

LQD Meeting

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1 BEFORE THE ENVIRONMENTAL QUALITY COUNCIL

2 STATE OF WYOMING

3 -----

4 IN RE: LQD MEETING

5 -----

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7 TRANSCRIPT OF MEETING PROCEEDINGS

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10 PURSUANT TO NOTICE duly given to all parties
11 in interest, this matter came on for telephonic meeting on
12 the 4th day of August, 2016, at the hour of 9:04 a.m., at
13 the DEQ Casper Field Office, 152 North Durbin Street,
14 Suite 100, Casper, Wyoming, before the Land Quality
15 Advisory Board, Chairman Jim Gampetro, presiding, with
16 Mr. Phil Dinsmoor, Mr. John Hines, Mr. Micky Shober, and
17 Ms. Natalia Duncan-Macker present telephonically.

18 Mr. Kyle Wendtland, Land Quality Administrator;
19 Mr. Craig Hults, Senior Environmental Analyst;
20 Mr. Ryan Schierman, Uranium Recovery Manager;
21 and Ms. Eva La, Assistant Attorney General, also present
22 telephonically.

23 Ms. Shannon Anderson, Powder River Resource
24 Council, and Ms. Amber Wilson, Wyoming Outdoor Council,
25 were also present.

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

2 (Meeting proceedings commenced

3 9:04 a.m., August 4, 2016.)

4 CHAIRMAN GAMPETRO: Well, we're all here
5 now, so let's open the meeting. If everyone would please
6 introduce themselves, we'll go around, who you are and what
7 organization you represent.

8 BOARD MEMBER SHOBER: Micky Shober,
9 Campbell County Commissioner. I represent the elected
10 official on this advisory board. The politician.

11 BOARD MEMBER DINSMOOR: I'm Phil Dinsmoor
12 with Peabody Energy. I represent the industry on the
13 advisory board.

14 MR. HULTS: Craig Hults. I'm with the
15 Department of Environmental Quality, Land Quality Division.

16 MR. SCHIERMAN: Ryan Schierman, Department
17 of Environment Quality, Land Quality Division.

18 MR. WENDTLAND: Kyle Wendtland,
19 administrator, Land Quality.

20 BOARD MEMBER HINES: John Hines, Campbell
21 County representative, agriculture.

22 MS. ANDERSON: Hi. Shannon Anderson with
23 Powder River Basin Resource Council.

24 MS. WILSON: Amber Wilson with the Wyoming
25 Outdoor Council.

1 CHAIRMAN GAMPETRO: And I'm Jim Gampetro.
2 I'm a public representative on the Land Quality Advisory
3 Board from Buffalo, Wyoming.

4 And I want to welcome everyone. Thank you for
5 coming.

6 We could entertain a motion to approve the
7 minutes from the May 3, 2016 advisory board meeting.

8 BOARD MEMBER DINSMOOR: So moved.

9 BOARD MEMBER HINES: Second.

10 CHAIRMAN GAMPETRO: It's been moved and
11 seconded.

12 Any discussion on the minutes or changes? Then
13 all in favor, please indicate by saying aye.

14 BOARD MEMBER SHOBER: Aye.

15 BOARD MEMBER DINSMOOR: Aye.

16 CHAIRMAN GAMPETRO: Any opposed?

17 Primer and discussion on the two chapters of
18 proposed regulations necessary for DEQ to formalize an
19 agreement with the Nuclear Regulatory Commission for
20 primacy over the uranium recovery industry in Wyoming:
21 Chapter 7 - Fees; Chapter 4, Licensing Requirements for
22 Source and Byproduct Material. Chapters introduced at the
23 May 3rd meeting, Chapter 5 - Notices, Instructions and
24 Reports to Workers, Chapter 9 - Transportation of Licensed
25 Material, and Chapter 10 - Risk Informed, Performance Based

1 Licensing and Inspection will also be discussed at this
2 meeting.

3 So who's going to lead that discussion?

4 MR. WENDTLAND: Mr. Chairman, I'm going to
5 have our uranium program manager, Ryan Schierman, lead that
6 discussion for us. I'm also going to have him brief you,
7 as well as in the primer, as to where we are with some
8 recent updates to the program so that we have those on the
9 record as well.

10 CHAIRMAN GAMPETRO: Very good. Thank you.

11 MR. SCHIERMAN: Thank you, Chairman.

12 First with the updates. One thing we did, we've
13 been working with NRC pretty readily in this process making
14 sure we followed the correct steps, et cetera, et cetera.
15 As part of this agreement, because Wyoming is taking a
16 unique agreement in the fact we're not taking all the
17 radioactive material from the NRC rules, we only take a
18 limited scope. Part of their guidance is when you do that,
19 there has to be an approval by the commission. So they're
20 a governing body of five individuals that make the overall
21 decisions for the NRC.

22 Recently we had a commission paper go out to
23 them. And that's -- if you're interested in the reference,
24 I can also send it out to the group, if you want to look at
25 it afterwards, just talk to me. But it's referred to as --

1 they refer to them as SCCY papers, S-C-C-Y. And the
2 reference on that is SCCY 16-0084. And I can send that out
3 to the group if they're interested. We don't necessarily
4 want to flood you with information if you're not
5 interested.

6 But the commission did rule on it, and they were
7 in favor of Wyoming taking a limited scope agreement, is
8 kind of what we thought. Everything's going like we
9 thought it would. They were in favor of us seeking an
10 agreement of this such.

11 What will happen from here is eventually we'll
12 have to have a final paper that goes to the commission,
13 which we're planning on next year, third quarter '17, and
14 then eventually second, third quarter '18, which will say
15 that we have that authority to regulate this -- this
16 material.

17 The whole purpose of this paper was just to say
18 that this type of material, we can do an agreement with
19 Wyoming. This is a material that we can release
20 jurisdiction over. And that's what -- that's what they
21 did.

22 CHAIRMAN GAMPETRO: Is this document
23 something that is emailable?

24 MR. SCHIERMAN: Yep.

25 CHAIRMAN GAMPETRO: Is it voluminous?

1 MR. SCHIERMAN: The commission paper itself
2 is probably 20-odd pages. And the ruling is about one or
3 two pages.

4 CHAIRMAN GAMPETRO: So I'd like to have a
5 copy of that.

6 MR. SCHIERMAN: Yep. We can send that to
7 you guys after this meeting. We actually got the vote as I
8 was driving here, so that's why we haven't been sending it
9 out yet. So we'll send it out with that vote, and -- to
10 you guys after I get back to the office, if that works for
11 you guys.

12 BOARD MEMBER MACKER: Thank you.

13 BOARD MEMBER DINSMOOR: Mr. Chair,
14 question. And I think I want to direct the question to
15 Administrator Wendtland.

16 Can you create analogy between that document and
17 maybe some other document that Land Quality has created, or
18 whatever, in their past that -- from some other primacy
19 program? I'm just trying to fit this into --

20 MR. WENDTLAND: Board Member Dinsmoor,
21 there really is not another comparable document because
22 here we're taking such a limited scope of this overall
23 program in primacy, and that really is what this first
24 commission paper defines as what that limited scope is, and
25 that the NRC is in agreement with Wyoming, that we can take

1 that limited scope. So --

2 BOARD MEMBER DINSMOOR: Okay.

3 MR. WENDTLAND: -- so I'm not sure there
4 really is another comparable analogy for me that I could
5 put out there.

6 Now, the second commission paper, when we
7 actually are taking primacy, that one is analogical. You
8 can make analogy with Title V and coal program or that type
9 of analogy.

10 BOARD MEMBER DINSMOOR: Okay.

11 MR. WENDTLAND: And that's why the rules
12 and regs that we're developing, getting in front of the
13 advisory board, you know, this year, fit into that because
14 it's a very similar nature to how the Title V program was
15 structured. You and I have enough gray hair, we probably
16 don't even remember that, so...

17 BOARD MEMBER DINSMOOR: Me? Thank you.

18 CHAIRMAN GAMPETRO: Mr. Dinsmoor, can I
19 ask, what are you looking for there?

20 BOARD MEMBER DINSMOOR: I'm just trying to
21 understand what kind of a document this is and what its
22 purpose is, what it does for the state.

23 MR. WENDTLAND: What it does for the state,
24 having this paper right now, is it basically reinforces
25 that we are on schedule. Actually, a little bit ahead

1 right now. You know, there's some give and take in that
2 schedule. And we're being very responsive to the general
3 program that were allocated to this program.

4 BOARD MEMBER DINSMOOR: But it has no
5 lasting regulatory purpose.

6 MR. WENDTLAND: We couldn't move to the
7 next phase without the decision on this one.

8 BOARD MEMBER DINSMOOR: Okay.

9 MR. WENDTLAND: The other thing that this
10 does is it will -- the commission will likely structure
11 some language. And in order to have -- be compatible with
12 the NRC, we may have to adjust some language in the statute
13 one more time. And that final language from the NRC for
14 capability purposes should be in this commission paper.

15 BOARD MEMBER DINSMOOR: I understand.

16 Thank you.

17 MR. SCHIERMAN: Yes. And that paper,
18 Kyle's exactly right, they outline the language that has
19 been -- that is to be used to characterize this limited
20 scope of material. So one thing that we do achieve from
21 this paper is we do have language now that we know NRC will
22 approve to take the limited scope, and we need to make sure
23 the statutes reflect that happening. So it is a step in
24 the right direction.

25 Other than that, the other updates that we have,

1 we're moving forward with personnel. We've brought on a
2 geologist -- hydrogeologist position, Alan Thompson. And
3 then we also have an admin assistant on board as well to
4 help us out.

5 That being said, we are advertising right now as
6 well for another health physicist position, which we are
7 undergoing interviews at this moment. And then after that
8 is filled, we'd have one -- potentially one more position
9 to fill. One? Yeah, one more position.

10 MR. WENDTLAND: One more.

11 MR. SCHIERMAN: So that's where we sit with
12 those. I guess before I jump into the chapters, should I
13 entertain any questions as far as where we sit with the
14 program? Any updates that anyone's interested in knowing
15 about?

16 Okay. Why don't -- the way I thought would be
17 best to go about this, I figured we'd jump in with the fees
18 first. And instead of going through the chapter itself, I
19 figured I'd give a little discussion on how -- what the
20 intent of the rule and how we envision the fee structure
21 should be outlined, at which point we can then jump into
22 the rules, if there are questions on that.

23 They have the copies.

24 So I'm going to turn this a little bit this way.
25 The first thing I'd say with the fee structure is the

1 intent is the entire program basically regulating this
2 material is going to be recoverable from the operators.
3 Okay? And there's a couple of components, and we broke
4 down the cost depending on that.

5 But to get into how we're going to recover those
6 fees, I wanted to touch a little bit on the how we
7 developed -- or what's driving the fees that we have to
8 recover. Originally, when we sought out this type of an
9 agreement, we went through a feasibility study, in which
10 they identified 10 FTE, which is what would be required to
11 carry out such an agreement. Okay? And that 10 FTE was
12 associated fringe and miscellaneous costs as well. So
13 that's including indirect costs, which we'll define later
14 on, and things of that nature. And what was determined was
15 that there was -- there would be a drive for about
16 \$1.6 million for an annual budget for our program, which
17 legislature sets. And that's what we'll be recovering.
18 Okay?

19 So the staffing plan, where that 10 FTE come
20 from, one of those FTEs is the AG that's working on us.
21 They'll be in the AG's office. That's Eva La. She's
22 actually on the call right now.

23 Then there would be three FTEs. And the way that
24 this works -- the three FTEs are already in Land Quality.
25 The way this kind of worked out was when we first sought

1 out this agreement, there was discussions on whether
2 operators would have to recoup the costs of the general
3 fund or how are we going to recoup the costs that's created
4 to create this program. Right?

5 And what was decided on, instead of having
6 industry recoup that, was after the agreement was
7 established, that operators or industry would cover three
8 existing full-time employees that are already in LQD. So
9 these three FTE are already in LQD. Then after a certain
10 time period, they would recoup all those general fund
11 costs. So that's kind of built into the structure and into
12 the budget.

13 The additional six other FTE would be people
14 that -- would be people within our own program. So to
15 begin with, the plan was to hire a natural resource program
16 manager -- they brought me on about a year ago -- and to
17 bring on a legal and administrative assistant. And the
18 other disciplines that we'd be bringing on is a health
19 physicist, a hydrologist/geologist, engineer, and then
20 another hydrologist/geologist.

21 Okay. Like I said before, it is the intent of
22 the operators who pay for the total annual projected cost
23 at the beginning of each fiscal year. And to do that,
24 there's a few things that we had to do, and there's three
25 costs, really, that we have to define. And I'm going to

1 read these. I know I hate reading from PowerPoint. I
2 don't want to put you guys to sleep, but I think it's
3 important to get across.

4 Site-specific direct costs. These are incurred
5 by the Department in the form of time and resources for
6 specific applicant or licensee. This would be time that we
7 spend on that project, whether it be an line item
8 inspection or time reviewing an amendment, things of that
9 nature. Okay?

10 The second component of that is nonsite specific
11 direct costs, which are not attributable to a specific
12 licensee, but represent a cost to the Department
13 attributable to the program, such as, you know, paper that
14 we use or vehicles or things of that nature. Okay?

15 The last one is indirect costs. And these are
16 costs that are not directly assignable to a specific
17 licensee. And they include items like accounting, human
18 resources and management, things our program needs for us
19 to function, if you will.

20 And these are based on a -- based on salary and
21 fringe of the FTE within the department, and at a rate
22 detailed in the cognizant agency negotiation agreement
23 negotiated between the state and federal government. And
24 this was a -- for me, this was a new term to me. So
25 there's a rate that's negotiated every year with the State,

1 and between this government as -- as a rate that you apply
2 to fringe and benefit of your FTE, and that's to cover the
3 costs, like I said, of HR, accounting, those administrative
4 costs that we may have.

5 So this is a rundown of those three costs. How
6 it will go is those site-specific direct costs will be
7 tracked through the year. So we'll get into this a little
8 more in a few more slides, but basically we'll keep track
9 of any of the site-specific direct costs for each licensee.
10 How it will split out the nonsite specific costs is an
11 allocation of how much they cost us as far as site-specific
12 direct costs.

13 I know that sounds confusing, but I think the
14 example provides clarification that if Company X demands
15 roughly 50 percent of our total billable site-specific
16 direct costs, they're going to be assigned 50 percent of
17 our nonsite specific direct costs. So even though that
18 nonsite specific direct cost is a result of all the
19 licensees, it's going to be reflective of the time that we
20 spent on that particular project. Okay?

21 The initial annual fee is equal to the annual
22 estimated cost of the program divided by the total number
23 of licensees. So that first -- when we first start up the
24 program, what we're looking at doing is taking that
25 \$1.6 million and then dividing it up among all the

1 licensees and everybody pays the same proportion.

2 Once the Department can establish projected costs
3 for the licensee, the licensee shall pay an annual fee
4 based on the licenses average total cost from the previous
5 year -- two years of operation. So once you can establish
6 what your cost is through our department for two years,
7 it's a running average of two years, so that's what you'll
8 pay at your annual fee each year.

9 At the end of the year, we will basically either
10 refund or bill the true amount. So if Company X had paid a
11 certain amount and we didn't spend that much resources on
12 that company, at the end of the year they would get a check
13 or a refund or a credit to basically make up the
14 difference. If we spent more time and resources on that
15 project than they paid at the beginning of the year, we
16 will send an invoice to collect the additional resources
17 that were required. So at the end, regardless of what they
18 paid at the beginning, they are going to have to come to
19 terms with their actual true cost.

20 The reason we did this is we wanted to make sure
21 that liability to the state was covered such that we
22 collected the entire fees at the beginning of the year, and
23 then at the end we can come to terms with what the actual
24 costs would be. Okay?

25 There is an application fee. And, again, this

1 has been passed through industry. And before I was brought
2 on board, there was a lot of talk of how this fee structure
3 would be -- would be structured. One of the things that
4 was important to industry as well, I think, to the
5 Department, was that for an applicant there has to be some
6 sort of skin in the game. They're not just sending in an
7 application, using resources, and then pulling
8 out. It was determined that a hundred-thousand-dollar
9 nonrefundable application fee is accompanying with a new
10 license, application, if you will. And that hundred
11 thousand dollars covers the cost of processing that license
12 application. If the application fee is expended before the
13 license is issued, an additional \$100,000 shall be
14 assessed.

15 That first installment of a hundred thousand
16 dollars is nonrefundable. After we've spent that hundred
17 thousand dollars, if they're on their second, we will
18 refund that -- the funds that we did not use, if they pull
19 their permit or decide not to go forward.

20 BOARD MEMBER SHOBER: This fee is per mine
21 or is it per company?

22 MR. SCHIERMAN: This is per license, so...

23 BOARD MEMBER SHOBER: Each site is
24 licensed.

25 MR. SCHIERMAN: It depends, so it's done

1 different, depending on the company. So if you look at
2 like Uranium 1, for example, they have the Willow Creek
3 operations, which there's one license. But then they also
4 have other licenses that they're working on, such as the
5 Ludeman project, which is a separate license. But if you
6 look like at Cameco, they have all their individual sites
7 fall under one giant license. So it's kind of differing
8 between each company, if you will.

9 BOARD MEMBER SHOBER: More company choice
10 of how they want to do it?

11 MR. SCHIERMAN: Right. And the thought
12 process on this is if those -- those licenses that have
13 more sites under them, such as like a Cameco, per se, would
14 just demand more resources, that license would be more
15 expensive than another license because we're spending more
16 time at the individual sites, et cetera, et cetera. Right?

17 But there is that application fee. The other
18 thing I was going to say is it -- they will not -- an
19 applicant is not necessarily charged any indirect costs.
20 Their costs are solely with this application fee. They put
21 this application fee in and that covers the resources that
22 we spent on that applicant, if you will.

23 Kind of give you a visual of how this will run
24 down. We kind of took a hypothetical, 1.6 million.
25 Roughly, right now, there's about 15 licenses in the state.

1 So if you split that equally, it would be about \$106,000
2 per license. And then in the situation of, let's say, like
3 a company that holds many sites -- or has many licenses,
4 you could potentially, you know, for each one of those
5 licenses you're looking at, you know, increasing your
6 amounts such that you would reflect something similar to
7 like that 320,000 if you had three licenses. That's kind
8 of the structure the -- the structure was always meant to
9 be very simple. They didn't want to complicate it too
10 much. They wanted, you know, everything to be recoverable
11 up front, and that the liabilities to the state would be
12 covered as far as that.

13 Do you have something to say on that, Kyle?

14 MR. WENDTLAND: Yeah. I would just say
15 that the recovery period has not changed. That has always
16 been projected as the 10-year -- for the initial start-up
17 year that they would -- the State would recover its initial
18 investment within the 10-year time frame.

19 CHAIRMAN GAMPETRO: Questions?

20 BOARD MEMBER HINES: Mr. Chairman, I have
21 two questions. The first one has to do with, if I'm
22 following you correctly, on the corporation that had
23 several sites. They -- they aren't asked to pay the same
24 fee as the corporation with one site?

25 MR. SCHIERMAN: Chairman and Board Member

1 Hines. What would happen is initially -- so once a site
2 establishes an operating history of two years, that's what
3 they're going to be paying at the beginning each year. So
4 you have a site that demands more attention, maybe has four
5 or five licenses under one thing, and then another site
6 that only has one license. After they establish what their
7 costs to the Department are after two years, that's what's
8 going to be reflected, and that's what they're going to be
9 paying annually. We had to start from somewhere as far as
10 cost to the Department. And what we decided to do was just
11 take it, divide it up between all the licenses, and that's
12 how much you're going to pay that first year we start up.

13 And then at the end, whatever the true costs,
14 we're going to come to terms with. We're either going to
15 issue a refund, or we're going to send an invoice to say
16 this is what you actually cost the department. Does that
17 make sense? Did I answer that question?

18 BOARD MEMBER HINES: Mr. Chairman. My
19 other question has to do when we discussed this a couple
20 years ago in the legislature --

21 MR. SCHIERMAN: Uh-huh.

22 BOARD MEMBER HINES: -- one of the big
23 discussion points was recouping costs up to the point that
24 we're talking about now. And that wasn't decided. That
25 some wanted industry to pay it. Industry, of course,

1 didn't want to pay it. They wanted the State. And I
2 don't -- when we passed this part of the statute, it wasn't
3 addressed. And, to my knowledge, I don't know if it ever
4 was addressed. If there's any avenue that the State would
5 recoup many of those costs.

6 MR. WENDTLAND: Mr. Chairman and Board
7 Member Hines. That was the statement I was making earlier
8 that it is projected to be a 10-year payback and recovery.
9 So once the program's been in place, the initial investment
10 would be recouped within the 10 years.

11 BOARD MEMBER HINES: Mr. Chairman. This is
12 with the license fees you set up?

13 MR. WENDTLAND: That's correct.

14 BOARD MEMBER HINES: If you're just setting
15 that after two years, the cost of operations, none of those
16 initial costs would be included. How would that come
17 into --

18 MR. WENDTLAND: Well, the way that will
19 come in is with the indirect costs portion of it, there
20 will be expenses related to that. But also with their
21 initial application fees there's an overhead in that
22 that -- like I say, the recovery would be within that
23 10 years. That's what the projection is, and that's not
24 changed.

25 MR. SCHIERMAN: Chairman. Board Member

1 Hines, I think part of the way -- you know, those three
2 positions that we have within LQD, that the operators are
3 going to be funding, that was partly how they were going to
4 recuperate those costs because they would not be -- those
5 these existing LQD positions would not be draining the
6 general fund at that point, which normally the general fund
7 would be paying for those three positions. Those operators
8 are going to then pay for those three FTE that are already
9 in LQD, and that's how those costs are going to be
10 recuperated. Does that make sense?

11 CHAIRMAN GAMPETRO: I have a question.
12 From the mine standpoint, these are all net additional new
13 costs, correct?

14 MR. SCHIERMAN: Expound a little bit. I'm
15 sorry.

16 CHAIRMAN GAMPETRO: The hundred thousand --
17 106 -- the 1.6 million that we're going to be charging to
18 the mines for those licenses, these are net additional
19 costs to them?

20 MR. SCHIERMAN: Chairman, I think it
21 wouldn't be a net additional. They are used to these type
22 of fees that they already pay to the NRC.

23 CHAIRMAN GAMPETRO: So they were paying to
24 the NRC.

25 MR. SCHIERMAN: NRC. And now they are

1 going to be transferring those payments to us.

2 CHAIRMAN GAMPETRO: To us.

3 MR. SCHIERMAN: If you look at the actual
4 amounts they were paying to the NRC, it's roughly a little
5 less than half of what they're paying to the NRC. So it's
6 actually --

7 CHAIRMAN GAMPETRO: So it's saving them
8 money.

9 MR. SCHIERMAN: It's saving them money,
10 per se.

11 BOARD MEMBER DINSMOOR: Mr. Chairman. Kind
12 of a follow-on to that question. How do these -- these
13 costs are associated with the license that is the subject
14 of the rules that we're hearing over the past six and next
15 six months. How do these costs dovetail with current Land
16 Quality Division expenditures with regard to issuing mining
17 permits to those same operations? Because that activity
18 has gone on, and if I understand it correctly, will
19 continue to go on.

20 MR. SCHIERMAN: Chairman. Board Member
21 Dinsmoor, you're correct in that fact. There will be still
22 costs that are associated with those permits to mine. As
23 you recall, they still have to obtain those permits to
24 mine. What we're doing is taking the radiological
25 component that the NRC was regulating and moving that

1 within LQD. So there are some parts that we'll be looking
2 at, our program exclusively, and there will be parts that
3 LQD will still manage, such as surface disturbances and
4 topsoil management and all those types of items.

5 BOARD MEMBER DINSMOOR: So does that mean
6 those are general fund expenditures, as opposed to permit
7 fee expenditures for the radiation piece?

8 MR. SCHIERMAN: Yep.

9 MR. WENDTLAND: Chairman and Board Member
10 Dinsmoor. Right now there's always been a ratio of matched
11 or primacy funds and state general fund. That match is not
12 changing. Land Quality has always had, with regard to the
13 uranium permits, you know, more the expertise, like Fox Oil
14 and those related activities, and regulations of their
15 actual mining permit.

16 The NRC program is the radiological side of that
17 and the licenses associated by the NRC. So there's two
18 components there. But that's why the uranium program was
19 placed inside of Land Quality, was to dovetail that and be
20 able to have both permitting actions under one roof.

21 MR. SCHIERMAN: Chairman. Board Members --

22 MR. WENDTLAND: You have the NRC license,
23 and you have a Land Quality mining permit, so getting them
24 under one roof, there are certain efficiencies that can be
25 gained in staffing and processing by housing them in one

1 place.

2 BOARD MEMBER DINSMOOR: And Land Quality
3 Division will receive their funds from two distinct --
4 distinctly separate sources.

5 MR. WENDTLAND: Right. Yeah, the NRC
6 licensing component, then the uranium program now will be
7 self-funded by the licensees.

8 BOARD MEMBER DINSMOOR: Going to the
9 question that Mr. Hines asked, the hundred-thousand-dollar
10 assessment comes with the submittal of an application for
11 which there's no history to base a two-year rolling average
12 on. And I'm going to make something up here. If it takes
13 you two years, two and a half years, whatever, to process
14 that application, you will spend down that hundred
15 thousand and then assess more, if more is needed. And then
16 upon issuance of the license, what do you do? You go to a
17 hundred thousand a year until you've got a two-year
18 established record?

19 MR. SCHIERMAN: Right. No. Board
20 Member -- Chairman. Board Member Dinsmoor, you are
21 correct. I failed to mention how we moved through that
22 process. So once -- for a company that once we started
23 this program, and we have a new applicant, a new licensee,
24 no operating history, no experience with us, they have
25 application fee and we move forward with it. Once they are

1 issued a permit, any existing funds we haven't used will
2 roll into their fee, but they'll be prorated based on the
3 year that they come in. So we're not going to charge them
4 a whole year. It's going to be prorated based on when we
5 issued the license. But we will take the average of all
6 the licensees. So we'll take all the licensees, take what
7 their average application fee is, and the new licensee will
8 pay that -- pay the average application fee --

9 BOARD MEMBER DINSMOOR: Until they have
10 their own established.

11 MR. SCHIERMAN: -- until they establish
12 their operating history.

13 BOARD MEMBER DINSMOOR: Thank you.

14 MR. SCHIERMAN: So that's how we handle
15 that. I failed to mention that in this PowerPoint it is in
16 those rules we supply to you guys. Thank you for pointing
17 that out because that was something I failed to bring up.
18 So thank you.

19 BOARD MEMBER DINSMOOR: Appreciate it.

20 BOARD MEMBER HINES: One more question,
21 Mr. Chairman.

22 Then am I following you correct, after the
23 mining -- or application gets in the process and working,
24 if they're covering several sites, their annual costs will
25 be based on that and not an average? All the -- what I'm

1 looking at, if a company has a half dozen sites and another
2 company only has one --

3 MR. SCHIERMAN: Right.

4 BOARD MEMBER HINES: -- if you're going to
5 average those together, you're not coming up with a fair
6 average. And that's what I'm trying to establish.

7 MR. SCHIERMAN: Right.

8 BOARD MEMBER HINES: Are the costs going to
9 be established on that one operation that covers several
10 mines, his average or overall average?

11 MR. SCHIERMAN: Chairman. Board Member
12 Hines, it will be on an overall -- on an overall out of all
13 the licensees average. You know, this is what's
14 potentially inherent -- we -- we struggled with this at the
15 beginning. Someone who doesn't have an operating history,
16 where do you start them at. Right? We felt that, you
17 know, you could say, Hey, let's start them at the max.
18 Whoever's paying the most, that's where you're going to
19 start at, or we felt that the average would probably be the
20 most fair. And the reason we felt somewhat comfortable
21 doing an average is at the end of the year, whatever their
22 cost being, whether they are way under what we projected or
23 way over, we'll come to terms with the amount that actually
24 reflects their operation. You know, that's something that
25 we struggled with as well, is where is the starting point?

1 Where do you start someone at?

2 MR. WENDTLAND: Chairman and Board Member
3 Hines, maybe a simpler way to say that is they have the
4 base fee. If they exceed it, if they're one of these
5 operations that would require more, at the end of the year
6 they're going to get an invoice. If they're maybe a single
7 licensee, they used less, they're going to get a refund.
8 So there is a true-up at the end of the year for each
9 licensee. Until we get to that two-year mark -- even then
10 we'll have that in place, but at that two-year mark, then
11 we have that rolling average to go from. But we have to
12 have a base point to start from.

13 And I would add that industry has supported that
14 decision at this point in time.

15 BOARD MEMBER DINSMOOR: Mr. Chair. Maybe
16 the question that we need to ask Mr. Hines is this: How is
17 the average calculated? Is it an average per site or
18 average per license?

19 MR. SCHIERMAN: Unfortunately, Chairman,
20 Board Member Hines -- or Dinsmoor, is it would be by
21 license. That's the --

22 BOARD MEMBER DINSMOOR: I see. You're
23 right.

24 MR. SCHIERMAN: So that's kind of the
25 schematics of how we've outlined these rules.

1 BOARD MEMBER DINSMOOR: So the license that
2 has six sites counted as one under the averaging?

3 MR. SCHIERMAN: Yep.

4 BOARD MEMBER DINSMOOR: Okay.

5 MR. SCHIERMAN: However, I would say that
6 one license --

7 BOARD MEMBER DINSMOOR: A true-up.

8 MR. SCHIERMAN: That one license that has
9 six sites under it, its costs are going to be much higher.

10 BOARD MEMBER DINSMOOR: Yeah. The true-up
11 is going to catch them at the end of the year.

12 MR. WENDTLAND: Chairman and Board Member
13 Dinsmoor, that's where you would recapture that cost, is at
14 year end.

15 BOARD MEMBER DINSMOOR: Sure.

16 MR. WENDTLAND: That's where it comes true
17 for everyone. But the other side of that is the overall
18 average. Like I indicated earlier, this is a structure
19 that has been supported by industry, so...

20 BOARD MEMBER DINSMOOR: Okay.

21 MR. SCHIERMAN: Any other questions with
22 the fees? Okay. I think as far as the way we structured
23 this, just kind of discussing what our overall intent was,
24 I don't know if it would benefit us to actually walk
25 through the rule, but that's what we were trying to do.

1 I'm open to walk through the rule, if you guys want section
2 by section, but that was the intent of the rule. And are
3 you guys okay reading it at that point, or how would you
4 like me to proceed with that? Does anyone have any
5 preference?

6 BOARD MEMBER DINSMOOR: Go for a walk-
7 through.

8 BOARD MEMBER SHOBER: Yes.

9 MR. SCHIERMAN: Okay. So let me hand
10 these, if you don't have them. Yeah. So you should have
11 those.

12 BOARD MEMBER HINES: These?

13 MR. WENDTLAND: Yep. That's the right one.

14 MR. SCHIERMAN: Okay. Chapter 7, Fees,
15 laid out in much the same fashion as our other chapters.
16 One, we have the purpose, which is basically just
17 describing why we have a fee structure; basically, to
18 recuperate all of our costs. The scope is laying out who
19 these apply to. It's going to be the applicant or holder
20 of a specific by-product or source material license issued
21 pursuant to Chapter 4 of those rules. And then those that
22 are required to have routine and nonroutine safety
23 inspections of activities license. So those that are under
24 our jurisdiction. Okay?

25 A lot of this language, again, as some of the

1 other ones, have come from NRC. I know with the scope,
2 that Item 2 is required to have routine and nonroutine
3 safety inspections of activities license. It's kind of a
4 nuance. You would think it would be any licensee. It
5 doesn't really make sense why it's in there, but it's one
6 of those NRC things that we're trying to incorporate that
7 they require that we capture these components as well. So
8 unless you have questions about that, we'll leave it at
9 that.

10 In Section 3 we laid out how we define those
11 costs. So we define what direct costs are and indirect
12 costs. Within direct costs, those are the definitions that
13 we showed you before. There's two types of direct costs:
14 site-specific direct costs and nonsite specific direct
15 costs. And the other one would be the indirect costs,
16 which are taken off the salary and fringe of the FTE within
17 the program, and then charged that rate, which is
18 negotiated with the federal government, to cover things
19 such as accounting, HR, things like that.

20 BOARD MEMBER DINSMOOR: One quick question.
21 I know that over the last couple of years the public
22 participation requirements of various departmental programs
23 have resulted in increased costs to the agency. Do those
24 fit one of these categories?

25 MR. SCHIERMAN: Board Member -- or Chairman

1 Gampetro. Board Member Dinsmoor, what I would say is that
2 either public participation or things of that nature would
3 be -- fit within -- for that specific license, right? So
4 let's say there was a court hearing or a judicial hearing
5 on -- such as happened with -- let's take like a Strata for
6 example, right? They have new application. Potentially
7 maybe a court hearing to discuss some of the decisions.
8 And we would say that those costs -- then would be
9 reflective on that one license. Does that make sense?

10 BOARD MEMBER DINSMOOR: Uh-huh.

11 MR. SCHIERMAN: Now, the one thing that is
12 restrictive on our budget is our budget is determined by
13 the legislature. Okay? So we are allowed -- we still have
14 to maintain in the budget of \$1.6 million for our program.
15 And so those -- those -- that change in the budget can only
16 be done through the legislature. We have to fall within
17 that budget that we've been given, and those costs should
18 fall to a specific license.

19 BOARD MEMBER DINSMOOR: If I, as a member
20 of the public, want copies of information or I want to
21 spend some time with you to understand an applicant's --
22 where they are in the process or some technical issue or
23 whatever --

24 MR. SCHIERMAN: Right.

25 BOARD MEMBER DINSMOOR: -- I consume your

1 time or staff time in preparing copies and stuff, does that
2 go against that particular license?

3 MR. SCHIERMAN: Do you want to cover or do
4 you want me to?

5 MR. WENDTLAND: Yeah. Chairman and Board
6 Member Dinsmoor, that's a broad question, so I'm going to
7 try to narrow it up a little bit. There are clearly
8 administrative costs that fall under the agency. And there
9 are administrative costs that fall under the division and
10 the program. If it is a broad-based question that pertains
11 to the industry as a whole, that would be more of an
12 agency-level question. So that would come from the
13 division. If it's a specific licensee, that question would
14 come to the program under the division. Okay?

15 In the -- in the case of records requests, right
16 now that would be an agency level, you know, or division
17 cost, unless there's modification in that. I know there's
18 discussion about that right now. Does that clarify that?

19 BOARD MEMBER DINSMOOR: That helps.
20 Thanks.

21 MR. SCHIERMAN: And Chairman, Board Member
22 Dinsmoor, in those situations where maybe it was a cost to
23 our program, but not the result of a licensee --
24 potentially there's two avenues where it's either billed to
25 the licensee or it falls within a nonsite specific cost.

1 And my inclination at this point, correct me if I'm wrong,
2 Kyle, those costs that aren't a result of a licensee asking
3 for those costs probably fall in that nonsite specific,
4 which is shared by all industry and redistributed at the
5 end. Does that make sense?

6 BOARD MEMBER DINSMOOR: Yes, it does.

7 MR. SCHIERMAN: Okay. Okay. Moving
8 forward. Section 4 talks about how we track those costs.
9 And, basically, again, we give that example of nonsite
10 specific, how we'll track those costs and assign those
11 costs, how we'll track site-specific direct costs and how
12 we'll handle indirect costs.

13 The application fees, Section 5, this is what I
14 failed to mention as far as the hundred thousand. If you
15 look at like -- I think it's Item C -- dada, dada -- so
16 this is just talking about the application fee, how you
17 apply for that. How they actually move into the system and
18 how it's prorated and set at the average is going to be set
19 in Section 6, which is annual fees.

20 In that section, we talk about how we want to
21 recuperate the costs at the beginning of the year, how
22 companies can establish an operational history based on two
23 years of experience. And then also we -- I'm just looking
24 real quick. E breaks down how we'll true-up at the end of
25 the year, how we'll come to terms. Item E.

1 Item F is for new licensees issued at the
2 beginning of the fiscal year will be assessed the annual
3 fee as described above, but the fee will be prorated based
4 on the date the license was issued. So it's prorated.

5 So in D, we state a new licensee shall be billed
6 an annual fee equal to the average total cost of all
7 licensees until projected costs can be established. So
8 those are the items I failed to mention in the PowerPoint.
9 That's where those would be housed. The other question is
10 failure to -- the other item that we address in here is the
11 case where someone fails to pay a fee or pays that -- fails
12 to pay those fees.

13 And if you look at G, failure to pay prescribed
14 fee may result in but not limited to the department halting
15 the processing amendment, suspending or revoking a license
16 or issuing a notice of violation and order, as the
17 department deems necessary and appropriate to carry out the
18 provisions of the act. So those will be our teeth to hold
19 people to paying the fees, as, you know, we can revoke
20 their license or suspend those licenses, if you will.

21 The last item that we put in here is we can't
22 have a licensee record a zero on the books. We have to
23 keep them within our system. So we set a minimum fee of a
24 thousand dollars every year just so we have track and
25 records of them. Okay?

1 BOARD MEMBER HINES: Mr. Chairman. Then I
2 have one more question on the application fee.

3 MR. SCHIERMAN: Yep.

4 BOARD MEMBER HINES: At first glance,
5 reading it, I think I have to pay a hundred thousand until
6 I got the license, but that's really not the case. You
7 might -- if it had excessive cost, you might have to pay
8 more than a hundred thousand in a year?

9 MR. SCHIERMAN: Board Member -- Chairman --
10 Hines, you're right in the fact that you have a hundred
11 thousand dollars that you put up front when you send an
12 application. That covers all of our costs working with
13 that application. If we spend more than a hundred
14 thousand, there's a second installment that goes in for
15 another hundred thousand until we issue a permit, if you
16 will, or a license in this case. That being said, if we --
17 let's say we're going through an application process. We
18 only spend \$50,000 to assume that application, just do it
19 easy. Obviously, that 50,000, then, would be refunded or
20 credited to them when they move into an application.

21 And this was -- and just, you know, the hundred
22 thousand dollars was actually kind of a push from industry
23 as well, such that, you know, we don't have applications
24 that come in kind of half-heartedly and pull them back out
25 after we've spent a considerable amount of resources on

1 those applications. They want serious applications coming
2 in. People that have skin in the game, if you will. So --

3 BOARD MEMBER DINSMOOR: Can I ask a
4 question of another board member?

5 CHAIRMAN GAMPETRO: Sure.

6 BOARD MEMBER DINSMOOR: Mr. Hines, when the
7 legislature did their -- took their first actions with
8 regard to this program, did the discussion go at all to
9 those costs that might be incurred on the part of the
10 general public, and how those costs would be to come
11 forward, which is to say that I can go in and I can
12 innocently and legitimately consume a whole lot of the time
13 of the agency in trying to understand, as a member of the
14 public, what is going on with a particular license, and
15 where do those dollars come from? Those come out of the
16 general fund, it sounds like. And I'm just wondering if
17 the legislature did anything in that regard.

18 BOARD MEMBER HINES: As I recall it, the --
19 one of the discussions -- and it wasn't settled when I was
20 there. This is past being settled with rules, I guess,
21 because there was a lot of costs, as I recall, several
22 million dollars, of getting up to the point where we
23 virtually were entering the phase of -- with NRC, and some
24 on the legislature thought that that should all be
25 recovered. And, naturally, the industry didn't. And that

1 was never decided. But now, as I read this, a lot of those
2 costs would stick with and have been paid by the general
3 fund.

4 BOARD MEMBER DINSMOOR: Well, it sounds to
5 me like the savings to the general fund, through the
6 industry funding the three positions over a ten-year
7 period -- or some-year period --

8 MR. WENDTLAND: That's the estimate of the
9 payback.

10 BOARD MEMBER DINSMOOR: Yeah. Will begin
11 to pay back those up-front costs that came from the general
12 funds through savings.

13 BOARD MEMBER HINES: As I recall,
14 Mr. Chairman, there was no advantage because they wanted 10
15 or 11 new positions, which the general fund would pay for
16 all of it. And by them agreeing to pay for three of them
17 for 10 years, did you say?

18 MR. WENDTLAND: Chairman and Board Member
19 Hines, that's an indefinite. They'll pay for them
20 indefinitely. The payback period that would recover those
21 costs is that 10-year, and that's the estimated 10-year --

22 BOARD MEMBER DINSMOOR: That will come
23 through those three positions.

24 MR. WENDTLAND: Yeah, which is your
25 indirects, human resources --

1 MR. SCHIERMAN: Board Member Dinsmoor, I
2 guess to offset a little bit, let's say we're moving past
3 those 10 years. Any costs from public involvement on that
4 general fund would be more than paid back by those three
5 FTE, if you look at the trace funds, because at some point
6 they're going to --

7 BOARD MEMBER DINSMOOR: In theory, there's
8 going to be some continued payback or reimbursement to the
9 State through savings?

10 MR. SCHIERMAN: Correct.

11 BOARD MEMBER DINSMOOR: Okay.

12 BOARD MEMBER HINES: Mr. Chairman, this
13 wasn't the thought of -- of some of the committee anyway,
14 because it felt like it's all an additional cost to the
15 State. And by them, industry, picking up part of that,
16 three employees, the State recovers nothing. They just
17 don't have to put out that much more money, was the
18 thought. Because we're talking about new employees that --
19 for the most part.

20 MR. WENDTLAND: Yeah, the three are
21 existing, though.

22 BOARD MEMBER DINSMOOR: Yeah, the
23 PowerPoint showed those three as current positions.

24 BOARD MEMBER HINES: But if we didn't have
25 the program, then that wasn't needed.

1 BOARD MEMBER DINSMOOR: I got the
2 impression -- maybe we should ask -- I got the impression
3 those employees were today a part of the mining permit
4 program and not part of the licensing program.

5 MR. SCHIERMAN: Board Member -- Chair -- or
6 Chairman. Board Member Dinsmoor, you're correct. Those
7 three FTE positions are currently held by Land Quality
8 positions. And the thought process is the general fund
9 pays for those positions. The industry then goes in and
10 funds those positions. Basically, that's how -- they're
11 repaying the general fund, rather than saying you owe --
12 recouping \$3.2 million at the point of setting up the
13 program, or however much we expend at that point, can we
14 extend this over a time period just on these three FTE, and
15 that's -- that's the route.

16 CHAIRMAN GAMPETRO: My understanding is
17 that they're there already.

18 MR. SCHIERMAN: Yep. And there is some
19 discussion, and it could be that those three FTE billable
20 times. So people -- LQD's billable hours or it's three
21 exact persons, like that's one of the people that -- you
22 know, that's still to be decided. But, regardless, it's
23 three FTE worth of general funds that the State -- or that
24 the program is going to be -- operators are going to be
25 basically funding.

1 MR. WENDTLAND: Chairman and Board Member
2 Dinsmoor, that's why the indirects and the 10 years to get
3 it back is because it's only the three. Right? You're
4 only going to recoup so much per year.

5 BOARD MEMBER DINSMOOR: And I would assume
6 when you go to determine whether it's going to be billable
7 or full cost on an individual, if you've got some say-so in
8 that, you would -- as a board member, my recommendation you
9 do the billable thing. I think that gives you the most
10 flexibility because you're going to have -- I mean,
11 Mr. Hults might be somebody who you want to take advantage
12 of to help you solve a particular issue. But if he's not
13 one of those three identified, it's -- yeah.

14 MR. SCHIERMAN: Right. And we're on that
15 as well. That's kind of the avenue we're looking at and
16 leaning -- I'm leaning towards. It's more --

17 MR. WENDTLAND: Chairman and Board Member
18 Dinsmoor, we've had a lot of discussion within the agency
19 and accounting and right now that is -- is, you know, as
20 time moves forward, those things become more clear as we
21 get farther into the program. But right now that is the
22 general direction we're leaning at this point in time.

23 MR. SCHIERMAN: Okay.

24 BOARD MEMBER DINSMOOR: Thanks.

25 CHAIRMAN GAMPETRO: Any other questions?

1 MR. SCHIERMAN: Okay. All right. With
2 that, then we'll move on to the other chapters that we --
3 other chapter, I should say, not chapters. The chapter
4 that we provided. Let me pull those for you guys.

5 MS. ANDERSON: Mr. Chairman, I don't want
6 to interrupt, but I do have some public comments. It's up
7 to you. I didn't see it specifically on the agenda so
8 would it be specific to each chapter? Just wait until the
9 end? Happy to do whatever.

10 CHAIRMAN GAMPETRO: Go ahead. Please
11 identify yourself for the record.

12 MS. ANDERSON: Thank you, Mr. Chairman.
13 Shannon Anderson with the Powder River Basin Resource
14 Council.

15 And it's our organization's position that we're
16 not for or against agreement state status, but we were
17 concerned that the state adequately recoups the cost of the
18 program so we don't end up growing government for boom and
19 bust industry and have to pay for it. We're concerned, of
20 course, about the financial viability of the industry into
21 the future, and really want to make sure this fee structure
22 is set up appropriately in the beginning.

23 Just a couple of questions and reflections on the
24 proposed rules. One, just to go to the dialogue about the
25 public records and the questions of staff, I'd encourage

1 the agency to ask NRC what their practice is. They
2 regularly do get questions from the public and may be able
3 to tell you how they allocate those costs. So that would
4 be probably good reflection of what Wyoming should do.

5 I would also note, though, that NRC has a public
6 website where all the application information is readily
7 available. All the correspondence with agency staff is
8 readily available. So I have a feeling that their records
9 request would be more limited than what you may see here in
10 the state without a similar public database that's
11 available.

12 But they do, again, get a lot of questions from
13 the public, both through email and phone. So you can see
14 how they bill those expenses. I would note that the
15 statute that authorized this program did say that the DEQ
16 should adopt a fee structure that will account for full
17 cost of the program, including all positions authorized by
18 the act and other positions assigned to implementation of
19 the program developed under the act.

20 So that's your statutory charge. It goes back to
21 the discussion you were having earlier about recouping the
22 costs to set up the program. It's clear in the statute
23 that that's your charge, is to adopt a fee structure that
24 will basically pay for the implementation of the program
25 developed under the act. That's the exact language from

1 the statute. So I'd encourage you to make sure that
2 happens. That was amended through the course of the
3 discussion which Board Member Hines may remember. Senator
4 Burns had brought an amendment to the Senate that passed
5 specifically to do that as part of the program. Again,
6 because of the concern of the millions of dollars of state
7 general fund money that was going in to set up the program.

8 On the application fee structure, Section 5, I
9 would encourage you to think a little bit more about this
10 issue of licenses versus license amendments, and
11 particularly facilities that utilize what are called
12 satellite facilities. So, for instance, one company
13 submitted a new license application a few years ago.
14 Recently they submitted a license amendment application for
15 a satellite facility, so to expand that existing facility.
16 And it's actually much larger than the initial facility
17 even was. So a lot of companies now are using this kind of
18 satellite facility concept where they amend a license as
19 opposed to get a new license. So I would just encourage
20 you to think about the application fee structure and
21 whether that structure actually incorporates license
22 amendments, particularly for these satellite facility
23 operations. Because they are, in a lot of ways, a new
24 facility, and they require as much staff time and resources
25 to process those license amendments as the initial license

1 did many years ago in some cases.

2 I do appreciate that the department is interested
3 and has been thinking about the issue of if a license
4 applicant pulls out and to have that kind of up-front fee,
5 I think that's a good program idea. As, again, this
6 industry is financially unstable all the time, so sometimes
7 there's speculation when the price is high, and then the
8 price crashes again and companies decide not to move
9 forward with the projects. So I think that does make a lot
10 of sense, and I appreciate the staff's work on that.

11 And then in terms of the annual fees, I just have
12 a question about idle licenses in mining operations. Out
13 of those 15 current licenses, I'd be interested to know of
14 a number that are actually producing uranium versus those
15 that are maybe idle, and whether, you know, there is an
16 ability to pay issue for some of those idle facilities.
17 Some of them are idle for decades, again, just given the
18 boom and bust nature of the industry.

19 So those are the comments and questions I had,
20 and I'd appreciate -- you know, I'd be happy to answer any
21 questions you may have of me, and I'm sure I'll dialogue a
22 little bit more with the staff too as the process moves
23 forward. Thank you.

24 CHAIRMAN GAMPETRO: Thank you.

25 I would think the question regarding satellite

1 facilities would be covered in terms of if they generated
2 more costs, that the -- the makeup period, once you find
3 out what the costs are, they're going to get billed for
4 that. That should cover -- is that accurate?

5 MR. SCHIERMAN: Chairman, that is exactly
6 accurate. So let's say you establish this operating
7 history and set it in stone, and let's say you have major
8 amendment, you're actually going to increase your operating
9 history quite a bit. And at the end of the year your costs
10 are going to reflect the increase in expenditures by
11 reviewing that amendment, if you will.

12 CHAIRMAN GAMPETRO: So it would seem that
13 having a satellite facility wouldn't help them to reduce
14 their cost.

15 MS. ANDERSON: Sure. I think as long as
16 the staff is comfortable with that characterization. I
17 would say, again, I mean, every operator is slightly
18 different, and some use the satellite facility concept a
19 little bit more regularly than others. I think it also
20 goes to the fairness across the industry and some other
21 issues there.

22 But, you know, the way I would look at it is, you
23 know, it is, especially on the mining side as well, there
24 will be major application to amend a permit to mine,
25 coupled with the license amendment application. I know for

1 those permit amendments, at least for the mining side,
2 there is a direct billing for the company for the time, you
3 know, expended on those permits. So I would hope that it
4 would be a relatively similar process for the license
5 amendments, but it sounds like that would be more just
6 general expenses to cover that facility.

7 CHAIRMAN GAMPETRO: Mr. Schierman.

8 MR. SCHIERMAN: Mr. Chairman, I would just
9 say the way I like to look at it is we have a set amount of
10 time that our program can operate under. 1.6 million is
11 what our legislature has. That's our budget, if we will.
12 We can work within that budget. How we fill that time is
13 going to be dependent on these amendments, things that go
14 in. Our time doesn't change. We have X amount of time.
15 It's just how we distribute that time. And all that -- all
16 that time is recuperated in that budget that's set forth by
17 the legislature.

18 And so how we fill that time and what we spend it
19 on is going to be reflected in what we bill. So, I mean,
20 the liabilities to the State in that regard are minimal at
21 best. We have this amount. If we get to a point where we
22 say that we are expend -- we need to expend more time, or
23 things of that nature, that's a legislature call to
24 increase the budget or not. But what we are mandated to do
25 is work within the constraints of the budgets that has been

1 set for us by legislature.

2 CHAIRMAN GAMPETRO: And all of that is
3 within the requirements of the NRC?

4 MR. SCHIERMAN: Uh-huh.

5 CHAIRMAN GAMPETRO: So we can't sit here
6 and decide or the legislature can't decide, well, we're not
7 going to do any more --

8 MR. SCHIERMAN: No.

9 CHAIRMAN GAMPETRO: -- because then we
10 won't be meeting the mandates of the NRC.

11 MR. SCHIERMAN: Right.

12 CHAIRMAN GAMPETRO: So -- perfect.

13 MR. WENDTLAND: Chairman, you're correct.
14 There is a compatibility requirement that must be in place.

15 BOARD MEMBER DINSMOOR: But therein lies
16 the beauty, I think, of the system they've designed where
17 that true-up --

18 CHAIRMAN GAMPETRO: Right.

19 BOARD MEMBER DINSMOOR: -- thing at the end
20 of the year -- or at the end of the fiscal year.

21 CHAIRMAN GAMPETRO: You go over here and
22 open a satellite, it costs us a lot more time and money,
23 we're going to charge you for that.

24 BOARD MEMBER DINSMOOR: Even if I didn't
25 open, whatever I'm doing simply costs more, I got to pay it

1 at the end of the fiscal year.

2 CHAIRMAN GAMPETRO: That's right.

3 BOARD MEMBER DINSMOOR: And that's over and
4 above anything the legislature might have budgeted for the
5 department or the general fund.

6 CHAIRMAN GAMPETRO: As a public
7 representative, I might be concerned we have too many
8 things to do, and we don't get them done, but that's where
9 it goes back to the NRC. We have to do it because we are
10 under their domain, even though we're in charge.

11 MR. SCHIERMAN: Chairman, I'll give you a
12 little more insight on how that actually works with the
13 NRC. So once we set up a program, we would go under what
14 is referred to as an impact process, where they come and
15 audit the program. Historically, if you look at some of
16 these impacts and some of the findings they look at, do you
17 have enough personnel to handle the workload that you have?
18 Do you have their rule -- correct number of people to
19 handle the programs and things of that nature?

20 And that's something that we'll have to justify
21 with NRC when we move forward with the agreement, is
22 justifying the amount of people and --

23 CHAIRMAN GAMPETRO: I remember when we had
24 added 50 percent more concrete around the casings of the
25 in-situ mines because they were -- there were too many

1 failures.

2 MR. SCHIERMAN: Right.

3 CHAIRMAN GAMPETRO: We fixed it.

4 MR. SCHIERMAN: Right. So that's kind of
5 how that process goes. So we'll be audited on at least a
6 three-year basis to see -- one of those items is do you
7 have the correct amount of staff? Is your budget
8 reflective of what your demands are, and all those things.
9 If they're not, they'll pull findings, and we have to
10 correct them. Either we have to get the legislature to
11 increase budget so we can add another staff or something of
12 that nature. But that's kind of -- we work within the
13 constraints that we've been given, and we bill our time
14 according to what we're working on.

15 BOARD MEMBER DINSMOOR: Mr. Chairman. What
16 would happen if -- if you are found that you required more
17 FTEs than you had on staff with Land Quality Division?
18 Sometime in the middle of a fiscal year, when you weren't
19 also able to budget for additional people or whatever, are
20 you allowed or prohibit -- allowed to or prohibited from
21 charging the fees at the appropriate rate and bringing in
22 contractors, for example, or consultants to assist Land
23 Quality staff?

24 MR. WENDTLAND: Chairman. Board Member
25 Dinsmoor, we would look internal first. You know, we would

1 see do we have project time available from existing staff
2 that we can shift, you know. And that would be the
3 first -- first direction we would go. And then if that was
4 unavailable, then we would have to look to see if we could
5 go outside, but -- and what those conflicts might be. But
6 really the preference would be to go internal first.

7 Chances are between the three district offices,
8 we would be able to adjust staff to accommodate that need
9 because it would be such a temporary -- in most cases, you
10 know, it would be a surge of permitting or temporary
11 situation.

12 BOARD MEMBER DINSMOOR: Could you also look
13 throughout -- beyond the Land Quality Division board, but
14 within the Department of Environmental Quality?

15 MR. WENDTLAND: Let's say it's from an
16 aquifer exemption or something like that, we could go to
17 Water Quality personnel and see what's available. But I
18 believe that the agency would look internal first.

19 BOARD MEMBER DINSMOOR: So my question
20 comes from this perspective: The danger to the agency of
21 losing primacy because of shortage of manpower, it's
22 certainly there, but it sounds to me like very, very low
23 risk.

24 MR. WENDTLAND: Very low.

25 BOARD MEMBER DINSMOOR: Because you've got

1 opportunities.

2 MR. WENDTLAND: Very low risk. There's
3 ways to manage that personnel issue without adding cost to
4 the agency.

5 MR. SCHIERMAN: And Chairman, Board Member
6 Dinsmoor, I would say that there has been in the past, if
7 you look at other agreements, that ability to contract in
8 times of need or whatever. If you look at the state of
9 Utah, they contract pretty readily out work. They do what
10 is referred to as accelerated applications. You can pay an
11 additional so much fee to have it contracted out, things
12 like that. So this is precedent for people who have used
13 contractors to fill needs, to fill things like that.

14 So as far as liability to our program and with
15 the NRC review process, there is ways to move around, and
16 they understand. And even if they do find deficiencies,
17 they don't strip primacy. Usually they say you're on a
18 heightened oversight, which means you get MPAPs more
19 frequent, and, you know, until they determine it's
20 necessary to strip it. And that's not their first call of
21 action. They usually put you on probation and then move
22 forward that way.

23 MR. WENDTLAND: Chairman.

24 CHAIRMAN GAMPETRO: Mr. Hines.

25 MR. WENDTLAND: Board Member Dinsmoor, it's

1 a standard on the protocol. You'd have a finding, you'd
2 have corrective action. There would be time to address
3 that corrective action or appeal. That process is being
4 established.

5 BOARD MEMBER DINSMOOR: Sure.

6 CHAIRMAN GAMPETRO: Mr. Hines.

7 BOARD MEMBER HINES: Mr. Chairman, I was
8 just going to address the -- within the state government
9 agency, and there's a percentage, I can't quote it, they
10 can transfer within the agency -- the director of that
11 agency can transfer. And if that doesn't work, then the
12 governor also has authority to transfer a percentage
13 between different agencies. After that, I don't know what
14 happened with the legislature.

15 BOARD MEMBER DINSMOOR: Thank you.

16 MR. SCHIERMAN: Chairman, are we ready to
17 move towards Chapter 4 at this point?

18 CHAIRMAN GAMPETRO: I believe we are.

19 MR. SCHIERMAN: Okay. Perfect.

20 So that was the -- these -- what we're moving
21 more now into is Chapter 4, which is licensing requirements
22 of source and byproduct material. The majority of this is
23 taken from 10 CFR 40. As you'll see in our chapter here,
24 the technical requirements in 10 CFR 40, Appendix A, which
25 are the technical criteria for reclamation,

1 decommissioning, other things you need in uranium mining,
2 has all been incorporated by appendix. So that's not
3 captured within this. Reason for doing such, you know,
4 that Appendix A is kind of the granddaughter of the uranium
5 industry. That's what's governing those technical
6 requirements, as such, they're Capability A. And so we put
7 a whole lot into the changing of those, so instead of
8 replicating those, we just incorporated those by reference
9 in this chapter.

10 What we did with Chapter 4, why we didn't just
11 incorporate Chapter 40 -- or 10 CFR Part 40 by reference is
12 because we're in a unique situation in the fact that, you
13 know, the whole charge on starting this program was to
14 remove as much dual jurisdiction as possible. What NRC
15 does as far as license, like applications, is they follow
16 for in-situ operations, they use new Reg 1569. And that's
17 their application. They're new regs, the guidance
18 document. Basically, when you send in an application, it
19 has to follow this.

20 What we have done, because we want to remove as
21 much of the dual jurisdiction as we possibly can, we've
22 said -- you know, and through this chapter, we devise such
23 that they can send in a permit to mine along with a source
24 material license. If you look at a source material license
25 with the NRC and the permit to mine, how they come in,

1 there is minor differences. A lot of it is duplicative in
2 nature. Some of the requirements are the same. However,
3 there are some additional requirements.

4 What we are going to do for this permit, and this
5 is going to be done through guidance, probably working
6 through Guideline 4, is where to house that additional
7 information. In this chapter we outline what technical
8 environments you have to look at. If you look at like, for
9 example -- I'm just going to give kind of a general
10 overview, and then we can go side by side. But I want to
11 give a general scope of how -- what our intent was on this.

12 So if you look at Section 9, look at Item B,
13 those are some of the requirements that may have not been
14 necessarily for a permit to mine. You know, the
15 representative presentation of the physical, chemical and
16 radiological properties of the license material to be
17 received, stored, processed or disposed of. You know,
18 there's a lot of things that remain unique to the
19 radiological component. We put those standards in here,
20 and then what we are planning on doing in those guidelines,
21 addressing actually where those informations are to go into
22 the permit, and that's what we're still working with the
23 operators in regards to that is how to house that material
24 in the permit. And what we're doing is we're going to
25 1569, that NRC document, and looking at our Guideline 4 and

1 identifying areas that are deficient or we need more
2 additional information and deciding where to house that
3 information. Okay?

4 The other thing that we'll be doing within that
5 Guideline 4 is trying to establish, you know, rights and --
6 or duties of our programs. So trying to distinguish those
7 items that Land Quality will look at as part of the permit
8 to mine and those items that our program will look at as
9 part of our source material license, understanding that
10 some of that overlaps, and we'll have to work in tandem in
11 order to cover the whole depth of the material.

12 And I think that was the intent of the
13 legislature when they first sought out this program, was
14 for Land Quality to be the sole regulator, but also that it
15 could be an efficient process and there wouldn't be this
16 dual -- as much of the dual overlap. Some of the areas
17 there's going to be. We understand that. And that's what
18 we're working on through guidance, to try to resolve. And
19 we do it through guidance, just so we can have mobility in
20 case we need to change or find out something's not working
21 the way we want it, we want it in this place or that place,
22 et cetera, et cetera. So that was the intent of these
23 rules.

24 How they follow some of these items are going to
25 be, like I said, what we've done before, is compatibility

1 language. A lot of this -- these requirements is, you
2 know, A, B, C in here. And so we have to capture a lot of
3 those things that are intensive, and that's what we've
4 tried to lay out in this chapter for you.

5 So with that, with the general overview of this
6 chapter, at this point I'll entertain any questions
7 generally, but then I'll move site -- section by section,
8 if that's okay.

9 BOARD MEMBER DINSMOOR: I have one
10 question.

11 MR. SCHIERMAN: Yes.

12 BOARD MEMBER DINSMOOR: You talked about
13 how -- you're trying to determine how to -- how to catalog
14 this information, and you mentioned with the permit, would
15 it be housed as a -- as a piece of the existing Land
16 Quality permit for the facility, the mining permit?

17 MR. SCHIERMAN: Chairman, Board Member
18 Dinsmoor, that's the intent, it would come into one binder,
19 right? So one application. It would just be those
20 informations that are required for a source material
21 license, would be also contained in there. And then we
22 would be reviewing those -- those items specifically within
23 our department. And that's a challenge we have right now,
24 is trying to identify and piecemeal it out so it's
25 efficient and we can move through that application. There

1 will have to be some internal workings with LQD in saying
2 how we move forward with the permit to mine.

3 One thing I would say too this is -- well,
4 probably get to this in the rules, you'll see this, but we
5 also stated that, you know, a permit to mine has to be
6 issued before a source material license would be. We don't
7 want to issue any type of source material license before
8 they have a permit to mine, right? We don't want them to
9 do any disturbances. They have to have that before they
10 can have that radioactive material.

11 Now, that being said, can they be given
12 concurrently or at the same time, but can't have one
13 without the other. The only need to bring this up -- the
14 reason I'm bringing it up this morning, is you'll see it
15 reflected in these rules, there is scenarios where source
16 material license is all that's required. And all -- I'll
17 explain a little bit.

18 If we look in Utah, there's an example a
19 facility. If you look at White Mesa Mill, they're a toll
20 mill company, so they have a number of different mines, and
21 they don't have any mines on their license area. They just
22 receive orders from a number of different mines. So all
23 they have is a source material license. If someone was --
24 currently we do not have that within the state. All of the
25 uranium companies must have a permit to mine, but there is

1 instances where a toll mill could be potentially put into
2 place, at which point they would not have a permit to mine
3 because they're not mining. They solely have the source
4 material license, and we would have to work -- they'd be
5 subject to the same requirements we have here, but we'd
6 have to work independent of them on a case-by-case basis.
7 When that came in, we'd have to talk how we review that
8 requirement, that source material license.

9 BOARD MEMBER DINSMOOR: So it is
10 conceivable to have a mining permit without a radiation
11 license?

12 MR. SCHIERMAN: If you're not in uranium
13 stuff, yes.

14 BOARD MEMBER DINSMOOR: Well, in uranium.

15 MR. SCHIERMAN: So it's conceivable to have
16 a source material license without a permit to mine.

17 BOARD MEMBER DINSMOOR: The opposite.
18 Okay.

19 MR. SCHIERMAN: Yes, but not a permit to
20 mine without a source material license.

21 BOARD MEMBER DINSMOOR: Okay.

22 MR. SCHIERMAN: Okay. And with that, I
23 guess I'll go piece by piece.

24 Okay. So the purpose comes from -- it's similar
25 to 10 CFR 40.1. And I would say after this is done, after

1 we've gone through this, we have been providing you kind of
2 like a walk-through that has the codified language. I'll
3 provide those to you after we go through this. They'll go
4 into your binders. I'll probably place them for you so you
5 know where they go, things of that nature. Okay?

6 The scope. Scope is talking about some of the
7 items that, you know, who's this going to apply to. And
8 Item D, which talks about basically UMTRCA and Title I,
9 Title II sites. When I say Title I, Title II -- I guess
10 this is more of an educational component to this. Back
11 when UMTRCA, that's the federal regulations, Uranium Mine
12 Tailings Radiation Control Act, happened. Before that
13 tailings weren't really governed, if you will. Okay?
14 Tailings from uranium mines were used for -- if you lived
15 in like the Grand Junction area, they were used for road
16 fill, used for building supplies, they were used in
17 housing, things likes that.

18 They noticed health effects from the use of these
19 tailings, and it prompted EPA to basically -- NRC elected
20 to go with this UMTRCA ruling, at which point they set up
21 what is referred to as long-term care and maintenance. So
22 if you look at conventional mills, even though that's not
23 the used technology today, most of it's in-situ with the
24 conventionals. Once they terminate a license, they move
25 into what is referred to as long-term care maintenance.

1 That land is transferred to DOE to basically take care of
2 and monitor for the lifetime of that project. They own the
3 property, they have it fenced off, et cetera, et cetera.

4 At the time -- the preUMTRCA sites, so sites that
5 were existing before they passed this law, are referred to
6 as Title I. Okay? And Title I sites are those that the
7 federal government paid for the cleanup to meet those
8 standards that are in UMTRCA. Okay? Here in Wyoming we
9 have two Title I sites that have been reclaimed. There's
10 one from Riverton and one in Spook. Spook, Wyoming.

11 Title II sites are after legislation. Those are
12 conventional mills that will have to have a long-term care
13 and maintenance after reclamation. And we have a number of
14 those in the state. Some of them are farther along than
15 others. If you're familiar with the Gas Hills region, you
16 have, you know, Lucky Mack, Umetco. You also have like
17 Split Rock. There's a number of these sites that are in
18 some phase of reclamation, decommissioning. And then you
19 also have sites that are in standby, such as the Sweetwater
20 site up in -- close to Rawlins.

21 All the sites will be considered Title II at some
22 point, and so those provisions in here, in B, are required
23 per NRC as in compatibility A. Okay?

24 C is pretty much boilerplate language. The
25 incorporation by reference we did Appendix A. And I'll get

1 into those later.

2 Also, there's a component of deliberate
3 misconduct. We just covered, you know, when you send in an
4 application that the application has to be factual, you're
5 not, you know, misrepresenting what you're actually wanting
6 to do, not -- you have to provide a factual application to
7 us. And it sets those requirements as what considered --
8 what is considered deliberate misconduct and what's not.

9 And that is going to be a Capability C from the
10 NRC, which means we have to have some kind of standard, but
11 it doesn't necessarily have to be exactly like NRC. It has
12 to be -- capture the same essence of their law.

13 Filing an application, moving on to Section 5.
14 There's two parts at the beginning I see here. One is that
15 we state in here that a permit to mine source material
16 license can be combined for one submittal to DEQ. Okay?
17 The other thing is put out, you know, it talks about how to
18 send that information in here. There's a -- there's an
19 avenue -- I know the state is moving -- or has been trying
20 to move more to an electronic basis for permit application.
21 We do still maintain the avenue for them, but I don't know
22 if we're to the point where we can accept all applications
23 electronically or we're still far from that. But we wanted
24 to preserve that in the rules so we don't have to come back
25 and say we want to move to electronic, now we have to

1 change all these rules. So we maintain that.

2 Exemptions from the regulatory requirements.

3 Now, these, for the most part, are going to be required by
4 NRC. A lot of these are going to be -- have to do with,
5 you know, those activities that NRC requires that agreement
6 states exempt. Some of those examples, DOE facilities,
7 federal facilities, things like that, they require that the
8 agreement states exempt them from our licensing processes
9 and that they maintain their own. Does that make sense?

10 CHAIRMAN GAMPETRO: I would just say the
11 .05 is misleading. That would be .0005. .05 percent --

12 MR. SCHIERMAN: Oh, yes. The 1/20th of
13 1 percent?

14 CHAIRMAN GAMPETRO: Right.

15 MR. SCHIERMAN: .05 -- this -- again, we
16 get into this -- I'll go double-check that just to make
17 sure again.

18 CHAIRMAN GAMPETRO: Yeah. That's like --

19 MR. SCHIERMAN: NRC's language for these
20 things, like source material, how they define source
21 material, they require we follow their definition exact.
22 And I will -- at a break I'll double-check that real quick,
23 if you're all right, Mr. Chairman, and I can show you where
24 that definition is housed and make sure I didn't miss a
25 zero when I put -- I'll double-check that.

1 BOARD MEMBER DINSMOOR: I have a question.
2 Before the -- before the previous question, you had said
3 that there was a -- you were giving a specific example, and
4 I didn't understand it. Now I can't remember what the
5 issue was.

6 MR. SCHIERMAN: Chairman. Board Member
7 Dinsmoor, so if you're familiar with like -- the best
8 example I would look at is if you're familiar with like the
9 Idaho National Laboratory. It's a federal institute. They
10 reserved that. If they have some of our material, per se,
11 on that site, that we would not govern that. We would not
12 be involved in the licensing of that. NRC would work with
13 DOE in regards to those types of materials, that we don't
14 engage on those -- those types of sites. Does that make
15 sense?

16 BOARD MEMBER DINSMOOR: Yep. Thank you.

17 MR. SCHIERMAN: So the other item is --
18 yeah, so there is the exemptions for material. It has to
19 fit a certain category before it's actually regulated. As
20 Chairman Gampetro is pointing out, the 1/20th of 1 percent,
21 you know, make sure your source material is below all that,
22 it's not regulated, it falls under a limited quantity.
23 It's not regulated by us, so it has to be at that threshold
24 in order to be called source material or be regulated by
25 us. Okay?

1 The other items in here, that 10 CFR 40, is the
2 prelicensing of construction. No construction before a
3 license is permitted. We did leave the item in there for
4 discretion for the administrator to basically grant
5 exemptions from this in the cases that may warrant such --
6 they can apply for additional items for construction,
7 things like that. Okay?

8 Section 8 just leads the general how we'll
9 actually review a license and what are the things that have
10 to be -- have to be achieved by a license in order for us
11 to pass on it. Okay?

12 I would say I don't necessarily want to go
13 through each of those. I'll let you guys read these and
14 bring up questions. But Section 9 is what is required
15 specifically within this license. What are those technical
16 items that are required. Okay?

17 BOARD MEMBER MACKER: Ryan?

18 MR. SCHIERMAN: Yeah.

19 BOARD MEMBER MACKER: Hi. Natalia. I have
20 a question about Section 9 when you're ready to have
21 questions about it.

22 MR. SCHIERMAN: Okay. Go for it, Natalia.
23 I'll take it now.

24 BOARD MEMBER MACKER: I'm on page -- page
25 4-8. The A, B, C, D kind of bottom page where it just says

1 significant expansion. It uses the word "significant."

2 And I'm just wondering if we could hear from you how that's
3 determined --

4 MR. SCHIERMAN: Okay. You're going to have
5 to --

6 BOARD MEMBER MACKER: -- with significant.

7 MR. SCHIERMAN: Okay. Natalia, can you
8 help me real quick where -- okay. All right. Yep.

9 So the reason why I think significant is in
10 there, significant expansion of the site, significant
11 change in the time of release, significant increase in the
12 amount of release, was I think intentional and I gave
13 discretion to the department as to determine what is
14 significant. When you go in and try to decide what a
15 significant expansion of a site is, that's some -- I mean,
16 there's two schools of thought. One is you put a fixed
17 standard that says, what, 10 percent is a significant
18 expansion, or do you leave that to discretion of the
19 department to determine. I think when we're writing these,
20 we felt that we wanted to maintain that discretion with the
21 department.

22 And I would ask if Eva is still on the line, are
23 you in line with that, since you participated?

24 I can consult with Eva too, see if she's okay
25 with that explanation, or if she wanted to add more.

1 MS. LA: I'm still here, Ryan, and I think
2 that's -- that's correct.

3 MR. SCHIERMAN: Okay. So it is more to
4 maintain discretion for us. We don't have necessarily a
5 fixed value for significant. It's more of so we can
6 determine within the department, have that ability to mold
7 or change.

8 MS. LA: And, Ryan, to add on to that,
9 Mr. Chairman and Board Member Macker, I think that the
10 point of this is that every situation, what constitutes
11 significant may vary depending on the facts of the certain
12 circumstance. So the language "significant" really -- and
13 that ability to have discretion over what constitutes
14 significant will vary, obviously, depending on an exact
15 situation.

16 BOARD MEMBER MACKER: Thank you.

17 MS. LA: And, Ryan -- sorry. Go ahead.

18 BOARD MEMBER MACKER: And just in my mind,
19 a licensee -- an operator applies for an amendment --
20 everyone has to apply for the amendment, and the department
21 decides if it's significant enough to require these
22 additional steps?

23 MR. SCHIERMAN: Chairman. Board Member,
24 would you repeat that? Would you repeat that one more
25 time? I'm sorry.

1 BOARD MEMBER MACKER: Every operator
2 regards -- would have to make the amendment request and
3 then the department would determine if the amendment
4 request was significant enough to require the additional
5 steps?

6 MR. SCHIERMAN: Chairman. Board Member,
7 agreed. For amendment or change to the amendment,
8 everybody would have to file for that amendment and then we
9 would make the determination on that significance.

10 BOARD MEMBER MACKER: Great. Thank you.

11 MS. LA: Hey, Ryan, one more thing since
12 I'm on the phone and talking now. The question that was
13 raised earlier regarding the 0.05, and you indicated you
14 would look it up on break. For time purposes, I have that
15 reference in front of me, if it would be helpful.

16 MR. SCHIERMAN: Is it 0.05?

17 MS. LA: Yes, it is correct in accordance
18 with NRC's definition of source material. And I have the
19 citation to the federal regulation, if that would be
20 helpful.

21 CHAIRMAN GAMPETRO: It's not correct
22 mathematically --

23 MR. SCHIERMAN: Yes.

24 CHAIRMAN GAMPETRO: -- because they did not
25 put a percent after the .05, 1/20th of 1 percent is

1 .05 percent. And if you put the percent sign after it,
2 then it's accurate. Otherwise it's .0005.

3 MR. SCHIERMAN: Chairman, I agree with you,
4 mathematically it's not correct. However, does it --
5 basically is NRC correct in their publishing? No. Are we
6 correct with NRC in their publishing? Potentially yes.
7 We model them that way, yes.

8 MS. LA: Ryan, just a second. The
9 definition in 10 CFR 170 does have the percentage sign in
10 parentheses following 0.05. So if that was the concern, I
11 recommend we put the percentage sign in there. If it's a
12 different concern with regard to how the -- the fraction is
13 or percentage is, then I think that our -- that we are --
14 but if it is a concern with inserting the symbol, the
15 percentage symbol in the parentheses, I would recommend
16 that we can definitely do that to be consistent with the
17 definitions that the NRC has provided.

18 MR. SCHIERMAN: Perfect. Consider it done.

19 MR. WENDTLAND: Chairman and Board Member
20 Macker, in addition on this question of significance, it
21 kind of ties back to the discussion we had earlier, where
22 you may have a licensee that has multiple project sites
23 versus a licensee that has one project site. That level of
24 significance would be different for each of those
25 scenarios. And the division is trying to maintain a

1 flexibility to address that variability.

2 CHAIRMAN GAMPETRO: It would be --

3 BOARD MEMBER MACKER: Okay. Great. Thank
4 you.

5 CHAIRMAN GAMPETRO: It would be very
6 difficult to state a percentage --

7 MR. SCHIERMAN: Exactly.

8 CHAIRMAN GAMPETRO: -- if you're dealing
9 with a very large site compared to a very small site.

10 So how would you state it? In square footage or
11 what? So I think that discretion is necessary in order to
12 go forward.

13 MR. SCHIERMAN: Chairman, I agree
14 completely with you on that, so...

15 Okay. Moving forward with these. Sorry. And
16 Chairman -- Board Member -- was there any other questions
17 in regards before I start moving on again?

18 BOARD MEMBER MACKER: No. Please continue.

19 BOARD MEMBER DINSMOOR: I'd like to follow
20 up on Chairman Gampetro's comment. Consistency is going to
21 be a real issue now, and I suspect over time the agency
22 might consider guidance documents to help in that regard
23 for the very reason that you said. It could get -- it
24 could get kind of ugly.

25 MR. WENDTLAND: Chairman and Board Member

1 Dinsmoor, we've actually parallel tracked starting
2 developing the guidance. As you got the first rule
3 package, we then started guidance documents, so we're
4 building those in conjunction on the parallel track, such
5 that when the final application, final commission paper is
6 made, you'll have the statute language correct with the
7 authorities. It will have rules and regulations and we
8 will have the guidance documents all as part of that final
9 package.

10 BOARD MEMBER DINSMOOR: Good. Foresight in
11 there.

12 MR. SCHIERMAN: And the other way this
13 chapter is laid out, we said what's required in the
14 license, but then we also said in Section 10 some of those
15 operational requirements. So if you're operating license
16 or in standby and you have a license, there's some things
17 you have to do in order to maintain the license. There's
18 some requirements for reporting, and we try and outline
19 some of those reporting requirements. There's some of the
20 things you have to do in order to hold a license. Okay?
21 Those are outlined in Section 10.

22 Section 11 talks about expiration and
23 terminations of licenses. So this is an interesting
24 section. One is that -- just so -- typically, how NRC
25 views a license is a license is in effect for 10 years.

1 Okay? So they give a 10-year license for you to have this
2 material. At that 10-year period, you have to reapply for
3 your license and send in a new application, and they issue
4 you a new license. Okay?

5 What this has to deal with, this section, is what
6 is that process? One, requiring operators before they're
7 licensed -- their license will have the same terms as NRC's
8 for us, we'll recognize that and maintain 10-year terms on
9 those -- is that they were required, if they want to
10 continue with that license, to renew it in a certain time
11 frame. I think we say -- and I could be wrong. I think
12 it's 30 days, but it could be 60. It's in the rules. But
13 60 days prior to the license they have to send in or notify
14 of a renewal, if you will.

15 If that does not occur, and you do not plan to
16 renew a license, you have to move into decommissioning and
17 terminating. Your license doesn't end. You basically at
18 that point are not producing, you're working on cleaning
19 up.

20 The other actions in here, whereas NRC has
21 required that you send multiple volumes, you know, these
22 renewal packages. So you understand, an application for
23 license is probably a good 8-, 4-inch binders across, you
24 know. Lots of material that they're doing. Every 10 years
25 they're sending in that exact same material. What we've

1 suggested in our rules, and you'll see this as reflected,
2 is that instead of having them resubmit all that
3 information, we will open up those permits to bring them
4 current to their current operations, basically make sure --
5 we'll review the entire permit, make sure it reflects their
6 current operations, that they bring in any of their
7 environmental data or production data to bring their design
8 objectives up to speed with what they are today. And then
9 any industrial standards that have been passed or codified
10 and make sure that their applications meet those industrial
11 standards instead of them resubmitting the entire volume of
12 records that I don't know if DEQ in general could handle
13 the volumes of those types of records, so --

14 BOARD MEMBER SHOBER: Mr. Chair.

15 CHAIRMAN GAMPETRO: Yeah.

16 BOARD MEMBER SHOBER: What happens with a
17 change of ownership? Is it -- is there another part in
18 here that deals with change of ownership?

19 MR. SCHIERMAN: Uh-huh. Chairman. Board
20 Member, they are -- there is a -- it talks a little bit
21 about the transfer of a license to a different owner within
22 this. One of the things to be set forth is they have to
23 maintain those same requirements that are within the
24 license. They have to follow those same license
25 conditions.

1 The other thing that's in here and may be a
2 little different, and I'm not sure, it could be the same,
3 but is the department has to basically approve those
4 transfers, make sure that company basically is legitimate,
5 and that they can meet those same requirements that are in
6 that license.

7 To point you exactly, I'd have to look through
8 the rules and point to the section, but it -- we do talk
9 about transfers of licenses within these -- within this
10 chapter.

11 MR. WENDTLAND: Chairman and Board Member
12 Shober, any transfer of the license is going to also
13 require transfer of the bonding, transfer of the corporate
14 tree, corporate ownership, you know, the adjudication file,
15 and that would all fall under that type of transfer.

16 BOARD MEMBER SHOBER: Okay.

17 CHAIRMAN GAMPETRO: Phil?

18 BOARD MEMBER DINSMOOR: Yeah, I see under
19 D, and I couldn't -- I didn't detect this anywhere else,
20 but this is all happening -- this renewal, if you will, is
21 happening in no less than 30 days. And -- and the way you
22 described it, it could be an incredible amount of
23 information for the division to review. And so my question
24 is, is there a provision here for some sort of
25 administrative or permit shield sort of opportunity in

1 case -- any number of things might happen that would
2 prevent a 30-day or appropriate window from that.

3 MR. SCHIERMAN: Chairman Gampetro, Board
4 Member Dinsmoor, you're correct. We would follow a similar
5 structure that NRC has. That notification for renewal has
6 to be done 30 days before. Okay? Not necessarily has to
7 be approved at that point. They basically have to say
8 we're renewing our license 30 days before. What happens is
9 then they will be given like a clause or I don't know how
10 to describe it best, but their license stays in effect that
11 while that renewal is undergoing. That's the way the NRC
12 operates. You know, usually they will have a renewal that
13 will come in, say we want to renew, they'll take NRC a good
14 two years or so to get through that renewal in effect.
15 That license is still -- they're still operating in that
16 license that has expired. There's just been acknowledgment
17 that carries in effect until -- until they finish their
18 review.

19 I think the biggest thing, there has to be that
20 notification then they want to renew 30 days before their
21 license expires.

22 BOARD MEMBER DINSMOOR: Could that
23 notification be made two years before expiration?

24 MR. SCHIERMAN: Sure.

25 Okay. Moving on, if we move to Section 12, this

1 is where we talk a little bit more about that renewal, what
2 we're proposing to do. Like I said, we want to ensure the
3 application accurately reflects current operations,
4 incorporates change to industrial standards codified in the
5 regulations and incorporates operational data to accurately
6 set design objectives.

7 When we say that, I know that may be ambiguous to
8 some. Basically, we want them to incorporate any of their
9 environmental monitoring data to set what their expected
10 design objectives should be. So if you look at an
11 application, they're required to submit those effluent
12 data, but there should be some sort of this is the region
13 should be operating in, or this is what the expected
14 results are. Once they have 10 years of experience, they
15 should be putting that background information into their
16 application, basically.

17 Section 13 is basically -- handles amendments to
18 a license. The clause in there is they have to request an
19 amendment from us, and at that point we will review that
20 amendment based on those criteria that are set for
21 reviewing an application. Okay? So we're going to use the
22 same process to look at amendments as we will an
23 application, make sure it meets these certain standards, if
24 you will.

25 Chairman.

1 CHAIRMAN GAMPETRO: I had one. One back.
2 This would be on 4-13, (f)(iii). Okay? On the termination
3 of a situation, remove the radioactive contamination to the
4 extent practicable. I would assume you're talking about
5 the facility and not the borehole --

6 MR. SCHIERMAN: I see.

7 CHAIRMAN GAMPETRO: -- because you can't do
8 that.

9 MR. SCHIERMAN: Nope. And, Chairman,
10 that's correct. Any external contamination from the site,
11 on the surface, removing as much as you potentially can at
12 that point. There may be residual, but you need to make
13 sure it meets those release criteria, certain standards,
14 things of that nature. But the borehole and the ore where
15 you're mining, it is what it is. There's no real cleaning
16 up the ore body. So -- unless you mine it. Unless you
17 keep mining it, right? I guess that potentially could
18 happen.

19 Okay. No licenses -- Section 14 deals a little
20 bit about the transfer, also modification and revocation.
21 I think transfer was in here. And it may be in the front
22 part. I'm sorry. It looks like it is in the front part.
23 But this is basically just modifications. What we do if we
24 had to revoke or modify a license for noncompliance, things
25 of that nature, basically that we can revoke or suspend or

1 modify a license.

2 Section 15 is our public notice section. I will
3 say that there potentially -- in the come around -- so we
4 didn't -- our first publication of this -- and I'm going to
5 get some backstory so you guys understand this.

6 In the versions you guys have with the public
7 participation, there was the requirement that any licensing
8 action moved to a -- move to a hearing. Okay? So that's
9 what was required. Where that came from was there was --
10 there's NRC guidance on how to put together an NRC
11 agreement for an agreement state, and that's going to be
12 the handbook for processing agreement. And NRC standards,
13 in that guidance, they say every licensing action has to
14 have a public hearing. However, that is not the protocol
15 the NRC has laid out. They have laid out -- if you go back
16 and look at what the handbook was based on, which is the
17 Atomic Energy Act, it basically says it has to be an
18 opportunity for public hearing.

19 So in the versions that you guys have, it says
20 that it will -- public hearing will occur on every
21 licensing action with cross-examination and everything
22 else. We are moving more towards what the Atomic Energy
23 Act, after consultation with the NRC, it looks like their
24 guidance may not be reflective of the Atomic Energy Act,
25 such that we have opportunities for public hearings. So

1 when we publish these again for you guys, there will be a
2 slight change to these. That's what I'm trying to get to
3 you guys now is we have the revisions such that there will
4 be an opportunity, if requested, for public hearings. But
5 that has to be requested. It's not an automatic thing.
6 Okay? Does that make sense? Did I cover that or am I over
7 your guys' head?

8 Okay. Section 16 is going to talk about your
9 decommissioning requirements. What's required per
10 decommissioning. And it goes through there some of the
11 things they have to do. Obviously, they have to
12 demonstrate there's no -- that the residual radioactivity
13 on the -- the plant -- or on the ground is below certain
14 limits.

15 And, Chairman, you have a question?

16 CHAIRMAN GAMPETRO: Section B(v), page
17 4-18, NRC has made a determination that all applicable
18 standards and requirements have been met. Will they send
19 someone out to do that? Will they have our guys do that?
20 What's the story on that?

21 MR. SCHIERMAN: So with an agreement
22 state -- so with determination of license, the process is
23 that NRC has final say whether a license can be terminated,
24 et cetera, et cetera. And my understanding on this is when
25 we get to the point we have the rules in place for

1 decommissioning, we make sure all those are met. We send a
2 package up to NRC, at which point they then review that
3 package, make sure that the State has followed its own
4 protocols and own standards. And if so, then it's more
5 like a concurrence, if you will. They concur with the
6 State this license can be terminated. But NRC does have
7 ultimate sign-off of termination of a site for release --
8 unrestricted release.

9 Does that answer your question, Chairman?

10 CHAIRMAN GAMPETRO: Yes, it does. Thank
11 you.

12 MR. SCHIERMAN: So then moving on. Part of
13 decommissioning in Section 17 outlines what decommissioning
14 plan is. So I guess I'll try to give some history and --
15 on this, and why it's important that there's a
16 decommissioning plan.

17 So there is -- so when you go to decommissioning,
18 you have to outline how you're going to go for
19 decommission. If you look at 10 CFR 40, the requirements
20 are such that you have to basically reclaim 24 months after
21 your operation. Right? So it says if you -- if you cease
22 production, you have 24 months to basically reclaim the
23 site.

24 For these sites, it is not -- especially with ISR
25 facilities, due to the groundwater cleanup, et cetera, et

1 cetera, the two-year window is not practicable. They can't
2 meet that two-year window. The baseline and stability of
3 waiting after they've cleaned up the water, they have to
4 let it, you know, sit there and stabilize, and that two-
5 year time frame is not -- is not practicable.

6 What they had it designed for is all the other
7 sites that deal with radiological material and even
8 conventional sites, right? They don't have rules that are
9 specific to ISR. So what the federal requirement is, and
10 the standard has been, is ISRs can't meet that deadline, so
11 they have to, by default, send in a decommissioning plan or
12 a scheduled -- alternative decommissioning schedule that
13 outlines how they're going to meet their decommissioning
14 requirements.

15 And so that's why there's this decommissioning
16 plan in place. They can't meet that two years, so they
17 have to basically send in a requirement -- or it is a
18 requirement they send in an alternate schedule and say
19 how -- what's the time frame for the decommissioning
20 because they can't meet that two years.

21 And it's kind of a silly thing because, in
22 essence, we have rules that they can't meet, right?
23 However, there is a capability issue with those 10 CFR 40.
24 I know there's a movement to try to change those 10 CFR 40,
25 but we felt as an agreement state, we fall in line with the

1 capability and when those move -- federally, when those get
2 changed, then we can change our program. We don't want
3 those to be a holdup in our process, so we'll follow that
4 same thought process such that alternative decommissioning
5 schedules are sent to us.

6 Chairman?

7 CHAIRMAN GAMPETRO: In the 15 years I've
8 been doing this, I've seen yellowcake at \$14, and I think
9 it was at 70-something at one time.

10 MR. SCHIERMAN: Uh-huh.

11 CHAIRMAN GAMPETRO: As our guest indicated,
12 this is a very variable situation. What if you wanted to
13 not produce because it's not economical, but not close it
14 down. Is that two years enough to make that decision?

15 MR. SCHIERMAN: Chairman, there is a
16 possibility to the extent -- in these rules that outlines
17 the ability to be put on standby, if you will. To move
18 into standby operations. And what you do with that,
19 basically you have to demonstrate there's no harm to the
20 public by doing such. It's not affecting, you know, things
21 of that nature. And then a decision can be made that you
22 move into standby, if you will, for that matter.

23 CHAIRMAN GAMPETRO: Thank you.

24 MR. SCHIERMAN: So it's in the rules. I
25 can go back and find that, but I just want to give a

1 general overview of these.

2 BOARD MEMBER DINSMOOR: Mr. Chair. As
3 follow-up, I would assume that in standby certain
4 monitoring obligations persist, probably bonding
5 obligations persist, reporting obligations persist, those
6 kinds of things?

7 MR. SCHIERMAN: Chairman. Board Member
8 Dinsmoor, correct. It would be acting like they have an
9 active license. Those requirements require semi-annual
10 effluent reports and to do the certain monitoring we'll
11 still standby --

12 CHAIRMAN GAMPETRO: Sampling well.

13 MR. SCHIERMAN: -- sampling wells, stay in
14 effect. And the only way to potentially get away from this
15 is maybe if they're really truly on standby, maybe the
16 operational monitoring let's say frequent, nobody in the
17 building, they've locked it up, they may not have to go
18 sample that building on a monthly status because there's no
19 one in the building. You know, those things may change,
20 but it's those requirements for effluence, for reporting,
21 all those things, will retain or stay the same since --

22 BOARD MEMBER DINSMOOR: If those things
23 change, will they change in rule, and, therefore, will
24 there be opportunity for comment? Input the program?

25 MR. WENDTLAND: Chairman and Board Member

1 Dinsmoor, any time we would impact the rules, to a change,
2 it would require review by the board and process, you know,
3 DEQ, public participation will be part of that process.

4 BOARD MEMBER DINSMOOR: Those levels of
5 things that Ryan was talking about are in rule --

6 MR. SCHIERMAN: Chairman. Board Member
7 Dinsmoor, some of those items are -- the way the rules are
8 set in the guidance is -- like a lot of times those
9 requirements are -- let's say the frequency of monitoring
10 or operational people, right, set by guidance. What
11 happens is in the licenses that they'll have that you'll
12 adhere to the Regulatory Guide 8.30, for example, right,
13 which lays out the standard for the frequencies. And the
14 frequencies in there set such that -- it's concentration
15 based, right? So if you have this concentration, then you
16 have to do it this frequently. If it's this concentration,
17 it's this frequently. One can argue -- make the claim if
18 you're not operating, you're not doing these items, that
19 concentration is lower, so it requires this sampling
20 frequency. And it would be down to that. It wouldn't
21 necessarily be through changes in the rule. Does that make
22 sense?

23 But the major items, effluence, those things that
24 affect public health, those are -- the same requirements
25 are still going to be there.

1 So with that said, I guess I just want to make
2 sure real quick. Those are -- those are the gist or the
3 primer on this document. I would entertain any further
4 questions from the board, I guess even members of the
5 public have.

6 CHAIRMAN GAMPETRO: From the public, any
7 further questions or comments?

8 MS. ANDERSON: Sure. Thank you,
9 Mr. Chairman.

10 Again, Shannon Anderson with Powder River Basin
11 Resource Council.

12 You know, one of my main questions actually deals
13 with Section 15, which is the public notice and hearing
14 part of the proposed rules. And specifically the hearing
15 components -- and this may be more of a question for your
16 Attorney General, but it looks like there's both an
17 opportunity for public comment and for a contested case
18 hearing.

19 And so, you know, for those that are not familiar
20 with those processes, they're very different. One is, you
21 know, where you actually go as a member of the public,
22 similar to what I'm doing today, and you provide comments
23 and you leave, and that's the end of the piece. The DEQ
24 then responds to those comments.

25 The other is more of the cross-examination part

1 of it. And so it is somewhat confusing that under
2 15(a)(iii) there's both the opportunity for
3 cross-examination and an opportunity for the public to
4 comment and be heard. Again, because I think that's --
5 they're two different types of hearings, and I just want to
6 make sure that DEQ is informing all of us on what kind of
7 hearing they're going to hold.

8 And then the other part that I have a question --

9 CHAIRMAN GAMPETRO: Let's get a response on
10 that one first.

11 MS. ANDERSON: Sure. Yeah.

12 MR. SCHIERMAN: Eva, would you like to
13 answer that?

14 MS. LA: Yeah, I can answer. I'm having a
15 little bit of difficulty hearing. And I hate to do this,
16 but can Ms. Anderson please repeat? I got -- I got an idea
17 of what she said. I wanted to make sure that I'm really
18 sure on what the question is so I can answer. I think I
19 have the general gist. It's just kind of hard to hear over
20 the phone. So I hate to make her repeat herself, but if
21 she could, please, that would be help for me.

22 MS. ANDERSON: Okay. Mr. Chairman, thank
23 you.

24 Yeah, I've moved a little bit closer. Can you
25 hear me better now?

1 MS. LA: Yes. That's perfect. Thank you.

2 MS. ANDERSON: Okay. So this is
3 Section 15(a)(iii), and it's dealing with, you know, the
4 requirements of the hearing. And there's A, which is the
5 opportunity for cross-examination, which is more like a
6 contested case hearing. And then there is romanette -- or
7 the (c) there that's the opportunity for the public to
8 comment and be heard.

9 So my question is, really, what type of public
10 hearing DEQ anticipates? Is it a hybrid proposal? Is it
11 both? I know that NRC typically does, because I've been
12 involved in these, you do an intervention, where it is a
13 contested case hearing, but there's also what's called a
14 limited appearance statement, where individuals can submit
15 for the purposes of being heard, just at that time, in a
16 very limited manner, public comments either at the hearing
17 or in writing before and after. So I just wanted to know
18 if DEQ has thought about that and maybe would want to spell
19 it out a little bit more in the rules so people are clear
20 about what the opportunities for public involvement are.

21 MS. LA: Thank you very much. That was
22 helpful.

23 So in responding to your question, Mr. Chairman,
24 and board members, Ms. Anderson, it's important to
25 understand some of the background, sort of why we included

1 this specific language in this specific section. So,
2 obviously, the contested case rules under the Wyoming APA
3 would obviously still apply to DEQ and any -- at any
4 contested case matters that arise before the DEQ.

5 Why this section is in here is -- is it's -- the
6 NRC, in order to become an agreement state, has capability
7 requirements above and beyond what is provided in our APA
8 for contested case matters. We have to give the
9 opportunity for a cross-examination, in addition to the
10 other two things listed there. So it's kind of a hybrid
11 where we're obviously required to follow the APA, but on
12 top of it we have these other more stringent requirements
13 required by the NRC in order to even stand up our program.
14 So that's why those are in there.

15 Did that answer your question, Ms. Anderson?

16 MS. ANDERSON: Sure. I'm still very
17 confused I think in terms of what a member of the public,
18 who just wants to, again, I think appear and comment and be
19 done with it and not actually go through a hearing, just to
20 make sure that they have that right under this proposed
21 rule.

22 MS. LA: Yes. And I would direct you to
23 subparagraph (iii) and large C. Under that section, I
24 believe that a member of the public who requests a hearing
25 and just wants to comment would be able to do -- would be

1 able to do so. Obviously, they have to request the -- the
2 contested case hearing in this situation. They don't have
3 to go through an entire cross-examination of witnesses.
4 It's just that we have to provide them that opportunity if
5 they would like to take it up.

6 MS. ANDERSON: Okay. Mr. Chairman, that
7 makes sense. And maybe we'll figure this all out when it
8 actually starts happening. But I am very familiar with the
9 way the NRC does things, and this is a little bit, as you
10 mentioned, a hybrid with the Wyoming process and what maybe
11 NRC currently does.

12 And then my other question on this section is the
13 role of the Environmental Quality Council in all this. I
14 do see under (d), that there is the opportunity for appeal
15 to the Environmental Quality Council of the decision. I
16 assume the decision is of the hearing. So who's carrying
17 out the hearing if it's a contested case hearing for the
18 Department of Environmental Quality?

19 MR. WENDTLAND: Eva, did you get all that?

20 MS. LA: Yes. So let me -- sorry. Give me
21 a second. I'm trying to go through this section to make
22 sure I can answer her question fully.

23 MR. WENDTLAND: You bet. Just wanted to
24 make sure we didn't lose you.

25 MS. LA: Okay. I'm sorry. I apologize. I

1 want to take a couple minutes, and I want to go back to
2 your first question, Ms. Anderson, because I think I know
3 where the confusion is, and I might have a -- so everything
4 I have said with regard to case matters under the APA is
5 correct. It still applies. This specific question under
6 (iii) applies to hearings before the Department, not
7 hearings before the EQC. So the opportunity for
8 cross-examination and public comment is before the
9 Department.

10 Now with respect to contested case hearings under
11 the EQC -- under the APA, the Wyoming APA, that would be
12 before the EQC. So I think that's where the confusion
13 lies, and I just want to clarify that romanette --
14 Section 15(a)(iii) pertains to hearings before the
15 department. The Wyoming Administrative Procedures Act and
16 the contested case rules will still apply, and those are
17 always, as you're aware, Ms. Anderson, before the
18 Environmental Quality Council.

19 CHAIRMAN GAMPETRO: Does that answer your
20 question?

21 MS. ANDERSON: Thank you, Mr. Chairman. It
22 does. I just want to make sure the Department is aware of
23 that because that is a different kind of hearing than I
24 think the Department typically carries out. And I assume
25 it would be Mr. Wendtland at the podium in front carrying

1 out a contested case hearing, effectively, with
2 cross-examination. So if that is your intent, I just want
3 to make sure that you're aware that that's what it will be.

4 MS. LA: And this is the -- and I believe
5 we -- the DEQ, as well as our office, have discussed this,
6 as well as conversations with the NRC, and as -- as this is
7 a capability requirement, there really isn't an option to
8 not have these types of hearings before the Department.
9 It's required in order to stand up the program. So you're
10 right, Ms. Anderson, that they're a little bit different.
11 Sometimes there -- I think that the rules provide this for
12 hearings before the Department, but this gives a little bit
13 more detail with respect to cross-examination.

14 MS. ANDERSON: Yeah, Mr. Chairman. I would
15 just add that NRC, of course, has the Atomic Safety and
16 Licensing Board, which is a board that actually carries out
17 these kind of hearings. It's not a single member of the
18 department or staff. It's actually separated from the
19 staff of the department, similar to the Industrial Siting
20 Council or other councils within the department that carry
21 out these kind of hearings.

22 So I would just -- again, this is -- I think it
23 would be unusual for the staff to actually oversee, you
24 know, essentially hearing related to the staff's work in
25 large part, and how -- you know, I don't know if

1 Mr. Wendtland would feel comfortable, you know, dealing
2 with cross-examination kind of situation where, you know,
3 again, you're going to have attorneys and experts and the
4 whole game going on. This is what those Atomic Safety and
5 Licensing Board hearings are like. Having been through
6 one, you know, it's three days of hearings. It's not a
7 simple, you know, you go up and talk for a couple of hours
8 and go home. So I just want to make sure you're aware of
9 all that. Thanks.

10 CHAIRMAN GAMPETRO: Thank you.

11 MR. HULTS: Mr. Chairman, if I might. The
12 Department itself would also -- and this is kind of
13 directed to Eva. Wouldn't the Department have the ability
14 to consult with the Office of Administrative Hearings, if
15 there was something of a large nature, to bring in a
16 hearing officer, if needed?

17 MS. LA: Craig, you're absolutely right.
18 That is -- that is an option for the Department. And I
19 also just want to clarify that it's not necessarily a
20 hearing just before Mr. Wendtland. I think that it's --
21 that it could entail also a hearing before the director. I
22 don't know how DEQ chooses to do that -- I don't know who
23 they're going to chose to facilitate or oversee a hearing
24 within the department, but the other viable option, and if
25 it is a big -- significant matter with -- significant with

1 a number of issues and require the three-day hearing or
2 beyond, Craig is right in that it can be referred to the
3 Office of Administrative Hearings.

4 MR. HULTS: Thank you.

5 BOARD MEMBER DINSMOOR: Mr. Chairman. Do I
6 understand that this process or this step cannot be
7 bypassed, that is, if somebody wants to appeal the permit,
8 you've got to go through each of these administrative-type
9 remedies in order?

10 MR. WENDTLAND: Chairman and Board Member
11 Dinsmoor, that's correct, but it's the license, not the
12 permit.

13 BOARD MEMBER DINSMOOR: I'm sorry. Yeah.
14 Yeah.

15 MR. SCHIERMAN: Okay.

16 CHAIRMAN GAMPETRO: Can we go forward?

17 MR. SCHIERMAN: Sounds like it.

18 So -- thank you, Chairman.

19 So that's the summation of all this chapter. I
20 guess with that -- there doesn't seem like there's other
21 questions in regards to this, correct?

22 CHAIRMAN GAMPETRO: Any other questions?

23 MR. SCHIERMAN: Okay. With that, those are
24 the two chapters that we have brought. From my introducing
25 these to you guys, there -- I guess we have the other

1 agenda items, but I -- I have finished with the primer on
2 these two chapters.

3 CHAIRMAN GAMPETRO: And these are drafts?
4 They're nothing we're going to vote on, I assume?

5 MR. SCHIERMAN: Nope, not yet.

6 CHAIRMAN GAMPETRO: Let's move on.

7 Number 4, follow-up on joint DEQ Advisory Board
8 meeting, DEQ practice and procedure rules of how to make
9 rules.

10 MR. WENDTLAND: Yeah. Chairman and board
11 members, I just wanted to make sure if there were
12 additional questions from that meeting, that we -- we had
13 an opportunity to bring those forward and get those to
14 Elizabeth, if needed. And -- but I wanted to at least
15 solicit that question to the board today and see if there
16 was any follow-up that we needed to discuss. It was a long
17 meeting, long day, and just want to make sure we had all
18 that covered.

19 CHAIRMAN GAMPETRO: Seeing none --

20 MR. WENDTLAND: And then, Chairman, the
21 second part of that is -- just wanted to make sure that we
22 had this on the table as well, that this board -- we're
23 not -- the Department -- or the Division is not planning to
24 change as a result of that meeting. It -- the changes as
25 far as when rules and regs come forward, the review

1 process, that's all established, how we handle guidance is
2 established, and the Division is not at this point
3 proposing any changes to that as a result of those changes
4 in the APA. If there were any questions related to that?

5 CHAIRMAN GAMPETRO: I don't have any.

6 MR. HULTS: Thank you. Kyle, if I have
7 might, Mr. Chairman.

8 Just for your knowledge, we just got the minutes
9 from the meeting. I was looking at them last night. It's
10 194 pages, but there were some revisions made during the
11 course of the meeting, and so I'd like to get that to you
12 guys as far as kind of a summary of what was discussed and
13 potential changes to look for as it moves forward to the
14 EQC, just as a tool, if any comments were proposed from any
15 of the board members on the final product.

16 CHAIRMAN GAMPETRO: You're going to email
17 them?

18 MR. HULTS: Yeah.

19 CHAIRMAN GAMPETRO: Thank you.

20 MR. WENDTLAND: It would only make it 192
21 pages.

22 CHAIRMAN GAMPETRO: Okay. Thank you.

23 Let me pull up what Mr. Schierman said for the
24 remaining schedule for the Uranium Recovery Program rules.
25 We're basically talking now do we want to have one meeting

1 or two?

2 MR. SCHIERMAN: Correct.

3 CHAIRMAN GAMPETRO: Would you like to speak
4 on that?

5 MR. SCHIERMAN: Chairman, thank you.

6 There's -- so what we have left to cover as far
7 as being introduced to the group, there's three chapters.
8 There's Chapter 10, which is general licenses, which is
9 just an incorporation by reference. It's a pretty light
10 lift.

11 There's a Chapter 6, which is financial
12 assurances, which basically states that we will follow
13 Wyoming's financial mechanisms that we already have in
14 statutes. And that these facilities that we will regulate,
15 because self-bonding's within there, that they can't
16 self-bond because that's an NRC type item. That's not an
17 approved mechanism, but all the rest are. So we just
18 basically state no self-bonding. We will follow the same
19 mechanisms that the State already -- already accepts in
20 their statutes.

21 And then, lastly, there's an enforcement chapter,
22 which basically states, you know, how we'll carry out
23 enforcement, which is pretty much what DEQ has already set
24 forth. It's not really a change to the protocol that they
25 have. So there's those three chapters we have to

1 introduce. And what we're seeing is, you know, we have
2 the -- we want to move forward with the rulemaking, we're
3 looking potentially at the first of the year to get these
4 to the EQC.

5 In order to meet their meeting that they have
6 first quarter, which they say is -- from what indications
7 we've had -- is mid-January is what they're expecting. In
8 order for us to meet those, we'd have to have probably one
9 more Land Quality Advisory Board meeting where we would
10 introduce the whole rules as a packet, probably the end of
11 this month, and then have one more meeting end of
12 September, at which point you would either suggest that
13 they go forward or not go forward. The other option that
14 we can do is we have two meetings, and such that we still
15 have the end of September meeting, which we give a similar
16 primer on those three rules, some similar to today, and
17 then we have another meeting to rule on those rules to go
18 forward.

19 If we did that two-meeting approach, what we
20 would do is we -- due to the time constraints, we would not
21 meet that January meeting. What we'd probably have to -- I
22 don't know if they have a special name for it. I was
23 talking to Craig for this. Their special topics or special
24 meetings that they do besides their quarterly meeting, we'd
25 have to call our own EQC meeting to meet those time frames.

1 So that's what we're looking at. That's what
2 we're trying to push so we can still maintain the schedule
3 of the second.

4 CHAIRMAN GAMPETRO: I'm looking at your
5 note here.

6 MR. SCHIERMAN: Yep.

7 CHAIRMAN GAMPETRO: You're talking about an
8 end of September, not end of August meeting.

9 MR. SCHIERMAN: Oh, we would put them for
10 public comment because it has to be 30 days. We post them
11 for--

12 CHAIRMAN GAMPETRO: It would be in public
13 comment at the end of this month.

14 MR. SCHIERMAN: Yeah, and then the meeting
15 in September.

16 CHAIRMAN GAMPETRO: The meeting in
17 September.

18 MR. SCHIERMAN: Yeah.

19 CHAIRMAN GAMPETRO: Or two meetings.

20 MR. SCHIERMAN: Or two meetings. We can
21 still do that in our September meeting and then one more.
22 So we don't want to rush the board. We don't want to, you
23 know, decide that on you. We just want to make sure what
24 you guys are comfortable on -- as far as schedule and
25 what -- how to go forward with the scheduling of these

1 meetings. And that's what we presented, I guess.

2 BOARD MEMBER DINSMOOR: Mr. Chairman. We
3 had talked early on about getting through each of the
4 chapters one time. And before we were -- there was --
5 somebody had said before we were willing to approve all of
6 the chapters we wanted to make sure they all fit together,
7 which it seems to me that, based on that original statement
8 that we made and more or less agreed to, I think, we should
9 be looking at two meetings; one where we get through the
10 last of the chapters, and then get a final package and now
11 can reconsider the whole thing before we get together for a
12 final discussion and vote. Is that -- does that fit your
13 time frame that you understand?

14 MR. SCHIERMAN: Chairman. Board Member
15 Dinsmoor, it does. In that case -- and we're okay doing
16 that, but it would require we move away from that first
17 quarter and we do a special topics or a special meeting
18 with the EQC. I don't know if they have a special name for
19 it. But that's what we -- that's the route we would take
20 if we followed that avenue.

21 BOARD MEMBER DINSMOOR: What keeps us from
22 getting two meetings in and still having things done in
23 time for the EQC meeting as currently scheduled?

24 MR. SCHIERMAN: Right. So we would have to
25 have two meetings -- we -- from the way we scheduled it

1 out, we would have to be ready to move for formal
2 rulemaking end of -- so early October is when we'd have to
3 do. So what that would mean is -- for you guys it would be
4 two meetings within the end of September, if we follow --
5 if I'm reading you right, what prevents you from having two
6 meetings before that would be having two meetings by the
7 end of September.

8 MR. WENDTLAND: Chairman. Board Member
9 Dinsmoor, it's the public notification periods that -- that
10 we run up against on.

11 CHAIRMAN GAMPETRO: I don't -- I don't
12 understand why we can't do the things we said we would do
13 in a meeting at the end of September. We would have it --
14 the final chapters presented and then we would have them
15 all --

16 MR. SCHIERMAN: Uh-huh.

17 CHAIRMAN GAMPETRO: -- to vote on.

18 BOARD MEMBER DINSMOOR: What you're saying
19 is we get all but the last three chapters in their final
20 version. And our review of those last three chapters
21 would -- if there were no --

22 CHAIRMAN GAMPETRO: Why would they not
23 be -- those last three chapters be in their final version?

24 BOARD MEMBER DINSMOOR: We haven't seen
25 them yet.

1 CHAIRMAN GAMPETRO: No, but when we get
2 done with the meeting --

3 BOARD MEMBER DINSMOOR: We would go through
4 them and we might propose changes there.

5 CHAIRMAN GAMPETRO: Right.

6 BOARD MEMBER DINSMOOR: And then we would
7 go on to all the chapters, is what you're saying. Sounds
8 like it would be a long day.

9 CHAIRMAN GAMPETRO: I don't know. Tell
10 me -- doesn't sound like the final three chapters are very
11 lengthy.

12 MR. SCHIERMAN: No, Chairman. The three
13 chapters -- I think, the enforcement chapter is maybe two,
14 three pages. Chapter 10 is maybe a paragraph. Chapter 6,
15 the financial assurances, four, five pages. Just basically
16 stating the same requirements the State has.

17 BOARD MEMBER DINSMOOR: Okay.

18 CHAIRMAN GAMPETRO: It sounded to me like
19 it's not a lot. So we would have a very short meeting, and
20 then another meeting, as opposed to just one long meeting.

21 MR. WENDTLAND: Mr. Chairman. Board Member
22 Dinsmoor, if you're looking to go that way, what I would
23 suggest is do a short meeting early, have a break, and then
24 we convene and do second meeting and consider all of them
25 on context --

1 CHAIRMAN GAMPETRO: Instead of having a
2 morning meeting, we have a morning and afternoon meeting?

3 MR. WENDTLAND: Correct. That would give
4 everybody additional time to rethink things.

5 MR. SCHIERMAN: Chairman, let me ask Craig
6 a question.

7 Could we do one public comment for those two
8 meetings, such that we just release all those, and
9 introduce those three chapters and just say the public
10 notice there will be two meetings to look at these
11 submittals?

12 MR. HULTS: Yeah, I don't see why that
13 would be an issue because we're -- whatever notice period
14 we have would be applicable to both meetings.

15 MR. SCHIERMAN: So potentially we could
16 have a short meeting to introduce those three chapters.
17 Still try to do that September meeting to discuss all of
18 them, or something, the end of September. And the question
19 would be is it -- I mean, what is the electronic
20 capabilities? Three short chapters. Do you want to do
21 them by phone, or does that have to be a meeting together?
22 If it's a short lift, I'm just trying to think your guys'
23 time frame. I don't know how the procedures are on that.

24 MR. HULTS: So you're suggesting that we
25 wouldn't be meeting in person in the morning, or --

1 CHAIRMAN GAMPETRO: For the first meeting
2 we would be meeting by phone, right?

3 MR. SCHIERMAN: Sorry.

4 CHAIRMAN GAMPETRO: That's what you're
5 suggesting?

6 MR. SCHIERMAN: Just introduce the chapters
7 and meet together --

8 MR. HULTS: The limitation there is how do
9 you involve the public? Because we would have to provide a
10 dial-in number and the ability for the public to comment
11 during that first meeting. We don't currently have in
12 place --

13 CHAIRMAN GAMPETRO: Mr. Hines.

14 BOARD MEMBER HINES: Mr. Chairman, I may be
15 missing something, but I'm wondering why we can't meet in
16 the morning and have the -- those two chapters that we need
17 to finish, and with the notice, notify the public that the
18 public hearing would be at the end of those for those, and
19 then regroup in the afternoon and do them all. Do the
20 final one.

21 CHAIRMAN GAMPETRO: I'm going to leave it
22 up to you three guys. What did you want to do?

23 MR. WENDTLAND: Mr. Chairman, I would ask
24 you maybe solicit comment from the public today for their
25 input on it.

1 CHAIRMAN GAMPETRO: Sure.

2 MS. ANDERSON: Mr. Chairman, I have no
3 preference. It's really, you know, I think up to you.
4 These advisory boards are somewhat informal to begin with.
5 You know, the formal public comment period actually comes
6 before the Environmental Quality Council in a lot of ways.
7 So there would be additional opportunity for the public to
8 participate at that point as well.

9 But I think as long as it's properly noticed,
10 that's what matters most to us, is we know what you're
11 going to discuss when you discuss it, and we're able to be
12 there to talk about it, so...

13 CHAIRMAN GAMPETRO: Very good. Thank you.

14 MS. WILSON: I would agree with that.

15 CHAIRMAN GAMPETRO: So we've got Phil,
16 Mr. Hines.

17 What do you say, Micky?

18 BOARD MEMBER SHOBER: I'm okay with it.
19 I'm looking here to see -- the end of September's pretty
20 busy for me, but we'll see if we can make it work.

21 CHAIRMAN GAMPETRO: Natalia?

22 Is she still there?

23 BOARD MEMBER MACKER: Hi. Yeah. I was
24 just looking, you know, the last week of September is the
25 WACO convention, which I'm not sure if Commissioner Shober

1 is planning to attend.

2 BOARD MEMBER SHOBER: Yep.

3 BOARD MEMBER MACKER: And I was going to
4 comment potentially, I don't know if it's better or worse
5 if the meeting is where the WACO convention is then we
6 could attend more easily, or just coordinating around that
7 would be my main request.

8 MR. WENDTLAND: Chairman and Board Member
9 Macker, where is the location of that meeting?

10 BOARD MEMBER SHOBER: Cheyenne -- or
11 Laramie.

12 BOARD MEMBER MACKER: It should be Laramie,
13 yeah.

14 BOARD MEMBER SHOBER: 27th through the
15 29th.

16 CHAIRMAN GAMPETRO: I'm not available on
17 the 30th.

18 MR. SCHIERMAN: Okay. Chairman.

19 MS. LA: Mr. Chairman, board members, and I
20 just want to point out I believe the EQC meets on the 28th
21 and 29th of September. I'm not sure, but I'm -- well, I
22 guess I'm not sure which day, but the uranium program is
23 supposed to present one of those days. So just -- Ryan, I
24 don't know if you know the exact day. I just want to point
25 that out.

1 MR. SCHIERMAN: Yep.

2 MR. WENDTLAND: Chairman, Board Members,
3 would the first week of October crunch the schedule or --
4 from a timing standpoint, or would that be an easier week?

5 MR. SCHIERMAN: Chairman, Board Members, I
6 think we can push -- and correct me if I'm wrong, Eva -- I
7 think moving into the first week of October we could. We
8 may have to talk to EQC when they get ready to plan and say
9 can we move it to meet those deadlines.

10 Would you agree with, Eva?

11 MS. LA: I would say it all depends on what
12 EQC does. And since we haven't had that conversation, I
13 think it's possible. I just can't say for certain that --
14 that will happen.

15 MR. SCHIERMAN: Correct me if I'm wrong,
16 Eva, we have planned our schedule based on the fact they
17 would have a meeting January 1st, correct?

18 MS. LA: Yes, yes. We do have a cushion in
19 there, Ryan. And in all likelihood, they're going to meet
20 earlier in the month of January because of the holidays.

21 MR. SCHIERMAN: I think moving it to the
22 first week of October would be okay.

23 MR. WENDTLAND: If we were early in that
24 week, Chairman.

25 CHAIRMAN GAMPETRO: Fine. Don't be getting

1 into October the 15th, though. That's when elk season
2 opens.

3 MR. SCHIERMAN: Kyle's already informed us
4 he's gone.

5 MR. WENDTLAND: I'm not here on the 1st, so
6 you're on your own.

7 BOARD MEMBER SHOBER: The 4th of October is
8 a required commissioners meeting. Natalia and myself both.

9 MR. WENDTLAND: And what's the location of
10 that one?

11 BOARD MEMBER SHOBER: That would be in
12 Gillette. Hers would be in Jackson. We're required to
13 meet twice a month, the first and third Tuesdays.

14 BOARD MEMBER MACKER: And I would just --
15 not to further complicate it. Once we get into October, I
16 can only do a phone call meeting. I'm happy to do a phone
17 call meeting. But I cannot leave in October,
18 unfortunately.

19 MR. WENDTLAND: Chairman and Board Members,
20 what I would recommend that we will come up with possibly
21 two dates that work with the public notification
22 requirements for September --

23 BOARD MEMBER MACKER: Great.

24 MR. WENDTLAND: -- with a backup of
25 October. And we will get those to you within a week the --

1 MR. SCHIERMAN: The week.

2 BOARD MEMBER MACKER: Thank you.

3 CHAIRMAN GAMPETRO: 14th and 30th are nos
4 for me, of September.

5 MR. SCHIERMAN: Okay.

6 MR. WENDTLAND: Okay.

7 MR. SCHIERMAN: Okay.

8 MR. WENDTLAND: We'll have Craig count the
9 days and see what those options are, and we will get those
10 to you this week.

11 BOARD MEMBER DINSMOOR: And do I understand
12 what we're going to try to do is hear the last of the rule
13 packages in the morning, take a break, and then have a
14 hearing on the total vote?

15 MR. SCHIERMAN: And Chairman and Board
16 Members, just to give you a rundown. What we'll do in that
17 meeting too is we will -- there has been, like we said with
18 this commission paper, there's some change in the language
19 of characterizing this material, we can potentially see
20 some changes that just outline in the rules to reflect
21 those changes by NRC. So we'll just run down any of the
22 changes that we made to previous chapters, any definitions
23 personally, that we have add any of those comments we had
24 from any of the chapters at these board meetings and
25 incorporating those and just running down the changes.

1 We'll probably just run down the changes of those rules and
2 then pass those along to you guys.

3 And when we submit this in the end of August
4 for public comment for our September meeting or October
5 meeting, those will reflect those changes in redline/blue
6 versions so you can see them too.

7 CHAIRMAN GAMPETRO: I'm still open to two
8 meetings if that's required. If you guys go through this
9 and say, oh, we can't do it, two meetings is fine with me.

10 MR. SCHIERMAN: Okay. And we're open to
11 that. We realize -- we don't want to rush you through it
12 either.

13 BOARD MEMBER SHOBER: You guys know roughly
14 how long the meeting's going to take by the amount of
15 material that's there, so if we can do it one in the
16 morning, one in the afternoon, that's the --

17 MR. WENDTLAND: It's probably, from a
18 traveling standpoint, most time efficient.

19 BOARD MEMBER SHOBER: Save the State a
20 little money, wouldn't we?

21 MR. SCHIERMAN: Chairman, Board Members,
22 the only other item I wanted to put on your guys' radar.
23 We talked to -- internally. So after we get done with the
24 Uranium Recovery Rules, these rules we're pushing, I was
25 asked to potentially just put it on your radar that there

1 will be a noncoal Chapter 18, is that what it is?

2 MR. HULTS: 11 for noncoal.

3 MR. SCHIERMAN: Noncoal 11. And then --

4 MR. HULTS: Coal Chapter 18.

5 MR. SCHIERMAN: Chapter 18. We'll be
6 wanting to push through. We want to keep the momentum.
7 DEQ is currently having -- so looking probably fourth
8 quarter meeting, maybe first quarter '17, sometime that
9 range. So you'll be hearing from LQD when we get closer to
10 those time frames about potential meetings that they had on
11 those items. They're going run them together, those two
12 chapters, because they deal with each other.

13 MR. WENDTLAND: Bottom line is we don't
14 want to muddy the water with the uranium rules. So.

15 BOARD MEMBER DINSMOOR: What was the two
16 topics? Noncoal.

17 MR. HULTS: In-situ mining and -- coal. I
18 know in-situ as well.

19 BOARD MEMBER DINSMOOR: Okay.

20 CHAIRMAN GAMPETRO: Anything else? Well,
21 then we would entertain a motion to adjourn.

22 BOARD MEMBER DINSMOOR: I'll move to
23 adjourn.

24 BOARD MEMBER SHOBER: Second.

25 CHAIRMAN GAMPETRO: All those in favor of

1 adjourning, indicate by saying aye.

2 BOARD MEMBER DINSMOOR: Aye.

3 BOARD MEMBER SHOBER: Aye.

4 BOARD MEMBER MACKER: Aye.

5 BOARD MEMBER HINES: Aye.

6 (Meeting proceedings concluded

7 11:32 a.m., August 4, 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 7th day of September, 2016.


KATHY J. KENDRICK
Registered Professional Reporter

