

WYOMING LAND QUALITY ADVISORY BOARD

FILED**JUL 30 2013**Jim Ruby, Executive Secretary
Environmental Quality Council

TRANSCRIPT OF MEETING PROCEEDINGS

Pursuant to notice duly given to all parties in interest, this matter came on for meeting on the 20th day of May, 2013, at the hour of 10:14 a.m., at the Oil & Gas Conservation Commission Hearing Room, 2211 King Boulevard, Casper, Wyoming before the Wyoming Land Quality Advisory Board, Mr. Jim Gampetro presiding, Mr. Jay Collins, Mr. Bob Green, and Mr. Monty Shober.

Ms. Nancy Nuttbrock, Land Quality Administrator; Mr. Craig Hults, Mr. Robin Jones, Mr. Mark Taylor, Mr. Mark Moxley, and Ms. Tanya King of the Land Quality Division were also in attendance.

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Also present:

- MR. MIKE THOMAS
- MS. JEANIE WOLFORD
- MS. MIRIAM WHATLEY
- MR. JARED NEWSOM
- MS. OUISHA TOENYES
- MS. JANNA SIMONSEN
- MR. MATT CLARK
- MR. TIM MORRISON

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

2 (Hearing proceedings commenced

3 10:14 a.m., May 20, 2013.)

4 CHAIRMAN GAMPETRO: Should we start off by
5 Pledge of Allegiance to the Flag?

6 (The Pledge of Allegiance was recited.)

7 CHAIRMAN GAMPETRO: Thank you.

8 If we could go around the room and everyone
9 introduce themselves.

10 Start back in corner there.

11 MR. THOMAS: Mike Thomas, Uranerz Energy.

12 CHAIRMAN GAMPETRO: Give who you're
13 representing if you're representing someone.

14 MR. THOMAS: Uranerz Energy Corporation.

15 MS. WOLFORD: Jeanie Wolford, Cameo
16 Resources.

17 MS. WHATLEY: Miriam Whatley, Cameo

18 Resources.

19 MR. NEWSOM: Jared Newsom, Cameo Resources.

20 MS. TOENYES: Ouisha Toenyes, Solvay
21 Chemicals.

22 MS. SIMONSEN: Janna Simonsen, BLM.

23 MR. CLARK: Matt Clark, BLM.

24 MR. MORRISON: Tim Morrison, Campbell
25 County Conservation District.

1 MR. MOXLEY: I'm going to introduce Tanya
2 King as my replacement. She's going to be starting
3 officially on July 1st, when I retire.

4 My name is Mark Moxley. I'm with the Land
5 Quality Division. I'm the Lander district supervisor, and
6 Tanya is going to be taking over for me.

7 MR. TAYLOR: Mark Taylor, I'm a geologist
8 with Land Quality out of the Sheridan office.

9 MR. JONES: Robin Jones with Land Quality
10 in Cheyenne.

11 MS. NUTTBROCK: I'm Nancy Nuttbrock,
12 administrator of the Land Quality Division.

13 MR. HULTS: Craig Hults with Land Quality
14 in Cheyenne.

15 BOARD MEMBER COLLINS: I'm Jay Collins, the
16 ag representative from Glendo.

17 CHAIRMAN GAMPETRO: I'm Jim Gampetro,
18 public representative from Buffalo, Wyoming.

19 BOARD MEMBER GREEN: I'm Bob Green,
20 industry representative. I'm with Cloud Peak Energy.

21 BOARD MEMBER SHOBER: I'm Micky Shober,
22 Campbell County Commissioner, public -- or political
23 representative.

24 CHAIRMAN GAMPETRO: I'd like to welcome
25 everyone, and thank you for coming.

1 And what do we have next? Is Mr. Hults up next?

2 MS. NUTTBROCK: Mr. Chairman, can you hear
3 me okay with the fans behind you, or would you prefer that
4 I use this?

5 CHAIRMAN GAMPETRO: If you speak up.

6 MS. NUTTBROCK: Okay.

7 CHAIRMAN GAMPETRO: I hear you right now.

8 MS. NUTTBROCK: Great. I will not use
9 that, then.

10 We have two things on the agenda with regard to
11 business, but I think first and foremost, before we get to
12 that, we need to approve the minutes from March.

13 CHAIRMAN GAMPETRO: We'll do that.

14 Do I have such a motion?

15 BOARD MEMBER GREEN: I would so move.

16 BOARD MEMBER COLLINS: I'll second.

17 CHAIRMAN GAMPETRO: Been moved and
18 seconded. Any discussion? All those in favor?

19 BOARD MEMBER GREEN: Aye.

20 BOARD MEMBER COLLINS: Aye.

21 BOARD MEMBER SHOBER: Aye.

22 CHAIRMAN GAMPETRO: Seeing none opposed, it
23 passes.

24 MS. NUTTBROCK: Okay. Mr. Chairman, then,
25 at your pleasure, I'd move on to the next two agenda items.

1 CHAIRMAN GAMPETRO: Fine.

2 MS. NUTTBROCK: The first of two is
3 proposed revisions to Chapter 11. Noncoal Chapter 11
4 provides our rules for in situ uranium mining. When I came
5 onboard two years ago, we had -- I had known that there was
6 one particular item within Chapter 11 that did not conform
7 with EPA's rules, so we had immediately begun addressing
8 Chapter 11 with regard to that one item. And we'll get to
9 that in detail as -- through Craig's presentation, but it
10 pertains to the location of the boundary for an aquifer
11 exemption pertaining to an in situ operation. So that was
12 the primary reason why we needed to open Chapter 11, and,
13 again, make revisions.

14 In addition to that, I've been working with
15 industry, through our uranium work group, and while Chapter
16 11 is open, are there other major issues that we'd like to
17 address or clean up or otherwise clarify while the rule is
18 going through its promulgation process. So over the last
19 six to eight months, maybe even closer to a year, we've
20 been looking at Chapter 11, as we've been discussing a
21 variety of issues with the industry, through that uranium
22 work group, and in conjunction with Wyoming Mining
23 Association with Marion Loomis, and we've come to a
24 consensus on the items you'll see today.

25 We have a number of industry representatives that

1 have been involved to degrees throughout the work group
2 meetings, and we've been -- had some really good dialog,
3 and we feel that the changes being proposed today not only
4 first and foremost conform to EPA's requirements, but takes
5 some steps towards efficiency when dealing with our
6 industry -- industry standards.

7 And the second item is with regard to a letter
8 you probably received from Governor Mead, and we'll talk
9 about that in terms of shortening, streamlining, and being
10 more efficient with our rules in general. So we'll talk
11 about that after we're done with Chapter 11.

12 I'll turn it over to Craig at this point.

13 MR. HULTS: Good morning, Mr. Chairman and
14 Board.

15 Today I'd like to talk about Chapter 11. This,
16 like Nancy said, was intended to address several issues;
17 first and foremost was that aquifer exemption issue. We've
18 also been kind of rolling around in the chapter quite a
19 bit, noticed some corrections that needed to be made for
20 citations.

21 There was also a section that was, I would say,
22 inadvertently dropped somewhere in the process back in
23 2005, when they originally promulgated this last revision.
24 It went through the rulemaking process, but just in the
25 hard copies or final copies that got filed with the

1 Secretary of State, a portion of one of the sections
2 disappeared, and just to be sure that we actually have that
3 in there, because I wasn't able to track down where it
4 actually happened, I've included that.

5 We've also tried to improve the efficiency as far
6 as processing the applications and permits, and we've also,
7 as Nancy alluded to, we're looking for places where rules
8 can be trimmed down or made more efficient or where there's
9 redundancies, we're trying to remove those. So that's our
10 intent today.

11 I feel like I've been a little negligent in any
12 kind of visuals or anything in some of these presentations.
13 I've just put together a little brief -- a few slides about
14 some of the uranium formations, how the drilling is done
15 and things. And I should point out this could also apply
16 to trona mining as well. And I think there's one other
17 possibly -- oh, coal gasification could play into this.

18 So this first one here is what's called a roll
19 front, and these are deposits they would be mining into.
20 What happens with the infiltration of water, through the
21 precipitation, it goes down through an oxidized sandstone
22 layer. When that happens, the uranium basically comes out
23 of solution. As it's going down through that layer, it
24 typically meets with anaerobic or nonoxidized portion. And
25 when that occurs, then the deposits in this darker area

1 there, and that's what they would be mining into.

2 This is just a picture of one. I'm guessing
3 these don't show up too often anymore in this type of
4 concentration, but it is a good visualization of that.

5 And here would be just a very basic setup for
6 what's going on. In the center you would have a plant
7 where on the left-hand side you would be pumping in your
8 lixiviant, and basically doing what the precipitation is
9 doing in pushing it down and re-oxidizing. It's basically
10 the reverse of the process in nature. So that's pumped
11 down in, and it brings it back up in the solution again,
12 and they're recovering it on the left side -- or on the
13 right side, I'm sorry, and around that there will be
14 monitor wells to determine one, whether any other layers
15 are being affected by this, or if it's moving in directions
16 that they -- they may not have anticipated.

17 This is what's called a five-spot pattern, and
18 basically in the center there you have a production well
19 and the four black dots, which don't really come up very
20 visually, there's -- those four around the center are
21 injection wells. And you're creating pressure gradients to
22 try to push it up into that center well. And it may not
23 always be in this configuration, depending on the geology,
24 but this is pretty typical. This is just a little more of
25 a 3D version of that. And, again, you're pumping up

1 through the center there and down into the four lighter
2 blue ones there.

3 What I thought today is there's enough rule
4 language here compared to last time. I thought I would
5 just go through the presentation and then jump into the
6 actual statement of reasons and rule language, if that
7 works for everyone.

8 So in Section 1, this is our definition section.
9 We've added two definitions. One for area permits. The
10 decision was made this, one, will help us basically bundle
11 some of the information that's submitted, and, in reviewing
12 these things, what we're faced with is the large number of
13 wells. The way we're currently set up, we're basically
14 getting information on every single well, when, in fact, a
15 lot of this is all very interconnected, and if they're
16 having a problem in one well, it's going to affect the rest
17 of the operations. For just the ease of review, and to do
18 it a little more efficiently, we've added that term, and
19 we'll speak more about that.

20 I've also added the definition for a "fact
21 sheet." We had a little confusion with our using terms
22 that aren't defined by the EPA, and then it becomes an
23 interpretation of what did we mean? Is this meant to
24 replace that term that the EPA uses? Our feeling was if we
25 went to the EPA definitions that it would alleviate some of

1 that confusion, and hopefully make things a little more
2 clear. So the fact sheet will be taking the place of our
3 state decision document, which we have removed from the
4 chapter. The state decision document isn't required by the
5 EPA, and it's a rather cumbersome document that travels
6 along with these permits.

7 The fact sheet will have all the information
8 that -- a lot of the information that's in the state
9 decision document. The state decision documents are
10 generally related to our coal program, and I think when we
11 split apart the two rules, I think this just carried along
12 with it and is unnecessary. We've also updated a bunch of
13 revisions in Section 1 to Water Quality Division's Chapter
14 8, which we reference. They have revised their rules since
15 this chapter was last promulgated so we updated the
16 citation date of when they last promulgated their changes.

17 And, of course, by adding definitions and
18 removing definitions, all that section had to be
19 reorganized with new section headers as they follow
20 alphabetically, so just had to update those.

21 In Section 2, which is our general requirements,
22 the first thing we've done is reduce the number of copies
23 of an application that the applicant would submit. We've
24 gone from three to two. And the reason for the reduction
25 was that the EPA has stated that they don't need that full

1 copy. If they need things, they can ask us. And that way
2 we're not just sending a bunch of information that nobody's
3 going to look at or is unnecessary.

4 Again, we've updated the citations for Chapter 8,
5 the Water Quality Chapter 8. There's also a bit of a
6 discussion about the area permits again. We've taken the
7 definition from the EPA and basically installed that into
8 our rules. However, the way theirs were set up, it's
9 almost -- part of it's a process and the other part is a
10 definition. So the feeling was that this discussion of the
11 area permits, we'd would better fit the context of the
12 general requirements. So the full EPA definition is kind
13 of contained in two places.

14 We also removed a one-year compliance window that
15 we had put in in the 2005 revision; back then we went from
16 eight pages to I think 45 or 46 pages. The feeling was
17 that we would give some time to comply with all the new
18 requirements that were in those regulations. This time
19 around, these aren't huge changes. Basically it's going to
20 affect the way we administer things and hopefully do it
21 more efficiently. But what we do with most of our rules is
22 not have that compliance we know, and it's effective
23 basically whenever it's filed with the Secretary of State.

24 MS. NUTTBROCK: Mr. Chairman, can I make a
25 comment at this point?

1 Craig's touched on a number of things here
2 throughout Chapter -- or Sections 1 and 2 that pertain
3 directly to the EPA, and I mentioned earlier that we've
4 been working closely with the industry. We've also been
5 working closely with our contacts with EPA. So discussions
6 at the area permit and state decision document, removing
7 that, going to much simpler fact sheet, in addition to the
8 quarter quarter language we'll get to, Craig and I have
9 been in constant contact with our EPA Region 8 folks, make
10 sure they're okay with these sorts of changes, so I just
11 wanted to make you aware we've addressed that with them
12 beforehand.

13 CHAIRMAN GAMPETRO: Thank you.

14 MR. HULTS: The next section is Section 4,
15 which is our application materials, and it relates to the
16 mine plans or operations plans. The big change here was
17 that for impoundments, we had a bit of dual regulation
18 there. We just spoke of providing for the design plans and
19 leak detection plans; however, the NRC actually regulates
20 one portion of that, so we're trying to eliminate some of
21 the dual regulation. And you'll see the language, but
22 basically all we've done is stated that for those
23 impoundments that are regulated by the NRC, they will be
24 responsible, and all others we would follow basically our
25 normal procedure and have those kind of leak detection

1 plans and design plans for those that aren't regulated by
2 the NRC.

3 In Section 6, this is our well construction
4 requirements. When was it, last -- 2012, I guess, we
5 revised Chapter 8 of our rules, and that's our well
6 plugging and drill hole abandonment chapter. What we were
7 trying to do here is Section 6 talks about annular seals
8 for wells, and a bunch of the recipes for what that sealant
9 material are were contained in the chapter; however, they
10 were a bit different than when we had just installed in the
11 Chapter 8, so we're trying to provide a little consistency.
12 And, again, without restating rules in various places,
13 we're just making a citation to Chapter 8 and using those
14 that we'd worked through quite extensively.

15 The annular seals, again, it will require that
16 they use those approved sealant materials that we have
17 listed in Chapter 8. We also revise the requirements
18 regarding the well construction reports. Here what we were
19 getting was, again, every individual well, we were getting
20 completion reports or construction reports. Our hope is
21 with the combination of using area permits and -- and that
22 definition, we'll be able to, again, bundle things. But as
23 far as submitting every one of these, we've talked with the
24 EPA, and it makes more sense to have the operations keep
25 these on sites and available for inspection without just

1 having to send them all in. They're all available, and we
2 can look at them any time, but it just saves a lot of back
3 and forth that is somewhat unnecessary.

4 Also, I mentioned subsection 2, this was where
5 the language that I'm not sure where it went to along in
6 the process back in 2005. It's a list of factors to be
7 considered. That list disappeared, so those have been
8 added, and it's indicated with new language. Technically
9 it probably isn't really new language. I think we've all
10 been following that, if we could find the citations or the
11 language itself, but as it is on the Secretary of State's
12 site, that language doesn't appear in the chapter. So
13 we're indicating it as new language.

14 And, finally, again, we're updating Chapter 8
15 references from water quality.

16 MS. NUTTBROCK: Mr. Chairman, can I comment
17 again?

18 The second point there, the revision, requires
19 that the operators use one of the approved sealant
20 materials in Chapter 8. Recall that Chapter 8 listed seven
21 recipes that were pre-approved, in a sense, but it also
22 gave the proprietor the opportunity to propose something to
23 the administrator for consideration. So just a slight
24 nuance there that there is seven preapproved recipes, with
25 an option to consider something that might be a new product

1 that might have come on line.

2 CHAIRMAN GAMPETRO: Are the requirements
3 still as they were previously? I believe it was three or
4 four -- what was it, three or four inches of containment?

5 MS. NUTTBROCK: Oh, in the annular space?

6 CHAIRMAN GAMPETRO: Yes.

7 MS. NUTTBROCK: I'm not entirely sure.

8 MR. TAYLOR: Three.

9 CHAIRMAN GAMPETRO: Three?

10 So that doesn't change?

11 MS. NUTTBROCK: No.

12 CHAIRMAN GAMPETRO: We upped that from two,
13 I think it was, seven years ago, when we were having some
14 leaks. And so irrespective of the material used, the
15 diameter of the annular seal is the same?

16 MS. NUTTBROCK: Correct.

17 MR. TAYLOR: Yes.

18 MS. NUTTBROCK: Correct.

19 MR. HULTS: Moving on to Section 8, again,
20 this is where we're talking about the drill holes and well
21 repair conversion or plugging of wells. Again, we're
22 adding that citation to the Chapter 8 sealant materials.
23 Again, this adds some consistency, or if a new -- like
24 Nancy suggested, if there was a new approved sealant
25 material that we may want to add to the chapter at a later

1 date, we would only have to update the rules in one place
2 that way.

3 We've also revised the requirements of the
4 section, excuse me, to be more consistent with the language
5 of Chapter 8. There was some discussion about the
6 communication between aquifers, and we're trying to provide
7 that consistency in the language in using the same language
8 that we used in Chapter 8. And also we were looking at
9 40 CFR 146.10, which is the EPA requirements for this. And
10 we're trying to ensure that we're not stepping on anything
11 by removing requirements or drafting things that we've
12 already drafted to meet EPA requirements. And in that
13 review, I believe we've met that to remain as effective as
14 the federal requirements.

15 And there was some reformatting. The way it was
16 set up before, because of the citations that were lacking
17 in Chapter 8, some sections had to be removed that made
18 references to things that were contained within Chapter 11
19 that are no longer necessary due to the citations to
20 Chapter 8.

21 Section 10, this is our big one. This is the
22 aquifer classification exemption, and this was the starting
23 point for this rule package. Again, we've updated the
24 Water Quality Division citations where necessary. But here
25 what we've done is changed the requirements for what an

1 applicant must show to delineate that aquifer exemption.
2 In the past we had been going to the nearest quarter
3 quarter section within one-quarter of a mile of the monitor
4 well ring. What the proposed rules do is set a distance or
5 allows the applicant to set a distance that they can back
6 up with data and calculations that shows why they need to
7 go that specific distance beyond the monitor well ring.
8 For -- that allows them the ability to mine and also
9 restore the groundwater. So they'll have -- it may be
10 different based on the different operations, depending on
11 the geology and the factors on the site there, but they
12 will have to make that demonstrate to us why that distance
13 is required.

14 BOARD MEMBER GREEN: Mr. Chairman, if I
15 might, just a quick follow-up.

16 And Region 8 is good with this option; is that
17 correct?

18 MS. NUTTBROCK: Mr. Chairman.

19 Mr. Green, that is correct. In 2005, from what
20 I've -- what I've understood from talking with folks that
21 were involved in the process and reading the documentation,
22 there was a lot of discussion about -- about this. And the
23 EPA, from the get-go, had some concern about having that
24 quarter quarter language in there.

25 It seemed too uncalculated, unscientific. We're

1 just picking the nearest quarter quarter. And in one sense
2 it made it easy to define, a series of straight lines along
3 the nearest quarter quarter, but it seemed too -- too
4 unscientific for them. Over the past few years, we have
5 gone through a number of aquifer exemption processes with
6 EPA using this calculated method. Several folks in the
7 room have had success, and we've been working together with
8 industry and with EPA to look at a calculated method that
9 would show, for example, 120 exemption boundary might lie
10 120 feet outside of the monitor well ring. It's hard to
11 define such a circular pattern, but it does work for EPA,
12 and they are satisfied with not only the language that
13 we've proposed here in rule, but the method that we've been
14 using over the past two, two and a half years now.

15 BOARD MEMBER GREEN: Excellent. Excellent.
16 Thank you. Thank you.

17 MR. HULTS: Again, we'll be looking at this
18 language a little more closely after we get into the
19 statement of reasons.

20 Section 11 contains prohibitions to the operator.
21 We've added exception language for area permits. This is
22 kind of the form and format of the EPA rules. The way we
23 had it set up before we talked about individual wells and
24 well field areas, and, again, that provided some confusion,
25 and it just wasn't as easy to administer as potentially

1 possible.

2 In this case, again, we're getting these
3 completion reports for each and every well, the way our
4 rules are currently set up.

5 In many cases, these are very similar wells,
6 using that area of permit definition. What that allows,
7 either the EPA, if they're the ones administering the
8 projects, or, in our case, the LQD, it allows us to bundle
9 that information. And a lot of these wells are very
10 similar. They're in the same kind of formations. And
11 we'll be able to look at that without having them to submit
12 every single one of those. And if they're approved under
13 an area permit, they would be able to commence injection
14 without having to submit that notice that each well is
15 completed.

16 And it also maintains a requirement if there is
17 some other wells that are proposed that would be outside of
18 that area permit, then the standard rules would apply, they
19 would submit those completion reports, and we would review
20 those. There's some timing issues associated with that. I
21 believe there's a 13-day window for us to go out and
22 inspect. That would still apply, unless it's covered by
23 the area permit language, and hopefully that will make it a
24 little more consistent with the EPA requirements and a
25 little less confusing, again.

1 CHAIRMAN GAMPETRO: Craig.

2 MR. HULTS: Yes.

3 CHAIRMAN GAMPETRO: With a change in how we
4 define what our monitoring area might be and having it set
5 a little more -- less rigorously, what does that do to our
6 comparability when we look at, say, monitoring in the past,
7 and any release of radioactive nucleides, and then trying
8 to compare it to what we're doing now, when we're -- we've
9 changed how we configure our monitoring situation. Do we
10 have a comparability problem, looking past records versus
11 new records?

12 MR. HULTS: I would generally say no. I
13 think with the new monitoring, by setting up that exemption
14 boundary through calculations based on the size, I believe
15 there would be instances, perhaps, where you're looking at
16 a down-gradient, you may want that distance a little bit
17 further on that end. I think this allows us a better
18 flexibility on the ground to deal with what's actually
19 happening.

20 CHAIRMAN GAMPETRO: What is our experience
21 right now in terms of failures percentagewise?

22 MR. HULTS: I would --

23 MS. NUTTBROCK: I can't answer.

24 MR. HULTS: -- defer to the experts.

25 MS. NUTTBROCK: Mr. Chairman, I don't know

1 that I'm the expert, necessarily, and I don't have the
2 answer to say that over a given number of well fields, over
3 the given number of operations across the state, I don't
4 have the exact percentage of excursions, but excursions
5 aren't unusual. And we have -- when a well field goes into
6 excursion, the operators have the appropriate controls over
7 those well fields to back off those pressures and force
8 those excursions and the fluids back to that -- remember
9 that five-star pattern -- adjust the pressures and draw
10 more of that fluid back out the excursion and into the
11 production well. So although they're not -- they're not --
12 excursions are not uncommon, you'll see triggers at those
13 monitor well rings, but they're fairly -- fairly within
14 control, the operator's control, to back that fluid -- that
15 fluid off.

16 Now, I would also like to make a comment -- you
17 mentioned that you feel like there's a little bit more
18 flexibility. I would suggest that that was the reason why
19 EPA, in the first place, didn't particularly care for the
20 quarter quarter rule. Now, with this calculated method, we
21 can take into account -- or the operator can take into
22 account specific permeabilities, maybe any faulty
23 structures that might be with any given well field
24 transmissivities. All the particular geologic characters
25 of that -- of that unit, and calculate that into a more

1 appropriate boundary.

2 CHAIRMAN GAMPETRO: I guess the term "less
3 rigorous" was probably not a good term. I guess less
4 consistent, not the same consistent way of measuring every
5 time. It's going to be different now, and possibly that's
6 better. But I recall the problem that we had -- and I
7 would like to know that number at some point, if somebody
8 can come up with it, doesn't have to be today -- but when
9 we had 25 percent, and I remember that number, excursions
10 from the -- from the in situ well situations, that's when
11 we increased the annular ring around there. And I just
12 wonder what it is today, since I've never heard another
13 number quoted since we did the increase in the amount of
14 material --

15 MS. NUTTBROCK: I see. Okay.

16 CHAIRMAN GAMPETRO: -- around the pipe.

17 MS. NUTTBROCK: I'll look into that, get
18 you that percentage.

19 CHAIRMAN GAMPETRO: Thank you.

20 MR. HULTS: Moving on to Sections 13 and
21 14. Both of these sections we just had an incorrect
22 citation that's been corrected. Section 19, this is
23 revisions to a permit or R&D license. We removed the
24 reference to the state decision document and replaced it
25 with the reference to fact sheet. Again, the EPA doesn't

1 use that term "state decision document." And the fact
2 sheet -- or our state decision document was meant to meet
3 the requirements or some of the requirements of the fact
4 sheet. Again, this is just to provide consistency.

5 And finally, Section 21, this is our public
6 notice section. There was a small reorganization to
7 better comport with the EPA requirements, and also it was
8 revised -- Section 21 was revised to be consistent with
9 the requirements of the Federal Regulations, including what
10 was provided as part of that public notice and who receive
11 the information. We were a bit off on some of those, so we
12 are -- with these proposed changes, would be consistent
13 with the Federal Regulations, then.

14 And if there's any questions or comments at this
15 point, happy to take them, otherwise I thought we could
16 jump into the actual rule language.

17 CHAIRMAN GAMPETRO: Questions? Comments?
18 Go, Craig.

19 MR. HULTS: One small addition, I've been
20 trying to make the chapter titles just kind of consistent
21 with all of them. So I've been adding -- that's why the
22 top part of the chapter there is underlined. I do know
23 that some of these stand alone sometimes, and may not
24 always be clear where these came from, so I've been just
25 trying to add that wherever possible.

1 The first big change here is the area permit
2 definition. And what this is, it is for purposes of this
3 chapter, Chapter 11, that the administrator may approve a
4 permit or issue a permit on an area basis as opposed to
5 each well individually. And that's provided that meets
6 certain standards. The first thing is that each of the
7 single wells are described and identified by location. The
8 second thing is that the wells have to be within the same
9 oil field. And, again, we have a definition for well field
10 that we didn't remove. The area permit doesn't take the
11 place of that in all places contextually, so there are
12 times when we need that definition of well field there.

13 So wells need to be within the same well field or
14 facility site, reservoir or project or similar unit within
15 the state. They have to be operated by a single owner or
16 operator. They cannot be used to inject hazardous waste
17 and they are other than Class VI wells.

18 And, again, here you can see area permit was the
19 first, excuse me, definition, so that twisted our list, and
20 required quite a few revisions to the section headers. And
21 those will be updated. The full language that I've just
22 indicated with the ellipses that these will be updated in
23 between there for the same thing.

24 The second change that we did was added a
25 definition of fact sheet. Again, we're trying to provide

1 some consistency with the federal language that they used.
2 The administrator or the Division is the one that will be
3 preparing these facts sheets, and this goes along with our
4 public notice. And it would be provided to people that had
5 questions about operations.

6 Basically what it is is a brief description of
7 the facility or activities that is subject of the permit or
8 application that we're talking about. The type and
9 quantities of wastes are described: the fluids,
10 pollutants, anything that's being stored or disposed of
11 onsite or injected or admitted. They also have reasons why
12 a requested variance or alternatives have been denied or
13 don't appear justified. We also have a description of the
14 procedures for reaching a final decision on the draft
15 permit. And this is the information that we'll be
16 providing related to that. There is indicated one section
17 of red up there, which you wouldn't have, the language
18 where it says under section 24.10 -- or 124.10, that was a
19 typo on my part. I apparently had a fat finger that day,
20 and so that should be stricken out of there so it would
21 read the beginning and ending dates of the comment period
22 and the address where comments would be received.

23 I'm not sure how that got in there, but thank
24 you, Mark, for pointing that out.

25 We would also have in there description of

1 procedures for requesting a hearing and the nature of the
2 hearing. And any procedures by which the public may
3 participate.

4 And, finally, the name and telephone number of
5 the person to contact for additional information. And this
6 does basically follow the EPA's definition.

7 MS. NUTTBROCK: Chairman Gampetro, can I
8 comment?

9 The state decision document, you may be familiar
10 with that in the -- in the coal world. It's an exhaustive
11 living document that's updated with each -- with each
12 amendment, and it can be fairly lengthy. Hundreds of pages
13 in some instances. I think what happened in 2005 was we
14 needed a mechanism or a tool that would meet the
15 requirements of the EPA's fact sheet. So the solution at
16 the time, I'm guessing, might have been to borrow something
17 that existed from the coal -- from the coal regulatory
18 world, and that state decision document and just move it
19 over and put it in with noncoal.

20 This is the only place in the noncoal where --
21 where the state decision document was also being imposed.
22 But it not only met the requirements of EPA's fact sheet,
23 but it was so exhaustive, we decided to bring it back and
24 see exactly what the EPA needed to see. There's very clear
25 requirements what they want to see in their fact sheets,

1 and so we're going to comport with that and leave the state
2 decision document as something that resides only in the
3 coal world.

4 CHAIRMAN GAMPETRO: Makes sense to me.

5 MS. NUTTBROCK: Makes sense?

6 BOARD MEMBER GREEN: Yes.

7 MR. HULTS: Moving on there is, again,
8 quite a few section headers that need to be revised. And
9 the -- I think I mentioned earlier the state decision
10 definition has been proposed for deletion. Here is an
11 example on the bottom of the page there, where we were
12 updating that revision date to -- for the water quality
13 rules to April 27th of 2005, as opposed to the March '93
14 date.

15 That rounds out Section 1. Section 2, again,
16 we're amending the revision date. The other big change
17 there -- no big change, but a good change, I guess -- was
18 reducing the number of copies that the applicant would
19 submit based on the EPA not requiring a full-blown copy of
20 the application. So we've gone from three to two copies.
21 And we also just tried to clean up some of that language.

22 Here, again, was -- this was basically the
23 underlying language up there -- is based on kind of my
24 decision that this stuff is contextually more appropriate
25 to the general requirements section, as opposed to the

1 definitions section. This is dealing with the area
2 permits. Then it requires that the area permits specify --
3 the reason I thought it was better here is this would be
4 post submittal and would be more on our end of the things
5 that we were doing. So it's going to specify the area
6 where the injections that are allowed and authorized, and
7 the requirements for construction, monitoring, reporting.

8 The section also allows the administrator to
9 authorize construction or operations, conversion or
10 plugging and abandonment of wells, provided that the
11 permittee is meeting their reporting requirements, and that
12 those wells meet the definition of area permit at the
13 beginning of the chapter.

14 Subsection E, which this was the section that was
15 giving the one year of compliance to get up to speed and in
16 compliance with the 2005 revisions. We've just removed
17 that section.

18 And that takes us to Section 4. Here is the
19 language regarding the impoundments. What we've changed is
20 requiring a description of and the dimensions for all
21 proposed impoundments, and we get that for all the
22 impoundments. And then a leak detection plan is required
23 for impoundments that are not regulated by the NRC. That
24 information would be submitted to the NRC individually, and
25 probably before the point that we would be seeing the

1 application to us.

2 I do see one mistake. It looks like the
3 beginning of the sentence where it says, "A leak
4 detection," the A is struck out and shouldn't be, I don't
5 believe. There's a period at the end of that first
6 sentence. I would propose unstriking that.

7 Section 6, this is the construction requirements
8 for the annular seals. Here, again, what we did was made a
9 citation to Chapter 8, Section 6(d), which is where our
10 sealant materials are discussed that we had gone through
11 rather great lengths to get some consistency between all
12 the agencies that would be involved in that.

13 So we struck the language that talked about these
14 individual recipes that may or may not have been the same
15 as what we had in Chapter 8.

16 MS. NUTTBROCK: Mr. Chairman.

17 CHAIRMAN GAMPETRO: Yes.

18 MS. NUTTBROCK: This is a great example
19 what we'll talk about here as the second item on our
20 agenda, but I wanted to point out here that we're -- we're
21 choosing, with good reason, to just reference Chapter 8,
22 Craig mentioned earlier that if at some point in time we
23 want to make revisions through this approved list of
24 methods to be used, we make the change in one place only.

25 Now, the -- there seems to be a pendulum swing

1 here as we go every 10 years or so, and now we're in an
2 environment where we want to streamline. We want to
3 shorten our rules. We want to remove any unnecessary
4 language, make it easier to make changes, but it also --
5 another counter to that would be, well, it sure is nice to
6 read a rule and have it flow nicely and read nicely and not
7 have to flip back and forth to various other rules. But
8 this is one area where we were able to delete a page --
9 about a page. And so we'll talk about that in terms of
10 what that means from the governor's directive, but this is
11 a good example of referencing and not cutting and pasting.

12 MR. HULTS: One other change here. This
13 was where we were talking about for the injection wells,
14 and maintaining logs and other tests during the
15 construction of those Class III wells or injection wells.
16 In the past we had it where each and every one of these was
17 coming in. What we've added is that these reports should
18 be compiled and maintained by the operator at the mine site
19 or at their local office and made available for inspection
20 by the Division. That way we're not just getting a ton of
21 information that is perhaps unnecessary to make a thorough
22 review for this. So we'll be able to bundle these things,
23 and also have them available without submitting these -- I
24 mean, there's thousands and thousands of wells out there.

25 CHAIRMAN GAMPETRO: What's our previous

1 experience when we don't have things submitted and they're
2 maintained at the mine site? We have a previous experience
3 with that?

4 MR. HULTS: Yeah, I think -- boy, I think
5 one example would probably be some of the blasting records,
6 and I think that works pretty smooth.

7 BOARD MEMBER GREEN: Mr. Chairman, if I
8 might.

9 Along those lines, that has worked out very well,
10 as far as the coal mines have -- have thousands of blasting
11 records, and to have that submittal back and forth between
12 DEQ and the operator would take a staff member on each side
13 just for filing alone. And as a former inspector as well,
14 I can tell you that system works out just fine, to have
15 those available at the site.

16 CHAIRMAN GAMPETRO: Thank you.

17 MR. TAYLOR: Other examples would be some
18 of the certifications that are required on roads,
19 impoundments, those are maintained on the mine site. Minor
20 deviations, if it was 10 percent in volume, we allow them
21 to keep those on mine site.

22 CHAIRMAN GAMPETRO: I guess by experience I
23 meant when we go look at them, are they there and up to
24 date?

25 MR. TAYLOR: Yeah. Yes.

1 BOARD MEMBER GREEN: Absolutely.

2 MS. NUTTBROCK: Generally speaking, if we
3 ask for any documentation that's maintained on the mine
4 site, if we have jurisdiction to ask for it, it's
5 forthcoming promptly.

6 CHAIRMAN GAMPETRO: Okay.

7 MR. TAYLOR: One of the most bulky things
8 we had were the geophysical logs themselves. Those were --
9 they're lengthy. If you get hard copy, it's like six or
10 eight feet long. And we use those a lot as a review tool
11 to approve the permit, but once we accept all the
12 cross-sections that are drawn off of them, unless there was
13 a real site-specific issue, you don't need to see those.
14 And those are available on the mine site as well. It's
15 just -- it's taken volumes off of our shelves, if you will.

16 CHAIRMAN GAMPETRO: Fine. Thank you.

17 MR. HULTS: Here in Subsection 2, this was
18 the list of factors and -- when determining or specifying
19 casing or annular sealing requirements, the following
20 factors shall be considered. The way the rules show up on
21 the Secretary of State's site is that sentence ends there
22 and we move into the next section. So I've indicated this
23 is new language, but it did go through the EQC process and
24 rulemaking process has just dropped off inadvertently in
25 the rulemaking somewhere along the line.

1 And, finally, there is a water quality reference,
2 again, that was updated to that 2005 revision date.
3 Section 8, again, this is where we're making references
4 back to Chapter 8. And, again, here's one example of where
5 we're trying to use the language that we were using in
6 Chapter 8, where it prevents the fluid communication. The
7 way we previously had it worded was that it would not allow
8 movement of fluids either between or -- in between -- into
9 or between. We're just trying to provide that consistent
10 language so there isn't multiple interpretations of
11 something that we're trying to say the same.

12 Subsection A that has been deleted, again, this
13 will come in as their description of the sealant materials.
14 So we're referencing back to a section that is no longer
15 necessary and doesn't exist, actually. Or wouldn't make
16 sense in the context, so we just removed that section
17 without actually removing any of the requirements. So the
18 reorganization again --

19 CHAIRMAN GAMPETRO: Well, if you could,
20 Craig --

21 MR. HULTS: Yeah.

22 CHAIRMAN GAMPETRO: -- I'm having trouble
23 following under (vii), "the well shall be plugged using a
24 method which," and then where do we go from there?
25 Everything else is new in there, then, you're saying?

1 MR. HULTS: Yes, it would have -- the
2 original language would have stated the wells shall be
3 plugged using a method which will not allow the movement of
4 fluids into or between unauthorized zones or water-bearing
5 strata.

6 CHAIRMAN GAMPETRO: Okay. That was my --
7 I'm sorry. That was my mistake. I was getting mixed up
8 between the crossed-out and the underlined. Go ahead.

9 MR. HULTS: I feel for that, because I'm
10 never sure which one I should strike out first. So I can
11 relate definitely.

12 CHAIRMAN GAMPETRO: That was my confusion.

13 MR. HULTS: Again, some of the
14 reorganization made these subsections unnecessary. And
15 they were also updated where necessary to fit where the
16 reorganization now stands.

17 Most of this was formatting, up until C. And
18 again, we were -- in Subsection C there, we're again using
19 the language of Chapter 8.

20 Section 10, this was our big-ticket item. A
21 couple of references to water quality, again, that have
22 been updated. And then the language that is the big
23 change, the applicant provides a -- information to document
24 that the exemption area is commercially produceable, as
25 demonstrated previously. We said the right to mine, but no

1 more than the area within the monitor well ring, plus
2 distance to the next quarter quarter that is at least
3 one quarter of a mile from the well ring.

4 What we've added is that they would show that by
5 providing a description in calculations that support that
6 proposed distance. Whatever they feel it's -- whatever is
7 necessary beyond that monitor well ring that allows the --
8 the operator to mine and restore the groundwater. And,
9 again, this would vary from operation to operation, but the
10 EPA has reviewed this language and seems very comfortable
11 with it.

12 Section 11 was the prohibition section. Here was
13 we were adding that exception for the area permits, and
14 this is the way that the Federal Rules are set up. It's --
15 the operator -- the rule language that follows what we've
16 underlined is basically a mirror of the federal
17 regulations. We didn't have the exemption. What we did
18 was said wells within well field area, and that allowed us
19 to kind of work around that. But by using the area permit
20 and being more consistent with the federal regulations,
21 this language would be provided -- or the information would
22 be provided for individual wells, but those that are
23 authorized under the area permit, at that point we should
24 have the information that we need to make that
25 determination. And so we've tried to remove wherever it

1 said there were wells within the well field area. We would
2 be requiring information for individual wells if they were
3 outside of an area permit, or if there wasn't an area
4 permit then we would still be submitting them on an
5 individual basis. So it does provide some incentive to use
6 the area permit definition as well.

7 In Sections 13 and 14, again. Subsection A was
8 the reference to Section 4 was off by one subsection. The
9 same for in Section 14, so we just corrected those
10 references.

11 Subsection 19 was one place where we actually
12 used the term "state decision document." That's been
13 replaced with the term "fact sheet," which we defined
14 previously.

15 And finally, Section 21, this is our public
16 notice, public hearing and comment or decision
17 requirements. Again, we were trying to make it consistent
18 with the federal requirements. The first change in
19 subsection 2, this was previous -- the language that I've
20 added was previously subsection F, but it came in at the
21 end of the list, and this actually is the way the federal
22 requirements read, and it just makes it clear that any
23 person on that list can waive the rights if they so choose.

24 Subsection 3, this might require a little
25 discussion. In subsection 3, we basically -- all we

1 provided previously was that state decision document, and
2 that was one of the reasons, too, that we've moved to fact
3 sheet. The state decision document was somewhat of a blend
4 of the fact sheet and the draft permit. In this case what
5 we're moving to now is they would be submitting a fact
6 sheet or we would be providing the fact sheet, permit
7 application or draft permit. I do believe that we should
8 probably change the "and" to an "or." The way the question
9 came up, whether this was supposed to be all three of them
10 or or. The federal language after fact sheet, it would say
11 transfer a copy of the fact sheet, permit application, but
12 then in parentheses they would say if applicable. So I
13 think my recommendation for this would be to change the
14 "and" to an "or."

15 CHAIRMAN GAMPETRO: Anybody have a problem
16 with that?

17 BOARD MEMBER GREEN: No.

18 CHAIRMAN GAMPETRO: Okay. Craig, I don't
19 hear anybody complaining.

20 MR. HULTS: One piece we were missing from
21 the federal requirements was that we need to submit these
22 items to the applicant, so we've added that. Again, that
23 shifted things down a bit for the section headers, and also
24 in what was Subsection A, we just cleaned up some of the
25 formatting there at the end to show that this is a list,

1 and I believe that's it.

2 CHAIRMAN GAMPETRO: Thank you very much.

3 Any questions or comments or --

4 Thanks, Craig.

5 MR. HULTS: You're welcome.

6 CHAIRMAN GAMPETRO: Before we move on, I
7 don't have a copy up here of the approval for the minutes
8 to sign.

9 MS. NUTTBROCK: Approval for the meeting
10 minutes? Do we have a --

11 MR. HULTS: Oh. It might be on one of
12 those sheets.

13 MS. NUTTBROCK: Here it is.

14 CHAIRMAN GAMPETRO: Thank you, Nancy.

15 MS. NUTTBROCK: Sorry about that.

16 CHAIRMAN GAMPETRO: Thank you.

17 Okay, Nancy, would you like to go forward?

18 MS. NUTTBROCK: Okay. We will move on to
19 the second item on the agenda.

20 MR. HULTS: If I might, Mr. Chairman. I
21 don't know if we want to hold a motion on the rule package
22 itself, prior.

23 MS. NUTTBROCK: We need that.

24 CHAIRMAN GAMPETRO: Yeah, we probably need
25 a motion.

1 BOARD MEMBER GREEN: Mr. Chairman, with
2 the -- with the minor adjustments made during the
3 discussions today, I would -- I would move that we -- that
4 we move these -- this set of rules forward to the EQC.

5 BOARD MEMBER SHOBER: Second.

6 CHAIRMAN GAMPETRO: Been moved and
7 seconded. All those in favor signify by saying aye.

8 BOARD MEMBER COLLINS: Aye.

9 BOARD MEMBER GREEN: Aye.

10 CHAIRMAN GAMPETRO: Seeing no opposition,
11 the motion passes.

12 MS. NUTTBROCK: Thank you, Craig, for
13 keeping me on cue.

14 CHAIRMAN GAMPETRO: Yeah, thanks, Craig. I
15 was worried about this one, I forgot about that one.

16 MS. NUTTBROCK: Okay. Now we can move on.
17 The second item on the agenda references a letter that you
18 all had received from the office of the governor. And it
19 spoke of an endeavor to streamline government's rules and
20 reduce any unnecessary language, be more concise in the
21 language that we choose, look for areas that -- within
22 our -- within our existing rules that might no longer be
23 necessary. Maybe there are rules within particular
24 agencies of the state that are simply so outdated that they
25 could go away.

1 This initiative from the governor's office is not
2 specific to Land -- or Land Quality, nor DEQ. This is a
3 directive that goes across all state agencies, and we're
4 being asked to review internally the number of pages that
5 we have and the number of rules that we have and start
6 looking at ways to reduce. So you've seen one example
7 today of where we've chosen to reference, and which forces
8 the reader to start flipping between rules, but it also
9 provides us some benefit in future -- future changes, makes
10 it a little easier, and also addresses what the governor
11 would like to see in terms of possibly -- our benchmark is
12 reducing our rules by one-third in length and one-third in
13 number by November of 2013.

14 So while he acknowledges that's a benchmark, it's
15 not an absolute. The intent is certainly clear. So what
16 we've done is gone through -- gone through DEQ -- and I'm
17 happy to report that the Land Quality Division is not the
18 culprit for our -- no, really, we've got a total of 35
19 rules, and we have 35 rules because we have a coal section
20 and a noncoal section. So there's a need to have two
21 separate bodies of rules there. We have a total of 363
22 pages of rules.

23 The Solid and Hazardous Waste is -- they have the
24 most number of pages, followed by Water Quality. So we'll
25 be looking DEQwide at ways that we can -- we can identify

1 and -- and maybe -- maybe eliminate entire chapters, maybe
2 eliminate a page here, a page there. But it's also
3 well-known that simply removing a page from a -- from a
4 rule is no simple task. There's more to it than hitting
5 the delete button. It involves in some cases a process
6 that very easily can take a year, by the time we -- we --
7 and even more so, if you consider the time the six months
8 that we spend with industry and EPA talking about changes
9 to Chapter 11, making relatively simple changes to a rule
10 takes a while. So what we propose to do as an agency is
11 make a list of areas that we'll keep in mind as we move
12 forward with future rule changes, and we'll be
13 incorporating those reductions at a point in time when it
14 makes sense, and not launching each division of DEQ into
15 years worth of rule changes at the onset.

16 CHAIRMAN GAMPETRO: Question. Do we keep a
17 cross-reference somewhere when we -- when we're doing as we
18 did today, and we're going to reference Chapter 8, if you
19 look up chapter, can you then find all the places where
20 it's referenced, a cross-reference of the references,
21 because otherwise we're going to go crazy -- or you guys
22 will, trying to, when you change something, know what else
23 needs to be now updated. So does that exist? Do we do
24 that?

25 MR. HULTS: There are - not a formal

1 document. I think people have developed a wordlist. I
2 would say for the most part if we do have citations,
3 though. That would be something that we're not tracking
4 each individual citation. That would be --

5 CHAIRMAN GAMPETRO: That's caught us in the
6 neck before.

7 MR. HULTS: Yeah, I agree.

8 CHAIRMAN GAMPETRO: When we change
9 something, we forget all the places it's cited.

10 MR. HULTS: Yeah, I typically, as one of
11 the final steps in my rulemaking, I do try and check those
12 within the chapters that we're working on, just to make
13 sure we weren't changing something that's referring back to
14 a chapter, but it's usually just on that rulemaking where
15 I'm looking at it.

16 CHAIRMAN GAMPETRO: If we're going to
17 reduce volume here, and do so by what we -- similarly to
18 what we did today, I would suggest a cross-reference. Just
19 a suggestion.

20 MS. NUTTBROCK: Good suggestion.

21 And I think as we go -- as we go along, and in
22 the coming years we start addressing this and removing
23 instances where we're duplicating and cutting and pasting
24 chapters, that cross-reference document would get a lot
25 smaller, but this is -- this is going to be a work in

1 progress. Our intent, as an agency, is to develop this --
2 develop a list per division, and obviously Solid and
3 Hazardous Waste's list would be considerable, and we'll
4 have a proposal to give to the governor for his
5 consideration by the due date, and we'll be able to --
6 we'll be able to comply or do our best to comply. Like I
7 said, for Land Quality to cut out a third of its rules and
8 a third of its length is not something that's reasonable,
9 but we can certainly identify areas where we can trim down.
10 You know, in the same -- in the same light, too, though, we
11 strive to write things into our rules that provide
12 efficiencies, and provide efficient means of us working
13 with our industries. And sometimes we need to add a page
14 or two. So we'll be -- it will be -- it will be something
15 to keep in mind and -- and that will be on Craig's list of
16 things to pay attention to whenever we promulgate new
17 rules.

18 BOARD MEMBER GREEN: Mr. Chairman.

19 Nancy, I've been around a long time, and I know
20 that in the early going there were some suggestions to
21 simply reference Code of Federal Regulations, et cetera.
22 That also has waxed and waned over time. I presume that
23 this effort is still not going to be one that -- that
24 promotes the idea of simply referencing federal
25 regulations. Is that -- is that correct, essentially?

1 MS. NUTTBROCK: You know, I think we need
2 to look at each of those areas and make a determination
3 whether -- whether it makes -- what makes sense to do,
4 because I think you're seeing a pendulum swing from both
5 directions, federal and state regulations. And sometimes
6 when we were promulgating rules that -- coal rules, for
7 example, oftentimes we don't have a choice. They will be
8 written as directed by OSM and the Department of Interior.
9 So those instances we simply have to follow their rules,
10 and we have limited ability on how we can trim coal rules,
11 right.

12 BOARD MEMBER GREEN: Thanks. Appreciate
13 that.

14 MR. HULTS: Mr. Chairman, if I might.
15 Part of that list that you had talked about was
16 for the coal rules. When we went through the revegetation
17 package, there were citations littered throughout there.
18 And that was -- I actually do have a list of pretty much
19 anywhere there were any references, and it's throughout all
20 of the chapters. The reason I did that, because we were
21 changing things and moving things around so dramatically,
22 again, it's just a handwritten list, but I would say we've
23 got a good portion of it, or I do, at least, covered as far
24 as citations, and have that list available. We didn't
25 develop anything for coal -- or noncoal like that, though.

1 CHAIRMAN GAMPETRO: Perhaps you could
2 authenticate it or --

3 MR. HULTS: Yeah.

4 CHAIRMAN GAMPETRO: -- get it typed or save
5 it for posterity or something.

6 MR. HULTS: And one more thing with this,
7 as Nancy mentioned. One, building an efficiency, it may
8 take some -- if we're talking about processes and
9 processing applications, I think we can meet some of that
10 directive of providing more efficient and effective
11 government by building in those processes. Like, for
12 example, the area permits, now that adds to our rules, but
13 should help in the administration of it and make it more
14 efficient.

15 A second thing, like Nancy kind of touched on,
16 was the coal rules, because we've gone to such great
17 lengths to ensure that we're in compliance with those and
18 been working on that for years and years, I would say those
19 are almost off limits for reductions in language, that I
20 would be very fearful of tearing into those to meet this.
21 There is an extreme one. I mean, you could take that and
22 just say I'm citing to the federal regulations. But I
23 think, again, we've built in so many things that aren't
24 mirrored, perhaps, in the federal regulations, that are
25 state specific or process specific to our program, which I

1 hate to see those things go away by citing to Federal
2 Rules. So that's my two cents on that one.

3 CHAIRMAN GAMPETRO: Thank you, Craig.

4 MS. NUTTBROCK: Okay. Mr. Chairman, that
5 was all we had.

6 CHAIRMAN GAMPETRO: That's it, huh?
7 Anybody have any other business they'd like to bring before
8 this body?

9 BOARD MEMBER GREEN: Mr. Chairman, I guess
10 I had one small thing. It's been my honor to serve on this
11 Board for eight years. I'm going to be retiring next year,
12 and so --

13 CHAIRMAN GAMPETRO: You'll have more time
14 for the Board.

15 BOARD MEMBER GREEN: Well, I'll be moving
16 to a different location, so I'm afraid that September will
17 be my last meeting. But it has truly been an honor.

18 CHAIRMAN GAMPETRO: Sorry to hear you go.

19 BOARD MEMBER GREEN: I've appreciated all
20 the support everyone has given.

21 CHAIRMAN GAMPETRO: You're an invaluable
22 resource to this body --

23 BOARD MEMBER GREEN: You're very kind.

24 CHAIRMAN GAMPETRO: -- that's for sure.

25 BOARD MEMBER GREEN: Thank you again.

1 MS. NUTTBROCK: Mr. Chairman, I do have a
2 couple of announcements, if we're at that point in the
3 meeting.

4 CHAIRMAN GAMPETRO: All right.

5 MS. NUTTBROCK: Our next meeting is
6 scheduled for August 19th. I would propose that because we
7 won't have a rule package forthcoming, that maybe we could
8 try our meeting, a third quarter meeting, as a conference
9 call. That may save a trip for everybody, and we can still
10 meet our requirements of a quarterly meeting.

11 CHAIRMAN GAMPETRO: Any comments around
12 here about that? I certainly --

13 BOARD MEMBER SHOBER: I can do that.

14 CHAIRMAN GAMPETRO: -- do not have a
15 problem not driving down here.

16 MS. NUTTBROCK: So that being said, this is
17 the last time we'll see Mr. Green.

18 And it is also the last time that we'll see at
19 this table, at least, Mark Moxley. And Mark is retiring as
20 of June 30th, after, dare I say, 30-plus --

21 MR. MOXLEY: Thirty-six and a half years.

22 CHAIRMAN GAMPETRO: Did anybody bring a
23 cake or anything?

24 MS. NUTTBROCK: There will be cake and
25 beverages at Lander at some point in time, but I wanted to

1 make sure that we recognized Mark's service to the state.

2 And, Mark, you've been instrumental in creating
3 the Land Quality Division, as we know it today, in every
4 facet. So your service, your professionalism, and your
5 friendship, for those of who you have worked with Mark for
6 a considerable amount of time, and they are numerous in
7 Land Quality, you'll be sorely missed.

8 MR. MOXLEY: Thank you.

9 CHAIRMAN GAMPETRO: Your pleasant, smiling
10 face.

11 MS. KING: June 22nd is the day of the
12 cake.

13 MS. NUTTBROCK: Is the cake day, June 22nd,
14 all right.

15 And so come July 1st we look forward to Miss King
16 taking the reins as Lander District 2 supervisor, and we
17 welcome her on board within that capacity.

18 MS. KING: Thank you.

19 CHAIRMAN GAMPETRO: Welcome again.

20 MS. KING: Thank you.

21 MS. NUTTBROCK: So we will proceed, then,
22 with a conference call. That information will be coming to
23 you from Becky shortly. We'll get that all set up, and
24 that should be fairly easy to do. And we'll provide some
25 updates. We'll let you know how Chapter 11 is planned to

1 go forward to the EQC. We'll talk about the other chapters
2 that were in the queue.

3 I would also like to thank Craig for your work
4 and your mastery at keeping all of this moving. It's
5 incredible. It really is incredible. If you've ever seen
6 the timeline for moving one rule, this Chapter 11 and what
7 this particular rule has to go through and the steps, and
8 you can't miss a date or you're off. You know, so -- and
9 there are new steps being added all the time, and it's
10 quite a feat.

11 And, Craig, I really appreciate you being on top
12 of this and being able to come to these meetings and you
13 have everything all laid out in an easy to read and easy to
14 understand fashion. So thank you for your work.

15 MR. HULTS: You're welcome. Thank you.

16 MS. NUTTBROCK: Yeah. With that...

17 CHAIRMAN GAMPETRO: I'd like to thank
18 everybody for coming, and -- yes, sir.

19 BOARD MEMBER SHOBER: I have one other
20 thing to add.

21 Our last commissioners meeting, we issued a
22 change order for Northern Drive to allow 12 percent
23 recycled asphalt, 3 percent recycled shingles or asphalt
24 mix. It represents about 2,000 tons of shingles that's
25 been diverted out of the landfill. Intermountain

1 Construction Materials, the general contractors, they hold
2 DEQ permit number 1 for recycled shingles in the state.
3 This will be first highway project in the state that allows
4 the use of recycled shingles on the bench. So it is --
5 it's open for -- there's different levels of testing for
6 asphalt mix. This is really the top level mixed testing in
7 this. They've already run the test strips at their plant.
8 They've already done the mix with it, so this -- this
9 project will be done 1st of October, open to traffic. But
10 it's kind of a real milestone --

11 MS. NUTTBROCK: It is.

12 BOARD MEMBER SHOBER: -- in the process.

13 MS. NUTTBROCK: That's a fantastic bit of
14 information. Where did you say that was -- that --

15 BOARD MEMBER SHOBER: In Gillette.

16 MS. NUTTBROCK: -- that construction would
17 occur?

18 BOARD MEMBER SHOBER: In Gillette.

19 MS. NUTTBROCK: What area?

20 BOARD MEMBER SHOBER: There's a bypass --
21 county-owned bypass around the north side of Gillette. And
22 it's called Northern Drive.

23 MS. NUTTBROCK: Right.

24 BOARD MEMBER SHOBER: This is Phase II of
25 Northern Drive.

1 see how that -- how that goes. And who did you say was the
2 contractor?

3 BOARD MEMBER SHOBER: Intermountain
4 Construction Materials.

5 MR. MOXLEY: Question. Does the County do
6 the shredding and the processing of the shingles at the
7 landfill, or where does that happen?

8 BOARD MEMBER SHOBER: What happens is ICM
9 applied for a DEQ permit, and the shingles are taken by the
10 contractor that removes them from the roof, taken directly
11 to ICM's yard. They pay \$40 a ton to dispose of the
12 shingles. They have to meet ICM's criteria of no paper, no
13 wood. I mean, they've got to be clean shingles, and they
14 have to be -- by the permit, they have to be from a
15 residential source. Can't be a commercial source. They're
16 held in individual piles. They're tested for asbestos.
17 And once they clear that test, then they're pushed into a
18 common pile, and then they bring a shingle shredder from
19 Minneapolis. Again, it's a highly modified wood shredder.
20 And once it meets the modifications to shred shingles, it
21 doesn't have any other use. And it grinds these into half
22 inch, minus the material. And the nails come out of it
23 too. The --

24 MS. NUTTBROCK: That would be helpful on
25 the highway.

1 BOARD MEMBER SHOBER: Pardon?

2 MS. NUTTBROCK: I said it would be helpful
3 on the highway.

4 BOARD MEMBER SHOBER: The asphalt, it would
5 smash the shingles down, you won't notice it. But the
6 other use of this mixed with gravel, and it does same thing
7 as roto mill asphalt, and it's a dust control agent. And
8 so it has another use besides the mix into asphalt.

9 So it's pretty exciting.

10 MS. NUTTBROCK: That is exciting.

11 BOARD MEMBER SHOBER: And, you know, I
12 think, you know, it's -- if it weren't for ICM, we wouldn't
13 have the ability to do it. And it's been successful.
14 We've -- you know, the County operates the landfill in
15 Campbell County. The shingles to be out at the landfill is
16 down to almost nothing. So we're probably getting about 95
17 to 98 percent of the shingles are going over there.

18 CHAIRMAN GAMPETRO: Reminds me of the old
19 story about the guy who invented concrete tires that were
20 going to work just fine on his rubber roads.

21 I've seen the paving done with that stuff, and it
22 is -- it's soft.

23 BOARD MEMBER SHOBER: It's common other
24 places. And ironic thing is this. We have to use a
25 limestone aggregate mix, which is about the only thing

1 available that comes out of Sundance. And limestone
2 aggregate is missing the small stone particles, and that --
3 and the aggregate in the shingles makes up that void that's
4 in the aggregate size.

5 MS. NUTTBROCK: Interesting.

6 BOARD MEMBER SHOBER: So you're all welcome
7 to come watch, come see it, come drive on the road.

8 MS. NUTTBROCK: Next time I'm in Gillette,
9 I will do that.

10 CHAIRMAN GAMPETRO: Anything else?

11 Again, thank you all. We'll entertain a motion
12 to adjourn.

13 BOARD MEMBER SHOBER: So moved.

14 BOARD MEMBER COLLINS: I'll second.

15 CHAIRMAN GAMPETRO: Seeing no more business
16 to come before this body, we are adjourned.

17 MS. NUTTBROCK: Thank you.

18 (Hearing proceedings concluded

19 11:37 a.m., May 20, 2013.)
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C E R T I F I C A T E

I, KATHY J. KENDRICK, a Registered Professional Reporter, do hereby certify that I reported by machine shorthand the foregoing proceedings contained herein, constituting a full, true and correct transcript.

Dated this 3rd day of June, 2013.

KATHY J. KENDRICK

Registered Professional Reporter