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WYOMING AIR QUALITY ADVISORY BOARD

TRANSCRIPT OF MEETING PROCEEDINGS

Pursuant to notice duly given to all parties in interest, this matter came on for meeting on the 14th day of July, 2014, at the hour of 9:00 a.m., at the Western Wyoming Community College, RSC 1302 Lecture Hall, 2500 College Drive, Rock Springs, Wyoming before the Wyoming Air Quality Advisory Board, Timothy Brown, Chairman, presiding, with Brian Boner and Klaus D. Hanson, Ph.D., in attendance.

Mr. Steve Dietrich, Air Quality Administrator; Ms. Jeni Cederle, Ms. Darla Potter, Mr. Andrew Keyfauver and Mr. Mark Smith of the Air Quality Division; and Miss Elizabeth Lyon, Assistant Attorney General, were also in attendance.

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

2 (Meeting proceedings commenced

3 9:00 a.m., July 14, 2014.)

4 CHAIRMAN BROWN: All right. Let's get this

5 meeting convened. July 14, 2014, Wyoming Air Quality

6 Advisory Board meeting. Let's start with call to order.

7 First thing is approval of minutes from the April 22, 2014

8 meeting.

9 BOARD MEMBER HANSON: So moved.

10 BOARD MEMBER BONER: Second.

11 CHAIRMAN BROWN: Moved and seconded.

12 Meeting minutes from April 2000 -- April 22, 2014 meeting

13 has been approved.

14 Before we get any further, should we do

15 introductions?

16 MR. DIETRICH: Yes.

17 CHAIRMAN BROWN: Okay. My name is

18 Tim Brown. I'm the chairman of the Air Quality Board

19 meeting -- or Air Quality Advisory Board. I'm from Green

20 River, Wyoming.

21 BOARD MEMBER HANSON: Klaus Hanson. I'm

22 city council member from Laramie, Wyoming, and a member of

23 this board.

24 BOARD MEMBER BONER: I'm Brian Boner. I'm

25 also member of this board, and I'm a rancher from the

1 Converse County area.

2 MR. DIETRICH: Steve Dietrich, Air Quality  
3 Administrator. And I've got some staff that has also come  
4 with DEQ, and I can introduce those at this time, if you  
5 wish.

6 CHAIRMAN BROWN: Yes, please.

7 MR. DIETRICH: To my right is Jeni Cederle.  
8 She's with the Regulation and SIP Development Group. She's  
9 actually heading that up now.

10 And in the audience here to my right is Andrew  
11 Keyfauver and Mark Smith from our New Source Review Program  
12 and Permitting. Darla Potter is out at the table where you  
13 first came in, and she's the program manager for Air  
14 Quality Resource Management Group. And then behind Andrew  
15 here is Elizabeth Lyon. She made the trip today, and she's  
16 with the Attorney General's Office, and she'll be speaking  
17 just a few minutes later.

18 CHAIRMAN BROWN: Okay.

19 BOARD MEMBER HANSON: She's out there in  
20 the dark?

21 MR. DIETRICH: Elizabeth?

22 BOARD MEMBER HANSON: There. There.

23 CHAIRMAN BROWN: Elizabeth, what's your  
24 last name? I'm sorry.

25 MS. LYON: Lyon, L-Y-O-N.

1                   CHAIRMAN BROWN: Thank you.

2                   Old business. Staff activity?

3                   MR. DIETRICH: Yeah, I usually give this  
4 update each time. I'll be brief, because we need to get  
5 into the rulemaking as quickly as possible. But the tally,  
6 as it stands of today, we have eight vacancies in the Air  
7 Quality Division. Two of those are in the New Source  
8 Review permitting program, one is in regulation and SIP  
9 development, and three are in the Air Quality Resource  
10 Management. That would be two in the monitoring group  
11 and one in -- two in the monitoring group and one in  
12 admissions inventory, and then two in inspections. Two  
13 inspectors are vacant.

14                   You know, we try to fill these positions as fast  
15 as we can, and, you know, sometimes folks move around  
16 inside the Division, but, you know, it's -- it's a  
17 challenge, and we'll just keep away at it.

18                   And at the same time I just wanted to alert you  
19 to the fact that we're also taking a pretty close look at  
20 our staff resources in each program to see where staff  
21 resources are needed. So if we need to make adjustments,  
22 need to make an org chart in future consideration for  
23 budget purposes, we do that on a regular basis. So I'll  
24 stop there.

25                   BOARD MEMBER HANSON: Mr. Chair, I have a

1 question.

2 How many inspectors are there altogether?

3 MR. DIETRICH: Right at 22.

4 BOARD MEMBER HANSON: Okay.

5 MR. DIETRICH: Yeah.

6 CHAIRMAN BROWN: Anything else on old  
7 business as far as staff activity or hiring status? Any  
8 other comments?

9 MR. DIETRICH: No. Just the fact that  
10 we're trying to fill these positions as quickly as  
11 possible. You know, going into this budget -- this time  
12 last year the governor put a moratorium on hiring some of  
13 the vacancies. Some folks call those frozen positions.  
14 DEQ still has, I believe, four of those agencywide. And  
15 when that first happened, DEQ, I think, had seven of those.  
16 So that adds to the complexity of trying to fill vacancies.

17 CHAIRMAN BROWN: Okay. Enforcement  
18 litigation activity report?

19 MR. DIETRICH: That would be Elizabeth.

20 CHAIRMAN BROWN: Elizabeth.

21 MR. DIETRICH: Elizabeth Lyon.

22 MS. LYON: Do you want me to come up there?

23 CHAIRMAN BROWN: Yeah, over here would be  
24 the DEQ, and this will be the public, so...

25 MS. LYON: Can everyone hear me okay?

1                   CHAIRMAN BROWN: Yes.

2                   MS. LYON: So I'm here -- I have some  
3 updates on federal litigation that Wyoming is involved in.  
4 In the regional haze category there's a case WildEarth  
5 Guardians versus the EPA. WildEarth Guardians filed two  
6 petitions with the Tenth Circuit to challenge EPA's  
7 approval of Wyoming Regional Haze State Implementation Plan  
8 for sulfur dioxide. WildEarth took the position that plan  
9 failed to meet the standards that the EPA revised after  
10 Wyoming submitted our plan, but before the EPA Region 8 had  
11 approved the plan. So the Court then consolidated the two  
12 Wyoming cases with five similar cases that were filed by  
13 WildEarth that challenged plans prepared by New Mexico and  
14 by Utah. So Wyoming intervened in the consolidated case  
15 and argued that our plan conforms with the EPA's  
16 regulations and that WildEarth's claims are partially time-  
17 barred.

18                   So right now there is argument before the  
19 court -- excuse me, the Tenth Circuit court on March 20,  
20 2014, and we're waiting for the court to rule on the  
21 merits.

22                   The next case in regional haze is Wyoming versus  
23 EPA. Wyoming sued the EPA over the Agency's decision to  
24 partially disapprove state's regional haze implementation  
25 plan for nitrogen oxides. Wyoming argues that EPA's

1 decision to partially reject the state's plan and implement  
2 a federal plan will unnecessarily impose more than  
3 \$500 million in additional costs without meaningful  
4 improvement over the state's plan. So Wyoming, along with  
5 Basin Electric and PacifiCorp, moved for a stay. The EPA  
6 response is due today, so we expect briefing will be in  
7 January or oral argument will be sometime in the spring,  
8 and there should be a decision from the court late next  
9 year. Powder River Basin Resource Council's challenge to  
10 EPA's approval was also partially consolidated with this  
11 case, so they'll be briefing as well.

12 For greenhouses, the case was Utility Air  
13 Regulatory Group versus EPA, in front of the Supreme Court.  
14 The background of that case was that industry groups and  
15 states have challenged EPA's natural and greenhouse gas  
16 rules. The D.C. Circuit upheld the rules, and the Supreme  
17 Court granted certiorari to review the limited question of  
18 whether EPA had correctly concluded that regulation of  
19 motor vehicle emissions of greenhouse gases automatically  
20 trigger regulation of stationary source emissions.

21 Wyoming and five other states submitted an amicus  
22 brief in support of the industry groups. The Supreme Court  
23 issued their opinion on June 23, 2014. They held that a  
24 state cannot become subject to the prevention of  
25 significant deterioration permitting process solely on the



1 basis of its greenhouse gas emissions, but a source that is  
2 already subject to PSD can be subject to Best Available  
3 Control Technology for gases. The court then remanded to  
4 the EPA to determine what level of greenhouse gas emissions  
5 an "anyway source" must emit to in order to be subject for  
6 greenhouse gases. So right now we are waiting to see how  
7 EPA is going to respond to that case.

8           There's another case also entitled Utility Air  
9 Regulatory Group versus EPA, which was consolidated with  
10 Wyoming versus EPA. And that was in the Tenth Circuit.  
11 And so Wyoming had challenged the EPA's call for Wyoming to  
12 modify its SIP. And the D.C. Circuit ruled against  
13 Wyoming, but they stayed the case until they had determined  
14 the previous UARG case. So now that has been decided,  
15 Wyoming's deadline for seeking further review is July 23rd.

16           There's several rulemakings going on right now.  
17 There was recently a rule prop -- a proposed rule put out  
18 by the EPA called Standards of Performance for Greenhouse  
19 Gas Emissions from New Stationary Sources: Electric  
20 Utility Generating Units. And under Section 111(b) of the  
21 Clean Air Act, the EPA is tasked with establishing  
22 standards of performance for specific types of new sources  
23 of different pollutants. EPA has proposed to find carbon  
24 sequestration is the best system of reduction that coal-  
25 fired power plants must use to control their greenhouse gas

1 emissions. The fundamental problems with this proposed  
2 rule would require any coal-fired power plant to install  
3 and use carbon capture and sequestration, which is an as-  
4 yet unproven technology.

5 The status of this rule that Wyoming DEQ  
6 submitted comments in response on May 9th, and we're  
7 waiting for EPA's response to our comments.

8 EPA currently has promulgated another proposed  
9 rule called Carbon Pollution Emission Guidelines for  
10 Existing Stationary Sources. And under Section 111(d) of  
11 the Clean Air Act, the EPA must establish a procedure by  
12 which states develop a plan to control pollutants that are  
13 not otherwise regulated either as a NAAQS pollutant under  
14 108(a) or as a hazardous air pollutant emitted by a source  
15 listed in Section 112 of the Clean Air Act.

16 In this rulemaking, EPA set out proposed limits  
17 of greenhouse gas emissions for each state, as well as a  
18 set of four different "building blocks" that the state may  
19 use to arrive at their limit. DEQ is currently reviewing  
20 this rule and preparing the response to the EPA, and that's  
21 going to be due in the middle of October.

22 In addition to that, there is a writ for -- an  
23 extraordinary writ pending that was filed by Murray Energy  
24 Corp -- Murray Energy Corporation versus EPA in the D.C.  
25 Circuit Court. It filed a Petition for Extraordinary Writ

1 to prohibit the EPA from continuing with the proposed  
2 rulemaking regarding greenhouse gas emissions from existing  
3 sources under Section 111(d). Murray Energy is arguing  
4 that EPA is without rulemaking authority because it has  
5 already promulgated rules for power plants under Section  
6 112 of the Clean Air Act. And Section 111(d) only allows  
7 the EPA to regulate sources that has not already regulated  
8 under Sections 108 and 112. The contention regarding EPA's  
9 rulemaking authority arises from competing interpretations  
10 of the statutes at large, which contain different versions  
11 of Section 111(d).

12 Wyoming has joined an amicus brief in support of  
13 this writ. It was submitted by the Attorney General of  
14 West Virginia and signed by seven other states.

15 We have one case pending under the Treatment as a  
16 State category. Wyoming versus EPA was consolidated with  
17 Wyoming Farm Bureau Federation versus EPA and Devon Energy  
18 Production Company versus EPA. Wyoming is challenging the  
19 EPA Northern Arapaho and Eastern Shoshone Tribes'  
20 application to be similar to a state for purposes of the  
21 Clean Air Act. Specifically, Wyoming is challenging the  
22 EPA's conclusion on the jurisdictional boundary of the  
23 Reservation.

24 So the status of this case is in January Wyoming  
25 petitioned EPA administrator and the Region 8 administrator

1 to reconsider the EPA's decision. The State also asked for  
2 a stay on this decision while the matter is either  
3 reconsidered by the EPA or resolved in court. The EPA  
4 granted State's request for a stay. The State filed a  
5 petition with the Tenth Circuit to review the EPA's  
6 decision on February 14th. The Wyoming Farm Bureau  
7 Federation and Devon Energy Production filed separate  
8 petitions later in February, and all three cases were  
9 consolidated in the Tenth Circuit.

10 The Northern Arapaho and Eastern Shoshone Tribes  
11 have intervened and filed motions to dismiss the Wyoming  
12 Farm Bureau Federation and Devon Energy Production  
13 Company's petitions. The EPA has filed the administrative  
14 record. All the parties will be briefing from October  
15 until May, and we don't expect anything to be happening  
16 before then.

17 There's two cases under the category of State  
18 Plan Submissions. The first, Wyoming versus McCarthy in  
19 the District of Wyoming, the state sued the EPA's  
20 administrator over the Agency's failure to timely take  
21 action on the state's nonattainment new source review  
22 implementation plan submission. Wyoming argues that the  
23 administrator continues to fail to comply with her  
24 mandatory obligation to take action on the submission  
25 before November 11, 2012. We are currently negotiating

1 Consent Degree with EPA and DOJ.

2           The next case is WildEarth Guardians versus  
3 McCarthy, in the District of Colorado. WildEarth Guardians  
4 sued the EPA administrator over several states' alleged  
5 failure to submit infrastructure implementation plans for  
6 the 2010 one-hour National Ambient Air Quality Standard for  
7 nitrogen dioxides. WildEarth Guardians alleged that  
8 Wyoming was one of the offending states.

9           After the case was filed, State submitted to the  
10 EPA the requisite infrastructure implementation plan.  
11 Wyoming intervened in the case and filed a motion to  
12 dismiss WildEarth Guardians' claims that relate to Wyoming,  
13 and currently all parties are negotiating a consent decree.

14           Under Utility MATS, there is Michigan versus EPA  
15 in the D.C. Circuit, consolidated with White Stallion  
16 Energy Center versus EPA, also in the D.C. Circuit.

17           Wyoming, along with 22 other states, filed with  
18 the D.C. Circuit to challenge EPA's Utility Mercury and Air  
19 Toxic Standard and Utility New Source Performance Standard,  
20 which establish mercury emission limits for utilities that  
21 burn coal or oil. The D.C. upheld the rules, and Wyoming,  
22 along with 21 other states, have filed a petition for  
23 certiorari with the Supreme Court today. The petition will  
24 ask the Supreme Court to find the EPA shouldn't have taken  
25 costs into consideration when determining whether

1 regulating mercury in this matter was appropriate and  
2 necessary. So the Supreme Court is deciding whether or not  
3 to grant certiorari in this case. Thank you.

4 CHAIRMAN BROWN: Thank you.

5 New business. Darla was going to come in when we  
6 started new business, so if someone can go snag Darla. She  
7 wanted to make sure she was in here.

8 MR. DIETRICH: Okay. She's not going to  
9 speak. She's just coming in to listen.

10 CHAIRMAN BROWN: She just wanted us -- she  
11 was going to come in at that time.

12 Does the Board have any questions for the  
13 Attorney General's Office?

14 BOARD MEMBER BONER: No.

15 CHAIRMAN BROWN: Let's move on to New  
16 Business. General updates from the Division.

17 MR. DIETRICH: Yes. Thank you. Elizabeth  
18 touched on a little bit about the 111(b) and 111(d)  
19 activities when it comes to new and existing power plants.  
20 I'll touch on a little bit more of that. I'm going to keep  
21 this brief, simply because we want to get into the  
22 nonattainment rule discussion today.

23 There will be another time for this, just like  
24 there has been through time when we had the regional haze  
25 efforts underway, and they continue as well.

1           But to give you a little bit of history. EPA's  
2    been trying to -- in the process of trying to develop the  
3    Carbon Pollution Standards, Greenhouse Gas Standards under  
4    the Clean Air Act for new, modified, existing, and what  
5    they call reconstructed fossil fuel power plants for quite  
6    some time now. But first attempt at coming out with a new  
7    proposed New Source Performance Standard was April 13th of  
8    2012, and it was really to cover the emissions of carbon  
9    dioxide from new fossil fuel-fired electric generating  
10   units.

11           At that time the EPA received 2 and a half  
12   million comments, including comments from DEQ. After  
13   consideration of all those comments, and as well as the  
14   ever-changing electrical industry, EPA determined that  
15   revisions to its approach was warranted, so that was the  
16   first document or regulation that we saw proposed by EPA on  
17   this topic.

18           And then January 8th of this year -- so they  
19   withdrew that April 13, 2012 proposed, and proposed a new  
20   standard for performance from 111(b) for new fossil  
21   fuel-fired electric utility steam generating units and  
22   stationary combustion turbines. So DEQ also provided  
23   comments to EPA on that proposal. The public comments  
24   period for that rule -- proposed rule, closed on May 9th of  
25   this year. So we are still awaiting EPA's response to

1 comments and final rule that deals with the new sources  
2 there.

3           Then on June 18th of this year, EPA proposed new  
4 emission guidelines for states to follow to develop plans  
5 to address the greenhouse emissions for existing fossil  
6 fuel electric generating units, of which most of the --  
7 most, if not all, the power plants in Wyoming fall into  
8 this category at this date, whether it's coal or natural  
9 gas.

10           And this is part of the president's executive  
11 order to keep moving this process along for greenhouse  
12 gases. And in that rule EPA proposed state-specific rate-  
13 based goals for differential carbon dioxide emissions for  
14 the entire power sector. I won't go into a whole lot of  
15 detail here. And then also on the same date, June 18th,  
16 EPA finished coming out with the rest of what we thought  
17 they were going to come out with for the new sources. They  
18 came out with the modified and reconstructed portion of  
19 that rule for -- for new facilities. Again, for fossil  
20 fuel electric utility generating units.

21           Again, EPA's proposing federal emissions  
22 standards to limit emissions of carbon dioxide from  
23 affected, modified and reconstructed coal-fired power  
24 plants and from natural gas-fired stationary combustion  
25 turbines. And as Elizabeth alluded to, comments are due



1 for both the -- October 16, 2014, deadline for the 111(b)  
2 for the -- remodified, reconstructed, as well as the  
3 existing rule that came out.

4 And I'll stop there. There's a whole lot of  
5 discussion we can get into, but don't have time for that  
6 today.

7 CHAIRMAN BROWN: Right. And that's only  
8 for EGUs at this point in time?

9 MR. DIETRICH: Yes, electric generating  
10 units. I will -- by way of just a quick tally. In Wyoming  
11 there are 10 active coal-fired power plants that fall under  
12 the modified, reconstructed -- actually, they're existing.  
13 So if they modify anything after that June 18, 2014, we  
14 think they will become considered as modified or  
15 reconstructed. There's also five natural gas-fired power  
16 plants.

17 Yes, Klaus.

18 BOARD MEMBER HANSON: About the Gillette  
19 power plant, which just went online, what, two years ago,  
20 three years ago, whatever, does that fall under this  
21 regulation?

22 MR. DIETRICH: Yes, it will. We think at  
23 this time it's existing.

24 BOARD MEMBER HANSON: So it's counted as  
25 existing?

1 MR. DIETRICH: Yes.

2 BOARD MEMBER HANSON: And does it meet the  
3 standards or -- because at the time, you know, we -- I  
4 toured this thing --

5 MR. DIETRICH: Right.

6 BOARD MEMBER HANSON: -- when it was being  
7 constructed, and they said it would probably be low in  
8 emissions, and then, of course, the discussion was about,  
9 whatever, carbon sequestration, et cetera.

10 MR. DIETRICH: Right.

11 BOARD MEMBER HANSON: So what's the  
12 process --

13 MR. DIETRICH: Because it's one of the  
14 newer plants that we permitted, and, you know, it is one of  
15 the lower-emitting facilities we have, whether or not it  
16 meets these new requirements, EPA is not taking that  
17 approach necessarily unit by unit, giving the state the  
18 opportunity to come up with its own plan.

19 BOARD MEMBER HANSON: Yeah.

20 MR. DIETRICH: And that is -- there's a  
21 whole lot of detail in that discussion, which, from time to  
22 time, through this process, we're going to lecture you guys  
23 a little bit and give you information about where we are  
24 headed with that planned development and how Wyoming is  
25 going to react to the requirements. So I really can't

1 answer your question about how it fits in yet.

2 BOARD MEMBER HANSON: Uh-huh. Thank you  
3 very much.

4 CHAIRMAN BROWN: Any other questions from  
5 the Board before Air Quality folks on proposed regulations  
6 and -- all right. Let's move on to rulemaking.

7 Number 1, proposed changes to the Air Quality  
8 Standards and Regulations.

9 MS. CEDERLE: All right. Moving right  
10 along. Hi, everybody. Morning. My name is Jeni Cederle.  
11 I am the -- do I really need it? I am the State  
12 Implementation Plan and Rule Development Section supervisor  
13 with Wyoming DEQ Air Quality. We are here today to bring  
14 before the Board revisions to Wyoming Air Quality Standards  
15 and Regulations.

16 The Division today will be presenting changes to  
17 Chapter 8, Nonattainment Area Regulations, Sections 1, 6  
18 and 10.

19 Steve introduced the staff earlier today, and I  
20 would just like to point out, again, that I worked a lot  
21 with Andrew Keyfauver and Mark Smith. They work in the New  
22 Source Review Program, and they played a vital role in  
23 helping me draft this proposed rule today. And because  
24 Section 6 of Chapter 8 is where the proposed rule is  
25 housed -- and I'm thinking we're going to have quite a bit

1 of questions and comments on that today -- I would like to  
2 suggest to the Board that I go ahead and present to you  
3 Section 1, the introduction, and Section 10, the IBR first,  
4 and then we can circle back around to Section 6, if that's  
5 all right with the Board today.

6 CHAIRMAN BROWN: Yes, it is.

7 MS. CEDERLE: Okay. Great.

8 So we'll go ahead and start with Chapter 8,  
9 Section 1 on page 8-1. Here we are revising the  
10 introduction to the nonattainment area regulations, which  
11 will now incorporate Section 6 as the new requirement for  
12 existing oil and gas production facilities or sources in  
13 the Upper Green River Basin. We plan to retain Section 7,  
14 8 and 9 as reserved for potential future rulemaking, and  
15 those are the main changes to Section 1.

16 If we go on and skip to the end of the chapter,  
17 to -- at Section 10 on page 8-94. Okay. Section 10 is our  
18 incorporation by reference, or IBR section. We did several  
19 of the IBR updates in our last air board meeting in April.  
20 In this section this is where when we update a reference to  
21 the Code of Federal Regulations, or CFR, from year to year,  
22 we do this to stay up to date. Every time we cite the CFR  
23 in our regs, we need a mechanism to update it as we move  
24 through time.

25 Rather than cite any Code of Federal Regulations

1 at each point throughout the rule, we consolidate them in  
2 one section for Chapter 8 that is Section 10, and you'll  
3 see that we replaced the July 1 date of 2012 to the most  
4 recent CFR of 2013.

5 Now, there's also a little bit of new information  
6 being included in our IBR sections, and I think it will be  
7 pretty informative for the Board and everybody else here.  
8 Generally we've always been able to get copy -- always been  
9 able to get copies of the CFRs from the Division, and we've  
10 provided a street address. However, right now there is  
11 some fluidity going on in Cheyenne. The state Capitol is  
12 planning to be renovated, and it's looking like it's going  
13 to displace Herschler staff to unknown places and unknown  
14 time frames.

15 So what we've gone ahead and addressed that  
16 through with this rule is that we removed the street  
17 address of the Herschler Building and replaced it with the  
18 Department Web address. The Web address will provide the  
19 mechanism for interested parties to go ahead and get the  
20 proper contact information, so that if you do need copies  
21 of the CFRs, you can still get ahold of us. Another manner  
22 in which we provide interested parties a way to get ahold  
23 of the copies of the CFR is we provided the street address  
24 for Government Institutes.

25 What has happened now is that due to new statute

1 created by legislature, and effective July 1st of this  
2 year, we are now required to provide electronic Web address  
3 for any incorporated manner -- matter in our regulations,  
4 as defined by Wyoming Statute 9-2-1035. So right now  
5 you'll see in Section 10 that we've gone ahead and provided  
6 a link to the electronic Code of Federal Regulations to  
7 fulfill the requirements of new statutes.

8 So those are just the changes to the IBR section.  
9 If there aren't any comments or questions on Section 1 and  
10 Section 10, I could suggest to the Board that we could move  
11 to approve those now or wait and switch gears to Section 6,  
12 whatever works best for you.

13 CHAIRMAN BROWN: I think I prefer to  
14 approve these after.

15 MS. CEDERLE: Okay.

16 CHAIRMAN BROWN: So we can hear, you know,  
17 Section 2, and we can discuss that and we can just take  
18 care of the --

19 MS. CEDERLE: Okay. So we'll change --

20 CHAIRMAN BROWN: Section 6 and Section 10.  
21 I'm sorry.

22 MS. CEDERLE: You're fine.

23 CHAIRMAN BROWN: Yeah.

24 MS. CEDERLE: 1 and 10 we have covered; 1  
25 being the introduction, 10 being the incorporation by

1 reference. We'll circle back now and take a look at  
2 Section 6. And this is where I will take a backseat to the  
3 meeting, and I will turn the presentation over to Andrew  
4 Keyfauver.

5 CHAIRMAN BROWN: Before anything further,  
6 does the Board have any questions for Jeni?

7 BOARD MEMBER BONER: Questions for those  
8 two sections, no.

9 CHAIRMAN BROWN: Any questions?

10 BOARD MEMBER HANSON: On Section 10, the --  
11 what's the difference between those two addresses you give  
12 there?

13 MS. CEDERLE: The difference between the  
14 deq.state Wyoming address?

15 BOARD MEMBER HANSON: Yeah.

16 MS. CEDERLE: Okay. They just go to  
17 different places. One is our home website so that you can  
18 find a contact information with us being in limbo, being  
19 moved around and displaced at the Herschler Building.

20 BOARD MEMBER HANSON: Sure.

21 MS. CEDERLE: And the other is what's part  
22 of statute now, which is if I have any incorporated matter  
23 and I have the Code of Federal Regulations, that's what  
24 this is all about --

25 BOARD MEMBER HANSON: That's the second

1 one?

2 MS. CEDERLE: That's the second one.

3 BOARD MEMBER HANSON: I just wanted to  
4 clarify that for people.

5 MS. CEDERLE: No problem.

6 Will that be all?

7 CHAIRMAN BROWN: Yes.

8 MS. CEDERLE: Thank you.

9 CHAIRMAN BROWN: Do you want the Board to  
10 move? Are we doing a PowerPoint, Andrew, or what's --

11 MR. KEYFAUVER: Yeah, we're doing a  
12 PowerPoint, so probably be better --

13 MR. DIETRICH: Move around.

14 BOARD MEMBER HANSON: Andrew, you will  
15 refer to this document, right?

16 MR. KEYFAUVER: When we get to the rule,  
17 yes.

18 Okay. I guess if you can excuse the buzz that  
19 the system's making, I'll begin.

20 Okay. I'm here to present the existing oil and  
21 gas rule for the Upper Green River Basin Ozone  
22 Nonattainment. I'm Andrew Keyfauver, again, for those who  
23 haven't met me before.

24 Also, I, in development of this rule, worked with  
25 Mark Smith and Jeni Cederle. We did have additional



1 internal help from the compliance staff to help ensure that  
2 this would meet everybody's requirements, just not  
3 permitting's requirements. Hopefully this is a good  
4 compromise for everybody on the outside.

5 I'm going to begin with kind of walking everybody  
6 through the history and basis for the rule that was  
7 developed. And then I will go into existing source rule,  
8 the affected area, the applicability in the rule, the rule  
9 requirements, the recordkeeping and recording compliance  
10 issues, and then I'll briefly talk about impact, because  
11 there will probably be some questions that's our new format  
12 for submitting electronically into our system instead of  
13 paper copy. And then we follow this up again with  
14 questions by the Board.

15 To begin with, for the history and rule basis,  
16 UGRB was designated for nonattainment ozone for July 20,  
17 2012. Also that year 2012, there was the Upper Green River  
18 Basin Air Quality Citizens Advisory Task Force, and they  
19 brought forward some final recommendations for the State to  
20 use in helping bring the nonattainment area back into  
21 attainment. This was followed by, at least so far today,  
22 three ozone strategies which have been released, and those  
23 strategies have incorporated all the 10 recommendations  
24 that were brought forward by the task force. The latest  
25 one we're operating under is the April 22, 2014, which was

1 the Phase I, why we're here today.

2 This slide is just to help remind everybody what  
3 the UGRB ozone nonattainment area looks like. It's -- if  
4 you want to see the formal definition, it's in 40 CFR Part  
5 81. This definition has also been utilized in the latest  
6 version of the Oil & Gas Guidance, which was September 2013  
7 version. And then for reference the JPAD/NPL area is on  
8 the screen, as numerous operators are familiar with that  
9 area.

10 The first strategy -- ozone strategy we came out  
11 with was March 11 of 2013. One of the focus areas of this  
12 strategy was to gather information for an evaluation of the  
13 best approach that could be taken to address existing  
14 sources in the UGRB. This is just kind of laying the  
15 foundation of rule development and how we got to where we  
16 are.

17 The next slide is the first evaluation that came  
18 up with. We took the 2011 emission inventories, since that  
19 was the QA data at the time. Couple reminders that I want  
20 to point out is this table does not break it out by  
21 controlled/uncontrolled. It's just if a tank is in the  
22 less than 3-ton category, it could be an uncontrolled tank  
23 or it can be controlled tank. So be cognizant of looking  
24 at data.

25 I'll just provide an example for you. So, for

1 example, in the Tanks column, there's 53 tanks that are  
2 greater than or equal to 3 tons per year. Out of that --  
3 those tanks, there's 27. There would be 27 of those tanks  
4 are greater than 6 out of those 53. And so, again, those  
5 tanks -- 27 could be uncontrolled or they could be  
6 controlled, based on how this table was broken down.

7           And another important fact here is what's in this  
8 table does not reflect the maximum number of sources that  
9 would be affected. So please keep that in mind. It's just  
10 a snapshot based on 2011 QA data that we had for emission  
11 inventories. So this base -- if you look at the rule, this  
12 does not say only 37 tanks will be controlled -- would need  
13 controls, for example, on the 4-ton category.

14           And just as an FYI, we do have a footnote on the  
15 4 tons just to remind everybody that the new -- latest  
16 guidance for September 2013 BACT was determined at the  
17 4-ton per year threshold as a reference point.

18           We also looked at what we have for NOx emissions  
19 in the 2011 inventory. This is pretty much -- we took the  
20 same approach as the VOC, whether it's controlled --  
21 controlled -- controlled or uncontrolled. All this data is  
22 pretty much based on what was permitted, since engines are  
23 required to have a permit prior to being placed out there.  
24 Most of the engines that are in the upper categories, we  
25 have found, based on reviewing permits that we could pull

1 out fairly quickly, these engines were either limited use  
2 engines, so they just had a straight 500-hour weren't  
3 designated as emergency or they were in the emergency  
4 category and potentially diesel-fired engine.

5           And then after that evaluation, we proceeded and  
6 came forward with next evolution of the ozone strategy.  
7 This one was to focus on evaluation of the past few slides  
8 you've seen that had the emissions, and determined, based  
9 on that data, what would probably be the best path forward.  
10 I mean, trying to go to this -- if you had been to the last  
11 couple Pinedale meetings we had for ozone meetings, the top  
12 should be familiar that based on the evaluation of the  
13 emission inventory, we concluded that potential emission  
14 reductions from existing sources are probably not going to  
15 be as large as some have anticipated, whether they were on  
16 a task force or not.

17           Another key thing we determined, looking at all  
18 this emission inventory data is that whatever rule is  
19 developed, we need to make sure that it's equitable across  
20 the Board -- or at least perceived to be equitable across  
21 the Board for everybody. And one of the best approaches we  
22 came forward with was a permit by rule for VOCs. We did  
23 not bring NOx forward into a permit by rule, because we  
24 determined that would probably be too complex for this type  
25 of permit by rule, because all the complex monitoring and

1 testing and other provisions that need to be required are  
2 incorporated into a rule.

3           And then after we determined that we were going  
4 to do a permit by rule, we got into the next evolution of  
5 the ozone strategy, which was the April 22, 2014, which was  
6 to develop our Phase I control strategy. Clear point in  
7 developing this rule is it was conveyed to us that it would  
8 be best if we could have this completed by the end of  
9 January 2015, which is what we're hoping for and shooting  
10 for, if we can all agree what needs to be in this rule.

11           Okay. Now we're going to get into the rule, the  
12 Chapter 8, Section 6. This is all the requirements for the  
13 existing oil and gas production facilities resources in the  
14 UGRB. Again, reminder it's a permit by rule. And for  
15 those of you who are looking at your rules, this Section 6  
16 begins on 8-85.

17           And I'll jump into rule applicability, which is  
18 the start of the rule. This rule will apply to all single  
19 well and multiple well pads. If -- under the rule, you  
20 were considered to be an existing source or facility if you  
21 were existing as of January 1, 2014. This date was picked  
22 so we wouldn't have an applicability gap between existing  
23 source rule and the Oil & Gas Guidance for resources.

24           Because January 1st is when the new source is  
25 required to have controls in place under the guidance. And

1 you're subject to the guidance. And then this rule only  
2 applies to single well and multiple pad facilities located  
3 within the ozone nonattainment area, if you can remember  
4 that map. So it's sort of the boundary.

5 And then, again, you were subject to this rule  
6 unless you had a permit that is as stringent or more  
7 stringent than the rule. So if you were issued a permit  
8 under the latest guidance, you would more than likely have  
9 a permit that is more stringent than this rule and is  
10 subject to the permit requirements in that rule, for  
11 example.

12 Continuing on on rule applicability. The rule  
13 does not require an industry or other entity to get a  
14 permit to install a control device. And it does not apply  
15 to a facility that is subject to prevention of significant  
16 deterioration or nonattainment New Source Review, which are  
17 Chapter 6, Section 4 and 13. Those two sections in  
18 particular do not apply because they have a predefined  
19 permitting process that a source or facility must go  
20 through, which would pretty much exempt them from this  
21 rule, which also involves public notice requirements.

22 And I want to reiterate, since we're still on  
23 this page, that even though it says a permit is not  
24 required, a company may still come in and get a permit to  
25 receive credit for the offsets or the reductions. The

1 VOCs. But if they do that, be cognizant that under the  
2 interim policy, you would probably have to test the user  
3 and NOx offsets, if you have one.

4 We'll jump to the next section in the rule, which  
5 this one is fairly easy. It's the definitions that are  
6 outlined in the rule. We just want to reiterate that all  
7 the definitions that we took were either taken from the  
8 Wyoming Air Quality Standards and Regulations or the Oil &  
9 Gas Guidance. So everything should be very familiar to  
10 industry, the operators.

11 And then jump into the first source category in  
12 the rule, which is flashing emissions. This applies to  
13 storage tanks and separation vessels at single wells or  
14 multiple -- multiple well pad facilities. If you have  
15 uncontrolled emissions greater than or equal to 4 tons per  
16 year, you are required to control those emissions by at  
17 least 98 percent. And we have January 1, 2016 as the  
18 compliance date in the rule, which you would need to get a  
19 control device on. So remember, if you're an existing  
20 source as of January 1, 2014, we're giving you at least two  
21 years to figure out if -- if you need controls on and kind  
22 of put controls on.

23 The other key date to attach probably that  
24 January 1, 2016 is by that date if we don't have clean  
25 data, EPA could bump us up to moderate from our marginal.

1                   CHAIRMAN BROWN: What would that mean to  
2 the state of Wyoming?

3                   MS. CEDERLE: Yeah. Right now, good reason  
4 for the January 1, 2016 date was that as we are working in  
5 nonattainment for the 2008 ozone standard, we can -- the  
6 three years that they'll look at for clean data is 2013,  
7 2014 and 2015. So they'll do the three-year fourth high  
8 average DV, the calculation of that we have to do for EPA,  
9 to take a look at the -- at the design value. And if we're  
10 still above the 2008 ozone standard of 75, we'll get bumped  
11 up from marginal to moderate. That's what it means for  
12 Wyoming. Lots more nonattainment requirements come into  
13 play if we get bumped up.

14                  CHAIRMAN BROWN: Okay. So it has -- the  
15 2016 is a firm date, then?

16                  MS. CEDERLE: It's not a firm date, but it  
17 was part of what we were using, because this rule is for  
18 the nonattainment area, and so we thought let's get these  
19 controls on and have everything going by, you know, the end  
20 of that third year.

21                  CHAIRMAN BROWN: Okay.

22                  MS. CEDERLE: Yeah.

23                  BOARD MEMBER HANSON: So what function do  
24 these pipes on top serve? Are they --

25                  MR. DIETRICH: Let's look at the picture.



1 BOARD MEMBER HANSON: -- control devices  
2 or --

3 MR. SMITH: The piping across the top of  
4 the tank is where the emissions come out and they're routed  
5 off to a combustion -- I think we have pictures on the  
6 other slides, where you have --

7 BOARD MEMBER HANSON: Okay. So that's  
8 where they're being --

9 MR. SMITH: Yeah, they're --

10 THE REPORTER: One at a time, please.

11 BOARD MEMBER HANSON: -- piped off -

12 THE REPORTER: One at a time.

13 BOARD MEMBER HANSON: Where the --

14 THE REPORTER: One at a time.

15 MR. SMITH: They're collected in that  
16 piping and routed to a collection place.

17 BOARD MEMBER HANSON: And are they straight  
18 up, the vents?

19 MR. SMITH: On these ones, yeah, they could  
20 be. Those could be like pressure relief valves, so when  
21 they have to empty tanks, they can open those in order to  
22 pump the tanks out.

23 BOARD MEMBER HANSON: Okay.

24 MR. KEYFAUVER: Okay. Any more  
25 questions --

1 MR. BROWN: No.

2 MR. KEYFAUVER: -- from the Board?

3 CHAIRMAN BROWN: No.

4 MR. KEYFAUVER: Then I'll move on to the  
5 next slide. For flashing emissions, we also listed  
6 emergency open-top and blowdown tanks. We specified that  
7 due to the nature of how these tanks are operated in the  
8 field, that the 98 percent control requirement will not  
9 apply to these tanks. And then we did specify that they  
10 cannot be used for active storage. If used for active  
11 storage, they're probably not operating in the emergency  
12 open-top.

13 And must be emptied within seven calendar days.  
14 These requirements are very similar to what are currently  
15 incorporated in new permit conditions for facilities that  
16 have designated emergency or open-top, blowdown tanks.

17 CHAIRMAN BROWN: Can you define flashing  
18 emissions for me, please?

19 MR. SMITH: The flashing emissions, when we  
20 look at it, is when you take the hydrocarbon, and the  
21 hydrocarbon liquid will condensate into oil. When it comes  
22 out of the well, it's operated at some pressure, and as it  
23 goes from separator into the tanks, it drops from whatever  
24 the wellhead pressure and separator temper -- separator  
25 temperature and pressure into atmospheric, and then that

1 causes the gas that's entrained within those liquids to  
2 flash out.

3 CHAIRMAN BROWN: Okay. Thank you.

4 BOARD MEMBER HANSON: I think there was a  
5 statement by one of the industry representatives about the  
6 necessity to empty these tanks every -- within seven days.  
7 Since they are emergency tanks only, why that was retained,  
8 if they are -- they serve no regular function, but just  
9 emergency function?

10 MR. SMITH: Well, in developing these  
11 conditions for the permits that we already have, that was  
12 one of the things that we worked with with the operators  
13 when we developed the permitting requirements, was that  
14 they -- if they did have some type of emergency or upset  
15 condition that required them to use those tanks, the  
16 working and breathing losses from the stuff -- the  
17 condensate that sits in there as the temperature changes  
18 throughout the day and everything. There's going to be the  
19 liquid just sitting there has some bit of volatility so  
20 some of those emissions will come out at that point. So  
21 that's something to keep -- make sure they're getting out  
22 there and they do have some type of emergency that they're  
23 out there emptying those tanks, so it's not sitting there  
24 creating visual emissions.

25 CHAIRMAN BROWN: These are fairly remote

1 areas too.

2 BOARD MEMBER BONER: When you say empty,  
3 that's emptied back into the regular tanks, right? It's  
4 not?

5 MR. SMITH: No. They would probably bring  
6 a separate truck out --

7 BOARD MEMBER BONER: Okay.

8 MR. SMITH: -- and pull the tanks that way.

9 BOARD MEMBER BONER: Fair enough.

10 MR. DIETRICH: I think the point here is  
11 you can either be emergency or not. And so if you're not  
12 emergency, we're going to ask you to put controls on it.  
13 If you really want to be emergency, we're going to make  
14 sure the tank's empty most of the time.

15 BOARD MEMBER HANSON: Sure.

16 MR. KEYFAUVER: Okay.

17 CHAIRMAN BROWN: Uh-huh.

18 MR. KEYFAUVER: Okay. And then continuing  
19 on we get to control removal as a rule. This would be  
20 allowed if VOC emissions drop below the 4-ton-per-year  
21 threshold; however, as with the permit, if you install a  
22 control device, you have to keep it in place for at least a  
23 year from the date of installation, and then you also need  
24 to provide a demonstration prior to removal to the Division  
25 that emissions truly have dropped below the 4-ton-per-year

1 threshold.

2           One of the key points that I want to bring up, if  
3 you had seen the previous table where there was a lot of  
4 sources in less than 3-ton-per-year category, those sources  
5 that were controlled that were less than 3 tons may be  
6 required to keep the control device on longer under the  
7 rule. For example, under -- in the -- what used to be the  
8 CDA control -- the concentrated development area portion of  
9 the upper Green River Basin, you could have on tanks an  
10 8-ton removal threshold. Well, if you have had a permit  
11 that allowed removal on 8 tons, the rule would say now you  
12 have to keep it on until you're below 4 tons. So this  
13 one -- this rule more likely will have industry keep  
14 controls on for longer period than maybe the current  
15 permits allowed.

16           BOARD MEMBER HANSON: Is the removal  
17 question related to cost? Because to me it would seem  
18 logical to just keep the control devices there in case  
19 something happens, that you need it. But why would you  
20 want to remove it after one year from date of installation  
21 if you fall below the 4 tpy? That I didn't understand,  
22 unless it's a question of price, that they're expensive or  
23 something like that.

24           MR. KEYFAUVER: A lot of it will fall to  
25 cost. Going back to the data we used for the Oil & Gas

1 Guidance, when you start getting lower than the 4-ton-  
2 per-year threshold, you -- I can't tell you the exact  
3 number, but there's a point in time any control devices  
4 where you have to hit a minimum flow rate, and if you don't  
5 have enough emission flashing -- emissions coming from the  
6 tank, you have to bring in supplemental fuel. So if you  
7 require industry to keep the combustion device on all the  
8 time, there's a chance they may be just burning  
9 supplemental fuel and not really controlling the emissions  
10 with carbon.

11 BOARD MEMBER HANSON: Okay. That makes  
12 some sense.

13 CHAIRMAN BROWN: How do you demonstrate the  
14 4 tons per year less before you remove it? Is it through  
15 stack testing or is it --

16 MR. KEYFAUVER: That may be --

17 CHAIRMAN BROWN: -- engineering  
18 calculation?

19 MR. KEYFAUVER: That we're talking about on  
20 the next slide.

21 CHAIRMAN BROWN: Okay. Sorry.

22 MR. DIETRICH: Good question.

23 MR. KEYFAUVER: Good question, yes.

24 So for applicability -- for initial applicability  
25 under the rule, we define that since our existing date was

1 January 1, 2014, we determined that what we'll have  
2 everybody look at the past calendar year production for  
3 tanks, that could be produced condensate, produced oil, and  
4 then we suggest or require -- suggest -- require that you  
5 use an approved flash model. That could be like EMP tank,  
6 or there's other versions out there that we've approved.

7           And then we specify -- you need to provide  
8 operational parameters that you would need to run this  
9 flash model. So if we were to get the data and rerun it,  
10 we would need to -- for example, this be would operational  
11 parameter would be separator temperature and pressure,  
12 which is something you would use in EMP tanks.

13           CHAIRMAN BROWN: Do you have to continually  
14 demonstrate, like on an annual basis or anything, from your  
15 emissions inventory?

16           MR. KEYFAUVER: No.

17           CHAIRMAN BROWN: Okay.

18           MR. KEYFAUVER: No, you do not.

19           And then I'll jump to dehydration units.  
20 Hopefully -- I'm not sure how well it stands out in the  
21 picture, but there's two contact towers you can see for  
22 example what the sources look like. We want to make -- be  
23 clear -- hope it's clear in the rule that this just applies  
24 to glycol dehydration units, not desiccant units. We have  
25 had some comment or questions for clarification on that.

1 Reiterate, it's just the glycol units. Again, like the  
2 tanks that you -- VOC emissions that are greater than  
3 4 tons uncontrolled, you need to have control device or  
4 some device that at least meets the 98 percent by  
5 January 1, 2016. I believe most of -- most of the industry  
6 will use a combustor. The rule does allow flexibility if  
7 you were routed into a closed-loop system or any other --

8           And then, again, for control removal, it's very  
9 similar. If you drop below 4 tons per year, you're allowed  
10 to. Again, you have to keep control device on for one year  
11 from the date of installation. And if you remove your  
12 combustor or other control device, we require that the dehy  
13 be equipped with a condenser. This is very similar to  
14 existing permit requirements. So if somebody come in today  
15 with -- for a permit in the -- under the Oil & Gas  
16 Guidance, and we allow control removal under the permit,  
17 you have to put a condenser on there. It's one way to at  
18 least knock out some VOCs.

19           And then, again, as with the tanks, you have to  
20 provide a demonstration. This demonstration pretty much is  
21 GRI Glycol, the most approved model out there. I think  
22 90 percent of operators for permitting use that  
23 demonstration. We expect it to be similar under the rule.

24           BOARD MEMBER HANSON: Once you have taken  
25 them off, do you then do inspections that they have risen



1 again and that something is happening after you've taken  
2 them off? How do you make sure that they stay below 4 tons  
3 per year?

4 MR. KEYFAUVER: This could probably be done  
5 through inspections or quick look at emission inventories  
6 that have been submitted. Emission inventories would  
7 probably be the big key, because that emission inventory  
8 rule, I believe, was done last year --

9 MS. CEDERLE: Uh-huh.

10 MR. KEYFAUVER: -- requires oil and gas  
11 operators in the ozone nonattainment area to submit  
12 inventories.

13 That would probably be the first check if  
14 something was greater than 6. In this case, 4 -- if it  
15 came up with 6, that would be a quick maybe we need to look  
16 at this one closer why is it at 6.

17 BOARD MEMBER HANSON: Would you then have  
18 to reinstall a control device?

19 MR. KEYFAUVER: Potentially, if there's an  
20 issue, yes.

21 BOARD MEMBER HANSON: Yeah. Okay.

22 MR. KEYFAUVER: We'd probably want to  
23 rerun the model software to make sure that what the  
24 operator came up with and what -- or we'd ask the operator,  
25 hey, is this data correct before we go down that road.

1 BOARD MEMBER HANSON: Okay.

2 MR. KEYFAUVER: Then for applicability,  
3 it's very similar to what we require for the tanks.  
4 Utilize the average daily production for 2013, which this  
5 would be a gas -- gas production rate and standard cubic  
6 feet per day, per hour. Approved model software, I talked  
7 about that. I said GRI Glycol, and the operational  
8 parameters, which are specific to dehys. For example, this  
9 would be the glycol circulation rate. For the pumps, and  
10 we specify an average rate, not the max rate. Sorry.  
11 We're saying max. Let me correct that.

12 CHAIRMAN BROWN: Repeat that.

13 MR. KEYFAUVER: Let me correct that. We  
14 say max, so very similar to how we permit.

15 CHAIRMAN BROWN: Okay. And the 4 tons, is  
16 this similar to like the tanks or anything else where if it  
17 was less than the 4 tons, you may have to spike something  
18 just to get it to run properly? You know, for the removal  
19 rate?

20 MR. KEYFAUVER: Yes, it would be very  
21 similar on a combustor. To raise a combustor if it dropped  
22 below a certain threshold, you'd have to use supplemental  
23 fuel.

24 CHAIRMAN BROWN: Okay. That's what I was  
25 wondering, you have to run more through it to get -- get

1 the removal at least efficiently.

2 MR. KEYFAUVER: So if an operator uses a  
3 combustor for the dehy, yeah.

4 CHAIRMAN BROWN: Okay.

5 MR. KEYFAUVER: It may then be a different  
6 issue if they have a common control device that say tanks  
7 and dehys --

8 CHAIRMAN BROWN: Okay.

9 MR. KEYFAUVER: -- other sources were  
10 routed to that.

11 CHAIRMAN BROWN: Okay. Thank you.

12 MR. KEYFAUVER: And then the next source  
13 category, excuse me, is pneumatic pumps. I tried to  
14 provide a picture that shows a pneumatic pump. They're  
15 fairly small devices. Again, if it's greater than 4 tons  
16 per year, you would need to control the VOC emissions by  
17 98 percent, route it into a closed-loop system. Want to  
18 put a reminder for you out there that pumps emit what  
19 they're designed to emit. So if a pump emits greater than  
20 4 tons per year, it will probably always emit greater than  
21 4 tons per year. It won't have decline as a dehydration  
22 unit would or flashing emissions potentially could have.

23 CHAIRMAN BROWN: Okay.

24 MR. KEYFAUVER: And then for control  
25 removal, it's very similar. If it's allowed, the VOCs are

1 less than 4 tons per year; however, again, if your pump's  
2 designed -- designed to emit greater than 4, probably not  
3 going to be allowed to emit, unless you replace it with a  
4 smaller pump. If you have a control device that was  
5 installed, you're allowed to remove that control device  
6 again after one year from the date of installation and  
7 demonstration's required.

8           Also I want to point out that if you route your  
9 pump to a common control device, a demonstration needs to  
10 be that all sources going to the control device are less  
11 than 4 tons per year, not each source as 4 tons per year.  
12 So flashing emissions, dehy and pump all go to one flashing  
13 device, all three have to be less than 4 tons before you're  
14 allowed to move on under the rule, which is very similar to  
15 requirements under the Oil & Gas Guidance permits.

16           Okay. The next source category we have is  
17 pneumatic controllers. This is very similar to existing  
18 requirements that are out there by EPA, and in Oil & Gas  
19 Guidance is -- you replace low-bleed or no-bleed  
20 controllers. Existing pneumatic controllers that are  
21 greater than 6 standard cubic foot per hour need to be  
22 replaced with either low-bleed or no-bleed, and 6 standard  
23 cubic foot per hour is what defines low-bleed.

24           MR. SMITH: Uh-huh.

25           MR. KEYFAUVER: And those would, again,

1 have to be in by that January 1, 2016 date. And then for  
2 fugitives, this is based on a facilitywide basis. So if  
3 your single well or pad facility has VOC emissions greater  
4 than 4 tons per year, the rule requires you to implement a  
5 Leak Detection and Repair Program. The LDAR program  
6 requires monitoring no less frequently than on a quarterly  
7 basis. It needs to be instrument-based monitoring,  
8 audio-visual-olfactory or some combination thereof. Then  
9 AVO by itself is not allowed. This is very similar to what  
10 is required for new source in the Oil & Gas Guidance.

11 And for applicability for fugitives, we specify  
12 an EPA table, which is Protocol for Equipment Leak  
13 Emissions Factors. This table also will be found or  
14 referenced in our Oil & Gas Guidance. It requires that you  
15 use an actual facility component count, and you're also  
16 allowed to use site-specific VOC concentrations.

17 MR. DIETRICH: Do you have the page number  
18 on that table?

19 MS. CEDERLE: Within the rule?

20 MR. DIETRICH: Yeah.

21 MS. CEDERLE: 8-90. Yeah, fugitives starts  
22 on 8-89, so we're at 8-90.

23 MR. DIETRICH: But there's no table.

24 MS. CEDERLE: Is that what the question  
25 was, the table?

1 MR. DIETRICH: They're looking for the  
2 table.

3 MS. CEDERLE: We did not provide the table  
4 within the body of the rule.

5 BOARD MEMBER HANSON: That's why we don't  
6 have it.

7 MS. CEDERLE: I'm sorry. I misunderstood  
8 you.

9 MR. KEYFAUVER: We do reference where you  
10 can get the table.

11 BOARD MEMBER HANSON: Uh-huh.

12 MR. KEYFAUVER: It's also in the Oil & Gas  
13 Guidance, for those who are familiar with the oil and gas  
14 codes. So we tried to keep what we could in the rule very  
15 familiar to what operators were used to seeing through the  
16 Oil & Gas Guidance or permits or other regulatory  
17 structures that are out there that we can build off of.

18 Do you have any other questions?

19 BOARD MEMBER HANSON: Yeah. Under this  
20 section, there's a section (ii)(A) fugitives, and then  
21 (II), emission factors in the Protocol for Equipment Leak,  
22 et cetera, that are not -- that are improperly designed or  
23 equipment not maintained properly. So you send out  
24 inspectors to -- to determine that, or who determines  
25 whether it was improperly designed?

1                   MR. KEYFAUVER: That -- that was in there  
2 to say if you know you have a busted valve, that you can't  
3 use a specific valve, or a risk factor for that type of  
4 valve, inspectors would be the first key to us if they  
5 reported their emissions as being less than 4 tons per  
6 year, inspector goes out there and notices I'll just say  
7 concerns through flare inspection or something, that may  
8 raise a red flag.

9                   BOARD MEMBER HANSON: Uh-huh. So it's not  
10 necessarily the operator's responsibility, but rather an  
11 inspector.

12                   MR. DIETRICH: It's actually both.

13                   MR. KEYFAUVER: It's a checks and balances.  
14 Operator tells us one thing and the inspector goes out  
15 there and sees something different, then we need to rectify  
16 the issue.

17                   BOARD MEMBER HANSON: Okay. Thank you.

18                   MR. KEYFAUVER: Do you have any other  
19 questions before I move on?

20                   CHAIRMAN BROWN: No.

21                   MR. KEYFAUVER: Okay. And then I'm going  
22 to jump into the monitoring requirements of the rule. If  
23 you're utilizing a combustion device, which we believe  
24 majority of the industry will use, and to utilize a device  
25 to ensure the 98 percent control requirements -- whether

1 that is a thermocouple or some other equivalent device --  
2 to ensure that there's a presence of flame, especially on a  
3 combustion device. Most of these devices are certified to  
4 meet certain control requirements. And usually the  
5 presence of a pilot flame is the first indicator of whether  
6 it's working or not.

7           And per the primary quality standards and  
8 regulations, combustion device that's installed needs to be  
9 smokeless, which, in layman speak, is you can't have any  
10 visible emissions for greater than five minutes during any  
11 two-hour period. And for dehydration units, if you have to  
12 have a condenser on there because you've removed a  
13 combustion device or some other control device, needs to be  
14 properly designed to at least get a maximum differential so  
15 that your condenser is working properly. And then control  
16 devices in and of themselves are supposed to be redesigned,  
17 operated and maintained. So if they're supposed to have a  
18 minimum flow rate, you should probably meet the minimum  
19 flow rates, because indicators are if you're not meeting  
20 those flow rates with specifications, you're not meeting  
21 the 98 percent control requirements or smokeless  
22 requirements.

23           And then the other part of monitoring is we  
24 require you to go and do quarterly site evaluations of your  
25 control systems. This is to verify that your system is



1 working properly. If you're not in the LDAR program,  
2 you're just going out and checking, hey, my gas flash  
3 emissions from the tanks are actually making to the  
4 combustion device, there's not a leak somewhere, for  
5 example, or a valve is stuck in the wrong position and  
6 diverting it to where it shouldn't go.

7 For recordkeeping on control devices, again,  
8 we're leaning more towards combustions. To me that's where  
9 most people will lean towards if they put a control device.  
10 You would need to record the absence of a flame if you're  
11 using a pilot. Steps taken to return control device to  
12 proper operation and date and duration when control device  
13 is not functioning. This will probably go into more  
14 enforcement discretion if there are issues, based on  
15 records and inspections. For fugitive emissions and  
16 recordkeeping, you would just need to keep the date and  
17 results of any LDAR inspections. And if you did note  
18 something in an LDAR inspection, you have to note any  
19 corrective actions taken.

20 CHAIRMAN BROWN: These reports aren't  
21 submitted, the LDAR reports? They're just available for  
22 inspection?

23 MR. KEYFAUVER: I believe that's how we  
24 have it set up.

25 MR. SMITH: Should be.

1                   CHAIRMAN BROWN: All right.

2                   MR. KEYFAUVER: And just continuing on with  
3 recordkeeping, utilizing blowdown, emergency tanks, very  
4 similar to permit requirements, you just need to keep date,  
5 duration, reason for use, if you haven't used the tanks.  
6 And then like all other records, you're required to keep  
7 them for a period of five years from the date of  
8 generation. And that's -- we're jumping to the recording  
9 section of the rule.

10                  Okay. The first notification required is by  
11 April 1st of 2015. And this is to provide the name and  
12 location of the 70-year source that you may be required to  
13 install a control device or implement some activity under  
14 the rule. For example, LDAR. It's very similar to -- for  
15 the pneumatic. And we broke this -- broken it up for  
16 pneumatics, because we have different requirements, because  
17 the number is vastly different than control installation,  
18 but controls equipment and pneumatic installation  
19 notifications. You submit those within 30 days at the end  
20 of each quarter. So, for example, if you want to break up  
21 the installations over the two-year time frame, you could.  
22 Or if you had 50 that you installed equipment under, you  
23 wouldn't have to submit 50 notifications to us. You just  
24 submit one for that quarter. If you had none the next  
25 quarter, there would be no notifications and so on. So we

1 try to make the reporting as user-friendly as possible.

2 BOARD MEMBER HANSON: Question.

3 CHAIRMAN BROWN: Sure.

4 BOARD MEMBER HANSON: On the first item,  
5 the April 15 -- April 1, 2015, there are no follow-up dates  
6 on that.

7 MR. KEYFAUVER: No.

8 BOARD MEMBER HANSON: The way it's written  
9 here, it looks like there's only one date, and then you're  
10 good for the rest of eternity.

11 MR. KEYFAUVER: This is the initial cut of  
12 who may be required to install or implement.

13 BOARD MEMBER HANSON: Okay.

14 MR. KEYFAUVER: To kind of give the  
15 district engineers and inspectors an idea of who may be  
16 installing control devices, but they show up -- the  
17 inspector inspected a site last year, and this year they  
18 inspect it and suddenly see a control device, that doesn't  
19 have a permit. It may be -- it gives them a heads-up, hey,  
20 if I go to this site this year, I may see a control device  
21 because of the rule.

22 BOARD MEMBER HANSON: Thank you.

23 MR. KEYFAUVER: Kind of some forewarning  
24 for us when we do inspections, and the volume that we may  
25 see.

1 Any other questions?

2 CHAIRMAN BROWN: No.

3 MR. KEYFAUVER: No. All right. Then just  
4 to continue under reporting. The control equipment,  
5 pneumatic installation, you do these quarterly reports of  
6 installations. You just provide the number of devices or  
7 equipment installed. So if you had installed 10 pneumatic  
8 controllers or replaced pneumatic pumps, this would be the  
9 area you would do it. The installation date of when you  
10 did that, again, the name and location of the facility  
11 where the equipment was installed. And then the final  
12 notification under the rule would be no later than  
13 January 31, 2016, which is 30 days after the compliance  
14 date, of which controls need to be installed by, if you  
15 remember that January 1st of 2016.

16 And then for reporting of controller or equipment  
17 removal. This is where we reiterate you need to provide a  
18 demonstration prior to the removal. You may utilize the  
19 average daily production from the past 12 months, use the  
20 appropriate model software, whether it's GRI Glycol for  
21 your dehys or E&P's tank -- E&P software for your tanks,  
22 the appropriate operational parameters, whether separated  
23 temperature pressure, glycol circulation rate and any other  
24 supporting data that you use for your demonstration. So if  
25 you had updated gas analyses for your facility that you

1 wanted to use, this is where you would use it.

2                   And then you also need to provide the name and  
3 location where your controls are proposed to be removed.  
4 Once we get this notification, a district engineer can look  
5 at the data and verify that, yes, it's under threshold,  
6 then can authorize the removal.

7                   CHAIRMAN BROWN: Will it trigger more  
8 inspections? I mean, will it get this and say, oh, I want  
9 to go out and check this out for myself, or is it mainly a  
10 back and forth --

11                   MR. KEYFAUVER: There's a potential it  
12 could.

13                   CHAIRMAN BROWN: Okay.

14                   MR. KEYFAUVER: I'm not as familiar with  
15 how the district engineers --

16                   MR. DIETRICH: What it could mean is we ask  
17 these folks to keep records, facilities to keep records for  
18 at least five years.

19                   CHAIRMAN BROWN: Right.

20                   MR. DIETRICH: We plan to try to do most of  
21 the monitor facilities, if not all of them, every five  
22 years. So it allows those records to be available, as well  
23 as reporting that comes in, to help schedule their  
24 inspections.

25                   CHAIRMAN BROWN: Okay. And it shouldn't

1 trigger extra -- or any more monitoring oversight than  
2 normal?

3 MR. DIETRICH: Shouldn't.

4 MR. KEYFAUVER: Shouldn't.

5 CHAIRMAN BROWN: Okay.

6 MR. KEYFAUVER: It should be the same as if  
7 you had the permit.

8 CHAIRMAN BROWN: That's what I was  
9 wondering.

10 MR. KEYFAUVER: Okay. And then just  
11 continue on with the reporting. If you were -- if you  
12 triggered greater than 4 tons for fugitives, the rule  
13 requires that you submit LDAR protocol prior to  
14 implementing it, so that the Division can get an idea of  
15 what the industry is proposing or that company's proposing  
16 for that site. Again, this is the check to make sure that,  
17 hey, we're not using AVO by itself in this.

18 Any reports that are submitted can be e-Certified  
19 by a responsible official. This is similar to the emission  
20 inventory rule requirement. Your submittal needs to be  
21 certified. And then submissions can be done electronically  
22 through IMPACT or hard copy to Cheyenne and Lander field  
23 offices.

24 CHAIRMAN BROWN: Is IMPACT new or existing?

25 MR. KEYFAUVER: It's new.

1                   CHAIRMAN BROWN: New? Okay. So is there  
2 learning curve?

3                   MR. KEYFAUVER: Very new. There will be a  
4 learning curve. And I have a slide specifically for IMPACT  
5 that's coming up.

6                   CHAIRMAN BROWN: Okay.

7                   MR. KEYFAUVER: And then compliance  
8 component at the end of the rule that if you're subject to  
9 rule, it does not relieve you from any other requirements  
10 that you need to comply with, whether it be a state permit  
11 or federal requirement. And then my last slide is this new  
12 fancy electronic submission. It's specifically designed to  
13 capture air quality information electronically, so the  
14 theory you should be able to do your permitting and  
15 notifications through this system.

16                   I did not come up with the acronym. I believe  
17 that was Brian Bohlmann, the Inventory Monitoring  
18 Permitting and Compliance Tracking System. Since the --

19                   BOARD MEMBER HANSON: That's neat.

20                   MR. KEYFAUVER: Since the rule is going to  
21 allow this, the system is going to be designed to be set up  
22 so that industry should be able to use it by winter -- this  
23 coming winter, 2014. It should be a centralized system for  
24 everybody to get air quality information for any facility  
25 they have and their notifications and control

1 installations. And it should be fairly robust. And if you  
2 have any questions on IMPACT, that's where you need to  
3 send -- direct your inquiries to.

4 MR. DIETRICH: If I could add, this is an  
5 effort that's been underway for quite some time. We're  
6 trying to get more and more paperless. And this system  
7 that's being built and developed is going to allow us to do  
8 that.

9 MR. KEYFAUVER: I do know Darla may be able  
10 to elaborate on this, is that there is training being set  
11 up in the future. I do not know whether that specific  
12 training will be set up industry. I would assume right now  
13 it would be in the fall. Planning section is working on  
14 that, but the system will require you to get an invite  
15 password to be able to get into where you can set up  
16 numerous contacts, responsible officials, billing contacts,  
17 various contacts for every facility. So it will be a  
18 fairly secure that you have to get a special password  
19 requirement to get into it.

20 CHAIRMAN BROWN: Is this -- the IMPACT, is  
21 it public or is this -- no?

22 MR. DIETRICH: Right now it's --

23 CHAIRMAN BROWN: Or is it going to generate  
24 a public report off the IMPACT analysis?

25 MR. DIETRICH: It will be able to generate



1 a lot of things like reports.

2 CHAIRMAN BROWN: Okay.

3 MR. DIETRICH: Initially we're trying to  
4 use it internally --

5 CHAIRMAN BROWN: That's what I was  
6 wondering.

7 MR. DIETRICH: -- to get really good at  
8 using it. And then when we turn on the system for external  
9 users, I'm sure we'll be having to help those folks access  
10 the system and use it.

11 CHAIRMAN BROWN: Sure. Okay. Any other  
12 questions?

13 MR. KEYFAUVER: I have just questions for  
14 the Board.

15 BOARD MEMBER HANSON: I'm raising a  
16 question here which is probably sort of peripheral. But  
17 fairly close to the end there is a Section G, and it says a  
18 certification by a responsible official of truth, accuracy  
19 and completeness. You're getting into a judgmental field  
20 here where an official is supposed to certify truth,  
21 accuracy, completeness, and these are relative terms to me.  
22 So I think you probably should at least add a word like  
23 perceived truth, accuracy and completeness, because those  
24 are relative terms to me. I come out of a different  
25 field --

1 MR. KEYFAUVER: Right.

2 BOARD MEMBER HANSON: -- and they are not  
3 objective terms.

4 MR. DIETRICH: Okay. Is that the end of  
5 the information?

6 MR. KEYFAUVER: That's --

7 BOARD MEMBER HANSON: That's it, yeah.

8 CHAIRMAN BROWN: Any questions from the  
9 Board for Andrew?

10 I suggest we take a 15-minute break.

11 BOARD MEMBER HANSON: Thank you.

12 CHAIRMAN BROWN: Make a motion? Can you  
13 make a motion to take a break?

14 BOARD MEMBER HANSON: Make a motion to take  
15 a break.

16 BOARD MEMBER BONER: Second.

17 CHAIRMAN BROWN: Okay. Take a 15-minute  
18 break.

19 (Meeting proceedings recessed

20 10:23 a.m. to 10:42 a.m.)

21 CHAIRMAN BROWN: Let's reconvene. What  
22 we've got now -- find my notes -- is public comment  
23 portion. And what we're going to do is the public will  
24 come over here to this podium and speak. And state your  
25 name, your affiliation, and then please make your comments

1 directed at the Board, because this is just a public  
2 comment, and so you ask us for clarifications, request for  
3 clarifications, but make all your comments directly to the  
4 Board.

5 And what I'm going to do is just go through in  
6 order of the sign-up and take your time, whatever you need  
7 to say, do it. And first one is Mr. John Robitaille from  
8 PAW.

9 MR. ROBITAILLE: Just step by you here.

10 Thank you, Mr. Chairman. John Robitaille,  
11 Petroleum Association of Wyoming.

12 We submitted comments last week, and rather than  
13 spend the next two hours going through them, I think I will  
14 suggest that what we're proposing is that this Board not  
15 pass this rule at this time. We are suggesting that you  
16 remand it back to the Air Quality Division and allow us an  
17 opportunity to sit down with them and review our comments  
18 in a face-to-face meeting. I'd suggest to you that it  
19 would probably be able to be accomplished in a one-day  
20 meeting. May very well be a long day, but I believe that  
21 we can handle it all in one day.

22 I can tell you that we are not opposed to the  
23 rule. We are opposed to the rule as written. We believe  
24 there are some inconsistencies. We believe that there are  
25 some -- some ambiguities, and we are a little concerned

1 about some of the administrative requirements that are in  
2 the rule. One of the most important things that we see is  
3 the compliance date. We do not believe that we can achieve  
4 compliance given that date. You have to take into account  
5 this year a number of facilities that were discussed, just  
6 our review -- a quick review, our numbers are tremendous.  
7 We're looking at least almost 300 glycol dehy's alone.

8           The manpower, the equipment, getting them to the  
9 facilities, all these things will take a tremendous amount  
10 of time. We do not believe that after this rule is  
11 effected, which may be another six, eight months from now,  
12 we do not believe that we can comply with that compliance  
13 date of one year as written in the rule.

14           We also have concerns about the way that this  
15 rule will mesh with the -- what we call the guidance, the  
16 BACT guidance. We have some suggestions that we think  
17 might be able to -- to shore that up a little bit. We also  
18 are looking at things such as existing venting and blowdown  
19 permits. These are some things we think we can just hammer  
20 out if we can just sit down and visit about.

21           Offset policy, how does this apply with the  
22 offset policy? We're unclear on that as well. So really I  
23 think if we could just have an opportunity to sit down with  
24 the Division and actually go through some of these things,  
25 maybe clarify some things within the rule, maybe -- maybe

1 outline our position a little bit more clearly for them. I  
2 think we can come out with a much cleaner rule, one that's  
3 easier to understand and one that's easier to follow. One  
4 of the dangers in writing regulation, if it's unclear or if  
5 it's ambiguous at all, we can get into all kinds of  
6 problems in terms of compliance as one side may see it  
7 differently than another. I would really prefer to have a  
8 clear concise rule, one that outlines everything that we  
9 can all understand.

10 Thank you, Mr. Chairman.

11 CHAIRMAN BROWN: Thank you.

12 Okay. Next on the list is Mr. Jon Goldstein from  
13 EDF, Environmental Defense Fund.

14 MR. GOLDSTEIN: Thank you, Mr. Chairman.

15 My name is John Goldstein. I'm senior energy  
16 policy manager with the Environmental Defense Fund.

17 As we stated in our joint comments with the  
18 Wyoming Outdoor Council and with Elaine Crumpley of CURED,  
19 we support the Division in moving forward expeditiously on  
20 improving air quality requirements for existing sources in  
21 the Upper Green River Basin. These new rules will help  
22 restore the region's air quality, protect the health of  
23 local residents and prevent the need for further federal  
24 regulatory actions.

25 Historically Wyoming's been a national leader on

1 clean air measures for oil and gas. The Division, with the  
2 input of this board, continued that tradition last year in  
3 approving the permitting guidance for new and modified  
4 sources in the Upper Green. And the Division has the  
5 opportunity to do that again with these new rules.

6 Many aspects of the DEQ proposal before you today  
7 continued to demonstrate that tradition of leadership. In  
8 particular, we commend DEQ for proposing to require the  
9 replacement of both continuous and intermittent high-bleed  
10 pneumatic controllers with no or -- low- or no-bleed lines,  
11 98 percent of control of flash emissions from storage tanks  
12 and separation vessels and glycol dehydrators.

13 The elimination, over 98 percent reduction of  
14 pneumatic pump emissions and quarterly instrumented leak  
15 inspections at the higher emitting well sites. However, as  
16 proposed, we feel these rules fall short in some key areas  
17 and require improvements to be beneficial as necessary.

18 To give one example, due to the use of a 4-ton-  
19 per-year VOC thresholds for many of the control  
20 requirements and the failure to apply these requirements to  
21 sources located at compressor stations, the rules only  
22 address a very small fraction of the emissions in the UGRB  
23 nonattainment area.

24 The equipment makes the fugitives from well sites  
25 and compressor stations account for approximately

1 one quarter of the VOCs and one-quarter of the methane  
2 emissions from oil and gas sources in the ozone  
3 nonattainment area. However, only 3 percent of the  
4 existing well sites with fugitive emissions will be  
5 required to conduct instrument-based leak inspections on a  
6 quarterly basis under the Division's current proposal. The  
7 remaining 97 percent need only check for leaks with modern  
8 leak detection technology once a year.

9 To look at this another way, the AQD's proposal  
10 would leave 1480 tons per year of VOCs in the air that  
11 could reasonably and cost effectively be mitigated. This  
12 is because according to estimates developed by EPA in the  
13 state of Colorado, annual inspections only reduce fugitive  
14 emissions by 40 percent, while quarterly inspections can  
15 expect 60 percent reductions. Per the 2011 UGRB inventory,  
16 facilities with less than 4 tons of uncontrolled fugitives  
17 release 2,467 tons of VOCs to the atmosphere. Reducing  
18 those by 40 percent, as the AQD has proposed, only results  
19 in reduction of 987 tons per year. More frequent quarterly  
20 inspections, on the other hand, will remove 1,480 tons of  
21 VOCs from the atmosphere annually. 67 percent improvement  
22 on AQD's proposal. That's why I believe the DEQ could and  
23 should approve the proposed leak detections testing  
24 requirements to better capture more emission sources by  
25 requiring quarterly instrument-based inspections at well

1 sites with at least 2 tons of uncontrolled fugitive VOCs  
2 per year, and by expanding these requirements to also apply  
3 to compressor stations.

4 There are several other improvements discussed in  
5 our comments, including extending the AQD's proposal to  
6 encompass mid-stream compressor stations, strengthening  
7 pneumatic pump controls and not allowing combustors to be  
8 removed from glycol dehydrators, which is currently the  
9 status quo in the Jonah Pinedale development area.

10 And I'd also like to highlight that all these  
11 improvements can be reasonably and cost effectively  
12 addressed. As our written comments demonstrate, these  
13 recommending controls have costs in the range of hundreds  
14 of dollars per ton of pollution reduced to give you a sense  
15 that the VOC leak detection repair requirements I just  
16 mentioned. We estimated for sites with 2 tons per year of  
17 emissions could be done for \$650 a ton, for sites with  
18 3 tons per year of emissions could be done for about \$435 a  
19 ton. These are, you know, very cost-effective. We're  
20 talking hundreds of dollars a ton, not thousands of  
21 dollars, as has been deemed cost-effective in the past.

22 So that's the bulk of my comments. And if there  
23 are any questions or clarifications, I'd be happy to do  
24 that.

25 CHAIRMAN BROWN: Board have any questions



1 for Mr. Goldstein?

2 BOARD MEMBER HANSON: We went through this.

3 CHAIRMAN BROWN: No questions. Thank you.

4 MR. GOLDSTEIN: Thank you.

5 CHAIRMAN BROWN: Okay. Next on our list is  
6 Bruce Pendery, Wyoming Outdoor Council.

7 I want to make a statement -- a little  
8 housekeeping. At the end of this meeting, when this  
9 meeting closes is when the public comment period closes.  
10 So I just wanted everybody to be aware of that. Okay. Go  
11 ahead.

12 MR. PENDERY: Thank you. Thank you for the  
13 opportunity to present these comments to the Air Quality  
14 Division and the Air Quality Advisory Board regarding the  
15 proposed regulation of air pollution emissions from  
16 existing oil and gas sources in the Upper Green River Basin  
17 ozone nonattainment area. My name is Bruce Pendery. I am  
18 the chief legal counsel with the Wyoming Outdoor Council.

19 Generally speaking, we are supportive of this  
20 proposal and encourage its adoption. We believe it will  
21 help to improve air quality in the Upper Green River Basin,  
22 helping to bring the area back into compliance with the  
23 National Ambient Air Quality Standard for ozone and better  
24 protect the health of people who live in the area.

25 These would be important and worthy

1 accomplishments. But as we indicated in the written  
2 comments we have submitted to the Air Quality Division, in  
3 conjunction with our partners at the Environmental Defense  
4 Fund, which I hope the Advisory Board has had some  
5 opportunity to review. We do believe there are several  
6 areas in which the proposed rules could be improved. Those  
7 areas needed improvement include providing for quarterly  
8 inspection of leaks or fugitive emissions at oil and gas  
9 facilities, even when those facilities emit less than  
10 4 tons per year of volatile organic compounds, not just  
11 annual inspections, as the proposed rule currently provides  
12 for, the need to regulate emissions from compressor  
13 stations and the need to not allow emissions control  
14 measures to be removed at dehydration units and pneumatic  
15 pumps after one year if emissions of VOCs are less than  
16 4 tons per year.

17 As our comments indicate, we believe these are  
18 very cost-effective means -- they're a very cost-effective  
19 means to regulate these emissions. I will not spend more  
20 time on these issues in these comments because you can look  
21 at our written statements. And in addition to Jon  
22 Goldstein has just shared some more of our, you know,  
23 detailed point regarding those matters with you.

24 There are, however, several other issues of  
25 concern or points that I would like to highlight for you.

1 First, under the proposed rule for both flashing emissions  
2 and emissions from dehydration units, controls for  
3 emissions would be required at both so-called pad  
4 facilities and at single well facilities only if emissions  
5 of hazardous air pollutants or volatile organic compounds  
6 exceeded 4 tons per year. I want to note for you this  
7 provision is different from the provision for controlling  
8 flashing emissions and dehydration unit emissions at new  
9 and modified oil and gas sources that is specified in the  
10 Air Division's Upper Green River Basin presumptive best  
11 available control technology guidance, or P-BACT, as we all  
12 love to call it.

13 This can be P-BACT Guidance where emissions  
14 controls for these emissions at pads are required no matter  
15 what the emission level is. The P-BACT Guidance does not  
16 require a 4-ton per year threshold of hazardous air  
17 pollutants and VOCs emissions prior to requiring control of  
18 these emissions at pad facilities. Any emissions at pads,  
19 under the P-BACT Guidance, trigger the need for controls.  
20 We are not sure why this existing source rule should not  
21 require a lesser level of pollution control at these pad  
22 facilities for flashing and dehydration unit emissions, and  
23 think this issue should be reconsidered by the Air Quality  
24 Division.

25 Second point I want to make is that under the

1 proposed rule, emissions requirements would be established  
2 for flashing dehydration units, pneumatic pumps, pneumatic  
3 controllers, and for fugitive emissions. There would be no  
4 provisions for controlling emissions from produced water  
5 tanks or from blowdown and venting operations. This is in  
6 contrast to the P-BACT Guidance, which in addition to the  
7 mentioned areas of control also has specific requirements  
8 for controlling emissions from produced water tanks and  
9 from blowdowns and venting. It is not clear to us why the  
10 existing source rule should also not require emissions  
11 productions from produced water tanks and from blowdown and  
12 venting, and we urge modification of the rule to  
13 incorporate these additional emission controls.

14 Now, it could be argued that the current  
15 provision for controlling flashing emissions would also  
16 extend to produced water tanks, since it mentions, and I  
17 quote, produced oil condensate and water tanks. However,  
18 the P-BACT Guidance also makes mention of flashing  
19 provisions applying to produced water. But it nevertheless  
20 provides for controlling produced water tank emissions in  
21 an entirely separate section of the P-BACT Guidance in an  
22 entirely separate provision. We think the same provisions  
23 should be strongly considered for the existing source rule.

24 Third, under the proposed rule two defined terms  
25 are what are called, quote, composite extended hydrocarbon

1 analysis and, quote, extended hydrocarbon analysis. These  
2 would be gas chromatograph analyses of oil condensates and  
3 natural gas at oil and gas production facilities that would  
4 identify hydrocarbons in the C1 to C10 range, and would  
5 include hazardous air pollutants like benzene, toluene,  
6 ethylbenzene and xylenes, the famous BTEX chemicals. And  
7 also normal hexane and 2,2,2 -- or 2,2,4-trimethylpentane.

8           The proposed rule would then put in place  
9 requirements to do the composite extended hydrocarbon  
10 analysis for determining emissions from flashing in  
11 dehydration units. We are supportive of this provision  
12 because we believe the analysis of air pollutants from oil  
13 and gas facilities in the Upper Green River Basin should be  
14 extended to a wider range -- should be extended to a wider  
15 range of hydrocarbons than just volatile organic compounds.

16           In our view, it would be appropriate to also  
17 control methane emissions from oil and gas facilities in  
18 the Upper Green River Basin, because methane is a very  
19 potent greenhouse gas, and extending the analysis to  
20 hydrocarbons will help ensure there is monitoring of this  
21 potential pollutant, even if there is not direct regulation  
22 of it. This might help us to determine if we were also  
23 achieving reductions of methane emissions in the Upper  
24 Green as a so-called cobenefit of the existing source  
25 regulations, to use a term that EPA has coined, for this

1 indirect form of emissions control.

2           So we encourage the Division to maintain these  
3 requirements for composite hydrocarbon analysis. And I  
4 would also point out that, of course, methane is a  
5 marketable commodity, and so anything that could be done to  
6 regulate methane emissions would probably have economic  
7 benefits as well.

8           The fourth point I want to make is that  
9 pursuant to the table presented in the Air Division's  
10 Statement of Basis memorandum for the rulemaking is  
11 apparent that the vast majority of pollution sources in the  
12 Upper Green -- tanks, dehydration units, pumps,  
13 controllers and fugitives -- have emissions well below or  
14 below the 4-ton-per-year threshold. This raises a concern  
15 about whether the 4-ton-per-year threshold is the  
16 appropriate threshold, and we urge consideration of whether  
17 a threshold at lower emission rates should be adopted.

18           Fifth, as has been made clear to us this current  
19 effort to develop technology-based approach to controlling  
20 emissions in the Upper Green River Basin is just Phase I of  
21 a two-part process. In Phase II the Division intends to  
22 develop an emissions budget approach to controlling  
23 emissions in the Upper Green. We are very supportive of  
24 this Phase II effort and urge the Division to pursue it  
25 promptly -- as promptly as possible and to not permit any

1 delays in developing these additional regulations.

2           And then, finally, as far as we have seen,  
3 nowhere in any of the documents related to this rulemaking  
4 is there a statement of what the total level of emission  
5 reductions will be as a result of adopting this existing  
6 source rule. We think this is vital information that would  
7 be very useful to the public. How many -- how much  
8 pollution reduction are we going to get and what are the  
9 anticipated or hoped-for benefits to air quality from  
10 this -- from this action? How many tons per year of less  
11 volatile organic compounds, hazardous air pollutants, and  
12 maybe even nitrogen oxides are we going to see? How many  
13 tons per year in reduction are we going to see? We believe  
14 there should be statements such as this, and we urge the  
15 Air Quality Division to publish this information.

16           So thank you for considering these comments. If  
17 you have any questions for me, I'd be happy to try and  
18 answer them. And then I do -- I've also typed up these --  
19 this statement that I just read, and I'll leave a copy with  
20 you, Steve, if I may.

21           MR. DIETRICH: That's great. Thank you.

22           CHAIRMAN BROWN: Any questions for  
23 Mr. Pendery?

24           Thank you.

25           MR. PENDERY: Thank you.

1 CHAIRMAN BROWN: Carissa, you had.

2 UNIDENTIFIED FEMALE: I don't want to  
3 speak. I just had written comments.

4 CHAIRMAN BROWN: Okay. Next is  
5 Mr. Ted Kelly.

6 MR. KELLY: Thank you, Mr. Chairman. My  
7 name is Ted Kelly. I'm a resident of Big Piney, Wyoming.  
8 Petroleum engineer, production manager with EOG Resources.  
9 I've been a long-term resident of Sublette County, and just  
10 wanted to say that I've raised my family there. I strongly  
11 support the comments made by John Robitaille, dealing with  
12 the Department is the goal. And our comments have been  
13 submitted through PAW as well. And appreciate the comments  
14 made by the public, and thank you for your time, and our  
15 comments are supported by PAW.

16 CHAIRMAN BROWN: Thank you.

17 Any questions, comments?

18 Okay. Next on the list is Jade Hicks, EOG.

19 MR. HICKS: I don't have any comments.

20 Thank you.

21 CHAIRMAN BROWN: How about Janet Bellis,  
22 BLM?

23 MS. BELLIS: I have no comments at this  
24 time. Thank you.

25 CHAIRMAN BROWN: That's -- any other public



1 comment? I don't have any other names listed that would  
2 like to speak, but is there anyone else that would care to  
3 make a public statement or comment?

4 MS. CEDERLE: Mr. Chairman, if there isn't  
5 anybody else with the public, I'd like to represent one of  
6 our absent board members, Diana Hulme. There were two  
7 topics she wanted me to put before the Board that she had  
8 discussed, so...

9 CHAIRMAN BROWN: Yes, please.

10 MS. CEDERLE: Okay. Okay. Again, my name  
11 is Jeni Cederle with Air Quality Division.

12 On July 8 Mark Smith and I had a phone  
13 conversation with Diana Hulme. She is an absent board  
14 member today. She was unable to be here, but she wanted to  
15 provide her insight and ask some clarifying questions of  
16 us, so there were two topics that she asked me to share  
17 with the Board today. So I'll go ahead and just let you  
18 know what those topics were and kind of the general  
19 discussion that she had with Mark and I.

20 Diana was questioning the validity of the audio-  
21 visual and olfactory inspections, and she was kind of  
22 concerned about the validity of it from a worker's safety  
23 point of view, which I thought was very interesting. She  
24 felt that the AVO inspections were subjective and could be  
25 considered somewhat dangerous, and was wondering if it was

1 possible for affected sources to do more inspections, even  
2 more instrument -- instrument -- instrument-based  
3 inspections.

4           When we spoke with Diana, we agreed that, you  
5 know, there is a subjective nature to AVO inspections, but  
6 it also speaks to the difficult nature of quantifying  
7 fugitive emissions. From our stance, you know, we pulled  
8 from OOOO, which requires quarterly inspections. We  
9 currently require quarterly inspections for new and  
10 modified sources. And we're not trying to create an  
11 existing source rule with more stringent requirements than  
12 what we're requiring for new sources. This requirement is  
13 preserving what we've done in the past under a permitting  
14 guidance from 2010, and it's keeping us consistent.

15           And especially we see this exercise is bringing  
16 the old and new kind of up onto a same level. And we  
17 didn't want to -- we were very comfortable with our  
18 decision there. So then we had a little bit more  
19 conversation, and Diana was inquiring as to whether or not  
20 the future would lean more towards AVO inspections or swing  
21 the other way towards instrument-based inspections. She  
22 wanted to see a higher frequency of that type of  
23 inspection.

24           And we noted that we're already seeing better and  
25 better operations now, and that we are confident that the

1 inspections are more frequent, even if they are AVO  
2 inspections. We do -- we weren't really able to speak to  
3 what the future might lean to. We're not mind readers. I  
4 didn't have my crystal ball that day. I don't know exactly  
5 what industry might link to for that. So -- and that  
6 pretty much concluded our conversation with regard to the  
7 validity of AVO inspections.

8 Another comment Diana wanted me to bring before  
9 the Board today for consideration was that she felt the --  
10 the language under Flashing Emissions Control Removal, and  
11 all the other removal sections, should require a  
12 requirement for review instead of will allow. So when you  
13 had Chapter 8 in front of you on 8-88, is where the first  
14 control removal language was located. So the top of page  
15 8-88 should be D. I'm hoping the pagination worked out  
16 with what I'm looking at.

17 CHAIRMAN BROWN: It is.

18 MR. DIETRICH: Top of the page.

19 MS. CEDERLE: So there is language "will be  
20 allowed." And Diana just felt that perhaps that could be  
21 interpreted to the point where she wanted to see a  
22 demonstration. She wanted to see a review. So we went  
23 ahead and pointed her back to (h)(iii)(E) back on page  
24 8-93, where we are asking for a demonstration when somebody  
25 is going to do a control removal. And she appreciated that

1 the requirement for the demonstration was in there;  
2 however, still felt that the "will allow" language was  
3 still too open-ended. She requested the Board to consider  
4 the possibility of revising the language to remove the  
5 ambiguity -- to remove the open-endedness of interpretation  
6 that she felt that no proof would be necessary for lowering  
7 emissions on removal.

8           So we took a look at this, we took the comment  
9 under advisement. And we do feel that the requirements on  
10 page 8-93 (h)(iii)(E), where we ask for the demonstration,  
11 we do feel those requirements do not allow applicable  
12 source to remove controls without providing the proof that  
13 satisfies the rule, but we also mocked up some language  
14 that might meet both concerns.

15           So I've gone ahead. This is just mock-up  
16 language, and I'll walk you through it. But if you start  
17 on page -- take one and pass it down, please.

18           BOARD MEMBER HANSON: Oh, yeah. Sorry.  
19 I'm going to get it backwards here.

20           MS. CEDERLE: I'll go ahead and read it.

21           BOARD MEMBER HANSON: What page were you  
22 referring to?

23           MS. CEDERLE: Page 8-88.

24           BOARD MEMBER HANSON: 88, yeah. Uh-huh.

25           MS. CEDERLE: Okay. So at the top of the

1 page, the language the Division came up with as a possible  
2 revision, although we do still stand by the language that  
3 we have in the rule in this regard, is that control  
4 removal, the removal of flashing emissions control devices  
5 will be allowed pursuant to the requirements in subsection  
6 (h)(iii)(E), after one year from the date of installation,  
7 if uncontrolled VOC flashing emissions have declined to  
8 less than and will remain below 4 tons per year.

9           And that's the type of language we offered up in  
10 every section of control removal. So at the bottom of page  
11 8-88, right before the applicability determination for  
12 dehydration units, B, another control removal section. The  
13 language revision that we've offered up there is to add  
14 language, the removal of in front of combustion units. So  
15 that the -- the piece reads the removal of combustion units  
16 used to achieve the 98 percent control will be allowed  
17 pursuant to the requirements in subsection (h)(iii)(E)  
18 after one year of date of installation if total  
19 uncontrolled VOC emissions from all dehydration units are  
20 less than and will remain below 4 tons per year, and all  
21 the dehydration units are equipped with still vent  
22 condensers. What we're doing with that language is pushing  
23 you back to the demonstration under -- on page 8-93.

24           There's one other spot within the regulation on  
25 page 8-89, towards the bottom of the page where we have (g)

1 fugitives; (f), pneumatic controllers, above it; and then  
2 (i) -- (ii), control removal. Again, as you go through  
3 this sentence, we've replaced the language that  
4 combustion -- removal of combustion unit will be allowed  
5 after one year pursuant to the requirements in (h)(iii)(E),  
6 excuse me. Sorry.

7 Yes, Klaus.

8 BOARD MEMBER HANSON: Jeni, I'm not that  
9 quick on my feet.

10 MS. CEDERLE: Okay.

11 BOARD MEMBER HANSON: Can you read  
12 (h)(iii)(E) for us so we know what it refers to.

13 MS. CEDERLE: Yes. I will do that, once I  
14 find it now.

15 Okay. On page 8-93 (h)(iii)(E), Control Device  
16 and Equipment Removal Notification. The owner or operator  
17 of each facility or source subject to the requirements of  
18 these regulations shall submit a demonstration to the  
19 Division for approval prior to removal of any air pollution  
20 control device and equipment. This demonstration shall  
21 contain at a minimum, and we go and continue on to list out  
22 what the demonstration would contain. And that would  
23 conclude Diana's comments.

24 BOARD MEMBER HANSON: Can I observe it  
25 doesn't really say anything about the four thresholds in

1 that section (h). If I -- if I look at it right now. So  
2 how does it address be allowed pursuant to the requirement  
3 in subsection (h)(iii)(E) -- wait a minute. Am I reading  
4 the wrong section?

5 MS. CEDERLE: No. I don't think so.

6 BOARD MEMBER HANSON: It's -- oh, there. I  
7 was reading the wrong section. Okay.

8 CHAIRMAN BROWN: That language does seem to  
9 tighten it up a little.

10 MS. CEDERLE: It does.

11 BOARD MEMBER HANSON: A little.

12 CHAIRMAN BROWN: It does remove an  
13 ambiguity because it does refer to this.

14 BOARD MEMBER HANSON: I still would love to  
15 see something to the 4 tons per year statement in some  
16 fashion, because it's still, I think, a little ambiguous.

17 CHAIRMAN BROWN: Okay.

18 MS. CEDERLE: I'm not sure I understand  
19 where you are with the 4 tons and the -- and -- on page  
20 8-93. The 4 tons is called out in the control removal of  
21 the equipment in each section moving through the rule, and  
22 what Diana's concern was is that we were saying, yes, it  
23 will be allowed, and she was taking that at face value.

24 BOARD MEMBER HANSON: Okay.

25 MS. CEDERLE: Whereas we do request a

1 demonstration before approval is allowed.

2 BOARD MEMBER HANSON: Yes.

3 MS. CEDERLE: And she was very concerned it  
4 would be taken at face value and who's to say I have to do  
5 a demonstration is what she was concerned about.

6 BOARD MEMBER HANSON: So this tightens up  
7 that you have to do a demonstration?

8 MS. CEDERLE: We do feel it tightens up  
9 that the demonstration is required.

10 BOARD MEMBER HANSON: Okay. Thank you.  
11 I'll go with that.

12 MS. CEDERLE: That's all I have for the  
13 Board.

14 CHAIRMAN BROWN: Thank you. I do have a  
15 couple of questions.

16 MS. CEDERLE: Sure.

17 CHAIRMAN BROWN: I don't know if it's for  
18 you. Do we have some sort of estimate of what kind of  
19 emission reduction we can anticipate?

20 MS. CEDERLE: I would refer that to Andrew  
21 and Mark.

22 CHAIRMAN BROWN: Andrew? Okay.  
23 Have we got some sort of rough estimate of --

24 MR. KEYFAUVER: Emission estimate  
25 projections would be difficult at best, because the rule is



1 probably even more a push and prevention component that  
2 it's going to add new controls in a sense that most of the  
3 permits that are out there probably would be required to  
4 have an existing control device on a site longer. So like  
5 my previous example was the permit allowed to be removed at  
6 8 tons, and you have to keep it on until you go below  
7 4 tons.

8 CHAIRMAN BROWN: Yes.

9 MR. KEYFAUVER: So the rule is probably  
10 going to require that control device to stay on longer than  
11 it will actually reduce emissions.

12 CHAIRMAN BROWN: Okay. But we really don't  
13 have an estimate of --

14 MR. KEYFAUVER: It could be difficult to  
15 come up with a hard and fast number.

16 CHAIRMAN BROWN: Okay. You had another  
17 question too?

18 Any questions? No?

19 BOARD MEMBER BONER: No.

20 BOARD MEMBER HANSON: It strikes me,  
21 Mr. Chairman, that question is sort of similar to putting  
22 out a new car and asking, before it's on the road, what  
23 would be the estimate of consumption of that car. You'd  
24 have to probably run it a year to find out that -- what the  
25 consumption is. I'm just thinking of my little electric

1 car. I have a Prius, and so they estimate its consumption,  
2 but only after a while could they tell.

3 CHAIRMAN BROWN: That's what I was  
4 wondering, if there was just an estimate.

5 BOARD MEMBER HANSON: And I guess -- yeah,  
6 that -- my question was the same, is there an estimate that  
7 we can point to, because I think the public, of course, is  
8 concerned about health concerns, about other issues that  
9 come from this pollution and are we reducing it by half, by  
10 a quarter, by -- what -- what's a guesstimate, at least?

11 MR. DIETRICH: Well, and I'll start and  
12 I'll probably need to get some other input.

13 In Andrew's presentation he had some tables up  
14 there where he was trying to figure out -- agency was  
15 trying to figure out what the cutoff number could be below  
16 what you didn't have to put on controls like VOCs; 4 tons  
17 per year? He had some numbers in there of how many actual  
18 units it actually -- not the emissions, I don't believe.  
19 It was actually numbers of units that would have to be  
20 affected.

21 MR. KEYFAUVER: It was broken down based on  
22 inventory of how many controlled or uncontrolled sources  
23 fell into a certain --

24 MR. DIETRICH: Number of sources, but not  
25 necessarily total amount of VOCs, or did it have that in

1 there to -- just had a number of sources. For each year we  
2 get an emission inventory for the Upper Green. And each  
3 year we try to make that inventory as accurate as possible  
4 for what's actually on the ground out there. And that's  
5 been a working model through time. Each year we ask for  
6 slightly different amount of information to try to make  
7 that information as useful to us in our decision making as  
8 possible.

9 Quite possibly what you will see is once these  
10 controls are put on, you should see some reduction in those  
11 emissions numbers being reported to us on an annual basis.  
12 So I guess what we're trying to say is we can count the  
13 number of units it affects by a 4-ton threshold, but really  
14 need to see what the reductions will be through time,  
15 because there are different applicability for each piece of  
16 equipment versus when they're existing or whether they're  
17 new.

18 CHAIRMAN BROWN: Okay.

19 MR. DIETRICH: And also Phase II is another  
20 aspect of this rulemaking that we're just about to embark  
21 on, and that information that we're going to get in Phase I  
22 will be very valuable when we start crafting Phase II,  
23 overall budgets, if you will, of emissions for the  
24 nonattainment area.

25 So I don't know if I've answered the question

1 completely, or if there's anything else you guys can add.

2 BOARD MEMBER HANSON: In connection, was  
3 that -- the table that -- I can't find it right now. It's  
4 here somewhere. The table that you had of the four  
5 aspects, including compressor stations, you know, and the  
6 relative pollution part, and it seemed to me compressor  
7 stations, at least numerically, seemed highest of all of  
8 them. If you bring that table up, I can't remember where  
9 it is right now. I -- I lost it, but -- yeah, there it is.  
10 The one.

11 CHAIRMAN BROWN: Page 2 of the Statement of  
12 Basis.

13 BOARD MEMBER HANSON: Page 2 of the  
14 statement. If you look at it, it struck me, pumps and --  
15 oh, fugitives were the highest source total numbers, 3506  
16 and 5075, whatever -- the way I read those. And it seemed  
17 that we were kind of lax on controlling those -- those two,  
18 or am I just mistaken there? It seemed like we were  
19 looking at lower polluting sources and -- and had controls  
20 on them, but the higher ones, like compressor stations, we  
21 were -- we were excluding. So that didn't make much sense  
22 to me. Is that just because they are controlled someplace  
23 else? But why are they polluting so much?

24 MR. DIETRICH: Well, first of all, I can  
25 tell you compressor stations already have permits. The

1 existing sources do not.

2 BOARD MEMBER HANSON: Okay.

3 MR. DIETRICH: This is the first time --  
4 well, they do have permits.

5 MR. SMITH: The permit is older --

6 MS. CEDERLE: Yeah.

7 MR. DIETRICH: Much older than what the new  
8 permit requires on BACT.

9 BOARD MEMBER HANSON: Okay.

10 MR. DIETRICH: So the compressor stations,  
11 most of those -- I don't know if all of them are -- major  
12 sources.

13 MR. KEYFAUVER: All major sources have --

14 MR. SMITH: Majority of major sources --

15 THE REPORTER: One at a time, please.

16 MR. DIETRICH: Majority of them are major  
17 sources. So they're already getting not only a -- a minor  
18 source permits when they first construct it, but they also  
19 end up with Title V permit, if they were major. So...

20 BOARD MEMBER HANSON: You have to explain  
21 that to me.

22 MR. DIETRICH: They already have control  
23 environments in place when they originally got billed, and  
24 then also have Title V major source permit that's required  
25 that takes a look at all the applicable requirements from

1 when they first built through time to see if there's  
2 anything else that needs to be put on there from a control  
3 standpoint. It's an operational permit. So it categorizes  
4 all the inventory of all the emission sources for that  
5 facility, and any new applicable requirements that's come  
6 out from time to time, either from us or the EPA have to be  
7 incorporated into that permit. Sometimes it means you have  
8 to revisit the original minor SR permit to go back and do  
9 that, but most of the time it does not.

10 BOARD MEMBER HANSON: Let me follow up.  
11 That doesn't take away from the fact that they are major  
12 pollutants, aren't they?

13 MR. DIETRICH: Right.

14 BOARD MEMBER HANSON: So shouldn't we, if  
15 we want to reduce pollution, address this question to  
16 something about it, even if they are permitted, if they are  
17 operating, if they are doing everything right, and they are  
18 major source of pollution. If we want to address  
19 pollution, we need to address that problem in some fashion.

20 MR. DIETRICH: Well, it's quite possible we  
21 take a look at this in Phase II as part of the budget.

22 BOARD MEMBER HANSON: Uh-huh.

23 MR. DIETRICH: In Phase I we chose to look  
24 at all the smaller midstream, smaller minor sources --  
25 existing sources in Phase I. But when we get to Phase II,

1 there's a larger universe of sources. We have to take into  
2 account all the sources out there, regardless of how  
3 they're permitted presently or not permitted, and what  
4 their current level of control is. So the larger effort of  
5 inventory that folks keep asking us about is yet to be  
6 determined.

7           This Phase I was the first step, and I don't  
8 know. And I know Bruce Pendery, for example, made comment  
9 that we needed to know what that number is, because -- I  
10 think historically EPA puts those numbers out. You know,  
11 we're going to reduce by thousands of tons of emissions,  
12 but they only have that information at their fingertips at  
13 the time that they wrote that rule. We don't have that  
14 information at our fingertips is what my staff is trying to  
15 say right now.

16           BOARD MEMBER HANSON: Yeah.

17           CHAIRMAN BROWN: Yeah.

18           MR. DIETRICH: Otherwise we'd give it to  
19 you.

20           BOARD MEMBER HANSON: It sort of strikes me  
21 that we repaired the engine now, but we're still running  
22 with bald tires.

23           MR. DIETRICH: Keep in mind what we're  
24 trying to do, we're trying to address nonattainment for  
25 ozone with a due date at the end of calendar year 2015 from

1 an emission standpoint to be considered for a new design  
2 value. And so we're trying to address that ahead of having  
3 all the known information at our fingertips. Makes it  
4 tough to craft a rule.

5 BOARD MEMBER HANSON: Uh-huh. Thank you.

6 CHAIRMAN BROWN: Do we think the 2016  
7 deadline is feasible and reasonable?

8 MR. DIETRICH: I think you've heard two  
9 different schools of thought today about that.

10 CHAIRMAN BROWN: Yes.

11 MR. DIETRICH: One from industry and one  
12 from us.

13 CHAIRMAN BROWN: Correct.

14 MR. DIETRICH: If I can start, and I think  
15 some other folks here from staff may want to add to that --

16 CHAIRMAN BROWN: Certainly.

17 MR. DIETRICH: -- and that is we're trying  
18 to avoid a gap in time. When the 2015 calendar year has  
19 come to a close, and we've got three years of emissions  
20 data that we need to determine whether or not we need to  
21 face another -- another classification, if you will, of --  
22 for ozone, but we also trying to anticipate a new standard  
23 that EPA has to put out by the end of this year. They have  
24 to propose a new fan by the end of this year, I believe.  
25 And if we don't have something to hang our hat on as far as



1 emissions reduction and provide more time, then you  
2 really -- it makes it difficult to take credit for that.

3 Jeni, did you want to add anything?

4 MS. CEDERLE: I know we're hearing  
5 industry's concern about the phase-in approach. I think  
6 perhaps Andrew could provide a little bit more insight as  
7 to why we went with the one-year compliance date besides,  
8 or -- I know that what I'm hearing is that there is -- I  
9 can almost pull -- was a tremendous amount of sources and  
10 planning, and I -- I don't know what tremendous is, and we,  
11 you know, we leverage the Oil & Gas Guidance to start a  
12 foundation for this existing source rule. And we used  
13 information provided to us by industry to look at some of  
14 these numbers and the numbers in the tables, and so I don't  
15 know if there's a disconnect between industry's version of  
16 tremendous and my version of tremendous.

17 CHAIRMAN BROWN: Sure.

18 MS. CEDERLE: I know that we moved forward  
19 with this compliance date under the fact that we are  
20 working in a nonattainment area, and we are looking at, you  
21 know, a possible new standard coming at us. And so I hear  
22 what they're saying, but I don't know exactly how to  
23 approach that, because what we came at with was what we had  
24 from industry, what we heard from industry moving through  
25 the new source, the new and modified guidance, and we

1 applied that information to this rule.

2 So there's -- there's some disconnect between  
3 what we heard today and what you're reading coming from us.

4 CHAIRMAN BROWN: Okay.

5 MR. DIETRICH: Yes.

6 BOARD MEMBER HANSON: Would there be room  
7 for a compromise? I think we've heard from one of the  
8 operators has -- whatever, has a thousand places that are  
9 going to need to be addressed, and that's a little much,  
10 and asking for maybe three years. Could -- could there be  
11 a phase-in where you say, okay, if you have a thousand  
12 places, you do 300 the first year, you do 300 the second  
13 year, and you do 300 the third year? That keeps their feet  
14 to the fire, but makes it also, let's say, doable from the  
15 point of the industry. I see that the impossibility to  
16 address all of them probably is a question of supply and  
17 demand. You need to have the equipment to do it, et  
18 cetera, but that also would mean that you would not forget  
19 to do it.

20 MR. DIETRICH: Right.

21 BOARD MEMBER HANSON: And didn't wait for  
22 three years.

23 MR. DIETRICH: Right.

24 BOARD MEMBER HANSON: But that's the kind  
25 of compromise I would like to advocate, you know, that

1 could be done in such a fashion.

2 MR. DIETRICH: Klaus, I hear you loud and  
3 clear. I think it's not the first time we heard this kind  
4 of line of reasoning. I think the first time we came out  
5 with something more than a Tier I or Tier II control for  
6 NOx on engines, it got down to how fast suppliers could  
7 build these new controls, so we have to take that into  
8 account as well.

9 I will say that there is room for a meeting with  
10 the industry, albeit it would have to be pretty daggone  
11 soon so we can try to stay on schedule, but I think we're  
12 fully aware and we are fully capable and welcome that  
13 invite if it would bear some fruit on hammering out some of  
14 these details we're struggling with here this morning. I  
15 agree. So maybe there's a compromise in there, maybe  
16 different timeline in there, maybe there's something we  
17 haven't thought of to make the language clearer, and  
18 provide some other avenues for folks to comply.

19 CHAIRMAN BROWN: With that being said, if  
20 we did have that -- I want to make sure that everybody  
21 has -- would this have to come back through the whole  
22 process again? Because I want to make sure if we have  
23 discussions with one side of the issue that the other side  
24 of the issue has --

25 MR. DIETRICH: Right.

1                   CHAIRMAN BROWN: Again, I want to make sure  
2 it's fair for everybody, and I don't know what the  
3 logistics would be --

4                   MR. DIETRICH: Right.

5                   CHAIRMAN BROWN: -- on that, because I  
6 wouldn't want it to go back and forth, back and forth.

7                   MR. DIETRICH: We'll have Jeni explain  
8 current timeline is now, and see what the possibilities  
9 are.

10                  CHAIRMAN BROWN: Okay. Sure. Because I  
11 want to make sure everybody has -- if we did remand it back  
12 and had some discussions, I would want to make sure that  
13 everybody had some input.

14                  MR. DIETRICH: Sure.

15                  MS. CEDERLE: Right now, as it stands, we  
16 feel the voice of industry is reflected in the rule. From  
17 the information that was provided to us, what we used from  
18 the Oil & Gas Guidance, we feel that their voice is  
19 reflected in the rule. I know that they've asked you to  
20 remand this.

21                  CHAIRMAN BROWN: Yes.

22                  MS. CEDERLE: So in a sense, yes, I believe  
23 that with your disapproval, that would put us back to  
24 square one. We have discussed with upper management, prior  
25 to doing this, that there is a goal in mind to move this

1 through the rulemaking process as best we can this year.  
2 So that we might have a state effective rule by the  
3 beginning of next year. So without maybe having to remand  
4 it, we are actually in the public comment process right  
5 now.

6 CHAIRMAN BROWN: Yes.

7 MS. CEDERLE: All of the comment that was  
8 brought in and raised here were written comment, we will  
9 need to respond to before we move to the next level of the  
10 rulemaking process. So these things will be considered.

11 Now, I don't know where we stand with the ability  
12 to discuss or -- I mean, I can ask for clarification from  
13 any of these folks, and I heard John say that,  
14 Mr. Robitaille say that, you know, perhaps we can clarify  
15 our comments with them. And I don't see any avenue for  
16 that not happening and the possibility of discussing what  
17 their thoughts are on a phased-in approach and why when  
18 there seems to be a discrepancy in information from one  
19 side to the other.

20 CHAIRMAN BROWN: Right.

21 MS. CEDERLE: But I think that to stop the  
22 rulemaking process at this juncture, that's what the  
23 remand, in my mind, would do. But there is still time for  
24 us to address comment and revise the rule, albeit a short  
25 timeline. So we would have to move quickly if we're going

1 to make massive revisions.

2 CHAIRMAN BROWN: Right.

3 MS. CEDERLE: And if the revisions get  
4 extremely massive, we will start the rulemaking process  
5 again -- over again as well. But we do have a window of  
6 time to address all comment, to take it, absorb it  
7 internally, figure out what needs to be changed. And  
8 John's right. There's are some pieces -- I read through  
9 PAW's comments, and I was look, okay, got it. I can see  
10 that, you know.

11 CHAIRMAN BROWN: Right.

12 MS. CEDERLE: So there are things that  
13 definitely need to be addressed in his statement about  
14 clear -- you know, unclear rules can cause compliance  
15 issues, absolutely. They made some very good points in  
16 their comment, and I appreciate that. That helps us write  
17 a clear rule. That's not going to cause problems.

18 CHAIRMAN BROWN: And I think, you know,  
19 we're in the right -- going to the right direction.

20 MS. CEDERLE: Yeah.

21 MR. DIETRICH: Yes.

22 CHAIRMAN BROWN: I believe -- I really  
23 don't want to start from square one, but I think we can  
24 build on this on all entities.

25 MS. CEDERLE: Okay.

1 BOARD MEMBER BONER: And --

2 CHAIRMAN BROWN: I'm sorry. I just didn't  
3 want to keep dragging this, because I was wondering what  
4 would happen if this kept dragging on, which we don't want  
5 it to do. What would happen to the state of Wyoming if our  
6 status -- or nonattainment status was downgraded?

7 MS. CEDERLE: Downgraded? What --

8 CHAIRMAN BROWN: It's marginal to --

9 MS. CEDERLE: If we go up?

10 CHAIRMAN BROWN: Yeah, what -- yeah. I  
11 didn't know if it was downgraded or --

12 MS. CEDERLE: Yeah, severity level  
13 increases, if we were to go marginal to moderate, a host of  
14 more nonattainment requirements come in. In all honesty,  
15 I'm fingers-crossed for we're going to maintenance mode,  
16 because we're not going to be -- we're going to be able to  
17 request a designation as attainment, so I'd have to bone up  
18 on my moderate requirements. But it's definitely a  
19 nonattainment area SIP. And something like this, this type  
20 of a rule, would work very well in a nonattainment area SIP  
21 and do good things for the state of Wyoming.

22 MR. DIETRICH: Yes. Currently what Jeni's  
23 saying the marginal designation does not require DEQ to  
24 submit a State Implementation Plan to EPA. It's not of  
25 those items we have to check off the list to accomplish

1 what -- then the next higher designation does. So EPA then  
2 has a role in that approval.

3 CHAIRMAN BROWN: Okay. And then we can be  
4 in the same boat we were with the greenhouse gas. We can  
5 have a FIP as opposed to --

6 MR. DIETRICH: Only if they can't approve  
7 our SIP, that's true.

8 CHAIRMAN BROWN: So the potential is there  
9 for --

10 MS. POTTER: Mr. Chairman.

11 CHAIRMAN BROWN: Yes.

12 MS. POTTER: Darla Potter with the Air  
13 Quality Division.

14 One other item for clarification for the Board,  
15 as you were talking about a bump up to moderate. If, in  
16 fact, the Upper Green River Basin ozone nonattainment area  
17 would be bumped up to moderate, we have only one year to  
18 complete a nonattainment State Implementation Plan and  
19 submit it to EPA. And one year is not a sufficient amount  
20 of time to start rulemaking from scratch at that point in  
21 time to take through the process.

22 On the fast track, with everything going like  
23 clock work, that's a 79-month time frame. In addition to  
24 all of the different pieces that have to go into that  
25 required nonattainment State Implement Plan. So to give



1 you a feel for that -- and my understanding is that's one  
2 year after the date by which we were required to attain as  
3 a marginal area, and that date is December 31st of 2015.

4 CHAIRMAN BROWN: Okay.

5 MS. POTTER: So there's not a lot of time  
6 in there to do more things.

7 CHAIRMAN BROWN: Thank you.

8 MR. DIETRICH: Thanks, Darla.

9 BOARD MEMBER BONER: Getting back to the  
10 timeline, I guess more from a procedural standpoint. If  
11 the rule changes after, you know, input, you mentioned that  
12 you could start from square one again, basically restart  
13 the rulemaking process. At what point would you consider  
14 that? Who makes that decision?

15 MS. CEDERLE: I actually think I may have  
16 misstated -- I'm thinking about this in my head now. What  
17 we can do now is if you were to approve us going forward  
18 into the rulemaking process, we need to address comment.  
19 We would need -- if there are revisions to the rule, we  
20 need to have those incorporated and ready to move forward  
21 to the EQC no later than mid-August to remain on a  
22 timetable that would take us through the end of the year  
23 for possible approval. All of the comment and revisions to  
24 the rule are laid out and road mapped for the EQC.

25 BOARD MEMBER BONER: Okay.

1 MS. CEDERLE: And then once we get to the  
2 EQC, things can go either way.

3 MR. DIETRICH: Right. And that meeting's  
4 right now scheduled for October.

5 BOARD MEMBER BONER: All right.

6 CHAIRMAN BROWN: Yeah, because our end  
7 result is the improvement of that airshed in the Pinedale  
8 area. And if this serves to improve that, and we're on the  
9 right direction, I think it's a good plan that can be  
10 modified for both sides of the issue here.

11 MR. DIETRICH: I agree, we can still do  
12 that.

13 CHAIRMAN BROWN: As long as we can still do  
14 that, I'm okay with that. As is, I think it does need some  
15 cleaning up.

16 BOARD MEMBER HANSON: Tweaking.

17 MS. CEDERLE: Mr. Chairman, I hear your  
18 hesitation in your thoughts about this, when having such a  
19 strongly worded comment come at you in regards to this.

20 CHAIRMAN BROWN: Yes.

21 MS. CEDERLE: But I appreciate your  
22 openmindedness in considering -- allowing us to try and  
23 continue down the path. But understand the EQC will be  
24 brought up to speed with this, and they would have the same  
25 hesitations if we didn't address it prior.

1                   CHAIRMAN BROWN: Right. Because it --  
2 it -- it's a good thing, and it's going to make things  
3 better, I believe. And I really don't want to delay it,  
4 but I do want, you know, some small items addressed, or  
5 larger items, too, depending on which way the people are  
6 considering this.

7                   Any other questions?

8                   BOARD MEMBER HANSON: Well, Mr. Chairman,  
9 in practicality, how -- would the Board have to convene  
10 again to discuss this, then, at a short time frame, or --  
11 I'm just asking the practical question here.

12                  MS. CEDERLE: I don't know. This is out of  
13 my realm of experience. I suppose we could discuss that.

14                  CHAIRMAN BROWN: What about the EQC? If it  
15 comes from here and you have time to discuss, is there --  
16 and it goes directly to the EQC, there's no other public  
17 comments?

18                  MS. CEDERLE: Oh, no, there is an extensive  
19 public comment.

20                  CHAIRMAN BROWN: Oh, there is? That's --

21                  MS. CEDERLE: There's a whole other round  
22 of public comments that goes in before EQC. So it's 45  
23 days there.

24                  CHAIRMAN BROWN: Okay. That's all --

25                  MS. CEDERLE: Yeah, so nobody's getting a

1 door closed.

2 CHAIRMAN BROWN: Okay.

3 MS. CEDERLE: Nothing like that.

4 MR. DIETRICH: What Jeni alluded to by  
5 making these changes to go forward to the EQC --

6 CHAIRMAN BROWN: Yes.

7 MR. DIETRICH: -- by mid-August, she's  
8 trying to hit that 45-day clock.

9 CHAIRMAN BROWN: Correct.

10 MR. DIETRICH: Then the public would be  
11 able to comment -- or anyone would be able to comment  
12 before the EQC happens in October.

13 CHAIRMAN BROWN: If we work back, I'm just  
14 wondering what that time would be.

15 MS. CEDERLE: Generally we give ourselves  
16 45 days and two weeks, because the process going in front  
17 of the -- I'm sorry, EQC is the Environmental Quality  
18 Council. And the process going before them is that the  
19 public comment period ends prior to the hearing date, so  
20 that we have enough time to address the comments ahead of  
21 time.

22 CHAIRMAN BROWN: Okay.

23 MR. DIETRICH: Yeah. Because sometimes,  
24 believe it or not, you get comments that you may actually  
25 have to make some changes, and you try to anticipate what

1 the Environmental Quality Council's -- which side -- which  
2 alternative or what changes they're going to adopt. So we  
3 try to come to the table with those documents already  
4 created, if we can.

5 CHAIRMAN BROWN: Okay. Well, do we want to  
6 discuss this more? We'll have to take a break, because I  
7 know there's some logistics we have to take care of.

8 MR. DIETRICH: I think it would be a good  
9 idea.

10 CHAIRMAN BROWN: Why don't we meet back at  
11 1:00. That will give everybody time to go get something to  
12 eat, think about it, people can take care of their  
13 logistics.

14 MR. DIETRICH: 1:00 here?

15 CHAIRMAN BROWN: 1:00 here. Make a motion?

16 BOARD MEMBER HANSON: I move that we  
17 reconvene at 1:00 here.

18 BOARD MEMBER BONER: Second.

19 CHAIRMAN BROWN: Meet at 1:00.

20 (Meeting proceedings recessed  
21 11:45 a.m. to 1:00 p.m.)

22 CHAIRMAN BROWN: All right. It's 1:00.  
23 Let's reconvene and finish this up.

24 Darla, I did have -- we just reconvened just now,  
25 but I wondered if you heard if there were any other

1 comments received as of now? Because you know there  
2 weren't when we adjourned, but I was going to --

3 MS. POTTER: So I will double-check. Staff  
4 in Cheyenne have done another check of the fax machines, in  
5 addition to going through all of the mail received in  
6 Cheyenne this morning, and there have been no other  
7 comments received.

8 CHAIRMAN BROWN: Great. Thank you. I  
9 wanted to check before we got going. Before we left, we  
10 talked about the logistics might be if we moved along past  
11 this -- recommended to pass this with the caveat that we do  
12 have some discussion with the people that were afforded  
13 public comment. I don't know if we've had a chance to talk  
14 about that any more or if we have any kind of schedule that  
15 we could address.

16 MR. DIETRICH: Well, during the lunch break  
17 I actually got with the folks back in Cheyenne, and Shelley  
18 is looking into our availability of schedule and  
19 availability on conference room.

20 CHAIRMAN BROWN: Okay.

21 MR. DIETRICH: So it's in the works right  
22 now. We're having to have a possible public meeting by the  
23 end of the month.

24 CHAIRMAN BROWN: Okay.

25 MR. DIETRICH: I don't have any more dates

1 or anything like that to give you, because we're still  
2 working on it.

3 CHAIRMAN BROWN: Right.

4 MR. DIETRICH: But the thought is having a  
5 meeting to go over some of the necessary changes or the  
6 changes we decided to make as a result of receiving  
7 comments through today.

8 CHAIRMAN BROWN: Yes.

9 MR. DIETRICH: And then decide -- and this  
10 is where I think we may actually confer with the Attorney  
11 General's Office on process, to make sure we're not  
12 misstepping here.

13 CHAIRMAN BROWN: Right.

14 MR. DIETRICH: And that is what would be  
15 the next step we could, depending on the nature and  
16 comments we actually make to this proposed rule, because  
17 I'm trying to avoid having to start over.

18 CHAIRMAN BROWN: Correct.

19 MR. DIETRICH: But I want to make sure we  
20 do everything the way we should in a circumstance like this  
21 and try to accommodate necessary changes that make sense to  
22 everyone involved.

23 CHAIRMAN BROWN: Okay. Thank you.

24 MR. DIETRICH: So we're trying to do that  
25 in the next couple weeks or so.

1                   CHAIRMAN BROWN: Right. I know it's tight,  
2 but this might be our only chance. I know even after this  
3 the timing is tight too.

4                   BOARD MEMBER HANSON: Steve, I'll be out of  
5 town until the 12th of August.

6                   MR. DIETRICH: 12th of August.

7                   MS. CEDERLE: Starting when, Klaus?

8                   BOARD MEMBER HANSON: A week from -- let's  
9 see, the 24th. From the 24th.

10                  MS. CEDERLE: Okay. I can already tell you  
11 that --

12                  BOARD MEMBER HANSON: Just to let you know.  
13 I mean, you can reach me -- if it's a conference call you  
14 can reach me.

15                  MS. CEDERLE: Okay. Will you have access  
16 to e-mail, as well, if electric --

17                  BOARD MEMBER HANSON: Pardon me?

18                  MS. CEDERLE: Would you have access to  
19 e-mail as well?

20                  BOARD MEMBER HANSON: Correct.

21                  MS. CEDERLE: So I'll still be able to  
22 speak with you and --

23                  BOARD MEMBER HANSON: Yeah.

24                  CHAIRMAN BROWN: So really what we have to  
25 do is talk to the Attorney General, see what we can do to



1 proceed.

2 MR. DIETRICH: And what the availability of  
3 actually entertaining another meeting --

4 CHAIRMAN BROWN: Right.

5 MR. DIETRICH: -- with the public to hammer  
6 out what changes should be made or could be made.

7 CHAIRMAN BROWN: Uh-huh.

8 MR. DIETRICH: And then there will have to  
9 be a communication with you guys along the whole way to  
10 keep you guys in tune.

11 CHAIRMAN BROWN: We don't necessarily have  
12 to be at that meeting --

13 MR. DIETRICH: Correct.

14 CHAIRMAN BROWN: -- we just have to be  
15 available.

16 MR. DIETRICH: Correct.

17 CHAIRMAN BROWN: Okay. Do you have any  
18 questions, Klaus?

19 BOARD MEMBER HANSON: No.

20 BOARD MEMBER BONER: No.

21 CHAIRMAN BROWN: None?

22 BOARD MEMBER HANSON: Just a logistical  
23 one.

24 CHAIRMAN BROWN: Just the logistics.

25 BOARD MEMBER HANSON: Yeah.

1                   MR. DIETRICH: So if I had to make a  
2 statement, it would be we're moving forward with the  
3 process on this regulation pending the outcome of the  
4 future meeting and addressing the comments we've received  
5 through today.

6                   BOARD MEMBER HANSON: Yeah.

7                   CHAIRMAN BROWN: Okay. I think that will  
8 be about our last best shot at getting this approved and  
9 moving on in the time frame that we need to.

10                  MR. DIETRICH: I agree.

11                  CHAIRMAN BROWN: And still afford everybody  
12 one last comment or participation.

13                  MR. DIETRICH: Right.

14                  CHAIRMAN BROWN: Okay. What else we got  
15 here, then?

16                  BOARD MEMBER HANSON: If I may make a  
17 statement, Mr. Chairman?

18                  CHAIRMAN BROWN: Yes.

19                  BOARD MEMBER HANSON: And that is we  
20 should, of course, not lose sight of the prize because of  
21 details. The prize is that we need to lower --

22                  CHAIRMAN BROWN: Yes.

23                  BOARD MEMBER HANSON: -- emissions in the  
24 Upper Green River area, and this is designed to do this,  
25 and I think it would be foolish to discontinue the process

1 of going forward with that, because that would be  
2 counterproductive as far as the outcome is concerned. And  
3 from my taste, there is a statement, a very important  
4 statement in here, that it affects, of course, health and  
5 well-being of people in the area, and that needs to be  
6 taken into consideration. It is important that we,  
7 therefore, address the matter. That doesn't mean we don't  
8 have to look at it or can't look at it and maybe adjust  
9 some things here and there, but we should not lose sight of  
10 the prize, which is passing this thing for the well-being  
11 of the people in the area.

12 CHAIRMAN BROWN: Thank you. I agree, doing  
13 nothing is not an option.

14 BOARD MEMBER HANSON: No, I don't think so.

15 CHAIRMAN BROWN: I have a question. So the  
16 incorporation by reference, do we -- that was my question  
17 since we may not be -- do we have to approve incorporation  
18 by reference after the meeting that we have?

19 MS. CEDERLE: How it stands now is it  
20 replies -- it applies to all of Chapter 8.

21 CHAIRMAN BROWN: Yes.

22 MS. CEDERLE: So if you're okay with us  
23 moving ahead with the incorporation by reference, whether  
24 or not section 6 is in there as a rule or goes back to  
25 reserve, it doesn't happen, I would continue to move

1 forward with the IBR Section 10 piece. Section 1 is not up  
2 for that right now, depending on how you word -- how we're  
3 moving forward, because it does contain Section 6 as the  
4 rule.

5 CHAIRMAN BROWN: Right. That was what I  
6 wanted clarification.

7 MS. CEDERLE: But Section 10 is fine to  
8 move forward.

9 BOARD MEMBER HANSON: Basically an address  
10 change, yeah.

11 CHAIRMAN BROWN: So I think it's time to  
12 decide what the Board is going to recommend.

13 BOARD MEMBER HANSON: It's going to be  
14 tough. Would it be appropriate, then -- well, passage is  
15 probably -- it would probably be appropriate to postpone  
16 approval until we have had another public meeting and the  
17 Board has reconvened to take it under advisement, the  
18 public comments? Would that be the operative way to go?

19 MR. DIETRICH: For Chapter -- for Section  
20 6.

21 BOARD MEMBER HANSON: For this section,  
22 Section 6.

23 CHAIRMAN BROWN: Section 6.

24 BOARD MEMBER HANSON: Yeah.

25 BOARD MEMBER BONER: I was -- my thought

1 was that we could pass the proposed rules as they are with  
2 the caveat that there is a public meeting on the time frame  
3 that we discussed. So we can, like I said, move it  
4 forward, considering the time frame that we're dealing  
5 with, while still providing for that public input and keep  
6 in mind ultimately the Environmental Quality Council has to  
7 approve the changes that -- or approve any changes as well  
8 as how responsive they are to public input. And I think I  
9 would feel comfortable with the process overall as long as  
10 we -- if we were to approve these Chapter 8 rules. But --  
11 I'll just make that caveat. So that would certainly be a  
12 public meeting but not a -- a board meeting, necessarily.

13 MR. DIETRICH: So this would be a  
14 conditional approval.

15 BOARD MEMBER BONER: Right.

16 BOARD MEMBER HANSON: Could do that, yeah.

17 BOARD MEMBER BONER: Uh-huh.

18 MR. DIETRICH: You will know the outcome of  
19 that meeting shortly thereafter or you can actually attend  
20 if you wanted to, but it's more of a public meeting, and  
21 you don't need to be in that meeting.

22 BOARD MEMBER BONER: Right. Right.

23 BOARD MEMBER HANSON: Mr. Chairman, I'm not  
24 quite sure procedurally.

25 MR. DIETRICH: Right.

1 BOARD MEMBER BONER: I'm not either.

2 BOARD MEMBER HANSON: We pass it, it's out  
3 of our hands, we passed it and it's done. That's what I'm  
4 a little afraid of. That's why I think procedurally you  
5 would have to go with a postponement to a date certain,  
6 and --

7 CHAIRMAN BROWN: Without remanding it back  
8 to start over?

9 BOARD MEMBER HANSON: That's right. That's  
10 right. That doesn't mean starting over. Postponement  
11 simply means we don't vote on it today, because that --  
12 there are changes that need to be incorporated or  
13 adjustments that need to be incorporated, and you, so to  
14 speak, have a second reading of it with some changes, but  
15 you keep the document.

16 MR. DIETRICH: Okay.

17 CHAIRMAN BROWN: And in the meantime we can  
18 talk to the Attorney General to make sure we're following  
19 the proper procedure.

20 BOARD MEMBER HANSON: Procedure, yeah.

21 MS. CEDERLE: Okay. Chairman.

22 Klaus, when you talk about postponement to a date  
23 certain --

24 BOARD MEMBER HANSON: Uh-huh.

25 MS. CEDERLE: Is that usually within -- is

1 that date certain determined in a certain -- in another  
2 time frame? Like what we're working on here, but we're  
3 unable to address at the conclusion of that meeting.

4 BOARD MEMBER HANSON: I'm just coming from  
5 the procedures that usually are adopted by legislative  
6 bodies. If you don't postpone to a date certain, the  
7 matter is dead.

8 MS. CEDERLE: Okay.

9 BOARD MEMBER HANSON: So we don't want  
10 that, because that simply means we want to forget about it,  
11 you know. We postpone it and it's dead. That's why you  
12 usually add the principle "to a date certain," which can be  
13 changed. I know you can't set a date right now, but you  
14 have to set a date anyway and then change it, you know --

15 MS. CEDERLE: Okay.

16 BOARD MEMBER HANSON: -- just so the thing  
17 procedurally doesn't fall into the cracks and is dead.

18 CHAIRMAN BROWN: I don't think this one  
19 will fall through the cracks.

20 BOARD MEMBER BONER: No.

21 BOARD MEMBER HANSON: No, but we don't want  
22 the staff to start over again --

23 CHAIRMAN BROWN: No.

24 BOARD MEMBER HANSON: -- from scratch.

25 CHAIRMAN BROWN: The date certain would be

1 after there would be a public meeting, so there would be  
2 public meeting.

3 MR. DIETRICH: Which we're trying to have  
4 by the end of the month.

5 CHAIRMAN BROWN: Yeah. Is that doable with  
6 the DEQ?

7 MR. DIETRICH: So a date certain can be  
8 sometime the first couple weeks of August?

9 BOARD MEMBER HANSON: Yeah, that would be  
10 fine.

11 MS. CEDERLE: Okay. No, because of the  
12 timing --

13 CHAIRMAN BROWN: 45 days.

14 MS. CEDERLE: Yeah. Latest day I can go to  
15 public notice is August 11, and there is a lot of work  
16 involved prior to that --

17 CHAIRMAN BROWN: Right.

18 MS. CEDERLE: -- and doing packets and  
19 whatnot. So I would say as close to the end of July, as  
20 well, to give me time, if --

21 CHAIRMAN BROWN: To prepare for the --

22 MS. CEDERLE: To move forward.

23 CHAIRMAN BROWN: For the EQC.

24 BOARD MEMBER HANSON: You mean for the  
25 public meeting?



1 MS. CEDERLE: No, for the public meeting I  
2 know Steve's talking about the end of the month. It would  
3 have to be on the heels of it to go ahead, so, yeah, I  
4 don't know what the dates are.

5 CHAIRMAN BROWN: Let's take a look at the  
6 calendar, see if we can work this out.

7 BOARD MEMBER HANSON: AG will probably give  
8 you some advice as to what time frame you need for  
9 announcement of a public meeting.

10 MS. CEDERLE: Yeah.

11 BOARD MEMBER HANSON: We have a two-week  
12 time frame to announce that.

13 MS. CEDERLE: Yeah. Okay. Well, just so  
14 that everybody knows what I'm looking at. The last week of  
15 July is the 28th through August 1st. The second week of  
16 August is the 4th through the 8th, 11th of August is a  
17 Monday. I would suggest going for the last week of July,  
18 last full there, and into August 1st. So do August 1st  
19 date certain, I guess. So -- and if we can push that -- if  
20 we can get a meeting, we have -- not as close to something  
21 sooner.

22 MR. DIETRICH: 31st we're looking at.

23 CHAIRMAN BROWN: Because it's two weeks.  
24 Two and a half weeks, basically, to have a public meeting.

25 MS. CEDERLE: Yeah.

1 CHAIRMAN BROWN: And get --

2 MS. CEDERLE: And address comment, so it  
3 will be tough.

4 MR. DIETRICH: Why don't we pick  
5 August 4th.

6 BOARD MEMBER HANSON: August 4th.

7 MS. CEDERLE: Try for that?

8 CHAIRMAN BROWN: August 4th is a Monday.

9 BOARD MEMBER HANSON: Yeah.

10 MS. CEDERLE: I have to generally be to  
11 public notice and ready to go here, and I post here. No  
12 later than those days.

13 MR. DIETRICH: Yeah. We have to pick a  
14 date certain. We haven't even set the other meeting yet.

15 CHAIRMAN BROWN: So we have the date  
16 certain, we can work back from that to set the other  
17 meeting.

18 MR. DIETRICH: Yes.

19 MS. CEDERLE: All right.

20 MR. DIETRICH: August 4th would be a date  
21 we can work with. Okay.

22 CHAIRMAN BROWN: Everybody will have to  
23 sort of massage their schedules, so this will be it.

24 Do you have a calendar so you can --

25 BOARD MEMBER BONER: Yeah, I'll -- I should

1 be okay.

2 CHAIRMAN BROWN: I think Diane should be  
3 back by then. We'll be okay.

4 MS. CEDERLE: Yeah.

5 BOARD MEMBER HANSON: And you can contact  
6 me by telephone.

7 MS. CEDERLE: Great.

8 CHAIRMAN BROWN: And J.D. Okay. So what  
9 we've got is postpone approval to a date certain no later  
10 than August 4th.

11 MR. DIETRICH: Got it.

12 CHAIRMAN BROWN: And we can have one last  
13 public meeting at the Cheyenne office --

14 MR. DIETRICH: Yes. It would be Cheyenne  
15 location.

16 CHAIRMAN BROWN: -- pending advice from the  
17 Attorney General.

18 MR. DIETRICH: Yep.

19 CHAIRMAN BROWN: Okay. Then we will have  
20 to reconvene at another meeting.

21 MS. CEDERLE: Well, I think that's what the  
22 AG will help us determine.

23 CHAIRMAN BROWN: Okay.

24 MS. CEDERLE: Whether or not we need to  
25 reconvene a meeting with the Board or if we're able to talk

1 to each other over the phone or do electronic type of vote.

2 CHAIRMAN BROWN: Right.

3 MS. CEDERLE: That will have to be  
4 clarified with the Attorney General's Office.

5 CHAIRMAN BROWN: I know the Land Quality  
6 folks have their advisory board meetings electronically.

7 MR. DIETRICH: They have.

8 CHAIRMAN BROWN: So I think it can be done.

9 MS. CEDERLE: There may be some provisions  
10 for us to go off of.

11 CHAIRMAN BROWN: Okay. All right.

12 BOARD MEMBER HANSON: Sounds good to me.

13 MS. CEDERLE: Have I captured for the  
14 record --

15 CHAIRMAN BROWN: Excuse me?

16 MS. CEDERLE: Have I captured it for the  
17 record? Will be entirely --

18 CHAIRMAN BROWN: Everybody's doing lot of  
19 work trying to do the right thing in short amount of time.

20 MS. CEDERLE: Yes.

21 CHAIRMAN BROWN: Realize everybody's doing  
22 their best and realize their heart's in right spot and  
23 commend everybody for hard work and their comments.

24 MS. BELLIS: I just have a logistical  
25 question. For those of us who can't go to Cheyenne on

1 whatever date that might be, is there any way of listening  
2 in on the hearing or on the public hearing or getting at  
3 least the comments?

4 THE REPORTER: Can you state your name?

5 MS. BELLIS: Janet Bellis. I'm sorry. I'm  
6 from Pinedale.

7 MR. DIETRICH: Because it will be a public  
8 meeting, the best we can offer is phone line at this time,  
9 depending on the room in which we locate.

10 MS. BELLIS: Okay.

11 MR. DIETRICH: Some rooms are better  
12 equipped than others for outside participation, so we'll  
13 certainly look into that.

14 MS. BELLIS: Okay. Thank you.

15 MR. GOLDSTEIN: Sort of along those lines.  
16 Between now and then will the comments that have been  
17 received, the written comments be posted?

18 MS. CEDERLE: Okay. So written comments is  
19 usually -- and in a normal world, where we receive approval  
20 and we would move on, yes, we would go through comment and  
21 respond to it. However, we have a longer period of time to  
22 do that. I know it doesn't go out until the EQC packet is  
23 put together, or right before the Board, so we would have  
24 more time to do that. So yes, once we address the comments  
25 and we have a response to comments put together, you can

1 request it and we'll get it to you, but because you did --

2 MR. DIETRICH: That's not what he's asking.

3 He's asking if all the comments you received so far, can

4 they be posted on our website?

5 MS. POTTER: No.

6 MS. CEDERLE: I've never done that before.

7 MS. POTTER: This is Darla Potter. My

8 understanding is that that hasn't been done before. That

9 would -- that's not part of the statutory rulemaking

10 process. The process, once the comments are received and

11 responded to as they become part of that packet that goes

12 on to the Environmental Quality Council, so I don't believe

13 that -- that's ever been --

14 MS. CEDERLE: But it is part of the public

15 record, so I honestly don't see why you couldn't put in a

16 request for it.

17 MR. GOLDSTEIN: Okay.

18 MS. CEDERLE: Yeah.

19 MR. DIETRICH: Is this the day for tough

20 questions, because we sure got them.

21 CHAIRMAN BROWN: Yeah, I think so.

22 So we need to -- a motion.

23 BOARD MEMBER HANSON: To -- I thought I

24 moved to set the date -- to ask for the dates.

25 MR. DIETRICH: It would be helpful if you

1 guys -- you're trying to craft this language, that you're  
2 going to -- can you go through it one more time, as to how  
3 it needs to read?

4 BOARD MEMBER HANSON: All right. What was  
5 the date again now?

6 MR. DIETRICH: August 4th.

7 CHAIRMAN BROWN: August 4th.

8 BOARD MEMBER HANSON: August 4th. I move  
9 to have a public -- to consult with the Attorney General's  
10 Office as to setting a public hearing in Cheyenne  
11 somewhat -- some day prior to August 4th and have a meeting  
12 with the Board, either telephonically or with attendance on  
13 August 4th. Is that the motion?

14 CHAIRMAN BROWN: Okay.

15 BOARD MEMBER HANSON: Okay.

16 BOARD MEMBER BONER: Second.

17 CHAIRMAN BROWN: All in favor?

18 BOARD MEMBER HANSON: Aye.

19 CHAIRMAN BROWN: All opposed.

20 BOARD MEMBER BONER: Sorry. I was in  
21 favor.

22 CHAIRMAN BROWN: Okay. So the way it  
23 reads, we'll postpone approval until no later than  
24 August 4th, pending consultation with the Attorney General,  
25 and in the meantime set up a date for public input before

1 that time.

2 BOARD MEMBER HANSON: Prior to --

3 CHAIRMAN BROWN: Prior to August 4th.

4 BOARD MEMBER HANSON: -- 4th, and then have

5 a --

6 CHAIRMAN BROWN: Then have a public  
7 meeting, board meeting, August 4th. It can be electronic  
8 or in person.

9 BOARD MEMBER HANSON: Again, according  
10 to --

11 CHAIRMAN BROWN: According to Attorney  
12 General ruling.

13 MR. DIETRICH: Thought process, yeah.

14 MS. CEDERLE: Okay.

15 CHAIRMAN BROWN: Okay. Any other final  
16 comments before we adjourn? So we won't set anything else.  
17 We'll just wait until we hear back --

18 MR. DIETRICH: Right.

19 BOARD MEMBER HANSON: Yeah.

20 CHAIRMAN BROWN: -- and move on from there.

21 BOARD MEMBER HANSON: And I think we've  
22 done, in de facto, the last thing on our agenda.

23 MR. DIETRICH: Schedule our next meeting,  
24 you just did it.

25 CHAIRMAN BROWN: Yeah.



1 BOARD MEMBER HANSON: Thank you.

2 CHAIRMAN BROWN: Thank you. This meeting's  
3 adjourned.

4 MS. CEDERLE: Thank you.

5 (Meeting proceedings concluded

6 1:23 p.m., July 14, 2014.)

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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 30th day of July, 2014.

  
KATHY J. KENDRICK  
Registered Professional Reporter

