

LQD Meeting

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BEFORE THE ENVIRONMENTAL QUALITY COUNCIL

STATE OF WYOMING

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IN RE: LQD MEETING  
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TRANSCRIPT OF TELEPHONIC MEETING PROCEEDINGS

PURSUANT TO NOTICE duly given to all parties  
in interest, this matter came on for telephonic meeting on  
the 27th day of June, 2019, at the hour of 9:05 a.m., at  
200 W. 17th Street, Conference Room 211, Cheyenne,  
Wyoming, before the Land Quality Advisory Board, Chairman  
Jim Gampetro, presiding, with Ms. Natalia Macker,  
Mr. John Hines all present telephonically.

Mr. Craig Hults, Senior Environmental Analyst,  
Ms. Muthu Kuchanur, LQD Program Manager, were also  
present.

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

2 (Meeting proceedings commenced

3 9:05 a.m., June 27, 2019.)

4 CHAIRMAN GAMPETRO: I guess there's no need  
5 for introductions. We know who's here now.

6 Is there anybody else there that you want to  
7 introduce, Craig?

8 MR. HULTS: Yeah. Here we have Kathy, our  
9 court reporter, and then Muthu Kuchanur.

10 CHAIRMAN GAMPETRO: Welcome to everybody.

11 I think the first item for this agenda is  
12 approval of the minutes from March 21st meeting. Do we  
13 have a motion?

14 BOARD MEMBER HINES: I move approval.

15 BOARD MEMBER MACKER: Second.

16 CHAIRMAN GAMPETRO: All those in favor  
17 signify by saying aye.

18 BOARD MEMBER HINES: Aye.

19 BOARD MEMBER MACKER: Aye.

20 CHAIRMAN GAMPETRO: Any opposed?

21 Obviously not. Minutes from March 21 are  
22 approved.

23 Okay. Craig, you're on. Noncoal Chapter 11  
24 (In Situ Mining).

25 MR. HULTS: Yes.

1                   CHAIRMAN GAMPETRO: We need to vote on this  
2 when we're all done.

3                   MR. HULTS: Yes. I will ask for a vote on  
4 that.

5                   Just to give you a little background on this. We  
6 last revised this, and it was filed with the Secretary of  
7 State's in November of 2018. When we received the  
8 Legislative Service Office review, they had some minor  
9 comments, basically editorial that they thought would clean  
10 up the rules a little bit. Fairly nonsubstantive. That's  
11 one of the things we're trying to address today.

12                   And then the second one was an error on my part,  
13 actually, when I created the file for the Secretary of  
14 State's database, I inadvertently deleted a sentence, and  
15 that was what got filed with the Secretary of State and  
16 would be visually available to everybody. So we're also  
17 trying to reinsert that sentence that we had struck. That  
18 sentence was actually presented to the EQC in our files.  
19 So that was the way they saw it, but I just thought it was  
20 a big enough issue that we should probably run it through  
21 the Board and just check all our boxes.

22                   So I'll jump into the changes. And I'm going to  
23 kind of just go through these pretty quick. The first  
24 change that we had proposed was in Section 8 and this was  
25 the sentence that was inadvertently deleted. The reason

1 being we created a second file for presentation to the EQC  
2 that had strike and underline -- and underline in the same  
3 paragraph. And so when I went to create the final file, I  
4 chose -- I had a 50-50 chance and chose the wrong way. So  
5 I deleted the sentence instead of keeping it as underlined  
6 text. And the sentence, it just reads "Except for all new  
7 wells authorized by an area permit under Subsection 2(e) of  
8 this Chapter, the operator may not commence injection in a  
9 new well until:" So it's a fairly important sentence  
10 because there's a list of items that follow that. So that  
11 was the first change we were proposing.

12 In Section 9, we are adding the word "any" to  
13 Section (a)(iv). Again, that was just a typo that was  
14 noticed.

15 The rest of these changes are changes that the  
16 LSO had commented on. In Section 13, we added -- we had a  
17 statutory reference that just noted it was Section  
18 429(a)(iv). We didn't have the rest of the statutory  
19 citation there, so we've added that. So now it reads  
20 35-11-429(a)(iv).

21 Similarly, in Section 19 we added a clarifier.  
22 We had a reference to that same statute, but (a), more  
23 specifically it should be (a)(i). And the same thing in  
24 (ii). So those were the two corrections in Section 19.

25 Similarly, in Section 23, we had another instance

1 where we didn't include the full statutory citation, so  
2 we're adding 35-11-110(b). And I believe that was all of  
3 them, actually. Yeah.

4 So it's fairly straightforward.

5 CHAIRMAN GAMPETRO: Does anyone require any  
6 clarification on any of this from Craig?

7 Okay. Go ahead. I'm sorry. Craig.

8 MR. HULTS: That's quite all right, Jim.

9 So, yeah, the reason we were going this route  
10 again was just to kind of check our boxes. We do possibly  
11 have the ability to run this through the Attorney General's  
12 Office, as a nonsubstantive change, which wouldn't involve  
13 formal rulemaking. We haven't ever done that in the past.  
14 The one question I have is Section 8, by adding that new  
15 sentence, what will need to happen is the Attorney General  
16 would certify that these changes are basically  
17 nonsubstantive and then we wouldn't have to go through the  
18 EQC. But at this point, just erring on the side of  
19 caution, if that isn't available to us -- excuse me -- why  
20 we brought this through the advisory board, just so we  
21 could check that box. And if we do need to go to the EQC,  
22 we would have your blessing at that point.

23 CHAIRMAN GAMPETRO: So would anyone like to  
24 propose a motion here on how to proceed?

25 BOARD MEMBER HINES: You need the motion to

1 submit it to the AG or --

2 MR. HULTS: You wouldn't need it for that.  
3 What I would be looking for is a motion recommending that  
4 it would proceed to the Environmental Quality Council for  
5 formal rulemaking. In the event -- and I don't think this  
6 has to be part of the motion, but that would just be in the  
7 event that I can't get it through the AG.

8 BOARD MEMBER HINES: Yeah.

9 CHAIRMAN GAMPETRO: Then you're covered on  
10 the -- on the Land Quality Advisory Board recommendation.

11 MR. HULTS: Yeah. Exactly.

12 BOARD MEMBER HINES: Okay. I would so move  
13 and have you write the words up properly, rather than me  
14 trying to state them.

15 MR. HULTS: And, John, basically -- excuse  
16 me. John, basically we would just be looking for a  
17 recommendation that it proceeds to the Environmental  
18 Quality Council for formal rulemaking.

19 BOARD MEMBER HINES: Okay.

20 CHAIRMAN GAMPETRO: So moved, John?

21 BOARD MEMBER HINES: So moved.

22 BOARD MEMBER MACKER: Second.

23 CHAIRMAN GAMPETRO: All those in favor,  
24 please signify by saying aye.

25 BOARD MEMBER MACKER: Aye.

1 BOARD MEMBER HINES: Aye.

2 CHAIRMAN GAMPETRO: Any opposed?

3 The recommendation passes.

4 BOARD MEMBER HINES: Question. We have  
5 five board members. Is there anything anywhere that says  
6 we have to have a majority?

7 MR. HULTS: There is.

8 CHAIRMAN GAMPETRO: We have --

9 MR. HULTS: And we have the quorum with the  
10 three of you there.

11 BOARD MEMBER HINES: Oh, okay. I was  
12 thinking there was just two. But there's one other that I  
13 missed. Okay.

14 CHAIRMAN GAMPETRO: Yeah, with three out of  
15 five is all we need.

16 BOARD MEMBER HINES: Majority. Yeah.  
17 Okay.

18 CHAIRMAN GAMPETRO: Can we move on to the  
19 Noncoal Chapter 10 Limiting Mining Operations For 15 Acres  
20 Or Less of Affected Land?

21 You were going to give us an update on that,  
22 Craig.

23 MR. HULTS: Yes, Jim.

24 This chapter, Chapter 10, was the one that you  
25 just saw in March. We had since moved to seeking the

1 Attorney General's review for statutory authority to make  
2 the changes. And that's one of the first steps in going  
3 forward to the EQC. We have a new AG, and part of the new  
4 administration onboard now. The reviews for statutory  
5 authority in the past were fairly routine. And I can't  
6 remember any instances, since I've started here, where we  
7 didn't have the authority to make the rule changes. The  
8 new reviews are a little bit more in-depth, and they're not  
9 just looking at our changes that we've proposed. When we  
10 submit a chapter, they're looking at the chapter in its  
11 entirety. And so we've just gone through that process with  
12 the Attorney General's Office.

13 We have a new representative for the Land Quality  
14 Division. His name is Matt VanWormer. We've been working  
15 with him. And in reviewing the chapter, there were some  
16 pretty big changes that we weren't anticipating and didn't  
17 propose to change initially when you saw it in March.

18 Based on that review, a recommendation was that  
19 we'd bring it back through the advisory board, because a  
20 lot of the changes that were mentioned weren't proposed,  
21 and the public hasn't had a chance to weigh in on them. So  
22 that we'll be bringing back to you at the next meeting,  
23 which will be August 22nd, with some additional revisions  
24 based on the Attorney General's comments.

25 CHAIRMAN GAMPETRO: That's it?



1 MR. HULTS: That's it.

2 CHAIRMAN GAMPETRO: Are you -- the August  
3 meeting, are you seeing this as being one where we come  
4 down there or is this another telephone meeting or you  
5 don't know yet?

6 MR. HULTS: I don't specifically know. I  
7 would probably recommend to Kyle that we try and meet in  
8 Casper, just taking advantage of some of the better weather  
9 and getting everybody together again.

10 CHAIRMAN GAMPETRO: Okay. Forewarned.

11 Other items for discussion. You had indicated  
12 that you might want to start talking about who might be  
13 re-upping this next time. Now, Phil isn't there, right?  
14 But he isn't up. So Micky's up, right?

15 MR. HULTS: Micky is -- and that's based on  
16 the fact that he was our political subdivision  
17 representative. So that one is a vacant position at this  
18 time. I just recently spoke to the governor's office and  
19 their Office of the Advisory Boards and Commissions --  
20 again, with the new administration, we're having some  
21 turnover, so he gave them a little bit of time to kind of  
22 get their feet on the ground.

23 When you spoke to them, one of the things I had  
24 found out is we have -- Natalia and John, your terms are  
25 expiring on September 30th of this year. And I confirmed

1 you hadn't submitted any application for reappointment?

2 BOARD MEMBER MACKER: So I have an  
3 application in the governor's office that I -- that is --  
4 applies to multiple boards. I don't know if this one was  
5 listed because I think I put it in before I realized mine  
6 was up at the end of this year, because I did it end of  
7 last year. But I can certainly add to it.

8 MR. HULTS: That would be great, Natalia.

9 BOARD MEMBER MACKER: It'd also be great if  
10 somebody else out in the universe, but I know I fill a  
11 specific spot on the board also.

12 MR. HULTS: Absolutely. And I'll check  
13 with them. It may be that they just didn't have that  
14 application isolated to the Land Quality Division, if you'd  
15 applied to multiple ones.

16 BOARD MEMBER MACKER: Yeah.

17 MR. HULTS: So I just may not have seen it.

18 And then, John, what was your intention?

19 BOARD MEMBER HINES: I hadn't thought that  
20 far ahead. I can -- I'm going to be in Cheyenne, so I  
21 guess I can stop in the governor's office and -- I've been  
22 wanting to see if they had other applications, and, two, to  
23 pick up an application. And I'll be there around the 9th  
24 and 10th of July for other things going on.

25 MR. HULTS: Okay. And, John, what I can do

1 is I can mail you the application form, if you'd like. And  
2 then you can have it ready, if you so desire, when you come  
3 down on the 10th.

4 BOARD MEMBER HINES: Okay. That would be  
5 fine.

6 MR. HULTS: And then if anybody has  
7 recommendations for anybody -- for that political  
8 subdivision representative, feel free to let Kyle or I  
9 know.

10 BOARD MEMBER HINES: And they can be  
11 anywhere in the state of Wyoming?

12 MR. HULTS: That's correct, yeah.

13 BOARD MEMBER HINES: Yeah. Either city  
14 council or a county commissioner?

15 MR. HULTS: Yes.

16 BOARD MEMBER HINES: Okay. Thank you.

17 CHAIRMAN GAMPETRO: So I'm very happy to  
18 hear that Natalia, you would -- you're interested, and  
19 that, John, you're interested.

20 Anything beyond city council, county  
21 commissioner, I assume a mayor or somebody else like that  
22 would also qualify. Anything else, Craig?

23 MR. HULTS: That would be my understanding.  
24 I don't have a real good feel for that. I've never really  
25 kind of looked into where they draw the line. I could put

1 that information together for you and get that out to the  
2 board members.

3 BOARD MEMBER HINES: I might have you  
4 check. It could be -- a political subdivision could be  
5 anyone that's listed in statutes and have elected board  
6 member. But I'm just --

7 CHAIRMAN GAMPETRO: Good point. Good  
8 point, John. Treasurer, clerks of court.

9 BOARD MEMBER HINES: You know, I don't have  
10 any -- there's quite a few of them. You know, like one  
11 thing that comes to my mind is conservation districts and,  
12 I guess, school boards. Anything. I don't know whether  
13 that qualifies or not. Like school boards, hospital  
14 boards, they're nonpolitical, so I don't know if that  
15 would --

16 CHAIRMAN GAMPETRO: Yeah, you can --

17 BOARD MEMBER HINES: -- include them or  
18 not.

19 CHAIRMAN GAMPETRO: Craig, if you could put  
20 us a list together, that would be helpful.

21 MR. HULTS: Yeah. I think that's a great  
22 idea, and excellent question, actually.

23 CHAIRMAN GAMPETRO: Anything more on that?

24 MR. HULTS: No, not at this point. I guess  
25 kind of related to it, the plan was hopefully we'll get

1 some of these applications processed, and the intent was  
2 that after the August 22nd meeting, hopefully we have the  
3 full board again. And just to satisfy our statutory  
4 responsibilities, we'll need to elect officers for this  
5 year yet. So we would do that in our fourth quarter  
6 meeting.

7 CHAIRMAN GAMPETRO: Sounds good. Any other  
8 items for discussion?

9 MR. HULTS: Not today. That covers our  
10 fairly short agenda at this time.

11 CHAIRMAN GAMPETRO: Natalia, anything you'd  
12 like to bring up?

13 BOARD MEMBER MACKER: I appreciate that. I  
14 don't think so.

15 CHAIRMAN GAMPETRO: John, how about you?

16 BOARD MEMBER HINES: No. I don't believe.

17 CHAIRMAN GAMPETRO: Okay. Then we would  
18 entertain a motion to cease meeting.

19 BOARD MEMBER MACKER: Sorry. The only  
20 thought that just popped into my head -- and I don't know  
21 that this is really necessary because I know there were  
22 some -- there was at least one county commissioner from  
23 Campbell County that put in an application, who I think  
24 would be a great person to fill that political subdivision  
25 piece. I could also fill that piece, but then we would

1 need someone else with a political party affiliation. I'm  
2 assuming one person can't fill both roles. But I just put  
3 that out there.

4 MR. HULTS: And, Natalia, you are actually  
5 under our public at large representative right now, so  
6 yeah.

7 BOARD MEMBER MACKER: And I didn't know if  
8 when the statute changed, if there's no longer the  
9 political requirements?

10 MR. HULTS: That still applies as well. So  
11 we need -- there has to be a diversity. I think the way  
12 it's listed right now is we are two, two and one. So  
13 that's two Republicans, two Democrats, and an independent  
14 right now, I think.

15 BOARD MEMBER MACKER: Okay.

16 CHAIRMAN GAMPETRO: So what political  
17 subdivision -- what party do we have to look for?

18 MR. HULTS: I will have to confirm that.  
19 But let's see, it's Micky right now. And I'm not actually  
20 sure which -- where he was on that spectrum.

21 BOARD MEMBER MACKER: He's a Republican.

22 CHAIRMAN GAMPETRO: When you put this  
23 together, you might indicate what party for sure that we  
24 need to be looking in.

25 MR. HULTS: Yeah. Absolutely that's

1 another great idea.

2 CHAIRMAN GAMPETRO: Anything else?

3 BOARD MEMBER MACKER: Sorry. I didn't mean  
4 to put that hiccup in. But I would move to adjourn.

5 BOARD MEMBER HINES: Second.

6 CHAIRMAN GAMPETRO: So it's been moved and  
7 seconded to adjourn. All those in favor, signify by saying  
8 aye.

9 BOARD MEMBER MACKER: Aye.

10 BOARD MEMBER HINES: Aye.

11 CHAIRMAN GAMPETRO: Any opposed?

12 The meeting, therefore, is adjourned.

13 (Meeting proceedings concluded

14 9:28 a.m., June 27, 2019.)

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C E R T I F I C A T E

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

Dated this 10th day of July, 2019.

  
KATHY J. KENDRICK  
Registered Professional Reporter

