

In Re: LQD Meeting

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BEFORE THE LAND QUALITY ADVISORY BOARD

STATE OF WYOMING

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IN RE: LQD MEETING  
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TRANSCRIPT OF MEETING PROCEEDINGS

PURSUANT TO NOTICE duly given to all parties in interest, this matter came on for hearing on the 7th day of October, 2020, at the hour of 10:05 a.m. via webinar at 200 West 17th Street, Room 211, Cheyenne, Wyoming, before the Land Quality Advisory Board, Chairman Jim Gampetro, presiding, with Gene Legerski, Natalia Macker, Blake Jones and John Hines, advisory board members also present. Also present were Kyle Wendtland, Land Quality Administrator; Craig Hults, LQD Natural Resource Program Principal; and Keith Guille, Public Information Officer for DEQ.

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

2 (Meeting proceedings commenced

3 10:05 a.m., October 7, 2020.)

4 CHAIRMAN GAMPETRO: Consider the meeting  
5 open.

6 MR. GUILLE: Welcome to the Land Quality  
7 Advisory Board meeting. Today is October 7th. My name is  
8 Keith Guille. I'm the public information officer for the  
9 Wyoming Department of Environmental Quality. Also joining  
10 me today from the Land Quality Division is Kyle Wendtland,  
11 Land Quality Administrator, and also Craig Hults, Land  
12 Quality Division Natural Resource Program Principal. An  
13 agenda should be available for download and viewing on the  
14 GoTo webinar system under "Handouts."

15 Before we begin, I want to remind all public  
16 members that their microphone is automatically on mute. To  
17 participate during the public comment period, you will need  
18 to raise your hand by clicking on the "hand" icon located  
19 on the GoTo webinar menu options. That should be on the  
20 right side of your screen. Additionally, video camera  
21 capabilities will not be made available for the public.

22 Without further delay, let's get started. I'm  
23 going to hand this over to the Land Quality Advisory Board  
24 Chair Jim Gampetro. Jim.

25 CHAIRMAN GAMPETRO: Thank you. Let's go

1 around and everyone please introduce yourself, indicate  
2 where you're from and what type of representative you are  
3 or whom you are representing.

4 BOARD MEMBER HINES: John Hines, Gillette,  
5 Wyoming, representing agriculture.

6 BOARD MEMBER JONES: Blake Jones here in  
7 Gillette, Wyoming, representing industry.

8 MR. WENDTLAND: Gene, you're muted, if  
9 you're trying to get in.

10 CHAIRMAN GAMPETRO: Gene Legerski -- I'm  
11 speaking for him -- political subdivision representative.  
12 I'm Jim Gampetro, Chairman of this Board, and I'm a public  
13 representative from Buffalo, Wyoming.

14 MR. WENDTLAND: I'm Kyle Wendtland, the  
15 Administrator of Land Quality.

16 MR. HULTS: This is Craig Hults. I'm with  
17 the Land Quality Division here in Cheyenne. And, Jim, just  
18 to let you know, the public won't be able to introduce  
19 themselves.

20 CHAIRMAN GAMPETRO: That's fine. We can go  
21 forward. If anyone has something to say, I would request  
22 that you indicate who you are. Many of the members here,  
23 we know one another's voices, but if you're not a regular,  
24 we might not know your voice. So please introduce  
25 yourself.

1           What we're going to do is we're going to do a  
2 proposal of the rules and packages. We're going to start  
3 with the Noncoal Chapter 5, Exploration by Dozing, and then  
4 we'll move to the Coal Chapter 2, Wind Turbine Rules, and  
5 then Noncoal Chapter 10, Limited Mining Operations.

6           Kyle, I think you want to begin by presenting us  
7 an overview and then I guess we're going to have to listen  
8 to Craig Hults give us the details. So go ahead, Kyle.

9           MR. WENDTLAND: Mr. Chairman, thank you,  
10 and to the Board, I'm going to provide a little additional  
11 background and some overarching review here just because we  
12 do have a new -- a couple new board members. Gene, I  
13 believe you've been involved with these for a while, but  
14 some of that process, this might be some good background  
15 for Board Member Legerski as well.

16           So in general, before the Board today are three  
17 rule packages. We have Chapter 5 was presented and scoped  
18 earlier this spring. Chapter 2 was scoped earlier in the  
19 summer as well. And Chapter 10 was completed and has since  
20 undergone an Attorney General's review, and it's come back  
21 to us following that review.

22           In order to prevent that issue that was raised  
23 with Chapter 10 in the AG's review, Land Quality has had  
24 the AG review and approve the changes to Chapters 5 and 2  
25 prior to this meeting. At the time we were transitioning

1 between new AG reps and that's part of that delay in the  
2 review that we got with Chapter 10, but just understand  
3 that we have undergone that review and the AG has reviewed  
4 the entire chapter. Their review is not confined to just  
5 these changes. They actually look at the entire chapter.  
6 So they've been through each one of these proposals today  
7 and signed off on them.

8           As we've also discussed, these packages thus  
9 represent final proposed rule packages for the Board's  
10 review today and their recommendations. The LQD, as Jim  
11 indicated, will present these in the following order as  
12 Chapter 5, Chapter 2 and Chapter 10.

13           And then we did -- the Land Quality did receive  
14 several comments during the scoping periods and a few  
15 comments following the public notice period this go-round.  
16 We spent considerable time revising both Chapters 2 and 5  
17 and our proposed format today is I'll give you, the Board,  
18 and the public kind of the overview of where we are, a  
19 review of the new comments we received and then Craig will  
20 walk you through the changes and then we'll turn this back  
21 to the Board and we'll do that for each rule chapter  
22 package.

23           So that's our basic walk-through today. Jim, or  
24 Mr. Chairman, do you have further questions with that or  
25 does the Board today?

1                   CHAIRMAN GAMPETRO: No, I do not. Any  
2 questions from the Board? Well, seeing none, let's  
3 proceed.

4                   MR. WENDTLAND: Okay, Mr. Chairman, we'll  
5 open up, then, with Chapter 5.

6                   MR. HULTS: I just wanted to let you know  
7 that Natalia has now joined.

8                   MR. WENDTLAND: Good morning, Board Member  
9 Macker.

10                  BOARD MEMBER MACKER: Thank you.

11                  MR. WENDTLAND: Mr. Chairman, do you want  
12 me to revisit any of those items with Board Member Macker  
13 now on?

14                  CHAIRMAN GAMPETRO: Let's ask her. Did she  
15 hear it or not? We don't know at this point.

16                  BOARD MEMBER MACKER: I think I got the  
17 end. I think we should forge ahead, and if I get lost or  
18 have a question, I'll certainly interrupt.

19                  CHAIRMAN GAMPETRO: Okay. I think the most  
20 important thing, we'll go over each of these items one by  
21 one and at the end of each, I'll be looking to you for  
22 proposals as to whether or not to vote for approval. So  
23 that's kind of the way it's going to go. Any questions?  
24 Okay. Let's move forward, then.

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

1           So for Chapter 5, the proposed rules were  
2 developed to address specific concerns and risks associated  
3 with small disturbance licensed to explore operations. The  
4 scope of the rule revisions were to simplify the  
5 regulations for small, less than three-acre disturbances,  
6 provide a mechanism for updating the bond of these small  
7 exploration actions, reduce risk to the state and provide a  
8 path for the potential sale of assay material. We believe  
9 through the revisions we've made and updates in the AG's  
10 review that we've struck that balance in meeting those  
11 goals while being compatible with the statutes regarding  
12 these revisions.

13           Specifically, we got comments during the meeting  
14 in addition to written comments from Jadex Corporation on  
15 this package, and I'll briefly go through those and our  
16 responses as there's only about a half a dozen of them.

17           The first one was some questions around the list  
18 of minerals. We did add diamond after the advisory board  
19 meeting to the list of minerals. The Land Quality does not  
20 plan to add small operations from those proposed here.  
21 This is done such that the proposed revisions address the  
22 materials that have been of highest level of license  
23 activity based on our metrics and align as close as  
24 possible to the statute language. So the bottom line here  
25 is is we only added diamond to that list because we had



1 targeted some very specific resources here.

2           Jadex asked for some clarity on the three acres,  
3 whether that would include access roads or not. Land  
4 Quality's position on that is the three acres covers the  
5 active site and access roads are excluded, similar to LMOs.

6           I have the discretion to adjust the bond amount,  
7 if necessary, under Chapter 5, Section 1(b) of the proposed  
8 rules. So if we see a disturbance that would require  
9 additional bond or that is excessive, I do have the  
10 discretion to raise that bond with the annual renewal of  
11 the license to explore. That said, the majority or 99  
12 percent of these operations are less than a tenth of an  
13 acre in size, to put some perspective on that.

14           There's a question regarding the BLM has a five-  
15 acre exclusion and there was questions as to why Land  
16 Quality was looking at a three-acre alternate view here.  
17 The three acres is for a variety of reasons. Again, 99  
18 percent of these operations are a tenth of an acre or less.  
19 So we're really looking at those that are three acres or  
20 less.

21           This action also allows us to up the bond  
22 requirement for these operations. A lot of them are  
23 historic and they're at a \$200 an acre bond option and for  
24 that bonding level, the Division can't even go rent a  
25 backhoe to fill in these small trenches and have

1 mobilization and de-mobilization. So there is a need to  
2 revise the bonding here and this set of rules provides a  
3 path for that and that way we get full funding for the  
4 reclamation. So that would be Land Quality's response  
5 there.

6 The fourth item that Jadex brought up was to  
7 bring the new license holders and existing license holders  
8 with the new rates and a question around whether it would  
9 be applied retroactively.

10 What would happen here or how the Division would  
11 apply these rules is we would institute the new  
12 requirements upon their renewal of their existing license.  
13 So in practicality, if you had a license that renewed in  
14 June of 2021, that was when the new requirement would hit  
15 that operator. So we're looking to increase these as the  
16 renewals come in under the new requirement.

17 There's a question about moving and adjusting the  
18 areas. That can be done through a simple revision process  
19 and up to the three acres. So if you have a site and let's  
20 say the operator applied for a one-acre license to explore  
21 and they were operating in the southeast corner and it  
22 turns out the northwest corner was where they found  
23 material, they could come in and amend that license and add  
24 the next acre and increase their bond and operate anywhere  
25 within that two acres. And you could do that up to the

1 three-acre maximum and then at that point, we would be  
2 looking to move to a different class of permit to -- or  
3 re-class the permit such that we could bond appropriately  
4 with an operation getting beyond that three acres in size.  
5 So that would be our response there.

6 Then there was a question on the royalties and  
7 tax implications with the ability to sell the assay  
8 materials and if there's some exemption there. That's  
9 beyond the scope of these rules. That would deal with the  
10 Department of Revenue and I really can't respond to that  
11 beyond that question being outside of our scope. And that  
12 really -- there was an additional question here on the  
13 disturbances, but that really was related to our response  
14 to comment 2.

15 Then we received new comments from the  
16 publication this time around and new written comments from  
17 Mr. Strid, and his comment, his first comment, is suggested  
18 consolidating different types of mining and noted that the  
19 different regulatory frameworks for different materials and  
20 footprints are confusing and unnecessary.

21 Really, what he's getting at here is a difference  
22 between metal and nonmetal minerals. This is really a  
23 question beyond the scope of this rulemaking. When we look  
24 at combining metal/nonmetal and the size and scope of those  
25 operations, that's really outside of what we were initially

1 looking at for the goals with this package.

2           There was a discussion in Mr. Strid's comments  
3 about a belief that this would increase the workload to the  
4 Land Quality Division. Actually, these rules will simplify  
5 the process and will decrease the workload. And we have  
6 that knowledge because we did undergo a lien review in 2018  
7 and I do have six sigma metrics. So we do have a good  
8 understanding of where the Division's resources and time is  
9 being spent, and especially with the budget cuts that we're  
10 facing, it becomes really important to us that we are  
11 protective and careful with those resources and focus them  
12 on the mission of the Division. So we did look at that and  
13 we are very confident that those metrics indicate that this  
14 rule package would help in the management of the resources  
15 of the Division.

16           Again, he brings up the -- Mr. Strid brings up  
17 the framework around metal/nonmetal and that is beyond our  
18 scope here.

19           And then there was also a discussion from  
20 Mr. Strid about the Division somehow contracting with the  
21 federal government because it appears that we're doing a  
22 fair amount of the BLM's work, which, to some degree, is  
23 accurate, but that's also part of the cooperative  
24 operations between -- and noncoal operations between the  
25 BLM and the state, and again, this is way beyond the

1 question and scope of this rule package, because we're  
2 talking about agreements or MOUs that exist between the BLM  
3 and the Land Quality Division here at DEQ.

4           So that pretty much summarizes the comments we've  
5 gotten and where we are in relation to Chapter 5. The  
6 follow-up that I have here is we might -- the Land Quality  
7 would agree that there might be other things that could be  
8 done with Chapter 5 regarding the metal/nonmetal  
9 consolidation of minerals and how that's looked at from an  
10 exploration standpoint. It's just that that's a much  
11 larger undertaking than this was ever developed to do, and  
12 if we're going to go down that path, it would be my  
13 recommendation to the Board that you look at this rule  
14 package as stand-alone as is and the goals that were being  
15 addressed, and if you would like to have the Division look  
16 at expanding this, we would want to study the statutory  
17 authority of it, the relevance to the specific rule  
18 deficiencies, and evaluate those impacts on Division  
19 resources and then come back to you with a recommendation  
20 of how to move forward, but we think that that would be a  
21 totally separate undertaking from what we're at today or  
22 where we are today.

23           So with that, I'll let Craig kind of take over  
24 here and walk through the package and we'll go from there.

25           MR. HULTS: Thank you, Kyle.

1           Board members, Chairman, and the public. I just  
2 wanted to inform you, first off, I'm going to be working  
3 from the statement of reasons that was posted on the web  
4 and also forwarded to our board members. I'll try and  
5 reference page numbers so you can follow along.

6           For the board members, if I'm going too fast,  
7 please let me know, or if I'm not providing enough detail,  
8 please let me know as well.

9           This Chapter 5, this particular rule package is a  
10 little bit different than the other two we'll be discussing  
11 today. This one is a state initiative. So it's not in  
12 response to any legislative changes. We're working within  
13 the existing legislative framework for exploration by  
14 dozing and I just wanted to make that clear. So we're not  
15 trying to meet up with any new statutory language. This  
16 has to be in the existing language.

17           With that said, I'll just kind of -- what I'm  
18 planning on doing is just walking through the rule  
19 language. The board members, you can stop me at any time  
20 if you need to have a question answered or didn't hear  
21 something. The public will be given an opportunity to  
22 comment after.

23           So the first change in this chapter is actually  
24 in the section header. This is just done to conform with  
25 the Secretary of State's rules on rules and we just deleted

1 the term "noncoal."

2 And then this portion in Section 1 is basically  
3 the meat of the chapter and changes that we did. There are  
4 other changes made throughout the chapter and the vast  
5 majority of those were based on Attorney General's comments  
6 during their review for statutory authority.

7 So in Section 1, what we've done is created  
8 within the exploration by dozing statute two kind of  
9 parallel tracks or different tracks. I would maybe call  
10 them exploration dozing light and exploration by dozing  
11 heavy, but they still work within the same statutory  
12 framework.

13 In Section 1 -- and this is Section 1(a) on page  
14 1 -- this is where we set up what operations this will  
15 apply to, and the operations would be three acres or less  
16 for the removal of gold, silver, jade, opal, agate, diamond  
17 or titanium. Those type of operations would not be subject  
18 to Sections 2 through 5 of the chapter. And furthermore,  
19 in this section, we spell out what an applicant needs to do  
20 as far as the timing and notifications of other agencies  
21 that may need to know about these operations. In this  
22 case, it's the Department of Workforce Services, Inspector  
23 of Mines.

24 In section (b), we detail the bonding  
25 requirements. The bond will be set for these operations at

1 \$2,500 per acre. If an operation is proposed that is under  
2 an acre, the minimum bond would be \$2,500, and the bond has  
3 to be posted no later than 30 days after the receipt of  
4 notification from the administrator. The administrator is  
5 given the authority to request an additional bond after  
6 reviewing the application materials. He would be able to  
7 request an additional bond per acre if the Division felt  
8 that that was necessary to ensure reclamation.

9 Section (c) is a description of additional  
10 materials besides the application form. These are the  
11 plans that would be required. It's an exploration plan and  
12 that would include plans for topsoil removal, stockpiling,  
13 time for the initiation and completion of reclamation.

14 And then a second to the reclamation plan, and  
15 this would include the plan for backfilling any trenches or  
16 pits, removal of excess material, removal of highwalls, if  
17 they were present, and then contour and grading and then  
18 reestablishment of the drainages. Also, we would be  
19 requiring seeding with an approved native seed mix.

20 And the general requirement is that all areas  
21 disturbed by the exploration activities need to be  
22 reclaimed to return the disturbance area to its pre-  
23 exploration conditions and that addressed one of the  
24 comments we had regarding the roads. They would be  
25 excluded from the three-acre limit, but if they were -- if



1 there was a disturbance that required reclamation, that  
2 would be included.

3 The fourth section in (d), this is just the term  
4 of the license to explore. It's issued for one year, but  
5 an operator can request a renewal.

6 In section (e), this is for instances where the  
7 exploration may have exceeded what was estimated initially  
8 and that requires the operator to notify us within 30 days  
9 and, if necessary, the bond would be adjusted as well.

10 In section (f), this was a comment that was  
11 received during the initial stages of development. This  
12 deals with the sale of materials that are discovered during  
13 exploration.

14 Prior to us initiating this rulemaking for any  
15 exploration activities, they weren't able to either get a  
16 market value on them or sell them in any way. This has  
17 been added to both this Section 1 and further into the  
18 chapter for our more normal exploration by dozing  
19 operations. So that allows the operators to make a sale  
20 and it would be subject to any restrictions by the surface  
21 or mineral owners.

22 We're asking that any sales would be reported on  
23 the renewal report form and also adds that confidentiality  
24 would be handled in accordance with Section 2(d), which  
25 follows.

1           In section (g) -- and I'm on page 2 now --  
2 section (g) is a notice that we would terminate an  
3 operation if the operation wasn't commenced within one  
4 year. So after the filing and approval by the Division, if  
5 the operations weren't commenced within that year, that  
6 license to explore would be terminated.

7           Section (h) is for nonrenewals. If after that  
8 one year there was disturbance and we did not receive  
9 renewal notification, this requires the operator to  
10 initiate reclamation immediately and the renewal would not  
11 be issued in that case.

12           Section (i), this describes how the bond will be  
13 released and it's upon completion of successful reclamation  
14 and the termination by the Division of the license.

15           And that will take me to Section 2. The vast  
16 majority of these additions and deletions were based on the  
17 AG review comments. I would say the majority of them are  
18 grammatical in nature or provide consistency within the  
19 chapter itself and terms that were used throughout our  
20 program.

21           Now, Section 2 is applicable and the remainder of  
22 the sections are applicable to operations that are greater  
23 than three acres but less than 40. And this was the  
24 original license to explore. So the remainder of these  
25 sections would apply to our what I'm calling the normal

1 license to explore.

2           And just to kind of run through these kind of  
3 quickly, in section (a), there was that designation now we  
4 have that it's greater than three acres or less than 40 to  
5 provide consistency with the new Section 1.

6           In section (b), there were some grammatical  
7 changes. We're removing the numerical terms and putting in  
8 the actual spoken word for that.

9           In section (c), Romanette (i) and (ii), those  
10 were grammatical changes, again, just kind of flipping the  
11 order of the sentences.

12           Moving on to page 3. Again, this section in X,  
13 or Romanette (x), these again are basically just  
14 grammatical changes. I think it reads a lot better.

15           In Romanette (xi), a small deletion was put in.

16           In section (xii), Romanette (xii), this you will  
17 see consistently throughout. In the past, we had used the  
18 term "rules and regulations." For consistency, wherever  
19 we're finding that, we're just saying "all rules" instead  
20 of "rules and regulations."

21           Moving on to page 4, this is in Section 3.  
22 Again, for consistency's sake in (a), we're making that  
23 "rules and regulations," deletion of the term  
24 "regulations." Section (c) was revised again for  
25 grammatical changes. The same with section (e).

1           In Section 4, we removed the term "special" from  
2 "special license."

3           In Section 5, again, we're making those numerical  
4 changes and had additional language, grammatical changes  
5 again.

6           And finally, on pages 5 and 6, I'm in section --  
7 on the top of the page of page 5, in Romanette (ii), again,  
8 the same kind of thing, grammatical changes.

9           In Section 3 on page 5, this is where I had  
10 mentioned that we're allowing the minerals discovered  
11 during exploration to be sold at the discretion of the  
12 operator and that includes any assay or material with  
13 unknown market valuation and again contains the restriction  
14 on the sale by the surface and mineral owner.

15           In section (b), this was revised. In Romanette  
16 (i), that section was deleted based on the AG review. The  
17 discussion was that if an application is in violation of  
18 the intent of the Wyoming Environmental Quality Act.

19           Realistically, we would never get an application  
20 like that. The requirement is to reclaim the land to the  
21 equal or highest use. So that instance never comes up. If  
22 you file an application and follow the regulations, you  
23 should be fine. So we deleted that section. Section 2 was  
24 just revised to match the deletion.

25           In Romanette (iii), this is another one that was

1 deleted, because it shouldn't happen. If an application  
2 was filed -- this deals with the bond, and we were stating  
3 that if it was insufficient to reclaim the area, that again  
4 would not happen, because during our review, we're looking  
5 at the acreage amounts or for the bigger operations, they  
6 would be submitting plans that describe the applicable bond  
7 amounts. So that section was deleted as well.

8 The next two, again, were just corrected to  
9 reorder this section.

10 And then finally, a new Romanette (iv) was added  
11 and this states that the application otherwise violates the  
12 Environmental Quality Act. This is a new section based on  
13 the Attorney General's review.

14 In subsection (c), this was made for consistency  
15 with the current statute. The statute doesn't specifically  
16 outline a procedure for renewal. So based on the Attorney  
17 General's suggestion, we've limited a license to explore to  
18 be no longer than one year, but it could be renewed  
19 annually after that point. Before, it implied the language  
20 in this section seemed to imply that they could just go on  
21 and on without actually having them end for that one-year  
22 term, which is stated in the statute.

23 And then on page 6, the final Romanette (vii),  
24 again, this is a grammatical change.

25 And then finally, in Section 6, this was just

1 rewritten to better fit the statute and clarify the  
2 requirements for bond release and forfeiture, and that  
3 takes us to the end of the proposed changes in this  
4 particular rule package.

5 MR. WENDTLAND: Mr. Chairman, I would also  
6 add just as a reminder, I believe I did say it in the  
7 opening, but when we get to a final package, we're trying  
8 to have the AG's review on that package prior to  
9 presentation to the Board. And the AG's review requires  
10 them to conduct a review of the entire chapter, not just  
11 the changes that we're looking at, and that's part of why  
12 the remainder of these changes from their review are in  
13 this package. With that, Mr. Chairman, I think Mr. Hults  
14 and I would turn it back to you and the Board.

15 CHAIRMAN GAMPETRO: Okay. Thank you very  
16 much. A lot of work there. I would just ask now if there  
17 are any comments, suggestions, recommendations based on all  
18 of this from any of the board members?

19 MR. HULTS: Mr. Chairman, if you could,  
20 just state your name for the record and when people talk in  
21 general.

22 CHAIRMAN GAMPETRO: Yeah, this is Jim  
23 Gampetro again. Is there any suggestions, comments,  
24 clarifications, recommendations based on what we just  
25 heard? Well, seeing none, I would then ask for any

1 proposals in terms of motions to approve.

2 MR. WENDTLAND: Mr. Chairman, I would  
3 recommend that you open this to the public prior to that  
4 action.

5 CHAIRMAN GAMPETRO: Certainly. Any  
6 comments, suggestions, recommendations from the public?

7 MR. GUILLE: This is Keith Guille. You can  
8 raise your hand with the application and then we'll un-  
9 mute your microphone.

10 MR. WENDTLAND: Mr. Guille, do you have  
11 anyone with a raised hand?

12 MR. GUILLE: Mr. Chairman. No,  
13 Mr. Wendtland, we do not have anybody raising their hands.

14 CHAIRMAN GAMPETRO: Again, since we have  
15 none, I would put this to the Board and we are open for any  
16 motions. I'm not hearing any motions. We need to have a  
17 motion to approve or not approve or whatever.

18 BOARD MEMBER HINES: This is John Hines. I  
19 will move that we approve the changes in Chapter 5.

20 CHAIRMAN GAMPETRO: Thank you, John.

21 Do we have a second to that motion?

22 BOARD MEMBER MACKER: Natalia. I will  
23 second.

24 CHAIRMAN GAMPETRO: It's been moved and  
25 seconded. All those in favor, please indicate by saying

1 aye.

2 (Board members stated aye.)

3 MR. GAMPETRO: Are there any opposed?

4 Indicate the same way. Being no opposition, the motion  
5 carries.

6 So we are back to Kyle, Chapter 2, Wind Turbine  
7 Rules.

8 MR. WENDTLAND: Mr. Chairman, we'll do a  
9 very similar walk-through with Chapter 2. I'll provide a  
10 little overarching discussion here to start this package.

11 This rule package was derived from the statutory  
12 provisions that were passed in the 2020 legislative session  
13 to 35-11-402 of the act. The Board reviewed the draft  
14 rules that were scoped earlier this year. We got great  
15 comment, written comment, and feedback. We took that back  
16 and we revised this rule package.

17 The rule package, then, we worked with the AG to  
18 complete their review in similar fashion to Chapter 5. So  
19 the package in front of the Board today represents Land  
20 Quality's final rule package proposal for the Board to  
21 review and consider the recommendations thereof.

22 We received a comment from the WMA, PRBRC and  
23 Campbell County commissioners prior, and in review of those  
24 comments, we've gone through and made a number of  
25 revisions. Again, Mr. Hults will walk you through those



1 revisions, but the key items that those revisions represent  
2 were the relocation of the actual changes to a different  
3 section in Chapter 2.

4 The land use change options were revised, the  
5 burial -- potential burial locations were clarified, and  
6 the application of the solid and hazardous waste rules  
7 references were also clarified as part of those revisions.  
8 So it encompassed a pretty wide scope of updates following  
9 the comments we got.

10 We did receive one new comment, again from  
11 Mr. Strid, and he expressed his concern that the rules  
12 should be expanded to other materials and other locations  
13 beyond coal.

14 Again, my response to that is those actions are  
15 beyond the scope of the rulemaking in front of you. They  
16 would require further review from the legislature, and I  
17 think, based on the legislative record, it was made pretty  
18 clear that the only thing that we're talking about for  
19 disposal here is the inert blades and the inert towers. So  
20 I think that the statute and our directive there and the  
21 goals thereof were pretty clearly laid out for us in  
22 developing this rule package.

23 So I appreciate Mr. Strid's comments. I just  
24 believe that they're beyond the scope here of what we were  
25 asked to look at.

1           Also for the Board's reference, we did not  
2 receive any new written comments on this proposed package,  
3 on this final package, and we believe we have struck the  
4 correct balance here and are asking for the Board to  
5 consider it and looking for your recommendations, and with  
6 that, I'll turn it back over to Mr. Hults to give you the  
7 quick walk-through here.

8           MR. HULTS: Mr. Chairman and board members.  
9 For this chapter, I probably won't go into as much detail  
10 on some of the grammatical changes just due to the fact  
11 that this is a 30-page chapter. I'll try and strike the  
12 highlights, but again, too fast, too slow, let me know.

13           And again, I'll be working off of the file that  
14 was posted up on the Land Quality's web page and was  
15 forwarded to the board members. So with that, I'll  
16 probably just tackle these by pages and make a few comments  
17 along the way.

18           So on page 1, the first change we made again was  
19 to the section header. This was again to provide  
20 consistency with the Secretary of State's rules on rules  
21 and there was one minor grammatical change in section (a)  
22 that was made.

23           Moving to page 2, we added language. And again,  
24 this comes from the Secretary of State's rules on rules,  
25 which requires when you reference a statute for the first

1 time in a chapter, you have to spell out the word "Wyoming  
2 statute" instead of using the abbreviation. The rest of  
3 the changes again were grammatical on page 2.

4 On page 3 we added the term "Applicant Violator  
5 System." This was added because we had an acronym that  
6 wasn't defined up until that point.

7 On page 4, we made one grammatical change near  
8 the top of the page. Just we had duplicate language in  
9 Roman Numerals (I) and (II). We just added that to the  
10 section (A) and that saves us a little verbiage. And then  
11 there were two other minor changes to the grammar and one  
12 for consistency with how we've been referring to our rules  
13 throughout the chapters.

14 On Chapter 5 -- or page 5, I'm sorry, again,  
15 these were all grammatical or to provide consistency. For  
16 example, in section 1, we had referred to the chapters of  
17 Water Quality with Roman numerals. That style of chapter  
18 reference has since went out of vogue and for consistency,  
19 we're making them all numerals now, and the other ones were  
20 again just clarification and grammatical changes.

21 On page 6, a couple of minor grammatical changes.  
22 And again, we had an undefined acronym. We've provided  
23 that for the Natural Resources Conservation Service.

24 On page 7, one grammatical change, and then to  
25 provide consistency, we're referring to the reference area

1 with capital letters throughout the chapter and that  
2 matches how they're defined in Chapter 1.

3 On page 8, the same thing, for "Life Forms"  
4 regarding just the capitalization. And then section (D)  
5 was just a grammatical change to make it read a little  
6 better.

7 On page 9, we deleted subsection (viii). We  
8 found that that was redundant with section (k) below. So  
9 that section was struck and the portion of the language  
10 that we didn't have in section (k) was added to (k).

11 On page 10, just some grammatical changes again.  
12 Nothing for page 11.

13 Page 12, we updated the statutory references. We  
14 had some obsolete ones that were referenced in there. So  
15 we've corrected that and then one more grammatical change  
16 on that page.

17 Page 13, one grammatical change. The same with  
18 page 14.

19 On page 15 -- and again, I should reference, most  
20 of these comments came from the Attorney General's review  
21 and that's why they're not dealing with the wind turbines,  
22 but on page 15, again, two grammatical changes and then a  
23 statutory reference was updated.

24 On page 16, two grammatical -- three grammatical  
25 changes were made.

1           On page 17, we changed the word "should" to  
2 "shall." I'm still puzzled how that word got in there,  
3 "should." That's not usually good in rule writing.

4           On page 18, there were no changes. The same with  
5 page 19 and 20. 21 and 22 no changes. One small change on  
6 page 23, a grammatical correction.

7           And then beginning on page 24, this is where we  
8 start getting into the wind turbine language. There was  
9 one previous grammatical change made in subsection (ii).

10           And then this language here we've moved. It was  
11 originally in the land use section when we get down to  
12 section (F) and the intent here is to put it in a more  
13 appropriate place.

14           This section, section (ii), is dealing with the  
15 plans for backfilling, grading and contouring, and so we  
16 felt that these -- because the decommissioned wind turbine  
17 blades and towers would be used as backfill, we thought  
18 that was the more appropriate location and based on  
19 comments that we had received as well.

20           So beginning in subsection (F), this is where we  
21 would require plans for the disposal of inert  
22 decommissioned wind turbine blades. This section was also  
23 revised from the prior version that the Board had seen and  
24 that we had received comments on. It's now talked about in  
25 terms of disposal.

1                   In subsection Roman Numeral (I), we've limited  
2 the disposable material to only the inert base material  
3 from the decommissioned turbine blades and towers. In  
4 subsection Roman Numeral (II) --

5                   BOARD MEMBER HINES: Mr. Chairman, this is  
6 John Hines. I had a question on this section where it  
7 talks about the blades and towers --

8                   CHAIRMAN GAMPETRO: Go ahead, John.

9                   BOARD MEMBER HINES: -- and how they are  
10 made of different material. The towers are metal, and if  
11 they are metal, then why would they not be disposed as  
12 other metals, you know, to a scrap dealer or something like  
13 that? Am I correct in this that towers are metal?

14                  MR. WENDTLAND: Mr. Chairman, I can respond  
15 to that.

16                  CHAIRMAN GAMPETRO: Go ahead, Kyle.

17                  MR. WENDTLAND: Board Member Hines, there  
18 are metal towers and the majority of those do go to  
19 recycling for that reason. However, as the towers have  
20 gotten taller, and in particular, some of the offshore  
21 towers, they are now being made of the carbon fiberglass  
22 composite of similar material construction to the blades.  
23 So this provision allows those towers of that type of  
24 material for disposal.

25                  BOARD MEMBER HINES: But then,

1 Mr. Chairman, again, there's no distinguishing between the  
2 different towers. The way they're written, they can put  
3 the metal towers into the sites that they're disposing?

4 MR. WENDTLAND: Mr. Chairman, that's  
5 correct. We did not distinguish between that because both  
6 materials are inert material.

7 CHAIRMAN GAMPETRO: Kyle -- this is Jim  
8 Gampetro. And so the bottom line is either the carbon  
9 fiber-type tower parts or the metal tower parts might be  
10 disposed of in the manner we're talking about or not. I  
11 don't understand.

12 MR. WENDTLAND: Yeah, Mr. Chairman, we just  
13 didn't distinguish between the two. Clearly, there's a  
14 market for the metal, but if that market goes away, there  
15 may be a need to dispose of that material. Therefore, we  
16 left that option open all the way rather than having to  
17 come back and possibly readdress the rules again in the  
18 future.

19 CHAIRMAN GAMPETRO: Thank you.

20 Mr. Hines, do you understand now?

21 BOARD MEMBER HINES: I understand, but I  
22 don't agree. I think there should be a distinction between  
23 the two materials. Because if you're letting metal be  
24 buried, why are you limiting it to just the wind charger  
25 towers? There's a lot of other metals that companies may

1 want to dispose of in the same manner.

2 MR. WENDTLAND: Mr. Chairman.

3 MR. GAMPETRO: Yes. I think that's  
4 directed to you, Kyle.

5 MR. WENDTLAND: Yeah. Mr. Chairman, we  
6 could make that distinction. I guess I have some  
7 reservations on the other side to making that distinction.  
8 We're in a -- we're kind of seeing that situation now where  
9 with the wind event that happened in the Midwest and the  
10 leveling of the grain bins that occurred, there is no scrap  
11 steel market. So there may be, at times, a need for  
12 disposal of the metal tower bases here, and again, rather  
13 than have to reopen the rules, we felt that it was probably  
14 better to treat that and speaking to the statute, it says  
15 towers or blades. So we kept the language consistent with  
16 the statute rather than making it more restrictive.

17 CHAIRMAN GAMPETRO: John -- this is Jim  
18 Gampetro again for John Hines. What is your problem with  
19 disposing of metal in this way?

20 BOARD MEMBER HINES: Mr. Chairman, I guess  
21 I'm thinking that -- and I don't understand the other  
22 materials, whether it eventually decomposes or not, but  
23 metal never would, and if you're allowing metal towers from  
24 wind chargers, then this brings up the question why don't  
25 you allow other metals to be used in landfills for these



1 mines?

2 MR. WENDTLAND: Mr. Chairman, I would add  
3 here that these carbon fiber blades are going to take as  
4 long or longer to deteriorate than the metals. That's part  
5 of the difficulty in disposing of these is there is no,  
6 presently no recycling method. There are a couple of  
7 options that are being explored right now, one in Texas in  
8 particular, but they have never been able to scale. So as  
9 of right now, there really isn't a defined recycling method  
10 for these blades.

11 The current disposal methods on the blades are in  
12 Europe, they are putting them in concrete vaults and  
13 heating them up and turning them to ash for disposal and  
14 that causes, as you can imagine, a number of issues with  
15 air quality controls and then also with the ash itself and  
16 then all of the what it requires to actually burn them down  
17 to ash.

18 With the towers and the metal, again, if I go  
19 back to the statute, the statute in item -- we are in  
20 35-11-402 and I am on section (B) -- well, I should say  
21 under Romanette (xiii), section (B) of the newest book, and  
22 it states that the removal of all mechanical, electrical  
23 and other materials from the decommissioned wind turbine  
24 blades and towers, allowing only the base materials of  
25 blades and towers to be buried. So the rules we drafted

1 are consistent with the statute.

2 CHAIRMAN GAMPETRO: John, any further  
3 comments?

4 BOARD MEMBER HINES: Not on this subject or  
5 not on this area right there, but I have two or three and I  
6 don't know if this is the time to bring them up or not.  
7 With the blades and towers, if the pit isn't deep enough  
8 for the requirements of how deep they are buried and how  
9 much overburden, then there cannot be any towers or blades  
10 buried in that site?

11 MR. WENDTLAND: Mr. Chairman, that's  
12 correct. They have to meet the requirements.

13 BOARD MEMBER HINES: Okay. And I don't  
14 know if this is the section to bring it up or not. If not,  
15 I can do it later. I still have concerns about the  
16 liability later on, and not only on -- you know, when a  
17 bond is released, the company is released, then where does  
18 the liability go? Anything in these rules about that? I  
19 failed to see them.

20 MR. WENDTLAND: Mr. Chairman, when the bond  
21 is released, the bond is released, and that's why there's  
22 the monitoring period on the monitoring wells and those  
23 things with the Solid & Hazardous Waste Division rules,  
24 but, Mr. Chairman, Board Member Hines is correct. We're  
25 not looking to hold liability on these sites beyond the

1 bonding period.

2 BOARD MEMBER HINES: And, Mr. Chairman,  
3 what comes to mind, myself as an agriculture, I guess,  
4 representative is the settling. I don't know -- you know,  
5 as you see around the country as things are buried,  
6 eventually there's a settlement, and with these  
7 settlements, I can see moisture, water, settling in them  
8 and cause problems in the future that way. There's  
9 no -- there's no rules or anything that address this, then  
10 whoever the landowner is is probably just stuck with it.

11 MR. WENDTLAND: Mr. Chairman, my response  
12 to that would be that is why we put in the construction of  
13 lifts and the compaction of these materials is to minimize  
14 those potential impacts in the future. I would also add  
15 that the majority of these lands are private lands now and  
16 these lands are held by these companies. In the event they  
17 sell those lands, that should be probably a portion of a  
18 disclosure, and I believe that's why we have a map and a  
19 disclosure requirement in the proposed rules and  
20 regulations.

21 Mr. Hults, do you have anything further on that?  
22 But that was -- that was why the rules were structured the  
23 way they were here.

24 MR. HULTS: Mr. Chairman, this is Craig  
25 Hults. I'd agree with that assessment. I think we're

1 consistent with the statute.

2 One point on the metal versus nonmetal, one thing  
3 to keep in mind is to get those blades into these backfill  
4 locations, that won't be free. So if it was a metal and  
5 there was a market, I'm sure they would go that direction  
6 as opposed to using them as backfill.

7 So that's just one thing to keep in mind, but the  
8 remainder of Kyle's discussion, I think we tried to create  
9 disposal requirements that would avoid any kind of  
10 settling. And again, we are requiring that notification be  
11 made on the deed, and those maps would be available, and  
12 that may be something that I think if I was in the position  
13 to purchase a property like that and saw that there was  
14 notice on the deed, that's something that could be worked  
15 out as part of the contract as well to minimize that or  
16 you're at least going in with notice of that potential.

17 BOARD MEMBER HINES: Thank you.

18 CHAIRMAN GAMPETRO: So, John, are you done?

19 BOARD MEMBER HINES: Yes.

20 CHAIRMAN GAMPETRO: Thank you.

21 BOARD MEMBER HINES: I have no more  
22 questions on this. Thank you.

23 CHAIRMAN GAMPETRO: Craig, are you --  
24 you're not done yet.

25 MR. HULTS: No, I'm still on --

1 CHAIRMAN GAMPETRO: You're back on.

2 MR. HULTS: Mr. Chairman, I'm still on page  
3 24. So six more pages to go.

4 CHAIRMAN GAMPETRO: Keep going.

5 MR. HULTS: All right. So on the bottom of  
6 page 24, again, these are the distinctions between  
7 disposable material and non-disposable. The non-disposable  
8 includes the nacelles and nacelle housings, and there's a  
9 requirement to remove all mechanical, electrical and other  
10 materials from the blades and towers prior to disposal.

11 In Roman Numeral (III) and continuing on to page  
12 25, this is the approved backfill locations. In number 1,  
13 the prior language that we had there, it was limited to the  
14 final pit voids. In response to comments, we added that  
15 they could be placed in the end walls or the final pit  
16 voids.

17 In number 2, this is the requirement about  
18 placing the blades above the potentiometric surface. We  
19 did get comments on this section as well, asking for  
20 clarification. In discussion with the hydrologists on  
21 staff, the decision was made to require them to be placed a  
22 minimum of 20 feet above the pre-mining potentiometric  
23 surface of the coal aquifer and a minimum of 20 feet below  
24 the final regraded spoils surface.

25 In number 3, this is where we need a map and

1 legal description of the disposal locations and also  
2 backfill maps and groundwater monitoring location shall be  
3 updated annually in the required annual report.

4 In subsection 4, this was a change based on  
5 comments and the Attorney General's input. In our previous  
6 version, we were requiring a change of land use. Here, the  
7 language has been revised to say that the disposal location  
8 may be designated as a joint or alternative land use, but  
9 we're not requiring that. The approval of alternative land  
10 uses would follow our normal Chapter 2, Section 6  
11 requirements.

12 And you may remember that was actually where we  
13 had this language prior, but now we're just pointing out  
14 that if you did choose to go the alternative land use  
15 route, you would have to comply with the requirements in  
16 Chapter 2, Section 6.

17 And also, this section goes on further that the  
18 disposal of the blades and towers must support the post-  
19 mining land use that's identified in the reclamation plan  
20 and references Section 6(x) of this chapter.

21 In number 5, this is where we request the  
22 disclosure and place -- the final reclamation and location  
23 of these disposal sites, disclosure must be placed on the  
24 real property deed prior to final bond release.

25 In number 6, this is a reference to the location,

1 would comply with the Solid & Hazardous Waste Division  
2 rules at Chapter 4, Section 4.

3           Moving into Roman Numeral (IV), this is the  
4 closure requirements. Here is where we describe that the  
5 material, the turbines and blades, have to be placed in a  
6 lift not to exceed ten feet and then be covered by a  
7 minimum lift of at least 15 feet of suitable backfill  
8 material. And the reason these numbers were put in there,  
9 as the rule states, it was in order to minimize potential  
10 future surface subsidence. We did add the clarifier from  
11 the previous version that multiple lifts would be  
12 permitted.

13           In subsection 2 of Roman Numeral (IV), this is  
14 the groundwater monitoring plan. We did revise this a bit  
15 to make it clear who was kind of dealing with this. Here  
16 we'd be referring to the Solid & Hazardous Waste Division  
17 for guidance on the placement and installation; however,  
18 those monitoring results would then come to the Land  
19 Quality Division and reported in the coal annual report.

20           In subsection 3, this is the backfill site would  
21 not be -- is released by the Division in accordance with  
22 the approved reclamation plan. So we're still following  
23 the reclamation plan and the groundwater and vegetation  
24 monitoring would be required until final bond release.

25           And then in section -- subsection (V), or Roman

1 Numeral (v), this is the final surface reclamation  
2 requirements. In number 1, we're just saying that it must  
3 blend with the surrounding mine reclamation and have a  
4 permanent vegetation cover and this is in accordance with  
5 our general rules for reclamation at Chapter 4, Section  
6 2(d).

7 In number 2 -- and I'm on page 26 now -- the  
8 final reclamation must drain properly and not impound  
9 water, and again, that's in accordance with our current  
10 regulations in Chapter 4.

11 And then finally, in subsection Roman Numeral  
12 (VI), the operator is required to remit fees in the amount  
13 of 25 percent of any revenues collected by the operator for  
14 the disposal of the turbine blades and towers. We did get  
15 some comments on that. But that fee structure was set in  
16 statute, so we don't have any ability to change that. We  
17 did add the scheduling based on comments we would receive.

18 And that takes me through the wind turbine  
19 section, I'll call that. The remainder of the changes,  
20 again, on page 26, we made a grammatical change again.  
21 There are no changes proposed on page 27.

22 On page 28, again, this is how we're referring to  
23 terms that are defined. In this case, it's "Reference  
24 Area" again.

25 On page 29, this is the final revision, just a



1 grammatical correction, and that takes me to the end of the  
2 chapter.

3 MR. WENDTLAND: And with that,  
4 Mr. Chairman, we would turn it back to you.

5 CHAIRMAN GAMPETRO: Thank you very much,  
6 Craig.

7 Comments, questions, recommendations from the  
8 Board?

9 BOARD MEMBER HINES: Mr. Chairman, this is  
10 John Hines again. I had one question on -- you speak of  
11 the operator remitting fees and filing reports. In this  
12 case and normally are you referring to the coal company or  
13 to the company that is making some kind of arrangement with  
14 the coal company to bury these blades?

15 MR. WENDTLAND: Mr. Chairman, Board Member  
16 Hines, it would be the coal operator reporting that. You  
17 know, if they have a subsidiary, they would report through  
18 that subsidiary through the company, because the activity  
19 would be occurring within the affected area of the coal  
20 operator's boundary.

21 BOARD MEMBER HINES: Okay. And then if --  
22 Mr. Chairman, if the bond is released, then if that  
23 company, as we found out the last few years, go bankrupt,  
24 then there's -- it's an open area again, nobody is liable,  
25 but it would probably revert to the state?

1                   MR. WENDTLAND: Mr. Chairman, Board Member  
2 Hines, no, that's not correct. We hold bond for the total  
3 disturbance. In the event of a forfeiture, let's say if  
4 Company X is using this as an option and they're disposing  
5 of these blades as backfill in pit 1 and they go into  
6 forfeiture, the bond is still held to backfill the entire  
7 pit.

8                   So these aren't going to get left open and the  
9 state is not going to get left holding a liability here.  
10 That's a misconception in the public in general that  
11 somehow the state will wind up holding some liability here  
12 with these operations going into forfeiture.

13                   The only way that that could occur and the only  
14 possibility, as most of the companies are now surety  
15 bonded, is the surety would have to go bankrupt, along with  
16 the coal operator, and the reinsurance requirement or the  
17 reinsurance company would also have to go bankrupt in order  
18 for the state to be held with -- or left with a liability  
19 here. So that discussion and that outlay of information  
20 that's been in the public is really highly inaccurate.

21                   BOARD MEMBER HINES: Mr. Chairman, again,  
22 my question was after the bond is released and --

23                   MR. WENDTLAND: Mr. Chairman, after the  
24 bond is released, they will have met the requirements of  
25 the backfill. That's what this says here is it has to hold

1 to the reclamation plan. It has to be graded to meet the  
2 adjacent area or blend with. It has to have vegetative  
3 cover and the pit has to be filled before that release can  
4 occur.

5 BOARD MEMBER HINES: Mr. Chairman, is there  
6 any time limit on that? Or like I say before, the company  
7 is out of business, then does that go back to the bonding  
8 company?

9 MR. WENDTLAND: Mr. Chairman, I'm not sure  
10 I understand the question, but my answer would be if the  
11 company goes into forfeiture, the state will take on the  
12 contract, seize the bond and issue the contract to backfill  
13 and complete all of the reclamation whether there's blade  
14 disposal in the pit or not.

15 So I guess I'm not really maybe understanding the  
16 question here, because regardless, it would be covered  
17 under the forfeiture of the bond. So if the bond -- if  
18 they've completed the reclamation and the bond release has  
19 occurred, there's no reason to have bond moving forward.

20 BOARD MEMBER HINES: Thank you.

21 CHAIRMAN GAMPETRO: Are we set? Okay. I'm  
22 not hearing anything. Any comments, suggestions, questions  
23 from the public?

24 MR. GUILLE: Mr. Chairman, I'll just remind  
25 the public if they'd like to speak, go ahead and raise your

1 hand. It does look like -- I'm not sure. It looked like  
2 one had raised their hand and then he took it away. But  
3 once again, if you have anything to say, please raise your  
4 hand with the system.

5 Okay, the first one, Mr. Chairman, is Travis  
6 Deti.

7 Travis, I un-muted your mike.

8 MR. DETI: Thank you, Craig (sic).

9 Mr. Chairman, members of the Board, Travis Deti  
10 with the Wyoming Mining Association, and while we represent  
11 the state's coal companies that would have the opportunity  
12 to take advantage of this, if they so chose, I would just  
13 like to thank Administrator Wendtland and their folks for  
14 their work.

15 All of our comments on the previous draft have  
16 been addressed and have been addressed successfully and we  
17 fully support and would ask for the Board to move forward  
18 on this rules package. This is a good idea. This is a  
19 chance for some of our operators to take advantage of a  
20 situation that we've got nationwide with wind turbine waste  
21 to maybe generate a little revenue for themselves, to  
22 generate some revenue for the state. It's a good idea.

23 And again, no one is forcing anybody to do  
24 anything in this situation, but we are fully supportive of  
25 the rule package and of the statute and we would ask for

1 the Board to move this forward.

2 CHAIRMAN GAMPETRO: Thank you. Thank you  
3 very much.

4 Any other comments, questions, suggestions? Then  
5 we're looking for a motion to approve Coal Chapter 2, Wind  
6 Turbine Rules.

7 BOARD MEMBER JONES: Mr. Chairman, Blake  
8 Jones. Move to approve.

9 CHAIRMAN GAMPETRO: Thank you, Blake.

10 Do we have a second?

11 BOARD MEMBER LEGERSKI: I'll second.

12 MR. WENDTLAND: I think that was Board  
13 Member Legerski seconded.

14 BOARD MEMBER LEGERSKI: That's correct.

15 MR. WENDTLAND: Thank you.

16 CHAIRMAN GAMPETRO: So was that a second?

17 BOARD MEMBER LEGERSKI: That is correct,  
18 Mr. Chairman.

19 CHAIRMAN GAMPETRO: So all those in favor,  
20 please signify by saying aye.

21 (Board members stated aye.)

22 CHAIRMAN GAMPETRO: Any opposed? Motion  
23 carries.

24 We are now up to Noncoal Chapter 10, Limited  
25 Mining Operations. Kyle, do you have an overview for us?

1                   MR. WENDTLAND: Mr. Chairman, I do, and I  
2 apologize for jumping in. Our recorder was needing to  
3 verify the name on that second. So I apologize for jumping  
4 in on you there, Mr. Chairman. We were just having a  
5 little difficulty hearing and wanted to make sure we got  
6 the right name there.

7                   With Chapter 10, we're being -- we're bringing  
8 this back to the Board, actually. We went through, the  
9 Board had approved this. We went to the AG review and that  
10 was when we were between AGs. So we had a little delay in  
11 trying to get this review. And the AG came back with a  
12 couple of comments, and then -- and Craig will walk through  
13 those. And the biggest thing is really that the six-mile  
14 radius requirement is being reinserted back into the  
15 regulations.

16                   We did receive one new comment -- again, from  
17 Mr. Strid, and his comments were regarding the five-year  
18 renewal process.

19                   In response to that, I would just say the LQD  
20 offers that the proposed revisions are not intended to  
21 necessarily terminate an LMO at the close of five years.  
22 If an operator has been complying with the annual reporting  
23 and other regulatory requirements, all that's required of  
24 the operator is that he check the box to continue the LMO  
25 on the form, really. It does put a five-year window out

1 there and if those requirements aren't being met, the site  
2 hasn't been developed, it does allow Land Quality to move  
3 to a termination of that site for that particular LMO  
4 document.

5           So really, it comes down to I think there might  
6 be a little bit of a misunderstanding by Mr. Strid on how  
7 this is applied. And we did have some metrics on that, but  
8 the Attorney General's review also struck those metrics as  
9 part of their review. And with that, Mr. Chairman, that  
10 kind of concludes my overarch on this review and I would  
11 turn it over to Mr. Hults for the specifics.

12           MR. HULTS: Mr. Chairman and Board Member  
13 Hines, I just wanted to point out you're un-muted.  
14 Mr. Chairman.

15           CHAIRMAN GAMPETRO: Did Board Member Hines  
16 hear that he was un-muted?

17           BOARD MEMBER HINES: No, I didn't. I have  
18 a semi load of hay sitting out my door being unloaded and I  
19 was checking on it. So I missed the last couple of  
20 minutes.

21           CHAIRMAN GAMPETRO: That's okay. But you  
22 were un-muted and we could hear you.

23           BOARD MEMBER HINES: Oh, okay. So you know  
24 what's going on here.

25           CHAIRMAN GAMPETRO: All right. Can we go

1 forward? Mr. Hults.

2 MR. HULTS: Mr. Chairman, board members,  
3 sure. This package, like Administrator Wendtland pointed  
4 out, this will actually be the third time that you've seen  
5 these rules. They were developed again as part of a  
6 legislative change that was made. This one was made in the  
7 2019 legislative session.

8 And I'll go through this pretty quick, because  
9 we've had these rules vetted and approved by the Board to  
10 go to the EQC for formal rule making. However, we were --  
11 as Mr. Wendtland said, we were struggling with that  
12 six-mile radius being pulled out of the rules and that from  
13 the version that you saw last, that really is the only  
14 change we made to this version, but I'll still walk you  
15 through it, and I'll be probably pretty quick.

16 So in Chapter 10 -- again, this is on page 1.  
17 Again, we made a revision to conform with the Secretary of  
18 State's rules on rules and just removed the section header  
19 that we had there.

20 In Section 1, we made an addition to make it  
21 consistent with statutory language and that addition was  
22 that the notification would be submitted to the inspector  
23 of mines within the Department of Workforce Services. We  
24 removed Romanette (vii), which required in rule a sworn  
25 statement that all information in the notification was



1 true. That was deleted due to a lack of statutory  
2 authority.

3           Moving on to Section 5, this deals with  
4 reclamation. Here, what was done is prior to this  
5 revision, we had what was called abandonment language in  
6 here. And so when an operation ceased or within 30 days  
7 after the abandonment of the mining operation, we struck  
8 the language about the 30 days after abandonment. And this  
9 is due to now we have that five-year window. And the  
10 subsection, or Romanette (i), that section was deleted in  
11 addition to the description of what would be considered  
12 abandoning an operation. So this language became  
13 unnecessary due to the statutory changes.

14           In Section 6, there was new language added and  
15 that replaced the requirement to begin reclamation within  
16 30 days of abandonment with the five-year window that we've  
17 been talking about for the renewal term.

18           And then in section what was 6, but is now 7, we  
19 just made some section revisions. The numbering had to be  
20 changed based on our addition of Section 6. The same with  
21 Section 7 on the bottom of page 2.

22           And then finally, in Section 9, we just reordered  
23 or renumbered the section. And subsection (ii), this is  
24 where the six-mile limitation was that we had removed and  
25 it's now indicated as un-struck language or not deleted

1 language. So that was the only change was to section (a),  
2 Romanette (ii), since you saw this last, but that takes me  
3 to the end of the Chapter 10 revisions.

4 MR. WENDTLAND: And, Mr. Chairman, with  
5 that, we'd open it back up to you.

6 CHAIRMAN GAMPETRO: Okay. Any questions,  
7 comments, suggestions from the Board?

8 How about from the public? Do we have anybody  
9 out there that has any suggestions, comments, questions? I  
10 don't have a little screen to see people waving their  
11 hands.

12 MR. GUILLE: Yeah, Mr. Chairman, this is  
13 Keith, and it doesn't look right now that anybody has  
14 raised their hand.

15 CHAIRMAN GAMPETRO: Okeydoke. Then we  
16 would entertain a motion.

17 BOARD MEMBER HINES: Mr. Chairman, I would  
18 move that section on Chapter 10.

19 CHAIRMAN GAMPETRO: We have a motion. Do  
20 we have a second?

21 BOARD MEMBER MACKER: Second.

22 CHAIRMAN GAMPETRO: Thank you. All those  
23 in favor, please signify by saying aye.

24 (Board members stated aye.)

25 CHAIRMAN GAMPETRO: Any opposed, same

1 signal.

2 The motion passes. That brings down to a final  
3 advisory board meeting for 2020, and I think that Kyle has  
4 some indications of what we'll be talking about, so I'm  
5 going to turn it over to Kyle.

6 MR. WENDTLAND: Mr. Chairman, where we are  
7 at is for the year is with the additional meetings we've  
8 had, we would like to just have a short conference call  
9 meeting in early December. And the reason is we have a  
10 couple new board members, Board Member Legerski and Board  
11 Member Jones, and some reappointments, yourself,  
12 Mr. Chairman, as well, and so we have some just basic  
13 business items relating to oaths and paperwork and those  
14 things that we want to make sure we've gotten done and  
15 completed.

16 The Board will also need to elect its chairman  
17 for 2021. And we also need to set a schedule for 2021.  
18 And we can let you know at that meeting, too, what the rule  
19 package is and what that looks like and we can schedule  
20 around that for the next coming calendar year.

21 So our recommendation to the Board is rather than  
22 today, because of the -- I know Board Member Jones was very  
23 recently appointed, we kind of let the dust settle on a  
24 couple of these things, and then do a short conference call  
25 for a short meeting in December.

1                   CHAIRMAN GAMPETRO: Sounds like a plan. I  
2 am open. Anybody want to indicate days or periods of time  
3 which would be a problem for them?

4                   BOARD MEMBER MACKER: This is Natalia. The  
5 first week that starts with December 1st I would not be  
6 available.

7                   CHAIRMAN GAMPETRO: Thank you, Natalia.

8                   BOARD MEMBER MACKER: A Wednesday or a  
9 Thursday the following two weeks I would be.

10                  BOARD MEMBER LEGERSKI: Mr. Chairman, this  
11 is Gene Legerski. As long as you stay away from the first  
12 or the third Tuesday, I'm good.

13                  CHAIRMAN GAMPETRO: Thank you,  
14 Mr. Legerski. Anyone else?

15                  MR. WENDTLAND: Mr. Chairman, with that,  
16 unless other folks want to weigh in here from the Board, we  
17 would recommend Thursday, the 10th. And again, I would  
18 recommend this just be a conference call. We can provide a  
19 bridge line. It should be a fairly short meeting.

20                  CHAIRMAN GAMPETRO: Sounds like a plan.

21                  BOARD MEMBER MACKER: Thank you, put it on  
22 the calendar.

23                  MR. WENDTLAND: So we'll go for 10:00 on  
24 the 10th of December, Mr. Chairman.

25                  CHAIRMAN GAMPETRO: Sounds good to me,

1 yeah. I want to thank everybody for donating their time  
2 and attending these meetings.

3 MR. WENDTLAND: Mr. Chairman, I would add  
4 to that that we've had a particularly busy calendar this  
5 year for a variety of reasons and we are very appreciative  
6 of the Board's time. The last comment I have is again, I  
7 would like to express the Department's and the Division's  
8 appreciation for the volunteer time here and the time that  
9 was committed to the Board for several years by former  
10 Board Member Dinsmore. And we recognize that he's now  
11 fully retired and I talked to him the other day and he said  
12 that he wasn't sure what day and time that was going on, so  
13 I was kind of envious. But anyway, I do want to make sure  
14 that we, as the Division, recognize the time and service of  
15 Board Member Dinsmore.

16 CHAIRMAN GAMPETRO: We should invite him  
17 back just to hear his voice. Any other items for  
18 discussion before we close the meeting?

19 MR. HULTS: Mr. Chairman, nothing on our  
20 end from LQD.

21 CHAIRMAN GAMPETRO: Go ahead.

22 MR. HULTS: Oh, I said we -- this is  
23 Craig. Mr. Chairman, we don't have any other items for  
24 discussion today.

25 CHAIRMAN GAMPETRO: Oh, okay. Well, I

1 guess we can close the meeting. Do we -- I can't even  
2 remember. Do we need to have a motion to close the  
3 meeting?

4 MR. WENDTLAND: Mr. Chairman, yes, you do.

5 CHAIRMAN GAMPETRO: Well, we need a motion,  
6 then.

7 BOARD MEMBER HINES: Mr. Chairman, let me  
8 move that we close the meeting.

9 BOARD MEMBER MACKER: Second.

10 CHAIRMAN GAMPETRO: It's been moved and  
11 seconded. All those in favor please indicate by saying  
12 aye.

13 (All board members stated aye.)

14 CHAIRMAN GAMPETRO: Any opposed, same  
15 signal. Seeing none, the meeting is closed. Thank you all  
16 very, very much.

17 MR. HULTS: Thank you.

18 (Meeting proceedings concluded

19 11:48 a.m., October 7, 2020.)

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C E R T I F I C A T E

I, ERIC D. NORDBERG, 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 19th day of October, 2020.

  
ERIC D. NORDBERG  
Registered Professional Reporter

