

Jan 08, 2013

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

BEFORE THE WATER AND WASTE ADVISORY BOARD

STATE OF WYOMING

HEARING ON SOLID WASTE RULES AND REGULATIONS

TRANSCRIPT OF HEARING PROCEEDINGS

Transcript of Hearing Proceedings in the above-entitled matter before the Water and Waste Advisory Board, commencing on the 22nd day of June 2012 at 10:35 a.m. at the Oil and Gas Conservation Commission Building Hearing Room, 2211 King Boulevard, Casper, Wyoming, Ms. Marge Bedessem presiding with board members Mr. Glenn Sugano and Mr. David Applegate in attendance and Ms. Lorie Cahn appearing via videoconferencing. Also present was Mr. Carl Anderson and Mr. Bob Doctor.

P R O C E E D I N G S

(Hearing proceedings commenced
10:35 a.m., June 22, 2012.)

VICE CHAIR BEDESSEM: The Water and Waste
Advisory Board will now reconvene. We'd like to talk
about the Solid and Hazardous Waste Division solid waste
rule change.

MR. ANDERSON: Yes. Thank you, Madam
Chair, board members. The solid waste program is within
the Solid and Hazardous Waste Division, and these are
solid waste program rules.

VICE CHAIR BEDESSEM: Thank you for that
clarity.

MR. ANDERSON: But much like the storage
tank rules, what we're bringing before you today are some
surgical changes to the solid waste regulations in
response to a handful of drivers. And I will provide
some more detail about those drivers. We mentioned them
in the SOPR, and I'll provide some more detail and
context to those.

You know, in going through this rule-making
process, and even in advance of this rule-making process,
we've recognized that our existing solid waste rules and
regulations will need some major overhauling and some
tweaking not only to get us current, but also to address

1 some commitments that we have with the governor's office
2 to look at our rules and regulations and streamline them
3 where we can reduce redundancy, those kinds of things.
4 So we will be coming back to you in the near future with
5 a broader change to all of the solid waste rules and
6 regulations. But today we're talking about some fairly
7 focussed changes in five areas. And so, Madam Chair,
8 I'll talk in more detail about each of those. And if you
9 have any questions, just let me know.

10 The first thing that we're responding to are
11 some provisions that were adopted by the legislature back
12 in the 2011 session, the last full bill session. And
13 there were two Acts that affected the solid waste
14 program. The first one was Enrolled Act 58. And this
15 particular piece of legislation adopted lifetime permits
16 for municipal solid waste landfills, lifetime being
17 defined as 25 years. That particular piece of
18 legislation also adopted new definitions for groundwater
19 and for aquifer. And those definitions were applicable
20 only to municipal solid waste disposal facilities.

21 The second piece of legislation, Enrolled Act
22 71, that related to what was called performance-based
23 design for engineered containment systems. And it set up
24 a process for those facilities that were proposing not to
25 incorporate a liner or engineered containment system into

1 their landfill operations. It set up a process for them
2 to submit information to the Department, how that
3 information would be reviewed by the Department, and gave
4 the ability, in circumstances where there is dispute
5 between the Department and the landfill operator, for
6 that to go to the Environmental Quality Council.

7 So we're making changes with respect to our
8 permitting for lifetime permits. That particular piece
9 of legislation becomes effective July 1st. We're behind
10 the curve on rule-making. Quite frankly, we should have
11 been to you sooner than we are now. We've been trying to
12 make adjustments. But what the legislation says is that
13 for any permit that we issue after July 1st of this year,
14 we have to issue it as a lifetime permit. We think we're
15 in pretty good shape with respect to getting facilities
16 permitted. And I'm hopeful that we can have rule in
17 place so that the next time we issue a permit or receive
18 an application, we can address it as a lifetime permit.
19 So that's the first set of changes that we're making.

20 The second one is to simplify and streamline
21 the permitting requirement for solid waste transfer,
22 treatment and storage facilities. Currently we have a
23 hierarchy of permitting exemptions for these kinds of
24 facilities. They are regulated under Chapter 6 of the
25 solid waste rules and regulations. And we can either

1 issue full permits -- we call them full permits for these
2 Chapter 6 facilities or low-hazard, low-volume permits
3 for these facilities. And then we have certain
4 exemptions we can grant if there's a de minimus amount of
5 activity for individual types of wastes and volumes of
6 waste.

7 What we're trying to do, as you know -- you see
8 it every time we meet -- Mike comes before you and talks
9 to you about groundwater grant reimbursements. And, you
10 know, there's a lot of focus on landfills and the issues
11 associated with landfills, contamination of groundwater
12 and continued operation of landfills, closure of
13 landfills. Many landfills are closing. And their
14 alternatives to closure are some kind of transfer
15 facility or maybe a direct-call situation.

16 What we're trying to do with these changes in
17 this category are related primarily to low-hazard and
18 low-volume permitting requirements. What we're trying to
19 do is to allow communities that close their landfills and
20 go to waste transfer to continue to provide the same
21 level of service that they provided when they were
22 operating. So, if they were taking used oil and
23 batteries or recyclables, that they could continue to do
24 that activity. And if they do it for certain waste types
25 and at certain volumes or quantities, that they could be

1 subject to a low-hazard, low-volume permit or even to a
2 permit exemption.

3 So we're trying to assist communities that are
4 going through this transition to be able to continue to
5 provide full service at waste management activities if
6 they close and go to a transfer facility. Our existing
7 regulations aren't all that amenable to that. And we
8 just want to make it clear that these activities can
9 occur within these other permitting categories for
10 exemptions.

11 The next category is to simplify and streamline
12 permitting requirements for facilities storing used oil
13 to be recycled and burned for energy recovery. Currently
14 used oil is regulated by three programs in the Division.
15 We have requirements in the solid waste program. There
16 are requirements in the hazardous waste program. And in
17 some circumstances, used oil stored in underground
18 storage tanks would be subject to requirements of the
19 underground storage tank program.

20 So, in response to the recognition that we have
21 some redundancy and, in addition, to address our concerns
22 to the governor to look at our rules and regulations with
23 respect to redundancy and consistency, we developed a
24 work group on used oil. We got some recommendations from
25 that work group. Primarily, the recommendation was that

1 this stuff is -- used oil is well regulated by the
2 hazardous waste program. And so we can minimize
3 oversight for these programs in the solid waste program.
4 This puts more onus on the operator and reduces the onus
5 for permitting. It also would require greater efforts by
6 our inspection and compliance group on used oil.

7 The next one was to update and improve the
8 financial assurance cost estimates for municipal
9 landfills and for low-hazard, low-volume facilities. As
10 you may know, state statute created what's called the
11 guarantee -- the State-guaranteed trust account. There
12 was a recognition a number of years ago that because most
13 of the landfills in the state were municipally owned and
14 operated, that the specific financial assurance
15 requirements that you would apply, for example, to a
16 private entity, where they would submit closure and post-
17 closure cost estimates and then have to have a bond for
18 those full costs for closure and post-closure and
19 corrective action, even, because most of the
20 facilities -- almost all the facilities except for one
21 are municipally owned. The State set up a program
22 whereby facilities contribute to the trust accounts a
23 proportion of their closure and post-closure cost. So,
24 in the event that there was any one, single entity that
25 wasn't able to meet their obligations for closure and

1 post-closure corrective action, the account would be used
2 for those activities.

3 So there were some problems. As we've gone
4 through the program and developed regulation, we
5 recognized that there were some problems with the cost
6 estimating. So we've just simplified that with respect
7 to how they're calculated and contemplate using a
8 calculator developed by the Department.

9 In addition, we're making some changes to the
10 requirements for financial assurance for low-hazard,
11 low-volume facilities. Currently they have a slightly
12 different approach to bonding financial assurance than
13 other Chapter 6 facilities, other types of facilities.
14 Primarily we're making this change because of the changes
15 we're making to our low-hazard, low-volume requirements
16 that broaden the kinds of activities that these
17 facilities can do.

18 So we felt like if we're going to give them the
19 flexibility to manage -- and this is not only
20 municipalities, but this applies to other private
21 entities, as well -- that if we're going to broaden the
22 ability for these facilities to take different waste
23 types, greater quantities of those waste types, that they
24 should be subject to a similar bonding requirement for
25 the larger facilities.

1 And the final change is related to a difference
2 that we have in our permitting process primarily related
3 to municipal solid waste facilities between statutes and
4 regulation. Right now statute contemplates that there
5 are two review processes for permit applications.
6 There's a completeness review, where the Department
7 reviews the application to verify that all the
8 information that's required to be submitted has been
9 submitted. And once we determine -- and we're required
10 to do that review within 60 days. If we don't complete
11 that review within 60 days, anything that we don't
12 determine complete automatically becomes complete.

13 Once we determine an application complete,
14 there's a round of public notice and comment and the
15 ability for the administrator to hold a hearing to
16 receive additional comments on the completeness review.
17 At the time that we determine a document -- a permit
18 application complete, we can begin the next review, which
19 is a technical review. And we have 90 days to complete
20 that technical review. And, once again, any item that we
21 don't deem technically adequate within that 90-day period
22 automatically becomes technically adequate.

23 At the end of that 90-day review period, we
24 issue a proposed permit. And that proposed permit is
25 subject to public comment and notice. And at that point

1 in the process, there's the ability for a contested case
2 hearing before the Environmental Quality Council if there
3 are differences of opinion on the proposed amendment.

4 The problem that we had was that the existing
5 solid waste regulations -- we were just talking about
6 what's in statute. What's currently in our regulations,
7 the problem is primarily for facilities that are
8 currently submitted that submit renewal applications.
9 The existing regulations allow for a combined 90-day
10 completeness and technical review. And at the time that
11 we developed those regulations, that made sense because
12 these were operating facilities. We had a history with
13 them. We had previous applications. It made sense to
14 combine for a renewal application a completeness and
15 technical review in known facilities.

16 But we were called on this. It was brought up
17 to us in two circumstances by outside counsel for
18 different entities in the state that, by going through
19 this process for renewal applications, we're not being
20 consistent with the statute. And if we took a 90-day
21 review for renewal applications and busted that 60-day
22 review period for completeness that's established by the
23 statute, anything that we hadn't determined complete by
24 that 60-day window automatically becomes complete.

25 And so, in response to that, we talked with the

1 Attorney General's Office. And the Attorney General's
2 Office has told us, of course, that statute overrides
3 regulation and that we should conform our regulations to
4 the statute. So that's the final change that we're
5 making.

6 So, for the most part, these rules -- the rule
7 changes are in response to some legislative issues.
8 They're in response to some issues that have been
9 identified with the permitting process and our attempt to
10 streamline our regulations and make waste management
11 activities for closing landfills much easier to continue
12 with the transfer stations.

13 And that's -- Madam Chair, that's all I have.

14 VICE CHAIR BEDESSEM: Do you have anything
15 to add, Bob?

16 MR. DOCTOR: No, Madam Chair. That was
17 great.

18 MR. ANDERSON: Thank you. I guess I'll
19 have to buy him lunch.

20 MR. DOCTOR: Deal.

21 MR. ANDERSON: So, Madam Chair, I'm not
22 sure how you would exactly like to proceed with us. We
23 can take your questions and any comments. Your pleasure.

24 VICE CHAIR BEDESSEM: I have just one
25 comment about the SOPR. The statement of principal

1 reasons on the front page basically outlines the kind of
2 five topic areas that you talked about. But as you go
3 through the SOPR, we've got nearly two pages -- a page
4 and a half to two pages of miscellaneous changes that
5 sort of under -- are almost under Item Number 6. I mean,
6 they're listed as minor changes, but they may be -- that
7 might depend on the perspective of the person who's
8 reading it, whether they're minor or not. And so they --
9 I'm concerned that they're not covered in kind of your
10 bullet list in the front of your five, you know, areas of
11 principle reasons for adoption.

12 The reason I'm concerned about this is, if
13 somebody was looking to see whether they wanted to bother
14 to make comment on these rules or not, usually they open
15 up the SOPR and say, oh, is this something that's going
16 to affect me in any way? Do I need to be concerned about
17 this? And if they went through the first five, they may
18 never have actually seen that there's nearly two pages of
19 other miscellaneous changes.

20 And so what my suggestion would be is, if
21 there's a way to capture what those are related to and to
22 put those up front in a Bullet Number 6 on the SOPR, so
23 that if anybody in the future wants to look at this and
24 make comment, they see right up front that there's more
25 than just those five. Some of those are considered

1 housekeeping requirements, but others are additional
2 requirements that they may not grasp, just based on that
3 kind of first set of bullets.

4 MR. ANDERSON: Madam Chair, that's a good
5 point. And I think, you know, a number of these
6 miscellaneous changes are related to the other five
7 categories. Clearly, there are some of them that are
8 housekeeping. I agree. And we can do that.

9 VICE CHAIR BEDESSEM: So, for example,
10 making changes like adding methane monitoring
11 requirements and that sort of thing, I'm not sure it
12 exactly fits in any of the other five topics. So, if you
13 could kind of take a look at those and see if there are
14 any that are outside of that range to make sure you've
15 got them covered under your statement of principal
16 reasons to try to house them in a Bullet Number 6, to get
17 everything in there so they don't escape you, I guess.

18 Do we have any other comments from the board?

19 The board may make additional comments on the
20 rule-making package, but not at this time. First might
21 be interested in hearing public comment on the rule-
22 making package and would encourage people that are here
23 today to discuss the solid waste rules, to come up and,
24 again, state their name, who they're representing and get
25 their comments on record.

1 MR. DOCTOR: Madam Chairman, we mentioned
2 that we received no written comments from anyone. We
3 received no e-mail comments or phone calls or anything up
4 to this point. I can check my mailbox this morning. So
5 at this point, like the tank folks did, I didn't have any
6 written comments to come to you with.

7 VICE CHAIR BEDESSEM: Thank you.

8 So do we have anybody who's willing to take the
9 floor, or are we all just listening today? We'll start
10 with Cindy.

11 MS. LANGSTON: Hi. I'm Cindy Langston.
12 I'm the solid waste manager for the City of Casper, and
13 I'm also a Wyoming Solid Waste and Recycling Association
14 board member. I do have a few comments, and I've
15 summarized them by the chapters that were on their
16 website. So I'll start with Chapter 1.

17 Just going through this, right now the City of
18 Casper is going through a green waste yard ban. And I
19 found it interesting the definition of green waste, which
20 is located on their page 1-7, that includes
21 nonputrescible organic materials. We found it doesn't
22 necessarily mean grass and plant material. So I do have
23 a better definition that we use with the City of Casper.
24 And it's not really a major comment, but it's an
25 interesting definition that I've never seen for green

1 waste before. And I don't think it's accurate.

2 And then on page -- I think it's 1-7. I'm
3 sorry. For construction and demolition waste, the
4 definition is very brief and not very descriptive. And I
5 know many of the landfills in the state of Wyoming right
6 now are looking at going to unlined C and D facilities.
7 And there are some complications with C and D, that they
8 do sometimes contain materials that can be hazardous,
9 including your gypsum wallboards, thermometers, treated
10 wood, asbestos-containing shingles, adhesives, paints.
11 So this kind of goes straight to my comments on page
12 1-12, where they added some additional language for the
13 definition of low volume, low hazard. DEQ added in here
14 that it includes storage of less than 500 tons per day.
15 500 tons per day is not low volume.

16 VICE CHAIR BEDESSEM: Excuse me, Cindy. I
17 just want to make sure, when you're, for example, noting
18 what page your comments are relating to, is that on the
19 strikeout version or the full text version?

20 MS. LANGSTON: Yes.

21 VICE CHAIR BEDESSEM: The strikeout
22 version?

23 MS. LANGSTON: It is the strikeout
24 version, yes. I only looked at the additions and
25 deletions. And it is on the strikeout version, Chapter

1 1, page 1-12, where they added to the low volume, low
2 hazard. And it includes 500 tons per day, is what I was
3 mentioning. 500 tons per day, to me, is not a low
4 volume. However, I understand the low hazard for things
5 that include like the glass, aluminum, metal. Those kind
6 of things, I believe those are low hazard, even though
7 they might get into the high volume. But I've never seen
8 construction and demolition and clean wood waste included
9 in those.

10 And I don't really have a concern of 500 tons
11 per day inside a building. But when you start going
12 outside the building, I think we could be adding a
13 nightmare to the State of Wyoming if we started having C
14 and D and wood waste piles of this size that are under a
15 low-volume, low-hazard regulation. So I would suggest
16 some sort of taking out the C and D from the outside
17 regulation in the wood waste. They've taken out tires
18 and electronic waste from this, which I think is great.
19 But I think you can have the same kind of problems with
20 clean wood waste piles and C and D.

21 What I see even at my own facility is the clean
22 wood waste piles because we don't have good screening
23 throughout Wyoming. We just don't have the resources to
24 do it. You'll see a lot of the older woods with the
25 lead-based paint. And kids are like magnets to places to

1 climb in and play in. And wood can contain, also, all
2 the landscape timbers and whatnot that are treated. So
3 they can end up having a whole bunch of stuff in them
4 that I think is not good if you store them outside. And
5 the location standards for low volume, low hazard are
6 different than a full-blown Chapter 6 permit. So I just
7 had some concerns about those two items and that
8 definition.

9 And on page 1-40 of the strikeout version of
10 Chapter 1, it includes language -- it's also on page
11 1-49 -- about updating -- or, I guess that's the 60-90-37
12 rule that Carl was talking about. And your comment
13 period in there -- I'm sorry. I'm on the wrong one. But
14 it is page 1-40 at the bottom of the page, (I)(4). And
15 this is something that we do with our regulator, is that
16 when we just have page changes to the permit, it's been
17 put in here. And this is great. We really appreciate
18 that. Because to run out the whole book, the manual
19 could be very costly.

20 However, we do add in strikeout versions,
21 because sometimes you can have amendments that, actually,
22 it's not clear what's been changed. So my suggestion
23 under here -- and the language that's been added at the
24 bottom of page 1-40, which is (I)(5), at the bottom where
25 it says, the applicant shall have the option to submit

1 copies of only updated revisions, portions of the
2 previous application. The revisions and updated pages
3 and drawings are appropriately numbered and dated to the
4 facility incorporation into the previous permit document.

5 That's great. I love it. But I would like to
6 add one thing, that I think it makes it easier for
7 historic records at the facility, and I assume it would
8 be good for DEQ, is to add a statement after that that
9 says "and the revisions are clearly identified." I think
10 it's important to know what's been changed in a document,
11 because it can be hard to figure it out. We've learned
12 this from our own records, that we can't figure out what
13 we changed in the amendment without reading 80 pages. So
14 that was my point on that one.

15 And Chapter 2, this is the one that the -- the
16 completeness was 60 and then 90 days for technical review
17 and 37 days for the public. I think this is wonderful as
18 an owner/operator because new permits, we've gotten
19 really great results at the meeting deadlines. On
20 renewals we have, but not because of the rules. It's
21 because we've had a process of meeting with them up
22 front.

23 My concern is -- and the WSWRA board has talked
24 about this many times -- is DEQ we feel maybe is
25 understaffed, and them actually meeting those deadlines

1 Bob. And we'll have that to him if he needs it early
2 next week. I will get the WSWRA reports together, and we
3 will submit some comments to him. The one on the -- the
4 first one that I had on the wood waste is the City of
5 Casper comment.

6 VICE CHAIR BEDESSEM: I don't know quite
7 how that works as far as public commentary. Does it
8 begin today? Is that not correct?

9 MR. ANDERSON: Madam Chair, I'm not sure
10 when the comment period ended. But we're fine if Cindy
11 is providing comments today and wants to get those to us
12 in writing. I guess it will just depend on how that
13 discussion -- or, any discussion we have in response to
14 comments or her comments, I guess that will depend. That
15 might affect the board's decision about how to move
16 forward with the rule package.

17 VICE CHAIR BEDESSEM: So we'll discuss
18 this a little further after we hear the rest of the
19 responses today.

20 MS. LANGSTON: Thank you.

21 MS. CAHN: Carl, I missed the last thing
22 that you said.

23 MR. ANDERSON: Madam Chairman, Lorie, I
24 was talking about that we would be fine with receiving
25 written comments from the City and WSWRA on those

1 comments, but that it may affect how the board processes
2 that with respect to moving the rule package forward.

3 MR. SUGANO: Madam Chair, I had a question
4 on the wood waste. Along Interstate 80, we have a lot of
5 piles of railroad ties stacked. That's not clean wood
6 waste, is it? Because it has the creosote. Because
7 those ties are soaked with creosote. So it wouldn't be
8 considered a clean wood waste pile. Is that correct?

9 MR. ANDERSON: Madam Chair, Glenn, that's
10 true. It wouldn't be considered clean wood waste.

11 MR. SUGANO: So it wouldn't be part of
12 this low hazard definition, then? It would not be part
13 of the low hazard definition?

14 MR. ANDERSON: With respect to those
15 particular provisions that apply to clean wood waste,
16 yes.

17 VICE CHAIR BEDESSEM: It's not clean
18 waste.

19 MR. DOCTOR: Madam Chair, railroad ties
20 are not clean wood waste. And that falls with other
21 treated lumbers that are treated with all kinds of stuff.

22 VICE CHAIR BEDESSEM: I'd like to move
23 forward with public comment. So, next.

24 MR. McDONALD: Madam Chairperson and
25 members of the committee, my name is Mike McDonald. I'm

1 the former chairman of the Fremont County Solid Waste
2 Board. Point of clarification, I'm no longer on the
3 board. I decided not to re-up. But I was on the board
4 for nine years, and I have a great interest in what's
5 going on.

6 I'm going to confess my ignorance up front. I
7 would like to know from the DEQ how much longer we have
8 to make comments. I have not been on their website,
9 which is probably my fault. And also, I suggest that the
10 governor's Citizens Advisory Committee, or CAG, is going
11 to meet on July 19th, if Mr. Doctor would maybe jog my
12 memory some. And I think this would be a great time for
13 all the small-time operators around the state to make
14 sure that the word gets out that they can look at these
15 new rule changes. And again, maybe it's just me in my
16 ignorance or I'm in the dark and I haven't, I guess,
17 looked at the website, if you will. I confess that. I
18 think that would be great if it hasn't been done. If it
19 has, my apologies.

20 I think that's about all I have.

21 VICE CHAIR BEDESSEM: So, Mike, can I
22 gather from what you're saying that you might perhaps be
23 interested in extending the public comment period?

24 MR. McDONALD: I think that would be
25 great. I just learned this morning that Bob has not had

1 any public comment. And again, maybe the word hasn't
2 been gotten out, let's say, to Sundance or Van Tassell or
3 Smoot or whatever. And again, maybe my fault.

4 VICE CHAIR BEDESSEM: Well, thank you for
5 that comment. Again, we'll discuss that following the
6 public comment. We'll have a board discussion on that
7 very topic.

8 MR. McDONALD: Thank you.

9 VICE CHAIR BEDESSEM: Next.

10 MR. CASNER: Hello, Madam Chairman. My
11 name is Ken Casner. I'm from Elk Mountain, Wyoming,
12 small community. I'm sitting on the city council, but
13 I'm not representing. I'm up here for my own knowledge
14 right now. And the reason I'm here is I was prior
15 chairman to the High Country Joint Powers Board in Elk
16 Mountain. I was promoted in 2010 to take that position
17 for Elk Mountain. I served as the chair for less than
18 six months. However, we did our landfill agreement,
19 three communities, in less than that period. So we've
20 got a brand-new landfill agreement.

21 The reason I'm here today is this -- I'm glad
22 I'm here, to be honest. First of all, we are -- I've
23 attended the last two High Country Joint Power Board
24 meetings. That's Medicine Bow, Elk Mountain and Hanna.
25 And we're unaware of any of these things going on, I

1 mean, as far as the rule changes or anything, because
2 they didn't bring it up on their dockets and their
3 agendas. And so we don't have any information that
4 you're making changes to the landfill.

5 Also, we had a very nice meeting with the
6 Wyoming DEQ. We had Rebecca Dietrich. We had her at our
7 facility. I was attending that facility function at that
8 time period. We reviewed our landfill with her. And
9 then Mr. Omny came in later that evening and addressed
10 the same. The two people from DEQ came to our High
11 Country Joint Powers Board.

12 We're in distress here, I guess. We have some
13 issues that, in small communities, I don't think are
14 getting forwarded to the committee or to the governor.
15 And one of the things that is evident today is -- I'm
16 glad, like I said again, to be here, because these are
17 major changes that you're about to incorporate that I
18 know our own municipality has no awareness of it, none.
19 And I've sat on the board, on the council, for two years.
20 And so, basically, I have not seen any of these dockets,
21 none. And so there's an issue we have.

22 The next thing is we're trying to do what
23 you're prescribing, a CD trench, CD waste facility. And
24 that was their main visit, was to come to our facility
25 and look at our CD. Since we've been doing it in 2010 in

1 our little community, we're aware of the cost of
2 transfer. We're aware of the cost of making transfer
3 facilities. We're looking -- we've instituted an office,
4 a gate. We've instituted a recycling facility within our
5 own thing. We've taken -- we're stopping Freon. We're
6 stopping TVs. We're stopping a lot of things. We see
7 our limited budget.

8 But I'm going to tell you, on this last meeting
9 we had with them, there was two things that really struck
10 us like a shot in the dark. First is the three percent
11 we put apart as a community for the closure fund.

12 Leonard Gonzales, the chairman, I was there with him.
13 And PMCP, Gary Steele and myself sat in a meeting with
14 them, and we brought up the three percent closure fund.

15 Now, we had the assumption, which made us kind
16 of look -- you know what "assumption" stands for. But we
17 had the assumption that this money was coming to help us
18 close our landfill. When they hit us with that, there
19 were three jaws, two jaws in particular, that hit the
20 floor. One of them was Leonard Gonzales, and one was
21 mine. Because we thought with our municipalities putting
22 that money in, it would come to the closure of our
23 particular landfill. And such is not the case. We found
24 that out.

25 We also found out by that that even though our

1 municipalities have been putting in this money for this
2 extended period, we probably only get about \$20,000 for
3 all three communities to put into our landfill. And then
4 the big pool, it would go to the ones that need it first.
5 So, basically, we're saying to ourselves -- I'm saying to
6 myself, as a city councilman, what the hell am I putting
7 it in there for if I'm not going to be able to utilize it
8 for our community? So that was one of the things that
9 was my own personal opinion. I want to stress that.
10 That's my own personal opinion, not my council's.

11 But back to the CD trench. We want to propose
12 to put a CD trench into our facility to run up into
13 our -- our area is 82 acres. We have part of it closed.
14 We're working on it. What was amazing in our discussion
15 with them was how we did our water flow and so on. I
16 think we don't have -- the person that's most
17 knowledgeable is not even High Country Joint Powers
18 Board. It's the consultant. That's the one that's most
19 acknowledgeable. So, basically, you get people put on
20 these positions as volunteers, and they rely heavily on
21 the consultant. They don't rely on the information
22 that's provided by the State. They rely heavily upon the
23 consultant again.

24 But anyways, we went through the walk-around.
25 What was amazing to us is how -- and I'm going to say

1 this honestly. I have no -- I'm not a politician,
2 believe me. And what I'm saying here is that what amazes
3 us was the different tone. One of the tones we got was,
4 in 2010, you're going to close. You are going to close.
5 This is what's going to happen to you. And it was almost
6 like the whip-and-chain theory. Well, it's changed a
7 little bit. And one of the things we're noticing now is
8 that the specific ground level, the terrain of our
9 landfill, the part that's closed is quite a bit higher
10 than the part that we're utilizing right now.

11 Well, the first suggestion was to get it
12 surveyed and to get it laid out so that we could take the
13 survey part of it and find out what our true closure rate
14 was. Then we were to notify that we could have an
15 extension permit. These gentleman can correct me. I
16 probably don't have the right thing. But it's an AD or
17 AB permit extension, which says that at the end of our
18 time of that permit, we have no other choice. We will
19 flat close. But it also extends our permit. It extends
20 us in a way that we can maybe even get five to ten more
21 years' usage out of our existing landfill. And I thought
22 that was remarkable, because we never got that approach
23 given to us. And when I was even on the chair, I never
24 heard of this thing.

25 The next thing is, when the consultants and us

1 went through the landfill part of it and the CD waste,
2 what we're asking for is the CD trench unlined put in our
3 facility. We have the dirt. We have the capabilities to
4 put it in there. But our process, we're kind of like --
5 from what Mrs. Langston said, she's looking at a process
6 where you take shingles out. You take treated lumber
7 out. You take a lot of things. Well, I got to be honest
8 with her. We never even considered what she said. And
9 basically, what we were going to do with it is put our CD
10 trench, and it would help us with a lot of other waste
11 that we could put in there. And, I mean, not solid
12 waste, but CD waste. And so, basically, we could even
13 extend our life.

14 I think what we need to do, in my own personal
15 opinion and as a person who's dealt with this, is to get
16 the information more out there. I mean, I don't even
17 know if these are public documents. I hope they are,
18 because I'm going to rip every one of them off. But the
19 thing about it is, is basically what we're trying to say
20 here is I think we're not pooling our resources. And
21 what I mean by "pooling our resources" is, for example,
22 your green wood waste and stuff like that. Our
23 municipalities need to be aware that we have resources
24 all through here. We have 71 landfills, all with blades,
25 grinders, everything else. Some have bigger grinders.

1 Some have less. But like if we could get a grinder to
2 come to our landfill and just grind our solid wood waste
3 and make it into mulch and then resell it to the public,
4 like Cheyenne does or like Casper does, and our glasses
5 and stuff like that, you'd create a market, I think, in
6 our communities and reduce our input.

7 I guess why I'm here, too, is to tell you that
8 the way I found this information was an update through
9 WAM. That's the only way I knew this was going on. And
10 I called my High Country Joint Powers chairman,
11 Mr. Gonzales, and I said, "Would you like to come up?"
12 He said, "I didn't even know this was going on." So,
13 basically, what I did is I came up here today. And I
14 read it wrong. I was up at the Petroleum Company for an
15 hour, sitting there waiting. And I had it wrong, so I
16 traced you back. That's why I'm here.

17 And I think if you look at it from what we can
18 do to help our people help themselves, your committee
19 would go very far. Because, basically, if we can do this
20 instead of being the other way, we could pool a lot of
21 resources. For example, in Carbon County, every
22 community in Carbon County from Rawlins is 36.6 miles
23 away at an average. That's our average. So, if we take
24 all our trash to Rawlins and then we transfer it to
25 Casper, you add another 117 miles to it. That's 156

1 miles, roughly, in an average.

2 So, basically, we're talking -- we're talking
3 cost increases for our residents. And we're having
4 tipping issues inside of our own county. And like I
5 asked the governor at the round table in Rawlins in
6 June -- or, May of this year, I asked him the following
7 question. I said, wouldn't it be better if we kind of
8 really looked at it as 23 transfer stations or 23 -- you
9 got five regional landfills. But if we can make regional
10 transfer stations within our communities and then
11 transfer trash out, it would be better than rolling all
12 the way to Casper. Some can afford it. Some can't.

13 That's all I have, Madam Chairman. I
14 appreciate you listening to a guy from Elk Mountain. But
15 I'm going to swipe these things off the table, and I'm
16 taking them back. Thank you, ma'am.

17 VICE CHAIR BEDESSEM: Thank you, Ken.

18 You know, I believe that the Solid and
19 Hazardous Waste Division has done due diligence as far as
20 the public advertisement and the appropriate time period.
21 And you have a mailing list, as well. I know I received
22 a little announcement in the mail. So I'm not sure about
23 the lack of communication there, whether there's not an
24 updated joint powers board contact or what's going on
25 there. But I'm getting the general gist that there's

1 desire to make additional comment.

2 Is there anything you would like to add, Carl?

3 MR. ANDERSON: Madam Chair, you know, the
4 rule-making process, as you know, is very prescriptive in
5 terms of who we notify and how we notify. We met our
6 obligations in terms of who we were supposed to notify.
7 We also notified -- beyond what we were required to do,
8 we also used the WSWRA and the CAG to get the message
9 out. We used last year's seminar to let them know that
10 we were going to be going through this rule-making
11 process. And I'm not sure how the Highway Country Joint
12 Powers Board didn't get their notice. Because our
13 mailing list is comprehensive, I think, with respect to
14 landfill operators and contractors and consultants. And
15 I'm not sure exactly how that happened.

16 VICE CHAIR BEDESSEM: Well, thank you for
17 addressing that.

18 Next? Any more public comment?

19 MR. SHIMIC: Madam Chair, board members,
20 I'm Doug Shimic of the Johnson County Solid Waste
21 District in Buffalo. I've just got a few questions,
22 comments. And maybe Bob can answer some of these for me.
23 Facilities that have received permits in the last couple
24 of years, or they're going to be receiving them, are we
25 going to be able to be grandfathered into the lifetime

1 permits, or do we have to redo and go after another
2 permit then under these new rules?

3 VICE CHAIR BEDESSEM: You may respond.

4 MR. DOCTOR: How this will work is the
5 next time a renewal application is due -- so, if it's six
6 month, two years, whatever -- then that next renewal when
7 it's issued will be a lifetime permit. So some of our
8 smaller facilities have eight-year permit terms. Some
9 have four years, larger ones. So, whenever the next
10 permit expires, the next renewal becomes a lifetime.
11 That's the way the statute was written, I believe.

12 MR. SHIMIC: Right, the statute, not how
13 much you put into the --

14 MR. DOCTOR: Madam Chairman, then the rule
15 adopts the statute.

16 MR. SHIMIC: All the facility has to be
17 designed. Why not make it for 25 years for the lifetime
18 of the facility instead of having -- see if I get this
19 right. We have to design for eight years. Why not have
20 it designed for the 25-year lifetime instead of having to
21 do it every four years, I think?

22 MR. ANDERSON: Madam Chair, part of the
23 reason that we're going through the rule-making process
24 is that currently the rules require design for the
25 specific permit term. There's also a provision in there

1 that requires information for life of the facility. And
2 as sort of a policy approach, rather than requiring
3 facilities to provide all the information for the life of
4 the facility, you know, to require somebody to predict
5 where they're going to be, in what trench they're going
6 to be in 2030 if they've got a lifetime out to 2045,
7 we've sort of backed off that and sort of asked people to
8 give us a conceptual design.

9 The intent under the lifetime permit is that if
10 you're going to have a 25-year permit term, that you need
11 to describe what you're going to be doing for that 25
12 years. And then the legislation contemplates that there
13 will be annual reports. So the landfill operator would
14 submit an annual report. And basically, that annual
15 report describes how the facility is being managed if
16 there's any deviations from what was described in
17 essentially the 25-year permit application. So the idea
18 is that when we got -- when you get an application for a
19 lifetime permit, it will show that 25-year design.

20 MR. SHIMIC: On the same lines of that
21 construction-ready designs, plans must be submitted in
22 four years, four years out. That seems a long time for
23 us. Like you just said, everything is moving forward.
24 You're going to have your basic concept of where
25 everything is going to be. You guys are asking for

1 construction-ready design for four years out?

2 MR. ANDERSON: Well, Madam Chair, the
3 statute, you know, because of the 25-year permits, it
4 does -- and this is in the statute. The statute does
5 require a longer -- I'm not sure if I'm going to get this
6 right -- but requires submittal of the renewal
7 application for a 25-year permit, requires that to be
8 submitted much farther out from the expiration of the
9 permit than currently. Right now it's 180 to 270 days.
10 And under the statute for lifetime permits, it's actually
11 submit the application --

12 MR. SHIMIC: Four years out.

13 MR. ANDERSON: Yeah.

14 MR. SHIMIC: Four years out seems a long
15 time.

16 MR. DOCTOR: Madam Chairman, that number
17 really is based on review cycles and review times for the
18 review process to happen, then to give communities time
19 to go out and hire and bid jobs and get contractors lined
20 up. What we're finding is, when we get a detailed design
21 in, it can take several years for communities to get
22 through that whole process.

23 The problem we've been having occasionally is
24 we'll get a design in six months before the landfill's
25 full, and there's just no way to get through all the

1 process with municipal governments and their bidding and
2 all the things that go into this. So we thought if we're
3 getting these detailed designs more like four years ahead
4 of time, that will give everyone more time and also give
5 the communities time to maybe raise the funding they need
6 to pay for it. Because that's hard to do if you don't
7 know what your design is. So that was really where that
8 four-year number comes from.

9 MR. ANDERSON: Actually, Madam Chair, the
10 statute, it's a three-year.

11 MR. SHIMIC: Three years?

12 MR. ANDERSON: It says, if I may, no later
13 than three years prior to the expiration of the lifetime
14 municipal landfill permit, submit permit renewal
15 information as required by the Department.

16 MR. SHIMIC: Right. Permit renewal is
17 fine. But the construction drawings -- or, the
18 construction-ready drawings is what we're talking about
19 now. Because the construction-ready drawings, you could
20 be totally different four years from what you're planning
21 right now. The four-year time comes up, and we could be
22 doing something totally different. It's just tweaking
23 that number. You see what I'm talking about?

24 MR. APPLEGATE: Could you refer us to the
25 section while we're tracking this?

1 MR. SHIMIC: I can't remember what
2 section. I didn't write the section down. Sorry.

3 MR. ANDERSON: Madam Chair, this is in
4 Enrolled Act 58.

5 MR. APPELATE: His referral to the actual
6 specific language he had concern about, though, was
7 reflected in what part of the rule-making? I understand
8 you're referring to statute. He's referring to
9 rule-making. I do think I understand the difference.
10 You're talking about you start the process three years in
11 advance. You're talking about a level of detail that may
12 not be available to you in that three years in advance?

13 MR. SHIMIC: Correct. That's exactly what
14 we're talking about. It's a question we have.

15 MR. APPELATE: I'll make a general
16 comment. I'm not sure the rest of the board members
17 share this with me. But I have suffered a bit in this
18 review because so much of this is statutory-driven. And
19 I, like you, Lorie, was referring to my review of the
20 statutes, which was 2010. So it keeps referring to
21 statutes and all these definitions. And I didn't have a
22 copy of that. Again, I guess I sought that out. But
23 it's hampered my review of it. So I guess I would ask
24 the DEQ to tell me where I could go find the latest
25 version of all this stuff in terms of the statutes so I

1 can refer back to Carl's. Maybe you guys can provide us
2 a copy of those. Not so much right this moment, but I
3 mean going forward.

4 MR. DOCTOR: Kind of along the lines of
5 this discussion, part of this falls into the fact that
6 the legislation requires that any major changes go
7 through the same comment and notice as a brand-new
8 permit. And so that process, just a required notice,
9 could take months. And so, when you throw that into the
10 mix, that's where we thought maybe four years. But, you
11 know, if people don't think that's -- think that's too
12 long, we can consider shorter.

13 MR. APPLEGATE: Bob, where are we on the
14 rule-making? Can you refer me to the page?

15 MR. DOCTOR: That's what I'm trying to.
16 I'll keep digging.

17 VICE CHAIR BEDESSEM: But this is through
18 LSO, because they haven't printed the new versions yet.
19 So, Bob or Carl, you could send the board members a link.
20 I mean, I have a copy of the statute, but I'm not sure
21 the rest of the board members do.

22 MR. ANDERSON: Madam Chair, we probably
23 could have made that clearer. When we reference the
24 citations to the Environmental Quality Act that for the
25 2010 version can be found, we could have provided a link

1 to it.

2 MR. APPLGATE: See, the context -- just
3 to share with the public here, the board gets the rule-
4 making. We haven't necessarily been tracking this issue
5 like everyone else who works in solid waste or the
6 Department. So the fact that there's new legislation
7 that's driving new rule-making, we don't necessarily --
8 we get some indication of that, but we don't necessarily
9 have all that context. So then we're trying to put that
10 context together when we see the rule-making.

11 So I, for one, have struggled a little bit,
12 because the fact that there's new definitions for
13 aquifer -- I mean, there are a lot of things that were
14 done in this legislative work that, to me, are a level of
15 detail that one doesn't always necessarily see at the
16 statutory level. So that's interesting. And it would be
17 interesting to me to try to better understand what their
18 intent was to better understand the rule-making package.

19 That's not a criticism or anything. It's just
20 a comment on where we are today and probably supports the
21 need for an extended public comment period, in my mind.
22 In addition to your concerns that some of you haven't
23 seen the rule-making, I haven't had a chance to really
24 review the statutory framework for that rule-making.

25 MR. SUGANO: Madam Chair, if I could ask

1 Mr. Shimic, then, do you have a consultant working for
2 you that's developed a master plan, facility plan for
3 Buffalo?

4 MR. SHIMIC: Yes, I have. Yes, we do.
5 When we did our integrated solid waste management plan in
6 '09, we looked into the future to see what we were going
7 to do. And that's some of the costs that we've come up
8 with. But as he's a consultant for other landfills, he's
9 finding out that the prices are different than what we
10 put in. And the construction and some of the stuff that
11 we're trying to implement is going to be a little bit
12 different than our grand plan. So we were just wondering
13 why so far out on four years instead of two years out on
14 your final plan -- or, on your construction drawings?

15 MR. SUGANO: Madam Chair, I just think
16 that a lot of the landfills, whether they're municipal or
17 joint powers boards or districts, really has to rely on
18 their consultants. And I think the consultants had a
19 pretty major part in developing this statute. At least
20 they had input regarding this statute. So I was thinking
21 that the people that really are out there doing the work
22 and doing the design work may have a handle on this and
23 may be comfortable with that three-year time period.

24 I can't really say anything more than that.
25 But I'm sure consultants had a major role in the

1 development of the statute.

2 VICE CHAIR BEDESSEM: Do you have any
3 additional comments while they're looking?

4 MR. SHIMIC: No. I'm done.

5 VICE CHAIR BEDESSEM: Thank you very much.
6 Additional public comment? Next?

7 (No response.)

8 VICE CHAIR BEDESSEM: So, if there are no
9 more comments from the floor, we'll continue on to
10 comments from the board. I know Dave's got some
11 comments.

12 You want to start?

13 MR. APPLEGATE: You want to start?

14 VICE CHAIR BEDESSEM: No. Go ahead.

15 MR. APPLEGATE: I'm going to be the first
16 one to admit I'm struggling a little bit with the broader
17 context of these rules, I guess. So that's going to
18 limit some of my ability to ask detailed comments.

19 I have a comment -- this won't surprise you,
20 Carl -- on point of compliance that I'd like to ask you
21 about. I have a quick handout. And I'm not sure if it
22 really goes to an important issue with these revisions or
23 if it just caught my eye because of the context of
24 language surrounding it.

25 VICE CHAIR BEDESSEM: You're going to have

1 to describe your handout to Lorie.

2 MR. APPLEGATE: I'm sorry, Lorie. I'll
3 have to just describe this.

4 But, Carl, do you mind coming and grabbing this
5 or having Bob --

6 MS. CAHN: David, if there's something
7 there as a handout -- is it something they have the
8 ability to show me a handout?

9 MR. APPLEGATE: I think you'll understand
10 what I'm commenting on, Lorie, given our background.

11 VICE CHAIR BEDESSEM: And you'll have to
12 describe it for the audience, as well.

13 MR. APPLEGATE: Yeah. This comment just
14 goes to the general idea of groundwater monitoring. And
15 I'm on page 2-47, Carl.

16 VICE CHAIR BEDESSEM: Of the strikeout?

17 MR. APPLEGATE: Of the strikeout. Again,
18 my comment maybe is to the non new language. It's
19 something that just kind of caught my eye. So, if it's
20 out of context or not appropriate, I'll just leave it as
21 a general comment for you.

22 The general idea of point-of-compliance
23 monitoring is obviously to capture contamination, the
24 indication of contamination as it's moving out of a
25 landfill. And I think as the Department is moving to

1 more sophisticated designs and liner designs, you might
2 want to be careful that you don't use an assumption that
3 would have been better served under old landfills that
4 weren't lined.

5 So I think in the past, if you would have put
6 your point-of-compliance wells as close as possible to an
7 unlined landfill, you would have captured the contaminate
8 plume. But now with lined landfills, your failures are
9 going to be puncture failures or displacement failures,
10 where you have rips or something in that liner. And your
11 plumes coming out of those landfill liners could be much
12 more narrow. And I won't belabor this point, but I don't
13 necessarily think as close as possible to the unit is
14 necessarily always the right answer if you're trying to
15 capture contamination within 150 meters of the landfill
16 boundary. And, in fact, the hydrogeology -- distance to
17 groundwater and hydrogeology, you may be better served to
18 have those staggered.

19 I just think, technically, this concept that
20 historically probably serves you well under an older
21 design regime, which was as close as possible, may be
22 better served now by a design process that tells you,
23 hey, if we had a puncture leak and modeled it, how long
24 would it take for that to disperse to where we actually
25 see the leak?

1 So it's kind of a technical point. But I think
2 there's a general trend to go to more highly designed
3 landfills here in Wyoming. And I just wasn't convinced
4 that you were going to meet your intent with the
5 point-of-compliance monitoring with the language, again,
6 specifically on page 2-47, downgradient wells should be
7 placed in locations as close as possible, but in no case
8 greater than 150 meters from the waste management unit.
9 And I just think that "as close as possible but,"
10 although intended to be a conservative statement, would
11 be better served if you deleted it. Downgradient wells
12 should be placed in locations in no case greater than 150
13 meters from the waste management unit boundary based on
14 hydrogeology and engineering analysis on land owned,
15 leased or otherwise controlled by the operator.

16 MR. ANDERSON: Madam Chair, we will
17 consider that. But just to let you know, in the Enrolled
18 Act 71, this is the one that talked about the
19 performance-based design. During the development of that
20 legislation, there was a little working group that worked
21 on this performance-based design. And one of the things
22 that that work group concluded was that subtitle (d) --
23 RCRA subtitle (d) criteria would be incorporated into the
24 legislation.

25 So we have a provision now in this legislation.

1 Madam Chair, if I can, I'll read it. I really haven't
2 had enough time to look at the comparison, but this is
3 what the statute says. It says, the relevant point of
4 compliance specified by the administrator for the
5 allowable concentration values for pollutants under
6 ya-da-da, ya-da-da of this section shall be no more than
7 150 meters from the waste management unit boundary and
8 shall be located on land owned by the owner -- land owned
9 by the owner of the municipal solid waste landfill.

10 So it appears that because the language in
11 statute says shall be no more than 150 meters from the
12 waste unit boundary, the fact that we have, in this
13 regulation, "as close as possible but in no case greater
14 than," I'm not sure that having regulations is
15 necessarily additive.

16 MR. APPELATE: That "as close as
17 possible" seems additive to me to what you just read from
18 the subtitle (d).

19 MR. ANDERSON: Yeah. It is additive to
20 what's in the statute.

21 MR. APPELATE: Right. So I'm really not
22 trying -- the reason I mentioned our past discussions,
23 I'm really not trying to get a point of compliance that's
24 at the property boundary, or I'm not trying to get a
25 point of compliance that's not as close. I'm just trying

1 to point out that I think, technically -- and maybe this
2 is for a discussion outside of this. But just
3 technically, given the fact that you have liners now,
4 that when you put that "as close as possible" and you're
5 going to -- you're going to have a consultant that's
6 trying to minimize the number of monitoring wells, that
7 you could actually end up defeating your purpose, which
8 is you could detect nothing and have plumes that disperse
9 into a width that's great enough to be captured after
10 they move past the monitoring point.

11 MR. ANDERSON: Madam Chair, I think maybe
12 this will help get at least some of what you're talking
13 about, Dave. The definition is further qualified by the
14 administrator being able to consider certain factors in
15 establishing that point of compliance. And it includes
16 the hydrogeologic characteristics of the facility and
17 surrounding land -- and this is in statute -- the
18 physical and chemical characteristics and volume of the
19 leachate, the quantity, quality and direction of flow of
20 groundwater in the area.

21 MR. APPLEGATE: You're reading from
22 statute now?

23 MR. ANDERSON: This is from statute.

24 MR. APPLEGATE: So all of that does give
25 me comfort. I think to some degree -- I'm looking at

1 existing language in the rules --

2 MR. ANDERSON: Yes.

3 MR. APPELEGATE: -- that I'm suggesting is
4 not consistent with that new statutory language. I'm
5 still suggesting you stay within 150 meters. But that
6 additional statutory language is in conflict with this
7 "as close as possible." Because what your rule-making
8 does is it drives people to say, as long as you can
9 topographically put them in, you're going to have people
10 being forced to put in monitoring wells right on the
11 edge, within ten or fifteen feet of it.

12 VICE CHAIR BEDESSEM: And they're going to
13 miss --

14 MR. APPELEGATE: And they're going to miss
15 the contamination.

16 MR. ANDERSON: And, Madam Chair, I
17 think -- to go to the rest of your point, Dave, I think,
18 which is where you establish that relative point of
19 compliance, should be based on sort of site-specific
20 considerations. I think, you know, in that the statute
21 contemplates a valuation of a number of factors related
22 to establishing that relative point of compliance, you
23 know, I'm not necessarily sure that anything is really
24 lost if we deleted "as close as possible," because what's
25 in the statute allows us to look at all this information,

1 and we can decide that it's 150 meters or it's 50 meters.

2 MR. APPLEGATE: That's a suggestion I'm
3 making.

4 MR. DOCTOR: Madam Chairman, just to add
5 some information, I believe -- and I don't have my EPA
6 subtitle (d) rule in front of me -- that that is a direct
7 quote from the EPA subtitle (d) requirement for
8 groundwater monitoring, is that the monitoring wells are
9 as close as possible, but no more than 150 meters away.

10 One of the other problems we have, Dave, is
11 that most of the landfills have garbage 20 feet from the
12 fence and the fence at the end of their property. And we
13 don't have the ability to put wells outside their
14 property on somebody else's land. And that kind of hurts
15 us, as well.

16 MR. APPLEGATE: Well, again, I don't think
17 I want to belabor it. We're probably going to have an
18 extended period of time now that you've striked the
19 subtitle (d) language. If the subtitle (d) language
20 doesn't include the "as close as possible," I would
21 suggest you don't include it in our requirements.
22 Because I just think -- I'm talking now as someone who
23 comes from the regulated community. If you read this
24 requirement, "as close as possible," that's going to
25 drive you to put in your monitoring wells as close as

1 possible. And I'm suggesting, technically, that that
2 doesn't really meet your intent as the regulatory agency,
3 when you want, indeed, to be able to capture the plume.

4 Wouldn't have hurt you in the past with unlined
5 landfills. With lined landfills with the type of
6 failures you're going to see in the future probably won't
7 affect you, because these failures, if they occur, is
8 going to be 20 or 30 years in the future most of the time
9 for new permitted landfills. But lined landfills will
10 have a different plume shape and form -- do you agree
11 with that, Marge? -- than what you're seeing from unlined
12 landfills. So it's just a technical -- kind of getting
13 off on a technical issue.

14 MR. DOCTOR: One other, Madam Chairman,
15 thing to note is, if you go down to Capital 3 on the next
16 page, it says the design of the monitoring system has to
17 be based on site-specific information. And it rattles
18 that off. And it says the design must be approved by the
19 administrator. So hopefully that gives the administrator
20 the ability to consider factors like that when he is
21 approving the design of the landfill.

22 MR. APPLGATE: All of that is good. Just
23 coming back to this "as close as possible" is going to
24 possibly lead people down the wrong path.

25 Then let me just ask kind of a general cleanup.

1 As these municipalities are trying to come up with how to
2 do solid waste management in the future, are landfills --
3 it was interesting, the question by the one gentleman.
4 Are landfills, as they come up to a new -- their permit
5 lives are ending, and they have an existing landfill. So
6 now, when they submit their landfill application, what's
7 driving them to close? Is it basically -- are all of
8 these other requirements in here regarding liners, we're
9 not reviewing those. Those have been around for a while.
10 Right?

11 MR. ANDERSON: Yes.

12 MR. APPLEGATE: So what's driving
13 landfills to close? Just the fact that their existing
14 permits in the past have been on four- or eight-year time
15 frames? How long have these rules been in place with
16 these design requirements?

17 MR. ANDERSON: Madam Chair, I believe the
18 last revision to our solid waste rules and regulations
19 was 1998.

20 MR. DOCTOR: The EPA subtitle (d), as you
21 know, was published back in the early '90s. And
22 depending on facility size, the implementation
23 requirements in the '91 to '93 range is how long these
24 liner requirements have been in place.

25 MR. APPLEGATE: See, that's been over --

1 that's almost a decade.

2 MR. DOCTOR: What's driving --

3 MR. APPLEGATE: So I'm trying to
4 understand what's happened. What's driving -- are
5 permits expiring?

6 MR. DOCTOR: No, sir. It's groundwater
7 contamination that's driving this.

8 MR. APPLEGATE: Okay. That was the other
9 part of my question. So, if you're a landfill that has
10 groundwater contamination, are you automatically
11 precluded from expanding that landfill?

12 MR. DOCTOR: Except you might have to line
13 it. And then that gets to the cost.

14 MR. APPLEGATE: You might have to line the
15 expansion?

16 MR. DOCTOR: Yeah. And therefore, your
17 cost goes up, and it becomes -- it's not cost-effective
18 for a small community to do that.

19 MR. APPLEGATE: So, previously, under the
20 last decade, because that contamination wasn't known
21 about, you would have been able to get a permit expansion
22 under the existing design requirements but not have
23 required a liner?

24 MR. ANDERSON: Yes. Madam Chair, we had
25 the ability, and we did that. We've been doing that.

1 Initially when the subtitle (d) requirements came out,
2 there was flexibility for landfills in arid states. And
3 Wyoming adopted that flexibility because we believed, we
4 thought, that in an arid state like Wyoming, that the
5 potential for generation -- generation of enough leachate
6 in the background water would be limited.

7 But subsequent, including the groundwater
8 monitoring program has demonstrated that a significant
9 proportion of the landfills that are operating in the
10 state are contaminating groundwater. So we've had to
11 make decisions with respect to liner determinations for
12 facilities, and we've made those determinations and have
13 informed communities, based on our analysis of
14 groundwater data, that future expansion, use of that
15 facility would require that facility to be lined.

16 MR. APPLEGATE: I'm sorry I'm having to
17 connect these dots. So hence the drive to transfer
18 stations and all these requirements that we're seeing in
19 the rules to basically have -- and that's probably what
20 drove the legislation -- to try to come up with
21 facilities where one can manage as much as possible at
22 the landfill without a liner, hence the C-and-D-type
23 facilities, and then the ability to permit transfer
24 stations through a simplified process, because that's
25 what people are going to have to use?

1 MR. ANDERSON: And, Madam Chair, there
2 is -- there is another driver. At about the same time as
3 the legislation with respect to the groundwater
4 monitoring program, there was a requirement that
5 communities develop integrated solid waste management
6 plans. And that required, I think, communities, many
7 communities, for the first time to actually look at the
8 costs associated, the liabilities and costs associated
9 with operating a landfill.

10 So, when facilities started looking at the
11 overall costs that were incurred by continuing to operate
12 a landfill, having to monitor, potentially close a
13 landfill, potentially do corrective action, those kinds
14 of realities, I think, also affect the decisions about
15 whether or not to continue to operate or close. So I
16 think it's a combination of environmental conditions, as
17 well as the economics of continued solid waste
18 management.

19 MR. APPLEGATE: So this will be my last
20 comment. Thanks for that background. I'd like to
21 compliment the City of Casper representative. I'd just
22 make that comment on their landfill. I've lived here for
23 about the last fifteen years. And obviously Casper
24 benefits from the population size here and the ability to
25 generate revenue streams that these small towns can't.

1 But it's a very well-ran landfill and has lots of
2 opportunity for recycling. And appreciate, Cindy, your
3 work in making that such a user-friendly facility and a
4 model for the rest of the state. Unfortunately, the rest
5 of the state has the challenge of revenue generation.

6 So, anyway, that's all I have for right now.

7 MR. ANDERSON: Madam Chair, if I may,
8 there were some items that I wanted to talk to the board
9 with when we wrap up just to update you on some things.
10 And there's some discussion I can have with you along
11 further developments with respect to those particular
12 issues.

13 VICE CHAIR BEDESSEM: To ensure that Lorie
14 remains engaged here, I'd like to ask Lorie if you want
15 to come forward with comments?

16 MS. CAHN: Well, I appreciate the comments
17 from the board in Casper. And I guess I'd like to
18 entertain, after our discussion, maybe some motions of
19 including some of the language. I'm concerned about the
20 construction debris issues that she brought up, for one,
21 with treatment to be able to include some -- at least
22 have something about being clean construction debris, as
23 opposed to creosote and the lead paint and things like
24 that. So I would like to see us include some language
25 changes.

1 Also, what she brought up about clean waste
2 having some other definition, I'm not sure I heard -- I
3 caught what she was suggesting. I myself didn't like the
4 word "nonputrescible" because I had to look that up. And
5 I would love to have some kind of language that's a
6 little more clear.

7 Can you guys hear me okay?

8 VICE CHAIR BEDESSEM: Yes, we can.

9 MS. CAHN: And as usual, I have a typo
10 that I found that's minor. And then I had a question
11 about page 2-45 of the red-line strikeout version. And
12 thank you for sending that to us. That certainly helps
13 our review always, so appreciate it.

14 There's a term on page 2-45, Number (I) (I) (A).
15 And it talks about megagrams. And frankly, I'm not sure
16 how many people actually work in megagrams. I realize
17 pounds is not a mass. But it seems like a kind of weird
18 unit to use. And I'm wondering if we could use -- if
19 there's a reason why we're using megagrams, or if we
20 could use something a little more in common usage that
21 would be -- I mean, people work in tons, even though it's
22 not mass or pounds. So, if you could maybe address that,
23 I would appreciate it.

24 MR. ANDERSON: Madam Chair, this
25 particular provision is actually an air quality

1 requirement that gets applied to landfills. So we took
2 what was an air quality requirement. We could probably
3 talk to the Air Quality Division and see if there's some
4 conversion. But at least our understanding is that
5 for -- this is sort of a convention with respect to
6 landfills and measurements.

7 VICE CHAIR BEDESSEM: I've run into the
8 megagrams. Cubic meters is the base requirement for
9 determining whether they're in the Title 5 program or
10 not. So, having that information -- you know, the permit
11 applications weren't specifically geared to providing
12 that information. That's needed for Air Quality to
13 determine whether they need a Title 5. So I think it's a
14 good provision. We can certainly provide any guidance,
15 conversion factors or whatever. But to have them in
16 these units is, I think, a good thing for the operator to
17 know so they know if they are subject to Title 5 and so
18 forth.

19 MR. DOCTOR: Madam Chairman, Lorie, the
20 basis for this one is to streamline reporting
21 requirements for the operators. They're going to have to
22 report this stuff to the Air Quality people, anyway. We
23 thought it would make it easier if they could include it
24 in their annual reports. And it would save them a step
25 of dealing with another regulatory agency.

1 Also, we envision the Air Quality people coming
2 up with a form that we can send out to our landfill
3 operators so they can fill it out and do these
4 calculations that are required by federal air quality
5 rules. So we were hoping to kind of make it a little bit
6 easier for landfill operators to provide this
7 information. And these are the units that are prescribed
8 from the EPA.

9 MS. CAHN: Thanks for that clarification.
10 I wasn't familiar with that. So I don't have a problem
11 with it if that's standard language. It's just a new one
12 for me. I don't work within Air Quality. So, thanks.

13 MR. DOCTOR: We had the same reaction.

14 MS. CAHN: On page 1-49, this is just a
15 typo that I found. Actually, I want to commend you.
16 That was the only typo I found on the language changes,
17 so good job. Carl's pumping his fist, for the record
18 there.

19 So, on the third line down from the top on page
20 1-49, it should be, "unless the administrator approves an
21 alternate format," as opposed to "and alternate format."
22 Scratch out the D.

23 So I don't know if maybe other board members
24 have comments. When we're done with that board
25 discussion, maybe we can take items one at a time in

1 terms of the suggestions that the woman from Casper made.

2 VICE CHAIR BEDESSEM: Lorie, I think the
3 other board members may still have some additional
4 comments. But I think, also, before we kind of address
5 them, if we're going to have motions on particular items,
6 I think we need to discuss whether the comment period is
7 going to be extended and give the Agency the opportunity,
8 rather than trying to craft -- if we, for example, need a
9 change in the C and D definition or the green waste,
10 rather than trying to do that off the cuff here, to give
11 you the opportunity to reexamine that and come back with
12 suggested changes if the public comment period is to be
13 extended.

14 So that's my meaning at this point. But let's
15 go through and hear the rest of the comments, and then
16 we'll have a discussion about that, as opposed to
17 specific -- warranting specific changes until after we
18 decide about the comment period.

19 Is that okay with everyone?

20 MS. CAHN: Yeah. Marge, I was just -- on
21 that, I guess I was just thinking that once we're done
22 with all the board comment, in an effort to try to help
23 Carl out with getting -- he's got a July 1st deadline.
24 So it's an option to suggest language if we don't extend
25 the public comment period. If we do, then I agree with

1 notices that have been sent out from DEQ. So I imagine
2 that mailing list is pretty comprehensive. And I would
3 just trust that we've reached out to a lot of companies
4 and a lot of municipalities and a lot of joint powers
5 boards through the month that this has been going on.

6 I'm wondering, Madam Chairman, if the EQC is
7 going to have a public hearing regarding adoption of
8 these rules, I'm wondering if that wouldn't suffice to
9 allow people to come in and make additional comments.
10 I'm just wondering if we should really extend the public
11 comment period for our board. Just thinking the EQC may
12 have their own procedure for that.

13 VICE CHAIR BEDESSEM: Can we talk about
14 the extension of public comment period after we all go
15 through our comments with regard to the rule package?

16 MR. SUGANO: Sure. That would be fine.
17 I'll hold that question until it comes up for an overall
18 board discussion, then.

19 There have been things that bothered me about
20 the lifetime permits. And if I could, I'd just like to
21 get clarification. You talked, Bob, about an annual
22 report that has to be filed as part of the lifetime
23 permit. I'm just wondering. There was a clause in here,
24 also, that you're going to do annual inspections. Right?
25 So the annual report and the annual inspection are going

1 to tie together to make sure that you know what's going
2 on --

3 MR. DOCTOR: Yes, sir.

4 MR. SUGANO: -- in the landfill itself? I
5 think that's important. Because if we rely on a report
6 that comes from a solid waste manager, somebody is going
7 to have to verify that that actual work has been going on
8 and that things are running as described in the general
9 plan. So I would hope that those two work hand in hand.

10 Madam Chair, I'll just defer until we get into
11 some discussions, then, on the other things. Thank you.

12 VICE CHAIR BEDESSEM: So no specific
13 comments on the rule?

14 MR. SUGANO: No.

15 VICE CHAIR BEDESSEM: So this is something
16 I didn't look for specifically in the rule, but I was
17 just -- it's likely not in the scope, but it's just a
18 question with regard to Lorie's remarks about the
19 megagrams and the cubic meters having to do with the
20 design capacity. Do we have design capacity defined
21 within the rule?

22 And the reason I ask this is because I know it
23 is within the scope of this rule that you asked for, in
24 those annual reports, to include an update on design
25 capacity. But one of the things that we run into with

1 numerous landfill facilities is, looking at their older
2 permits, that what they have for design capacity as
3 listed in their permit documents is not the capacity for
4 the amount of solid waste that they can put in the
5 facility, but oftentimes what's listed in the permit
6 application is their airspace volume. So, when Air
7 Quality looks at the design capacity, they're only
8 interested in the amount of solid waste that can go in
9 there, and the numbers from the solid waste permit aren't
10 applicable to answer the question that comes from Air
11 Quality.

12 And so my concern is, is there a definition of
13 design capacity somewhere so that we don't have this
14 disconnect? Because then, on behalf of the landfills,
15 you have to write a clarifying letter to Air Quality
16 explaining that the number you have listed in the permit
17 is not the number that they're asking for.

18 MR. DOCTOR: Madam Chairman, I don't think
19 it's -- as you know, in the permit applications, the
20 application form itself has to say here's the capacity of
21 the facility. But a lot of times that's in cubic yards.
22 Then we need to estimate the weight of a cubic yard of
23 garbage and then calculate that into this megagrams in
24 order to do all this gas stuff.

25 VICE CHAIR BEDESSEM: And even sometimes,

1 like I said, it includes the cover material. It doesn't
2 necessarily include the waste. So my concern is,
3 particularly if you're asking, again, for these updates
4 in an annual report, that what you are asking for is
5 better defined. Because it's become confusing between
6 the full requirements for landfill operators when they're
7 dealing with Air Quality, that these are not -- they're
8 the same term, but they're not the same answer, I guess
9 is what I'd say. So I would appreciate if that could be
10 clarified.

11 So then I have a number of comments, and I
12 guess I'm going to start from the back end. This is with
13 respect to Chapter 7. I only have a couple of comments
14 with regard to Chapter 7 regarding financial assurance.
15 And one thing that was discussed or mentioned earlier was
16 that, you know, the procedures for estimating costs
17 were -- I think that's 7-34 -- you know, were basically
18 deleted in their entirety, which makes sense, because
19 unit costs in a rule, it doesn't make sense to have unit
20 costs in a rule when costs change. So I certainly think
21 that that's a good move.

22 However, one thing that I might ask you to
23 consider is whether you could leave in the general topics
24 of what's to be considered in a closure cost. Now, I
25 know you mentioned that you intended to deal with this in

1 guidance. But the thing I'm concerned about is that
2 there's been lots of -- well, I shouldn't say lots. But
3 there have been guidances out there that have been under
4 revision for like five years. So, rather than giving you
5 something else to put on your to-do list, when you've got
6 lots of things to do already, is if you would just leave
7 in the topic areas of what things need to be covered by
8 the closure costs, then at least if you get a closure
9 cost generated by owner/operator, you're comparing apples
10 to apples. They'll be covering the same items, rather
11 than waiting and, like I said, giving you another thing
12 on your to-do list as far as coming up with another
13 guidance.

14 You may still need to have additional guidance
15 for other miscellaneous things, but I think it would be
16 appropriate to at least get right out there, if you don't
17 have a problem with that list, to leave the list there,
18 absent the unit costs and so forth so that people know.

19 The other -- the only other concern I had about
20 Chapter 7 was that the proposed revisions allow cost
21 estimates prepared by the owner/operator or a cost
22 estimate prepared by the director. So has DEQ considered
23 what it can do or what you should do if the cost estimate
24 prepared by the owner/operator is significantly different
25 than the cost estimate prepared by the director? So, I

1 mean, there's always more than one way to look at things.
2 And so I would just ask that you think about, you know,
3 if there's a mechanism to deal with that and whether you
4 need to consider providing a procedure for addressing
5 this issue or how you want to move forward on that.
6 Because that will likely happen your first time out of
7 the box.

8 So those are my just two kind of basic comments
9 on Chapter 7.

10 Since I'm going backwards, I guess I'll go to
11 Chapter 2 next. So, first off, there are multiple
12 locations within Chapter 2 that there's a tendency to
13 reference the statutes with respect to engineered
14 containment and annual reporting requirements and stuff,
15 as opposed to providing the actual language. And so I'm
16 just curious as to your rationale for that.

17 MR. ANDERSON: Madam Chair, we discussed
18 that with the Attorney General's Office. And their
19 recommendation back to us, even though it's unlikely that
20 we would create a definition that's different from the
21 statutory definition, to avoid the potentiality that we
22 might have a different definition in statute, versus
23 regulation, they recommended that we just defer to
24 statute; therefore, we eliminate the potential for us to
25 have those definitions, different definitions.

1 MR. APPELATE: Leave it to the attorneys
2 to give us such a simple system where you have to have
3 both documents in front of you.

4 VICE CHAIR BEDESSEM: Yeah. Trying to
5 make this user-friendly so an operator can look at a rule
6 and figure out what they need to do and not find out that
7 they will have to go to the LSO website. I mean, is it
8 the concern that the statute is going to change, and then
9 you want to automatically be able to change the rule if
10 the statute changes?

11 MR. ANDERSON: That's part of it, as well.

12 MS. CAHN: Could we possibly -- I know
13 it's against what your attorney general has recommended,
14 but could we possibly, say, add what that definition is
15 to the definitions and then say "or current version in
16 the statute" or something, so that if the statute
17 changes, the people have then the obligation to go look
18 at the statute to make sure it hasn't changed?

19 I found it difficult to review, having to look
20 things up in the statute and just trying to make them
21 user-friendly. I like the idea of having the definitions
22 like groundwater, aquifer, things like that, in here. So
23 I don't know. I mean, it would be a way that maybe we
24 could have the rules not go obsolete if the statute
25 changes the definitions, but we could at least include

1 the current version of what the definitions are. And I
2 don't know how likely it is that groundwater is going to
3 change or aquifer is going to change by statute. I don't
4 know. It's just a thought.

5 MR. APPLGATE: I just think we're trying
6 to solve a problem that really always exists. I mean,
7 there's always statutory language that drives rule-making
8 that could be changed by some future statutory changes.
9 So, to me, we should put the language in the rule. Maybe
10 we put parens around it or something and say, you know,
11 here's the definition as defined by the statute. But I
12 don't know.

13 I guess I would tell the attorney general,
14 well, that's how it always works. Right? You write
15 rules. And they're -- I don't know. We're trying to
16 save time for something that we're really not saving
17 time. Here's what I'd say. We're trying to save the
18 time of an agency instead of the time of the public which
19 is going to be using the rule. So let's err on the side
20 of providing a good product to the public, which is a
21 rule that they can read and understand without having to
22 go get their attorney to interpret statute for them.

23 MR. ANDERSON: Madam Chair, if I could
24 address Lorie's comment about having a statement that
25 says -- lists the statutory definition and then has some

1 qualifier in there that says "or as amended," something
2 like that. I think that's what you were talking about,
3 Lorie. The Secretary of State's Office, through the
4 rule-making, doesn't allow us to do that. Because they
5 don't want us to reference something and that changes and
6 people aren't able to react because something changes,
7 and we automatically incorporate it without going through
8 a rule-making process. So that's the Secretary of
9 State's rules on rules kind of thing.

10 But we will consider your suggestion. And, you
11 know, we -- quite frankly, we had a back-and-forth with
12 the Attorney General's Office on this one. And so we'll
13 take that path.

14 VICE CHAIR BEDESSEM: Bearing in mind the
15 Attorney General's Office does not necessarily have the
16 same set of priorities that you have for rule-making.

17 MR. ANDERSON: We just happen to be their
18 clients, and we can decide whether or not --

19 VICE CHAIR BEDESSEM: Right. So thank you
20 for that discussion.

21 So the next question is, there's a section on
22 permit amendments constituting a major change in Chapter
23 2. And so, in general, why have the regulations
24 describing the major permit amendment been removed from
25 Chapter 1 to Chapter 2?

1 MR. DOCTOR: Madam Chairman, that
2 requirement is specific to municipal landfills and none
3 of the rest of our facilities. The new statute applied
4 that double-review cycle to major changes to municipal
5 solid waste landfills only. So it was very complicated
6 to write that in. So we thought we'd be better off to
7 just keep that in the municipal landfill part of the
8 rule, rather than putting it in Chapter 1.

9 VICE CHAIR BEDESSEM: And again, is that
10 based on an AG's opinion? Because when I read 35-11-502,
11 where it says solid waste management facilities permits,
12 terms and renewals, (A) (I) says locate, construct,
13 operate or close a solid waste management facility. It
14 doesn't say locate, construct, operate, modify or close.

15 You know, I think in other places within the
16 rules or statutes, we have the word "modify" in there, as
17 well. And so I'm still concerned that you address the
18 basis for why those major amendments still have to go
19 through the same process that the applications have when
20 that is a modification to an existing permit. So, again,
21 if at some point you can address that comment, I'd sure
22 appreciate it.

23 MR. ANDERSON: Madam Chair, maybe some
24 clarification.

25 VICE CHAIR BEDESSEM: So modify the

1 design. The A double I is modify.

2 MR. ANDERSON: What page are we on? I'm
3 sorry, Madam Chair. I didn't get what page we are on.

4 VICE CHAIR BEDESSEM: On the particular
5 page of the rule?

6 MR. ANDERSON: Yes.

7 VICE CHAIR BEDESSEM: I'm just talking
8 about the permit amendments constituting a major change.
9 I just asked on 2-20, that it's just essentially moved
10 from Chapter 1 to Chapter 2. That's all. But it says --
11 it does say modify in part of 35-11-502.

12 MS. CAHN: Marge, I also am not following
13 where you are.

14 VICE CHAIR BEDESSEM: It's on page 2-20.
15 It's just Section 2(G), which just says permit amendments
16 constituting a major change. And I asked for the
17 rationale why it was moved from Chapter 1 to Chapter 2.
18 And it's because of the thought that amendments are
19 specifically subject to the new statutory requirements.
20 Correct me if I'm wrong here. And that's just for
21 municipal solid waste landfills, while not necessarily
22 for amendments of any other kind of permit issued by the
23 Solid Waste -- Solid and Hazardous Waste Division.

24 So that's the basis for moving it from Chapter
25 1 to Chapter 2, because, based on the AG's opinion that

1 it follows the procedure in the new statute. So did I
2 summarize that correctly?

3 MR. DOCTOR: Madam Chairman, if you go to
4 35-11-502 A double I --

5 VICE CHAIR BEDESSEM: Yeah, I know.
6 Double I says modify.

7 MR. DOCTOR: -- that's where it mentions
8 you have to -- if you're going to modify, that's where
9 the modify is, on that first sentence.

10 VICE CHAIR BEDESSEM: Right. It's in the
11 second. I circled that on the double A.

12 MR. DOCTOR: And then the other is from
13 the new statute that's now in the Act at the end of
14 35-11-502. Notice and opportunity for hearing for an
15 amended municipal solid waste landfill permit shall be as
16 provided for a new municipal solid waste landfill.

17 VICE CHAIR BEDESSEM: Right.

18 MR. DOCTOR: So that's why we just
19 included it in the municipal landfill permit section, not
20 in Chapter 1.

21 VICE CHAIR BEDESSEM: So that's the
22 rational for doing that?

23 MR. DOCTOR: Uh-huh.

24 VICE CHAIR BEDESSEM: Which seems to make
25 sense if you're going to now do a permit that's going to

1 last 25 years.

2 So, now the third one, the airport proximity,
3 so -- that's on page 2-22. So we're revising an existing
4 location standard to refer to federal legislation. So
5 that was one of those items that I think is in that --
6 that would be in the sixth bullet on the SOPR. Because
7 this is something -- a change you're making to comply
8 with federal. Is that not correct?

9 MR. ANDERSON: Yes, Madam Chair, that is
10 correct.

11 VICE CHAIR BEDESSEM: And I don't recall
12 on page 2-22. Is that spelled out or a reference -- I'd
13 have to look on the strikeout. So, again, this is
14 another -- this Section 503 of the Wendell Ford, I'm
15 assuming that this is a very lengthy piece of federal.
16 So it's not something that you can simplify everyone's
17 life and tell anybody what that means?

18 MR. DOCTOR: Actually, Madam Chairman, the
19 attorney gagged on that one when I tried to put the thing
20 in here and told me to shorten it because he didn't even
21 like it. And, you know, attorneys tend to like that long
22 stuff. And even then, trying to summarize it was very
23 difficult. So what we've tried to do, if you go on line
24 and check this as an engineer who prepares these things,
25 all the gory details are available on the federal end.

1 And this is not a subtitle (d) rule. It comes from a
2 completely different act. I think there was a
3 Congressman who had a -- who didn't want a landfill close
4 to his airport. There's some sick basis for this.

5 VICE CHAIR BEDESSEM: So the Wendell Ford
6 Aviation Investment and Reform Act, does it significantly
7 change the airport -- I mean, I don't know, because I
8 can't read the Wendell H. Ford Aviation Investment. It's
9 gone from 10,000 -- 5,000 to 10,000 feet to something
10 dramatically different, or is this truly -- is this a
11 significant -- I don't know what it is.

12 MR. APPLGATE: Does the Act require all
13 states to comply with -- I mean, is compliance with the
14 Act compared to the Act, or are we complying with the Act
15 based on the inclusion of it in this rule?

16 MR. ANDERSON: I think it's the former. I
17 don't know how to paraphrase it. But I believe it's the
18 former, that this particular Wendell H. Ford, that Act
19 applies to all landfills.

20 VICE CHAIR BEDESSEM: So it's required,
21 anyway.

22 MR. APPLGATE: If it's required, anyway,
23 we wouldn't have to list it in this -- I mean, if it's
24 just another law that you're required -- you know, I
25 mean, that's like telling someone, oh, by the way, when

1 you go do this, you're required to comply with the Clean
2 Water Act, too. You can't go fill in waterways. You
3 don't necessarily say that in here, that you have to
4 comply with --

5 VICE CHAIR BEDESSEM: But it's not
6 detrimental to do so, and it calls people's attention to
7 the fact that this rule is out there that is not normally
8 on the radar of a landfill owner/operator. I'm okay with
9 that. I just wanted to --

10 MR. DOCTOR: Madam Chair, it's kind of
11 like putting definitions in there to help out. It's like
12 the sage grouse, as well, would be in parallel with that.
13 We have the governor's directive that we address sage
14 grouse. And we thought that should also be something
15 people see.

16 VICE CHAIR BEDESSEM: Speaking of the sage
17 grouse, we got new requirements pertaining to Executive
18 Order 000. And so is the reason there isn't an executive
19 order number there because the executive order could
20 change or expand or retract at the discretion of the
21 current or future administration? So is it -- are we
22 back to that same situation, where it's appropriate to
23 specifically reference the executive order and state that
24 the requirements are applicable as long as the executive
25 order is in effect? So this is page 2-25, regarding the

1 sage grouse, where it says Executive Order 000.

2 MR. ANDERSON: Yeah. Madam Chair, I think
3 this is one of those provisions that it could change if
4 there's a change in the executive order or --

5 MR. DOCTOR: Madam Chairman, I tried to be
6 as broad as I could with this. And I specifically sent
7 this to Mary at Game and Fish, who is the head of that
8 program, and asked for comment. And she did some editing
9 and approved essentially this language, that she thought
10 this would be the best way to comply. So that's the
11 basis for this text.

12 VICE CHAIR BEDESSEM: So, I mean, if it
13 doesn't have a reference to the executive order, does
14 that inherently mean that if it's changed or retracted or
15 whatever, that it automatically applies?

16 MR. ANDERSON: If there are changes to the
17 executive order and approaches for grouse in general, we
18 would have to come back and change this.

19 MR. APPLEGATE: I have a comment on the
20 sage grouse, as well. Under the noncore areas, it says
21 facilities should not be located within 0.25 miles
22 perimeter of any sage grouse leks. So that's kind of a
23 standard. Construction of a new landfill, expansion of
24 existing units should not be constructed from March 15th
25 through June 5th if feasible. That has a distance

1 requirement to it. I think that requires if within so
2 many miles of the lek, meaning noncore areas basically
3 everywhere in the state that's not designated core. So
4 to say everywhere in the state not designated as core,
5 you can't construct between March 13th and June 30th, I
6 think is more stringent than what you want to be here.
7 You're basically saying in noncore areas, you can't
8 construct within the .25 miles. If you're within, I
9 don't know what it is now, three miles, four miles of the
10 lek, then you have that timing stip. This is kind of my
11 world.

12 MR. DOCTOR: Madam Chairman, I think I
13 get -- what we should say here, probably, is, after
14 "unit," say located within .25 miles should --

15 MR. APPLGATE: No, no. It's some other
16 distance. It's some other unit of distance where you
17 have the timing stip. I just don't know what that is.
18 I'm sure that's in the executive order, as well.

19 MR. ANDERSON: I believe it's four miles.

20 VICE CHAIR BEDESSEM: So reexamining that
21 language would be a good idea, because I think it would
22 be a problem the way it is.

23 MR. DOCTOR: Surprised Mary didn't catch
24 that.

25 VICE CHAIR BEDESSEM: So, basically, if

1 the executive order changes, you have to go back to
2 rule-making?

3 MR. ANDERSON: Yeah, I think it -- Madam
4 Chairman, I think eventually we'll have to go back to
5 rule-making. In the interim, we might have to develop
6 some kind of policy, you know, depending on how rapidly
7 things change.

8 VICE CHAIR BEDESSEM: I'm going to move on
9 from the sage grouse unless you have something further on
10 that. Back to those construction-ready design plans that
11 someone else brought up --

12 MR. DOCTOR: 2-34, I believe, Madam
13 Chairman.

14 VICE CHAIR BEDESSEM: Right. 2-34,
15 construction-ready design plans. So we talked about the
16 new provision requires submission of these construction-
17 ready documents four years prior to start. The standard
18 doesn't indicate what regulatory review process will be
19 used for that. Because, assuming the existing permit
20 contains conceptual design plans and it went through --
21 and the major amendment process goes through the same
22 thing, there's two associated rounds of public notice
23 and so forth. So are these -- when you submit these
24 construction-ready design plans four years ahead, is that
25 going through a major amendment process? Or what process

1 happens with this submittal of this four-year, the
2 construction-ready design plans for that segment of time?
3 I guess I don't quite understand that.

4 MR. DOCTOR: Madam Chairman, I'll take a
5 whack. It should not be considered a major amendment
6 unless, under the major amendment it kind of falls under
7 that a significant change to the design or alters. For
8 example, if somebody was going to switch from composite
9 liner to GCL design that doesn't have -- that we might
10 consider that to be a major change that warranted public
11 participation. I would think 90 percent of the time this
12 should be a simple, minor amendment, and then we would go
13 through that review without having to go through all the
14 nightmare of public notice and comment and all those
15 other things that go with it.

16 VICE CHAIR BEDESSEM: That sounds
17 reasonable to me. Is there a way to add language, you
18 know, to say how -- because right now it doesn't seem
19 clear to me at all how that submittal would be addressed.
20 So, if you can state unless a major amendment is
21 triggered because you're having these changes, if it's
22 just basically elucidating what your plans are already
23 saying and giving you a little more detail -- but, you
24 know, if you're -- it seems to me that it would be
25 approached via a minor amendment, because it's just

1 giving you further information about something you've
2 really already approved.

3 MR. DOCTOR: Madam Chairman, I think this
4 gets back to the transition from our current rules, that
5 previously, in order to get good design plans in to
6 review to ensure compliance, the only way we could do
7 that the way the previous amendment regulations were
8 written was to call something a major change. Otherwise
9 people could go out and implement it without having to
10 consult with us. And for liner design, that's a pretty
11 big deal.

12 With the changes we've now got for permit
13 amendment processes, where someone will come in ahead of
14 time, and we'll get this decision made on major/minor --
15 but changes that happen on the fly, that dilemma tends to
16 go away. And I know you've read through the renewal or
17 the amendment process that we've fixed, hopefully, that
18 problem now. So it's going to be much more likely that
19 these things will go through as a simple minor amendment
20 process.

21 VICE CHAIR BEDESSEM: So, if you would
22 just clarify that language so people reading it
23 understand what may or may not apply to them, so they
24 don't necessarily feel like they're applying for a whole
25 other permit, when the point of the lifetime permit was

1 to make things simpler, and now we've got all these extra
2 submissions.

3 MR. APPLEGATE: I want to follow up on
4 that one again, as well. Sorry. This is going to be
5 redundant. Please, again, explain when this is
6 triggered, this particular requirement for the
7 construction-ready design plans.

8 VICE CHAIR BEDESSEM: Are you directing
9 your question to Carl?

10 MR. ANDERSON: My question is to Carl.
11 This is at what point in the permit process? Is this for
12 a new lifetime permit, or is that what you said?

13 VICE CHAIR BEDESSEM: Go ahead and tackle
14 that.

15 MR. ANDERSON: Madam Chair, this would be
16 at any point in the process.

17 VICE CHAIR BEDESSEM: You're talking that
18 if you have a lifetime permit and you're not going to
19 have construction-ready design plans for all 25 years
20 because things are going to change?

21 MR. APPLEGATE: Yeah. I guess I would
22 really want more feedback from the regulated community on
23 this. Because I sort of agree with the gentleman. I
24 could see where you could have design plans. The word
25 that concerns me now is "construction-ready." You can

1 have design plans that are 30, 60, 90 percent, and you
2 can have a pretty good conceptual design that's going to
3 be a lot less expensive for you than a design plan that
4 has specifications and details.

5 And I guess I'd almost be interested in hearing
6 from the City of Casper, because maybe -- I heard from a
7 small community. In a lot of construction-related
8 environments -- I'm not saying municipal landfills. I
9 haven't constructed those. But I've been involved in
10 construction projects. And to have something four years
11 in advance, there's a lot of things that change in
12 technology in four years.

13 So do you have a comment on that, City of
14 Casper? Does that requirement seem onerous to you, or is
15 this just onerous maybe for smaller communities?

16 A. Interesting question. Because when I read
17 this, I interpreted it to mean four years before the
18 expiration date of a lifetime permit. So, at the City of
19 Casper, our permit really is already based on a lifetime
20 permit, but we have phased closure. So, if DEQ was
21 requiring us four years in advance for construction-level
22 detailed drawings on a phased closure, I'd have an issue
23 with it, because I'm going, there's no way I could be
24 planning that quickly.

25 But on the whole facility, which is a 25-year

1 facility, that's a huge amount of area. And if you
2 haven't done any kind of phased closure where you've
3 gotten DEQ input, I could see where we would need to have
4 that worked out way in advance. I don't know if that
5 helps, but I think four years before you close an entire
6 facility is a good marketer to start the conversations of
7 the detailed drawings.

8 MR. SHIMIC: In that language, it doesn't
9 say what they're asking for for your -- if it is a
10 closure, that's fine. But like you were just saying, if
11 it's for four years construction, things change.

12 MR. APPLGATE: This says construction-
13 ready design plans, including but limited to plans for
14 liners, leachate collection. See, those are pre things.
15 That's not a cap or a closure. I'm just going to be
16 honest. I'm struggling with the language and when it's
17 used. I think in a general sense --

18 MS. CAHN: Dave?

19 MR. APPLGATE: 2-34 --

20 MS. CAHN: Dave?

21 VICE CHAIR BEDESSEM: 2-34. I think
22 there's some concerns in general about construction-ready
23 design plans because of the level of expense that a
24 municipality has to go to to be at 100 percent design,
25 when you may not necessarily be concerned about every

1 little speck in the speck package.

2 MR. APPLGATE: Yeah. I'm not even sure
3 that you ever need to look at a construction-ready design
4 package. I mean, for most projects you do at WDEQ, you
5 would submit -- so this could be a semantics thing. What
6 you guys think is a construction-ready set of drawings
7 that give you a conceptual overview of what's going to be
8 done, that's very different than a set of documents that
9 are given to a contractor that, in most construction
10 projects, is a much higher level of detail.

11 And again, I haven't really worked in this
12 environment, so I don't know if we're all using the same
13 terminology. But "construction-ready" is a term that I
14 share with the gentleman as somewhat concerning. If it
15 said design plans including -- if you took out the
16 "construction-ready" and had everything else there, you
17 probably wouldn't concern me as much, because you can
18 have general plans, and then you can kind of discuss what
19 level of detail would be needed to have that discussion
20 and come to some concurrence that you agreed on in the
21 path forward.

22 VICE CHAIR BEDESSEM: But I think
23 financially, construction-ready, if it's four years in
24 advance, it could be an issue. Because oftentimes we'll
25 submit, for example, specs. on the liner that you're

1 concerned about. But we're not going to submit to you
2 specs. on the asphalt on the road that's going in and all
3 the other -- you know, there's a huge package that goes
4 with a bid package. And this is sort of implying that
5 you need to receive all that, which I don't think is
6 really necessary, because most of those items aren't
7 things that you review, anyway. So I'd be concerned
8 about that statement about construction-ready and the
9 timing when that's needed.

10 MR. DOCTOR: Madam Chairman, we need some
11 help, especially while you're doing this. Our objective
12 is that it doesn't make sense that you bring this stuff
13 in 25 years before you need to build something. So we
14 think you bring a conceptual plan about the landfill, and
15 here's the whole thing. Cells are going to go here and
16 here. This is about how deep they're going to be, yada-
17 yada. And then every three to five, whatever, years
18 you're going to need to go build the next cell. And
19 there's going to be a review of those detailed design
20 drawings. There will be the need for the community to go
21 get contractors and consultants lined up and that whole
22 process. We're just trying to set some number that's
23 reasonable so that we're not getting something in and
24 then having to go through our review and holding up
25 construction. How do we make that work so everything's

1 smooth?

2 MR. APPELEGATE: So I don't think we were
3 disagreeing with your time frame. It's going to be so
4 hard for us to resolve this because we don't have a
5 detailed example in front of us. But it's about level of
6 detail. I mean, for someone to come in four years in
7 advance and say, hey, we're going to build our next cell
8 here and lay out a plan sheet that shows it and say, hey,
9 we're only going to be leaving this much volume of dirt
10 and our leachate system is going to have these three or
11 four layers, and they're going to put five or six
12 drawings in front of you that show a conceptual design,
13 that's -- you may think that's construction-ready.
14 Construction-ready is putting together a 25-sheet drawing
15 that shows exactly how the connections -- the welded
16 connections on the line are. It's a level of detail that
17 I doubt WDEQ really -- I don't know how this program
18 works.

19 VICE CHAIR BEDESSEM: There's some
20 components that are interested in that level of detail,
21 but certainly not all.

22 MR. ANDERSON: Madam Chair, I get the
23 point. And I think that what we were contemplating, a
24 couple of things, I think. One is that we assumed that
25 these would probably be part of an annual report. We

1 would be getting annual reports from the landfill
2 operators, what they've done and what they've proposed to
3 do. And if the struggle is around the term
4 "construction-ready," maybe we can work on this with
5 respect to some language about in conjunction with an
6 annual report or otherwise, you know, begin -- submit
7 conceptual drawings or something like that. I mean, at
8 least give us four years in advance to sort of start
9 thinking about what it's going to look like.

10 Because I definitely get the point about, if
11 we're talking about construction-ready, things can change
12 a lot in four years. And if we're actually having
13 discussions with the landfill operators because they're
14 submitting annual reports, that four years and subsequent
15 annual report should allow us to be able to --

16 VICE CHAIR BEDESSEM: I think this process
17 has to be defined a little bit better in the rule, as far
18 as whether this is coming in in annual reports, how it's
19 being reviewed, that sort of thing. And also, because
20 the assumption about that time period, it seems like
21 you're assuming that you get construction-ready, you
22 submit to DEQ, and then you sit there and wait, where, if
23 you can submit plans which typically are not
24 construction-ready, but are 90 percent or some -- a good
25 level of detail while you're spending your 282 days, your

1 eight, ninth months reviewing it, they can work out the
2 rest of the bid package, the specs. on the asphalt, the
3 concrete, the methane venting. All this other stuff can
4 be going on simultaneously while you're doing that review
5 period, because you don't need that 100 percent level to
6 be submitted to you.

7 So those things can go on concurrently so you
8 don't have to add extra time, like this all happens and
9 then the rest of life goes on. This can go on
10 simultaneously. So if --

11 MS. CAHN: Could we add -- go ahead. I'll
12 wait until you're done.

13 VICE CHAIR BEDESSEM: I didn't have
14 anything. I just wanted to hear you.

15 MS. CAHN: I was just thinking we could
16 use language like conceptual design four years ahead of
17 time is probably the kind of 10 percent design,
18 conceptual design, something along those lines, as
19 opposed to 90 percent design or -- seems like 10
20 percent --

21 VICE CHAIR BEDESSEM: Or just plain design
22 plans. Just work it out.

23 MS. CAHN: Conceptual design or 10 percent
24 design, something along that line seems like what you'd
25 do four years ahead of time.

1 MR. APPELATE: Lorie, would you be okay
2 if they just deleted "construction ready"? Because then
3 it would allow you to kind of work out that level of
4 detail that would be necessary to resolve the issue.

5 MS. CAHN: Yes. I had a time hitting the
6 mute button.

7 VICE CHAIR BEDESSEM: So, anyway, that
8 business about the design plans was in that Section 4(K),
9 5(I)(I). And then the annual reports are on 2-44. And
10 so, if somehow these two are going to be -- the
11 assumption is these plans are within the annual report.
12 So I guess I just want to clarify how that works
13 together.

14 MR. DOCTOR: Madam Chair, I hope we can
15 keep these two processes separate. Because the
16 legislature introduced a lot of very specific things that
17 have to happen when we get an annual report, short review
18 times, inspections, and a whole bunch of stuff. And if
19 we get a major design tangled up in the middle of that,
20 it could be a problem. And somebody may submit it, but
21 we'd kind of like to avoid that, because I don't know how
22 we're going to accomplish all the other stuff.

23 VICE CHAIR BEDESSEM: I'm just bringing it
24 up so that you address how you're going to handle these.
25 You know, because Carl at one point mentioned it might be

1 with an annual report or something along those lines. So
2 I'm not really that concerned about which way you do it.
3 But as long as it's addressed so the rule doesn't end up
4 where we're all wondering what it is that we do, so that
5 it's defined some way or other how these plan sets for
6 these units that are being constructed within that
7 lifetime permit period are handled.

8 And the annual report requires information
9 regarding the design capacity of the facility. So is the
10 requirement for having to update design capacity -- I
11 mean, I can understand remaining capacity. But why do
12 they have to update design capacity? I thought design
13 capacity was what they did with the -- in the original
14 permit. But is that something that's required by
15 statute? Because if they're going to change
16 significantly design capacity more than five percent, it
17 has to be a major amendment. So what is an update on
18 design? That, I don't understand.

19 MR. DOCTOR: Madam Chairman, in most
20 cases, I think the report will be -- we've not changed
21 anything. But the idea will be if they have had an
22 amendment in there, they're required then at the next
23 report to the Air Quality Division to change this
24 calculation of methane gas generation. Or the facility
25 may -- whatever changes happen, this thing is supposed to

1 catch and get that information for the NMOC, the
2 nonmethane gas stuff. That change needs to get in to the
3 Air Quality people. The answer to the report most years
4 may be nothing's changed our capacity. It's the same as
5 it always was.

6 VICE CHAIR BEDESSEM: So you're just
7 looking for documentation of any amendments that resulted
8 in a change in design capacity?

9 MR. DOCTOR: Correct.

10 VICE CHAIR BEDESSEM: But then design
11 capacity will be defined somewhere?

12 MR. ANDERSON: Yeah. Madam Chair, the
13 legislation, as part of the annual report, requires
14 information on the amount of capacity used and the amount
15 of capacity remaining.

16 VICE CHAIR BEDESSEM: As opposed to design
17 capacity?

18 MR. ANDERSON: (Nods head.)

19 VICE CHAIR BEDESSEM: I think that was all
20 I had on 2. I am going backwards. I'm going back to 1.
21 So this is just a question with regard to page 1-20,
22 which is the definition of solid waste management unit.
23 So, actually, if you could help us all on the board a
24 little bit with explaining why everything's moved to
25 unit, also, so we can understand how that's used, as

1 opposed to the whole landfill facility. You know, so are
2 we going to be looking at requiring monitoring wells
3 around individual units, rather than the perimeter of a
4 group of individual units, which is how we deal with most
5 landfills now? You know, you might have five cells, but
6 the monitoring wells are around the landfill, as opposed
7 to, you know, dedicated necessarily to a specific unit.

8 So if the contiguous area of land means that
9 more than one impoundment, treatment area, you know, can
10 be considered a solid waste management unit for
11 monitoring and establishing the point of compliance --
12 I'm just concerned. You may even go back to hazardous
13 waste rules. We're looking at monitoring a specific
14 unit. And, you know, we've got a groundwater monitoring
15 program that typically evaluates the whole landfill. I
16 just want to make sure that we're not, by changing things
17 over to this unit definition, that we're not now changing
18 these other requirements to be based per unit or per
19 cell.

20 So that's my question. Kind of give us some
21 background on that and the reasons for the change in
22 definitions and so forth. That would help me understand,
23 I think, a little bit.

24 MR. ANDERSON: Madam Chair, maybe I'm not
25 understanding the question. We're talking about --

1 you're talking about the definition on 1-20 with respect
2 to solid waste management unit? Is that the one we're
3 talking about?

4 VICE CHAIR BEDESSEM: Yeah. See if I'm in
5 the right place. So what's the different -- distinguish
6 between a cell and a unit. Is the unit the whole
7 landfill?

8 MR. ANDERSON: I believe what we're trying
9 to get at is the solid waste management facility is the
10 facility. And within that facility, you may have
11 different units. You may have a land disposal unit. I
12 think the Rock Springs landfill might be a good example.
13 At the Rock Springs landfill, you've got a facility.
14 Within that facility, you have the land disposal unit,
15 you've got surface -- surface impoundments, and you might
16 have a petroleum contaminated soils treatment area. So
17 each one of those areas is treated like a unit within the
18 whole of the facility.

19 VICE CHAIR BEDESSEM: So I guess my
20 question is, in this solid waste management unit
21 definition, you're just changing cell to unit? And if
22 these are just examples, why can't we just leave it at
23 cell? Because otherwise it sounds like you're defining
24 something using the same words. Do you see what I'm
25 saying?

1 MR. ANDERSON: Oh, I see.

2 VICE CHAIR BEDESSEM: A solid waste
3 management unit is a landfill unit. Can we just say
4 landfill -- you know, an example is a landfill cell? It
5 may include other things, with other treatment areas and
6 whatever else. But you're saying a unit is a unit, I
7 guess is the problem I'm having.

8 MR. DOCTOR: Madam Chairman, historically,
9 it seemed like we used the words "unit" and "cell"
10 interchangeably. But with the new legislation coming out
11 and establishing the relevant point of compliance which
12 becomes relative to units, I went back and looked at the
13 EPA definition of things, and they tend to look at a cell
14 as an individual disposal area within a unit. And so we
15 also adjusted the definition of cell on page 1-3 to
16 clarify that a cell is an individual disposal -- almost
17 like a daily disposal area, as compared to the unit,
18 which is the whole trench. Because we had these terms so
19 confused.

20 VICE CHAIR BEDESSEM: Yeah.
21 Unfortunately, I'm still confused. So can you kind of
22 start -- you know, for the benefit of all of us, not just
23 me, because I'm confused. I'm sure I'm not the only one.
24 But kind of go from the big to the little. So, in other
25 words, what's the name of the biggest, the whole

1 landfill, and then now what are you calling a cell? What
2 are you calling this day's disposal? Kind of starting
3 from the top down, from the biggest to the littlest, what
4 are the current definitions you're trying to have here so
5 I can understand this?

6 MR. ANDERSON: Madam Chair, I think the
7 facility is the broadest.

8 VICE CHAIR BEDESSEM: So that's the solid
9 waste management facility on 1-19?

10 MR. ANDERSON: Yes.

11 VICE CHAIR BEDESSEM: The whole facility,
12 whether it's transfers, treatment, storage, landfill,
13 whatever? The entire permit boundary is the whole
14 facility?

15 MR. ANDERSON: So, within that facility,
16 you may have other units, surface impoundments, landfill
17 disposal units, petroleum-contaminated soils treatment
18 unit, an asbestos-disposal unit. Particularly with
19 respect to the landfill disposal unit, there may be
20 individual cells within that unit. So I think it's
21 facility, unit and cell.

22 VICE CHAIR BEDESSEM: So a unit may be an
23 individual cell or -- just with respect to the landfill,
24 or it may be the day's disposal of waste? I'm having
25 trouble with the unit.

1 MR. ANDERSON: And land -- and I'm not
2 sure from a practical standpoint. But in our thinking, a
3 land disposal unit may contain cells.

4 MR. DOCTOR: Madam Chairman, for example,
5 we may have -- some of our landfills will set up an
6 individual cell for asbestos or dead animals, or that can
7 also be a cell, but it's within the larger unit or
8 trench. That's how we used to call it. So the cell is a
9 subset within that bigger unit. Now the units also may
10 be large continual trenches. It's just our -- trying to
11 adapt our rules from our little-bitty pits that we used
12 to all dig to a broader facility that may be an area fill
13 is what triggers a lot of this.

14 VICE CHAIR BEDESSEM: So the problem I
15 have with the definition is describing a unit and the
16 definition contains the word "unit" doesn't clarify what
17 that means to me. Do you see what I mean? Solid waste
18 management unit could be a landfill unit. It still
19 doesn't tell me what that is.

20 MR. ANDERSON: Madam Chair, on 1-15 --

21 VICE CHAIR BEDESSEM: Okay. So you found
22 my answer.

23 MR. ANDERSON: I'm hoping. I don't know
24 if it answers the question about cell. I think it
25 actually --

1 VICE CHAIR BEDESSEM: Thank you.

2 MR. ANDERSON: We added a specific
3 definition for unit that's consistent with subtitle (d).

4 MR. APPLEGATE: This is municipal solid
5 waste landfill unit. Is that the one I'm reading?

6 VICE CHAIR BEDESSEM: So, essentially,
7 you're trying to remove the word "cell" kind of from the
8 whole thing, is that the gist, to get the language up to
9 date? So, if I refer back from municipal solid waste
10 management unit -- municipal solid waste landfill unit --

11 MR. APPLEGATE: Let me follow up.

12 VICE CHAIR BEDESSEM: Sure.

13 MR. APPLEGATE: Glad we save definitions
14 last. Sometimes we can spend a lot of time on these.

15 So, Carl, Bob, could you explain why you think
16 you need the municipal solid waste landfill unit
17 definition that's on page 1-15 that you just pointed out
18 to us, as well as the definition on 1-20 that Marge is
19 struggling with, which is solid waste management unit,
20 meaning --

21 VICE CHAIR BEDESSEM: Something different
22 than landfill.

23 MR. DOCTOR: Madam Chairman, did you look
24 on page 1-3 of the definition of cell, which says it's
25 within -- cell is an area within a trench unit or area

1 fill?

2 VICE CHAIR BEDESSEM: Yes. Within a unit.
3 So the description of -- so a cell is not a unit. It's
4 within a unit. So we went from solid waste management
5 facility to solid waste management unit to cell, from big
6 to little.

7 MR. APPLEGATE: I'm okay with it. Now you
8 got me going.

9 VICE CHAIR BEDESSEM: Sorry.

10 MR. APPLEGATE: I'm okay with cell unit
11 facility. But now I'm just seeking clarification. On
12 1-20 you have solid waste management unit, and on 1-15
13 you have municipal solid waste landfill unit. Are those,
14 indeed, different animals?

15 MR. DOCTOR: Yes, Mr. Chairman, because we
16 have industrial landfills, construction/demolition
17 landfills. And a lot of the statute applies to municipal
18 solid waste landfill units. So, for example, if you have
19 a construction/demolition unit -- and I almost used the
20 word "cell" -- unit within your landfill, that's distinct
21 from your municipal solid waste landfill unit. And
22 that's why we're trying to make that distinction so we
23 don't apply a lot of these statutory things.

24 MR. APPLEGATE: So a solid waste
25 management unit would include as a subset to it -- again,

1 on page 1-20, solid waste management unit would include
2 as a subset a municipal solid waste landfill unit?

3 MR. DOCTOR: I think so.

4 MR. APPLEGATE: If that's the case, then
5 you should probably include within your definition --
6 down here where you say the landfill unit that you were
7 struggling with, what you could instead say there, you
8 could say a -- I'm only going to have this once on my
9 brain. It may not be right. But you could have like an
10 industrial landfill unit --

11 VICE CHAIR BEDESSEM: A municipal solid
12 waste landfill unit.

13 MR. APPLEGATE: -- a municipal solid waste
14 landfill unit or a whatever other examples you have.
15 Because then at least you would have within this broader
16 definition of solid waste management unit the new
17 definition you put in of municipal solid waste landfill
18 unit.

19 VICE CHAIR BEDESSEM: And you have a paper
20 trail for people to go, oh, this can include that and go
21 to the next definition.

22 MR. ANDERSON: Yeah. Given the current
23 construction of the regulations, yes, municipal solid
24 waste landfill unit would be part of solid waste
25 management.

1 MR. APPELATE: It would be an example of
2 a solid waste management unit.

3 VICE CHAIR BEDESSEM: Sorry to belabor
4 that point so long.

5 MR. APPELATE: It was useful, I think.

6 MR. ANDERSON: You know what the acronym
7 is for solid waste management unit? You're all familiar
8 with that one. SWMUs are part of facilities.

9 MR. APPELATE: Thank you, Marge.

10 VICE CHAIR BEDESSEM: So still on
11 definitions, you know, just like before, we've got
12 references to statute, and then you explain the AG's
13 position on that. So we talked about that. Now, because
14 there are new statutory definitions of aquifer and
15 groundwater and so forth that specifically relate to
16 municipal solid waste landfills, you still have
17 definitions for construction/demolition waste landfills
18 in Chapter 4 that are different, don't you? Chapter 3
19 for industrial solid waste landfills, don't we have
20 previous definitions of aquifer and groundwater in
21 industrial solid waste landfills, Chapter 3, and
22 construction/demolition waste landfills in Chapter 4?

23 MR. DOCTOR: Madam Chairman, I don't
24 remember. I think most of the chapter relied on Chapter
25 1 for their definitions.

1 VICE CHAIR BEDESSEM: So you're thinking
2 that it is now -- if you change it in Chapter 1, then did
3 you now change how you're regulating groundwater
4 monitoring in industrial solid waste landfills and
5 construction/demolition waste landfills, Chapters 3 and
6 4?

7 MR. ANDERSON: Madam Chair, no, I don't
8 think so. Maybe I'm missing your point. But the newly
9 adopted definitions for groundwater and aquifers
10 specifically apply to municipal solid waste landfills.

11 VICE CHAIR BEDESSEM: I realize that is
12 what the statute says. So we have different definitions
13 to be used at the other landfills. Right?

14 MR. ANDERSON: Yes.

15 VICE CHAIR BEDESSEM: And nothing you've
16 done in this rule changes that. Right?

17 MR. ANDERSON: Yes. That's true.

18 VICE CHAIR BEDESSEM: So, even though the
19 definitions are changed in Chapter 1, it's specifically
20 for municipal solid waste. So I guess the -- if you have
21 a municipal solid waste landfill that operates a
22 construction/demolition waste landfill immediately
23 adjacent to -- you know, maybe they closed their
24 municipal solid waste landfill and they're just operating
25 a construction/demolition waste landfill and they've

1 got -- the hope is that the monitoring network, for one,
2 could help be upgradient or the monitoring network for
3 the other. But we got two different definitions of what
4 it is we're supposed to monitor.

5 I'm just wondering if there's potential for
6 confusion or conflicts in that situation for site
7 investigations, enforcement actions and that sort of
8 thing when we've got two kind of sets of operating
9 parameters, and we could have facilities that are right
10 next to each other with different -- I don't know
11 necessarily what to do about that. But I'm concerned
12 that you need to have an approach for how that's handled.
13 Because more and more of our facilities are closing the
14 municipal solid waste part and may continue to operate
15 the construction/demolition, just that. And we're going
16 to end up with these scenarios where we've got two sets
17 of groundwater definitions that may have to be utilized.

18 MR. ANDERSON: Madam Chair, yes. You
19 raise a good point. And it's something that hopefully we
20 don't get confronted with. And if we do, even though
21 there are different definitions that apply to different
22 kinds of facilities, that ultimately, if you go out and
23 do the investigation, what's an aquifer with respect to
24 municipal solid waste landfill ends up being the same
25 thing as the aquifer that you're monitoring and want to

1 protect, for example, for construction/demolition. But
2 it is a potential problem. And I will let you know that
3 there's an internal work group in DEQ that's looking at
4 all of the various definitions for groundwater and
5 aquifer across the different programs and divisions and
6 trying to reconcile -- get an understanding for what
7 those definitions are, how they're different, how they're
8 being applied in a practical sense.

9 There may be some point in the future where we
10 come back to the legislature or potentially to rule-
11 making and try to unify and have consistent definitions
12 across programs for both groundwater and aquifer. That
13 might be some point in the future. But hopefully it
14 could alleviate this kind of problem and some other
15 issues that arise when we look at groundwater and aquifer
16 and different programs.

17 VICE CHAIR BEDESSEM: I can certainly see
18 case-specific issues resulting from that, because these
19 facilities are likely in close proximity. So, then, I'm
20 going to -- on the definitions, back to the definition of
21 green waste, manure is excluded from the definition of
22 green waste. And green waste is included in the
23 definition of low hazard, low volume. So there's a lot
24 of existing composting problems that includes some type
25 of manure in their existing processes to compost their

1 green waste stream, the bulking agents, nitrogen, so
2 forth. So right now most stockpiles of manure are really
3 not regulated.

4 So I guess the question is, I'm not quite sure
5 why we don't have manure as a component of the
6 low-hazard, low-volume green waste composting program.
7 So it's just a question that you might want to consider.
8 Because you'd hate for a composting program not to be a
9 small one and to be able to qualify for this low hazard,
10 low volume because they're making beneficial use of some
11 manure or component.

12 MR. DOCTOR: Madam Chairman, some of that
13 is in consideration of the potential for a lot of
14 additional odor and the less stringent location standards
15 for a low-volume, low-hazard facility. So, because of
16 those, for example, a full-blown facility can't be within
17 a thousand feet of somebody's home. A low-volume,
18 low-hazard facility can be if they screen it from view.
19 So, if you're the neighbor living 50 feet away from a
20 pile of manure and a compost heap, you might have a
21 concern with that. But if it's only green waste, while
22 they're not odor-free, they can be less of a problem than
23 if you're dumping manure and food waste and everything
24 else.

25 VICE CHAIR BEDESSEM: I guess my feeling

1 is is that something that could be addressed with
2 compliance, that they're not allowed to be creating odors
3 and so forth, as opposed to preventing them from using a
4 good source of material? They still have to handle it
5 responsibly. But to be completely excluded, so they
6 can't use guano or they can't use manure, that would make
7 it more difficult for them to be able to compost, I
8 guess. I'm not sure that that, in the definition, is the
9 way to eliminate that. Because right now if I have a
10 pile of manure on my property, it's not really regulated.

11 So I think it's more of a compliance and kind
12 of the odor formation issue and runoff control and that
13 sort of thing, as opposed to blanketly saying you can't
14 use manure in your compost.

15 MR. DOCTOR: I think it's more an attempt
16 to trying to be more objective. What you and I think
17 stinks is going to be different. But if you just say no
18 manure, then it's not such a subjective. The neighbors
19 complaining about stink, that's pretty subjective. But
20 if we said no manure, that allows us a more clear way to
21 regulate.

22 VICE CHAIR BEDESSEM: Does that also
23 include those facilities that buy poultry food,
24 basically, to accelerate their composting?

25 MR. APPLGATE: Madam Chairman, I don't

1 know. Most of our facilities, they're the small guys
2 that are doing this. Grass clippings, sticks, twigs,
3 just the general stuff that people bring from their
4 yards. And most of them, I don't know if this would be
5 an issue for them, for manure.

6 VICE CHAIR BEDESSEM: Well, just --

7 MR. DOCTOR: We can wait and see if we get
8 complaints.

9 VICE CHAIR BEDESSEM: Consider it.
10 Because it's a good use of material, especially in
11 agricultural areas, and it can certainly speed up the
12 composting process. And if you're just going to make the
13 assumption that it's not going to be handled right, then
14 for those operators that are responsible and would handle
15 it, it might perhaps be an unnecessary hampering of their
16 activities. So just something to consider.

17 On page 1-9 you've got owners and operators are
18 precluded from operating more than one low-hazard, low-
19 volume facility within a mile of each other.

20 MS. CAHN: I didn't catch the page number,
21 Marge.

22 VICE CHAIR BEDESSEM: It's page 1-9. So I
23 guess under that definition, you could have two low-
24 hazard, low-volume facilities adjacent to each other if
25 they were owned and operated by different entities but

1 just not the same entity.

2 MR. DOCTOR: Madam Chairman, I think this
3 has been in the rule --

4 VICE CHAIR BEDESSEM: Forever?

5 MR. DOCTOR: -- forever, as far as I know.
6 I'm not sure what the basis for it was. I think it was
7 just, you know, like you can't have more than one pivot
8 foot when you're playing basketball. I was trying to
9 avoid regulation by --

10 VICE CHAIR BEDESSEM: So, basically, the
11 intent of this is to prevent somebody from taking a
12 bigger facility and chopping it down in half to --
13 gotcha. Okay. It's the same kind of thing about -- I
14 didn't really get the basketball thing.

15 MR. ANDERSON: Madam Chair, Bob and I have
16 a thing with the death-by-a-thousand-cuts analogy. We go
17 back and forth. Inside joke. I'm sorry.

18 MR. DOCTOR: Does this mean you're not
19 buying me lunch?

20 VICE CHAIR BEDESSEM: If you got a
21 low-hazard, low-volume facility -- which, by the way, I
22 think it's absolutely great that you're trying to
23 streamline this permitting. It's not to the extent of a
24 permit by rule, but it will facilitate a lot of small
25 communities to be able to handle this in a much less

1 onerous manner. So thank you for doing this. You know,
2 you have a size limit, and I know in the old rule that it
3 was like 30,000 square feet.

4 MR. DOCTOR: That applied, Madam Chairman,
5 only to recycling facilities. It was specific to those
6 facilities in the old rule and the municipal waste
7 management transfer stations. It was solely based on the
8 volume of throughput, 20 yards a day for exempt and I
9 think 40 yards a day for a low-volume, low-hazard. But
10 there was no limit to how big those things could be. So
11 the current rule has some size things.

12 VICE CHAIR BEDESSEM: I guess what I'm
13 curious about is, if you're limited on the throughput,
14 like you can only have four roll-offs or whatever, then
15 I'm curious as to why we have to have a five-acre limit.
16 I mean, if somebody's got like a ten-acre lot and the
17 topography is such that they want to put these up here
18 and these over here, and the topography is such that they
19 want to have this part over here and this part over there
20 on their ten acres, they can't really do that. Because
21 of this five-acre thing, that means they have to carve
22 out some weird arrangement for their permit.

23 And I guess if you have a volume limitation,
24 what difference does it make if it's five acres or six
25 acres? If your concern is they're going to spread stuff

1 out in piles here and there and whatever, that's a
2 compliance issue. You know, they're not supposed to be
3 doing that, anyway. If you've got these containers and
4 they're limited to this number of containers, then I
5 guess it seems like it's a double restriction on size
6 that may end up being a pain in the neck to comply with
7 if you've got a lot size that's bigger than five, where
8 you have to carve off, where actually having a little
9 more room for vehicles to be able to turn around and be
10 able to put things in separate parts of their acreage
11 might be beneficial.

12 MR. DOCTOR: Madam Chairman, one of our --
13 when we were thinking about this, one of our
14 considerations was, if you set individual waste volume
15 limits, that's really hard to do, because communities are
16 so different across the state, that saying in one place
17 500 yards of something is okay, but over here, applying
18 that, it may not be appropriate. So, we say, you know
19 what? You, within this footprint, have the flexibility
20 in your community to use that footprint depending on the
21 wastes that are generated in your community. So, rather
22 than specify volumes for everything in there, we'll just
23 say if it's this big a facility, then it shouldn't be a
24 big problem for the neighbors and a threat to groundwater
25 or surface water, but not get so picky on the individual

1 stuff.

2 And that's my best explanation of that, is to
3 try not to micromanage how somebody uses -- if somebody's
4 got a big compost pile and a little pile, it may depend
5 on the nature of their community.

6 VICE CHAIR BEDESSEM: So overall
7 throughput -- I'm not talking about -- isn't sufficient?
8 You still need to have an acreage requirement if you've
9 got a volume requirement?

10 MR. DOCTOR: Yes, Madam Chair. We were
11 thinking one or the other. And with the size
12 requirement, it allows the flexibility to fit the needs
13 of a community, rather than specifying volume limits, no
14 matter how big you want to have your site.

15 VICE CHAIR BEDESSEM: I'm still confused.
16 I still thought there was an overall volume requirement.

17 MR. DOCTOR: Not on all the waste that's
18 listed in here. Some of them, we don't -- we limit the
19 size of the facility but not all the individual waste
20 types. Like how big can a compost pile be in a five-acre
21 facility, for example? We haven't necessarily said that,
22 but it would be limited by the size of the site. So, if
23 Lusk needed to have a bigger compost pile than Torrington
24 or the other way around, there would be that flexibility,
25 as long as it's all done within the same acreage.

1 VICE CHAIR BEDESSEM: So can you just go
2 over and explain what's the total volume that a low
3 hazard -- for someone to quality for low hazard, low
4 volume?

5 MR. ANDERSON: Madam Chair, maybe I didn't
6 get all the conversation because I was trying to read
7 through the proposed changes, and I can't do two things
8 at once. But if you look at the construct for the rule,
9 it's for those solid waste, transfer, treatment storage
10 and processing facilities 50 cubic yards, no more than
11 five acres. And then all of these other activities that
12 are umbrellaed under those facilities, the used oil, the
13 antifreeze, our idea was that if you're going to allow
14 for these other activities -- and landfills may or may
15 not do all of these things, but they potentially could.
16 And the fact that they're low-hazard, low-volume
17 facilities, we felt that, within the constraints of the
18 volumes that we've applied, that we felt five acres was a
19 reasonable size for those activities.

20 VICE CHAIR BEDESSEM: So the 50 cubic
21 yards just applies to the municipal solid waste, and
22 everything else falls under -- well, it won't be a
23 problem because it's not getting bigger than five acres?

24 MR. ANDERSON: Yes. So, when we thought
25 about this low-hazard, low-volume thing, it was here are

1 all these things. The full-service concept with respect
2 to a transfer facility, these are things that landfills
3 may have done in the past and they want to continue to do
4 when they become a transfer facility. We just wanted to
5 make sure there was some limitation on the overall size
6 of -- with respect to all the potential activities that
7 could go on within that five acres.

8 VICE CHAIR BEDESSEM: The court reporter
9 is asking for a break. We'll take a ten-minute break.

10 (Hearing proceedings recessed

11 1:21 p.m. to 1:39 p.m.)

12 VICE CHAIR BEDESSEM: Let's reconvene and
13 continue on with a few additional board comments on
14 Chapter 1. Dave has an additional one regarding
15 definitions.

16 MR. APPLGATE: Page 1-24, this kind of
17 goes to our previous discussion that Marge and I were
18 having on the municipal solid waste landfill unit. Is
19 waste management unit boundary, is that a term of art
20 from the statutory language? I'm at the top of page
21 1-24.

22 MR. DOCTOR: Madam Chairman, that
23 definition is straight out of EPA subtitle (d) rules. We
24 put it in here because the new statute says your relevant
25 point of compliance can be no more than 150 meters from

1 the waste management unit boundary.

2 MR. APPLEGATE: So the statute uses the
3 term "waste management unit boundary"?

4 MR. DOCTOR: Correct.

5 MR. APPLEGATE: That's okay. We thought
6 that was the case. So, when you read this definition, we
7 wanted to add some words that we think make it more
8 cumbersome but also add to the clarity. Waste management
9 unit boundary for the purposes of establishing a relevant
10 point of compliance for municipal solid waste landfills.
11 Waste management unit boundary means a vertical surface
12 located at the hydraulically downgradient limit of the
13 municipal solid waste landfill unit. Right? This is in
14 reference to municipal solid waste landfills.

15 MR. DOCTOR: Correct. Madam Chairman, I
16 think why it was written that way is because it's part of
17 subtitle (d) and applies to municipal solid waste
18 landfill units in that context. In our context, we
19 probably need to clarify that.

20 MR. APPLEGATE: That was the change.

21 MR. DOCTOR: Because we don't necessarily
22 have that requirement for industrial landfills.

23 MR. APPLEGATE: Right.

24 VICE CHAIR BEDESSEM: So it's just a few
25 added words to help clarify. Then also, that way, when a

1 person reads the definition, they can see the term and
2 then look up that term, as you did for me, leading me
3 through the rest of the definitions.

4 So a few more comments regarding definitions.
5 On page 1-11 it says the definition for low-hazard, low-
6 volume solid waste facilities provides for household
7 hazardous waste collected on quarterly collection days.
8 So does this preclude an operator from having an annual
9 collection day? I mean, I'm just thinking you might just
10 want to change the words a little bit.

11 MR. DOCTOR: Somehow to say, Madam
12 Chairman, no more frequently than quarterly? When we
13 were doing this, we had household hazardous waste
14 collection days all the time, but we never mentioned it
15 anymore. So we thought we'd put it in here. So no more
16 frequently than quarterly or something like that?

17 VICE CHAIR BEDESSEM: Yeah. Something so
18 it doesn't just mean you can only do this quarterly.
19 Just a little change in verbiage.

20 MR. DOCTOR: I think that also, Madam
21 Chairman, would apply on the exemptions. There's one
22 there for semiannual.

23 VICE CHAIR BEDESSEM: Right. It's
24 probably the same thing. Take a look at that language so
25 it's not quite so restrictive. So, again, on that page,

1 the definition of low hazard, low volume, solid waste
2 allows 50 cubic yards per day but only 40 cubic yards of
3 E waste to be stored in a container. Is there a
4 reasoning -- could it just all still be 50? I mean, is
5 there a reason why it can't be 40? If you can have 50
6 cubic yards, you can probably just have 50 cubic yards of
7 E waste, and it would be all the same, especially if
8 that's the only thing they happen to be collecting.

9 On 1-10, for a clean wood storage facility,
10 requires a 200-foot buffer from off-site structures.
11 Because I assume you're concerned about fire. So I know
12 that the setback for like the used tire stockpiles in
13 Chapter 8 is only 50 feet from sources of ignition. So
14 is there a particular fire standard that requires that
15 200-foot.

16 MR. DOCTOR: No, Madam Chairman. This is
17 probably before my time with DEQ. Apparently there were
18 some sawmills and stuff that accumulated an awful lot of
19 wood, I think. So, by policy, probably back in the early
20 '90s, the Department had a policy memo that we had.
21 That's what my basis was for these. So that's really the
22 only basis, is if it's a policy that's been around for a
23 long time, that I wanted to put in rule. So, if you
24 think a better number is there, I have my pen.

25 VICE CHAIR BEDESSEM: I'm not really

1 familiar with what the relevant fire safety standard was.
2 It just seemed odd that one was 200 and one was 50. So I
3 was curious as to the source of that, if it was necessary
4 to have the 200-foot or not.

5 On page 1-10 on the clean wood waste storage
6 facilities, would burning of clean wood be considered
7 treatment and therefore be prohibited, or is that a
8 possibility if it was approved by Air Quality with
9 applicable Air Quality regs? So, in other words, if
10 you've got a very small volume, it may not be
11 cost-effective to grind and shred. It may end up having
12 to burn. My question is, is that burning considered
13 treatment and therefore prohibited at a low-hazard,
14 low-volume facility if you're burning clean wood?

15 MR. DOCTOR: No. And it has been -- it
16 has to be done according to Air Quality permitting
17 requirements. It would be considered a treatment
18 activity, but it's not prohibited as low volume, low
19 hazardous.

20 VICE CHAIR BEDESSEM: Okay. So just the
21 virtue of the fact that it's called treatment doesn't
22 make it prohibitive for low hazard, low volume?

23 MR. DOCTOR: No.

24 VICE CHAIR BEDESSEM: So I don't know if
25 that needs to be clarified or not.

1 MR. DOCTOR: The definition is low-hazard,
2 low-volume treatment, processing, storage and transfer
3 facility.

4 VICE CHAIR BEDESSEM: There also is a
5 requirement that if they have construction/demolition
6 waste, that it's got to be stored in a container. So, if
7 they're going to generate 40 or 50 cubic yards of
8 construction/demolition waste, you know it's going to
9 take a while to accumulate.

10 (Pause in proceedings.)

11 VICE CHAIR BEDESSEM: In any event, my
12 question was -- so my question was, if it's really a low
13 volume and they don't accumulate very much of
14 construction/demolition waste, then they have to rent a
15 roll-off to store this material. Could there also be
16 some alternative where they can store on the ground for
17 up to 30 days? It's on page 1-10 and 1-E-1, definitions.

18 MR. DOCTOR: Madam Chairman, I believe
19 some of this in-container stuff kind of is a throwback,
20 but also, low-volume, low-hazard facilities generally
21 aren't required to have storm water management plans.
22 And so keeping things in containers helps with the
23 run-on, run-off stuff.

24 VICE CHAIR BEDESSEM: Gotcha. Okay,
25 that's it. That's a very good reason.

1 So, moving on from that to exemptions on page
2 1-25, you know, there's a lot of things in exemptions
3 here that seem like they fall under what I would consider
4 that Bullet Item Number 6 in the SOPR, because I don't
5 know that they're necessarily in response to a statutory
6 thing. So, on page 1-25 it says, you know, we were able
7 to use these rules before, saying these are the
8 exemptions, and we count on these exemptions. This
9 stuff, you didn't have to get a permit for. But now it's
10 changed from a permit is not -- it's not required to --
11 may not be required. So you're taking away some
12 certainty in that list of exemptions.

13 MR. DOCTOR: I think, Madam Chairman, I
14 can explain that. Previously in the rule, we had -- in
15 this place it said is not, and later on in the exemption
16 section, it says the administrator may exempt the
17 following.

18 VICE CHAIR BEDESSEM: Gotcha.

19 MR. DOCTOR: The problem is that there
20 were things from statute that the statute says are not
21 even solid waste facilities in that list of exemptions.
22 And so what we've done is reference -- we've pulled those
23 out, deleted those things and then changed this to say
24 "may not" to match the exemption provision in the other.
25 And that gives the administrator the ability to say,

1 yeah, it's clean fill, but you can't dump it in a creek.
2 So it does provide some protection when we get complaints
3 about improper use of even something that we might
4 consider exempt under most circumstances.

5 VICE CHAIR BEDESSEM: So what you're
6 telling me is this is kind of a reorganization thing,
7 where the things that were clearly exempt via statute are
8 addressed separately? Are they just addressed by
9 reference?

10 MR. DOCTOR: We referenced them in the
11 record right in the very beginning of the exemption
12 section. These things are not solid waste facilities by
13 statute.

14 VICE CHAIR BEDESSEM: But they're still
15 listed?

16 MR. DOCTOR: They're just referenced.

17 VICE CHAIR BEDESSEM: Yes. And so my
18 concern, again, is that an operator goes to the rule and
19 doesn't know it's exempt until he goes to the statute.
20 So it seems to me -- I like the idea that you've
21 separated these out, because they're clearly in separate
22 categories for how you handle them, but I think it's not
23 helpful to an owner/operator that that list of exemptions
24 is not in here. So it's not that you've taken away the
25 exemption. It's the same as it always has been. But the

1 operator can't tell that reading the rule. He or she
2 would have to go to the statute.

3 So I agree it's good to separate them out
4 because those came from a particular source from
5 statutes. But I still think you should list them in
6 there, as opposed to just reference, because it's just
7 not helpful for someone that's trying to utilize your
8 rules and regulations.

9 MR. DOCTOR: Madam Chairman, I believe
10 that you'd be referencing, then, to page 1-28. Somewhere
11 in that neighborhood to at least let people know which
12 things we're talking about.

13 VICE CHAIR BEDESSEM: Yeah.

14 MR. DOCTOR: Madam Chairman, that's
15 probably a good -- because farm and ranch is one of those
16 things, we get calls on that all the time.

17 VICE CHAIR BEDESSEM: Right. And if they
18 could read it in here, it might be helpful. You're
19 getting calls about this now, and it's in the rule. If
20 you move it out of it, you're really going to get calls
21 about that in figuring out what applies and what doesn't
22 apply to them.

23 And then I think -- and not that I have any
24 bets on what time we're going to be wrapping up here, but
25 I think almost all of my exemption comments --

1 MS. CAHN: Marge, you're going to have to
2 use the mic.

3 VICE CHAIR BEDESSEM: This is much better.
4 My mic was on, but it was not working.

5 So almost all of my exemption comments are
6 related to just basically a reorganization. And so, if
7 those are still in there, that would be helpful.

8 And so, then, I think this is -- my last
9 comment is with respect to the minor amendments. Again,
10 thank you for instituting a mechanism to be able to get
11 minor changes approved. The time period, though, is as
12 long as 60 days, where I thought typically it had been
13 45. Minor amendments are things that people typically
14 need -- owner/operators need rather rapidly. If it's a
15 minor thing, they want to make sure they contact you and
16 get permission. But it's something that they typically
17 need to do to go their daily operation. So is there a
18 reason that we're moving from 45 to 60 days, besides
19 everyone's workload?

20 MR. DOCTOR: Madam Chairman, that's the
21 main reason. And historically, there was a 45-day
22 applied to major amendments. And when major amendments
23 was a liner design on top of all of our statutory, we
24 just couldn't keep up.

25 VICE CHAIR BEDESSEM: That makes sense.

1 MR. DOCTOR: It's a workload thing. Now,
2 if something is a very simple change and we have time to
3 just drop things for a while, we do the best we can to
4 try and get that out so an operator can move forward.
5 We're still, like we said, trying to keep up. So we
6 thought 60 days would be more realistic for some of these
7 things. Actually, as the permit says, good God, I can't
8 get that done that fast. And I think we were having a
9 conversation with our attorney, who said, why don't you
10 put 60? Okay.

11 VICE CHAIR BEDESSEM: I was concerned. If
12 it was minor, it should be minor. It shouldn't take two
13 months to do. Everybody tries to get things done rapidly
14 so they can continue their operation and not have to ask
15 for every little thing. If it's going to take two months
16 to get an answer, you're going to find more operators
17 asking for forgiveness than permission, unfortunately.
18 So this is just a general comment with regard to that.

19 So, if there are no more comments from the
20 board, can we discuss what it is we need to complete the
21 public comment?

22 MS. CAHN: Before we finish and move on
23 from those exemptions, I did have a question about
24 exemptions. And I think our last discussion, of what I
25 could hear about it, answered that. But it's on page

1 1-30. It's the agricultural exemption, Number 11(X)(I),
2 lands and facilities owned by a person engaged in farming
3 or ranching and used to dispose of solid waste generated
4 incidental to his or her farming and ranching operations.
5 And my understanding is they're exempt from statute, and
6 so that is why it was struck out from here. But we're
7 going to go ahead and add back in, I think is what I
8 heard, is that we're going to go ahead and add back in
9 these things some people -- so DEQ doesn't get called all
10 the time. Is that right?

11 VICE CHAIR BEDESSEM: Essentially, my
12 understanding is that this is just a reorganization to
13 show that these exemptions are by statute and it's not a
14 "may." It's an "is." These are exempt.

15 MR. DOCTOR: Correct.

16 VICE CHAIR BEDESSEM: And these other
17 category of exemptions are in the "may" category. But
18 you will still list them, just separate them out from the
19 rest of the exemptions?

20 MR. DOCTOR: Madam Chair and Lorie, we
21 will try. What happens at the Secretary of State level
22 and AG's office is beyond our control. We're trying, but
23 we'll see.

24 VICE CHAIR BEDESSEM: They're in there
25 now.

1 MR. DOCTOR: Yeah, they're in there now.

2 MR. APPLGATE: I think this fits our
3 broader discussion. We made a suggestion for them to
4 consider putting those things in. They'll consider it.
5 If they bring it back and it's not in there, we can
6 approve it with the modification that we wanted to
7 include it. And they, as in the past, may still not
8 include it when they go to the EQC, and EQC will
9 ultimately make that decision, I guess. So we're at
10 least clear on process of recommendations.

11 So I have a general suggestion now on process,
12 unless Lorie has another -- so we've had a fair number of
13 comments, and we also have some commenters who have said
14 they would like to comment. So my general recommendation
15 is that we would keep the public comment period open for
16 a small period of time and then have a follow-up meeting
17 with the board maybe in the next 30 days or so, where we
18 would be able to give the DEQ time to have a small
19 comment period, respond to those comments and bring back
20 to us what they're proposing then to take forward to the
21 EQC. We could take action on it at that time. I'm not
22 sure I feel comfortable taking action on it today. We'll
23 be here another three hours if we want to go through all
24 the changes that have been made and whether or not we're
25 going to vote to approve or not.

1 MS. CAHN: Dave, typically the way these
2 things work -- and, Carl, go ahead and jump in if you
3 need to. They need -- they're going to need some time to
4 advertise to keep their comment period open. Then they
5 need to respond to those comments. So it's not going to
6 be another board meeting in 30 days. This process of
7 extending the public comment period does take a while.
8 And it's also actually handy to shut off the public
9 comments before the next board meeting so we can see how
10 they responded.

11 So just so you know, it will take more than 30
12 days. I'll leave it up to Carl to decide, if the board
13 chooses to vote that way, what the time frame would be.

14 MR. ANDERSON: Madam Chair, I'd just point
15 out, I'd have to go back and talk to one of our folks
16 that's engaged in the rule-making process. And I'm not
17 sure that we would necessarily conform to the rule
18 requirements by extending a process that we're in now,
19 versus just treating it as though we're going to come
20 back with the next -- a revised version. We take back
21 what we've heard today, make our revisions and then
22 reinitiate a public notice process. I think we're
23 probably obligated to do that, rather than try to extend
24 it. I think we may run across some problems.

25 MR. APPLGATE: We have done it both ways.

1 MR. ANDERSON: Have you?

2 VICE CHAIR BEDESSEM: Yes. We have
3 extended public comment periods before.

4 MR. APPLGATE: With that said, I'm okay
5 with that approach, too.

6 VICE CHAIR BEDESSEM: Either approach
7 is --

8 MR. APPLGATE: But if we do the approach
9 that you've just suggested, Carl, I want to make sure I
10 clarify this so the public hears it. Any comments they
11 submitted, like the written comments that Casper said
12 they're going to submit in ten days, those aren't going
13 to be considered by this board, because the public
14 comment period would be ending today. So those comments
15 shouldn't be submitted to this board. They should be
16 submitted to WDEQ or EQC, because they would be
17 considered under the next round of the process, which is
18 the EQC. Is that correct?

19 VICE CHAIR BEDESSEM: No, not if we
20 sent -- if we send this back to you and you do another
21 iteration and then we do another public comment with us,
22 then that works. Or previously we have -- I think with
23 this member makeup, we have extended the public comment
24 period. We've done things where we extended it for 30
25 days or 15 days and such and then not had another meeting

1 for another 30, 45 days, so that you get the rest of the
2 comments. Because it's apparent that the people here,
3 for example, have not submitted their remarks. And we
4 can't just allow, for example, the City of Casper to
5 submit their remarks to you in ten days without having it
6 remain open to be able to receive those remarks and
7 whether that can be accommodated by having it noted on
8 the website that the comment period has been extended for
9 an additional 15 or 30 days, and then we need to meet
10 again with Mr. Jennings to vote on that reimbursement.
11 And he said he has to re-advertise for that, as well.

12 So we can't have another meeting within 30
13 days. At a minimum, I think it would be 45 or more. So
14 it's -- mostly, I think our uncertainty of the process is
15 if you extended this comment period, it would be based on
16 the remarks that were done here today and your response
17 to comments. You would be responding to comments
18 received on this -- this level of work, as opposed to any
19 changes that you might propose. So it's up to you
20 whether you want to go back, work with Lorie, if she's
21 amenable for some other language changes, and have
22 another set of comments on that or just deal with this
23 round.

24 MS. CAHN: Yeah. Let me maybe clarify
25 with my board background. Typically, the board has

1 extended public comment periods for anywhere from 15 to
2 30 days. Then DEQ has basically advertised the extension
3 of -- sent notices out to the people who got the original
4 notice, put it on the website, whatever. Then they
5 respond. They get the comments. They do a response to
6 comments. They get that -- they get a revised rule out
7 for a 30-day comment period with a response to comments
8 so people can see how comments work.

9 And typically, it's been at our next quarterly
10 meeting. I mean, typically, the process takes around 90
11 days. That's kind of what it's been taking. I'm not
12 saying it can't be done faster. But just to give
13 everybody kind of a time frame of what it typically
14 takes.

15 VICE CHAIR BEDESSEM: And that process
16 will all be the same even if we didn't -- because there's
17 enough comments for you today to respond to as it is,
18 even if we didn't extend the public comment period, that
19 whole same process where you would take the comments and
20 make the response, do the changes and bring it back for
21 comment, it seems like it's just a matter of, if we're
22 going to extend this comment period, whether it would be
23 15 days or 30 days, the mechanism for you to do that is
24 announce it on the website and resend it to your mailing
25 list.

1 Is that correct, Lorie? You have the longest
2 board experience.

3 MS. CAHN: Yeah. Another option is for
4 DEQ to say, well, we'll go back and rework this. Rather
5 than extend the public comment period, get it out. So
6 that's another way. Either we can -- depending on DEQ's
7 preference and board preference, we can either try to
8 extend the public comment period or say we don't think
9 this is ready to go to EQC and revise it, get it out for
10 comment again.

11 VICE CHAIR BEDESSEM: I guess since we've
12 had at least two members of the public mention that they
13 would like additional time, my preference is to extend it
14 a little bit. It may not be the preference of the other
15 board members.

16 MR. SUGANO: Madam Chair, I just wonder.
17 This pretty much freezes the July 1st implementation date
18 that you talked about, Carl. What does that do in
19 actuality? You just won't be able to -- you just won't
20 be able to authorize any of the changes that were
21 presented to us?

22 MR. ANDERSON: Madam Chairman, Glenn, the
23 statute's pretty clear. Regardless of what kind of
24 application we have for a municipal solid waste landfill,
25 any permit that we issue after July 1st to a municipal

1 solid waste landfill has to be a lifetime permit. So we
2 will just have to work within the existing regulations in
3 terms of reviewing applications and conditioning permits
4 with respect to -- at least what we contemplate with
5 respect to what our rules are trying to do now.

6 If we issue a permit between now and the
7 time -- after July 1st but before we have these rules
8 adopted, we're sort of stuck with the existing
9 regulations. So, in reality, whether we extend a comment
10 period or do a complete -- go through the whole process
11 again, we're sort of stuck with the July 1st.

12 VICE CHAIR BEDESSEM: That's a statutory
13 requirement. You've got July 1.

14 MR. ANDERSON: There is a third option,
15 and it's a little self-serving, is that we could take
16 back all the comments that we've heard today, develop a
17 response to comments and make changes to the regulations,
18 and we could take that packet to the Environmental
19 Quality Council. And for us, that would potentially
20 truncate the rule-making process. Just putting that out
21 there as a possibility.

22 VICE CHAIR BEDESSEM: Yes, Carl, I would
23 agree that it is somewhat self-serving. You would
24 basically bypass the Water and Waste Advisory Board,
25 because that would require us to approve a packet without

1 seeing your changes. So I'm personally not comfortable
2 doing that. I feel -- you know, we may all have
3 different opinions for us to resolve how to move forward
4 with getting the additional comment and what changes you
5 want to make to this rule package. And so my feeling is,
6 I'll start off with a proposal. If it changes, fine.
7 Perhaps maybe someone else can make a motion.

8 MR. APPLGATE: Go ahead with your
9 proposal.

10 VICE CHAIR BEDESSEM: My proposal would
11 just be to extend it via website and notification to
12 everybody on your e-mail lists, to extend the public
13 comment 15 days so that you incorporate comments that
14 perhaps -- is 15 days enough for CAG or WSWRA to get
15 their remarks together? So you have your major
16 constituency responding to you, as well as responding to
17 the requests of the public today to have an opportunity
18 to comment. And I don't think two weeks is -- I mean, if
19 people are on the ball and are interested in these rules,
20 they'll get them to you within two weeks. And it's not
21 an onerous time period and still allows you to
22 simultaneously work on the comments from today and get a
23 response to comments back to us so we can look at it
24 again at the -- and we'll schedule the next meeting as
25 soon as we possibly can.

1 MR. APPLEGATE: I can make a motion.

2 Well, I think I'll make a motion that we extend the
3 public comment period for 15 days, that we then have a
4 follow-up Water and Waste Advisory Board meeting at the
5 earliest convenience of the Department. That would allow
6 them to then bring forward this revised rule to us that
7 would include the comments they received today and any
8 comments they would receive within the next 15 days. So
9 I know Lorie said traditionally that's taken a full
10 quarter, but --

11 VICE CHAIR BEDESSEM: We'll just schedule
12 it.

13 MR. APPLEGATE: We'll schedule it. I know
14 as a board we'll make ourselves available. So that's my
15 motion, to extend it by 15 days and to have a follow-up
16 meeting at the convenience of WDEQ to revisit the rules.

17 VICE CHAIR BEDESSEM: I would second that
18 motion. Any comment from the board?

19 MS. CAHN: And it's just -- I would say
20 that it's up to Carl, the Department, to come back to us
21 to schedule a meeting when they're ready to have another
22 meeting for us to then vote on these revised rules. We
23 don't necessarily have to take public comment on the
24 revised rules if they're -- I mean, so that's another
25 option that helps to shorten things up.

1 VICE CHAIR BEDESSEM: Right. That could
2 be sufficient.

3 MR. APPLGATE: And I think that's what I
4 was implying.

5 MS. CAHN: And then Carl can just come
6 back to us when he's ready, and 30 days beforehand, we'd
7 sit around and see what our calendars are like and
8 schedule a meeting and a 30-day notice. So that would
9 speed things up a little bit.

10 VICE CHAIR BEDESSEM: And those revised
11 rules will get comment through the EQC. So I think that
12 could be expeditious.

13 MR. ANDERSON: Madam Chair, I think I need
14 some clarification. So what the board is thinking is
15 that we would extend public comment for this particular
16 version of the rules, and we would take the comments
17 we've heard today from the board, from the public, and
18 additional comments that we get in that 15-day or 20-day
19 period. We would develop a response to comments, develop
20 a next revision to the rules. And then what I'm hearing
21 is that we, in essence, would go through the same process
22 that we went through to advertise for this meeting.

23 MR. APPLGATE: Yes. You'd have to
24 advertise for the meeting, but not for public comment.

25 VICE CHAIR BEDESSEM: But not for public

1 comment.

2 MR. APPLEGATE: So the follow-up meeting
3 would not have public comment. It would just be your
4 presentation to us. We would make a decision and forward
5 the rules on.

6 VICE CHAIR BEDESSEM: So that eliminates
7 your second round by us extending this round.

8 MR. ANDERSON: Madam Chair, it sounds like
9 you have done this before with the Water Quality
10 Division.

11 VICE CHAIR BEDESSEM: We have. And you
12 have to be very careful with the public notice, because
13 we had a mix-up one time earlier -- I think it was with
14 the water quality rules -- where the intent was for us
15 just to review the revised rule and make a decision on
16 whether to move it forward to the EQC or not. And the
17 advertisement that went out said it was open for public
18 comment on that day. Didn't have a comment period, but
19 it said that people arriving at the meeting could
20 comment. And so we had a problem because then those
21 comments were not addressed. So the announcement -- we
22 need to go over the announcement carefully to make sure
23 that you're not inconsistent with the request or not for
24 public comment.

25 MR. DOCTOR: Madam Chairman or Lorie, do

1 you recall if you had to give notice that the notice was
2 being extended? Does that make sense? In other words,
3 do we need to advertise that you've extended this, or is
4 your decision here at this meeting sufficient?

5 VICE CHAIR BEDESSEM: I think you need to
6 change it on the website. And I believe you notify their
7 constituents.

8 MS. CAHN: I thought that a simple note
9 went out just to the e-mail list. And you can check with
10 John Wagner on it. But I think that an e-mail went out,
11 and it changed on the website. And I think there was a
12 simple letter that went out to everybody on the original
13 mailing list that just said the public comment period has
14 been extended, just a simple thing, and give a date.
15 Can't be very fancy because you got to get it out so that
16 people receive it and still have time to comment.

17 I think that's what happened. But if we extend
18 it for 15 days and you're more comfortable -- after you
19 go back to your shop and talk to people, if they're more
20 comfortable with a 30-day extension, it doesn't mean that
21 you can't decide you're going to extend it for 30 days
22 instead of 15 if that gives you more time to do what you
23 need to do.

24 VICE CHAIR BEDESSEM: But as far as being
25 expedient, I think that's our preference. Rather than

1 doing a whole 'nother round, it gives you an opportunity
2 to work on revisions while this is going on, and it will
3 cut down the time period, and as we all know, because you
4 wouldn't be getting approval from EQC before July 1,
5 anyway.

6 So there's a motion and a second on the table.
7 So I would like to see all those in favor to signify by
8 saying aye.

9 (All members vote aye.)

10 VICE CHAIR BEDESSEM: None opposed. So
11 motion passes.

12 So we have just -- that motion just extended
13 the comment period for 15 days. But I'm hearing from all
14 of us that, depending on when you go back and talk to
15 John Wagner, for example, to find out exactly the
16 notification process, if you need to make it 20 or 30, to
17 make sure that that happens and people get adequate
18 notice.

19 MR. APPLGATE: Might be 15 days from when
20 they send out the letter.

21 VICE CHAIR BEDESSEM: Yeah. It might be
22 15 days from when you send out the letter or, you know,
23 something in that regard. We're all amenable to that,
24 but do think that we'd prefer to have the extension at
25 this point in the process.

1 Yes, Lorie?

2 MS. CAHN: Do we know yet if Bill -- if
3 Buffalo has joined, if Bill Welles is going to be
4 available for us to vote? Has Mike Jennings heard from
5 him?

6 MR. JENNINGS: Madam Chair, I texted Bill.
7 I've had no answer.

8 VICE CHAIR BEDESSEM: I think Bill is
9 still unavailable.

10 So, based on that, are there any further
11 updates that we need to hear, or may I do a motion to
12 adjourn? Or do you have some additional presentation
13 materials?

14 MR. ANDERSON: Madam Chair, there's a
15 handful of things I feel like I should advise you guys
16 about or let you know what's going on. The first is that
17 we'll be bringing a hazardous waste rule package to you
18 very soon, and will affect all of the chapters of the
19 hazardous waste rule and regulations. This is the thing
20 that we need to do routinely to keep our program current
21 with the federal program. Most of these rules -- or,
22 some of the rules are mandatory. Some of the rules are
23 optional. And we'll explain that to you in the statement
24 of principal reasons. But expect hazardous waste rules
25 to come to you guys I would guess within the next two or

1 three months, next quarter.

2 I wanted to let you know that we are getting
3 close to finalizing a waste diversion study. The
4 legislature gave us \$100,000 to contract for a contractor
5 to look at waste diversion recycling activities in the
6 state. That study took a look at the current state of
7 affairs in Wyoming and developed some findings and some
8 conclusions and came up with some recommendations for how
9 to improve waste diversion in Wyoming.

10 This is a pretty significant effort for us.
11 And I just bring it to your attention because we're going
12 to try to use all venues that we can to get this
13 information out and assist communities in progressing
14 waste diversion in the state. And that should be final
15 sometime in August. So we may be coming back to you with
16 some more information about that.

17 I also wanted to let you know that with respect
18 to landfills, there was a reserve account that was
19 established by the legislature that set aside initially
20 \$15 million, and an additional \$15 million was added,
21 with the potential that an additional \$15 million would
22 be added in in Fiscal Year 14, and the potential that
23 that fund would continue to be seeded over time. That
24 money as defined by the legislature was supposed to be
25 used for remediation of landfills. But the Department,

1 including the governor's budget request, included wording
2 about remediation should include not only cleanup, but
3 should include landfill capping and waste transfer. And
4 we had -- and that supported -- that concept of
5 remediation to include those three components is
6 supported by WSWRA and by CAG and I think by WAM and some
7 other organizations.

8 We had a meeting before the minerals committee
9 meeting -- the minerals committee last week to talk about
10 that, because we were told by the legislature that they
11 wanted a plan from us on how we were going to expend the
12 money, what we were going to expend it on, before they
13 allowed us to start expending that money. So we gave
14 them a conceptual model that included the three
15 components, cleanup, capping and waste transfer. The
16 only reason I bring this to your attention is that work
17 is going to be moving forward on that in terms of taking
18 a conceptual model with input from DEQ and WSWRA and CAG
19 and a select committee, a subcommittee that's been formed
20 by the minerals committee on solid waste.

21 One of our recommendations was that for capping
22 and for waste transfer facilities, that the Water and
23 Waste Advisory Board should be involved in developing the
24 criteria for capping and for waste transfer and that the
25 Water and Waste Advisory Board should approve

1 reimbursement.

2 I'll back up a little bit. In our conceptual
3 model, we believe that cleanup should be a State-guided
4 activity, like the storage tank program. So the State
5 would use -- the DEQ would use State monies to go out and
6 do cleanup. But for capping and transfer stations,
7 because we felt like communities need to have some skin
8 in the game, we suggested a reimbursement program much
9 like the groundwater grants program. And we suggested
10 Water and Waste Advisory Board involvement in developing
11 a criteria for capping and transfer stations and approval
12 of reimbursement.

13 Now, where that goes, a lot has to happen. But
14 I just wanted to bring it to your attention that we may
15 be loading your plate. And that was it.

16 VICE CHAIR BEDESSEM: So the one question
17 that I have, then, is I think the groundwater
18 reimbursement program is running pretty efficiently at
19 this point as far as -- so I can see us going through
20 guidance for developing those other programs. But as far
21 as the remediation program, does that then mean that if
22 it's a State-based, which I'm assuming -- I'm assuming
23 you would need additional staff to be able to administer
24 that State program, whether you need to do rule-making
25 like the underground storage tank program had to do

1 rule-making.

2 MR. ANDERSON: Madam Chair, we're not
3 sure. We assume that if we're going to oversee a cleanup
4 program, much like the storage tank program, we would
5 need additional resources. And I believe there would
6 probably be a need for some rule-making. I guess it just
7 depends on what the legislation would look like and how
8 detailed that legislation might look.

9 VICE CHAIR BEDESSEM: So you say
10 legislation, meaning that for that -- they've set aside
11 this money, but to move forward, you're seeing additional
12 statutory changes?

13 MR. ANDERSON: Well, the plan that the
14 legislature directed us to develop, that plan will get --
15 and it's not DEQ's plan. I think it's going to be sort
16 of this combined thing. But whatever comes out of that,
17 the up-front work will result in legislation. And the
18 legislation will say here's the pot of money. This
19 particular legislation will say this is how that pot of
20 money is going to be used.

21 VICE CHAIR BEDESSEM: And is this being
22 worked on by, then, you and the subcommittee for mines
23 and minerals? When you say this is going to be
24 developed --

25 MR. ANDERSON: There's a -- Madam Chair,

1 and Glenn, you would have to help me with the dates on
2 this. But there's a minerals -- a CAG meeting that's
3 scheduled for the 17th of July.

4 MR. SUGANO: July 19th will be our
5 citizens committee. July 25th would be the subcommittee.

6 MR. ANDERSON: So the subcommittee has
7 asked not only DEQ, but the CAG and WSWRA, to talk to
8 them, give them information about what we think the
9 program should look like. My sense is -- and, Glenn,
10 maybe you can help with this. But my sense was that the
11 subcommittee would hear from those individual parties.
12 And it sounded like the subcommittee would go away, and
13 then they would make the decisions about what they think
14 the legislation is. So I got the impression that we
15 aren't going to be directly involved with the
16 subcommittee in developing the legislation. They'll take
17 input and then --

18 MR. SUGANO: Yes. Madam Chairman, I think
19 the minerals committee asked that the DEQ and the
20 Citizens Advisory Committee get together and just kind of
21 brainstorm about where this program would end up. But
22 the problem I saw, Carl, at that meeting last week was I
23 think there are a couple of legislators that just don't
24 want to dilute the reclamation program. And they're
25 afraid if we do too many transfer stations and too many

1 recycling centers, that the program is not going to be
2 the same that was funded.

3 So I think that's an obstacle we're going to
4 have to overcome at the subcommittee meeting, is just
5 convince them that transferring waste is actually a form
6 of reclamation because it's lessening the chance for
7 polluting groundwater. And we're really going to have to
8 drive that point home.

9 VICE CHAIR BEDESSEM: So thank you for the
10 update.

11 Any remaining questions from the board?

12 MR. APPLGATE: I move we adjourn.

13 VICE CHAIR BEDESSEM: He's packed up and
14 ready to go.

15 MR. SUGANO: I second.

16 VICE CHAIR BEDESSEM: The Water and Waste
17 Advisory Board meeting is hereby adjourned. Thank you
18 everyone for coming today.

19 (Hearing proceedings concluded

20 2:26 p.m., June 22, 2012.)

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C E R T I F I C A T E

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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 11th day of July, 2012.

RANDY A. HATLESTAD
Registered Merit Reporter

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BEFORE THE WATER AND WASTE ADVISORY BOARD

3

WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY

4

5

IN THE MATTER OF A HEARING)

CONCERNING PROPOSED CHANGES TO)

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CHAPTERS 1, 2 AND 7 OF THE)

SOLID WASTE RULES AND REGULATIONS)

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TRANSCRIPT OF HEARING PROCEEDINGS

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Transcript of Hearing Proceedings on the above

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matter held on the 21st day of September, 2012, at the

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hour of 9:10 a.m. at the Oil and Gas Conservation

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Commission building, 2211 King Boulevard, Casper,

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Wyoming, Chairman William S. Welles presiding with board

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members Marjorie Bedessem and David Applegate in

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attendance. Participating by teleconference were board

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members Lorie Cahn and Glenn Sugano and Carl Anderson,

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Solid and Hazardous Waste Division Administrator. Also

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present were Mike Jennings, Natural Resources Program

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Principal, and Bob Doctor, Program Manager, Solid Waste

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Permitting and Corrective Action.

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

2 MR. WELLES: We'll go ahead and begin
3 the Water and Waste Advisory Board meeting here in
4 Casper at the Oil and Gas Commission.

5 Mike, do you want to start us off with the
6 monitoring reimbursement program?

7 MR. JENNINGS: Thank you, Mr. Chairman.

8 If you have got your agendas in front of you,
9 it should be dated December 21st, 2012. We have two
10 facilities.

11 MR. WELLES: Mike, I forgot. We should
12 introduce ourselves. Bill Welles from Buffalo
13 representing agriculture.

14 MR. APPELEGATE: Dave Applegate from
15 Casper representing industry.

16 MS. BEDESSEM: Marge Bedessem from
17 Laramie representing the general public.

18 MR. WELLES: Lorie, go ahead.

19 MS. CAHN: Lorie Cahn from Jackson
20 representing the public at large.

21 MR. SUGANO: Glenn Sugano, Rock Springs,
22 representing local government.

23 MR. WELLES: Okay. Thank you all and
24 welcome again to our meeting.

25 Go ahead, Mike.

1 MR. JENNINGS: Thank you, Mr. Chairman.

2 Again, to reiterate, the agenda that I'm using
3 for this one is dated September 21st, 2012. Basically
4 have reimbursements for two facilities, Step 1 and Step
5 2 for both. We have the old Rock Springs landfill which
6 we had to table last time because we didn't have a
7 majority due to recusals and absences. And then we have
8 an additional one for the Thermopolis landfill for
9 additional work, Steps 1B and 2B.

10 As per what we have done previously, if you
11 would like to just lump them all together as one unit,
12 we can do that.

13 Does anybody have any questions over my
14 comments on either of the reimbursements for these two
15 facilities?

16 MS. CAHN: I would like to take the old
17 Rock Springs landfill separately and the -- yeah, A and
18 C on the agenda separately.

19 MR. JENNINGS: Mr. Chairman, if that's
20 okay, would you like for me to proceed with the
21 Thermopolis landfill, then, first?

22 MR. WELLES: That's fine.

23 MR. JENNINGS: Okay. We'll do that.

24 At any rate, does anybody have any questions
25 over the reimbursement recommendations for Thermopolis,

1 Steps 1B and 2B?

2 (No response.)

3 MR. WELLES: No questions.

4 MR. JENNINGS: Okay. Would anyone like
5 to present a motion?

6 MS. BEDESSEM: I would like to motion
7 that we approve the recommendation, DEQ recommendation
8 for 1,397.81 for Thermopolis B and 42,567 for
9 Thermopolis B.

10 MR. APPLGATE: I'll second the motion.

11 MR. WELLES: We have a motion and a
12 second. Do we have any other comments?

13 (No response.)

14 MR. WELLES: All those in favor of
15 approving the Thermopolis landfill 1B and 2B please say
16 aye.

17 MR. APPLGATE: Aye.

18 MS. BEDESSEM: Aye.

19 MR. WELLES: Speak up.

20 MR. SUGANO: Aye.

21 MS. CAHN: Aye.

22 MR. WELLES: Opposed?

23 (No response.)

24 MR. WELLES: Hearing none, that passes
25 for Thermopolis landfill 1B and 2B.

1 MR. JENNINGS: Thank you, Mr. Chairman.

2 The second one on the agenda is for the old
3 Rock Springs landfill, which was brought up at our
4 previous meeting. We have a reimbursement
5 recommendation for Step 1, which is work plan
6 development, and Step 2, field work. Does anybody have
7 any questions on my reimbursement recommendation for old
8 Rock Springs?

9 MR. WELLES: Lorie, did you have
10 questions about this?

11 MS. CAHN: No.

12 MR. WELLES: You just wanted to do it
13 separately. Okay.

14 MS. CAHN: I just wanted to separate it
15 out because Trihydro was the consultant.

16 MS. BEDESSEM: And also Glenn Sugano I
17 think also has to recuse on this one.

18 MR. JENNINGS: Right.

19 MR. WELLES: Okay. We'll proceed.
20 Could we have a motion then?

21 MR. APPLGATE: I'll make a motion that
22 we approve Work Step 1 for the old Rock Springs landfill
23 in the amount of 2770.70 and that we also approve Work
24 Step 2 for the old Rock Springs landfill in the amount
25 of \$56,783.02.

1 MR. WELLES: All those in favor, please
2 say aye.

3 MR. APPELGATE: I need a second.

4 MR. WELLES: I'm sorry. We need a
5 second.

6 MS. CAHN: I'll second.

7 MR. WELLES: Okay. Lorie seconds.
8 Thank you.

9 All of those in favor, please say aye.

10 MR. APPELGATE: Aye.

11 MR. WELLES: Aye.

12 MS. CAHN: Aye.

13 MR. WELLES: And it's understood that
14 Marge and Glenn have to recuse themselves. Is that
15 correct?

16 MS. BEDESSEM: Correct.

17 MR. JENNINGS: Very good.

18 MR. WELLES: Okay. So that's approved
19 for the old Rock Springs landfill, Work Step 1 and 2.

20 MS. BEDESSEM: Mike, I just have one
21 general comment. Speak louder. And we have been doing
22 these a long time. You have been doing a great job at
23 it.

24 There is one thing about language that's
25 probably bothered me for about a year or so or maybe

1 more, and just decided to mention it because it was --
2 you know, I probably have consultant sensibility, but it
3 has to do with the fact that, you know, different
4 consultants bill different ways with respect to vehicles
5 and mileage and so on and so forth. And so when we
6 reduce a lot of these because we have a guidance that
7 says this is the way we reimburse, that's all
8 appropriate, but then the comments from the agency are,
9 reduced due to excessive vehicle mileage rate when it's
10 really not necessarily excessive. It just means
11 different than what's in the guidance.

12 And so my preference would be your comments
13 would be considerate of that and be along the lines of
14 reduced due to mileage -- vehicle mileage rate above
15 guidelines. Okay? Then you're not making a judgment,
16 because, as I said, consultants charge all sorts of
17 different ways. We're not necessarily excessive, but we
18 have a standard that we're using for this program, which
19 is all fine and good. And so I think we need to make
20 those comments in relation to that standard.

21 So, that's my request.

22 MR. JENNINGS: Mr. Chairman.

23 Marge, your point is well taken, and I put it
24 that way because it was accurate. I certainly didn't
25 mean anything --

1 MS. BEDESSEM: Right.

2 MR. JENNINGS: -- other than that. But
3 I understand your concerns --

4 MS. BEDESSEM: Just a kinder --

5 MR. JENNINGS: -- about that.

6 MS. BEDESSEM: A kinder, gentler way.

7 MR. JENNINGS: I can certainly soften it
8 up. That's not a problem with that.

9 MS. BEDESSEM: Thank you.

10 MR. JENNINGS: I've always pointed out
11 to our clients that consultants can charge what they
12 charge --

13 MS. BEDESSEM: Right.

14 MR. JENNINGS: -- restricted by our
15 guidelines as far as what we can reimburse
16 on. But point well taken. I'll see if we can't soften
17 that up for the future.

18 MS. BEDESSEM: Okay. All right. Thank
19 you.

20 MR. JENNINGS: Mr. Chairman, I'm
21 finished with the reimbursement part of our agenda
22 today. And I would like to mention, again, you should
23 have copies of the reimbursement spreadsheets, the cost
24 spreadsheets on that, and I'll just need signatures and
25 amounts on those before the conclusion today, which

1 would be great.

2 If you want to have a brief break so Bob can
3 get ready for this presentation, that will be fine, or
4 we can just walk right into it, whichever you would
5 prefer.

6 MR. WELLES: Bob, if you're ready.

7 MR. DOCTOR: I'm ready.

8 MR. WELLES: Thank you very much, Mike.

9 MR. JENNINGS: You're welcome.

10 MR. DOCTOR: Nice try. If I've got to
11 sit here, you've got to sit here.

12 Lorie, I'll try to use this mike so you can
13 hear. I know that was a problem last time.

14 If it's all right, Mr. Chairman, I think I
15 should explain to you. It sounds like what I have done
16 is a little bit different from what you're used to
17 seeing. I'd like to explain what I did and why I did it
18 this way, if that would be all right.

19 MR. WELLES: Please.

20 MR. DOCTOR: What I did was took all the
21 comments that we received in writing and some in email.
22 I scanned those all in and blocked and copied them
23 verbatim into this response memo, and then I numbered
24 them all and prepared a response for each one. Some
25 were related, so I tried to cross-reference back and

1 forth the comments so that the related comments, you
2 could see where that was.

3 I also then went through the transcripts from
4 the previous board meeting and summarized the
5 discussions we had there. Some of them rambled a bit.
6 I hope I captured the intent of what the board wanted to
7 do there.

8 I first started to do this by making changes
9 to the rule, but in a lot of cases I was changing what I
10 already changed and I couldn't figure a good way to do
11 redline over the top of redline.

12 So what I did, an example of that is probably
13 right here on page 2 of this memo. I blocked and copied
14 what you saw in the previous proposed rule change into
15 here. It's all black. And then changes I made to what
16 you saw previously are in redline and strikeout.

17 So, what you're seeing here is changes made in
18 response to comments. When you see redline here, for
19 example, the exemption language on construction/
20 demolition and traditional recycling facilities for low-
21 volume environmental hazard, I broke those out into two
22 separate categories.

23 So, in the first example, I excepted
24 construction/demolition waste landfills from this
25 initial recycling facility definition and then put an

1 entirely separate section in the rules. So what you see
2 there is different in the changes made to what you saw
3 and commented on previously. I hope -- I guess we'll
4 try this -- that this prevents us having to go through
5 this thick stack of rules page by page by page, although
6 there may be some instances where we do have to go back
7 and look at this.

8 So that's what I did and kind of why I did
9 it. I think that's the basic logistics. My intention,
10 then, is, if you comment on these things and you want me
11 to change words here and there, I can make those notes
12 now, change them in my text and then copy that right
13 into the rule and replace what I had in there previously
14 with whatever revisions we come up with today.
15 Otherwise, I was going to be in changing rules four or
16 five times and it was getting really messy, because what
17 I have to present to the Environmental Quality Council
18 is the difference between what I had to start with and
19 what I'm actually moving forward with.

20 And Carl, you may correct me if I'm wrong. We
21 believe that probably the Environmental Quality Council
22 will also see this response to comments. It will be
23 part of that process as well. So when we go to them, my
24 understanding, they'll get, here is where we started,
25 here is where we are now and here is all the in-between

1 stuff. So knock wood this will work.

2 MR. WELLES: Do we have any questions?

3 MS. BEDESSEM: Well, I have a suggestion
4 for the future. It's great -- I mean, this response to
5 comments is great as far as what's being proposed, and I
6 do realize that in this particular situation you're kind
7 of under the gun trying to get these done and off
8 because there's going to be a change of board members
9 and so we want to get this done, you know, prior to
10 October 1st. So I understand that's, you know, some of
11 the reasons for this format.

12 MS. CAHN: Marge, can you please talk
13 into the microphone more? It's so hard to hear you. I
14 can hear Bill really well and Dave and Marge I cannot
15 hear. Thank you.

16 MS. BEDESSEM: What I was saying, Lorie,
17 was that this format is probably particularly
18 appropriate for this situation where we're kind of under
19 the gun trying to get this done in a short amount of
20 time to move forward. And I like, you know, the changes
21 in the response to comments, but I think, you know,
22 you're going to start on a whole bunch of, you know,
23 rulemaking and that this is not what we, you know,
24 typically do. I mean, we typically have a response to
25 comments, yes, that addresses this, but rather than --

1 you said you had a little quandary with how to change
2 changes.

3 What you would do, what my suggestion is, so,
4 for example, we got, you know, a redline and strikeout
5 and you're going to change what you previously did, was
6 to just give us a replacement page with revision date on
7 top just like you do for permits. Okay? And it will be
8 your new redline/strikeout. You don't have to correct
9 the, you know, previous redline/strikeout. Just take
10 that page and do the current one. Okay?

11 Doesn't matter what was in the media. Okay.
12 You can describe what was in the media in response to
13 comments, but just give us a replacement page so that we
14 actually have a redline/strikeout document that we can
15 say we approve and move forward. That's what's typical
16 with the Administrative Procedures Act.

17 So that's just a suggestion that doesn't put
18 you in that position of have to try to fix, you know --
19 like to track comments and, you know, on a document,
20 just -- you know, because, really, with all this that
21 you have done, maybe you only have, you know, ten pages
22 that actually had to have changes on them in the rules,
23 and just give us new ones. Okay?

24 MR. DOCTOR: Thank you.

25 MS. BEDESSEM: For the next time I'd

1 like --

2 MR. DOCTOR: I appreciate that.
3 Thanks. This was kind of my first crack at this as
4 well, and I was trying to think of the best way so that
5 you guys understood what I did and didn't want to have
6 anything buried that was very difficult for me to
7 explain and I didn't want to hide any changes somewhere
8 in page 43.

9 MS. BEDESSEM: No. This is good. I'm
10 just saying in addition so that -- so we actually have a
11 document that moves forward instead of moving forward
12 stuff that's, you know, responsive comments.

13 MR. DOCTOR: Thank you. Mr. Chairman.
14 And I'll keep that in mind for next time out of the
15 gate, because we'll be back.

16 MR. WELLES: Dave, go ahead.

17 MR. APPLGATE: I have a response to
18 that as well.

19 Can you hear me, Lorie? I'm talking right
20 into the mike.

21 MS. BEDESSEM: She said yes.

22 MR. APPLGATE: Yeah. I agree, and I
23 guess the section I would -- Carl is on the phone,
24 right? Is Carl with us today?

25 MR. WELLES: I believe Carl is in

1 Cheyenne.

2 MS. BEDESSEM: Carl is in Cheyenne.

3 MR. APPLGATE: I guess I would suggest
4 that it seems like we get someone new in the department
5 who is doing the rules and they're like, I am doing this
6 for the first time. I understand that. But the
7 department is not doing the rules for the first time.

8 So I guess my suggestion to Carl is to work
9 with John and come up with a simple one-page set of
10 directions for people that are doing rulemaking, because
11 this isn't the first time that we had this discussion
12 where someone has said, "All right. This is a little
13 different than what we've seen before." It seems to me
14 we should be able to get this figured out.

15 I have been on the board for four years.
16 Every time we get rulemaking, it seems like we get stuff
17 a little bit differently, and I find it a little bit
18 frustrating.

19 MR. DOCTOR: Thank you.

20 MR. APPLGATE: So I guess my suggestion
21 is, let's come up with a way of doing it, communicate,
22 because we had the same issue with like notices. You
23 know what I mean? We did notices and it's like, that's
24 not how we did it and we haven't done it before. Well,
25 we've done lots of notices. It's just that the people

1 who are doing it for that particular rulemaking hadn't
2 done it before. So that's an issue on public comments.

3 So my suggestion is we put together some
4 directions that can be followed so all of this stuff
5 comes before us in a format that's the same and
6 consistent.

7 MR. DOCTOR: Mr. Chairman.

8 I've got to say thanks, because that would
9 help me out, too. We do have a very extensive
10 spreadsheet that seems to be adjusted a lot for the
11 formal rule change process because it is such a
12 nightmare, but to my knowledge, we don't have any
13 guidance memo that we work together with you guys on to
14 help us through the advisory board rulemaking process.
15 I mean, there is some general requirements in the public
16 procedures act and things like that, but your
17 preferences for how you want to see things are nowhere
18 that I know of.

19 So I thank you for your comments, and I think
20 maybe that will be something for one of our future
21 boards to help us on is to come up with a flow chart or
22 a rulemaking document so we're all on the same page with
23 you and I think share that with our folks in Water
24 Quality who also are coming to you guys.

25 MR. APPLGATE: I don't want to

1 volunteer anyone, but I know the person on our board who
2 would be most capable in this area is in Jackson. And,
3 Lorie, I'm not, again, volunteering you, but maybe it's
4 something you could think about, because you have the
5 most experience on the board. I know you helped us
6 previously on an issue regarding notices.

7 Anyway, just something to think about.

8 MR. ANDERSON: Mr. Chairman.

9 This is Carl. The points from Mr. Applegate
10 and from Ms. Bedessem are well taken. We do have an
11 internal working group that includes all of the DEQ
12 divisions that sort of work on, you know, rulemaking
13 procedures, ensure that whoever is doing rulemaking
14 conforms with, you know, whatever the requirements are
15 under the APA.

16 I'm not exactly certain, you know, how far
17 that group looks at what goes on with forms, because,
18 you know, individual divisions have different boards
19 that they go to.

20 So, you know, we could check and see how that
21 internal working group addresses, you know, the
22 division's interactions with boards and whether or not
23 they're addressing that, if they want to address that or
24 whether they would leave it up to the individual
25 divisions to work with their boards on coming up with

1 some standard protocols.

2 MS. CAHN: I have a suggestion for Bob.
3 I would suggest that when you do this memorandum, that
4 for each comment that you say exactly where the comment
5 came from and whether it came from the redline/
6 strikeout pages or the un-redline/strikeout, you know,
7 the clean copy of the proposed rule, because I had a
8 hard time sometimes going through the response to
9 comments to know where it was that you were -- where the
10 comments -- what the comments pertain to.

11 MR. DOCTOR: Mr. Chairman.

12 I see what you're saying. Took me a second.
13 But most of the comments referred to the redline version
14 of the rule. In fact, I think all of them did rather
15 than the clean copy. But, yeah, it would have been a
16 good idea to point that out, because you have got a
17 couple different versions in front of you. I'll bet
18 that was fun. Sorry.

19 Thank you, Lorie.

20 MR. WELLES: Glenn, do you have any
21 comments? Glenn, are you still with us?

22 MR. SUGANO: No comments, Bill.

23 MR. WELLES: Okay. Thank you. Just
24 checking on you.

25 Bob, do you want to continue then?

1 MR. DOCTOR: I'm ready to go. Mr.
2 Chairman, if you want to just go through this response
3 and let me know what you think and what you want me to
4 fix or change. Is that -- however you guys want to move
5 forward, or if you just want to say, we're done, let's
6 go have lunch. I wasn't expecting that.

7 MR. WELLES: So do you want us to just
8 go through --

9 MR. DOCTOR: If you would like to do it
10 that way, that would be great. And then I can go
11 through page by page and answer questions and make any
12 changes you guys think we need to be making here.

13 MR. WELLES: Okay. Let's do it that
14 way.

15 Before we start, though, one housekeeping
16 point of business that I failed to do. We have two
17 members of the public here in Casper. Do we have any
18 other members of the public around the state?

19 This is an open meeting to the public and
20 we're glad that you have come. If you have any
21 questions or any comments at any time, please come
22 forward.

23 (No response.)

24 MR. WELLES: I guess we don't have
25 anybody else around the state. So, Bob, why don't you

1 continue.

2 MR. DOCTOR: Thank you.

3 The first group of comments were the ones
4 received from the Wyoming Solid Waste Recycling
5 Association and the City of Casper jointly. I just went
6 through all of those and responded to each of them.
7 Some of them were similar to the comments that were
8 presented to us verbally at your last meeting. And so
9 there are some repeated later on in the summary of the
10 transcripts from that meeting.

11 I don't know if I need to go through one by
12 one or if you would all like to go through here and let
13 me know if there is a question about any of these in
14 particular. Whatever works for you.

15 MR. WELLES: I think it would probably
16 be better if there were specific comments from board
17 members as we go through page by page. Does that meet
18 with everyone? Is that going to work?

19 MR. DOCTOR: We'll just flip through
20 here. And I'm not hearing anything on page 1.

21 MS. BEDESSEM: Well, I have a question.
22 So, in response to the first comment, you said that you
23 agree that some guidance regarding clarifying the
24 definition of aquifer might be appropriate.

25 I'm used to seeing guidance documents from

1 your office that are, you know, like guidance number 1
2 on a major topic and it's, you know, like a five-page or
3 two-page guidance. Is this just to clarify -- I mean,
4 is this like a one-page thing defining -- you know,
5 clarifying the definition of aquifer or are you
6 envisioning a guidance that, you know, that is sort of
7 like frequently asked questions about -- you know, about
8 a number of your definitions that people often ask
9 about? Or what did you have in mind I guess is what I'm
10 asking.

11 MR. DOCTOR: Mr. Chairman.

12 I think -- and Carl referred to this at our
13 last meeting -- that we have a group from various
14 divisions in DEQ that are working on a similar effort,
15 which is the definition of groundwater, which, as you
16 know, is different for a municipal landfill than it is
17 for anything else and the same thing with this aquifer
18 definition.

19 So, what we have been thinking we need to do
20 is get together with other parts of DEQ and even other
21 agencies in the state who work on things like this, like
22 the State Engineer's Office who is working on how to --
23 on aquifers and what kind of wells, and then put that in
24 the form of a solid waste guideline. But this has a
25 potential to affect a broad spectrum of what we do in

1 the Department of Environmental Quality and maybe some
2 agencies outside the DEQ.

3 So we think the best way to go about that is
4 to work together with them like we are in groundwater
5 and come up with a guidance document that we can then
6 work out as a group.

7 So, Carl, correct me if I'm wrong. But we
8 envision this and the same thing on the groundwater
9 being a guidance document like our other guidelines in
10 solid waste.

11 MS. BEDESSEM: If that guidance would
12 explain how it might differ than, you know, a similar
13 titled definition of other agencies, I'm sure that would
14 be very helpful for people. So thank you for
15 elaborating.

16 MR. DOCTOR: Thank you. And that is a
17 concern because some -- I mean, we have provisions in
18 the act for somewhat differing things in differing
19 programs based on the type of waste we're managing and
20 the situation. So we need to make sure we point that
21 out. Sometimes some of the rules in DEQ that apply in
22 one program are expected to apply somewhere else, and
23 they often don't fit.

24 MS. BEDESSEM: Thank you.

25 MR. DOCTOR: Shall we go to page 2?

1 Thank you.

2 MS. CAHN: Bob -- go ahead, Carl.

3 MR. ANDERSON: Thank you, Lorie.

4 Mr. Chairman. I just also would point out to
5 add on to Bob's comment that our definition for aquifer
6 includes a yield component, and being able to determine
7 yield from a monitoring well may be different than
8 determining yield from the entire aquifer. So, I think
9 clearly we're going to need some guidance to provide
10 some information to landfill operators with respect to
11 how do you go about, you know, making a determination
12 about what the yield is for a specific aquifer.

13 MS. BEDESSEM: Thank you.

14 MS. CAHN: I have a few questions. One
15 question is, in the memorandum, you often talk about
16 keeping comments in mind for the next rule change. And
17 I'm just curious what you envision that rule change, the
18 next one to be.

19 MR. DOCTOR: Thank you. Mr. Chairman.

20 We know that -- well, we have some pending
21 legislation that I can kind of give you some information
22 about when we're done. I would think that we
23 probably -- well, first we want to finish this rule
24 change, and when this one is done, I hope before the
25 legislative session finishes up, that we will probably

1 want to see what comes out of this legislation. There
2 is a potential that some of this legislation is going to
3 require changes on to our rules, and it would be nice if
4 we could do it all in one fell swoop.

5 So I would think we'll probably be starting,
6 Lorie, hopefully sometime after the legislative session
7 ends and we see what we may have to be doing as a result
8 of that. And also, being a novice to the formal
9 rulemaking process, which looks awful frightening to me,
10 I'm not sure how long that will take. It might go very
11 smooth thanks to all your work here. It may take
12 longer.

13 And Carl, I don't know if you have a
14 prediction maybe.

15 MR. ANDERSON: On the time frame for the
16 formal rulemaking?

17 MR. DOCTOR: Yeah.

18 MR. ANDERSON: It's hard to predict. It
19 will be dependent on, you know, the kind of comments
20 that we get on the rule and just the council's
21 perspective on the proposed changes. So it's a little
22 bit hard to predict how long it will take before the
23 council.

24 MR. DOCTOR: Mr. Chairman.

25 Along those lines also, I believe now that we

1 have had this meeting, what I would like to do with your
2 concurrence, I guess, is I would like to personally
3 contact everyone that commented and let -- and basically
4 and probably provide them, of course, a copy of this and
5 let them know that we appreciate the comments and
6 that -- and I do fully intend to keep those things in
7 mind as we start our next rule change. And some of
8 those people may wish they hadn't commented, because we
9 may be asking them to help us with the rule change
10 process in more of a collaborative way, because there is
11 some very good suggestions that I would like to hear
12 more about, and some of the people that have made those
13 suggestions are sitting in this room.

14 MR. WELLES: Well, and that's why we
15 have -- that's why this is a public meeting and that's
16 why we're asking the public to comment.

17 MR. DOCTOR: Yes, sir. And I want to
18 make it clear that when I said we will consider these
19 comments, I fully intend to do so.

20 Thank you.

21 MR. WELLES: Okay.

22 MS. CAHN: My second question was, what
23 are you expecting to get out -- or what are you hoping
24 to get out of the board today?

25 MR. DOCTOR: Mr. Chairman.

1 If I may be so bold, that I hope as you go
2 through here and with some suggestions or however the
3 recommendations for other things, recommend that we move
4 forward with the formal rule change. Plus, I'm hoping,
5 you know, if you have other opinions on some of these
6 things, I appreciate that.

7 MS. CAHN: And so if you could specify
8 what you mean by going forward with the formal rule
9 change. So then you would type up new rules based on
10 proposed rules based on the input you get today and then
11 those would go to the EQC and be out for public comments
12 again? Or what's the next step? That's what I'm trying
13 to understand.

14 MR. DOCTOR: Mr. Chairman. That's the
15 next step is I will incorporate the recommendations into
16 a formal rule change, and then this will start all over
17 again.

18 MS. CAHN: But start all over again,
19 come before water -- our board or just go to EQC?

20 MR. DOCTOR: Just to the EQC, if you
21 guys recommend that we do that.

22 MR. WELLES: So, Lorie, it's my
23 understanding, and that was a good question because I
24 was going to ask it, too, but we will vote today as a
25 board as to whether we want to see this move forward in

1 its present state or with specific changes that we
2 suggest. Is that correct?

3 MR. DOCTOR: Yes, sir.

4 MR. APPELATE: And again, I guess I
5 just -- it's not that I'm unwilling to do that, but my
6 concern is we're going to be doing that without looking
7 at the rule, because we have a different format today
8 and we don't have the rules in front of us. What we
9 have is a response to comments.

10 So, coming back to the earlier comment that
11 because we're doing this via a different process than we
12 normally have, we would be approving a set of rules that
13 we never really see.

14 MR. DOCTOR: It's entirely up to doing
15 what you guys -- how you want to move forward. I can go
16 back and put all these changes in the rule and we can do
17 this again. But the concern, as Marge mentioned, was so
18 many of you are going off the board and the time that I
19 have had taken away from doing this because of
20 legislation and other matters, there just wasn't time to
21 get that all together in time for this meeting. So I
22 was hoping this my might work. But if not, that's
23 fine. We can go back and I can give you these changes
24 in the actual rules where you can see. That wouldn't be
25 a problem. It will just take a little longer. I wasn't

1 sure how long it would take to get us new board members
2 involved.

3 MR. APPLGATE: Again, I'm not
4 proposing. I'm just expressing my frustration with the
5 format as it is. So I am just putting that on the
6 record.

7 I would be okay with approving it today given
8 the constraints you have mentioned, but ultimately I
9 don't think that's the type of due diligence that's
10 expected from this board. I think we're supposed to
11 look at the rule as it's composed in the format it is
12 going to go forward to DEQ.

13 MR. WELLES: And I would concur. I
14 think technically that's what's expected of this board.
15 And Lorie and Glenn, with your vast experience, I would
16 like your comment on that also.

17 MS. CAHN: Well, I would say this is a
18 pretty unusual thing we have been asked to do, and I
19 guess I'll reserve comments on whether I'm comfortable
20 moving forward till after the board's discussion
21 concludes and before we vote.

22 So, I'm withholding judgment at this point.
23 But this is kind of an unusual process not -- as Dave
24 said, not having the language in, you know, a whole page
25 change or something where we can see it more easily in

1 front of us.

2 So, I think we need to wait and see what the
3 tenor of the discussion is, and then we'll talk about it
4 as a board after that discussion is over with.

5 MR. SUGANO: Mr. Chairman. This is
6 Glenn.

7 I think we owe the DEQ a little leeway on this
8 because of the short time frame that's in front of us
9 right now. So, I know it's a little unusual and not
10 following some of our past practices, but I'm willing
11 to -- I'm willing to go through these comments, and
12 unless there is something real glaring, I don't think
13 I'll have any real major changes to make. But I would
14 ask Bob Doctor to just kind of put it in a better format
15 for the next round of hearings that he sets up for us.

16 MR. DOCTOR: Thank you.

17 MR. WELLES: Okay. Thank you for your
18 comments. And we'll take that under advisement.

19 Bob, why don't you continue and --

20 MR. DOCTOR: I will.

21 MR. WELLES: -- we'll work our way
22 through this.

23 MR. DOCTOR: Page 2 I think we talked
24 about a little bit. This is a direct response to the
25 previous proposal that had lumped construction/

1 demolition recycling facilities in with recycling
2 facilities for more common commodities and things. So
3 what I did was break this into two separate categories
4 so we have a category for things we have always had in
5 our recycling facilities and then a separate category
6 broken out for construction/demolition waste recycling
7 facilities.

8 We have at least one in particular. We have a
9 facility coming in now that is getting a full Chapter 6
10 permit specifically to recycle construction/demolition
11 debris. And this was in response to comments primarily
12 from WSWRA and the City of Casper.

13 I should mention to our transcriptionist WSWRA
14 is W-S-W-R-A. It's the Wyoming Solid Waste and
15 Recycling Association.

16 And so, there two places where this comes into
17 play. One is in our exemptions and one is in the low
18 volume/low hazard specification. And the primary change
19 here is that for a low volume/low hazard facility, one
20 of the main thrusts of the comment was, those things
21 probably shouldn't be laying out on the ground somewhere
22 because a low volume/low hazard permit does not require
23 the storm water management controls that a full permit
24 would.

25 So the proposal in this rule change would be,

1 if you're a low volume/low hazard facility storing waste
2 outside, that waste needs to be in a container in order
3 to address that issue of surface water and storm water
4 management.

5 Do you have anything else or any comments or
6 suggestions on those two?

7 MS. BEDESSEM: Bob, you might have to
8 help me on this one, because I found this confusing
9 because I kept thinking of other scenarios wondering
10 whether this applied to them or not or whether we're all
11 of a sudden regulating things that we don't -- hadn't
12 regulated before. Like, I mean, what goes on with, you
13 know, like WYDOT, you know, taking construction
14 materials and stockpiling it, you know, so when they
15 crush to be used in a construction project? How does --
16 where does that fit in here?

17 MR. DOCTOR: Mr. Chairman.

18 When WYDOT is working on a road construction,
19 we have never been involved in that process with them
20 using that -- grinding that material, reusing it as part
21 of their thing. This goes to a fixed permitted facility
22 that brings in construction/demolition waste and manages
23 that at a fixed facility, crushing concrete, pulling out
24 shingles, taking out drywall, separating metal --

25 MS. BEDESSEM: So this is for a

1 commercial facility.

2 MR. DOCTOR: -- that type of -- this is
3 a commercial facility that does that work.

4 MS. BEDESSEM: Okay. So it's only for
5 commercial facilities.

6 MR. DOCTOR: Only for commercial, yeah.

7 MS. BEDESSEM: So when the university
8 does that sort of thing, none of that will end up in --

9 MR. DOCTOR: We've never been a part of
10 that. We have not gone --

11 MS. BEDESSEM: I mean, I know you never
12 have been. I just wanted to make sure that somehow the
13 new language wasn't going to somehow have to when they
14 have never been looked at before. I just wanted to make
15 sure that they weren't going to accidentally captured in
16 this phrasing.

17 MR. DOCTOR: The next change, I guess,
18 then, if we're moving on would be on page 3, on to page
19 4. We have a lot of issues with the word nonputrescible
20 in that many of the things that we would consider green
21 waste are putrescible. So, based on the comments, you
22 can see the changes made there. With the provision that
23 gives us a little leeway in case somebody proposes
24 something unusual, we can go ahead and allow that. And
25 related to this, later on we talked about being able to

1 compost manure with green waste, which is a very common
2 practice.

3 So what we've done is make it clear later in
4 the composting part that green waste and manure may be
5 composted at the low volume and exempt facilities to
6 address that issue directly in the compost part rather
7 than try and monkey around with the definition of green
8 waste, which is pretty excessive.

9 I went on line and looked at a bunch of
10 different states and EPA, at their definitions of green
11 waste and tried to tailor this one to match what's
12 common practice.

13 So unless there is any comments or change
14 there. And the changes -- and of course, the green
15 waste is a new definition completely to the rules. So
16 the things in red here, again, are changes to what you
17 previously saw.

18 The other things here, maybe direct comments,
19 there were some comments about lead acid batteries in
20 numerous places. I got on the phone and visited with
21 specifically Hensley Tire and Battery here in Casper --
22 they're one of our bigger automotive battery recycling
23 facilities -- and talked with him about quantities of
24 batteries and how many he handles, how he manages them,
25 that type of thing, and got a good feel for that. And

1 that's where some of this information about, he said
2 roughly 66 automotive batteries will fit on a pallet,
3 how they manage them, wrap them and prepare them for
4 shipment, that type of stuff. And he was very
5 informative. And I think some of the rest of the stuff
6 like the regulation of auto salvage yards, that I made
7 some changes in response to comment and reduced the
8 volumes of those in the proposed change. And then I
9 kind of deferred some of the more detailed discussion
10 about the regulation of auto salvage yards and whether
11 or not we should be permitting them to the next rule
12 change.

13 We may need to gather a little more
14 information from our inspectors on how well those
15 facilities are actually being operated based on the
16 results of their inspections.

17 So that's kind of a summary of several places
18 in here where there was some discussion of lead acid
19 batteries, and that's my basis for the changes we made
20 here. That was trying to summarize some fairly long
21 comments in here.

22 MR. WELLES: Bob, I have one specific
23 question on that issue. I know up in Johnson County the
24 Lake DeSmet Conservation District has a one-time,
25 one-day turn in for all household waste, E waste,

1 batteries, tires, oil, paint, all that kind of stuff.
2 Now, would this actually affect -- would they have to
3 get a permit to do that --

4 MR. DOCTOR: No.

5 MR. WELLES: -- as opposed to --

6 MR. DOCTOR: Mr. Chairman. That very
7 question is why we added to our rule provisions for
8 annual household hazardous waste collection days,
9 semiannual, because they have been going on forever
10 around the state.

11 MR. WELLES: Right.

12 MR. DOCTOR: But our rule never
13 specifically addressed does need that a permit. And in
14 the rule change take we presented to you, it would not.

15 MR. WELLES: Okay.

16 MR. DOCTOR: And then that was a
17 question that I have always had myself. We need to
18 clarify that.

19 MR. WELLES: Yeah. Because they
20 contract with I think it's called Clean Harbors and they
21 pay for it. And it allows the community, and I have
22 actually done volunteer work there for years because I
23 used to be on that board, and unbelievable the amount of
24 stuff that comes in in one day. I mean, at the end of
25 the day, you're absolutely exhausted.

1 MR. DOCTOR: Yeah. I'm sure, Mr.
2 Chairman, there are a few surprises also.

3 MR. WELLES: Oh, yeah. We have had some
4 very strange stuff show up.

5 MR. DOCTOR: We've seen jars of mercury,
6 things like that --

7 MR. WELLES: I have, too.

8 MR. DOCTOR: -- that show up. And then,
9 of course, we get little phone calls about what to do
10 with that stuff.

11 MR. WELLES: Yeah.

12 MR. DOCTOR: I'm sure that others around
13 here have had the same experience. But the rule does
14 make it clear now, which it never had before, that these
15 things are acceptable and don't need a permit.

16 MR. WELLES: Okay. Thank you.

17 MR. DOCTOR: Definitely something we
18 want to encourage.

19 I guess if we go on to page 5, there is more
20 discussion again of the volumes of waste being recycled,
21 and there is responses to that. And part of this is
22 tied to the definition of a commercial facility, which
23 is that 500-ton-per-day limit in statute. And part of
24 these requirements in the rule is done in consideration
25 of the potential for the state of Wyoming and we have

1 had discussions with a material recovery facility that
2 was interested in maybe putting in a facility in
3 Cheyenne.

4 And so, keeping that in mind and the ability
5 and the benefits to recycling in the state of Wyoming
6 for a facility like that was the basis for some of the
7 limits for a low volume/low hazard recycling facility in
8 here.

9 I don't know if there is anything else I need
10 to -- I guess the comments kind of in response speak for
11 themselves.

12 Again, on the bottom of page 5 -- I think we
13 talked about this already -- was that we need to do a
14 little more research on the auto salvage yard issue and
15 see some reinspection reports and see what they're
16 finding. You know, I think, as far as I know, our
17 inspectors inspect these facilities, and if they see oil
18 spills or batteries being improperly managed, they have
19 the ability through their inspection compliance program
20 to address those things.

21 On page 14, again, from the Solid Waste
22 Recycling Association and the City of Casper --

23 MR. WELLES: Page 6?

24 MR. DOCTOR: On page, yeah, 6, comment
25 9, there is discussion of the permit time lines and the

1 revisions to that. And that's mentioned elsewhere.

2 The City of Casper can speak well to this
3 issue because they were some of the first ones that we
4 worked with through this process. And it had been very
5 successful, we think, and we have been using this. We
6 call it the Kaizen process, but it's really -- we all
7 sit down and talk about permit applications before they
8 come in the door.

9 I don't know if there is anything in
10 particular that's responsive along the lines of those
11 things.

12 Also, the City of Casper mentioned on the
13 bottom of page 6, comment 10, that we should be clear --
14 and thank you for this -- that when we receive revisions
15 and changes, they're clearly identified. And so in
16 those instances where they recommended we add that
17 sentence, we're proposing to do that. It's something we
18 all do anyway, but sometimes that's forgotten, and we
19 appreciate that. Saves a lot of head scratching on
20 everybody's part.

21 I don't know if there is anything in
22 particular in comment 11 that we would need to address,
23 if there is any comments on that. What we are proposing
24 is to add that language in. We'll see what happens when
25 it goes to the attorney general's office, but this along

1 the lines of putting all the definitions in some
2 statute, we're going to try it and see what happens.

3 When the AG's office --

4 MS. CAHN: I have a question --

5 MR. DOCTOR: Yes, please. I'm sorry.

6 MS. CAHN: I have a question on that,
7 Bob. So, with the proposed addition of language, there
8 is nothing in red. So why was this proposed language in
9 black? I was confused reading through this.

10 MR. DOCTOR: I should have -- you're
11 right. I should have made that in red. I just said
12 this language will be added, and I didn't make it red.
13 The entire -- that entire paragraph is new and will be
14 added.

15 MR. WELLES: So where you say, response,
16 add to the end of Section 3, paragraph --

17 MR. DOCTOR: (a)(i).

18 MR. WELLES: -- (a)(i), all of that
19 should be red.

20 MR. DOCTOR: All of that in quotes
21 should be read. That's all brand-new text that will be
22 added to that location standard. I'm actually wondering
23 why I didn't make that red when I copied that in there.

24 MS. CAHN: That actually happened quite
25 a bit in these. So that's part of my confusion.

1 MR. DOCTOR: Thank you. I'm sorry.
2 What I did was I said we're going to add all this in and
3 I didn't make it redline. But in cases where I have
4 done that, the whole thing is new.

5 Comment 12, we all have a long discussion on
6 the construction ready and how we work all that stuff
7 out. My notes indicated that in those discussions, we
8 were going to change to the detailed design plan and
9 then we added three years prior, which coincides with
10 the statutory requirement that we receive permit
11 renewals three years before there is an expiration of a
12 permit. So that three-year number was out there.
13 Again, this is not construction-ready plans but detailed
14 design plans.

15 MS. BEDESSEM: So, Bob, I'd like to
16 continue to have discussion about this.

17 I'm all great with changing construction ready
18 to detailed design plans. I think that's a great and
19 appropriate change. I still think we have a problem
20 with the three year. Okay?

21 There is numerous comments, you know, in this
22 stack relating to that same issue. And, you know, there
23 is lots of good responses within this document regarding
24 that. One of them -- and it's related to some later
25 comments that you sort of cross-reference here. One of

1 them says that, you know, when you're submitting
2 detailed design plans for an engineered containment
3 system, those design plans are either going to be in a
4 lifetime permit application or a renewal. Okay. And if
5 they're -- and there is other cases. But let's say
6 there was a lifetime permit or a renewal. Then they're
7 going to have to be in that statutory -- okay -- time
8 limit that's associated with that lifetime permit or
9 renewal. Doesn't need to be called out separately for
10 these design plans. Okay.

11 When the design plans, because it's part of
12 the renewal and there is a statutory requirement --
13 okay. When they're outside of that realm and they're
14 being submitted as an amendment -- okay -- I saw in this
15 response to comments that you were going to add a
16 section -- I don't know if it was in comment 90. I
17 don't know. One of the later comments. You said you
18 were going to add to this same part in section (k) Roman
19 letter -- Roman numeral (vi) that engineered containment
20 system design plans would, you know, typically be
21 handled as a minor amendment unless, of course, there
22 was something that made it qualify as a major
23 amendment. Okay.

24 So in that case, if it's a minor amendment,
25 for example, where the time is 60 days, why would

1 anybody have to submit that three years in advance? I
2 guess what I'm asking is, why is there a time in here?
3 Why do you need a time in here?

4 I guess I feel like operators if they know --
5 they work with you to determine if their submittal is a
6 minor amendment or a major amendment, then they're
7 responsible for getting it to you in time enough to take
8 care of their disposal needs -- okay? -- and that they
9 don't have an extra three years in here that isn't
10 related to statute and is more like trying to get them
11 to plan ahead, which they should be doing without you
12 having it in the rule, I guess, because now if somebody
13 submitted it a year in advance, it was a minor
14 amendment, you'd approved it, if they go to construction
15 before three years, it sort of looks like they violated
16 the rule. Okay.

17 I don't understand why you even have to tell
18 them three years. I just don't think it's necessary. I
19 think this section where you say construction-ready
20 design plans, including but not limited to plans
21 whatever, that you can wrap that into the sentence
22 saying that those should be submitted, you know, when
23 not in the permit renew -- the lifetime permit or
24 renewal time period should be submitted as a minor
25 amendment unless they qualify as a major amendment and

1 have -- because the issues for people for timing has
2 more to do with how the process is going to work, and
3 what the operators need to know and have clarified in
4 the rule is how it's going to be reviewed, how it's
5 going to be handled. And so this is good because since
6 the last meeting we had where it wasn't really clear
7 whether it was going to be in annual reports or it was
8 going to be amendments, you defined that we're going to
9 approach it, you know, dealing with this as an
10 amendment.

11 So it's been a really good, fruitful
12 discussion, but I think you need -- you know, you've
13 made a suggested change to the language to share that
14 with operators that this is how we're going to handle
15 it, but I don't think you need to put another extra time
16 thing in there that isn't necessarily relevant, because
17 you already have a statutory limit. The others are
18 something the operator should be able to figure out
19 based on whether it's a minor or a major. That's my
20 opinion.

21 MR. DOCTOR: Mr. Chairman.

22 Yeah, I should explain that. The reality is,
23 they don't. We're getting stuff in at the last minute.
24 We're getting pressure to approve designs that aren't
25 good, and then -- and big pressure because their

1 landfill is full. They need SLIB grants and loans after
2 we've approved their plans. Some designs will go back
3 and forth for a year or two before they're technically
4 adequate and appropriate, and the DEQ is being pushed
5 into approving things that are not good because of that
6 process. And that's why we said, give us something
7 three years in advance. We're tired of this.

8 MS. BEDESSEM: Why don't you just
9 have -- you have this policy. They have a Kaizen
10 process. You have annual reports. You know -- you
11 should know when they're going to be developing these.
12 You should be talking to them and get all this worked
13 out. They shouldn't have to submit their final product
14 three years in advance. It doesn't make any sense.
15 It's like micromanaging their schedule. I don't think
16 you need to put that in the rule.

17 I think it's important, and I think you're
18 doing a great job of trying to address this same problem
19 that you see again and again with this focus and push on
20 the Kaizen process, and I think that's where you should
21 go with it and your policy to get them in the fold, to
22 get working with them to not end you up in that
23 situation. But I don't think the solution is putting in
24 a requirement that makes other people seem like they're
25 in violation, you know, that are doing it right and are,

1 you know -- why should they be penalized, have to come
2 in three years ahead of time for something that, you
3 know, they can do efficiently and accommodate in a short
4 period of time?

5 So, my suggestion is, it's not something that
6 belongs in the rules but it should be in your Kaizen
7 process. It's how you bring them into the fold. This
8 is your guidance of how they need to work these items,
9 you know, through the agency. And that's your
10 preference. That's what you want them to do. But I
11 don't think it's necessary to have that three years in
12 the rule. Okay?

13 MR. DOCTOR: Thank you. Mr. Chairman.
14 And I can appreciate that. It's just from the reality
15 of things, it doesn't work that way. We have no -- we
16 have no way to make somebody submit something to us in a
17 timely way. And it tends to -- you know, we could go
18 visit with them all we want, but there is nothing that
19 requires submittal of things in enough time to get the
20 work done. And that was -- and so I guess part of this
21 is as a regulatory tool that we can use to get designs
22 submitted in a timely way. And if it is a major design,
23 for example --

24 MS. BEDESSEM: If it's a major
25 amendment, then you need at least a year. Okay? You

1 don't need three years. I mean, I guess what I'm
2 saying, Bob, is, if somebody submits, you know, a really
3 lousy application, then you just have to deny it, you
4 know. I mean, this is not like you get pressure to
5 submit -- to approve something because they weren't
6 prepared.

7 The rules are right here, what they're
8 supposed to do, but I don't think you should be adding
9 an extra constraint in a rulemaking. That is not
10 reasonable for people that are doing the process
11 correctly. Okay? You're penalizing, you know, that
12 group for the people who are -- who are not doing things
13 correctly. And I think it needs to be managed in a
14 different way. And I also think that you have got
15 enough comments about this, I mean, multiple comments
16 that changing things from four years to three years is
17 not adequately addressing that comment. Okay.

18 I -- it seems clear to me that the members of
19 the public that made, you know, remarks about this are
20 not likely to be happy with you changing from four years
21 to three years, because the basic problem is still the
22 same. And the reasoning in the rule that, oh, it's
23 because the lifetime permit is doesn't make sense to me
24 because it's covered by a lifetime permit. If it's
25 coming in for a lifetime permit, it will be there in

1 three years.

2 What you're just talking about is what's being
3 submitted as an amendment. And to be perfectly honest,
4 if their lifetime permit says that, you know, they're
5 doing engineered containment systems, they have a long-
6 term plan and it's just the design for the next cell,
7 they should not have to submit that three years in
8 advance. I think that is an unreasonable requirement to
9 put in the rule.

10 MR. APPLGATE: Marge, I --

11 MS. BEDESSEM: I'm sorry I'm carrying on
12 about that, but I see --

13 MR. APPLGATE: I wanted --

14 MS. BEDESSEM: -- so many remarks about
15 this, and I don't feel like the comment -- you know, the
16 response adequately addresses the people's concern.

17 MR. APPLGATE: I just want to draw out
18 a couple thoughts --

19 MS. BEDESSEM: Uh-huh.

20 MR. APPLGATE: -- one technical comment
21 and the other process. I guess the first one I'll say
22 is on process.

23 So today on process, again, comes back to kind
24 of how the rules are in front of us, what we have done
25 in the past is we would say as a board, for example, you

1 could make a motion to say, I want to remove that. I
2 mean, you're asking Bob to do it, but what you could do
3 is just say, I would like to make a motion that the
4 advisory board remove this language.

5 MS. BEDESSEM: Uh-huh.

6 MR. APPLGATE: We would then ask them
7 to remove that language. And what's happened in the
8 past is that DEQ has gone forward to EQC in one or two
9 ways. They have shown the language deleted if they
10 agree with us or they would show their language and then
11 they would footnote in the rules to the EQC that the
12 advisory board had recommended --

13 MS. BEDESSEM: Had disagreed.

14 MR. APPLGATE: -- had disagreed.

15 MS. BEDESSEM: Uh-huh.

16 MR. APPLGATE: That's the process thing
17 that I want you guys to be aware of, that when we have
18 had changes in the past, we don't always agree. That's
19 fine. That's the nature of this. We are just an
20 advisory board. But those -- that advice is usually
21 codified in some way for the next step.

22 So, I'm just mentioning so you can bring
23 forward a motion if you want to here in a moment.

24 I don't understand this process as detailed as
25 Marge just did, but I guess I would express just a

1 couple comments.

2 Casper and the WSWRA, they made the comments
3 trying to, I think, come to some sort of accommodation
4 on this as well, and they had suggested detailed design
5 plans in the EQC plan and you had accepted part of
6 that. I struggle -- you know, I come from this from the
7 prospective of the regulated community, so when I see
8 certain terms in regulations, it raises red flags for
9 me, because it makes me think, okay, this is going to
10 lead to difficulty in understanding what we're asking
11 for here.

12 So, construction-ready documents, which I
13 believed were not appropriate, is at least a well
14 understood term. Detailed is not a well understood term
15 and would create all sorts of regulator, regulatory
16 community debate and discussion, because one person's
17 detailed plans are not going to meet someone else's. On
18 the other hand, I can appreciate the department wanting
19 to have people do some preplanning.

20 You know, I'm going to through throw out
21 another set of terms that might not be any better. But,
22 you know, to me conceptual plans or a master plan, even
23 detailed plans, I'm like, what does that mean?

24 You know, I'm engaged right now in the process
25 of another voluntary rule with the school board as we're

1 trying to design high school systems here and we're
2 working with architects on conceptual plans, pretty easy
3 to understand. You know, it's five or six sheets,
4 doesn't have -- you know, shows general footprint, it
5 shows cross section. I mean, everything that's
6 described here to me are conceptual level plans.

7 I don't know that it's unreasonable three
8 years in advance to come forward with a conceptual level
9 plan. I want your comment on that, Marge. But when I
10 see like associated QA/QC, I get in my mind, that's a
11 much more detailed deliverable. When you are using
12 QA/QC plans, that's usually associated with a
13 construction-ready document. If you're going to build a
14 liner, it's one thing to show a sheet of paper that
15 says, here is a cross section of the liner we plan to
16 put in and here is a plan view of where we're going to
17 build this cell and what we would like to do is engage
18 with you on kind of the beginning process to understand
19 whether or not our footprint location is correct,
20 whether or not we're accommodating environmental issues
21 that can be associated with this footprint, whether or
22 not our cross section for a liner seems appropriate.

23 So, to me, we have got all sorts of kind of
24 garbled language here. Lots of good intent on both
25 sides. You're trying to do preplanning. The regulated

1 community is trying to not be held to too rigorous a set
2 of information requirements too early in the process.

3 Is that fair to say?

4 MS. BEDESSEM: Uh-huh.

5 MR. APPELATE: So I do think it still
6 requires a rewrite. And I'm not sure I'm qualified to
7 do that given my understanding of this. But I'm just
8 going to say, I think the use a detailed is still
9 problematic. I think the inclusion of QA/QC plans three
10 years in advance is problematic.

11 And Marge, I would entertain some motion that
12 you had that maybe clarifies this, again, with your
13 better understanding of it.

14 MS. CAHN: I would like some more board
15 discussion on that before we have a motion. I'm
16 wondering if, first of all, in the question of language,
17 I think of construction ready or detailed as 90 percent
18 design. I think of (inaudible) as a 10 percent design,
19 and I'm wondering if maybe using that type of language
20 might be more clear. That's just a suggested question.

21 The other thing is I'm wondering if we can say
22 that, have some leeway, suggest some leeway in the
23 wording so that it would say something like, or on a
24 shorter schedule as agreed upon by DEQ or the
25 administrator or whatever, DEQ would feel appropriate,

1 so that if it is something that really does not need to
2 be three years in advance and everybody agrees that it
3 doesn't need to be there and there could be an
4 exception.

5 So, those are kind of two questions for
6 discussion.

7 MS. BEDESSEM: I like the flexibility.
8 Also, you know, I'm just thinking, too, I'm concerned
9 about, you know, maybe conceptual is a good thing, you
10 know, several years in advance, but I'm also not
11 interested in tacking on another requirement for
12 people -- okay -- that don't need it three years in
13 advance, haven't hired their consultant yet. Okay?

14 So it seems to me that, you know, you develop
15 this process for submitting a permit application where
16 you want, you know, that ability to come in and meet
17 with you and, you know, work a year in advance and have
18 this number of meetings as their developing their
19 permit.

20 Can't you do something similarly with
21 engineered, you know, containment systems saying that
22 this is the preferred methodology, you know, discuss the
23 conceptual design, you know, three years in advance, you
24 know, meet with the agency, so on and so forth as a
25 policy so that you bring, you know, those communities

1 and firms that are sort of problematic kind of into the
2 fold? But I still have a problem with that being a
3 requirement for an additional submittal.

4 There is really no point in having a minor
5 amendment being 60 days. The number doesn't mean
6 anything if you have to submit the entire minor
7 amendment three years ahead of time. So what's the 60
8 days? So you could get it two years ahead of time but
9 you can't build anything for three years.

10 So, my preference is to look at doing
11 something in policy to bring them in the fold for
12 these -- for preparing the amendment. You're already
13 covered for the lifetime permit and the renewal because
14 they're required to do that statutorily two years in
15 advance. So really your only issue would be the
16 amendments. And if you could address those, you know,
17 separately, that would be my preference. I think it
18 would be the easiest without muddying the water and
19 making the definition of minor amendments imaginary or,
20 you know, inconsequential, because then it -- like I
21 said, then the 60 days are meaningless because it's
22 actually a three-year minor amendment.

23 MR. DOCTOR: Mr. Chairman. You know,
24 obviously, we all have the same -- we're trying to get
25 to the same point. Our struggles are, we get in designs

1 and it make take multiple -- they're very complicated.
2 The liner designs, as you well know, are a very
3 complicated thing to do and to review. So that's very
4 difficult and that takes time. And then if there needs
5 to be revisions made, you know, it gets bad.

6 So, we're trying to do that far enough in
7 advance that that process can get done. People can go
8 SLIB and get money if they need to, and we have run into
9 a lot of problems there.

10 Maybe another alternative -- Lorie had, I
11 think, a good in-between. The other would be -- you
12 know, I think what maybe you and David would suggest
13 would be just to kill this whole thing, we give it a try
14 for a while, see how it goes with the collaborative
15 Kaizen process, and when we're doing our next rule
16 change, take a little more time and work together on
17 this and see if we can kind find a way, if we even need
18 to, to put it in the rule when we do our next rule.
19 Maybe that's something else we can do.

20 I don't have an answer. Tell me what to do.
21 This is --

22 MS. BEDESSEM: Well, I think it's real
23 important that you define in here that they're going to
24 be addressed as amendments, because it wasn't clear in
25 our last meeting. So I think your addition of those

1 remarks in this section specifying how the detailed
2 design for engineered containment systems outside of the
3 renewal would be handled. I think that's important to
4 have in this rule change.

5 As far as this other part that I consider in
6 the advice category and you consider in the rulemaking
7 category, you know, perhaps that's something where if
8 you try it this one way and the advice and guidance as
9 you're training everybody on how this new system
10 works -- okay -- you know, can people be delayed, if you
11 find out that this is what we did, we established it and
12 then we had six permit submissions that were impossible
13 to get done within this period of time because they
14 were, you know, but it's hard for me to feel comfortable
15 with the requirement that's in here when the basis for
16 the requirement appears to be not preplanning and
17 incompetence. Like we're trying to circumvent
18 incompetence. And so, that seems like it's an advise
19 mode.

20 So, you know, there is a couple -- there is a
21 couple of options. Just put some flexibility in the
22 rule or delay the time limit to a later rulemaking and
23 put how you're going to do it in this rule and then see
24 how it goes, if you put that in guidance to get them to
25 come in the fold.

1 MR. APPLGATE: So, Marge, I believe
2 that to allow them to move forward you should propose --
3 here is my feeling. If you want to leave it just as
4 here is my opinion and advice, my thought is that
5 nothing will change in what goes to the EQC. That's not
6 meant to be a criticism. I just think that's what's
7 going to happen. So I believe you should come forward
8 with a --

9 MS. BEDESSEM: Well, let's --

10 MR. APPLGATE: -- a recommended change
11 to this section if that's what you desire.

12 MS. BEDESSEM: I would be happy to do
13 that. I want to look, though, and see, is it your
14 comments -- was it in 90 where you say -- again, it's
15 not redlined but I think it's on page 25 out of 28 in
16 the response to comments. You have a statement in there
17 that the "Detailed design plans shall be reviewed as a
18 minor amendment unless a design change is proposed that
19 constitutes a major amendment."

20 MS. CAHN: Marge, I didn't catch where
21 you said you're looking at now.

22 MS. BEDESSEM: In the response to
23 comments on page 25, the fifth paragraph is some
24 language that DEQ proposes to put in that same exact
25 section that we're discussing, and it's not -- it's not

1 redlined but -- I mean, it's not in red, but it says,
2 "Detailed design plans shall be reviewed as a minor
3 amendment unless a design change is proposed that
4 constitutes a major amendment."

5 MR. DOCTOR: Mr. Chairman.

6 This was more of a comment than a proposed
7 change in the rule. What you're saying to me is, say
8 that right in the rule.

9 MS. BEDESSEM: Uh-huh.

10 MR. DOCTOR: Got you.

11 MS. BEDESSEM: Yeah, because you say you
12 propose adding the following clarification to Chapter 2,
13 Section 4(k)(vii). So you say you're going to add it,
14 but it's not in red. So I don't know, is that
15 specifically the language you are going to add. And
16 Section 4(k) Roman numeral (vii) is the one that now
17 would say that -- earlier in the response comments said
18 that detailed design plans, including but not limited to
19 plans for liners, leachate -- excuse me. I made an
20 error. The change was detailed design plans. Detailed
21 design plans, including but not limited to plans for
22 liners, leachate collection and managements systems,
23 caps and associated QA/QC plans. I'm going to stop
24 there because then the rest of that is a time
25 submittal. Okay?

1 I propose that you combine these two
2 sentences, and where it ends QA/QC plan with a comma,
3 then it says, shall be reviewed as a minor amendment
4 unless a design change proposed constitutes a major
5 amendment. Okay? So basically it combines the two
6 sentences.

7 Do you need another -- so, Bob, let me ask
8 you. Do you need another sentence in there stating that
9 unless it's part of a lifetime permit or renewal?

10 MR. DOCTOR: Mr. Chairman.

11 Maybe that gets to that submittal sentence --

12 MS. BEDESSEM: Yeah.

13 MR. DOCTOR: -- that Lorie proposed. If
14 we found a way to add her sentence in there, plans shall
15 be submitted on a schedule approved by the administrator
16 or something along those lines, would that help us get
17 to this?

18 MR. APPLEGATE: I'm going to make a
19 process suggestion.

20 MS. BEDESSEM: Uh-huh.

21 MR. APPLEGATE: Again, very, very
22 difficult to understand the changes that are being
23 proposed here.

24 MS. BEDESSEM: We're kind of
25 discussing --

1 MR. APPELGATE: I know.

2 MS. BEDESSEM: -- how to make it into
3 the form of a --

4 MR. APPELGATE: Well, I guess my
5 question is, could we take a five-minute break so you
6 guys can work off line with --

7 MS. BEDESSEM: Perfect.

8 MR. APPELGATE: -- develop that
9 paragraph that you could then write out that we could
10 look at and you could tell us exactly what part of the
11 rule you're proposing that it to go into?

12 MS. BEDESSEM: Excellent suggestion.
13 Thank you very much.

14 MR. WELLES: Then we could actually vote
15 that as --

16 MS. CAHN: Before we take a break, I
17 just want to -- whoever is working on this language, I
18 like the language in the proposed rule that says that
19 these be submitted -- this is on page 2-34 of the
20 redline/strikeout where it says, prior to the -- that
21 they be submitted prior to the date when construction is
22 expected to commence. And I think the language expected
23 to commence is important, because if you submit it three
24 years prior to the expected time to commence but then
25 everything is in order and, you know, things move along

1 faster and it was a good submittal, DEQ can review it
2 quickly, then maybe construction could commence sooner.

3 So, it would be nice to have -- I thought that
4 language about expected to commence would be important
5 because it gives some flexibility saying, well, we're
6 thinking we're going to do this in three years, but if
7 all goes smoothly, we'd like to do it in a year, year
8 and a half, whatever. So . . .

9 MR. WELLES: Lorie, what page were you
10 on that you --

11 MS. BEDESSEM: 2-34.

12 MR. WELLES: -- were referring to?

13 MS. BEDESSEM: 2-34.

14 MS. CAHN: On 2-34 of the redline/
15 strikeout proposed rules.

16 MR. WELLES: Thank you.

17 MS. CAHN: And in Roman numeral small
18 (vii). It's the end of that paragraph.

19 MR. DOCTOR: Mr. Chairman. That
20 language is repeated on page 8 under comment 12 in your
21 response to comments.

22 MR. WELLES: Right.

23 MS. BEDESSEM: So shall we recess?

24 MR. WELLES: Yes. Let's take a
25 five-minute recess to rework the language.

1 (Hearing proceedings recessed 10:26
2 a.m. to 10:59 a.m.)

3 MR. WELLES: Sorry for the delay. There
4 needed to be some major rewriting. And what we're going
5 to do, two things I would like to do: I would like to
6 ask the two guests that we have here and are members of
7 the public here in Casper to come forward and introduce
8 themselves, because they both have had a role in this
9 process.

10 Can you come forward so you can be on line?
11 Please just introduce yourselves and identify who you're
12 with and your interest.

13 MR. MOLDT: Mr. Chairman, members of the
14 board, my name is Steve Moldt. I'm the current
15 president of the Wyoming Solid Waste Recycling
16 Association. And I just want to thank you for allowing
17 our organization to provide written comments and then
18 even additional to that is being able to kind of help
19 today to kind of resolve some of the issues that we saw
20 for our members. So I appreciate the opportunity.

21 MR. WELLES: Well, we appreciate your
22 participation and expertise.

23 MR. BOLT: Thank you.

24 MS. LANGSTON: Hi. I'm Cindy Langston.
25 I'm the solid waste manager for the City of Casper and

1 also a WSWRA board member. And I'd just reiterate what
2 Steve said.

3 MR. WELLES: Thank you both for being
4 here and taking the time to help out with the process.
5 And I just wanted Lorie and Glenn to understand that
6 they were here and part of this process of trying to
7 come up with a change that we were discussing before the
8 break.

9 So I'll turn this over to Marge at this point,
10 and she is actually going to explain further and make a
11 motion that will clarify what the discussion has been
12 about.

13 MS. BEDESSEM: I would like to make a
14 motion to revise a section of Chapter 2. DEQ has
15 proposed the addition of Chapter 2, section 4(k) Roman
16 numeral (vii) originally with a new section. What this
17 motion entails is replacing DEQ's proposal for that
18 Roman numeral (vii) section with the following
19 language.

20 The new language would be: Detailed design
21 plans, including but not limited to plans for liners,
22 leachate collection and management systems, caps and
23 associated QA/QC plans shall be submitted as part of the
24 lifetime permit or renewal as applicable. Additional or
25 modified detailed design plans for engineered

1 containment systems shall be submitted --

2 MS. CAHN: Marge, I'm going to have to
3 ask you to go a lot slower, because I'm trying to write
4 it down. If we're going to be voting on this motion, I
5 need to see it. So, you're going to have to go slower.
6 You lost me at as part -- after the shall be submitted
7 as part of the, and then I couldn't write fast enough.

8 MS. BEDESSEM: Okay -- shall be
9 submitted as part of the lifetime permit or renewal as
10 applicable.

11 Now we have a second sentence to add to that
12 that says: Additional or modified detailed design plans
13 for engineered containment systems shall be submitted as
14 a minor amendment unless a design change is proposed
15 that constitutes a major amendment.

16 So that's the conclusion of the replacement --

17 MR. APPELGATE: Is that the complete
18 motion?

19 MS. BEDESSEM: That's the complete
20 motion.

21 MR. APPELGATE: I'll second the motion.

22 MR. WELLES: We have a motion --

23 MS. CAHN: Can we have some --

24 MS. BEDESSEM: We can have some
25 discussion.

1 MS. CAHN: I would just would like some
2 board discussion before we -- I need -- give me 30
3 seconds to read the whole thing in its entirety, and
4 then I would like to ask that if DEQ is okay with the
5 language. I mean, I'm assuming this language put
6 together is okay with all parties concerned. So give me
7 30 seconds just to read it. Thanks.

8 MR. APPLGATE: While she's reading, I
9 also have time for discussion here.

10 So, to whoever is going to answer this
11 question, it appeared like in the motion we have taken
12 out the time frame that has created some concern. In
13 the second paragraph, when you guys use the term
14 engineered containment systems, I'm curious. Can you
15 have minor amendments for other things other than
16 engineered containment systems? Do you have minor
17 amendments for cell additions? And so my question is,
18 in the language as construed in the second paragraph,
19 did your use of the word engineered containment systems
20 in that system restrain the range of minor amendments?

21 MS. BEDESSEM: Is it okay if I comment,
22 Bob?

23 MR. DOCTOR: Go ahead.

24 MS. BEDESSEM: Section (k) is titled
25 Design/Construction of Engineered Containment Systems.

1 So the whole section is only relevant to engineered
2 containment systems and would not impact anything else
3 that has minor or major amendments. And so, section (k)
4 starts on page 2-32 of the redline.

5 I also think that we haven't really completely
6 eliminated the time frame, because the submittals that
7 come in as lifetime permits or renewals have the three-
8 year time frame as part of that submittal.

9 MR. DOCTOR: That's a statute -- that's
10 statutory, so we're stuck with that.

11 MS. BEDESSEM: We just eliminated the
12 time frame for now for further consideration, for later
13 rulemaking or guidance with respect to the amendments.

14 MR. DOCTOR: Mr. Chairman.

15 I would -- if possible, if we could get a
16 renewal in and we might not need a detailed design plan
17 in that renewal because we're at that point in the cycle
18 of the facility where it may be five or six years down
19 the road. So we wouldn't necessarily be forcing
20 operators to submit those detailed design plans in a
21 renewal application unless they're necessary. So that's
22 good also.

23 MS. BEDESSEM: The "as applicable" works
24 very nicely there.

25 MR. ANDERSON: Mr. Chairman. This is

1 Carl.

2 I think with respect to the language that's
3 being proposed that talks about amendments, minor and
4 major amendments, our rules talk about major and minor
5 changes. I think to conform to current regulatory
6 language, it probably should be changes versus
7 amendments.

8 MS. BEDESSEM: Bob, I believe that
9 language is from your original proposal. So if you want
10 the change --

11 MR. DOCTOR: Good catch, Carl.

12 MR. APPLGATE: I would offer the
13 friendly amendment that we -- a friendly amendment to
14 the motion that we change amendments to changes in the
15 motion, if that's acceptable to the proposer of the
16 motion.

17 MS. BEDESSEM: That's acceptable.

18 MS. CAHN: And that should be singular
19 because -- to read not plural from the reading of what
20 Marge gave us.

21 MR. WELLES: So am I reading this
22 correctly that the bottom of the paragraph, both places
23 where you have a minor amendment and major amendment, we
24 would strike amendment and replace that with change? Is
25 that correct? Everybody agree to that?

1 MS. BEDESSEM: Yes.

2 MR. WELLES: The floor is still open to
3 discussion.

4 MS. CAHN: I just didn't hear yet from
5 DEQ if they are satisfied with this, if that's
6 acceptable to them.

7 MR. DOCTOR: This is Bob. Mr.
8 Chairman.

9 I am. Carl?

10 MR. ANDERSON: I think it's fine, Mr.
11 Chairman.

12 MR. DOCTOR: And thank you all.

13 MR. WELLES: Okay. We have no more
14 comments. Then I will ask for the vote. All those in
15 favor, please say aye.

16 MR. APPLGATE: Aye.

17 MS. BEDESSEM: Aye.

18 MR. SUGANO: Aye.

19 MR. WELLES: Opposed?

20 (No response.)

21 MR. WELLES: Hearing none, we will
22 accept this motion to change the language of Chapter 2,
23 section 4(k) paragraph (vii), Roman numeral (vii), which
24 is on page 2-34 of the strikeout version.

25 Please proceed, Bob.

1 MS. BEDESSEM: I think we were on
2 comment 11 or 12.

3 MR. DOCTOR: Yeah. We're doing well.

4 I guess we're now on comment 13, and it was a
5 discussion related to the State Guarantee Trust Account
6 and calculating that, and the point here is that we have
7 a statutory requirement that the State Guarantee Trust
8 Account calculations occur every four years on the
9 anniversary of a participant's entry into that program.

10 MR. APPLGATE: Again, I would put forth
11 to the board the process that we were using with going
12 page by page and seeing if any board member had
13 comments. I just think it would be more expeditious
14 than having Bob explain every comment.

15 MR. DOCTOR: Thank you.

16 MR. APPLGATE: If the rest of the board
17 would go with that process.

18 MR. DOCTOR: Thank you. Okay. That's
19 wonderful.

20 MS. BEDESSEM: So, Bob, then, the reason
21 that it couldn't be consolidated with an annual report
22 is because the due date is different because it's the
23 anniversary of inclusion in the final --

24 MR. DOCTOR: It's separate --

25 MS. BEDESSEM: -- financial assurance.

1 MR. DOCTOR: Yeah. And that's a
2 statutory requirement.

3 Anything I need to address on page 9?

4 (No response.)

5 MR. DOCTOR: And I'd just mention, on
6 page 9 and 10, a lot of these comments that I -- now
7 that we're through this comment period, we'll intend to
8 call up Laramie and visit directly about some of your
9 general regulatory questions.

10 MS. BEDESSEM: But some of them, though,
11 I think may be ones that you might want to consider for
12 future rule changes or they're a general enough comment
13 that they apply to more than Laramie. So it would be
14 nice to have, you know -- for example, the comment about
15 the question about the buffer zone, I mean, a lot of
16 that is because we have new managers at Laramie that are
17 asking questions that perhaps the other operators were
18 more familiar with, but maybe that's indicative of
19 needing a clarification in the future rulemaking.

20 So, a lot of these say, well, we'll just
21 discuss it with Laramie, but I would like a commitment
22 that if it goes down the scope of Laramie, that it could
23 be either considered for policy or for future
24 rulemaking.

25 MR. DOCTOR: Thank you. That's a very

1 good idea, especially this one, Mr. Chairman. This is
2 one on our operator-manager tests that the people that
3 take that test frequently miss. When I do the training,
4 I point this out, how buffer zones and fire lanes work.
5 So, his concern or his question here is a common one.
6 And that's a very good point that if this many people
7 are struggling with that, we probably ought to tweak it
8 when we're doing the rule change. There is an
9 excellent --

10 MS. CAHN: Can I ask -- I would like to
11 ask a question, Bob, on that.

12 If it's something that is out of the scope of
13 the current rule change but it is a very simple fix like
14 just a clarification, is there any reason why you would
15 not include that in this rule change?

16 MR. DOCTOR: Mr. Chairman.

17 Probably just for drawing the line somewhere.
18 Most people get this, but, as Marge pointed out, people
19 that are new to this, some of these things require some
20 general explanation. So we do that on a case-by-case
21 basis. Most of our consultants and people that do this
22 understand these things, but when you're new to this, it
23 can be confusing.

24 So, I would say if you guys recommend we do
25 something, we could, but we would definitely save this

1 for the next time. It's up to you.

2 MS. BEDESSEM: I would suggest that you
3 look at these. You know, I could understand that you're
4 kind of trying to fast-track this, and so perhaps you
5 didn't include a lot of these as they were outside of
6 the proposed scope that was in the statement of
7 principal reasons so that you don't have too much of a
8 change that is not covered by the statement of principal
9 reasons. I can see that, but if you're doing more
10 comprehensive changes next time, it would be good to
11 include when you're receiving good suggestions from
12 people so that these don't die with this or don't die
13 with an explanatory phone call but get moved on.

14 MR. WELLES: Lorie, you had a comment?

15 MS. CAHN: I guess -- I mean, it sounds
16 like the -- I had a question. It sounds like the answer
17 to the question is that -- excuse me. Let me back up.

18 So the question was, if it's a minor change
19 that would add clarity but it's outside the scope, would
20 we want to just absolutely do it now. And it sounds
21 like they're saying no. In an effort to expedite this
22 process, they would like to leave those kinds of things
23 for the next go-round.

24 MR. DOCTOR: I promise we won't forget
25 this. Thank you.

1 It is very difficult for me going through here
2 not to address things like this. Otherwise I'd open the
3 whole rule up again and there we go. We would be here
4 forever, although I love your company. We would never
5 get done. Thank you.

6 MR. WELLES: I thought we were going to
7 be here forever.

8 MR. DOCTOR: My hair is getting grayer.

9 MS. BEDESSEM: I imagine you have your
10 own long list of things that you want to change in the
11 rules.

12 MR. DOCTOR: Yes. We all do.

13 So, are we ready to go on to page 11 probably
14 by now?

15 MR. APPELATE: Mr. Chairman, I have a
16 comment on page 10.

17 Carl, this question I think came up last time,
18 and you may have answered it last time. But I have a
19 concern -- and let me be clear.

20 I don't have a concern with us trying to meet
21 the governor's executive order on sage grouse because my
22 industry in particular has an interest in protecting
23 sage grouse so we can continue to operate in Wyoming.
24 But I do have a concern that we're putting into
25 rulemaking a governor's executive order. And I think I

1 had asked whether or not can -- if that's been tested
2 with the attorney general.

3 I mean, I can understand us putting in the
4 guidance documents requirements regarding timing and
5 location requirements for sage grouse, but to codify in
6 a rulemaking a governor's executive order and in a year
7 or two we're going to have a U.S. Fish and Wildlife
8 Service decision on the sage grouse listing. Sage
9 grouse protection is a continuing -- continuing to
10 evolve. There is lots of activity on this issue at the
11 state level, at the BLM level, at the U.S. Fish and
12 Wildlife level. And for us to codify into rule this
13 information to me is just problematic, because in a year
14 or two, you're going to have to try to unwind it.

15 I'm just curious if you -- again, you might
16 have answered this question last time, but whether or
17 not you guys have tested with the attorney general
18 whether or not this is legal.

19 MR. DOCTOR: Mr. Chairman.

20 The AG's office has reviewed this and approved
21 this moving forward.

22 MR. APPLGATE: Have you asked them that
23 question specifically? Has it been raised by an
24 advisory board member that, I don't think it's legal?

25 MR. DOCTOR: Do you remember if you had

1 this discussion, Carl, directly with the AG's office?

2 MR. ANDERSON: Mr. Chairman.

3 You know, I'm trying to recreate the
4 conversation from the previous meeting, and, you know,
5 if I had an action item to talk to the attorney
6 general's office about it, but I don't believe I --
7 well, I know I haven't done that. So, if I have an
8 action item to talk to the attorney general's office, we
9 need to do that.

10 MR. APPLGATE: Yeah. In fairness,
11 Carl, I'm not sure -- I can't remember if I asked it
12 that way or not. I just -- in looking at it again, I
13 have a concern just really about the process of
14 incorporating into a rule a governor's executive order.

15 MR. ANDERSON: Yeah. Mr. Chairman.

16 You know, as Bob mentioned, we had the
17 attorney general's office involved in the review of our
18 regulations. And, you know, we went back and forth with
19 them on, you know, a number of different issues
20 including things like whether or not to include
21 statutory definitions into the regulations. And so I
22 think that there is -- if there is sensitivity to, you
23 know, changes in executive orders or changes in policies
24 that would affect our regulation, we probably would have
25 talked about that, and I don't specifically remember

1 talking about that. But I think it's probably a
2 reasonable question to specifically ask our AG's
3 representative.

4 MR. APPELEGATE: Yeah. I would
5 appreciate that. And you could just get back with me or
6 report back at the next board meeting. If it's
7 allowable, that's fine. I just -- again, I believe it
8 can be difficult to unwind or change when, in the next
9 year are two, the rules for sage grouse finally become
10 more clear.

11 MR. DOCTOR: Mr. Chairman.

12 This was one of those trying to find a balance
13 between not mentioning something to somebody and letting
14 them guess what they're supposed to do and including
15 enough information here that somebody preparing an
16 application at least -- it's like putting the
17 definitions from statute into the rules. On one hand,
18 we try to balance those two, but what I -- if this
19 works, Mr. Chairman, if we can specifically ask our AG's
20 office representative about this and get back to you
21 guys with an email at least on what he's told us to do.
22 And then, of course, we'll proceed forward with what he
23 recommendations.

24 MR. APPELEGATE: Yeah. I'd appreciate
25 that.

1 MR. DOCTOR: It could throw us into
2 another rule change just for this.

3 MR. APPLGATE: Well, again, I want to
4 be clear. I'm not against these being kind of part of
5 the landfill operational and siting. I know the
6 governor is trying to filter this down to all the state
7 agencies. It's just kind of about the way in which it's
8 done.

9 MR. ANDERSON: Mr. Chairman.

10 Dave, I'm not sure that this comment is
11 necessarily to be on point, but it sounds as though -- I
12 mean, this is not dissimilar from those situations
13 where, you know, we might reference some kind of federal
14 guidance or, you know, we referenced the Wendell H. Ford
15 aeronautics act and didn't include language.

16 You know, there is a recognition and a
17 requirement that when we reference, you know, some other
18 source, we have to specifically date that source and
19 provide an accurate reference for that so that any
20 subsequent changes, it means we have to go back to our
21 rules and we have to change our rules to conform to any
22 changes in those references.

23 So, you know, I assume that even though we
24 might be referring to an existing executive order from
25 the governor's office, the assumption is if that

1 executive order changes or goes away, that we would be
2 coming back to do rulemaking to conform our regulations
3 appropriately.

4 MR. APPLGATE: And that may be the
5 answer, Carl. I also think there is some -- and I don't
6 know. I haven't read this close enough, but if there is
7 something like the timing aspect and the distance from a
8 lek, those are items that are probably in the governor's
9 executive order, and, therefore, if you just refer to
10 the governor's executive order and don't put those
11 specific details in the rulemaking, then if those things
12 change, you wouldn't have to open up the rule. Does
13 that make sense?

14 The executive order has already changed once.
15 It got modified after Governor Mead got into office.
16 And again, my anticipation is that it could get revised
17 again, because the U.S. Fish and Wildlife has to make a
18 determination on listing of sage grouse by the fall of
19 2015. That might sound like a long ways away but two or
20 three years away.

21 So, again, maybe this issue is how specific
22 are you in this rule. I just don't want you to get into
23 the choice where you have to try to unwind it. Just
24 break it down to the point of clarification.

25 MR. ANDERSON: Mr. Chairman.

1 Dave, you know, if we took out the specific
2 language and referenced the executive order, we would
3 have to -- we would have to reference the specific date
4 of the executive order, and if there is a subsequent
5 change, then we would be -- in the executive order, then
6 we would be obligated to go back and change our
7 reference in the regulation.

8 So there is sort of a do there, because, you
9 know, agencies have gotten into this place where they
10 would reference some kind of federal requirement and the
11 federal requirement would change and there was really
12 no -- people weren't aware, you know, that if there was
13 a change at the federal level, for example, a state
14 regulation would refer to this federal requirement and
15 people would automatically, subject to this federal
16 requirement without having the ability to weigh in on
17 the rulemaking process in terms of acceptability of that
18 change, take sort of a blanket kind of thing. People
19 got uncomfortable with that.

20 MR. APPLGATE: Okay.

21 MS. CAHN: Carl, is it possible to say
22 executive order -- refer to executive order, give its
23 date and then say or subsequent or revisions or
24 something like that, to just say that we mean the
25 current version of it, you know, this is what it is

1 currently but if it changes, we intend it to be that
2 one? Is that possible?

3 MR. ANDERSON: Mr. Chairman.

4 Lorie, I don't think that would fly with the
5 secretary of state and maybe not even with the attorney
6 general's office.

7 MS. BEDESSEM: I would like to make one
8 comment. If we do keep the language as is, the change
9 that you made to specify the lek distance is an
10 improvement over the original which implied no
11 construction even if you were a hundred miles from a
12 lek. So this is a good clarification.

13 MR. DOCTOR: Yes. Mr. Chairman.

14 I think there is differences if it's in a core
15 area or not in a core area, and I think that's where
16 were we getting confused the last time, on that
17 construction. We had another comment -- I believe it's
18 from Cheyenne or Laramie, I think -- along those same
19 lines. So hopefully that cleared that up, those
20 comments. It depends on whether or not you're in a core
21 area. Obviously, you're going to be building and
22 constructing on a landfill all year long, but, if you
23 can, try not to do it during their mating season.

24 MS. BEDESSEM: Also, I had one other
25 question. You did say in your response to comments that

1 it was for constructing new units or expansions of
2 existing units as opposed to constructing a cell or
3 trench. So, there the distinction between unit and cell
4 appears to be important and you're utilizing that.

5 MR. DOCTOR: That's a very good --
6 yeah.

7 MS. BEDESSEM: That's what you said in
8 the --

9 MR. DOCTOR: Maybe I did that by
10 accident.

11 MS. BEDESSEM: No, because your language
12 says that it's -- you know, they'll construct on a daily
13 basis but doing a new unit, expansion of a unit is a
14 major construction enterprise and then. Okay. So it
15 looked to me from your response to comments that that
16 was purposeful.

17 MR. DOCTOR: Mr. Chairman.

18 Marge, you just refreshed my memory. Months
19 or a year or more ago when I was preparing these, the
20 language for these, I talked to Larry at Game and Fish.
21 I said, do you realize these guys are out working on
22 these landfills all year long. We can't stop that. And
23 that's where we had that discussion about if you're
24 doing any major new construction, building a new unit,
25 that's when these things come into play. Thank you.

1 MR. APPLGATE: Just to clarify there,
2 and I don't know where the detailed language is, but
3 most of those timing restrictions relate to what's
4 called surface disturbing activities. So I'm assuming
5 you'd use similar language meaning the ability to work a
6 landfill. Sage grouse things are driven by new surface
7 disturbance.

8 MR. DOCTOR: Keep going?

9 MR. WELLES: Yes. Just one small
10 comment. Having been very involved with the sage grouse
11 for many, many years on our ranch, you know, I can't
12 imagine that there are very many landfills around the
13 state that are going to be in conflict.

14 MR. DOCTOR: Primarily it may affect a
15 new facility, but if you're already permitted to work
16 within a certain footprint, it really shouldn't affect
17 you much. There may be a few expanding, but I'm not
18 aware of any this would catch.

19 MR. WELLES: Okay. Let's continue.

20 MS. BEDESSEM: So where are we at?

21 MR. DOCTOR: We're somewhere -- I think
22 we're around about page 11 now, looking at those
23 comments. I don't know if there is anything there that
24 anybody --

25 MS. BEDESSEM: So on page 11, comment

1 27, that was with respect to the location of annual
2 report requirements in the operating standards. Most of
3 the other operating standards are not -- you know, it's
4 not a report submission item. It's, you know, litter
5 control or --

6 MR. DOCTOR: Mr. Chairman.

7 MS. BEDESSEM: -- something like that.

8 MR. DOCTOR: Marge, I had a previous
9 version of this rule change that was much more
10 comprehensive and I did have a separate reporting
11 section. It was broken out. So I have already -- I
12 agree with him. It's a great idea.

13 So when the next rule change comes out, if I
14 go back and revisit my previous one, it's already going
15 to be a done deal in here. So it is a good thing to be
16 separate, because reporting occurs not during just the
17 operating life of the landfill, but during the closure
18 and postclosure period, there were things that need to
19 be submitted.

20 So really, there is a lot of different
21 reporting that needs to go on that warrants a separate
22 section in the rules.

23 MS. BEDESSEM: So you're saying you're
24 going to leave it there for now but you have plans to
25 move it?

1 MR. DOCTOR: Absolutely, yes.

2 MS. BEDESSEM: Good, because I think
3 that will be much clearer and easier for the operators
4 to find their requirements. Thank you.

5 MR. DOCTOR: That's along the lines of
6 why I'd like to call these commenters up and
7 specifically talk to them about their comments and
8 concerns.

9 Ready for 12? 13? If I go fast enough, I
10 might just blow right by you.

11 14. And in a lot of these comments that
12 you're seeing in this range are very similar, good
13 comments about improvements we could make to the rule
14 that I would like to include Nelson Engineering in when
15 we are doing our next rule change to get their opinion
16 on some of these things, which is the conversation I
17 would like to have with folks there. So they are
18 quite --

19 MS. CAHN: I --

20 MR. DOCTOR: Yes.

21 MS. CAHN: I would like to back up to
22 comment number -- I think it's 28 with the gas reporting
23 requirements from the Air Quality Division rules. And I
24 just had a minor question. You said you're not going to
25 make any changes to the rule proposed in response to

1 this comment. Is this the kind of thing where it would
2 be appropriate to just put the number in and say
3 reserved?

4 MR. DOCTOR: Mr. Chairman Lorie on
5 this. The basic requirement here is that they have to
6 report their design capacity. There potentially are a
7 lot of other Air Quality requirements that could be
8 reported separately, because if you do get kicked into
9 this category and you have to address the NMOC, the non-
10 methane organic gas components, and I believe we have an
11 operator here who is doing this on a regular basis, it
12 opens up another whole can of worms that I don't think
13 should be included in the annual report to us. That
14 should be a separate -- we're just trying to make at
15 least one step of this, the simple part of capacity,
16 come in to the Solid Waste Division and not go
17 separately off to Air Quality.

18 So there are two different -- this is a basic
19 simple report, but facilities that are larger and have
20 to report all their NMOC requirements are going to be
21 doing that directly with Air Quality. And that's why
22 this is specific to the design capacity requirement.

23 MR. WELLES: Does that answer your
24 question, Lorie?

25 MS. CAHN: Yes. Thank you.

1 MS. BEDESSEM: I have one thing with
2 regard to this.

3 Later on in your response to comments, you
4 addressed the question about what design capacity was
5 sort of indirectly by saying -- I think this is on page
6 24 of the response to comments report -- by making in an
7 application requirement to evaluate site capacity, so
8 that site capacity is not exactly the same term as
9 design capacity.

10 So the problem we had with the definition
11 of -- or the interpretations of design capacity is that
12 design capacity needs to say that it's waste amount, the
13 amount of waste, you know. And you have accommodated
14 that in your response on page 24 with, when you say site
15 capacity, you say in tons in cubic yards of waste, but
16 in the section on page 2-45 of the ~~strikeout~~ of the
17 rule, you say, which have increased or could create the
18 maximum design capacity in megagrams and cubic meters of
19 waste.

20 I guess what I'm saying is, you call one site
21 capacity, you call one design capacity. They're the
22 same thing if we're talking about the amount of waste.
23 I guess what I'm seeing is a need for clarification here
24 that this is not volumetric capacity. You know, where
25 it's waste plus cover material, it's waste. So you have

1 got units here, megagrams and cubic meters, you know,
2 similar to tons and cubic yards. You have estimated
3 site capacity. But in this estimated site capacity, you
4 specify that it's waste. You don't say of waste here,
5 and it is of waste. I have checked the rules. Okay?
6 It is of waste. And so it would really help operators
7 and consultants to understand these units if you could
8 just add the words of waste.

9 MR. DOCTOR: Thank you. Mr. Chairman.

10 Marge, I think that would be -- I don't have
11 the whole section here. How it would read is, the
12 maximum design capacity of the landfill in megagrams and
13 cubic meters of waste including any modifications.
14 Would that be the way it would work?

15 MS. BEDESSEM: Uh-huh. And then you
16 would put of waste again after where it says megagrams
17 and cubic meters again.

18 MR. DOCTOR: Again there.

19 MS. BEDESSEM: Right.

20 MR. DOCTOR: Thank you.

21 MS. BEDESSEM: Yes. Thank you. That
22 would be very helpful and would take care of any of the
23 remarks about defining design capacity. Thank you.

24 MR. DOCTOR: Thank you.

25 Thanks for making us go back, Lorie.

1 MS. BEDESSEM: It was farther down in
2 the rules of response to comments.

3 MR. DOCTOR: We're somewhere around like
4 pages 14 or 15, I think. Just kind of flipping the
5 pages and waiting for somebody to say stop.

6 MR. APPLGATE: Lorie, why don't you
7 tell us where your next comment occurs.

8 I have no more comments on the response to
9 comments. So I think, Marge and Lorie, wherever your
10 next one occurs is where we should go next.

11 MR. WELLES: Good comment. Instead of
12 going through it page by page, let's just --

13 MS. BEDESSEM: I think that's great.

14 MR. WELLES: -- go to specifics, please.

15 MS. CAHN: Okay. I have a question for
16 Bob on comment response number 44 on page 15 of 28.

17 I couldn't find where page 32 was. When I
18 look at my redline/strikeout, I'm assuming this is in
19 Section 2.

20 MR. DOCTOR: Mr. Chairman.

21 Lorie, I had the same problem. What I did
22 when I was going through these is I realized he was
23 referencing pages but he didn't always tell you what
24 chapter he was talking about. So --

25 MS. CAHN: Yeah.

1 MR. DOCTOR: -- if you go up a little
2 farther, on page 13, I put that heading in, "Chapter 1
3 Comments from Nelson Engineering," and it's underlined
4 there. So, the comments there below that heading are
5 all on Chapter 1, and then later on, on the bottom of
6 page 16, I put in another heading underlined, "Chapter 2
7 Comments from Nelson Engineering."

8 In some places, he gave the page number as one
9 dash something. In other places he just gave the
10 straight page number. But in his letter, they were
11 under these headings of Chapter 1 and Chapter 2
12 comments, because I had the same problem.

13 MS. CAHN: Okay. So, here is -- I'm
14 confused by your response, because if I go to page 1 of
15 32 and I'm in Section 11 and the language in the
16 redline/strikeout version uses the term mixed municipal
17 solid waste and then -- and they say that's a problem,
18 it should mixed solid waste from municipal solid waste,
19 and your response is: A definition of mixed solid waste
20 is already in the rules. Mixed solid waste means,
21 but -- and that no changes are proposed in response to
22 the comment. Well, I think the problem with having the
23 word municipal in there with mixed solid waste and
24 you're saying it's in there but it's not -- I mean, do
25 you see why I'm confused? It seems (inaudible) their

1 suggestion to remove the word municipal, and I agree
2 with them.

3 MR. DOCTOR: Yeah. I get it now. I
4 didn't understand where you -- yeah. That helped.
5 Thank you.

6 MS. BEDESSEM: And Bob --

7 MS. CAHN: So my suggestion -- my
8 suggestion would be that you then do a search, a global
9 search in the three sections, look for the word
10 municipal and make sure it's not in with mixed municipal
11 solid waste, that it's just mixed solid waste or
12 industrial solid waste or municipal solid waste. So,
13 just do a quick search, make sure this doesn't occur
14 someplace else. Thank you.

15 MR. DOCTOR: Thank you.

16 MS. BEDESSEM: Bob, I wanted to say,
17 which you'd appreciate, is that I actually don't have
18 additional comments that are specific. I do have one
19 general comment in that in your response to comments,
20 there is a lot of things that are going to be addressed
21 via guidelines, you know, for example, with financial
22 assurance and so forth. And so I started to read
23 through it trying to make a list of all the different
24 things that you agreed to make guidelines for, and there
25 is quite a few.

1 And so, what I would like to hear next time is
2 kind of a list of what guidances you have committed to
3 and what you think the time frames will be for that so
4 that the rest of us can kind of plan for that, and then
5 you can -- that will help you with staffing and figure
6 out who is going to be doing what and what the
7 priorities are, because I know it's a long list of stuff
8 to do besides additional rulemaking.

9 MR. DOCTOR: Mr. Chairman.

10 Marge, sometimes I don't think I want to know
11 because there is a lot, and some of the new statutes may
12 lead to even more. So we're going to be very busy, and
13 I will be calling some of you for help.

14 MS. BEDESSEM: It would be good to
15 examine that, and even though you don't really want to
16 know, you probably should know.

17 MR. DOCTOR: Going to have to, yeah.

18 MS. BEDESSEM: Going to have to. And it
19 would be good if we were kind of all on board knowing
20 what that schedule looked like.

21 That's all for me.

22 MR. DOCTOR: Any others?

23 MS. BEDESSEM: Lorie might.

24 MS. CAHN: Again -- let's see. I have
25 on comment 59 on page 18 of 28 where Nelson Engineering

1 is just suggesting changing the word period to the word
2 term. To me that doesn't seem like we're talking
3 something that's out of scope. It just seems like if
4 that's the right term, we should just use it.

5 I mean, some of these things I just look at as
6 clarifications that really don't change scope and it
7 would be so easy to incorporate them rather than say,
8 no, we're waiting for the next.

9 So that's just my suggestion is that maybe you
10 look through these comments and find things that are
11 really just a word change where the wrong word was used
12 or a clarifying word could be used and just incorporate
13 those rather than put those off. But I don't -- I'm not
14 going to die on my sword on this one.

15 MR. DOCTOR: Mr. Chairman.

16 Lorie, this is one of those ones where I
17 looked at that and thought, oh, good idea, but then I
18 thought, oh, we used the word period all over the place,
19 I think, or do we use term or do we use both, and I have
20 to go through maybe multiple chapters of the rule in
21 order to get that fixed. So I said, I think I'll wait
22 till next time.

23 That would be the reason for that, because
24 sometimes we use these words interchangeably and it can
25 rattle through other chapters like the financial

1 assurance and things like that. And I just thought, I
2 don't have time to go through and I may have to change
3 every chapter if I dink with this one.

4 MS. CAHN: Well, I'm going to -- I'm
5 going to take issue with that. It's so simple to do
6 word search for words at a time and change it
7 everywhere. Look for two words, period and term, choose
8 one and change it and make it consistent. I mean, I'm
9 sorry, but I don't think that's excessive to have to do
10 that.

11 MR. DOCTOR: I agree with you there. My
12 problem would be that this may also affect Chapter 3 and
13 7 and others that we're not even working on right now.
14 And so if I make a bunch of changes in the current
15 chapters, it may ripple into a bunch of other things
16 we're not messing with. So that would --

17 MS. CAHN: Okay. I can accept that.

18 MR. DOCTOR: You're right. Search and
19 replace is easy.

20 MS. CAHN: Search and destroy. And I
21 can accept that, that you have got other -- you have
22 other chapters that you're not looking at, other
23 sections. So I understand that. Thank you for the
24 clarification, Bob.

25 MR. DOCTOR: You're right. Even I can

1 figure out that.

2 MR. WELLES: Couldn't you reference it
3 to a specific chapter, saying --

4 MR. DOCTOR: I will look at this.

5 MR. ANDERSON: Mr. Chairman.

6 Lorie, I don't necessarily want to belabor
7 this, but if you look at the provision at the very
8 bottom of page -- on 2-19, it talks about -- it's
9 talking about permit terms there. If you look at that
10 romanette number ii, you can see how many different
11 times we use the word period and term just within a
12 single provision.

13 So, I think it gets to Bob's point in terms
14 of, you know, being able to take some thought in terms
15 of whether it makes sense in some locations to say
16 period and then refer to term. So I just -- don't want
17 to belabor it, just point out that we are a little bit
18 schizophrenic in using terms.

19 MR. WELLES: Thank you for admitting
20 that.

21 MR. DOCTOR: Lorie is still looking?

22 MS. CAHN: Yes. I have five more pages
23 to go, so bear with me, please.

24 I would like to talk about comment 83 on page
25 23 of 28. We had a lot of discussion at the last board

1 meeting about having monitoring wells as close as
2 possible to waste versus having them at a waste
3 management unit boundary, and you mentioned you're going
4 to -- or you're going to bring this up at the -- in the
5 next rule change, but we had a significant amount of
6 discussion on that.

7 Let me make one kind of procedural comment.
8 This goes to making -- you know, you asked for guidance
9 on what the board likes to see in terms of how you
10 adjust responses to comments. This and the sage grouse
11 leks would be examples where I would prefer to see your
12 response to comments next time organized going through
13 page by page of the proposed rule rather than comment by
14 comment by the commenter, because, you know, for
15 example, at least two commenters commented on the sage
16 lek language, and so, as a reviewer, I'm reading what
17 you're going to do and then I get to the same comment
18 again by another reviewer.

19 So, to me it makes more sense to have it
20 organized as you go through the rule, and then you take
21 all comments that somebody has addressed on one section
22 all together, and so it benefits from conflicting one --
23 somebody tells you to do one thing and somebody else
24 suggests you do something else. It's easier to address
25 them all at once. But that's procedural.

1 So I guess then to get back to our original
2 board discussion that we had on this, I guess I was led
3 to believe that -- I was expecting to see some changes
4 there on the language. I thought we had agreed we would
5 strike out "as close as possible." We had discussions
6 about based on hydrogeology, physical chemical
7 characteristics.

8 So I'm just kind of, I guess -- I'm concerned
9 about having wells as close as possible to waste. I
10 guess I need a little more discussion again on other
11 than saying this was beyond the scope. It seemed like
12 something that -- it's not smart to put a monitoring
13 well right next to waste. It's not good engineering
14 practice.

15 So I guess I'm still concerned about the
16 protectiveness of that, you know, of telling an operator
17 to do that. I don't know. So I guess that's an example
18 where I'd say even if it's out of scope, it's -- we had
19 a lot of discussion on it, and it seems like something
20 I'm not comfortable with, the proposed rule still
21 saying, as I understand it, that we're going to have
22 wells as close as possible to waste.

23 MR. APPLGATE: Lorie, I wanted to add
24 to that. I think I drew a cartoon where showed now that
25 we're going to liners in all these landfills, that the

1 type of failure you would see from a landfill liner is
2 such that, you know, there are pinhole failures or small
3 failures that would -- you wouldn't actually pick that
4 up until it diffused out a little bit. You're actually
5 more likely to pick up groundwater contamination by
6 having your well, I think, out a little further from the
7 landfill. Of course, that's going to be very dependent
8 on, like you said, the specific hydrogeologic conditions
9 in which the landfill is placed.

10 I think, generally speaking, we just thought
11 it was too simplistic, didn't we, to say as close as
12 possible and that we wanted some language that would
13 incorporate a little deeper thought process in terms of
14 locating monitoring wells.

15 MR. DOCTOR: Mr. Chairman.

16 That's all a part of our discussion when we're
17 working to establish a groundwater network. In the vast
18 majority of our landfills, waste is 20 feet from their
19 fence, and we have got 20 feet to put a monitoring well
20 in. We can't go off site to somebody else's property.
21 It's a moot point.

22 Also, an unlined landfill is not a homogenous
23 waste source. A five-gallon drum of TCE could be dumped
24 50 feet over from our monitoring well and we're going to
25 completely miss it in getting enough wells in to do

1 that. And also within the footprint of a landfill, a
2 release can come from anywhere, lined or not.

3 So moving that well close to waste, 150 meters
4 from waste, back and forth in there, who knows if you're
5 going to hit it. You have diving plumes. You have
6 light end stuff.

7 We're just trying to see, is it leaking or is
8 it not leaking. If it is, then we start getting into
9 screening wells at various depths to determine if the
10 LNAPLs are escaping underneath our monitoring wells.
11 And the very basic bare-bones monitoring network that a
12 lot of our operators are able to afford to put in has
13 been a big consideration here. But we do consider those
14 distances when we're looking at where to set this.

15 I had some -- pardon me, David. Maybe this
16 was there because people were trying to put a wells a
17 long way away and we wouldn't get a release until it was
18 15 years too late. So I don't know.

19 MR. APPLEGATE: Maybe it's possible to
20 do a minor change here something to the effect -- tell
21 me what comment number again that was, Lorie.

22 MS. BEDESSEM: It's comment 83.

23 MR. APPLEGATE: Maybe you could just
24 add, no more than 150 meters from the waste management
25 unit boundary unless there are site-specific

1 hydrogeologic conditions that warrant a greater distance
2 or something to that effect.

3 MS. CAHN: My concern was in the
4 language as close as possible, and I thought we had
5 struck that. So, this response to comments says that we
6 didn't, that you didn't strike it.

7 MR. APPELGATE: So I would be agreeing
8 with your suggestion that we delete as close as
9 possible. Well, I guess it says that WDEQ plans to --
10 well, if you look at what DEQ planned to consider, that
11 language is pretty good.

12 MS. BEDESSEM: Can you tell us where
13 that is in the strikeout version of the rules --

14 MR. DOCTOR: It's on page --

15 MS. BEDESSEM: -- where the language
16 is?

17 MR. DOCTOR: -- 2-47 in our groundwater
18 monitoring requirements. In Chapter 2, it says, the
19 system must be -- there is a bunch of conditions in
20 there in establishing a groundwater monitoring system.
21 And it says the "Well locations must be approved by the
22 administrator, and downgradient wells shall be placed in
23 locations as close as possible but in no case greater
24 than 150 meters from the waste management unit boundary
25 on land owned, leased or otherwise controlled by the

1 operator."

2 MR. APPLGATE: Now that I know the
3 language more specifically, Lorie, I would say if you
4 just deleted your as close as possible and just left the
5 language in it would be placed no more than 150 meters.
6 I don't know. I just think you want to keep this open
7 to a dialogue with the permittee. And, again, the
8 regulating community -- it's similar to my comment
9 earlier about details. As soon as you put as close as
10 possible, we could be dealing with regulators that are
11 less reasonable than you and Carl who read that language
12 as it's written, and that's what we're trying to avoid
13 is having language there that seems so restrictive that
14 it doesn't allow dialogue.

15 So, I guess I would support a motion from you,
16 Lorie, that has a deletion to the language that you
17 think is appropriate.

18 MS. CAHN: I still -- yeah. I agree
19 with Dave. I think that you still have in there
20 language that says the well location must be approved by
21 the administrator. So it's going to be in a -- it has
22 to be in a location that's acceptable to DEQ. So I
23 think you're covered there. And then just say
24 downgradient -- and downgradient wells shall be placed
25 in locations -- sorry -- in locations that are in no

1 case greater than 150 meters from the waste management
2 unit boundary on land owned, leased or otherwise
3 controlled by the operator. So, therefore, you still
4 have the -- the administrator, DEQ still has to approve
5 these.

6 MR. APPELGATE: So I guess the question
7 for Carl is, are you okay with that recommended change
8 or do we have to go through a motion process?

9 MR. ANDERSON: Was that a question for
10 me, Mr. Chairman?

11 MR. WELLES: Yes.

12 MR. ANDERSON: Or for Lorie?

13 MR. WELLES: For Carl.

14 MR. ANDERSON: You know, I was just -- I
15 was just going to suggest that maybe we could say:
16 Downgradient wells shall be placed in locations within
17 150 meters of the waste management unit boundary.

18 MS. CAHN: I like that, Carl.

19 MS. BEDESSEM: Good at deleting words.
20 That's great.

21 MR. DOCTOR: I will do that unless you
22 want to specifically make a motion to do so.

23 MR. APPELGATE: I don't think we need to
24 make a motion if you're willing to accept that.

25 MR. DOCTOR: I believe -- Mr.

1 Chairman -- David, that I looked in subtitle D right
2 after our last meeting and I was unable to find that "as
3 close as possible" in there. I know that the relevant
4 points of compliance can be no more than 150 meters from
5 waste.

6 Thank you. Next?

7 MS. CAHN: Okay. I need just a few more
8 minutes. What I would like to do is just kind of go
9 through my notes from the last meeting just to feel that
10 I understand what -- the things that we had extensive
11 board discussion on just to make sure I know where we're
12 going. So just give me few minutes. Thank you.

13 I have a question. On page 1-40 of the
14 redline/strikeout rules, at the bottom where we're
15 talking about changes in the permit renewal application,
16 it talks about -- I think we had talked about something,
17 adding some language about at the end of that sentence
18 "and the revisions are clearly identified" or something
19 to make it easier for DEQ to do a review, and it's hard
20 for me to find out what happened to that, because the
21 response to comments, I'm not sure where to go for
22 that.

23 MR. DOCTOR: Mr. Chairman.

24 Lorie, if you turn to actually page 6 and
25 going on to page 7 of the response, that's been added in

1 two places. It's comment number 10.

2 MS. CAHN: Okay. Great. Thank you.

3 MR. DOCTOR: Mr. Chairman.

4 While we're sitting here, when I prepare these
5 as part of the record, depending on where we go, I will
6 go through here and where I just said I'm going to add
7 all this, I'll make it red so it stands out like some of
8 the other changes just to make it clear it's all new
9 stuff before this goes on whatever form.

10 After I was looking at comment 97, I said,
11 we'll add all this to the bottom of the section, but I
12 didn't make it red. So there could be two or three
13 places where I need to do that.

14 MS. CAHN: There is going to be a lot
15 more than two or three places. There is going to be
16 dozens. I can start going through -- if you want me to
17 go through them, I can tell you ones I found, but it was
18 a lot. So I think you should just search for the word
19 added or changed and I think you'll find a lot of them.

20 MR. DOCTOR: There probably are.

21 MS. BEDESSEM: Bob, are you going to
22 revise the response to comments to handle the additional
23 things that we discussed here today?

24 MR. DOCTOR: Yes. It's my assumption
25 that essentially an entire response to all these

1 comments, including the ones today, would be compiled
2 and then that will be part of the record if you all
3 decide to move forward with formal rule changes or if
4 you decide you would like us to come back with the rules
5 actually changed for you for, in some cases, a few other
6 board members, newbies, to look at.

7 So either way, this revised thing would move
8 forward in either a formal rulemaking or back to you
9 guys.

10 MS. CAHN: I have no more questions.

11 MR. APPLGATE: I'd like to make a
12 motion. And, of course, we'll have opportunity to
13 discuss this, Lorie. But my motion would be that we
14 approve these rules as amended by us today to be
15 forwarded to the EQC.

16 MS. BEDESSEM: I'll second that motion.
17 Discussion?

18 MR. WELLES: We have a motion and a
19 second. Do we have comments?

20 (No response.)

21 MR. WELLES: Hearing no comments, I'll
22 ask for the vote. All those in favor, please say aye.

23 MR. APPLGATE: Aye.

24 MS. CAHN: Aye.

25 MR. WELLES: Aye.

1 MR. SUGANO: Aye.

2 MS. CAHN: Aye.

3 MR. WELLES: Opposed?

4 (No response.)

5 MR. WELLES: Hearing none, motion
6 passes.

7 MR. DOCTOR: Mr. Chairman and board
8 members, that was -- I don't think it was all that
9 painful. Appreciate it. Now I'm a little scared,
10 though, because I have not done the formal rulemaking
11 before.

12 When I finish updating this and actually
13 putting these changes in the rules, I think I should
14 send it all to you before we start the formal rulemaking
15 so you can look at it. And if you happen to see
16 something that I missed, I think that will give you all
17 an opportunity to say, hey, wait a minute. You forgot
18 something.

19 MR. WELLES: Yes. If you hadn't said
20 that, I was going to suggest that.

21 MR. DOCTOR: I like that checks and
22 balances, because I appreciate your help.

23 MR. WELLES: Well, that's what we're
24 here for is to try and help get to the end product that
25 is the best.

1 MS. BEDESSEM: And that's also
2 considering the format is a little different than what
3 we normally move forward. So, appreciate that.

4 MR. DOCTOR: I don't think I'll try this
5 again. Hopefully we won't be under the gun so much next
6 time either.

7 Would you like to hear a little quick synopsis
8 of these new statutes that may be affecting us?

9 The legislature select committee of the Joint
10 Minerals Committee met about a week ago Monday. They
11 seem to be aware now of the problems we have with local
12 governments funding obviously remediation but also
13 landfill closure and transfer station construction.

14 Previously, we had set aside in the previous
15 budget a couple bienniums ago or one biennium ago. We
16 have 30 million dollars in our reserve account now for
17 remediation with the potential of the upcoming budget,
18 the governor including another 15 million in that
19 account.

20 We're trying to figure out how we go about
21 using that money. We have impacted landfills and a
22 priority list that we're developing for the minerals
23 committee, and we need to approach them based on that
24 priority list for remediation. But we have a lot of
25 smaller landfills who are needing to close, and if we

1 were to wait to provide assistance based on priority
2 ranking, they'll never get money. And therefore, we
3 have been having this discussion of how we address both
4 of those needs to local government. So, the proposal
5 now being looked at is a remediation account that is
6 administered through DEQ. DEQ would lead remediation.

7 Another bill out there would be a bill for
8 they call it cease and transfer, when a landfill ceases
9 to receive all waste, that we will work with them and
10 hopefully have a general -- and Carl, you may want to
11 talk about this a little more -- a general permit
12 process to assist with the permitting that they need to
13 go through to get their landfill closure permit together
14 and designed for final cover and also the transfer
15 station designed and taken care of, to do that now
16 through reimbursement from SLIB.

17 So there is two basic bills out there, one,
18 DEQ led remediation in a separate account, and the
19 other, a reimbursement program through SLIB for closure
20 and transfer stations. And that's the short version of
21 where that's going. There are a lot of details to work
22 out like eligibility criteria, what things do we need to
23 do from our side, what does the operator need to do in
24 presenting their side. That's a short version.

25 Also, there was some talk of the potential for

1 a recycling bill that would maybe establish goals for
2 recycling. There wasn't any desire to establish a
3 mandatory recycling rate for the state of Wyoming, but
4 there is some need that there may be a need for support
5 of recycling in one way or another, maybe even
6 financial.

7 And Carl, I will let you elaborate on those
8 things, if you would like, if you're still there.

9 MR. ANDERSON: I'm still here. Mr.
10 Chairman.

11 I guess, you know, I can -- if the board would
12 like to hear more, you know, I can talk a bit more about
13 the legislation, but I think, you know, Bob captured it
14 pretty well in terms of what a remediation program would
15 look like and what the cease and transfer part of it
16 would look like.

17 There is also a piece of legislation that's
18 being proposed that's sort of odd in that the other two
19 pieces of legislation, you know, because if the state is
20 going to be, you know, using state money to clean up
21 landfills and/or reimbursing communities to do closure
22 and transfer kinds of activities, there is a feeling
23 that there should be greater accountability by the
24 communities to account for their costs so that we don't
25 get faced with this problem in the future ten years from

1 now where communities haven't planned and haven't set
2 money aside to continue to operate a transfer station or
3 meet, you know, the other obligations associated with
4 the solid waste management.

5 So, I think that that about covers it, I
6 believe.

7 MR. WELLES: Well, I would just suggest
8 to DEQ that, at least from my opinion, and I think the
9 rest of the board would concur, that you just keep us
10 informed, you know, with simple email updates or however
11 you want to title it but just to keep us involved in the
12 process. I think that would be helpful.

13 MR. DOCTOR: Thank you. We'll keep
14 doing that.

15 Just so you know, the governor's advisory
16 committee on solid waste is meeting here in Casper
17 October 3rd at the UW Outreach building on North Poplar
18 Street. Also, the next meeting of the Joint Minerals
19 Committee is October 15 -- Carl, is that right? -- I
20 believe right here in this building, in this room.

21 Is that right, Carl?

22 MR. ANDERSON: That's correct. Yeah,
23 that's correct.

24 MR. DOCTOR: And then we should see
25 whatever their revisions are to the bills that were

1 addressed on to the subcommittee.

2 MS. BEDESSEM: So is the subcommittee --
3 are the subcommittee meetings over?

4 MR. DOCTOR: I believe they are. So the
5 subcommittee is working on revising their initial
6 drafts, and then they will bring that to the committee
7 as a whole on the 15th. And then we'll know kind of
8 where they're going.

9 MS. BEDESSEM: Can you clarify for me?
10 Because I may have missed it. So now are there two
11 draft bills or three draft bills?

12 MR. DOCTOR: Go ahead, Carl.

13 MR. ANDERSON: Mr. Chairman.

14 You know, I think just to clarify a little
15 bit, the solid waste subcommittee is intending on having
16 a phone conference call, and that hasn't been scheduled,
17 but sometime around the 1st of October, they're
18 proposing to have a phone conference call, because
19 legislative service offices has been working with us in
20 terms of finalizing draft versions of the legislation,
21 and then the subcommittee can have a conference call,
22 like I said, sometime around the 1st of October to talk
23 about the sort of draft final version, make any changes
24 to those, and they would present those to the minerals
25 committee on the 15th of October.

1 Right now there are three pieces of
2 legislation. One is related to remediation. The other
3 one is cease and transfer. The other one is this
4 accounting, community accountability, full cost
5 accounting. And then even though we haven't seen it,
6 there will likely be a fourth piece of legislation
7 related to recycling, and we don't know exactly what
8 that will look like at this point.

9 What was given to the solid waste subcommittee
10 a couple weeks ago was pretty skeletal in form and it
11 did talk about, you know, some mandatory recycling. And
12 the solid waste subcommittee generally concluded that,
13 at this point in time, you know, establishing some kind
14 of mandatory recycling rate probably would need some
15 more time, but they felt like -- I think in general they
16 felt like it's probably a good time to, you know, get
17 some recycling stuff on the table.

18 And so, we expect that there will probably
19 four pieces of legislation that will go to the solid
20 waste subcommittee at their phone conference call, and
21 they'll decide, you know, whether or not they want all
22 four of those to go to the joint committee. I would
23 guess that for sure two of them will, the remediation
24 and cease and transfer. I would suspect that the
25 accounting would. The recycling one, I'm not quite

1 sure.

2 MR. WELLES: Thank you for that update.

3 Is there anything else, Bob, that you have?

4 MR. DOCTOR: No, I don't.

5 MR. WELLES: Or Carl?

6 MR. DOCTOR: Except thanks for your
7 help.

8 MS. CAHN: I have some board things to
9 bring up just for the board. I guess I was surprised to
10 hear -- I know that, Bill, you're going off the board at
11 the end of September, in a few days here --

12 MR. WELLES: Yes.

13 MS. CAHN: -- next week. So I just
14 wanted to thank you very much. It's been a pleasure
15 working with you, and thank you for serving as our
16 chairman. And I wanted to know if there -- I guess DEQ
17 mentioned that there were other people that were going
18 off the board, and I didn't know that that was true. I
19 knew that Bill was.

20 So I wanted to make sure that procedurally a
21 couple things. One is that if anybody's term is
22 expiring and they wish to continue to serve, that they
23 let the governor's office know that they want to do that
24 so that we have some -- so there is continuity.

25 If somebody knows they're going off the board

1 besides Bill, I'd like to know of it. And I'm not
2 really -- I can't even remember anymore when people's
3 terms expire. So probably going to have to look that up
4 on line, make sure I'm not one of them, because I want
5 to continue to serve.

6 And then the other thing is that we will be
7 losing our chairman. So, Marge is the vice chair. We
8 don't normally elect officers until we have the new
9 board. So what I assume we'll do is Marge will act as
10 the acting chair until the next meeting where we, you
11 know, elect a board -- I mean, elect our officers.

12 MR. WELLES: I think that's all
13 correct.

14 MS. CAHN: So that in terms of figuring
15 out when the next meeting would be, DEQ will work with
16 Marge primarily, and then she can work with the rest of
17 the board to set up our next meeting.

18 And then the other question I had was, does
19 DEQ know or do we have any idea when the next meeting
20 might be or what might be coming before us from the
21 Water Quality Division or, Carl, your division?

22 MR. SUGANO: Mr. Chairman? Mr.
23 Chairman?

24 MR. WELLES: Yes, Glenn.

25 MR. SUGANO: This is Glenn.

1 Yes, I am going to leave the board. My term
2 has expired. And I just had some circumstances come up
3 during late summer that are going to force me to just
4 kind of discontinue my public service. So, I just
5 thought I better let everyone know.

6 MR. DOCTOR: We don't like that news
7 either.

8 MS. BEDESSEM: Again, Glenn, we really,
9 really enjoyed working --

10 MS. CAHN: Glenn, it's been a pleasure
11 serving with you, too. We're going to miss you also.

12 MR. SUGANO: Well, thank you very much.
13 I've enjoyed working with everyone and I hope to see you
14 again soon.

15 MR. APPELEGATE: Lorie, this is Dave. My
16 term expires. I did send information to continue my
17 term and haven't heard back. So, I don't know if I am
18 continuing or not.

19 MR. WELLES: Well, I think, Dave, that
20 you need to contact the governor's office to make sure
21 that they have your --

22 MR. APPELEGATE: I know they received my
23 information. I got confirmation of that. I'm assuming
24 I'll find out in the next couple weeks.

25 MR. WELLES: The only thing that I know,

1 and this isn't official, but I know that the governor's
2 office has had several applications. There was some
3 concern that there was nobody applying to represent
4 agriculture, and I forwarded that email on to the same
5 people that I had contacted earlier in the year when I
6 knew that my term was up, that being the Stock Growers,
7 the Wool Growers, Farm Bureau, conservation districts
8 and a pretty large network. And I had two responses
9 from two individuals who had interest, and whether or
10 not they have actually submitted applications to the
11 governor's office I never have been told. So I don't
12 know.

13 I would like to thank all of you on the board
14 and DEQ staff. The time that I have spent with this
15 board has been extremely educational. I feel I'm the
16 least scientifically endowed person in the room at every
17 meeting, and, therefore, my education level has risen to
18 a point that, I mean, I just really appreciate having
19 had the opportunity of working with you all. So thank
20 you very much.

21 If there is no other comment, hopefully,
22 Glenn, you and I can still play some golf together
23 somewhere in our retirement from the board.

24 MR. SUGANO: I hope so, Bill. Thanks.

25 MR. WELLES: Is there anything else at

1 this point?

2 (No response.)

3 MR. WELLES: No comment? Then we'll
4 close the meeting. Thank you all very much.

5 (Hearing proceedings concluded 12:22
6 p.m., September 21, 2012.)

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