

LQD Meeting

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1 BEFORE THE LAND QUALITY ADVISORY BOARD
2 STATE OF WYOMING

3 -----
4 IN RE: LQD MEETING
5 -----

6 TRANSCRIPT OF VIDEOCONFERENCE MEETING PROCEEDINGS

7 PURSUANT TO NOTICE duly given to all parties
8 in interest, this matter came on for telephonic meeting
9 on the 6th day of August, 2020, at the hour of
10 10:05 a.m., at 200 West 17th Street, Conference Room 211,
11 Cheyenne, Wyoming, before the Land Quality Advisory Board,
12 Chairman Jim Gampetro, presiding, with Mr. Gene Legerski,
13 Ms. Natalia Macker, and Mr. John Hines, advisory board
14 members, and Mr. Phil Dinsmoor, advising member, all
15 present by videoconference.

16 Mr. Kyle Wendtland, Land Quality Administrator;
17 Mr. Craig Hults, LQD Natural Resource Program Principal;
18 Mr. Muthu Kuchanur, LQD Program Manager; Mr. Keith Guille,
19 Public Information Officer for DEQ; Mr. Andrew Kuhlmann,
20 Wyoming Attorney General's Office, for the Board;
21 Mr. Matthew Van Wormer, Wyoming Attorney General's Office,
22 for LQD; Chris Fare, Melgaard Construction;
23 Mr. Travis Deti, Wyoming Mining Association; Ms. Shannon
24 Anderson and Ms. Jill Morrison, Powder River Basin
25 Resource Council; and various nonparticipating audience
 members were also present.

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

2 (Meeting proceedings commenced
3 10:05 a.m., August 6, 2020.)

4 MR. GUILLE: Welcome to the Land Quality.
5 I'm sorry. Welcome to the Land Quality Advisory Board
6 meeting. Today is August 6, 2020. My name is Keith
7 Guille. I'm the public information officer for the Wyoming
8 Department of Environmental Quality. Also joining us today
9 from the Land Quality Division is Kyle Wendtland, LQD
10 administrator; Muthu Kuchanur, LQD Program Manager; and
11 Craig Hults, Land Quality Division Natural Resource Program
12 Principal.

13 An agenda should be available for download and
14 viewing on the GoToWebinar system under Handouts.

15 Before we begin, I want to remind all public
16 members that their microphone is automatically on mute.
17 After the presentations have concluded and the Land Quality
18 Advisory Board has been given time to ask questions and
19 weigh in, we will then provide the public an opportunity to
20 ask questions and comments.

21 To participate, the public will need to raise
22 their hand by clicking on the hand icon located on the
23 GoToWebinar menu options that should be on the right side
24 of your screen. Additionally, videocamera capabilities
25 will not be made available for the public use.

1 Without further delay, let's get started. I'm
2 going to hand this over to Craig Hults, where he will be
3 introducing the Land Quality Advisory Board.

4 Craig, do we gotcha?

5 MR. HULTS: You do, Keith.

6 MR. GUILLE: Great.

7 MR. HULTS: Good morning, everyone. We
8 have on the line our full panel, it looks like, this
9 morning. We have Gene Legerski, John Hines, Natalia
10 Macker, Phil Dinsmoor, and Jim Gampetro.

11 And with that, I will give it to Jim to open up
12 the meeting.

13 CHAIRMAN GAMPETRO: Thank you, Craig. Can
14 you hear me?

15 MR. HULTS: I can.

16 CHAIRMAN GAMPETRO: Okay. We're going to
17 start off this meeting with approval of the minutes of the
18 June 25th advisory board meeting. I'm going to ask that
19 everyone, before they speak, the first thing they should do
20 is indicate who they are.

21 So has everyone received copies of the minutes?
22 I'm not hearing anything. How about this: If anybody
23 hasn't received copies of the minutes. I'm not hearing
24 anything.

25 So I would entertain a motion to approve the

1 minutes from the June 25th advisory board meeting. Hello?

2 BOARD MEMBER MACKER: Mr. Chairman, Natalia
3 Macker, and I would move to approve the minutes.

4 CHAIRMAN GAMPETRO: Is there a second?

5 BOARD MEMBER LEGERSKI: Mr. Chairman, this
6 is Gene Legerski. You have a second.

7 CHAIRMAN GAMPETRO: How about let's do it
8 this way: If there are any objections to approving these
9 minutes, please indicate.

10 Hearing no objections, then I'm going to just
11 assume that everyone approves these minutes, and these
12 minutes are approved.

13 Next, I'm going to turn this over to Craig. He
14 has some comments. We have some open positions on the
15 board.

16 Craig, go ahead.

17 MR. HULTS: Sure. I just wanted to update
18 you guys. We have one position open. We had two people
19 that had shown interest in the position. I've been trying
20 to contact the Boards and Commissions contact I have with
21 the governor's office. I haven't heard back whether
22 they've actually applied yet or not, but I will keep trying
23 to contact them.

24 Jim, we also -- you had mentioned that you had
25 sent in your application for reappointment and had received

1 some kind of confirmation that the system had received your
2 application. So I'll also be checking up on that for you.
3 So hopefully we'll have a new board member soon.

4 That was all I have.

5 CHAIRMAN GAMPETRO: Okay. We're going to
6 go to Kyle now, and he's going to begin the presentation of
7 the materials for this meeting.

8 Kyle.

9 MR. WENDTLAND: Jim, thank you.

10 This is Kyle Wendtland, the administrator of Land
11 Quality. And I'd first just like to thank everyone for
12 working with LQD using this format. We've used it a couple
13 of times now, and as we get more experienced, we get better
14 with it. But if we do have some kind of hiccup or we need
15 to go back to something while we're doing input from
16 commenters here, let us know and we'll certainly stop and
17 back up, make sure we get what we need and clarity on it.

18 With that, what we're talking about today is the
19 wind turbine -- wind turbine blade repurposing rules. And
20 as outlined in the prior advisory board meeting, the Land
21 Quality is presenting the first draft. That's what this
22 is. And we consider it a scoping draft. There will not be
23 a vote on it today.

24 And the regulations today are following the
25 passage of House Bill 129 during the 2020 legislative

1 session. Land Quality has proposed this draft version of
2 the rules in order to receive comment and input from the
3 Board, the public, and industry in order to assist crafting
4 a final rule package that will include the statement of
5 reasons. And we plan to bring this to the Board in the Q3
6 meeting in late September, early October. And we'll
7 address the scheduling of that later in this meeting.

8 Land Quality has received internal comments from
9 the Solid-Hazardous Waste Division that clarifies and
10 corrects some regulatory references to the Solid-Hazardous
11 Waste Rules and Regs. And these corrections will be made
12 in the final package. And the package also will be subject
13 to an AG review from the Attorney General's Office prior to
14 its being posted for the late September-October meeting.

15 Land Quality is also working with the AG's Office
16 to refine the language regarding the payment of required
17 receipts and fees. There's some specific language we may
18 have to have there, and we're currently working on that
19 with the AG's Office.

20 Craig, would you pull up the map that we had.

21 I would also like to clarify for the Board. A
22 comment we received multiple -- we received from more than
23 one written commenter, and I wanted to address this one so
24 we get it dealt with right up front. And it has to do with
25 regarding to land ownership. And this map shows the mines

1 in the Powder River Basin and what is private, State, and
2 forestlands. The green are the Forest Service lands down
3 south. The brown or off-color brown is all private
4 surface. And the blue is all State surface.

5 And private and State land comprise the majority
6 of the PRB mine operations, with the majority of the
7 surface being privately owned by the mining companies. The
8 U.S. Forest Service lands are present in the southern end
9 of the PRB, and the U.S. Forest Service has a process for
10 allowing alternate uses on their lands called a special use
11 permit. Land Quality Division considered this possibility
12 when we were looking at the rules. And as disposal of the
13 large volume of decommissioned wind development material is
14 a state as well as a national issue of concern today, DEQ
15 would defer to the U.S. Forest Service to determine if they
16 would issue or not issue a special use permit on their
17 lands for this type of alternate use.

18 So if someone proposed to dispose of these
19 materials in a final pit that was Forest Service surface,
20 they would have to apply for a special use permit through
21 the Forest Service and see if that could be obtained or
22 not. So that should address the land issue -- land
23 ownership issue.

24 At this time, I and the LQD staff would like to
25 take questions and comments from the Board regarding the

1 draft rules first. So I'll open it up. And if there are
2 specific concerns or questions, we would love to hear from
3 the different board members first today.

4 MR. DINSMOOR: Mr. Chairman, this is Phil
5 Dinsmoor. I've got a couple of questions.

6 CHAIRMAN GAMPETRO: Go ahead, Phil. This
7 is Jim.

8 MR. DINSMOOR: Okay. First of all, thank
9 you for that description, Kyle, of the Forest Service
10 consideration. However, there's -- there's a piece missing
11 in there. And I'm not sure how to say this. For those
12 Forest Service lands that lie on top of or over the leased
13 coal, surface coal mine, there's no requirement for an SUP.
14 In fact, the BLM has taken primacy, if you will, for those
15 lands through the leasing process. So now what you're
16 suggesting is that we would need to apply on Forest Service
17 lands for an SUP that we would normally not use for any
18 other reason because the Forest Service has given up the
19 permitting requirement to the BLM.

20 MR. WENDTLAND: Mr. Chairman. Board Member
21 Dinsmoor, I do have an answer for that, because we have
22 contemplated that. And that is because the use would be
23 changed to industrial, it now would require the special use
24 permit.

25 CHAIRMAN GAMPETRO: This is Jim. Phil,

1 anything more on that?

2 MR. DINSMOOR: I'm digesting it. I'll --
3 I'll defer until a little bit later.

4 CHAIRMAN GAMPETRO: Jim again. Phil, any
5 other issues or comments on this?

6 MR. DINSMOOR: Yeah, there were a few
7 questions regarding the proposed rule, and many of my
8 concerns were also addressed in both sets of public
9 comments that were sent in, so rather than repeat it, I'll
10 wait and let you address those comments.

11 CHAIRMAN GAMPETRO: Okay. Jim here again.
12 Anything else in response to Kyle's comments?

13 BOARD MEMBER HINES: This is John Hines.
14 Am I being heard?

15 MR. WENDTLAND: Yeah, John.

16 BOARD MEMBER HINES: I guess I'm not a
17 computer person, so I'm struggling along.

18 On the whole issue, I guess I have to be very
19 critical of everybody connected with it, because living in
20 Campbell County right where the effect will take place, if
21 any, I don't believe anybody in the general public had ever
22 heard of anything like this. I personally didn't until I
23 got the email from Craig here in the last month.

24 So like I say, I'm a local, which I follow pretty
25 close the local newspaper, and talk like that, I've never

1 heard it mentioned. So somewhere along the line, there's
2 something that's not right.

3 And I'm certainly glad you're not going to vote
4 on anything today, because you can guess how my vote would
5 be, and I think you need to do something in the future to
6 let the general public know what -- what is being proposed.
7 Thank you.

8 CHAIRMAN GAMPETRO: Thank you, John.

9 Any response to that or other comments?

10 MR. WENDTLAND: Mr. Chairman and Board
11 Member Hines, that's why we're doing the scoping today.
12 That's part of why we're doing this the way we are, is to
13 make sure we get it out there and get adequate input. So I
14 appreciate those comments from Board Member Hines, and, you
15 know, we'll see if there's other things we can do. We
16 certainly have provided public notice and the requirements
17 that are out there from our end to try and make sure this
18 is out to the public. But I appreciate those comments from
19 Board Member Hines.

20 CHAIRMAN GAMPETRO: Jim here again. Any
21 other comments from board members?

22 Okay. I'll turn it back to Kyle.

23 MR. WENDTLAND: Mr. Chairman, thank you.

24 So at this time, I'd recommend, Mr. Chairman,
25 that we open the public comment, and we open it to the

1 commenters that provided written comment first and have
2 them walk us through their comments, and then have an
3 opportunity for the Board and LQD staff to then maybe ask a
4 couple of questions for clarification, because, again, this
5 is -- this is a scoping. We're here to hear you and try
6 and understand the -- where your questions and comments are
7 based and grounded, and that will help us certainly
8 guide -- help to guide us to drafting the final rule
9 package.

10 So, Mr. Chairman, my suggestion would be we
11 receive the PRBRC letter first, and then the WMA letter as
12 far as written comments. So I would suggest we take the
13 commenters in that order.

14 CHAIRMAN GAMPETRO: This is Jim again.
15 Please remember to indicate who is speaking as we go
16 forward here. Thank you.

17 MR. GUILLE: This is Keith. I'm going to
18 go ahead and unmute Shannon Anderson's microphone.

19 Shannon, do we have you? It looks like you might
20 be self-muted. There you are.

21 MS. ANDERSON: Keith, this is Shannon.
22 Actually, Jill's going to be providing our comments today.

23 MR. GUILLE: Great. I'll switch over to
24 Jill.

25 MS. ANDERSON: Okay. Great. Thank you.

1 MR. GUILLE: Jill, do we have you?

2 MS. MORRISON: Yes. Good morning. Thank
3 you very much, Board -- Land Quality Board and
4 Mr. Wendtland. Appreciate the opportunity to present our
5 comments today.

6 And Shannon is here also, as you heard, so she
7 may be able to add.

8 Our comments were fairly to the point, fairly
9 brief. Our understanding, from the legislation that was
10 passed that set up this possibility, is that the disposal
11 of wind turbine blades in coal mine pits was not because it
12 was envisioned to be a landfill, but that this was a way to
13 help with reclamation and mine reclamation costs to fill
14 the pit and do the reclamation, but that the material that
15 was to be placed in the coal mine pits during reclamation
16 is supposed to be inert and not be a potential
17 contamination problem or we are not really to be
18 establishing a landfill. This is really about reclamation.
19 And as most people understand it, we are -- in the
20 reclamation process of these coal mines, we are
21 establishing and reestablishing the groundwater aquifer,
22 which is why it's -- these materials are noted to be inert
23 and intend to be inert. So while we want to allow for the
24 disposal of wind turbine blades, we want to maintain the
25 core reclamation objectives that are required by SMCRA and

1 by the Wyoming Environmental Quality Act. So those
2 objectives are related, again, to hydrology, subsidence
3 prevention, backfill stability and revegetation. And --
4 which is why we specifically oppose the inclusion of a
5 paragraph in the proposed rules Number 4, because it says
6 the approved backfill location would be designated an
7 Industrial post-mining land use when that may not
8 necessarily be true. If you're doing coal mine reclamation
9 and you're using an inert material to backfill, that
10 doesn't mean it has to be an industrial use. There could
11 be as much good grazing land or pastureland or cropland or
12 existing wildlife habitat land use as there currently or
13 previously was.

14 So I think -- again, we appreciate clarifying
15 that there is -- there are Forest Service lands. Many of
16 the mines overlay Thunder Basin Natural Grassland. They
17 have not previously had industrial zones, and we believe
18 multiple uses would be required afterwards, and that there
19 would be a Forest Service special leasing stipulation. And
20 if they would have to consent to some sort of change in
21 that.

22 I'll go ahead and turn it over to see if Shannon
23 has anything additional, but I think those are primarily
24 our comments.

25 MS. ANDERSON: Hi. This is Shannon

1 Anderson. I don't have much to add to what Jill laid out.
2 Again, our comments are fairly straightforward and really
3 focused on that one issue that we identify was a concern,
4 and it's a concern not only because we want to see lands
5 reclaimed to their original use, but also because the
6 process is a little bit screwy the way you have it laid out
7 in the proposed regulations. A change of post-mine land
8 use does require a separate application. Additionally, as
9 the Mining Association comments laid out, there is a whole
10 set of post-mine land use definitions in your Chapter 1
11 coal regulations, and those definitions are really
12 important, and we believe there needs to be consistency
13 between those definitions and what you have proposed here.

14 With that, yeah, we're happy to answer any
15 questions that the Board or staff may have.

16 CHAIRMAN GAMPETRO: This is Jim. Anybody?
17 It's open.

18 MR. WENDTLAND: Mr. Chairman, the staff has
19 a question on this one. The land use change options
20 previously been used in Wyoming, the specific example is
21 the conversion of the Dave Johnston mine to -- coal mine to
22 a wind farm, which it is now. So the rule, as proposed,
23 states that the use must be changed. And we're not saying
24 that you don't have to go through the established process.
25 We're saying you have to do the land use change. So it

1 more lines up with Solid & Hazardous Waste Rules. Also
2 opens up the ability to use a special use permit with the
3 Forest Service. There's a number of reasons for that.

4 So we view that the established process, it's
5 necessary to help us cite these type of alternative uses
6 post mining. So I'm questioning is the PRBRC here asking
7 the Division to selectively apply somehow the SMCRA
8 provisions set forth in CFR 8-16-133 that were put in place
9 in 1933 -- or 1983, and the equivalent State regulations
10 in Chapter 2, Section 6(b)(x), or -- I guess I'm not
11 quite understanding maybe -- I could use some clarification
12 here -- what you're actually proposing.

13 MS. ANDERSON: Yeah. So this is Shannon
14 Anderson again. And I think if that is the Division, then
15 there needs to be some clarity in the proposed rules to
16 reference back to the change of post-mine land use process,
17 and to make it clear that would still be a requirement. I
18 think that would be a critical step here.

19 But we do have concerns -- you know, we're sort
20 of with the Mining Association on this one about the
21 requirement that this becomes a landfill. And I think the
22 concern is that once the mining company has gone and Phase
23 III bond release has occurred, who is actually running the
24 landfill? And why -- why is there a need -- I see you
25 shaking your head, Kyle, but this is really a concern for

1 us. We want to make sure that reclamation happens, the
2 land's restored, and everything prior to mining is back the
3 way it was. That's what SMCRA requires.

4 MR. WENDTLAND: Well, I think in response
5 to that, the reason I'm shaking my head is, one, it's not a
6 landfill. That was not the intent of the rules, and I
7 think that's been vetted out fairly vigorously.

8 The intent is to use the inert material,
9 repurpose it as a portion of backfill. And I agree there's
10 probably some clarification in how those lifts are laid in
11 and how that's done. That's why we're scoping this. But I
12 don't think there should be any mislabeling of what this
13 process is to a landfill. And that's -- that's where I
14 disagree and have concerns over the use of that language.

15 CHAIRMAN GAMPETRO: Anything else? Jim
16 here again.

17 MR. DINSMOOR: Mr. Chairman, this is Phil
18 Dinsmoor. I have a question.

19 CHAIRMAN GAMPETRO: Go ahead, Phil.

20 MR. DINSMOOR: Following on that same
21 discussion, Mr. Wendtland. The question that I would have
22 now is if it -- if there's -- if it's going to be grazing
23 land, if there's no landfill there to be operated, why
24 would you have a land use change? It seems to me it would
25 be grazing land or cropland or whatever the company has

1 proposed there. I'm not sure I understand the need for a
2 land use change.

3 MR. WENDTLAND: Mr. Chairman.

4 Mr. Dinsmoor, when we've looked at that and we looked at
5 the Solid-Hazardous Waste Disposal Rules to line this up
6 and apply both sets of regulations here, the best fit is to
7 do the land use change. In addition to that, there's also
8 the possibility -- and we heard this testimony in the
9 legislative session, when the bill was being vetted, that
10 they anticipate within the next five years there may be a
11 recycling option. And if that's the case down the road,
12 these types of locations may be unearthed and those
13 materials reused down the road.

14 So there's a variety of reasons that we came to
15 the conclusion that the best way to handle this and
16 accommodate all those different aspects is to go to that
17 land use change.

18 CHAIRMAN GAMPETRO: Jim here again.

19 Mr. Dinsmoor?

20 MR. DINSMOOR: I -- Mr. Chairman. I
21 understand the -- it seems to me what we're trying to do is
22 regulate today something that is unrelated to surface coal
23 mining in the future. It just seems like -- to me like an
24 unnecessary step. But I'll just leave it at that, I guess.

25 MR. WENDTLAND: Mr. Chairman and Board

1 Member Dinsmoor, that's -- we'll take that in our scoping
2 and consider that, and we'll revisit that, and we'll
3 certainly try and address that in the statement of reasons
4 in the final package, then.

5 MR. DINSMOOR: Thank you.

6 CHAIRMAN GAMPETRO: Mr. Wendtland, Jim
7 Gampetro here again. Are we ready to go the Wyoming Mining
8 Association's comments?

9 MR. WENDTLAND: I believe so. I don't have
10 anything further, unless the Board does.

11 Okay. I would -- yeah, Mr. Chairman, I would ask
12 that you go ahead and have the WMA representative present
13 their comments.

14 MR. GUILLE: I'm going to unmute Travis
15 Deti here. Travis, you may need to self-unmute. There you
16 are.

17 MR. DETI: Mr. Chairman, can you hear me?

18 CHAIRMAN GAMPETRO: I can.

19 MR. DETI: Mr. Chairman, members of the
20 Board. Travis Deti with the Wyoming Mining Association.

21 And I will just start off, first of all,
22 appreciate the opportunity to be here today and speak in
23 support of the legislation that passed in the -- in the
24 legislative session earlier this year. It was bipartisan.
25 It passed very strong. This is a good idea. I mean, it's

1 forward thinking, I think. And I think when we're -- when
2 we're looking at this right now, you know, mines aren't
3 going to be forced to do this. It's an opportunity is what
4 it is. It's an opportunity for, you know, should a mine
5 decide to pursue this to take the -- the waste products
6 from the wind industry.

7 And it's -- you know, and it -- and I will point
8 out that it's -- it's a significant and it's a growing
9 issue. Just like any other energy source, wind generates
10 waste, and this is an opportunity, I think, for the state
11 of Wyoming and for the mining operations to be part of the
12 solution as to how to dispose of that waste.

13 And, again, it's -- it's not forcing anybody to
14 do anything. It's just an opportunity, an opportunity for
15 companies to save on the reclamation costs, possibly
16 generate a little revenue and for the state to generate a
17 little revenue. And so I think it's important that we get
18 the rules right. And, again, I appreciate you on that.

19 And I don't know how you want me to go through --
20 we submitted some comments -- a lot of technical comments,
21 which I'm not the technical guy. I will be forefront [sic]
22 about that. But if you want to go through them comment by
23 comment, I'm happy to do that and do the best I can.

24 So, Mr. Chairman, how would you -- I will leave
25 it up to you how you want me to proceed.

1 CHAIRMAN GAMPETRO: Jim Gampetro here.
2 Kyle, do you have an opinion here?

3 MR. WENDTLAND: Mr. Chair, I would prefer
4 that we would go through comment by comment like we did
5 PRBRC's comments. And that way, maybe at the end of each
6 comment, if the Board or staff here has questions, we have
7 an opportunity to see if we can get those answered as we
8 move through these comments.

9 CHAIRMAN GAMPETRO: Jim Gampetro here
10 again. So be it. Can we please go through comment by
11 comment.

12 MR. DETI: Okay. Mr. Chairman, Travis Deti
13 again. I will preface this going through comment by
14 comment. And I'm not going to read every one of them, but
15 I will say a lot of the comments of the industry are kind
16 of centered around clarification and definitions.

17 So starting in our first comment, I believe it
18 would be on -- I don't have page numbers on my comment, but
19 the first page of our comments after Number 1, "'Repurposed
20 material' shall be limited to decommissioned blades," and
21 the comment that "Materials are referred to as 'repurposed
22 materials' throughout the draft..." So I guess we would
23 ask for some clarification on that, and how it -- how it
24 jives with other parts of the statute.

25 CHAIRMAN GAMPETRO: Any response, Kyle?

1 This is Jim again.

2 MR. WENDTLAND: No. I appreciate that
3 input. Thank you.

4 CHAIRMAN GAMPETRO: Any other comments on
5 that?

6 MR. DINSMOOR: Mr. Chairman, this is Phil
7 Dinsmoor. I do have a comment on that.

8 CHAIRMAN GAMPETRO: Go ahead.

9 MR. DINSMOOR: Okay. I do have a comment
10 about that. My comment is along those same lines of
11 Administrator Wendtland. The reason for calling it
12 repurposed material is really not clear. And if it goes to
13 the reason for regulating it today, I think it's important.
14 If it doesn't, if it's going to the idea that some day this
15 may be recycled, re-dug up after the coal mine has left,
16 then I'm not sure that it belongs in the rules today, and
17 that it seems to me it might be just adding some confusion
18 that's unnecessary today.

19 CHAIRMAN GAMPETRO: Thank you, Phil.

20 Any response?

21 MR. WENDTLAND: We appreciate that input,
22 Mr. Chairman.

23 CHAIRMAN GAMPETRO: Any other comments on
24 this? Jim here again. Any other comments on this?

25 Well, then let's move forward with the next

1 Wyoming Mining Association comment.

2 MR. DETI: Thank you, Mr. Chairman. Travis
3 Deti again.

4 Our second comment on Number 1, decommissioned
5 wind turbine blades and towers should be placed only in the
6 final pit void. My membership questioned why it was
7 limited to the final pit void, and our comments describe
8 why. And we have members suggest changing that language to
9 an approved location rather than just the final pit void.

10 CHAIRMAN GAMPETRO: Jim here again. Any
11 response?

12 MR. WENDTLAND: Mr. Chairman, the staff
13 does have a question on this. Mr. Deti -- and you may --
14 you may be able to answer some of this, and you may have to
15 defer to maybe one of your industry partners here. But,
16 first off, because of the land use change and lining it up,
17 as we talked about with the Solid & Hazardous Waste Rules
18 and some other reasons there, we're looking for one final
19 discrete location that can be mapped and identified. So
20 the final pit void becomes pretty viable for that.

21 And then, secondly, and more importantly, maybe,
22 the question I have here is what is -- there's some
23 references to end wall stability being better than final
24 highwall stability. Do you have any geotechnical response
25 to that, why that is?

1 MR. DETI: Mr. Chairman. Kyle, I don't
2 have an answer to that, but I will take that back to our
3 guys and we'll get you -- we'll visit and get a
4 clarification on that.

5 MR. WENDTLAND: Okay. Thank you.

6 CHAIRMAN GAMPETRO: Jim here again. Any
7 other comments on that?

8 Let's move on to the next Mining Association
9 comment.

10 MR. DETI: Mr. Chairman, then going on to
11 Number 2 in the rules, "The approved materials shall be
12 placed at a minimum 20 feet above the potentiometric
13 surface of the coal aquifer and a minimum of 20 feet below
14 the final regraded soil surface."

15 And our comment on this is, again, a definition
16 of which potentiometric surface to use. And I will just
17 preface my -- any other follow-up with this is I don't even
18 know what that means. So I will defer that -- I will give
19 the comment to Kyle. And if he has follow-up, we can -- we
20 can go from there.

21 CHAIRMAN GAMPETRO: Kyle?

22 MR. WENDTLAND: I do have a question here.
23 So, Travis, I'm putting you on the spot. Sorry about that.

24 But I do have a question and would like some
25 clarification on this, because we probably were a little

1 vague in the rule as to -- in this proposed scoping draft,
2 as to which potentiometric surface, whether it's current or
3 projected. But I guess I would take that question one step
4 further and would ask if you could get clarification.
5 Would it be simpler to just say "top of coal"? Because we
6 know the coal is the aquifer. Would it be better
7 statewide, not just considering the PRB operations, to
8 maybe -- and especially where we have split seam or
9 multi-seam operations, would it be better to say "top of
10 coal of the uppermost seam," or language along those lines?
11 And would appreciate any feedback industry might have on
12 that.

13 MR. DETI: Yeah. I've made a note of that,
14 Kyle, and we will follow up on that.

15 CHAIRMAN GAMPETRO: Anybody else -- Jim
16 here again. Anybody else on that particular issue?

17 Okay. Let's move on to the next comment from the
18 Mining Association.

19 MR. DETI: Thank you, Mr. Chairman. Moving
20 down to Number 4, "The approved backfill location shall be
21 designated as an 'industrial' post mining land use in the
22 approved reclamation plan. When recalculating reclamation
23 bond, adjustments shall be made to the required" -- and I
24 think we've kind of talked a little bit about that. And,
25 again, I think it's just a matter of some clarification on

1 this one.

2 CHAIRMAN GAMPETRO: Jim here again.
3 Anything specific in terms of what kind of clarification on
4 that?

5 MR. DETI: Well, I would just defer to the
6 comments again, defining whether it's necessary to
7 reclassify as industrial. In visiting with Administrator
8 Wendtland and listening to his previous comments, he
9 believes it would be, and I think it's -- it should be part
10 of the decision going forward as to whether or not it's
11 necessary to have it recategorized like this in the event
12 that, you know, you do have to go back and dig them up for
13 a -- for repurposing or -- or recycling or whatever. So I
14 think it's part of the discussion, and, you know, going
15 forward, I think our comments are pretty clear.

16 CHAIRMAN GAMPETRO: Thank you.

17 Kyle -- this is Jim again -- any response to
18 that?

19 MR. WENDTLAND: The staff has no further
20 comments on this particular item at this time,
21 Mr. Chairman.

22 CHAIRMAN GAMPETRO: Thank you.

23 What is the next Mining Association comment?

24 MR. DETI: Mr. Chairman, we'll go on to
25 Number 5 about "The approved backfill locations shall

1 comply with the Department's Solid Waste Management
2 Division's regulation under Chapter 4, Construction and
3 Demolition of Landfill Regulations including the
4 requirements for groundwater monitoring in Section 8 of
5 Chapter 4."

6 And on this one, it was just a clarification.
7 My -- a question of whether -- as to what would suffice for
8 compliance, whether they could go through the Land Quality
9 Division or whether it would be expected to go through
10 Solid Waste Management Division for compliance with the
11 regulation.

12 CHAIRMAN GAMPETRO: Any response?

13 MR. WENDTLAND: Mr. Chairman, we just -- we
14 appreciate that input and scoping at this time. Clearly,
15 we're, as stated earlier in my opening general comments,
16 that we're working with the Attorney General's Office on
17 some of this at this time, and sorting out, you know, as we
18 get this input, a little more clarity on that issue.

19 CHAIRMAN GAMPETRO: Any other comments?

20 Jim here again.

21 MR. DINSMOOR: Mr. Chairman, this is Phil
22 Dinsmoor.

23 CHAIRMAN GAMPETRO: Phil.

24 MR. DINSMOOR: I do have a comment. I have
25 not a comment, but a question.

1 Years ago, Administrator Wendtland, there was
2 some kind of a departmental agreement -- I don't know if it
3 was formalized in writing or not -- that for surface coal
4 mines, anyway, the Land Quality Division would be the
5 prime -- would have primacy within the Department to
6 regulate waste disposal as long as that waste was generated
7 by the mine. And that Solid & Hazardous Waste, as an
8 entity, wasn't going to be the regulatory authority, but
9 that the Solid & Hazardous Waste rules would. And I'm
10 wondering whether there's just some confusion here between
11 the use of those rules and the -- and the agency -- the
12 Solid & Hazardous Waste agency actually becoming involved.
13 Maybe some clarification or some further discussion about
14 how that's going to work would be appropriate.

15 MR. WENDTLAND: Mr. Chairman and Board
16 Member Dinsmoor, I think you -- in your statement, you hit
17 on the key component there, mine-generated waste. This is
18 not mine-generated waste, and it would be over the
19 500 tons, and, therefore, there's some differences that
20 have to apply.

21 MR. DINSMOOR: And if I may, this is Phil
22 Dinsmoor again. Does that mean that the Solid & Hazardous
23 Waste Division will be involved in the regulatory
24 activities?

25 MR. WENDTLAND: Mr. Chairman. Board Member

1 Dinsmoor, what -- Land Quality would still regulate this,
2 but, you know, the Solid-Hazardous Waste rules are going to
3 apply, and they're going to apply a little differently,
4 because, again, this is not mine-generated waste.

5 MR. DINSMOOR: Okay. Thank you.

6 CHAIRMAN GAMPETRO: Anything else on this?
7 I have lost track of the -- this is Jim again. I have lost
8 track of where we are. I've got the comments in front of
9 me. Are we at the end -- additional general comments?

10 MR. DETI: Mr. Chairman, Travis Deti. We
11 are on (iv), backfill requirements. Number 1, Backfill
12 materials shall be placed at a minimum, 10-foot lifts
13 covered by at least 15 -- at least 15 feet of suitable
14 backfill material in order to minimize potential future
15 surface subsidence.

16 And comments from my members were that they felt
17 that this needs to be clarified a little bit more as to the
18 term backfill materials and noting that the term backfill
19 in reclamation rules has a specific definition.

20 And then they also questioned whether the
21 material to be placed in bigger lifts, as long as it -- a
22 minimum of 10 feet or if the intent is to have 10-foot
23 lifts covered by 15 feet of backfill. And we also
24 suggested, from my membership, some -- some substantive
25 language, which reads the wind turbine materials shall be

1 placed in lifts separated by suitable backfill material as
2 approved in the order to minimize future potential surface
3 subsidence.

4 CHAIRMAN GAMPETRO: Jim here again. Any
5 response?

6 MR. WENDTLAND: Mr. Chairman, the staff
7 does have one question on this. In reading that total
8 comment, there's some discussion about crushing this
9 material to compact it as it goes in. We've seen some
10 experience with that, Mr. Deti, and a dozer simply won't
11 stand on this material. It's too slick. It doesn't matter
12 how big the grouzers are they founder. And, you know,
13 there's problems associated with that. It's one of the
14 reasons we were looking at a depth of lift.

15 If crushing's proposed, do you have any idea what
16 those methodologies would be?

17 MR. DETI: Mr. Chairman. Administrator
18 Wendtland, I don't. I will bring that back, and we can
19 have further discussion on that.

20 MR. WENDTLAND: Okay.

21 CHAIRMAN GAMPETRO: Jim here again. What's
22 next?

23 MR. DETI: Mr. Chairman, moving down to
24 Number 2, "Monitoring wells shall be required to be
25 installed and monitored in accordance with the Department's

1 Solid Waste Management Division's regulations..." And I
2 think we kind of -- Mr. Dinsmoor, I think, hit on that.

3 This comment came from one of my operators, just
4 as a general concern about adding another agency branch
5 into the regulatory process, and whether or not they would
6 be subject to Solid Waste Management Division or whether
7 LQD would be handling everything. And I think we kind of
8 talked about that already.

9 CHAIRMAN GAMPETRO: Jim here. Any other
10 comments on that?

11 MR. DINSMOOR: Mr. Chairman, this is
12 Phil Dinsmoor again. I didn't get in quickly enough on the
13 previous comment. I'd like to go back one and ask
14 Administrator Wendtland one question on the -- the
15 thickness of the backfill lifts.

16 CHAIRMAN GAMPETRO: Go ahead.

17 MR. DINSMOOR: The language that you've got
18 there says that the materials be placed at a minimum of
19 10 feet. And I'm not sure that's -- the rest of the rule
20 seems to read otherwise, like maybe what you should be
21 saying is a maximum of 10 feet. To me it doesn't read
22 right, and I'm just questioning what your intent was there.

23 MR. WENDTLAND: Mr. Chairman. Board Member
24 Dinsmoor, that's a great comment. That's why we're scoping
25 them today. Thank you.

1 MR. DINSMOOR: Okay.

2 CHAIRMAN GAMPETRO: Jim here. Let's move
3 on, then.

4 MR. DETI: Mr. Chairman, going down to
5 Number 3, "The backfill site shall be released from the
6 Solid Waste Management Division's regulatory requirements
7 in accordance with Chapter 4, Section 11 of their
8 regulations."

9 And my membership had just questions that it was
10 vague on the role of Solid Waste Management Division and
11 the interaction of LQD. So I think that's, you know, kind
12 of a couple of things that we've talked about earlier is
13 the clarification of the roles of the division -- the
14 different divisions would be -- would be -- would be asked.

15 CHAIRMAN GAMPETRO: Any response? Jim here
16 again.

17 MR. WENDTLAND: Mr. Chairman, the staff
18 appreciates that comment, and we recognize, based on all
19 the comments we received today so far, that that's
20 something we're going to have to spend a little more time
21 on and with the AG on. Appreciate that.

22 CHAIRMAN GAMPETRO: Thank you. Let's move
23 on, then.

24 MR. DETI: We have a second comment on that
25 particular item as well. The possibility that agreements

1 or contracts can be executed with the wind generation
2 companies that provide for disposal of turbines over long
3 periods of time. And I think this gets back to what was
4 noted earlier, is that if the pits are reopened again to
5 take the turbines out for possible recycling and how would
6 this apply to a company's bond.

7 CHAIRMAN GAMPETRO: Mr. Wendtland.

8 MR. WENDTLAND: I would, again, say we
9 appreciate that comment, appreciate the verbal testimony on
10 it, and we'll take that into consideration and -- again,
11 it's clear that there's some confusion there in the draft,
12 which is why we got it out there for everyone to look at.
13 And we'll try and get that cleared up as we draft the final
14 rule.

15 CHAIRMAN GAMPETRO: Jim here again.

16 Anything else on that? Well, then let's move on.

17 MR. DETI: Mr. Chairman, moving down to
18 (v), Number 1 on final reclamation, must blend with the
19 surrounding mine reclamations Approximate Original Contour.
20 And I think this is just a request for technical
21 clarification and consistency.

22 CHAIRMAN GAMPETRO: Jim here. Any
23 technical clarification available at this point?

24 MR. WENDTLAND: Again, Mr. Chairman, we
25 appreciate the comment, and we'll work on clarifying some

1 of that language and go from there. We just, again, was
2 scoping these rules. That's why we're here, and we
3 appreciate the comment.

4 CHAIRMAN GAMPETRO: Okay. Jim here again.
5 Let's move on.

6 MR. DETI: Mr. Chairman, Travis Deti again
7 moving down to Number 3, legal description of the site must
8 be made as part of the revision package and upon
9 reclamation a disclosure must be placed on the real
10 property deed for description.

11 And my members requested clarification on what
12 constitutes disclosure.

13 CHAIRMAN GAMPETRO: Any response?

14 MR. WENDTLAND: Mr. Chairman, I can respond
15 on that one. We have -- we have done this with other sites
16 across the state for other reasons where we've said that,
17 you know, the -- it's in the deed and it's recorded in the
18 deed with the county court that says, you know, these
19 blades would be buried on this set location or legal
20 description. That way down the road, if that land sells or
21 is transferred, there's an open disclosure that those
22 materials are underlying that surface.

23 CHAIRMAN GAMPETRO: Is that satisfactory?

24 Jim here again.

25 MR. DETI: Yes. Thank you, Mr. Chairman.

1 I think -- I think that is.

2 Staying on the same comment, again, a little bit
3 of clarification requested on the phrase revision package.

4 CHAIRMAN GAMPETRO: Hearing none, I guess
5 that's something we'll work on. Any comments or response?

6 MR. WENDTLAND: Mr. Chairman, the staff
7 just appreciates the comment. It helps give us clarity and
8 know where there's things we might need to work on.

9 CHAIRMAN GAMPETRO: Thank you. Jim here.
10 Let's move on.

11 MR. DETI: Mr. Chairman, thank you. I'll
12 move onto (vi) regarding fees. My membership would request
13 that in the final, as we move forward, a schedule of
14 remittance of fees. And then clarification -- and I think
15 what the basis for the 25 percent value to go to the State
16 would be -- and, you know, and I'm not sure if that was
17 just a placeholder percentage for the legislation, but
18 we -- some of my companies said that looked a little high,
19 and we would just ask for a little clarification and some
20 background on that. And I don't think that needs to be
21 done in the rules, but just for discussion.

22 MR. WENDTLAND: Mr. Chairman, in response
23 to that, the legislation was drafted such that the -- the
24 fees are 25 percent of any revenues collected. So I think
25 it's pretty clear in the statutory language on that.

1 With regard to the timing of the payments, this
2 has been a concern that has come up, and especially in
3 resulting with -- as everybody on the phone, I believe,
4 would be aware -- with ad valorem payments and back royalty
5 payments, certainly if we're doing a collection of fees
6 here, the State doesn't want to be in a position where we
7 have delays in paying those fees. So knowing the concerns
8 over that, I would ask Mr. Deti if he has -- if the
9 industry has a suggestion on the payments of fees or that
10 structure such that it would result in a situation where we
11 don't have a risk of fees being unpaid.

12 MR. DETI: Mr. Chairman, if I may.

13 Kyle, I don't think -- I don't think there's a --
14 an issue about, you know, when they pay. I just think
15 they'd just like to see a schedule as to -- you know, if
16 you're doing this and you're collecting from a wind company
17 and you owe money to the State, just a schedule. And I
18 don't think -- I don't think -- I think, you know, it's
19 a -- whatever the State puts out is fine. They just want
20 to know when to pay.

21 MR. WENDTLAND: Okay. That's helpful.

22 CHAIRMAN GAMPETRO: Jim here again. Go
23 ahead.

24 MR. WENDTLAND: And, again, Mr. Chairman
25 and Mr. Deti, not to pound this one too hard, but I think

1 you can understand and appreciate the concerns here with
2 timely payment.

3 MR. DETI: Mr. Chairman. Kyle, absolutely.
4 I understand.

5 CHAIRMAN GAMPETRO: I think we're down to
6 additional general comments.

7 MR. DETI: Mr. Chairman, for the last --
8 I'll address the first one first. And I think this one --
9 we talked about this already. How are we going to deal
10 with it if -- if it comes back to digging these things up
11 for recycling, and who's responsible? How does it relate
12 to your bond? And I'll roll right into the second one. Is
13 the typical cradle-to-grave principles apply with future
14 liabilities risks. And this is one of the things my
15 members have -- have questioned, and other folks up in the
16 county as well, is who's responsible, and, you know, once
17 the bond is released -- when the bond is released, who's
18 going to be on the hook for these things in the ground for
19 the long-term.

20 CHAIRMAN GAMPETRO: Kyle?

21 MR. WENDTLAND: We appreciate the comment.
22 And, again, we've been working with the AG's Office on a
23 number of these questions. So we'll address that in the
24 final rule package and statement of reasons.

25 CHAIRMAN GAMPETRO: Any other comments,

1 questions?

2 MR. DETI: Mr. Chairman, Travis Deti. If I
3 could to conclude a few things. Number one, thanks to the
4 Board. We appreciate you hearing this out. We are
5 supportive of this concept, the operators are supportive of
6 this concept, and appreciate the time to get some of these
7 concerns heard, some questions asked. And we look forward
8 to working with the agency going forward to craft good,
9 solid rules so we can make this thing work.

10 CHAIRMAN GAMPETRO: Thank you.

11 Anything else from the Mining Association
12 comments?

13 Do we have other comments that need to be
14 discussed here from other parties?

15 MR. GUILLE: If you would like to make a
16 comment, please raise your hand.

17 Looks like we've got someone that's raised their
18 hand. I think it's Chris, I think it's Fare.

19 Chris, I'm going to unmute your phone. Do you
20 hear us, Chris?

21 MR. FARE: Yes. Can you hear me,
22 Mr. Chairman?

23 CHAIRMAN GAMPETRO: Yes. Go ahead. Jim
24 here.

25 MR. FARE: Mr. Chairman, members of the

1 board. This is Chris Fare with Melgaard Construction.
2 Just want to take a moment. I appreciate all the
3 discussion, especially Mr. Wendtland and the agency's, you
4 know, scoping of this, as it does not tie to our operations
5 and as we operate as a business entity, yet it does have
6 impacts within our community. And I commend the LQD for
7 the foresight in providing sound alternative in response to
8 legislation to dispose of the decommissioned wind turbine
9 blades. As seen and as discussed, you know, there is more
10 to come. Wind -- as we all know, wind energy generation is
11 here to stay and will require an appropriate mechanism for
12 disposal. Green energy has costs, but at the same time,
13 there's -- those costs generate revenues on the other end.
14 So we -- we appreciate the forethought and just look
15 forward to what rules and regulations will be established
16 to help promote development within the state of Wyoming.
17 Thank you.

18 CHAIRMAN GAMPETRO: Thank you.

19 Any other comments, questions, suggestions?

20 MR. GUILLE: It doesn't appear,
21 Mr. Chairman, we have any additional comments from the
22 public.

23 MR. WENDTLAND: Mr. Chairman, that
24 concludes the questions that staff has for right now.

25 CHAIRMAN GAMPETRO: Okay. Are we ready to

1 discuss the next meeting?

2 MR. WENDTLAND: I believe that would be my
3 understanding of where we are, Mr. Chairman.

4 CHAIRMAN GAMPETRO: Go ahead, Kyle.

5 MR. WENDTLAND: Mr. Chairman, the next
6 meeting -- and that's why we scheduled this one in with the
7 scoping -- is we're looking to bring final rule packages
8 regarding the LE rules, these wind turbine repurposing
9 rules, and then possibly Chapter 10 updates and revision
10 rule package to the Board in the next meeting. And giving
11 the redraft and a little bit of time to do some redraft
12 work here and cleanup on our end and process the comments
13 we got today on these rules, we would suggest a late --
14 last week of September or first week of October time frame
15 for the next meeting.

16 CHAIRMAN GAMPETRO: I have no problem with
17 any of that. This is Jim.

18 Other comments?

19 BOARD MEMBER MACKER: Mr. Chairman, this is
20 Natalia. I would prefer the first week of October, if
21 that's possible.

22 BOARD MEMBER LEGERSKI: Mr. Chairman, this
23 is Gene Legerski. I prefer the first full week of October
24 with the exception of Tuesday, the 6th.

25 MR. WENDTLAND: Would Thursday that week

1 work for Mr. Legerski -- Board Member Legerski?

2 BOARD MEMBER LEGERSKI: Yes, it would.

3 MR. WENDTLAND: Okay.

4 CHAIRMAN GAMPETRO: Anybody else? Jim
5 here.

6 Well, Kyle, you come down to it, I'm sure you'll
7 communicate to us --

8 MR. WENDTLAND: Craig will --

9 CHAIRMAN GAMPETRO: -- what the date is.

10 MR. WENDTLAND: Yeah, Mr. Chairman. I
11 think we'll probably try for a Wednesday or Thursday that
12 week, that first full week of October. And Craig will be
13 sending out just a verification to the board members. And
14 then we'll get it scheduled, and that way we have a -- a
15 publication date for getting these packages finalized as
16 well, to get them posted. So that's helpful for us.
17 Appreciate that.

18 CHAIRMAN GAMPETRO: Okay. Jim here again.
19 Other items for discussion?

20 MR. WENDTLAND: Mr. Chairman, the LQD and
21 staff have no further -- no further items for the agenda
22 today.

23 CHAIRMAN GAMPETRO: Anyone else?

24 I would like to thank everyone for all of their
25 input and work on this, and would entertain a motion to

1 close the meeting.

2 BOARD MEMBER HINES: So moved. John Hines.

3 CHAIRMAN GAMPETRO: Thank you, John.

4 Do we have a second?

5 BOARD MEMBER LEGERSKI: I'll second. This
6 is Gene Legerski.

7 CHAIRMAN GAMPETRO: Thank you,
8 Mr. Legerski.

9 Let's -- let's do it the opposite way again,
10 since I can't see everybody's hands or whatever. Does
11 anyone not want to terminate the meeting? Hearing no such
12 comments, the meeting is over. Thank you all very much.

13 MR. WENDTLAND: Thank you, everyone.

14 MR. HULTS: Thank you.

15 (Meeting proceedings concluded

16 11:09 a.m., August 6, 2020.)

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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 13th day of August, 2020.


KATHY J. KENDRICK
Registered Professional Reporter

