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WYOMING LAND QUALITY ADVISORY BOARD

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TRANSCRIPT OF TELEPHONIC MEETING PROCEEDINGS

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Pursuant to notice duly given to all parties in interest, this matter came on for telephonic meeting on the 19th day of August, 2013, at the hour of 10:00 a.m., at the office of Wyoming Reporting Service, 114 East 20th Street, Cheyenne, Wyoming before the Wyoming Land Quality Advisory Board, Mr. Jim Gampetro presiding, with Mr. Jay Collins, Mr. Bob Green, Mr. Jim Skeen and Mr. Monty Shober, all appearing via telephone conference.

Ms. Nancy Nuttbrock, Land Quality Administrator; Mr. Craig Hults, of the Land Quality Division, were also in attendance via telephone conference.

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P R O C E E D I N G S

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(Telephonic meeting proceedings

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commenced 10:00 a.m., August 19, 2013.)

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CHAIRMAN GAMPETRO: I would like to just

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reiterate how we have everybody on the line, that before

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saying anything, everybody should identify themselves.

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And I've asked Craig, and I would ask this of

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anyone presenting, if it's a long presentation, every once

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in a while break for comments, as opposed to having people

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try to chime in on the call, although that's not disallowed

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or anything. I just try to make it a little bit neater.

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And other than that, any comments on that or

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questions?

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MS. NUTTBROCK: Mr. Gampetro, yes, just a

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reminder that this -- Kathy is transcribing, so, everybody,

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if you would announce your name prior to making a comment

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for the record, that would help Kathy.

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Also, just typical conference call procedures.

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If you would mute your phone, unless you're speaking, that

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would help.

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And, Jim, I think it may be wise to take a roll

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call for your advisory board members, but I would expect

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that we'll probably have so many people on the call that

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trying to get an accurate roll from attendees otherwise

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might be -- might be a bit difficult.

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1 CHAIRMAN GAMPETRO: That sounds reasonable
2 to me. I have checked off that we have Nancy and Craig and
3 Bob Green and Jay Collins and Jim Skeen and Micky Schober,
4 which would be everyone that I was expecting. And then I'm
5 sure there will be others.

6 I guess I could say if there's anyone that I
7 mentioned that's not here, they should speak up. That was
8 a joke.

9 Okay. The meeting is in session. We have the
10 minutes, which we should review. And if anyone has any
11 comments or changes or corrections, please let me know. I
12 think the best way would be by e-mail. And then,
13 obviously, copy Craig and Nancy, before we cite them here.
14 I'll kind of hold off a little while until everyone has a
15 chance to -- to send comments in that regard.

16 Other than that, I guess we'll dispense with the
17 Pledge of Allegiance to the Flag this morning, and we can
18 go forward.

19 Who is going to start off? Craig, are you the
20 presenter of --

21 Or is Nancy -- do you want to chime in first?

22 MS. NUTTBROCK: Well, Mr. Gampetro, I'd
23 like to just kick things off, and then Craig will go with
24 the analysis that he's been doing regarding Land Quality
25 rules.

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1 If you recall, back in April the governor
2 submitted to all boards and commissions across the state
3 directive to look at the rules in an effort to streamline,
4 maybe -- maybe shorten, reduce significantly, and he talks
5 about reducing by one-third in number and one-third in
6 length -- and those directives being benchmarks, they're
7 not absolutes -- with the aim towards reorganization,
8 consolidation, and looking for obsolete or unnecessary
9 rules and ways to be more concise, while still supporting
10 the regulatory business of the agencies.

11 So that's what Craig has been looking at over the
12 past couple months, since April, certainly. And we've gone
13 through an exhaustive review of our rules, and generally
14 are very pleased at what we found. We did not find
15 significant areas where we were housing obsolete or
16 unnecessary rules. We -- over the years, you'll know by
17 the information that Craig has put in table form for you,
18 that Land Quality Division of DEQ has been active in
19 updating its rules and doing so on a consistent way and on
20 a regular basis, such that we didn't find large volumes or
21 many pages of obsolete or unnecessary information. So
22 that's the purpose of today's discussion. And Craig will
23 walk you through some of the details he's provided for you.

24 In general, we're looking towards -- there are
25 other divisions of DEQ that are, in fact, in a position to

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1 really streamline and reduce the numbers and pages of the
2 rules that they have. What we'll be doing from Land
3 Quality's position, we'll be rolling this information up to
4 our director and we'll be compiling it with the same
5 information from other divisions of DEQ. And then by
6 November 1st, as requested by the governor in his April
7 2013 letter, we will be forwarding that information to the
8 governor.

9 So I'll turn it over to Craig now, but in general
10 I was really pleased to see the results of his evaluation.
11 And I think it's due to diligent efforts by the staff and
12 by the advisory board and diligent efforts of the industry
13 to keep us -- keep us on the mark in terms of what our
14 roles are.

15 So, Craig, go ahead.

16 MR. HULTS: This is Craig Hults. I would
17 also like to reiterate that, yes, after my review I was
18 pleasantly surprised at the state of our rules. I'll just
19 kind of go through quickly, what I did was basically read
20 through every chapter. And I wasn't necessarily looking
21 for technical issues that we may or may not need to fix.
22 So what I was looking for were writing styles, things in
23 the rules that are obsolete that we no longer do, processes
24 we no longer use. And so I wasn't necessarily looking to
25 fix anything, but just kind of looking from afar, which was

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1 a unique perspective for me. Usually I'm responding to
2 some kind of rule change that needs to be done, so this was
3 kind of interesting for me. And, again, I was very pleased
4 with this.

5 The way I was doing it was that the first thing I
6 was kind of looking at was some of the dates of the rules;
7 when were they last promulgated. And I kind of honed in on
8 some of those, thinking that those would be areas that
9 would definitely need some work, or they just, I thought,
10 warranted a little more close examination. And even those
11 I thought were pretty good.

12 Of secondary consideration here was our coal
13 rules. We go to great lengths to make sure we're in
14 compliance with the OSM and their reviews. So when I was
15 looking at those, I did it a little bit with a bit of
16 apprehension that I don't really want to change these,
17 because we're going to have to go through that rule process
18 and the review on the OSMs. And in my feeling, we're so
19 close to getting these things in complete compliance, I
20 didn't see a lot of areas where I thought we would even
21 want to dive into those things.

22 The coal -- or noncoal rules, looking at those,
23 again, I didn't find any glaring problems, but what we do
24 find we're sitting at -- on the noncoal rules we have 13
25 chapters. There's 124 pages. We have a date that we are

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1 kind of counting forward from to measure -- have we added
2 rules, have we reduced rules, in that sense, January 1st of
3 2011.

4 So on the noncoal rules we added eight pages
5 since we've started looking at this. The coal rules we've
6 added 23 pages. And, again, that's in response to OSM
7 concerns. I think what we've done is even with that
8 addition, for example, Chapters 8 -- or 9 and 10, are small
9 mine and limited mining operation chapters. While we've
10 added pages to those, I think we're still meeting one of
11 the governor's goals, which is more accessible, better
12 organized rules. And this is somewhere where we want
13 people to kind of one-stop shop and look at those rules
14 without having to go to the statutory -- and look up those
15 citations all the time. So I think in some way we're able
16 to meet the governor's goal without necessarily doing a
17 reduction on the rules.

18 And, finally, as part of that, what I was looking
19 at also was we do have some things that are currently in
20 the pipe. And we also have some that we're aware we're
21 going to have to change, specifically the coal rules. We
22 have two concern letters that we have to address, which has
23 added, I believe, seven deficiencies that we need to fix,
24 which, in the grand scheme of things, I think we're getting
25 down to the nitty-gritty and should be a pretty easy fix.

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1 So we will have additional pages coming.

2 I will also say like, for example, Chapter 11,
3 that we are currently working on, we added a bunch of
4 things, but we also removed some of the obsolete things, so
5 we ended up with a net of basically no change on the length
6 of the chapter.

7 So in reviewing these things, I think we're
8 seeing that our rules, one, are pretty tight. We are one
9 of the more active divisions or departments as far as
10 rulemaking goes, and I think that gives us a place where we
11 actually have some pretty clean and tight rules where
12 things are necessary. I don't see a lot of technical
13 issues.

14 I did want to say there are in this table I put
15 together just some suggestions. And what these were meant
16 for were discussion items. I'm not heavily invested that
17 we need to do these things, but there's possible
18 reductions. And even looking at that, I think we're
19 talking about a page or two per chapter that we can get out
20 of this if we strictly just went for reduction with some of
21 the language, perhaps the lists that we could pare down
22 into one sentence. But I'm just not seeing a whole lot
23 that needs to be changed, really, and I'm pretty proud of
24 that.

25 MS. NUTTBROCK: So Mr. Gampetro -- this is

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1 Nancy Nuttbrock again -- I guess I'll conclude by saying
2 that I've asked Craig to think about a way that we can --
3 we can start tagging these potential areas. Certainly --
4 certainly we understand the amount of effort that goes
5 into -- into changing rules. It's a very long process.
6 And what I'd like to do is keep it as potential areas
7 for -- for consideration at the point in time when we're --
8 we're changing the rules for the technical reasons. If
9 we're -- if we're -- if we are making corrections to a rule
10 for another reason, we have the means of going back and
11 reviewing our analysis here and saying, oh, right, we had
12 talked in the past about potentially combining this list
13 into a sentence, and go about it from that perspective so
14 that we can be more efficient with our own time. And with
15 the State's process of promulgating rules, certainly we
16 need to manage the amount of time it takes with this
17 endeavor to begin with.

18 So we'll be looking for ways for us to create --
19 create a mechanism for us to go back and review this
20 analysis at that proper point in time.

21 CHAIRMAN GAMPETRO: Thank you, Nancy.

22 MS. NUTTBROCK: That's all we have today,
23 Mr. Gampetro. Further questions?

24 BOARD MEMBER GREEN: Mr. Chairman and
25 Nancy, this is Bob Green. I just have one very brief

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1 question, if I might.

2 Nancy, you had alluded to the fact that other
3 divisions in DEQ perhaps would have more latitude for
4 reduction. And as I read the governor's letter, it looks
5 like that the objectives of a third and third reduction
6 relate to the larger DEQ agencies. With that, do you
7 anticipate that there will be much pressure for LQD to make
8 changes even -- even though it's been identified that the
9 rules are fairly clear at this point, or do you feel that
10 that averaging may suffice?

11 MS. NUTTBROCK: Mr. Green, Mr. Gampetro.

12 Yes, as a matter of fact, this morning I was
13 briefing the -- Director Parfitt on the results of our
14 analysis prior to presenting it to you today, and there
15 is -- there's a sense that -- that there is, for lack of a
16 better phrase, more bang for our buck in terms of efforts
17 to meet the governor's intent in terms of reductions in
18 other divisions of DEQ. Solid and Hazardous Waste and
19 Water Quality have maybe not been so on -- they haven't
20 been so active over the course of the past 10 years, and
21 they do have some areas where -- where there is obvious
22 opportunity for reduction.

23 Director Parfitt feels the same as Craig and I
24 just alluded to, that we're very pleased with the status of
25 Land Quality's rules right now, and we don't feel that we

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1 would be pressured simply to make changes for the sake of
2 cutting out a paragraph here or a page there. Certainly if
3 we were -- if we were -- if Craig and I walked away from
4 this analysis feeling like there were larger sections, we
5 would certainly talk further about going forward with that
6 effort. But at this point in time, Mr. Green, I think Land
7 Quality is in a good position.

8 BOARD MEMBER GREEN: Excellent. Thank you
9 very much. I sure appreciate that.

10 CHAIRMAN GAMPETRO: Any other -- this is
11 Jim Gampetro. Any other comments or questions?

12 Well, seeing none, I guess we're open for a
13 motion to adjourn the meeting.

14 MS. NUTTBROCK: Mr. Gampetro, this is Nancy
15 Nuttbrock again. Might I suggest that we hear just briefly
16 from Mr. Hults regarding the upcoming EQC hearing and the
17 status of a couple of rules packages that you've recently
18 seen. Would that be acceptable?

19 CHAIRMAN GAMPETRO: Sure sounds good to me.
20 This is Jim Gampetro.

21 MR. HULTS: Mr. Chairman, this is Craig
22 Hults. We have two rule packages that are currently
23 scheduled to be in front of the EQC on September 12th, and
24 that was our Chapter 8 and 9 -- or 9 and 10, I'm sorry.
25 And then Chapter 11. We're going to schedule them on the

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1 same day, but we're going to keep the packages separate,
2 just because of the nature of the rule packages. One is
3 in-situ mining, the other one is in response to legislative
4 changes. There's currently a public comment period open.
5 I believe that closes September 9th, and we'll be ready to
6 roll for that. I just wanted to update that.

7 And kind of a follow-up to Bob's question about
8 the reduction, and as far as pressures to do that, one of
9 our steps along the way is we have to get permission to
10 proceed from the governor's office. And even though we've
11 had these couple of packages recently that are actually
12 adding pages or text, we're still getting the permission to
13 proceed on this. I think they're open to the idea that,
14 yes, some things are going need to be clarified, and we
15 just have to keep marching forward.

16 CHAIRMAN GAMPETRO: Jim Gampetro here.

17 Thank you, Craig. Anything else, Craig?

18 MR. HULTS: Yeah, I guess we will have -- I
19 think I mentioned there is some response to concerns that I
20 had from the OSM. What I listed on our table was I think
21 maybe we'll have an additional 10 pages, roughly, of new
22 rule that was somewhat estimated. I'm not totally sure on
23 some of the language, but I think that will probably be our
24 next rule package that we have coming through. That will
25 address those OSM concerns. We also have a small blasting

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1 issue to correct and perhaps some additional items, but
2 right now I think that would be a very small rule package
3 and should be pretty concise and pretty easy to handle, my
4 hope is.

5 CHAIRMAN GAMPETRO: Thank you again, Craig.

6 Jim Gampetro here.

7 Anything else at all from anyone?

8 MS. NUTTBROCK: Mr. Gampetro, Nancy

9 Nuttbrock again, if I may.

10 CHAIRMAN GAMPETRO: Go ahead.

11 MS. NUTTBROCK: Our next advisory board

12 meeting is scheduled for November 18th.

13 Craig, do you intend on that coal package being
14 ready at that time?

15 MR. HULTS: I'm hoping to. There's some
16 issues we have to resolve yet through OSM, if I can work
17 through those with them in time. Some of the languages has
18 been clearly identified. There is a couple of areas I need
19 to work out with them, make sure we're going to be in
20 compliance with what they need. But that's my hope, yes,
21 is the next advisory board meeting.

22 MS. NUTTBROCK: Mr. Gampetro, I ask that
23 just so we can begin planning for that November 18th
24 meeting and whether or not that should be a face-to-face
25 meeting or whether or not it could be conducted in a manner

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1 that we've done today. So we'll keep you posted as we
2 progress there.

3 Also, in looking forward to the calendar year
4 2014, we will be -- I know it seems early, but we will be
5 looking for our four quarterly meetings on our 2014
6 calendar. And Kim Pandullo will be helping me schedule
7 those. And I've asked that -- that she wait to do so until
8 Mr. Green's advisory board position has been -- has been
9 filled so that we can choose calendar dates for 2014 that
10 suits all of our members' needs. So we'll be working on
11 that in the coming months.

12 CHAIRMAN GAMPETRO: Sounds good.

13 Jim Gampetro here again.

14 Anything else? I don't want to go out for a
15 motion to adjourn if there's anything else out there.

16 Okay. Now, we'll entertain a motion to adjourn.

17 BOARD MEMBER SKEEN: This is Jim Skeen, and
18 I will move that we adjourn our meeting for today.

19 CHAIRMAN GAMPETRO: This is --

20 THE REPORTER: I'm sorry. Can you repeat
21 that?

22 BOARD MEMBER COLLINS: This is Jay Collins.

23 I will second that motion.

24 CHAIRMAN GAMPETRO: Okay. Jim Gampetro
25 here.

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1 All those in favor, signify by your name and
2 saying aye.

3 BOARD MEMBER SKEEN: Jim Skeen, aye.

4 BOARD MEMBER COLLINS: Jay Collins, aye.

5 BOARD MEMBER GREEN: Bob Green, aye.

6 BOARD MEMBER SHOBER: Micky Shober, aye.

7 CHAIRMAN GAMPETRO: The motion carries, and
8 the meeting is adjourned.

9 I thank you all very much, and I thank you for
10 attending and going through the process with us. And we'll
11 be in communication. We'll deal with that, get an estimate
12 whether it's going to be a long meeting for the
13 November 18th or whether we're going to do this again. And
14 I thank you again.

15 MS. NUTTBROCK: Thank you, Mr. Gampetro.

16 CHAIRMAN GAMPETRO: Thank you.

17 MR. HULTS: Thank you. Much appreciated.

18 CHAIRMAN GAMPETRO: Thank you.

19 (Telephonic meeting proceedings
20 concluded 10:23 a.m. August 19, 2013.)

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C E R T I F I C A T E

I, KATHY J. KENDRICK, a Registered Professional Reporter, do hereby certify that I reported by machine shorthand the foregoing proceedings contained herein, constituting a full, true and correct transcript.

Dated this 3rd day of September, 2013.

KATHY J. KENDRICK

Registered Professional Reporter