

LQD Meeting

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BEFORE THE ENVIRONMENTAL QUALITY COUNCIL

STATE OF WYOMING

IN RE: LQD MEETING

TRANSCRIPT OF MEETING PROCEEDINGS

PURSUANT TO NOTICE duly given to all parties in interest, this matter came on for meeting on the 21st day of March, 2019, at the hour of 10:00 a.m., at the DEQ Field Office Conference Room, 152 N. Durbin Street, Suite 100, Casper, Wyoming, before the Land Quality Advisory Board, Board Member Phil Dinsmoor presiding, and Board Member John Hines, with Board Member Natalia Duncan-Macker attending by videoconference.

Mr. Kyle Wendtland, Land Quality Administrator; Mr. Craig Hults, Senior Environmental Analyst; Mr. Muthu Kuchanur, LQD Program Manager; Mr. Chris Fare, Melgaard Construction; Mr. David Hornbeck, Oftedal Construction; and Ms. Katie Legerski, Wyoming Contractors Association, also present.

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

2 (Hearing proceedings commenced

3 10:00 a.m., March 21, 2019.)

4 BOARD MEMBER DINSMOOR: Well, it's 10:00.

5 Why don't we call this meeting of the Land Quality Advisory
6 Board to order.

7 To start with, I'll introduce myself. I am
8 Phil Dinsmoor. I'm the vice chair of the advisory board.
9 Our chairman is out with medical issues today and won't be
10 here, so I'll be acting in his stead.

11 And that's probably the first thing we should do,
12 is go around the room and introduce ourselves.

13 BOARD MEMBER HINES: John Hines, member of
14 the Board from Gillette, representing agriculture.

15 BOARD MEMBER DINSMOOR: Okay. Natalia.

16 BOARD MEMBER MACKER: Natalia Macker,
17 representing the Democrats, I think, technically.

18 BOARD MEMBER DINSMOOR: Is she at large or
19 is she --

20 BOARD MEMBER MACKER: I'm a political --
21 I'm like --

22 MR. WENDTLAND: She's political subdivision
23 at large.

24 BOARD MEMBER MACKER: Yeah.

25 MR. WENDTLAND: Yeah, at large political

1 subdivision.

2 BOARD MEMBER MACKER: That's the better way
3 to say it.

4 MR. WENDTLAND: You're welcome. Kathy's
5 got that fixed already.

6 BOARD MEMBER DINSMOOR: I haven't seen you
7 for a while, Natalia. Good to talk to you.

8 BOARD MEMBER MACKER: It's nice to see you.
9 I was actually hoping to make it over today, but I won't
10 bore you with why that didn't happen, but it's nice to be
11 here virtually.

12 MR. WENDTLAND: We thought you'd want to
13 see ground, but, you know...

14 BOARD MEMBER DINSMOOR: Okay. Muthu.

15 MR. KUCHANUR: Muthu Kuchanur with Land
16 Quality Division.

17 MR. WENDTLAND: Kyle Wendtland,
18 Administrator Land Quality.

19 MR. HULTS: Craig Hults, Land Quality
20 Division.

21 MR. FARE: Chris Fare, Melgaard
22 Construction.

23 MR. HORNBECK: David Hornbeck, Oftedal
24 Construction.

25 MS. LEGERSKI: Katie Legerski with the

1 Wyoming Contractors Association.

2 BOARD MEMBER DINSMOOR: Good. Thank you.

3 Anyone else on the telephone? That's all we
4 have?

5 MR. HULTS: Yep.

6 BOARD MEMBER DINSMOOR: Okay. All right.
7 Then I think what I'll do is we have only one agenda item,
8 I think, today, and it's new rules. But, Mr. Wendtland,
9 you may have other things you want to bring before the
10 board, so I'm going to turn it over to you.

11 MR. WENDTLAND: Thank you, Chairman
12 Dinsmoor. Vice Chair Dinsmoor today, but we'll call you
13 chairman. We'll give you the full stroke today.

14 BOARD MEMBER DINSMOOR: I'll probably
15 answer to just about anything today.

16 MR. WENDTLAND: We do have a couple of
17 other just general cleanup items after the rules package
18 presentation. Shouldn't take but a few minutes, but we
19 will start with the rules package. And it has to do with
20 some changes that came from a statutory change with the
21 legislature this year. And I want to -- and it relates to
22 limited mining operations.

23 And I want to just give everybody on the board
24 here maybe a little background. I know you've probably
25 seen the packet, but I have some outlining things that

1 might be helpful. And I'd like to go over the statutory
2 change first, just for some history here. And then we'll
3 go over the rule change and how that ties to the statutory
4 change. And hopefully that's helpful for everyone today.

5 For those who aren't as familiar, LMOs are
6 limited mine operations. They have basic notifications.
7 It's important to recognize they are not a permit. They
8 are a notification action.

9 LMOs typically are sand and gravel operations
10 that are 15 acres or less, excluding the access roads.
11 Notification requires written permission from the landowner
12 and verification of mineral ownership, and a copy of the
13 notice mailed to all surface owners within one mile of the
14 proposed boundary of the LMO at least 30 days before
15 commencing operations.

16 And the reclamation bond for that area must be in
17 place, but the reclamation bonding amount in this case is
18 set on a per-acre basis and is -- the value set in statute
19 at 2 to \$3,000 an acre. So it's very straightforward and
20 it is basically saying this is what we're going to do.
21 They were designed for infrastructure-type projects to keep
22 costs manageable. So if you were doing a county road or a
23 state road project and you needed a few hundred tons of
24 material, rather than truck it long distance from a source,
25 if you had a more localized small source, you could open

1 this up quickly through a notification and access the
2 material and help manage the cost of those projects, which
3 is definitely beneficial to counties and state projects of
4 infrastructure.

5 So the statutory change. Presently there was no
6 mechanism in place in the statutory language to terminate
7 an LMO operation that had never been developed. So we
8 might have had one that was applied for, but is then
9 sitting on the books for -- you know, we have some that are
10 in excess of 20 years old. And we still have to send a
11 state inspector out there to inspect the property, because
12 there's still an annual report filing requirement. So
13 we're spending vehicle resource, manpower resource,
14 inspection time and write-up resource and filing all of
15 this.

16 So we really didn't have a way to get those off
17 the books. So we looked at doing something similar to the
18 other operations in coal and noncoal and looking at some
19 five-year term language. And that way they can apply for a
20 renewal of their notification, basically, at the five-year
21 mark, if there was justification to keep it. And that's
22 what the rule change really digs into a little bit.

23 So -- but if there's no foreseeable development
24 and there's no foreseeable future development in the near
25 term, then we can go ahead and terminate that LMO and get

1 it off the books.

2 The second thing that fits with that is the
3 way the statute was written, once you went to abandonment
4 of one of these pits -- let's say you took your LMO for
5 15 acres and maybe you mine 10 of it. And technically when
6 you abandon the pit for 30 days, you were supposed to go to
7 reclamation. Well, that doesn't work very well if it's
8 January and if there's additional resource there. So by
9 going to the five-year term, rather than having to open up
10 another area or reopen an area, we keep the disturbance to
11 the one location and access the maximum amount of material,
12 and then you can do the reclamation in a more timely manner
13 rather than trying to do it in the dead of winter or
14 something like that for these small acreages.

15 So it resolved both of those problems, the
16 statutory language. And just as some review in the -- in
17 the statute. In Section 6, in 35-11-401, it's (e)(vi),
18 that first one is that's the benchmark or starting point,
19 the redline in there. The operator shall notify Land
20 Quality Division of the Department of Environmental Quality
21 of the date of commencement of the limited mine operation.
22 And that basically is establishing the start of the
23 five-year period. Okay?

24 Then we move to the next page. And under item C,
25 we struck the 30-day reclamation requirement, and we said

1 that the operators shall notify the administrator of such
2 fact in the next annual report. So that, essentially,
3 removes the 30-day abandonment language and the five-year
4 term now applies.

5 In Section E -- just a second here. This
6 terminates -- Section E allows us to terminate the LMO
7 notification if no commencement of operation happens within
8 the five years. And then Section F, limits the LMO to the
9 five years from the date of commencement, unless extended.
10 And the extension -- and this is how we want to handle
11 this -- is in the annual report form. Because these are
12 notifications, we want to just put a block at the bottom of
13 the annual report form that's basically a "check the box"
14 that says one of these items that's in the rule change
15 applies, and then a certification statement that says I
16 certify that that's -- that information is true and
17 accurate.

18 So we're not looking to make this onerous. We're
19 looking to make it a fairly simple documentation method
20 through the annual report. And that was important to the
21 legislature when we were talking to them. They did not
22 want this to become more onerous than it already is, and
23 that was our solution for that. So Section F allows for
24 that extension. Okay?

25 So that's what the statutory language did. And

1 then we'll move to the regulation language here. Sorry, I
2 got too many pieces of paper. Hazard of being in -- being
3 in -- I've got Craig and Muthu here just to kick me under
4 the table if I miss something, so -- or I lose a piece of
5 paper.

6 So when we get into Chapter 10, Section 5,
7 Reclamation, section (a), when I'm looking at the statement
8 of reasons document -- and I'm just going to reduce it to
9 really the key points here. What this does is the proposed
10 new Section 6 provides for a five-year renewal term in
11 place of the 30-day requirement, which we just talked
12 about. And, therefore, the definition of abandonment is
13 proposed for deletion here, because now we're moving to
14 that five-year.

15 It does, however, retain the requirement to
16 notify the Land Quality Division when operations have
17 ceased and to begin reclamation, restoration of the
18 affected lands. So it still has that five-year deal in
19 there, and still moves them to reclamation, but it just
20 removes that effectively in the regs, the 30-day
21 requirement.

22 Then we move to Section 6(a) on the next --
23 page 2. And this one replaces the requirement to begin
24 reclamation within 30 days of abandonment, with the five-
25 year renewal term. And, again, the renewal request shall

1 be indicated in the Land Quality LMO Annual Report Form.
2 So that says where it's going to be. And it really lays
3 out, then, in the section (b), what those requirements
4 would be.

5 And it says those notification examples in the
6 annual report would be do you have a mineral supply
7 contract within the next five-year renewal period -- or
8 renewal period, it's already established to be five
9 years; a government project in the area that is scheduled
10 to begin within the next year period; a major industrial
11 project in the area that is scheduled to begin within the
12 renewal period, such as wind farm or solar or a major oil
13 and gas type field.

14 If the operation is active and has commercial
15 sales within the last annual reporting period. So if they
16 get to that fifth year and they have some commercial sales,
17 they can qualify for that renewal. And if a valid surface
18 and mineral owner consent contract or lease extends beyond
19 the five-year renewal term. We do have some cases where
20 they negotiated these contracts for 30, 40, 50 years, and
21 we certainly don't want to force them to go back and
22 renegotiate a contract every five years.

23 And then if the limited mining operations site is
24 under reclamation, because then we know they're moving into
25 reclamation. And then we also have a statement above that,

1 you know, from the annual report form, included but are not
2 limited to. So if there's some other reason that they
3 would qualify or believe that the industry qualifies or
4 operator for a five-year extension, they can make that case
5 and then submit it on a separate form if it doesn't make
6 these "check the box" examples.

7 Okay. And then the last is just some reordering
8 of the numbering. Section 6 becomes 7, 7 becomes 8, 8
9 becomes 9.

10 Now, with all that said, we did receive a -- one
11 public comment from Eldon Strid and his marble company.
12 And we actually believe his comment was correct. The
13 current language reads -- and this is in -- on page 2,
14 subsection B -- (b), the last sentence. And it starts with
15 "Qualifications for renewal include but are not limited
16 to..." And Eldon's comment was that qualifications really
17 runs counter that terminology to the notification language
18 of the statute because it's a notification. So we are
19 recommending that we amend the rule here, with the Board's
20 approval, to read "Notification examples for renewal on the
21 annual report form include but are not limited to..." We
22 believe that does address Mr. Strid's comment, and we
23 believe he is correct in that comment.

24 And with that, I believe that is -- unless Muthu
25 or Craig believe I missed something here, I think that's --

1 MR. HULTS: No. That was a good summary.

2 MR. WENDTLAND: -- the key summary here.

3 BOARD MEMBER DINSMOOR: Okay. Questions
4 from any of the board members?

5 Natalia?

6 BOARD MEMBER MACKER: I don't have any
7 questions. Thanks.

8 BOARD MEMBER DINSMOOR: Okay. John?

9 BOARD MEMBER HINES: I just -- as I looked
10 over last night -- I guess when I got it -- the one in
11 question -- the first one was on the renewals where you
12 look at the -- the contract with the next renewal period.
13 The smaller operations may not have a written contract.
14 They just -- an agreement to -- I'm thinking of scoria or
15 sand, that there's no -- no discussion at the time, I
16 guess, as long as someone needs a product that you have it
17 available.

18 MR. WENDTLAND: Board Member Hines, that's
19 a really good question. And the way that that's addressed
20 is you have to show that you have surface and mineral
21 access and that requires the signature on a Form 8. So the
22 landowner is aware of that term through the Form 8. So
23 they do know.

24 BOARD MEMBER HINES: I guess what I was
25 thinking of, the same person, the landowner is the

1 permittee.

2 MR. WENDTLAND: Sometimes they are. But by
3 signing that Form 8, that lays out what that --

4 BOARD MEMBER HINES: That form.

5 MR. WENDTLAND: Uh-huh.

6 BOARD MEMBER HINES: I've had those, but
7 it's been so long. I don't remember any forms.

8 MR. WENDTLAND: And Board Member Hines,
9 that was a comment on the statutory language that came up
10 during the committee meeting on the house side, was we had
11 a commenter that said, well, we would rather it be a
12 three-year term instead of a five-year term. And the
13 chairman had said, well, the landowner's going to know it's
14 a five-year, because he's got to sign the Form 8. So you
15 can't say that the landowner is not aware of the time
16 frame. So that actually was addressed on the house
17 committee side. So that was a very good question.

18 MR. HULTS: Kyle, if I might. It's
19 actually the LMO application form.

20 MR. WENDTLAND: Right.

21 MR. HULTS: The surface owner signs that
22 application form.

23 BOARD MEMBER HINES: Mr. Chairman. Then my
24 other -- not really a big question, but caught my attention
25 with the limitation of the operation. And says you can

1 only have one -- I can't say the right word -- one
2 operation within a six-mile radius if -- if it's the same
3 mineral. And you just mentioned here a little bit ago
4 about -- for more or less roads, counties.

5 MR. WENDTLAND: Uh-huh.

6 BOARD MEMBER HINES: If you're making all
7 six miles, maybe there's some -- if they can get another
8 operation, you know, within a half mile.

9 MR. WENDTLAND: Chairman Dinsmoor. Board
10 Member Hines, that actually was changed in 2013 --

11 MR. HULTS: '13, yep.

12 MR. WENDTLAND: -- I believe to the six-
13 mile radius and that was not part of this rule revision.
14 So we did not readdress that in this rule package, because
15 that was not part of the statutory discussion. The
16 language that we had in the statute, just for a little
17 additional history here, was two years in the making with
18 the minerals committee. And they condensed it down to just
19 this piece by the time we were there. So certainly if
20 industry believes that's an issue, they would like to
21 address in the future, we certainly would go ahead and hear
22 that and see what we can do to work with them.

23 A. Is there -- Mr. Chairman. Then if someone
24 already has a permit and in operation and it would be much
25 more convenient for the operation than the person paying

1 for it, is there any -- any avenue that permittee can --

2 MR. WENDTLAND: Chairman Dins --

3 BOARD MEMBER HINES: -- require to have
4 that looked at?

5 MR. WENDTLAND: Chairman Dinsmoor. Board
6 Member Hines, they would have to be a different company or
7 subsidiary to be within that six-mile. That's the out for
8 them.

9 And I -- I'm going to ask the director of --
10 executive director of Wyoming Contractors to address this a
11 little bit too. I think that your comments here might be
12 helpful.

13 MS. LEGERSKI: Mr. Chairman and Board
14 Member Hines, I'm Katie Legerski with the Wyoming
15 Contractors Association. We've been working with the
16 Department of Environmental Quality for several years, and
17 on the particular issue of LMOs for the last 18 months in
18 designing of this legislation as well as the changes to the
19 rules and regulations. One of the topics that have come up
20 in our work group is looking at the six-mile radius and
21 having discussions with that. So that is on our agenda to
22 discuss in future meetings to see if it does need to be
23 changed. And if so, what would be the appropriate limit,
24 and should it be limited to owners cannot be within six
25 miles of each other. Is it possible that maybe the same

1 owner can't be within three miles? Four miles? So that is
2 something that we have been considering that we're working
3 on.

4 During this process for this particular LMO it
5 was just strictly nailed down to this particular section of
6 the statute so we didn't really focus on it, but it is on
7 the agenda for future talks.

8 BOARD MEMBER HINES: Thank you.

9 MR. WENDTLAND: Thank you. You're far more
10 eloquent with that answer than I was.

11 BOARD MEMBER HINES: Mr. Chairman, I think
12 that's all that caught my eyes as I went through it.

13 BOARD MEMBER DINSMOOR: Okay. I've got a
14 couple of questions. And first I wanted to follow up on
15 Ms. Legerski's comments there. We don't have Sections 1
16 through 4, I don't think, in front of us. And so my
17 question is, is there anything that requires that the total
18 acreage of an LMO be continuous?

19 MR. WENDTLAND: It is. It's the LMO is
20 15 acres --

21 BOARD MEMBER DINSMOOR: Contiguous.

22 MR. WENDTLAND: -- can be up to 15 acres
23 contiguous.

24 BOARD MEMBER DINSMOOR: So they could not
25 split seven acres here and eight acres there, all closer

1 than six miles, or whatever?

2 MR. WENDTLAND: No. Chairman Dinsmoor, no.

3 BOARD MEMBER DINSMOOR: Okay. Even if it
4 were along a road, like pearls on a string or something?

5 MR. WENDTLAND: Mr. Chairman, no.

6 BOARD MEMBER DINSMOOR: Okay.

7 MR. WENDTLAND: Again, you're trying to
8 minimize those disturbances. You don't want a block of
9 multiple small disturbances. You want one source, mine it
10 out and --

11 BOARD MEMBER DINSMOOR: Okay.

12 MR. WENDTLAND: And secondly on that,
13 Chairman Dinsmoor, this might be helpful for the Board as
14 well. It's not uncommon for an L -- an operator to come in
15 with an LMO and mine out a portion of the LMO, generate
16 revenue, and at the same time be doing their baseline and
17 development work to turn it into a small mine permit and a
18 longer reserve, if the reserve base is there. So this does
19 allow them a way to get in, make some money off of it, get
20 some revenue in the bank and then expand the operation, if
21 it warrants that.

22 BOARD MEMBER DINSMOOR: Okay. In a related
23 question. So if a landowner is going to be his own
24 operator -- his or her own operator -- if I understand it,
25 the Form 8 is part of the LMO application. Is the

1 landowner signing that he has shared with himself his mine
2 and rec plan, basically he's giving himself landowner
3 consent?

4 MR. WENDTLAND: Chairman Dinsmoor, Craig
5 corrected me, and adequately so. I always get -- unless
6 I'm looking at the statute between large mine, small mine,
7 LMO, LE, it's the LMO form that that statement's on that
8 the landowner's signing. So they're aware of what that's
9 going to be.

10 BOARD MEMBER DINSMOOR: Even if the
11 landowner is the operator, they're still signing it?

12 MR. WENDTLAND: They're still signing it,
13 yes.

14 BOARD MEMBER DINSMOOR: I think that goes
15 to protecting the agency, that -- that a landowner can't
16 ignore that requirement for him or herself.

17 MR. WENDTLAND: Where we get into some
18 convulsion with that, Chairman Dinsmoor, is -- it doesn't
19 happen often, but it does happen -- is where we have a new
20 landowner come in. And if that's not explicitly in the
21 land transfer, and now we have a new landowner and they
22 have not signed that form, then they have an option to
23 renegotiate that. But in most cases, that assignment
24 transfers in the land ownership change. That's part of the
25 agreement with the new owner. But there have been

1 occasions where that's been overlooked.

2 BOARD MEMBER DINSMOOR: So if that's not
3 disclosed to the new landowner, the new landowner does
4 have --

5 MR. WENDTLAND: The right to renegotiate
6 that.

7 BOARD MEMBER DINSMOOR: Okay. And failing
8 a renegotiation, does the -- what happens to the permit?

9 MR. WENDTLAND: Then we can go to contested
10 case and work out the details of that.

11 BOARD MEMBER DINSMOOR: So the process is
12 there.

13 MR. WENDTLAND: There's a process there,
14 but, you know, it doesn't happen often, but it has
15 happened.

16 BOARD MEMBER DINSMOOR: Okay.

17 MR. WENDTLAND: In my tenure it's happened,
18 and that's pretty short. So it does happen.

19 BOARD MEMBER DINSMOOR: Okay. Second
20 question -- or next question. On Section 6 of the proposed
21 rule, 6(b), I presume what you're saying is that it can be
22 one or more of those enumerated items, and it's not an
23 "and." Does the language -- is it clear to everybody that
24 the language is not an "and." It's, in fact, any one of
25 those items would trigger a --

1 MR. WENDTLAND: Yeah. Any single item
2 would trigger the renewal.

3 BOARD MEMBER DINSMOOR: And maybe the form
4 could be made out to make that abundantly clear --

5 MR. WENDTLAND: Yes.

6 BOARD MEMBER DINSMOOR: -- so that we don't
7 have to --

8 MR. WENDTLAND: That would be in the bottom
9 of the certification. Please check one. A minimum of one,
10 yes.

11 BOARD MEMBER DINSMOOR: Okay. In Section 6
12 (a), what happens if no report is ever filed? I'm sure
13 that never happens.

14 MR. WENDTLAND: If I don't get a report in
15 five years, I'm terminating. Now.

16 BOARD MEMBER DINSMOOR: Okay.

17 MR. WENDTLAND: Now. I have that right
18 now. I have a way -- I have a mechanism now, as
19 administrator, to move to that termination.

20 BOARD MEMBER DINSMOOR: And that comes
21 through the statutory change?

22 MR. WENDTLAND: Uh-huh.

23 BOARD MEMBER DINSMOOR: Okay. Okay. I
24 think I'm down to two remaining questions.

25 You had indicated that one of the reasons that

1 this LMO is originally developed was for state or county or
2 government agency infrastructure kinds of projects. If a
3 project is initiated today, so it's 2019, March, and we --
4 we initiate a project, we work for four months, five
5 months, whatever, under an LMO, extract mineral, and that
6 project is completed and nothing happens until the end of
7 the five-year term, they're okay. What happens if the next
8 project isn't going to occur until the next -- until after
9 the end of the five-year term, but there's no negotiated
10 contract?

11 MR. WENDTLAND: Well, that's where they
12 would have to fall under one of these or make the case,
13 because it says included, but not limited to. So they
14 would have to send us the case -- or the base case,
15 Chairman Dinsmoor, to say we know that this is coming
16 and --

17 BOARD MEMBER DINSMOOR: Okay. So
18 abandonment will not take hold after any period of time
19 until the end of five-year term?

20 MR. WENDTLAND: Chairman Dinsmoor, this
21 might help you too.

22 And thank you for pointing that out, Craig.

23 In Item 2, you know, a government project in that
24 area -- in that area is scheduled to begin. And the reason
25 we chose five years -- I should have elaborated on this.

1 This was not an arbitrary number, the five-year term.
2 BLM's mineral contracts run on the five-year term, and
3 WYDOT typically is a three-year-out bid. So this five-year
4 term falls within those parameters of when those events are
5 triggered by other agencies.

6 BOARD MEMBER DINSMOOR: Okay. Good. That
7 makes some sense, then. Thank you.

8 My last question is, it never even occurred to
9 me, as a representative of a mining company, that is a
10 large mine and as a full-scale permit, a coal company,
11 could a large mining operation utilize the LMO operation
12 for expansion of scoria in support, for example, of their
13 coal mining operation?

14 MR. WENDTLAND: Chairman Dinsmoor, in coal
15 that's a little more difficult. It depends on whether it's
16 contiguous to the permit or not. When we get into the
17 SMCRA language for noncoal it is a little bit easier
18 option.

19 BOARD MEMBER DINSMOOR: So it could be an
20 option.

21 MR. WENDTLAND: It could be. But I've
22 not -- in my 26 years of tenure have I ever seen that
23 scoria operation removed from the permit where it was not
24 contiguous. I'm trying to think where I would ever have
25 seen one of those. And I can't, in my --

1 BOARD MEMBER DINSMOOR: Yeah, I haven't
2 either. And I'm not suggesting we should, but --

3 MR. WENDTLAND: No, but it is -- it's an
4 option.

5 BOARD MEMBER DINSMOOR: Okay. Okay. I
6 have no further questions.

7 Turn back to Natalia and John. Did we --

8 BOARD MEMBER HINES: Mr. Chairman. The one
9 thing that I thought about before, and -- you pay the
10 bonding -- you have to have the bonding for the acres,
11 whether it's used or not.

12 MR. WENDTLAND: Right.

13 BOARD MEMBER HINES: If you get a permit or
14 not.

15 MR. WENDTLAND: Chairman Dinsmoor. Board
16 Member Hines, that's correct. Bonding is part of that
17 notification. That's --

18 BOARD MEMBER HINES: Okay. Then if you --
19 say I get a permit for five acres, and after two or three,
20 four years you see that you need more acreage, what's the
21 procedure? Do you apply for another pit or extension or --

22 MR. WENDTLAND: Chairman Dinsmoor. Board
23 Member Hines, you just send us a notification you're going
24 to expand the boundary and raise your bond --

25 BOARD MEMBER HINES: Okay.

1 MR. WENDTLAND: -- and send the letter --

2 BOARD MEMBER HINES: You can do that up to
3 15 acres.

4 MR. WENDTLAND: Up to 15 acres.

5 BOARD MEMBER HINES: Thank you.

6 MR. WENDTLAND: Chairman Dinsmoor, in
7 response to your other question, 15 acres of scoria would
8 not run a coal mine very far.

9 BOARD MEMBER DINSMOOR: No, it wouldn't.
10 Good point.

11 MR. WENDTLAND: It's probably the other --

12 BOARD MEMBER DINSMOOR: Okay. I just
13 wanted to make sure if this rule needs to preclude some --
14 I don't -- I don't see that it's a -- that one would be
15 circumventing the intent of the Environmental Quality Act,
16 but if it would need to be, that language should be in
17 there.

18 MR. WENDTLAND: And the only other --
19 Chairman Dinsmoor, the only other comment I would have is
20 we really did not have, through the statutory language
21 process, much objection to this language at all. I believe
22 that it would be fair to say that industry was in support
23 and public was in support with the one exception of the one
24 comment of the three-year versus five-year.

25 BOARD MEMBER DINSMOOR: Okay. Natalia, any

1 other comments?

2 BOARD MEMBER MACKER: No. I appreciate the
3 discussion and the questions from both of you.

4 BOARD MEMBER DINSMOOR: Okay. John,
5 anything?

6 BOARD MEMBER HINES: I have no more.

7 BOARD MEMBER DINSMOOR: Okay. Let's see if
8 there's any public comments.

9 Anybody care to make any?

10 MR. WENDTLAND: What did I mess up?

11 MS. LEGERSKI: Mr. Chairman, again, Katie
12 Legerski with the Wyoming Contractors Association.
13 Obviously, from my previous comments, we are very, very
14 supportive of this. Like I said, before we worked hand in
15 hand with sand and gravel operators and the Department of
16 Environmental Quality in the Joint Minerals Committee. So
17 this has been vested both through the department, the
18 legislature and also through the sand and gravel operators.
19 So we do stand in support of the changes.

20 BOARD MEMBER DINSMOOR: Thank you for that.

21 MR. FARE: Nope. I'm good.

22 BOARD MEMBER DINSMOOR: No other public
23 comments? It appears we've run out of things to talk about
24 here.

25 So we have a proposed rule here. Time for a

1 motion?

2 BOARD MEMBER HINES: If you need a motion,
3 I will move approval of the proposed rule presented.

4 BOARD MEMBER DINSMOOR: Okay.

5 MR. WENDTLAND: Chairman Dinsmoor, I would
6 suggest you maybe amend -- have that motion amended to
7 incorporate the language change in Section (b), as proposed
8 today --

9 BOARD MEMBER DINSMOOR: Yeah, that would --

10 MR. WENDTLAND: -- as that is new language.

11 BOARD MEMBER DINSMOOR: That's the --

12 MR. WENDTLAND: And I would ask if
13 there's -- I would recommend that you ask if there's public
14 comment to that change.

15 BOARD MEMBER DINSMOOR: Okay. Let me ask
16 you, you're talking in Section 6(b), the -- in our copy,
17 the elimination of the renewal qualifications and
18 replacement of notification examples.

19 MR. WENDTLAND: That is correct.

20 BOARD MEMBER DINSMOOR: That language did
21 not go through the public notice period.

22 MR. WENDTLAND: Correct.

23 BOARD MEMBER DINSMOOR: Okay. So --

24 BOARD MEMBER HINES: Mr. Chairman, I
25 thought I included that, but if you need an amendment, I

1 would amend my motion that it reflect those changes that
2 was brought up today that did not go through the public
3 approval method.

4 BOARD MEMBER DINSMOOR: Okay. We have a
5 motion, then, to amend the original motion which was to
6 approve the language with the newest addition of the -- in
7 Section 6(b).

8 BOARD MEMBER MACKER: I will second that.

9 BOARD MEMBER DINSMOOR: We have a second.

10 MR. WENDTLAND: And, again, Chairman
11 Dinsmoor, I recommend that you, just for the record, ask if
12 there's public comment to that.

13 BOARD MEMBER DINSMOOR: I think we're there
14 now. We're at the point of any discussion, and we'll
15 include the public comment in that.

16 MS. LEGERSKI: Mr. Chairman, again, Katie
17 with Wyoming Contractors Association. We are in support of
18 the change as recommended to --

19 THE REPORTER: I'm sorry. I can't hear
20 you.

21 MS. LEGERSKI: We are very supportive of
22 the amendment.

23 BOARD MEMBER DINSMOOR: Okay. Thank you,
24 ma'am.

25 Okay. Any other conversation that needs to occur

1 on this rule? There being none, call for the vote.

2 All in favor of the motion, please say aye.

3 BOARD MEMBER HINES: Aye.

4 BOARD MEMBER MACKER: Aye.

5 BOARD MEMBER DINSMOOR: Aye.

6 And there's nobody else to say nay, so the motion
7 passes, and this rule will now go on to the Environmental
8 Quality Council.

9 MR. WENDTLAND: That is -- Chairman
10 Dinsmoor, that is correct.

11 And I appreciate, and it is always a pleasure
12 working with the Board and your questions. Thank you.

13 BOARD MEMBER DINSMOOR: Thank you for that.

14 I'm looking at the agenda and I'm surprised to
15 see another agenda item on there. Membership and election
16 of officers.

17 MR. WENDTLAND: Yeah. Chairman Dinsmoor, I
18 wanted to go over this. As you -- as the Board is aware,
19 we've retained Board Member Shober until such time the new
20 governor, Governor Gordon, gets us an appointment. I
21 believe there are applications pending for his position.

22 BOARD MEMBER DINSMOOR: Is it my
23 understanding that we retained him in an advisory
24 capacity -- in a nonvoting advisory capacity?

25 MR. WENDTLAND: Chairman Dinsmoor, that is

1 correct.

2 BOARD MEMBER DINSMOOR: Okay.

3 MR. WENDTLAND: And, you know, again, we're
4 just waiting for a determination and appointment by the
5 governor's office at this point in time for that.

6 BOARD MEMBER DINSMOOR: Okay.

7 MR. WENDTLAND: And then, Chairman
8 Dinsmoor, we have two other board member appointments
9 coming up. And if you -- we want to make those folks
10 aware, so if they want to apply for reappointment, they can
11 be thinking about that between now and September.

12 Board Member Macker, you are up on 9/30 of 2019.

13 BOARD MEMBER MACKER: Oh, that is this
14 year. Ha-ha-ha. Time has flown by.

15 MR. WENDTLAND: Yes, it has. And if you
16 have an interest, I would ask maybe you start considering
17 an application to the governor's office.

18 BOARD MEMBER MACKER: Okay.

19 MR. WENDTLAND: If you do not have an
20 interest, I would encourage you to think about who you
21 might have as a replacement that you might recommend for an
22 appointment to the board.

23 And then, Board Member Hines, you are also up on
24 9/30 of this -- of this year. And I would ask the same of
25 you, that if you have an interest in reappointment, to

1 please let the governor's office know. And if you do not,
2 please think hard and if you have somebody that you would
3 recommend, I would encourage you to speak with them.

4 BOARD MEMBER HINES: A question on board
5 members. I'm not sure -- like I assume that the county or
6 city officials, that group, is the one that nominates a
7 person.

8 MR. WENDTLAND: You can send the
9 application in or they can directly to the governor's
10 office. There's a -- we can -- Craig can get you -- or if
11 you have someone that's interested, have them contact
12 Craig -- Chairman Dinsmoor, Board Member Hines -- and they
13 will get you in touch with the governor's office and get a
14 packet of application out to them.

15 BOARD MEMBER HINES: It's been four years,
16 so I don't remember for sure.

17 MR. WENDTLAND: Yeah.

18 BOARD MEMBER HINES: But in my case there
19 was no application. They came to me and asked me if I --

20 MR. WENDTLAND: Right, because you were
21 filling a prior seat, so -- in mid term, so --

22 BOARD MEMBER HINES: Yeah.

23 MR. WENDTLAND: Board Member Hines, so that
24 was a direct appointment.

25 BOARD MEMBER HINES: Okay. Thank you.

1 BOARD MEMBER DINSMOOR: So if I'm not
2 mistaken, what you've just said is anybody can apply
3 through any mechanism and the statute does, if I recall
4 correctly, have certain minimum requirements for a couple
5 of the seats. For example, there's one industry position
6 and there's one --

7 MR. WENDTLAND: Chairman Dinsmoor, that's
8 correct. There's an industry, public at large,
9 agriculture, political subdivision and public at large.
10 And then it is split between the two political parties so
11 that the board's balanced.

12 BOARD MEMBER DINSMOOR: Okay.

13 MR. WENDTLAND: That is correct.

14 BOARD MEMBER DINSMOOR: I think it's good
15 to get that out there and in the record.

16 MR. WENDTLAND: And for the record,
17 Chairman Dinsmoor, your date comes up in 9/30 of 2021. And
18 Board Member Gampetro comes up in 9/30 of 2020.

19 BOARD MEMBER DINSMOOR: Okay. And is it --
20 do we elect officers at the -- at this time every year? Is
21 that the approach?

22 MR. WENDTLAND: Chairman Dinsmoor, what we
23 recommend is that we do the -- we would recommend that you
24 think about your election of officers for the June meeting.

25 Yeah, that's a good point, Craig.

1 I think you want to do your election -- I'm going
2 to retract that statement and say that I think you do want
3 to do your election of officers at the December 12th
4 meeting, because we will have all of the new board members
5 in place.

6 BOARD MEMBER DINSMOOR: That's where I was
7 going with my question, is does it make sense to do
8 anything now if three members have the potential to leave?

9 MR. WENDTLAND: Chairman Dinsmoor, I think
10 as long as Board Member Gampetro is happy being chairman
11 and you're happy being vice chairman until December, I
12 think I would wait until that time. And then you will have
13 new board members in place.

14 BOARD MEMBER DINSMOOR: Okay. Do we need
15 to do anything official to delay that?

16 MR. HULTS: Chairman Dinsmoor, no. The
17 statute only requires that we elect officers annually. It
18 doesn't specify a term, so...

19 BOARD MEMBER DINSMOOR: Okay. So unless
20 there's objection from the other board members, I would
21 recommend that we retain things as they are, encourage you
22 to either submit your applications or some idea of some
23 other people that might be interested, make this thing
24 happen in September as best we can, and then follow through
25 with election at the end of the year.

1 MR. WENDTLAND: And, Chairman Dinsmoor, I
2 very much enjoy and it is very pleasurable working with
3 this particular board, and I am hopeful that people will
4 reapply, because I think we have a board that's up to speed
5 right now, and we do have some other rule packages coming
6 through the pipeline. And I think it would be efficient to
7 retain some of that institutional knowledge on the board at
8 this point in time.

9 So there's my pitch, Natalia.

10 BOARD MEMBER MACKER: Received.

11 BOARD MEMBER DINSMOOR: Is there any -- are
12 we divulging any secrets if we ask what some of those rule
13 packages might be that are in the pipeline, just to give
14 the board members an idea what kinds of challenges face us?

15 MR. WENDTLAND: Chairman Dinsmoor, I'm
16 going to turn that over to Craig Hults, because he's got a
17 pretty good handle on what that looks like right now.

18 MR. HULTS: Chairman Dinsmoor, the only one
19 that I'm concrete on right now is we have a tentative
20 bentonite package. And what they're hoping to address is
21 how we calculate when an operator needs to go to public
22 notice based on the 20 percent requirement. There's been
23 some different interpretations of that, and we're hoping to
24 clarify that. That's currently the only one that I'm aware
25 of.

1 MR. WENDTLAND: Chairman Dinsmoor, we do
2 have one more that Craig probably is not aware of that
3 we're working on with -- in conjunction with the
4 contractors association again, is we may -- depending on
5 how fast we can develop that language now we've got this
6 LMO piece done, is looking at the exploration by dozing
7 rules and looking at more of a self-issuing permit and
8 seeing if we can do that within the rules. And I would
9 hope that we can get that to the table maybe before year
10 end. So we're probably looking at minimum of two more.
11 Both of those will be fairly extensive discussions, I
12 think.

13 BOARD MEMBER DINSMOOR: It sounds like
14 there may be some further issues in this LMO rule, based on
15 conversations that -- and the testimony from Ms. Legerski,
16 so...

17 Okay. Are there other items for discussion?

18 MR. WENDTLAND: Chairman Dinsmoor, I
19 believe that -- Muthu?

20 I believe that wraps up the agenda right now.

21 BOARD MEMBER DINSMOOR: Thank you for that.

22 John?

23 BOARD MEMBER HINES: I move we adjourn.

24 BOARD MEMBER DINSMOOR: We have --

25 BOARD MEMBER MACKER: Second.

1 BOARD MEMBER DINSMOOR: -- a motion to
2 adjourn and second to move. Boy, there was no delay in
3 that.

4 MR. WENDTLAND: You've got snow to shovel.

5 BOARD MEMBER MACKER: I just wanted you to
6 know I was listening.

7 BOARD MEMBER DINSMOOR: Okay. Motion to
8 adjourn. All in favor say aye.

9 BOARD MEMBER MACKER: Aye.

10 BOARD MEMBER HINES: Aye.

11 BOARD MEMBER DINSMOOR: Aye. This meeting
12 is adjourned. Thank you very much.

13 (Hearing proceedings concluded

14 10:46 a.m., March 21, 2019.)

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C E R T I F I C A T E

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

Dated this 11th day of April, 2019.


KATHY J. KENDRICK
Registered Professional Reporter

