



LAND QUALITY ADVISORY BOARD MEETING  
2nd Quarter Meeting Minutes



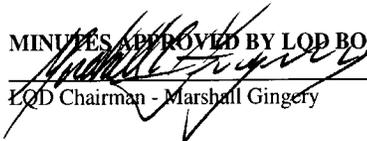
May 22, 2003  
Holiday Inn  
Shoshone Meeting Room  
Cheyenne, Wyoming

**BOARD MEMBERS PRESENT:** Marshall Gingery - Chairman  
Chet Skilbred - Vice-Chairman  
Rodney Proffitt  
Larry Munn

**DEQ STAFF PRESENT:** Rick Chancellor      Georgia Cash  
Sandra Garcia                      Dan Keefe

**MINUTES APPROVED BY LQD BOARD:**

**DATE:**

  
LQD Chairman - Marshall Gingery

  
May 10, 2004

**COAL RULE: PACKAGE 1P - BOND RELEASE**

**RICK CHANCELLOR, LQD:** This rule package was written up to address a disapproval by OSM. There was also a verbal indication from OSM that one rule was not as effective as theirs. A lot of this rule package comes from the initiation by Land Quality, reclamation as we've tried to go through bond release for coal mines that we find that some things need to be changed. This is a very small rule package to address some of the concerns. We have a larger rule package being worked on that will come forward in the future that addresses all of Appendix A. Appendix A was a guideline that became a rule which is attached to our coal rules that goes into great detail on vegetation sampling methodologies and bond release. So, there will be another rule package in the future adjusting Appendix A to try to clean it up because there's a lot of stuff in there that probably is not needed or needs to be changed or updated. This is sort of a stop-gap measure to try to facilitate bond release in the meantime.

We've done a few bond releases and in Chapter 2, Section 2(a)(vi)(C), were proposing additional language. The OSM program requires that all methodologies be approved by OSM. That's where Appendix A comes in. We found that a lot of these permits were written twenty to twenty five years ago and the language is not always clear to us today as it was to the people who wrote it. We've had staff turnovers. The mines have staff turnovers. Now we find out that both sides interpret that permit language differently. So even though the permit language may be in conformance with Appendix A, the interpretation there can cause some disagreements so we try to avoid that at bond release. We're asking that the rule be changed to include this language here that *specific sampling methods shall be approved by the Administrator within one year prior to initiation of vegetation sampling*. It's really not so much to change the permit as to clarify what that language means in the permit. We found that language is not always clear. So, before we go out and sample vegetation, come in, let's go through the procedures and approve that, that way there's no misunderstandings after they go through all that work and submit the data. Do you want to take the audience comments now or later?

**BOARD MEMBER GINGERY:** Today, since there's so few of us, we'll keep it pretty informal. If someone from the audience has any questions, just raise your hand or just indicate that you'd like to speak. Yes Scott?

**SCOTT BENSON, TRITON COAL COMPANY:** I agree with Rick that a larger rule package that addresses Appendix A is badly needed. I'm not against, and the Wyoming Mining Association, is not against this rule package and some of the things we're trying to do here are a step in the right direction. I think the technical standards need to be added as soon as possible. Dropping the grazing should be done quickly. From a general sense, we're not against approving this rule package. We've obviously got some specific comments with sections. I think the bigger issue is getting Appendix A addressed. The Wyoming Mining Association is also working on a rule revision package to get rid of Appendix A and I don't know if we want to do that in association with Land Quality or both go down separate paths. A lot of the comments that I'll present again get back to just inconsistencies with Appendix A and how those need to be addressed.

Chapter 2, Section 2(a) is the baseline section that says here's what's needed for baseline reports. Chapter 2, Section 2(b) is the mine plan and the reclamation plan requirements and again this gets back to Appendix A. This is an inconsistency when Appendix A got inserted and they didn't take the time and do that right. For this particular rule, it is not the correct place to put it. This isn't base line information. They're talking about affected area which affected area is clearly a Chapter 2, Section 2(b) location. That should be in the mine plan or the reclamation plan. It shouldn't be in a baseline report. The baseline report is the permit area. If they're going to correct that they also have to correct Chapter 2, Section 2(a) itself which again talks about affected area instead of permit area. Again, those are inconsistencies that were raised when they stuck Appendix A in. We've got a problem with specific sampling methods being approved by the Administrator.....again.....this is another case in point....it says, *specific sampling methods shall be approved by the Administrator within one year prior to initiation of vegetation sampling*. Again, if that's Chapter 2, Section 2(a), that means that you have to get those approved before you do your baseline reports but I think they're really talking about that being part of your revegetation plan and it's in the wrong place. I think Roy's got some comments from WMA on this section too.

**ROY LIEDTKE, JACOBS RANCH COAL COMPANY:** If I could, I'd like to give you some written comments.

**BOARD MEMBER GINGERY:** Sure.

**ROY LIEDTKE, JACOBS RANCH COAL COMPANY:** I agree with Scott that item # 1 addresses baseline and I agree with Scott's comments as far as the placement. Item # 2 of the rule change package is the one for Chapter 4 that addresses bond release and I'm fine with the fact that we should get approval of our sampling methods from DEQ. That makes sense to do that. It makes sense to be in agreement as to what they are, however, we should do that and agree upon it and then put it in our permit and not have to do it every time we go for bond release sampling. The way it's proposed is saying that we have to have this approved by the Administrator within one year prior to initiation of vegetation sampling which would require very frequently coming in and getting approval of your sampling methods. If things go as we hope they will in the future, we should be doing bond release packages on an annual basis. It does not make sense to have to be coming in for approval all the time. Again, we need to get approval once, get it clarified, put it in the permit and it will reduce some of the uncertainty for trying to get it approved every time we do sampling.

**BOARD MEMBER GINGERY:** Let's have Rick respond. Before he does, I thought the last time we went over this, Mr. Loomis was more concerned about the time table. I thought the argument had to do with a period of time than what you're asking.

**RICK CHANCELLOR, LQD:** Mr. Chairman, I think the rule package you're referring to is what we talked about in Jackson. The big issue with that rule package was trying to fit the review times into the time frames of Chapter 15. That's where we decided that it just didn't work. Chapter 15 was meant to be only administrative in nature and all the review would be done in advance. Every body at the meeting agreed that probably was the best way to handle the situation, and that's talked about later in this rule package.

**BOARD MEMBER GINGERY:** Okay.

**RICK CHANCELLOR, LQD:** John Corra, our new director, is now here and I just want to introduce the board to Mr. Corra.

**BOARD MEMBER GINGERY:** Would you like to comment on anything before we get too far along on this? Congratulations on your new position. We certainly understand that it is a very important position to the state.

**JOHN CORRA, DEQ DIRECTOR:** Not really. You guys are well into the flow of discussing this rule package and perhaps when you're done with this topic, if there's anything the group here would like to hear from me on, I'd be glad to do that. Otherwise, when there's a break, I'll come up and introduce myself personally to the members of the board.

**BOARD MEMBER GINGERY:** Alright, thank you. Rick, would you like to continue?

**RICK CHANCELLOR, LQD:** They do have a point that the first rule in Chapter 2 does discuss baseline and we do want the operators to come in and get approval of the exact methodology before they collect baseline so there's no disagreement after all their efforts are put forth and avoid that. They also have a point that if the system works as planned and every year we come in with bond release packages, this may not be that big of an issue but right now these procedures were written decades ago so no one has really applied it. I think as we go through more bond releases, we'll get a more comfort level on both sides that we are doing the same thing. What they tell us they're going to do is what we think they're going to do and there would be no bust at the end after they collect all that data. On one hand, they have a very good point that if it works out like we planned to have it worked out, one year in advance is probably not a critical issue. Right now, it is a critical issue because it's been decades since someone has really put the language in the permit and actually did the work.

**ROY LIEDTKE, JACOBS RANCH COAL COMPANY:** Mr. Chairman, one other comment with the risk of going out of order here is one of the last items in this proposed rule package, number 12 on page 16 states that the current rule says *the major components of a complete proposal for evaluation of revegetation success shall be presented in the Reclamation Plan* and the proposed rule change is to change it from saying it *should be presented* to it *shall be presented*. So, if we have a rule out there, the WMA would agree with this change....that's fine. If you have a rule out there that says the components for evaluation of revegetation success have to be in the reclamation plan then you should not have to get approval from the Administrator every time you do it because the Administrator's approving your reclamation plan.

**BOARD MEMBER GINGERY:** You're saying it's malleable. I thought we stated in the proposed rules here that you take care of this once?

**ROY LIEDTKE, JACOBS RANCH COAL COMPANY:** The way item number 2 of the proposed rule change is stated, which is for bond release, which we will hopefully be doing on a frequent basis every time that we get bond release, within one year prior to that we have to get approval from the Administrator the way the proposed rule is stated. Our recommendation is that we do not put those words in there....*the approval of the Administrator*, because as this rule package also proposes, we have to put in the reclamation plan how we intend to evaluate our reclamation success and he (the Administrator) approves that and if that's in there then we should not have to come every time we get bond release to determine the methods because they have a tendency to change. We all agree that how we look at what should be done for reclamation success has changed over the last 20 years and will most likely change over the next 20 years but if we can define in our reclamation plan once and then go forward then if it changes ten years down the road we do a change to our reclamation plan but rather than going in every time we get bond release to get approval on the methods. For example, I know one consultant that's working with a mining company right now that's working with DEQ on final bond release and they submitted an 18 page plan on what their methods would be on bond release and they got back 18 pages of comments and additional methods. If we go through that type of thing every time we go for bond release we are definitely slowing down the bond release process.

**BOARD MEMBER SKILBRED:** I understand the issues here because I have a permit before me that I recently renewed which is a T6, sixth term of permit, in which the methodology hasn't changed and it certainly should. So I can see a problem there and I would welcome an opportunity to have that changed but I also understand the concern about having to deal with it on a year-in-year-out basis. That would not probably be right. We renew our permits every five (5) years and I think a five year term of permit is probably reasonable for a methodology to stand the test of time within there.

**RICK CHANCELLOR, LQD:** We do not re-open the technical parts of a permit every five years.

**BOARD MEMBER SKILBRED:** I agree, we don't, but perhaps that should be something we should look at as an option here instead of having the Administrator look at everything every year or every time you go in, that may be at the time of renewal or before the renewal as part of the renewal process that an evaluation of that technology is put forward. If it needs to be changed or if there is some misunderstanding there, maybe that's a better vehicle to do it in. I agree, our permit renewals now are more administrative but if everybody is on board that you want to look at that, and I would think that the industry would be anxious to review those before their renewal, that you could take care of those issues during that process. That seems to me to be a compromise here for every year versus .....I don't believe that twenty five (25) years which this one is going to be or thirty years (30) that that methodology is probably well understood by everybody that was involved in that. I happened to be involved unfortunately with writing the first one but I know that there have been a lot of people that have changed since I laid that out and I'm not sure that I fully understood what I was doing back then and I'd have to go in and research it myself.

**RICK CHANCELLOR, LQD:** I think that's the quandary we face is that the language in the permit may meet the current rules as far as generally talking about the procedures to be used but what we found is when you apply those procedures, there's a lot of room for interpretation and we've had some problems with a consultant or a mine interpreting it a certain way and we thought it meant something else and then they submit the data and we say, "Whoa, we got a problem here". We're

trying to avoid that problem at the back end and somehow get those addressed earlier on. So, I'm not sure what the best fix is because we do have stuff in the permit but until you apply those we don't know what you really think when you apply those, it may not be what we think especially when it was written that long ago. So, somehow we need to come to terms before they actually go out and do the work. I'm not sure what the best fix is there.

**BOARD MEMBER SKILBRED:** There's always the option that when the company comes in for their first bond release underneath the program with that methodology that they would come down and everybody could get in agreement at that point in time and then if that methodology is suitable then it would stand the test of time and you would just go forward with it and use it without further consultation too.

**RICK CHANCELLOR, LQD:** For the bentonite industry, I think we've sort of done that. We've got to the point where we went through the process of really defining what they should do for vegetation evaluation and after we got that process initially done, it's pretty much a rollover that we do the same thing every year but that's based on years of doing it and the comfort level being built up based on what we actually see them doing.

With coal mines, we have not had that history of actually going through the process that somehow we need to get back together on.

**JOHN CORRA, DEQ DIRECTOR:** One thing I think is probably clear to everybody but I'll say it anyway and that is that I'm so new and you have to kind of view me as the new kid and not necessarily as the Director. If you view me as the Director on this issue you'd probably be going away wondering why I don't know more about this than I'm about to tell you.

The question that I have is, under the Statement of Reasons (SOR) for Amendments 1 and 2 Rick, the second line down says, *it has been discovered that the vegetation sampling methodology contained in the regulations and often discussed in the permits is open to some interpretation that can cause frustration*. It seems to me that in reading that that's the root cause for you all trying to make a change to improve things. What is the frustration? Can someone describe that?

**RICK CHANCELLOR, LQD:** I think the frustration for the mine operators is they have language in the permit that says they'll do something. They feel they go out and do that, they submit the data and we look at it a say you didn't follow your permit because we feel your permit says this because the language in the permit is more broadly written than 18 pages.

**JOHN CORRA, DEQ DIRECTOR:** If I were to restate what you said, the issue is that the language in some of these older permits, especially the older ones I imagine, does not comport with the regulation?

**RICK CHANCELLOR, LQD:** I think the language comports with the regulation but I think there is a difference of opinion as to the interpretation because the language may mimic the regulation. There's the on-the-ground process to apply that language and the mine feels that the language is interpreted this way and we feel that really to meet the regulations it should be interpreted another way.

**JOHN CORRA, DEQ DIRECTOR:** So, your primary motivation is to somehow ahead of time before we get too far down the path is to have a meeting of the minds so that everybody knows what the regulation says and they know what it is they need to do on the ground in gathering samples.

**RICK CHANCELLOR, LQD:** Right, go through the transect line of how the point intercept method works....all those details are not that....that little detail is not usually in the permit itself.

**JOHN CORRA, DEQ DIRECTOR:** What are some of the barriers of specifying that detail in the permit and would it be like terrain, topography or.....

**RICK CHANCELLOR, LQD:** I don't think there is a barrier to put that in the permit. I think back to 20 years ago when permitting was done. A lot of thought was probably not put into that part of their permit because it's so far in advance that we didn't want to nail it down too tight.

**JOHN CORRA, DEQ DIRECTOR:** Okay, thanks.

**RICK CHANCELLOR, LQD:** I think you're right, the real problem is a meeting of the minds. How do we get that done? I think most minds are open to come in and sit down with us to discuss that issue and get those things resolved before they go out and do it. There are one or two mines that think they don't have to because it's not in the rules.

**ROY LIEDTKE, JACOBS RANCH COAL COMPANY:** I agree with what Rick said but also the industry and LQD after about three years of work has just recently finished a guideline on bond release and we say very clearly in the first page of that paragraph that strongly encourages that you meet with the agency to discuss sampling methods. I realize that the frustration that the DEQ has had with some of these past bond release packages but my concern is that we're making a rule change that will affect us for the next 20-30 years over things that are happening in the last one or two years on the first time for bond release and this will affect us for every time we bond release in the future. I don't want to see a knee-jerk reaction to a couple or three instances that have not worked out quite as we planned. I agree it should be more defined but it should in the permit, it should not have to be defined every time we go for bond release.

**SCOTT BENSON, TRITON COAL COMPANY:** I'd like to address Director Corra's question along well with some of the stuff that's going on here.

With the OSM rules there only a few places where it gives the state the discretion to develop their own rules and that's exactly where this subject comes in. In the OSM rule it says standards for success in statistically balanced sampling techniques for measuring success shall be selected by the regulatory authority and it included an improved regulatory program. Now most of the other cases in the federal program, they tell you, they would answer this question for you. They'd say, in order to measure revegetation success for grazing land you use a line transect and it's gotta be run against a tee-test with a 90% confidence interval or something. The congressional record clearly documents that Congress intended that because the vegetation types across the country are so different they didn't want to prescribe that on a nationwide basis and say here's the technique and here's the statistics that are going to be run across the country. Most of us that know vegetation would agree with that analysis. When Wyoming took primacy of SMCRA, their program didn't have that and that's where they got a deficiency letter and in response LQD appended Appendix A to the rules and regulations which was a guideline. Appendix A is 60 pages long and it prescribes all kinds and most people would say too much detail as far as methods and statistics and how to go about doing the sampling. If we approve this rule package we still have a 60 page appendix that addresses that OSM requirement for the state, not the mines, to specify the methods and the statistics to be used for bond release. Now in this rule package we're coming back and putting that onerous back on the mines and saying on top of our 60 page Appendix A we also want you to specify the requirements and from my experience what we're going to create again is, not to ding on anybody, a micro-management of

the mines and the methods. It's my opinion with the 60 pages and the detail that's already out there that tells you here's the methods and here's the statistics, I'm not sure why LQD feels it's so necessary that they can't just let mines go and do their vegetation sampling and then turn around and give them the vegetation report and say here was the cover we had and here was the production we had. That's what's happening and that's why we're writing this up because mines have gone out, they've done the sampling, they've submitted a report, and then the reports get torn up in-house by LQD saying, "Well, we didn't agree with this method. We think you should've ran this, this, and this and we don't agree. You shouldn't have sampled annual grasses or you shouldn't have thrown them into production". So I think that's what LQD is trying to do here is get all the specifics down which may be a good goal and that may be something we want to do but do we want each mine to do that individually? Is that a good way to handle it? We've got 16 coal mines in the Powder River Basin so possibly every single year, 16 coal mines are going to write up their methods? Wouldn't it be better for LQD to address that fairly simple requirement that OSM said the state will decide on the methods and the techniques? For the state to put that in the rules and regulations and get rid of Appendix A....and just say....if they want cover measured by line transect or by quadrant, why don't they just say it? Say, we want everybody to run a line transect to measure vegetation cover. We want everybody to use a quadrant and clip total herbaceous production to get production and then everybody's on the same page.

**BOARD MEMBER GINGERY:** I thought in previous discussions, leading up to this package, that we did not want to go back to Appendix A and everybody was fairly satisfied. There may have been some small things, but I thought we discussed a shorter period of time to make sure all the review was done so the release could be made. If my memory is right, this was going to take a two year period. Correct?

**RICK CHANCELLOR, LQD:** Well, there's two years worth of sampling required.

**BOARD MEMBER GINGERY:** Yeah and I thought Rick, correct me if I'm wrong, I thought what we were trying to do is accomplish that in a shorter period of time so the bond releases could be made and making the requirements. That's not correct I'm getting the feeling.

**RICK CHANCELLOR, LQD:** Yeah. I think this rule package does not get into that issue to that detail. I do think that if there is a meeting of the minds before they do sampling, the review process would be a lot quicker. Again, I'm not sure this is the best way to handle this issue but it is a problem that those old permits can be interpreted a lot of ways because there's not that level of detail in there and maybe there's another way we can get to that level of detail before the mines go out and sample. We don't want to have, after they sample, have a lot of discussion of what they did wrong. We don't want to look at the numbers and say yes or no. So, if the mines feel that Appendix A, when we revise it to update it, is a better place to address this issue by being more specific in the methodology, that could be a way this could be handled and then open all the permits to review to bring up to date the new Appendix A or new rules.

**BOARD MEMBER GINGERY:** Do you see any confusion in this Larry?

**BOARD MEMBER MUNN:** Well, I guess as I read that now, I see the mines point where in one sense they're saying that the descriptions should be in accordance with the methods specified in Appendix A and then they're going back and apparently asking that those same methods be approved every year when if Appendix A is current, everybody should be reading that and seeing the same methods there. I guess I'm not seeing why it's necessary to put that in if everybody is in agreement

about what that would be. I would think that it might be good for DEQ to offer a work shop on a regular basis like every other year or something with consultants and people from the mines and just get together and just make sure everybody is on the same page with methodology. I agree with Rick that the goal should be that the data set comes in and there's not any question about it not being the correct data set and you just make an evaluation on the data that's there.

**BOARD MEMBER GINGERY:** Rodney, any comment on that?

**BOARD MEMBER PROFFITT:** I was wondering about Scott's long-term goal here of getting rid of Appendix A all together and whether, you Rick, were in agreement with that? Why put a band-aid on your finger if you're going to chop it off later?

**RICK CHANCELLOR, LQD:** I think the issue on Appendix A, whether or not it be kept, no matter what happens, Appendix A will be revised and either incorporated into the rule chapters or revised and left as Appendix A. The final outcome is not decided but will be revised quite a bit to bring it up to date and make it more useful than what it is now. So Appendix A will be changed. It may be changed and incorporated with the rules and go away or it may be changed and left as is. That remains to be seen but it will be changed quite a bit.

**BOARD MEMBER GINGERY:** So are you saying that what the mining industry brought to us today, you're almost in agreement with? The thing I liked is what Larry had to say about all parties getting together to have a meeting of the minds. Yes Scott?

**SCOTT BENSON, TRITON COAL COMPANY:** I can give you another example just so everybody understands the situation. I just had LQD come out here a couple weeks ago to start doing this process for our mine and that is agreeing on the sampling techniques for a Phase III final incremental bond release request and it really comes down to the very specifics. For instance, the Act and the Rules and Regulations for bond release say that the production has to equal or exceed premining production. That's the Rule, that's the Act. Where Rick's coming from with this, I believe, is how's that interpreted. I believe there's places in Appendix A where you could expand on total production and for instance say if it's grazing land, total production means total herbaceous production. If we're going to exclude shrubs we're not going to do production on trees because cows don't eat shrubs and trees so we would exclude that although the rules and regs. don't do that at this point in time. Then if you want to get more specific when you're dealing with LQD on how you're going to do that sampling and present the data, my attitude to them in the meeting was it meant total herbaceous production. So, we've got our plot, the quadrant frame sitting out there and you go clip it. Well, the bond release standard just says total herbaceous production equal to premine, so why can't I use big garden shears and just shear all the vegetation, put it in a bag, dry it for 24 hours and weigh it and compare it to my premine production? In my opinion, I've satisfied the requirement, assuming that production is higher, I've satisfied that requirement. Right now, the people I'm dealing with in LQD do not interpret that requirement that way. They think it has to be clipped by species so you have to separate the "poas" and clip it. You have to separate the junegrass and clip it and then weigh them all separately and then you run your statistics separately on each of those samples and that's the problems we're getting into is if a mine would do it my method and clip everything....the regs. just say total herbaceous equal to or greater. Here's one number total herbaceous production, 510 lbs. premine, 500 I get bond release. I think what we're facing is LQD is going to say, "No you don't. As a matter of fact we're not going to accept your sampling program because you didn't do it by species. We want to know how much production there was in the junegrass compared to the premine". Well there's no standard about species. That data might be nice to have but for bond release it's irrelevant.

**BOARD MEMBER GINGERY:** We're getting too specific on what's in there but that's a good example. I'm getting the feeling that maybe that this proposed language we would just take out at this time. Is that what we're getting to Rick?

**RICK CHANCELLOR, LQD:** What I hear from Scott, and maybe the industry, is perhaps that Appendix A needs to be more detailed to avoid differences in interpretation. Appendix A is maybe where this should be addressed to avoid those misunderstandings.

**BOARD MEMBER GINGERY:** Last time I thought we dealt with Appendix A, we didn't go down line by line of this group did we? We accepted it as a whole?

**RICK CHANCELLOR, LQD:** Appendix A in the past has only been modified a little bit to address the threatened and endangered species. Appendix A has not been brought to the Council I think since its' inception and that's what we're working on now to clean that up.

**BOARD MEMBER GINGERY:** Going along with our conversation today....how long do you think that would be before it came to us?

**RICK CHANCELLOR, LQD:** For our in situ rules we hope to do it this summer. I imagine Appendix A would probably be early next year. Georgia?

**GEORGIA CASH, LQD:** I would guess probably the first quarter of next year.

**BOARD MEMBER GINGERY:** But just generally, of those 16 mines in the Powder River Basin, how many of these releases are going on at any given time for a particular coal company?

**RICK CHANCELLOR, LQD:** I think to date Scott has his in progress. Does Jacobs Ranch have a final yet?

**ROY LIEDTKE, JACOBS RANCH COAL COMPANY:** We're planning on coming in with one soon

**RICK CHANCELLOR, LQD:** I think right now we're on the edge of getting a lot more final bond releases coming into the Division. I know Powder River Coal Company wants to be in the situation where they're doing some type of bond release every year. So, I think the numbers of bond releases are really going to go up in the next years. Right now we're on the edge of that starting.

**BOARD MEMBER GINGERY:** My point is and then it's fairly essential that we do get to Appendix A if we're going to modify, change, or update it, probably as soon as possible because doesn't this really cause confusion....I'm trying to follow what Scott and others were saying.....and maybe the present one really needs to be updated. That's what it sounds like to me. Is that correct?

**RICK CHANCELLOR, LQD:** Yes.

**BOARD MEMBER GINGERY:** It may be an unfair question to you Chet but you started your overall project about five years ago, correct?

**BOARD MEMBER SKILBRED:** In 1999, yes.

**BOARD MEMBER GINGERY:** So how many times have you had to go back for your particular company? Is it on an annual basis?

**BOARD MEMBER SKILBRED:** For what?

**BOARD MEMBER GINGERY:** To get an approval on bond release.

**BOARD MEMBER SKILBRED:** We haven't applied for any bond release.

**BOARD MEMBER GINGERY:** Oh, you have not applied. I thought you had. It was an unfair question, see!

**BOARD MEMBER SKILBRED:** But to follow up a little bit on the discussion perhaps, I think Scott brought up a real valid point because his interpretation of total herbaceous production was probably exactly what I would interpret the regulations to say. So, if there's some different interpretation of that then we certainly need to know that. From the time I originally put our permit together and also went through some bond release on some pre-category 5 lands, we use total production, not by species, but rather a total production off the plot. We did separate it by life forms in the cases for some of the things but this is the first time I've ever heard anybody talk about comparing individual species because I was never aware that was going to be the case.

**RICK CHANCELLOR, LQD:** I have to look into that. I am not aware of that.

**BOARD MEMBER SKILBRED:** That to me is completely different than what I would've interpreted it to mean. So if new members in the department interpret total production to be that, then there's certainly going to be a lot of discussion from industry with the department, I can guarantee you that. With the issue of a bond application coming in and we're probably on the forefront of all that and probably you're going to receive a number of them prior to Appendix A being modified and made rule, there certainly is a need for us to communicate or for the department to communicate with the mines maybe just to send everybody a memo or a letter saying that it is highly recommended that you come in to the department if you're going to initiate these procedures in the next year or two and talk to us about sampling and sampling methodologies for bond release instead of trying to put together a procedure or a rule package that's going to ultimately change potentially with Appendix A.

**RICK CHANCELLOR, LQD:** I think Larry also suggested having a workshop on this issue.

**BOARD MEMBER SKILBRED:** I agree. I think those are excellent ideas. I know there's a concern there and I can see the concern and I think that's one of the ways one can address that.

**BOARD MEMBER GINGERY:** I really did like Larry's idea on the workshop but would your department be ready this fall to have a workshop and what I'm thinking is the members up here I think are showing some interest in this but what if we had it maybe a day before our next meeting so we could participate or at least listen what's going on in that workshop? Is that a possibility?

**RICK CHANCELLOR, LQD:** The fourth quarter would be better for us.

**BOARD MEMBER GINGERY:** Yes, that's what I was really talking about. I guess I did say fall but I was thinking of that being the fourth quarter. Larry, are we keeping on track with your suggestion?

**BOARD MEMBER MUNN:** Yes, and I'd like to comment at this time that a misunderstanding or a difference of opinion about something like clipping by species for total production or a total massive

desirable plant production is a huge difference. There's such disturbance to the substrate that I'd say that it's virtually impossible or unreasonable to expect that you're going to get the same species back in exactly the same abundance afterwards and exactly within the framework of statistical sampling. It's a major change of the root zone and that I think would be a total unreasonable expectation that you're going to get the same species back. There's an annual difference in species composition in terms of production depending on weather and other considerations so that's a moving target as well. If that kind of disagreement is occurring it's really serious. The methods need to note that and specify so that everybody knows what they're up against and make sure those expectations are actually reasonable and achievable.

**RICK CHANCELLOR, LQD:** I think it's probably more life form than individual species but we'll check into that. I think scheduling a workshop to go over our thoughts on sampling methodologies and all that would be helpful to everybody as they prepare to do sampling next spring/summer for bond release.

**BOARD MEMBER GINGERY:** Scott?

**SCOTT BENSON, TRITON COAL COMPANY:** I would definitely agree with the workshop. I had two different consultants with me when we were out in the field discussing sampling techniques and those consultants are going to put together the techniques and submit them to Land Quality to review and approve before we start our sampling. Listening to the consultants talk, according to them there are substantial differences between Land Quality districts where they're doing final bond release sampling in another district and they say that data was thrown out and they said you couldn't do it that way and another district saying that's the way we want you to do it. So, again, this is obviously a problem that needs to be addressed. What are the techniques going to be and again, I'm just not sure why we want to address it on an individual mine-by-mine basis each year and resubmit them. Let's sit down and decide what the techniques are going to be and write them up and whether that means we have to include them in the rules and regulations or again put them in a guidance document or some other source.

**BOARD MEMBER GINGERY:** Since you're representing the Association, I think all of us realize that this next year some patience is needed until we get to some modifications, changes or at least to the workshop. It seems to me that maybe what we're proposing here is coming to the Administrator on things, maybe that is a short-term necessity so that everybody is playing with the same score card. It isn't a solution but I'm a little concerned that we're playing with too many rules here and maybe the Administrator is the key focal point right now to make sure that we're not having five different processes. Larry brings out that it could be devastating. Rick, I really suggest if you go with the workshop, is it possible to have that workshop in Gillette so we'd have a good turnout? Is that fine with the mining industry so you would have a better turnout if we handled this in Gillette?

**SCOTT BENSON, TRITON COAL COMPANY:** I think that's a safe assumption.

**RICK CHANCELLOR, LQD:** Either Gillette or Casper because we do have mines in the southwest.

**BOARD MEMBER GINGERY:** Well, yes, we've had good meetings in Casper too but closer to the source, let's say.

Rick - from where we're standing now, what's your suggestion on how we handle this first change?

**RICK CHANCELLOR, LQD:** Both in Chapter 2, Section 2 and Chapter 4, Section 2, I think for the time being we'll remove that language that we suggested and we'll deal with it through Appendix A and for further discussion with the mining industry.

Also, in Chapter 4, Section 2(d)(ix), there is another change there that we do want to keep. It's more of a clean-up. We struck out the Soil Conservation Service and put in the Natural Resource Conservation Service to update the language.

**BOARD MEMBER GINGERY:** Is it necessary to have a motion on your statement?

**RICK CHANCELLOR, LQD:** You can wait until the end and just keep track that these two parts will be.....

**BOARD MEMBER GINGERY:** Keep track of what we're agreeing upon and then vote. I think this is a good time our Director come and say some words. What's going on in DEQ?

**JOHN CORRA, DEQ DIRECTOR:** One of my failings in life is I always have words to say and they're too many and they drive people crazy! I've been here for 2 ½ months and I'm taking a drink out of the fire hose! I tell people that because I'm so new, I reserve the right to change my mind tomorrow based on new information!

As far as DEQ is concerned I think the challenges are significant. Rick may disagree, but Land Quality may actually be the one that is probably a little more stable.

Water Quality goes without saying...coal bed methane and how we deal with that. That is a singular issue and we have other smaller things in Water Quality that we're dealing with that are not so small but they pale in comparison to coal bed methane.

On the Air Quality front we have some definite issues in terms of managing energy development up in the Powder River Basin and also trying to figure out which way we want to go in regards to implementing regional haze guidelines. We have to make a decision here fairly soon about which way to go on that. We're trying to get our monitoring network established and understand what the baseline is for regional haze pollutants. Those are probably the primary two although there are several items.

I look at the DEQ today and I think that it's staffed with very good people. I think there is plenty of work for us to do to move the agency forward. I don't have any plans that I can talk about right now but I view my role is to facilitate that agency to continue to improve performance and fulfill it's mission.

I'd just assume answer questions from here rather than say much more except that I have to make an observation about the process that I just observed. I agree with the path forward here in terms of bringing parties together. I know on this issue there is a broader issue around reclamation liability bonding in the first place. The industry has a significant problem with that. Perhaps if we go forward and do our work so that we get what we need done, we satisfy the requirements of the law and the people we serve can find an easier way to get along, then I think that's a home run. So, I agree with your philosophy about bringing people together to work on those things. I believe in the philosophy of bringing the right people together that can make some solid recommendations. Anyway, my observation on this thing is and of course I'm coming from a place of ignorance but I

think what Rick wanted to do and the Land Quality Division wanted to do with this rule change was simply reduce the number of arguments that might be taking place out there and with regards to the sampling methodology. Somehow or another we ended up with a much bigger project. No complaining! I think that project is helpful but the real issue here it looks like to me was there is always these disagreements and so why don't we just decide in about a year or so in advance so there's plenty of time to work these kind of disagreements out but we went from there to maybe talking about perhaps we ought to change the species combination and final reclamation and all of a sudden it opened up the whole thing. I guess my observation is that we just lost our focus on what the reg. change was intended to be. Just an observation. New kid, fresh eyes, first time here but anyway, we're okay with doing this thing and I think there is a broader interest. I'm hearing from industry folks about difficulty in getting bonds. I was in industry up until about three months ago so I'm kind of sensitized to that whole issue and to the extent that we can work together and hit that home run I was referring to so sign us up, we're here to work.

**BOARD MEMBER GINGERY:** When I was looking at this the other day, I said, "Oh, this is a slam dunk, we're already passed this and I was a little surprised when I got here this morning because I thought this would move right along. I appreciate everybody's input.

In your new leadership now for the state, are you going to be using, even though these are established advisory boards, do you look forward to using these advisory boards as part of your technique in accomplishing in whatever DEQ is supposed to be accomplishing?

**JOHN CORRA, DEQ DIRECTOR:** Yeah, in fact, that gives me the opportunity to make a request of you. Before I answer that, it's a well intentioned request, I might add. Anyway, before I answer that question there is one other thing I probably ought to say. What I have been doing and I haven't done it for the last two weeks because I've just been immersed in all these other issues but I started out reaching out and connecting with all the constituencies that have stake in what the DEQ does. I've talked to the Powder River Basin Resource Council, the Wyoming Outdoor Council, the Conservation Districts across the state, landowners, the Mining Association, the Petroleum Association a little bit and I've talked to the employees. I have a basic question: tell me what's working with your relationship with the DEQ and tell me what's not working. I've been taking notes and I made a commitment to everybody, especially the employees. Now I haven't done this specifically with all the groups in Cheyenne yet because my meet-and-greets with the employees with Cheyenne were over the tops of filing cabinets and it wasn't conducive to having those questions answered but I will ask them in a more formal setting. Anyway, I'm asking for that data. What I want to know is what's working and what's not working. I'm going to feed all that back to the employees. What I've heard so far is that we can improve our consistency. What I've heard so far is we can do a better job of inspecting and compliance assistance. We can do a better job at communicating. It's almost any word that begins with a "c". We can do a better job of coordinating. All those four 'c's not only bridge from inside our agency to all the constituencies that exist outside that have a stake in what we do. Those same things also bridge from division to division inside the agency and also through the hierarchy from the top to the bottom. So, I keep coming back to those four 'c's and thinking maybe that's it.....if we (agency) had something we really needed to work on with the agency that's the direction we'd go.

To your question, please take the time to write out some of your observations and I think coming from an advisory board such as yourself, it would be especially meaningful. Send me an e-mail. Pick up the phone and call me. The second and last part of your question is, I think this is an excellent forum to get some of this stuff out before we head off to the Council or before we head off

to OSM and some other places. It's a great place to make sure we're getting input. I'm a supporter of making decisions with getting a lot of input. I envision the relationship to continue as it has and if there are ways to improve it, let's do it.

**BOARD MEMBER GINGERY:** Any other questions? I have one more if I may and it's self service! Some of us serve on other boards in our counties and municipalities and planning commissions and we deal with a lot of issues especially on water issues and sometime we'd like to work with you and have you come speak to some of the planning commissioners because we're dealing with some interesting issues and sometimes I don't think we understand the big picture with DEQ.

**JOHN CORRA, DEQ DIRECTOR:** Sure. I'd be glad to do that. I have turned down some opportunities to....I call it make quest appearances...and I haven't quite figured out why the Trucking Association needed John Corra to talk to them but there may have been a reason there that I'll learn one day and then the Association of Municipalities I turned down also. So give me a little bit of time but then don't hesitate to ask and I'll work it in and I'll come out and see you because I do want to make those connections. The Governor wants his cabinet to be more accessible and connecting to everyone around the state. I've really got a great life to go out and visit with people and that will be a fun part of my job. I'll be a better speaker than I am today when I know something!

**BOARD MEMBER GINGERY:** Any questions from the audience? Thank you for coming to our meeting this morning and feel free to participate. Thank you again.

Rick, where are we?

**RICK CHANCELLOR, LQD:** Let's go to page 3, number 3, Chapter 4, Section 2(d)(x). We're striking out language there that requires a grazing demonstration to be part of the bond release criteria. We found that over the years that the information we get isn't that helpful because this can be done so many different ways and it is evaluated in so many different ways that to really have it as a bond release criteria may not be that great. OSM dropped the requirement many years ago so we're following along with the national trend. We do encourage, and later on we will show that, we do encourage that grazing be used as a husbandry practice to manage the revegetation. We still feel grazing is important but not to the point where it has to be grazed to show you meet bond release. So, we're striking out that language. Also, we're adding language in the first paragraph. We want to try to develop technical standards for cover and production. Right now when you do bond release the mines compare their reclamation to undisturbed area. They really don't know if they met bond release until they do that comparison. They really don't know what target they're shooting at until they do that comparison. We feel that a technical standard that is evaluated up front beforehand that specifies a production of so much for this reclaimed area is a better and cleaner way to go about bond release. We cannot do this unless we have it in our rules and those rules are approved by OSM. So, the last part is to add language to start the process of doing a technical standard. Here we talk about, if you do a technical standard you satisfy the requirements two out of four years. If you do the comparison, it talks about doing it for two consecutive years at the end of the bond period. The reason for this change is we feel that for comparison areas or reference areas when you compare it to undisturbed lands, those lands are being impacted by drought or insects just like the reclamation is so it should still be a good comparison but a technical standard is not really impacted just like that reclamation area because it's set in advance. We're allowing more flexibility to do it two out of four years to take in account those things. That variability has been proved by OSM for other states in the past so we feel that it's a good way or a strong way to go.

**BOARD MEMBER GINGERY:** Are there any comments on this from the board members? Anyone from the audience?

**ROY LIEDTKE, JACOBS RANCH COAL COMPANY:** We support the change as proposed. We've talked about a lot of other changes that could be made and where do you draw the line but one of the changes that we feel could be made in this particular paragraph is in item 1 and 2 where we talk about 1) vegetative cover being equal to cover on the area before mining and, 2) productivity equal to productivity before mining. It's in the sentence or two before the proposed change. The Statement of Reasons (SOR) says that making the changes that were proposed will now make the Wyoming Coal Program no more effective than the federal program and yet if you look at the federal program for cover and productivity it says they have to meet 90% of the success standard. Since we're changing this particular section of the rules we think it'd be an opportune time to add in a clause to make it 90% of the premining or 90% of the success standard because then we would be consistent with the federal rule and not more stringent than the federal rule.

**RICK CHANCELLOR, LQD:** We feel that should be addressed in Appendix A. I think we get into those details in our rewrite of Appendix A. There's some discussion that for a technical standard it's either yes or no it's not 90% or for a reference area, comparison area, that 90% is probably applicable. So, we prefer not to include it here but address it later on when we do the Appendix A rewrite.

**ROY LIEDTKE, JACOBS RANCH COAL COMPANY:** That sounds reasonable.

**BOARD MEMBER GINGERY:** Any other comments? Yes, Scott.

**SCOTT BENSON, TRITON COAL COMPANY:** If we could back up to number 2 just real quickly, I missed my opportunity to comment on that when we were there. I'm a very strong supporter of approving technical standards and LQD has had this language about being able to approve alternative success standards in the rules for 15 years but OSM ruled 15 years ago that they couldn't approve an alternative success standard until they approved one in rule program and specified what that was. Just so that wouldn't happen again we go through six months of this process and it gets to OSM and they say we still haven't provided the specificity. I would suggest under item number 2 about half way down after the revision (page 2) where it says *if the Administrator approves an alternative success standard as allowed by Section(d)(x) of this Chapter, the standard shall be based on*, and again, we suggest we put in there premining vegetation data or.....again, I think that's where the mines are going, where LQD is going is to be able to set a standard saying if you've got five years of premine data then you can summarize that data and then when you do your bond release sampling if it equals or exceeds that data....in other words, not having to use reference areas. My concern would be if OSM in their approval of this rule amendment package still does not agree, the states provided enough specificity that they can approve that basing it on premine vegetation data.

**RICK CHANCELLOR, LQD:** We have talked to Denver OSM folks who will be reviewing this package and they do not see a problem with our current proposed language. They feel the technical standard is no problem being approved as we present it here today and that the additional language by Scott would not be necessary.

**BOARD MEMBER GINGERY:** When we do have that workshop it might be good to have someone there from the Office of Surface Mining sitting. I know the few times when they attended our meetings, they were able to bring us up to date as to what's coming out of the Washington office on certain aspects.

**RICK CHANCELLOR, LQD:** We'll ask that too because Bob Postal of OSM in Denver has worked with us real closely on the technical standard issues and these rules and I'm sure that he'd be glad to come up and assist in any way that he can.

**BOARD MEMBER GINGERY:** Thanks Scott. I think those are good points and when you get to the workshop we'll keep that in mind. Was everyone in consensus that Chapter 4, item number 3 with the elimination of that one sentence and then the proposed information?

**BOARD MEMBER MUNN:** I support the removal of the required demonstration of grazing. I think that's probably going to be a long-term goal is to develop a plant community that will sustain grazing but I think it's so difficult given the scale of this to do a real demonstration of how that would work in the future when the whole area has been mined. I think if anything it's confusing or it's simply a requirement for bringing cows in and out and counting them and having them there for a while. It doesn't provide information beyond what you can get by just inventorying the plant community.

**BOARD MEMBER GINGERY:** Any other comments from the board members? Okay, let's move on then.

**RICK CHANCELLOR, LQD:** We are now on the bottom of page 6. This rule, 4.a., Chapter 4, Section 2(d)(x)(E)(I) back when we did the shrub standard rule, previous to that there was shrub goal rule and what we did when we changed to a shrub standard, we eliminated the shrub goal rule and that was not really our intent that the lands prior to the shrub standard had the shrub goal applied to it and so what we've done here is to put back into the rule that previous shrub goal rule. One other thing that we've done also is to clarify the date of applicability of the shrub goal rule. The shrub goal rule actually came into being I think in 1981. Before that there was a rule that said shrubs and things like that had to be equal density. We allowed mines from May 3, 1978, that's really when the affected date of the SMCRA rules came into being, from that date until the shrub standard rule that we allowed all the mines to go through a shrub goal even for those lands that could be applied to the equal density. We want to make sure that's clear to everybody that we are applying the shrub goal to those old lands and we are not trying to apply equal density shrub rules to those lands. So there's clarification at the start for the date of that rule and to also put the rule back in.

**BOARD MEMBER SKILBRED:** I have a question on that because some permits, and I know mine is one of them, specifies what lands the shrub density goal applied to when it was put in and it does not go back to 1978. The permit itself as written for the last six terms, in fact, it was stipulated in that permit by the department when it should apply. Now I'm going to assume that individual mines out there that have that in their permits, that still applies, their permit still takes precedence.

**RICK CHANCELLOR, LQD:** The problem with that is the rule before that date said equal shrub density so unless you want to have the lands in that window before the shrub goal rule and the May 3, 1978 date, the rule that would apply to you would be the equal density and I don't think you want that.

**BOARD MEMBER SKILBRED:** You're saying then that you're backing this rule up.....oh....okay. I misunderstood what you said.

**RICK CHANCELLOR, LQD:** Right because the rule in effect between May 3, 1978 and the past shrub goal rule was equal to shrubs and that has not been our intent all along to apply equal shrubs to those lands but it was never clarified in the rule so we're doing that here in the rule to let everybody know who has permits written differently that the date for the shrub goal starts before that and not equal shrub density.

**BOARD MEMBER GINGERY:** Scott?

**SCOTT BENSON, TRITON COAL COMPANY:** We have a couple of questions or comments on the goal. We're in agreement that it makes sense to put it back in the rule and that it shouldn't have been deleted from the rule when the standard was added. However, we don't believe the original shrub goal rule called for shrub patches. There definitely wasn't a size requirement with the goal rule. The size requirement came in with the standard. There was nothing in the original goal rule that called for mosaics. It didn't call for anything on configuration of the shrubs. So, we're not against putting it back in but perhaps we should read what that original rule said and reinsert the original rule.

**ROY LIEDTKE, JACOBS RANCH COAL COMPANY:** The other concern is that the original rule.....when we talk about using the best technology currently available, I think we need to clarify that the best technology currently available is what was available at the time that we seeded this land 15-20 years ago not what's available today because that technology is much different. I think we may even want to go a step further and define it as being best technology available as doing what was in your approved seed mix.....planting your approved seed mix and using the methods in your approved permit to mine because, again, the methods are much different today and we want to be certain we don't have to go back and try to apply today's methods to something that was seeded 15 years ago.

**BOARD MEMBER GINGERY:** The discussion about getting credit for these minimum patches, wasn't that the industry wanting to get credit? You can get a higher credit because these patches are developing.

**ROY LIEDTKE, JACOBS RANCH COAL COMPANY:** The seed mixes years ago did not really plant patches. Most of the seed mixes just had a shrub component in the existing seed mix. There is not specific seed mixes for shrub patches and that's why quite likely on these older lands prior to 1996 you may not see shrub mosaics.

**BOARD MEMBER GINGERY:** But I thought we visited one mine and over a period of time they were getting natural shrubs coming back in and they wanted credit for that also?

**RICK CHANCELLOR, LQD:** Correct.

**ROY LIEDTKE, JACOBS RANCH COAL COMPANY:** Yes.

**BOARD MEMBER GINGERY:** I can't remember which mine but this fellow made a real point of that.

**SCOTT BENSON, TRITON COAL COMPANY:** That was Larry Kleinman with Black Butte.

**BOARD MEMBER GINGERY:** I thought there was something about he wanted credit for these natural patches that are starting to take place that they did not plant.

**SCOTT BENSON, TRITON COAL COMPANY:** Correct. I'm not suggesting at this point that we need that kind of specificity in the rules but just what is the interpretation of shrub patch? I know some people in LQD in the past have interpreted it...I mean it had to be planted there. The natural invasion didn't count. This rule with the goal, whether it be the standard or the goal on shrub patches getting back to techniques and methods. I believe right now that LQD would state that for every single piece of bond release, for instance, after ten years of reclamation, we can go for bond release or get bond release. I'm going for that now on 120 acres. How would you read this rule? On that 120 acres do I have to have 10% of the lands and the shrub goal or was this rule intended to apply to my entire mine site? If I didn't plant any shrubs, let's say it was grazing land and my seed mix was just a wheat grass and I didn't intend for shrubs to be there, I didn't intend for wildlife habitat to be there. Do I not get bond release on the 120 acres because I don't meet this goal or was the goal meant to apply over a broader area? Or maybe the following year I could have 20%. Those are the questions we're dealing with along with these methods and trying to interpret the regulations. As Director Corra said, consistency is the key if we could all get together and decide on those methods and then apply them consistently.

**BOARD MEMBER GINGERY:** Rick, I thought that each one of these was within the bond release acreage at that time not the overall.....

**RICK CHANCELLOR, LQD:** No, we feel it applies mine wide so it is possible to get a bond release without having shrub patches for either the goal or the standard. We'll keep track of how many acres they need mine wide. Obviously, if they keep on coming in for a bond release with no shrub patches, pretty soon we have to start raising issues that there's no more land left to have shrub patches and before it gets to that point we'll raise that issue and say you gotta have your shrub patches.

**BOARD MEMBER GINGERY:** Okay. So we look at that for each release even though you're saying it's the total acreage.

**RICK CHANCELLOR, LQD:** Right.

**BOARD MEMBER GINGERY:** But on this here we're asking it on that particular release though, is it not?

**RICK CHANCELLOR, LQD:** No, it's not. We feel that applies to a mine-wide situation for those lands that are eligible for the shrub goal.

**BOARD MEMBER GINGERY:** Okay, does Appendix A, I can't remember, does it say that?

**RICK CHANCELLOR, LQD:** I don't think we get into the detail of whether or not each bond release area has to have that percentage of shrub patches. We don't get into that detail there because one mine may come in for 1,000 acres and another mine may come in for 20 acres so obviously you've got to look at those differently and not say that 20 acres has to have 10%.

**BOARD MEMBER GINGERY:** Larry, you've been working in this area, how do you see this?

**BOARD MEMBER MUNN:** Well, again with the disturbance to the substrate, the shrub establishment is difficult and if you can get natural re-invasion demonstrated why that's a really positive sign..

**RICK CHANCELLOR, LQD:** I don't know if we've ever said you cannot take credit for natural re-invasion. I don't think we've ever supported that. If you can get natural re-invasion edge effects, we want that.

**BOARD MEMBER GINGERY:** I thought we had that one visit out in the field and whoever the gentleman was was arguing that question as I remember.

**BOARD MEMBER MUNN:** Mr. Chairman, I agree with the department. I think they're looking at the total disturbance area. From practical experience, after spending numerous years getting shrubs growing, it would be really presumptuous on anybody's part to say I'm gonna go over here and make a 20 acre shrub plot because it just doesn't happen that way very often. The size is not there, however, you certainly can get a 20 acre shrub plot out here, a mosaic, eventually after time and they do develop through time. They develop where you never thought they would ever show up. I think that the approach that we're taking is the best approach by far is that 10% of your disturbed area or 20% of it is going to have this density and these communities are going to develop through time and it's going to take considerable time for them to develop but it certainly is reasonable to expect them to be out there but it's not reasonable for a miner to tell you he's going to put it right here and you come back ten years and it's gonna be here because it just isn't going to happen that way.

**RICK CHANCELLOR, LQD:** And we agree.

**BOARD MEMBER SKILBRED:** Like Larry said that really would be presumptuous on our part to say that we could do that because we can't.

**BOARD MEMBER GINGERY:** We've heard some comments on this but do we feel that after the discussion here that we'll just go ahead with this change then?

**BOARD MEMBER PROFFITT:** If you're doing the whole disturbed area and you have parts of it that are already released then it seems like the mine owner can come back and say okay we've had an evolution of a mosaic and a part that's been released developed since and now we'd like to include that against our 10% for the whole. You see what I mean? So it's not forward thinking but you've got reversed thinking and then you're really in a quagmire. It seems like by only looking forward in this thing and saying okay we're looking at the whole disturbed area, you're going to put yourself in a corner and set somebody up later to make that argument to you.

**RICK CHANCELLOR, LQD:** It's a good question. I guess that's a risk the miner takes when you release a block of land that if there are shrubs there they should try to take advantage of that. If it comes back later after we've released the bond and it's gone away, I don't think we can go back and say, "We released that land 20 years and now shrubs have developed and you want to take credit for it". Once we release, we end jurisdiction on it if it's fully released. That's a tough one.

We talked also about shrub goal lands. If you have more than 10%, you exceed your shrub goal. We talked about a lot of mines that have met their 10% goal to apply the extra shrubs to their standard requirements. So, there's all kinds of banking and trading off you can do when you look at the whole mine site but you really have to look at the mine site because some of those blocks are too small to really try to get that shrub in there as a standard or a goal.

**BOARD MEMBER GINGERY:** We have a couple more comments on this.

**ROY LIEDTKE, JACOBS RANCH COAL COMPANY:** Again, we support the rule change and we think it clarifies it. It's good that it's put back in there but again we think it should be written more closely to the original rule not according to the existing rule for the shrub standard.

Again, we think the part about the size of the patches should be taken out because that was not addressed in the original rule. This rule says shrub patches are an average density of at least one shrub per square per meter and the original rule did not say *at least*. Some people could construe *at least* to be a minimum standard. We think it's clearer if those words *at least* are deleted and also if you go to the top of page 7 where this rule continues on, we have in here again that the methodology is approved by the Administrator and as we discussed earlier we think that should be deleted just as it was in the earlier section.

**BOARD MEMBER GINGERY:** Rick, comment?

**RICK CHANCELLOR, LQD:** I think there are two questions there. I brought the language on the shrub standard pre-shrub goal. I did not bring the rule that had the shrub goal language.....

**ROY LIEDTKE, JACOBS RANCH COAL COMPANY:** I've got it Rick.

**RICK CHANCELLOR, LQD:** I also did not bring the Appendix A at that time. I think some of that stuff is probably covered in Appendix A because Appendix A predates the shrub standard rule.

**ROY LIEDTKE, JACOBS RANCH COAL COMPANY:** I've got the 1989 rules Rick that talk about the shrub goal.....(hands book to Rick) last paragraph on the right side.

**RICK CHANCELLOR, LQD:** I think some of the language comes from Appendix A. They do talk about shrub patches.

**ROY LIEDTKE, JACOBS RANCH COAL COMPANY:** Size is not defined, is it? They do mention mosaics but they do not mention the .05 acres.

**RICK CHANCELLOR, LQD:** They do not mention the .05.

**BOARD MEMBER PROFFITT:** What's your reference there Rick?

**RICK CHANCELLOR, LQD:** This is Appendix A in the rule that was in effect at the time the shrub goal rule was in effect so what we try to do here is take some of the language out of the old Appendix A into this rule to make sure that it could be interpreted that the current Appendix A on shrubs only deal with the shrub standard because when we did the shrub standard rule we changed Appendix A quite a bit. So what we tried to do when we did this rule was to incorporate some of the language from the old Appendix A on shrubs into this rule to show what applied at that time. He's right that the .05 acres is not in here on Appendix A. I think it's a reasonable clarification of what the size is. My recommendation is to keep it in there.

**ROY LIEDTKE, JACOBS RANCH COAL COMPANY:** This rule becomes more stringent than what it was before because if we have patch of .04 acres it cannot be counted according to the rule. I mean it says *shall be*....those are pretty strict words and that was not in the rule as it was before.

**BOARD MEMBER PROFFITT:** Does that size tie in to any established standard or is this just a figure pulled out of the air? Where's this coming from?

**RICK CHANCELLOR, LQD:** I think it comes from the current shrub standard rule. I think that's where it came from.

**BOARD MEMBER GINGERY:** Let me ask you a different approach on this issue Rick. If it was not there, that really weakens this statement, correct?

**RICK CHANCELLOR, LQD:** If it's not there then it comes down to the argument of how small is a patch? Is it .01 hundredths of an acre or is it 200 hundredths of an acre or what's the minimum size of a shrub patch to be considered a patch? I think that's the whole question here, how small is still a patch a patch instead of just an individual one or two shrubs out there? They have a point that it's not exactly the same as the original rule because the original rule did not have that in there. We would hope that since it's the same size as the current shrub standard patch that it would be....a patch is a patch but they're right that the original rule did not have .05.

**BOARD MEMBER GINGERY:** I'm trying to think this out a little. All we're doing is no smaller than the key term, correct?

**RICK CHANCELLOR, LQD:** That's the issue here is the .05 and no smaller. Like Roy said is .04 okay? Is .03 okay? How small is small? I can't remember how many square feet is a.....

**SCOTT BENSON, TRITON COAL COMPANY:** .05 would be 472 square feet and about 16 square yards.

**ROY LIEDTKE, JACOBS RANCH COAL COMPANY:** I think the primary issue here is that the SOR says the reason for this addition is to put in what was inadvertently taken out before and to put back what was there prior to the 1996 rule change. All we want to do is put back the rule as it was prior to 1996. If we don't we need to change our SOR and say that we're adding in things to make it more stringent than it was back prior to 1996 and these are the reasons why but the SOR talks about just adding it in because it was inadvertently left out. Prior to 1996 it did not mention the size, it did not mention approval by the Administrator of the sampling methods and it did not say at least one shrub. We're in favor of it being added back in, just put it back in the way it was in the old rules.

**BOARD MEMBER MUNN:** Before they came up with the idea of the clusters and you just had the shrub and the seed mix I guess the idea would be that they would just be sort of popping up in some regular pattern all across the entire reclaimed area....

**ROY LIEDTKE, JACOBS RANCH COAL COMPANY:** Correct.

**BOARD MEMBER MUNN:** And that was the expectation.

**BOARD MEMBER GINGERY:** I guess my question is what we've reclaimed up to now, are we still having difficulty of meeting the standard on shrubs because of drought or other reasons that may be going on?

**RICK CHANCELLOR, LQD:** Some mines do have difficulty meeting the shrub standard. The difference between the standard and the goal is that if they apply the seeding techniques approved

in the permit and if they don't get any shrubs to grow unless we come back and tell them through the process that they need to change their approved procedure of planting shrubs, they still get bond release because they applied their approved methodology where a standard it doesn't matter.

**BOARD MEMBER GINGERY:** Oh, okay.

**RICK CHANCELLOR, LQD:** So that's why you change from a goal to a standard. So with the goal you put a good faith effort into applying it as I said at that time of the permit outline procedures. They apply that procedure and if it grows it grows and if it doesn't it doesn't. If it doesn't grow, you're okay because you applied the procedures in the permit which we approved as best technology.

The bottom of page 6, (I) where it says *a goal of at least 10 percent*. Change that to *a goal of a minimum of 10 percent* which is more reflective of the language in Appendix A at that time.

I also found some rational for the .05 acres. We've talked internally of allowing mines who exceed the goal on their goal lands where they could apply those extra shrubs to the goal standard lands. We feel it's important to have a minimum size on those goal lands to say when they can start rolling those over into the standard lands...those extra shrubs. Since the standard lands have a .05 size limitation we felt it was appropriate to have that same size limitation on this area.

**BOARD MEMBER GINGERY:** Any comment up here on that? Nobody in the audience? Okay, so all we have to do is change that to minimum 10 percent and there were no other changes?

**RICK CHANCELLOR, LQD:** We had some discussion about the last part of the last sentence about approval by the Administrator. In looking at the original Appendix A there are several paragraphs that go into detail on how to evaluate the shrub density component. Right now when the shrub standard came into being all that got deleted and everything in Appendix A now talks about how you evaluate the shrub standard. So we put this in there to remind people that those methods still need to be approved by the Administrator. One option we give to operators is that if they feel it's important to save that language out of the old Appendix A perhaps when we rewrite Appendix A they can bring that up as this language needs to be put in there to document how the shrub goal lands are evaluated so maybe that'd be the appropriate time to put those in there and if we do maybe come back, we could strike that language. For now, since we don't have that language in Appendix A now, it's important to remind people that those methods must be approved.

**BOARD MEMBER GINGERY:** Do you see any problem with that gentlemen? Okay, let's move on then to 4.b. on the bottom of page 7.

**RICK CHANCELLOR, LQD:** The original rule talks about trees being returned to a density equal to premining conditions. In reality what we've done all these years is we count trees and put back the same number of trees. So really, the number of trees is what we're looking at and not necessarily the density. So we're cleaning up that language to clarify that our practice has always been to count trees equal number and not the density of trees.

**ROY LIEDTKE, JACOBS RANCH COAL COMPANY:** We support that change. It makes sense because it is a number and not a density. Our only comment is the new language that is being added in the third sentence where we talk about receiving credit for desirable species that invade. We do not think we should have to have the language *with prior approval from the Administrator* in there.

If my permit to mine requires me to have 25 cottonwood trees there after we're done mining and if they invade or if I plant them it doesn't matter. I shouldn't have to get approval from the Administrator because they invaded. As long as it's a desirable species which is written in there I think if we just delete the words with prior approval of the Administrator this would be a fine change.

**BOARD MEMBER GINGERY:** Scott, do you have any comments?

**SCOTT BENSON, TRITON COAL COMPANY:** Yeah, and again I want to just clarify, I mean I'm not making the comments necessarily because there's changes. I think this is an opportunity again to establish in the record, just as Rick had said before, that the shrub goal is mine wide and not a reclamation unit as the federal register does to just establish a record of the discussion because I think that's where we can clarify a lot of these rules is when we're proposing rules and going through and having the discussion involved. What is the intent when he's adding these rules?

In particular on this one, one of my comments would be that I don't disagree with the number, putting it as a number of trees. It may be appropriate to go back to Chapter 2, Section 2(b) that talks about how you do premine because right now that still says that you sample to get your tree numbers premine. Well, if we're going to compare an absolute number postmine, we need to get an absolute number premine. Likewise, premining doesn't say just to do it within the affected area and map it which is a critical one. For instance, at our mine site we've got ?? trees in the Powder River Basin but I think I've got 579 trees in my baseline report. Out of those 579 trees, 550 of them were in shelter belts associated with homesteads. Caragana, chokecherry, green ash, those type of species, I'm not sure most people call them trees, but that's what the baseline report said but it really didn't even say where they were so I don't know when I'm going to be mining through them or if I mine through them but I've got that number to replace postmining. Again, I'm not against this rule package. I think to get the text standard we want to get this through but again I just keep stressing that this entire revegetation success needs to be rewritten. There's just so many inconsistencies between Chapter 2, Chapter 4 Performance Standards, and Appendix A but the whole thing needs gone through.

**RICK CHANCELLOR, LQD:** So Scott, if I understand you right, you feel that we need to also look at language in Chapter 2 where it talks about evaluating trees to make sure that information that we get is useful for what we do in Chapter 4?

**SCOTT BENSON, TRITON COAL COMPANY:** I know on our permit that I'm comparing postmining the number of trees I have to replace are being compared to a number that was derived using sampling techniques and other techniques. The comparison really isn't there. Again, this might be a way to take it to a text standard and say what's the technical standard that we need to have there regardless of the premining number because that's the problem we're gonna get is bond release is being done now for baseline reports that for the most part were done twenty years ago. So, we're trying to change what we're saying now what you need for bond release but we're comparing it to data that was collected in trees and shrubs twenty years ago. I just don't know how valid the comparisons are but if you're going to make the change to the number of trees for bond release for anybody adding new lands we should specify in Chapter 2 that they need to count those trees and map those trees because if that's what you're saying you're going to compare it to the number of premine trees. In order to do that you need to use the same techniques which is an actual count and again you need to know where they're at rather than just saying in my permit I've got 579 trees and we're only disturbing 70% of the permit. The assumption is right now with LQD on my permit that

all 579 of those trees will be affected and need to be replaced which I don't have a problem with. We can replace the 579 but it's inconsistent now by making this change.

**RICK CHANCELLOR, LQD:** I'm not sure it's been that much of a problem with other permits but I do think Scott brings a point that we should look at in future rule making in Chapter 2 to make sure that it does reflect what we're trying to get at here. I think the issue may be the mapping point as opposed to the counting because I think we do require counting of the premine trees but it may be a question of mapping so we make sure we know what trees are disturbed and which ones aren't. So, we'll put that as something to look at as we go through revegetation to make sure that that is consistent. There are mines out there like Cordero who has a real large wind break of I don't know how many of hundreds of trees and they've got to replace them all because they're mining through all of those.

**BOARD MEMBER GINGERY:** Just for my own education, what if we don't have this problem too often up in the Powder River Basin area but say you would have a site north ridge that 50 to 100 acres is a solid ?movalpine? or some species like that. We would still count the trees or we would plot that when you come back?

**RICK CHANCELLOR, LQD:** We would count the trees.

Now, the age of the trees will be different on reclamation than premine and we accept that. I think Appendix A talks about the number of trees....or even here maybe.....have to be alive so long before bond release. You couldn't just plant it yesterday and count it for bond release today. It has to be established. There's a percentage there that we look at that so many trees have to be alive 80%.....whatever it is.

**ROY LIEDTKE, JACOBS RANCH COAL COMPANY:** 80% for 8 years.

**RICK CHANCELLOR, LQD:** 80% for 8 years. Appendix A spells that out?

**ROY LIEDTKE, JACOBS RANCH COAL COMPANY:** It's actually in this change we're looking at.

**BOARD MEMBER GINGERY:** Even though you have a large block of trees we still count.

**RICK CHANCELLOR, LQD:** We still count.

As far as Roy's comment on prior approval from the Administrator, as long as we keep *may* in there I think it's no different so I'm okay if you want to take that out as long as we keep the *permittee may*. I think the issue comes down to desirable trees. Of course, every tree is desirable so I don't think it's going to be an issue.

**SCOTT BENSON, TRITON COAL COMPANY:** Well, I think in the Powder River Basin they're all desirable but it is interesting when you get different inspectors determining what may be a desirable tree and again comparing it to Cariganea and russian olive that were my 579 pre-trees because they were planted as a shelter belt next to a homestead. Any tree should count if that's the way we did it premine. We counted all trees and didn't use any desirability in the seed to count a premine so why are we using a desirability postmine?

**BOARD MEMBER GINGERY:** Larry, do you have any comment on this issue?

**BOARD MEMBER MUNN:** Well, again, it's difficult to get trees to grow back once the sub-straight has been changed and homogenized the way it is so I think you want to have flexibility to use any volunteers that show up and I would agree with what you're point was that is you have a large block of essentially continuous forest then counting trees and expecting to have the same number of trees back is a little bit artificial it seems to me.

**RICK CHANCELLOR, LQD:** I'm not sure how other states do it that actually have forested lands. Reforestation is a big push by OSM and they've had papers and conferences on that to promote reforestation for carbon sequestration. I don't know if they just use the density in those cases or if they actually count them. I imagine they probably use a density perhaps.

**BOARD MEMBER GINGERY:** You may be planting a different species as new trees and say we got into an old growth ? pine but it didn't start out as that.....my real reason is you can get yourself in something that isn't going to grow. I would gather that possibly way in the future we'd ever get to any but we'd call a minimum forested area in coal mining but counting the number of trees I don't think science is going to work for you very well but it's an interesting thought. I'd be interested to see what Kentucky and West Virginia do because they must handle it a differently by using numbers.

**RICK CHANCELLOR, LQD:** As far as the language that industry requested be struck, what's your desire there?

**BOARD MEMBER GINGERY:** My feeling was in this particular case to leave it. If we're going to go back and do Appendix A, right now this would be kind of a good safe guard to have in there but I'd say as soon as you can clean it up more in the technical aspect of it and then you wouldn't need it. Is anyone reading it different than I am?

**SCOTT BENSON, TRITON COAL COMPANY:** I think the concern of industry, and I'll stress this is not my concern, but with the language the way it would be, again, let's use a situation where a mine is going for final bond release and some russian olive has invaded. Depending on which district you're dealing with and which inspector is coming out and looking at it, I guarantee you, some of them are going to say you can't get credit for that, that's russian olive. Then again, I feel you can argue back that it was russian olive premine that was counted and likewise I think as Dr. Munn as stated, maybe that's an indicator that the system is responding as it should be. I mean, russian olive does invade. If there's a seed source out there, maybe we should use that as an indicator to say hey, something must be going on right with the reclamation. It must be getting carbon cycling and the soil must be there if a seed can blow off site and germinate.

**BOARD MEMBER GINGERY:** But by leaving this statement in here *with prior approval from the Administrator*, doesn't that give you a little bit more leeway until we can maybe get this taken care of in the other document? It would give you some negotiations, does it not by leaving it in here?

**RICK CHANCELLOR, LQD:** Well, it gives the division negotiation power. Not so much the mines. The mines would say if that wasn't in there..desirable trees and Administrator approval was not in there, then any tree that grew could be counted. This gives the division the leeway to say that we don't like that tree and you can't count it.

**ROY LIEDTKE, JACOBS RANCH COAL COMPANY:** My concern here is that the purpose of this rule package is to try to take out some of the uncertainty we're facing with bond release. This adds in uncertainty. I've got an area where cottonwood trees have invaded and I have 50 trees there and

I'm assuming I can count them for bond release but I don't know that until I get approval from the Administrator. So, when I go for bond release ten years from now I might think that I'm going to be counting those but I don't know for sure so do I plant more trees to be certain or do I just assume that he'll approve those?

**RICK CHANCELLOR, LQD:** Let's say the permit before hand had pine trees that had certain wildlife value and then russian olive came in that had a different wildlife value but now you lost this wildlife value. Do you say you don't have to plant any pine because you've got this instead? I think those are the issues we're looking at to balance that. It's a difficult one. It's not cut and dry.

**ROY LIEDTKE, JACOBS RANCH COAL COMPANY:** I know that my particular permit says that I will put back, I don't know the exact number, but it says x number of cottonwood trees.....

**BOARD MEMBER GINGERY:** By species.

**ROY LIEDTKE, JACOBS RANCH COAL COMPANY:** Yes. And again, right now the way this rule is written....I haven't planted any cottonwood trees because I've had a lot invade but I don't know yet if I can get credit for those. I should probably plant more just to be certain.

**RICK CHANCELLOR, LQD:** Ask us.

**ROY LIEDTKE, JACOBS RANCH COAL COMPANY:** Now that brings up another interesting question, if I ask you now can I get that released for bond or somehow accounted for so that when we come for bond release you may not have to address that?

**RICK CHANCELLOR, LQD:** I think to address your concerns, I think you could come in right now and say I've had these cottonwoods invade, I want to try to use those to meet my standard. We'd say, "Yeah and we'll apply the same"....if they are alive at bond release time and you've got that number of trees, I think you'd meet the standard. I think you can come in and say I want to apply this toward it and we'd say yes or no now. We can't say final bond release because it may die between now and then.

**SCOTT BENSON, TRITON COAL COMPANY:** I might bring up again just where Appendix A needs to be addressed because just to comment on what Rick just said that the trees need to be counted at bond release, I mean, this is the only place that says that trees and it says 80% planted for at least 8 years. There are lands out there where mines have reclaimed them 20 years ago but haven't approached bond release yet. It would be my interpretation that if they counted those trees....they could've counted them in year eight and they should count them, they don't have to be counted at the end and this has again come up with shrubs. Now I think the rules and regs. and OSM rules are clear that the cover of production sampling have to be conducted in the last two years but right now I believe most people interpret it to mean, for instance, shrub density sampling can happen at any time. You could do your shrub density sampling at year two and meet that standard and get approval and say you have this density of shrubs but that doesn't need to occur at the end of the time. Appendix A just brings up more questions than it answers.

**ROY LIEDTKE, JACOBS RANCH COAL COMPANY:** This ties in with what you brought up earlier Mr. Chairman about the timing of it in the meeting in Jackson where we said we can't do all this stuff in that time frame. We can't prove that we have vegetation cover and productivity and trees and shrubs in the time frame that was allowed in Chapter 15 so that's when we decided that that

should be administrative and these things are addressed prior to coming in for the final bond release request. That's where, again, I think we need to look at the trees and shrubs and those things ahead of time. Now if we can count these ahead of time I'd have no problem knowing but if I count them now and then again later when we go for bond release, we don't want to be told then that we're short of trees.

**BOARD MEMBER GINGERY:** How much of this Rick is verified with areal photos and this kind of thing?

**RICK CHANCELLOR, LQD:** There's been a lot of effort put into trying to do remote sensing on vegetation. A lot of our vegetation issues come down to species specific and a lot of times you can do life forms but you can't get down to what type of wheat grass it was. It's being looked at but we haven't got to the point where we can rely upon that totally.

**BOARD MEMBER GINGERY:** Once a mine goes through this process and finally receives their refund, do we ever go back to look at that five years later, ten years later?

**RICK CHANCELLOR, LQD:** Our position is that once the department grants full bond release for a particular piece of ground that we're pretty much ending our.....there's no more liability for that operator on that ground because we have said that they have met all the requirements and he's got his money back. The only way that we'd go back is if they go back in and re-disturb it then we go back in. We do not feel it's appropriate once we release the bond, go back five or ten years later and say, "Oh, things have changed, you've got to come back and do something."

**BOARD MEMBER GINGERY:** We don't have people go out and study 20 years since a mine has reclaimed and.....

**RICK CHANCELLOR, LQD:** There is research going on through the Abandoned Mine Lands research funds that has gone back and looked at...in this case they looked at some plots on uranium reclamation because of the long history. There are some studies that look at long term but there is no requirement for the mine to do that or the agency to do that except for research purposes.

**BOARD MEMBER GINGERY:** So we really don't know if we've been successful or not?

**RICK CHANCELLOR, LQD:** A lot of the mines have lands that they reclaimed back in the '70's that are still in the permit and they have not gone for bond release and those lands still look pretty good. Of course they haven't been over grazed yet either by people.

**BOARD MEMBER GINGERY:** Okay, board members, are we going to keep this *prior approval from the Administrator*?

**BOARD MEMBER SKILBRED:** I believe Rick made a comment that if we were to strike *with prior approval from the Administrator*, he basically said it's a wash....the permittee may also.....I mean, it's saying the same thing I think so it really doesn't matter if you take it out or leave it in.

**BOARD MEMBER PROFFITT:** Yeah.

**BOARD MEMBER MUNN:** I would think the thing that you'd be discussing at that point would be rather these trees have been alive long enough that they would be a valid tree in the same way that you require a planted tree to be alive for eight years.

**RICK CHANCELLOR, LQD:** We talked about this in-house and the feeling was that if we start getting an invasion of trees, again, it showed that the ecosystem is responding positively and we should be okay because they volunteered, that we feel things are working. That's why we felt that any tree invaded would be counted.

**BOARD MEMBER MUNN:** But what if they're only six weeks old and they die that fall? That would be my only concern. At what point do you count a sagebrush? Do you get on your hands and knees and look for them when they're this small? Is that a sagebrush?

**RICK CHANCELLOR, LQD:** I guess we feel if they invaded and got started most likely more will invade and given the right moisture conditions that they will survive. Maybe that's wrong but that was our assumption.

**BOARD MEMBER GINGERY:** So we're going to take out *with prior approval from the Administrator?* Is that correct?

**BOARD MEMBER SKILBRED:** Sounds fine.

**BOARD MEMBER GINGERY:** Was there anything wrong with the last sentence.....*invaded trees that are counted?* Okay. I gather I have consensus. We can move on then. The next item is proposed rule amendment number 5, (J) on page 8.

**RICK CHANCELLOR, LQD:** Here's where we get into the technical standard that we want to do for cover production on vegetation. What we're looking at is premine data over a minimum of a five year period....five different data sets over five years would be enough to give us enough information to set a technical standard. Again, we can set for a single mine or we can do it for a group of mines or a mine may come in on it's own and say look at my data I think I have enough to do a technical standard.

We do not go into great deal here on purpose. We put enough here to give OSM a road map of what we would consider. We do not say if we do a median or a mean or some other type statistical test to set that standard and OSM is okay with that so we do not go into great detail how we'd set that standard once we have this data set. We allow some flexibility there and they're okay with that. We have data that shows that the Jacobs Ranch Mine vegetation is different than Black Thunder's Mine vegetation all because different sampling methods were used but common sense says that it's the same grasslands across both boundaries that are right adjacent to each other on top of each other so that data can't lie. We have to use some common sense there also that's why we didn't want to go into a lot of detail here on specific methods.

**BOARD MEMBER GINGERY:** Scott?

**SCOTT BENSON, TRITON COAL COMPANY:** My only comment, and Rick clarified this with his oral statement, so whether we do this or not, but I just wanted to be sure, as I understand it the department is working or planning on working this summer again using the term setting a standard where they're going to look either region wide or some area wide basis and they're going to write up a standard which mines can choose to use but I would like to be able to write my own standard and propose it sooner so it would be nice if we could clarify here to say the Administrator may set

or approve a technical success standard. Again, my concern would be if OSM would read it and say, “No, we were approving the state to set the standard but we didn’t think a mine could propose their own standard.” I understand that that’s Rick’s intent but again my concern when we go down this line and OSM is reviewing it years from now, I mean, I think the state thought that was the intent previously when they said, “Or we could approve an alternative success standard” and then it got to OSM down the line and they said, “But you haven’t given it to us to approve yet, so yeah, you can leave the language in there but we aren’t going to approve it”. I’m just trying to make it clear that if I propose one or another mine proposes one that that’s allowed in the regulatory program.

**RICK CHANCELLOR, LQD:** In our SOR on the top of page 9, we do clarify that *likewise, a mine may opt to apply for their own technical standard in the event the Division has not developed a technical standard for their subregion* so it’s there in the SOR. I think the rule is okay as written because this is part of the record and this goes to OSM to show that our intent is to allow mines to do that.

**BOARD MEMBER GINGERY:** Okay, I believe all of us understand that then. Any other discussion on this particular change?

**ROY LIEDTKE, JACOBS RANCH COAL COMPANY:** I just have one point I’d like to clarify and I think we all are thinking alike. First, this is a very good change and we support this but the *premine data collected over a minimum of five independent sampling programs over five years*, when I first read that I thought, oh gosh, we’ve got to do it five years and ours was spread out over ten years so we can’t do that. I think what you’re saying is it’s a minimum of five years, correct?

**RICK CHANCELLOR, LQD:** Minimum.

**ROY LIEDTKE, JACOBS RANCH COAL COMPANY:** Do they count for climatic variations?

**RICK CHANCELLOR, LQD:** Right.

**ROY LIEDTKE, JACOBS RANCH COAL COMPANY:** To me it would be a little bit clearer if we added in the word *minimum* of five years. Maybe I was not reading it properly but that was my thought when I first read it.

**RICK CHANCELLOR, LQD:** To put a second *minimum* in front of.....

**ROY LIEDTKE, JACOBS RANCH COAL COMPANY:** Correct. To add in *minimum* a second time in front of five years but.....

**BOARD MEMBER PROFFITT:** You have that added in your Reasons also don’t you Rick?

**ROY LIEDTKE, JACOBS RANCH COAL COMPANY:** The Reasons talk about a five year period but the Reasons don’t say anything about a minimum of five years. Again, they’re just saying a five year period so it could be construed to say that you only have five years to collect this data and then you develop your standard. If you did it over ten or 15 years you can’t use it but I don’t think that’s the intent.

**RICK CHANCELLOR, LQD:** That’s not our intent. Our intent was to go a minimum of five years so if they had collected over ten years that would be acceptable too. So, if the Board feels it’s clearer to put that second *minimum* in there, we’re not opposed to that.

**BOARD MEMBER GINGERY:** Yeah, I don't have any heartburn over that. Anyone else? Alright, I think we have consensus so we can move on. Let's go to proposed rule number 6 (xiv).

**RICK CHANCELLOR, LQD:** That's on page 9. This issue came up, what I said earlier that we had verbal conversations with OSM about this issue and based on one of the happenings at one of the mines they felt our rule was not as effective as the federal rule. I listed there the federal rule in the SOR and OSM feels that by putting a five year period in there it constrains....a mine could control weeds for five years and then stop their control efforts and by end of year ten or whenever they come into bond release, weeds could re-invade it and it could be a big problem. Our rule would say, "You did it for five years so you're off the hook." They said that was not the intent of their rule. I explained in the SOR that before OSM came into being our bond release period was five years and this rule was the original rule back before OSM came into being. It got approved in our program but based on the experience we've had, OSM now feels this one is not as effective. So we changed the language to state you have to control weeds. We did add some clarification that OSM does not have in their rule which is that we would look at local county, weed and control program requirements because I think the tolerance level of weeds in different parts of the state vary based on what's going on in that county. To hold all mines to the same standard of weeds probably is not applicable because the southwest part of the state may have more weeds than the Powder River Basin (PRB). So, should the southwest be held to the same standard of weeds as in the PRB? Probably not if the county weed and pest control program wants to get this many weeds if it's a problem. So, we're allowing that flexibility in our program to recognize that variability of climate and conditions across the state.

**BOARD MEMBER GINGERY:** I guess when I read this the other day I got a little concerned about the word local and it seems like every year the two counties I'm familiar with were always rewriting what are weeds and what are noxious weeds. For example, 15 years ago two particular species weren't even mentioned and now they're the lead culprit and we're going to use local. Do we get ourselves into time, place and event issue?

**RICK CHANCELLOR, LQD:** Well I think it is because over time invasive weeds may come in that weren't envisioned if a mine was permitted. Just because they're not there or envisioned 15 years ago doesn't mean that they don't need to be addressed today. We still have the federal and state requirements over riding the local requirements so I think with all three it's a pretty good mixture of requirements.

**BOARD MEMBER GINGERY:** Well, I don't know if it'd ever take place in Campbell County but let's say the weed and pest board thinks they've got a good deal going here and they are inserting that a particular species has to be eradicated before they would be signing off on it. That's what concerns me for the industry is that this is another wolf that has crossed the line or something. I just want to make sure that we're not hung up on some local issue.

**RICK CHANCELLOR, LQD:** Where we were coming from was the opposite direction. We've had cases where we felt there was too many weeds and the mine had to control them but the County Weed and Pests says, "No, this level is acceptable" so we backed off because that was their tolerance level. We had not looked at it from your view point that the county would be too strict because we have not experienced that in the mining areas but I suppose it is possible that they could be a lot stricter than what we would have a tolerance for.

**BOARD MEMBER GINGERY:** Any other comments?

**ROY LIEDTKE, JACOBS RANCH COAL COMPANY:** I would agree with you Mr. Chairman. My concern is with the local requirements that one is more stringent than the federal requirement but that it includes the word local. Also if you look at the current Wyoming Weed and Pest Control Act that has a designated list which is statewide and it lists 22 species of noxious weeds and then if you go to the counties they have declared lists.

**BOARD MEMBER GINGERY:** That's what I'm getting to.

**ROY LIEDTKE, JACOBS RANCH COAL COMPANY:** For example, right now Campbell County has zero on it's declared list and Converse County has 30 weeds on it's declared list. So, in Converse County if you add that to the state list, you've got 52 weeds that are considered noxious. For example, Antelope Coal which is a sister Kennecott operation, is on the county line. So part of its' mine would have to control 52 weeds and right across the line in the same mine site they'd control 22 weeds. There's a lot of variation there and it can change quicker and more easily at the whim of the county more or less than it would on state wide level. I guess my biggest concern is, and this may be a question for Rick, but the rule says that we have to control weeds until bond release. So, what happens if we are controlling weeds according to the current designated list and the declared list and then we go for bond release and the year that we apply for bond release the county changes and says that cheat grass is a noxious weed and we've got cheat grass out there? Does that effect our bond release or do we say we controlled it until bond release but we don't have to control it now? I mean, it's a moving target out there and that's the part that concerns me. The state list changes much less than the county lists do.

**BOARD MEMBER GINGERY:** I don't know Rick. My colleagues up here probably have more experience with it but boy, I don't know if we want to put local in there. I think we can live with the 22 on the state list. Chet, how have you worked with it in your area?

**BOARD MEMBER SKILBRED:** I usually just follow the federal and state noxious weed list is what I use at Glenrock for the most part.

**BOARD MEMBER MUNN:** Are you then exempt then from a county rule if you're in that county?

**AUDIENCE MEMBER:** No. I think the county can come in and tell you to spray the weeds but that would have nothing to do with bond release, right?

**BOARD MEMBER MUNN:** Yeah, the state may not want to get involved in this as a bond release issue that may simply then fall back to an issue between the county and the owner. I mean, if they can tell me that I have to control weeds I would think they would tell a mining company that they also had to control the same weed.

**BOARD MEMBER GINGERY:** I think you bring up a good point. This is a document for bond release and I agree that the county may or may not have that whatever the situation is but I don't see it should be part of the bond release.

**BOARD MEMBER MUNN:** I'd say just do state and federal.

**SCOTT BENSON, TRITON COAL COMPANY:** I agree with the comments and my suggestion would be, and I agree with Rick wanting to get in compliance with OSM rules, if they say we're out of compliance but this may be a situation we'd be better off just taking the OSM words exactly and right under the SOR's on proposed rule number 6, under the OSM rule 816.111 (5) to just put *the operator must meet the requirements of applicable State and Federal seed, poisonous and noxious plant, and introduced species, laws and regulations and regulations* which again gets back to what Dr. Munn said and the onerous is on those regulators, not LQD, to determine if you're in compliance for the other people to do their job and the OSM rule just says you gotta do what's required by law. Right now the LQD rule doesn't say that at all. It's specifying and it's mandating what and when you have to do. You have to control, you have to minimize and it doesn't say laws and rules, it says requirements. Again, it just leaves it open to a considerable amount of interpretation. Is it being controlled? Is it being minimized and what are the requirements? I don't think that should be up to LQD to have to evaluate and decide. That determination is made by the County Weed and Pest Control, not LQD.

**RICK CHANCELLOR, LQD:** I would agree that *local* should be taken out. I would disagree with Scott that if you say *meets requirements applicable to State and Federal seed, poisonous and noxious plant*, that we would be looking at those lists and we would be enforcing those according to the federal or state law. We wouldn't say, "Hands off, somebody else go do it". We'd say, "This requirement is in our rules. We will enforce this rule." I'm okay with taking *local* out. I didn't think about the scenarios you've talked about. I do think our language makes it clear that they're expected to.....whether or not the federal language or this language is better, as long as it's clear that we would be enforcing those requirements.

**BOARD MEMBER GINGERY:** Is everyone satisfied up here?

**BOARD MEMBERS:** Yes.

**BOARD MEMBER GINGERY:** Okay, let's move to the next segment. I believe that's on page 10, number 7(a), right?

**RICK CHANCELLOR, LQD:** Right. This goes back to Chapter 15 which is our chapter on bond release. It goes back to what we talked about at the Jackson meeting that that chapter is really an administrative process to allow public input into the bond release procedure and that those time frames in that chapter were not meant to be reviewing the technical information to show or document that they have met the technical issues of bond release. So we added this paragraph in there just to clarify to everybody that this is an administrative chapter. All the technical issues need to be submitted and reviewed beforehand. We added language here to make sure that those....when the technical information is submitted to us for review, will abide by the time frame specified by the revision so it's not just put on the shelf and ignored because that was the concern with industry that we've had discussions over the past couple of years.

**BOARD MEMBER GINGERY:** Any comment?

**SCOTT BENSON, TRITON COAL COMPANY:** LQD and industry are still definitely not on the same page with bond release and what's required whether there's a demonstration, whether there's a verification, how it happens and where it happens. There's no federal counterpart at all to this rule. If we could have more in the Statement of Reasons from the Administrator where they're going with

this rule and how they're going to interpret it because our concern is that once this gets to the district level there's still so much open in bond release that needs to be clarified. For instance, following this rule, I just made this demonstration this year when I submitted my annual report where, I submitted my data showing what the water quality was, that's where I submitted my data showing the groundwater recharge depth. I would wager a large sum of money that if there were other districts here they wouldn't be reading it that way and they wouldn't be saying that they've got 90 days to review the annual report and sign off on it. I believe that the intent that Rick may have with this rule is getting some big independent package that gets submitted at some point in time and we request that they review it. It's not that they're going to be coming out and doing inspections, seeing how the reclamation is coming along, reviewing the data that we're required to collect and submit it in the annual report so that when we're ready for bond release and the ten year period is up we can submit a request. That's what we're after. We're after the OSM rules that we do what's in our permit. We do the monitoring. We supply the data that we're required to supply and then we request bond release. I think some people in LQD will interpret this wrong and that's my concern. There's no federal counterpart to this.

**RICK CHANCELLOR, LQD:** I agree in part with Scott and I disagree in part with Scott. First of all, the purpose of this rule is just for the process and not the details of review. It does not spell out what's reviewed. It does not spell out what's presented. All we're saying is the time frames and information in Chapter 15 is the administrative process for the final bond release. There are a lot of issues that I agree with Scott on of how, when, and how much of the submittal to the division, our review of that material to sign off on that predates this going through this chapter has to be worked out yet with industry. We've had discussions on that and we have a lot of work to do on that but this purpose here does not touch on the details of what's submitted and when it's submitted that Scott is talking about.

**SCOTT BENSON, TRITON COAL COMPANY:** If you read the real words in this paragraph in the first sentence, we've got to resolve that before I request bond release. I mean, I'm just starting sampling for my ninth year of vegetation this summer. Next summer I'll be done. My intent is to submit a request for bond release after I have the second year of sampling. That's my intent. My worry with this rule is when I submit that ten year sampling, the vegetation bond release, somebody's going to come back and say, "We can't even accept this bond release request because you haven't met the first one, we haven't agreed to the performance standards, and we haven't met the last one, we haven't reviewed it and we haven't accepted it and we don't feel you've demonstrated to us that your ready for a bond release request." Our purpose is to reach clarity and to start releasing bonds. This doesn't help that.

**RICK CHANCELLOR, LQD:** I think Scott is being unfair to the division saying he's going to do his second year of data, submit it and the same day submit a request for this Chapter 15, there's no time to review that data to see if it's there or not. All we're saying is that review has to be done before they go through this step and we agree that it needs to be done. It needs to be spelled out and clarified more but this rule does not impact that. We're saying, "Don't come in with a stack full of data and vegetation and say, "I want my bond back now" and expect to follow Chapter 15 time frames because there's no time in Chapter 15 to do any of that review. If he does that we'll say, "You haven't demonstrated to us because we haven't reviewed it yet."

**SCOTT BENSON, TRITON COAL COMPANY:** And let me point out because I will agree with Rick that that is the concern but that gets back to this whole discussion. The problem is with Appendix

A. The problems with not being in agreement on how to do it because there's more than plenty of time if we're in agreement that total vegetative production means if my premine was 520 lbs. per acre and my postmine was 525, how long does it take for somebody to review that? All they've got to do is look at the number. The problem is that's not how it's being interpreted. They want take months and months and months and do all these statistical comparisons to see how much junegrass did you have premining to how much postmining and how are we going to deal with that? Of course that's going to take a long time but bond release doesn't have to be that way. In my opinion, all we should have to present with the revegetation success standards is total herbaceous production, total cover, ground cover, shrub patches, the density of shrubs. and the acres. It does not have to be this big deal that a lot of people in LQD are still thinking it has to be. My concern is by putting it here, we're reaffirming that it's a big deal. It's going to take a long time to review these demonstrations.

**BOARD MEMBER GINGERY:** I interpreted it somewhat different. I thought this statement actually not only helps the oversight of the state but I really thought it was helping the industry because it's giving you the administrative step. I didn't interpret breaking down all the details that go into it but on a more of an administrative directive. There are three field offices, right? I can't imagine that the three field offices can be that different if they read that statement. From the administrative side, I agree that's why we need to get back to Appendix A because that's where we're going to find out how to do the process. I almost thought this was leaning backwards for the mining industry.

**RICK CHANCELLOR, LQD:** I guess our concerns with Scott's statement is that just because a mine gives us a number that the cover is x and the standard is y, as long as x is bigger than y, end of story. We've got to look at how did it get to x? Did they even sample? Did they sample the right number? There's a lot of details there that this chapter is not meant to address. They do need to be addressed but this chapter does not impact this at all. It's not as simple as Scott says.....I have cover and therefore if I meet that cover I'm done because you can pull that number out of the air if you wanted to. We do have to have some level of review and the critical issue is what that level of review is that? That has not been fully developed or agreed upon by everybody. I think we're getting real close there. So, there are issues to be worked out on bond release and Appendix A is critical to that. This, in my opinion, does not impact that issue at all.

**BOARD MEMBER PROFFITT:** I thought it was a step forward like you thought Marshall when I first read it. I understand Scott's concerns and of course the 800 lb. gorilla is the other parts of this that we aren't getting done. I thought at one point during Scott's discussion that maybe we're getting the cart before the horse but I think Rick's convinced me that maybe we ought a stick with this and then approach it later and keep this in mind. We've got this out here because at some point all of this has got to gel and become consistent. We're just not moving really rapidly towards consistency.

**BOARD MEMBER GINGERY:** I think that's good to get that on the record because I think that's our dilemma today. If we could be sitting here with the other document ready to go then this statement may not have been an issue but I honestly have to say, Scott, when I read this, I thought it was almost an advantage in our early discussions toward the industry. I thought we were trying to accept.....as Rodney says it has to mesh together..... but what I thought we were trying to do is separate that these are the administrative channels that everybody understands and don't confuse them with all the technical parts. That's what I thought we were aiming for.

**SCOTT BENSON, TRITON COAL COMPANY:** I would agree with that interpretation whole heartedly. My concern is as Mr. Proffitt said, the pace of how fast we're going down this line and if we continue it under that pace we're not going to have those issues resolved. My reclamation is

ready for bond release. This year is my first year of sampling. Next year I've got a bond release package ready. There are so many things that LQD and industry.....LQD internally is still so far apart on just what's required and how it's going to happen but now we're putting in a rule saying I can't even submit my request next summer until they've decided what these demonstrations are going to be and how I submit them and when I can submit them. I'm telling you, there are people in LQD that are.....and vegetation is one of the more simple ones.....you start getting to hydrology and how we're going to demonstrate that we've met the PHC.....they haven't even started talking about that. According to this, that's got to be resolved before I can even submit the request. I'm afraid I'm going to have to submit the request to make them make these decisions. Honestly, to the point where we'll be in front of the EQC and the EQC will decide what's necessary because we aren't making a lot of progress on this.

**BOARD MEMBER SKILBRED:** Rick, how will you handle Scott's application? What will the department do?

**RICK CHANCELLOR, LQD:** If Scott wants to come in for a bond release and he documents that his vegetation sampling has been successful and that he has met the standard, he submits that data and we'll review it and then he comes in for the Chapter 15 process. We'll still move forward. We are still processing bond release applications right now.

**BOARD MEMBER SKILBRED:** So, nothing is on hold?

**RICK CHANCELLOR, LQD:** Nothing is on hold. We're still going through it. It probably will not be as smooth as once we get all the details worked out but we are still doing it.

**BOARD MEMBER SKILBRED:** The uncertainty for Scott and the rest of industry is we just don't have a check off list of things that we have to do at this point in time.

**RICK CHANCELLOR, LQD:** Yeah, it's not real neat and tidy as it will be.

**BOARD MEMBER SKILBRED:** Right, but we're still going forward with it?

**RICK CHANCELLOR, LQD:** We are still doing bond releases.

**SCOTT BENSON, TRITON COAL COMPANY:** Again, right now in the rules there's nothing to allow it to be on hold. With the approval of this rule now there's a mechanism to tell the applicant to hold on because everything's on hold because you have failed to demonstrate the required performance standards and you have to do that before you can submit your request. Right now all you've got to do is submit your request.

**RICK CHANCELLOR, LQD:** That is not the intent. The intent of this rule is to submit your request for a review of the technical data separate and before the Chapter 15 administrative process. We will still review those technical data. We are doing it right now and then once they pass that line we'll say, "Okay, go into Chapter 15 and do the public notice process." We are not using this to say, "Hold everything." We are not doing that.

**BOARD MEMBER SKILBRED:** Well, I didn't interpret that out of that. I didn't see that in there when I read it but it can be interpreted by different people, obviously. I guess I really didn't have any problem with it. Larry?

**BOARD MEMBER MUNN:** I assumed that you're going to have to have time to look at the stack of data that's involved before you would be approving the bond release. So, what kind of time frame is that? If I came in with all the vegetation data and everything else and handed it to you and said, "I think I'm done now. I want my bond release" are we talking two months, four months, six months?

**RICK CHANCELLOR, LQD:** We state in the rule that we'll treat it just like a revision package that has regulatory time frames for review. That was to give some assurance to industry that we would review it and get back to them and not just drag it out for a year. So, usually within 60 days or thereabouts we'll have comments back to industry on their submittals on their revisions. Anywhere from 45 to 60 maybe 90 at the very latest is I think the longest we have. It's not our intent to use this to stop bond releases, by no means. We want to do bond releases.

**SCOTT BENSON, TRITON COAL COMPANY:** I would agree that that's not the intent. That's not what it says.

**SANDRA GARCIA, LQD:** What if you clarified it in the Statement of Reasons? More clarification.

**BOARD MEMBER MUNN:** What's required for the public notice on the bond release?

**RICK CHANCELLOR, LQD:** There on page 11 it talks about the information that is part of that process. We see it more as a real brief summary of what was done. Once we have that information, you go to public notice, the public can look at it, we do an inspection, if there's an objection we have a hearing. There's very tight time frames in Chapter 15 to move that process along. Once you get the data done, the process goes through pretty quickly.

**BOARD MEMBER SKILBRED:** Scott, if Rick was to modify the SOR's to make sure that it was very clear what the intent was, would that resolve some of your concern?

**SCOTT BENSON, TRITON COAL COMPANY:** Yes, that would fine. With Chapter 13, to answer Dr. Munn's question, Chapter 13 says they've got 90 days to rule the application complete. So after that 90 day period then they start a technical review which isn't in Chapter 13 but that reverts back to the Act and they've got 120 days for the technical review. At that point then they ask questions. You respond to the questions and then the 120 days starts over again. They ask questions, the 120 days starts over again.

**RICK CHANCELLOR, LQD:** Revisions do not have a separate technical and completeness review. Revisions just have a review. It's all combined into one. Only new amendments and renewals, I believe, have the separate completeness from the technical review. Revisions is all rolled into one.

**ROY LIEDTKE, JACOBS RANCH COAL COMPANY:** So Rick, to clarify for us, what part of Chapter 13 applies here then?

**RICK CHANCELLOR, LQD:** The time frames are in Section 2(a).....the 90 days is the maximum time we'd have to review and get back to the operators.

**ROY LIEDTKE, JACOBS RANCH COAL COMPANY:** Okay, but that says 90 days to determine if it's complete so I can understand Scott's concern.

**RICK CHANCELLOR, LQD:** You've got to remember too that for a reason way back when, our use of the word *complete* on revisions means the application is totally complete and is ready to go to public notice or not. Where in the statutes it talks about completeness review and technical review, it talks about different things so it is confusing but here we're just talking about the whole application, is it acceptable or not? Are there comments or not?

**ROY LIEDTKE, JACOBS RANCH COAL COMPANY:** I think it would be good to clarify that in the SOR's also.

**BOARD MEMBER SKILBRED:** Scott?

**SCOTT BENSON, TRITON COAL COMPANY:** Again, I'm not against this rule package. I think there's enough important stuff that needs to go through but this whole success of revegetation is still so confusing. I mean, Rick is saying he needs 60 days. Right now in Chapter 15 they've got 60 days. You submit the request....they've got 90 days in Chapter 15 and within 60 days they have to come out and do an inspection and then there's another 30 days before they make the decision. It seems to me that 90 days should be more than enough time to submit the revegetation data and for them to review it and to make a decision. I think the intent is amongst some people in LQD that that's not enough time. We want 90 days up front and we want it to go through the revision process where we can ask questions and then get another 120 days to respond to those questions before we even get the bond release request. I just disagree. I don't think that was the intent of OSM. I don't think that was the intent of SMCRA. I think Chapter 15 is fine because it reads pretty much like the OSM rules do. You submit a bond release request, they've got 60 days, review the data then they come out and do an inspection in 30 days and they make a decision. I think there's enough time there. I think Chapter 15 will work.

**RICK CHANCELLOR, LQD:** Chapter 15 does not work because if we have any questions on the data submitted there's no time to give a response back to the operator and meet the other statutory, regulatory time frames. OSM at the Jackson board meeting said it was their intent that their comparable rules to our Chapter 15 was administrative in nature and that there would not be a detailed review during that process. So, OSM even feels the same way, that this is administrative in nature and not to review a whole bunch of data that may take some questions and answers. I disagree with Scott.

**BOARD MEMBER GINGERY:** Larry?

**BOARD MEMBER MUNN:** One approach is if it's not clear then the answers no.

**SCOTT BENSON, TRITON COAL COMPANY:** Yes, exactly.

**RICK CHANCELLOR, LQD:** We don't want it to get to the point where if we have a question on anything it's going to be no because it can be a simple question that could be answered easily and then we're saying we're denying bond releases to cover something real simple.

**BOARD MEMBER SKILBRED:** My interpretation of Chapter 15 was that it's an administrative chapter and dealt with administrative activities associated with bond release. As I remember some of that discussion in the meeting, I know there's some technical issues and review that has to proceed beforehand. Again, those are not in place but I understand that you're still going forward with a process that we're not holding up anything here. I read this language as being just that, purely

administrative in nature. I believe that's what it ought to be. I believe all the details in my mind ought to be worked out prior to going to this chapter. I can see there's going to be, until we finally get that check list, we're going to have a lot of discussion on what's required, what isn't required and I don't personally think it belongs in Chapter 15 to making those kinds of discussions. I think they should be handled prior to that. I understand what Scott is saying but I understand the dilemma. I would like to have that check list of things that I have to do and I can say I did this and it was done on this date and then come in under Chapter 15 and just do the final bond release procedures and have it taken care of be administrative, have the public become aware of what was going on and go through those processes. It is a problem area for us and it hasn't been resolved and Scott's right, we can't procrastinate on this any longer. We're going to have to come up with something because a number of the mines including my own that I work at are going to be at the door knocking and I would really like to have that process in place.

**RICK CHANCELLOR, LQD:** I agree. I agree also that our revision of Appendix A has taken too long and that needs to be sped up. That will get our attention.

**BOARD MEMBER GINGERY:** You got it all done?

**BOARD MEMBER SKILBRED:** Well we're probably no farther along on it than we were before but we did talk a little bit about beefing up the Statement of Reasons to put some clarification in there that will help. I addressed some of Scott's concerns and Roy's and that's where we stand on it right now.

**BOARD MEMBER GINGERY:** Appendix A is a guideline.....is that correct?

**RICK CHANCELLOR, LQD:** No, Appendix A is actually a rule.

**BOARD MEMBER GINGERY:** Rule, okay. I just wanted to make sure. If we could be sitting here a year from now and have that accomplished that would sure be a lot easier for everyone wouldn't it not? Rick, is that a realistic goal to hopefully in a year from now have that amended and reviewed?

**RICK CHANCELLOR, LQD:** Yeah, when Georgia was here I asked her would Appendix A be available early next year. She felt that it would be ready by then to come to the advisory board for consideration. Also realize that we did do a bond release guideline that does contain a check list of issues that need to be addressed. I think the issue that still needs to be resolved is when and how do some of those issues get addressed? We just talk about different items that need to be done. We have not talked about the detail in that guideline that goes into demonstrating that you met that criteria. That's what Scott is getting at....there's still a lot of discussion to take place in there.

**BOARD MEMBER GINGERY:** Would it help once we get through what we're all suggesting and discussing to have a flow chart showing illustrations of the steps to go through? Or am I asking for too much?

**RICK CHANCELLOR, LQD:** No. I think we can do a flow chart that will hit the items addressed in that guideline that is just being finished up with WMA and us. It does identify different items that need to be checked off for bond release. We can go through and try to discuss also in that flow chart when these items would take place. We're hoping to get a lot of these items taken care of years before you come up for bond release. The last item is vegetation demonstration because that's at the

very end but a lot of the other stuff we're trying to do it ongoing throughout the year so it's not a big bunch of data at the very end. So, yes, we can put together a flow chart.

**BOARD MEMBER GINGERY:** I don't know about the rest of you but boy I think that would help me. Okay, you mentioned the Statement of Reasons will be enhanced?

**RICK CHANCELLOR, LQD:** Yeah, I'll try to add some language at the end to show that the intent is not to stop bond release requests. I may beef up the language and talk about doing the technical review before you come into the Chapter 15 process. If our discussion here as far as rejecting the request is not necessary to stop bond release but to put that review in the proper process.

**BOARD MEMBER SKILBRED:** That last sentence, and this is what Scott is bringing home real strong, where it says *failure to demonstrate the required performance standards prior to filing a request under this Chapter shall be grounds for rejecting the request*. Does it have to be that inclusive? Can it be *may be* grounds? Does it have to be black and white there for you?

**RICK CHANCELLOR, LQD:** I guess maybe not because there are some different steps in bond release. It's not all at the very end. They can come in for a partial bond release for different items along the way. There have been times recently where the issue was so minor and we're so in sync with the operator that basically the technical information came in at the same time and the amount of information to review was so small that it was not a problem. So, yes you're right.....all inclusive.....there is some small stuff that we probably could do.

**BOARD MEMBER SKILBRED:** Because it still gives you flexibility there. I don't know if that helps you or not Scott.

**SCOTT BENSON, TRITON COAL COMPANY:** There's still a lot of work to do on bond release.

**BOARD MEMBER SKILBRED:** Oh I agree. I don't disagree with that.

**RICK CHANCELLOR, LQD:** I don't disagree with Scott either but I just feel that this issue is not here, it's someplace else.

**ROY LIEDTKE, JACOBS RANCH COAL COMPANY:** I think Chet just opened up another can of worms there. I've had in my mind all the time as I was reading this that it was final bond release but if we come in for 60% partial Phase I bond release do we have to submit a separate package to demonstrate performance standards on that before we ask for a request?

**RICK CHANCELLOR, LQD:** Going back to the check list that WMA developed with us for that type of bond release we'll have a list of items that need to be checked off. If we go down that list and if you're missing something we'll reject it and tell you to go re-do this one item. For instance, say you haven't done sedimentation release yet but you're asking for a release at that level and we'll tell you no because you haven't completed that one step.

**ROY LIEDTKE, JACOBS RANCH COAL COMPANY:** But the very first step is to get Phase I release which means that you basically gotta have a back fill and topsoil.

**RICK CHANCELLOR, LQD:** Right. And so the question comes down to do you topsoil it and you verify your topsoil depths? Which ever way we agreed to do that.

**ROY LIEDTKE, JACOBS RANCH COAL COMPANY:** So, now we have to submit two separate packages. For that one we have to submit a topsoil verification package and then once you approve that then we come back and submit a request for partial bond release.

**RICK CHANCELLOR, LQD:** Well, I think what we're both looking for on topsoil verification is that during our monthly inspections is that we're able to do that work then and during that monthly inspection be able to give you something that says we've signed off on this area. Therefore, all you do is give us your request for Chapter 15 and give us your letter saying it's done. It's already been done. There's nothing else to submit but your Chapter 15.

**BOARD MEMBER SKILBRED:** I can talk to that because that's exactly what we do at Glenrock. During our monthly inspections we go out and check our topsoil depths which is measured at that time and then in an inspection report it says have met the topsoil standard for that piece ground. I constitute that as being a release from the topsoil depth requirement for that. Then in my annual report I put that data in there, the date, the date of the inspection report or a copy of it. That seems to work, I think, quite well.

**SCOTT BENSON, TRITON COAL COMPANY:** That's what I'm getting at. This can be very simple or it can be extremely complicated.

**BOARD MEMBER SKILBRED:** Right, and I agree with Scott that that's the process we ought to have for a number of items out there whether it be trees or shrub density or some of the other issues, i.e., release from contours or PMT's, have you met your post mining contours on there.

**RICK CHANCELLOR, LQD:** What you don't want to do is come in for that bond release and we say, "We haven't checked that area for topsoil depth yet."

**BOARD MEMBER SKILBRED:** That's right.

**RICK CHANCELLOR, LQD:** Then we would reject it and say, "You need to do this work first."

**BOARD MEMBER SKILBRED:** I agree. Those are the kind of processes we need to have in place before which is exactly what we're talking about here.

**RICK CHANCELLOR, LQD:** That's what we're shooting for to have all those things done and the last big issue is the vegetation because that is the last item done and you probably want to do it that same year to get that vegetation done so you can get to bond release. We're saying that that still needs to come in beforehand. We're moving toward that direction by giving you something that shows we signed off and that this area has met this standard. So if you want to change that word *shall* to *may* to give flexibility to everybody, I think we're okay with that.

**BOARD MEMBER SKILBRED:** I would like to do that.

**BOARD MEMBER GINGERY:** I think the discussion was good and I would say that when we do have that workshop, if we can share that information, I think that will stimulate people's ideas coming out of this discussion today.

Going on to page 11, proposed rule #8, halfway down to (vi).

**RICK CHANCELLOR, LQD:** This is a disapproval by OSM where over time they added this rule to their regulations and we had not added it to ours. It states that the operator must submit a notarized statement basically saying that they've completed all the reclamation requirements. We added the phrase *authorized representative* that's not in the federal rules just to show that someone at the mine who is responsible signs and not just anyone. We feel it meets the intent of the federal rules but it's not included in the federal rules but we included it here just because we wanted to make sure someone who has authority does sign it. It doesn't have to be the president, doesn't have to be the vice president. It could be the reclamation supervisor. Someone who is knowledgeable that we deal with on an every day basis.

On (cd), this is something that OSM rules do not actually specify in writing that when we require a mine to publish in the paper we always require them to give us a publishers affidavit showing that they actually did publish. We do it for all other publications and we do the same thing here that when they do publish for bond release that they give us a copy of that publishers affidavit.

**BOARD MEMBER GINGERY:** Any comments? Let's move on to page 12.

**RICK CHANCELLOR, LQD:** We took out the Economic Development and Stabilization Board because it's no longer there so we just dropped it. We did not put anything in it's place. I think the federal rules talk about planning boards and stuff like that. We have a long list of items there if we really wanted to...we don't want to go that deep into sending out our notices. We don't think we'll get dinked by that from OSM, we hope not.

**BOARD MEMBER GINGERY:** Okay.

**RICK CHANCELLOR, LQD:** Page 14 and 15 are mostly just trying to be more consistent with the changes we made in our chapters earlier on.

**BOARD MEMBER GINGERY:** How about the new number 8 up above that on page 14? Does that change quite a bit there?

**RICK CHANCELLOR, LQD:** First of all we took out the old 8 because that dealt with grazing. The new number 8 is clarifying that for those mines that use the old reference or comparison areas it is two consecutive years that they have to meet the standard. When we develop a technical standard, it clarifies that it's two out of four years that mines meet the standard and begins in year eight. So it's just sort of a follow-up on what we did before on the technical standard.

**BOARD MEMBER GINGERY:** Comments? Let's continue.

**RICK CHANCELLOR, LQD:** Back to the bottom of page 14 we strike out the grazing issue.

The paragraph at the top of page 15 again changes *should* to *shall* which is a result of when Appendix A was first written. It was written as a guideline and in guidelines we always use *should* but since it became rule OSM interprets all those *shoulds* to be *shall*. We just are doing a little clean up since we're dealing with that paragraph anyway. We added language in here to clarify that although we're taking out grazing demonstration as a bond release criteria that we still encourage grazing to be done as a husbandry practice just so it's clear to everybody that we'd like to see grazing done and that before we do grazing that it still should be approved by the land owner and ourselves.

**ROY LIEDTKE, JACOBS RANCH COAL COMPANY:** Rick the new language that's being added in the middle of page 15 which says *the operator shall incorporate into the Reclamation Plan whether they plan to utilize grazing as a husbandry practice* and then the next sentence says *the discussion shall include how grazing will be used as a tool to redirect the composition, cover, or productivity of the reclaimed area*. I personally take exception to that because when you read that it's saying that grazing is going to be used as a tool to redirect the composition and you're assuming that the reclamation is not successful and that you have to change it somehow. We've grazed for years and what we do is use it to maintain the composition. We're not trying to change it or redirect it. We're just trying to maintain what we got out there. It's a pretty minor change but I think it's....

**RICK CHANCELLOR, LQD:** You want to say redirect or maintain?

**ROY LIEDTKE, JACOBS RANCH COAL COMPANY:** I'd just delete the entire sentence. You already say that the operator shall incorporate into the Reclamation Plan whether they plan to utilize grazing as a husbandry practice.

**RICK CHANCELLOR, LQD:** And it doesn't need to say why he's doing it?

**ROY LIEDTKE, JACOBS RANCH COAL COMPANY:** I do it because I want to make money off my reclamation.

**SCOTT BENSON, TRITON COAL COMPANY:** My comment on this, and it's redundant again, is that Appendix A should be completely gotten rid of. I didn't even review this or comment on it because my comment would be to take the whole thing out because OSM interprets this as a rule and a regulation and we're revising a guideline. That's all we're revising and that's what we should be doing. It shouldn't be a rule. It shouldn't be a regulation. This is way above OSM and SMCRA. I have absolutely no problem if it's a guideline but we're making it a rule now because that's how OSM interprets this.

**RICK CHANCELLOR, LQD:** OSM requires that any guidance document that deals with reclamation vegetation success must be a program amendment which makes it a rule. So, we can't just do a guideline and talk about revegetation success because OSM states it has to be approved through the process just like a rule.

**SCOTT BENSON, TRITON COAL COMPANY:** But my comment on this one is that it's redundant because we've already taken it out in Chapter 4 in the rules and said you don't have to do grazing. Just drop the whole paragraph out of Appendix A.

**RICK CHANCELLOR, LQD:** Our intent to keep it here is just to encourage operators that we still believe grazing is a good tool and we want to make sure, that be it the public or whoever, that just because we took out grazing as a bond release criteria doesn't mean that we should throw out grazing totally. We think it's a good tool to be used.

**BOARD MEMBER PROFFITT:** That's kind of a policy though when you say you want to encourage. I'm going through that management revision process of the Big Horn Forest and they really screwed up their management plan back in 1985 using a lot of *shoulds* and so forth. We went through this whole process over a six month period trying to redefine rules versus guidelines. What it really came down to was if you used the word *shall*, that's going to be a rule. If you used the word *may*, that's going to be a guideline. That was the criteria almost across the board so that the public at least and the people coming in at a later date would have some basis for understanding whether

that was a rule or a guideline but we're using *shalls* and *mays* almost interchangeably here and I'm maybe like Scott that that may be confusing later on. It may be set up as a guideline or it may be set up as a rule but that may be interpreted one way or the other at a later date.

**BOARD MEMBER GINGERY:** Taking out this last paragraph, other than the first sentence, the rest of it if we'd use that as we have before and explaining why we did it.....

**RICK CHANCELLOR, LQD:** Are you saying move the language to the Statement of Reasons?

**BOARD MEMBER GINGERY:** Yes. Leave the first sentence which is partly true and then the rest of it is explaining why we're saying the above. I think you would get across your same point but it isn't a rule because we've already said shall include discussing the above points.

**BOARD MEMBER MUNN:** I would think you might want to also, which will mutually determine when domestic livestock.....it might say *if* and *when*.

**BOARD MEMBER GINGERY:** Yeah, because you could go the other way.

**BOARD MEMBER MUNN:** And then just have that last sentence as Marshall suggested and have that first sentence tucked up with that and the rest of it could go in italics as supportive information.

**BOARD MEMBER GINGERY:** You'd get your point across, I think.

**RICK CHANCELLOR, LQD:** How about in the second paragraph keeping that first sentence like you say and then the third sentence and not the fourth like Roy said? I believe they're supposed to talk about the different husbandry practices they plan to use and this would tie into.....

**BOARD MEMBER GINGERY:** I see what you're saying.

**SCOTT BENSON, TRITON COAL COMPANY:** Again, OSM used to have this requirement in their rules and regulations that you had to graze reclamation. OSM took that rule out of a bunch of public comments and federal registers but that simply wasn't necessary to get bond release. You didn't have to graze the land to get bond release and to demonstrate that it was ready for bond release. We've now done that in Chapter 4. We've made the Wyoming program consistent with the federal program and we've taken that out in Chapter 4 and said the same thing. You don't need to graze it to get bond release. We get here to Appendix A and it does nothing but throw uncertainty and confusion into the issue so now we're trying to clarify it which OSM interprets it as a rule and will be enforced as a rule. Can't we just leave it like it is? Grazing is not required. That's the rule. I wish we could take it out right now and just completely eliminate Appendix A from the rules and regulations because they aren't rules and regulations. They were never intended to be rules and regulations.

**RICK CHANCELLOR, LQD:** They are rules and regulations. When OSM approved our program, these were passed by the Council as rules. They were not left as guidelines and with a snap of fingers made into rules. They went to the board. They went to the Council. They became rule. The problem is the language never changed to become rule type language. It was just left as guideline language and it's been a problem and that's why we need to fix it. We're taking out grazing as a reclamation bond release requirement. There is discussion about husbandry practices. We want to leave grazing in as a husbandry practice.

**BOARD MEMBER GINGERY:** I think if you take what Larry said there and putting the word *if* in that first sentence.

**BOARD MEMBER MUNN:** *If or when.....* something in there to show that it may be never. *When* implies it's going to happen at some point. Well, maybe it never will happen. At least it won't happen during the bond release period.

**BOARD MEMBER GINGERY:** It's not a necessary element.

**RICK CHANCELLOR, LQD:** That's fine.

**BOARD MEMBER GINGERY:** Okay. I think that kind of cleans that up. My suggestion was to leave the first sentence but you also suggested to leave the third sentence?

**RICK CHANCELLOR, LQD:** Yes.

**BOARD MEMBER GINGERY:** Okay. I have consensus on that. I would say we'll come back to this some day. Let's move on down to proposed rule 11 where number 4 has been removed and there's a new number 4.

**RICK CHANCELLOR, LQD:** Right. Again, it talks about the technical standard just like it did earlier.

**BOARD MEMBER GINGERY:** So, now we're on page 16 and again the grazing in number 8 is out?

**RICK CHANCELLOR, LQD:** It's out.

**BOARD MEMBER GINGERY:** Okay, does anyone have any other items to comment on? Or do you need clarification of any of the changes that we made today? I would accept a motion to approve these changes as stated today?

**BOARD MEMBER PROFFITT: I'd make the motion that we accept the changes as proposed with the additions and corrections that were made during our discussions today.**

**BOARD MEMBER SKILBRED: I would second that motion.**

**BOARD MEMBER GINGERY: Okay. Is there any additional discussion? Hearing no additional discussion on the motion, all in favor of the motion signify by saying aye.**

**BOARD MEMBERS: Aye.**

**BOARD MEMBER GINGERY: Those opposed, same sign. Motion carries four to zero. Thank you.**

**ROY LIEDTKE, JACOBS RANCH COAL COMPANY:** I would like to make one more comment. It should be obvious to the board that the changes that will be made to Appendix A will be quite extensive and this rule package was a pretty small package that we generally supported and we spent four hours looking at it. If we get a really extensive review of Appendix A and we get it the first quarter of 2004, I mean, we're going to have a 2-3 day meeting to try to go through that thing. Is there a better way to do it than have DEQ revise it and then just show up at the advisory board

meeting and we start looking at it then? Maybe industry and DEQ should be trying to work together. I know industry is working, through the Wyoming Mining Association, and possibly submitting a rule proposal. We don't want to both be racing to see who submits first.

**BOARD MEMBER GINGERY:** I kind of thought that maybe that first workshop that not too much preparation would take place and just open it up for discussion. My feeling was that the department, the Association, and independent individuals can do their homework. I think sometimes if we get too far out on it it really inhibits good ideas coming forward. My feeling is that maybe a more informal setting as I mentioned earlier and maybe the department would make a fairly lengthy presentation. The Association I'm sure would like to do one and kind of put that into a collection and then try to put it together. Maybe you'll have to break up into some subcommittees. I have no idea. What I would see since it is such an important topic and my feeling is that a lot of good input came out today because we have a small group but I also take your good advice that you just don't want to be going to a meeting. One thing is that all of us agree that it needs to be revised. What I'm hearing is it may not be the lengthy document we think it needs to be. It may be that we have more consensus on this. Should we as a board even get involved with the workshop?

**RICK CHANCELLOR, LQD:** I think it would be helpful if the board members want to come to the workshop. On the bigger issue of Appendix A, we have to keep in mind that it's a rule making process and there are certain regulatory and statutory requirements for a rule making process.

On one hand, I agree with Roy that if we can sit down and work out a lot of these things before coming to the board it may be a little more helpful. Also, on the same token, a rule making process is a very public process and they are structured a certain way to allow full input and be transparent to the public. You have to weigh those two against each other and make sure that we're not violating those laws.

**ROY LIEDTKE, JACOBS RANCH COAL COMPANY:** Even if industry were to participate in the drawing up the rules, it would still go through the process and environmental groups or whoever else would have every opportunity they want to comment on it or make changes.

**BOARD MEMBER GINGERY:** What if we do it in Gillette or Casper, which ever is the best place, is maybe have the workshop and give the time for Rick's staff to put it together and we as a board come together about two to four weeks later so we really have a package to look at or at least start on. What I originally thought is that we'd have a workshop one day and then the next day we'd have this board meeting but I don't know if that really would help. Are we going to be ready the next day to discuss what came out of the workshop?

**RICK CHANCELLOR, LQD:** I envision the workshop is somewhat a little bit separate from the Appendix A rewrite. I think what we envision as a workshop was on the sampling methodologies for bond release and those type issues. Appendix A does cover other issues too but I think the workshop can be used as a sounding board as we go through the procedures of that to incorporate into the rewrite of Appendix A. I think we may get a lot of good information out of the workshop that we may want to include there. I don't envision having the workshop one day then doing the rules the second day because it will take some time to incorporate what we learned there.

**BOARD MEMBER GINGERY:** Does the department put the workshop together or are we responsible?

**RICK CHANCELLOR, LQD:** I think we would do the workshop.

**BOARD MEMBER GINGERY:** Alright. The only reason I'd say the next day is that maybe there would be a summary to this board of what took place in the workshop because some of us may attend and some may not. What do you think of that idea?

**RICK CHANCELLOR, LQD:** I think we could give an update on where we are on basing a workshop and also on Appendix A. We talked about having a board meeting the next day and what I envision is having a regular scheduled board meeting and do whatever we need to do but also have that updated summary along with that.

**BOARD MEMBER GINGERY:** How do you guys feel about it from industry?

**SCOTT BENSON, TRITON COAL COMPANY:** Not to blind-side you or anything but just so you're aware of what's going on and Land Quality as well. There's even a national initiative right now with National Mining Association looking at revegetation success standards. They started an outreach effort years ago. They started the process of going through a rule making process to revise the OSM rules on revegetation success but I'm all for workshops and trying to get together and figure this out but personally my patience has worn thin. I've been doing this for over four years trying to reach some kind of an agreement and I don't think we're any closer than we were four years ago. My intent is to submit a rule package. As I understand the process, industry or an individual can submit a rule package to the EQC who will then review it. If they then direct that the rule package comes before you guys to review and hopefully that will happen in the next few weeks and it'll be interesting we'll turn things around and industry will be up there with a board and you'll have the LQD district staff back here telling you what they think and how they understand the rules because there are some very substantial differences.

**RICK CHANCELLOR, LQD:** Point of clarification - if a individual or group petitions the Council for a rule making it does not come to the board. It goes straight to a hearing.

**SCOTT BENSON, TRITON COAL COMPANY:** Oh, it doesn't.

**ROY LIEDTKE, JACOBS RANCH COAL COMPANY:** I thought the Council had the opportunity if they wanted to to send to the board.

**RICK CHANCELLOR, LQD:** They may have that option but it's not a requirement.

**SCOTT BENSON, TRITON COAL COMPANY:** So you may not get that opportunity to hear it again.

**BOARD MEMBER PROFFITT:** You mean they send it back to us or we comment on it on a parallel course?

**RICK CHANCELLOR, LQD:** If someone petitions the Council directly for rule making, in the past, in most cases, they have gone straight to scheduling a hearing and the board is not involved at all. You have the option most likely of saying instruct the board to review it and do the process but the ones I'm aware of in the past, they have not utilized the boards.

## **LOCATION/DATE OF NEXT BOARD MEETING**

**BOARD MEMBER GINGERY:** Okay. We've passed this and we're discussing now the opportunity for a workshop. My suggestion to the board up here is that some type of workshop would take place. Is there any other business before we set up as to where we want to have the next meeting and time?

**RICK CHANCELLOR, LQD:** We still plan to have the in situ rules brought before the board and we're looking at July in Casper and maybe 1 to 1 ½ day meeting because it's probably just as bad as Appendix A. We are hopeful that everything is in progress to do that.

**BOARD MEMBER GINGERY:** If we're going to do something in July, the first couple weeks of July will be difficult for me. The third week is better for me. Rodney?

**BOARD MEMBER PROFFITT:** July is open for me.

**BOARD MEMBER SKILBRED:** As long as it's not the first full week in August, I don't care.

**BOARD MEMBER GINGERY:** Do we need to have a motion on setting up the date and location?

**RICK CHANCELLOR, LQD:** We have a meeting next week with the uranium industry on restoration process for groundwater and after that meeting next week I'll have a better idea if we're still on schedule for a July meeting. Let's leave it open. If all goes well we will, if things go bad it may be pushed off until later.

**BOARD MEMBER GINGERY:** Any comments from the board? Okay. Well, thank you for coming and I'd take a motion to adjourn.

**BOARD MEMBER SKILBRED:** So moved.

**BOARD MEMBER MUNN:** Second.

**BOARD MEMBER GINGERY:** The motion has been made and seconded. All in favor say aye.

**BOARD MEMBERS:** Aye.

**BOARD MEMBER GINGERY:** No opposing. Thank you again. This meeting is now adjourned.