

Aug 22, 2012

**Jim Ruby, Executive Secretary
Environmental Quality Council**

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BEFORE THE DEPARTMENT OF ENVIRONMENTAL QUALITY
LAND QUALITY DIVISION

HEARING ON VARIABLE TOPSOIL, SELF-BONDING AND
HOUSEKEEPING COAL RULE PACKAGE

TRANSCRIPT OF HEARING PROCEEDINGS

Transcript of Hearing Proceedings in the above-
entitled matter before the Department of Environmental
Quality, Land Quality Division, commencing on the 21st
day of May, 2012 at 10:00 a.m. at the Oil and Gas
Conservation Commission Hearing Room, 2211 King
Boulevard, Casper, Wyoming, Mr. Jim Gampetro presiding,
with Board Members Mr. Robert Green, Mr. Jim Skeen and
Mr. Gene Smith in attendance.

Also in attendance were Ms. Nancy Nuttbrock,
Administrator of the LQD, Mr. Craig Hults of the LQD,
Ms. Carol Bilbrough of the LQD, Mr. Mark Moxley of the
LQD, Mr. Mark Rogaczewski of the LQD and Mr. Lowell
Spackman of the LQD,

In attendance from the public were
Ms. Laura Ackerman with Buckskin Mine and Mr. Darryl
Maunder with Cloud Peak Energy.

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

2 (Hearing proceedings commenced
3 10:00 a.m., May 21, 2012.)

4 CHAIRMAN GAMPETRO: Introductions.

5 Mr. Hults, you want to start?

6 MR. HULTS: Craig Hults with the Land
7 Quality Division.

8 MR. SPACKMAN: Lowell Spackman, Land
9 Quality Division, District 1 supervisor.

10 MS. NUTTBROCK: I'm Nancy Nuttbrock, Land
11 Quality Division administrator.

12 MS. BILBROUGH: Carol Bilbrough, Land
13 Quality, program manager.

14 MR. ROGACZEWSKI: Mark Rogaczewski,
15 District 3 supervisor.

16 MR. MOXLEY: Mark Moxley. I'm the
17 district supervisor in the Lander office.

18 CHAIRMAN GAMPETRO: We have two --

19 MS. ACKERMAN: Laura Ackerman, Buckskin
20 Mine.

21 MR. MAUNDER: Darryl Maunder, Cloud Peak
22 Energy.

23 MR. SMITH: Gene Smith, Land Quality
24 Advisory Board.

25 MR. GREEN: Bob Green. I'm the industry

1 rep. I'm with Cloud Peak Energy, Gillette.

2 CHAIRMAN GAMPETRO: Jim Gampetro. And I'm
3 a public representative, Land Quality Advisory Board.

4 MR. SKEEN: Jim Skeen. And I'm a public
5 representative for the Land Quality Advisory Board.

6 CHAIRMAN GAMPETRO: Who's going to start
7 us off? Mr. Hults? Nancy?

8 MS. NUTTBROCK: Could I start by just
9 saying a few introductory things? Just to give you a
10 little bit of update on what we've been doing since we've
11 last spoken, we've been continuing our work with the
12 uranium work group, and it's going quite well. We're
13 working through some issues that will result in some
14 changes in our guidance documents, will result in some
15 changes to our rules, which we'll get to hear later this
16 fall when we present those to you.

17 This week also we're going to start working
18 with our coal work group. That's representatives --
19 seven representatives from industry paired with seven
20 representatives from the Land Quality Division, as well
21 as the Casper field office. Jeff Fleischman and Frank
22 Bartlett will be at the table, as well. The primary
23 purpose of that work group is to evaluate the bond
24 release process from many different viewpoints.

25 There's a secondary purpose to that work group,

1 as well, and that may be anything that we need to work
2 through with the industry and the regulatory body. We're
3 really excited to have that kick off this Thursday, if
4 you're in Casper. So, periodically when we meet, I may
5 give you an update on how that's going. But I think
6 everybody that's involved is really excited to have this
7 opportunity to work through such an important issue.

8 CHAIRMAN GAMPETRO: Thank you, Nancy. How
9 would you like to proceed, then?

10 MS. NUTTBROCK: Mr. Hults?

11 MR. HULTS: I believe first on the agenda
12 was the approval of minutes from the previous meeting.
13 And just kind of a funny thing about that. Let me pull
14 it up here quick. I was actually reviewing it to make
15 sure that we had addressed all the changes that were
16 discussed during the meeting. And unless I stepped back
17 into the '50s at one point and was a bit of a hipster
18 from that time, I notice on page 109 it says that I said,
19 apparently, the bee's knee. We're still waiting on the
20 Federal Register. I believe that was supposed to be Rule
21 Package 1-BZ. Just got a kick out of that. It made me
22 pause because I was pretty sure that's not my vocabulary.

23 CHAIRMAN GAMPETRO: Anything else? Any
24 amendments or changes or anything else?

25 MR. HULTS: No.

1 CHAIRMAN GAMPETRO: We'd introduce a
2 motion, then.

3 MR. GREEN: With Mr. Hults' amendment, I
4 would move that we adopt them.

5 MR. SKEEN: I will second.

6 CHAIRMAN GAMPETRO: All those in favor
7 signify by saying aye.

8 (All members vote aye.)

9 CHAIRMAN GAMPETRO: Any opposed?

10 (No response.)

11 CHAIRMAN GAMPETRO: It's passed.

12 Mr. Hults?

13 MR. HULTS: First off, I thought I'd like
14 to just go through the package that we had talked about
15 in our previous meeting. And I know you guys were
16 interested in seeing some of the changes I've made to
17 that rule package. It's currently on its way down to the
18 EQC. We're waiting for the governor's permission to
19 proceed right now, and hopefully we'll get that early
20 this week yet and move it along. But just wanted to kind
21 of jump through there kind of quickly.

22 MS. NUTTBROCK: Craig, could I also
23 interject that the EQC hearing that would be maybe
24 appropriate for you to attend if you'd like would be July
25 12th and 13th.

1 MR. HULTS: Yeah.

2 MS. NUTTBROCK: That's when Chapters 8, 9
3 and 10 that we discussed last time will be presented to
4 the EQC. And I believe that's in Cheyenne.

5 MR. HULTS: Yeah.

6 So the way I have this kind of set up right
7 now, it's tracking changes that were done previously. I
8 can turn it off if it looks too confusing, but kind of
9 indicates some of the things. I'll just kind of whip
10 through these. In Section 1B and 1C, we combine those
11 two sections. We were kind of looking for a way to
12 clarify that a little bit. And so we just -- in Section
13 B that's up there currently, we had split Section B and
14 C. The second sentence in what is now Section B was
15 added just to help the flow. No changes were made to any
16 of the language or anything. It was just combined into
17 one section to improve the readability a little bit.

18 Also, we did the discussion regarding the term
19 sealant material, versus grout. We made corrections to
20 that and used the sealant materials as the more general
21 term and grout where necessary. And if you'd like to see
22 those, I don't know how much detail you want to look at
23 these.

24 So we're starting in subsection (d) there. And
25 so now it's the sealant materials. So previously we had

1 the grout means, and so we've made those changes. And
2 that carries on throughout here. In most instances,
3 grout was replaced with sealant materials.

4 Some other changes, subsections (3)(d) and
5 (3)(e) were revised to include the reference to Chapter 3
6 based on conversations that we were having. And that
7 was -- we just added the subsection (i). So here I can
8 highlight that. So previously it read Chapter 3, Section
9 2(c). We added the "and 2(i)." And that is also the
10 case with (e), where we added the section (i) in there,
11 as well. My intent is to send you the -- or, this will
12 be posted shortly, as well. But in this rule package,
13 like I discussed last time we were here, I've added these
14 sections here that discuss any changes that were made to
15 the advisory board statement of reasons. So that was it
16 for Chapter 9 -- or, Chapter 8. I'm sorry.

17 In Chapter 9 we changed and replaced applicant
18 or operator as necessary to better fit the context. We
19 did have some discussion about the wildlife
20 consultations. And it was my impression that during the
21 discussion and after reviewing the meeting minute notes,
22 that we had finalized some language. And I believe
23 that's what I captured, but I just wanted to be sure
24 about that.

25 This paragraph here is what was the final

1 result. And I believe the big discussion was the
2 submission of the things to the Forest Service -- or, the
3 wildlife service and the Game and Fish. The key term I
4 think we were focussing on was that it should address
5 their recommendations and not necessarily that they had
6 to follow them, per se.

7 And the final section here, we had that it had
8 to be within the scope of the Act and whether it was in
9 compliance with state and federal law. So I think we've
10 included all the things that were discussed. And I
11 believe that's what we finalized.

12 There was one more change in 9. Oh, in Section
13 5 in Chapter 9, we made clear that the future
14 landowner -- or, future land uses were determined by the
15 landowner or had input by that landowner. And several
16 grammatical changes were made. And we also clarified
17 that the buildings or structures could be left in place
18 at the request of the surface owner.

19 So here is the landowner statement included by
20 the landowner, a statement about the proposed changes.
21 Here again, "operator," versus "applicant." We struck
22 out the term "to" and replaced -- or, installed "may."
23 That was just a grammatical correction. Again, applicant
24 to operator. I believe that should be it for that
25 section. Oh, and then the disposal of the buildings. We

1 added the line at the end, description of any buildings
2 or structures that will be left in place at the request
3 of the surface owner.

4 I believe those are all the changes that were
5 made. I did add a few spots in the statement of reasons
6 just to indicate where changes were made based on
7 advisory board comments. That was it for Chapter 9.

8 And Chapter 10, we didn't make any changes to
9 that. We did review it for the applicant/operator issue
10 again. And I didn't see any instances where that was a
11 problem in Chapter 10 at all. So that was our version
12 that is down with the governor's office currently.

13 And I believe that captured everything. But if
14 you are attending the EQC hearing --

15 MR. SMITH: If you would go back to the
16 very first one that you showed.

17 MR. HULTS: Sure.

18 MR. SMITH: It was a reference to a
19 section blank. I'm just wondering if that blank gets
20 filled in.

21 MR. HULTS: Oh, okay.

22 MR. SMITH: In paragraph B, about the
23 fourth -- one, two, three, four -- fifth line down,
24 accordance with section blank and in compliance with.
25 Does that blank get filled in?

1 MR. HULTS: Section 7 is the language I
2 have up here.

3 CHAIRMAN GAMPETRO: It shows Section 7.

4 MR. SMITH: Oh, that is a 7.

5 MR. HULTS: Yeah.

6 MR. SMITH: Never mind. It's just very
7 faint on this screen. I couldn't see the down part. All
8 right. Thank you.

9 MR. HULTS: Certainly.

10 CHAIRMAN GAMPETRO: Anybody else? Anyone
11 else have any issues regarding any of it? We're good.

12 MR. GREEN: Thanks for all your work on
13 that, by the way.

14 MR. HULTS: Not a problem.

15 So then what I had today was a coal rule
16 package. I don't have much in the way of a PowerPoint
17 for this. There isn't a whole lot to show, really. What
18 we have today is what I'm calling a housekeeping package,
19 basically. There's four main things that we're trying to
20 address today. The first one is actually a State
21 initiative and is not related to any concerns that the
22 OSM had.

23 I believe it was in 2006, the federal rules
24 were changed to allow for variable topsoil depth while
25 they were replacing it during reclamation, with the

1 caveat that it needed to be related to your revegetation
2 efforts. If your shrubs needed a deeper fill and you
3 wanted to create some more diversity, that's what the
4 hope is by allowing that variable topsoil depth.

5 The second thing is that we are removing
6 anything that was disapproved by the OSM as it relates to
7 self-bonding. Again, that was in 2006. We had a State
8 initiative where we tried to raise some of the levels on
9 the amounts that a company could self-bond from 25 to 35
10 percent if they're able to meet more stringent financial
11 tests. The OSM pretty much flat-out denied the whole
12 package. The only thing that we did get out of that was
13 that we were allowed to use different statistical rating
14 organizations other than Moody's or -- I forgot what the
15 other one is offhand. That part was okay. They approved
16 that. But pretty much everything else was disapproved.
17 So our attempt here is just to revert back to what we had
18 in our rules previous to that disapproval.

19 The third thing is we -- the LQD received a
20 concern letter after reviewing our valid existing rights,
21 noncoal mine waste and individual civil penalties
22 package. And that was identified as 1-BZ. So there were
23 some issues there that they wanted to -- or, needed
24 correction or additional language. The same thing with
25 our ownership and control package. So those are the four

1 main things. I've got a little more detail in the next
2 couple of slides.

3 So the variable topsoil depth, that's in
4 30 CFR 816.22. And we're basically mirroring the federal
5 regulations. Again, that was updated -- the federal
6 rules were updated August 30th of 2006. Again,
7 self-bonding, just provided some references if anybody is
8 interested in those. Pretty clear-cut, the Federal
9 Register. The big problem is that those rules are still
10 on the State books as current rules. Even though the OSM
11 disapproved the rules, they're still out there with the
12 Secretary of State's files. To avoid that confusion,
13 we're just reverting back to what was previously
14 approved.

15 Then the 1-BZ, we received that letter in
16 August. They detail eighteen issues that they had. In
17 some ways, when I reviewed these, it's like that may be
18 more than what we started with, even, as far as what we
19 were attempting to address. However, in most instances,
20 it was cross references and citations to other sections
21 in the chapters. There were fairly discrete issues that
22 we needed to correct. And most of the issues related to
23 valid existing rights, which was, in my opinion, a fairly
24 convoluted section of the rules.

25 And then finally, our ownership and control

1 concern letter. That one we received in February of this
2 year. This one had sixteen concerns. And they were a
3 little more detailed or involved than the valid existing
4 rights issues. I believe that's probably related to the
5 fact that there were three rule-makings at the federal
6 level that were combined into a full ownership and
7 control suite, I guess I would call it, of rules. And as
8 they did it, it was three different periods in time. So
9 a lot of these sections refer back to other sections that
10 are kind of intertwined. But there wasn't an effort made
11 to -- it wasn't one rule-making. So I think there was a
12 little more confusion as to what pieces tied to each
13 other. At least I found that in trying to correct our
14 rules. Ultimately we ended up withdrawing that package
15 from the OSM's consideration at this time.

16 Part of their concern was that there was too
17 much going on in the Federal Register, and it was looking
18 like, hey, we're submitting packages while we've got
19 eighteen issues now. It's not really fixing anything.
20 Again, I would say that some of the issues are pretty
21 small. In fact, the first page on the concern letter is
22 like thirteen or so just grammatical corrections.

23 So they're reviewing them with a fine-toothed
24 comb, which I definitely appreciate, because ultimately
25 I'd like to resolve all those issues. So we'll go

1 through those. And the intent is to submit whatever
2 comes out of this effort along with what was approved at
3 the State level as one bundle, and hopefully we'll only
4 have one Federal Register that says all the rules are
5 great.

6 Our next steps for this package will be to
7 submit the proposed rules to the OSM informally. I
8 wanted to take it through this level, see if there were
9 any issues that were needed to be dealt with. I'm going
10 to submit it to them informally, and hopefully they'll
11 have some review comments or give me a thumbs-up that
12 says I think this is going to address the problem.

13 In the past we had just been submitting them
14 formally, and that was their first very thorough review.
15 I think was a little bit confused, maybe, that at the
16 advisory board level, they were looking at, would point
17 those things out. Just wasn't working that way. So
18 we'll be submitting it informally and hopefully get their
19 feedback and their blessing prior to the EQC, and we
20 won't have to go through this process again. We'd
21 certainly save a few steps in the chain here.

22 Again, like I said, we'll combine the previous
23 rule changes. The valid existing rights, those will
24 stay, other than what's addressed in this package. But
25 again, the ownership and control package will have to be

1 completely submitted with what's in this package.

2 And then the final step is hopefully we'll
3 revel in the fact that we're all fully in compliance with
4 the OSM. Some of these issues that I started working on
5 were pointed out in the mid '80s. It's been a long,
6 ongoing process. But, to me, I think this is it and
7 should resolve all of our disapprovals. And that would
8 make a lot of people happy. So that's what today's
9 package is.

10 And I struggled a little bit with how to
11 present this. I thought the best way would probably be
12 to just go through the side-by-side. The side-by-side
13 contains the federal regulations. And in most instances,
14 I tried to mirror those so that we're not having any
15 differences in interpretation. It also includes a column
16 that relates back either to why that change is being
17 made, and in most instances, it relates back to these
18 concern letters. If we have any questions about why
19 we're making that specific change, we can look at the
20 concern letters. So I thought we'd just kind of go
21 through it and see if we have any issues along the way if
22 that works for everybody.

23 CHAIRMAN GAMPETRO: Go for it.

24 MR. HULTS: So, on page 1, this is where
25 we have our variable topsoil depth. Again, it's just a

1 one-sentence change. And what it says is that soil
2 thickness may be varied -- may also be varied to the
3 extent that such variations help meet the specific
4 revegetation goals identified in the permit. And you can
5 see over on the federal regulations, that's pretty much
6 verbatim. And this is something that certainly the
7 operators will appreciate, I think. It was something
8 that we're doing on our own. It wasn't a disapproval
9 that we're trying to meet. But there was certainly
10 interest in that ability.

11 The next section, again, this is just removing
12 what was disapproved by the OSM as it relates to self-
13 bonding. It starts on page 1. And so in that first
14 section there, it was -- the 35 percent was the part that
15 OSM had an issue with. You can see that they limit it to
16 25 percent. And that was the same on the beginning of
17 page 2 there. The second box down, kind of subsection
18 (c), there weren't any changes made there, but I just
19 wanted to indicate that the -- we were mirroring what
20 their program is.

21 We also had some sections that had no federal
22 equivalent regulation, so those are indicated where
23 necessary. But again, we're just removing them.
24 Subsection (d), we were allowing the use of assets
25 outside of the United States in calculating tangible net

1 worth. Have to pull that out. And then what it was
2 going to take for us to accept some of those things was
3 detailed in subsection (e). Again, we're just striking
4 all of that out. And that was it for the self-bonding
5 rules.

6 One interesting thing I learned was that I
7 don't have to submit these to the OSM, necessarily.
8 Because they disapproved it, they feel like it's not part
9 of our program. However, I still have to go through the
10 hoops at the State level. So this would be submitted to
11 them, as well.

12 CHAIRMAN GAMPETRO: One quick question.

13 MR. HULTS: Sure.

14 CHAIRMAN GAMPETRO: My understanding is
15 that we have to be at least as stringent. However, would
16 you need to remove things that are not included in the
17 OSM rules if they did not cause the package to be less
18 stringent?

19 MR. HULTS: No. There are sections, I
20 would say, throughout our rules where, if there isn't any
21 equivalent federal regulation, there may be something at
22 the state level. We do want to address -- typically we
23 would have to be more stringent than if we're going to do
24 that or addressing the unique situation that isn't
25 addressed in the federal rules. The areas where there

1 wasn't an equivalent federal regulation is where we kind
2 of stepped out of line, I would say, in some instances
3 here. And that's why there isn't an equivalent federal
4 regulation there.

5 CHAIRMAN GAMPETRO: Thank you.

6 MR. HULTS: And then this gets into the
7 next kind of section of this, I guess, is some of the
8 changes that were related to the 1-BZ package, which was
9 mostly, again, the valid existing rights. And I'm not
10 sure the best way to kind of go through this. I don't
11 know if we just kind of want to step through these. But
12 I struggle with that a little bit, not getting into too
13 much detail.

14 CHAIRMAN GAMPETRO: What's the feeling of
15 the board?

16 MR. GREEN: I think probably the most
17 expedient way would be the best.

18 CHAIRMAN GAMPETRO: The most expedient
19 way.

20 MR. HULTS: All right. So, again, these
21 were related to -- and you have the concern letters.
22 This would be the one that, on top, states April 28th,
23 2011. And so, in this first instance, they were saying
24 that we didn't include the language that provides an
25 exception. You're still required to deal with all the

1 rest of the rules and regulations. This is an exception
2 to those rules. So that language is added in the first
3 box there.

4 Section 2 of the concern letter, this change
5 was that they wanted a reference to the life of a mine
6 map on the bottom there in Section 4. So that's been
7 made and references Chapter 2. Section 3 of the concern
8 letter, we missed the word "coal," and that was an issue.
9 We had removed originally a definition of the surface
10 coal mining operation. And as part of that effort, we
11 reinstalled the definition so we didn't have terms that
12 were undefined. But part of that effort was also calling
13 it a surface coal mining operation, not just a surface
14 mining operation. So that change has been made.

15 Section 4, this one seemed to me kind of
16 grammatical. But they wanted me to clarify above
17 providing a public comment period and how that request is
18 made. Also, I copied their rules a little bit too
19 verbatim in instances. And where it would say the
20 regulatory authority or something like that, they
21 requested that I put in a more definitive term. In this
22 case it would have to be administrator.

23 In Section 5 of the concern letter, again,
24 another correction. Part of a sentence that I left
25 off -- and this just explains the -- the applicant is

1 intending to conduct surface coal mining under a valid
2 existing rights claim. It's just clarifying what these
3 sections are. Also in Section 5, a couple of cross
4 references back to the valid existing rights definition.
5 And that was a kind of common theme throughout some of
6 these concerns. They wanted more specificity as far as
7 cross-referencing or citations.

8 In Section 6, again, this was -- the part in
9 paragraph A relates, actually, to Section 5, but it's
10 just included. Again, that was a chapter reference that
11 I need to install a citation there in subsection 4.

12 In subsection 7, I made a decision to leave out
13 part of a sentence. The way I had worded it originally
14 was that the review examines completeness only. The OSM
15 wanted to add the remainder of that sentence, which
16 states, "not the legal or technical adequacy," which
17 further clarifies that. So that language has been added,
18 as well.

19 In subsection 8 of the concern letter, again,
20 Chapter -- cross reference is added to Chapter 12.
21 Section 9 of the concern letter is mostly chapter
22 references and clarifications. There was one grammatical
23 correction seen there, which was putting in "creating"
24 instead of "creation." Like I said, they obviously
25 reviewed this quite thoroughly.

1 In subsection 10, the big issue here was that
2 they wanted me to provide some examples that are in the
3 federal rules. You can see on the left-hand side, they
4 have that sentence, "For example." I didn't include
5 those originally, and we're installing that language now.

6 In subsection 11, this was a discretionary
7 thing. And apparently, even though it's discretionary to
8 us, we need to point out to operators and interested
9 parties that we can grant more time for good cause if
10 necessary. And we also may consider comments that are
11 received after the closing date. Again, it's
12 discretionary with the Land Quality Division. So that
13 language is new there, as I hoped.

14 Subsection 12, again, chapter references. 13
15 is the same issue with -- again, they pointed out a
16 general thing where I had responsible agency. It's the
17 Land Quality Division in this instance. And then again
18 making some corrections to the chapter citations.

19 In subsection 14 of the concern letter, they
20 wanted a reference to the Administrative Procedures Act,
21 which is similar to the cross references in the federal
22 regulation. So that's been put in. In subsection 15,
23 this is regarding the availability of records. They
24 wanted a header in that section. And also, to detail
25 that any correspondence or records associated with

1 requests would be made available or part of the public
2 record, as well. And again, we included references to
3 the LQD where appropriate.

4 Subsection 16 was a chapter cross reference. I
5 avoided that originally just because some of our Chapter
6 1 definitions, it gets kind of ugly if we make any
7 changes to specific definitions because of the way we
8 have it structured in alphabetical order. Each one gets
9 its own subsection heading. So, if we install the
10 definition somewhere in the middle of all those
11 definitions, all of those subsections following have to
12 change. So it's trying to avoid that if we do make those
13 kind of changes. It gets kind of messy going back
14 through all of our other chapters to figure out where
15 those cross references are. In this instance, it's a
16 very specific section, so I don't think that will be as
17 problematic.

18 In Section 17 they wanted a correction to the
19 definition of "willfully." And it just more fully
20 follows what the federal regulations have in their
21 language. Pretty much verbatim again.

22 And then finally, in Chapter 18 -- or,
23 subsection 18. I'm sorry. This section actually wasn't
24 in the statement of reasons that I provided. I had some
25 questions regarding whether there was going to be any

1 issue about expanding the scope of 902 of our statute.
2 I've spoken to Luke about it, and he believes that's just
3 the -- the part that the OSM had the issue with was the
4 failure or refusal. We didn't have that language in
5 there. After speaking to Luke, he feels that that's a
6 subset of those violations and isn't expanding anything.

7 The reason I had some concerns was I had
8 previous correspondence from quite a while back from our
9 previous attorney general. He was of the opinion that
10 most of these rules, the individual civil penalty rules,
11 were addressed in statute and shouldn't be placed. I had
12 a hard time convincing the OSM that that was the case.
13 They still wanted this language in there. And when we
14 went through that section, this was one we missed. So
15 this has actually been added to the statement of reasons.

16 And there are a couple spots that I'll go
17 through once we get through the side-by-side that I will
18 show you. But I've added that language there, and that's
19 included in the side-by-side. But it was one on the
20 concern letter that I just missed, honestly, when it came
21 time to put together the full rule package. And I think
22 I had some question marks next to it and missed it. So
23 that language has been added. Again, it's detailed in
24 Number 18 of the concern letter on page 6 of that one.

25 And that will take us to some of the sections

1 in the second concern letter. This one was even more
2 detailed, I think. Their first concern was a full
3 section of typographical and grammatical errors. So,
4 throughout, you will see Section 1A or Section 1G. Those
5 are those instances where I've tried to correct the
6 grammatical errors. So, for example, 1A was the
7 regulatory authority, versus DEQ or LQD, whichever is
8 appropriate for the context. So those changes have been
9 made throughout where I could find them.

10 We'll jump into Number 2 right away. I think
11 the grammatical things kind of speak for themselves. In
12 Section 2, the definition of permit transfer was revised.
13 They have a very simple definition now. It's a change of
14 permittee, basically. And that is all it says. So our
15 current definition was revised to reflect that our
16 proposed language is the mirror of the OSM's language.

17 In Section 3 of the concern letter, our
18 definition of violation, we didn't include that
19 originally in the first go-round. It's here now, I
20 guess. And this will be in the context of when
21 submitting things to -- as part of your application in
22 Chapter 2 or when we're talking about permit eligibility
23 requirements in Chapter 12. And that's the specific
24 definition that we're talking about here.

25 And they provide examples of what those are. I

1 did make a note in the side-by-side, we don't have an
2 equivalent in the federal regulations to the alternative
3 bonding system that they discuss. So I don't have a
4 tandem to the federal regulations. It's just not
5 applicable to our current program.

6 In subsection 4, I don't believe this is an
7 issue that comes up very often. I don't think we have
8 many sites that are currently being remined. But we
9 needed to provide an exception for the eligibility
10 requirements. And this particular exception, if it
11 relates to an unanticipated condition at a remining site,
12 if they still had these unabated conditions out there, we
13 could still issue the permit for that under that remining
14 instance if it's something that was uncovered and they
15 didn't know about it. Then there's also -- coming up in
16 here, there's a definition that we added to our
17 unanticipated conditions definition. So they do tie
18 together, I hope.

19 In Section 5, this really wasn't added the
20 first time through. And that's probably my fault. We
21 didn't really have anything that was considered, I guess,
22 a provisionally issued permit. It needs to be in there,
23 after reading it. This would be an instance where there
24 is an unabated violation or condition out there. But the
25 applicant would be in the process of dealing with that.

1 I guess I would describe it, if it was clearly
2 that there was no attempt to fix the issues that were out
3 there and we were made aware of that and moving forward,
4 we wouldn't, certainly, issue that permit if we weren't
5 getting compliance on other issues. But this allows us
6 to kind of keep the process moving. It would certainly
7 be subject to reviews along the way, but it would allow
8 that person to get the process going, get the permit.
9 And knowing that it's provisionally issued, it would
10 still be subject to any of the conditions that we had
11 placed on that and certainly correction of any unresolved
12 issues out there. So that's detailed in Chapter 12.

13 We also had to add a section that relates to
14 the -- that provisionally issued permit, another category
15 that they have is called the improvidently issued permit.
16 And that would be an instance where we shouldn't have
17 issued it based on what's found in the applicant violator
18 system or new information has come to light. That
19 provisional permit would be taken away at that point or
20 removed. So that's subsection 3 there.

21 And like I stated, we did add -- we detail what
22 unanticipated condition is in Chapter 4. Just to tie
23 everything together, I added a subsection (f), which
24 details what an unanticipated condition is at a remining
25 location. And basically it's just related to the prior

1 mining, and it wasn't addressed in the permit
2 application. That would be something that became
3 uncovered or wasn't discoverable at that time. And it's
4 related to that previous mining that was there.

5 In subsection 6 of the concern letter, we're
6 dealing with permit transfers. There wasn't a lot of
7 change to this after reviewing. I looked through and I
8 had talked to the person that was reviewing this chapter,
9 and I don't believe he was aware that we had a further
10 section. And I didn't point it out to him. It was kind
11 of a brief conversation. But after reviewing our rules
12 on the transfers, we had a lot that there just wasn't
13 part of our previous package. So he wasn't aware of it.
14 I did make one change. The permit transfers are subject
15 to Section 406 of the statute. Also, I added that we
16 need the address and permit numbers to more clearly
17 mirror the federal regulations.

18 And that takes us into Section 7 of the concern
19 letter. And this again -- this was a kind of general
20 thing that I felt was included in most of our forms. It
21 was a requirement that we have the applicant swear or
22 affirm under oath and in writing that the information
23 they provide is accurate. Most of our forms contain that
24 statement when they're signing off on our forms.
25 However, it's been added. And also, that we may house an

1 applicant's information in a central location. For
2 example, kind of related somewhat to our IT effort, if
3 someone applies, they won't necessarily need to detail
4 their business structures. This is information that we
5 have already. Would just be able to update things.

6 CHAIRMAN GAMPETRO: Just one suggestion.

7 MR. HULTS: Sure.

8 CHAIRMAN GAMPETRO: "All applicants must
9 swear or affirm, under oath and in writing, that all
10 information you provide." I would think "that they have
11 provided." Just a language thing.

12 MR. HULTS: I could change that to the
13 applicant -- "All applicants must swear or affirm, under
14 oath and in writing, that all information the applicant
15 provided." Good catch.

16 Again, here, these that I've highlighted in
17 red, part of my process is I just keep looking this over
18 and over and over and over again. I did catch a couple
19 more spots that I missed regulatory authority. So that's
20 why it's highlighted in red, is because it's not actually
21 in my statement of reasons. I'll show you where I've
22 added it in the statement of reasons currently, but just
23 wanted to make you aware.

24 Also, the "pervious" was changed to "previous."
25 For some reason, that actually is a word somewhere and

1 doesn't come up as a misspelled word. And that's related
2 to the concern letter again. But again, that wasn't in
3 the statement of reasons. It's highlighted in red.

4 Subsection 8, this is dealing with Chapter 10.
5 I had originally, in subsection (a), thought it made more
6 sense than referring back to Chapter 2 to just spell out
7 what the applicant was providing. However, I had a
8 change of heart. So we've referred back to that section
9 what the applicant is providing. It was expanded a
10 little bit to -- I think had I used the chapter
11 references, I believe it would have went to (b) through
12 (e), I think. And so we added, I believe, as I
13 remember -- yeah, we've added a subsection (b). So those
14 changes were made.

15 MR. SMITH: I have a question on Section
16 8.

17 MR. HULTS: Sure.

18 MR. SMITH: At the end of paragraph (e),
19 the very last sentence, if a hearing is not requested
20 regarding preliminary findings on permit eligibility and
21 the time for seeking a hearing has passed, or expired,
22 the DEQ will enter our findings into AVS only if that
23 finding is upheld on administrative appeal. That's the
24 first reference I've noticed to an administrative appeal.
25 Can you tell me something about that process?

1 MR. HULTS: An administrative appeal would
2 typically be an EQC hearing. If the applicant disputed
3 those findings or finding of ownership and control, they
4 would have that ability to first go through the EQC and
5 make those concerns known. Ultimately an administrative
6 appeal could be a court case, too. Generally speaking,
7 when you say administrative, it's more prior to that
8 court case, but it could be a court case. So it would be
9 any of the options that they would have. It may be an
10 informal meeting, as well, if they were able to convince
11 us, I guess, that, wow, this -- or provided us with new
12 information.

13 MR. SMITH: If there is no request for a
14 hearing, does an administrative appeal always occur?

15 MR. HULTS: No. No.

16 MR. SMITH: Then do we really mean it's
17 going to be entered into AVS only if it's upheld on an
18 administrative appeal?

19 MR. HULTS: That's a good question. Let
20 me look at the federal rule.

21 CHAIRMAN GAMPETRO: It would seem to be
22 the opposite. If there was an administrative appeal --

23 MR. SMITH: If it failed or is not upheld
24 on an administrative appeal or unless it was not. I'm
25 not sure how to word it. It feels opposite.

1 CHAIRMAN GAMPETRO: If a hearing is
2 requested, then it would have to be only if it's upheld
3 on administrative -- but if it's not requested, then --

4 MR. SMITH: Then it ought to be just
5 entered.

6 CHAIRMAN GAMPETRO: Yeah.

7 MR. HULTS: Just bear with me. I'm
8 looking to see if this one relates to some of the other
9 changes.

10 MS. NUTTBROCK: Mr. Chairman, I think -- I
11 think this is -- you have to read this whole paragraph a
12 couple of times to get the sequence. But I think earlier
13 in the paragraph, it talks about, about midway through
14 the paragraph, if DEQ is persuaded that you are not an
15 owner or a controller, we will serve you with a written
16 notice to that effect. If you don't appeal that within a
17 certain amount of time or request an administrative
18 hearing, then we, DEQ, would stick with that original
19 assumption and enter that information into the AVS.

20 MR. SMITH: And that makes sense.

21 MS. NUTTBROCK: I think that's the way I'm
22 reading this. So that last sentence says, if a hearing
23 is not requested, then we're assuming that that party
24 agrees with our determination that they're not an owner
25 or a controller and that we should enter that information

1 into the AVS and that our written finding is correct.

2 CHAIRMAN GAMPETRO: The hearing and the
3 administrative appeal are separate things, correct,
4 separate happenings?

5 MS. NUTTBROCK: Are you referring to the
6 last sentence there?

7 MR. HULTS: In the federal rules -- that
8 may be my mistake. The way it reads in the federal rules
9 is, if you do not request a hearing and the time for
10 seeking a hearing has expired, we will enter a finding
11 into AVS. And then there should be right here, if you
12 request a hearing -- the second sentence that they have
13 in the federal rules is, if you request a hearing, we'll
14 enter a finding into AVS only if that finding is upheld
15 on administrative appeal. So there is a section missing
16 there, I think.

17 MR. SMITH: So we need to add the rest of
18 that sentence into it?

19 MR. HULTS: Yeah. Let me --

20 MR. SMITH: It makes more sense that way.

21 MS. NUTTBROCK: So, if they don't request
22 an administrative hearing, am I understanding this
23 correctly, that then that would essentially be their
24 acknowledgement that our written -- our written
25 demonstration is correct?

1 to him today, and he pointed that out to me. In some
2 instances, I think it makes sense. Like, for example,
3 you have the DEQ -- and I would say certainly like you,
4 that it should be probably "the applicant." So I guess
5 my answer would be I need to check that one a little more
6 closely, since we pointed it out, as well. So I guess
7 the big one there is the "you's" would be "the
8 applicant." And we'll be happy to make that change to
9 that.

10 MR. ROGACZEWSKI: And then would you be
11 changing the "we's" to "the DEQ"?

12 MR. HULTS: Yes. That would make sense,
13 as well.

14 MS. ACKERMAN: And the second-to-the-last
15 line, "will enter our finding into AVS," you might want
16 to change "our," as well.

17 MR. HULTS: I'm not sure that it's always
18 "applicant," either. The one I have highlighted right
19 there, "After the DEQ issues a written preliminary
20 finding under this section, the DEQ will allow you, the
21 person subject" -- I guess you could just remove "you"
22 and just say "the person subject to." So it would read,
23 "The DEQ will allow the person subject to the preliminary
24 finding" and take out the "you."

25 CHAIRMAN GAMPETRO: I saw that, but I

1 didn't want to be that picky.

2 MR. HULTS: Well, to be honest, probably
3 picky is good at this level. That's some of the things
4 that they've been catching me on and calling concerns.

5 CHAIRMAN GAMPETRO: You could just say
6 that applicant, the applicant.

7 MR. HULTS: And it wouldn't always
8 necessarily be an applicant. That's the trouble. It
9 could be somebody related to the parent corporation that
10 is a partial owner. So it wouldn't always necessarily be
11 the applicant. So I think I just have to look at that a
12 little more closely and add -- or, remove the "you's" if
13 appropriate or specify that it is the applicant if that's
14 actually the case and then the DEQs where necessary.

15 And if I'd be allowed to make those changes
16 following the meeting, I'd be happy to do so, so I'm not
17 holding everybody up trying to pick those up right now.

18 CHAIRMAN GAMPETRO: I don't see any
19 objection here to that.

20 MR. SPACKMAN: Mr. Chairman, I have some
21 observation. A lot of it, throughout this thing, it
22 seems like Land Quality Division, LQD, DEQ are
23 interchangeable. Is that something that needs to be
24 consistent?

25 MR. HULTS: I've thought about that, and I

1 think that's -- over the years, that's been that way. I,
2 too, do it. I don't have a concrete rule on how to do
3 that. In some instances it is kind of more of a DEQ
4 that's going up through kind of Corra and not always our
5 decision-making process. I don't know without -- I mean,
6 it would be most of our chapters that we would have to do
7 that. And certainly in this instance, if somebody has
8 one identifier, DEQ or LQD, I could probably make that
9 work throughout. I guess it would probably be DEQ. But
10 I'm open to suggestions on that.

11 MS. NUTTBROCK: So, Craig, in the past, it
12 has been somewhat interchangeable? There hasn't been a
13 strict, hard-and-fast rule?

14 MR. HULTS: Yeah. I guess my kind of rule
15 of thumb is, if it's something very internal to us in our
16 procedures, I try to use the LQD. But I won't say I
17 follow that hard and fast at all. I use them
18 interchangeably, I guess, to answer your question.

19 MS. NUTTBROCK: Interchangeably with
20 judgment?

21 MR. HULTS: Yeah. I guess the way to
22 address that would be to just review these chapters
23 completely in their entirety and just do word searches
24 and pick one that fits most appropriately, I guess, with
25 kind of that rule of thumb that if it's specific to us

1 internally, or do we just want to say the DEQ as part of
2 the umbrella?

3 MS. NUTTBROCK: They're our rules, Land
4 Quality's rules. And I think going through and doing
5 word searches on all of Land Quality's rules and trying
6 to make some determination as to what should be maybe
7 isn't the proper course of action at this point in time.
8 I think maybe as we move through each of these chapters,
9 we should pay attention to terminology like "applicant,"
10 versus "operator"; "LQD," versus "DEQ." So maybe we can
11 develop a checklist of things that, as we move through
12 chapters, we want to pay attention to and clean up maybe
13 over a longer period of time.

14 But I think your rule of thumb seems to make
15 sense. If it pertains directly to our set of rules,
16 versus DEQ and its other divisions having their own
17 separate set of rules, that makes sense to me. But if
18 it's something broader that DEQ would otherwise be
19 concerned about, that would be appropriate, as well. So
20 I'm not sure if there's a fix for the whole thing right
21 at this point in time.

22 MR. HULTS: And I guess some of the
23 reasons that I've kind of made that distinction a little
24 bit, I know some of our documents require Corra's
25 signature, versus your signature. So I know there is a

1 distinction as far as kind of a more umbrella, versus
2 internally what we're able to do. I do struggle with it.
3 I will admit that. I guess with these chapters, we could
4 certainly do that search. There's five here. At least
5 we'd have those contextually appropriate.

6 MS. NUTTBROCK: I think, realistically
7 speaking, I'm not sure if it's the -- because going
8 through all of our rules and combing out LQD, versus DEQ,
9 would require a rule change, technically. I'm not sure
10 that that's the intent, nor do I know if its necessary.
11 I think we've been working with the rules as they are
12 with LQD interchangeably used with DEQ, and we all seem
13 to be able to read and interpret that appropriately. But
14 I do agree with, while these chapters are open and under
15 consideration, we may take this opportunity to make any
16 further distinction.

17 Mr. Chairman, would you agree with that?

18 CHAIRMAN GAMPETRO: Anybody have a
19 comment? I don't see any disagreement.

20 MR. HULTS: So, for those chapters, what I
21 will do is kind of look for the DEQs. There's also --
22 probably in some instances, it will say the Department.
23 So I'll just kind of look through and find a consistent
24 one that we can all agree on. I guess would be the DEQ,
25 the LQD, and I guess that would be it.

1 MR. SPACKMAN: I would say another thing
2 that we probably should check, and that would be the
3 administrator, versus the Land Quality Division, making
4 sure that's appropriate.

5 MR. HULTS: To follow up on that, would --
6 again, that's kind of that distinction between
7 administrator, versus director. Because there's some
8 throughout here also that the director makes that call,
9 versus the administrator. So we would just have to be
10 sure that that's what we wanted or we had the right
11 person there. Well, I will make that review and go
12 through and check what we have.

13 Moving on, in this section, the part that they
14 wanted us to fix was Section 9 of the concern letter.
15 The only thing they really pointed out was I needed to
16 add the "in connection with surface coal mining and
17 reclamation operations." I took the liberty and added a
18 little bit more of a grammatical change, "the submission
19 of the application," in both of those sections.

20 In subsection 3, we had the word
21 "indentifying," as opposed to "identifying." That one I
22 missed in the statement of reasons. That's why it's in
23 the red font. Subsection 10, again, this was earlier
24 entering in the -- what will be entered into AVS. The
25 thing we were missing, however, was in subsection (e).

1 We needed to add within the departure of anybody in a
2 position that was identified earlier in their
3 application. Within 60 days of the departure, addition
4 or change in position, that information needs to be
5 updated.

6 A small correction in subsection (f) was within
7 the five-year period, as opposed to with the five-year
8 period.

9 In subsection 11, this is dealing with the
10 challenges to ownership and control. We had to add
11 subsection (b). And that necessitated changing the
12 section numbering. In Section 12 of the concern letter,
13 they wanted us to clarify that the sections below, (d)
14 through (f), only apply to a challenge to ownership and
15 control and are not to be used for a challenge in
16 liability or responsibility under any other sections of
17 the Act or rules and regulations. Also small grammatical
18 correction for the surface coal mining again.

19 Section 13 of the concern letter, they wanted
20 us to clarify that materials presented in connection with
21 a challenge to a listing would become part of the permit
22 file or investigation file or other public file. Again,
23 I'm just using the federal language. Basically that's of
24 public record unless it was indicating a trade secret or
25 had something to do with archaeology or something like

1 that, where you're giving locational data. Those will
2 always still be confidential and can be requested to be
3 so.

4 A small grammatical change again at the bottom
5 in subsection 3 there. As opposed to "our," it's "or."
6 Another grammatical change at the top of that page, at
7 the top of 30. And then this language is the same that
8 was up above.

9 In subsection 14, I split that out. There's
10 some different paragraphs that they're talking about. In
11 the first case, just wanted us to correct the chapter
12 citation. The second one was the addition of the
13 discussion about provisionally issued permits. The third
14 one relates to the use of all administrative remedies
15 prior to an appeal. And also, for service, I wanted a
16 section header and a bit more of the discussion. And I
17 pulled this from another section, language that -- just
18 wanted clarification on what those procedures were
19 related to service.

20 Subsection 1(j), a grammatical correction
21 related to owns or controls. And finally, again, related
22 to the exhaustion of administrative remedies. Section 15
23 as it's here, again, I'll have to go through and correct
24 what was corrected above. That's what makes this a
25 little difficult sometimes to file. But the same issues

1 again that we were just previously discussing. And
2 subsection 15, we had originally left out portions of one
3 of their rules, and that was where we were discussing --
4 the parts we left out were that the permit eligibility
5 will be entered into AVS after a hearing, the use of
6 prima facie evidence in those cases, and the final
7 decision. So it's basically that same section, but it
8 addresses an additional concern.

9 Page 35 is Section 16 of the concern letter.
10 The only addition they wanted there was just a court of
11 competent jurisdiction. I guess, looking over at
12 subsection (b) in the federal rules, that mirrors their
13 language. And then paragraph 2 in that section was the
14 addition, departure of anybody that we added to Chapter
15 2.

16 I believe that should be it. But I did want to
17 go through -- that was it as far as the table and the
18 side-by-side. But I did want to go through the statement
19 of reasons just to point out those areas where I had made
20 changes to the statement of reasons as it was presented
21 originally. And I'll just scroll through it quick. It
22 should be highlighted text.

23 Here was that section where I had missed the
24 "indentifying." It's changed to "identifying." I think
25 the main issue is just that section in Chapter 16. Oh,

1 and again, in a couple of instances -- here again, this
2 will be something we'll be looking at after we leave
3 here, where we use the Department of Environmental
4 Quality, versus regulatory authority. Also fixed the
5 "previous," versus "pervious." That wasn't in there
6 originally. I did add a couple of places where
7 typographical errors were fixed. Again, that was just me
8 continuing to review this package and adding a little
9 clarity to why the small change above was made. But
10 that's just the statement of reasons that change there.

11 Same for this. And the reason I added these
12 little bits of statement of reasons was, in anticipation
13 of submitting this to the OSM, I just want to be as clear
14 as possible, where any issues they had, where they're
15 addressed in the rules. So, again, same kind of thing
16 here.

17 And then that last section here that I was
18 talking about earlier, that was added, as well, and would
19 be there when we forward.

20 MR. GREEN: Mr. Chairman, if I might.

21 Craig, in the package that you distributed, the
22 one that's on the website, at page 27 and 28 -- I
23 couldn't quite tell as you were scrolling down -- have
24 you added a statement of reasons to those changes under
25 subsection (b) there?

1 MR. HULTS: The subsection (b) that is up
2 there now?

3 MR. GREEN: That (b) (2), where you have --
4 you've you clarified that, indeed, permit transfers are
5 subject to the two-week public notice.

6 MR. HULTS: Oh, yeah. You're right.

7 MR. GREEN: There's no --

8 MR. HULTS: That is not in there, as well.

9 MR. GREEN: There are two changes without
10 a statement of reasons, so if you could just add that.

11 MR. HULTS: Let me pull it up here. It's
12 Chapter 12. This is not the appropriate locale for that,
13 but I just want to make sure this is the language that
14 you're talking about, Bob.

15 MR. GREEN: It is.

16 MR. HULTS: What I will need to do is
17 install it back in our Chapter 12, I guess. Let me see.
18 I might be able to do -- I had most of it there. So it
19 was here in the Chapter 12 discussion. There wasn't a
20 statement of reasons following it.

21 MR. GREEN: Correct. That's the main
22 thing. If you want to add that, that would be great.

23 MR. HULTS: So you were looking for just a
24 statement of why this was changed?

25 MR. GREEN: Yeah, just to complete your

1 package.

2 MR. HULTS: Sure. So I will add the
3 appropriate section in the concern letter where that was
4 discussed.

5 And that was all I had for today as far as rule
6 changes.

7 CHAIRMAN GAMPETRO: Motion to -- would
8 entertain a motion to approve with the changes that we've
9 indicated.

10 MR. GREEN: Yes. With all of the changes
11 that we've discussed today, with that caveat, I would
12 move that we accept.

13 MR. SKEEN: I will second that.

14 CHAIRMAN GAMPETRO: It's been moved and
15 seconded. All those in favor signify by saying aye.

16 (All members vote aye.)

17 CHAIRMAN GAMPETRO: No opposed?

18 (No response.)

19 CHAIRMAN GAMPETRO: Seeing no opposed,
20 it's passed.

21 Is there anything else to come before this body
22 today?

23 Nancy?

24 MS. NUTTBROCK: Mr. Chairman, I would like
25 to express thanks to Mr. Hults for enduring the better

1 part of a decade or more on some of these issues. In
2 reading through this material, it dates back to 2000,
3 2001 in some instances.

4 MR. HULTS: Yeah.

5 MS. NUTTBROCK: To pay attention to this
6 level of detail and carry that through with comments
7 going back and forth from OSM over the period of a decade
8 is nothing shy of enduring. So I thank you for that
9 attention to detail.

10 MR. HULTS: Well, thank you.

11 MS. NUTTBROCK: And congratulations on
12 taking this big step in this rule package.

13 If I could, just a couple of comments leading
14 up to our next advisory better meeting.

15 CHAIRMAN GAMPETRO: I would like to second
16 the sentiments about Craig. Great job.

17 MR. HULTS: Thank you.

18 MS. NUTTBROCK: Our next advisory board
19 meeting is August 20th. We don't have a particular rule
20 package queued up for that meeting. However, I do
21 anticipate that as we start working toward the November
22 meeting, we're looking toward the November meeting for a
23 presentation to you on our noncoal Chapter 11, which is
24 our in situ uranium chapter. I anticipate that that's
25 going to be fairly involved. We'll have a lot of

1 industry participation. And well prior to that, we're
2 going to be working through our work group to come to a
3 consensus on any changes that we'll bring forward to you.

4 But I've got some thoughts on how we might
5 utilize that time in August. And just speaking out loud,
6 I'm not certain how the summer is going to pan out. We
7 could utilize that meeting with you to have a workshop on
8 in situ mining, where we invite some of our industry
9 participants in that work group to give a primer, In Situ
10 101, in advance of what we'll be looking at for Chapter
11 11 revisions. That's an idea. Or we could look at
12 adjusting the August date such that if we push it later
13 in the third quarter, we might also utilize that workshop
14 for Chapter 11, depending on the speed at which we work
15 with our work group and actually tackle what is a pretty
16 long chapter.

17 So I guess just to let you know, we don't have
18 anything specific for our third quarter advisory board
19 meeting yet, but I suspect that it will -- we will have
20 several things that we'd like to visit with you about
21 that. So, if you could be flexible, and I'll be in
22 contact with you all as we move through the summer, and
23 we'll be certain that it's a good use of your time and
24 ours.

25 CHAIRMAN GAMPETRO: Good. That will be

1 fine. As the time approaches, maybe we'll better know
2 what we need to do for that meeting.

3 MS. NUTTBROCK: Statutorily, we're
4 required to have one meeting per quarter. Doesn't say
5 when in that quarter. And I think we can shift if it
6 works -- if we're flexible enough, we can shift to kind
7 of meet the broader scope of what we're trying to do on
8 some other initiatives, as well.

9 CHAIRMAN GAMPETRO: Is there anything
10 else?

11 MS. NUTTBROCK: Also, thank you for
12 attending. But I want to continue to have our upon-
13 adjournment time with the management of LQD available for
14 any conversations. We do have one scheduled. We'll be
15 visiting with Bob, Lowell and myself and whoever else
16 wants to join the conversation after lunch. But I want
17 to continue to make folks aware of the availability to
18 visit with district managers and myself and Carol on
19 whatever issue might merit some conversation. We have
20 the room up until 4:00, and then I think we'll be asked
21 to leave probably thereafter.

22 CHAIRMAN GAMPETRO: Anything anyone on the
23 board needs to bring up?

24 (No response.)

25 CHAIRMAN GAMPETRO: Well, I guess we would

1 entertain a motion to adjourn.

2 MR. SMITH: Motion to adjourn.

3 MR. SKEEN: I'll second that.

4 CHAIRMAN GAMPETRO: Moved and seconded.

5 All those in favor.

6 (All members vote aye.)

7 CHAIRMAN GAMPETRO: Opposed, same sign.

8 (No response.)

9 CHAIRMAN GAMPETRO: We are adjourned.

10 (Hearing proceedings concluded

11 11:37 a.m., May 21, 2012.)

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I, RANDY A. HATLESTAD, a Registered Merit Reporter, do hereby certify that I reported by machine shorthand the proceedings contained herein constituting a full, true and correct transcript.

Dated this 5th day of June, 2012.

RANDY A. HATLESTAD
Registered Merit Reporter