. And we -- the ones  
15          that had contents in their stomach we went ahead  
16          and kind of categorized them as either eating fish,  
17          inverts, crayfish, nonfood items kind of like what  
18          Paul mentioned. They had twigs or leaves in their  
19          stomachs.

20          And then we went ahead, and we basically  
21          measured the volume and the content of each of  
22          those categories and determined the percentage of  
23          their diet by volume that the trout had to eat.

24          We were also interested in looking at  
25          conditions of fish. As Paul mentioned, in the

1 previous studies once they're stocked, they  
2 generally don't eat a lot of natural prey items.  
3 Body condition tends to become worse through  
4 time. So we were also interested in determining  
5 what conditions the fish were in.

6 The results of our studies basically  
7 indicated that in August, I believe, we had trout  
8 that were present that had survived through that  
9 period. We went back in September with our  
10 scuba diving gear. And at that time we only found  
11 five trout. And they were all located in one pool.

12 During our scuba surveys, we surveyed  
13 seven different pools up and downstream from the  
14 stocking site. The only place that we found trout  
15 was at the actual stocking site during those  
16 surveys.

17 Our diet analysis revealed that 13 of the  
18 14 fish that were collected had been eating  
19 natural prey items and about 67 percent of their  
20 diet was comprised of fish. Kind of surprisingly,  
21 every single one of those fish that were found were  
22 big-eye shiners. That was the only species that  
23 were found in the stomachs of trout.

24 UNIDENTIFIED SPEAKER: Say that  
25 again. I'm sorry.

1                   RANDY: As far as the percent? Is that  
2 what you're asking?

3                   UNIDENTIFIED SPEAKER: Yeah.

4                   RANDY: About 67 percent of the stomach  
5 contents overall out of all 14 -- well, it was  
6 actually -- let me back up. Thirteen out of the 14  
7 fish that we collected had stomach samples. And  
8 67 percent of that total was fish by volume. And  
9 the next highest --

10                  UNIDENTIFIED SPEAKER: So you had  
11 only one fish out of 14 with an empty stomach?

12                  RANDY: Yes. And it ranged -- you know,  
13 some of them just had a couple insects in their  
14 stomachs and others were full of, you know,  
15 different types of -- whether it's fish or snails or  
16 crayfish, kind of varied between each fish.

17                  Snails made up about 13 percent of the  
18 volume in the stomach samples that we collected.  
19 That was followed by crayfish of about 4 percent,  
20 invertebrates about 3 percent and then another  
21 about 9 percent of the items in the stomach were  
22 nonfood items, mainly leaves and (inaudible).

23                  When we looked at the body condition,  
24 the fish were on average -- average of 14 fish, all  
25 of them were in -- they were in excellent condition

1 as a whole.

2 We also wanted to know if the water  
3 temperatures were sufficiently cool enough  
4 through August and September for the trout to  
5 survive. So back on July 30th we went out and  
6 put in these little temperature loggers about the  
7 size of a quarter.

8 You put them in the stream, and they will  
9 automatically record water temperature. And we  
10 set those loggers to record temperature every  
11 hour. And they were triggered to start at midnight  
12 of the first of August and we pulled them at the  
13 end of September.

14 And basically our -- the data that we got  
15 back from that showed the water temperatures  
16 through those two months peaked out about 75, 76  
17 degrees at the stocking site. And they didn't stay  
18 at those high temperatures for an extended period  
19 of time. You know, they would be up there for  
20 three or four hours; and they would cool back off  
21 in the evening. And then there might be another  
22 peak the next day.

23 So that sort of got us thinking, well, is  
24 that something that's always going to happen; or  
25 is that something that's just associated with the

1 kind of unusually cool and wet summer that we've  
2 had.

3 So what we did after that is we went and  
4 got some information from Mezonet station in  
5 Tahlequah which records all kinds of variables on  
6 weather conditions, precipitation, soil  
7 temperatures, air temperatures.

8 And we wanted to look at some of that  
9 information to be -- I don't want to say it's going  
10 to tell us whether or not trout would be able to  
11 survive future years. But it would give us an  
12 indication of whether or not weather conditions  
13 were significantly different this year compared to  
14 -- what we did was look at an average for the last  
15 10 years.

16 And when we did that, we found that  
17 average air temperatures, soil temperatures, a lot  
18 of the variables associated with the natural  
19 environment were significantly lowered in June,  
20 July and August of this year compared to most  
21 years.

22 Now, again, that doesn't tell us, per se,  
23 that this was so unusual that trout aren't going to  
24 survive next year or they will. But that leads us  
25 into some more questions that we need to look at

1 down the road basically.

2 UNIDENTIFIED SPEAKER: Excuse me.

3 Randy, excuse me. I thought you said the peak  
4 temperature at the pool was better than 74  
5 degrees.

6 RANDY: About 74 to 76.

7 UNIDENTIFIED SPEAKER: And that was  
8 in July?

9 RANDY: Yeah. July and September.

10 UNIDENTIFIED SPEAKER: And didn't the  
11 law say anything that goes to 70 degrees is legal  
12 limit for trout.

13 PAUL: Way upper 70s.

14 RANDY: When you get into the middle  
15 70s, if it stays at those temperatures for extended  
16 periods of time of time, say a week or two weeks,  
17 then we would start to be concerned at those  
18 levels. If they just peak for a little bit and then  
19 drop back off, they can -- they can survive those  
20 short periods of -- of elevated temperatures.

21 UNIDENTIFIED SPEAKER: Okay.

22 CHIEF: Yes.

23 UNIDENTIFIED SPEAKER: Aren't you  
24 assuming that they can find these spring holes, et  
25 cetera. You said you did not sample riffles or

1 runs.

2 RANDY: Right.

3 UNIDENTIFIED SPEAKER: And my  
4 experience is that's where I caught the majority of  
5 the rainbows. Some out of the holes, but more out  
6 of the deep runs.

7 RANDY: Yeah. I mean, I guess we  
8 sampled pools, larger pools and as far as you  
9 could go with our equipment, you know, either on  
10 the upper or lower end. We basically went to  
11 ripples where you couldn't go any farther because  
12 you're basically on ground.

13 PAUL: That included run habitat.

14 RANDY: Yeah, it did. It included pools  
15 and runs, basically riffle to riffle is what we did  
16 our sample from.

17 And along the lines of thermal refuge type  
18 areas, when we did some of our student surveys,  
19 we took water temperatures clear down on the  
20 bottom, some of the deepest holes that we could  
21 find, you know, down about 10 feet in a couple of  
22 areas to look at -- see if there's any difference in  
23 water temperature, you know, clear to the bottom  
24 as compared to, say, the middle of the water  
25 column. And in the holes where we did that, we

1 didn't see really any change in water temperature.

2 CHIEF: Randy, why don't you finish up  
3 with your last point here. And then let's start  
4 getting the comments from folks.

5 RANDY: Sure. Last thing that we did,  
6 we've been doing this for the last -- you know,  
7 since 2000 every fall. We conduct or annual  
8 electrofishing surveys. Basically to look at sport  
9 fish abundances and conditions. And we just  
10 recently completed that.

11 And the majority of our sport fish  
12 populations were real similar to the years in the  
13 past. In fact, our small-mouth bass populations  
14 were quite a bit higher this year than what they  
15 have been in the last few years.

16 I think some of that could be attributed  
17 to some of the lower flows and I think some of the  
18 fish were more concentrated. We had a couple of  
19 pools that we typically sampled that we filled in a  
20 little bit with gravel and kind of narrowed down.  
21 But overall the fish -- the sport fish populations  
22 were real similar, if not slightly higher on  
23 small-mouth bass, anyway, this year as compared  
24 to the last three years.

25 UNIDENTIFIED SPEAKER: How far down

1 did you guys sample from the 82 bridge?

2 RANDY: This year we -- the farthest  
3 down we went this year was, oh, just a little over  
4 a mile. Probably not quite two miles.

5 UNIDENTIFIED SPEAKER: Did you make  
6 it to Snake Creek, where it confluences Snake  
7 Creek? Do you know where that is?

8 RANDY: Just upstream.

9 PAUL: Yeah. Just upstream from that.  
10 We actually did some of our scuba surveys right in  
11 that area, too.

12 UNIDENTIFIED SPEAKER: Did you say  
13 upstream from Snake Creek's as far as you went?

14 RANDY: As far as we went downstream.

15 UNIDENTIFIED SPEAKER: How far -- I  
16 didn't understand what you said. You went down  
17 -- he said where Snake Creek confluence was.  
18 Were you above that or below it on --

19 RANDY: Everything was above that.

20 UNIDENTIFIED SPEAKER: Do you agree  
21 that there were basically three floods on Spring  
22 Creek? One humongous, one big and one so-so.

23 RANDY: Yeah.

24 UNIDENTIFIED SPEAKER: I caught trout  
25 a mile and a half below twin bridges at Ballew.

1                   RANDY: Really.

2                   UNIDENTIFIED SPEAKER: That's by  
3 river, not by road.

4                   RANDY: Sure.

5                   UNIDENTIFIED SPEAKER: I would say a  
6 mile, mile and a half max, mile and a quarter. So  
7 did they ever relocate during that high water?  
8 They really fanned out downstream.

9                   RANDY: We haven't -- we didn't see any  
10 in our surveys either upstream or down -- well,  
11 actually we seen them going downstream. And  
12 that was the only place that we seen trout other  
13 than at the stocking site. But I'm sure some of  
14 them, you know, probably went downstream a  
15 little bit.

16                   UNIDENTIFIED SPEAKER: Bunch of them  
17 went downstream.

18                   UNIDENTIFIED SPEAKER: Where was  
19 your stocking site?

20                   RANDY: The stocking site was right there  
21 around the highway at 82 bridge.

22                   UNIDENTIFIED SPEAKER: Right at the  
23 bridge. Okay. All right.

24                   CHIEF: Okay.

25                   UNIDENTIFIED SPEAKER: I've got some

1 questions. Are they -- did you only allow  
2 rainbows?

3 RANDY: Yes.

4 UNIDENTIFIED SPEAKER: And they were  
5 not a hybrid rainbow.

6 RANDY: No.

7 UNIDENTIFIED SPEAKER: And is that  
8 all you plan on allowing, or are brown trout  
9 possible?

10 RANDY: That's what's been requested in  
11 the permit is rainbow.

12 UNIDENTIFIED SPEAKER: Okay. So if  
13 they request the brown trout, will we do all this  
14 again or what?

15 RANDY: As far as.

16 UNIDENTIFIED SPEAKER: A study.

17 RANDY: That would have to be something  
18 that we would have to take into consideration.  
19 Especially since the brown trout typically survive  
20 -- or can survive a little bit warmer water  
21 temperatures. They're typically a little bit more  
22 aggressive predators than the rainbow, also.

23 UNIDENTIFIED SPEAKER: What's the  
24 flow at Brush Creek?

25 RANDY: Flows? We don't have any

1 stream readings on Spring Creek.

2 UNIDENTIFIED SPEAKER: What would  
3 you estimate?

4 RANDY: But Spring Creek is significantly  
5 larger, probably a little bit more flow than --

6 UNIDENTIFIED SPEAKER: Like ten times  
7 larger?

8 RANDY: No.

9 UNIDENTIFIED SPEAKER: I don't know.

10 RANDY: Twice, max. Twice, maybe. I  
11 don't know.

12 UNIDENTIFIED SPEAKER: Brush spring  
13 has a lot of subsurface flow.

14 UNIDENTIFIED SPEAKER: And then --

15 CHIEF: I don't know if we're picking up  
16 your questions, and I would like to. So if you  
17 would, if you wouldn't mind standing maybe and --  
18 or maybe even -- or maybe we can repeat the  
19 question. Maybe that would --

20 UNIDENTIFIED SPEAKER: Just repeat  
21 the question.

22 UNIDENTIFIED SPEAKER: They also  
23 need to identify themselves either as -- in some  
24 form.

25 CHIEF: We were going to do that with

1 the comments. These are kind of questions so --

2 UNIDENTIFIED SPEAKER: Is there any  
3 -- are there any rare species in Spring Creek? I  
4 mean, minnows or any other type species?

5 PAUL: There are some records. Do you  
6 remember what --

7 CHIEF: Yeah. There's -- the Arkansas  
8 darter is one species that is given what they call a  
9 special concerned emphasis by the U.S. Fish and  
10 Wildlife. It's not threatened. There are no  
11 threatened or endangered species.

12 But they have a classification for the  
13 Arkansas darter that says we need more -- it's not  
14 in abundance that we can put it on an endangered  
15 species list, and they need to gather more data on  
16 it to know how bad off it is. But it's not -- there  
17 are no threatened or endangered species in Spring  
18 Creek right now.

19 UNIDENTIFIED SPEAKER: Is this  
20 stocking limited to specific areas, or can anybody  
21 along Spring Creek now stock trout?

22 PAUL: No. It's limited to the site where  
23 the permit is for, and anybody else that wanted to  
24 stock trout would have to go through the same  
25 process.

1 UNIDENTIFIED SPEAKER: Just apply for  
2 a permit?

3 PAUL: Yeah. They would have to apply.

4 UNIDENTIFIED SPEAKER: Is there any  
5 public access?

6 UNIDENTIFIED SPEAKER: Negative.

7 PAUL: No.

8 UNIDENTIFIED SPEAKER: Absolutely  
9 not. You've got to do a lot of PR to get on Spring  
10 Creek.

11 PAUL: Yeah.

12 UNIDENTIFIED SPEAKER: A lot of PR.  
13 Or get your wallet out.

14 PAUL: Yeah.

15 UNIDENTIFIED SPEAKER: Which  
16 apparently this group that you identify as an  
17 anglers group has gotten their wallet out. Which  
18 raises the question of whether we're talking about  
19 a kind of elitism here.

20 CHIEF: I want to get those comments  
21 from you when we all have opportunity for  
22 comments. If you've got questions regarding the  
23 things that we were talking about here, let's get  
24 those out of the way first. Yes, sir.

25 UNIDENTIFIED SPEAKER: I've got two

1 questions. I'm Robin Sade and I'm a landowner.  
2 What is the temperature of Spring Creek in  
3 relationship to Brush Creek?

4 PAUL: It is similar, actually. Let me see  
5 if I've got -- I might have -- in fact, I might have  
6 some graphs with me that I can show you what  
7 they are.

8 UNIDENTIFIED SPEAKER: I think it's  
9 significantly colder than 75.

10 UNIDENTIFIED SPEAKER: Brush Creek  
11 or Spring Creek?

12 UNIDENTIFIED SPEAKER: Spring Creek.

13 PAUL: The information we have depends  
14 on what time of day. It will go -- from in August  
15 and September it will drop -- or it will go from --

16 UNIDENTIFIED SPEAKER: Well, I -- I  
17 know what it is there. Very cold.

18 UNIDENTIFIED SPEAKER: Do you take  
19 the temperature when you go fishing?

20 RANDY: As a matter of fact, we put in  
21 five -- five of those loggers all up and down the  
22 stream.

23 PAUL: We have temperature data that's  
24 taken hourly; okay. All summer long.

25 UNIDENTIFIED SPEAKER: In Spring

1 Creek?

2 PAUL: In Spring Creek. And what you'll  
3 see is water temperatures fluctuates as the day  
4 goes on where water temperature will warm up and  
5 cool down as the 24-hour day cycles.

6 UNIDENTIFIED SPEAKER: I just  
7 wondered. You've quoting your study at Brush  
8 Creek at 75 degrees.

9 RANDY: No. We're saying Spring Creek.  
10 The data we collected this summer.

11 PAUL: He's giving you maximum  
12 temperatures for Spring Creek. The information  
13 he gave you is maximum temperatures.

14 UNIDENTIFIED SPEAKER: Okay.  
15 Another question is how much did this study cost  
16 the taxpayers of Oklahoma?

17 CHIEF: I can answer that. Yes or no.

18 PAUL: No. You talking about the study  
19 or what we --

20 UNIDENTIFIED SPEAKER: No. You've  
21 been working on this Spring Creek trout thing for  
22 three years now, five years now.

23 CHIEF: Right. The OSU study that was  
24 done on Brush Creek cost --

25 UNIDENTIFIED SPEAKER: Which was at

1 the request of the anglers; right?

2 CHIEF: No, no. That was our doing.

3 UNIDENTIFIED SPEAKER: That was your  
4 doing?

5 CHIEF: Yes. We needed to have that  
6 type of information. And we --

7 UNIDENTIFIED SPEAKER: But you would  
8 not have done it had this group not requested to  
9 stock trout.

10 CHIEF: Yeah. It was because we had the  
11 request to stock the trout. We needed some more  
12 -- to gather some more data on potential impacts.  
13 And there was very little available to us at the  
14 time that would be specific to our situation in  
15 Oklahoma so we wanted to do a study in  
16 Oklahoma.

17 That -- that total cost for OSU was  
18 \$231,000 of which it cost the Wildlife Department  
19 100 and whatever -- 75 percent of that is 171,000,  
20 I think. 171,000 for that three-year study that  
21 OSU did on Brush Creek.

22 The work that our guys are doing is work  
23 that they do under our annual budgets with the  
24 Wildlife Department. It's not contracted, in other  
25 words.

1 UNIDENTIFIED SPEAKER: I understand.

2 PAUL: As far as the taxpayer burden,  
3 there was no taxpayer -- State of Oklahoma  
4 taxpayer burden. Either the study or our work.

5 UNIDENTIFIED SPEAKER: Well, how can  
6 you say that? We're paying your salaries. And  
7 you're out doing work.

8 UNIDENTIFIED SPEAKER: Was it a  
9 federal aid project?

10 PAUL: Yes, sir.

11 UNIDENTIFIED SPEAKER: Well, hey, who  
12 pays the federal taxes? We did.

13 PAUL: What it is, if I could just have a  
14 moment to explain that, unless the chief wants to.  
15 Either way. What that is is an excise tax placed  
16 on hunting, fishing and outdoor goods that are  
17 purchased; okay. And that excise tax if you buy  
18 motor boat fuels, fishing tackle and that sort of  
19 thing, there's a small excise tax that goes to the  
20 federal government.

21 And the Oklahoma Department of Wildlife  
22 gets a share of that based on how many fishing  
23 licenses we sell. And that is how that money was  
24 garnered to pay for this study.

25 UNIDENTIFIED SPEAKER: But I guess

1 my point is you're spending tax revenues to  
2 support a small group of anglers.

3 CHIEF: Tax revenue. And from the fund,  
4 the sport fishing restoration fund, the tax that he  
5 was talking about and license fees that anglers  
6 pay with their license.

7 UNIDENTIFIED SPEAKER: There's all  
8 sorts of good work to be done with the taxpayers  
9 money.

10 PAUL: But if you back up a little bit on  
11 this at this point. And some of this happened  
12 before I even started working here. But I don't  
13 know -- I'm going to talk about some of the  
14 background information. You know, this was a hot  
15 issue back then.

16 And the original permits were denied  
17 originally so that we could get more information.  
18 So these studies weren't necessarily done to help  
19 a small group of people. They were -- I mean, they  
20 were done basically to get more information that  
21 would help everybody. It wasn't done for one  
22 group. I mean, we needed to have that  
23 information in order to make any decision on it.

24 UNIDENTIFIED SPEAKER: Well, I don't  
25 want to belabor the point. But go ahead with your

1 -- if anybody has questions.

2 CHIEF: I believe this gentleman was  
3 next.

4 UNIDENTIFIED SPEAKER: My name's  
5 Wade Biswell. I think you stated that -- or I think  
6 Paul stated that you were -- you attempted to do a  
7 study on Spring Creek, but that the landowners  
8 did not want to participate in that study and  
9 that's why it was done on Brush Creek.

10 PAUL: Well, the issue was from our first  
11 public hearing back in -- not a hearing, but the  
12 meeting among the constituents surrounding the  
13 problem was whether or not we, the department,  
14 was going to act on this first request back in '98.

15 And at that meeting one of the things  
16 that came out is the constituents around Spring  
17 Creek that were at the meeting asked that if the  
18 study was done, that we not conduct it on Spring  
19 Creek. So we found a surrogate stream that was  
20 another Ozark tributary to do it. And it was  
21 actually done at a Boys Ranch and they wanted to  
22 cooperate (inaudible).

23 UNIDENTIFIED SPEAKER: Is there --  
24 has there been -- other than the electroshock  
25 fishing that was done this summer, has there been

1 anything new that would contraindicate what the  
2 original OSU study stated?

3 PAUL: It's an issue that we're working  
4 with all the time. Randy and I and his group  
5 there in the office, a lot of things have happened  
6 in Spring Creek this year that didn't happen in  
7 Brush Creek the years of the study. Like the very  
8 mild summer we had that have caused things to  
9 become more complex. And I -- he talked about  
10 the 19 or so variables he looked at and all but two  
11 or three of them showed that things were  
12 significantly different this year than in years  
13 past.

14 So it's difficult to say whether this year  
15 being an anomaly had enough of an impact on the  
16 water temperature to impact trout survival this  
17 year compared to a normal summer. One thing we  
18 know about water temperature is it takes a lot of  
19 energy to change it. And whether or not some  
20 cooler days and some higher elevated rainfalls  
21 would have a difference in water temperature is  
22 the unknown. And that's something we will find  
23 out as we go.

24 UNIDENTIFIED SPEAKER: Okay. Just  
25 one follow-up. Is -- what's the impact of the

1 cattle operations on the stream flow and how --  
2 the ecology that's in that stream since restoration  
3 work's being done there already.

4 PAUL: Well, the cattle operations are  
5 just one of the impacts that's facing our Ozark  
6 stream systems in the northeast part of the state.  
7 There are several issues out there. Spring Creek  
8 is really not hidden from any of those. Different  
9 land use practices, whether they be (inaudible) --  
10 whether they be (inaudible) for cattle grazing on  
11 the stream banks, whether it be (inaudible)  
12 service, all of those things are have an impact on  
13 Spring Creek causing different channel instability  
14 problems. And those are problems that are not  
15 uncommon to any other Ozark stream.

16 CHIEF: Ms. Owen.

17 UNIDENTIFIED SPEAKER: I want to  
18 ask --

19 CHIEF: Say your name.

20 MS. OWEN: My name is Jennifer Owen.  
21 I'm a landowner. My question is: How much time  
22 is the department -- how many man hours do you  
23 estimate that you've dedicated to this trout  
24 project on Spring Creek since 19, what, 1998.

25 PAUL: I don't know how to answer that.

1           You know, we come to Spring Creek as one of our  
2           streams that we sample pretty much every year in  
3           the northeast part of Oklahoma. We also do other  
4           streams. We do the Illinois river, (inaudible)  
5           creek with a lot of repetition. We do Flint Creek.

6                   MS. OWEN: I'm talking about Spring  
7           Creek. How much time -- how many man hours --  
8           I mean, Mr. (inaudible) would know  
9           administratively. I remember I read an estimate  
10          on it at one time. I know that typically if you all  
11          come out, how many men will there be? Four?  
12          Two?

13                   PAUL: Typically two.

14                   MS. OWEN: Typically two. Most  
15          recently.

16                   PAUL: When we saw you the other day,  
17          there was four. (Inaudible) Usually when we're  
18          doing electrician survey, there's two.

19                   MS. OWEN: So how many days a month  
20          would you say you've been on Spring Creek over  
21          the past year?

22                   CHIEF: That would be a guess, Ms.  
23          Owen. If you would like that, we can accumulate  
24          that and give it to you. I just -- we just can't get  
25          it to you right now.

1 MS. OWEN: Okay.

2 CHIEF: Yes, ma'am.

3 MS. PHILLIPS: Trish Phillips. I've lived  
4 on Spring Creek for 18 years. And I've monitored  
5 Spring Creek. My question is: Were trout  
6 introduced before permits were allowed and were  
7 -- how many permits were allowed before --

8 CHIEF: Everybody hear the question?  
9 All right. The question was: How many  
10 incidences or occurrences were there that trout  
11 were stocked before the first time that the permit  
12 was allowed. And what was the second part?

13 MS. PHILLIPS: How many permits before  
14 it took that you actually allowed the stocking.

15 CHIEF: How many --

16 MS. PHILLIPS: I mean, were there any  
17 rejected permits?

18 CHIEF: Were there any rejected permits  
19 prior to the one that we rejected for Spring Creek.  
20 Is that your question? Okay. I'll try a little bit  
21 here and then you guys can help me.

22 Trout have been stocked actually -- or  
23 trout eggs have been put into Spring Creek in our  
24 records as early as 1970s. In the mid 1970s by a  
25 group called the Green Country Fly Fishers.

1 UNIDENTIFIED SPEAKER: Green Country  
2 Fly Fishers.

3 CHIEF: And their project at the time was  
4 approved by the department for the purpose of  
5 seeing if experimental stocking of eggs would  
6 survive. And that project went through the '70s  
7 and results from that, according to the club who  
8 did it, said that the trout were hatched from the  
9 eggs and trout were in the stream.

10 We don't have any records of our own of  
11 -- we can't give you any numbers or anything like  
12 that except to say that this was documented and it  
13 was done back in the early '70s.

14 Since then all we know is that trout were  
15 stocked by the club in 1997. And in 1998 is when  
16 we got involved with our application process. And  
17 that's the first time that we had rejected. Prior to  
18 that there was no application process in place.  
19 And so that's the first time of the rejection.

20 And now we're to the year after trout were  
21 stocked in 2003, and they've come with another  
22 request for stocking next year. Or this year and  
23 next year.

24 MS. PHILLIPS: What are the  
25 consequences for stocking without permits or --

1 and how much does a permit cost?

2 CHIEF: There's no cost to the permit.  
3 You have to have a fishing license that is recorded  
4 on the application. The other thing Randy can  
5 help you here. He was afraid I was going to ask  
6 you that. Stocking the fish in public waters  
7 without permission of the director would be what?

8 (Inaudible.)

9 UNIDENTIFIED SPEAKER: That's the  
10 minimum.

11 UNIDENTIFIED SPEAKER: What was that  
12 answer?

13 CHIEF: \$168 minimum for violation of  
14 that -- of statute.

15 UNIDENTIFIED SPEAKER: In other  
16 words for stocking without permission? That what  
17 you're saying?

18 CHIEF: Yes, sir. Yes, sir. In public  
19 waters.

20 UNIDENTIFIED SPEAKER: Is that per  
21 fish?

22 CHIEF: No, sir.

23 PAUL: What that would be is -- he would  
24 be able to answer this best, but it would be a  
25 violation of Commission rules and Title 800. And

1 that has a set fee, court costs and then the state  
2 fees associated with it that the Wildlife  
3 Department doesn't set.

4 MS. PHILLIPS: So will these people that  
5 stocked it in '97 before a permit, did they have  
6 any consequences?

7 CHIEF: No.

8 UNIDENTIFIED SPEAKER: It's too late  
9 now.

10 UNIDENTIFIED SPEAKER: What was that  
11 question again?

12 CHIEF: She wanted to know if there were  
13 any consequences to the stockings that were done  
14 before 1998 without permission. And we wouldn't  
15 be able to do anything about it now knowing that.  
16 It would be too late.

17 PAUL: Can I just add one thing?  
18 Because I think it's pertinent to what you've  
19 asked. You heard the chief say several times we  
20 didn't have a permit process.

21 We actually began to develop that  
22 somewhere around 1998. And it was a process  
23 over time that evolved into actually a rule in our  
24 Title 800 that I have a copy of with me. So it's  
25 actually a part of Title 800 now. An official

1 process by someone could apply to stock any kind  
2 of fish, not just trout, into public waters in the  
3 state and seek permission from the director to do  
4 that.

5 CHIEF: I believe you're next.

6 UNIDENTIFIED SPEAKER: Are there  
7 trout --

8 CHIEF: Your name.

9 UNIDENTIFIED SPEAKER: Dan  
10 (inaudible). Are there trout stocked in Snake  
11 Creek? I mean, is this application process only --  
12 does it apply to all streams?

13 CHIEF: No.

14 RANDY: It's site specific.

15 UNIDENTIFIED SPEAKER: Do you have  
16 to apply, I mean, for any stream in Oklahoma --  
17 even if they own both sides of the creek and the  
18 whole thing?

19 PAUL: On the trout stocking application,  
20 it specifically says that you have to attach a legal  
21 description of the property you wish to introduce  
22 fish into and a map showing that property and  
23 directions on how to get to that property.

24 UNIDENTIFIED SPEAKER: Were you  
25 required to do the study because you had the

1 applications?

2 PAUL: No. We weren't -- part of the --  
3 the idea behind the application process is to set  
4 up a set of protocols that our director could make  
5 a decision if somebody wanted to introduce any  
6 kind of fish into any public water body in  
7 Oklahoma. And what that application process  
8 allows is for the agency to look at individual  
9 applications to introduce fish and then to give us  
10 a formalized process in which to evaluate that.

11 And the director relied heavily on input  
12 from people in the field and chief and that sort of  
13 thing from the application that we would take and  
14 look at all of the things like we're doing today  
15 kind of surrounding that issue and make  
16 recommendation to them.

17 UNIDENTIFIED SPEAKER: Do you want  
18 to stock the trout? I mean, or do you just have no  
19 objection? And what are the benefits?

20 CHIEF: We have -- we have no objection  
21 as long as there's no problem. And that's what  
22 we're trying to determine.

23 And to that extent, it is a very difficult  
24 issue to get your hands around because there are  
25 so many factors, so many things that we have to

1 consider here.

2 For instance, I mean, if we were just to  
3 summarize where we're at right now, the first time  
4 we got the application in '98 that we had the  
5 process in place, we denied the application  
6 because we had these concerns that we didn't have  
7 answers for about stocking rainbow trout in a  
8 native fish population like the Spring Creek.

9 So we took the time to get that  
10 information to satisfy ourselves of these issues.  
11 We found that the study said that in the long-term  
12 they didn't see anything -- in the short-term they  
13 didn't see anything that would be significantly  
14 detriment to the populations in Spring Creek or  
15 Brush Creek, because that's where it was. So we  
16 issued the permit.

17 And there were specific things on the  
18 permit that they had to do. For instance, they  
19 couldn't stock anymore fish than what the study  
20 in Brush Creek allowed. We wouldn't allow them  
21 to stock a higher stocking rate or density in  
22 Spring Creek than we did the study for in Brush  
23 Creek. Okay.

24 Now, we've gotten a year after the  
25 stocking and we are getting some more information

1           that now we're in a position to re-evaluate the  
2           application again. And that's why we're here, is  
3           to get this part of it that is the public input part  
4           to make that decision. Okay.

5                     PAUL: There's a question over here,  
6           chief.

7                     CHIEF: Yes, sir.

8                     UNIDENTIFIED SPEAKER: Are there any  
9           members of this group that paid for the fish  
10          present?

11                    CHIEF: I don't know. And it would be up  
12          to them.

13                    UNIDENTIFIED SPEAKER: What is your  
14          preference to catching pen raised trout that's been  
15          fed on trout pellets to catching small mouth that  
16          have evolved over hundreds of thousands of years  
17          and are a terrific game fish in themselves? Why  
18          introduce an exotic to compete with a better game  
19          fish?

20                    UNIDENTIFIED SPEAKER: If you would  
21          like me to address that in the comments section, I  
22          would be happy to or I'll address it right now.

23                    CHIEF: That would be a good idea.  
24          We're getting to the comments part of this.

25                    UNIDENTIFIED SPEAKER: I do have one

1 question, though.

2 CHIEF: Yes, sir.

3 UNIDENTIFIED SPEAKER: Do we know of  
4 any other studies besides the OSU study, whether  
5 we're talking about an Ozark stream or any other,  
6 that we might refer to to gain a little knowledge or  
7 wisdom given the fact that there appear to be any  
8 number of streams, rivers and creeks in the  
9 United States where trout and small-mouth bass  
10 coexist?

11 CHIEF: In our review of the literature  
12 that -- did you hear the question?

13 UNIDENTIFIED SPEAKER: Yes, I did.

14 CHIEF: Over here. The question was:  
15 Were there any other studies that we could use to  
16 get some more information about this same type of  
17 situation?

18 And in our review of the literature, there  
19 were other studies done. And some of them said  
20 no impact. Some of them said be careful. So in  
21 our view, it necessitated us to get some additional  
22 information.

23 And it's awful hard to say that a study  
24 done in Pennsylvania would be applicable to our  
25 situation here. So we tried to do all that and get



1           once it starts warming up so that -- so goes the  
2           water temperature and it gets quite high. In the  
3           80s, around 80 or so. And there's no oversummer  
4           at all for the trout there.

5                    CHIEF: Okay. One last question, and  
6           then let's just start commenting.

7                    UNIDENTIFIED SPEAKER: My name's  
8           David Hurd. The question I have is: What is the  
9           official approval or denial process? What  
10          standards are you held to either by statute or by  
11          department policy for approving or denying the  
12          application? And what are the -- what is the  
13          public recourse for either an approval or a denial?

14                   CHIEF: I have the -- what we call our  
15          Title 800 which are our rules. This spells out  
16          exactly what that is. I can either read it or I can  
17          give you a copy.

18                   UNIDENTIFIED SPEAKER: Is it on the  
19          Internet?

20                   UNIDENTIFIED SPEAKER: It's  
21          cumbersome.

22                   PAUL: It can easily be E-mailed to you.  
23          You can have this copy, also.

24                   CHIEF: Here's some of the guidelines.  
25          "The written application process and guidelines

1 are: Only persons with a valid Oklahoma fishing  
2 license may apply. A fish stocking permit  
3 application must be completed and submitted to  
4 the director. The application will be reviewed and  
5 evaluated by the department, accepted or denied  
6 and a permit or notification of denial will be  
7 issued by the director."

8 "Approval or denial of the fish  
9 introduction permit will be based on: The  
10 presence or absence of critical habitat for  
11 threatened or endangered species. The potential  
12 of introduced fish to compete with native species  
13 in a manner that would negatively impact these  
14 populations. Public interest or concerns  
15 regarding the issuance. Other biological  
16 considerations deemed appropriate by the  
17 department."

18 "Approval permits will be subject to the  
19 following restrictions: Only the permitted number  
20 of fish may be stocked and only at approved sites  
21 listed on the fish introduction permit. Introduced  
22 fish must be certified as disease free by the  
23 vendor. The fish introduction trip sheet that is  
24 attached to the fish introduction permit must be  
25 completed and submitted to the Oklahoma

1 Department of Wildlife Conservation. Applicants  
2 must agree to allow the Department of Wildlife  
3 staff to access the property where fish  
4 introductions occur to assess impacts of the  
5 introduction. And other restrictions deemed  
6 appropriate by the Department and listed in the  
7 fish introduction program shall be followed."

8 UNIDENTIFIED SPEAKER: Okay. So  
9 basically within that it is pretty much up to the  
10 sole discretion of the director for approval or a  
11 denial?

12 CHIEF: With the recommendation from  
13 the staff. All right.

14 UNIDENTIFIED SPEAKER: Can we get on  
15 to the --

16 CHIEF: Yes, sir. Let's -- I want to make  
17 sure, first of all, that this is taking all this down.

18 PAUL: Don't forget, too, that there's a  
19 written comment form. And you're welcome to  
20 submit that either way. Either or.

21 CHIEF: Now, let's try to stick to the  
22 three-, to five-minute comment thing. And --

23 UNIDENTIFIED SPEAKER: As far as the  
24 written comments, if I don't get them back to you  
25 tonight, what is the time frame between now and

1 the time that you need to receive them?

2 CHIEF: I would like to receive them by  
3 Friday.

4 UNIDENTIFIED SPEAKER: And when will  
5 you be reaching a decision?

6 CHIEF: Before the end of the month.  
7 Hopefully. We have to regurgitate all this. We  
8 have two other meetings to go to. Three total.

9 UNIDENTIFIED SPEAKER: One more  
10 question. What was his question?

11 CHIEF: I'm sorry. He wanted to know  
12 when he could send in written comments, by what  
13 date. And I told him Friday.

14 UNIDENTIFIED SPEAKER: In addition to  
15 the verbal ones tonight?

16 CHIEF: Yes.

17 UNIDENTIFIED SPEAKER: Okay. All  
18 right.

19 CHIEF: Yes, sir.

20 UNIDENTIFIED SPEAKER: I still have a  
21 question. Charles Perry, landowner. My  
22 understanding is that you're stocking trout on the  
23 Rolling Ranch there.

24 CHIEF: Wildlife Department is not  
25 stocking the trout.

1 UNIDENTIFIED SPEAKER: Well, you're  
2 allowing it.

3 CHIEF: We allow it.

4 UNIDENTIFIED SPEAKER: But the only  
5 fishing allowed on the entire Spring Creek system  
6 is on that Rolling Ranch.

7 CHIEF: Because they have leased the  
8 access to fish there.

9 UNIDENTIFIED SPEAKER: Does that  
10 make sense?

11 UNIDENTIFIED SPEAKER: In an elitist  
12 context, it does.

13 CHIEF: Okay. Does it make sense? If  
14 someone leases their property and allows access to  
15 fishing or hunting, that happens all the time.

16 UNIDENTIFIED SPEAKER: But public  
17 funding is making all this possible.

18 CHIEF: We are not paying for the trout.  
19 We are doing the evaluation of the stocking. The  
20 Wildlife Department does not pay for the trout.

21 UNIDENTIFIED SPEAKER: Who's raising  
22 the trout? Who's providing the trout?

23 PAUL: They can get it from any vendor  
24 they want.

25 CHIEF: It's a private producer.

1 PAUL: But it's a place in Missouri.

2 CHIEF: Okay. Here we go. Who wants to  
3 be first? Give your name, make your comment.

4 UNIDENTIFIED SPEAKER: Give me a  
5 chance to get to you.

6 PAUL: Let Randy get to you before you  
7 start.

8 UNIDENTIFIED SPEAKER: I've got some  
9 handouts, if anybody would like these. These are  
10 some information that I pulled up on the Internet  
11 available to anybody. And --

12 PAUL: Are these started, Randy? We  
13 need his name, please.

14 UNIDENTIFIED SPEAKER: My name's  
15 Robin Tate.

16 PAUL: Thank you.

17 UNIDENTIFIED SPEAKER: And -- my  
18 basic -- you know, the information that I pulled  
19 up on the Internet was relatively easy to find. It  
20 was all about non-native introduced trout in  
21 native streams that impact the -- that impact the  
22 native populations.

23 One's from the U.S. government. One's  
24 from Fly Fisherman and Fly Fish America.  
25 Another one's from Africa where it says a problem

1 with introduction of trout and especially rainbow  
2 trout in south Africa are harmful effects are  
3 definitely resulted in (inaudible) fishes through  
4 competition.

5 These studies -- I mean, I think we're  
6 putting the stream at risk. And I see no point in  
7 doing it for a small group of people. There's -- we  
8 call this public waterways. I mean, how could it  
9 be public if there's no access to it. What about  
10 the private landowners' rights?

11 Trout are pollution in a stream like this.  
12 That's my firm belief. And the stream itself is not  
13 navigable. You can't get up and down it in any  
14 kind of water depth at all. So --

15 CHIEF: What happened, Randy.

16 PAUL: Could you hang on a second.  
17 We're having some technical difficulties.

18 UNIDENTIFIED SPEAKER: I won't repeat  
19 it. It's essentially what we've got --

20 PAUL: I'm not sure we even actually got  
21 started with your comment.

22 UNIDENTIFIED SPEAKER: Anyway, I'm  
23 opposed to it.

24 THE REPORTER: If they'll come over by  
25 me, I can get it.

1 CHIEF: We need it on ours, too, so --

2 THE REPORTER: I'm not having trouble.

3 UNIDENTIFIED SPEAKER: That's about  
4 all I have to say. These speak for themselves.

5 PAUL: If you have a comment, please,  
6 we're going to have to have you come up to the  
7 front and speak into the microphone, please.  
8 That's the only way we can do this. If you want it  
9 to be on public comment record, it needs to be on  
10 tape so --

11 CHIEF: We will make no -- on here of  
12 your comments. I think --

13 UNIDENTIFIED SPEAKER: What I would  
14 like to do is refer to these studies and many  
15 others that are out there that (inaudible) negative  
16 stocking.

17 CHIEF: We can mark these.

18 MS. PHILLIPS: My name is Trish  
19 Phillips. I live in Tulsa, and I have lived on  
20 Spring Creek for 15 years. I was a (inaudible)  
21 monitor for Spring Creek.

22 My comment is any inconclusive results,  
23 any, should warrant protection of Spring Creek.  
24 Which should include not introducing nonhabitat  
25 trout or any fish not native to Spring Creek. You

1 cannot determine all the problems or concerns and  
2 have all the answers, yet you let permits allowed.  
3 No long-term results are determined at this time.  
4 Thank you.

5 CHIEF: Thank you. Next.

6 MS. OWEN: Let's see. My name is  
7 Jennifer Owen. I'm a landowner on Spring Creek.  
8 I've been -- I've been involved with this trout  
9 issue since its inception in 1997, '98. It is my  
10 belief that -- that this is not a scientific issue.  
11 That it is a political issue.

12 There are eight commissioners that are  
13 appointed by the governor to represent the  
14 constituents in their districts. So since Spring  
15 Creek -- the Spring Creek watershed, there are two  
16 commissioners out of eight serving on this  
17 commission.

18 These commissioners are not representing  
19 the constituents in these regions. They're not --  
20 they're not here tonight. It's my understanding  
21 that -- that a -- and incidentally, okay, one of  
22 them is serving his second eight-year term, Mr.  
23 Jack Zink.

24 I called him and asked him if he was  
25 coming to this meeting. He couldn't talk to me,

1 but he had his secretary tell me that it was up to  
2 the director or it was the authority of the director  
3 to permit the trout. That's all he had to say about  
4 it.

5 There's another commissioner, Mr.  
6 Stonecipher, who serves on the commission who is  
7 probably responsible for everything that's  
8 happening here. And I -- I am -- I would like to  
9 see something done, some sort of accountability.  
10 I question what is the accountability for our  
11 system on state agencies.

12 What recourse, what -- what can we do?  
13 If the very people that are appointed by the  
14 governor, we can't depend on them. They sell us  
15 out. What is our recourse?

16 And the other thing is that I think that  
17 the Director Duffy who has succumbed to this  
18 political pressure, I guess in the interest of  
19 protecting his job, I think that he needs to be  
20 replaced. I think that the state of Oklahoma  
21 needs someone in a position as director of the  
22 Department of Wildlife who will do his job, which  
23 is to preserve and conserve and perpetuate and --  
24 wildlife in this state. And that is my comment for  
25 now.

1 CHIEF: Thank you.

2 MS. OWEN: Thank you.

3 MR. WALKER: My name is John Walker.

4 I live in Tulsa, and I'm just a fisherman. And I do  
5 not see in studies over -- a litany of studies will  
6 indicate that introduction of exotics seldom  
7 replaces the quality of indigenous species. And  
8 the small-mouth fishing on Spring Creek is  
9 fabulous. And I enjoyed cashing the trout this  
10 spring. In fact, you could have stood on my  
11 eyeballs when I caught the first one. I had no  
12 idea they were there.

13 I checked my notes, and I caught over 60  
14 trout this spring. It was fun. But I also noted  
15 that anywhere there was a significant number of  
16 trout, there were no large small mouth. And I like  
17 small-mouth fish. If I want to trout fish, I will go  
18 to Montana, I will go to Arkansas. Let's keep  
19 Spring Creek small-mouth pure. And is a shadow  
20 bass a Kentucky or spotted bass? I've never heard  
21 that terminology.

22 UNIDENTIFIED SPEAKER: Have you ever  
23 heard rock bass?

24 UNIDENTIFIED SPEAKER: Okay. Rock  
25 bass. Yeah. I noticed you didn't mention

1           Kentuckys or spots in your study.  There's -- from  
2           Twin Bridges on down, there's a heck of a  
3           population of spots.  And, again, where there was  
4           a trout two pounds or better in a given run, there  
5           would be no large small mouth.  So trout are fun  
6           where they belong in Montana, Wyoming, Idaho.  
7           Thank you.

8                         CHIEF:  Thank you.

9                         UNIDENTIFIED SPEAKER:  I would like  
10           to ask another question.

11                        CHIEF:  We've got somebody.

12                        MR. RUSSELL:  My name's Neal Russell.

13           (Inaudible) with the trout eating pellets and  
14           things like that.  I don't know what fishermen are  
15           expecting to catch them on if, if that's all they eat  
16           are pellets.

17                        But, anyway, we don't really need any  
18           kind of study to determine if there is or is not  
19           going to be impact with the releasing of exotic fish  
20           into a stream.  We can look at the (inaudible) in  
21           Australia or (inaudible).  You also look at all  
22           these number of things, early development in rural  
23           areas, you'll see that there is an impact any time  
24           that something is introduced to an area that it's  
25           not made for.

1                   And it's not benefitting ecology. They  
2                   said over the three-year study in Brush Creek that  
3                   it wasn't conclusive enough to determine if there  
4                   was going to be a long-term impact. So they went  
5                   ahead and did it anyway.

6                   So the -- they introduced a limited  
7                   amount. 700 and something pounds a mile. So  
8                   what impact does 1,400 pounds of dead fish in the  
9                   creek have after they all die if they don't survive?  
10                  And some did survive.

11                  I don't know if the question was answered  
12                  earlier about threatened species in the state in  
13                  that creek. There are several, yes. There's  
14                  Arkansas darter, (inaudible) topwater minnow, to  
15                  name a few. And I think there's some threatened  
16                  or exotic insects even. (Inaudible.)

17                  I wanted to point out that the main thing  
18                  that keeps coming up here is that this property is  
19                  leased by the anglers, leased. Now, the people  
20                  here tonight who are concerned about this are  
21                  landowners. We're the ones that have to deal with  
22                  it after they leave.

23                  After the lease is expired, they move on  
24                  somewhere else we still have the trout there. You  
25                  say it doesn't survive the summer months. But

1 did anybody ever look to see if the creek  
2 temperature gets above 75 degrees before they  
3 (inaudible) because the study that I have, it peaks  
4 out at about 75 degrees every year.

5 And so we had this same meeting a year  
6 ago, this town hall meeting to discuss what should  
7 be done if the trout are released. And I'm glad  
8 you all are following up because that was the only  
9 recommendations that was involved. The only  
10 recommendations we made were tag the trout so  
11 you could study them and see how long they do  
12 survive, where they're released, where they're  
13 found. Put sterilized trout in so if they do survive  
14 they won't continue to populate. And also notify  
15 the landowners.

16 And even this meeting tonight, there was  
17 very little notice on the papers. Nothing on the  
18 web page. Very little notice that was put out  
19 about this meeting tonight. And this is a major  
20 concern. So not only the fact that we are  
21 landowners -- and let me put it in perspective.

22 Let's say I have in my hand a handful of  
23 dandelion seeds. Dandelions are pretty. Some  
24 people consider them medicinal. And I want the  
25 anglers to give me their address, and I'm going to

1           come over and spread them in your yard. You may  
2           not like it. You may not want them. But it  
3           doesn't matter because I'm going to do it because I  
4           like it. And there's nothing you can do about it.

5                        So this meeting shouldn't be whether or  
6           not to put trout in the creek. There's trout in the  
7           creek. My place is three miles up from the  
8           stocking site, three or four miles; and there's  
9           trout the size of my forearm in the pool right now.  
10          I will be happy to take you there any time and  
11          show them to you. This meeting needs to be about  
12          how we're going to start eradicating the fish out of  
13          the creek. Thank you.

14                      CHIEF: Anyone else for the first time?  
15          All right. Let's go around again. Anybody else  
16          would like to say more or maybe before you get to  
17          a question, Ms. Owen. Let's see if we get anybody  
18          else who has already spoken.

19                      MR. DURHAM: The gentleman asked me  
20          if why wasn't I -- my name's Jim Durham. The  
21          gentleman asked me why it was that I prefer to  
22          fish for trout over small-mouth bass and the  
23          answer to that question is I don't. I like to fish  
24          for all different kinds of fish equally.

25                      My one comment is I'm glad that you

1 caught lots of small-mouth bass in Spring Creek.  
2 I think maybe I've caught one or two. I do -- I do  
3 remember people telling me about how many  
4 small-mouth bass they caught in Spring Creek  
5 many, many years ago. And I'm talking about  
6 decades ago when they were children; or they've  
7 talked to me about how good the fishing was at  
8 Camp Garland up the road, et cetera, et cetera.  
9 It's my understanding that -- that the  
10 small-mouth bass population in Spring Creek has  
11 been reduced.

12 UNIDENTIFIED SPEAKER: Would you  
13 like to go with me next spring. I will be happy to  
14 take you, man.

15 CHIEF: Let him finish.

16 UNIDENTIFIED SPEAKER: You are dead  
17 wrong.

18 MR. DURHAM: Okay. If I'm wrong, so be  
19 it. But it's my understanding that there aren't a  
20 lot of small-mouth bass in Spring Creek.

21 UNIDENTIFIED SPEAKER: No, no, no,  
22 no.

23 MR. DURHAM: Where fishing's different  
24 than it used to be for small-mouth bass in Spring  
25 Creek because cattle have been allowed to wander

1 all over the streams and the timber has been cut  
2 all the way down to the water line, keeping that --  
3 that helps to keep a stream dirty rather than  
4 clean.

5 I would like to -- I would like to just  
6 comment about non-native fish. It's my  
7 understanding that when we're talking about  
8 trout, that rainbow trout are native to the west  
9 coast of the United States. And brown trout are  
10 native to Europe. And brook trout are native to  
11 the northeastern United States. And there are  
12 various species of cut-throat trout that are native  
13 to some places in the Rocky Mountain west and  
14 some places in the southwest United States.

15 I would -- my comment is that trout of all  
16 those four species have been stocked by wildlife  
17 departments in every state that's got some sort of  
18 cold running water, Montana, Wyoming, Arkansas,  
19 Missouri. With millions of dollars worth of  
20 positive economic impact and, apparently, no -- we  
21 can't refer to any studies that say that they're --  
22 that they're impacting the fish population. That's  
23 my comment. Non-native fish are being -- are  
24 being stocked all over the United States.

25 UNIDENTIFIED SPEAKER: Sir.

1 MR. DURHAM: That's my comment.

2 UNIDENTIFIED SPEAKER: When you get  
3 through, take a look at those. Spring Creek's  
4 small mouth.

5 MR. HURD: My name's Dave Hurd. There  
6 has been a lot of talk tonight about what's wrong  
7 with introducing trout into the stream and, you  
8 know, what's wrong with (inaudible).

9 The question, as I see it, is what's right  
10 about introducing a non-native species. You're  
11 absolutely right. Non-native species of fish may  
12 be just all over the United States. Is that right?  
13 No.

14 We have introduced non-native plant  
15 species, the kudzu or whatever in the south,  
16 which you cannot eradicate. It was done for a  
17 very good purpose, but now it's out of control.  
18 You have well intended actions that go completely  
19 awry.

20 And why take a very nice, pristine  
21 ecologically healthy, diversified river and mess  
22 around with it. Is there anything right or  
23 anything that is good in that? No. The right  
24 thing is to leave the stream the way that it is, the  
25 way that nature intended it to be without messing

1 around with it.

2 CHIEF: Thank you. Did you give your  
3 name?

4 MR. HURD: Yeah. Dave Hurd.

5 CHIEF: Okay. Thank you. Anybody  
6 else? First time around. Second time around.  
7 First time.

8 MR. RUSSELL: My name is Glen Russell,  
9 landowner at Spring Creek. I was going to follow  
10 up on a comment this nice gentleman over here  
11 mentioned about that Spring Creek didn't have  
12 that many bass because of the cattle eroding the  
13 street bank -- stream banks.

14 And being a landowner and concerned  
15 about the same issue, I joined the Environmental  
16 and Quality Incentive Program, EQIP. And in that  
17 program we were encouraged to fence off the creek  
18 bottom to prevent the cattle from eroding the  
19 stream banks which fill in the native pools which  
20 are very limited, of course, on Spring Creek and,  
21 therefore, discourage the native species of bass.

22 And so I thought that that program was a  
23 very successful program. I had noticed personally  
24 that keeping the cattle off of the stream banks  
25 helped tremendously in the area which I'm a

1 landowner of and it's just sad to have gone  
2 through that effort to help the native species  
3 establish -- reestablish themselves, to correct  
4 years of neglect from previous owners that weren't  
5 as informed, thanks to efforts of the state, but it's  
6 discouraging to know that I could go to those  
7 efforts and then have some other situation develop  
8 that would also kill off the native species.

9 So my problem is that landowners  
10 (inaudible) are doing the right thing and can do  
11 the right thing to help the native bass population.  
12 And I think one of the reasons we're here is to try  
13 to keep our momentum up and introducing  
14 non-native species would be counterproductive to  
15 what other incentive programs have been  
16 encouraging landowners to do. Thank you.

17 CHIEF: Anyone else? I would encourage  
18 you to, even if you did make a comment, if you  
19 could write it out, also. We would appreciate  
20 that. We have about 10 more minutes. Ms.  
21 Owens, you had a question.

22 MS. OWEN: Well, yeah. Jennifer Owen.  
23 I want to say that the main reason that I am so  
24 upset about what is happening is because this has  
25 a very serious impact on my property values. My

1 family owns 1,600 acres on Spring Creek. We own  
2 miles of Spring Creek.

3 We've worked for 20 years to -- to  
4 improve the (inaudible) zone, to get our cattle off  
5 the creek, to plant trees, to unite with other  
6 landowners. We have -- we have children. We  
7 have bills to pay. And for anyone who is a  
8 landowner, you know that whatever -- that is your  
9 asset. And that is what your retirement is. That  
10 is what your children will have. That is where you  
11 live and you work.

12 And this activity that's going on right  
13 now is going to ultimately destroy my property  
14 values. I know this. I know that the Spring Creek  
15 is going to be -- is going to become a public  
16 stream ultimately.

17 And what do you think that this is going  
18 to stop here? That you're the only guys that --  
19 that are going to come in and get this permit. It  
20 will continue to grow. And then we'll get in water  
21 slides and God knows what.

22 And, what, are you laughing? You don't  
23 think so. You think you're the only ones? No,  
24 you're not. You're just the beginning. That's all.  
25 And I say that you do not have a right to come in

1 on private property. You can get a lease on this  
2 private property, that's fine. But those fish are  
3 not staying on that land. They're not staying  
4 within that lease. They're going all up and down  
5 the creek.

6 I don't understand how this is even  
7 happening or how you can have any type of a right  
8 to do something in the interest of a few that affect  
9 all of us and will affect future generations and  
10 will affect my pocket book. And I don't appreciate  
11 it.

12 CHIEF: Yes, sir.

13 MR. TATE: Robin Tate. I just had a  
14 question. How is Spring Creek designated as  
15 public waters? I mean, what makes it public  
16 versus private?

17 PAUL: It's not designated as public  
18 water. It's designated as waters of the state of  
19 Oklahoma.

20 MR. TATE: I mean, you've said a number  
21 of times your jurisdiction is public waters.

22 CHIEF: In Oklahoma the land is owned  
23 by someone, either the landowner or the state.  
24 But the water is owned by the state of Oklahoma.  
25 And the fisheries are the resources of the state of

1 Oklahoma. We have -- the Wildlife Department  
2 has the charge to manage those resources. The  
3 water, however, is public water from the  
4 standpoint of not being owned by someone  
5 privately. That's the distinction. It doesn't mean  
6 that it's open to the public. It just means that  
7 it's not private waters. As in a pond on your  
8 property or something like that.

9 PAUL: There's actually a definition of  
10 waters of the state, too. What that is. And it's  
11 referred to in those rules that the Chief showed  
12 you earlier. That statute is referred to. You can  
13 actually read what waters of the state is  
14 considered.

15 UNIDENTIFIED SPEAKER: How old is  
16 that statute?

17 PAUL: I couldn't tell you that.

18 CHIEF: It's been in our wildlife statutes  
19 as long as I've been doing this. 33 years.

20 UNIDENTIFIED SPEAKER: Springs, I  
21 mean there's springs along there. So these  
22 springs, they can sell the water and do what they  
23 want with it, the landowners.

24 CHIEF: Landowners have got to get --  
25 the question was can they sell water, spring water

1 or whatever. The water is regulated by the  
2 Oklahoma Water Resources Board. And you have  
3 to get a permit in order to pump out of a stream or  
4 take the water for distribution and sale. So it's  
5 controlled by another state agency.

6 UNIDENTIFIED SPEAKER: But what is  
7 it? If I had access to one of these places -- and I  
8 will be glad to catch all the trout out of Spring  
9 Creek. If you -- can you keep the trout if you  
10 catch them in Spring Creek, you know? Do you  
11 have permission from the landowner?

12 CHIEF: Yeah. They're fair game.

13 UNIDENTIFIED SPEAKER: So I can keep  
14 as many as I want or is it -- there's --

15 CHIEF: There is a state limit on trout  
16 once it gets in a public body of water of six per  
17 day. Is that correct?

18 UNIDENTIFIED SPEAKER: But is this a  
19 public body of water? Is that what you're saying  
20 it is?

21 (Inaudible.)

22 UNIDENTIFIED SPEAKER: Could I ask a  
23 question.

24 CHIEF: Your name.

25 MR. BISWELL: Wade Biswell again. So I

1 would be required to buy a trout permit, a license  
2 or stamp or whatever you call it.

3 CHIEF: No. You would only have to have  
4 a fishing license. The places that we sell trout  
5 licenses, trout permits are only those areas that  
6 the state -- the Wildlife Department stocks and  
7 are designated as state (inaudible) trout stocking  
8 areas.

9 That would be like below Tenkiller dam in  
10 the Illinois River, Blue River. And then we have  
11 others. Mountain Fork. That's where you would  
12 have to have a permit. You wouldn't have to have  
13 it to catch a trout out of Spring Creek. You only  
14 have to have a fishing license.

15 UNIDENTIFIED SPEAKER: If I get  
16 stopped on the way home, how do I tell our game  
17 ranger over here where I've caught the trout?

18 CHIEF: The question was if he had a  
19 trout in his possession on the way home from  
20 Spring Creek, is that right, how do you tell the  
21 game warden where you caught it?

22 UNIDENTIFIED SPEAKER: Yes, sir.

23 CHIEF: He would not -- answer that  
24 question. If they have a trout in their possession,  
25 he would have to have a fishing license is all.

1 UNIDENTIFIED SPEAKER: Does the limit  
2 apply?

3 UNIDENTIFIED SPEAKER: Does the limit  
4 apply?

5 UNIDENTIFIED SPEAKER: Yes. It's just  
6 like our trout areas. They have a season set on  
7 them. That trout license is good for that season  
8 only. But the day after the season is over, you  
9 can still catch trout. But you can only take the  
10 daily limit. But back to your question.

11 MS. OWEN: Hey, man. We're not here to  
12 talk about this. This is not what we're here to  
13 talk about.

14 CHIEF: Well, it's a time to ask  
15 questions.

16 UNIDENTIFIED SPEAKER: He can call  
17 some of his friends up there and ask that.

18 CHIEF: It's a legitimate question.

19 UNIDENTIFIED SPEAKER: We're not  
20 talking about how he gets home with his trout.  
21 We're talking about whether or not they should be  
22 in Spring Creek.

23 CHIEF: We will answer your questions  
24 afterwards. Yes. I believe you were first. Your  
25 name.

1                   MR. CHRISTOPHER: Gerald Christopher.  
2                   I'm hearing you talk about selling water or  
3                   pumping water, you have to obtain a permit. What  
4                   would be the process if someone wanted to drill  
5                   into an aquifer to release more flow into the river?  
6                   And would you have to go -- I mean, would you be  
7                   doing another study on the impact of that and how  
8                   can you possibly know the effects of opening an  
9                   aquifer, allowing more water to --

10                  CHIEF: That is regulated also by the  
11                  Water Resources Board. You would have to have a  
12                  permit to do, as well. And the effects of using  
13                  water from groundwater resources would be their  
14                  call as to --

15                  UNIDENTIFIED SPEAKER: It's not  
16                  yours?

17                  CHIEF: No. I believe you were next.

18                  MS. PHILLIPS: Yes. I was wondering --

19                  CHIEF: Your name.

20                  MS. PHILLIPS: Patricia Phillips. Do the  
21                  anglers group, do they have permits on other  
22                  creeks?

23                  CHIEF: No. Not -- do they have leases  
24                  or permits?

25                  MS. PHILLIPS: Permits and leases.

1 CHIEF: I don't know about the leases,  
2 but they have only applied for this one.

3 UNIDENTIFIED SPEAKER: What about  
4 Chimney Rock? How does that apply --

5 CHIEF: Did that answer your question?  
6 The only one we know of is --

7 MS. PHILLIPS: My other question was  
8 why. Why Spring Creek?

9 CHIEF: I would assume because that's  
10 where their lease --

11 PAUL: That's where they applied.

12 UNIDENTIFIED SPEAKER: Chimney  
13 Rock's just up the road, and they stock trout  
14 there.

15 CHIEF: Not that we know of. Who is  
16 they? I don't know.

17 UNIDENTIFIED SPEAKER: Not in Spring  
18 Creek. It's a another --

19 UNIDENTIFIED SPEAKER: I just have  
20 one more thing.

21 CHIEF: One more comment. Hold on a  
22 second. Got to change the tape.

23 UNIDENTIFIED SPEAKER: Again, I just  
24 want to emphasize what Mrs. Owens said. There's  
25 already an article in the Oklahoma paper and it

1           says, "National ideal fishing spots Spring Creek."  
2           It even has a little map on the back how to get to  
3           it and talks all about the trout being released into  
4           the creek.

5                       Now, this is private land. The other trout  
6           fishing places in Oklahoma are owned by Corps of  
7           Engineers, and they are manned by the  
8           Department of Wildlife and by -- and that's where  
9           the income from that permit comes from.

10                      If they're interested in making (inaudible)  
11           that doesn't have water flowing into other people's  
12           property or they need to go to Brush Creek, I  
13           mean, I don't want to sound like a (inaudible), not  
14           in my backyard. But at least we're here tonight  
15           making a stand that we don't want any trout  
16           released into our creek anymore.

17                      Being hunting season I deal with this  
18           every year, deer hunters come down. I have  
19           people that have meth labs and pot growers. It's a  
20           daily occurrence on there. And I have started  
21           catching people coming down the creek from  
22           Spring Creek Bridge looking for trout. And then  
23           there's fishing (inaudible) -- they see a guy having  
24           a good old time. No one told that (inaudible) -- no  
25           one demonstrates in this fishing that it's only

1 about six inches deep, the water there. So that's  
2 all the comment.

3 CHIEF: It's 8:45. And unless there's an  
4 objection, I would like to close the meeting for  
5 tonight. We're going to do this again tomorrow  
6 night, and you're all welcome to come say the  
7 same thing if you want to, say anything different  
8 you want to.

9 We appreciate your attendance tonight,  
10 your comments; and leave us your comment sheets  
11 if you didn't prepare any. And we'll start this at  
12 7:00 o'clock tomorrow at the Muskogee Public  
13 Library.

14 PAUL: The only thing I would add to  
15 what the chief said was if you can't come tonight  
16 -- or tomorrow night and you want to, it's all a  
17 matter of the same record. So if you come  
18 tomorrow and say it again, we'll record it again.

19 But it's still -- it's not a separate record.  
20 It's all -- the three meetings that are all going to  
21 be part of one record.

22 MS. OWEN: Can I just ask have one  
23 question. What is it going to take to stop this?  
24 What is considered a problem? I mean, is that --  
25 do you have to -- what will it take to stop this?

1 Please, just tell us.

2 CHIEF: Well, for us it would be for us to  
3 see that there is a impact that is significant  
4 detriment to the resource -- water resources in the  
5 stream.

6 MS. OWEN: Although you're not looking  
7 at the ecosystem. You're just looking at the sport  
8 fish; is that correct?

9 CHIEF: No, sir. No, ma'am we're not.

10 MS. OWEN: You're looking at records?

11 CHIEF: We're not looking at (inaudible)  
12 now. But that could also be something we could  
13 look at in the future.

14 UNIDENTIFIED SPEAKER: If they had a  
15 homeowners association of all those people that  
16 owned Spring Creek and they came up with laws  
17 and rules where if 75 percent of the group voted  
18 not to have trout in the creek, would that be  
19 something that you would respect?

20 CHIEF: You know, that's why we're  
21 having these meetings is to get this public input.  
22 That kind of information would also weigh into our  
23 decision. But whether or not you could as a  
24 landowner association dictate to another  
25 landowner what those rights would be.

1 UNIDENTIFIED SPEAKER: It's like a  
2 homeowners group.

3 MS. OWEN: So okay. Back to that -- so  
4 a significant impact. Just tell me what would that  
5 be? What is it going to take? How much has to  
6 die? Is that what we're talking? Do we have to --  
7 tell me, what will it take to stop it. A significant  
8 impact. What is the definition of a significant  
9 impact? Why -- why do we have to --

10 CHIEF: I don't know that it would be a  
11 combination of things that -- Ms. Owen. I don't  
12 know that I have an answer for you. Until we can  
13 understand the whole thing a little bit better, we  
14 may not get there.

15 But there's more information that's --  
16 that we're getting all the time from stocking the  
17 fish that would help us determine on a long-term  
18 whether or not trout can be stocked in northeast  
19 Oklahoma Ozark streams. Not just Spring Creek.  
20 But there are other streams in the state, in the  
21 northeast that will be subject to the same thing.  
22 So --

23 MS. OWEN: So you're using Spring  
24 Creek, then, as an experiment.

25 CHIEF: Yeah. It's getting us information

1           that we need to make this decision for all the  
2           areas in the state, especially in the Ozark area.

3                     MS. OWEN: Okay. So you're using  
4           Spring Creek as an experiment.

5                     UNIDENTIFIED SPEAKER: That being the  
6           case, if any more trout are being released, they  
7           should be tagged and should be sterile. That just  
8           makes sense.

9                     CHIEF: We've got that comment. And  
10          that's another thing that would be entered into  
11          our decision.

12                    UNIDENTIFIED SPEAKER: And why does  
13          it have to be a significant impact? Why can't it be  
14          -- how -- what is significant versus a minor  
15          impact? I mean, isn't any impact good enough?

16                    CHIEF: The thing we have to do is  
17          determine that an impact results from the trout  
18          stocking. That's not because of some other  
19          impacts that occur on the stream. To the best of  
20          our ability, that's what we would like to show and  
21          like to be able to stand up and say, "This is the  
22          fact and the impact because of the trout were  
23          stocked"; okay. And it is impacting some other  
24          resource in the stream, whether it's sport fish,  
25          macroinvertebrates, non-game fish or what.

1           The other aspects of this, the public  
2           landowner issues that you've related to us,  
3           trespassing, what-not, also have to be factored  
4           into our decision. But I can't define for you what  
5           makes it significant and what not right now.  
6           Because I'm not sure I can tell you that. I don't  
7           know.

8                   UNIDENTIFIED SPEAKER: Well, are we  
9           going to be allowed to see your analysis, details of  
10          how you arrived at --

11                  CHIEF: We will -- when we get to making  
12          the decision, we will put something together and  
13          probably put it in a news release or on our website  
14          or something like that.

15                  PAUL: Quite a few of the details are in  
16          your handout tonight. Everything that we have at  
17          this point is in your handout. And you may not  
18          have the actual individual numbers.

19                  UNIDENTIFIED SPEAKER: I didn't see a  
20          whole lot in there about landowners issues.

21                  PAUL: That's because we hadn't had  
22          these meetings yet when we wrote that in.

23                  UNIDENTIFIED SPEAKER: Does the  
24          Water Resources Board release to the --  
25          (inaudible)

1 CHIEF: Yeah.

2 UNIDENTIFIED SPEAKER: Do they -- is  
3 that -- you're not a part of the Water Resources  
4 Board.

5 CHIEF: No, sir.

6 UNIDENTIFIED SPEAKER: So do you all  
7 just get those records as a part of the state of  
8 Oklahoma? How does that work? The  
9 authorization over stocking wildlife in this water.

10 CHIEF: No. That's in state statute.  
11 That's in the state law that says we -- the director  
12 of the Wildlife Department has the authority to  
13 grant or deny public water stocking by private  
14 individuals. Doesn't have anything to do with the  
15 water resources.

16 UNIDENTIFIED SPEAKER: Okay.

17 MS. OWEN: Do you know how many  
18 macroinvertebrates are in Spring Creek? How  
19 many different species?

20 CHIEF: I've read it. I can't really --

21 PAUL: I wouldn't know off the top of my  
22 head.

23 CHIEF: It's a bunch. It's a bunch.  
24 Some -- some diversity with other parts --  
25 particular parts of the nation.

1 Thank you for coming.

2 UNIDENTIFIED SPEAKER: I've got one  
3 more question. I keep having my hand up, but you  
4 don't recognize me.

5 CHIEF: I'm sorry. I missed you.

6 UNIDENTIFIED SPEAKER: Seems to me a  
7 simple solution to this, there's not any private  
8 landowners that want this. I know of none. How  
9 about putting a fish gate on the property where  
10 you're releasing fish to maintain them in that  
11 area.

12 CHIEF: That would be a good idea, if it  
13 was feasible. There's really no way to block off  
14 both ends of the property in a stream the size of  
15 Spring Creek with the flows it has.

16 UNIDENTIFIED SPEAKER: If we can't  
17 control the species, why introduce them?

18 CHIEF: Well, the trout will move. That's  
19 definitely sure.

20 UNIDENTIFIED SPEAKER: Excuse me.

21 CHIEF: The trout will move up and down  
22 the stream.

23 UNIDENTIFIED SPEAKER: Absolutely.  
24 Absolutely.

25 CHIEF: That's been shown.

1 UNIDENTIFIED SPEAKER: They will be  
2 in Fort Gibson Lake. There's no question of that.  
3 Of course, they can't live. But they will go to Fort  
4 Gibson Lake.

5 MS. OWEN: And they'll come to my place,  
6 and I don't want them.

7 CHIEF: Thank you.

8 UNIDENTIFIED SPEAKER: Personally,  
9 I'm not sure that I don't want the trout. But I  
10 know for sure I don't like the trespassing. And  
11 I've already got that.

12 CHIEF: Okay.

13 UNIDENTIFIED SPEAKER: And you will  
14 not control that. You have no control over that.  
15 Law enforcement has little or no control over that  
16 trespassing.

17 CHIEF: Well.

18 UNIDENTIFIED SPEAKER: You put  
19 yourself in our shoes when you think about  
20 allowing this.

21 CHIEF: The trespassing issue I  
22 understand. And that has to be dealt with like all  
23 this gentleman said and you're saying, all the  
24 other trespass issues that you have to face on a  
25 day-to-day issue -- day-to-day basis.

1           The stock that's here, even though the  
2 trout distribute are -- particularly for this one-,  
3 two-mile stretch of stream and assurances -- you  
4 can have our assurances that the Wildlife  
5 Department will not be stocking trout in other  
6 parts of northeast Oklahoma Ozark streams so  
7 that that will increase the public trespass issue  
8 even greater. The Wildlife Department's not going  
9 to be doing that.

10           UNIDENTIFIED SPEAKER: I'm just  
11 downstream from where you're putting -- where  
12 these trout are being put in, see. I mean, this is  
13 a continual problem for me.

14           CHIEF: We're trying to address this one  
15 issue to the best of our abilities so that we can  
16 know what these issues are when we get the  
17 request from others in other areas of the state.

18           UNIDENTIFIED SPEAKER: Can I ask  
19 what the membership of this trout association is.  
20 I mean, how many members am I fighting? How  
21 many people are involved here?

22           CHIEF: I'm not sure what the current  
23 membership is. Maybe somebody would know. But  
24 the last time I heard, it was somewhere around 74.

25           MS. OWEN: Are they incorporated?

1 CHIEF: I don't know.

2 UNIDENTIFIED SPEAKER: Have they  
3 already had meetings?

4 CHIEF: I don't know.

5 MS. OWEN: None of that goes into  
6 consideration when you consider the permit?

7 CHIEF: No.

8 MS. OWEN: Whether or not it's a bona  
9 fide --

10 UNIDENTIFIED SPEAKER: I don't  
11 understand why an elitist group is being able to  
12 dictate to you all to want to do this, when you've  
13 got all these landowners on Spring Creek that say  
14 no.

15 MS. OWEN: Is it political?

16 UNIDENTIFIED SPEAKER: It's all a  
17 private property.

18 CHIEF: It's all political. Even the fact  
19 that there's an issue. There's an issue on both  
20 sides. I mean, there's political factions on both  
21 sides of the issue. So --

22 MS. OWEN: Is Mr. Duffy's position  
23 threatened by this?

24 CHIEF: No. I -- I don't think there's any  
25 threatening going on.

1 MS. OWEN: Why does he -- why does he  
2 succumb -- why --

3 CHIEF: What he's trying to do his best  
4 to respond to this issue. Well, he's got to do -- he  
5 has the authority to issue these permits. He's got  
6 to get the information from us to the best of our  
7 ability on these impacts and these concerns that  
8 we have with the resource.

9 MS. OWEN: You don't think that the  
10 Department of Wildlife has been a little bit  
11 slippery in the development of this deal?

12 CHIEF: No, I do not. We're going past  
13 our time limit folks. We've got to be out of here at  
14 9:00 o'clock.

15 UNIDENTIFIED SPEAKER: One real  
16 quick question. Obviously this -- was there some  
17 kind of political process behind these meetings?  
18 How was that all instituted?

19 CHIEF: You mean these meetings  
20 tonight?

21 UNIDENTIFIED SPEAKER: Uh-huh.

22 CHIEF: We were asked by -- or not  
23 asked. There was a directive on a House  
24 resolution that was passed by the legislature  
25 instructing us to hold these meetings. And I can't

1 say that we wouldn't have had them anyway  
2 because that was part of the process in the  
3 application.

4 PAUL: The two times there were  
5 applications before, we had meetings. So this is  
6 the third time.

7 CHIEF: Okay. That's it, folks. We're  
8 going to have to be out of the building. Come to --  
9 come tomorrow night, and we can pick up where  
10 we left off; okay.

11 (The meeting was adjourned at 8:57 PM.)

12 \* \* \* \* \*

13

14

15

16

17

18

19

20

21

22

23

24

25

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

CERTIFICATE

STATE OF OKLAHOMA )  
 ) SS:  
COUNTY OF OKLAHOMA )

I, Jody Graham, CSR, RPR, RMR, CRR, do hereby certify that on October 19, 2004,, in Jenks, Oklahoma, the above proceedings were held; and that the foregoing pages constitute a full, true, and correct transcript of said proceedings on the date as indicated.

I do further certify that I am not counsel, attorney, or relative of either party, or otherwise interested in the event of this suit.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal at my office in Oklahoma City, Oklahoma County, Oklahoma, this 4th day of November, 2004.

\_\_\_\_\_

Jody Graham CSR, RPR, RMR, CRR

CSR No. 203