

IN RE: SOLID AND HAZARDOUS WASTE

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WYOMING WATER AND WASTE ADVISORY BOARD

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IN RE: SOLID AND HAZARDOUS WASTE DIVISION  
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TRANSCRIPT OF MEETING PROCEEDINGS

Pursuant to notice duly given to all parties in interest, this matter came on for meeting on the 20th day of July, 2016, at the hour of 9:12 a.m., at the Oil & Gas Conservation Commission, 2211 King Boulevard, Casper, Wyoming before the Wyoming Water and Waste Advisory Board, Ms. Marjorie Bedessem, chairman, presiding, with Mr. Klaus D. Hanson and Mr. David Applegate in attendance, and Ms. Lorie Cahn attending by phone.

Mr. Luke Esch, Solid and Hazardous Waste Division Administrator, appearing by phone; Mr. Mike Jennings, Monitoring Reimbursement Program; Mr. Bob Doctor, Waste Program Manager; and Ms. Gina Thompson, Water Quality Division, were also in attendance.

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

2 (Meeting proceedings commenced  
3 9:12 a.m., July 20, 2016.)

4 CHAIRWOMAN BEDESSEM: Okay. Good morning,  
5 everyone. We'd like to now convene the Water and Waste  
6 Advisory Board July 20th meeting. It's about 9:15. First  
7 up -- oh, let's make sure we have, for the record, the  
8 board members who are in attendance.

9 Marge Bedessem representing the public at large.

10 BOARD MEMBER APPLGATE: Dave Applegate,  
11 representing industry.

12 BOARD MEMBER HANSON: Klaus Hanson, elected  
13 official.

14 BOARD MEMBER CAHN: Lorie Cahn,  
15 representing public at large.

16 CHAIRWOMAN BEDESSEM: Thank you.

17 We'll first start off with DEQ's presentation for  
18 the monitoring reimbursement program.

19 MR. JENNINGS: Madam Chairman, Mike  
20 Jennings. Thank you very much. Appreciate it.

21 We just have one reimbursement request on the  
22 agenda for this one, and it should be -- the agenda you  
23 received in the mail should be for July 20, 2016. The one  
24 in particular we're talking about is for the Shell  
25 Landfill. One of the things we decided in the program is

1 that if we installed -- paid to install monitoring wells,  
2 if there was no more need for them, they need to be plugged  
3 and abandoned, we would also utilize our funds to assist  
4 with that. Again --

5 THE REPORTER: I'm sorry. I can't hear you  
6 very well.

7 MR. JENNINGS: I'll speak up.

8 At any rate, we have the Shell Landfill. They  
9 basically had additional -- briefly on this one, in case  
10 you were just a little bit confused about the information I  
11 gave you. They actually applied to have -- to be refunded  
12 for four wells, but only one of them our program actually  
13 paid to have installed. So I had to do some financial  
14 gymnastics to determine how much to give back. We gave  
15 them every break in the book on this.

16 Bottom line is they requested a little over  
17 \$2600, and I'm recommending a little over \$1600 in  
18 reimbursement on that. Does anybody have any questions on  
19 this one?

20 BOARD MEMBER CAHN: I do, Mike. So I had a  
21 really hard time following your math in some places. So if  
22 we go to page -- on the invoice, the first page of the  
23 invoice, the prebilling, about midway down the page. So  
24 it's Engineering Technician IV for Jose Pereda. And I get  
25 that the subtraction should be minus 26.25, not minus 8.75

1 because, as I understand it, this is -- this is an expense  
2 that's on the basis of the fact that it's well -- per well.  
3 And so there should be -- since three of the wells don't --  
4 don't -- aren't eligible, that the one eligible well we  
5 should be paying -- we should be subtracting three-quarters  
6 of the amount of \$35, which is we should be subtracting  
7 26.25, not only a quarter of the amount, which is 8.75.  
8 Does that make sense, my question?

9 MR. JENNINGS: Yeah, it does. And forgive  
10 me for not being totally up to speed on that particular  
11 one. Hopefully my explanation, as far as on a footage  
12 basis, the well that we paid for 200 feet out of a total of  
13 250-odd feet. And it looks like --

14 BOARD MEMBER CAHN: No.

15 MR. JENNINGS: Yeah, I understand what  
16 you're talking about. Because it looks like I subtracted I  
17 believe it's a quarter off that \$35, and -- let's see.

18 BOARD MEMBER CAHN: You should have  
19 subtracted three-quarters off the --

20 MR. JENNINGS: Exactly. I'm looking at  
21 that and trying to figure out -- there may have been a  
22 reason for that.

23 Oh, here's the deal. When they split it up into  
24 several different items within that -- they're basically --  
25 it says "Fill out drilling job order...talked to JDK about

1 getting into the landfill. Text TEJ the key number to get  
2 in." There's essentially three components to that. And of  
3 those, only one of them I considered eligible. So that  
4 times the .75, if I'm remembering how this worked, is how I  
5 came up with that. Lacking any specifics on hours, I tried  
6 to determine if the elements in their description, how many  
7 of those are actually eligible. And if they're not all  
8 eligible, I'll actually divide it by that number, and then  
9 I go back to the math, whether it's the 21 percent or the  
10 75 percent.

11 And without having specifically in front of me,  
12 I'm guessing I had it right, but I can certainly look into  
13 it further to determine if it's accurate.

14 BOARD MEMBER CAHN: Yeah. You know, just  
15 doing the math in my head, you would even subtract more  
16 than 26.25. It's only a third of the eligible. So right  
17 off -- so something's screwy with that one for sure.

18 MR. JENNINGS: Yeah. I may have flipped  
19 the number on that. You bet.

20 BOARD MEMBER CAHN: I'm finding that  
21 throughout in different places. So I have -- I mean, I've  
22 never had questions before on these, but this -- this I  
23 didn't feel like was giving us the information that we  
24 usually get from you. So I can go through all the ones,  
25 but I'm going to have a hard time voting for reimbursing on

1 this because -- unless we get some explanation. So I'm  
2 almost leaning towards deferring this until the next one.

3 Let me tell you all my questions. And if you  
4 can't answer them to the -- then I -- you know, I'm  
5 comfortable with going forward. So same thing with  
6 engineering technician, for Timothy Jones, just down from  
7 that, where it's 42.50. If you take 75 percent of that,  
8 you should be subtracting out 31.88 and getting minus --  
9 I've got a .6 times 42.50 times .21, and the minus on that  
10 should be if something's only -- if something's reimbursed,  
11 it's only 21.5 percent ineligible, you come with a much  
12 bigger number -- anyway, bigger number than 5.4.

13 So I get a quarter -- three-quarters of 42.50 is  
14 31.88. And for the next one, 21.5 percent of 42.50 is  
15 9.14. I don't see either of those numbers in here. So I  
16 also don't understand engineering technician lines for  
17 Timothy Jones and fieldwork.

18 MR. JENNINGS: Lorie, for instance, the one  
19 under Timothy Jones, I believe that looks like  
20 three-quarters out of that, so I only considered a quarter  
21 of it ineligible, which, again, there's only one of the  
22 four wells actually eligible. So in that particular  
23 instance, instead of using a footage charge, that would  
24 have actually been on a per-well basis.

25 BOARD MEMBER CAHN: Okay.

1                   MR. JENNINGS: I don't have a calculator in  
2 front of me, but I believe that's what we're looking at for  
3 that.

4                   BOARD MEMBER CAHN: Only a quarter is  
5 eligible or only a quarter is ineligible.

6                   MR. JENNINGS: There were a total of four  
7 wells. Three were ineligible. One was eligible. However,  
8 from a footage standpoint, the eligible well was 200 feet.  
9 The additional three wells was like 56 feet or something  
10 additional to that. So that's why I came up with the math  
11 on that, trying to give them every break I could. But if  
12 it was on a per-well basis, they lost three-quarters. If  
13 it's on a footage basis, they would have lost 21 percent.

14                   BOARD MEMBER CAHN: Okay. So what I'm  
15 saying is you've subtracted out of the first number, \$5.48.  
16 That is not the same as either 21.5 percent, which is  
17 \$9.14, or three-quarters, which is \$31.88. So then  
18 you've -- you've said there's a .6 times that, but -- so  
19 that, to me, says you're saying -- you're trying to say  
20 that .6 of it is also ineligible. So that just makes the  
21 amount that gets minused even greater than 9.14. So I  
22 think there's really something wrong with your math.

23                   MR. JENNINGS: Well, Lorie, I'll tell you  
24 what I'll do. We can certainly defer this. I can sit in  
25 the background for a bit, see if I can't get some proper

1 explanation for you. But it's actually three things going  
2 on here. You've got three -- four wells. I had to pull  
3 three of them out, and either at 75 percent and/or at  
4 21 percent, depending on whether I was using per well or  
5 footage.

6           Additionally, based on the descriptions, some  
7 things within the descriptions may have been eligible, some  
8 may have not been eligible. So up front those would  
9 actually get taken out and then you apply the math to the  
10 remainder. I realize it's convoluted, again, not having --  
11 just looking at it right now, I'll have to take a little  
12 bit and take a hard look at it to get the kind of numbers  
13 you're looking for, at least an explanation that you're  
14 looking for. But it is convoluted. I'm not going to argue  
15 that. I thought my reasoning was sound on it.

16           But, again, depending on what the rest of the  
17 board would like to do, I can certainly spend a little time  
18 and try to figure it out and get back do you later in this  
19 meeting, or however the board would like to approach this.

20           BOARD MEMBER CAHN: Okay. Let me finish  
21 what my questions are, and then I'll make a proposal.

22           MR. JENNINGS: Okay.

23           BOARD MEMBER CAHN: So the next question I  
24 have is on the next page for the Senior Staff Engineer/  
25 Science I, Jamie Kuklok. And I've got -- you've got



1 written in 250 divided by 4 times .75. And when -- okay.  
2 So I've got there's \$250. If you take .75 of that as  
3 187.50, and if you then divide it by 4, it should be --  
4 well, I -- I'm -- okay. So if only -- I guess I'm confused  
5 about what's the dividing by 4 because it seems like it's  
6 only a portion of the eligible, like one-quarter of it.  
7 Then that should increase the amount that is being minused,  
8 not decreasing the amount that's being minused. So I still  
9 have that same problem.

10 Okay. And same thing with the next one down,  
11 Office Reporting. Sent over page 1 of SEO packet on F3.  
12 And you've got a minus 15. So you've got half of it. So  
13 it's not explained why you've decreased it by a half, so...

14 And then if we go to the next page for the  
15 communications expense, I understand the 2.5 percent of the  
16 labor only is 73.88, but then how to you get to minus  
17 29.44?

18 So those are all of my questions. I don't know  
19 if anyone else has any questions. But I guess I would  
20 suggest to you -- unless the other board members are  
21 comfortable proceeding forward, that you look at it, sit in  
22 the back of the room, and come to us at this board meeting  
23 with -- if there's corrections.

24 MR. JENNINGS: Madam Chair.

25 CHAIRWOMAN BEDESSEM: Well, my feeling is

1 that I would hate to delay payment to Big Horn County by  
2 deferring it to another meeting. So I'd just as soon table  
3 it until later on in the meeting after Mike has -- because  
4 this is -- these aren't questions you can just answer off  
5 the cuff. You need to take some time and look at it. And  
6 so why don't we defer to later on in the meeting and you  
7 can come back at an appropriate break time, whether it be  
8 the end of the rules presentation or at a breaking point in  
9 between, so we can get it done today.

10 MR. DOCTOR: Madam Chair, just a couple  
11 questions. Does it look like we're maybe giving them a  
12 little more than they're entitled to? That is -- and how  
13 much money are we are talking about here? If we give  
14 them -- it's -- it's not like they're rolling in the dough.  
15 So if we're going to give them an extra 50 or hundred  
16 dollars --

17 CHAIRWOMAN BEDESSEM: If it only takes --

18 MR. DOCTOR: Sorry.

19 CHAIRWOMAN BEDESSEM: -- Mike a little  
20 time, I'd prefer to have it done correctly and not have it  
21 be treated inconsistently with the other applicants. So  
22 even if it doesn't amount to a large amount of money, I  
23 want to be consistent.

24 MR. JENNINGS: Madam Chair, I'll be more  
25 than happy spend a few minutes -- I'm actually guessing

1 what I'm coming up with is a better explanation of what  
2 happened. I feel pretty confident about my math.  
3 Nonetheless, I understand why there's confusion with this.  
4 So with the board's permission, I just need a few minutes  
5 and step out, take a look at everything, see if I can come  
6 up with some good explanation and rejoin in at a later time  
7 in the meeting.

8 CHAIRWOMAN BEDESSEM: I think that sounds  
9 good. Everybody else on the board okay with that?

10 BOARD MEMBER HANSON: Fine.

11 CHAIRWOMAN BEDESSEM: That sounds good.

12 MR. JENNINGS: Madam Chair, just to  
13 conclude, then, at least based on what we recommended  
14 today, grant program update at the bottom of your agenda  
15 there. Again, original funding was \$7.97 million. To  
16 date, a little over \$200,000 have gone out paying for work  
17 plan grants. Additionally, a little over 3.1 million has  
18 gone out for actual fieldwork. And then for sampling and  
19 analysis \$331,000. So total grants on this one, little  
20 over \$3.6 million remaining; grant funds about 4.3 million.

21 CHAIRWOMAN BEDESSEM: Mike, I do have one  
22 additional question. This is just a general question. So  
23 in the step 2 applications that are on fieldwork and report  
24 prep, do you usually not get submittals until after the  
25 final -- you know, the submittals requesting reimbursement

1 for field expenses until after the report is submitted?

2 MR. JENNINGS: Madam Chair, the report has  
3 to be submitted because the department actually has to sign  
4 off on that. The original -- in the documents -- on their  
5 application form, there's a bunch of checkmarks in the  
6 fields here. And I will typically go through, check with  
7 the department's project manager, make sure that they were  
8 happy with the report, that they received it. And at that  
9 point, then, basically their application, assuming they've  
10 got everything else taken care of, the application is  
11 complete. But I do not proceed with them until the  
12 Department has been happy with the report they have  
13 received.

14 CHAIRWOMAN BEDESSEM: So the reason I  
15 ask is because where it says for step 2, fieldwork and  
16 report --

17 THE REPORTER: I'm sorry.

18 CHAIRWOMAN BEDESSEM: First step 2, the  
19 fieldwork and report preparation include DEQ's written  
20 approval of investigation report, provide a copy. I don't  
21 see that checked off. Was just that something that -- I  
22 didn't know if the -- if that had been in the previous  
23 reimbursement request, and that's why it's not here because  
24 this is just an abandonment that maybe follows the other  
25 request for reimbursement for the field activities.

1                   MR. JENNINGS: Madam Chair, when they  
2 submit these three copies, I have the original and two  
3 copies. One goes to Cheyenne. One is my work copy. I  
4 only -- other than typing in the actual amounts, I work off  
5 of the work copy. That's where the notes go. What you're  
6 seeing here is the actual submittal that goes down to  
7 Cheyenne. So those -- when they miss stuff like that, I  
8 typically have to follow up. And on that work copy I'll  
9 note whether or not they've got it. It won't show up or  
10 not the original because I don't -- I don't basically mess  
11 with the original with respect to that.

12                   CHAIRWOMAN BEDESSEM: Okay.

13                   MR. JENNINGS: So forgive me. That's why  
14 you're not seeing that on this.

15                   CHAIRWOMAN BEDESSEM: Gotcha. So your  
16 notes are on this original, but only on the invoice part,  
17 not on the actual application.

18                   MR. JENNINGS: Exactly. Exactly. The  
19 invoicing is -- in fact, the original invoice, I don't mess  
20 with that either. I actually have a pristine copy I don't  
21 mark up. So if anybody ever has any questions, they can  
22 look at that. But what you're getting here is an actual  
23 copy of the original that would go to Cheyenne for  
24 signature by the director. And, again, I always go through  
25 the checklist here. And it is on the work copy. And for

1 future reference, I'd be more than happy to provide copies  
2 of that, if you want to see my notes on that. But  
3 otherwise this is considered the pristine one, with the  
4 exception of my comments. But they have to be on this, and  
5 that's why you're not seeing this.

6 CHAIRWOMAN BEDESSEM: It was just a general  
7 question. I was just asking --

8 MR. JENNINGS: Yep. It's an excellent  
9 question.

10 CHAIRWOMAN BEDESSEM: -- that this is  
11 all -- this abandonment request is post this recording and  
12 post their other fieldwork.

13 MR. JENNINGS: Yes, it is.

14 CHAIRWOMAN BEDESSEM: So that report has  
15 all happened in a previous application.

16 MR. JENNINGS: Madam Chair, correct.

17 CHAIRWOMAN BEDESSEM: That's all I was  
18 asking. I don't need to see additional copies of whatever.

19 MR. JENNINGS: All right. Are there any  
20 further questions?

21 All right. I'll take my leave, work on this,  
22 hopefully get back to you.

23 CHAIRWOMAN BEDESSEM: Thank you.

24 BOARD MEMBER HANSON: Got your homework.

25 CHAIRWOMAN BEDESSEM: Okay. We're going to

1 move into Agenda Item 2B, which is Proposed Revisions to  
2 Solid Waste Rules and Regulations, Chapters 1, 2, 9 and 15.

3 MR. DOCTOR: Madam Chair, glad to be back.  
4 We prepared a brief PowerPoint. You can probably just flip  
5 through the pages. I think Lorie has a hard copy or --  
6 Gina's going to call it up.

7 CHAIRWOMAN BEDESSEM: Yeah, because we do  
8 have audience members behind you.

9 MR. DOCTOR: That's fine. There's copies  
10 of it back there too, if you want to have it in front of  
11 you.

12 What we've done with this is focused on things  
13 that have changed since the last meeting and summarized  
14 things. The gory details are in response to comments on  
15 all the small comments that we went through.

16 We've included the chronology here, just to  
17 kind of go through. I think maybe this has been a little  
18 bit unprecedented for us as far as the amount of time we  
19 spent working with the public, and especially wanted to  
20 call your attention to what we've done since the meeting,  
21 based on comments received from Trihydro and Fremont County  
22 and kind of a basic comment from Laramie. We've worked  
23 with Ken Schreuder and Andy kind of little more indirectly  
24 and copied the City of Laramie. We made a bunch of  
25 changes. We sent those to those guys. I'll let them read

1 through and look and provide comments again. Then we  
2 responded, again, to the comments that we received there.

3           So that's how we've gotten to where we are now.  
4 The last round of comments are all summarized in Number 12  
5 of the response to comments. And then we followed that --  
6 that's actually based on a phone conversation that Luke and  
7 I had with Ken Schreuder with Trihydro. We read through  
8 his questions and called him up to see, Okay. This is our  
9 response, what do you think? And when we ended that call,  
10 I said, Okay. I'm okay with that.

11           Also, I checked a little bit ago, and on the  
12 online comment forum, the only one we received is the one  
13 from the Solid Waste Association, which I stuck a copy in  
14 there. And it was more about the process than about  
15 anything in particular with the rules. So there's that.

16           If you go to Slide 4, just all those minor  
17 editorials on Chapter 1, editorial changes that we made.  
18 We pulled out those definitions passenger tire and  
19 passenger tire equivalent, and separated the definitions --  
20 most of those changes were related to tires, and so we just  
21 incorporated the comments we received into Chapter 1.

22           In Chapter 2, again, there were a lot of minor  
23 editorial changes that are in gory detail here in the  
24 response to comments. But the biggest change was in  
25 response to comments from the board and from Trihydro and



1 Fremont County, primarily, that we put in a section --  
2 separate section for the Appendix C, groundwater  
3 monitoring, because it was so confusing. And so we wrote  
4 it up separately. And it's based on and follows -- we ran  
5 it by our folks in Water Quality to see, Hey, if you're  
6 going after these constituents in our groundwater  
7 protection standards, what process would you follow? And  
8 we also built into that a lot more flexibility for our  
9 administrator to say that he may require an assessment of  
10 corrective measures and stuff, but it's not shall, so it  
11 provides a lot more judgment if we're looking at chloride  
12 and nitrate and whether or not we're going to do anything  
13 about it.

14           So we had those conversations about that. We  
15 also had -- I think there's one of the comments that  
16 additional filtered groundwater sample people can do that  
17 if they want. So I went through my notes. I went through  
18 the transcripts a couple times to try to cover all that.  
19 On Slide 6, we clarified a statistical evaluation is not  
20 required when everything is below the concentration limit.  
21 That was a question we received. And then we clarified the  
22 EPA recommendation that you use -- if it's reported that  
23 the value below that, you actually used a number and not  
24 PQL.

25           I received an email -- a call yesterday just

1 asking about that from Golder. And so they just asked  
2 questions, so I simply rattled through some of that and  
3 discussed why you do that. But what we did do,  
4 importantly, on that was add a sentence in there that  
5 allows the operator or their consultant to work with us on  
6 alternatives. It is so complicated on when you might do  
7 it, when you might not do it. And that was a big  
8 discussion that we had with Ken, that you have the option  
9 to do it multiple different ways, depending on the data.  
10 It's not forced in the rule. We can work with you  
11 depending on -- on the reasons why. There's just too much  
12 to throw into the rule. That EPA statistical guidance is  
13 about that thick.

14 So that -- we tried to build in flexibility and  
15 clarified that a little bit. And as you notice, there's a  
16 separate procedure for Appendix A and C, indicator  
17 parameters, in the rule change.

18 So also we were asked what is the purpose of  
19 those constituents, what are we going to use them for, so  
20 we added footnotes to that appendix in addition to what's  
21 in the rule to clarify that this is what these things are  
22 for. If you get a hit on -- on one of these groundwater  
23 quality things, nothing happens. But if they have an MCL  
24 or class of use limit, then we'll move forward to classify  
25 groundwater and work through that.

1           Slide number 8, monitoring requirements, this  
2 just clarifies that. Appendix A, concentration above  
3 background, will continue to trigger assessment monitoring  
4 with Appendix B analysis consistent with EPA. There's some  
5 details in the response to comments of other states that we  
6 talked about how they do this.

7           And then, of course, in Appendix C, they will no  
8 longer trigger that assessment monitoring with an Appendix  
9 B analysis. So we've agreed that that didn't make sense.  
10 If you're not seeing VOCs, why are we looking for a whole  
11 bunch of other stuff.

12           Also, on the slide I emailed out, if you go to  
13 slide 9, there's an error. There's actually -- 11 and 8  
14 does not add up to 17. I grabbed that 11 number off some  
15 previous stuff before we deleted a couple of Appendix B  
16 constituents. So it's actually 9 -- and the handouts I've  
17 given you are corrected. There's 9 class of use  
18 constituents that have either MCL or class of use limit,  
19 and 8 cations and anions that nothing happens.

20           And I think Cindy Langston from Casper made  
21 comment about those constituents help with the trends.  
22 There's more detailed explanation.

23           And then we received no comments on eliminating  
24 Chapters 9 and 15, one way or another. So that's just the  
25 short version.

1 CHAIRWOMAN BEDESSEM: Just a quick  
2 question. Can you point me to the -- the additional  
3 flexibility statements regarding the PQL as to where that  
4 is? So one thing that I -- I will see how this goes today,  
5 but usually it's easier for us to talk, especially for a  
6 rule that's this big, to talk about particular lines, if we  
7 have the line numbers. So this was a great packet  
8 prepared, but the next time you do it, if you could put  
9 line numbers because I'm just envisioning there may be some  
10 confusion trying to find where things are for our  
11 discussion today.

12 MS. THOMPSON: Yes. Thank you for pointing  
13 that out because I did not realize until you just said that  
14 the documents that I received to mail out to you did not  
15 have those line numbers. And so I apologize for not  
16 noticing that before I mailed them out. I apologize on the  
17 record because usually we are more consistent about that,  
18 so --

19 MR. DOCTOR: I apologize too because I'm  
20 the one that put all this together.

21 MS. THOMPSON: He sent them to me. I  
22 didn't notice.

23 CHAIRWOMAN BEDESSEM: Because I know at the  
24 joint advisory board meeting it was really helpful for all  
25 of us --

1 MS. THOMPSON: Yes.

2 CHAIRWOMAN BEDESSEM: -- to refer to line  
3 what such and such, whatever, you know, strike/underline or  
4 the clean copies. It was really helpful. Not necessary  
5 for ones like eliminating the whole chapter, don't have to  
6 bother with that, but ones where we're, you know, trying to  
7 find places and it's -- rules are a challenge, to see where  
8 the beginning and ends of each section are, to find your  
9 location.

10 So, Bob, if you could help me where --

11 MR. DOCTOR: If you go to the redline  
12 version of Chapter 2.

13 CHAIRWOMAN BEDESSEM: Okay.

14 MR. DOCTOR: In the folder, on page 2-54.  
15 And it's Number 5, in the middle of the page there. It  
16 says, "Any data reported below the detection limits shall  
17 be entered into the statistical analysis at a value equal  
18 to one half of the PQL." And then goes on to say, "Unless  
19 the administrator approves alternate statistical  
20 procedures." And then the end of the sentence is based on  
21 the EPA's requirements at the end of the paragraph. The  
22 EPA'S requirement or recommendation of the statistical  
23 guidance is that if you have something reported -- say your  
24 detection limit is 10, and you have something reported at  
25 8, that when you run the statistics, you use 8, not 5,

1 which is half of 10. So that can be good and bad both  
2 ways. But that previous sentence would allow the  
3 consultant who's running the statistics to come back and  
4 forth with us on what they recommend doing.

5 It's rarely an issue, but we do get J values  
6 reported frequently. And what the EPA says is that that  
7 number should be used when you're running statistics. So  
8 that's -- and that's what -- we had a good conversation  
9 with Ken Schreuder on that, so...

10 CHAIRWOMAN BEDESSEM: So, essentially, what  
11 you're saying here is if you have a nondetect, you're  
12 reporting it as half the detection limit?

13 MR. DOCTOR: Uh-huh.

14 CHAIRWOMAN BEDESSEM: Or, excuse me, half  
15 the PQL?

16 MR. DOCTOR: Correct.

17 CHAIRWOMAN BEDESSEM: And if you're -- if  
18 you have an estimated concentration between PQL and MDL,  
19 then you use that as --

20 MR. DOCTOR: And I do want to make it  
21 clear, along the lines I think it was your question, Klaus,  
22 before if everything is below the PQL and there are still J  
23 values reported, you're still not going to be running  
24 statistics. You're not going to be running statistics  
25 until you actually start seeing things above the PQL that

1 are more reliably quantified. But we'll be having  
2 discussions. You may get something that pops up for a  
3 couple sampling events and goes away. Well, I'm certain  
4 we're going to be having that discussion about do we really  
5 need to be running on this constituent anymore? No, it's  
6 gone. We'll just keep watching. So it's very complicated  
7 because there's so many constituents. Fortunately, we  
8 detect very few VOCs where this is an issue, so...

9 BOARD MEMBER HANSON: Since you are on  
10 that page, my general observation is, you know, I went  
11 through the definitions up front, and then I came up --  
12 upon certain words, which for a layman mean one thing, for  
13 you mean another thing. Just in the paragraph above what  
14 you just cited, there's the word "population." For me  
15 population means one thing. I think for you it means  
16 another thing. I looked in the definitions. It's not  
17 there. It probably should be added as a -- as a word that  
18 you define because -- I have another one that -- of that  
19 nature, but since you're on that page...

20 MR. DOCTOR: Yeah, I can answer that.  
21 This is a section on statistics. So that word "population"  
22 is a statistical term. And that's why we don't define it  
23 in our -- because there's multiple definitions of the word  
24 "population," depending on what you're talking about. So  
25 in this context, it's a statistic population, which is

1 distribution --

2 BOARD MEMBER HANSON: Sure. Yeah.

3 MR. DOCTOR: -- of the data.

4 And that's -- this language, I'm fairly sure, is  
5 straight out of the EPA.

6 CHAIRWOMAN BEDESSEM: Yeah.

7 BOARD MEMBER HANSON: Still, my observation  
8 is in the definitions section it's not defined. You know,  
9 what do you mean? And I'm just a bloody layman. You know,  
10 when I read the term "population," I probably should have  
11 some kind of a statement as to what it means.

12 I'll give you another one. The term that's not  
13 defined, and it would be on 1-8, if we have to go in there,  
14 is the term "constituent." Because in Chapter 2, on page  
15 57, about there, there is a lot of talk about constituents.  
16 I'm an elected official. Constituents are one thing for  
17 me. They seem to be a different thing for you. And I  
18 think it would be good -- it would behoove us to probably  
19 have a definition of the term as to what it means for you.

20 I finally figured it out, because I was reading  
21 on, and I saw what constituent meant, but, again, since you  
22 have all these definitions, I think --

23 CHAIRWOMAN BEDESSEM: But I do think, for  
24 example, if you googled either of those words and found the  
25 definitions on Wikipedia, one of the alternative



1 definitions would be one that fits this. So I don't --  
2 I'm -- I'm not sure we need to specifically define those.  
3 I mean, with respect to population, maybe if you had the  
4 word in front of statistical population, so that that's  
5 clear, then you can look it up, like I said, on Wikipedia,  
6 probably come up with the right definition.

7           And the thing with constituent, is like Water  
8 Quality constituents. If you looked up constituents in the  
9 alternative definitions, you can probably come up with one  
10 that works. So I think maybe if we make sure that the  
11 first mention of both those words have a modifier that  
12 clarifies so that when you look it up, you know which  
13 definition to pick. So I'd say "statistical population" or  
14 "water quality constituent" is something in that line, as  
15 opposed to coming up with a whole set of -- a new  
16 definition. I think that's a -- that's my suggestion.

17           BOARD MEMBER HANSON: But my observation is  
18 you have a whole list of definitions here. Why not include  
19 the ones that -- that are necessary to understand the  
20 passage? You know, I'm just observing what I, as a person  
21 that wants to read and understand this thing, go through  
22 and not understanding until I read further a certain  
23 definition. If you didn't have this list up front, I  
24 wouldn't care. But since you are making the list of terms,  
25 why not include the ones that are showing up in the text

1 and are open to debate?

2 CHAIRWOMAN BEDESSEM: It's kind of like a  
3 glossary.

4 BOARD MEMBER HANSON: It's a glossary,  
5 right.

6 You know, there's another one on the next page  
7 under fixed assets means plants and equipment. I looked at  
8 that, then I said, Oh, yeah, plants. Plants are either  
9 something that grows in the garden or it's a power plant.  
10 You know, I finally figured out it was a power plant.  
11 this is the kind of issue that, you know, would be good if  
12 you -- I guess, I finally figured it out because it said  
13 fixed assets, you know, and I thought, yeah --

14 CHAIRWOMAN BEDESSEM: It has to be a  
15 building.

16 BOARD MEMBER HANSON: -- it has to be a  
17 building because plants are not -- the ones in the garden  
18 are not fixed. But it's just this kind of deal that since  
19 you have a whole list of definitions up front, it would be  
20 good to have the ones that have such double entendres to  
21 define we mean this one.

22 BOARD MEMBER APPLGATE: Madam Chair. Let  
23 me make a supporting argument in support of Klaus's --

24 CHAIRWOMAN BEDESSEM: Uh-huh. Sure.

25 BOARD MEMBER APPLGATE: I was looking in

1 definitions. And I think if the definitions were sort  
2 of -- many of them are term of arts that are just applied  
3 to regulations, right? So it's very specific to the  
4 regulatory framework, whereas the words he brought up,  
5 constituents --

6 CHAIRWOMAN BEDESSEM: Yeah, like glossary  
7 terms.

8 BOARD MEMBER APPELATE: -- and population  
9 are more common terms that have simple meanings in the  
10 whole wide range of contexts.

11 CHAIRWOMAN BEDESSEM: But, as pointed out,  
12 are confusing.

13 BOARD MEMBER APPELATE: But what I would  
14 point out is there are other words that have the same sort  
15 of --

16 CHAIRWOMAN BEDESSEM: Floodplain.

17 BOARD MEMBER APPELATE: Yeah, they're  
18 general terms that have already been -- like floodplain is  
19 not specific to this regulation. It has a meaning --  
20 meaning in it --

21 CHAIRWOMAN BEDESSEM: Right. So the --

22 BOARD MEMBER APPELATE: So I guess I'm  
23 happy to include his terms constituent --

24 CHAIRWOMAN BEDESSEM: Population.

25 BOARD MEMBER APPELATE: -- and population

1 because it would help the layreader understand this.

2 CHAIRWOMAN BEDESSEM: Yeah.

3 BOARD MEMBER HANSON: Especially words that  
4 have --

5 CHAIRWOMAN BEDESSEM: Several meanings.

6 BOARD MEMBER HANSON: -- several meanings.

7 You know floodplain to me, yeah, it has one  
8 meaning, and it seems to be the meaning. I have no problem  
9 with that. But it's these common terminology words that  
10 have taken on specific meanings for this document. So I  
11 think -- which probably would be good to define. I read it  
12 as a layman, quite frankly, and I come up and say, aha,  
13 population, you know, we're talking about folks here. No,  
14 we're not talking about folks.

15 CHAIRWOMAN BEDESSEM: Those are good  
16 comments because it's important. Everybody gets so  
17 involved in their own technical area that they don't see  
18 what it looks like to someone else, you know, reading it,  
19 you know, the uninitiated, so...

20 BOARD MEMBER HANSON: Yep.

21 BOARD MEMBER APPLGATE: So in the spirit  
22 of process here --

23 CHAIRWOMAN BEDESSEM: Right. That's what I  
24 was concerned about. That's why I suggested putting the  
25 additional words because I was concerned about whether that

1 would take longer.

2 BOARD MEMBER APPLGATE: So are we -- we  
3 have to get through all four chapters today.

4 CHAIRWOMAN BEDESSEM: Two of which are  
5 just --

6 BOARD MEMBER APPLGATE: Can we make a  
7 motion to approve the changes to the two that are  
8 strikeout, just get them out of the way, and we can go to  
9 Chapter 1. Is that okay?

10 CHAIRWOMAN BEDESSEM: Uh-huh.

11 BOARD MEMBER APPLGATE: Are you okay with  
12 that as a process?

13 CHAIRWOMAN BEDESSEM: Uh-huh.

14 BOARD MEMBER APPLGATE: So I make a motion  
15 that we approve the strikeout and elimination of Chapters 9  
16 and 15.

17 BOARD MEMBER HANSON: I would second that.

18 CHAIRWOMAN BEDESSEM: Any further  
19 discussion?

20 BOARD MEMBER CAHN: I didn't hear the  
21 motion. Could you --

22 CHAIRWOMAN BEDESSEM: The motion, Lorie,  
23 was to approve the elimination of Chapters 9 and 15. I  
24 realize we're doing that out of order, but this was the  
25 suggestion from Mr. -- Board Member Applegate in order to

1 expedite the process, then we can concentrate on Chapters 1  
2 and 2.

3 BOARD MEMBER HANSON: 1 and 2.

4 BOARD MEMBER APPELATE: I'll call for the  
5 question.

6 MR. ESCH: Madam Chairwoman, may I say  
7 something?

8 CHAIRWOMAN BEDESSEM: Yes.

9 MR. ESCH: This is Luke. So as I  
10 understand it, the motion is to eliminate at this point and  
11 move the rule package only limited to striking Chapters 9,  
12 15; is that correct?

13 CHAIRWOMAN BEDESSEM: No, no.

14 MR. ESCH: Okay.

15 CHAIRWOMAN BEDESSEM: We were just trying  
16 to expedite the process and get 9 and 15 out of the way and  
17 concentration on our discussion of Chapters 1 and 2.

18 MS. THOMPSON: Madam Chairman, if I might  
19 explain.

20 I think, Luke -- this is Gina. I think that  
21 they're going to vote the chapters in parcels. So they're  
22 going to get 9 and 15 out of the way, and then maybe look  
23 at 1, and then maybe look at 2.

24 CHAIRWOMAN BEDESSEM: Don't 1 and 2 have to  
25 be -- so I guess the question is: Do we have to do them as

1 a package, or can -- can we do one -- 1 and 2 have to be  
2 married together? We have to do 1 and 2 together, or --

3 MR. ESCH: Madam Chairwoman, I think the  
4 discretion's up to the -- to the board; however, from a use  
5 of resources from the department, we -- if the board  
6 approves one, we'll probably likely wait until all of  
7 those are completed, or at least through the board, to move  
8 them through the EQC, just to conserve resources for the  
9 department.

10 CHAIRWOMAN BEDESSEM: Okay. That's fine.

11 So the -- we have a motion and a second on the  
12 floor for approving elimination of Chapters 9 and 15. All  
13 those in favor?

14 BOARD MEMBER APPLGATE: Aye.

15 BOARD MEMBER HANSON: Aye.

16 CHAIRWOMAN BEDESSEM: Aye.

17 BOARD MEMBER CAHN: Aye.

18 CHAIRWOMAN BEDESSEM: None opposed. Motion  
19 passes. So 9 and 15 are done.

20 Now we will discuss -- shall we start with  
21 Chapter 1?

22 THE REPORTER: Can I stop for a moment?

23 (Off-the-record discussion.)

24 CHAIRWOMAN BEDESSEM: So the comments  
25 regarding the definition, those -- the comments regarding

1 the definitions, those were for Chapter 1.

2 BOARD MEMBER APPLGATE: That were  
3 Chapter 1 additions, yes.

4 CHAIRWOMAN BEDESSEM: So there was --

5 BOARD MEMBER HANSON: Page by page?

6 CHAIRWOMAN BEDESSEM: Right. Continuing  
7 discussion upon the definitions issue.

8 BOARD MEMBER APPLGATE: We'll get to this  
9 later, but I think if we want to move the package forward  
10 today, and we'll get to a point we want to vote on the  
11 changes, you sort of have to give us feedback as we go that  
12 you're willing to incorporate the change, or we get hung up  
13 on process later on. So you've had two suggested  
14 definitional changes. I would be satisfied with not having  
15 to see those again, as long as you include the definition.  
16 Are you willing to include the definitions?

17 MR. DOCTOR: Pretty easy.

18 CHAIRWOMAN BEDESSEM: Yeah, population and  
19 constituent.

20 MR. DOCTOR: Luke is the decider.

21 BOARD MEMBER CAHN: Dave, could you -- this  
22 is Lorie. Could you please put the microphone closer? I  
23 really can't hear you.

24 BOARD MEMBER APPLGATE: Sorry, Lorie. I  
25 was just stating that for the sake of process, when we make



1 suggested changes, we need some feedback from the  
2 department today on whether or not they're willing to  
3 accept those changes, so when we get to the end of the  
4 chapter, you know, we're comfortable on approving it. So  
5 I'm just seeking an affirmation from, I guess it's Luke,  
6 that he's willing to include the two definitions that Klaus  
7 has recommended.

8 MR. ESCH: Madam Chairwoman, could I get a  
9 clarification on the definitions? I believe one was  
10 constituent, and the other was -- I couldn't quite hear the  
11 other one.

12 CHAIRWOMAN BEDESSEM: The other one was  
13 population, in reference to, essentially, statistical  
14 population.

15 MR. ESCH: Physical population. Okay.

16 CHAIRWOMAN BEDESSEM: Statistical.

17 MR. ESCH: Is there language that the board  
18 would recommend? You know, I hate to propose some language  
19 that would create a problem for the board.

20 BOARD MEMBER APPLGATE: No. I think this  
21 is a very simple request. Population has a statistical  
22 meaning. Klaus asked simply add it to the definition and  
23 you put in a standard definition for how population is used  
24 in statistical sense. Constituent --

25 CHAIRWOMAN BEDESSEM: Constituent in --

1                   BOARD MEMBER APPELEGATE: Yes. Constituent  
2 also has a standard meaning, and Klaus simply is asking you  
3 to include that --

4                   BOARD MEMBER HANSON: As a definition.

5                   BOARD MEMBER APPELEGATE: -- as a  
6 definition.

7                   So it does require a little work on your part,  
8 but the board wouldn't necessarily need to see those  
9 definitions. We're just relying on you to include them.

10                  MR. ESCH: Bob, do you have -- have you  
11 issue with us developing definition for any of those?

12                  MR. DOCTOR: I can pull something off  
13 Wikipedia, probably, Luke, and enter -- and put it in the  
14 definitions.

15                  MR. ESCH: Absolutely. I can -- Madam  
16 Chairwoman, I think the Division can certainly agree to put  
17 those definitions in for this -- if the board does pass the  
18 package today.

19                  CHAIRWOMAN BEDESSEM: Thank you.

20                  MR. DOCTOR: Along those same lines, we can  
21 look up and see if we can find a more common definition of  
22 fixed assets. I'm sure in the accounting --

23                  CHAIRWOMAN BEDESSEM: He was okay with  
24 that --

25                  MR. DOCTOR: We're okay with that one?

1 BOARD MEMBER HANSON: We're fine.

2 MR. DOCTOR: Okay.

3 BOARD MEMBER HANSON: But on that same  
4 page, under construction, I think later on there is a  
5 definition of wood as two different types of wood, and you  
6 just included wood in --

7 CHAIRWOMAN BEDESSEM: What page is that?

8 BOARD MEMBER HANSON: Same page, 1 of 8 in  
9 strikeout version, under Construction Demolition Waste it  
10 says "...limited to stone, wood, concrete, et cetera." And  
11 I think later on you have a definition that you have two  
12 types of wood. And I would suggest that since you want, I  
13 think, both included here, just to say what is treated and  
14 untreated, I think it was. Do you -- it's your plan to  
15 include both in -- in that -- in that statement? Because  
16 later on you make a distinction between treated and  
17 untreated wood. So all you would have to add here, if  
18 that's the intent, treated and untreated in a -- in a  
19 bracket or something like that. You see where I am?

20 MR. DOCTOR: Yes, I do.

21 Madam Chair. I believe clarifying what we mean  
22 is all wood --

23 BOARD MEMBER HANSON: All wood or --

24 MR. DOCTOR: -- or is it only clean wood?

25 You know, we get -- we do get those questions a lot.

1                   BOARD MEMBER HANSON: Uh-huh. Whatever it  
2 is, I don't --

3                   MR. DOCTOR: I put --

4                   BOARD MEMBER APPLGATE: So what's the  
5 response?

6                   MR. DOCTOR: The response, it can be -- it  
7 can depend on the wood. Some of the CCA treated wood and  
8 things you would not want in a construction demolition  
9 landfill, but it would be part of the construction  
10 demolition waste treatment.

11                  CHAIRWOMAN BEDESSEM: But the way you have  
12 it says "include, but is not limited to."

13                  BOARD MEMBER HANSON. Yeah.

14                  CHAIRWOMAN BEDESSEM: So I don't know  
15 whether you need to get more specific.

16                  MR. DOCTOR: In this case, construction  
17 demolition would include all wood.

18                  BOARD MEMBER HANSON: Yep. All wood, yeah.

19                  MR. DOCTOR: Later we discuss, you know,  
20 different in environmental threatwise from treated wood  
21 versus clean wood. We can burn clean wood. We couldn't be  
22 burning CCA treated or railroad ties because of the  
23 emissions, those -- so that's when we start talking about  
24 things like that we have to differentiate --

25                  BOARD MEMBER APPLGATE: So the suggested

1 change I would suggest is to put the word "all wood" in  
2 front of that.

3 CHAIRWOMAN BEDESSEM: Or treated and  
4 untreated.

5 BOARD MEMBER APPLGATE: Either one of  
6 those would work.

7 BOARD MEMBER HANSON: Yeah. It's defined  
8 later on, you know, as treated and untreated.

9 BOARD MEMBER APPLGATE: You wouldn't  
10 want --

11 BOARD MEMBER HANSON: All is fine with me.

12 BOARD MEMBER APPLGATE: Okay.

13 BOARD MEMBER HANSON: And --

14 BOARD MEMBER APPLGATE: For us --

15 THE REPORTER: One at a time.

16 BOARD MEMBER APPLGATE: For us to get  
17 through this today, we have to have specific things we're  
18 agreeing to. So I'm afraid, at the pace that we're going,  
19 we won't get through it today.

20 MR. DOCTOR: I brought a Cliff Bar.

21 Treated and untreated would be my suggestion,  
22 since we have those two.

23 BOARD MEMBER HANSON: Uh-huh. Treated/  
24 untreated.

25 MR. DOCTOR: Got it. That's what they have

1 there.

2 CHAIRWOMAN BEDESSEM: Those are good  
3 catches, Klaus.

4 So do you want to --

5 BOARD MEMBER HANSON: You want to go on?

6 CHAIRWOMAN BEDESSEM: Yeah. We'll just  
7 keep going this way.

8 BOARD MEMBER HANSON: Just a question. The  
9 term on page 1 of 11, has hazardous waste was no longer  
10 needed, you crossed it off. Okay. Thank you. That's all  
11 I had.

12 CHAIRWOMAN BEDESSEM: Lorie, we want to  
13 check with you as far as the potential amount of comments  
14 to determine whether we should go through these by page,  
15 get everyone's comments per page, or go through each of the  
16 board members by page.

17 BOARD MEMBER CAHN: Marge, you were really  
18 breaking up. Maybe you could put the microphone closer.

19 CHAIRWOMAN BEDESSEM: Okay. What I'm  
20 trying to determine --

21 Klaus, you're up to page?

22 BOARD MEMBER HANSON: 1-13.

23 CHAIRWOMAN BEDESSEM: 1-13. Whether we  
24 should see if you have comments up to that point as well,  
25 rather than going through each board member, but if we

1 could go through the chapter and see if we have anything up  
2 through 1-13, and then -- this is page --

3 BOARD MEMBER CAHN: My first comment is on  
4 page 1-41.

5 CHAIRWOMAN BEDESSEM: Okay.

6 BOARD MEMBER HANSON: All right.

7 CHAIRWOMAN BEDESSEM: So then we are good.

8 Klaus, you can continue.

9 So if we get to a page with a comment, please --  
10 that you have, please let us know. Dave and I will do the  
11 same.

12 BOARD MEMBER HANSON: Page 1-18. It's a  
13 definition question. It says a 100-year floodplain means a  
14 flood that has a 1 percent or greater -- oh, no. That's  
15 fine. That's fine. Means a flood.

16 Okay. My question simply was a plain cannot be a  
17 flood. So, I mean, there is a -- a definitional term.

18 CHAIRWOMAN BEDESSEM: Right. The flood --  
19 the plain part is missing. You see? A hundred-year  
20 floodplain means an area of --

21 BOARD MEMBER HANSON: Means an area or  
22 something like that.

23 A floodplain cannot be a flood. That's the only  
24 definitional question that I have, and that's a semantic  
25 question, I guess.

1                   BOARD MEMBER APPLGATE:  So here's my  
2  recommended change.  You either can call it -- the  
3  definition as hundred-year flood, and simply delete the  
4  word "plain," and the rest of it would be fine.

5                   BOARD MEMBER HANSON:  Yeah, that would be  
6  fine.

7                   BOARD MEMBER APPLGATE:  If you feel it's  
8  important to define a hundred-year floodplain, and as we go  
9  on in the definition you have to have the word "plain" or  
10 "area" later on in the definition.

11                  MR. DOCTOR:  I think, David, probably the  
12 latter because we use that word "floodplain" all over the  
13 place, and it's EPA definitions, so I think we need to go  
14 in here, means an area where a flood has --

15                  BOARD MEMBER HANSON:  A plain or area --  
16 area would be better, because you can't define a word  
17 through itself, so an area would be good.

18                  BOARD MEMBER APPLGATE:  So I feel  
19 comfortable if you just make a note of that and that you  
20 would --

21                  CHAIRWOMAN BEDESSEM:  Make sure it reads  
22 correctly, that it makes sense.  Because you can't replace  
23 flood with area, but you have to do something else to that.

24                  MR. DOCTOR:  My initial -- I'll have to  
25 think about it a little bit.  We'll figure it out.



1 CHAIRWOMAN BEDESSEM: Yeah, we'll figure it  
2 out. Okay.

3 BOARD MEMBER HANSON: Okay. Definitions,  
4 that's fine. I have nothing more in the definitions.

5 You want me to go on?

6 CHAIRWOMAN BEDESSEM: Yes.

7 BOARD MEMBER HANSON: Okay. Page 1 of 28,  
8 there is, again, a word which probably needs a quantifier.  
9 In number 4 -- (iv), dumping hazardous waste other than  
10 hazardous waste generated by residential households, and  
11 conditionally exempt small quantity generators. I saw the  
12 word "generators." Does that mean machinery that you can't  
13 throw out, or what does it mean? I had a problem with  
14 that.

15 MR. DOCTOR: Klaus, would it help if we put  
16 like small quantity waste generator?

17 BOARD MEMBER HANSON: Waste generators,  
18 anything like that. Okay. Because I -- again, you have to  
19 take me as the bloody layman.

20 CHAIRWOMAN BEDESSEM: No. These are  
21 perfect comments.

22 BOARD MEMBER HANSON: Okay. I'm sorry.  
23 That was an easy one.

24 I have -- disposal of clean fill -- I think  
25 there's a -- on page 1 out of 31, right on top, there's

1 something missing in the sentence, I think. "Clean fill:  
2 The disposal or beneficial use of clean fill in such a  
3 manner that does not create a health hazard." Is it  
4 sensible? Good. Let's leave it that way.

5 MR. DOCTOR: Uh-huh. For example, Klaus,  
6 people were dumping concrete, which we would consider clean  
7 fill, but they dumped it right next to a playground and  
8 it's a health hazard for kids playing, you know, skunks and  
9 snakes in there, that kind of thing.

10 BOARD MEMBER HANSON: That kind of thing,  
11 yeah. Thank you.

12 Something that I thought was really good. On  
13 page 1-35, to add to the quarterly base, you cannot -- if  
14 you have household waste dumps, you do quarterly, et  
15 cetera. I think that's a good -- good observation.

16 I have earmarked all those things, as we call it  
17 in German, donkey's ears. I'm clean out of donkey's ears.  
18 But Lorie had something on 47 --

19 CHAIRWOMAN BEDESSEM: 41.

20 BOARD MEMBER HANSON: 41.

21 CHAIRWOMAN BEDESSEM: Lorie, do you want to  
22 tell us what your comment was on page 1-41?

23 BOARD MEMBER CAHN: Yeah. Mine are in the  
24 category of editorials, so I'm happy to -- I don't have  
25 that many, but I'm happy to just give them -- the three of

1     them in Chapter 1. I'm happy to just give them to Gina at  
2     the end. They don't change, you know, the meaning.

3                     CHAIRWOMAN BEDESSEM: Okay.

4                     MS. THOMPSON: That's fine.

5                     That's fine, Lorie. If you email those over, I  
6     can make sure those get fixed.

7                     BOARD MEMBER CAHN: Okay. Sounds good.

8                     BOARD MEMBER APPLGATE: I'd like to make a  
9     motion that we approve Chapter 1 with the changes we have  
10    suggested to the DEQ representatives here today, and  
11    they -- they've made clear they're willing to make those  
12    changes. So I would make that motion for Chapter 1.

13                    MS. THOMPSON: Madam Chairman. On a  
14    process note, do we need to ask the audience if any of them  
15    have comments on Chapter 1? I'm not sure that if these  
16    gentlemen have anything on Chapter 1. No? I just wanted  
17    to make sure we didn't forget, so that's all I had.

18                    CHAIRWOMAN BEDESSEM: Yeah. I didn't know  
19    if the comment period went through today.

20                    MR. DOCTOR: That's fine.

21                    CHAIRWOMAN BEDESSEM: Thank you for  
22    ensuring that we did not skip that important component.

23                    MS. THOMPSON: Yeah. Those attorneys are  
24    rubbing off on me.

25                    CHAIRWOMAN BEDESSEM: That's good. That's

1 good.

2 BOARD MEMBER CAHN: Gina, if there are no  
3 public comments, because there's no line numbers, it's  
4 probably going to be easier for me to go over these  
5 changes -- these editorials with you to make sure you see  
6 them.

7 CHAIRWOMAN BEDESSEM: There's only three.

8 MS. THOMPSON: Okay.

9 BOARD MEMBER HANSON: This is Chapter 1?  
10 We're going to Chapter 1? Okay.

11 MS. THOMPSON: So do you want to start out  
12 on page 1-41, then?

13 BOARD MEMBER CAHN: Yeah. I think it would  
14 be easier because there's no line numbers. It won't take  
15 very long.

16 MS. THOMPSON: Okay.

17 BOARD MEMBER CAHN: On page 1-41, in the  
18 redline/strikeout version, the first blue paragraph, the  
19 third line up from the bottom of that paragraph, assuring  
20 compliance should be insuring or ensuring.

21 MR. DOCTOR: Thank you, Lorie. I don't  
22 know how the search missed that because I went through and  
23 tried to do a universal --

24 MS. THOMPSON: We have a new app that will  
25 take care of some of those.

1 CHAIRWOMAN BEDESSEM: Sometimes it -- it  
2 doesn't work on inserted text.

3 MR. DOCTOR: Oh, maybe that's it.

4 MS. THOMPSON: Correct.

5 MR. DOCTOR: Thank you.

6 CHAIRWOMAN BEDESSEM: Next one, Lorie?

7 BOARD MEMBER CAHN: Next one is on  
8 page 1-53, and the first blue paragraph -- first blue  
9 paragraph. The second -- third line down in blue should  
10 say "applications unless an alternative" rather than "and  
11 alternative."

12 BOARD MEMBER HANSON: Yep.

13 CHAIRWOMAN BEDESSEM: Next one?

14 BOARD MEMBER CAHN: On page 1-56, in the  
15 middle of the blue paragraph, under (A), sort of towards  
16 the right-hand side -- well, the sentence starts -- in the  
17 left-hand side starts out with compliance. "...compliance  
18 with the post-closure plan and in manner protect..." It is  
19 missing "in a manner protective." Do you see that?

20 MS. THOMPSON: Yes.

21 BOARD MEMBER HANSON: Uh-huh.

22 BOARD MEMBER CAHN: And that's it for me  
23 for editorials on Chapter 1.

24 CHAIRWOMAN BEDESSEM: The only other  
25 comment I have to make on Chapter 1, in addition to the

1 line numbers, is can we get a darker color for this -- for  
2 this --

3 BOARD MEMBER HANSON: Yeah.

4 MR. DOCTOR: We used to use green, then  
5 switched to blue, but then when it copies, sometimes --

6 CHAIRWOMAN BEDESSEM: Blue is fine, but  
7 this is really hard to see.

8 BOARD MEMBER HANSON: This is a little more  
9 pink.

10 MS. THOMPSON: Actually, we need to change  
11 the font color. And the -- the process that each division  
12 uses is a little bit different to get those strikes and  
13 underlines in. So we will work together to get that --

14 CHAIRWOMAN BEDESSEM: The red is really  
15 good.

16 MS. THOMPSON: Yes.

17 CHAIRWOMAN BEDESSEM: The red is visible.

18 MS. THOMPSON: When you read it on the  
19 screen, it's dark enough, yes, but when you print it out,  
20 it gets a little bit light.

21 CHAIRWOMAN BEDESSEM: Yes. It's kind of  
22 baby blue copies.

23 MS. THOMPSON: The green is even worse.

24 CHAIRWOMAN BEDESSEM: Okay. Yeah.

25 BOARD MEMBER CAHN: The blue was normally

1 other -- all the other years was easy to read. This  
2 particular blue is too light. I really struggled with  
3 reading it.

4 CHAIRWOMAN BEDESSEM: Yes. That's --  
5 that's great.

6 BOARD MEMBER CAHN: I think blue would be  
7 fine as long as it's a darker blue.

8 MR. DOCTOR: The copiers don't like this.  
9 I mean, this is the document that we copied. I mean, it's  
10 the same thing.

11 CHAIRWOMAN BEDESSEM: Yes. That's good.  
12 This isn't.

13 MR. DOCTOR: This was done in --

14 CHAIRWOMAN BEDESSEM: I believe we had a  
15 motion to approve Chapter 1. Do we have a second?

16 BOARD MEMBER HANSON: So moved.

17 CHAIRWOMAN BEDESSEM: All those in favor?

18 BOARD MEMBER APPLGATE: Aye.

19 BOARD MEMBER HANSON: Aye.

20 CHAIRWOMAN BEDESSEM: Aye.

21 BOARD MEMBER CAHN: Aye.

22 CHAIRWOMAN BEDESSEM: None opposed or  
23 abstentions. Motion passes.

24 We can now move to Chapter 2.

25 BOARD MEMBER HANSON: All right.

1 MR. DOCTOR: Use the strikeout version?

2 CHAIRWOMAN BEDESSEM: Yeah.

3 BOARD MEMBER HANSON: Okay.

4 CHAIRWOMAN BEDESSEM: So why don't we go  
5 ahead.

6 Is it all right, Klaus, if you start?

7 BOARD MEMBER HANSON: If I start?

8 CHAIRWOMAN BEDESSEM: Other board members,  
9 if we get to a page where you have something, as Klaus  
10 calls donkey eared --

11 BOARD MEMBER HANSON: In the donkey ears.

12 CHAIRWOMAN BEDESSEM: -- then we'll attend  
13 to that.

14 BOARD MEMBER HANSON: I have an observation  
15 on -- nothing editorial. But just a -- an observation on  
16 the drastic nature of this on page 218 -- 2-18. It starts  
17 on the bottom of the page. I think the sentence starts  
18 some years of application submittal relating to  
19 environmental quality or criminal racketeering of the solid  
20 waste manager, the applicant, or if the applicant is a  
21 partnership or corporation, any partner in the partnership.  
22 I was just aghast that these folks could be criminally  
23 racketeering. Isn't that kind of, again, in my native  
24 language to say shooting with cannons after sparrows? But  
25 if that's what you want, by God, we can have it.



1                   MR. DOCTOR: I credit the attorneys with  
2 that one. It's been there forever, yeah. We don't want  
3 bad guys running landfills.

4                   BOARD MEMBER HANSON: Oh.

5                   CHAIRWOMAN BEDESSEM: It's related to the  
6 past history.

7                   MR. DOCTOR: Mike's mentioned that waste  
8 management may have been dinged for that.

9                   CHAIRWOMAN BEDESSEM: So this has to do  
10 with the disappearance of Jimmy Hoffa.

11                  MR. DOCTOR: Right. Maybe, yeah.

12                  BOARD MEMBER HANSON: I guess if these guys  
13 are so bad -- I mean, I'm talking about our landfill  
14 manager. He's a very nice, benign person, not involved in  
15 criminal racketeering. But I --

16                  CHAIRWOMAN BEDESSEM: I'll let him know you  
17 said that on his behalf.

18                  BOARD MEMBER HANSON: Okay. Thank you.

19                  CHAIRWOMAN BEDESSEM: Okay. So you --

20                  BOARD MEMBER HANSON: I'm fine. I was just  
21 more amused than anything else. Okay.

22                  BOARD MEMBER CAHN: Unfortunately, when  
23 criminal racketeering was done for waste management, it  
24 wasn't a laughing matter.

25                  CHAIRWOMAN BEDESSEM: No.

1 BOARD MEMBER HANSON: No. I guess not.

2 BOARD MEMBER CAHN: It has in the past, and  
3 I think it's very good the language in there.

4 BOARD MEMBER HANSON: That will be fine  
5 with me.

6 I have nothing until page 2-30. And on top of  
7 the page, in the blue version -- the blue section there.  
8 "Collect and control run-off from the active portion of the  
9 landfill from at least the water volume resulting from a  
10 24-hour, 25-year storm." My concern was how do you do  
11 that? Do you have to wait 25 years or -- I -- you know,  
12 I --

13 BOARD MEMBER APPLGATE: You mean what is a  
14 24-hour -- a 24-hour, 25-year storm is a well-defined  
15 hydrologic event --

16 BOARD MEMBER HANSON: It is, uh-huh.

17 BOARD MEMBER APPLGATE: -- in which you  
18 can use textbooks or research papers that would tell you  
19 the volume of water in your area that -- and how much water  
20 volume that is.

21 BOARD MEMBER HANSON: I agree. I'm just  
22 talking about the practicality. Do we have to wait  
23 25 years for this to occur or -- I mean --

24 BOARD MEMBER APPLGATE: It's a design  
25 standard.

1                   BOARD MEMBER HANSON:  If it doesn't occur,  
2  what do we do?

3                   CHAIRWOMAN BEDESSEM:  It's just -- you're  
4  saying that it's a design standard.  This facility is going  
5  to be designed to contain a storm of that magnitude, and  
6  you can look up what that --

7                   BOARD MEMBER APPLGATE:  It's simply the  
8  size -- or volume --

9                   CHAIRWOMAN BEDESSEM:  -- what that --

10                  BOARD MEMBER APPLGATE:  -- and size --

11                  CHAIRWOMAN BEDESSEM:  It's based on  
12  evaluation of years and years of hydrologic data.

13                  MR. DOCTOR:  I should also mention too that  
14  these changes are to make our rule consistent with EPA.  We  
15  were actually more stringent.  Historically we had a 100-  
16  year flood.  So we changed that, so...

17                  BOARD MEMBER HANSON:  And you made it --  
18  yeah.

19                  In the next blue section, I just have an  
20  editorial question.  In the last line, it says geosynthetic  
21  clay liner.  I think usually you have these things in  
22  quotation marks.  Should that be in quotation marks because  
23  then you define it afterwards as GCL.  I don't care.  It's  
24  just for consistency.  I think you usually do.  But you may  
25  leave it as it is.

1           Let's see where we go next. I think on page  
2 2-50, the -- in the -- on the bottom of the page, the last  
3 paragraph (I), fourth line, "The system must be capable of  
4 monitoring the quality of background groundwater and  
5 groundwater passing the relevant point of compliance." Is  
6 that clear to everybody? It was not clear to me, what it  
7 means.

8           MR. DOCTOR: Klaus, that is discussed  
9 elsewhere when we talk about the performance-based design  
10 in the statute, that the Department has to establish a  
11 relevant point of compliance, which means the groundwater,  
12 at a distance no more than 150 meters away from the waste  
13 boundary. So it's referring back to that previous --

14           BOARD MEMBER HANSON: Okay. Should there  
15 be a reference, cross-reference, added here where to find  
16 that or something like that? I was just not sure what it  
17 meant. If you have a reference, you know, saying see  
18 whatever --

19           BOARD MEMBER APPLGATE: Where is point of  
20 compliance first talked about in this section, Bob?

21           MR. DOCTOR: Yeah. May be -- actually, it  
22 may be later --

23           BOARD MEMBER HANSON: It's coming, right?

24           MR. DOCTOR: -- I think when we talk about  
25 performance-based design.

1 CHAIRWOMAN BEDESSEM: So maybe if you put  
2 pursuant to section such and such?

3 BOARD MEMBER HANSON: Refer to section  
4 whatever, yeah. That's all I need to know.

5 CHAIRWOMAN BEDESSEM: Or as described in  
6 section --

7 BOARD MEMBER HANSON: Uh-huh.

8 MR. DOCTOR: Actually, I'll have to  
9 double-check. It could actually be a reference to statute.  
10 We'll see. I'm not sure. Some of that we are referencing  
11 statute in the rules to reduce the content. I may need to  
12 point to the statute rather than point to the rule.

13 BOARD MEMBER HANSON: Good.

14 CHAIRWOMAN BEDESSEM: It's a good catch.  
15 It's not mentioned in the point of reference.

16 BOARD MEMBER HANSON: Page 2-51, I presume  
17 my -- my definitions quit on that. Aquitards and  
18 aquiludes -- aquicludes are words, right?

19 CHAIRWOMAN BEDESSEM: Uh-huh.

20 BOARD MEMBER HANSON: I didn't know what  
21 they were.

22 CHAIRWOMAN BEDESSEM: And they don't have  
23 double meanings, so we're good.

24 BOARD MEMBER HANSON: No, no, no, no.

25 CHAIRWOMAN BEDESSEM: I'm just saying that.

1                   BOARD MEMBER HANSON:  When I'm googling  
2 this, it finally said I don't know either.  So -- so if  
3 that's a term that is acceptable, it's known by everybody,  
4 no problem.

5                   I think the next one we discussed already.  2-54,  
6 there is that word "population," and we have now defined  
7 it.  You know, in -- number 4, for the -- in the fourth  
8 line on page 2-54, the percentage of the population, it's  
9 defined now, so that's taken care of.

10                   What's the next one?

11                   CHAIRWOMAN BEDESSEM:  So I think you may  
12 have some -- well, there's a comment I have here, and I  
13 don't know if it might be similar or not.  It's on 2-57,  
14 you were just looking at.

15                   So this is a change I'd like to request, which  
16 I'm sure you'll accommodate, because Section (E) says  
17 assessment monitoring for Appendix A constituents.  Do you  
18 mean Appendix B?

19                   BOARD MEMBER HANSON:  What?

20                   CHAIRWOMAN BEDESSEM:  Assessment monitoring  
21 for Appendix B constituents.  Do you mean -- it's going to  
22 be confusing to people if you say A.  Detection monitoring  
23 is A.  Assessment is B.  So the heading has to say B.  And  
24 because you described thereafter, assessment monitoring is  
25 required for -- you know, if it was detected -- for

1 Appendix A was detected, and so you have to start  
2 Appendix B.

3 MR. DOCTOR: I see what you're saying.

4 CHAIRWOMAN BEDESSEM: Yeah. That has to be  
5 Appendix B.

6 MR. DOCTOR: I just wanted to make it clear  
7 that this is only triggered when you exceed background for  
8 Appendix A constituent, not Appendix C constituent.

9 CHAIRWOMAN BEDESSEM: Right. But the  
10 monitoring is --

11 BOARD MEMBER CAHN: Excuse me, Marge.  
12 Could you please put the microphone closer to you so I can  
13 understand your comments?

14 CHAIRWOMAN BEDESSEM: Okay. So my comment  
15 is the section titled for Section (E), it says assessment  
16 monitoring for Appendix A constituents. Well, detection  
17 monitoring is for Appendix A. Assessment monitoring is for  
18 Appendix B. So we're changing that to "for Appendix B  
19 constituents" so as not to be confusing. So, yes, Appendix  
20 A is what triggers it, but actual assessment monitoring is  
21 Appendix B.

22 Thank you. You will make that change?

23 MR. DOCTOR: Absolutely.

24 BOARD MEMBER HANSON: Next is my  
25 constituent term is defined already. That was on page

1 2-58, in case you had that reference problem.

2 CHAIRWOMAN BEDESSEM: What page you up to?

3 BOARD MEMBER HANSON: 2-83.

4 CHAIRWOMAN BEDESSEM: I had something  
5 before that.

6 BOARD MEMBER HANSON: Okay.

7 CHAIRWOMAN BEDESSEM: On page 2-60. This  
8 is just a grammatical question. (viii)(2.), "For  
9 constituents for which MCL's have not been promulgated,"  
10 MCL is just plural. There shouldn't be an apostrophe  
11 there.

12 I have some general questions, and I don't have  
13 them tagged to a page. So maybe I'll ask those at the end.  
14 Okay? I'll save those to the end.

15 So continue, Klaus.

16 BOARD MEMBER HANSON: Okay.

17 CHAIRWOMAN BEDESSEM: Oh, if you were going  
18 up the way up to 2-84, I want to talk about page 2-63.

19 Okay. This -- on page 2-63 is the continuation  
20 of the section (F) that you put in to address the  
21 monitoring for Appendix C constituents, which is greatly  
22 appreciated that you pulled the -- pulled those out and  
23 clarified what those would be used for.

24 And with respect to Appendix C, the only things  
25 that, you know, you're looking at for compliance are those



1 ones that have their MCLs or groundwater protection  
2 standard meaning the groundwater -- actually, a class of  
3 use standard in Chapter 8 to the Water Quality Rules and  
4 Regs. So that's for Appendix C.

5 For Appendix B constituent, for example, can you  
6 refresh my memory in that if we don't have MCL, we don't  
7 have a Water Quality Chapter 8 standard? There's kind of  
8 priority lists, but what are the other groundwater  
9 protection standards that are used and in what order? Can  
10 you remind me what those are?

11 MR. DOCTOR: Let me back up to -- there's a  
12 section just before this in the other that talks about the  
13 administrator establishing groundwater protection  
14 standards.

15 CHAIRWOMAN BEDESSEM: Because you had a  
16 bunch of policy statements that said look at this first,  
17 look at this second, look at this third.

18 BOARD MEMBER HANSON: I think it's 2-59.

19 MR. DOCTOR: 2-60. I think Dale found it  
20 for us.

21 CHAIRWOMAN BEDESSEM: 2-60?

22 BOARD MEMBER HANSON: I see it on 2-59,  
23 groundwater protection standards in a written report  
24 documented --

25 MR. DOCTOR: Oh, here it is. Page 2-60 is

1 the -- is the order of how things have to be established.  
2 So if it has an MCL, number 1 there, MCL. If there's no  
3 MCL, then we use background, or we can use the health-based  
4 concentration in there. So that's the chronology of how  
5 that gets established.

6 CHAIRWOMAN BEDESSEM: For Appendix B  
7 constituents. Appendix C is just the MCLs and the Chapter  
8 8.

9 MR. DOCTOR: Chapter 8.

10 CHAIRWOMAN BEDESSEM: Okay. So that's the  
11 distinction here.

12 MR. DOCTOR: Because those all have  
13 standards. Now there are some cases where a Class -- a  
14 Class II standard may actually be lower than a Class I, but  
15 it all has to be based on the Chapter 8.

16 CHAIRWOMAN BEDESSEM: But for Appendix B,  
17 is Chapter 8 in here somewhere? I've got MCL and  
18 background and health based.

19 MR. DOCTOR: Oh, correct. What I did here  
20 was I eliminated, at the very bottom of the page, Chapter 8  
21 because rulemaking changes chapters on us every time we  
22 turn around. So what I did was just refer to Water Quality  
23 Rules and Regulations in general, rather than Chapter 8.  
24 I'm never sure when they're going to go pull things on me.

25 CHAIRWOMAN BEDESSEM: So you're considering

1 Chapter 8 a health-based standard?

2 MS. THOMPSON: So from a Water Quality  
3 perspective, Madam Chairman, I don't believe they're going  
4 to change -- they're not moving this -- the Water Quality  
5 Standards out of 8. Administrator Frederick feels that  
6 that's a foundational chapter, and we -- it's not -- it's  
7 not a minor chapter that we would shift to something else.  
8 So I believe from a Water Quality Division standpoint,  
9 if eliminating that cross-reference, if the board feels  
10 that's confusing, I believe that the solid waste program  
11 could add it back in with some confidence that that  
12 particular cross-reference wouldn't be changing.

13 We have changed other chapters, to be fair to  
14 Mr. Doctor. We've been changing some things. But that  
15 particular chapter is a foundational chapter and won't be.

16 BOARD MEMBER APPLGATE: I would leave that  
17 in, I think, as a --

18 CHAIRWOMAN BEDESSEM: Yeah.

19 MR. DOCTOR: I guess one of my concerns was  
20 not knowing the water quality rules as well as I do the  
21 solid waste rules, was there something else in Water  
22 Quality rules that would apply that I was unaware of.

23 MS. THOMPSON: And I don't believe  
24 standardswise that --

25 CHAIRWOMAN BEDESSEM: It's anywhere else.

1 It's in Chapter 8.

2 MS. THOMPSON: So the groundwater standards  
3 are self-contained. We have -- you know, we've moved some  
4 other things around, but those ones Administrator Frederick  
5 is quite committed to keeping those as is to avoid  
6 confusion.

7 MR. DOCTOR: I will leave that reference to  
8 Chapter 8.

9 BOARD MEMBER HANSON: That's the last one  
10 on the page.

11 MR. DOCTOR: 2-60.

12 CHAIRWOMAN BEDESSEM: Then going back to  
13 page 2-63, where you talk about what you're doing with  
14 section -- Appendix C and you're addressing it specifically  
15 in Section F. So one of the comments in the -- your  
16 response -- let me see if I can find it -- response to  
17 comments, was on page 13 of the response to comments. We  
18 asked if the statement in Section 9(d) could be changed  
19 from "demonstrate to the administrator in writing that a  
20 statistically significant increase is not due to solid  
21 waste disposal unit," and change it to "may not be." And  
22 you appropriately responded saying this is kind of from  
23 subtitle (d). And the assumption in subtitle (d) is guilty  
24 until proven innocent because when we're talking androgenic  
25 compounds, which are most of the things in Appendix B, as

1 well as highly toxic metals, that, you know, you pretty  
2 much have to prove that it's not from the landfill in order  
3 to kind of escape that thing.

4           So now given that section that was talking about  
5 indicated parameters -- geochemical parameters that were  
6 typically in your water anyway, okay -- they are not  
7 androgenic or anything like that -- that the perspective is  
8 a little different. And so the language is copied directly  
9 out of what is -- how the language was done for the  
10 Appendix B constituents.

11           So, for example, in (III)(1.), it says, "Unless  
12 the owner or operator demonstrates that the contamination  
13 was caused by another source, resulted from an error," et  
14 cetera, et cetera, "the Administrator may require the owner  
15 or operator to characterize the nature and extent of  
16 release."

17           So I appreciate very much that you changed this  
18 so that it says "may." Okay? It says "may." That's  
19 great. However, I would greatly appreciate if you don't  
20 use the word "contamination." Okay? Because, you know, if  
21 you're --

22           MR. DOCTOR: That's up for debate. That's  
23 the whole problem.

24           CHAIRWOMAN BEDESSEM: Right. It's up for  
25 debate. So I don't think you can call it -- I think you

1 can say demonstrates that the statistically significant  
2 increase may be, as opposed to the contamination because  
3 you're already passing judgment.

4 BOARD MEMBER APPLGATE: And it's  
5 consistent with the change that you already made in that we  
6 discussed in detail last time, which was to recognize  
7 Appendix C constituents --

8 CHAIRWOMAN BEDESSEM: Are different.

9 BOARD MEMBER APPLGATE: -- are different  
10 and representative geochemistry, may or may not be caused  
11 by a contamination.

12 MR. DOCTOR: Statistically significant  
13 increase.

14 CHAIRWOMAN BEDESSEM: Yes. So  
15 demonstrates -- take out "contamination," put  
16 "statistically significant increase may be."

17 Now, I, of course, would prefer that if -- it  
18 says rather than was caused, but may be caused, but I  
19 understand you may be uncomfortable with that, and prefer  
20 to have the "may" later on, and I'm okay with that because  
21 you also talk about -- well, the reason that you are doing  
22 these other constituents is to develop a preponderance of  
23 the evidence, potentially, to look at what else is going on  
24 in the aquifer. Well, there's no point in doing that  
25 unless you are going to evaluate the preponderance of the

1 evidence, which is not going to necessarily prove beyond a  
2 shadow of a doubt. So I see other indications in your text  
3 that you are going to consider the situation when there's  
4 high doubt that it's caused by the landfill.

5 MR. DOCTOR: Right.

6 CHAIRWOMAN BEDESSEM: So if you remove  
7 "contamination" and leave that "may" in the second part,  
8 I'm okay with that.

9 BOARD MEMBER HANSON: Use a neutral word  
10 like infiltration or anything like that?

11 CHAIRWOMAN BEDESSEM: I think this  
12 "statistically significant increase" because it repeats  
13 what's said --

14 BOARD MEMBER HANSON: That's fine.

15 BOARD MEMBER APPLGATE: And, Marge, in  
16 terms of changes you've made to the triggers, I think the  
17 improvements --

18 CHAIRWOMAN BEDESSEM: Substantial.

19 BOARD MEMBER APPLGATE: -- are  
20 substantial.

21 MR. DOCTOR: I say I felt Kevin was  
22 comfortable with these when we went through -- when we --  
23 I'm sorry. We had -- Kevin Frederick and I had a  
24 discussion about this in relation to what they would do in  
25 Water Quality, and the "may require" he does have quite a

1 little --

2 CHAIRWOMAN BEDESSEM: Latitude?

3 MR. DOCTOR: -- latitude with what he  
4 thinks is -- warrants action. So thank you.

5 CHAIRWOMAN BEDESSEM: Yeah.

6 MR. DOCTOR: I hadn't looked at it that way  
7 before, so very good to see that.

8 CHAIRWOMAN BEDESSEM: We prefer not to pass  
9 judgment on this.

10 MR. DOCTOR: Well, this presupposes  
11 contamination --

12 CHAIRWOMAN BEDESSEM: Yes.

13 MR. DOCTOR: -- when there's no evidence.  
14 So we're discussing it.

15 CHAIRWOMAN BEDESSEM: Right.

16 MR. DOCTOR: Thank you.

17 CHAIRWOMAN BEDESSEM: So continue on,  
18 Klaus.

19 BOARD MEMBER HANSON: Okay. Just a good  
20 observation on page 2-82. I always like to see under the  
21 new paragraph (F) there, "The need to coordinate with and  
22 obtain necessary approval and permits from other agencies."  
23 It's a very good addition. I like to see this kind of  
24 cross-fertilization and cross-working together.

25 MR. DOCTOR: I'm pretty sure that's in



1 subtitle (D). And the best example offhand I can think of  
2 that, Klaus, is the issues that Jackson is dealing with now  
3 of landfill and where they've got Forest Service Land and  
4 they've got wildlife migration corridors that they're  
5 dealing with. It is really a factor in what they are able  
6 to do on their old landfill.

7 BOARD MEMBER HANSON: Good. Very  
8 important.

9 I have just a question. 2-88, on the top. The  
10 first paragraph, "A general facility plot plan." Again,  
11 that was -- can you tell me what it is? What's a facility  
12 plot plan?

13 MR. DOCTOR: Marge, would you like to do  
14 that, since you --

15 CHAIRWOMAN BEDESSEM: I'm wondering --  
16 well, in the application requirements, a facility plot plan  
17 is sort of defined in the -- in that section. This is what  
18 you have to submit. One of the things you have to submit  
19 is a facility plot plan. And it is basically a map of the  
20 facility, and it has -- and it lists all the things that  
21 are required.

22 BOARD MEMBER HANSON: I see this. You  
23 know, it says it should include the following. I -- I  
24 just --

25 BOARD MEMBER APPLGATE: A plot plan is

1 really no different than --

2 CHAIRWOMAN BEDESSEM: A plot plan is a  
3 flat --

4 THE REPORTER: One at a time.

5 BOARD MEMBER APPLGATE: So the question, I  
6 guess, is whether or not the term "plot plan" can be  
7 replaced by a term that's maybe --

8 CHAIRWOMAN BEDESSEM: Or maybe you could  
9 put map in parentheses. Let's put map next to it.

10 BOARD MEMBER APPLGATE: Why not just a  
11 general facility map --

12 BOARD MEMBER HANSON: Great.

13 BOARD MEMBER APPLGATE: -- with a scale  
14 and --

15 CHAIRWOMAN BEDESSEM: Well, you'd have to  
16 go through the whole document and pull out plot plan  
17 wherever it is --

18 BOARD MEMBER HANSON: The only time I found  
19 it.

20 CHAIRWOMAN BEDESSEM: -- in the sections.

21 MS. THOMPSON: It actually appears a few  
22 times.

23 BOARD MEMBER APPLGATE: It's in multiple  
24 places.

25 CHAIRWOMAN BEDESSEM: It's in multiple

1 places.

2 MR. DOCTOR: Put map after that, would that  
3 give --

4 BOARD MEMBER APPELEGATE: I believe Marge's  
5 suggestion to just say (map) is probably the simplest  
6 change.

7 CHAIRWOMAN BEDESSEM: Yeah. To make sure  
8 we don't mess it up, probably the easiest.

9 MR. DOCTOR: Like dropping a stone in a  
10 pond, ripples in all directions.

11 CHAIRWOMAN BEDESSEM: Yeah, because you  
12 have other chapters on other kinds of --

13 MR. DOCTOR: Oh, yeah.

14 CHAIRWOMAN BEDESSEM: -- facility  
15 submittals for other type of facilities, and they all say  
16 plot plan.

17 BOARD MEMBER APPELEGATE: To, again, support  
18 Klaus in his strong attempts at seeing how language is  
19 used. If you look at page 2-89, halfway down the page,  
20 when you get done, you don't do a plot plan. You do a map.

21 CHAIRWOMAN BEDESSEM: Yeah, you do a map.

22 BOARD MEMBER HANSON: Yeah. Yeah.

23 BOARD MEMBER APPELEGATE: So good catch,

24 Klaus --

25 BOARD MEMBER HANSON: Thank you.

1 BOARD MEMBER APPLGATE: -- on the  
2 language.

3 BOARD MEMBER HANSON: I think if I'm not  
4 mistaken --

5 CHAIRWOMAN BEDESSEM: Yeah, just note it  
6 transfers over to other chapters.

7 BOARD MEMBER HANSON: That's just a  
8 definition over there. And just under your notes on  
9 2-B-12, the notes. The first note, "Constituents that may  
10 have a class of use base limit in the Wyoming Quality  
11 Rules..." Is that clear to everybody?

12 MR. DOCTOR: Should I add that Chapter 8  
13 there as well?

14 CHAIRWOMAN BEDESSEM: Yes.

15 MR. DOCTOR: That would clarify?

16 CHAIRWOMAN BEDESSEM: So people aren't  
17 searching through the entire --

18 BOARD MEMBER HANSON: Document.

19 CHAIRWOMAN BEDESSEM: -- several chapters.

20 BOARD MEMBER HANSON: Yeah. That would  
21 make some sense. Hallelujah.

22 BOARD MEMBER APPLGATE: We're not done.

23 BOARD MEMBER HANSON: I'm done.

24 CHAIRWOMAN BEDESSEM: Lorie, do you have  
25 comments on Chapter 2 you want to add?

1                   BOARD MEMBER HANSON: I bored Lorie. She's  
2 gone off.

3                   CHAIRWOMAN BEDESSEM: While Lorie's  
4 contemplating, I did have a question with regards to one of  
5 the comments in response to comments, and I was unclear  
6 whether that was answered. It's on page 10 of the response  
7 to comments, and it says -- it's just before the b.,  
8 "Comments from the Fremont County." The one right before  
9 it. It says, "The suggested language would provide the  
10 flexibility to require statistical analysis once, once per  
11 year, twice per year, or at some other frequency based on  
12 site specific conditions, rather than every monitoring  
13 event." And I don't -- I couldn't find where -- I read  
14 through the response, and the response addressed the -- the  
15 substantiation as to why the operators need to do this, but  
16 I don't recall addressing the frequency because I -- right  
17 now, for example -- for example, the City of Cheyenne does  
18 statistical analysis once a year. Okay? If they had to do  
19 that every monitoring event, that would be like \$10,000 a  
20 year extra that they have to do for very little  
21 informational gain. So my question is, has this frequency  
22 issue been addressed?

23                   MR. DOCTOR: The requirement is that  
24 statistics have to be run following each sampling event  
25 because within 30 days following sampling analysis, you

1 have to decide whether you've exceeded background and  
2 report that.

3 CHAIRWOMAN BEDESSEM: This was based on an  
4 agreement between DEQ and the City that -- that --

5 MR. DOCTOR: Of Cheyenne?

6 CHAIRWOMAN BEDESSEM: Right. That was an  
7 agreement made based on their -- and negotiations that went  
8 back and forth. So -- so the request here was general.  
9 This actually has nothing to do with them, but this was a  
10 request that -- so you're saying that there is no  
11 flexibility in how often they do this?

12 MR. DOCTOR: Correct.

13 CHAIRWOMAN BEDESSEM: This is going to be  
14 done every single time.

15 MR. DOCTOR: Every sampling event. That's  
16 the basic requirement in Subtitle D. So what we are doing,  
17 though, is a lot of the facilities are reducing monitoring.

18 THE REPORTER: Can you speak up?

19 MR. DOCTOR: That we are really looking in  
20 and systematically going through our facilities to start  
21 looking where we can reduce sampling facilities, which will  
22 have a big impact on costs. So we are conscious of that.

23 CHAIRWOMAN BEDESSEM: So -- but there is no  
24 flexibility in how often that's done. Because, like I  
25 said, via the other agreements between DEQ and various

1 facilities, there may be an alternate schedule in place.

2 MR. DOCTOR: Yeah, I don't know -- I'm not  
3 aware of that, that they were only allowed to do them once  
4 a year. I wonder if that was some other statistics. We'd  
5 have to look at that. They got away with one. I'll have  
6 to look at Cheyenne. There may have been some special  
7 thing --

8 THE REPORTER: I'm sorry?

9 MR. DOCTOR: There may have been some  
10 special thing.

11 CHAIRWOMAN BEDESSEM: Yeah, there may be a  
12 special thing. I'm saying there's no flexibility. So are  
13 we -- there will be no flexibility is what you're saying.  
14 You don't want to have "or as determined by the  
15 administrator" because past history is you have altered  
16 this.

17 MR. DOCTOR: I'm searching through Subtitle  
18 D trying to find that requirement.

19 Did we lose Lorie, by the way?

20 MS. THOMPSON: I'm showing she's still on,  
21 but I have not heard her, so...

22 BOARD MEMBER CAHN: I'm still on, but this  
23 connection is so bad, I really can't understand what  
24 anybody's saying. I don't know if Luke is having the same  
25 problems. So I would suggest that -- I don't know if I'm

1 allowed to talk to Marge on -- if she could call me on the  
2 phone, and I can hear what she's saying. I -- I just --  
3 the connection is so bad, I'm just not able to answer any  
4 questions. If I can hang up and Marge can get directly on  
5 the phone and tell me what she said? I don't know if we're  
6 allowed to --

7 CHAIRWOMAN BEDESSEM: How's this? Can you  
8 hear me, Lorie? You can't hear me?

9 BOARD MEMBER CAHN: I can hear you now.

10 CHAIRWOMAN BEDESSEM: Okay. I'm pretty  
11 much kissing the speaker.

12 Okay. So what my question was, I didn't notice  
13 in the response to comments a response regarding the  
14 frequency of statistical analyses and flexibility with  
15 regard to that. And the -- and Bob is -- because there had  
16 been some previous agreements for alternate frequencies,  
17 and so my question is to whether that's a Subtitle D  
18 requirement or whether it's appropriate to put or, you  
19 know, unless alternate determined by the administrator. So  
20 only in special cases, whatever. But whether it would be  
21 important to preserve that flexibility.

22 And so Bob is looking right now, but, like I  
23 said, I was concerned that it wasn't responded to in the  
24 comments, because maybe if it was, we would already know  
25 the answer to that and I wouldn't be asking.



1 I didn't mean to put you on the spot, so...

2 MR. DOCTOR: Yes. I know our rule says  
3 within 30 days after completion of sampling and analysis  
4 you have to notify the administrator if you've exceeded  
5 backgrounds for any of constituents.

6 BOARD MEMBER CAHN: Now I can't hear Bob.

7 MR. DOCTOR: Oh, I'm sorry. I'll speak up.

8 CHAIRWOMAN BEDESSEM: Yeah, he's just  
9 saying that -- that, you know, I don't know if they fell  
10 under a caveat of, you know, whatever authority the  
11 administrator had, but --

12 MR. DOCTOR: EPA is worded a little  
13 differently, Lorie. After completing sampling and analysis  
14 the owner or operator must determine whether there has been  
15 a statistically significant increase over background in  
16 each monitoring well. So it's -- it -- it's worded a  
17 little differently, but it's the same requirements. So --

18 CHAIRWOMAN BEDESSEM: Right. You're  
19 saying --

20 MR. DOCTOR: -- I'll dig into --

21 CHAIRWOMAN BEDESSEM: So essentially --

22 MR. DOCTOR: -- Cheyenne and --

23 CHAIRWOMAN BEDESSEM: I wouldn't bother.  
24 We'll just improvise it.

25 MR. DOCTOR: Yeah.

1 CHAIRWOMAN BEDESSEM: Okay. So my answer  
2 is there is no flexibility?

3 MR. DOCTOR: Right. Correct.

4 CHAIRWOMAN BEDESSEM: Okay. Per the  
5 language in Subtitle D, which basically says specific  
6 reference to evaluation within background.

7 MR. DOCTOR: Correct.

8 CHAIRWOMAN BEDESSEM: Okay. Okay. That  
9 answered my question.

10 So the question to you, Lorie, was did you have  
11 comments on Chapter 2 that you wanted to share?

12 BOARD MEMBER CAHN: Well, I do. Let me  
13 first just -- I had a really hard time finding where -- in  
14 Section 9 where the sections were referring to in the  
15 comment response. So, for instance, on page 7 of 17,  
16 Section 9(b)(i)(F), where is that?

17 CHAIRWOMAN BEDESSEM: Bob's looking, and he  
18 will tell you.

19 MR. DOCTOR: On page 2-62?

20 BOARD MEMBER CAHN: In the  
21 redline/strikeout version, which page is that?

22 MR. DOCTOR: That's page 2-62 in redline/  
23 strikeout. That's that new section that was added.  
24 There's so much strikeout here. It's hard to find.

25 BOARD MEMBER HANSON: Second half of the

1 page of 62.

2 BOARD MEMBER CAHN: Has somebody answered  
3 my question about where that is? Is everybody looking for  
4 it too?

5 MR. DOCTOR: Oh, page 2-62 in the redline  
6 version.

7 BOARD MEMBER CAHN: Which page? I can't  
8 hear you.

9 CHAIRWOMAN BEDESSEM: 2-62. 2-62 in the  
10 redline/strikeout.

11 BOARD MEMBER CAHN: Okay.

12 CHAIRWOMAN BEDESSEM: So page 2-62 in the  
13 redline/strikeout is where that Section F starts regarding  
14 Appendix C.

15 BOARD MEMBER CAHN: Yeah, I think -- and  
16 then where's the section on the statistical frequency?  
17 Okay. I see that on 2-62. Okay.

18 So then, Marge, your question related to whether  
19 or not we have retained the flexibility on the frequency of  
20 doing statistical analysis --

21 CHAIRWOMAN BEDESSEM: Well --

22 BOARD MEMBER CAHN: -- whether it's once  
23 per year, twice per year or some other frequency, then  
24 where is that language, 9(b)(i)(C)?

25 CHAIRWOMAN BEDESSEM: Well, it appears that

1 DEQ indicated that the language in Subtitle D -- maybe Bob  
2 can read that back to us one more time. They're indicating  
3 that it's linked directly to each sampling event.

4 MR. DOCTOR: In EPA 258.53(i)(vi), towards  
5 the bottom. It reads within a reasonable period of time  
6 after completing sampling and analysis, the owner or  
7 operator must determine whether there has been a  
8 statistically significant increase over background at each  
9 monitoring well.

10 And then 258.54(c)(i), the operator must within  
11 14 days of this finding place a notice in the operating  
12 record indicating which constituents have shown  
13 statistically significant changes from background levels  
14 and notify the state director that this notice was placed  
15 in the operating record.

16 CHAIRWOMAN BEDESSEM: And that's for  
17 Appendix B.

18 MR. DOCTOR: That's for the detention  
19 monitoring.

20 CHAIRWOMAN BEDESSEM: Oh, Appendix A.

21 MR. DOCTOR: Yeah.

22 CHAIRWOMAN BEDESSEM: So do we have to do  
23 statistic -- statistical analysis at every event for the --  
24 Appendix C?

25 MR. DOCTOR: Yes. It's worded similar in

1 the assessment monitoring in Subtitle D is paragraph 258.55  
2 would be (d). After obtaining the results from the initial  
3 or subsequent sampling events required in paragraph B of  
4 this section, the owner-operator must, within 14 days,  
5 place a notice in the operating record identifying the  
6 Appendix II constituents that have been detected and notify  
7 the state director that this notice has been placed in the  
8 record.

9 And then goes on later on to discuss the  
10 statistical evaluations and the concentrations and the  
11 reporting. So in the case of the Appendix A and B  
12 constituents, the operator must run the statistics  
13 following each sampling event and report that within  
14 14 days to the operator -- to the director.

15 CHAIRWOMAN BEDESSEM: So via Section F  
16 you're just including Appendix C along with A and B at  
17 every sampling event. And so there is no flexibility on  
18 frequency other than it's tied to the frequency of sampling  
19 events. So you have some flexibility with respect to that.  
20 Some facilities -- well, but is it always semiannual  
21 minimum?

22 MR. DOCTOR: It -- the way the rule reads,  
23 the sampling frequency -- the minimum sampling frequency is  
24 semiannual. However, in consideration of certain factors,  
25 the administrator may allow annual sampling.

1           Just for your information, what we have done  
2 there in a lot of cases, especially in the landfill, where  
3 we're not seeing VOCs, is we look at the indicator  
4 parameters twice a year, but we only look at those VOCs  
5 once a year. If we're consistently not seeing those things  
6 we didn't see a point in spending --

7           CHAIRWOMAN BEDESSEM: That's more  
8 expensive.

9           MR. DOCTOR: -- a thousand dollars twice a  
10 year if we didn't need to. But we figured that we needed  
11 to stick with that minimum annual.

12           CHAIRWOMAN BEDESSEM: Okay. So essentially  
13 the flexibility is related to the sampling event frequency,  
14 not the statistical analysis.

15           MR. DOCTOR: Correct. I hope Lorie could  
16 hear that.

17           CHAIRWOMAN BEDESSEM: Did you hear that,  
18 Lorie?

19           BOARD MEMBER CAHN: I am having such a hard  
20 time hearing. I don't know if Luke is having the same  
21 problem as me, but I'm just feeling like I can't -- it's  
22 really hard to be a part of this conversation. I'm just --  
23 I'm really frustrated.

24           CHAIRWOMAN BEDESSEM: Luke -- Luke, are you  
25 having the same difficulties?

1 BOARD MEMBER CAHN: What's that?

2 CHAIRWOMAN BEDESSEM: I'm asking Luke if he  
3 has the same difficulties.

4 MR. ESCH: Madam Chairwoman, I mean, I'm  
5 having some challenges. I don't know if Mike and Bob,  
6 who's closer to the seat -- or to the microphone.

7 MR. DOCTOR: It's about equal.

8 MR. ESCH: It's --

9 MR. DOCTOR: I'm maybe 12 inches away from  
10 the mic.

11 MR. ESCH: No. I mean, I can hear you.  
12 It's just kind of -- it's a challenge, I will admit. I  
13 will agree with Lorie, it's a challenge, but I think  
14 it's -- it's -- I guess it is what it is.

15 CHAIRWOMAN BEDESSEM: We won't touch any  
16 paperwork, in attempt to -- but, yeah, so it might have an  
17 issue on your end as well.

18 Well, do you want to try to make comments with  
19 our understanding that you may not have heard the whole  
20 conversation and we will try to address? I'm trying to  
21 figure out a solution for this.

22 BOARD MEMBER CAHN: I think because you  
23 have a quorum there, you guys can vote on that particular  
24 part, if you're satisfied with it. Because you have a  
25 quorum, so it won't make any difference what -- what I

1 think, if that makes any sense.

2 CHAIRWOMAN BEDESSEM: Well, we would like  
3 to hear what you have to say. What your concerns might be.

4 BOARD MEMBER CAHN: Well, I'm just -- it  
5 would be better if we take a break and you call me and  
6 we -- you know, so I can hear what you have to say, and  
7 then we can go back on public -- I mean, I won't say  
8 anything, and we can go back on public record, and I can  
9 say -- so all you're doing, if you -- I think if all you're  
10 doing is repeating what you've said publicly, I'm assuming  
11 that's not going to be a problem. Maybe that's just the  
12 way to handle this because I just am -- this is the worst  
13 connection we've ever had for one of these meetings. And I  
14 just -- it's very difficult.

15 CHAIRWOMAN BEDESSEM: If you want me to  
16 call you and just repeat what it is that we just said, I  
17 can do that.

18 BOARD MEMBER CAHN: Yes, I think that would  
19 help me. Yeah, that would be great, if you could do that.  
20 And maybe we can just take a break from the meeting and we  
21 won't discuss anything that hasn't already been discussed  
22 publicly.

23 CHAIRWOMAN BEDESSEM: Okay. All right. I  
24 think we can do that. I'd say 10-minute break, and then  
25 we'll come back. Okay.



1 BOARD MEMBER CAHN: Okay.

2 CHAIRWOMAN BEDESSEM: So I can just use  
3 your regular mobile, or you connected somehow through it?

4 BOARD MEMBER CAHN: Yeah, Gina has the  
5 phone number.

6 (Meeting proceedings recessed  
7 10:59 a.m. to 11:22 a.m.)

8 CHAIRWOMAN BEDESSEM: Okay. We will  
9 reconvene the Water Waste Advisory Board. We were  
10 discussing the frequency of statistical sampling. Lorie  
11 had some additional comments in that regard, but was  
12 waiting to make sure she understood what had already  
13 happened.

14 So I will turn it to you, Lorie.

15 BOARD MEMBER CAHN: Okay. So I guess on  
16 the original comments, one of the concerns that we have has  
17 to do with how often you do statistical analysis. So the  
18 operator's required to do statistical analysis. And when  
19 you get data from a landfill and you only have one new data  
20 point, let's say for a constituent or a series of, you  
21 know, for each well, one sampling event at your new data  
22 point, you really don't -- it's really difficult to analyze  
23 statistically with limited data. And the more data you get  
24 the more robust your analysis is, so you get a lot of false  
25 positives. And in the beginning of sampling, there's --

1 you get high positive rate, and as you sample more and  
2 more, your false positive rate gets lower.

3           And so I just want to make sure that the  
4 flexibility that is in the response to comments is in  
5 the -- that section and Section F, because I don't see the  
6 flexibility in there. And it just seems like if -- you  
7 know, it's a one-time event, they show the statistical  
8 exceedance, and they go out and collect more data that we  
9 don't -- that the administrator can say, no, you don't have  
10 to -- you know, can you reduce the frequency of statistical  
11 analysis. But particularly now that the department is not  
12 doing the statistical analysis for the operators, I think  
13 it's important to have flexibility for the administrator to  
14 reduce the frequency so that, you know, you don't waste a  
15 lot of money and time doing things that isn't telling you  
16 anything statistically.

17           For example, I worked at a landfill where -- and  
18 granted, it's hazardous waste landfill, which you'd think  
19 the rules would be more strict. But -- I mean, it's not  
20 municipal landfill. But we sample semiannually and not  
21 quarterly, and we do -- we do a report every sem -- you  
22 know, semiannually. We just report the data with no  
23 report. Like we just provide the data -- the quality  
24 assured data with no report, and then -- other than a table  
25 with summarized data.

1           And then annually we do a report with no  
2     statistical analysis. And then the next year, so really  
3     biannually, every other year, then we run the statistics on  
4     the four additional sampling events and compare it to, you  
5     know, for detection monitoring limits as being -- we  
6     compare it to what we had the previous two years, you know,  
7     all the data up until the years before that.

8           So I just would like Bob, I guess, to answer  
9     where the flexibility -- where he sees the flexibility  
10    built into the language because I'm not seeing it. And  
11    I -- so, anyway, I'll turn the phone over to Bob. Thanks.

12                   MR. DOCTOR: Okay. The basic requirement  
13    in Subtitle D is that the statistics need to be run  
14    following each sampling event so we're consistent with that  
15    requirement. And what our landfill operators are doing,  
16    they have to run that stuff now. They run the statistics.  
17    They give us a report, and then the next event they do the  
18    same thing.

19           What we have done is try to look at reducing  
20    monitoring frequency as one of the ways to do that, but we  
21    don't know if there's an issue until you run the  
22    statistics, so we can't assume there's no problem until we  
23    actually run the statistics to do that and look at the  
24    results.

25                   BOARD MEMBER APPLGATE: Bob, can you read

1 the Subtitle D language one more time.

2 CHAIRWOMAN BEDESSEM: And are you quoting  
3 directly from the rule or a synopsis?

4 MR. DOCTOR: This is right from the rule.

5 CHAIRWOMAN BEDESSEM: Okay. And that's for  
6 Appendix A and B. There is nothing with respect to C  
7 because that's something Wyoming is doing.

8 BOARD MEMBER APPLGATE: Yeah.

9 BOARD MEMBER CAHN: So, Bob, what I'm  
10 hearing is there is no -- contrary to what your -- your  
11 comment response says, that -- that this provides the  
12 administrator -- let's see. Provide the flexibility to  
13 require statistical analysis once per year, twice per year,  
14 or some other frequency based on site-specific conditions  
15 rather than every monitoring event. I'm not seeing that.  
16 What I'm seeing is that you can -- you could reduce the  
17 frequency of sampling events, but you still would require  
18 statistic analysis for every event. So I think your  
19 response -- if I understand that correctly, then your  
20 response to comments is misleading.

21 CHAIRWOMAN BEDESSEM: What -- what --

22 BOARD MEMBER APPLGATE: She's saying --  
23 she's saying your response to comments back here in the  
24 back and apply a degree of flexibility that is not  
25 contained within the actual revised nature of the rule.

1                   MR. DOCTOR: I think there may be some  
2 confusion. That paragraph on page 10 of 17 in the response  
3 to comments, it says the suggested language will provide --  
4 that is not --

5                   CHAIRWOMAN BEDESSEM: That's a comment.

6                   MR. DOCTOR: That's a comment we received  
7 about suggesting that for these small facilities less than  
8 20 tons of waste a day, that maybe we could do something to  
9 give them the flexibility to require statistical analysis  
10 once, once a year, something along those lines. But in  
11 Subtitle D, it's -- it requires that within a reasonable  
12 period of time after completing sampling and analysis, the  
13 owner-operator must determine whether there's been a  
14 statistically significant increase over background in each  
15 monitoring well.

16                   And it's important to --

17                   BOARD MEMBER APPLGATE: I want to stop  
18 right here because as you read that, I actually think that  
19 can be interpreted differently. So read it one more time.

20                   MR. DOCTOR: Within a reasonable period of  
21 time after completing sampling and analysis.

22                   BOARD MEMBER APPLGATE: Stop right there.

23                   MR. DOCTOR: Yeah.

24                   BOARD MEMBER APPLGATE: Reasonable amount  
25 of time after sampling and analysis. It doesn't say after

1 each sampling analysis -- it doesn't -- it says a  
2 reasonable amount of time. So why couldn't a reasonable  
3 amount of time mean we're going to do data analysis  
4 after --

5 CHAIRWOMAN BEDESSEM: And that --

6 BOARD MEMBER APPLGATE: I mean, I don't  
7 think you have to read that language with the degree of  
8 certainty that you just read it, or at least I think you  
9 can argue to EPA that we have case history -- I think,  
10 actually, Lorie brings out a really eloquent case there --  
11 that reasonable is having enough data points to have a -- a  
12 difference in the statistical analysis.

13 MR. DOCTOR: You know, I feel this is very  
14 important that we run the statistics following each  
15 sampling event because things can change. And especially  
16 when we reduce sampling to annual or semiannual, it can  
17 take quite a bit of time for an increasing trend in  
18 constituents in a release of the facility to be manifested,  
19 and we're waiting years and we've got a release.

20 In general terms, these statistics are run as a  
21 batch run. We've given you the -- the cost estimates for  
22 what it cost to run that. It's not a huge cost. And  
23 within a reasonable period of time after completing  
24 sampling and analysis, it doesn't mean wait for the next  
25 sampling event, I wouldn't think. It's --

1                   BOARD MEMBER APPELEGATE: Well, it wouldn't  
2 have to, but I think -- I do think you can read that  
3 paragraph a couple different ways. I don't think the way  
4 you read it, although I -- I agree that you could read it  
5 the way you're reading it. I don't think you have to read  
6 it that way. And I think what we're arguing is give the  
7 administrator flexibility because there could be examples  
8 where you've got the data back and you can very quickly  
9 look at that data and know that it wasn't going to make a  
10 statistical -- there's just judgment here, right? There's  
11 kind of common sense when you look at the analytical  
12 results.

13                   CHAIRWOMAN BEDESSEM: And you want to give  
14 the administrator that ability to have that judgment  
15 instead of hamstringing yourselves, saying it has to has to  
16 be this way. Well, we don't think it has to has to be that  
17 way by the way Subtitle D is written.

18                   BOARD MEMBER APPELEGATE: I wouldn't  
19 necessarily think that that language hand ties you. Again,  
20 I think Lorie's example is a pretty good one, where -- I  
21 don't think that hand ties you. Yeah.

22                   MR. DOCTOR: Luke, do you have any  
23 comments?

24                   MR. ESCH: This is -- Madam Chairwoman.  
25 This is Luke. I can't hear the back and forth completely,

1 but, you know, I think that especially given these  
2 financial difficulty times for all the operators, that, you  
3 know, we're certainly for every opportunity where we can be  
4 protective of environment, but also provide them a little  
5 bit of flexibility. I think that was the intent, whenever  
6 we were posing this, so...

7 Q. And it doesn't mean you can't require statistics  
8 after every sampling event, so -- you know, if you choose.  
9 Because it's still up to the administrator to decide that,  
10 but you don't want to be in a position where it makes  
11 sense to have it less frequently and you can't because  
12 your rules didn't allow you the flexibility to do so. So  
13 just want to plan ahead and make the rules a little more  
14 flexible.

15 MR. DOCTOR: Do you guys have a suggestion  
16 where we would -- would it be -- there are two places,  
17 really, where it talks about this.

18 CHAIRWOMAN BEDESSEM: Well, there's --  
19 okay. Section F, which is different because that's  
20 Appendix C, and then there's addressing A and B -- not  
21 saying B, but --

22 MR. ESCH: Madam Chairwoman, what page are  
23 you on? Maybe I can provide some assistance.

24 BOARD MEMBER HANSON: 2 out of 56.

25 CHAIRWOMAN BEDESSEM: Well, I think it's in



1 several places, so...

2 MR. DOCTOR: Page 2-54 I think is the first  
3 spot.

4 CHAIRWOMAN BEDESSEM: Did you hear that,  
5 Luke? He said 2-54.

6 MR. DOCTOR: 2-54 of the redline.

7 MR. ESCH: Yeah. No, you heard that.  
8 Thank you.

9 MR. DOCTOR: It's towards the bottom of the  
10 page, and it's (viii). "The owner or operator must  
11 determine whether there's a statistically significant  
12 increase over background values as follows:" They must  
13 compare groundwater quality using the approved statistical  
14 method within 30 days after completing sampling analysis;  
15 the owner or operator must determine whether there's been a  
16 statistically significant increase over background. And I  
17 think that is the key paragraph there. And I believe it  
18 repeats itself again later on when it talks about the  
19 Appendix B and assessment monitoring things as well, so --

20 CHAIRWOMAN BEDESSEM: Can you say --

21 MR. DOCTOR: -- would something to be  
22 unless an alternative is approved by administrator --

23 CHAIRWOMAN BEDESSEM: Uh-huh.

24 MR. DOCTOR: -- in both sections?

25 CHAIRWOMAN BEDESSEM: Yes. Because then

1 you have flexibility, if it makes more sense to have a  
2 summary annually, or, you know...

3 So what was the suggested wording, Bob?

4 MR. DOCTOR: If I went within 30 days after  
5 completing sampling and analysis, unless an alternative is  
6 approved by the administrator.

7 CHAIRWOMAN BEDESSEM: Or unless an  
8 alternative time frame.

9 MR. DOCTOR: Yeah, unless an alternative  
10 time frame, then the owner or operator must conduct -- and  
11 there's the other spot in here that I'm looking for that to  
12 put that in. And I assume recommended in C as well?

13 CHAIRWOMAN BEDESSEM: Yes.

14 MR. DOCTOR: Or Section F. I'm sorry.

15 CHAIRWOMAN BEDESSEM: And then this still  
16 leaves you in compliance with Subtitle D, which says that  
17 within a reasonable amount of time after sampling analysis.  
18 Because one would assume the administrator will only  
19 approve something within a reasonable amount of time.

20 MR. DOCTOR: On page 2-53, we have that  
21 same language on the Appendix C sampling, at the top there,  
22 after groundwater --

23 THE REPORTER: I'm sorry.

24 MR. DOCTOR: Too fast?

25 After groundwater protection standards have been

1 established within 30 days after completing sampling and  
2 analysis, unless an alternate time frame is established by  
3 the administrator. And there may be one more.

4 CHAIRWOMAN BEDESSEM: Let's make sure.  
5 It's pretty much if you go through this -- look where it  
6 says 30 days you might be able to find it. District of  
7 Columbia I thought it was also in section in the Appendix B  
8 sampling. I can't just put my finger on it.

9 MR. ESCH: Madam Chairman, this is Luke  
10 again. I understand we might not identify every area in  
11 the rules Chapter 2 right now, but we'll certainly take  
12 that under consideration and get those areas addressed if  
13 the package is moved on.

14 CHAIRWOMAN BEDESSEM: So if there's another  
15 one hanging out there, you'll find it?

16 MR. ESCH: Yes.

17 CHAIRWOMAN BEDESSEM: So I think that's a  
18 good solution to not limit your ability to have it after  
19 every event, but to allow you the ability to be practical  
20 and reasonable.

21 MR. DOCTOR: And there are -- there are, I  
22 think, cases where we have facilities where the  
23 concentrations that are not increasing. They've been  
24 relatively stable for years. And that it -- it -- you may  
25 be able to look at that and go, you know, we've been

1 running statistics here for five years and we've never seen  
2 anything. Do we really have to do that?

3 And that's also one of those same kind of  
4 considerations when we're looking at monitoring frequency  
5 and what we analyze for. That's also one of those  
6 considerations. So when you interpret Subtitle D in that  
7 way, it really allows flexibility. And you're also saying  
8 too that you have the flexibility the other way, where we  
9 are seeing increasing trends and changes, or if we have any  
10 evidence of seasonality in the data, we can be sure to  
11 cover that other side as well.

12 CHAIRWOMAN BEDESSEM: So you have the  
13 flexibility with the minimum, certainly, for the number of  
14 sampling events, and you have some flexibility with regard  
15 to how often do you do your statistical sampling. Excuse  
16 me, your statistical analyses.

17 So anybody else on the board have any comments  
18 with respect to the frequency issue?

19 Okay. So you're hearing that -- that DEQ is okay  
20 with that change. You're understanding the ones that we  
21 missed that were in line with that, that we will make those  
22 edits.

23 Lorie, did you have anything else you wanted to  
24 discuss? If you have -- if you have editorial grammatical  
25 ones, you can probably fax them to Gina.

1                   BOARD MEMBER CAHN: Yeah, I -- I do have  
2 a -- kind of a tech -- more technical one on page 2-62.  
3 And, you know, my apologies if you've already covered it in  
4 the discussions. But on line (F)(I) -- (F)(1.), "Notify  
5 the Administrator in a written report with supporting  
6 documentations and place a copy of the report in the  
7 operating record within 14 days," and my question is  
8 14 days of what? It should probably specify that's not --  
9 it's not 14 days of sampling. It's 14 days of receiving  
10 data, receiving the --

11                   CHAIRWOMAN BEDESSEM: I think it's within  
12 14 days of when you make the assessment that there's a  
13 significant leak, statistically significant increase.

14                   MR. DOCTOR: So whenever there is a  
15 statistically significant increase, within 14 days you have  
16 to notify. So it's tied to (F)(I).

17                   BOARD MEMBER HANSON: (I).

18                   MR. DOCTOR: I also -- I mentioned, Lorie,  
19 this is where proceeding previously 258.54.

20                   BOARD MEMBER CAHN: Bob, I -- I cannot  
21 understand you at all.

22                   MR. DOCTOR: I'm sorry.

23                   BOARD MEMBER CAHN: Maybe Luke can -- can  
24 hear and repeat it for me. I can hear Luke totally  
25 clearly.

1                   MR. DOCTOR: I'll go back. I'll be slower.  
2 In Subtitle D, 258.54, there's a discussion within 14 days  
3 of this finding, which is that statistical finding, you  
4 have to notify the administrator. So it's tied to the date  
5 that you complete the statistics and make that  
6 determination.

7                   BOARD MEMBER CAHN: Okay. So it seems like  
8 we need to add those words in.

9                   CHAIRWOMAN BEDESSEM: Can you just say  
10 within 14 days of the finding?

11                   MR. DOCTOR: Of the -- yep.

12                   BOARD MEMBER CAHN: So it's really of  
13 the --

14                   CHAIRWOMAN BEDESSEM: But, Lorie, it's  
15 really of the -- did you have suggested language?

16                   BOARD MEMBER CAHN: It still sort of sounds  
17 like it's -- I mean, I'm okay with the statistical finding.  
18 I'm assuming that's --

19                   CHAIRWOMAN BEDESSEM: Of the statistical --  
20 of the finding of statistical significance? How's that, of  
21 the finding of statistical significance? So that it's  
22 clear it's not the finding of the actual constituent, but  
23 the finding of -- the determination of statistically  
24 significant increase.

25                   MR. DOCTOR: Did you hear that?

1 BOARD MEMBER CAHN: Yeah.

2 MR. DOCTOR: Okay. Good. I just wrote  
3 that in.

4 CHAIRWOMAN BEDESSEM: Okay. Anything else?

5 BOARD MEMBER CAHN: Yeah. Then the rest --  
6 the rest of mine are editorial. So I'll start on page 2-4.  
7 It will go quick. I only have four and one that I want to  
8 discuss. So on page 2-4, at the top of the page in black,  
9 under (B), it's got changed from at least two principal  
10 officers to at least one principal officer. So officers  
11 should not be plural.

12 MR. DOCTOR: Ah.

13 CHAIRWOMAN BEDESSEM: Go ahead.

14 BOARD MEMBER CAHN: The next one is 2-28.  
15 And it's at the bottom of the page, (c) on buffer zone.  
16 And in the second sentence the "which" after buffer zone  
17 should be a "that." So it would read, "All facilities  
18 that -- all facilities shall be designed and constructed  
19 with a buffer zone that is a minimum of 20 feet wide."

20 On page 2-42, under (i), the first let's see --  
21 one, two, three -- fourth line down, that -- the which  
22 should become a that. So it would read, "All solid waste  
23 that has been received during the day shall be covered."

24 On page 2-73, the very last paragraph in blue, at  
25 the bottom of the page, (III), a space is missing after the

1 Roman numeral and the start of the sentence, minimize  
2 erosions.

3 CHAIRWOMAN BEDESSEM: It's not on mine.

4 MS. THOMPSON: It is on the digital.

5 CHAIRWOMAN BEDESSEM: Oh, it's on the  
6 digital.

7 BOARD MEMBER CAHN: And on page 2-75, on  
8 the monitoring standards, its (vi), at the bottom of the --  
9 three-quarters of the way down, (vi). So this is (G) --  
10 no, it's not.

11 Okay. So my concern is that we don't have  
12 parallel construction with what's at (vi) and what is in  
13 (vii), (viii), (ix), (x), (xi) and (xii). So if you look  
14 at how (vi) is constructed, it says, "The application shall  
15 demonstrate compliance with Section 9 and describe," blah,  
16 blah, blah.

17 The next one just -- the next series of ones from  
18 (vii) through (xii), they start with demonstrate  
19 compliance, demonstrate compliance, demonstrate compliance.

20 CHAIRWOMAN BEDESSEM: So are you suggesting  
21 they should all say the application shall demonstrate --

22 BOARD MEMBER CAHN: Yes.

23 CHAIRWOMAN BEDESSEM: Make sure you take  
24 the S off demonstrate so it reads right. Are you seeing  
25 that, Bob?



1                   MR. DOCTOR: I think I am. So -- or do we  
2 take the "application shall" and just say "demonstrate  
3 compliance" and just fix (vi)?

4                   CHAIRWOMAN BEDESSEM: I know that reduces  
5 the number of words, but it's a lot clearer if you say "the  
6 application shall demonstrate."

7                   BOARD MEMBER HANSON: Maybe put a colon  
8 after demonstrate, and then you have compliance,  
9 recordkeeping, reporting.

10                  BOARD MEMBER CAHN: So I think if you go  
11 right back up to the start of this whole section where (I)  
12 is on page 2-71, just make sure that the -- the -- I mean,  
13 I think Marge's suggestion will fix it, but I would just go  
14 back through the start of number -- (I) and just make sure  
15 that they're all complete sentences.

16                  CHAIRWOMAN BEDESSEM: So one way or the  
17 other you get the gist of the comment to change?

18                  MR. DOCTOR: Yes.

19                  CHAIRWOMAN BEDESSEM: Yes.

20                  MR. DOCTOR: Thanks for the help too.

21                  BOARD MEMBER CAHN: That's it for me for  
22 editorials.

23                  MR. DOCTOR: In essence, we just need to  
24 look at that whole section --

25                  BOARD MEMBER HANSON: Make it parallel.

1 CHAIRWOMAN BEDESSEM: So now with respect  
2 to Chapter 2, I know we may have additional people in  
3 audience. Does anybody need to make comments with regard  
4 to Chapter 2?

5 Okay. I'm not hearing any from the public. So  
6 can we entertain a motion?

7 BOARD MEMBER HANSON: Move to accept  
8 Chapter 2.

9 CHAIRWOMAN BEDESSEM: With the changes  
10 as --

11 BOARD MEMBER HANSON: With the changes as  
12 they have been suggested.

13 BOARD MEMBER APPLGATE: I'll second.

14 CHAIRWOMAN BEDESSEM: Any further  
15 discussion?

16 Okay. All those in favor?

17 BOARD MEMBER HANSON: Aye.

18 CHAIRWOMAN BEDESSEM: Aye.

19 BOARD MEMBER APPLGATE: Aye.

20 BOARD MEMBER CAHN: Aye.

21 CHAIRWOMAN BEDESSEM: Hearing no  
22 disagreement, the motion has passed. So we will move the  
23 package forward, Bob.

24 MR. DOCTOR: I never thought I'd hear that.

25 CHAIRWOMAN BEDESSEM: No champagne at

1 lunch.

2 MR. DOCTOR: I wish Ken Schreuder was  
3 around. As program manager before me, this is something he  
4 and I started back in '97 or '8, probably. Dennis, that  
5 maybe sounds about right.

6 MR. PINO: That's about right.

7 MR. DOCTOR: Can't wait for happy hour  
8 tonight.

9 CHAIRWOMAN BEDESSEM: Okay. That's good.  
10 So thank you for really all the efforts that were made to  
11 get public comment to work with your constituency to figure  
12 out the best way to approach any issues that were in  
13 question and you've done a great job to get to this point.

14 MR. DOCTOR: Thank you all. You've help me  
15 see different perspectives on some of these things, and  
16 sometimes I get a little overly cautious like on these  
17 running the statistics because I don't want us to miss, but  
18 I can see your point of view on things like that, and I  
19 appreciate you having patience with me sometimes because I  
20 go, oh, geez. You know, you put so much effort into making  
21 changes sometimes?

22 CHAIRWOMAN BEDESSEM: It's hard, but also,  
23 you know, in the long run, you maintain as much flexibility  
24 as you can, it benefits your jobs as well.

25 So we need to go back and -- to item was it 2A on

1 the agenda, which was --

2 MR. ESCH: Madam Chairwoman, before you  
3 move on to that next agenda item, I also want to express my  
4 thanks to the board for all the time and effort you have  
5 put into the review of these rules and details. So I  
6 really do think it's a better process whenever we do go  
7 through the public comment and allow -- get as much public  
8 comment as we can, and also have the input of the board  
9 because I think that's why the system works, the statutory  
10 process of having the rules go through the board, get the  
11 comments. Sometimes we can get a little down to the detail  
12 too much and maybe see the board's -- so I want to express  
13 my gratitude for all the hard work you all put in. So  
14 thank you.

15 CHAIRWOMAN BEDESSEM: Thank you very much,  
16 Luke. We appreciate hearing that because I know we get  
17 down to the nitty-gritty so hopefully you won't have to do  
18 any of that once you get to the EQC. So we wish you smooth  
19 sailing.

20 Okay. So now, Mike, I'll turn it over to you to  
21 talk about the costs.

22 MR. JENNINGS: Okay, Madam Chair. Thank  
23 you so much.

24 I went through the numbers. I'm pretty confident  
25 of the numbers I came up with, but let me try to do a

1 better job explaining how I arrived at them. I told you at  
2 the beginning they were convoluted, and I meant convoluted.

3 Basically, we're dealing with --

4 CHAIRWOMAN BEDESSEM: Lorie, can you hear  
5 Mike well?

6 BOARD MEMBER CAHN: I can, yes.

7 CHAIRWOMAN BEDESSEM: Okay.

8 MR. JENNINGS: Excellent. Just to preface  
9 the remarks, again we're dealing with facility that  
10 submitted reimbursement for four wells. We're doing  
11 plugging and abandonment. Three of those wells were not  
12 eligible because the department -- State of Wyoming did not  
13 pay to have those wells put in. Okay. So right there they  
14 get taken out of the picture. However, all of those are  
15 included in the invoicing, so it was my task to try to  
16 split them out.

17 Additionally, though, with an eye towards  
18 reimbursing them as fairly as I could, items that I  
19 consider were a per-well-basis issue. For instance,  
20 materials for wells, okay? Then if I've got a materials  
21 list, it's just a blanket number and it didn't deal with  
22 footage, per se, I would basically take three-quarters of  
23 that out as ineligible.

24 Labor is a little more complicated because there  
25 are -- when they do description on these line items, I have

1 to look at the descriptions of the activities for that  
2 labor and determine which of those descriptions is actually  
3 eligible.

4 So, Madam Chair, Lorie, the one where you're  
5 talking about Engineering Technician IV, Jose Pereda, we  
6 had three specific tasks on that. One of them that was  
7 fill out a drilling job order and leave on TEJ's desk.  
8 Second was talk to JDK about getting into the landfill.  
9 Third one text JDK the key number to get in. Those last  
10 two I gave to all of the wells because you got to do those  
11 activities regardless of whether it was one or four wells.  
12 So those automatically -- two-thirds of that was eligible  
13 because whether it was one or four, it had to be done.

14 The first item, however, was filling out a  
15 drilling job order. I made the determination that okay,  
16 three of those four wells, that drilling job order is  
17 ineligible. So, basically, to do the math on this, first  
18 and foremost two-thirds of the total is eligible. Of that  
19 remaining third, only one of three -- 25 percent of that is  
20 eligible because there were four wells involved. So that's  
21 ultimately how you wound up with 35 divided by 3, which  
22 gets down to the one-third, which may not be eligible,  
23 times .75, which is the three ineligible wells that winds  
24 up with minus \$8.75. It's complicated, but, basically, the  
25 math works out.

1           Lorie -- Madam Chair. Lorie, do you have any  
2 questions about that one?

3           BOARD MEMBER CAHN: Yeah, I do. Okay. So  
4 I understand where two-thirds -- or one-third is  
5 ineligible, so you divide it by three. And then -- but  
6 then out of that, are you saying that three-quarters --  
7 that -- isn't this at three-quarters of that is now  
8 ineligible?

9           MR. JENNINGS: Okay.

10          BOARD MEMBER CAHN: Okay. All right.

11          MR. JENNINGS: So if you divide the 35 by 3  
12 times .75, the number we're coming up with is not eligible,  
13 it is the ineligible number, which equals \$8.75.

14          BOARD MEMBER HANSON: Couldn't read that  
15 document.

16          BOARD MEMBER APPLGATE: 75 percent of  
17 one-third is not eligible.

18          MR. JENNINGS: Precisely.

19          BOARD MEMBER CAHN: It seems -- I still  
20 feel like something's backwards. Just so -- let's just  
21 say -- I've got to grab a calculator here.

22                 So you're saying that the two-thirds of the --  
23 is -- I've just got to do it one step at a time. You've  
24 got \$35, and you're saying one-third is ineligible, so we  
25 divide by 3. Okay. And now it's at \$11, isn't now --

1 MR. JENNINGS: Only one-quarter of that is  
2 eligible. The remainder, which is \$8.75, is ineligible.

3 BOARD MEMBER CAHN: Okay. So  
4 three-quarters -- so I have \$11. Just bear with me. I  
5 have \$11 -- make it easy. Call it 12, just to do math in  
6 our heads. Now you're saying three-quarters of that is  
7 also ineligible, right?

8 MR. JENNINGS: Correct.

9 BOARD MEMBER CAHN: Okay. I gotcha.

10 MR. JENNINGS: Okay. The next -- and  
11 forgive me. It's -- like I said, it's -- it was very  
12 complicated because I was trying to do the best I could for  
13 them, dealing with a number of factors. The math -- I did  
14 check the ones that you gave me. The math does work out.  
15 We'll go on to the next one, with Timothy Jones --

16 BOARD MEMBER CAHN: Wait. Wait. Wait.  
17 Wait.

18 MR. JENNINGS: Oh. Forgive me.

19 BOARD MEMBER CAHN: I'm sorry. I'm  
20 still -- all right. Okay. We're good. Sorry.

21 MR. JENNINGS: We'll move on to the next  
22 one you pointed out. This is with engineering technician  
23 7, Timothy Jones. Okay. If you look at the description  
24 underneath there, there's .5 hours of paperwork, there are  
25 time notes, there are mileage logs, Ajera or Ajera,



1     however's that's pronounced, and material sheet.

2             Okay. Of those I determined that two of those,  
3     the paperwork and mileage logs, those were okay regardless  
4     whether it was one well or four, had to be done. So  
5     basically 40 percent -- there are five items. Two of the  
6     five, totally eligible, not a problem. So that's  
7     40 percent we're just going to take right off the top.

8     Okay. Of the remaining 60 percent, I determined that those  
9     dealt more specifically with footage charges, which was the  
10    .21 percent. Okay. So --

11            BOARD MEMBER APPLGATE: Stop right there  
12    so we're clear. The .21 percent represented the percentage  
13    that was for the one -- for --

14            MR. JENNINGS: Exactly. For the one,  
15    correct. Okay. So .21 percent of -- .21 of 60 percent was  
16    considered ineligible, and -- get that correct here.

17            BOARD MEMBER APPLGATE: Eligible.

18            MR. JENNINGS: 65 percent ineligible.

19    Okay. So I'm going to have to do the math again on that  
20    one.

21            BOARD MEMBER APPLGATE: .21 percent of the  
22    60 would be eligible.

23            MR. JENNINGS: Right. It should have  
24    been --

25            BOARD MEMBER APPLGATE: One well was so

1 much --

2 MR. JENNINGS: Yeah. It should have been  
3 21 percent of the 60 was eligible. And I may have actually  
4 flipped it the wrong way on that. 548 may have been --

5 BOARD MEMBER CAHN: You went the wrong way  
6 on the other one too because --

7 MR. JENNINGS: No. No.

8 BOARD MEMBER APPLGATE: No. I think we  
9 all agreed on the other one.

10 BOARD MEMBER CAHN: Yeah. Because -- okay,  
11 just go back to the first one again. That's what's  
12 confusing me. Okay. So if you say a third is ineligible.  
13 So now I've got -- from \$35 I've got \$11 -- basically call  
14 it \$12 -- is ineligible. And you're saying there's also  
15 additional stuff that's ineligible.

16 BOARD MEMBER APPLGATE: No. I think he's  
17 saying that --

18 BOARD MEMBER CAHN: Wait.

19 BOARD MEMBER APPLGATE: Let me try it just  
20 as another attempt. A third of it is contestable, right?  
21 He didn't say a third of it is ineligible, just a third of  
22 it needs to be looked at more closely. Two-thirds is  
23 eligible. One-third needs to be evaluated. Out of that  
24 one-third, 75 percent of that one-third is not eligible.  
25 So he's only subtracting 75 percent of one-third.

1 CHAIRWOMAN BEDESSEM: So that one's right.

2 MR. JENNINGS: Correct.

3 CHAIRWOMAN BEDESSEM: But this other one --

4 BOARD MEMBER APPLGATE: Let's make sure  
5 Lorie understands.

6 So one-third was -- was -- one-third needed to be  
7 split up is another way of looking at it.

8 MR. JENNINGS: Precisely.

9 BOARD MEMBER APPLGATE: Two-thirds was --  
10 two-thirds was billable. One-third needed to be split. So  
11 out of that one-third that you needed to split, only  
12 25 percent of it was billable. The other 75 percent of  
13 that third was not billable. So you took your \$12. That's  
14 the 12 that you need to evaluate. 75 percent of that \$12  
15 is not eligible, which is how we got to the 8.

16 MR. JENNINGS: Correct.

17 CHAIRWOMAN BEDESSEM: But this other one --

18 MR. JENNINGS: Actually, I just looked at  
19 that, Madam Chair. It's correct also. Because total  
20 footage, only 21 percent was ineligible. The lion's share  
21 was for the eligible well, 200 feet. The remaining 21  
22 percent was ineligible. That's where that came on that  
23 one. So that is also correct.

24 BOARD MEMBER APPLGATE: Okay.

25 MR. JENNINGS: I told you it was

1 complicated, and I meant it.

2 BOARD MEMBER CAHN: You've gone the wrong  
3 way.

4 MR. JENNINGS: No. Madam Chair.  
5 21 percent on the next one is ineligible. That's why it  
6 says 21 percent of 60 percent is ineligible. Only three of  
7 the five -- three of the five items were questionable and  
8 had to be split out. I used footage charges on that, and  
9 of the total footage charges 21 percent are ineligible. So  
10 if you apply 21 percent to the 60 percent --

11 BOARD MEMBER CAHN: Okay. I'm going to  
12 back up to the --

13 MR. JENNINGS: -- you get the right answer.

14 BOARD MEMBER CAHN: I'm going to back up to  
15 the first one again. Just do some logic with me. Okay.  
16 If you have \$35 and you say a third of it is ineligible.

17 BOARD MEMBER APPELEGATE: That's -- that's  
18 incorrect.

19 BOARD MEMBER CAHN: That number is 11.66.  
20 Okay?

21 BOARD MEMBER APPELEGATE: So Lorie --

22 BOARD MEMBER CAHN: You can't -- if you're  
23 then saying there's additional --

24 CHAIRWOMAN BEDESSEM: No. No, no.  
25 Lorie --

1 BOARD MEMBER CAHN: -- you can't reduce  
2 the --

3 CHAIRWOMAN BEDESSEM: -- he's not saying  
4 that.

5 BOARD MEMBER CAHN: -- number to be lowered  
6 because you've got more than ineligible.

7 CHAIRWOMAN BEDESSEM: Lorie, you've got to  
8 stop.

9 BOARD MEMBER CAHN: You've got a higher  
10 number. So instead of multiplying, you have to divide.

11 CHAIRWOMAN BEDESSEM: Lorie, he was not  
12 saying that. He was just saying -- you know, listen to  
13 what Dave had said over the line was that it's not correct  
14 that he said that that amount was ineligible. That was the  
15 amount that was in question to be looked at closely to be  
16 determined if it was ineligible.

17 BOARD MEMBER APPLGATE: Was the one-third.

18 CHAIRWOMAN BEDESSEM: Right. Was the  
19 one-third.

20 BOARD MEMBER APPLGATE: If you take the  
21 one-third, you're not saying in the -- can you hear me,  
22 Lorie? On the first step, the one-third is not ineligible.  
23 It's just one-third of the cost needs to be evaluated. So  
24 you're basically saying \$12 out of 36 --

25 CHAIRWOMAN BEDESSEM: Is questionable.

1                   BOARD MEMBER APPLGATE:  -- needs to be  
2  evaluated.

3                   MR. JENNINGS:  Correct.

4                   BOARD MEMBER APPLGATE:  Because the other  
5  two-thirds are reimbursable.

6                   CHAIRWOMAN BEDESSEM:  Potentially  
7  reimbursable.

8                   BOARD MEMBER APPLGATE:  So one-third needs  
9  to be evaluated, and of that one-third needs to be  
10  evaluated, 75 percent of it is ineligible.

11                  CHAIRWOMAN BEDESSEM:  So there wasn't any  
12  addition to.  It wasn't like the first step was ineligible  
13  amount and there was additional stuff.  It was the first  
14  part was just determining what potentially could be  
15  ineligible and had to be looked at, and then the percentage  
16  defined 75 percent defined what portion of it was actually  
17  ineligible.

18                  MR. JENNINGS:  Okay.

19                  BOARD MEMBER APPLGATE:  I think this is  
20  hard to do over the phone, and --

21                  BOARD MEMBER CAHN:  I'm on the phone.

22                  BOARD MEMBER APPLGATE:  I think it's hard  
23  to do on the phone, Lorie, because I've been with where  
24  you're at where you're trying to understand a calculation,  
25  and it's hard because we can't like write it on the board,

1 but -- or maybe see it. So I appreciate the fact that  
2 there's a disconnect in our understanding.

3 CHAIRWOMAN BEDESSEM: I think maybe the  
4 take-home message is maybe we have to be -- you know, I  
5 don't know how many more of these we are actually going to  
6 have, but maybe more specific on how that was done as  
7 opposed to the little notation of --

8 MR. JENNINGS: Madam Chair, fortunately the  
9 vast majority of them are a lot cleaner than this. And I  
10 apologize for -- I'm a little too close to it because it  
11 made sense to me. I realize, obviously, it's a little more  
12 complex than that. Should I run across anything like this  
13 in the future, I'll try to have a relatively detailed  
14 explanation on this. And, again, I apologize for any  
15 misunderstanding. But having gone through the ones that  
16 Lorie had questions on, basically, done all the math work  
17 in all of them, based on my understanding of what I  
18 considered eligible versus ineligible.

19 CHAIRWOMAN BEDESSEM: And we realize it's  
20 really a big estimate because when -- you know, when  
21 employees write down what they did for the time that they  
22 billed, the individual items in it are not -- don't take  
23 the same amount of time, you know. That there is not -- it  
24 is not an appropriate assumption to assume that texting  
25 someone the number to get in takes as much time as the

1 other items they may have listed on there. So there's a  
2 lot of assumptions involved, but if it's all you have to go  
3 on, that's all you have to go on.

4 MR. JENNINGS: Precisely. I do the best I  
5 can with the information they provide me.

6 Lorie, and just -- you did have a question on  
7 the -- on the -- earlier on just some summation on that --  
8 on the communication fee. Communication fees are based on  
9 labor charges only. So what I did with that was I had a  
10 total sum of labor charges, and 2.5 percent of that was  
11 charged out additionally as communication fee. So if I  
12 found, say, a hundred dollars of labor charges were  
13 considered ineligible, I would take 2.5 -- again, this is  
14 an example. I would take 2.5 percent of that and subtract  
15 that from their communication fee charges. So if it was a  
16 hundred dollars, I would take \$2.50 off the communication  
17 fee. And that's why at that -- the final calculation on  
18 that one, that's where the deduction came for the  
19 communication fee. And, again, that's strictly labor  
20 charges. That is not materials.

21 CHAIRWOMAN BEDESSEM: I think Dave is  
22 working on some sort of summary calculation here so we can  
23 all understand.

24 MS. THOMPSON: Let me take a picture and  
25 email it to her.



1 CHAIRWOMAN BEDESSEM: Oh, you could -- you  
2 take a picture.

3 BOARD MEMBER CAHN: There's an opposite  
4 logic and I do what Dave's doing and just talk about what's  
5 eligible, rather than ineligible.

6 CHAIRWOMAN BEDESSEM: You want to take a  
7 picture and send it to her?

8 BOARD MEMBER CAHN: And you add it up with  
9 what he's got as ineligible, they don't add up to a hundred  
10 percent. So something -- I mean, I can see that when you  
11 write down 35 divided by 3 times .75, that, yes, that  
12 equals 8.75. But it's the logic behind doing that, because  
13 when you have to further -- if you have to -- so if you  
14 start with only a third of it is eligible, third is  
15 ineligible.

16 BOARD MEMBER APPLGATE: That's the part  
17 where our logic is disconnected because that one-third  
18 being ineligible.

19 CHAIRWOMAN BEDESSEM: It's not.

20 BOARD MEMBER APPLGATE: I'm not being  
21 critical, Mike, but I think he did say that originally.  
22 And really it's not that one-third is ineligible, it's that  
23 one-third needs to be evaluated for eligibility. So only a  
24 portion of that third is actually ineligible.

25 CHAIRWOMAN BEDESSEM: Ineligible.

1 MR. JENNINGS: Correct.

2 BOARD MEMBER APPLGATE: And only portion  
3 of that third that's ineligible -- say it two ways --  
4 75 percent of that one-third is ineligible or 25 percent of  
5 that one-third is eligible. But that -- the disconnect  
6 that's occurred between us is the idea that one-third is  
7 automatically ineligible.

8 CHAIRWOMAN BEDESSEM: And it's not.

9 BOARD MEMBER APPLGATE: It's not. It's  
10 just that one-third requires a more thorough evaluation.

11 MR. JENNINGS: Describing it as evaluatable  
12 is a way to do it.

13 BOARD MEMBER APPLGATE: Because to come  
14 back --

15 CHAIRWOMAN BEDESSEM: Potentially.

16 BOARD MEMBER APPLGATE: Coming back to it,  
17 there was three items that Mike was looking at. Three  
18 labor items. Two of the three labor items Mike said were  
19 completely eligible for reimbursement. The other one  
20 additional labor item was only eligible on a percentage  
21 perspective, and that's why that one-third had to be  
22 evaluated from the perspective of four wells.

23 CHAIRWOMAN BEDESSEM: One portion was  
24 eligible and one portion was not.

25 BOARD MEMBER APPLGATE: And only

1 25 percent of that one-third would be eligible. Does that  
2 help?

3 BOARD MEMBER CAHN: Yeah. And those add up  
4 to 35. We're good.

5 MR. JENNINGS: Thank you.

6 CHAIRWOMAN BEDESSEM: Uh-huh. So the  
7 three pieces are --

8 BOARD MEMBER APPLGATE: They don't add up  
9 to 35 because they took away \$8. So he started off with  
10 36, and he took away around \$8, and if you sent her that  
11 picture, I did it on round numbers. So I used 36, and my  
12 subtraction amount would have been 9.

13 CHAIRWOMAN BEDESSEM: But it adds up with  
14 what's eligible and what was deducted --

15 BOARD MEMBER APPLGATE: Yeah.

16 CHAIRWOMAN BEDESSEM: -- comes out to 35.

17 BOARD MEMBER APPLGATE: So I feel  
18 pretty -- I feel very confident that calculation was done  
19 correctly, and I think -- I think we all agree that the  
20 steps could be clarified in the future if we had to go  
21 through this.

22 So we ask you, Mike -- it was convoluted. And  
23 another thing is I appreciate the fact that, one, you tried  
24 to reimburse them as much as you could.

25 CHAIRWOMAN BEDESSEM: Yeah.

1                   BOARD MEMBER APPELEGATE: That showed good  
2 faith.

3                   And, two, you've been pretty good at the math for  
4 the last four years, but this one was a little complicated,  
5 so...

6                   CHAIRWOMAN BEDESSEM: Yeah. Yeah. Okay.  
7 So --

8                   BOARD MEMBER APPELEGATE: Did my picture  
9 help?

10                  BOARD MEMBER CAHN: I'm having such a hard  
11 time hearing that I think since you guys are there and you  
12 can see what's going on and you can hear what's going on  
13 and there's three of us -- of you, so you have a quorum, I  
14 think it's better if I just hang up. I've gotten so  
15 frustrated with this phone call. I -- you know, and I  
16 apologize I couldn't be there in person. I think you guys  
17 should -- I'll just sign off and you guys finish the  
18 meeting because I don't know what happened with this --  
19 this is the first time I've had -- it's -- it's been next  
20 to impossible to participate. I don't know what happened  
21 this time. Gina has done such a fabulous time at every  
22 single meeting, so we just got a glitch this time. So I'm  
23 just going to hang up and let you guys finish.

24                  CHAIRWOMAN BEDESSEM: Okay. We really  
25 appreciate your participation, Lorie. It was very

1 important to get all your corrections and your comments to  
2 the DEQ. And so thank you for making time to do this and  
3 just got back into town.

4 BOARD MEMBER CAHN: Okay.

5 BOARD MEMBER APPLGATE: Thanks, Lorie.

6 CHAIRWOMAN BEDESSEM: We'll go ahead and  
7 conclude. Thank you very much.

8 BOARD MEMBER CAHN: Okay. Sorry about  
9 that.

10 CHAIRWOMAN BEDESSEM: No problem.

11 So can I entertain a motion?

12 BOARD MEMBER APPLGATE: I move we accept  
13 the reimbursement proposal for the Shell Landfill.

14 CHAIRWOMAN BEDESSEM: With the DEQ  
15 recommendation of \$1,680.61?

16 BOARD MEMBER APPLGATE: Yes, Madam Chair.

17 CHAIRWOMAN BEDESSEM: Do I have a second?

18 BOARD MEMBER HANSON: Second. I guess I  
19 have to.

20 CHAIRWOMAN BEDESSEM: Thank you.

21 All those in favor, aye.

22 BOARD MEMBER APPLGATE: Aye.

23 BOARD MEMBER HANSON: Aye.

24 BOARD MEMBER APPLGATE: I move we adjourn.

25 CHAIRWOMAN BEDESSEM: And I second.

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BOARD MEMBER HANSON: I second.

CHAIRWOMAN BEDESSEM: Meeting adjourned.

(Meeting proceedings concluded

12:14 p.m., July 20, 2016.)

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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 15th day of August, 2016.

  
KATHY J. KENDRICK  
Registered Professional Reporter

