Members Present: Mark Gordon, Chair  
Jon Brady, Vice-Chair  
Richard C. Moore, P.E., Secretary  
Sara Flitner  
Wendy Hutchinson  
Dennis Boal  

Others Present: Terri A. Lorenzon, Director, Joe Girardin, Paralegal, Sandy Padilla, Executive Assistant, Environmental Quality Council; John S. Burbridge, Attorney General’s Office; Dave Finley, Department of Environmental Quality; Matt Grant, Marion Loomis, Wyoming Mining Association; and Melissa Michael, Church & Dwight Company, Inc.

1. **Call to Order:**  
Chairman Gordon called the meeting to order at approximately 9:14 a.m., in the College Center Room 217, Casper College, Casper, Wyoming. Chairman Gordon introduced the Council and staff present and stated there was a quorum of members present.

2. **Approval of Minutes:**  
February 17-18, 2005: Mr. Moore moved to approve the minutes for February 17-18, 2005, as distributed and Ms. Flitner seconded the motion. Ms. Hutchinson suggested adding the notation that a full transcript of the meeting was available. Ms. Hutchinson also moved to amend the section of the minutes detailing the letter from Kennecott Energy and she proposed some suggested language. Mr. Brady seconded the motion to amend the section with Ms. Hutchinson’s language. All were in favor of approving the minutes as amended with Mr. Boal abstaining from the vote.

February 28, 2005: Mr. Moore moved to approve the minutes for the February 28, 2005, conference call as distributed and Mr. Brady seconded the motion. Chairman Gordon moved to change the time in Section No. 2 from p.m. to a.m. and to add “the meeting was reconvened” in Section No. 3. All were in favor of approving the minutes as amended with Mr. Boal abstaining from the vote.

Chairman Gordon asked everyone to introduce themselves to Mr. Boal.

3. Ms. Lorenzon conducted a training and orientation session for the Council.
Advisory Boards: Mr. Moore suggested having the Chairman of the Advisory Board present at any rulemaking hearing. He also would like to have a summary of the Advisory Board’s recommendation to review with the proposed rule.

Rare & Uncommon Designations: Mr. Moore suggested applying designations through permitting and then the federal land managers would be forced to consider what the Council does.

Ms. Lorenzon explained why the General Information items were removed from the original proposed agenda for today’s meeting. After preparing the agenda, it was discovered the Council had not received the initial information regarding the Notices of Violation and Orders. The items were then removed from the agenda to allow DEQ time to send the information to the Council.

6. Bond Forfeiture:

Because John Burbridge from the Attorney General’s Office had joined the meeting, the Council decided to hear the following Bond Forfeiture cases out of agenda order:

a. John Gianunzio, License to Explore 207LE, Docket No. 03-4400, final (LQ). Mr. Burbridge explained this case was about a small mine with a $500 bond. The request for the Order Forfeiting the Bond is a book keeping exercise because Mr. Gianunzio died in 1996. There was no request for a hearing and the site has been reclaimed. Ms. Hutchinson asked why it took 9 years to forfeit the bond. Mr. Burbridge stated he was not sure why it took so long for this case to go through the process. Mr. Moore moved to approve the Motion for Bond Forfeiture and Mr. Boal seconded the motion. All were in favor and the motion passed.


c. Emulsified Asphalt, Inc., Permit No. 1107ET, Docket No. 03-4410, final (LQ)

d. Emulsified Asphalt, Inc., Limited Mining Operation, 1104ET, Docket No. 03-4415, final (LQ)

e. Emulsified Asphalt, Inc., Limited Mining Operation, 874ET, Docket No. 03-4416, final (LQ). Mr. Burbridge stated there was trouble in the Karnes’ case locating the operator. Notice was published and no hearing was requested. He indicated he was not sure if the bond amount was adequate for reclamation. The site has been abandoned. Ms. Hutchinson stated again she was concerned about the amount of time this case had taken. Mr. Boal moved to approve the Motion for Bond Forfeiture in Docket No. 03-4413 and the Motions for Bond Forfeiture in Docket Nos. 03-4400; 03-4415 and 03-4416. Mr. Moore seconded the motion. All were in favor and the motion passed. Mr. Burbridge informed the Council there had originally been 7 Emulsified Asphalt cases and these three were the last ones.

Mr. Boal asked if there were any more bond forfeitures from 2003. Mr. Burbridge stated he did not think there were.

Chairman Gordon recessed the meeting for lunch.

Chairman Gordon resumed the meeting at 1:11 p.m.
4. **Rulemaking:**

Discussion was initiated by Chairman Gordon regarding John Corra’s rulemaking survey. Ms. Hutchinson would like to know why Mr. Corra distributed the survey. She suggested creating a list for each division detailing what to provide to the Council each time rulemaking is begun. She also suggested having a general discussion with the advisory boards on what the Council should expect in the rulemaking package and what the Advisory Board expects of the Council.

Mr. Moore stated the survey can not be answered exactly the same for every rulemaking issue. There are different expectations for each package.

Ms. Flitner suggested each division have a standardized format for submitting rule packages. She agreed the survey is difficult to answer but suggested the Council give Mr. Corra an answer that would be from the Council as a whole.

Mr. Brady stated the most effective rulemaking is when there is a PowerPoint presentation and the Council has been given advance notice of the proposed rulemaking. He suggested a broad outline be prepared by DEQ of what is being proposed and also what will be presented.

Dave Finley explained Mr. Corra’s reasoning behind the survey. He stated the Council is not being blamed for any problems with rulemaking. DEQ is planning on having this same discussion with the advisory boards.

Mr. Boal suggested any one bringing anything before the Council needs to present it in a way the Council can understand it. He is hesitant to suggest what DEQ needs to bring before the Council.

Mr. Moore agreed with a suggestion made by Mr. Boal that a better use of the Council’s time is to work through rule packages during hearings.

Mr. Gordon proposed telling Mr. Corra the survey is a good starting point for discussion. He also agrees that a meeting with the advisory board is a good idea. He would like to see a format for rulemaking packages and presentations. Ms. Hutchinson volunteered to prepare a format. She would also like to survey each Council member for suggestions on what to include in the format. Some possible suggestions are: strike and cap formatting of the rule; eight copies of the proposed rules; a PowerPoint presentation of changes; a rule summary sheet; and a copy of the advisory board minutes. Mr. Gordon stated his pet peeve is when the federal government is used as a scapegoat.

Chairman Gordon initiated a discussion on what types of materials and support the Council needs from the staff. A standardized format for documents required for each case would be helpful. Ms. Hutchinson suggested having a status code on the database report for any case that is ready for hearing. The Council would like to have the report sent to them monthly by email.

Ms. Padilla distributed the report she and Ms. Hutchinson created to track rulemaking. Ms. Hutchinson then explained the parts of the report. She stated it is important to track how long it is
Chairman Gordon asked for suggestions on how hearing examiners are appointed. Ms. Hutchinson suggested assigning the hearing examiner early in the process. Mr. Moore stated he does not think a blanket rule will work for all cases. Chairman Gordon wants to task the hearing examiner with the responsibility of determining if the whole Council needs to be present at the hearing. Ms. Hutchinson stated since rulemaking effects the whole state, all of the Council should strive to be present. Local contested case hearings do not require the presence of the full Council, although the full Council needs to be aware of the case so a decision can be rendered. Mr. Moore suggested having the whole Council present as much as possible for ease of understanding the case and because of public perception. Chairman Gordon stated when the hearing examiner is assigned, that person will be responsible for determining if the entire Council will be needed for the hearing.

The Council recessed for a short break.

5. **Strategic Plan:**

Ms. Lorenzon explained the strategic plan process and asked for suggestions from the Council. Ms. Flitner suggested one of the targets could be what the staff needs from the Council and what the Council needs from the staff so as to increase predictability and transparency of the Council.

Mr. Boal had the following suggestions: 1) add to Chart 1 - better use of the hearing examiner; 2) add to Chart 2 - by standardizing the presentation by the agency, the advisory boards will be better utilized and 3) add to Chart 3 - increase communication.

Chairman Gordon had the following suggestions: 1) change to Chart 4 - use quarters of the state instead of cities and 2) add a Chart 5 to show reactive measures instead of anticipatory and make the measure be the number of issues identified.

Ms. Hutchinson suggested a graph of when a hearing date is requested as opposed to when the hearing is held. Possibly measure the number of days in between the two dates.

Mr. Brady suggested tracking the cases that are pending due to settlement negotiations. Measure the number of cases in this stage versus the number of days they are pending.

Chairman Gordon also suggested tracking Council member satisfaction. Chairman Gordon then asked Mr. Boal, Ms. Flitner and Mr. Moore to work on the strategic plan with the staff.

7. **Solid & Hazardous Waste:**

After a short break, Mr. Finley presented an update on the Solid & Hazardous Waste division. Mr. Moore asked what rule packages the division anticipates filing in the near future. Mr. Finley stated there are two projects and they are both listed on the rulemaking report that was distributed earlier in the meeting. He asked the Council what they would like to see in rulemaking packages. Chairman Gordon stated the Council is preparing a suggested format for the rulemaking package to go through the process. Mr. Grant added his comments about the rulemaking process.
packages. Mr. Finley stated after the two proposed rule packages are done, there should be one package submitted each year for the next few years. Both of the proposed packages will be submitted together for ease. Mr. Finley thinks the two packages will be non-controversial.

8. **SCHEDULE NEXT MEETING:**

Mr. Girardin suggested hearing the Ken Harvey Rabbit Pit case and the Land Quality rule packages 1P and 1T at the next meeting. The next meeting was scheduled for June 27-28, 2005 in Thermopolis. Ms. Hutchinson was assigned as hearing examiner for the Ken Harvey Rabbit Pit case; Ms. Flitner was assigned as hearing examiner for LQ rule package 1P and Chairman Gordon was assigned as the hearing examiner for the LQ rule package 1T.

Mr. Brady was assigned as hearing examiner for the Off Channel Containment case replacing Olin Sims.

There being no further business to come before the Council, Chairman Gordon adjourned the meeting at 5:00 p.m.

RESPECTFULLY SUBMITTED,

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Richard C. Moore P.E., Secretary

Approved by:

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Mark Gordon, Chairman

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Date