

LQD Meeting

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BEFORE THE LAND QUALITY ADVISORY BOARD
STATE OF WYOMING

IN RE: LQD MEETING

TRANSCRIPT OF MEETING PROCEEDINGS

PURSUANT TO NOTICE duly given to all parties
in interest, this matter came on for meeting
on the 23rd day of June, 2022, at the hour of 10:00 a.m.,
at 200 West 17th Street, Conference Room 211, Cheyenne,
Wyoming, before the Land Quality Advisory Board,
Chairman Jim Gampetro presiding, with Mr. Gene Legerski,
Ms. Natalia Macker, Ms. Dawn Kolkman, advisory board
members, and Mr. Carl Edelman, Wyoming Attorney General's
Office, all present by videoconference.

David DeWald, Wyoming Attorney General's Office,
present by videoconference. Mr. Kyle Wendtland, Land
Quality Administrator; Mr. Craig Hults, LQD Natural
Resource Program Principal; Mr. Muthu Kuchanur, LQD
Program Manager; Ms. Suzanne Engels, SHWD Administrator;
Ms. Jody Weikart, Solid Waste Program Manager; and
Ms. Claire Lake, LQD Summer Intern, attending in person.

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A P P E A R A N C E S

Also Present:

MR. TRAVIS DETI
MS. KATRINA ABBOTT
MS. JAMIE TORSKE
MS. ALLIE LETCHER
MR. JUSTIN WRIGHT
MS. PAT JOYCE
MS. WENDY LOW
MS. KRISTINA BARDEN
(By videoconference)

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

2 (Videoconference meeting commenced
3 10:00 a.m., June 23, 2022.)

4 CHAIRMAN GAMPETRO: Let's declare the
5 meeting open, and we'll get going here.

6 My name is Jim Gampetro. I'm chairman of the
7 Board, and I'm a public representative from Buffalo,
8 Wyoming.

9 So go ahead -- Gene, why don't you go ahead.

10 BOARD MEMBER LEGERSKI: I'm Gene Legerski,
11 and I'm a political subdivision representative from
12 southwest Wyoming.

13 CHAIRMAN GAMPETRO: And Dawn.

14 BOARD MEMBER KOLKMAN: Good morning. Yes,
15 I'm Dawn Kolkman, and I am the industry representative, and
16 I am located in Douglas, Wyoming.

17 CHAIRMAN GAMPETRO: Well, thank you. Thank
18 you all for attending. Let's get it started.

19 As the others come in, we can break in and they
20 can introduce themselves.

21 I'm going to turn it over to whoever is going
22 to -- I think it's -- who's reading the list?

23 MR. WENDTLAND: Craig will read the list
24 for you, Jim, today.

25 CHAIRMAN GAMPETRO: Craig, go ahead.

1 MR. HULTS: Thank you, Mr. Chairman. Here
2 in Cheyenne, I'll just go around the table and let
3 everybody introduce themselves.

4 I'm Craig Hults. I'm with the Land Quality
5 Division.

6 MR. WENDTLAND: Kyle Wendtland, the Land
7 Quality Administrator.

8 MS. LAKE: Claire Lake, summer intern with
9 Land Quality.

10 MS. WEIKART: Jody Weikart, Solid Waste
11 Program Manager, Solid & Hazardous Waste Division.

12 MR. KUCHANUR: Muthu Kuchanur, program
13 manager, Land Quality Division.

14 MS. ENGELS: Suzanne Engels. I'm the
15 administrator for the Solid & Hazardous Waste Division.

16 MR. HULTS: And then we do have some other
17 people on the line. I'm just going to call you out, and if
18 you could introduce yourself and say who you're
19 representing, that would be great.

20 We've got Allie Letcher.

21 MS. LETCHER: Yes. Allie Letcher. I'm
22 from Arch Resources.

23 MR. HULTS: And then David DeWald.

24 MR. DEWALD: Morning. David DeWald,
25 Wyoming Attorney General's Office. I represent DEQ, SHWD

1 and Land Quality.

2 MR. HULTS: And Jamie Torske.

3 MS. TORSKE: Jamie Torske also with Arch
4 Resources.

5 MR. HULTS: And Justin Wright. I think
6 you're muted.

7 CHAIRMAN GAMPETRO: I was going to say he
8 might be muted.

9 MR. HULTS: Well, he's also on the line.
10 Katrina Abbott.

11 CHAIRMAN GAMPETRO: If we can't hear them,
12 Craig, why don't you just tell us who they're with.

13 MR. HULTS: I don't always know that,
14 actually.

15 CHAIRMAN GAMPETRO: Okay.

16 MR. HULTS: I do see Natalia's on the line
17 now.

18 BOARD MEMBER DUNCAN: Good morning.

19 CHAIRMAN GAMPETRO: Good morning, Natalia.
20 Could you please introduce yourself.

21 BOARD MEMBER MACKER: Board member at
22 large, and I live in Teton County.

23 MR. HULTS: Then we have Pat Joyce.

24 MR. WENDTLAND: I do know Pat is with the
25 Wyoming Mining Association.

1 MR. HULTS: And Travis Deti.

2 MR. DETI: Good morning, Mr. Chairman,
3 Members of the Board. Travis Deti with the Wyoming Mining
4 Association out of Cheyenne, in Gillette today. So thank
5 you for having this remote option.

6 MR. HULTS: And then finally Wendy Low.

7 MS. LOW: Wendy Low, with Peabody Energy,
8 Cheyenne.

9 MR. HULTS: That is our list of attendees
10 right now, Mr. Chairman.

11 CHAIRMAN GAMPETRO: Could we do the
12 approval of the minutes from the March 22, 2022, meeting
13 and get that out of the way?

14 I would accept a proposal for that.

15 BOARD MEMBER LEGERSKI: Mr. Chairman.

16 CHAIRMAN GAMPETRO: Yes. Go ahead.

17 BOARD MEMBER LEGERSKI: I make a motion to
18 approve the meeting minutes from the March 2020 --
19 March 22, 2022, meeting minutes.

20 CHAIRMAN GAMPETRO: Is there a second?

21 BOARD MEMBER KOLKMAN: This is Dawn,
22 Mr. Chairman, and I would second that motion.

23 CHAIRMAN GAMPETRO: Thank you.

24 All those in approval, please indicate by saying
25 aye.

1 BOARD MEMBER MACKER: Aye.

2 BOARD MEMBER LEGERSKI: Aye.

3 BOARD MEMBER KOLKMAN: Aye.

4 CHAIRMAN GAMPETRO: Any opposed?

5 The meeting minutes from March 22nd are approved.

6 Now, Kyle, are you or the other guy there --

7 what's his name?

8 MR. WENDTLAND: Craig.

9 CHAIRMAN GAMPETRO: Craig. Craig. Are
10 you -- are you guys -- who's going to start the
11 presentation off here?

12 MR. WENDTLAND: Mr. Chairman, I'll go ahead
13 and get us started today. Craig and I will be jointly
14 presenting, as we normally do on these items.

15 For a little background on the Board. First
16 thing today is is we are scoping these rules today. We're
17 not going to be asking for a vote or a decision. This is
18 our first draft, and much like we've done with the bonding
19 rules and some of the other rules that we brought to the
20 Board that are a little more complicated in nature, we've
21 taken this approach scoping the rules to get feedback from
22 the Board, feedback from industry, and feedback from the
23 public on the drafts in order to -- and also feedback from
24 our sister agencies in order to make sure that we're
25 addressing maybe the best rule package we're putting

1 together that we possibly can.

2 So I would just note to everybody that today is a
3 first shot at these, and we are looking for feedback. That
4 is what we're after today. So, again, we're not going to
5 be asking for a vote, but it should also be informative to
6 the Board, and maybe provide a little bit of background on
7 these rules and why we are where we are with them.

8 With that said, the second thing is is the
9 legislature, in the last session here, in the 2022 session
10 passed a couple of bills. The first one is on the inert
11 materials bill, is what it was called. And looking to
12 replace inert materials potentially in backfill -- as
13 backfill in mine operations.

14 The principal reason this was brought forward or
15 the initial ask was around chipping tires. We have an
16 operator in the state that's looking at being able to go in
17 and where we have equipment yards -- and I think most
18 people have seen some of these locations around the state
19 where we have a tire pile, basically -- and being able to
20 go in and chip those tires and then be able to dispose of
21 them as a part of the backfill in a suitable site. There's
22 actually some upside to this, we're handling those
23 materials properly, eliminating the mosquito habitat that
24 comes with tires, those type of things that are sitting.
25 There is some potentially good things here in the way to

1 handle these things around the state.

2 So the rules we're crafting are based around the
3 legislation that created this inert materials option. So
4 we'll be addressing that one first. And then the second
5 rule package is on the assigned trust. And for those, and
6 a little background that may not know, Wyoming passed
7 legislation in this session as well to create what's called
8 a -- an assigned trust or essentially a cash option bond
9 that is held by the State for the benefit of the Department
10 to give a different bonding instrument -- instrument option
11 to industry.

12 And with that, maybe the way to think about this
13 is is think of like cutting a pie, where each permit has an
14 option to create an assigned trust. So you -- whatever
15 money you put in is your sliver of pie, but you also get
16 the power of investing that money in the larger, broader
17 whole pie. And it's managed and run by the state treasurer
18 to be in place and then comes out as you complete the
19 reclamation. That's kind of a really broad overview.
20 We'll get a little more detail on that as we go through the
21 legislation and the draft rules.

22 But that is the impetus for the creation of the
23 rules that came out of that legislation. So with that,
24 Craig, if you want to walk through the legislation on each
25 of those and then we'll start on the assigned trust. The

1 last thing I would say is on the -- or, excuse me, start on
2 the inert materials. The last thing I would say on the
3 assigned trust is there is a Noncoal version and a Coal
4 version. We will address the Noncoal version first because
5 it is a little more complex and we'll get into the detail
6 of that, but the Coal version is a little -- it's basically
7 the same set of rules, but there's one component of it
8 that's a little more straightforward. So as far as
9 addressing these, we'll do inert materials, Noncoal
10 assigned trust, and then assigned trust for Coal.

11 CHAIRMAN GAMPETRO: This is Jim. Just to
12 keep a little order here. Let's go through the first bill.
13 01 -- House Bill 0123, and then any questions or comments
14 at the end of that, and then we'll do the second one the
15 same way, House Bill 0045, any questions or comments after
16 we've gone through that one. Does that sound reasonable?

17 MR. WENDTLAND: You bet. You bet,
18 Mr. Chairman. And I do think too, when we're working
19 through the draft rules, I would also ask let us walk
20 through the rule, let us walk through the comments we've
21 received to date from the public posting and give you some
22 of those answers, and then I would ask for additional
23 comment.

24 CHAIRMAN GAMPETRO: Okey-doke. Let's go.

25 MR. WENDTLAND: All right. Mr. Chairman,

1 I'm turning it over to Craig, and it's your show.

2 MR. HULTS: Mr. Chairman, Board Members.

3 The first topic we're talking about is the inert materials
4 bill. This was passed during the 2020 legis -- 2022
5 legislative session. And, basically, it comes down to
6 three elements that we were given, that when drafting rules
7 we had to look at. And the three elements are we have a
8 minimum depth of burial below the surface for the inert
9 materials and above the aquifer.

10 And then, second, our rules need to address
11 that -- the fact that we can consult standards from the
12 solid waste management facilities rules from the Solid and
13 Hazardous Waste Division, and we can incorporate those
14 standards into our rule.

15 And then third, this speaks to the fees that are
16 generated by the operators for allowing -- or using the
17 materials as backfill. Any of those fees that they
18 generate, 10 percent of that has to be remitted to the
19 department. And those fees would then be credited to the
20 general fund. So there's not a whole lot that was defined
21 for us here.

22 MR. WENDTLAND: And with that, Craig's
23 going to just go ahead and ask if there's any questions on
24 that kind of brief summary.

25 Hearing none, Mr. Chairman, we'll go ahead and go

1 over the assigned trust bill legislation as well.

2 MR. HULTS: The assigned trust bill.

3 Mr. Chairman, Board Members, this was House Bill 45.

4 Again, it was passed during the 2022 legislative session.

5 This one did provide quite a bit of direction and elements

6 that we had to include in our rules. And the first one

7 being is that this only applies to four different minerals

8 or operations. And that's coal, bentonite, trona, and

9 uranium.

10 And the second element is participation in the

11 assigned trust program is strictly voluntary.

12 Third, the amount necessary for reclamation and

13 the amount of the assigned trust is going to be recommended

14 by the administrator and determined by the director. And

15 the way that works in our day-to-day, that would be a

16 director's bond letter that we issue annually.

17 The fourth element is regarding the payment plan.

18 And this will require -- the enabling legislation requires

19 us to provide a copy of that director's bond letter to the

20 treasurer's office annually, and it must include a cost

21 estimate and a mine and rec plan life of mine, just how

22 long that's going to take and how long they'll be in

23 operation and reclamation.

24 And then also when funding the payment plan or

25 creating the payment plan, at -- the operators must provide

1 at least 1 percent annually of that required reclamation
2 bond.

3 And then, finally, it requires -- while they're
4 funding this assigned trust, it would require other
5 acceptable bonding interest -- instruments to make up the
6 difference for the total reclamation cost until they're
7 fully funded.

8 And then the fifth element, this relates -- this
9 is a spot where there's a split between the Coal and
10 Noncoal programs. For Coal, the investment options for the
11 treasurer, he will be limited to protecting a hundred
12 percent of the corpus that's deposited there, and that's
13 because of the requirements in the CFR from the Office of
14 Surface Mining.

15 In the Noncoal realm, here the treasurer just has
16 to -- or is required to get the highest net return while
17 keeping in mind the preservation of the corpus. And it
18 also allows for administrative fees to be charged as part
19 of that.

20 And the sixth element of the assigned trust
21 legislation is that funds can't be withdrawn in the first
22 year. So that would be even if there was a forfeiture, the
23 department wouldn't be able to touch them, and the
24 operator, if it was fully funded in the first year, still
25 would not be able to touch those funds that were deposited.

1 MR. WENDTLAND: Craig. On that point,
2 Mr. Chairman, I would just add that the treasurer, if he
3 makes those investments, if you draw them prior to the
4 year, there could be penalties and fees associated with
5 them. So that timeline was really set out and laid out by
6 the treasurer in order to prevent that from happening.

7 MR. HULTS: Thank you, Mr. Wendtland.

8 For the seventh element, this is funds are only
9 available for reclamation. These are the funds that are
10 deposited in the assigned trust in the event of forfeiture,
11 and there's no release until bond release.

12 The eighth element is that the trust funds will
13 be released last. If they have a combination of different
14 bonding instruments, the trust funds would be the last to
15 go.

16 Nine, the funds are not to be withdrawn until
17 released by the director. And that would be through our
18 bond release statute.

19 The tenth element is withdrawal -- we need to
20 include provisions for if the funds in the assigned trust
21 exceed the bond estimate, we have to provide a mechanism
22 for the operator to withdraw those.

23 And number eleven, we have to provide a procedure
24 for a transfer process of the assigned trust. This would
25 occur during a permit transfer or a license transfer.

1 And then, finally, in the enabling legislation,
2 if there's federal lands involved and the assigned trust is
3 being or attempting to be used for those federal lands, we
4 would require approval from the federal agency involved.

5 And those are the twelve elements that need to be
6 included in the rules at a minimum.

7 MR. WENDTLAND: Mr. Chairman, we'd open it
8 up for comments on the legislation or questions about it.
9 There is a lot there. It seems pretty straightforward, but
10 there is a lot there.

11 CHAIRMAN GAMPETRO: Comments or questions?

12 MR. WENDTLAND: Okay. Mr. Chairman,
13 hearing none, we're going to go ahead and work on the inert
14 material bill -- or the rules first.

15 So I'm going to have Craig do that walk-through,
16 and then we'll walk through the comments we've gotten and
17 how we're going to address some of those, and then we'll
18 open it up to the public for questions, if we could.

19 MR. HULTS: Mr. Chairman, Board Members,
20 what I'm going to do is walk through -- this is Noncoal
21 Chapter 2, and this deals with regular Noncoal -- coal mine
22 permit applications.

23 The proposed rules that we drafted, they begin on
24 page 5 of the draft we sent you. And this particular
25 section is dealing with plans for backfilling and grading

1 in a permit application. And so applications -- and this
2 is in (VI) -- the applications for the disposal of the
3 inert material are required to include the following
4 things.

5 And the first one is that backfill, when they do
6 apply for this, this will be considered a significant
7 permit revision unless it was part of an initial
8 application. And they would be processed in accordance
9 with our Noncoal Chapter 7, which deals with permit
10 revisions.

11 The second item is that on-site stockpiling of
12 the inert materials will not be allowed prior to the use of
13 the materials as backfill. And then also the inert
14 materials shall not be processed on the mining operation.
15 Only final products would be used as backfill. Like the
16 tire example, this would be the chipped tires.

17 The third thing is that the inert materials need
18 to be approved by the administrator prior to being used as
19 backfill. This section allows for flexibility. Right now
20 we have kind of one example that may be used, but in the
21 future there may be other ones. This allows the
22 administrator to make that call.

23 Fourth, this deals with the approved backfill
24 locations. The first thing is that inert -- inert
25 materials shall only be used as backfill -- I'm getting

1 some feedback. That's why I was chuckling. Inert
2 materials can be only be used as backfill on privately
3 owned land. So no state lands or federal lands.

4 The second thing is inert materials shall only be
5 placed in the end walls or final pit voids that are not
6 located in drainages or impoundments.

7 The third item for the locations is inert
8 backfill materials shall be placed in a lift not to exceed
9 10 feet. And then we're going to require at least 15 feet
10 of suitable backfill material in accordance with our
11 Chapter 3. And this is to avoid potential future
12 subsidence. We're allowing multiple lifts, so there can be
13 multiple layers of the permitted -- or backfill material.
14 And then the approved materials need to be placed a minimum
15 of 20 feet above the pre-mining potentiometric surface of
16 the native aquifer, and then a minimum of 20 feet below the
17 regraded spoils surface. We're also requiring in that
18 section that the pit shall not be saturated. And if the
19 mind pit is dry, the disposal must be above the confining
20 layer.

21 And then finally in this subsection, the proposed
22 backfill location needs to be mapped and a little
23 description of the location provided. And the proposed
24 location also has to comply with Chapter 4, Section 4, of
25 the Solid & Hazardous Waste Rules -- Waste Division Rules.

1 Finally -- or next, in Section 5, this deals with
2 monitoring and reporting requirements. First requirement
3 here is that the backfill disposal location maps and
4 groundwater monitoring locations need to be updated
5 annually in the annual report.

6 Second is the groundwater monitoring plan
7 required in Section 2 of this chapter, requires monitoring
8 wells to be installed and monitored in accordance with
9 Chapter 4, Section -- and I will have a comment about this
10 later -- Section 8(b)(iv)(A) of the Solid and Hazardous
11 Waste Division rules. And then also the monitoring results
12 shall be reported in the annual report.

13 c. for (5.) is that the groundwater and
14 vegetation monitoring needs to continue until final bond
15 release, and at a minimum would continue for five years
16 after final reclamation.

17 And (6.), we deal with the final surface
18 reclamation requirements when using these inert materials
19 as backfill. The final reclamation surface must blend with
20 the surrounding mine reclamation and have a permanent
21 vegetative cover. This is basically a condition for all
22 reclamation.

23 b. of (6.) is that the final reclamation must
24 drain properly and not impound water.

25 c. is that the backfill site needs to be released

1 by the Division in accordance with the reclamation plan.

2 And d. of (6.) is upon final reclamation, a
3 disclosure must be placed on the real property deed for the
4 described lands where the backfill location is prior to
5 final bond release.

6 Then in (7.), this talks about the fees that
7 I mentioned earlier. And, again, this requires the
8 operator -- we're asking that they remit the fees quarterly
9 in the amount of 10 percent of any revenues collected by
10 the operator.

11 And that's the final subsection for the inert
12 materials.

13 MR. WENDTLAND: Okay. Craig, do you want
14 to walk through the comments we've received then, and our
15 general responses to those at this point?

16 MR. HULTS: Yeah. Mr. Chairman, we did
17 solicit comments from the Solid Waste Management Program,
18 and they did provide some excellent feedback in my mind.

19 The first comment that they had, they were asking
20 about whether this would require public notice. And, yes,
21 if this is a new permit and also if it was an existing
22 permit, and we would have them going through our permit
23 revision as I suggested earlier. And this would be
24 considered a significant revision, so, yes, it would
25 require public notice.

1 Their second comment was -- they were talking
2 about stockpiled tires and different standards as far as
3 keeping distances away from certain things, open flames,
4 waste piles, permit boundaries. However, our rules, we
5 wouldn't be allowing the stockpiling. So we don't think we
6 need to include any standards for that.

7 Their third comment was -- involved with waste
8 screening. In Chapter 4 of their rules, this waste
9 screening, I don't think would be feasible for our
10 Division. The way the rule is written, somebody's
11 basically on-site monitoring the waste as it's brought in.
12 Our response to that would be we would increase our
13 inspection frequency. Just to make sure that what is being
14 placed in the mine pit is the inert material that was
15 approved.

16 The fourth comment, they asked whether there
17 would be landowner consent. And, yes, we agree with that.
18 We would provide a form for surface owner consent. We
19 didn't think it was necessary to include that in the rule,
20 and was better suited to providing that consent form as
21 part of the application.

22 The fifth comment, this was requiring cover at
23 least monthly or more frequent if required by the
24 administrator. From the Division's standpoint, I think we
25 would be looking at the reclamation plan, depending on the

1 depth of the -- the inert materials, how many lifts they
2 had. So it would be judged on the front end.

3 And then the sixth comment was that it requires
4 whole scrap tires to be covered every 90 days. Again, we
5 wouldn't be accepting the whole tires.

6 And then seven -- the seventh comment was they
7 had a slightly different standard regarding the burial
8 depths and -- in relationship to the groundwater and
9 surface. The reason we would stick with what we currently
10 have proposed is this would -- could provide consistency
11 with our Coal Rules when we did the wind turbine disposal
12 rules.

13 The eighth comment was that they have additional
14 sets of rules, when -- this is in regard to the citation
15 that I had in the proposed rules. They're absolutely
16 correct, and I need to refine the citations in our rules to
17 reflect better which programs we're talking about and which
18 rules specifically.

19 The ninth comment that we had there was -- this
20 is also in relationship to a citation at Chapter 4, in
21 regards to the groundwater monitoring plan. They had noted
22 that the reference I had given only related to the
23 monitoring and not the installation, and what -- what
24 happens during the monitoring, if there is an exceedance
25 over background. They suggested a more broad citation that

1 would include those elements. We completely agree with
2 that as well and would propose to insert that into the next
3 round of rules.

4 And then the tenth comment and final comment was
5 that there is a requirement that the deed states that the
6 property was used as a construction demolition waste
7 disposal facility. And they asked the question whether
8 there would be a need to clarify that inert material was
9 used as backfill. Again, I think we would put that into
10 the consent form and also for notice to the surface owner.
11 And also in the deed we would craft some language prior to
12 them inserting that. I think we could provide an example
13 in our guidance materials of what we would be looking for
14 on that deed notice.

15 So those are the comments we received internally
16 through our reviews. We didn't receive any comments from
17 the public on these rules.

18 MR. WENDTLAND: Mr. Chairman, and I'm going
19 to go back to two -- a couple of items to clarify. A major
20 revision or significant revision does require public
21 notice. And typically there's a completeness round and a
22 technical completeness round, so it could be two rounds.
23 So we feel that the way our Noncoal Rules are structured
24 for this, that knowing, going into that, we would have
25 adequate public notice.

1 The inspection requirement, that's a -- you have
2 to remember, some of these sites would be pretty remote.
3 For a theoretical example, it's a dry bentonite pit that's
4 already a clay-encased location. But that location could
5 be 50, 60, 80 miles from a community. So we're not going
6 to be able to have somebody out there every day that
7 they're dumping these tires in the pit. So what we would
8 do is if we had one of these sites, we would increase our
9 inspection regime. Right now it's once a year for Noncoal.
10 While they're operating and doing this, we probably would
11 try and go at least once a month, maybe twice a month. And
12 those would be unannounced.

13 So we feel that that probably would compensate
14 for having somebody physically at the site every day,
15 because we just don't see that as being realistically
16 possible.

17 And then on the cover requirement, what you're
18 looking at is -- again, I think a good theoretical example
19 would be a bentonite pit, and you put in 10 feet of
20 material of these backfill chipped materials of tires, then
21 you're going to come in with your spoils and cover the
22 whole pit. You're not going to incrementally do this along
23 the way. You'll lay in that lift and then you'll cover the
24 whole lift. So it would be a one-time deal, is how that
25 would work, because of the mobilization of the equipment to

1 do that to these more remote sites.

2 So I just wanted to add those clarifiers on this
3 for everybody as to kind of why we crafted the rules the
4 way we did. We're not saying it's the ultimate answer
5 here, but there was some thought put behind those
6 particular elements.

7 So with that, Mr. Chairman, we would gladly open
8 it up for any input we could get -- or, sorry, Jim. Craig
9 has one additional catch here.

10 MR. HULTS: Mr. Chairman, Board Members,
11 yesterday we held our staff-wide meeting for the Division,
12 and we were discussing some of the proposed rules that are
13 coming through. One of our employees had noted that -- and
14 this was contemplated, that we would be allowing this in
15 small mines. He noted that Chapter 9, which is our small
16 mine chapter, stated in Section 1(b) that Chapter 2 doesn't
17 apply to small mines. Knowing that now, in our next round
18 we would likely propose a slight addition to Chapter 9,
19 where it does state in Section 1(b) that Chapter 2 doesn't
20 apply. We would add a qualifier that this specific section
21 regarding the use of inert materials for backfill would
22 apply to small mine operations.

23 MR. WENDTLAND: Mr. Chairman, I'm going to
24 add one thing to that too, and I probably should have said
25 this earlier. It's important to note here too that these

1 are for permitted sites. LMOs are notifications. So LMO
2 sites are not eligible for this. It would only fall under
3 the permitted small mine and large mine sites.

4 And then with that, I will open it up,
5 Mr. Chairman, for you to take any -- we'd love to have any
6 Board feedback or public or industry feedback to help us
7 craft a better rule.

8 CHAIRMAN GAMPETRO: Kyle, this is Jim. In
9 definitions, inert material, I'm going to 35-11-103,
10 definitions, and this would be Noncoal. Inert material
11 means any material that is not reusable or recyclable that
12 will not undergo any significant physical, chemical, or
13 biological transformation. And it will not adversely
14 affect other matter with which the material comes into
15 contact. And that's -- that's 35-11-103, Noncoal.

16 I -- first of all, from an engineering -- I'm an
17 engineer. I'm not a lawyer, and so a lot of this is
18 confusing for me. If any of the stuff transforms over time
19 its physical properties, who's going to determine that?
20 Who's going to decide what is, indeed, an inert material?

21 MR. WENDTLAND: Mr. Chairman, that's a
22 really good question. We had a lot of discussion around
23 that both with the legislation when it was crafted and
24 internally while we were working on the rules. That is why
25 we decided to do and structure the rules the way we did

1 where it's an application process. So we -- and I think
2 the best answer to that is, a good example would be, we
3 don't want asphalt shingles in a sand and gravel pit with
4 water, okay? So that application, when it comes in, it has
5 to define where it's going, what it is, what exact material
6 we're talking about so that we know it does in fact fall
7 under this inert material definition in 103, and that it's
8 a suitable material for the site it's proposed to be put
9 in. So that's how we're addressing that. I believe --
10 hopefully that answers your question.

11 CHAIRMAN GAMPETRO: Who makes the final
12 call on whether it's an inert material or not?

13 MR. WENDTLAND: The administrator does,
14 Mr. Chairman.

15 CHAIRMAN GAMPETRO: Okay. Thank you.

16 BOARD MEMBER LEGERSKI: Mr. Chairman, this
17 is Gene.

18 CHAIRMAN GAMPETRO: Go ahead.

19 BOARD MEMBER LEGERSKI: Kind of following
20 up on that. Back in the mid-'90s the federal highway
21 administration actually tried chipped tires in roadbed
22 material. I just kind of googled it, because I couldn't
23 remember exactly where it was. It was up in Washington.
24 55 foot of material.

25 They don't know the exact cause, but it caused

1 their bridges to go up, because it smoldered and caused
2 fires. Kind of like combustible material, like, you know,
3 mulch does, stuff like that. They don't attribute it to
4 water migration. They actually attribute it to
5 self-combustion and air getting to it, even at 55 foot of
6 fill.

7 How are we going to make sure that doesn't
8 happen, and do we have any precautions in case that
9 happens? I'm sure technology's changed in the last
10 30 years, but that is a concern that, you know, tires
11 self-combust, above ground and also below ground, even
12 chipped.

13 MR. WENDTLAND: Mr. Chairman. That's why
14 we're looking at -- the rules are structured the way that
15 we have so far is where -- and, again, I'm going to just a
16 use bentonite pit as an example, because you have a
17 clay-lined dry pit. So you're taking water out of that
18 equation. There may be a little bit of rain or snowfall
19 here. But then we're also limiting the size of the lift,
20 the dimensions of the lift. And then you're going to bury
21 this material and encase it. It basically becomes --
22 especially in these bentonite operations, you're dealing
23 with pretty clay -- clay-based materials. You're basically
24 encasing it. So you're eliminating that air option through
25 that material.

1 So we believe that combustion is the -- a
2 potential, but not very high potential in these cases where
3 we would bury them under these conditions. You know, if
4 that did occur, it would require to be dug out, cleaned
5 out, put out, and then re-put back together is what would
6 be the requirement.

7 And I believe that's why it's a five-year
8 requirement, where we may be monitoring on the groundwater
9 and monitoring this. And that is an addition to this,
10 because the Noncoal Rules you can -- you can request bond
11 after two growing seasons, or basically two years. If you
12 go down the path of using these as an -- again, the chipped
13 tires as an example -- as a inert material backfill, you
14 now have a five-year obligation before you would get to
15 bond release. So it's adding three years to that time
16 frame.

17 CHAIRMAN GAMPETRO: Yeah. And having
18 studied a little bit of geology and the timelines involved
19 in geology, I would just note that five years is not a very
20 long time.

21 MR. WENDTLAND: Note taken, Mr. Chairman.

22 BOARD MEMBER LEGERSKI: Would the burden
23 of -- you know, because, it's -- and I understand it's a
24 general rule, but it's going to be on a case-by-case basis,
25 because you keep using the perfect scenario of a bentonite

1 plant. You know, if this is used in a coal mine, you're
2 not going to have the benefit of clay layers and stuff like
3 that. So it's going to be up to the operator to prove that
4 they can have this consolidated in such a manner, captured
5 in such a manner that it's okay?

6 MR. WENDTLAND: Mr. Chairman. That's
7 correct. That's why it's coming in as an application, and
8 it's a significant revision so we can take the hard look at
9 what material's proposed, where it's proposed to be put,
10 you know, what we're really looking at before we would
11 approve this, you know, backfill scenario like this.

12 And with regard to Coal. Coal is not part of
13 this. This is only rules and the legislation is directed
14 specifically to Noncoal at this time.

15 BOARD MEMBER LEGERSKI: Thank you.

16 BOARD MEMBER KOLKMAN: Mr. Chairman, this
17 is Dawn Kolkman, and I have -- I have a --

18 CHAIRMAN GAMPETRO: Go ahead.

19 BOARD MEMBER KOLKMAN: So Kyle, are you
20 guys going to add any other definitions to Chapter 1,
21 Noncoal authorities and definitions, about what the inert
22 materials may consist of?

23 MR. WENDTLAND: Mr. Chairman, we did not
24 plan on doing that at this time because it is outlined in
25 35-11-103.

1 BOARD MEMBER KOLKMAN: Okay. Also, I'm
2 glad that this inert material is coming up. I think that
3 this gives operators a lot of options when it comes to
4 backfill and so I'm really glad to see it.

5 One of the things I am wondering is if
6 underground and ISR operators have been contemplated with
7 regards to this proposal. The reason I bring up
8 underground is many times if they are backfilling a shaft,
9 we will, of course, backfill with development, aka waste
10 rock, and then they may put down other harder materials
11 such as concrete, concrete glass, other materials,
12 foundations, pads, et cetera. And those are broken up, and
13 then they are put down the shaft as backfill.

14 In the case of ISR operators, some of those folks
15 may have concrete basements in their header houses or
16 possibly even fiberglass. Those are not 20 -- generally
17 20 feet under the spoils piles, but those are or could be
18 considered inert materials and could be buried in place as
19 backfill. Have those items been contemplated?

20 MR. WENDTLAND: Mr. Chairman. That was
21 really not the discussion we had with the legislature at
22 the time the bill was crafted and vetted with the public.
23 I think in the case of the ISRs, my initial reaction to
24 that, Mr. Chairman, would be we would want to see what the
25 survey on those materials would be before we would

1 contemplate that. There's nothing that would preclude an
2 application coming into us under these rules to look at
3 that. But I think those are somewhat unique cases.

4 Now, in the case of trona, for example, part of
5 their demolition of their -- ultimate demolition of their
6 sites is, as you suggest, looking at using the shafts that
7 are approximately 1800-feet deep would be capping the
8 bottoms of them and then using those for a certain amount
9 of that material. There's nothing -- if there was
10 additional room here, there's nothing that says that they
11 couldn't use those in the 10-foot lift increments here to
12 go ahead and put chipped tires in that as they go up,
13 because you're talking about a concrete-lined shaft in the
14 ground that's 1800 feet deep.

15 So there is -- we believe there is application
16 there. We did talk about that in crafting the rules. But,
17 again, it would be part of that application in our review
18 and why it's a significant revision, so we can look at
19 those types of details on an individual one-on-one
20 application basis.

21 BOARD MEMBER KOLKMAN: Mr. Chairman, I have
22 additional questions.

23 CHAIRMAN GAMPETRO: Go ahead.

24 BOARD MEMBER KOLKMAN: So in looking at,
25 say, an underground application, would they still be

1 required to install and monitor or, say, ISR operators,
2 because of they are -- because of where the -- if -- back
3 up here a bit. If the radiological surveys would come back
4 such that they could be buried and placed, would they have
5 to install additional monitoring -- groundwater monitoring
6 at that -- at those levels, or would that be something that
7 could be spoken to within the application?

8 MR. WENDTLAND: Mr. Chairman. As of right
9 now, it would require the installation of the wells, at
10 least for that five-year time block.

11 And what I would add, Mr. Chairman, we have
12 Ms. Engels here, the Solid & Hazardous Waste Division
13 administrator. I think it's something we can certainly
14 discuss and see, but right now the way that it's crafted,
15 it would be the five-year requirement and the monitoring
16 request.

17 CHAIRMAN GAMPETRO: Other questions,
18 follow-up, comments?

19 BOARD MEMBER KOLKMAN: I have -- I have one
20 more question. And it might be a silly question.

21 CHAIRMAN GAMPETRO: Go ahead.

22 BOARD MEMBER KOLKMAN: If the material is
23 truly considered inert, why the need for monitoring?

24 MR. WENDTLAND: Mr. Chairman. Again, we
25 looked at that, and it is a -- it's a safety net to look

1 and make sure that we don't have something -- that is
2 transforming or some reaction with the material it's buried
3 in. To one of the prior board member's comments, let's say
4 we do have some type of spontaneous combustion underground
5 or something happens, this give us a period of time to say,
6 you know, we've disposed of these materials. They're
7 responding the way they should. There wasn't anything else
8 in there that shouldn't be in there. And that way we have
9 a way to make certain of that for a period of time. So I
10 think that -- I think that there is good reason to have
11 that monitoring period, and just to make certain that we
12 don't have something that we didn't plan on here -- an
13 event we didn't plan on.

14 I don't think we can -- I don't think we can
15 address every possible potential concern, but I think this
16 is a reasonable approach to address at a minimum the base
17 concerns that could be there.

18 And Mr. Chairman, there's no silly question here.
19 That's exactly why we're here, and -- and I would -- I'm
20 very happy that we're getting these type of comments and
21 questions. It will help us get to a better end rule.

22 CHAIRMAN GAMPETRO: Other questions,
23 comments?

24 Who's up? Craig?

25 MR. WENDTLAND: Mr. Chairman, hearing none,

1 we'll move on to the assigned trust. We'll do the same
2 walk-through and then general comments, and we'll go from
3 there.

4 MR. HULTS: Mr. Chairman, we may have
5 somebody leaving, so just pausing for a moment.

6 (Ms. Engels and Ms. Weikart
7 leave the room.)

8 MR. HULTS: Mr. Chairman, these are the
9 financial assurance rules, both Coal and Noncoal, regarding
10 the assigned trust. I'm going to step through the Noncoal
11 version of the rules. I will say they're very similar,
12 except for one or two small locations. We did run these
13 past the treasurer's office as well for their take on them.
14 We did receive some feedback from them. So after I walk
15 through these, I will address those comments as well.

16 And going through the Noncoal first -- like I
17 said, there will be a couple of differences in the Coal
18 realm, but, again, they're virtually identical.

19 So in Chapter 6, we've added a new definition in
20 Section 1 of the Noncoal Rules. And this is for the
21 voluntary irrevocable trust -- assigned trust. We've
22 defined that to mean a permit specific trust account
23 established with the state treasurer for all or a portion
24 of the full cost of reclamation for permits or licenses as
25 determined by the annual Director's bond letter and funded

1 by the operator through payments to the assigned trust to
2 the permit or license for the benefit of the Department.
3 We weren't given a definition in statute, so we've added
4 that to our definition section of financial assurance
5 chapter.

6 And then in Section 2, there is a small addition
7 to Section 2. Section 2 just lists the acceptable
8 financial instruments, you know, the surety bonds,
9 self-bonds. So we just added that -- the voluntary
10 irrevocable assigned trust is an acceptable financial
11 instrument.

12 And then moving on into the draft -- and this is
13 on page 10 of the draft, we've added a new Section 6,
14 entitled Voluntary Irrevocable Assigned Trusts. The way
15 this chapter is structured, each of the listed bonding
16 instruments that are acceptable have an individual section
17 to describe the unique characteristics of each bonding
18 instrument.

19 So this is Section 6. 6(a), this lists the
20 minerals that I mentioned earlier. And so the only
21 operations that would be acceptable or being able to use
22 the assigned trust would include bentonite, trona and
23 uranium. There is the additional coal, but that's
24 addressed in Chapter 11 of the Coal Rules.

25 So for Noncoal it's just bentonite, trona, and

1 uranium.

2 In (b), this requires the operator to file an
3 application specific to the permit or license that they
4 want to establish as assigned trust. And it will be
5 managed by the state treasurer for the benefit of the
6 Department.

7 The funds from the assigned trust shall only be
8 available to the Department to cover the cost of completing
9 reclamation in the event of forfeiture.

10 In (c), the assigned trust may bond all or a
11 portion of the full cost of reclamation for a permit or a
12 license. And that's, again, established by the Director's
13 bond letter. And the operator then is required to provide
14 other acceptable bonding instruments to make up the
15 remainder that isn't covered by the assigned trust.

16 In (d), the assigned trust needs to be in
17 accordance with the following, and -- sorry, I got hung up
18 on the numbering. But the first subsection in (i) is the
19 application forms. And the elements of the application
20 forms are in (A), we need a reclamation cost estimate for
21 the permit or license. And then this estimate is
22 ultimately determined by the Director's bond letter.

23 And for permits or licenses with underground
24 injection control bond requirements, which are typically
25 pledged to the Water Quality Division, those would be --

1 need to be bonded by an alternative acceptable bond
2 instrument. So the assigned trust would only apply to
3 LQD's bond obligations.

4 In (B), for the applications, an estimate of the
5 remaining life of mine and reclamation operations, and
6 that's disclosed in the current annual report for the
7 permit or license. But that would be part of the
8 application process as well.

9 In (C), we're asking for a proposed initial
10 deposit to the trust. These initial deposits have to be at
11 least 1 percent of the total annual reclamation cost
12 estimate. And that would be required for the subsequent
13 deposits as well.

14 We have in (c) as an element of the initial
15 payment schedule, we were requiring a financial risk
16 assessment. We had a question in there. We weren't sure
17 if that would be issued by a department or the treasurer.
18 I'll speak to this a little bit more on the comments we
19 received from the treasurer's office. And then the
20 proposed schedule of payments.

21 In (D), we would require approval from federal
22 agencies where the permit or license includes federal lands
23 with a federal bonding requirement. Those would be BLM
24 lands, forest service lands.

25 And then for (ii), this is for each voluntary

1 assigned trust that is approved. It requires the
2 Department, in (A), the Department needs to provide the
3 state treasurer with a copy of the Director's bond letter
4 that discloses the annual reclamation cost estimate and the
5 estimated remaining life of mine and reclamation
6 operations.

7 We'll be updating our Director's bond letters
8 should these rules be approved, ultimately. We would
9 create the new template that addressed this specific issue
10 to include those elements.

11 In (B), this requires that the participants
12 provide annual payments, again, of not less than 1 percent
13 of the total annual reclamation cost until the trust is
14 fully funded.

15 And (C), the -- again, the participants need to
16 provide other acceptable bonding instruments, as noted
17 above in Section 2, to cover the remaining full cost of
18 reclamation until that trust would cover the entire cost of
19 reclamation.

20 In (D), the funds that the Department -- or
21 received by the Department will -- shall be invested by the
22 state treasurer, as he's authorized by law.

23 And the funds in this case -- this is for the
24 Noncoal, the funds are required to be invested in a manner
25 that preserves a corpus and obtains the highest net

1 possible return less any administrative fees required by
2 the treasurer or Department.

3 In (E), the earnings from the investment of the
4 corpus in the assigned trust, that will be credited by the
5 state treasurer to the balance of each assigned trust.

6 In (F), at the bottom of page 11, the Department
7 then also will provide a statement of account as defined by
8 the treasurer. And this will be annually at the end of the
9 fiscal year.

10 Finally, in this (G), bond reductions to the
11 permit or license, if those occur, say they've reclaimed
12 other areas, fuel costs have gone down, things like that,
13 if the total cost of reclamation goes down and there is a
14 reduction to that total reclamation cost, any adjustments
15 to the bond amounts that we're holding -- excuse me --
16 would come from other bonding instruments first. So if
17 they had a surety to cover the remaining portion, that
18 surety could be reduced or a letter of credit, such as
19 that.

20 (D) in Section 6, this section addresses assigned
21 trust withdrawal. So in (i), no funds are to be withdrawn
22 from the participant to the assigned trust during the first
23 year after the date of establishment of the assigned trust.

24 (ii), the assets for the assigned trust may only
25 be withdrawn after complete funding of the trust.

1 (iii) requires funds from the assigned trust
2 shall be withdrawn last. Again, if there are alternative
3 bonding instruments, those will be released first.

4 (iv) requires that the release would only be
5 followed after certification of the requested bond release
6 by the director. And that follows our statute in
7 35-11-423, which is our bond release statute. Or in the
8 event of bond forfeiture, it would be covered under 421 --
9 35-11-421.

10 Then in (v), the assets of each assigned trust
11 are only available to the Department to -- to cover the
12 cost of completing reclamation in the event of forfeiture.

13 And in subsection -- or (vi), once the assigned
14 trust is fully funded, it's possible that will keep -- or
15 it will keep accruing. In the event that the balance is in
16 excess of the reclamation cost, the operator may request a
17 release of those funds on forms that we're still not
18 entirely clear whether these would be provided by the
19 Department or the treasurer's office, so we have both
20 listed at the moment.

21 Then moving to (e). This is the assigned trust
22 transfer section. This one in (i), assets from an assigned
23 trust shall be transferred to a new eligible operator on
24 the approval of a permit or licensed transfer in accordance
25 with our transfer statute in 35-11-408.

1 Second -- or (ii), upon the application to
2 transfer, no funds in the assigned trust shall be released
3 to either the transferor or transferee until a final
4 decision on the transfer application is made. So we would
5 approve the permit or license transfer prior to any funds
6 being released.

7 Second -- or (iii), double bonding would not be
8 required for any reclamations covered by -- or covered by
9 the assigned trust for a permit or a license. However, the
10 proposed transferee would be responsible to provide other
11 acceptable bond instruments for that portion of the
12 reclamation costs that are not covered by the assigned
13 trust. That's the typical situation where we do a
14 transfer. We hold them to the current bonds. And then at
15 the time of approval of the transfer, the transferee's
16 acceptance of their bonds, at that point we can release the
17 additional or original bonds. And then finally bond
18 instruments shall be release in a transfer at the time of
19 acceptance of the transferee's bond instruments and
20 approval of the permit or license.

21 And then, finally, there is one small amendment
22 to section -- what was Section 6 has been now renumbered 7
23 to account for the new subsection 6. So that's the Noncoal
24 Rules.

25 MR. WENDTLAND: Mr. Chairman, we'll go

1 through the Coal Rule difference real quick, because those
2 are pretty straightforward, and then we'll address the
3 comments we got from the treasurer's office.

4 CHAIRMAN GAMPETRO: Okay. Go for it.

5 MR. HULTS: All right. This is in the Coal
6 Rules Chapter 11, which are, again, our financial assurance
7 chapter. Initially in Section 1 and 2, those are identical
8 to the Noncoal Rules. The difference in this case is --
9 got to get the other version out.

10 MR. WENDTLAND: Yep. We'll let you catch
11 up here.

12 MR. HULTS: This is in (ii) for Section 2,
13 for (d). In this case for Coal, when the funds are
14 invested by the treasurer, in this case the funds have to
15 be invested in a manner that preserves 100 percent of the
16 corpus. And this would match the requirements of bonding
17 from OSM in the federal regulations, and that's why we
18 required a difference here. And I believe that's the only
19 difference.

20 MR. WENDTLAND: Yeah, that's the only
21 difference there.

22 So then you want to walk us through the comments
23 from the treasurer real quick, Craig?

24 MR. HULTS: Yeah. Absolutely.

25 They provided us comments on both sets of rules,

1 but they're the same. The first comments that they had
2 related to capitalization for Department. There's a couple
3 of instances where we didn't capitalize that. We will make
4 that correction, certainly, and consistently throughout the
5 chapters.

6 The second comment that they had -- and this one
7 was pretty important -- for both the Coal and Noncoal
8 Rules -- or for the Noncoal Rules only, we had included
9 that statement that financial risk assessment would be
10 required. The treasurer's office has stated that that
11 section wasn't necessary, so we would propose to remove
12 that ultimately.

13 And then, finally, in (ii)(E), they recommended
14 setting a date for the earnings statement that would be
15 credited to the balance, and we would work with them to
16 consider an appropriate date for that.

17 And other than that, the remaining comment was,
18 again, capitalization.

19 MR. WENDTLAND: So Mr. Chairman, with that,
20 we'd certainly love to get some feedback on these as well,
21 and we ask that you open it for questions.

22 CHAIRMAN GAMPETRO: It is open. Go for it.

23 MR. DETI: Mr. Chairman, this is Travis
24 Deti with the Wyoming Mining Association. May I jump in?

25 CHAIRMAN GAMPETRO: Go right ahead.

1 MR. DETI: Thank you, Mr. Chairman and
2 members of the Board.

3 First of all, just want to extend our thanks to
4 Administrator Wendtland and his team for the work on this.
5 This is a concept that the industry has been very
6 supportive of. It's new. It's novel. We'll have some
7 growing pains, I think, as we work through these things,
8 but I think -- you know, I think it's a good start.

9 And the one thing that I have that some of my
10 membership has brought to my attention with their concerns
11 is on the transfer of (i) under (c) [sic], assets from the
12 assigned trust shall be transferred to a new eligible
13 operator upon approval of a permit or license transfer in
14 accordance with Wyoming Statute 35-11-408. The concern
15 there we have is that -- the word "shall" in going forward.
16 If you have a new operator coming in, in the way it's
17 written right now, I think it's a little -- a little
18 confusing and maybe a little contradictory with the statute
19 in that you would have a new operator that would be
20 mandatorily put in a voluntary program.

21 So one of the things, in visiting with the
22 administrator -- one of the suggestions that the
23 association and the industry would have would be to change
24 "shall" to "may," and add some qualifying language to
25 address issues that might arise, such as early withdrawal

1 penalties and that sort of thing.

2 MR. WENDTLAND: Mr. Chairman, I'll respond
3 to that.

4 And, Travis, thank you for that comment.
5 That's -- those are what we're after. This is what's
6 helpful for us. So appreciate that.

7 I will go back to I agree with you. I think that
8 there's some room here to clarify this language. But I do
9 think it would require some qualifiers. One of the large
10 discussions we had -- or key discussion points when the
11 bill was being drafted and worked through the various
12 process of the legislative process was what you don't want
13 to have is a scenario when we get to where the money is
14 needed when we're in closure, a new operator comes in,
15 takes the cash out, substitutes and leaves the State with a
16 less secure instrument at the time when those funds are
17 most certainly most needed. So I think we're going to have
18 to look at some timing restriction, maybe, as a qualifier
19 around that, would be my first response to that.

20 And then there's also, depending on the time that
21 would be withdrawn, there could be penalties and fees
22 incurred, so we need to look at how we craft that, because
23 if you -- for an easy example, let's say the new owner
24 comes in in January and it's based on a fiscal year of July
25 to June, and you draw those funds in January, you could

1 incur some pretty substantial penalties here, because
2 you're looking at the treasurer using institutional level
3 chairs to make these purchases. So we've got to be kind of
4 mindful of that, of the timing of when those funds could
5 come out.

6 And then I think -- I think around that, I think
7 we can work some language on that. We're going to have to
8 look at this in a little more detail, but I think there's
9 some qualifiers there that we could put around this and
10 work on that. And what I would ask is -- we don't
11 necessarily have to have it today, because I think people
12 need to think about this a little bit, but if Executive
13 Director Deti would like to talk with his folks and look
14 at, you know, do we look at five years prior to final
15 reclamation? Three years? If you have a suggestion on
16 those timelines --

17 MR. DETI: Yeah.

18 MR. WENDTLAND: -- so that we can, you
19 know, understand that we don't want to move to a less
20 secure position at that critical time frame.

21 MR. DETI: Right.

22 MR. WENDTLAND: We would certainly like to
23 hear what some of those suggestions might be.

24 MR. DETI: Yes. Mr. Chairman. Absolutely
25 I'm happy to start those discussions with industry.

1 CHAIRMAN GAMPETRO: Other comments,
2 questions, suggestions?

3 MR. WENDTLAND: Mr. Chairman, one last
4 final point on that, and I do think it needs to be
5 understood, is if you -- if you did have a new owner come
6 in and they elected not to be in the assigned trust, that
7 would create the dual bonding scenario. Because in that
8 case, the State no longer would hold those funds. So
9 whatever that substitution instrument is, it would have to
10 come in, and they would incur that dual bonding period.

11 So that's just another maybe incentive to look at
12 taking the assigned trust and looking at how the buy/sell
13 agreement might be structured between the companies when
14 they're taking that into consideration.

15 MR. DETI: Okay.

16 CHAIRMAN GAMPETRO: Other comments,
17 questions, suggestions?

18 MR. WENDTLAND: Mr. Chairman, I did have
19 one other comment that was given to me verbally on the
20 phone here late yesterday. And one is is could this be
21 expanded or other industries or other divisions. Right now
22 our goal here is to stand this program up. And to
23 Mr. Deti's point, I think we need to get this stood up with
24 what we have and get a little experience with it in order
25 to work out some of those what I'm going to say kinks or

1 details, because it is a new instrument. Before we would
2 look at expanding or moving or broadening the scope of who
3 this could and how this could apply to the different
4 industries.

5 So I would just make that note, that we have had
6 that discussion, and we certainly -- I think there's
7 already some interest and discussion around that expansion,
8 but we really need to get our feet on the ground with what
9 we've got first, I think.

10 And then I would also add that for both of these
11 rule packages, once we refine this language a little bit
12 further, we will go ahead and run it through the Attorney
13 General's Office for their review as well. We just at this
14 stage we felt we needed to get some input and possibly some
15 significant adjustments might occur before we task the AG's
16 Office with that review. But the next package that comes
17 before you will also include their review.

18 CHAIRMAN GAMPETRO: Suggestions, comments,
19 follow-up?

20 Well, hearing none, is there any other business
21 to come before this Board?

22 MR. WENDTLAND: Mr. Chairman, the Division
23 does have one more piece of business for you. Looking at
24 the schedule, and then considering some of the language
25 we're going to have to craft here, we think we would -- it

1 would be important to have a little bit more time to
2 possibly just work this stuff a little bit. We'd like to
3 try and -- we would like to propose moving the third
4 quarter meeting for the advisory board into September, and
5 possibly doing that meeting as an in-person meeting. We
6 haven't done that because we will be more at a final rule
7 package. And we do expect some probably testimony on that
8 final package.

9 And we do know that the EQC meeting for us is the
10 13th and 14th of September, so those days are kind of out.
11 But we certainly could look at the 15th -- the 8th, 15th,
12 21st, 28th, if any of those dates work for anyone or if
13 there's another suggestion outside the 13th, 14th. But we
14 would like to see if we could push into that second full
15 week or third full week of September, if possible.

16 CHAIRMAN GAMPETRO: It's okay with me.
17 Just send me an email. Let everybody else put their two
18 cents in in terms of when they're available or not
19 available.

20 MR. WENDTLAND: Mr. Chairman, are there
21 other board members that have specific dates that just
22 don't work in September that we need to work around?

23 CHAIRMAN GAMPETRO: That's what I was
24 asking.

25 BOARD MEMBER MACKER: I'm sorry. Go ahead,

1 Gene.

2 BOARD MEMBER LEGERSKI: Thank you.

3 Thursdays typically work better for me, than, you
4 know, Wednesdays, Tuesdays, just because of conflicts with
5 already-scheduled meetings.

6 BOARD MEMBER MACKER: I have a horrible
7 September schedule, so I may be the one that ends up saying
8 I might have to attend virtually. My question was going to
9 be, if we are in person, are we in Cheyenne?

10 MR. WENDTLAND: Mr. Chairman. We're
11 proposing Casper. And I would also say if we need to bring
12 somebody in remote, we certainly have the capability of
13 doing that.

14 BOARD MEMBER MACKER: If we are -- the day
15 that I could probably make that work is September 30th,
16 which is probably too late for what you're trying to do.
17 That -- otherwise, the dates that you tossed out, if I can
18 attend remotely, would likely be fine.

19 MR. WENDTLAND: Okay. Mr. Chairman, I
20 think we would just plan to bring Ms. Macker in remote,
21 then, to that meeting in Casper.

22 CHAIRMAN GAMPETRO: Yeah, depending on
23 what's going on and what day you finally choose, you might
24 have to bring me in remote too.

25 MR. WENDTLAND: Okay. Mr. Chairman, does

1 Ms. Kolkman have any input on this?

2 BOARD MEMBER KOLKMAN: I think --

3 Mr. Chairman, this is Dawn. And I have no issues with any
4 of the dates proposed.

5 MR. WENDTLAND: So Mr. Chairman, what I
6 would suggest is knowing that Thursdays work better for
7 Mr. Legerski, and we know we may need to bring Natalia and
8 yourself in remote, I'm going to suggest we go for
9 September 22nd, if we could. Thursday, September 22nd.
10 And we will look to try to do that meeting in Casper.

11 Likely to be at the state building now that they have that
12 up and running, the Thyra Thomson building in Casper.

13 CHAIRMAN GAMPETRO: That works for me.
14 You'll be bringing me in remote.

15 MR. WENDTLAND: We can do that,
16 Mr. Chairman.

17 CHAIRMAN GAMPETRO: Any other business to
18 come before this Board? Last chance.

19 I'm going to declare the meeting adjourned.

20 MR. WENDTLAND: Thank you, Mr. Chairman.
21 We really appreciate everybody's time today. We know it
22 was a bit longer meeting, but kind of got a lot on our
23 plate now with this.

24 CHAIRMAN GAMPETRO: I want to thank
25 everyone for attending and for participating. Thank you

1 all very much.

2 MR. HULTS: Thank you.

3 (Meeting proceedings concluded

4 11:28 a.m., June 23, 2022.)

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C E R T I F I C A T E

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

Dated this 11th day of July, 2022.


KATHY J. KENDRICK
Registered Professional Reporter

