

1 BEFORE THE DEPARTMENT OF ENVIRONMENTAL QUALITY

2 LAND QUALITY DIVISION

3 -----

4 HEARING TO DISCUSS PROPOSED REVISIONS TO CHAPTERS 1, 2,
5 6, 12 AND 16

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9 TRANSCRIPT OF HEARING PROCEEDINGS

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11 Transcript of Hearing Proceedings in the above-
12 entitled matter before the Department of Environmental
13 Quality, Land Quality Division, commencing on the 26th
14 day of October, 2015 at 10:00 a.m. at the Oil and Gas
15 Conservation Commission Hearing Room, 2211 King
16 Boulevard, Casper, Wyoming, Mr. Jim Gampetro presiding,
17 with Board Members Mr. Philip Dinsmoor, Ms. Natalia
18 Macker and Mr. Michael Shober in attendance.

19 Also in attendance were Mr. Craig Hults of the
20 LQD, Ms. Carol Bilbrough of the LQD, Mr. B. J.
21 Kristiansen of the LQD, Mr. Mark Rogaczewski of the LQD,
22 and Ms. Kim Medina of the LQD.

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

2 (Hearing proceedings commenced
3 10:00 a.m., October 26, 2015.)

4 CHAIRMAN GAMPETRO: The meeting is now in
5 session. I'm Jim Gampetro. I'm a public representative
6 from Buffalo, Wyoming. I previously owned businesses,
7 small businesses, and was in charge of an environmental
8 function for a large corporation. And I've been doing
9 this for, I think, fifteen years. And I would just ask
10 everyone to please introduce themselves, indicate what
11 your status is within the board, if you're on the board,
12 or what organizations you represent. I see we have no
13 audience.

14 MR. SHOBER: I'm Mickey Shober. I'm the
15 political elected representative. I'm a county
16 commissioner of Campbell County. Just been reappointed
17 for my second term. Background is agriculture and
18 construction. I still run an active construction
19 business when I'm not doing these kinds of things. So
20 this is of great interest to me, and all of this is a
21 great interest to the people that live in Campbell
22 County.

23 MR. DINSMOOR: My name is Phil Dinsmoor.
24 I'm the director of environmental services for Peabody
25 Energy. We run four coal mines in the Powder River

1 Basin. I've been in the Powder River Basin or the coal
2 industry here in Wyoming since the mid 1970s. This is my
3 first term on the advisory board as the industry
4 representative, on the Land Quality Advisory Board, but I
5 did spend two or three terms on the Air Quality Advisory
6 Board in the 1990s, I believe it was.

7 MS. MACKER: I'm Natalia Macker. I am a
8 public representative from Jackson. I also serve as a
9 county commissioner in Teton County, and I have a
10 background in the legal field and in nonprofit
11 management.

12 MR. HULTS: Craig Hults with the Land
13 Quality Division in Cheyenne. I guess my duties entail
14 touching the rules in some way. It changes as we go
15 through it.

16 MS. BILBROUGH: My name is Carol
17 Bilbrough. I am a program manager with the Land Quality
18 Division in Cheyenne with the Division services. So I
19 oversee the group that provides statewide support to Land
20 Quality Division.

21 MR. ROGACZEWSKI: Mark Rogaczewski, Land
22 Quality Division out of Sheridan, the District 3 office.
23 I am a program manager, supervisor of that office
24 handling the staff up there.

25 MR. KRISTIANSEN: I'm B. J. Kristiansen.

1 I also work in the Sheridan office of Land Quality
2 Division, District 3. I'm a geologist and also the
3 program principal for noncoal.

4 MS. MEDINA: Kim Medina. I'm with Land
5 Quality up in Sheridan. I'm also a geologist with B. J.,
6 and we are the ones that kind of helped put some of the
7 rules together that we will present today.

8 CHAIRMAN GAMPETRO: Thank you all.

9 Did anybody have any questions, changes,
10 additions to the minutes from the last meeting?

11 (No response.)

12 CHAIRMAN GAMPETRO: Well, then, I suppose
13 we could -- I suppose we could move on and somebody make
14 a motion on those minutes.

15 MR. SHOBER: Mr. Chairman, I move we
16 approve the minutes from the August 24th, 2015 meeting.

17 MS. MACKER: Second.

18 CHAIRMAN GAMPETRO: We have a motion and a
19 second. All those in favor of approving the minutes from
20 the August 24th meeting indicate by please saying aye.

21 (All members vote aye.)

22 CHAIRMAN GAMPETRO: Any opposed?

23 (No response.)

24 CHAIRMAN GAMPETRO: Seeing no opposed, the
25 minutes are approved.

1 Chapter 14 coal rules and -- oh, do we have
2 anything to sign on that?

3 MS. BILBROUGH: No.

4 CHAIRMAN GAMPETRO: I thought we used to
5 have something.

6 MS. BILBROUGH: As far as the minutes are
7 concerned, Jim?

8 CHAIRMAN GAMPETRO: On the minutes.

9 MR. HULTS: We do not. Typically what
10 I've been doing is using the minutes as evidence that we
11 have approved them.

12 CHAIRMAN GAMPETRO: That's fine. Whatever
13 makes you happy makes me happy.

14 Chapter 14, coal rules and regulations,
15 proposed revisions to update the drill hole plugging and
16 sealing requirements.

17 MS. BILBROUGH: So, Mr. Chairman, we're
18 going to start with a brief presentation on the rule-
19 making process before we go into the chapter changes,
20 proposed chapter changes themselves, just because it's
21 been so long and because we have some new members. And
22 you'll be able to see in the little windows below you the
23 presentation and follow along.

24 MR. HULTS: So, Craig Hults. I just put
25 together a few slides, kind of a bare framework of the

1 process all the way through from beginning to end. Our
2 first step is the advisory board. Typically what we're
3 doing is there will be some kind of legislative change.
4 Other agencies have changed their rules. We may just
5 have a need that we've discovered through experience
6 working with the operations. That's usually our initial
7 kind of seed to get going with. And from there, we'll
8 identify what kind of chapters we're looking at, whether
9 it's coal, noncoal. Might be some of both. We've done
10 that with like self-bonding, where it attaches to both
11 programs.

12 But the first step is to develop a draft
13 package and the draft language as far as rules go. We
14 will be doing internal reviews. There may be some
15 outreach initially, possibly checking with the governor,
16 the Attorney General's Office, if the issues are
17 something that we may feel will run afoul of some other
18 legislation or we just feel like it's a complicated
19 process that we would need that help. In this case, it
20 was pretty straightforward. So we developed that
21 package, and that's what you have here today.

22 At that point we schedule the advisory board
23 meeting. A public notice is put out. I mention here
24 that there's several methods now. We now have an
25 electronic commenting system. This is our first go-round

1 with it. I don't know if you saw, but I was furiously
2 typing to Keith back in Cheyenne to see if we had
3 received any comments. We hadn't, so that's a good sign,
4 I guess. We also will accept the comments via snail
5 mail. They could be dropped off in our office or coming
6 to the meeting to present any comments they have.

7 During the advisory board meeting, we're here
8 to discuss the proposed revisions, take any questions,
9 address any comments that we may have. Following our
10 presentation and discussion, the advisory board has
11 several options of what to do with that rule package
12 that's in front of them. First one is that they
13 recommend that it proceeds to the EQC for formal
14 rule-making, which is a whole other step in this. And
15 basically what you're seeing at that point is that you've
16 approved the rules as they were presented, and we would
17 like to go through the formal rule-making.

18 Another option is that we incorporate changes
19 that are discussed during the meeting. I have the files
20 here generally. And if they're not too involved, we can
21 generally make those changes to the statement of reasons
22 and change any rule language that we need to. So then we
23 could incorporate those changes. And again, it would be
24 that same kind of deal, where you're recommending it to
25 go forward to the EQC. The motion may include the

1 notation that it is with the changes that we discussed or
2 as were discussed during the hearing.

3 A third option is that you recommend further
4 revision following the meeting and then request a second
5 hearing. Typically that happens when there's a lot of
6 debate on the issues. The changes are just too big to
7 try and handle during the meeting. So we would take that
8 rule package back and go back to the beginning,
9 basically, and run it back through the advisory board.

10 The second real big chunk of this is the formal
11 rule-making process. In that stage of the game, there's
12 a lot more statutory requirements involved. The
13 timelines are directed by statute. And there's a lot
14 more agencies involved now.

15 The first thing we do is get a draft package
16 together following the advisory board that includes any
17 changes that were discussed, and that's submitted to the
18 governor's office through the attorney general. What
19 we're looking for there is permission to proceed. The
20 governor has ten days to review that once it receives it
21 from the attorney general. He'll be looking at the
22 content of it, see if it's anything that the State as a
23 whole doesn't want to move forward on, and he'll let us
24 know whether we can start the actual process.

25 Once we do receive permission, a hearing is

1 scheduled with the Environmental Quality Council. And we
2 have to provide -- this is one spot where statutes come
3 into play. We have to provide 45 days at a minimum for
4 public comment, for that public comment period. What
5 we've been trying to do is do 45 days plus another two
6 weeks if we can. That allows us to gather up all the
7 comments, develop an analysis of those comments and
8 present that to the EQC and hopefully have all the issues
9 worked out prior to the meeting, or at least from our
10 viewpoint, have them worked out.

11 The comments, if we receive any during that
12 period, we would review those. If there are any changes
13 to the rules that we feel would be necessary, if we're
14 going to adopt those comments that we have, we would try
15 and roll those into the package and have that ready to
16 roll, as well, the thought being that if we can do that
17 in that one meeting, we don't have to go back through
18 them again. And one thing I've found with this process
19 is anywhere we can chip time away from this, it's very
20 helpful.

21 So we do bring in those changes. If necessary,
22 we would craft that language to address the comments.
23 And we would also bring in an analysis of those comments
24 to provide to EQC to see what our response was to
25 whatever comments we did receive.

1 The hearing is held. For rule-making, it isn't
2 always required that a hearing be held. In LQD's
3 experience, we just schedule one. It isn't mandatory
4 unless a group requests a hearing. We've always found
5 it's better to just do it that way.

6 With the proposed rules, there's, again, a
7 similar kind of discussion period. And what the EQC is
8 trying to decide is whether to approve the rules or
9 whether further revision is necessary. The EQC has the
10 power to send it back to the advisory board if there
11 isn't enough issue there. And it's happened in the past.
12 They just feel it's not quite ready for publication and
13 submittal for approval. Doesn't happen very often,
14 fortunately.

15 If they do approve, they sign off on the rules.
16 We will bring one of the statements of reasons in there.
17 They sign off on those copies. And we're off and running
18 to the next step.

19 Following the EQC, they sign off on that
20 statement of reasons. One of our big deadlines here is
21 we have to submit that to the Legislative Service Office
22 within ten days of promulgation, which is generally the
23 meeting date when we have them sign off on those
24 statements of reason. That starts our clock for that ten
25 days. If we weren't to submit it to the Legislative

1 Service Office, basically the rule package is null and
2 void, and we would have to go back to the beginning. So
3 it's a real critical step for us.

4 From there, we develop that final package. If
5 there were any changes to the strike and underlines, we
6 get all that ready. That's all submitted to the Attorney
7 General's Office. They will then forward it to the
8 governor's office for their review. The governor's
9 office has 75 days to review and approve the rules. One
10 thing that's kind of unique to Wyoming is the governor
11 actually has line-item veto on our rules. So, if there's
12 something he doesn't like, he can strike it out, and the
13 rest of the rules would move forward with that
14 strike-through.

15 If the governor does approve them, he will then
16 submit them to the Secretary of State. And that's the
17 approval date of the rules, or the effective date. There
18 are instances where we may have a period built into the
19 rules that we say we need to get some things in line
20 before these become effective. And that might actually
21 be included in the rules. But generally, once they're
22 submitted to the Secretary of State's office, that's when
23 they become effective at the state level.

24 After the rules have been filed with the
25 Secretary of State, that means they've been promulgated

1 at the state level. And basically, at the state level,
2 we're done. There may be further review necessary if we
3 have federal oversight agencies. In our case today, we
4 have some coal rules. We'll have to submit these. And
5 if they get through the EQC, we would submit them to the
6 Office of Surface Mining for their rule -- or, for their
7 approval. And even though they've gone through the state
8 process, they don't become part of our approved program
9 from the OSM's point of view until they do their review.

10 So, for example, we have some rules out there
11 that have gone through all of the state process. We've
12 submitted them to the OSM, but they haven't published the
13 Federal Register yet that gives their final ruling on
14 them. In that case, typically what we do is we hold off
15 on trying to enforce those rules until we get that final
16 say-so from the OSM, even though they're on the books at
17 the state level, the thought being that we don't want to
18 jump down some path and all of a sudden we have to unwind
19 a bunch of things if the OSM says, "No, we're not going
20 to approve those rules."

21 That happened with the self-bonding rules. We
22 never put them into effect, even though we had raised the
23 levels. The OSM reviewed them. They said, "We're not
24 going to approve them." And what happened was we were
25 left with those rules on the state books, even though the

1 OSM says that's not a part of our approved program. So,
2 from the OSM's point of view, we were done, but we still
3 had to fix our rules. So we still had to do a rules
4 hearing on our end to fix what was on the state books.

5 Another agency that gets involved occasionally
6 is the EPA. I'm sure they're going to be involved a
7 little bit more with some of our upcoming rules. We
8 haven't had much that's gone through them recently.

9 And following all of our federal reviews, if
10 there are any, those final rules then are just sent out
11 to the interested parties. They're published on the
12 Secretary of State's website. It would be mailed out if
13 somebody had requested them. But that pretty much takes
14 us through the whole process.

15 Happy to answer any questions or if you have
16 any comments or anything.

17 MR. DINSMOOR: Mr. Chairman, I'd like to
18 ask Mr. Hults, I presume that when you have a rule that's
19 going to go to the OSM, for example, after passage at the
20 state level, that the OSM -- you don't do this blindly,
21 that you work with the OSM, and you have a fairly good
22 feel whether or not they're going to shoot it down or not
23 before it ever gets even to the Environmental Quality
24 Council. That's a question.

25 MR. HULTS: Yes, Mr. Dinsmoor, that's very

1 true. What we typically do if we feel like there is
2 something that may run us afoul -- because our standard
3 is we have to be as stringent as or effective as the
4 federal regulations. We have a couple of options. In
5 the past, we have submitted them informally to them. And
6 basically we treat -- whatever they come back with from
7 that informal submittal, we will treat that as a comment
8 and roll that into the package. In this particular
9 instance, I was on the phone with them. We looked at the
10 federal regulations and saw there wasn't a lot there that
11 we would be having a problem with down the line. We're
12 spelling out some more specificity, but it still meets
13 their standard.

14 Another option for us is, knowing that we have
15 an advisory board and EQC, if, say, it was very
16 controversial here, we made some changes that we're not
17 really sure about, we would submit that. Again, we have
18 that second chance to informally submit it to them so
19 they'll have a chance to look at it and review it. The
20 plan being this time around was to just wait. It didn't
21 sound like we were getting much in the way of comments.
22 So, after talking with the Denver office, we just decided
23 we'll wait until the advisory board, in case there are
24 any changes or anything, and then we'll submit it
25 informally again. And that way it allows us to

1 incorporate their comments before it comes final.

2 Thank you.

3 MS. MACKER: Thank you, Mr. Chairman.

4 Can you just speak to, if the effective date is
5 not included in the rules, is there an automatic period
6 of time before they become effective once we went through
7 the whole process?

8 MR. HULTS: The filing date would then
9 become -- once the governor's office sends them over to
10 the Secretary of State, that becomes the effective date
11 of those rules.

12 MS. MACKER: Unless it's specified to be
13 later within the rules?

14 MR. HULTS: Correct. That's correct.

15 CHAIRMAN GAMPETRO: Seeing no other
16 questions, we'll move on to the actual rules.

17 MR. KRISTIANSSEN: Board members, as we get
18 started here, first thing I've got to do is give credit
19 where credit is due. Ms. Medina next to me here did all
20 the work. She put together the red-line copy, found the
21 video for the PowerPoint presentation, did the original
22 PowerPoint presentation, which I used as an outline. So
23 she did most of the work. All we did was review it. So
24 she deserves the credit.

25 Trying to change Chapter 14 in our rules and

1 regulations, which is "Exploration for Coal by Drilling."
2 Took a hard look at some of the requirements that we had
3 currently in the rules and regulations and how they fit
4 with exploratory drilling around coal mines out in the
5 hinterlands for raw exploration in some of the other
6 areas. And we decided there were some inconsistencies in
7 the coal rules and regulations that did not exist in the
8 other rules and regulations, so we decided to make them
9 consistent across the board.

10 I'm going to start with a video that really
11 shows the rationale behind the reason that we're doing
12 this. A lot of people have a hard time imagining what's
13 going on beneath the ground and we need to seal the
14 systems off. And this video really helps visualize that
15 to a really good degree. It's out of the University of
16 Nebraska, so they talk about Nebraska and EPA rules. By
17 and large, though, the film illustrates everything we're
18 trying to talk about.

19 So, without further ado, go ahead and hit the
20 hot link there.

21 (Video playing.)

22 MR. KRISTIANSEN: Next slide, please.

23 The statutory core for this particular change
24 are statutes that work with Land Quality. WS 35-11-404
25 is the one that we primarily utilize for this particular

1 reclamation concept. Reclaiming our drill holes, both
2 subsurface and surface, call drill holes to be capped,
3 sealed or plugged, is the title of that thing. One of
4 the things we have found in the past after many, many
5 years of exploration, coal development moving out into
6 some of those areas with the coal mines that had been
7 explored in the past, we find the one hole that was not
8 reclaimed properly can affect a lot of holes around it,
9 as well as the coal source. A lot of the aquifers in the
10 Powder River Basin particularly is the coal. And if we
11 have any way of contaminating the coal from an up-surface
12 problem, then we want to make sure that we seal all those
13 off.

14 As you can see in the video, there was one well
15 in there that was not properly sealed, and it, in turn,
16 affected the entire aquifer for that whole area in there.
17 And depending upon how much water you've got in there
18 what is, how fast it will move, it can affect a pretty
19 large area. So what we had to do in order to make sure
20 that that wasn't happening was to make the coal rules and
21 regulations a little bit more stringent than they had
22 been in the past.

23 1992, Chapter 14 was promulgated and passed.
24 Within six years, by 1998, 14 was updated to a point that
25 existed as it does now. And it has had no work on it

1 since that point in time. In 2011 the State Engineer's
2 Office revised the water well construction standards in
3 order to make them more stringent to enforce the fact
4 that we did not want materials going down the hole. They
5 too discovered after many, many years of utilizing
6 information from some of these areas that initially
7 nothing was known about, to the point where they knew a
8 lot about it, realized this had to be taken care of. So
9 they did that in '11.

10 In 2012 Water Quality decided to meet their
11 regulations to construct wells along the same standards
12 that the State Engineer's Office promulgated, because
13 they wanted to maintain some kind of consistency between
14 DEQ and the State Engineer's Office.

15 Land Quality revised noncoal Chapter 8 at that
16 same time in 2012 to be consistent with both the State
17 Engineer's Office and Water Quality Division. At that
18 point in time, it was suggested we might want to do the
19 coal exploration, as well, and decided to hold off on
20 that until we took care of the noncoal rules and
21 regulations and then moved forward into the coal rules
22 and regulations, which is what we're doing right now.

23 Some of the substantive changes to the rule
24 that we're proposing here is it was updated to reflect
25 industry standards as they exist at this point for

1 plugging and abandoning holes. The standards have
2 changed significantly in the last 15 or 20 years. I know
3 20 years ago we were pretty -- it was pretty easy to
4 reclaim holes out there in the hinterlands because, by
5 and large, the standard was throwing cuttings down the
6 hole. When you're done drilling the hole, you put the
7 cuttings back down the hole again, put a little bit of
8 topsoil on the top and let it go. That was enough. That
9 was adequate in those days. But as time has gone by,
10 we're finding out how very simple it is to contaminate
11 downhole aquifers. We've had to get more and more
12 stringent. And so that's one of the reasons we're
13 applying this at this point.

14 We also want to provide consistency between the
15 state agencies so that they go to one agency and they're
16 saying the same rules and regulations, essentially, as
17 for the other agency. That means that all of the
18 exploratory holes in the state are being reclaimed the
19 same way, whether they're coal, oil and gas, uranium,
20 noncoal, other kinds of holes or water wells, monitor
21 wells and things like that. We want to maintain the
22 consistency so they're all reclaimed to a standard that
23 was as high as we could make it at this point in time.

24 We also had to modify some of the surface
25 restoration requirements. Because at one point in time

1 they were fairly simple, we wanted to make them a little
2 bit complex to allow for growing seasons, adequacy of
3 seeding and some of these other constituents, so we gave
4 that a separate section number. And that section was
5 withdrawn particularly because we wanted to make sure
6 that restoration was easy to understand and was
7 consistent, as well.

8 We also revised the bonding and the bond
9 release requirements in that particular chapter.

10 Section 1 used to say essentially follow
11 35-11-404. And so, by reference, the section was being
12 written, and people had to go back to that part of the
13 statutes to determine what they had to do. But it was
14 fairly simplistic in those days. So we had to modify
15 that to a certain extent. We now had to specify very
16 much the requirements applied to the exploration drill
17 holes out there all over the place, whether they're
18 inside the permitted mine or outside of a mine.

19 The first aspect we looked at is all the holes
20 within a permitted mine, within a permit boundary. How
21 soon do those holes have to be reclaimed and to what
22 degree do they need to be reclaimed, based on the fact
23 the coal would be mined out of there? And so what we
24 determined was that the permitted mine within an area
25 that was going to be disturbed, those particular holes

1 did not need to be reclaimed, primarily because the coal
2 bed, which was the aquifer a quarter mile away, was being
3 mined. And so the effect on the aquifer from a
4 particular hole was insignificant compared to what was
5 going on in the mining process.

6 Outside the permitted mine, on the other hand,
7 the hole could be almost anywhere. It could be miles
8 away from the coal mine. A lot of these mines look out
9 over very, very large areas, thousands and thousands of
10 acres, and so they could be miles away from the mine.

11 And so, to prevent what we saw in the video, we
12 had to make sure that we enforced certain rules and
13 regulations that enforce the standard we were hoping for,
14 that we had ensured that that particular hole was not
15 leaking into other aquifers, particularly a coal aquifer,
16 because that is a primary aquifer in this state.

17 The second section, we had to address
18 abandonment requirements for all the drill holes. What
19 we had to do was eliminate the reference to drilling mud
20 as an acceptable sealing material. That's what the old
21 rule said. Part of the problem with that is there were a
22 lot of drilling companies that utilized the mud that they
23 were drilling the hole with as the reclamation fluid.
24 Every single hole has a different weight of mud. Every
25 single hole is drilled differently. So, as a result, you

1 have mud thicknesses that vary. You have hole conditions
2 that vary. You're going to have a lot of different
3 construction standards taking place.

4 We also found over time, for example, back in
5 the '90s, we were utilizing some of these standards for
6 hole reclamation. Mud the hole up, leave it alone and
7 walk away from it. Over a period of 10, 15 or 20 years,
8 those were failing. We found out over a long period of
9 time that those holes were falling back, exposing
10 aquifers again, and the mud itself was failing. So what
11 we had to do was come up with a new standard for the mud
12 that was uniform all the way across the board so that all
13 the drillers used it and all the reclamation folks used
14 it.

15 We also required the hole to be filled from the
16 bottom to the top. Previously in that particular
17 section, what it did was, if you put in a cement grout by
18 an aquifer, particularly an artesian aquifer, you're
19 okay, and you can put drill cuttings back down the rest
20 of the hole. What we decided was that hole needs to be
21 filled from the bottom to the top because the entire
22 interval could be compensated in one way, shape or form.

23 In a lot of cases, you may have faulting in an
24 area. You may have channel sand lenses that run through
25 there that you didn't notice in the drill hole. And

1 water can get around some of those cement plugs and
2 continue on down the hole. So we realized we had to fill
3 the hole from bottom to top with material that could not
4 be compromised by water in any way, shape or form,
5 something that was totally impermeable.

6 So we defined what was acceptable, what grout
7 would be acceptable, what kind of sealant material would
8 be acceptable, how heavy the mud would be, how it had to
9 be mixed and how it had to be placed inside the hole. We
10 set conditions on the use of those different muds,
11 depending upon the nature of the hole. If you had an
12 artesian flow, for example, you had to cement that hole
13 into place well above the artesian flow and then put
14 bentonite down the rest of the hole.

15 Conventional drill holes, in a lot of cases if
16 they hit water, had to be bentonite from bottom to top
17 just to ensure that in no way, shape or form that an
18 aquifer could be compromised. So we made those filling
19 restrictions significantly more stringent than they had
20 been in the past to make sure we did not get
21 contamination.

22 Section 3, we talk about reclaiming the hole,
23 particularly in the surface. By and large, we've talked
24 about downhole reclamation to this point. We want to
25 make sure the hole is sealed off from the bottom to the

1 top. We also had some new surface reclamation standards,
2 because the old standards were fairly inconsistent. And
3 depending upon who was doing the hole reclamation, it
4 could vary from hole to hole to hole. So we're getting
5 inconsistent standards as to how seeding would take
6 place, how the surface was being reclaimed and raked out
7 and some of the other things, depending upon which
8 contractor was doing the work.

9 So we made this a stand-alone section so we
10 could follow it a lot more clearly. It was parts of
11 other sections that were primarily concerned with
12 plugging downhole requirements, and we wanted to make
13 sure that this came out by itself so it could be
14 understood.

15 We require restoration to original conditions
16 prior to disturbance of the area for drilling.
17 Disturbance can consist of nothing but pulling up to a
18 drill hole, drilling the hole barely through the topsoil
19 and down into some of the shale lenses below and then
20 simply removing some of the cuttings and backfilling with
21 some bentonite chips. It can also involve reclaiming
22 holes in two or three mud pits. You have a lot of
23 overland flow from those particular holes. And so it was
24 a part of the surface that was fairly heavily
25 compromised. And so we had to ensure that those kinds of

1 holes could be well reclaimed and sufficiently reclaimed.

2 So, as you can see there, it's kind of a
3 typical mud pit for a fairly deep hole, five, six, seven
4 hundred feet. We're seeing a lot of these now in the
5 mining field primarily because they're going deeper and
6 deeper and deeper. 20 and 30 years ago, we were drilling
7 200-foot holes. We thought that was pretty darn deep.
8 And because the overburden was not very deep, coals are
9 being mined very shallow. And so we didn't have a lot of
10 holes that were going down three, four, five hundred
11 feet.

12 Nowadays the coal is significantly deeper.
13 We're looking at coal beds 500, 600, 1,000 feet in cases
14 that we hadn't reclaimed appropriately. And the surface,
15 as a result, is affected even more, because the deeper
16 the hole, the more effect you have on the surface. The
17 more material comes up and has to be dealt with. And so
18 your drilling pad gets bigger and bigger and bigger the
19 deeper you go. And so we had to make sure that the
20 surface reclamation was up to some kind of standard to
21 ensure that its use afterwards was sufficient to the use
22 it was prior to drilling the hole.

23 We had to beef up bonding in Section 4. It
24 codifies the bonding requirement significantly better
25 than it used to be. The old bonding requirement was

1 \$10,000 per area that was being explored. The concept of
2 "area" was never defined. An area could be a pit area,
3 for example, in a mine. An area could be a section or a
4 township. An area could be part of the state. I know
5 when I worked for one of the mining companies, we divided
6 the state into four quadrants, and each of those was an
7 area. And so, if we were in the northeastern part of the
8 state, we put a \$10,000 bond in from the northeastern
9 part of the state. And we drilled 200 holes.

10 If we were in the southwestern part of the
11 state, the same thing occurred. We put \$10,000 in and
12 could drill one, two, three hundred holes. And so that
13 requirement for bonding was significantly under what
14 needed to take place.

15 One of the things we allow for, too, is bond
16 reduction at the drill holes have been abandoned. Drill
17 holes can be abandoned in a couple of different ways.
18 They can be filled from the bottom to the surface, for
19 example, and allowed to sit quiescent for a while as the
20 mud pits dry out. Surface reclamation can hang back for
21 six months to a year sometimes, depending upon how the
22 surface conditions are.

23 We also may have to wait until the growing
24 season is favorable for seeding, so we may allow them to
25 wait for a while to seed it, perhaps in either the early

1 spring or the late fall, depending upon how they want to
2 seed. So we made allowances in the requirements for them
3 to go ahead and reclaim the surface at a different time
4 if necessary.

5 We can also do a full bond release after the
6 vegetation has kicked in. Once we see good vegetation
7 occurring on the surface, we can release the entire bond.
8 What we're finding we're doing is we're establishing a
9 bond that is a tiered bond. We have a section of the
10 bond that occurs from the bottom of the drill hole to the
11 top. That's the subsurface reclamation. We can release
12 that first. Then we retain part of that bond for the
13 surface.

14 We can also do a partial bond release from the
15 surface, depending upon what's occurring up there. If
16 they've gone in, for example, and reclaimed it by raking
17 it smooth, making sure there's no lumps in there and
18 making sure that there are no hills or valleys left
19 behind, is fairly flat, then we can release that partial
20 bond to a certain extent, and then we retain an amount of
21 bond for seeding and reclamation by vegetation. We can
22 finally do a full bond release once the vegetation is
23 grown in. So what we can do is we can do this in a
24 stacked manner over time.

25 Section 5 is talking about termination of the

1 drilling programs and the reports of the operations.
2 This is either after an exploration program is finished
3 or is finished for the year, for example. I do this on
4 an annual basis. We can require additional bonding or
5 additional completion on the surface, depending upon what
6 the nature of the surface reclamation is.

7 We have had several operators, for example,
8 that have perhaps overstayed their welcome in some areas
9 by leaving the surface in a condition it generally was
10 not suitable to what the landowner wanted. And so what
11 we did is we retained actually more of the bond than we
12 may have if it had been seeded and smoothly raked out.
13 So this allows us at times to maintain the bond that we
14 need for the areas it's involved with.

15 We also have a five-year confidentiality
16 provision in the law itself now. Used to be two years
17 within this, but now we changed it to five years. Got to
18 remember that these drilling companies and the coal mines
19 and some of the other exploratory agencies are out there
20 gathering information for potential investment, a
21 large-scale investment. So this proprietary information
22 has to be protected for a certain period of time to
23 enable those businesses to be able to utilize that
24 information in a private manner so they can develop their
25 mine without people getting involved with what they've

1 got out there, what's going on, what the coal is like,
2 what the coal quality is like, and try to get ahead of
3 them as far as being competitive.

4 So we have a five-year period in there where
5 they can keep this in a proprietary nature and we keep
6 this locked up in our offices. They can also extend that
7 for another five-year period if they need to. So their
8 exploration information is private. It's held only by
9 them until such time as they can do something with it and
10 develop an industry off of that.

11 We do have some exceptions in Section 6. We
12 did, first of all, say that this does not relate to
13 different drill holes that are drilled in the mining
14 areas. They're right next to the pits or very close to
15 the pits. We talked about this previously. We wrote
16 that as a very specific section to this particular
17 section.

18 Also, we don't cover oil and gas wells. We
19 don't cover oil and gas drilling and oil and gas holes.
20 This is only for coal exploration. So we don't cover
21 anything else but coal exploration.

22 Section 7 is a brand-new section that we put in
23 there for the installation of wells getting baseline
24 information. We've now created a framework for the
25 installation of baseline monitor wells, groundwater

1 wells, testing wells that are outside of the permit area
2 but close enough to the mine where they need to generate
3 baseline information. And a lot of the mines, they like
4 to get far enough away from the active pit area and even
5 sometimes in areas that may not even be leased yet, to
6 generate baseline information so they can adequately
7 determine what the aquifer is like. They need to know
8 what the aquifer is like before they disturb it. And so
9 we make allowances for those kind of holes to be put into
10 place now. Some are well outside the mining area.

11 We also assure that the water wells
12 themselves -- and we've been talking about exploration
13 holes up until this point in time -- that the water wells
14 themselves, the monitor wells or the water wells, are
15 reclaimed in exactly the same manner that the actual
16 plugged holes, the bore holes, are being reclaimed in
17 Sections 2 and 3. And so we made sure that these also
18 were consistent with industry standards all the way
19 across the board. So our reclamation standards for water
20 wells are the same as Water Quality Division and the
21 statement as the State Engineer's Office.

22 So that is what it is in a nutshell. We have
23 been moving forward with this now for the last year or
24 two, and we certainly would anticipate that you probably
25 have some questions. So, if you do have questions,

1 please ask them now.

2 MR. SHOBER: A couple questions. Coal bed
3 methane wells fall under gas?

4 MR. KRISTIANSEN: Yes, they are.

5 MR. SHOBER: On reclamation -- well, say
6 there's casing in a well. Is that plugged the same, or
7 is it plugged different, the casing removed?

8 MR. KRISTIANSEN: In our exploration
9 holes?

10 MR. SHOBER: Well, typically you don't see
11 casing in exploration holes.

12 MR. KRISTIANSEN: Okay. The monitor
13 wells, you're talking about.

14 MR. SHOBER: The monitor wells.

15 MR. KRISTIANSEN: We seal the casing in
16 just as if we would seal a drill hole. What we do is we
17 ensure that there's no water that can get down the
18 annulus of the hole, the outside part of the hole, down
19 to wherever the aquifer is. It's very similar to what
20 you saw in the movie -- the video, bentonite seal all the
21 way down. Some of them cemented into the surface from
22 just above the aquifer. It's their choice. But they
23 have to have a seal in there that's absolutely
24 nonpermeable.

25 MR. SHOBER: But I guess maybe I'm

1 referring to some wells that -- how do you know there's
2 the bentonite seal?

3 MR. KRISTIANSEN: How do you know?

4 MR. SHOBER: Yes. It's an older well.

5 MR. KRISTIANSEN: Oh, sure, sure, sure,
6 sure. The only thing we have to go on right now are the
7 original drill logs and driller's logbooks. If they have
8 enough information on there, we can determine how the
9 well was completed. We have a significantly more
10 stringent standard now, that when the geologist or
11 hydrologist is on the well, what they'll do is they'll
12 keep very, very good track of what was going into that
13 water well so we know.

14 But the older ones, sometimes we just don't
15 know. And it's very, very difficult to tell on some of
16 these older, 20-, 30-, sometimes even 40-year-old wells,
17 how they were completed. There was no standard or no
18 uniformity, no consistency across the board. And each
19 driller seemed to have their own methodology for doing
20 that, each company. So, unless we can find the logs,
21 we're kind of guessing, I think.

22 MR. SHOBER: And I have another question
23 that's -- you know, you referred to coal as an aquifer.
24 The mine goes through and it doesn't mine all the way to
25 the outside perimeter of the coal seam. What happens to

1 that in the backfill operations? It just gets
2 backfilled?

3 MR. KRISTIANSEN: It does. It gets
4 backfilled with spoil material and reclaimed to original
5 topography and that. And so what it's doing is acting as
6 a recharge area for that coal bed because it's literally
7 buffered up against wherever the last cut was. And so
8 that recharge area in there with that permeable material
9 will then start recharging the coal again as it normally
10 would.

11 MR. SHOBER: So it has enough filter
12 material there --

13 MR. KRISTIANSEN: Yes.

14 MR. SHOBER: -- that it strains the things
15 out of the water?

16 MR. KRISTIANSEN: It will, actually,
17 because they can strain the material itself. It will
18 start to -- in oxygenating conditions, it will start
19 pulling ions off of there, and the chemistry starts
20 changing. And by the time it gets to the coal, a lot of
21 stuff will have been stripped out of it. The sodium and
22 some of the other stuff gets stripped out.

23 MR. SHOBER: Thank you.

24 CHAIRMAN GAMPETRO: I have a question. If
25 you have coal bed methane, you've got coal and you've got

1 oil?

2 MR. KRISTIANSEN: Right.

3 CHAIRMAN GAMPETRO: In the same general
4 area, you might have multiple things going on. How do
5 you know what's causing what in terms of a monitoring
6 situation?

7 MR. KRISTIANSEN: We begin to see
8 evidence, by and large, in a lot of the coal mines'
9 databases. They've got -- in many, many cases there out
10 there in the 1970s and 1980s with monitor wells, they
11 have that baseline information we were talking about, and
12 we start to see changes in the baseline information we
13 can't explain by coal mining. Particularly if you've got
14 coal bed methane wells in the area, we begin to see
15 changes in the water levels that are significant changes.
16 And we began to see them initially in that particular
17 water that was being monitored in those baseline wells on
18 the mines, particularly those out in the periphery areas
19 where the CBM was taking place simultaneously.

20 And I know a lot of the companies had to work
21 with that, trying to show that it was not them affecting
22 the water wells. I know they've had this burden of proof
23 on them in a lot of cases to do that.

24 Kim, you have an addition there?

25 MS. MEDINA: Yeah. On those oil and gas

1 wells, they have a unique chemistry that can be different
2 than CBM or coal. And so you can also see impacts that
3 way too.

4 MR. KRISTIANSEN: Ideally, the
5 conventional oil and gas wells are so deep that the coal
6 would be within the cased interval. Within the oil well,
7 for example, it's completely sealed off and cemented into
8 place, generally speaking. But if you're going down to
9 the Frontier or Niobrara at 10,000 feet, the interval
10 where the coal exists has already been cased in in that
11 particular oil and gas well. Kim is right. There are
12 certain chemicals they utilized in the drilling process
13 that would show up in the water wells if it was at that
14 level.

15 CHAIRMAN GAMPETRO: Thank you.

16 MR. DINSMOOR: I've got a couple
17 questions, so sit back. The first, hopefully, is an easy
18 one. There may be opportunities to go out and drill a
19 ten-foot hole to investigate topsoil --

20 MR. KRISTIANSEN: Sure.

21 MR. DINSMOOR: -- or something very
22 shallow, maybe something to investigate alluvial issues.
23 Are those kinds of drill holes covered by this rule; that
24 is, is the rule applicable independent of depth?

25 MR. KRISTIANSEN: Yes.

1 MS. MEDINA: There are exemptions for
2 anything above groundwater. If water was encountered, I
3 believe you can put the cuttings back in.

4 MR. KRISTIANSEN: If it's a dry hole, you
5 can put cuttings back in the hole. If there's any
6 moisture whatsoever, that has to be reclaimed as the
7 newer standards. But these shallow wells with these
8 holes, I know a lot of cases you're looking for alluvial
9 aquifers, and some cases it's just not there, and you're
10 drilling these little ten-foot holes out there, and
11 they're just dry, dry, dry. You can put the cuttings
12 back down the hole again. Because at that shallow of
13 depth, the chances that an aquifer is going to show up at
14 this point in time is pretty minimal. You're probably
15 well above the aquifer zone.

16 MR. DINSMOOR: So, if I'm just sampling
17 for topsoil suitability, for example, unless I encounter
18 a very shallow aquifer, I --

19 MR. KRISTIANSEN: Shovel the cuttings
20 back. Yeah, you bet. It's almost closer to fence posts
21 than it is really a drill hole.

22 MR. DINSMOOR: I'm very concerned about
23 some of the definitional kinds of language here because
24 this overlaps severely with the BLM program, since 95
25 percent of the coal that we mine is federal coal. We're

1 going to be permitting with the BLM on any areas outside
2 of currently leased coal. And that may be within a
3 current Land Quality permitted area. So it seems to me
4 that the first thing that these rules should do is
5 distinguish not -- what's the language? A permitted mine
6 operation, that's a meaningless term in Land Quality
7 rules, I believe. It's either a permitted area or it's
8 an unpermitted area. And within that permitted area,
9 there may be leased coal, and there maybe unleased coal.

10 MR. KRISTIANSEN: Certainly. Certainly.

11 MR. DINSMOOR: And I'm wondering, on the
12 unleased coal, how this dovetails with any BLM programs.

13 MR. KRISTIANSEN: I'm going to let Mark
14 answer that.

15 MR. ROGACZEWSKI: We've basically
16 brought -- Mr. Dinsmoor, we brought forward the exact
17 language being almost word for word from Chapter 8, which
18 was done, as previously described, in 2012. And that's
19 for leasing minerals, uranium, bentonite, et cetera. And
20 the BLM already knows what's going on. The regional
21 offices know how it's been used on uranium and bentonite
22 operators. So we thought -- and we received no comments
23 that I know of, Craig, in the past from the BLM or any
24 concerns.

25 So, when we got Chapter 8 brought through and

1 moved forward and then put in place and it was working
2 for the last two and a half years, we thought it was now
3 safe that we could bring Chapter 14, the coal, basically
4 bring that same type of language forward. We didn't want
5 to change it a lot because we wanted to keep it
6 consistent.

7 So my concerns -- or, your concerns with BLM,
8 we haven't heard about those with the uranium or other
9 bentonitic or leasable minerals for drilling, for
10 exploration for those. And so I guess right now, without
11 those types of concerns with the other industries, I
12 don't know if it would be a concern with the BLM at this
13 time.

14 MR. DINSMOOR: I'm not certain that
15 bentonite is a leasable mineral. But okay.

16 MR. ROGACZEWSKI: So, uranium -- yeah. It
17 was a little -- I used the wrong word. Locatable.
18 Locatable minerals like bentonite, uranium.

19 MR. DINSMOOR: And maybe that's
20 satisfactory. Maybe not. It's something that I think
21 you guys need to evaluate. But also, how does the
22 in-permit, out-of-permit issue get reflected in these
23 rules? That is, I might be drilling inside my land
24 permit area on unleased federal coal. And in the past,
25 anyway, that's been handled through Land Quality Division

1 as the primacy, if you will.

2 MR. ROGACZEWSKI: Yeah.

3 MR. DINSMOOR: If, however, I was drilling
4 outside my permit area on unleased federal coal,
5 typically we went to the BLM. And I don't remember
6 whether we went to Land Quality or not. But how is that
7 now handled?

8 MR. ROGACZEWSKI: Right now we do have a
9 couple operators. Actually, I'm going to use experiences
10 that we had with our District 3 office. They are on --
11 it would include also state lands that have leasable
12 coal. And they do come to us and get a coal notification
13 to do that drilling. And they work with our bond in how
14 we set it. And we go to the State Lands office, and we
15 make sure that they are okay with our bond. No different
16 than we do when we go on a bentonite operation. We work
17 out the bond with the local BLM office, such as we would
18 work with Buffalo and/or Newcastle, where they have BLM
19 lands or BLM minerals inside those permits, or if it
20 would be outside of an already permitted area, they have
21 counted on us in our coal notifications to make sure we
22 have the bond and the regulations in place to make sure
23 it's reclaimed.

24 MR. DINSMOOR: So what you're saying is
25 that the BLM accepts the DEQ bond?

1 MR. ROGACZEWSKI: They have in the past,
2 yes.

3 MR. DINSMOOR: Are they two -- otherwise,
4 bond excluded, are they two separate permitting
5 activities, one with the BLM that has rather significant
6 public notice requirements, and one with the DEQ, which I
7 don't believe has public notice requirements?

8 MR. ROGACZEWSKI: Right. They have them
9 completely separate. You're correct, Mr. Dinsmoor. Our
10 coal notifications and drilling notifications do not
11 require -- they are called an authorization officially.
12 They are not a permit. And so they do not require public
13 notice. So there would be two different processes going
14 on, one with the federal office, BLM, and one with our
15 state Land Quality Division.

16 MR. DINSMOOR: And in the presentation --
17 by the way, good presentation. Nice, logical format. I
18 real enjoyed that. Thank you for that. In the
19 presentation, you only touched briefly on reporting. And
20 again, if my memory serves me correctly, the reporting
21 that has been done for the coal mines was negotiated
22 between the BLM and the DEQ back in the 1990s sometime,
23 where I believe BLM's format was adopted by DEQ, and the
24 report was submitted to the DEQ. Is that carried forward
25 in this rule? Any changes to that?

1 MR. ROGACZEWSKI: Not that I know of.

2 MR. KRISTIANSEN: No. It would be the
3 same kind of annual report type of format. If you're
4 within the mine permit, you put it in your annual report.
5 If you're outside of that with a coal notification, there
6 is an annual report requirement for coal notification.
7 It gives the table of locations, and there's maps where
8 the coal -- where the hole locations are, description of
9 the reclamation. All that takes place on an annualized
10 basis.

11 MR. DINSMOOR: Now, if the reporting
12 hasn't changed, the report criteria in the past went to
13 hole location, hole depth. I don't recall. Was the
14 geologic log required as part of that reporting?

15 MR. KRISTIANSEN: No.

16 MR. DINSMOOR: So the question that I want
17 to ask goes to what might be considered confidential on
18 the report that's submitted to Land Quality Division?
19 And where I'm headed with that ultimately is should
20 confidentiality of the information submitted to Land
21 Quality Division be handled any differently on federal
22 coal than it's handled by the BLM on federal coal?

23 MS. MEDINA: I think when it comes to
24 confidentiality, we are required -- by statute, we have
25 that five-year limit. So that's kind of where we're --

1 we have to follow.

2 MR. ROGACZEWSKI: Mr. Dinsmoor, I don't
3 know what the BLM requires for their reporting and their
4 confidentiality. But we did go through our statutes to
5 make sure that when we updated our noncoal Chapter 8 to
6 keep those materials that need to be confidential for
7 people who were in the bentonite and/or uranium, we are
8 bringing that same type of material forward, keeping that
9 same confidential standard brought into the coal
10 industry. So I don't -- we have to follow our statutes
11 as my summary. And I don't know -- I personally do not
12 know what is held confidential by a federal office would
13 be any different than what we're doing.

14 MR. DINSMOOR: I certainly appreciate that
15 Land Quality Division is looking at the confidentiality
16 more closely than ever before. But it brings to light a
17 potential inconsistency where it's been my experience the
18 BLM confidentiality doesn't go away. But after five
19 years or maybe ten, if some of that same information were
20 submitted to Land Quality, it could become part of the
21 public record, which now erodes the claim with the BLM.
22 And so I think it's something that ought to be looked at,
23 and I don't know how to suggest it ought to be looked at.

24 MR. ROGACZEWSKI: Mr. Dinsmoor, it's my
25 interpretation on that that with this rule coming out of

1 being built off of our statute, our statute would have to
2 change first, and then we could build that into our
3 rule-and-reg system. So that's where I understand that
4 if we wanted to have a longer period of time, longer than
5 five years for a confidential material to be held, that
6 would have to be a statutory change, which is different
7 than this preliminary process.

8 CHAIRMAN GAMPETRO: On that issue, I guess
9 I -- the way I read that, it didn't necessarily restrict
10 it to one five-year extension, although I agree with what
11 you're saying. It should be the same as with the BLM.
12 But if you wanted to -- if the coal company wanted to go
13 in and extend it for more than one five-year, is that
14 possible?

15 MR. ROGACZEWSKI: Mr. Chairman, I'm
16 actually going to pull out the rule and reg. There is a
17 section in here.

18 MS. MEDINA: Page 70. Would you like me
19 to read it?

20 MR. ROGACZEWSKI: Yeah. Ms. Medina would
21 be willing to read this for you, Mr. Chairman.

22 MS. MEDINA: It says -- this is 35-11-404,
23 paragraph 8. Within twelve months after the completion
24 and proper abandonment of any hole drilled, any person
25 shall file with the administrator of Land Quality

1 Division and the State Engineer a report which shall
2 include the location of each hole, utilizing Wyoming
3 state plane coordinates, and the depth of each hole
4 drilled. The report shall be confidential for a period
5 of five years from the date of filing. The period may be
6 extended for an additional five years upon request of the
7 person filing the report. When a report is no longer
8 confidential pursuant to this subsection, the provisions
9 of Wyoming Statute 35-11-1101 shall apply.

10 MR. DINSMOOR: I see where the distinction
11 comes in now, is that there's really no confidential
12 information required in that report or no information
13 that the BLM would hold confidential forever required in
14 that report. So what we're back to is two clearly
15 separate reports. If I want to maintain confidentiality
16 on my coal information, I don't submit anything to Land
17 Quality that goes to quality of the product or anything
18 like that?

19 MR. ROGACZEWSKI: You are correct.

20 MR. KRISTIENSEN: That's right.

21 MR. ROGACZEWSKI: In fact, we've asked --
22 we've seen applications and materials come to us, and we
23 have noted that as a staff member as we're reviewing the
24 drilling notifications, and we have asked them to remove
25 coal quality from those reports, knowing that eventually

1 that could get out into the public. And some companies
2 have said, "Yes, we'll remove it." That changes the
3 report. Others have said they didn't worry about the ash
4 content or things, and so they kept it in there. But we
5 have given that opportunity to that reporter, that filer.

6 CHAIRMAN GAMPETRO: I would like to follow
7 up on one of Phil's other questions. Who's the arbiter
8 on hole depth and whether it can be just filled in with
9 what you drilled out of it, the tailings, or if you're
10 going to have to do something different? Who makes that
11 decision and how?

12 MR. KRISTIENSEN: The geologist on the rig
13 should be qualified to the point where he can make that
14 decision based on what our requirements are, what our
15 rules and regulations say, depending on the nature of the
16 hole, particularly to get water. There's three primary
17 kinds of holes. You can drill a dry hole, where there's
18 nothing down there besides dry material. You can drill a
19 hole where you encounter water at some depth. It even
20 could be as little as blowing vapor, all the way to the
21 point where we're making gallons and gallons per minute.
22 And then there's the third kind, which is an artesian
23 hole, where the water comes all the way to surface and
24 flows.

25 And so those are the three primary kinds of

1 holes we have to reclaim. And the geologist on the rig
2 who is certified by the State has to be a PG. The
3 geologist on the rig then has to make that call,
4 depending upon the nature of the hole, the nature of the
5 materials down there and what we require in our
6 regulations.

7 CHAIRMAN GAMPETRO: Thank you.

8 Natalia?

9 MS. MACKER: I don't have any questions at
10 this time. Thank you.

11 MR. DINSMOOR: I have another.

12 CHAIRMAN GAMPETRO: I'm sorry, Phil. Go
13 ahead.

14 MR. DINSMOOR: That's all right. Glad you
15 gave somebody else a chance.

16 I have one last question. And there may not be
17 an answer to this, or perhaps not an answer that you want
18 to give here today. I understand that. There's been a
19 lot in the newspapers recently about oil and gas drilling
20 and bonds in particular. And it would seem to me, as a
21 coal operator, that the coal industry is being held out
22 as -- for more bonding than anybody else in Wyoming.
23 We're bonding on a hole-by-hole basis. And still the oil
24 and gas industry is bonding on what you used, even though
25 those numbers have changed somewhat.

1 And the concern I have goes -- is manifest in
2 bonding but begins with the following. If the standards
3 for reclamation in a coal hole are greater than the
4 standards for reclamation in an oil and gas hole and I
5 got an oil and gas well sitting right next to my coal
6 mine, why would I want to -- why would you want me to go
7 to added expense and added effort to create a hole that
8 is going to be protective against something that's going
9 to be violated or -- bad word -- compromised at a nearby
10 hole that isn't reclaimed and isn't required to be
11 reclaimed to those same standards, that, in other words,
12 it's a two-standard thing?

13 MR. KRISTIENSEN: Sure. The way I look at
14 it -- and when I came into DEQ, I looked at it a little
15 bit differently from my 35 years from industry. Now the
16 way I look at this is every hole that is drilled out
17 there is our responsibility because we've written off on
18 it. We've approved the coal notification, for example.
19 We know where the holes are going to be drilled. We know
20 the approximate footages and approximately how they're
21 going to reclaim the holes. If they walk away in the
22 middle of the night, the State of Wyoming has to reclaim
23 those holes. And so what we're trying to do is we're
24 trying to make sure there's enough money in there that
25 the State of Wyoming can reclaim those holes out of the

1 bond money that they hold and not have to dip into the
2 general fund.

3 The way we used to have it, you could have 200
4 drill holes out there in an area. Heaven only knows how
5 much they would have cost to reclaim properly. But
6 you've only got \$10,000 to do it. And so what we're
7 trying to do is trying to be -- work the best we can with
8 the industry to make sure that we have enough money to
9 take care of it if something happens.

10 And there's a lot of different things that can
11 happen. The exploration programs can fall apart.
12 Sometimes companies, they're not successful. And these
13 things can be left behind because we don't require it all
14 be done exactly the same time. And so what might happen
15 is we have a certain responsibility to the citizens of
16 the state to make sure they don't have to pay any more
17 for that. And so the people that drill the hole should
18 have to pay for the hole.

19 And so I know that our way of looking at this
20 is different than oil and gas. We view this a little bit
21 differently based on our LQD background and some of the
22 things we've seen over time. I have personally seen how
23 these holes can fail, and holes that I drilled myself, I
24 had every confidence were reclaimed properly back in the
25 '80s, for example, that failed.

1 When I was still working for the mining
2 industry, I had to go out and locate a bunch of holes
3 that had been drilled in the '60s and '70s to ensure that
4 those holes were still competent, and a lot of them
5 failed. And we as a mine took on the burden of filling
6 those holes in because we believed, as good citizens
7 within our permit boundary, we should do it. But, by and
8 large, we've got to have enough money to take care of it
9 so the citizens don't have to.

10 MR. DINSMOOR: I don't disagree with the
11 position that you've taken there. And I've been in that
12 situation myself. I guess my concern is the dual
13 standard --

14 MR. KRISTIENSEN: Sure.

15 MR. DINSMOOR: -- and the value of
16 reclaiming to a higher standard when a hole right next
17 door is very likely going to leak and cause a problem.
18 And I'm wondering why, I guess -- or, how the State can
19 promulgate rules for one agency that are significantly
20 different than --

21 MR. KRISTIENSEN: I can't answer that.

22 MR. DINSMOOR: Well, that was the
23 question. I figured you wouldn't be able to answer.

24 MR. ROGACZEWSKI: I do have an answer, and
25 then I'll let Kim go. When we did this, we thought this

1 rules package -- and we built it off of our Chapter 8.
2 We had received -- in our noncoal, uranium, bentonite, we
3 had found that we had to do something better for the
4 environment. And we went as far as LQD can go doing the
5 research, finding these types of videos. We've gone on
6 tours into Nebraska to look at their uranium operations.
7 We've shared information with the coal industry, DEQ up
8 in Montana, et cetera. And we're trying to do what we
9 can do as the Land Quality Division.

10 I can guarantee you I've heard your question on
11 inspections. Look at that drill pad over there, what
12 they're being allowed to do, but yet look at my
13 vegetation, and they just plowed it up and put a new well
14 in. And my standards are very different and for the coal
15 industry are very much more strict than what the Oil and
16 Gas Commission has. I don't personally know how we get
17 around that or how we get over that.

18 My personal view would be that if I can at
19 least have one more hole that's not a conduit for some
20 type of contamination or pollution, every hole we can do
21 it properly is -- there may be still some out there, but
22 I would not like to have more. That's my personal view.
23 If we can do this and we have industry standards and we
24 have the materials that can do it safely and
25 environmentally, we have the bonds put in place, the

1 landowners get satisfaction out of the surface
2 reclamation. They can hay it. They can graze it again.
3 Or if the mining company finds out that this is coal that
4 they can mine and eventually bring it into a permit, I'd
5 just kind of like to work down that road.

6 Kim, do you have anything to add?

7 MS. MEDINA: Well, my understanding is
8 that the State is looking at the bonding and the oil and
9 gas industry and trying to -- and trying to get it a
10 little more in line with what is actually required. But
11 that aside, the standards for plugging and abandoning
12 wells that we're proposing are kind of the state of the
13 industry. That's where SEO has made a decision that they
14 want wells plugged and abandoned. So, for example, if a
15 well -- the mine puts in a well and as an exploratory
16 hole or as a background well and you decide you're going
17 to turn it over to the current landowner, by SEO, you
18 have to make that well meet their standards before it can
19 become a permitted well under SEO.

20 So, by asking you to -- or, asking the coal
21 mines to meet those standards up front, they're just
22 complying with what they have to do, anyway, under SEO
23 standards.

24 MR. DINSMOOR: Yeah. And so let me
25 conclude this question that could go on forever with a

1 statement, that on behalf of the entire mining industry,
2 I'd like to say that we are proud of the fact that we
3 have long done things correctly according to a standard
4 set by the DEQ and the State Engineer, regardless of
5 whether it is the equivalent of or greater than or less
6 than any other industry in Wyoming. And I don't see
7 significant change to the standard in this proposed rule,
8 and I'm sure that the Wyoming mining industry will
9 continue to try and comply and be proud of the fact that
10 we're doing the very best we can. But I think it needs
11 to go on record that we already know in Wyoming how to do
12 it. And a pat on the back to the DEQ, because you're
13 continuing those standards, as opposed to relaxing the
14 standards that appear to be useful. But I hope other
15 people are listening. I think that's the point I want to
16 make.

17 Having said all that, one last and very last
18 question, and that is this. Backfill wells, there was a
19 question earlier that got me to thinking about these
20 wells that we put into the spoil material in the
21 backfill. We're not doing any exploration. We're simply
22 putting them in for the purposes of monitoring, as
23 required by the Land Quality Division, monitoring the
24 quality of water as it recharges in the backfill. Do
25 those wells need to be constructed according to these

1 standards, too, and does the rule make that clear for
2 those of us who have to comply?

3 MR. KRISTIANSEN: You would not, because
4 you're inside your permit, your coal mining permit. All
5 that land is bonded up until a certain point in time.
6 And you're in materials that are completely churned up.
7 You no longer have an aquifer to protect.

8 MS. MEDINA: The only exception would be,
9 like I said before, is if there is a plan to turn that
10 well into a water supply well for somebody, then you
11 would need to comply with the SEO standards for water
12 supply wells.

13 MR. DINSMOOR: Would that go to stock
14 water or irrigation water?

15 MR. KRISTIANSEN: Sure. You bet.

16 CHAIRMAN GAMPETRO: Natalia?

17 MS. MACKER: Thank you.

18 I guess this goes a little bit to what came out
19 of this discussion. When you release the bond at the
20 end, assuming that the surface reclamation has been
21 completed to satisfaction and years afterwards something
22 is discovered and it fails, does that come back to the
23 State as being responsible for fixing that?

24 MR. ROGACZEWSKI: So you're saying after
25 we have given the bond back?

1 MS. MACKER: Uh-huh.

2 MR. ROGACZEWSKI: So the company, if their
3 coal notification -- if they reclaimed everything in the
4 coal notification, yes, that would be something that
5 comes back to the State. We actually have some uranium
6 exploratory drill holes up in the northeast part of the
7 state. And, in fact, I just had a call on Friday. We're
8 actually commandeering with OSM to look at a uranium
9 artesian well. We've actually contacted other federal
10 agencies to help the local NRCS office out of Sundance,
11 help the rancher fill a uranium artesian hole. But it
12 has been around for a long time. The company doesn't
13 even exist. Their drilling notification has been
14 canceled, been voided. They've gotten all their bond
15 back. It turned out to be an artesian hole. And it
16 would come back to the State to help them.

17 MS. MACKER: Thank you.

18 CHAIRMAN GAMPETRO: What's next?

19 MS. BILBROUGH: Mr. Chairman, I have a
20 question regarding Phil's question, Mr. Dinsmoor's
21 question. I heard a couple of things that suggested we
22 might need to change the rules. In particular, you
23 specified permitted versus unpermitted waste versus
24 unleased coal. The next step is for us to page through
25 the actual rule language. So I'm just asking that we be

1 prepared to discuss, if there should be language changes,
2 what those changes should be as we go through the rules.
3 Did you actually see the change needed to occur?

4 MR. DINSMOOR: I guess if I were writing
5 the rule, I would use language that is commonly used in
6 the Wyoming mining industry today. And the language "a
7 permitted mine operation" has no regulatory meaning in my
8 mind. There's a permitted area. There's a leased area.
9 And any other language becomes somewhat confusing. So I
10 think that would be a wise move, is to make sure that the
11 regulated industry, as well as the various agencies
12 involved, can all understand that language in the same
13 way by using standard regulatory language.

14 MS. BILBROUGH: So, with that in mind, as
15 we go through these rules, let's see if we can iron that
16 out so that we have something -- if we can, we can have
17 language changes that are appropriate as we go through.

18 MR. ROGACZEWSKI: Chairman Gampetro, could
19 I ask for a break before we jump into the rules?

20 CHAIRMAN GAMPETRO: Sure. We can have a
21 break.

22 MR. ROGACZEWSKI: Because I foresee this
23 taking us some time to go through these line by line.

24 (Hearing proceedings recessed
25 11:22 a.m. to 11:32 a.m.)

1 CHAIRMAN GAMPETRO: Okay. Let's
2 reconvene. I guess we're now on the Chapter 14
3 "Exploration for Coal by Drilling." Who's going with it?

4 MR. HULTS: I can lead that. And I
5 thought what we could do, certainly open to change, is
6 just look at these sections individually.

7 CHAIRMAN GAMPETRO: That's fine.

8 MR. HULTS: And if anybody has any
9 comments or questions, concerns, let's point them out and
10 get them resolved.

11 CHAIRMAN GAMPETRO: Go for it.

12 MR. HULTS: So I've got up on the
13 screen -- I'm not sure you can see it. I can bump it up
14 some more. This is the first section there. And it
15 sounded like perhaps this was where we were talking about
16 the permitted and outside of permitted. Were there any
17 recommended changes to that?

18 CHAIRMAN GAMPETRO: Phil?

19 MR. DINSMOOR: Do we just chime in?

20 CHAIRMAN GAMPETRO: Yeah. I would say go
21 right ahead.

22 MR. DINSMOOR: I guess on part (b), Craig,
23 "The requirements of this Chapter shall apply to
24 exploration drilling within permitted mine operations,"
25 and if I understood your introductory slides, it will

1 only apply to off-lease drilling.

2 MR. HULTS: I would direct that to our
3 technical guys over here.

4 MR. ROGACZEWSKI: Mr. Dinsmoor, this might
5 be too simple. But where the words say "outside of a
6 permitted mine operation," I would like to suggest that
7 we put the words "outside of a permitted mine boundary."
8 That is in our statutes. We use the words "permit
9 boundary." We have those in our forms.

10 MR. DINSMOOR: Where are you seeing that
11 language?

12 MS. BILBROUGH: This would be in (b).

13 MR. ROGACZEWSKI: Yeah. Well, they have
14 the same language. So, in (b), it would be "within a
15 permitted mine boundary," and then the next one, (c),
16 would be "outside a permitted mine boundary." So I think
17 you could change the word "operation" to "boundary." And
18 that seems to fit our statutory language.

19 MR. DINSMOOR: I guess the question I've
20 got, then, is (b) and (c) seem to be contradictory. One
21 is talking about drilling within, that the requirements
22 of this chapter shall apply within. And then prior to
23 drilling outside, do this. Well, if it only applies
24 within, why are we talking about without?

25 MR. ROGACZEWSKI: Previously, my

1 understanding, the drill holes inside a permit boundary
2 were not required to be filled and/or backfilled and
3 reclaimed according to these standards if they were going
4 to be away from the open pit. And now it's saying within
5 and outside have to follow these standards.

6 MR. KRISTIANSEN: It covers all.

7 MR. ROGACZEWSKI: It covers all drill
8 holes unless they're right immediately in front of a coal
9 face of a mine.

10 MR. DINSMOOR: Then I would recommend that
11 Item (b) needs to be changed.

12 MS. BILBROUGH: So, if you just put a
13 comma after "boundary" and then "and." So it would read,
14 "Requirements of this chapter shall apply to exploration
15 drilling within a permitted mine boundary and." I agree
16 it's a little bit awkwardly phrased.

17 CHAIRMAN GAMPETRO: Well, it doesn't say
18 "only." It doesn't say "only within." You can change it
19 if you want to. I understand why the (c) is there,
20 though, because now you have to do another notification
21 in the reclamation bond and all of that.

22 MS. MEDINA: Well, (c) is basically also
23 saying that you need to file a drilling notification. So
24 that's the distinction. In addition to how you do it,
25 that also brings in the --

1 MR. KRISTIANSEN: And the bond.

2 MS. MEDINA: And the bond.

3 MR. DINSMOOR: The drilling notification
4 is needed only when you're outside of the permitted
5 boundary?

6 MR. ROGACZEWSKI: Yes.

7 MR. DINSMOOR: But the applicability
8 statement, that's a requirement, (c). You got to get a
9 drilling notification. But part (d) is an applicability
10 statement. And that statement is separate from the
11 requirement to get a DN. And that applicability
12 statement should say this applies to drilling off
13 lease -- well, drilling within and outside of a Land
14 Quality permitted area.

15 MR. ROGACZEWSKI: And then with (c), would
16 you suggest, Mr. Dinsmoor, stays the same, that if you're
17 going to drill outside of a currently permitted mine
18 boundary, then you shall provide a drilling notification
19 and a reclamation?

20 MR. DINSMOORE: I think that kind of
21 clarification goes a long way. I believe that would be
22 real valuable.

23 MR. ROGACZEWSKI: I'm following you now.
24 Thank you.

25 MS. BILBROUGH: So it would read, "The

1 requirements of this chapter shall apply to exploration
2 drilling within and outside the permitted mine boundary."
3 Pretty much everywhere.

4 Can you redo that, Craig, or did you already?

5 MR. HULTS: Yep.

6 MR. DINSMOOR: I think that works.

7 CHAIRMAN GAMPETRO: Okay.

8 MR. ROGACZEWSKI: And, Mr. Chairman, I
9 believe we need to change (c) to state "outside of a
10 permitted mine boundary," not "operation." Does that fit
11 your concern, Mr. Dinsmoor?

12 MR. DINSMOOR: That would be most
13 satisfactory. Thank you.

14 MR. HULTS: Anything further in Section 1?

15 MS. MEDINA: Paragraph (f), we have
16 confidential for two years. That was a mistake on my
17 part.

18 MS. BILBROUGH: There's no (f) in Section
19 1.

20 MR. HULTS: Yeah, there actually is.

21 MS. BILBROUGH: Is there?

22 MR. HULTS: Yeah. There's striking-out in
23 what was Section 2. They're using language that was
24 preexisting in order to indicate that that language needs
25 to be there. It used to be Section 2(b), but now 1(f).

1 MS. MEDINA: And that's where the two
2 years came in.

3 MR. ROGACZEWSKI: So, yes, it would be the
4 last sentence.

5 MS. BILBROUGH: Yes. The two years needs
6 to be five years.

7 CHAIRMAN GAMPETRO: This says two years
8 here.

9 MS. BILBROUGH: Yes. That's a mistake.

10 MR. ROGACZEWSKI: Mr. Chairman, there in
11 our presentation, we went back and reviewed our statutes.
12 And right now it can be held confidential for up to five
13 years with the second five. So we do need to change that
14 to five years.

15 Good catch, Kim.

16 MR. HULTS: So it would look like so.
17 Anything further in Section 1?

18 CHAIRMAN GAMPETRO: Looks like we can move
19 right along.

20 MR. HULTS: In Section 2 --

21 MR. DINSMOOR: Mr. Chairman, in order to
22 help this move along, maybe a statement about what you've
23 got here would cause us to move through it kind of
24 quickly. Section 2 is all the technical standards. And
25 those technical standards, have they changed from either

1 what existed in Land Quality rule before or what
2 currently exists in State Engineer or Water Quality rule?

3 MR. ROGACZEWSKI: Mr. Dinsmoor, it's my
4 understanding these are brought forward exactly out of
5 Chapter 8, noncoal, which were based off of the SEO and
6 Water Quality standards. So what I do suggest is that,
7 to be consistent with our language in Section 2(a), where
8 we have written "within a permitted mine operation," we
9 once again change that word "operation" to "boundary."
10 And then the rest would be exactly -- it is word for word
11 from our current Chapter 8.

12 MR. DINSMOOR: My comment was going to be
13 exactly that. Rather than take up everybody's time, if
14 you find other places where "permitted mine operation"
15 should change to "boundary," simply do it. And if these
16 standards are being adopted from some previously approved
17 rule, I don't see any reason to --

18 MR. SHOBER: There isn't going to be any
19 changes to them, anyway?

20 MR. DINSMOOR: Pardon me?

21 MR. SHOBER: There isn't going to be any
22 changes to them, anyway.

23 MR. DINSMOOR: Yeah. I don't see any
24 reason for us to revisit every word again.

25 MR. ROGACZEWSKI: You are correct. This

1 entire Section 2 has been basically cut and pasted and
2 brought forward from already approved rules and regs.

3 MR. SHOBER: Was Section 3 the same way?

4 MR. DINSMOOR: Mr. Chairman, I have a
5 question on Section 3.

6 CHAIRMAN GAMPETRO: Okay.

7 MR. DINSMOOR: Section 3(a) talks about
8 light-use roads. And at least for coal operations, the
9 whole definition of roads changed about two years ago,
10 and there is no longer light-use roads. So, without,
11 again, consuming a lot of time here, if you could find
12 the equivalent new term, whatever it might be, I think
13 that would be an appropriate substitution to make in
14 there.

15 MR. ROGACZEWSKI: You are correct,
16 Mr. Dinsmoor. We now have primary and secondary roads in
17 our coal rules and regs. And it is my suggestion that
18 drill sites and associated secondary roads, that meets
19 our current -- what used to be a light-use road when this
20 first came out in 2012.

21 MR. DINSMOOR: And that appears in (a),
22 (c), (d) several times in that Section 3. So, if you
23 could pick that up each time, that would be adequate.

24 MR. ROGACZEWSKI: Sure.

25 MR. HULTS: Section 4 is the bonding

1 section.

2 MR. DINSMOOR: Mr. Chairman, one question
3 on the bonding. Typically for coal operations, any and
4 all bond releases require some kind of a public notice,
5 public participation. It's not listed here. I just want
6 to make sure that we all understand that this is being
7 held separately from the reclamation performance bond
8 required for the surface mining activity itself. And
9 does that then also imply that the bond itself must be a
10 separate instrument and cannot be a piece of that
11 reclamation performance bond?

12 MR. ROGACZEWSKI: You are correct. Since
13 these coal notifications, similar to a drilling
14 notification, are authorizations and not permits, a bond
15 release for a coal notification does not follow our
16 Chapter 15 coal bond release procedures. Secondly, if I
17 heard your question correctly, that when it is drilling
18 inside a permit boundary, that is covered underneath the
19 bond that is calculated with each year's end report for
20 that coal mine operation. And then you can get credit
21 for those holes that are properly abandoned and reclaimed
22 in that end report.

23 MR. DINSMOOR: Without going through an
24 official and formal bond release?

25 MR. ROGACZEWSKI: That is my

1 understanding. And then if you have a separate coal
2 notification, such as you're investigating if you wanted
3 to -- your company wanted to get the coal for the next
4 LBA, lease by application, put up by the BLM, that would
5 then come outside of your permit boundary. That is the
6 coal notification, and we handle that as a separate
7 entity. Those bonds are not combined.

8 MR. DINSMOOR: Can that separate bonding
9 instrument be a self-bond?

10 MR. ROGACZEWSKI: We have had self-bonds
11 covering drilling, to my knowledge.

12 MS. BILBROUGH: Yeah, we have.

13 MR. DINSMOOR: Thank you.

14 MR. HULTS: Section 5 is "Termination and
15 Report of Operations." I think the only changes there
16 were the addition of dates for the statutes. Section 6
17 is "Exceptions." Same thing, addition of a date.
18 Section 7, which is the new section, "Installation of
19 Wells for Collection of Baseline Info."

20 MS. MACKER: Is there a reason in 7(b) why
21 the discoverer is encouraged but not required? I'm
22 guessing it's just a legal statute reason that they're
23 not required?

24 MS. BILBROUGH: Yes.

25 MR. HULTS: And that would take us to the

1 end of the package. I did have one comment. In a couple
2 of places -- and I've heard it referenced a couple of
3 ways. For example, in Section 1, we're using the term
4 "drilling notification." I'm wondering if that should be
5 "coal notification" to differentiate it from the noncoal
6 rules.

7 MR. ROGACZEWSKI: Yeah. Chairman
8 Gampetro, we actually had this very same discussion in
9 our office. And if you would agree, we thought that
10 since this is in our coal rules and regs and they are
11 completely separate from our noncoal and the chapter does
12 state "Exploration for Coal by Drilling," we thought we
13 would -- we didn't need to have drilling notification.

14 But just to let you know, Craig, we had that
15 same discussion, and we tried to keep as many words out
16 so it wouldn't get -- we thought this was good enough.
17 But we are willing to change it if necessary.

18 MR. DINSMOOR: Does it matter on forms and
19 all that what things are called?

20 MR. ROGACZEWSKI: And we have a separate
21 form for a drilling notification, Mr. Dinsmoor, and for
22 coal notification. They're two separate forms. They get
23 placed in our databases with a DN 100 number or a CN 100
24 number. They're totally tracked differently. And their
25 bonds are by the company attached to that specific

1 drilling notification or coal notification. And we
2 followed the statutory -- for our Statute 35-11-404, it
3 does state that a drilling notification is required. So
4 we try to stick with the statute as much as possible to
5 keep the same language.

6 CHAIRMAN GAMPETRO: Suggestions, Natalia?

7 MS. MACKER: (Shakes head.)

8 MR. SHOBER: Keep it simple. Keep it
9 simple.

10 MS. BILBROUGH: So that means --

11 MR. ROGACZEWSKI: We're keeping it the
12 same.

13 MS. BILBROUGH: Mr. Chairman, I have a
14 question. One of the questions that Mr. Dinsmoor raised
15 was how these rules apply to backfill quality. Is it
16 specified in the rules that backfill quality wells are
17 not covered, and would that be helpful?

18 MR. KRISTIANSEN: This is how I view it.
19 The backfill wells encounter certain geologic conditions
20 that are not encountered in other areas. And therefore,
21 I think they would be exempt, because they will not --
22 well, technically speaking, it won't encounter an
23 aquifer. The material's been churned up so much that
24 it's actually part of the reclamation itself. So it's
25 being bonded for all intents and purposes.

1 MS. MEDINA: But I think the title
2 "Exploration for Coal" --

3 MS. BILBROUGH: There is a section in here
4 that talks about -- I mean, baseline wells. So it's not
5 just exploration. Would you find it helpful -- do you
6 think that it would be helpful to the regulated community
7 if we specifically said backfill quality wells do not
8 have to meet the standards, or do you think it's
9 implicit?

10 MR. DINSMOOR: I guess, yes. Even though
11 the title of the chapter goes to exploration only, the
12 fact that you do cover something other than exploration
13 in there suggests that being silent on backfill wells
14 causes me to scratch my head. So a clarifying statement
15 would be helpful.

16 MS. BILBROUGH: So, if we added a
17 clarifying statement in the exceptions section, perhaps,
18 or --

19 MR. HULTS: And another option --

20 MS. BILBROUGH: Wait. Let's resolve this.

21 MR. HULTS: This is tied to this. Another
22 option is that we can address that in the statement of
23 reasons so that that explanation is in there and will
24 follow these rules forward. It's just another tool that
25 we've used in the past without adding additional rule

1 language.

2 MS. BILBROUGH: With all respect, that
3 statement of reasons is not published for people to use
4 as part of the rules. So, if you think it would be
5 helpful, we can insert that statement.

6 MR. ROGACZEWSKI: And I do --
7 Mr. Chairman, I think we can very easily add one sentence
8 to the last -- one sentence to Section 7(a), adding --
9 because we have, "Construction of wells may be
10 authorized." And if we end that with "This chapter does
11 not pertain to backfill quality wells within a permit
12 boundary," I think that one sentence could -- because
13 what I see is, when I visited mines, they'll bring this
14 one page to us and say, "How does this pertain to my
15 situation without the prior five pages?" They're just
16 being efficient. They'll ask the question. And I think
17 if we do have that statement here -- and it could be
18 there or the exceptions. But I think -- just for
19 clarity, I think it would be okay to have it in there if
20 you would agree.

21 MR. DINSMOOR: I would recommend that it
22 be put into the applicability statement. For whatever
23 it's worth, that's where I go. When I want to find out
24 if this rule is going to apply to me or not, I look for
25 applicability issues.

1 MR. ROGACZEWSKI: So you would put that in
2 the first section?

3 MR. DINSMOOR: To me, that would be
4 Section 1(b).

5 MR. KRISTIANSEN: Sure. Yeah.

6 MR. ROGACZEWSKI: In Section 1(b)?

7 MR. KRISTIANSEN: Yeah.

8 MR. ROGACZEWSKI: Sure.

9 MS. MEDINA: There was actually -- in
10 Section 404, there is an exclusion for holes drilled in
11 conjunction with the expansion of existing well
12 operations, so that would --

13 MR. ROGACZEWSKI: That's not a backfill
14 quality.

15 MR. KRISTIANSEN: In mining, that's a
16 different term.

17 MR. ROGACZEWSKI: So did we add that?

18 MR. HULTS: I started to, and then I heard
19 discussion, so I stopped.

20 MS. BILBROUGH: Keep going.

21 MR. DINSMOOR: It goes beyond quality.
22 I'd just say backfill well.

23 CHAIRMAN GAMPETRO: Everybody happy?

24 MS. MEDINA: Unless the wells are to be
25 used for -- or, to be permitted or SEO, then they would

1 have to meet SEO requirements.

2 MR. DINSMOOR: For whatever it's worth, at
3 that point it's not a backfill well anymore. It's some
4 other kind of a well.

5 CHAIRMAN GAMPETRO: Okay. Where are we?

6 MS. BILBROUGH: I believe we're ready for
7 you guys to make a decision, Mr. Chairman.

8 MR. DINSMOOR: Mr. Chairman, since I've
9 been the cause of a lot of the conversation here, I
10 propose that we ask the Department to double-check the
11 changes that we put in here this morning, ensure that
12 there's consistency throughout the package now with some
13 of the terms that we've changed this morning, and with
14 that, that they move this rule forward to the
15 Environmental Quality Council with those changes.

16 CHAIRMAN GAMPETRO: So you're making a
17 motion?

18 MR. DINSMOOR: This is a motion.

19 CHAIRMAN GAMPETRO: Do we have a second?

20 MR. SHOBER: There's a second over here.

21 CHAIRMAN GAMPETRO: Any questions on the
22 motion?

23 MR. ROGACZEWSKI: Mr. Chairman, I do have
24 a question. Would you, as the advisory board members, do
25 they want to see this revised package before it goes to

1 the EQC, or would this automatically go to that step? I
2 guess I'm declaring my ignorance on this.

3 CHAIRMAN GAMPETRO: Do you want to see it
4 again?

5 (No response.)

6 CHAIRMAN GAMPETRO: We have unanimity. We
7 will trust you. We do not need to see it again.

8 MR. ROGACZEWSKI: And for the record,
9 Ms. Bilbrough is running this meeting in case something
10 fails.

11 MR. DINSMOOR: Mr. Chairman, actually,
12 having asked that question, let me counter that with a
13 question. During our break, we were talking about
14 whether or not this is duplicative of BLM requirements
15 and so on and so forth. And it's my belief that, through
16 your normal conversations with other agencies, you
17 probably check for consistency as you move along or
18 verify consistency as you move along on a day-to-day
19 basis. And so, unless you make a change -- it would be
20 my proposal that, unless you make a change that is very
21 significant and contrary or different from anything we've
22 discussed today, in those cases I think it would be wise
23 to bring it back to the board. But in the absence of
24 that, I would recommend that we don't need to see it
25 again.

1 CHAIRMAN GAMPETRO: I think that sometimes
2 it's almost easier to get through this and get agreement
3 on it here and let them then bring it to the OSM or
4 whomever. And then, yeah, sometimes we got to make a
5 tweak. But trying to match it up as you go along may be
6 more difficult -- and correct me if I'm wrong -- than to
7 take a shot at it, get comfortable here, put it out there
8 and have the -- if the OSM is going to say something
9 about it, they'll let us know. And then we'll talk about
10 that the next time. That seems like the way we've done
11 it most times in the past. Not that you can't go along
12 and check this or check that with them. I understand.

13 But, anyways, there is a motion, and it has
14 been seconded.

15 MR. SHOBER: Yep. We're ready for the
16 question.

17 CHAIRMAN GAMPETRO: Would you restate the
18 motion? Could someone restate the motion, since I forgot
19 it already?

20 (Previous motion read by the
21 reporter.)

22 CHAIRMAN GAMPETRO: So, now, given that
23 that's the motion, all those in favor signify by saying
24 aye.

25 (All members vote aye.)

1 CHAIRMAN GAMPETRO: Any opposed?

2 (No response.)

3 CHAIRMAN GAMPETRO: The motion carries.

4 What's next?

5 MS. BILBROUGH: Mr. Chairman, I have some
6 updates for the advisory board. The uranium programs,
7 the NRC -- the NRC Agreement State Program, I think in
8 your package of materials that we handed out is a copy of
9 the statutes that were approved by the minerals
10 committee. So the Joint Minerals Committee did approve
11 these statute changes to take to the legislature this
12 winter. And under the hope that these statutes are
13 passed, the group that is working with the Agreement
14 State Program is planning on promulgating rules to get
15 the program going. And so I think you can count on
16 quarterly meetings next year to review uranium program
17 rules every quarter.

18 With that, in addition to that, I want to
19 remind you that the advisory boards for all of the DEQ
20 divisions will be meeting together in the first quarter
21 to go over the rules of practice and procedure that are
22 changing. So we're anticipating our first uranium rules
23 package to be the second quarter, and probably in April.
24 To that end, Kyle would like to have a conference call in
25 early December to discuss these advisory board meeting

1 agendas and the scheduling, actually, so that we can get
2 them set up and ready to go for the rest of the year and
3 possibly talk about some conference calls in between the
4 quarterly board meetings for us to be able to talk about
5 the rule packages.

6 CHAIRMAN GAMPETRO: Are you talking about
7 a meeting down here or a meeting online, a phone meeting?
8 What are you talking about?

9 MS. BILBROUGH: I believe for the
10 quarterly meetings, what we discussed is in-person
11 meeting, since we are promulgating rules.

12 CHAIRMAN GAMPETRO: I'm talking about the
13 December meeting.

14 MS. BILBROUGH: The December meeting would
15 just be a conference call. And with the simple intent --
16 it's not a formal board meeting. The simple intention is
17 to figure out everyone's schedule so that we can develop
18 a schedule for the quarterly meetings.

19 CHAIRMAN GAMPETRO: Yeah. December is
20 already getting a little --

21 MS. BILBROUGH: Right. This would just be
22 a phone call.

23 CHAIRMAN GAMPETRO: Not a problem with me.

24 MS. BILBROUGH: Hopefully we can fit it in
25 somewhere.

1 CHAIRMAN GAMPETRO: Any problems with
2 that?

3 MR. SHOBER: No. I guess if there is, we
4 won't answer, huh?

5 CHAIRMAN GAMPETRO: Could do that.

6 MS. BILBROUGH: And then the second thing
7 I wanted to review or just comment on is I'm sure you've
8 all read and heard that we have a budget freeze in place.
9 So I asked for an update in case you were curious on the
10 impacts of the Land Quality Division.

11 As far as we know, our budget for the next
12 biennium, which would be July 1, 2016 through June 30,
13 2018, that our budget that we requested has gone through
14 and been approved by the governor's office, which is the
15 first step. We haven't gone through the Joint
16 Appropriations Committee or anything. But thus far, we
17 have not seen an impact.

18 As you also may know, he froze -- the governor
19 froze every position. So anytime we want to make a hire
20 on a vacant position, we have to propose that hire to our
21 upper management, and then it goes to an ad hoc committee
22 appointed by the governor. They review any requests to
23 hire, and then they propose their recommendation to the
24 governor.

25 So, at this moment, we have one request that's

1 gone through the ad hoc committee. I don't know what
2 their recommendation was. But that's the process that we
3 see. And we have six vacancies at this point in time,
4 six vacant positions right now.

5 MR. DINSMOOR: Are those vacancies all on
6 the uranium state program?

7 MS. BILBROUGH: No. None of those are on
8 the uranium state program. We're thinking the -- our
9 understanding is that uranium program, that budget money
10 has already been dedicated so that the uranium program
11 will not be impacted by the budget freeze.

12 CHAIRMAN GAMPETRO: What are call
13 shipments like?

14 MR. DINSMOOR: We don't want to talk about
15 those today.

16 MS. BILBROUGH: And then finally, we have
17 finished our move in Cheyenne. We have relocated to 200
18 West 17th Street, so the corner of 17th Street and
19 Capitol Avenue. We're right downtown now. We have this
20 information posted on our website. So phone numbers
21 remain the same. E-mails remain the same. We're just in
22 a new spot. And everything seems to have settled in
23 nicely and is working pretty well. So, with that, my
24 updates are complete. If you have any questions for
25 us --

1 MR. DINSMOOR: Mr. Chairman, I would
2 simply ask, so you've got six vacancies from programs
3 that are currently existing and no guarantee that you're
4 going to get those positions filled. The question I
5 would ask is, are you -- are there some positions that
6 you feel are of critical importance that, if we said
7 something as a group, whether it be kind of a resolution
8 or something like that, it might help or hurt the hiring
9 potential?

10 MS. BILBROUGH: We have one -- the
11 position that we have right now that we requested
12 permission to fill is for the bonding analyst, which we
13 would very much appreciate the ability to fill. We have
14 two short in Lander, so we're trying to at least fill one
15 of those positions. Those are the two that we have at a
16 really high priority right now. And I'm optimistic that
17 they will approve the bonding analyst hire. But I don't
18 know. That would be the one -- those two would be the
19 two positions that are -- that we are prioritizing right
20 now, as I understand it.

21 CHAIRMAN GAMPETRO: So the answer to the
22 question is?

23 MS. BILBROUGH: I don't know. I guess
24 Mark, Mr. Rogaczewski, suggested that you contact Kyle
25 and ask him. He has a much better sense of the situation

1 than I do.

2 CHAIRMAN GAMPETRO: Opinions are really
3 not within our purview, but I think that contact might be
4 something that we could do.

5 MR. DINSMOOR: Yeah. I guess the way that
6 I view it is we're a sounding board for the administrator
7 and for the Division. And if they came to us saying that
8 we've got vacancies in an area and we're falling behind
9 by the day and it's critical that we have these positions
10 filled, and if you as a board would weigh in on our
11 behalf --

12 CHAIRMAN GAMPETRO: If asked to do that.

13 MR. DINSMOOR: If asked to do that.

14 CHAIRMAN GAMPETRO: I would have no
15 problem with that. I think probably you'd talk to Kyle.

16 MS. MACKER: And is the bonding analyst
17 the one that has gone to the governor's committee, but
18 the other one in Lander has not?

19 MS. BILBROUGH: I believe they have not
20 yet interviewed for that position. And the point in time
21 for the request is when you are ready to make an offer,
22 as I understand it.

23 MR. SHOBER: Have you received a request
24 to reduce spending overall or just a hiring freeze?

25 MS. BILBROUGH: Right now just a hiring

1 freeze.

2 MR. SHOBER: I mean, they're probably --
3 there's a pretty likelihood of reduction in -- a budget
4 reduction.

5 MS. BILBROUGH: Most of our expenses are
6 personnel. So a budget reduction -- any other type of
7 budget reduction would be -- there wouldn't be much we
8 could trim and still complete our statutory missions.

9 MR. SHOBER: The State's hunting for quite
10 a bit of money.

11 MS. BILBROUGH: Sorry?

12 MR. SHOBER: I say the State is hunting
13 quite a bit of money. So I don't know. I guess it's
14 going to be up to the legislature to decide what they
15 want to do.

16 MR. ROGACZEWSKI: I would agree,
17 Mr. Shober.

18 MR. SHOBER: And I would assume it's going
19 to be similar to the last time. It isn't that -- you
20 know, some organizations they may feel have greater depth
21 to reduce than others. It's a long process. The only
22 thing we know for sure is there's a shortage of money.

23 MR. DINSMOOR: Mr. Chairman, following
24 that line of reasoning, are any of the positions that you
25 have vacant right now federally funded in whole or in

1 part?

2 MS. BILBROUGH: Well, our positions, in
3 particular the inspectors and permit coordinators, field
4 staff, are funded based on the work that they do. So
5 they'll be funded partially by coal and partially by
6 noncoal, depending on the projects that they're working
7 on at the time. So we have a few positions that are
8 entirely coal, but mostly we have positions that are
9 split. But it's at some level that varies on a monthly
10 basis, depending on what their workload is at the time.

11 MR. DINSMOOR: Does a federal funding
12 position stand a greater chance of being filled right now
13 than a state-funded position?

14 MS. BILBROUGH: No. Actually, no. In
15 short, no, I don't think so. Because even with a coal-
16 funded part of a split position, there's still a state
17 match for those funds.

18 CHAIRMAN GAMPETRO: Other items for
19 discussion?

20 (No response.)

21 CHAIRMAN GAMPETRO: Well, I'd like to
22 thank everyone for all your hard work. And I guess we
23 could entertain a motion to adjourn.

24 MS. MACKER: So moved.

25 MR. SHOBER: Second.

1 CHAIRMAN GAMPETRO: All those in favor.
2 (All members vote aye.)
3 CHAIRMAN GAMPETRO: Any opposed?
4 (No response.)
5 CHAIRMAN GAMPETRO: We are adjourned.
6 (Hearing proceedings concluded
7 12:15 p.m., October 26, 2015.)
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C E R T I F I C A T E

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 10th day of November, 2015.


RANDY A. HATLESTAD
Registered Merit Reporter

