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2 BEFORE THE WATER AND WASTE ADVISORY BOARD
3 STATE OF WYOMING
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7 HEARING TO DISCUSS GROUNDWATER MONITORING GRANT PROGRAM
8 UPDATE AND MONITORING REIMBURSEMENT PROGRAM
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10 TRANSCRIPT OF HEARING PROCEEDINGS

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12 Transcript of Hearing Proceedings in the above-
13 entitled matter before the Water and Waste Advisory
14 Board, commencing on the 14th day of June 2013 at
15 9:15 a.m. at the Oil and Gas Conservation Commission
16 Building Hearing Room, 2211 King Boulevard, Casper,
17 Wyoming, Ms. Marjorie Bedessem presiding, with Board
18 Members Mr. Calvin Jones and Ms. Lorie Cahn present.
19 Also present was Mr. Bob Doctor.
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1 P R O C E E D I N G S

2 (Hearing proceedings commenced
3 9:15 a.m., June 14th, 2013.)

4 CHAIRMAN BEDESSEM: I'd like to go ahead
5 and get started this morning. Good morning, everyone.
6 I'd like to call this meeting of the Water and Waste
7 Advisory Board to order. We'll start off with
8 introducing the board members.

9 MR. JONES: Good morning. I'm Cal Jones,
10 and I'm representing agriculture on the board.

11 CHAIRMAN BEDESSEM: Marge Bedessem,
12 representing public at large.

13 MS. CAHN: Lorie Cahn, representing the
14 public at large.

15 CHAIRMAN BEDESSEM: Today Dave Applegate,
16 our industry representative, was unable to make the
17 meeting this morning. But I'd also like to announce that
18 we do have a new board member appointed as of June 3rd.
19 That's Klaus Hanson, and he will be representing local
20 governments and will join us at our next scheduled
21 meeting. So we're very pleased to have a full board
22 again.

23 So this morning I believe we're starting off
24 with solid waste program updates, so I'm going to turn it
25 over to Bob Doctor.

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1 MR. DOCTOR: Thank you, Madam Chairman.
2 It's good to see you all again. It's nice to be here
3 without a whole bunch of rules and guidelines and
4 everything. But this will be coming.

5 MS. CAHN: I'm just wondering if people in
6 the back can hear all right, or do we need to turn the
7 volume up? Turn it up? That's what I thought.

8 MR. DOCTOR: How about now? Better? I
9 wish I had something like this when I was raising my
10 kids.

11 I'll be pretty short. I gave you a sheet of
12 paper up there so you can take this home for a little
13 light reading. This is essentially what we presented to
14 the Joint Minerals Committee a few weeks ago in Gillette.
15 It's kind of a summary of the schedule that we're
16 anticipating for implementing the landfill remediation
17 bill and the landfill cease and transfer bill. So I'll
18 just kind of skim down through here.

19 As you know, the remediation program is a
20 State-led cleanup of impacted municipal solid waste
21 landfills based on a priority list that we've developed
22 and actually that you all were instrumental in helping us
23 develop. We've ranked them. We have a report due out in
24 June. We've gone through and ranked another series of a
25 Phase 2 ranking. So we have eleven highest-priority

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1 landfills now, and we're very soon, by the end of June,
2 going to give the legislature another report where we've
3 gone through and done a Phase 2 more site-specific
4 ranking of a bunch of the other landfills that were left
5 over from our last report. So that will be coming out.
6 We've estimated costs for about three more of
7 the ones that aren't in the highest priority. It's going
8 to take several years to get through the first eleven
9 highest-priority landfills. So a lot of these are going
10 to be down the road a ways before we have them.

11 And, of course, how the program works is the
12 first ten years there's a 75/25 percent split between the
13 State and the owner/operator. And after the first ten
14 years, then the operator takes over responsibility. Most
15 of the costs will come in the first ten years, capping,
16 installing systems, those type of things. And what will
17 be left after the first ten years will be the monitoring.
18 And it will be site-specific what that is. And all this
19 is based on the assumption that these things will be
20 operating for 20 years. We've been using that premise
21 since clear back when the Citizens Advisory Group was
22 looking at numbers and costs. So we've tried to be
23 consistent with all that.

24 So, ultimately, by March of 2014, we hope to
25 finalize the rules and have those ready to go. So we'll

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1 be coming to you probably with all kinds of things at
2 your September meeting, including the rules for
3 remediation program. And that works out because we're
4 going to be needing to get authorization from the
5 legislature and official appropriation to move forward in
6 the next session. So, in the fall 2013, we thought we'd
7 try and get a little head start on going out with
8 statements of interest similar to how the AML and the
9 underground storage tank program work for getting
10 statements of interests from consultants to start working
11 on getting things in place so we can hit the ground
12 running once we're authorized with funding from the
13 legislature.

14 So we'll be working on those kind of things,
15 working on maybe even starting very shortly to work on
16 the designs and more site investigations if they're
17 necessary. So we're thinking that late 2014, given all
18 the processes, we hope to have some consultants on board,
19 be looking at exactly what it is we want to do at each
20 facility and hopefully be starting some construction in
21 mid to late 2015.

22 The next bullet there, the fall of 2013, spring
23 of 2014, we're working on a more detailed project
24 schedule, burn rate concerning the highest-priority
25 landfills and how that might work. There's \$45 million

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1 in the landfill remediation account currently. Four
2 million of that has been reserved for retroactive things.
3 We're not sure who may come in and look for that money.
4 And then \$5 million was reserved for the 2013 fire
5 season. We don't anticipate spending much of this money
6 before then, anyway.

7 So we've estimated, and in the report we gave
8 to the legislature in December of 2012, that the total
9 cost to remediate the highest-priority eleven landfills
10 would be roughly 31 million. And over the first ten
11 years, that's 26 million, of which 75 percent of that is
12 State funded and 25 percent is owner/operator funded.

13 The second year cost, which is primarily
14 monitoring, is a total of \$5 million, and that would be
15 100 percent owner/operator funding. So we hope those
16 kind of numbers give landfill operators that highest-
17 priority list. And in that report their estimated costs
18 are broken down, so they're getting a look at what their
19 operations may be when this program gets in. So, after
20 the 2014 legislative session, we hope that the minerals
21 committee will let us start spending money and get to
22 work on this remediation programming. That's kind of a
23 summary of that.

24 When we were working with the legislature on
25 how to fund all this, three options were considered. One

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1 is no change. We used the corrective action account for
2 the storage tank program just like we are now, and we use
3 it solely for that. And the legislature then would
4 probably need to keep allocating money for the landfill
5 cleanup. I don't think they're too excited about that
6 prospect. We thought maybe we could use a portion of the
7 corrective action account now and use some various parts
8 of the one-cent mineral royalty offset and a few things
9 like that. But given the project development, how long
10 it's going to take to go through rule-making and things
11 like that, we didn't think that would be necessary to
12 start that.

13 So the recommended approach that we used is
14 Number 3 there, utilize the remediation account while we
15 phase out the corrective action of the municipal -- or,
16 the underground storage tank program. They're estimating
17 that -- and if you flip your page, there's kind of a
18 visual there on how that might happen. We hope to start
19 spending on the \$41 million that's available to us
20 roughly 2014, into 2015. And as we spend down that
21 account, we'll get out to around 2020, 2021, and at that
22 time the underground storage tank program should be
23 wrapping up work on many of their known sites, and their
24 spending will start to drop. The thought will be that we
25 start using a portion of the corrective action account

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1 for landfill cleanup.

2 Ultimately, how this would work is there's
3 roughly \$10 million -- \$10 million to \$11 million in that
4 corrective action account, that as this moves forward,
5 we'll keep using that account. The landfill remediation
6 program would wind up using \$7 million to \$8 million of

7 that. And the underground storage tank program would
8 continue funding their program the remaining three
9 million. And that is partly for incidental spills, and
10 tanks don't last forever without leaking, those kind of
11 things. Plus, they've got the inspections they do of the
12 tanks and that type of stuff.

13 So that's kind of the vision for how the
14 remediation program may work, is using that corrective
15 action account moving forward indefinitely until we get
16 landfills cleaned up. We're still working to develop a
17 more detailed burn rate to provide to the legislature so
18 they can see how this may all run out and what it may
19 look like. But that's kind of the initial thought of how
20 we will fund the program. And that's pretty much the end
21 of the remediation program.

22 The next bill was the landfill cease and
23 transfer bill. And that bill is to help small
24 communities close their landfills, build transfer
25 stations and take garbage elsewhere. We're working with

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1 the State Land and Investment Board. Or, State Loan and
2 Investment Board, I guess is the right word to use. We
3 have draft rules -- they're not quite out yet, but we've
4 been working on those, and they should be out very
5 shortly -- on how they will administer that program and
6 how we're going to look at it. We hope to have those
7 rules done by November of 2013.

8 What we have done is worked directly with them
9 to try and coordinate everything we're doing by December.
10 So, hopefully by November of 2013, those rules will be
11 ready to go. And what it will be is essentially a joint
12 review of the applications. We'll be looking at the
13 eligibility side of things like the legislature required.
14 They'll be looking at the other aspects. Are the costs
15 reasonable? Are we putting in a Taj Mahal transfer
16 station, or could we get by with something else? Those
17 type of things.

18 We hope to have rules in place by December of
19 2013 that will enable us to develop a general permit for
20 landfill closure. The intent was and the statute was
21 written that landfills less than 30 acres could get a
22 general permit for their landfill closure, which would
23 save them some of the costs of preparing a permit
24 application. There obviously will still need to be
25 engineering work done to design final covers and some of

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1 that. So it's going to be a combination of general
2 permit, versus things local governments are still going
3 to need to do. DEQ is not in the business of putting
4 together engineering drawings for final cover. So there
5 will be a joint effort there.

6 So, when we get the rules together, we'll also
7 be hiring consultants to help us actually put together
8 the general permit. So we'll be going out for statements
9 of interest on those shortly in order to start working on
10 that process, again, with the goal of having these things
11 ready to go by March of 2014.

12 In a recent session, the legislature said you
13 can't spend any money to build transfer stations or close
14 landfills until we've seen a prioritized list of
15 facilities. So we're working to develop that. We sent a
16 letter out to all the landfill operators, county
17 commissioners, local governments, saying please give us a

18 letter of intent. We need to see who may be closing and
19 capping and needing transfer stations and try and get an
20 estimate of how much money that might be so we can
21 provide that to the legislature. And our goal would be
22 to have that to the Joint Minerals Committee in time for
23 their meeting in September or October. They usually meet
24 in October, but we've heard they might be meeting in
25 September, so we want to be prepared and have stuff a few

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1 weeks ready in advance of that.

2 I suspect that that burn rate may be front-
3 loaded. Especially with this year of delay, we have a
4 lot of communities kind of lining up to get money for
5 their transfer stations. We did let the legislature know
6 that we need to probably focus on the transfer station
7 aspect of this first. Obviously a landfill operator
8 can't stop taking garbage until they have a way to haul
9 it someplace else. A few of them took a second, but I
10 think they understood, oh, okay, now we see what you mean
11 by focussing. Because they're really understanding or
12 focussed on the issue that we have leaky landfills we
13 need to address and get closed. But I think they
14 understood what we meant by focussing on transfer first.

15 We'll see how that prioritized list goes, but
16 it's going to affect how we schedule things with local
17 operators moving forward. We can't hardly require a cap
18 or a closure permit if they're not going to have the
19 money to do those things for five years or six years or
20 depending. So we're really waiting to schedule things
21 until after the next session and we see how that goes.
22 And is the legislature going to give us a lump sum early
23 to get a lot of landfills closed or at least transfer
24 stations built and then work on closure over a longer
25 period, or are we going to get a limited amount of money

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1 annually spread out over many years that's going to
2 affect how we schedule everything? So we have a lot of
3 questions that will be unanswered until that session.

4 So, as we're working with the local operators,
5 we're going to have to do those kind of things. We're
6 working with the Environmental Quality Council on
7 administrative orders and allowing more time to implement
8 all this stuff.

9 So, anyway, after the next session and the
10 legislature approves the list, we'll start moving forward
11 with getting these grants up and running. We hope to
12 actually start getting some applications in ahead of time
13 and work through the process so that when the money is
14 freed up, we can hit the ground running on that one, too.
15 And then we'll be continuing to work. A lot of people
16 will be seeing a lot more of us, and especially Craig, on
17 technical assistance and implementation issues and
18 applications and that type of stuff.

19 So, on top of all that rule-making that we'll
20 hopefully be coming to you with, we've got several
21 guidelines that we've all been talking about for a while,
22 and we hope to have those ready for your September
23 meeting, as well. And I just listed those there. We did
24 have a conversation with some of our accounting people.
25 And it sounds like there are already generally accepted

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1 accounting practices out there that local governments
2 should be following, anyway. And rather than reinvent

3 the wheel, it may be possible for us, and what we're
4 hoping to do is just send them a letter and say your
5 standing accounting principals should include these types
6 of things. Just provide that to, hopefully, we think the
7 Department of Audit, who does these things all the time,
8 anyway, and get that information to them and work
9 directly with the financial people, not through SWIB, the
10 SWIB division.

11 So we're hoping that that could be a much
12 simpler process than we maybe envisioned it being.
13 Probably don't need a guideline. So we're still
14 discussing that. And we have a meeting pending with the
15 Department of Audit to see how we're going to flesh all
16 that out. If there's any air quality people here, we'll
17 be talking to them very shortly about their guidance, as
18 well.

19 That's most of it. And we have a prior
20 commitment with you all and everybody that we have a lot
21 more to do as far as rule-making goes. But we also had a
22 directive from the governor's office that we look at
23 reducing our rules and regulations. So that's going to
24 come in combination, as well. There may be a couple of
25 our old chapters of the rules that we don't need anymore,

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1 for example. Do we have rules that we don't need, like
2 the old no-spitting-on-the-sidewalk ordinances that's 50
3 years old that we don't need anymore? So we've been
4 directed to take a look at that, and we're just starting
5 that process now.

6 So, while we do have the immediate need for
7 rules in order to implement these new programs, we're
8 going to be taking a harder look at a more comprehensive
9 rule-making package that maybe was even more than we
10 thought about when we were talking about this before. So
11 I guess when you get appointed to the board, you're there
12 for life. These things are going to keep going on for a
13 while. So we have the immediate needs, and then we're
14 going to have more long-term stuff happen, as well.

15 So that's kind of a look at where we're going.
16 We're going to start really working hard with you all
17 September, which means a month or so ahead of time, we
18 hope to go out for public notice on a lot of this. And
19 I'm looking forward to your advice and help.

20 Thank you. That's really all I have. There's
21 your heads-up. It's too bad the new member of the board
22 wasn't warned about all this before he volunteered, I'm
23 sure. If there's any questions I can answer, I'd be
24 happy to. Otherwise, I'll let the rest of this gang step
25 up.

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1 CHAIRMAN BEDESSEM: Well, Bob, I am
2 concerned about the schedule for rule-making. So can you
3 go over again what you expect to present in September? I
4 think I gathered from what you said that at least four
5 out of these five guidelines, the fifth one may or may
6 not happen, but drafts of those for the September
7 meeting.

8 MR. DOCTOR: Correct.

9 CHAIRMAN BEDESSEM: And then you expect to
10 have the -- a draft for the general -- for the rules for
11 the general permits for landfill closures?

12 MR. DOCTOR: Correct.

13 CHAIRMAN BEDESSEM: Having already gone

14 through public comments -- through public comment at the
15 meeting in September?

16 MR. DOCTOR: Correct. So we'd start the
17 public comment period well ahead of your meeting.

18 CHAIRMAN BEDESSEM: And so we'll be
19 receiving public comment at that September meeting?

20 MR. DOCTOR: That September meeting.

21 CHAIRMAN BEDESSEM: On a draft of the HB
22 66?

23 MR. DOCTOR: Correct, Madam Chairman. And
24 that rule, we looked at patterning it after the water
25 quality rule that enables general permits. So it should

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1 be a fairly simple rule from that perspective. Once we
2 start developing the general permit, there will be more
3 notice that's involved in that, as well, just like there
4 was with the water quality rules that you're probably
5 already familiar with. So there will be additional
6 comment on the general permit itself later on as that's
7 developed. This rule will enable us to do the general
8 permits. And we've been allocated \$150,000 to hire a
9 consultant to help us with that general permit.

10 CHAIRMAN BEDESSEM: So this proposed rule
11 is just to allow you to do a general permit?

12 MR. DOCTOR: Correct. So that one should
13 be relatively simple. And then the other package of
14 rules will be for the remediation program. So the
15 guidelines are two rule packages.

16 CHAIRMAN BEDESSEM: But as far as filling
17 out what that general permit entails, that's through
18 another rule-making or through a guideline?

19 MR. DOCTOR: That's through the general
20 permit development process, which it's not through
21 rule-making. We do it like the water quality guys do.
22 And I, frankly, need to learn a lot more about how that
23 works myself.

24 CHAIRMAN BEDESSEM: And the reason I was
25 asking these questions was because, when you have a date

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1 that says December 2013 DEQ developed rules, I don't know
2 if that December 2013 is when you're thinking, you know,
3 that that's through the EQC and signed or --

4 MR. DOCTOR: We hope that's everything.
5 We hope they're done by then. We're optimistic.

6 CHAIRMAN BEDESSEM: So you might want to
7 lay out that time frame and see if we don't get it
8 through in the first one. From our perspective, we're
9 interested in this in particular to determine if we need
10 to have extra meetings or what our situation is in order
11 for you to make your time frame. Because I'm not seeing
12 a whole lot of buffer here. So I'm concerned that if you
13 take a look and kind of lay out what your expectation is,
14 because --

15 MR. DOCTOR: Madam Chairman, we've got
16 that laid out internally, the notice periods, the
17 required comment times, how often boards and the EQC
18 meet. And so we've laid all that out. And if everything
19 happens well, we hope to make this goal. But we also are
20 required to abide by the notice time frame. So there's
21 going to be a lot of time in there where there's a month
22 where we're sitting around waiting to receive comment.
23 So we built all of that into the schedule.

24 So, if everything goes right, we can hit this.

25 It may be closer to the March, April range if we wind up
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1 with two hearings, perhaps, if the EOC makes some changes
2 or that kind of stuff. But we're going to be working
3 very hard to try and accomplish this, because we have a
4 lot of landfill operators right now that are going to
5 need the money. And the sooner we can make it happen,
6 the better.

7 CHAIRMAN BEDESSEM: Just because
8 typically, if we have public comment, we like to see
9 public comment at our board meetings. And if we have
10 public comment through the board meetings, we typically
11 don't tend to move that rule on until all those responses
12 have been made, and so it goes to another meeting. So I
13 want to make sure that you've allocated time for that.

14 MR. DOCTOR: And thank you for bringing
15 that up, Madam Chairman, because you have -- and we had
16 to see if you're still willing to keep doing that.
17 You've been very good at meeting more frequently than
18 quarterly to help local governments get their money from
19 the groundwater grant program. And we appreciate that.
20 And hopefully, maybe, within reason, we can help do that.
21 For example, if September we need to make some fixes,
22 that maybe October we could have another meeting and
23 hopefully take advantage of some of this electronic stuff
24 to do that, also. So, yeah, we're optimistic. Cautious,
25 but optimistic.

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1 CHAIRMAN BEDESSEM: Does anybody have any
2 other comments?

3 MR. DOCTOR: Thanks. I wish I could say I
4 was going golfing.

5 CHAIRMAN BEDESSEM: Next up is the water
6 quality division.

7 (Hearing proceedings concluded
8 9:39 a.m., June 14, 2013.)
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C E R T I F I C A T E

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3 I, RANDY A. HATLESTAD, a Registered Merit
4 Reporter, do hereby certify that I reported by machine
5 shorthand the proceedings contained herein constituting a
6 full, true and correct transcript.
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8 Dated this 8th day of July, 2013.
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RANDY A. HATLESTAD
Registered Merit Reporter