

WWAB Virtual Public Meeting

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WYOMING WATER AND WASTE ADVISORY BOARD

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RE: VIRTUAL PUBLIC MEETING PROCEEDINGS  
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TRANSCRIPT OF VIRTUAL PUBLIC MEETING PROCEEDINGS

Pursuant to notice duly given to all parties in interest, this matter came on for virtual public meeting on the 16th day of December, 2020, at the hour of 9:06 a.m., before the Wyoming Water and Waste Advisory Board. Mr. Alan Kirkbride, Chairman, presiding, with Mr. Brian Deurloo, Ms. Lorie Cahn, Mr. James Cochran, and Mr. Brian Dickson also in attendance virtually.

Ms. Kelly Shaw, Attorney for the Board appearing virtually; Mr. Kevin Frederick, Water Quality Administrator; Ms. Lily Barkau, Groundwater Section Manager; and Ms. Gina Thompson, Water Quality Division, were also in attendance virtually, as well as various members of the public.

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

2 (Virtual public meeting proceedings  
3 commenced 9:06 a.m., December 16, 2020.)

4 CHAIRMAN KIRKBRIDE: I would call this  
5 meeting to order, the December meeting of the Water and  
6 Waste Advisory Board. We're conducting whatever business  
7 we need to do.

8 Should we proceed to elections, first of all,  
9 Gina?

10 Okay. So -- and the officers -- what do we have  
11 besides a chairman? Do we have a vice chairman?

12 MS. THOMPSON: Yes. We have a chairman and  
13 vice chairman, and basically the vice chairman will handle  
14 the chairing duties if the chairman is unable to attend.

15 CHAIRMAN KIRKBRIDE: Yes, well, I've  
16 already forgotten what was the second thing. Second thing  
17 was introducing the new members.

18 MS. THOMPSON: Yes. Sorry to interrupt.

19 CHAIRMAN KIRKBRIDE: Please do.

20 MS. THOMPSON: When you're introducing  
21 yourself, if you'll go ahead and use your full name and  
22 explain which of the groups it is that you're representing,  
23 whether it's agriculture, public interest, et cetera.

24 CHAIRMAN KIRKBRIDE: All right. And I'll  
25 lead off, because -- I'm Alan Kirkbride, and I'm

1 representing the agriculture sector.

2 BOARD MEMBER DEURLOO: I'll go second. My  
3 name is Brian Robert Deurloo, and I represent industry.

4 BOARD MEMBER CAHN: I'll go next. I'm  
5 Lorie Cahn. I represent the public at large, and I'm the  
6 vice chair.

7 BOARD MEMBER COCHRAN: This is Jim Cochran,  
8 James Cochran. I go by Jim. And I'm representing local  
9 government.

10 BOARD MEMBER DICKSON: Brian Dickson from  
11 Lovell. I represent general public.

12 CHAIRMAN KIRKBRIDE: Very good. Thank you.  
13 Good to have -- very good to have the two new members.

14 BOARD MEMBER CAHN: Mr. Chair? Mr. Chair?

15 CHAIRMAN KIRKBRIDE: Yes.

16 BOARD MEMBER CAHN: I would love it if the  
17 new board members -- since we all don't know each other, if  
18 maybe the new board members could tell us a little bit  
19 about themselves, and perhaps the current board members  
20 could so that we could get to know each other since we're  
21 not there in person. Thank you.

22 CHAIRMAN KIRKBRIDE: You know, that's an  
23 excellent idea. And proceeding in the same order and  
24 taking the lead, I would tell you that I'm a cattle  
25 rancher. I live 30 miles from Cheyenne. I'm in the

1 Cheyenne office of the DEQ at the moment. So it was easy  
2 to get here. I've been on the Board, well, about three  
3 years. Two or three. And it's been an interesting trip.  
4 I've learned a great deal and found it very interesting.  
5 What else do I say about myself? Been a lifetime resident  
6 of Laramie County here. I have a family ranch, where we've  
7 got eight members of the extended family all together, and  
8 been here since 1889.

9 BOARD MEMBER DEURLOO: Wow.

10 CHAIRMAN KIRKBRIDE: So -- not me. I  
11 meant -- that's a brief bio. Glad to tell you more perhaps  
12 on another time.

13 Next?

14 BOARD MEMBER DEURLOO: Good one, Alan. So  
15 you haven't actually been on the ranch personally since  
16 1889. Okay. Thanks for clearing that up.

17 CHAIRMAN KIRKBRIDE: Right. Right.

18 BOARD MEMBER DEURLOO: Hi. I am Brian  
19 Deurloo. I am the president of Frog Creek Partners. I  
20 live in Casper, Wyoming. Let's see. I was raised in  
21 Sheridan. I've not lived in Wyoming my whole life, but  
22 most of my life. Frog Creek Partners is a company -- we  
23 make stormwater filters that remove pollution from  
24 stormwater like cigarettes butts, straws, heavy metals and  
25 stuff so it doesn't pollute our rivers and oceans.

1 Previous to this -- I'm a mining engineer. I went to  
2 Colorado School of Mines. I worked in the oil and gas and  
3 mining industry for about 20 years, a lot in the  
4 permitting, development, worked with the DEQ very closely  
5 for many of those years and the SEO, state engineer's  
6 office, and the federal government. And Alan Kirkbride and  
7 I joined the board on the very same day. I don't exactly  
8 know what day it was, but I know we were talking about  
9 "whiches" and "thats," weren't we, Lorie? Which new board  
10 members well learn, that "whiches" and "thats," there's a  
11 big deal with those.

12           Anyway, it's a pleasure to meet you guys. Thank  
13 you for taking time out of your schedule and meeting us on  
14 this Board. It's a good thing for this state. Thank you.

15           BOARD MEMBER CAHN: Hi, Lorie Cahn. I'm a  
16 retired groundwater hydrologist. Sorry?

17           CHAIRMAN KIRKBRIDE: You're fine, as far as  
18 I'm concerned, Lorie.

19           BOARD MEMBER CAHN: I've been on the Board  
20 since the early 2000s. I was originally appointed by  
21 Governor Geringer. And I worked for many years in -- well,  
22 in contaminant transport and environmental cleanup and with  
23 landfills, so -- and I live currently in Jackson. I've  
24 lived here since 1994, and I first came to Wyoming in the  
25 '80s as a student coming here for summers to work for the

1 Park Service and the Forest Service.

2 CHAIRMAN KIRKBRIDE: Thank you.

3 Jim?

4 BOARD MEMBER COCHRAN: Me? I'm Jim

5 Cochran. As I mentioned, I'm representing local

6 government. I worked for Laramie County Conservation

7 District here in Cheyenne for 27 years. Started out as

8 irrigation and water specialist for them for a number of

9 years and then moved on to be the district manager.

10 I guess our claim to fame is I think we planted

11 1.3 million trees in the time I worked for the district.

12 So that's kind of nice thing to drive around the county and

13 see those continuing to grow.

14 Currently, I help out at the family ranch

15 northeast of Cheyenne, and my brother and I have purchased

16 my parents' farm in Wheatland, where you grew up, and we're

17 currently operating that, so that keeps us pretty busy,

18 even though I'm retired.

19 CHAIRMAN KIRKBRIDE: Thank you, Jim.

20 BOARD MEMBER DICKSON: I'm Brian Dickson,

21 and I was born and raised in Lovell. I was a welder and

22 pipefitter by trade, chased drilling rigs for about 10

23 years. Found that quite a challenge.

24 I went to work for the sugar factory here in

25 Lovell as a welder, pipefitter, gopher, whatever. I

1 retired in 2000 with medical disability and thought I got  
2 to find something to keep me busy, so I ran for town  
3 council and served on the town council here in Lovell for  
4 16 years. I retired from that four years ago, and I've  
5 been trying to find meaningful work to keep me occupied,  
6 and I think this will help.

7 CHAIRMAN KIRKBRIDE: All right. Thank you  
8 very much. Well, the -- I'd say the tone of the board is  
9 reflected by -- reflects the people on the board, of  
10 course.

11 We're also -- there are appropriate kind of  
12 established procedures for going about things. We try to  
13 do them right, but we don't mind having that enjoying each  
14 other and enjoying our time as we go along here. And so  
15 I'd hope that everybody feels free to contribute as you see  
16 fit, and as whatever you see happening, and we'll work  
17 through our business and welcome, anyway -- welcome to the  
18 new folks. Good to see the old ones.

19 Well, Gina, what -- now I guess we move to  
20 election of officers?

21 MS. THOMPSON: Yes, please.

22 CHAIRMAN KIRKBRIDE: Okay.

23 BOARD MEMBER CAHN: Can I -- can I ask a  
24 question? I'm just curious as to why we're doing the board  
25 election now, since we just did it at our last meeting in

1 May. So I'm just curious, because normally it's once a  
2 year. So I'm just asking question about procedure. Thank  
3 you.

4 MS. THOMPSON: Sure. I was -- I think I  
5 was thinking that we hadn't elected the chairman since a  
6 year ago; is that correct?

7 BOARD MEMBER CAHN: I don't think that's  
8 correct -- well, okay. Maybe --

9 MS. THOMPSON: Because I was thinking we  
10 had just done the -- I was thinking we had just done the  
11 vice chair since we had a vacancy.

12 CHAIRMAN KIRKBRIDE: I've been chairman for  
13 two or three meetings prior to this. That's about all I  
14 can tell you. So it would be close to a year, something  
15 like that, maybe, when I was elected.

16 Well, Lorie, what do you think -- or I guess  
17 Gina. So you think we need to tighten things up and have  
18 an election today?

19 MS. THOMPSON: Let me pause just for a  
20 moment. I'm going to mute myself and have an offline  
21 question, and then I'll come back on. Hold on just a  
22 moment.

23 CHAIRMAN KIRKBRIDE: That's fine.

24 BOARD MEMBER CAHN: And while you're doing  
25 that, Gina, I'm going to look at the meeting minutes from



1 May.

2 BOARD MEMBER DEURLOO: Can I ask a question  
3 of Alan and Lorie? Are you both willing to maintain the  
4 same position that you have currently?

5 CHAIRMAN KIRKBRIDE: I would be willing.

6 BOARD MEMBER CAHN: I'm willing.

7 CHAIRMAN KIRKBRIDE: I'm not worn out yet.

8 BOARD MEMBER DEURLOO: Great. Well, we  
9 appreciate your leadership. Thank you.

10 BOARD MEMBER CAHN: I'm willing. I'm just  
11 going to look at the May minutes, if you give me a second.

12 Okay. This is Lorie Cahn. I just looked at the  
13 minutes from May, and Gina's correct. There -- because  
14 Marge Bedessem -- that was the first meeting Marge Bedessem  
15 was not on the board, and she had been the vice chair, we  
16 did an election for the vice chair, and we hadn't done an  
17 election for the chair. So I'm -- it doesn't matter to me  
18 how we want to proceed.

19 So normally I think we do it -- you know, the  
20 board members are normally appointed -- or our terms expire  
21 in September, so it usually makes sense, I think, to do it  
22 at the December meeting, when we have a full board. So I  
23 think this is a good time -- I don't remember anything in  
24 the act that requires us to do it at a particular time of  
25 year. Maybe DEQ could shed -- or shed light on that.

1 Thanks.

2 MS. THOMPSON: Lorie, I believe that the  
3 act just required that we elect officers annually and  
4 doesn't require it by a certain quarter. And we're  
5 expected to have regular meetings, you know, per the act.  
6 But, again, it doesn't -- it doesn't get that specific as  
7 far as when the voting needs to occur.

8 The other part is I don't believe there are any  
9 little implications -- if you want to wait a quarter and do  
10 elections at like the next quarterly meeting. I don't  
11 believe that there are any implications if we do that. But  
12 our understanding is that we had elected the chairman and  
13 then a member of the board, who's no longer on the board,  
14 was the vice chair a year ago, and so -- apparently my  
15 camera is focused on Lily. There we go. I was hitting the  
16 wrong button earlier. I do apologize.

17 So, yes, if the board wishes to vote today,  
18 that's fine. If you wish to wait until next quarter, that  
19 is fine as well.

20 BOARD MEMBER CAHN: I'm okay with voting  
21 now. And I think it's a good time, you know, I think  
22 December -- or the fourth quarter is a good time to do it  
23 annually, because we usually have the new members and, you  
24 know, people whose terms have expired and haven't re-upped  
25 are off. So I think it's a good time. I'm fine with it.

1 Sorry about the interruption, but I think it was a good  
2 discussion worthy to have.

3 CHAIRMAN KIRKBRIDE: All right. Thank you.

4 Well, Chair would entertain a motion. Any motion  
5 concerning the position of the chairmanship?

6 BOARD MEMBER CAHN: You need to --

7 BOARD MEMBER DEURLOO: Go ahead. Lorie.

8 BOARD MEMBER CAHN: I move to nomin -- or I  
9 nominate Alan Kirkbride for the chair and move to have a  
10 vote on it.

11 CHAIRMAN KIRKBRIDE: Is there a second?

12 BOARD MEMBER DEURLOO: I'll second that  
13 motion.

14 CHAIRMAN KIRKBRIDE: All right.

15 BOARD MEMBER DEURLOO: Brian Deurloo.

16 CHAIRMAN KIRKBRIDE: Are there other  
17 nominations? If not, hearing none, shall we move to -- I  
18 guess -- I guess we can just take a vote on that. All in  
19 favor say aye.

20 BOARD MEMBER DEURLOO: Aye.

21 BOARD MEMBER CAHN: Aye.

22 BOARD MEMBER COCHRAN: Aye.

23 BOARD MEMBER DICKSON: Aye.

24 CHAIRMAN KIRKBRIDE: Opposed?

25 Okay. Unanimous. That's a mandate is what's

1 that's called. A mandate.

2 All right. Chairman would entertain a motion  
3 to -- for vice chairmanship.

4 BOARD MEMBER DEURLOO: This is Brian  
5 Deurloo. I move to nominate Lorie Cahn as vice chair of  
6 the Water and Waste Advisory Board.

7 CHAIRMAN KIRKBRIDE: Do I hear a second?

8 BOARD MEMBER COCHRAN: This is Jim Cochran.  
9 Second.

10 CHAIRMAN KIRKBRIDE: All right. Are there  
11 other nominations for that position? If not, let's proceed  
12 to vote on that motion.

13 All in favor of Lorie Cahn for vice chair, say  
14 aye.

15 BOARD MEMBER DEURLOO: Aye.

16 BOARD MEMBER COCHRAN: Aye.

17 BOARD MEMBER DICKSON: Aye.

18 CHAIRMAN KIRKBRIDE: Opposed. It carries.

19 All right. We now have an officer slate.

20 What would we find on the agenda next, Gina?

21 MS. THOMPSON: So next on the agenda we  
22 have -- we have a update for you from the Solid and  
23 Hazardous Waste Division. And so I will turn that over to  
24 Mr. Luke Esch, who is the administrator for the Solid and  
25 Hazardous Waste Division.

1                   MR. ESCH: Good morning, Board. Can you  
2 all hear me today?

3                   CHAIRMAN KIRKBRIDE: Very well. Thank you.

4                   MR. ESCH: Excellent. Well, it's great to  
5 see you all again. Once again, my name is Luke Esch. I'm  
6 the deputy director and administrator of the Solid and  
7 Hazardous Waste Division. I really wanted to be here today  
8 just to introduce myself to the new members, say I'm  
9 looking forward to working with you, and just provide a  
10 couple of updates on what you might be seeing from the  
11 Solid and Hazardous Waste Division this year.

12                   As an overview of our program the Solid and  
13 Hazardous Waste Division has essentially four divisions --  
14 or four programs. We have our Solid Waste Program. We  
15 have our Hazardous Waste Program. We have our Inspections  
16 and Compliance Group. And also have the Storage Tank  
17 Program.

18                   So I'll try to cover each program real briefly,  
19 but starting with the Storage Tank Program. So the Storage  
20 Tank Program was created in 1990 by the legislature after  
21 recognizing the burden that the federally required  
22 financial assurance requirements would place on small  
23 mom-and-pop gas stations around the state. As a part of  
24 this program, they set up the Corrective Action Account to  
25 fund the cleanups of releases from these underground

1 storage tanks and the Financial Responsibility Account  
2 which provided the federally required financial assurance  
3 for harm to third parties resulting from a release.

4           So the underground storage tank program is a  
5 federally delegated program, and it's delegated by EPA.  
6 DEQ has pursued primacy, is what it's called, whenever that  
7 program is formally delegated. We've been pursuing primacy  
8 with EPA for several years now. And we've acted as a de  
9 facto primacy program since 1988. However, they had some  
10 disagreements with how we have scheduled our cleanups and  
11 how we prioritize our sites. And so that led to kind of  
12 some -- them withholding formal delegation of the program  
13 from us. I'm happy to say that we have resolved a lot of  
14 those issues with EPA, and so we're continuing to pursue  
15 delegated status for the UST program or Storage Tank  
16 Program this year.

17           We went through the Waste Water Advisory Board I  
18 think it was two years ago with all the required rule  
19 changes in order to get our rules in a place where EPA  
20 would accept them for primacy. So we feel like we're in a  
21 good place now. We're pursuing primacy. We expect to  
22 submit our application to EPA, submit mid 2021. So we're  
23 hoping to get primacy next year. But, as I mentioned,  
24 we've been acting as de facto primacy states for several  
25 years. And we have one of the best programs in the country

1 to be honest.

2           So as of July -- June 30th, which we kind of --  
3 one of our measuring dates, the Storage Tank Program has  
4 remediated over 1300 sites within the state. We have  
5 corrective action ongoing at 298 sites. We've had -- we  
6 have seven sites that we're about to put into projects  
7 where they will be going into remediation very soon.

8           We conducted 764 on-site inspections at all the  
9 various gas stations to make sure that their equipment is  
10 up to date, and it's all -- the leak detection systems are  
11 operating. And, you know, the -- our -- our on-site  
12 inspections and our -- frequently our relationship with the  
13 operators has been the primary reason we have one of the  
14 best compliance rates in the country. Our compliance rate  
15 is usually around 87 percent, if not higher. And the  
16 national average is usually around 45. So it's a really  
17 great program. We're very proud of it.

18           Moving on to the Hazardous Waste Program. Our  
19 Hazardous Waste Program, which has permits for -- well,  
20 basically sites that have hazardous waste generate a  
21 significant amount of hazardous waste and store it on-site.  
22 We don't have a lot of hazardous waste sites. I think we  
23 have eight sites in the state.

24           Our Hazardous Waste Program, we issue permits to  
25 these facilities. We also do corrective action at some of

1 these sites, if there's been significant spills. We also  
2 operate our Voluntary Remediation under the Hazardous Waste  
3 Program, as well as our Orphan Site Program and Brownfields  
4 Program.

5           So Voluntary Remediation Program is kind of what  
6 it sounds like. That is a situation where if they -- a  
7 person has a release, say there's a spill from a pipeline  
8 or spill at a refinery, they can enter that spill into the  
9 voluntary remediation program, and we work with that entity  
10 to clean up that spill and make sure it meets all necessary  
11 protective standards.

12           We will be approaching the Waste Water Advisory  
13 Board with updates to our hazardous waste rules. Every few  
14 years we have to update our rules to basically incorporate  
15 the latest version of the federal rules into our rules, our  
16 program. We do what's called incorporation by reference of  
17 the hazardous waste rules at the federal level under the  
18 RCRA, Resource Conservation Recovery Act. So we  
19 incorporate the rules by reference so every few years we  
20 have to update the date by which those rules are current.  
21 So we'll be bringing a package to you this year for that.

22           We also have within our Inspection Compliance  
23 Group, they kind of walk the line between both solid waste  
24 and hazardous waste sites, doing inspections for those  
25 various facilities. You know, our solid waste inspectors



1 have landfills, respond to complaints, and they also cover  
2 hazardous waste sites too, facilities, as well. So we have  
3 a group of inspectors that cover refineries and any other  
4 permitted hazardous waste sites as well.

5           Moving on to Solid Waste Program. We have a  
6 couple of programs within the Solid Waste Program as well.  
7 One is the Cease and Transfer Program, which relates to  
8 helping communities build and -- build transfer stations so  
9 they can ship their municipal solid waste to regional  
10 landfills. As well as the Landfill Remediation Program,  
11 we'll work to help communities conduct remediation at  
12 leaking landfills.

13           So just a brief summary of both. So 2013, due in  
14 large part to the cost of groundwater contamination caused  
15 by unlined landfills, as well as the landfill operating  
16 costs rising beyond the financial capability of a lot of  
17 our communities.

18           The legislature created the cease and transfer  
19 program which provides up to 75 percent of the cost of,  
20 one, basically constructing a transfer station. Two,  
21 closing an unlined landfill. So this is conducted with the  
22 combination of grants and loans. So we've been operating a  
23 program since -- well, it was created in 2013. We really  
24 stood it up and it's been operating since 2014.

25           And, you know, we had 52 projects on our initial

1 list. We are down to 19 as of October 20th, this past  
2 year. We have -- the 19 facilities remaining on the list  
3 have projected estimated construction cost of  
4 \$27.8 million. In that there's going to be seven transfer  
5 stations and 12 closures that we're currently working on.

6 So it's been a really big success for our  
7 program. We've been really working closely with a lot of  
8 the operators around the states to try to see how they can  
9 address their -- their management of their solid waste in a  
10 more economical manner. So we're very happy with the  
11 program and how it works for the state.

12 CHAIRMAN KIRKBRIDE: Can I interrupt you?

13 MR. ESCH: Of course.

14 CHAIRMAN KIRKBRIDE: Excuse me. Alan here.

15 How many transfer stations do we have? Was it one per  
16 county, or where do you have them? Or --

17 MR. ESCH: Mr. Chairman -- Mr. Chairman, it  
18 doesn't really work that way. I don't know that number of  
19 transfer stations we have in total around the state. I'm  
20 sure Suzanne can probably give me that number, but -- so  
21 some -- well, let me back up.

22 So solid waste is managed a little bit  
23 differently around the states. So some areas have solid  
24 waste districts, where they assess a mill and that mill  
25 goes towards helping them manage their solid waste. Others

1 is done by municipality, others by counties. So it's kind  
2 of across the board. So, for example, Fremont County Solid  
3 Waste Disposal District, they have several transfer  
4 stations around their county, because it's such a large  
5 county, you need to have several transfer stations to be  
6 able to ship it to their ultimate disposal point.

7           Some communities don't need a transfer station.  
8 They'd rather have just direct shipping. So if -- you  
9 know, let me try to think. So for the Town of Hulett, for  
10 example. They were in our program. They didn't really  
11 think they needed to build a transfer station. They did  
12 request assistance with rolling stock, so if we could get  
13 them some -- some containers so that they can put out and  
14 have a private hauler go service their community so they  
15 can haul that waste directly, that allowed us to provide  
16 the services they need, but also at lower cost than  
17 building an entire transfer station for that facility -- or  
18 for that community.

19           CHAIRMAN KIRKBRIDE: Okay.

20           MR. ESCH: So that's the Cease and Transfer  
21 Program. The other program I referenced was Landfill  
22 Remediation Program. Now that program, as I indicated,  
23 helps communities deal with leaking landfills. And that  
24 program was also created in 2013.

25           This program, we work with the operator of the

1 landfill to help fund and oversee the investigation and  
2 remediation of, you know, contamination of the landfills.  
3 So we have been working -- and let me back up. So whenever  
4 that program got stood up, there was a prioritization list.  
5 We have it every year too. We had to prioritize the number  
6 of landfills that were leaking in the state and wanted to  
7 determine which facilities to try to remediate first.

8           So in 2015, we had a report put out that 11  
9 highest priority facilities -- highest priority facilities  
10 had an estimated remediation cost of about \$44 million.  
11 And so we estimated at that time the remaining cost for  
12 remediation at all the facilities was about \$280 million.  
13 So we've got a lot of work ahead of us on this program, but  
14 we have been chipping away.

15           Since the program started, we're currently  
16 working with -- it's about seven of those priority -- high  
17 priority landfills. And we've been conducting remediation  
18 for the past three, four years, and doing investigations of  
19 these areas to try to identify how we can do -- get the  
20 biggest bang for our buck on our remediation costs.

21           So we're making progress. And, in fact -- so in  
22 2000, I want to say, 17, the legislature, in recognition of  
23 this \$280 million price tag, they allowed the Department to  
24 begin pulling funds from the Corrective Action Account,  
25 which funds our Storage Tank Program. And move that to the

1 Landfill Remediation account -- yeah, account, so we can  
2 have a sustainable source of funding for the Landfill  
3 Remediation Program. So beginning in 2019, we were able to  
4 start diverting some money from the corrective action  
5 account to the Landfill Remediation Program.

6 Now, this is done only in years when we had  
7 adequate funds to address all anticipated tank remediations  
8 that were going to be going on that year in the program.  
9 So this way, you know, our storage tank program is  
10 protected first and foremost, but we've got a sustainable  
11 source of funding moving forward for our landfill  
12 remediation account as well.

13 And with that, I'd like to introduce Suzanne  
14 Engels. She is the Solid Waste Program manager. I think  
15 she is going to go through some of the rulemakings that the  
16 board will be seeing this year. And I'll just turn it over  
17 to Suzanne.

18 CHAIRMAN KIRKBRIDE: Thank you.

19 MS. ENGELS: Good morning, everyone.

20 Thanks, Luke. I was struggling with my mouse. I  
21 have too many screens open and trying to find the unmute  
22 button.

23 Good morning. I'm Suzanne Engels, the program  
24 manager for solid waste permitting and corrective action  
25 program. As Luke highlighted, my program works with solid

1 waste facilities in the state, and we regulate them using  
2 our Wyoming statutes and the Solid Waste Rules and  
3 Regulations.

4           This past year we have been busy working on three  
5 different rule packages that I will highlight for you  
6 today. I hope to bring them in front of you in the next  
7 year. I'm a little bit nervous about these rule packages,  
8 just because each of them is so different and very  
9 involved. However, like I said, we've been spending quite  
10 a bit of time working on them, so hopefully, fingers  
11 crossed, by the time you see them they will be in their  
12 best presentation for you for your review and  
13 consideration. So the three packages that I have in no  
14 particular order is specific to coal combustion residuals,  
15 financial assurance, and an update to our municipal solid  
16 waste landfill rules.

17           If you remember, our program has previously  
18 brought to you the rule package on CCR, the coal combustion  
19 residuals, twice already. That was back in 2019, once in  
20 June and then again in October. We sort of took a break in  
21 2020 bringing rules to you. That was in part because this  
22 rule package is based on federal standards that are set by  
23 EPA. We will be seeking primacy for permitting industries  
24 that will be disposing and managing CCR waste.

25           And so in '20, EPA has been very active with

1 revising and amending the federal standards, most recently  
2 changes -- revisions went into effect on Wednesday at the  
3 national level. So we will be considering evaluating those  
4 amendments and then incorporating by reference all of the  
5 federal standards into our state rule.

6           Since we last presented to you, we also received  
7 a pretty thorough review from EPA headquarters on this rule  
8 of ours. And we did that just to ensure that when we  
9 submit for primacy, our rule lines up with EPA standards  
10 and we can explain and demonstrate that our rules are at --  
11 are at least equivalent to the national standards and  
12 hope -- hopefully making that primacy package a little bit  
13 smoother.

14           So that's -- that's the first rule package for me  
15 to update you on. And the other one is specific to  
16 financial assurance. Now, solid waste facilities are  
17 required to have financial assurance as part of their  
18 permit. And that's to ensure that the work that's needed  
19 to be done foreclosure and postclosure care activities  
20 would be able to be completed in the event that the company  
21 folds, they walk away in the middle of the night, and there  
22 isn't that financial liability left for the State.

23           And over the last couple years, our bonding  
24 program at the agency has been encouraging consistency  
25 throughout the divisions and programs to ensure that the

1 mechanisms that they're reviewing for financial assurance  
2 are managed consistently. And we're on that bandwagon. We  
3 agree with consistency and are going to be presenting  
4 revisions to our financial assurance chapter. I believe  
5 Water Quality recently did this and brought forward some  
6 changes that you previously reviewed. But now this will be  
7 specific to solid waste financial assurance requirements.

8           And the last rule package that we've been working  
9 on is specific to municipal solid waste landfills, we have  
10 just been elbows deep in rules and evaluating our  
11 procedures and policies and realized that this specific  
12 chapter that regulates municipal solid waste landfills does  
13 not line up with some of our current procedures, and so  
14 this rule package will bring the rule with -- current with  
15 our procedures that we're doing. So when I bring that rule  
16 to you, we'll go into more detail in-depth, but that's just  
17 a little built of a teaser of what to expect for solid  
18 waste rules in the next year. And I'm hoping to start  
19 bringing them to you and initiating our rulemaking process  
20 in the first quarter, second quarter. So I'll be on your  
21 agenda, and you'll be seeing more from me and some other  
22 staff in the program that have been helping me out with  
23 these rules too.

24                           MR. ESCH: Thanks, Suzanne.

25           And with that, you know, I guess I'll just wrap



1 up and say look forward to working with all of you --  
2 continuing to work with some of you and looking forward to  
3 working with the new members of the board.

4 Does anybody have any questions for us about  
5 anything that may impact the Solid and Hazardous Waste  
6 Division? If not, thank you for your time, and, yeah, look  
7 forward to working with you. Thanks.

8 CHAIRMAN KIRKBRIDE: Thanks for your  
9 presentation, very much.

10 MS. ENGELS: Thank you.

11 CHAIRMAN KIRKBRIDE: Gina, are you there?  
12 I bet you are.

13 MS. THOMPSON: Sorry. Couldn't find the  
14 mouse there.

15 So we'll turn it over to Administrator Frederick.

16 CHAIRMAN KIRKBRIDE: Just a minute, Gina.

17 MS. THOMPSON: Yeah.

18 CHAIRMAN KIRKBRIDE: You know, I would be  
19 curious the agenda for the day. Could you -- I don't know  
20 that I've seen it. Oh, got one. Oh, goodness. Okay.  
21 That will do me.

22 MS. THOMPSON: All right.

23 CHAIRMAN KIRKBRIDE: Back to you.

24 MS. THOMPSON: So next on the agenda is  
25 Water Quality updates, and Water Quality Administrator

1 Kevin Frederick will give those updates.

2 MR. FREDERICK: Good morning, Mr. Chairman,  
3 Members of the Board. Good to see you, and welcome to the  
4 new board members.

5 I'm Kevin Frederick. I'm the administrator of  
6 the Water Quality Division. And with me today I have Lily  
7 Barkau. Lily is our section manager in our Groundwater  
8 Underground Injection Control Section here at Water Quality  
9 Division, and she's going to be briefing us on some  
10 regulatory modifications to our carbon sequestration rules  
11 and regulations associated with Class VI injection wells.

12 We do have several rule updates that we're going  
13 to be bringing before the Board this year, and -- next year  
14 I should say. Some of those relate to evaluating any  
15 necessary changes to our surface water quality standards.  
16 Those are important with respect to how we classify surface  
17 water and how we regulate discharges into surface waters  
18 throughout the state.

19 We're also going to be looking at an update to  
20 our design and construction standards for public water  
21 supply wells that we regulate. These -- these essentially  
22 have been in place since I think about the 1980s. So they  
23 definitely need to be updated and revised. That's going to  
24 be a rule package we'll be bringing to the Board next year  
25 also.

1           We're also going to be bringing some minor  
2 modifications to our underground injection control rules  
3 and updating some of our groundwater quality standards as  
4 well.

5           So those are going to be the major efforts we're  
6 going to be involved with as far as rule changes go looking  
7 into 2021. The rule package that we're going to be  
8 discussing today, Chapter 24, is a regulation that  
9 essentially governs the design, construction and operation  
10 of Class VI underground injection wells used for injection  
11 of carbon dioxide. The process is often referred to as  
12 carbon capture and underground storage, carbon  
13 sequestration. Essentially it's capturing carbon emissions  
14 and injecting them underground for essentially long-term  
15 disposal.

16           It's an important aspect that power plants here  
17 in Wyoming are going to be looking at more closely. And  
18 the University of Wyoming is engaged in actually doing a  
19 test project up in Gillette in the not too distant future.

20           This is a regulatory program that's a federal  
21 program under the Safe Drinking Water Act, rules and  
22 regulations regulated by EPA. As you know, many states  
23 like Wyoming can essentially request the authority to  
24 implement federal programs, if we have rules and  
25 regulations and statutes in place that allow us to do so.

1 We've done that with our Clean Water Act programs under our  
2 surface water discharge permitting programs. We've done it  
3 under other -- underground injection control programs  
4 related under the Safe Drinking Water Act.

5           So this is a new one for us. We were delegated  
6 the authority by EPA to regulate Class VI wells on  
7 August 31st of this year. Lily and her team worked very,  
8 very hard to get that regulation developed through the  
9 advisory board on to the Environmental Quality Council to  
10 the governor's office and the EPA. So we became the second  
11 state in the country to have been delegated the authority  
12 to permit and oversee Class VI wells. We're quite proud of  
13 that. North Dakota was the first. And there are others  
14 that are working on obtaining that delegation agreement  
15 primacy from EPA now. Louisiana. I know Texas. I think  
16 Kansas and some other states are looking at this as well.

17           So as part of the primacy application, EPA  
18 requested that we make a few minor modifications to our  
19 rules that they felt were necessary. Lily's going to go  
20 over those with us real quickly. And also a couple other  
21 objectives that we needed to accomplish in doing an update  
22 and revision to this rule that's before us now. So with  
23 that, I think I'll turn it over to Lily and let her walk  
24 through the changes with the Board, and we'll be ready to  
25 take any questions that might come up after that.

1 MS. THOMPSON: Mr. Chairman, if we might  
2 have a moment. I need to bring you a copy. And I have  
3 just emailed a copy of the documents that Lily will be  
4 referencing. So for those of you joining us remotely,  
5 board members, your emails should have those documents and  
6 then I will bring these across the hall.

7 BOARD MEMBER DEURLOO: Mr. Frederick --  
8 Mr. Chairman, I'd like to ask a quick question, if you  
9 don't mind?

10 CHAIRMAN KIRKBRIDE: Sure.

11 BOARD MEMBER DEURLOO: Mr. Frederick, the  
12 Class VI, does that -- that includes CO2 flood wells as  
13 well or just sequestration?

14 MR. FREDERICK: It's just sequestration.  
15 CO2 flood wells are Class II wells regulated by the Oil and  
16 Gas Commission.

17 BOARD MEMBER DEURLOO: Okay. Thank you.

18 CHAIRMAN KIRKBRIDE: All right.

19 Ms. Barkau, I think we're ready for you.

20 MS. BARKAU: Did those joining us remotely  
21 receive their copy by email?

22 My name is Lily Barkau. I'm the groundwater  
23 section manager of the Water Quality Division. Thank you  
24 for having us here today.

25 In June of 2019 we presented these rules to the

1 Water Waste Advisory Board as part of rulemaking that was  
2 required for our primacy application that EPA wanted  
3 addressed, where they had identified areas where there were  
4 potential stringency issues or needing to be consistent  
5 with the Code of Federal Regulations.

6           So we had gone through the rulemaking process,  
7 presented these rules to you in June of 2019, and completed  
8 our rulemaking process as part of that application --  
9 primacy application in January of this year. The EPA had  
10 identified a couple of revisions that they would like to  
11 see completed, and rather than holding up the primacy  
12 application process, we agreed that we would reopen the  
13 rule and make those edits this year concurrent with  
14 finalization of the primacy application.

15           We received that application -- primacy in the  
16 end of August of this year. And, therefore, we are now  
17 finalizing our rulemaking and presenting those rules to you  
18 today. So one comment you'll -- you received a document  
19 that underlines and identifies areas that we have modified  
20 in regards to substantive changes. There were some  
21 formatting and clarification edits that were made by the  
22 Attorney General's Office through a mandate that they were  
23 issued to provide clarity and readability for the rules  
24 from the governor's office. So there were -- the rules  
25 look vastly different than the last time we were in, but

1 the changes were more of formatting and clarification, but  
 2 they don't change the intent of the rules or the  
 3 stringency.

4 Today I'm going to go through the substantive  
 5 changes, those that EPA had requested, areas that were  
 6 required to be in the rule as identified by this -- the  
 7 statute, or areas that needed further clarification  
 8 identified by the Attorney General's Office or the State  
 9 Geological Survey.

10 So to start we'll be going through the revisions  
 11 that were requested by EPA. One of those was identified in  
 12 Definitions, Section 2. It will be line item 59 of the  
 13 substantive changes noted in strike and underline document  
 14 draft 12/10/2020.

15 Are you sharing this with them as well?

16 So the document is also being shared on screen  
 17 for your viewing.

18 So as I mentioned, line 59, we changed the  
 19 definition for Class II wells to be consistent with the Oil  
 20 and Gas Conservation Commission Rules and Regulations.  
 21 They're going through a rulemaking change as well to -- for  
 22 their Class II, that they will be able to permit commercial  
 23 and noncommercial wells under their authority. Previously  
 24 commercial wells were permitted under the Wyoming  
 25 Department of Environmental Quality. So that definition's

1 now consistent with Oil and Gas Commission.

2 Line item 72, the definition for a Class VI well  
3 revised for consistency with the Code of Federal  
4 Regulations and restructured for improved readability.

5 BOARD MEMBER CAHN: Lily?

6 MS. BARKAU: Yeah.

7 BOARD MEMBER CAHN: Can I ask -- this is  
8 Lorie. What is the green on line 69 where subsurface  
9 disposal was changed to underground injection? What's the  
10 difference for?

11 MS. THOMPSON: This is Gina. We'll go over  
12 that in a separate section. We wanted to kind of give an  
13 idea of the themes of the changes. And that change was  
14 made, since we put the rule out for notice back in  
15 November. It was a change that was noted by the State  
16 Geological Survey. And we'll go over that -- we'll go over  
17 that at the end of Lily's presentation.

18 So we kind of grouped -- we kind of grouped the  
19 comments together by who was requesting them and whether  
20 they were substantive. And then at the end, we'll identify  
21 the changes that we've made based on the State Geological  
22 Survey review and items that I found that needed to be  
23 fixed before we proceed. So thank you.

24 MS. BARKAU: All right. So line 72, the  
25 definition for Class VI well was revised for consistency



1 with the Code of Federal Regulations. And these comments  
2 are ones that were requested by EPA for revision.

3 The next line is 1309, which is in  
4 Section 13(b)(i). This line was revised for consistency  
5 with the CFR.

6 Line 2236, Section 22(a)(iii)(E). This, again,  
7 was added for consistency with the CFR.

8 MR. FREDERICK: Remind them what the CFR  
9 is.

10 MS. BARKAU: Code of Federal Regulations is  
11 CFR.

12 MR. FREDERICK: Okay. Thanks.

13 MS. BARKAU: And the reason for the  
14 consistency with the CFR, EPA requested to ensure that we  
15 were being as stringent as the federal regulations or more.  
16 And, therefore, they wanted those items in there to be  
17 consistent.

18 Line items 3184 to 3190, Section 27(b)(i)(N)  
19 through (P). These, again, were added for consistency with  
20 the CFR.

21 Line 3277, Section 28(g)(i), again, revised for  
22 consistency with the CFR.

23 That concludes the revisions requested by EPA.

24 Are there any questions on those revisions?

25 The next set of revisions are passages revised

1 due to previously omitted statutory requirements or due to  
2 overlap with statutory passages. So previously omitted,  
3 but required by statute, line 2443, Section 24(a)(vi),  
4 added paragraph for consistency with Statute 35-11-318(c).

5 Line 2525, Section 24(e), we added a passage for  
6 consistency with Statute 35-11-313(vi)(G).

7 Lines 2767 through 2793, Section 26(e)(i)(A)  
8 through (D), we split this paragraph into separate  
9 subparagraphs to more clearly identify the requirements for  
10 consistency with Statute 35-11-313(vi)(D) [sic].

11 Line 2898, Section 26(g)(i)(B) and lines 2926 to  
12 lines 2934, Section 26(g)(ii)(B)(IV) through (V). These  
13 were added for consistency with Statute 35-11-313(iv)(C)  
14 and in response to our bonding staff recommendations.

15 Line 3011 through 3044, Section 26(h)(i)(A)  
16 through (C)(II) for consistency with Statute  
17 35-11-313(vi)(F) based on workgroup -- the Class VI  
18 workgroup recommendations and Land Quality Statutes.

19 And line 3090, Section 26(k) for consistency with  
20 Statute 35-11-313(iv)(E) and consistency with other  
21 department practices.

22 MS. THOMPSON: This is Gina again. You'll  
23 notice this particular passage has some green highlights.  
24 We had an additional comment come in from our Attorney  
25 General's Office that the -- the way that the passage had

1 been put out to notice, they would prefer to have the --  
2 they wanted us to switch this back to a "may" so that they  
3 would have -- it would have some flexibility. So between  
4 the director's office and the Attorney General's Office,  
5 they would have the flexibility to bring a suit. There was  
6 some concern that it mandated they must bring a suit. So  
7 we kind of -- we adjusted that structure there as well.

8 MS. BARKAU: That concludes the items that  
9 were previously omitted but required by statutes.

10 The next section is removed due to statutory  
11 overlap. Line 2008 to 2014, Section 20(b), we removed  
12 passages with overlap with Statute 35-11-313(f)(ii)(E).

13 Line 2081, Section 20 (b)(ix), we removed the  
14 statement due to potential conflict with  
15 35-11-313(f)(iv)(F).

16 And line 2478, Section 2(b)(iv), we removed  
17 passage due to overlap with Statute 313(f) --  
18 35-11-313(f)(iv)(F). And this concludes the items that  
19 were removed due to statutory overlap.

20 Are there any questions regarding previously  
21 omitted, but required by statute or removed due to  
22 statutory overlap?

23 Thank you.

24 The next sections are revisions for consistency  
25 with DEQ financial assurance practices. Line 2734 to 2756,

1 Section 26(c) through (c)(v), Revised Allowable  
2 Instruments.

3 MS. THOMPSON: And just to make a note  
4 again. This is very similar to -- this section --  
5 revisions to this section, the financial assurance section,  
6 are going to be very similar to those financial assurance  
7 revisions that we brought to you in the spring for the  
8 Commercial Oilfield Waste Disposal Facilities, and they  
9 would be very similar to the ones that Suzanne brings when  
10 they bring their financial assurance. So this is kind of  
11 an agencywide review of financial assurance. And so the --  
12 as you may recall, we were going to look at removing some  
13 instruments so that we could mitigate risk to the State,  
14 and then add stuff in to where it was very clear what  
15 was -- what the requirements were for various instruments.  
16 So -- that we weren't in conflict with banking statutes,  
17 or, you know, financial practices.

18 MS. BARKAU: Lines 2869 to 3004, Section  
19 26(g)(i) through (g)(iii)(F)(II). We added procedures and  
20 requirements based on DEQ bonding staff recommendations.

21 MR. FREDERICK: Timeout. Mute for a  
22 minute.

23 MS. THOMPSON: We're going to mute for just  
24 a moment.

25 (Off-the-record discussion.)

1 MS. BARKAU: So that concluded revisions  
2 for consistency with DEQ financial assurance practices.  
3 Are there any questions?

4 Okay. Our next section of revisions are  
5 regarding public liability insurance adjustments,  
6 previously omitted but required statute. Line 1160 was  
7 added for reference. We had an additional recommendation  
8 from the DEQ bonding staff, line 1160. We added  
9 requirements so that bonding staff can have necessary  
10 information to review insurance certificate.

11 And then additional revisions, we moved pass --  
12 we moved most of passages from Section 5, the Permit  
13 Application, to Section 26, Financial Assurance, as most of  
14 the assurance requirements fit with context of financial  
15 assurance rather than a permit condition.

16 Line 3101, we revised the passage as the  
17 statement is redundant to the contents of Appendix A.

18 Line 3106 to 3115, we revised the required  
19 amounts based on review of the carbon sequestration working  
20 group recommendations.

21 And line 3121, we added the requirement based on  
22 the carbon sequestration working group report  
23 recommendations. So this concludes additions or  
24 modifications related to public liability insurance.

25 Are there any questions?

1           Okay. Thank you.

2           This section -- these modifications are  
3 additional revisions requested by the State Geologic  
4 Survey. Line 26 [sic], we revised subsurface disposal to  
5 underground injection to remove contradiction noted by the  
6 Geologic -- State Geological Survey review.

7           MR. FREDERICK: Line 66?

8           MS. BARKAU: Line 66.

9           Line 171, we added a comma after cessation --  
10 cessation of injection to clarify that cessation does not  
11 refer to cessation of plugging and abandonment.

12           Line 1262, we removed "vertical" as the term was  
13 too limiting and most faults depart from the vertical.

14           Line 1485 to 1496, added subparagraphs requested  
15 by the State Geological Survey Review.

16           And then line 1736, clarified the title to avoid  
17 confusion with the Class II Groundwaters of the State,  
18 noted by the State Geological Survey Review.

19           This concludes the additional revisions requested  
20 by the State Geological Survey. Are there any questions?

21           All right. Additional revisions recommended by  
22 the Attorney General. Line 218 clarified to include  
23 municipality, state, federal, or other federal public  
24 agency.

25           Lines 1406 to 1432 revised list of American

1 Petroleum Institute Standards for paragraph format to list  
2 formats and struck ASTM and comparable standards as the  
3 recommendation from EPA is related to API only.

4 And, again, API references American Petroleum  
5 Institute.

6 BOARD MEMBER CAHN: Can I ask a question?  
7 This is Lorie.

8 So it appears that some of -- are all of the  
9 green things new from when we reviewed them, or these are  
10 in -- so I guess that's what I'm trying to get at. Is  
11 there anything yet we've gone over that was not in our  
12 board packet that is new? If you can clarify that. Thank  
13 you.

14 MS. THOMPSON: So the additional  
15 recommendations from the Attorney General that Lily just  
16 went over and the additional revisions requested by the  
17 State Geological Survey, those were not in your packet, and  
18 those will appear as green in this version. And so the  
19 rest of the items that Lily's still going to go over,  
20 there's a handful. Those were not in your original board  
21 packet. We made changes after that November notice.

22 BOARD MEMBER CAHN: So just to clarify.  
23 Anything we're seeing in green is new, and anything we're  
24 seeing in red and blue is already in your board packet?

25 MS. THOMPSON: Yes.

1 BOARD MEMBER CAHN: Thank you.

2 MR. FREDERICK: Go forward.

3 MS. BARKAU: Okay. Line 1502 to 1529, we  
4 revised the list of API standards from paragraph format to  
5 list formats, and struck ASTM and comparable standards as a  
6 recommendation from EPA as related to API only.

7 Line 3090, revised statement for flexibility on  
8 the part of the Attorney General's Office.

9 Lines 3285 to 3337, revised the list by  
10 reordering the contents and adjusting the reference format.

11 MS. THOMPSON: So in this incorporation by  
12 reference section there's no new material. They just  
13 recommended that we reorder the structure of paragraph A  
14 and all of its subparagraphs.

15 MS. BARKAU: So that concludes the  
16 additional revisions recommended by the Attorney General's  
17 Office. Are there any questions?

18 All right. Our final section is Additional  
19 Corrections. Line 232, we corrected the numbering error.

20 Line 266, removed the definition as the term was  
21 not used in the chapter.

22 Line 931, removed "the" that was left in error  
23 after striking SDWA passage.

24 And line 2967, corrected "which" to "that."

25 There we go. So that concludes the additional



1 corrections and modifications made to the rule since the  
2 last time we were here in June of 2019.

3 Are there any questions?

4 All right. We did receive one comment during the  
5 public comment period. The comment was "I feel that new  
6 rules should not be allowed without deleting old rules that  
7 may be contradictory or overlapping to new rules."

8 DEQ has provided a response as to the rulemaking  
9 process and how rules are repealed and creating new rules,  
10 and that the current rule will remain in effect. It will  
11 just be modified as proposed.

12 That's just a summary of our response. I believe  
13 Gina has provided the actual response for your  
14 consideration.

15 MR. FREDERICK: So, Mr. Chairman, that  
16 concludes our presentation of recommendations for updates  
17 and modifications to Chapter 24, Class VI Underground  
18 Injection Wells. We would like the board to recommend  
19 moving the proposed modifications to the Environmental  
20 Quality Council.

21 We will also be in conversations with the  
22 Environmental Protection Agency regarding any suggested  
23 revisions that they would recommend, as well, as the rule  
24 moves forward. Since this is a primacy package, again,  
25 it's important that we be consistent with the federal rules

1 and regulations, as well as recommendations from our state  
2 Attorney General's Office.

3 CHAIRMAN KIRKBRIDE: Great. Thank you,  
4 Mr. Frederick.

5 I have a question about the primacy. Do you go  
6 in and out of that status, or do you -- once you achieve  
7 it, do you have it until a big change has happened?  
8 what's -- how does that work?

9 MR. FREDERICK: So we've had primacy for  
10 Clean Water Act and Safe Drinking Water Act programs since  
11 the 1980s. And once you obtain primacy or the authority to  
12 implement the rules and regulations and permits,  
13 inspections, enforcement actions, all of that, you  
14 essentially retain it so long as you fulfill your  
15 commitments to properly administer the program. The  
16 commitments are normally captured in a memorandum of  
17 agreement with EPA that spells out individual roles and  
18 responsibilities that the agency has with respect to  
19 assuring that the program's properly implemented.

20 We report to EPA annually on the performance of  
21 these programs. There are some metrics that we report as  
22 well. And normally we meet with EPA at least once a year  
23 to discuss and review essentially program performance. So  
24 we've retained our delegation for these programs for many,  
25 many years, and we expect to continue to do so.

1           It's very rare that EPA will withdraw a primacy  
2 program from a state. I'm aware of only one instance where  
3 they've done that. I believe it was the state of Texas  
4 surface water discharge permitting program, and I don't  
5 believe that was ever formally withdrawn. I think the EPA  
6 had proposed to withdraw the program. But it worked  
7 through the issues with the State of Texas, and I don't  
8 believe at the end of the day it was actually withdrawn.  
9 So we retain primacy, essentially, indefinitely.

10           CHAIRMAN KIRKBRIDE: Obviously, it's  
11 imperative, though, that you respond to their changes and  
12 their -- what they do with the program.

13           MR. FREDERICK: Absolutely.

14           CHAIRMAN KIRKBRIDE: Yeah. Are there any  
15 other questions or concerns or actions from the Board?

16           BOARD MEMBER CAHN: This is Lorie. I would  
17 like to propose a break, and then come back and have board  
18 questions.

19           CHAIRMAN KIRKBRIDE: I think that would be  
20 perfectly acceptable. Good idea. Is 15 minutes  
21 appropriate?

22           BOARD MEMBER CAHN: That works for me.

23           CHAIRMAN KIRKBRIDE: Okay. I've got until  
24 20 -- 10:40, about 10:40 let's reconvene.

25           (Virtual public meeting proceedings)

1                   recessed 10:24 a.m. to 10:40 a.m.)

2                   CHAIRMAN KIRKBRIDE: Well, let's call the  
3 meeting back to order.

4                   And, Ms. Cahn, did you have a suggestion for  
5 procedure?

6                   BOARD MEMBER CAHN: I have a number of  
7 minor comments. I don't know if we want to go -- if other  
8 people have comments. I don't know if we want to go  
9 through section by section. So maybe I'll ask the other  
10 board members if they have comments, and if they do, then  
11 let's go through maybe section by section.

12                   BOARD MEMBER DEURLOO: Mr. Chairman, I have  
13 a couple of overarching questions maybe I can ask prior  
14 before going to section to section.

15                   CHAIRMAN KIRKBRIDE: Go ahead.

16                   BOARD MEMBER DEURLOO: Thank you.

17                   Kevin -- Mr. Frederick, this is Brian Deurloo.  
18 First question is is looking at this -- looking at this  
19 rule and -- rule changes and everything and CO2  
20 sequestration. I realize that CO2 is an ingredient in club  
21 soda and Coca-Cola and other things like that, because it's  
22 carbonated, but I'm wondering if what kind of harms does  
23 CO2 present to the geology and public at large? Is it --  
24 you know, based upon my past experiences, some of this --  
25 some of the harms can be caused by just poor cementing

1 between different zones, you have transference of one water  
2 from a higher zone to a lower zone, or higher pressure zone  
3 to a lower pressure zone, which may be saline to a drinking  
4 water source, so it may be well construction integrity or  
5 maybe some overpressurization.

6                   So I guess my main -- my question is --  
7 Mr. Frederick, is what do you feel are some of the main  
8 risks of CO2 sequestration, and do you feel the rule, as  
9 written, properly mitigates the risks? It's a big  
10 question, I know that, but --

11                   CHAIRMAN KIRKBRIDE: Good call.

12                   BOARD MEMBER DEURLOO: -- I'm just  
13 wondering what you would think.

14                   MR. FREDERICK: Mr. Chairman. Mr. Deurloo.  
15 When CO2 is injected subsurface, it essentially has the  
16 ability to form a carbonic acid. And the acidification  
17 during injection can essentially free and mobilize the  
18 elements and metals that are comprised in the bedrock  
19 within the formation it's being injected into. So it has  
20 the ability to essentially turn some of that rock --  
21 dissolve it, essentially, in a -- essentially free up the  
22 cations, anions, and metals and so forth that can then  
23 mobilize through the formation with injection. So that's a  
24 potential impact to aquifers.

25                   And certainly there's the immediate effect. CO2,

1 as a gas, can be a potential asphyxiant. So it certainly  
2 needs to be carefully managed during injection process so  
3 that's it's not released into the atmosphere to cause  
4 imminent threat to humans on location or even in the -- in  
5 the area. So as to the question regarding the adequacy of  
6 the rules and regulations to, I think, protect and guard  
7 against those risks, yeah, I definitely believe it does a  
8 pretty good job at that. It's perhaps one of the most  
9 rigorous injection regulations that have been developed by  
10 EPA. It's going through pretty significant peer review  
11 process when the draft regulation was initially released  
12 for public review and comment.

13           And I believe they made significant improvements  
14 to the rule based upon those comments. So I think the  
15 demonstrations that are required by the regulation to help  
16 ensure that injected CO2 will essentially remain within a  
17 formation that is confined above and below. The  
18 requirements for site closure, as captured in our statutes  
19 as well as rules and regulations, ensure that, you know,  
20 stabilization has to be documented before the operator's  
21 released from the site, and that funds are actually in  
22 place to provide for postclosure monitoring and measuring  
23 and verification moving forward. So I think the safety  
24 precautions for watching and ensuring plume stabilization  
25 long-term are well thought out and are in place. So I

1 think -- I think it's a pretty rigorous regulation, and  
2 rightfully so.

3 BOARD MEMBER DEURLOO: Mr. Chairman.  
4 Mr. Frederic. Thank you. That was my question. I  
5 appreciate the overview.

6 CHAIRMAN KIRKBRIDE: Thank you.

7 Lorie, you want to -- why don't you go with what  
8 you've got.

9 BOARD MEMBER CAHN: I'm just wondering one  
10 other thing, is whether we're going to be taking public  
11 comment, because I notice there's a few members of the  
12 public here. So I think typically we take public comment  
13 before we do Board discussions. So I'll leave it up to  
14 you, Mr. Chair.

15 CHAIRMAN KIRKBRIDE: Yeah, that sounds --  
16 sounds good.

17 MS. THOMPSON: Mr. Robitaille, this is Gina  
18 from the Water Quality Division. Did you want to make a  
19 comment today?

20 MR. ROBITAILLE: No, Gina. I don't have  
21 any comments. Thank you, though.

22 MS. THOMPSON: No problem.

23 Mr. Chairman, I don't believe that any of the  
24 other attendees are members of the public. We had one  
25 other member from the public that initially joined us, but

1 I don't see that she's on there right now. So if  
2 Mr. Robitaille doesn't have any comment, I don't see any  
3 other comments from the public.

4 CHAIRMAN KIRKBRIDE: All right. Well,  
5 then, are there comments from the Board?

6 BOARD MEMBER CAHN: Is the Board okay if we  
7 go section by section?

8 MS. THOMPSON: And, Lorie, are you going in  
9 the strike and underline?

10 BOARD MEMBER CAHN: I'm going by the strike  
11 and underline, yes, but not the new one we got from Lily.

12 MS. THOMPSON: Okay. I'll project it so we  
13 can see all together.

14 BOARD MEMBER CAHN: Okay. That's great.  
15 So is there anybody else on the Board that wants  
16 to start, or should I start it off?

17 CHAIRMAN KIRKBRIDE: Why don't you start  
18 it, Lorie.

19 BOARD MEMBER CAHN: Okay. First of all,  
20 just want to say congratulations to Lily and the staff at  
21 DEQ for getting delegated in August. That's really big  
22 news. That's great. And I think it reflects your many  
23 years of hard work on this, and I really appreciate how  
24 much you guys really lead the charge in the nation, I  
25 think, to do this. So really kudos to you guys.



1           And all my comments today are really -- there's  
2 nothing technical. The one thing that I was concerned  
3 about was already addressed in your green things with the  
4 ASTM Standards. So I would say all my comments are really  
5 just, you know, making -- they're clarifying comments. I  
6 think just a few instances to make it easier to understand  
7 or read when I had questions.

8           So the first one is on line 104. And in that  
9 comment I'm just wondering if that should be and/or,  
10 because we have "...confining zone means a geologic  
11 formation, group of formations, or" -- and I'm -- "part of  
12 a formation strategically overlying and underlying the  
13 injection zone." And I'm -- I wonder if that should be an  
14 and/or. I'm not sure on that, so I'll throw that out  
15 there.

16           And the other part of this sentence is then "that  
17 acts as barrier to fluid movement. I would probably go  
18 act(s), because some of these things act and their group of  
19 them -- or group -- some acts and a group act. So that  
20 would be my suggestions there.

21                       MR. FREDERICK: So, Mr. Chairman, Ms. Cahn.  
22 Interestingly enough, the State Geologic Survey also  
23 commented on this particular section.

24           And as I recall, Gina, I believe originally the  
25 language read -- talking about part of a formation

1 stratigraphically overlying or underlying the injection  
2 zone.

3 MS. THOMPSON: I believe that Mr. Taboga?  
4 Yeah, Mr. Taboga had asked us to change overlying and  
5 underlying to overlying or underlying.

6 MR. FREDERICK: Okay. And we looked at  
7 this really closely, and normally we were generally  
8 speaking about confining zones -- yeah. We believe that it  
9 would be stratigraphically overlying or underlying.

10 But as it's written here, it's specific to Class  
11 VI wells. It talks about for Class VI wells operating  
12 under an injection depth waiver. So in a specific  
13 situation of a Class VI well, the requirement, as it  
14 relates to an injection depth waiver, is for confinement  
15 above and below.

16 BOARD MEMBER CAHN: Okay. I'm good with  
17 leaving it "and." And then just wondering about the act  
18 versus acts.

19 MS. THOMPSON: And I will note that  
20 comment, and I will review it with some of the other  
21 formatting comments that we received from our attorney,  
22 because I think that they were taking some of those  
23 parentheses out, but I wanted to check the context of that.  
24 So I'll note it, and if their opinion -- their  
25 recommendation is that it doesn't add clarity or, you know,

1 some other explanation, then I will not make the change.

2 BOARD MEMBER CAHN: Okay.

3 MS. THOMPSON: Okay. All righty.

4 BOARD MEMBER CAHN: Then my next comment is  
5 on line 107 and 108, below it. And that's the definition  
6 of contaminant. And I'm -- the definition doesn't seem  
7 specific enough to me in terms of level, because it says  
8 "Contaminant means any pollution, wastes; or physical  
9 chemical, biological, or radiological substance or matter  
10 in water." And it seems to me that there's naturally  
11 occurring or, you know, chemical or physical, biological,  
12 whatever, radiological matter that are less than level of  
13 concern. So I'm wondering if -- you know, contaminant, to  
14 me, indicates something's above some kind of level of  
15 concern, and whether we need to add that into the  
16 definition, something about -- that would indicate that.  
17 So I'll just ask that question.

18 MS. SHAW: Hi. This is Kelly Shaw. I'm  
19 the advising Attorney General for the Water Quality  
20 Division. Would you mind if I took a quick stab at that  
21 question?

22 MR. FREDERICK: Thanks, Kelly.

23 MS. SHAW: I understand your comment. I do  
24 think it's a good one. The way we are defining contaminant  
25 here is fairly vague. It does not set a minimum threshold.

1 The reason for that is that if you go through the rest of  
2 the chapter and you look at where the word "contaminant" is  
3 used, it makes it more clear what those thresholds are and  
4 what those decision levels will be.

5           So, for example, let me get to where I just was.  
6 So if you get down to, you know, Section 11 (a)(iv), this  
7 is -- you don't have to look at it, necessarily. But this  
8 is basically the prohibition section. It says no person  
9 shall conduct an injection activity in a manner that allows  
10 movement of fluid containing any contaminant into  
11 underground sources of drinking water if the presence of  
12 that contaminant may cause a violation of any drinking  
13 water regulation. And so I think we can go through the  
14 chapter and make sure that we've done this every time the  
15 word "contaminant" is used, but I think by defining it  
16 fairly generally in the definitions, that allows us to be  
17 more flexible throughout the chapter, because there may be  
18 some different decision thresholds and different levels  
19 that apply.

20           BOARD MEMBER CAHN: Thank you. That  
21 clarifies it for me. Appreciate it.

22           The next question I have is -- well, the first  
23 occurrence would be on line 110. It just has to do with  
24 consistency of capitalizing names of offices, like  
25 director, administrator, you know, et cetera. And it

1 doesn't -- I just -- I'm fine with whatever you guys decide  
2 as what you want to use. It's just to make sure that it's  
3 always consistent. But for me it would be helpful to have  
4 somebody just explain where you decide to capitalize and  
5 where you decide not to capitalize with names of positions.

6 MS. THOMPSON: Okay. Lorie, that's  
7 something that I can answer. We have a style guide that we  
8 go by. And, generally speaking, we capitalize things like  
9 Department, Division, Director, Administrator. And so if  
10 there's areas where we missed administrator or anything  
11 else in that type of list, that's something that's kind of  
12 an error compared to our style guide, and so that's  
13 something I would want to know so I could make those  
14 corrections.

15 I do know that some of the language that I  
16 received from some of my colleagues, I found capitalization  
17 changes after we've put it out for notice. So -- and, you  
18 know, the thing, the "that/which" correction that we spoke  
19 about with Lily's discussion before. So essentially I'm  
20 going to just have to proofread the recommendations from my  
21 colleagues a little bit more closely before we send out for  
22 notice.

23 But if there are those, please send them over and  
24 we'll make those corrections, because we did want to  
25 capitalize administrator consistently, and director, so...

1 BOARD MEMBER CAHN: Great. Thanks.

2 So then on line 167, I have then the question  
3 about capitalizing state, because that's not a position.  
4 And it's in definition that Groundwaters of the State,  
5 which may be because it's part of the definition, maybe  
6 there -- I don't think it needs to be capitalized. But  
7 certainly the next line, 168, "...within the boundaries of  
8 the State," state should not be capitalized, I don't think,  
9 unless your style guide is indicating it should be  
10 different.

11 MS. THOMPSON: I believe that where we are  
12 referencing "the State" it is capitalized, so that it  
13 implies that it's, you know, the State of Wyoming there.  
14 But like further down in like paragraph 2, it says "...  
15 without the limits of a state," that would not be  
16 capitalized because it's not specific to Wyoming.

17 BOARD MEMBER CAHN: Okay. Thanks for that  
18 clarification, then.

19 And then same with Groundwaters of the State,  
20 would you keep that capitalized because that's referring to  
21 a specific term?

22 MS. THOMPSON: I believe we had chosen to  
23 leave Groundwaters of the State capitalized in that way,  
24 because it's -- because we wanted to note that it was a  
25 specific entity under the State. So the Surface Waters of

1 the State are a thing, and then the Groundwaters of the  
2 State, so that it drew your attention in. I think that's  
3 how I have it noted in my style guide, so...

4 BOARD MEMBER CAHN: Thanks for the  
5 explanation. The next question I have, again, on  
6 capitalization is on line 301, where it talks about Federal  
7 agency. And I -- "principal executive officer of a Federal  
8 agency," and the style guide that I use would not have  
9 federal capitalized, but that's --

10 MS. THOMPSON: It's looking like the rest  
11 of that passage does not capitalize it, so I would flag  
12 that one to make that correction, I believe.

13 BOARD MEMBER CAHN: Okay. And I apologize.  
14 It's going to take me a while to go through all of these,  
15 because I -- as Gina knows, I had a real mishap with a  
16 computer glitch. And, actually, I want to mention that for  
17 the rest of the board members so nobody else has the  
18 problem I had. For some reason when I opened up the file  
19 from the State website to start my review, I made changes  
20 on it, so I was making highlights and putting in comment  
21 boxes. And at the end of a long day, I thought, you know,  
22 I should probably save my work before I go to bed. And I  
23 went to save my work and it gave me a file error, and the  
24 entire -- all the text disappeared. And so I lost -- and,  
25 actually, it was a culmination of a number of days of work.

1 So I lost everything except I could see the comments, but I  
2 couldn't see the text.

3           So my suggestion is -- I don't know how I can do  
4 it on my computer, but if people would download the file  
5 rather than try to -- I don't know what happened, but  
6 somehow it wasn't downloaded. I went to another computer  
7 and downloaded it, and it doesn't have the same problem,  
8 and then I could save the file. But, anyways, just for  
9 other board members, you may -- I hope nobody has the  
10 problem I had. And I'd love to hear later -- not through a  
11 board meeting -- but we could hear suggestions to prevent  
12 myself from doing that.

13           So, anyways, the next kind of generalized  
14 question I have is on page -- or line 323. And this is  
15 just -- I noticed that "must" got changed to "shall" in  
16 almost the entire document. And I think there's maybe one  
17 place where "must" remains. But typically "must" is the  
18 only word that imposes a legal obligation, in what I  
19 understand. "Shall" is ambiguous and rarely occurs in  
20 everyday language. So I'm assuming this is something the  
21 Attorney General's Office has changed. So I just would  
22 like to hear what the rationale for that is, because, to  
23 me, I know we're trying to make these regulations/rules  
24 easier to read and understand, and "shall" seems kind of  
25 archaic. So -- and I don't think it has the same meaning,



1 but maybe from your perspective -- DEQ's perspective, it  
2 definitely has a distinctive meaning that it definitely  
3 needs to be "shall" rather than "must."

4 MS. THOMPSON: Sure. Thank you, Lorie.  
5 I'll go ahead and start the explanation. And then if I  
6 fail, Kelly, please jump in.

7 That particular recommendation comes directly  
8 from the Attorney General's handbook on rulemaking. And  
9 that term, they really discourage the use of "must" or  
10 "may," because it -- their interpretation is that it's more  
11 flexible. And "shall" is firmer, and there is that  
12 implication that you have to do it, if we say "shall."

13 And I think in old rules from the '80s and early  
14 '90s, they used to give an explanation about why we're  
15 using "shall" and "may." We don't really put that in there  
16 anymore. But this is -- it's not even just related to DEQ  
17 rules. It's sort of universal state agency rules. We're  
18 universally discouraged from using "must" instead of  
19 "shall." And at the federal level, it's the exact  
20 opposite. And that's why we had to change so many, because  
21 we brought in their language.

22 Does that answer your question, or did you need a  
23 little bit more?

24 BOARD MEMBER CAHN: No, that answers my  
25 question. And that I did note the difference between the

1 federal rules with "must" and DEQ's with "shall." So thank  
2 you. That's a good explanation. I appreciate that.

3           So the next comment I have is on line 362. And  
4 it has to do with using a well injection in the after --  
5 "Underground injection means a well injection," but at the  
6 end of the last item in the list, also has well injection.  
7 And so since it's already covered in the last item in the  
8 list, I would suggest we can delete "a well injection" on  
9 line 362 and not lose anything, because we're placing  
10 fluids through a well.

11           MS. THOMPSON: The federal definition is  
12 that it means a well injection, and then we've clarified it  
13 further.

14           BOARD MEMBER CAHN: Okay.

15           MR. FREDERICK: So Mr. Chairman, Ms. Cahn,  
16 we've experienced EPA getting real touchy when we start  
17 deleting words within their definitions. They don't seem  
18 to be quite so jumpy if we're adding something, because one  
19 could make the argument that they were actually becoming  
20 more stringent than the feds are. So I get your point, and  
21 it's something we can bring up with EPA, but I think at the  
22 end of the day, it really depends upon how firm they're  
23 going to be in terms of wanting to retain the language as  
24 is, as opposed to changing it. We can talk about it a  
25 little.

1                   BOARD MEMBER CAHN: I'm fine with leaving  
2 it. That totally makes sense why you have it that way.  
3 And I -- since you've got -- working so well with EPA, I'm  
4 happy to just leave it that way. I don't think it -- I  
5 don't think it detracts having it in there. So just let's  
6 leave it and --

7                   MR. FREDERICK: I agree with your  
8 suggestion, don't get me wrong. And I appreciate your  
9 understanding of us trying to accommodate EPA to the best  
10 we can. So thank you for that.

11                   BOARD MEMBER CAHN: Okay. I will just keep  
12 going in Section 3, unless somebody from the Board pipes up  
13 that they've got something. So --

14                   CHAIRMAN KIRKBRIDE: I think you can  
15 proceed, Lorie.

16                   BOARD MEMBER CAHN: I apologize. I'm  
17 scrolling back between two computers, so it's going to be  
18 slow, and I'm not -- I have nothing in Section 3. I don't  
19 have the ability to also look at the green changes to --  
20 that were given to us today to make sure that I am not  
21 duplicating efforts here.

22                   So for some reason my computer does not want to  
23 scroll easily. Okay. My next comment -- and now I don't  
24 realize what section I'm in, but it's on line 836. I  
25 believe the word before terminated, I believe "or" is

1 missing.

2 MS. THOMPSON: Yes.

3 BOARD MEMBER CAHN: It would read  
4 "...whether it should be modified, revoked, reissued, or  
5 terminated."

6 MS. THOMPSON: Yes. We'll make that  
7 change. Thank you.

8 BOARD MEMBER CAHN: Nothing else in Section  
9 4.

10 My next comment is on line 1539, but I think you  
11 already answered it. It's the use of the term "State-  
12 approved," but because you're referring to the State of  
13 Wyoming, I think that's why you have it capitalized. And  
14 I'm okay with that, if that's your explanation. So it's  
15 line 1539 and 1540.

16 MS. THOMPSON: Yes.

17 BOARD MEMBER CAHN: Okay.

18 MS. THOMPSON: That's correct.

19 BOARD MEMBER CAHN: That's it for that  
20 section.

21 That's it -- I have nothing in Section 7.

22 Nothing in Section 8 or 9.

23 Section 10, line 2646. And it's the use --  
24 sorry. Now it's line 2067. Sorry. It's use of the word  
25 "therefor." Again, I think "therefor" is really archaic

1 language. So I would suggest re-wording this to be  
2 "applied for under State program or any of the following  
3 programs:"

4 And then -- so because all of the following  
5 programs that are listed are not State programs. They're  
6 all national programs. And so if we reverse the order and  
7 put, you know, under State program first and then say or  
8 under any of the following programs, and then we list them,  
9 we don't even need the word "therefor."

10 MR. FREDERICK: Defer to Kelly about that.

11 MS. SHAW: Yeah, I see your point. I don't  
12 love that word either. I'm trying to think -- I want to be  
13 sure that if we do make that change, that it's clear that  
14 the State program corresponds to a federal program. So I  
15 wonder if we could say something like "under any of the  
16 following programs or a corresponding state program"? I  
17 want a word to link that it's just not any state program.  
18 It has to be a state program within this list.

19 BOARD MEMBER CAHN: Uh-huh. Okay. So how  
20 about "under programs or state programs:"

21 MS. SHAW: The problem is that we're  
22 listing the federal programs and we're listing the federal  
23 statutes, and so we're not -- I'm concerned with that  
24 language that we're not specifying what the state programs  
25 are with enough precision. Because we're saying the

1 following programs, and we give the name of the federal  
2 program and the federal statute so it's very clear, you  
3 know, to anybody what those federal programs are and how  
4 they can find them and how to find the statutes that apply.  
5 But if we just say under, you know, the following programs  
6 or a state program, that or a state program, well, the  
7 question is what state program? What state programs? How  
8 do I find those?

9 BOARD MEMBER CAHN: Okay. So then I would  
10 suggest we don't reverse the order of under any of the  
11 following programs and the state program. We leave it the  
12 way you have it. But just -- I think we could just get rid  
13 of "therefor," because we're saying any of the following  
14 programs, and then we have -- you know, or under state  
15 program under the -- under any of the following programs or  
16 state programs, maybe, and then: And then the --

17 MS. SHAW: Any of the following programs  
18 or --

19 BOARD MEMBER CAHN: I'll leave it to you  
20 guys to decide. You know, it's not -- just trying to make  
21 it easier to, you know -- less archaic language. Less  
22 legalese, if possible.

23 MS. SHAW: How would you feel about leaving  
24 it as "under any of the following programs or under a  
25 corresponding State program:"? Or we can use a word like

1 "related" or --

2 BOARD MEMBER CAHN: Yes.

3 MS. SHAW: -- maybe something that's not  
4 just "therefor."

5 BOARD MEMBER CAHN: No, I like that much  
6 better, because then that explains to somebody why we're  
7 talking about State programs, when all we're listing is  
8 federal programs. So I really like that "corresponding  
9 State." I think that gives more explanation and makes it  
10 more understandable. So I think that's better.

11 MS. SHAW: Okay. And we keep that  
12 language, and we lose this, as you've identified correctly,  
13 very archaic word.

14 BOARD MEMBER CAHN: Right. Thank you.

15 My next comment is on page -- or sorry, line  
16 2894. Then I think there's after the (xxxiii), I think  
17 there should be a space between there and proposed?

18 MS. THOMPSON: I think there's a deeply  
19 hidden tab, but I can add an additional space there. That  
20 drives the Secretary of State staff nuts when there's a tab  
21 that you can't see. So I'll flag that one.

22 BOARD MEMBER CAHN: I think -- I think I  
23 actually looked at the clean version, and I think it was  
24 the same problem there. But, anyways, just -- you know,  
25 just check it.

1           The next comment that I have is on line 2906.  
 2    Just down a little bit. There you go. And it's with the  
 3    use of the -- well, okay. So then it's -- one question is  
 4    whether tribes should be capitalized. And it's the same  
 5    thing with tribal and tribes. It's -- then I'll just leave  
 6    that -- whatever you guys's style format asks you to do or  
 7    they ask you to do, that's fine. I'm not used to seeing it  
 8    capitalized. But, you know, actually maybe you could  
 9    explain what your -- what the style guide is for, or  
 10   agreement with the tribes for referring to tribes and/or --  
 11   and tribal lands on whether to capitalize.

12                   MS. THOMPSON: So it's looking like the  
 13   federal counterpart capitalizes Indian and Indian Tribe.

14                   BOARD MEMBER CAHN: So it's to be  
 15   consistent with comments from federal -- or taking language  
 16   from the federal agencies, or --

17                   MS. THOMPSON: Yeah.

18                   MS. SHAW: Board Member Cahn, this is Kelly  
 19   again. I think the word "tribe" is treated similarly to  
 20   the word "president," where when you're talking about a  
 21   specific president, you capitalize it because it's an  
 22   official title. When you're talking about it as an  
 23   adjective describing something, such as being presidential  
 24   or being tribal, you don't capitalize it. I'm not a  
 25   hundred percent sure that we followed that, but I think



1 that's the general idea.

2 BOARD MEMBER CAHN: Okay. All right. And  
3 then my next -- on that same sentence, I'm not sure that  
4 "with" is the right word. So I think we're talking --  
5 well, let's see. The list of contacts for reservations and  
6 lands, is that what we're talking about, or is it list  
7 contacts plus a map indicating reservation and Indian  
8 lands? Or is it only -- I think we're talking about only  
9 tribes that have -- well, it's confusing to me with the  
10 word "with." I'm not really sure what's meant there,  
11 because maybe it's a list of contacts for Indian  
12 reservations in Indian lands identified pursuant to the  
13 subparagraphs?

14 MS. THOMPSON: I think you're on the right  
15 track. So it's a list of contacts for tribes with Indian  
16 reservation and Indian lands. So, for instance, on the  
17 existing reservation within the state, we have more than  
18 one tribe, you know, on that reservation. And so we are  
19 expected to contact, you know, both tribes and not just one  
20 and hope that they get that information to the other. We  
21 treat them as separate kind of entities. And so we  
22 notified both.

23 But if you had a tribal group living in Wyoming,  
24 but they didn't have an Indian reservation, but I don't  
25 know that -- you know, if your -- if your -- if your

1 project fell near their location, but they're not  
 2 officially on a reservation or have official lands, then I  
 3 don't know that -- you wouldn't be required to notify that  
 4 tribe under this paragraph.

5 BOARD MEMBER CAHN: Okay. I was wondering  
 6 if we could re-word it to start with for Indian  
 7 reservations and Indian lands identified pursuant to  
 8 subparagraphs, a list of tribal contacts -- or a list of  
 9 contacts for all tribes or something. Or -- or -- or for  
 10 those tribes or something like that.

11 Oh, well. I guess it's a question of whether  
 12 we're focused on a list of contacts or we're focused on  
 13 Indian reservations and Indian lands that are relevant  
 14 here.

15 MS. THOMPSON: We need the -- we're  
 16 deriving it from the federal statement, and the federal  
 17 statement is, you know, basically what's stricken out. And  
 18 so the additional pieces are to kind of, you know, clarify,  
 19 because we have some unique situations. When the State  
 20 works with Indian reservations and Indian lands, we have --  
 21 I think there's some legal agreements there. That's why  
 22 we're using that -- we're adding that term in.

23 So we want list of contacts for those tribes that  
 24 are identified. We want tribes with Indian reservations  
 25 and Indian lands. It's really specific.

1                   BOARD MEMBER CAHN: Yeah. So maybe instead  
 2 of with -- my problem is only with the word "with." And --  
 3 because it makes it sound like you want a list of contacts  
 4 of tribes, and with that you also want Indian reservations  
 5 and Indian lands. That's where the "with" is coming in.  
 6 That's what is confusing me. Maybe it's for tracts that  
 7 have Indian reservation -- Indian -- rather than "with."  
 8 That's my only problem. I was trying to think of a way to  
 9 use something other than "with," because there's several  
 10 meanings of the word "with," and it's not clear which is  
 11 meant, so...

12                   MS. THOMPSON: Kelly, do you have any  
 13 thoughts on changing "with"?

14                   MS. SHAW: I don't have any objection to  
 15 changing "with." I do see the confusion with it,  
 16 because -- with. I see the confusion, because it does have  
 17 a lot of uses. I think "that have" might be a good  
 18 replacement.

19                   MR. FREDERICK: Kelly, I see that we have a  
 20 definition for Indian lands. And it seems to include  
 21 reservation land. So I wonder if we could just refer to  
 22 tribes that have Indian lands.

23                   MS. SHAW: Yes. Sorry. I'm looking at all  
 24 the uses in that chapter. Yeah, I'm not -- I think because  
 25 we did expand that definition of Indian lands, I think

1 you're right. I think we could remove Indian reservations  
2 there because it's already included within Indian lands.

3 MR. FREDERICK: So another option would be  
4 to simply say Tribes on Indian lands.

5 BOARD MEMBER CAHN: Yeah, that --

6 MS. THOMPSON: Okay. We'll make that  
7 change as noted by Kevin.

8 MR. FREDERICK: Does that work, Kelly?

9 MS. SHAW: Yes, that works for me.

10 BOARD MEMBER CAHN: That works for me.

11 Thank you.

12 MR. FREDERICK: Yeah.

13 BOARD MEMBER CAHN: I don't have any more  
14 comments on Section 10.

15 Section 11, 3406 line number. And how to use --  
16 I know we've identified receiver in the definition as  
17 "means any zone, interval, formation, or unit in the  
18 subsurface into which a carbon dioxide stream is injected."  
19 I'm -- I would suggest -- I would suggest that we don't  
20 necessarily need the word "receivers," inject only into  
21 Class V (hydrocarbon commercial) or Class VI groundwaters  
22 as identified -- sorry, as classified by the Department  
23 pursuant to Water Quality Rules and Regulations Chapter 8.  
24 But, I mean, since we've -- I didn't like the word  
25 "receivers," but since we have it -- it didn't seem

1 necessary in here, but since we have it in the definition,  
2 I'm going to say I'm okay with it. So we can move on.  
3 Nothing else in Section 11.

4 Nothing in Section 12.

5 In Section 13, line 3274. The -- on use of --  
6 "Use modeling that is," and the "is" I think should be  
7 taken out because the list doesn't -- not everything  
8 following in that list -- the "is" doesn't work. "Is"  
9 considers potential migrations. So I think if we take the  
10 "is" out of there, put the colon in, so it would be "Use  
11 modeling that:" And then on the next line, (A), we would  
12 have "is based on." Then I think we have a parallel  
13 construction for the rest of the list.

14 MS. THOMPSON: I see your -- I see your  
15 point there.

16 BOARD MEMBER CAHN: Because (B) and (C) --  
17 neither (B) and (C) fit in that list. So just a -- that's  
18 all I have on Section 13.

19 Section 14, I had a question on line 3530. And I  
20 recognize you've removed the ASTM Standards, so I  
21 appreciate that, because I had comments on that, but one of  
22 these guides -- or so -- this is my question. We have  
23 recommended practices and guidance documents that we're now  
24 putting into regulation, but is it because we're saying  
25 shall be compatible -- shall meet or exceed the following

1 standards, it's because we're using "shall," that it's okay  
2 to put practices and recommended practices and guidance  
3 documents now making it really part of a regulation? In  
4 other words, are we getting the flexibility that you  
5 typically get with a guidance document or a recommended  
6 practice, are we getting that flexibility with the  
7 regulation by -- so I'll throw that question out there.

8 MS. THOMPSON: So, Lorie, the -- we're  
9 allowed to incorporate by reference materials that are  
10 published by an outside entity such as these, and we'll --  
11 so it's basically instead of restating all of the material  
12 that is contained in each of these standards or  
13 specifications, instead of restating all of that verbiage,  
14 we're just doing a short cross-reference over. We'll have  
15 some flexibility in that we won't have to restate all of  
16 that material over, but it will be limited to the version  
17 that we -- like the year -- the publication year that's  
18 stated in the back.

19 BOARD MEMBER CAHN: Right.

20 MS. THOMPSON: So if they do an update and  
21 make a change, we'll come back to you and say we want to  
22 change the year on that API spec, because they've updated  
23 some material. We've reviewed it? We don't have an issue  
24 with incorporating this new version. So we're not able to  
25 just, you know, adopt any version. It has to be a specific

1 year. Does that answer your question?

2 BOARD MEMBER CAHN: Not -- not really,  
3 but...

4 MS. THOMPSON: All right.

5 BOARD MEMBER CAHN: I mean, I was aware  
6 that the years are in the back, and that that -- I guess  
7 it's -- if something in these guidance documents or  
8 recommended practices is not really relevant -- like, for  
9 instance -- and I'm not familiar with API RP 14C, but from  
10 the title, in the back, it has to do with offshore. And  
11 nothing we're doing in Wyoming is offshore. So if it's  
12 talking about sea water intrusion or something -- I mean,  
13 it's not -- I'm not -- I don't have a good example, but  
14 something that's really not relevant, because it's  
15 offshore, is there enough flexibility by saying we shall  
16 meet or exceed the following by using the word "shall"  
17 rather than "must," that if there's something in these  
18 guidance documents that is not relevant, we -- somebody's  
19 going to have to try to follow it. That's more my  
20 question.

21 MS. SHAW: Sure. Ms. Cahn, I think I  
22 understand your question. You're wondering -- I'm just  
23 going to repeat it back to make sure I understand it -- by  
24 incorporating this material into the rules are we somehow  
25 changing it and making it less flexible and less workable

1 than it was in the original version?

2 BOARD MEMBER CAHN: Uh-huh. Yes.

3 MS. SHAW: Right. So when you incorporate  
 4 something by reference, it's almost as if you've taken  
 5 whatever you've incorporated and stapled it to the back of  
 6 the rules. So my answer would be that it would only be as  
 7 binding as it was in the original document. So if the  
 8 original document, you know, for example, says you can use  
 9 type A casing or type B casing or type C casing, then those  
 10 options carry through into the rule. We're not going to  
 11 change anything that's contained in those documents by  
 12 incorporating them as far as material in those documents  
 13 that wouldn't be applicable. It's just like having  
 14 material in the rules that doesn't apply to a specific  
 15 project. I know we've got, you know, some things in this  
 16 chapter about Class VI wells that are -- that have an  
 17 aquifer exemption. They have specific requirements for  
 18 when you have an aquifer exemption.

19 So same thing. If there are materials in those  
 20 guidance documents and those standards that apply, for  
 21 example, to offshore drilling, if you're not doing offshore  
 22 drilling then they're not going to be made applicable by  
 23 this incorporation. And some of that weird offshore stuff,  
 24 I think EPA is requiring it's in the rules, even though  
 25 it's -- maybe a little bit strange to have it in Wyoming,



1 but they consider some of those things part of their  
2 minimum standards.

3 BOARD MEMBER CAHN: Okay. That answers my  
4 questions. Thank you.

5 The next comment I have is on line 3582. And the  
6 first one is just a minor thing that we have "shall" -- we  
7 have a list with "shall" on line 3582, and then again on  
8 358 -- sorry -- have it on 3581, and then again on 3582 and  
9 again on 3583. And I think because we have the first one,  
10 we can delete the two that were added. I know they're  
11 replacing the "must," because we have "shall extend to the  
12 injection zone" we can go, comma, be cemented by  
13 circulating cement to the surface in one or more stages,  
14 and be isolated by placing cement or other isolation  
15 techniques.

16 So it was just -- I mean, it's not hurting  
17 anything to have all the "shalls" there, but I don't think  
18 they're necessary.

19 And then the next question I have is the provide  
20 for protection part of this. Is that part of adequate  
21 isolation, or is it a fourth item in a list? So in other  
22 words, is the provide for protection part of the isolated  
23 by placing cement or other isolation techniques as  
24 necessary to provide adequate isolation of the injection  
25 zone -- is it part of that or is it a fourth item in this

1 list?

2 MR. FREDERICK: We'd say it's the fourth  
3 item in the list.

4 BOARD MEMBER CAHN: Okay. Then I think we  
5 can have -- okay. Because then one thing I would suggest  
6 we have some semicolons, so it's obvious that we're working  
7 with a list. So that would read "The long string casing  
8 shall extend to the injection zone," -- sorry, then that  
9 would be -- wait a minute. Okay. Comma "be cemented by  
10 circulating cement to the surface in one or more stages,  
11 and" -- now I'm -- ugh. "and be isolated by placing cement  
12 or other isolation techniques as necessary to provide  
13 adequate isolation of the injection zone," then a  
14 semicolon, "and provide for protection of USDWs." That's a  
15 mouthful.

16 The other suggestion I have, since this is a long  
17 sentence, is maybe we can -- "provide for protection" could  
18 be replaced with "protect." So rather than "and provide  
19 for protection," we can say "and protect USDWs, human  
20 health, safety, and the environment."

21 I guess in that list, we do need the "shalls,"  
22 because -- well, no, we don't, because it's protect USDWs,  
23 so -- so the first thing -- the "shall" is, one, extend to  
24 the injection zone; two, cemented by circulating cement to  
25 the surface; three, be isolated by placing cement; and,

1 four, protect USDWs. So I think --

2 MR. FREDERICK: Can you just make it into a  
3 list?

4 BOARD MEMBER CAHN: -- it can be separated  
5 by semicolons.

6 MR. FREDERICK: I think what we'll do here,  
7 Lorie, we'll make this into a list with subparagraphs.

8 BOARD MEMBER CAHN: That works for me. I  
9 think it would be easier to read.

10 MR. FREDERICK: Would that be okay with  
11 you, Kelly?

12 MS. SHAW: Yes. Yes. That works. I'm  
13 worried Ms. Cahn is going to put me out of a job here,  
14 though.

15 BOARD MEMBER CAHN: The new board members  
16 are probably rolling their eyes, going, oh, no. Here's the  
17 English teacher.

18 BOARD MEMBER DEURLOO: We are thankful for  
19 your edits, Lorie, for sure. Yeah.

20 BOARD MEMBER CAHN: The next comment I have  
21 is on line 3954, just very bottom of your screen. And I  
22 think "they shall be" could be deleted as not needed. So  
23 the sentence would read "Cement and cement additives shall  
24 be suitable for use with the carbon dioxide stream and  
25 formation fluids, and of sufficient quality and quantity."

1 I'm not sure why "they shall be" was added, but I don't  
2 think -- because we have "shall be" in the beginning of  
3 that list.

4 MS. THOMPSON: Maybe -- I think to kind of  
5 direct it back that the additives -- we're talking about  
6 the additives there and not the formation fluid. Because  
7 we were missing a comma before as well, and so I think that  
8 there was some concern that we weren't really clarifying  
9 that sufficient quality and quantity talked about additives  
10 and not formation fluid.

11 BOARD MEMBER CAHN: Well, then maybe  
12 formation fluids should come first. Cement and cement  
13 additives shall be suitable for use with formation fluids  
14 and carbon dioxide streams of sufficient quality and  
15 quantity to maintain integrity over the operating life of  
16 the well? No, that doesn't work.

17 MR. FREDERICK: We don't need the second  
18 "they shall." Could read shall be suitable use of carbon  
19 dioxide stream and formation fluids and be of such quantity  
20 and quality. I think it's conjunctive.

21 BOARD MEMBER CAHN: Okay.

22 MR. FREDERICK: Either way.

23 BOARD MEMBER CAHN: And I don't even think  
24 we need the "be," but I'm okay with -- if you think that's  
25 necessary, I'm okay with "be."

1                   Okay. My next -- that is it for me for Section  
2 14, and I have to switch to another file now. Excuse me.

3                   Oh. Okay. Somebody's going to have to help me  
4 with how do I make my screen with Zoom smaller so that I  
5 can get to another file.

6                   MS. THOMPSON: Okay. All right. Can you  
7 do -- are you on a Mac or are you on a PC?

8                   BOARD MEMBER CAHN: I'm on a Mac.

9                   MS. THOMPSON: Okay. Is there an  
10 equivalent to alt tab in the Mac where it will show you all  
11 your windows and you can switch, or do you not have the  
12 other document open?

13                   BOARD MEMBER CAHN: Well, there's  
14 something -- I do have the other one -- oh, I see. I can  
15 make it go to 50 percent. Let me try that. Oh, exit full  
16 screen. There we go. Okay.

17                   Sorry, guys. Okay. Okay. I'm -- I'm back with  
18 us.

19                   Okay. My next set of comments are on line 3728.  
20 And so we have zone(s), so we mean zone or zones. But then  
21 we have "is." And I'm wondering if we need the (s), and we  
22 can just talk about zones and they say "zones are." So it  
23 would read a demonstration that the injection zones are  
24 laterally continuous, not USDWs, not hydraulically  
25 connected to USDWs, do not -- so then that would be a

1 semicolon. Do not outcrop within the area of review,  
 2 semicolon, have adequate objectivity, volume, and  
 3 sufficient porosity to safely contain the injected carbon  
 4 dioxide and formation fluids, semicolon, and have  
 5 appropriate geochemistry.

6           So that if you only have one injection zone, I  
 7 think it's covered by saying a demonstration that the  
 8 injection zones, you only have one. You're covering all of  
 9 them. I'm basically changing it from singular to plural  
 10 and getting rid of the "ises" or "ares," except in the  
 11 first sentence, because they're not necessary and --

12           MS. SHAW: If you look at the paragraph  
 13 below, it's essentially exactly like that where the  
 14 paragraph below is all plural. So we'd be making it line  
 15 up more with that second paragraph.

16           BOARD MEMBER CAHN: Yeah, that's right.  
 17 Good point.

18           Do you want me to read my suggestion again, or  
 19 did you guys catch it?

20           MS. BARKAU: I think we got it.

21           MS. THOMPSON: I think we got it, since we  
 22 have the example below as well.

23           BOARD MEMBER CAHN: Okay. Okay. Okay.  
 24 Line 3812 and 3813. So it was, again, a question about  
 25 we're not -- when we're talking about Public Water System

1 Supervision Directors, we're not talking about a specific  
2 person, so I wouldn't normally capitalize that.

3 Also, where it says "...all States and Tribes," I  
4 think all states -- now we're not talking about the State  
5 of Wyoming in particular, so I was thinking states -- and  
6 we're talking about all tribes, not just a specific tribe.  
7 So I was thinking most of that should be lower case, except  
8 if you capitalize directors. And same with line 3817.

9 MR. FREDERICK: Yeah, Mr. Chairman,  
10 Ms. Cahn. So this is purely, I think, standard in federal  
11 rules and regulations to refer to Public Water Supply  
12 System Supervision in capital letters. It recognizes it's  
13 essentially a federal regulatory program. I believe it's  
14 defined as such in federal rules. I don't know if it's on  
15 definitions or not, but I think that's why we're seeing it  
16 capitalized.

17 BOARD MEMBER CAHN: Okay. But then we said  
18 earlier that states wouldn't be capitalized unless it's  
19 specific to the State. So this is all states. So probably  
20 states shouldn't be, at least, capitalized.

21 MR. FREDERICK: Right.

22 BOARD MEMBER CAHN: Probably same with  
23 tribes.

24 MR. FREDERICK: Yeah.

25 BOARD MEMBER CAHN: I'm good with that, if

1 you need to leave Public Water System Supervision Directors  
2 as all caps.

3 MR. FREDERICK: Okay.

4 MS. THOMPSON: Okay.

5 BOARD MEMBER CAHN: That's it for Section  
6 15.

7 On 4050 -- line 4050, the very end of Section 16,  
8 State is capitalized, but it's a state, so that should be  
9 lower case.

10 And then on 42 -- line 4226, in my version it was  
11 highlighted, and I'm wondering if -- I know it's all struck  
12 out, but I was wondering if there was something that we  
13 needed to know about that. Was it highlighted for our --  
14 the Board's benefit or something, or was it just a --  
15 forgot to unhighlight it?

16 MS. THOMPSON: No, I believe I forgot to  
17 unhighlight that. That was probably a marker so I could  
18 see where I was. It took me several days to get through  
19 this, so I'd leave myself little bread crumbs so I could  
20 find my way back, and it looks like I missed that one.

21 BOARD MEMBER CAHN: Okay. That's it for  
22 Section 17. And I have nothing on 18.

23 And the rest of the Board, please feel free to  
24 interrupt me if you've got comments. Page -- or, sorry,  
25 line 4851. And I know in the past, it's -- we were talking



1 about and making it his or her evaluation. And I know in  
2 the past it was one of my recommendations that we go his/  
3 her, but I think we need to come up with the times now.  
4 And even I've been corrected by many people that we should  
5 probably start using their -- they/their. So maybe we  
6 could say "In making their evaluation, the administrator  
7 shall..."

8 MS. THOMPSON: Kelly, is that -- is that a  
9 suitable substitution? I think I had -- I know I've done  
10 that in earlier rulemakings, but I'm not sure -- I don't  
11 think I've done that for a while, so...

12 MS. SHAW: I don't think that the State or  
13 the Attorney General's Office has an official stance on  
14 that. I know the debate is whether it's grammatically  
15 correct or not. I don't think it has a legal significance  
16 of changing it.

17 BOARD MEMBER CAHN: Yeah, but I've been  
18 told by a lot of folks these days are that "they" is now  
19 singular, and "their" is also singular. So it works for  
20 singular and plural in common usage now. So, I mean, I'll  
21 just leave it out there. Whatever you guys decide. I'm  
22 okay with his/her, but I think there would be people who  
23 would prefer to see it as "their." So if you can -- if we  
24 can accommodate them by using "their," that would be great.  
25 If we can't, we can't. So that's it for Section 19.

1 MS. BARKAU: We could say in making an  
2 evaluation --

3 MS. THOMPSON: That's a good point.

4 Lily had a point. We could say in making an  
5 evaluation, the administrator shall review monitoring and  
6 other test data.

7 BOARD MEMBER CAHN: I like that, Lily.

8 MS. BARKAU: That way we don't offend  
9 anyone.

10 MS. THOMPSON: Okay.

11 BOARD MEMBER CAHN: That's it for me. I  
12 have nothing in Section 20. Nothing in 21. Nothing in 22.

13 Okay. Line 5323, I think we're missing an "and"  
14 before update. So it would read prepare, maintain and  
15 update on the same schedule. Oh, maybe not, because we  
16 have "and comply." I must have read that wrong. Nope, I  
17 read that wrong. Nothing in the rest of that section.

18 Section 24, line 5451, I believe that the "it is"  
19 should be "they are," because we have zones now. Yeah,  
20 because we're referring now to zones, so it should be  
21 confining zones including a demonstration that they are  
22 free of transmissive faults.

23 MS. THOMPSON: Okay.

24 BOARD MEMBER CAHN: Next comment is on line  
25 5600. So in 5600, the State should be -- oh, we have "the

1 State." Okay. So it's capped is fine.

2 But then we have -- rather than maybe saying  
 3 "...to enable such State," we could say to enable them to  
 4 impose -- and just get rid of "such State and local and  
 5 Tribal authorities," because we have it above. And so  
 6 I'm -- if we could shorten the sentence, delete the second  
 7 "such State, local" -- actually comma -- oh, sorry. Delete  
 8 the second "such State, local, and Tribal authorities," and  
 9 replace it with then -- would be "Documentation of  
 10 appropriate notification and information to the State,  
 11 local and tribal authorities that have authority over  
 12 drilling activities to enable them to impose appropriate  
 13 conditions."

14 The next -- should I move on?

15 MS. THOMPSON: Kevin, do you have a  
 16 preference on that one, or -- we would take out this phrase  
 17 here and just say "them." And I think -- I don't see a  
 18 problem with that. I don't think it creates confusion, but  
 19 I'm not the -- I'm not the enforcer either, so...

20 BOARD MEMBER CAHN: I don't think it  
 21 creates confusion either. I just think like the language  
 22 with -- just having read the State, Local and Tribal  
 23 authorities, and then saying "such State" -- "such" is kind  
 24 of a little bit archaic too. But then just reading it  
 25 twice in the same sentence.

1 MR. FREDERICK: Yeah, I haven't got any  
2 problem.

3 MS. THOMPSON: Okay. All right. We'll go  
4 ahead with that. Okay.

5 BOARD MEMBER CAHN: And then this is just  
6 on 5637, I didn't check the clean version just to make sure  
7 that there's appropriate space after the end of Section 24  
8 and beginning of Section 25.

9 MS. THOMPSON: Okay.

10 BOARD MEMBER CAHN: On line -- just below  
11 that line 5643 -- and this is -- I think "endanger and  
12 threaten" needs to be endangers and threatens, because it  
13 refers to movement rather than formation fluids.

14 MR. FREDERICK: Where's this?

15 BOARD MEMBER CAHN: And we need the "that"  
16 that was struck out. "That" needs to go back into the  
17 sentence. So it would read describes actions to be taken  
18 to address movement of the injectate or formation fluids  
19 that endangers USW or threatens human health, safety, et  
20 cetera. But I could be wrong on that. It's confusing with  
21 having movement and then fluids. We could make it  
22 formation fluid.

23 MR. FREDERICK: I think I would recommend  
24 leaving it as it is, but, as you say, clean up the -- so is  
25 that in danger of USDW or threatens human health, safety,

1 or the environment.

2 BOARD MEMBER CAHN: Well, we can't have  
3 both endanger and threatens. So they either both have to  
4 be singular or both have to be plural, or else we're  
5 needing some commas.

6 MR. FREDERICK: So injectate or formation  
7 fluids -- so we're talking the plural here -- that  
8 endangers -- or should say that endanger --

9 BOARD MEMBER CAHN: Well --

10 MR. FREDERICK: -- USDW or threaten --

11 BOARD MEMBER CAHN: But you have movement.  
12 So if you take out injectate or formation fluids, it's  
13 saying to address movement of -- in order to address  
14 movement that endangers USDW or threatens. So it's -- we  
15 could --

16 MR. FREDERICK: No, I see what you're  
17 saying. Yep. You're right.

18 BOARD MEMBER CAHN: Okay.

19 MR. FREDERICK: Yep.

20 BOARD MEMBER CAHN: Sorry.

21 MR. FREDERICK: It should be singular.

22 MS. THOMPSON: Yep.

23 BOARD MEMBER CAHN: Sorry. It's confusing,  
24 but --

25 MR. FREDERICK: No, no, no. That's good.

1                   BOARD MEMBER CAHN: Unfortunately, I have  
2 an anal brain that sees these things.

3                   Should I move on?

4                   MS. THOMPSON: I wrote that one down.

5                   BOARD MEMBER CAHN: Okay. Line 5674. And  
6 I think the -- adding the S to indicate should not have  
7 been done, because data is a plural word. So if any  
8 monitoring data or other information indicate, so it  
9 shouldn't have been made into indicates.

10                  MS. THOMPSON: Okay.

11                  BOARD MEMBER CAHN: And then after you  
12 added any contaminant, comma, there needs to be a space  
13 before "the."

14                  Should I move on, or do you want to talk about  
15 that?

16                  MS. THOMPSON: I'm looking at  
17 "information," and that's the word that's getting me hung  
18 up on removing the S on indicates, because --

19                  BOARD MEMBER CAHN: Well, if you switch the  
20 order and said any information or monitoring data indicate,  
21 then it would still be "indicate." It doesn't matter where  
22 you put "information" in that sentence, because you have  
23 data as plural. We don't say if any monitoring datum,  
24 but --

25                  MS. THOMPSON: Right.

1 BOARD MEMBER CAHN: So I guess think about  
2 the word "data" in there.

3 MS. THOMPSON: Okay. I'll look at this one  
4 further.

5 BOARD MEMBER CAHN: Okay. That's it for me  
6 for this section.

7 MS. THOMPSON: Okay.

8 BOARD MEMBER CAHN: That's it for Section  
9 25. And by the way, I know I have lots of editorial  
10 comments, but I really think you guys have done a bang-up  
11 job because there was a lot of changes to a chapter, so  
12 you've really done a great job.

13 MR. FREDERICK: Thank you.

14 MS. THOMPSON: Thank you.

15 BOARD MEMBER CAHN: Okay. On line 5964 --  
16 and it was through change to replace "their" to "its." I  
17 don't think of owners and operators as "its." I think of  
18 them as "theirs." So I guess I would prefer not to have  
19 had that change made, unless you guys have some reason why  
20 its is appropriate.

21 MS. BARKAU: Where are we?

22 MS. THOMPSON: Line 5964. Right here.

23 BOARD MEMBER CAHN: What was that, Gina? I  
24 didn't catch that.

25 MS. THOMPSON: I'm sorry. I was restating

1 the line number.

2 BOARD MEMBER CAHN: Oh, 5954?

3 MS. THOMPSON: Yeah.

4 BOARD MEMBER CAHN: "The owner or operator  
5 shall provide any updated information related to" and it  
6 said "its financial responsibility instrument," but I think  
7 it should be "their." I don't think the change should have  
8 been made.

9 MR. FREDERICK: We'll defer to the attorney  
10 on this one.

11 MS. SHAW: I would say owner or operator  
12 are both singular. If we wanted to make it their, it  
13 should be the owners or operators. So I'm in favor of  
14 making it singular.

15 CHAIRMAN KIRKBRIDE: This is Alan. May I  
16 suggest it may -- owner/operator is a person.

17 MS. THOMPSON: Right.

18 CHAIRMAN KIRKBRIDE: But isn't it really  
19 the operating entity you're concerned with? And if it's an  
20 operating entity, then you'd want its.

21 BOARD MEMBER DEURLOO: Hi. This is Brian.  
22 Mr. Chairman, I don't believe that individuals really own  
23 these sequestration wells or own the leases or anything  
24 like that. They're usually in an entity's name, holding,  
25 LLC, corporation, what have you. So operator does sound



1 like a person we're referring to. Normally the owner/  
2 operator is going to be an entity. If that makes any  
3 difference for the semantics of the verbiage.

4 CHAIRMAN KIRKBRIDE: So operating entity  
5 instead of owner or operator, it seems like me, would apply  
6 well.

7 BOARD MEMBER CAHN: But I think if the  
8 use -- if their was used as it was originally, that works  
9 in the common -- in the modern usage of "they," "them,"  
10 "their" it can be singular. So it works for -- "their"  
11 works both for people and for entities or a person or an  
12 entity.

13 MS. THOMPSON: This might be thinking out  
14 loud. What if we adjusted the word order for that first  
15 clause and said "The owner or operator shall provide any  
16 updated financial responsibility instruments information"  
17 and take out "related to its." It's kind of clunky, but it  
18 would take that out.

19 BOARD MEMBER CAHN: That works for me.

20 MS. THOMPSON: Kelly, do you think that's a  
21 suitable change, or is that making the clarity go away?

22 MS. SHAW: My only concern -- so this is  
23 the financial responsibilities section. Is this -- has  
24 this been copied from the Land Quality and Solid and  
25 Hazardous Waste and other chapters where if we start

1 monkeying with the language, we're getting divergent  
2 provisions here? And I don't know off the top of my head.

3 MS. THOMPSON: I don't think so. I think  
4 this one was based on the federal, because it's -- this is  
5 their review. And in the -- the pieces that came in that  
6 were from Land Quality, those are like brand-new, the whole  
7 thing is new.

8 One option would be we could ask Kimber and -- we  
9 could ask the bonding staff if we made that adjustment or  
10 if we switched "its" back to "their," does that influence  
11 their thoughts.

12 BOARD MEMBER CAHN: I think you're onto  
13 something there, Gina, where we could say the owner or  
14 operator shall provide any updated information on financial  
15 responsibility -- or actually just relate it to -- just  
16 gets rid of theirs and its. Just say related to financial  
17 responsibility instruments. I don't even think their or  
18 its needs to be in that sentence.

19 MS. THOMPSON: Okay.

20 BOARD MEMBER CAHN: Then that makes it  
21 easy.

22 Okay. Line 6037.

23 MS. THOMPSON: Okay.

24 BOARD MEMBER CAHN: And the after --  
25 between "area, site," there needs to be a space.

1 MS. THOMPSON: Okay.

2 BOARD MEMBER CAHN: On line 6074, I'm not  
3 sure Federal agency -- since it's a federal agency, rather  
4 than any specific federal agency, I'm not sure that needs  
5 to be capitalized.

6 And actually back to line -- go back up to line  
7 6057 where we talk about State Government securities and  
8 United States government securities, I'll just have you  
9 make sure that State government should be capitalized  
10 there. I don't have an opinion on that, but it did kind of  
11 stick out at me, because we're not talking about -- I mean,  
12 I suppose we could have State governments that aren't  
13 Wyoming, if we have some entity that has securities in  
14 Wyoming and the Dakotas or something.

15 MS. THOMPSON: Right.

16 BOARD MEMBER CAHN: So I'll -- I mean, I  
17 don't feel strongly, just I'll put it out there for you  
18 guys to discuss.

19 MS. THOMPSON: Okay. Okay.

20 BOARD MEMBER CAHN: Line 6102. We have  
21 "certified by a certified public accountant." And I'm  
22 wondering if -- since a public accountant cannot -- has to  
23 be certified in order to certify, maybe we could get rid of  
24 the second certified.

25 MS. THOMPSON: That I'm not sure -- that

1 I'm not as comfortable with. We need it certified, and we  
2 need them need to be appropriate -- it needs to be done by  
3 appropriate person. The great part about when we talk  
4 about a similar process related to professional geologists  
5 and professional engineers, the words don't repeat. But  
6 this -- this is actually agency bonding language, and so I  
7 guess my concern with taking out certified is that it makes  
8 it possible for someone who's not a CPA to make a  
9 certification because we left out an important word.

10 BOARD MEMBER CAHN: Okay. Yeah, I'm not  
11 familiar enough with the certification that public  
12 accountants need, so I'll trust you on that and just --

13 MS. BARKAU: Capitalize that --

14 MS. THOMPSON: I can ask her.

15 BOARD MEMBER CAHN: Did you want to say  
16 something more on that?

17 MS. THOMPSON: Lily had a question on  
18 whether certified public accountant would need a  
19 capitalization. We'll look at what the style guide has to  
20 say on that.

21 BOARD MEMBER CAHN: I don't think it would,  
22 because it's not a specific person that you're talking  
23 about.

24 MS. THOMPSON: Okay.

25 BOARD MEMBER CAHN: But whatever your style

1 guide says is fine.

2 Next comment I have is line 6126. And we have a  
3 "his" for the Director. And I would prefer to see during  
4 this period the director or their designated  
5 representative.

6 MS. THOMPSON: I think -- I'm sorry to  
7 interrupt. I think that we changed this in -- this looks  
8 similar to language that we adopted recently for the -- the  
9 COWDF financial assurance. And I think I came up with an  
10 adjustment so that we weren't using "his." I don't -- I  
11 think actually what I put in there was the Director or the  
12 Director's designated representative.

13 BOARD MEMBER CAHN: Perfect.

14 MS. THOMPSON: Okay. So I'll note to look  
15 through there for those.

16 BOARD MEMBER CAHN: Okay. Next comment I  
17 have is line 6218. And we have "must shall" so I think you  
18 probably meant to remove "must."

19 MS. THOMPSON: Oh, I see what you're  
20 saying. Okay.

21 BOARD MEMBER CAHN: Then scroll down to  
22 6240. And shall is misspelled.

23 MS. THOMPSON: Oh, I'm blaming the cat on  
24 that one. She was watching me while I struck and  
25 underlined it. I've been waiting to blame her all day, so

1 I'll use it there. Okay.

2 BOARD MEMBER CAHN: Okay. And then that  
3 sentence is a really long sentence, starting in 6238 and  
4 going all the way down to 6245. So maybe we need to add  
5 semicolons where appropriate. So what I would suggest is  
6 on line 6242, after "institution" there could be a  
7 semicolon there. And then on 64 -- sorry, 6244, after  
8 letter of credit, there could be a semicolon there, or  
9 possibly in a list. But I don't -- I don't have a  
10 preference.

11 MS. THOMPSON: I think this might be a good  
12 candidate for a list, because it is -- it is kind of hard  
13 to follow. I think if we start making it a list where we,  
14 you know, shall be deemed to be without required financial  
15 assurance --

16 MR. FREDERICK: That would be a good idea.

17 MS. THOMPSON: Okay.

18 BOARD MEMBER CAHN: Yeah, I actually had to  
19 go to the clean version to read it.

20 MS. THOMPSON: And it's not hard, right? I  
21 mean --

22 BOARD MEMBER CAHN: I had a hard time  
23 following it, so...

24 MS. THOMPSON: Okay.

25 BOARD MEMBER CAHN: Okay. The next one is

1 on line 6279. For those whose stomachs are grumbling,  
2 we're getting close.

3 And I think that the "include" needs to be  
4 "includes" when you look at that list. So the list starts  
5 out the public liability insurance policy shall -- oh,  
6 nope. It maybe -- nope. Include is right.

7 MS. THOMPSON: I agree. I think that with  
8 the construction of paragraph B and A, those are "include"  
9 and "provide."

10 BOARD MEMBER CAHN: Yep. Yeah, I'm wrong  
11 there. You're right.

12 Okay. That's it for that section.

13 Section 27 -- I'm sorry, Section 27, line 63 --  
14 sorry, 6356, we have "Any Tribes," so, again, it's -- we're  
15 not talking about any particular tribe, so I just leave it  
16 up to you guys before that's -- I think your style guide  
17 would keep it capitalized, so just that's fine.

18 All right. The next question I have is on line  
19 6382. And the question is whether "or" is the correct word  
20 here. Is it -- do we just not need the "or" and it's of  
21 the facility or activities subject to regulation, or are we  
22 really talking about -- I'm not sure what the "or" is part  
23 of.

24 MS. SHAW: Sorry. Are we looking at line  
25 6385?

1 BOARD MEMBER CAHN: No. 6382.

2 MS. SHAW: 6382. Okay. I'm sorry. I was  
3 confused.

4 BOARD MEMBER CAHN: We'll come to 6385, but  
5 we're looking at 6382. It's the same question.

6 MS. THOMPSON: Yeah. And I'm looking at my  
7 notes, and that was the -- that's verbatim. I can't even  
8 blame the cat on that one, Kelly. That's the verbatim  
9 suggestion that I received. And it does seem that "or  
10 subject to regulation under this Chapter," it seems like  
11 we're missing a word or missing something.

12 BOARD MEMBER CAHN: Or maybe "or" shouldn't  
13 be there. I just -- I didn't understand what it meant.

14 MS. THOMPSON: I think if maybe we take out  
15 "or" and just say "activity subject to regulation," and  
16 then the next paragraph "draft permit subject to  
17 regulation." I think that makes sense.

18 BOARD MEMBER CAHN: Yeah.

19 MS. SHAW: So, Gina, I'm looking at --  
20 let's see. We're in Section -- are we in 27(c)(ii)?

21 MS. THOMPSON: Let's see. I think so.  
22 Yes, 27(c)(ii), and then (c)(iii) also.

23 MS. SHAW: Okay. So what I have for  
24 (c)(ii) -- and I don't know if this fixes (c)(iii) or not,  
25 but looks like somehow what got deleted is before or



1 subject to regulation, they're supposed to be regulated by  
2 the permit.

3 BOARD MEMBER CAHN: And that got struck.

4 MS. THOMPSON: Oh, okay. I see. It's  
5 highlighted in the notes, but it's not stricken. So I will  
6 restore that phrase, but then we still have the same  
7 problem in paragraph (iii) below.

8 MS. SHAW: That's what I was saying. It  
9 doesn't fix all our problems.

10 MS. THOMPSON: Okay.

11 BOARD MEMBER CAHN: So I have a suggestion  
12 on the one below, in (iii). I had we could add a comma  
13 between "application or," and then delete the or. So it  
14 would read A brief description of the business conducted at  
15 the facility or activity described in the permit  
16 application or, comma, a draft permit subject to regulation  
17 under this Chapter.

18 MS. SHAW: I know that the reason that we  
19 are seeing some of these weird constructions is that we are  
20 trying to accommodate for the unlikely situation where, for  
21 some reason, a facility does not have a permit, but it has  
22 posted financial assurance. That's -- it would be  
23 extremely weird, but we do want to ensure that if for some  
24 reason there's a permit problem with a facility, that  
25 these, you know, public notice and financial assurance

1 provisions still apply. So I don't know -- I don't know if  
2 that helps solve the problem, but just a little bit of  
3 background on why some of this weird language.

4 BOARD MEMBER CAHN: So are we talking about  
5 three things? A permit application, a draft permit, or  
6 something -- I don't know what's missing -- subject to  
7 regulation under this chapter? Anything subject to  
8 regulation under this chapter. So are we talking about  
9 three things?

10 MS. SHAW: Yeah. We're talking about a  
11 facility or activity that is either, one, described in the  
12 permit application; two, described in the draft permit; or,  
13 three, subject to regulation under this chapter. So we do  
14 have three things, yes.

15 BOARD MEMBER CAHN: Okay. So the described  
16 needs to be -- so if we put a semicolon after permit  
17 application or the draft permit, so then we're talking  
18 about described, it's those --

19 THE REPORTER: I think she froze.

20 MS. THOMPSON: Okay.

21 BOARD MEMBER CAHN: What's that? It looks  
22 like Kelly dropped off.

23 Kelly, can you repeat what you had just said.

24 THE REPORTER: Lorie froze for me. If she  
25 can finish what she said.

1                   BOARD MEMBER CAHN: Oh, it was me. What I  
2 had said was that the way Kelly described it, we would need  
3 the described in to also apply to the draft permit. So if  
4 we added a semicolon after the draft permit, it might work.  
5 So we would have a brief description -- description of the  
6 business conducted at the facility or activity described in  
7 the permit application or the draft permit, semicolon, or  
8 subject to regulation under this chapter, then that might  
9 work.

10                   MS. SHAW: I think I would prefer -- okay.  
11 Conducted at the facility or activity described in the  
12 permit application, comma, described in the draft permit,  
13 comma, or subject to regulation under this chapter.

14                   BOARD MEMBER CAHN: That's fine.

15                   MS. SHAW: Yeah. I think the semicolon  
16 creates -- semicolon splice the right word? But you  
17 have -- yeah, I think I prefer to keep it with the commas.

18                   BOARD MEMBER CAHN: Okay. That works for  
19 me. I think it definitely clarifies.

20                   Okay. My next -- are we ready to move on?

21                   MS. THOMPSON: I think so.

22                   BOARD MEMBER CAHN: Okay. 6448 line  
23 number. And I would just get rid of "the" in that  
24 sentence. It's just being unnecessary. So we would have  
25 "...a decision on the draft permit within 60 days after

1 completion of the public comment period." I don't think we  
2 need "the completion."

3           And then I'm on Section 28, but I have to wait  
4 for my other computer to -- we're on the last section, I  
5 think, almost. I got to scroll page by page to get to  
6 this -- maybe I can search for incorporation by reference  
7 and that will get me there.

8           Okay. So this is just a question about  
9 incorporating by reference, about whether or not these  
10 things that are referenced here. Is it possible -- might  
11 not even be legal to do it, but is it possible to ensure --  
12 insert a hyperlink so that people can easily find these  
13 references? Because I know the --

14           MS. THOMPSON: So two things. I can't put  
15 a hyperlink in because there are formatting requirements I  
16 have to adhere to for this rule to be compliant with the  
17 Secretary of State's standards. I can put a Web address in  
18 there. And I believe I learned yesterday -- our Attorneys  
19 General, the assistants, gave us a great rulemaking  
20 question yesterday. And one of the points was in using  
21 incorporation by reference, we are expected to provide the  
22 Web address if they're -- I think if there is one. And I  
23 believe that there is -- that these were available online.  
24 So that is something that we will need to revise to make  
25 sure that that piece is incorporated -- is included in that

1 incorporation stuff, yeah.

2 BOARD MEMBER CAHN: Great. Thank you.

3 That's wonderful. Because I know for me, like I didn't  
4 feel like I could do a full review -- proper review without  
5 looking at these things, so that would certainly make it  
6 easier.

7 And then next question I have is on -- starting  
8 on -- when we get to the Code of Federal Regulations, line  
9 6501. Is it possible to add more than -- like maybe insert  
10 the title so that somebody knows what part of the federal  
11 regulation is -- you know, 10 CFR Part 20, Appendix B,  
12 Table 2, column 2, or something to give some idea -- it's a  
13 minor point, but if it's possible to do that -- if it's not  
14 proper, that's fine. If it makes it too cumbersome, that's  
15 fine. If it's easy to do, that would be nice. But I don't  
16 feel strongly about it, so...

17 And then my last -- I think close -- almost my  
18 last comment is line 6504, the S from regulations is in the  
19 wrong spot.

20 MS. THOMPSON: I believe we fixed that for  
21 the -- in the revision with the green.

22 BOARD MEMBER CAHN: Okay. Great. And I  
23 think -- unless I have to switch to another file, I think  
24 that's it for me. And I appreciate everybody bearing with  
25 me. I know this is probably painful for a lot of you, but

1 it's important to me.

2 MR. FREDERICK: Good work, Lorie.

3 BOARD MEMBER CAHN: I just want to  
4 reemphasize that I really think you guys have done a great  
5 job on this. And I know it's been -- many of you guys  
6 really led the way for all the states in the nation, so  
7 really appreciate your hard work.

8 MR. FREDERICK: We do too, and all the  
9 effort the Board has put in helps makes the rules better  
10 for all of us in the long run. So we appreciate all your  
11 help with it.

12 BOARD MEMBER CAHN: Mr. Chairman, would you  
13 like to entertain a motion?

14 CHAIRMAN KIRKBRIDE: You know, I would.

15 BOARD MEMBER CAHN: I move that we  
16 recommend Chapter 24, as revised in this meeting, to go  
17 forward to EQC. I recommend that we -- we -- oh, it's  
18 going to be confusing with the new rules, that we don't  
19 approve anything. So I'm going to make sure that we  
20 recommend -- we recommend you go forward to EQC.

21 CHAIRMAN KIRKBRIDE: Do I hear a second?

22 Well --

23 BOARD MEMBER DEURLOO: I will second that  
24 motion.

25 CHAIRMAN KIRKBRIDE: Well, been moved and

1 seconded. Do we have any discussion about this motion?  
2 Hearing none, we'll proceed to vote. All in favor, say  
3 aye.

4 Aye.

5 BOARD MEMBER CAHN: Aye.

6 BOARD MEMBER COCHRAN: Aye.

7 BOARD MEMBER DICKSON: Aye.

8 BOARD MEMBER DEURLOO: Aye.

9 CHAIRMAN KIRKBRIDE: Opposed?

10 It carries.

11 So we would direct -- we would direct the -- Gina  
12 and Kevin to move forward.

13 MR. FREDERICK: Thank you, Mr. Chairman,  
14 Members of the Board. Appreciate it. And I look forward  
15 to next opportunity to review some further rulemaking with  
16 you next time we get together.

17 CHAIRMAN KIRKBRIDE: Okay.

18 MS. THOMPSON: Mr. Chairman, then the  
19 second to last item on the agenda is the scheduling and  
20 location of the next meeting. I believe that both  
21 ourselves, Water Quality Division and Solid and Hazardous  
22 Waste, are planning to bring rulemaking packages to the  
23 board. I would recommend that we do a similar virtual  
24 meeting again, because we'll still most likely be under  
25 health order restriction. And generally we hold those --

1 our meetings in the last month of the last -- of the -- the  
2 last month of the quarter, so we're looking at March. So  
3 if the Board would be amenable to that sort of a time  
4 frame, I can plan on sending a scheduling poll to all of  
5 you just after the first of the year to set up another  
6 virtual meeting for end of March.

7 CHAIRMAN KIRKBRIDE: Anybody have  
8 significant problem with that? Okay.

9 MS. THOMPSON: Okay. Well, we'll proceed  
10 with that. And then if someone -- if any of you have a  
11 schedule change, just let me know in the polling, and we'll  
12 get that worked out. Otherwise, we hope to see you  
13 virtually again in about three months.

14 And one item to note, I did mail to those board  
15 members who are not in Cheyenne today, we've sent you  
16 updated versions of the Environmental Quality Act. We had  
17 a publishing delay, but we do have them in. So you should  
18 be getting a very pretty orange booklet within the next 7  
19 to 10 business days. And if you have any questions on that  
20 or your dog eats yours, let me know and I'll send you a  
21 replacement, so...

22 CHAIRMAN KIRKBRIDE: Great two options  
23 there.

24 MS. THOMPSON: Yeah.

25 BOARD MEMBER DEURLOO: Just in time for



1 Christmas.

2 MS. THOMPSON: That's right. Merry  
3 Christmas to all of you.

4 CHAIRMAN KIRKBRIDE: Anything else to come  
5 before this meeting?

6 MS. THOMPSON: I have no items to discuss  
7 with you so the last item is to adjourn, unless one of you  
8 has something to discuss.

9 BOARD MEMBER CAHN: I have one more thing  
10 that I wanted to bring up, if that's okay.

11 CHAIRMAN KIRKBRIDE: Please do.

12 BOARD MEMBER CAHN: And that is I'd like to  
13 talk about getting the board minutes available for us. We  
14 discussed at the last meeting whether we should review and  
15 approve them. But my question is really more about having  
16 them available to us without having to specifically request  
17 them. Because I found it really helpful to go back and  
18 look at discussions that we had had at the last board  
19 meeting to refresh my memories, since we hadn't had one  
20 since May.

21 MS. THOMPSON: Right. I can't post them on  
22 line due to copyright issues. But we could put a work flow  
23 in process to where I automatically send them to you. Or  
24 if we think that that's not a great idea, you can ask me  
25 and I'll send them as soon as I get your request. So

1 it's -- it's up to you guys, but I can't post them online  
2 due to copyright issues.

3 BOARD MEMBER CAHN: Okay. I would just ask  
4 you to please include them in our board packets, just like  
5 send them to us. I don't need a hard copy, if we ever go  
6 back to hard copies, but being able to scroll through it is  
7 really helpful. So I would appreciate that.

8 And the other question I have related to this  
9 copyright issue is -- and maybe Kelly can answer this. But  
10 if -- if a member of the public wants to know, you know,  
11 because these are open meetings in the state, so if a  
12 member of the public wants to know what happened, what was  
13 discussed at a board meeting, could they -- would they have  
14 to then call and request a copy of them? Okay.

15 MS. THOMPSON: Yeah. And Environmental  
16 Quality Council, that's how they're handling that as well.  
17 If -- we make it available as part of the permanent record  
18 of the meeting and of the rulemaking, but we don't post it  
19 online. So if somebody wants that piece, we make it  
20 available to them, but we don't just put it out on the  
21 website anymore.

22 BOARD MEMBER CAHN: And so would the public  
23 notice for these meetings say meeting minutes available  
24 upon request so that somebody who didn't make the meeting  
25 but was interested in what was discussed, they would be

1 able to know that they had access to it?

2 MS. THOMPSON: I'm going to check to see  
3 how we talk about questions like that. I think -- so we  
4 have a statement where we want them to refer all questions  
5 and comments to either me or to email the Board a general  
6 email address, so I would expect that if somebody wanted  
7 that -- a specific transcript, that they would contact --  
8 they would follow those directions and either --

9 BOARD MEMBER CAHN: But they might not be  
10 aware that we have a court reporter, so if it's possible to  
11 say the transcript of the meeting, you know, after the  
12 meeting will be made available upon request, you know,  
13 something like that, just to make -- let people know that,  
14 you know, it's available. Just -- just that -- just in the  
15 interest of transparency.

16 MS. THOMPSON: Right. I'm just concerned I  
17 have to pay for those words. When we put it in -- when I  
18 do a notice, I have to pay for them. So I would say if it  
19 would be all right, that that -- that's a point that maybe  
20 we can discuss internally and come back to you, because  
21 I -- I know that we're reviewing how we handle public  
22 notices, and I know that I get to pay for every word and  
23 space. Not me personally, but on behalf of the State, I  
24 want to put in a good notice that doesn't cost us extra  
25 money in any way, but is also very clear on what we're

1 doing. So if I may, I'd like to just discuss that  
2 internally and come back to you with a suggestion to  
3 address that concern.

4 BOARD MEMBER CAHN: That sounds great.  
5 Thank you.

6 CHAIRMAN KIRKBRIDE: Is there anything  
7 else? Anyone else?

8 Well, now, I will declare this meeting adjourned.

9 MS. THOMPSON: Thank you, Mr. Chairman.

10 (Virtual public meeting proceedings  
11 concluded 12:49 p.m., December 16, 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 4th day of January, 2021.

  
KATHY J. KENDRICK  
Registered Professional Reporter

