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BEFORE THE WATER AND WASTE ADVISORY BOARD
STATE OF WYOMING

PROPOSED REVISIONS TO DRAFT WATER QUALITY RULES AND
REGULATIONS FOR REVIEW BY THE WATER AND WASTE ADVISORY
BOARD

TRANSCRIPT OF HEARING PROCEEDINGS

Transcript of Hearing Proceedings in the above-entitled matter before the Water and Waste Advisory Board, commencing on the 19th day of September, 2013, at 9:05 a.m. at the Teton County Commissioners Meeting Room of the Teton County Administration Building, 200 South Willow Street, Jackson, Wyoming, Ms. Marjorie Bedessem presiding, with Board Members Mr. Calvin Jones, Mr. David Applegate, Ms. Lorie Cahn and Mr. Klaus Hanson in attendance.

Also present were Mr. Mike Jennings, Mr. Alan Edwards, Ms. Gina Johnson and Mr. Frank Strong from DEQ.

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P R O C E E D I N G S

(Hearing proceedings commenced
9:05 a.m., September 19, 2013.)

CHAIRMAN BEDESSEM: I'd like to call to order the third quarter meeting of the Water and Waste Advisory Board. Welcome, everyone. First off, I would like our board members to introduce ourselves. But most importantly, we'd like to welcome our newest Water and Waste Advisory Board member, Klaus Hanson, who is representing local governments.

Thank you for joining us, Klaus.

MR. HANSON: Thank you. Am I supposed to say anything? No.

CHAIRMAN BEDESSEM: No. You're good. We'll just proceed down.

MS. CAHN: I'm Lorie Cahn. I represent the public at large.

MR. APPLGATE: Dave Applegate. I represent industry.

CHAIRMAN BEDESSEM: Marge Bedessem, public at large.

MR. JONES: Cal Jones. I represent agriculture in the state of Wyoming.

CHAIRMAN BEDESSEM: So we have a full board here this morning. Now, I know that we have

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received a revised agenda for today's meeting. So the first item up is the Solid and Hazardous Waste Division. We're welcoming our new acting administrator. I'll turn that over to you.

MR. EDWARDS: Thanks, Marge. First, on the introduction part, I'm Alan Edwards. I still am the -- remain the administrator of the Abandoned Mine Lands program. But as of May 4th, I also assumed the acting administrator position for the Solid and Hazardous Waste Division. I'll be continuing to serve in that role

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11 until such time as Director Parfitt has advertised and
12 selected a new administrator. That's something that's
13 pretty near term on the horizon, as far as going out for
14 the advertisements. But the Division is stuck with me
15 until such time as he appoints somebody else. But I
16 found it to be a very interesting and educational process
17 as we go through.

18 I appreciate the opportunity to modify the
19 agenda a little bit and actually be here. My apologies
20 for not having been able to make the first meeting, the
21 one in Casper, because that meeting occurred after I
22 started. But I was held up in Riverton on another matter
23 with the director. So my apologies.

24 On a personal note for Lorie and Marge, I
25 guess, welcome back, because you're reappointed and

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1 you're here for a while. And with Klaus, in talking this
2 morning, I understand we have something in common,
3 because this is both our first meetings.

4 What I wanted to do is provide a brief update
5 on some of our activities, where we're going in
6 anticipation of some things we will be bringing to the
7 advisory board in the near future. So I thought a little
8 bit of background might be helpful to sort of tee that up
9 and let you know what we're doing and where we're going
10 with some of this.

11 The legislation this last year passed two major
12 pieces of legislation, and those are the highest
13 priorities probably on our plate right now, is getting
14 those teed up and ready to go. That's House Bill 65, the
15 landfill remediation program, and House Bill 66, the
16 cease-and-transfer program. As an update there, the
17 cease-and-transfer rules fall in the shop of the State
18 Lands and Investment Board. State Lands and Investment
19 Board will be -- are scheduled to take those up for final
20 consideration and approval likely in their October
21 meeting. So those would be going ahead. And that
22 relates to the cease-and-transfer funding and
23 eligibility.

24 The other part of the cease-and-transfer
25 legislation, which is the general permit, is something

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1 I'll touch on here a little later. We are working very
2 aggressively to get our rules done and be implemented so
3 that as the legislature hopefully frees up some money at
4 this next session, we'll be ready to go and provide that
5 assistance to the local communities.

6 What I want to touch on, though, first is we
7 have some rule-making under way in two categories, both
8 hazardous waste and in our Solid Waste Division. So, to
9 start off, I'd like to give just a quick update on our
10 hazardous waste rule-making.

11 One of the things shortly after I started, I
12 sat down with the hazardous waste staff, and we looked
13 over all the rules. And there's about 1,700 pages of
14 rules. And even the staff admits that those rules can be
15 very complicated. There's a lot of cross-references, a
16 lot of cross-references between chapters that at times
17 are difficult to track. So what we looked at then was,
18 is there a potential to streamline the rules and just
19 make them easier to use, not only for industry, but for
20 the stakeholders who have -- want to comment on those, as
21 well as for staff to be able to more effectively

22 implement the rules without all the cross-references?
23 The one option that the staff looked at is rule
24 by reference. And actually, there's 32 states in the
25 country that have adopted some sort of rule by reference.

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1 We've been looking into that. The staff went and met
2 with Idaho and Montana because they were the most two
3 recent neighboring states that have done that. Got a
4 bunch of information from them. Their rule by reference
5 for both states was extremely well received by all
6 parties. The environmental stakeholder interest industry
7 and the states in both regards have indicated that it's
8 been a very helpful process to streamline the whole
9 permitting process. Makes it easier to understand and
10 more transparent.

11 The staff went out and met with several of our
12 large and small hazardous waste permittees to get their
13 input on it and met with the Wyoming Outdoor Council to
14 get the outside perspective. Based on that input, which
15 was all very positive, the staff is working up a rule by
16 reference draft that we're going to review internally.
17 And it does have really a lot of -- yes?

18 MR. APPLGATE: Could you explain what
19 rule by reference means?

20 MR. HANSON: Thank you. I was going to
21 ask the same question.

22 MR. EDWARDS: I'm sorry. Don't be afraid
23 to interrupt, because I'm moving pretty fast, and some of
24 these things I've only learned myself.

25 The rule by reference, the way it is now, the

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1 way the rules are set up is the Department has taken any
2 amendments that EPA does under 40 CFR as it relates to
3 hazardous waste and has rolled that into our rule-making
4 process. We have multiple chapters that pull in
5 different parts of the federal regulation under 40 CFR.
6 The rule by reference that we're looking at is we would
7 actually reference the EPA regulations under 40 CFR. So
8 we would bring them into our rules by reference. So that
9 gives the -- would provide the basic framework for the
10 rules.

11 The State of Wyoming, over time, has adopted
12 several provisions that are stricter than federal,
13 because under no circumstance can we be more lenient, but
14 that have been stricter than federal. So the rule by
15 reference basically means that you bring the federal rule
16 into your rules by strict reference. So all of 40 CFR is
17 included in there.

18 But the challenge is -- and that's what we're
19 looking at right now -- is how do you take that rule,
20 bring it in and then distinguish what are the Wyoming-
21 specific standards that have been adopted? Because for
22 Wyoming, that is the most important aspect of those
23 rules. 40 CFR, we all have to work with. But the rule
24 by reference and those areas that are stricter, we will
25 need to capture all of those in our new regulations to

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1 make sure we've got the full picture. But as it is now,
2 the 40 CFR makes an easy reference. My staff refers to
3 that a lot, is what they told me. It's in some regards
4 an easier reference than our rules on certain
5 circumstances.

6 So, David, does that --

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7 MR. APPLGATE: Yeah. Thank you.

8 MR. HANSON: Is that -- it's very similar,
9 it seems. I serve on that other board. And I think
10 Mr. Dietrich does exactly the same thing. The rule by
11 reference was the federal regulations. And we keep on,
12 at every meeting, taking sections and adjusting them to
13 the federal.

14 MR. EDWARDS: Correct.

15 MR. HANSON: Thank you. Then I understand
16 the same way.

17 CHAIRMAN BEDESSEM: This seems like a
18 logical way to go for a program that's so very closely
19 tied to the federal regulation. How does that impact the
20 updates? In other words, does this become automatically
21 updated every time there is a new -- a change in the
22 regulati on?

23 MR. EDWARDS: That's a very good question.
24 It's one that we're actually working on right now. And
25 under the rule-making process, the way we look at that,

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1 it will simplify those feature updates, but there would
2 not be an automatic update. Because under the federal
3 rules, when EPA modifies those, they have certain
4 guidelines, a checklist that they have that are optional.
5 Some are mandatory. The mandatory, of course we would
6 look to roll in. The optional is the one where we have
7 discreti on.

8 So we look to go through official rule-making
9 processes every time that there are those updates so that
10 it's publicly vetted. Initially, based on the rate of
11 updates that have been occurring, we've been assuming
12 every other year, once every two years, in other words,
13 that we might go through that process. If there is a
14 very significant EPA rule-making, we might need to do
15 that on a shorter term.

16 But what our hope is and all the indications
17 are the feedback we got from the other states is that the
18 updates become far simpler in the future because the
19 basis for the rules are the same. And the challenge that
20 the Department has right now is, if there is a change to
21 40 CFR, it's taking those changes and making sure that we
22 have tracked them through every chapter within our
23 current rules, which, as I understand, gets to be
24 complicated.

25 I will profess that I have not gotten heavily

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1 into the rules, so I'm not personally familiar. But the
2 staff has said that that's a difficult process in getting
3 those rules amended.

4 CHAIRMAN BEDESSEM: I worked on the first
5 hazardous waste rules, and I assure you that you are
6 getting correct feedback from your staff.

7 MR. EDWARDS: Thank you. We've had some
8 initial stakeholder discussions, some discussions with
9 EPA, and they're actually supportive of going this route,
10 because a lot of the other states are already there.

11 The thought is right now, the way we're going
12 through the rule-making process is, internally, the staff
13 is developing our draft rules. When we get those done,
14 the first step will be to work with the other divisions
15 within the Department, Air Quality, Water Quality, who
16 have people who work heavily on rules to get an internal
17 peer review to make sure that the rules are

18 understandable, that they track right. So we'll do an
19 internal review. And then we look to take, after that,
20 the rules out to the various stakeholder groups to get
21 some other early input before we bring it to the advisory
22 board.

23 So our hope is to do some aggressive outreach
24 to stakeholders to have a more informed package when we
25 bring it to the advisory board. Initially our target is

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1 to bring that to the advisory board the first quarter of
2 next calendar year. So that would be the January to
3 February time frame. We will work closely with Water
4 Quality, as they have things developing, as well, to try
5 to schedule those so they fall at the same time to make
6 the best use of your meeting time when you're here. But
7 we believe we could bring that to you probably that first
8 part of next year.

9 I actually feel very good about that.

10 Everything we've gotten so far has been very positive,
11 like I said, from stakeholders, staff, EPA. It makes me
12 wonder if all the feedback is so positive, if we all
13 haven't missed something. But I think it will be a much
14 easier process.

15 Rule by reference becomes very complicated if
16 you've got a program that has multiple federal oversight
17 regulations. Because then you're -- you would be then
18 referencing several of them. It would be hard to tie
19 them together. The hazardous waste rules has one driving
20 regulation, and that's 40 CFR. So that's what makes this
21 really a practical option to consider.

22 MR. APPLGATE: Madam Chair, so I know the
23 governor had an initiative for streamlining in general of
24 regulations. I'm assuming this is part of that
25 initiative. Are the other -- and you may not be able to

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1 answer this, because you're only talking about the one
2 division. But are the other divisions looking at the
3 same type of thing? Have they come to similar
4 conclusions? Or based on the comment that you just made,
5 have they come to different conclusions?

6 MR. EDWARDS: Thank you. That's a very
7 good question. There's one thing I had wanted to touch
8 on and I forgot, so that prompts me. So let me lead into
9 that, and I'll get specifically to your question, if
10 that's okay.

11 The reason that we in the division looked at
12 the hazardous waste rules was because of the governor's
13 directive to look at streamlining and everything. So
14 that's why we looked at it. I will admit that it's what
15 prompted it. Well, let's look at all our rules. That is
16 not, though, why we're actually doing the amendment to
17 the rule-making. Because after we looked at it, we found
18 that this appeared to be the best, the simplest. It
19 would be concise, easier to track, easier to amend. So
20 the reason we looked at it was because of that. The
21 reason we're making the change is because we believe it's
22 the right thing to do.

23 The other divisions are actually going through
24 the same process. So Department-wide, that's under
25 review. Air Quality is looking at that. Water Quality

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1 is. The storage tank program looked at theirs. There's
2 really very little they could do, because they've got a

3 small regulatory package, and that's driven under the
4 Abandoned Mine Lands program. We've got, if I remember
5 right, 27 pages of rules. It's a little hard to
6 streamline that. I think we've got that down.

7 Within my division, we're also looking at the
8 solid waste rules that are in there. The challenge there
9 was we have the two new pieces of legislation we have to
10 adopt regulations for. And my concern was if we look to
11 bring the broader rule consolidation package into the
12 same package that we're looking to implement new rules,
13 it could get complicated. It could slow down the process
14 for the landfill remediation and general permit rules.

15 So my decision was take the approach that we'll
16 work on these new rules first and get them in place. But
17 as we're doing that, we would -- and I've asked the staff
18 to keep in mind that there are other chapters within the
19 solid waste rules that would be well served, it appears,
20 with a relook and some consolidation. We have one
21 chapter, I understand, that was put in place that really
22 is no longer effective. We have multiple chapters that
23 deal with different types of landfills. We think it
24 would be advantageous to look at that to see if we could
25 combine some of those into one, because there are common

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1 factors with each one.

2 So, to the extent we could consolidate and get
3 common factors and then separate chapters that
4 specifically target each one of those categories might be
5 a cleaner rule for people to use. But again, I've
6 elected to postpone that for solid waste until we get
7 through this higher priority rule-making.

8 So, I mean, if the advisory board -- obviously
9 my first time here, so I'm not positive about the
10 interaction. But if you have other thoughts, advice or
11 suggestions, I'm sure open to those. Criticism, I can't
12 handle very well.

13 MR. HANSON: Madam Chair, just a question.
14 The City of Laramie has gone through extensive
15 reorganizing of the solid waste. And I'm just concerned
16 if new rules come up, have we done anything that will be
17 superseded by new rule-making that will drive our price
18 again? Because it's been an expensive issue for us.

19 MR. EDWARDS: No. Thank you for that.
20 Relative to the -- and I'll come back to the solid waste.
21 But that's a good question, as well, relative to
22 hazardous waste, because that's one of the questions we
23 got from industry, is if we make this change, would they
24 have to immediately come in for new permits to comply?
25 What we're looking at in there is they come up for their

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1 permit amendments. Then under the permit amendment, we
2 would make the appropriate adjustments to conform with
3 the new rule by reference. The rule by reference does
4 not change any of the regulatory requirements. It simply
5 changes the rule structure. So they won't have any
6 changes, nor do we feel it would be appropriate for them
7 to have to do permitting to reference those new rules
8 when there's no substantial changes.

9 Under the solid waste rules, the consolidation
10 once again would simply take the existing rules and move
11 them in. Relative to the two new rules, the general
12 permit and the landfill remediation, the existing permits
13 that are in place would continue. There's a couple of

14 things that tie into that if it's tied to cease and
15 transfer and state funding is provided. But essentially,
16 I don't see a circumstance coming out of the rules that
17 would require going -- coming in immediately for new
18 permits.

19 The lifetime permit process is already in
20 place. That comes into play the next time there's a
21 permit renewal. But under our new rule-making for these
22 two new statutes, that's why we intend to have an
23 aggressive outreach, is to make sure we have not missed
24 or we don't create complications where they don't need to
25 be.

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1 MR. APPLGATE: I'm sorry, but I have
2 another question. We meet kind of infrequently, so I
3 think I forget what we were told the previous time. On
4 the landfill remediation stuff, could you kind of refresh
5 my memory? I know at one point in time, the board was
6 working on some sort of a priority checklist on how sites
7 were going to be prioritized. I can't remember if we
8 actually ever saw the final version of that. And then
9 the new legislation I'm assuming probably appropriates
10 some money to landfill remediation. Could you just kind
11 of give me a little bit of framework on where we are on
12 that solid waste set of issues?

13 MR. EDWARDS: Sure. Under the two
14 different bills, the legislature appropriated two
15 different pots of money. Cease and transfer includes the
16 funding for transfer stations, as well as closure of
17 facilities. The legislature appropriated \$4 million in
18 grants, one and a half million dollars in loans for that
19 program. That program will be administered by SLIB, the
20 State Land and Investment Board.

21 The four million plus one and a half is not --
22 it's not sufficient to handle the challenges we have, but
23 it will be a start. Whether the legislature elects to
24 appropriate more funding for that program this year or
25 not, I mean, that's clearly their call. We don't know.

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1 But we do know that this at least would be a start, would
2 give us a learning curve, and we'd get at least a few of
3 them off the books.

4 Under the landfill remediation, the legislature
5 appropriated \$45 million. It's interesting because it's
6 an appropriation that isn't available yet to the
7 Department. Five million of that was reserved, I guess
8 is the term that's most appropriate. In case the fire
9 season was really severe this year, the legislature said,
10 we'll put a hold on \$5 million to assist fire-fighting
11 efforts if the fire season is so severe that it outstrips
12 what's available in the fire fund. Fortunately, we've
13 had a pretty good year in Wyoming in that regard, so
14 those funds have not been drawn on.

15 The question is does that mean, then, at the
16 end of this fiscal year, they become available or not?
17 That's the question the legislature would have to answer.
18 So that leaves \$41 million. None of those funds have
19 actually been released to the Department for use. It
20 says that they were appropriated and they put it into a
21 fund. But the legislature has to approve the release of
22 funds to the Department to use for the purposes of the
23 Act.

24 So, in other words, like in this next budget

25 session, we have to make a request for some of those

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1 funds to be released. Those funds are used for basically
2 landfill remediation, for leaking landfills, for cleaning
3 up, for closing leaking landfills. So that's the
4 priority there.

5 MR. APPLGATE: So I have a few more
6 questions on that.

7 MR. EDWARDS: Sure.

8 MR. APPLGATE: We have been working on --
9 did we ever get final approval to the checklist for how
10 landfill remediation was going to be prioritized?

11 CHAIRMAN BEDESSEM: Yes. That was
12 utilized by DEQ to develop priority lists. They came
13 back and showed us kind of what that list was and updated
14 us on that list.

15 MR. APPLGATE: So has the Department
16 thought about -- I guess I just have a couple questions
17 on this, and partly because I spent a lot of my early
18 career doing remediation in some big sites in Wyoming,
19 the Amoco Refinery and Laramie Pipeline site, two of the
20 largest. And 45 million can be spent really quickly, and
21 it can be spent in a way, in my opinion, that's not very
22 fruitful. So I'm typically focussed on trying to get
23 sites to a level of cleanliness that maybe is not really
24 risk-based. And I think there are stakeholders that
25 would be interested in how the State is going to spend

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1 that money and how that priority list is going to be
2 addressed.

3 And I think about the concept. I think it was
4 called environmental indicators that was used by EPA that
5 kind of focussed how they would prioritize cleanup of
6 RCRA sites. And they were looking at groundwater
7 migration. There was certain environmental indicators.
8 I can't remember them all now. There were three or four
9 of them that you kind of contain a site and make sure you
10 managed its primary risk.

11 And I just think -- I did have some interest.
12 And I suppose -- in the rule-making for this landfill
13 remediation, is that going to be -- are we going to get
14 some insight on how the State is going to prioritize that
15 spending and what they're going to focus on in terms of
16 this remediation?

17 MR. EDWARDS: Would you be okay if I moved
18 into the solid waste? Because part of what I was going
19 to talk about was the rule development, et cetera. And I
20 might touch on at least part of your question. So, if
21 you don't mind, it might be helpful to walk through that
22 and then see if you have follow-on questions from that.
23 Would that be okay?

24 CHAIRMAN BEDESSEM: Have you completed
25 your discussion or update on the hazardous waste program?

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1 MR. EDWARDS: Yes. Yeah. Like I say, we
2 look to bring something to you that first quarter of next
3 year, and we'll coordinate with Water Quality on that.

4 So, under House Bill 65 and 66, there were
5 several provisions, one which has already been completed,
6 and that's the lifetime permit. That was basically
7 finally signed off and put into place right after I got
8 here. So there's some history in the development of that
9 that I'm unfamiliar with, but I know that that's

10 currently in place. So the remainder under the cease and
11 transfer is the general permit and then all of the
12 landfill remediation rule-making.

13 What I elected to do is, instead of going
14 through a separate rule-making for the general permit and
15 then one for the landfill remediation, since they serve a
16 common direction, a common purpose, we roll those into
17 one for a single rule-making. I felt that would be more
18 efficient and would streamline the process more.

19 The general permit itself is being developed
20 in-house. When we have that done, we would look to the
21 permit form and everything. We would look to -- my
22 thought now is we would bring that back through the
23 advisory board to get your input on that, as well. The
24 general permit, really, we can't start using that and
25 applying it until the rules are done, in any event. So,

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1 if we -- so what we wanted to do was to develop a general
2 permit as much as we could first, because what we feel
3 would be best served by the general permit and the items
4 that would need to be included in there will likely
5 include some items that we would want to reference in the
6 ruling-making. So, by working on the general permit
7 first, we thought we could educate the rule-making.

8 And then depending on the comments we get back
9 on the rule-making process, that, in turn, may influence
10 the final form of the general permit. So we're looking
11 to do that as a little bit of iterative, but we would be
12 looking at some point to the advisory board to be put
13 onto the general permit, as well.

14 CHAIRMAN BEDESSEM: Can you clarify for
15 the board what you intend the general permit to cover?
16 That may not be clear.

17 MR. EDWARDS: Yes. Thank you. The
18 general permit -- and actually, you know, if I miss
19 something here, I'll ask Mike to step in, as well. But
20 under the legislation, it was recognized that smaller
21 landfill operators, those under 30 acres, there's a lot
22 of expense associated with filing their permit
23 applications, for developing a permit application, for
24 processing it. So the legislation included a general
25 permit, whereby the division itself would provide

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1 assistance to the communities in the development of their
2 permit. So that was an attempt -- will be an attempt to
3 streamline that and to provide some assistance and
4 hopefully help them control some of their early up-front
5 costs.

6 Correct?

7 MR. JENNINGS: I believe so.

8 MR. EDWARDS: "I believe so." That was a
9 vote of confidence. It's like my kids when I ask them
10 something. I get a, "Yeah, Dad."

11 MR. HANSON: It was my understanding that
12 new landfills weren't going to be permitted, anyway.
13 Right? Does your statement include new landfills to be
14 opened? Because that was at least my understanding, that
15 we had to stay within the framework, trying to get rid of
16 some of the more egregious landfills. But it seems like
17 if you are talking about small communities having a
18 permitting process there, that would allow for new
19 landfills. Do I understand that correctly?

20 MR. EDWARDS: That is correct. And that

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21 is an extremely important distinction. Because the
22 programs are targeted towards cleaning up leaking
23 landfills and those that currently have a problem. The
24 cease-and-transfer program has perhaps a little broader
25 focus, because that is for smaller communities who no

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1 longer want to shoulder the burden of landfill
2 operations, have access to some funds to assist in
3 building a transfer station to go to regionalized
4 facilities and then also close their existing landfills.
5 So that promotes the regional landfill concept.

6 The legislation was pretty specific, though, in
7 that they're looking to clean up leaking landfills so
8 waste cannot go -- is directed not to go to any landfill
9 that is not lined or does not have a performance-based
10 design. So what that means is a community is not
11 prevented from opening a new landfill, whether it be new
12 municipal or new -- or new construction and demolition
13 waste. The caveat would be is that any of those going
14 forward under both our lifetime permit and everything
15 else would have to either be lined or meet a
16 performance-based standard. But they're not prohibited
17 from doing that.

18 What the direction is, though, is that it must
19 be a properly designed and permitted facility so that we
20 take care of a problem on one hand and we don't
21 perpetuate it on another. That's been an issue with some
22 of the communities right now. We'd like to do C and D
23 waste. What can we do? As long as they comply with the
24 C and D landfill regulations, apply for the permit and
25 meet the conditions and standards, they're not prohibited

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1 from doing that. So, at that point, it becomes an
2 economic assessment and analysis on their part.

3 But the key is it needs to be properly designed
4 so we can ensure the protection of the resources of the
5 state. The legislature -- the minerals committee, at the
6 May meeting, which was my sixth day on the job, they were
7 pretty clear, is that -- they made a statement that I had
8 to put into context in a public meeting recently. The
9 comment they made was, we don't want to spend money to
10 clean up a leaking landfill only to have a community go
11 two miles down the road and open up another one. You
12 know, on the surface, that makes it sound like, well,
13 you're not going to open up another landfill. The
14 context of the discussion, though, is very clear -- and
15 you had to be there to understand that -- that they were
16 referring to leaking landfills. If they're going to
17 invest to clean up a leaking landfill, they didn't want
18 communities to create another one and a future problem.
19 There was no implication that if Laramie wanted to open
20 up a brand-new C and D landfill and you could meet the
21 conditions, that you could not.

22 It's a long way to get to your answer, but
23 that's a very important --

24 MR. HANSON: Distinction.

25 MR. EDWARDS: -- distinction, and it's

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1 something that there's been some confusion on as we've
2 been going through this process, and we've been working
3 to clear that up. We're going to have a short discussion
4 with that, the minerals committee, this next week to
5 further clarify our position on that for them. But it

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6 essentially gets right to that point.

7 MR. HANSON: Thank you, Madam Chairman.

8 MR. EDWARDS: So we've got an in-house
9 team right now that's doing the rules. Our rules
10 development got off to a very, very slow start,
11 unfortunately. But we've got an internal team that's
12 been established. Rather than to go out and get a
13 consultant, we looked around and realized that, within
14 the Department, there was a lot of expertise that's
15 already got experience in developing rules. Luke Esch,
16 who is the current administrator of the Industrial Siting
17 Administration, agreed to head up our rule-making effort.
18 Luke had been in the Attorney General's Office before he
19 took his current position with DEQ. In his role, I mean,
20 he served DEQ, including Solid and Hazardous Waste. He
21 was the one that reviewed all the rules that were under
22 development. Very, very familiar with that process.

23 We have Bill Tillman from Water Quality
24 assisting that effort. He does a lot of that work for
25 Water Quality. We have one internal resource from

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1 Cheyenne in Solid Waste who is working on that team, and
2 that's Rebecca Dietrich, so that Luke has folks right in
3 hand, in-house in Cheyenne. So that group is the lead,
4 and they're reaching out to all the other Solid Waste
5 staff. We're starting to reach out more aggressively as
6 we're getting into this with stakeholders, and we'll
7 continue to do that.

8 And I'll get into the key points for the
9 legislation, which I think will get to your question, or
10 at least partway there. We actually have an internal
11 draft rule-making completed. We have an internal draft
12 of the rule in-house completed, and it's going around for
13 in-house review. That went very quickly. And I will
14 admit, even it moved smoother and quicker than I
15 anticipated.

16 But in one regard, it's not a surprise, because
17 if you look at the two statutes, the statutes include a
18 lot of specific language already on requirements and
19 limitations. So where the statute is that specific,
20 there's not a need to necessarily get more heavily down
21 into detail. So what we're doing is taking the rules and
22 figuring out what we have to add to that.

23 So we're looking at developing that rule. And
24 if we get through internal review, we're looking at
25 starting immediately on a very aggressive outreach to

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1 stakeholders to make sure we capture everything, that we
2 haven't missed things that communities have. We'll work
3 with like the Solid Waste and Recycling Association, the
4 Governor's Advisory Group. We look to include WAM into
5 the discussion, the county commissioners, some of the
6 local communities that have specific issues. We will be
7 doing very aggressive outreach to inform our rule-making
8 process.

9 MS. CAHN: The most current of this that I
10 have is 2012. And last time we asked for the 2013 and
11 were told it wasn't out yet.

12 MS. JOHNSON: DEQ does not have a printed
13 copy of the 2013. We have not received a shipment of
14 that. So I don't have -- I don't have a stash to share
15 with you, unfortunately. That is our most recent printed
16 copy.

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17 MS. CAHN: Is it available in a PDF?

18 MS. JOHNSON: I believe all the updated
19 statutes are available online. And I can send you a link
20 to the whole -- all the Wyoming statutes and direct you
21 to the subsection.

22 MR. EDWARDS: And we can also give you the
23 links to the Enrolled Acts that we're talking about. But
24 this has not been printed up yet and published for
25 release, so we don't have the most current total package.

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1 But we could provide the Enrolled Act when we get back.
2 If you'd like, we can make sure you have that.

3 CHAIRMAN BEDESSEM: I think we requested
4 this earlier, and Bob sent us the two. It might have
5 been that he got it off the LSO website.

6 MR. EDWARDS: But we can also send you the
7 link to that so it will be easier access.

8 CHAIRMAN BEDESSEM: One question. You
9 informed us who was your rule-making group for --
10 internal rule-making group for Solid Waste. Who's
11 working on rules for the hazardous waste program, the
12 consolidation that we're going to be seeing in January,
13 February?

14 MR. EDWARDS: Okay. We have three
15 members, Jerry Breed, Cindi Martinez and Alan. But
16 again, once we've got that done, we'll be reaching out to
17 the broader internal DEQ rule, as well. It's sort of --
18 it's one thing that Director Parfitt has been very
19 interested in, is making sure that the divisions share
20 resources and utilize expertise to the greatest extent
21 possible, so we're trying to do that, bring in the
22 expertise where it exists, as opposed to trying to
23 re-create it.

24 Some of the key issues under the rule-making
25 that we're working on right now -- and these are key

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1 issues associated with both cease and transfer and the
2 landfill remediation -- one is the financial
3 responsibility requirements. In order to qualify for
4 cease-and-transfer funding, operators have to provide
5 specific documentation and a certification that they are
6 capable of paying their full cost for landfill closure,
7 landfill remediation. And they have to submit that by
8 January 1. It gets a little complicated in one regard in
9 that the way it's worded -- well, first of all, we cannot
10 presume release of state funds. We cannot -- and the
11 legislature can't dictate for future legislatures
12 appropriations or whatever, nor can we. So we have no
13 assurance that those funds for the State's share of that
14 are available. We know they've been budgeted. But until
15 a community is on the list and is approved for funding,
16 funding isn't available.

17 So what's uncomfortable is that, come January
18 1, when they make their first certification, most
19 communities will have to state that they cannot meet
20 their financial responsibility because the amount that
21 they would have to show they can meet is 100 percent of
22 the cost. Because there's no assurance of getting state
23 funding. What we worked on is a way to move around that.
24 And that is, the real eligibility test occurs when they
25 come in and they actually apply for state funding. At

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1 that point they need to be able to establish and

2 determine that they can meet their share of the cost,
3 because that then becomes 100 percent of their cost.

4 So, at that point in time, if you understand
5 that balance, the State has 75 percent available and
6 their cost is 25 percent. At that point their financial
7 responsibility is 25 percent. So we're proposing to the
8 legislature that we do that in two steps. Failure to be
9 able to certify January 1 would not exempt them or
10 preclude them from getting funding, but they would have
11 to make a certification when they do that. So we're
12 looking to bring some resources to bear if we can that
13 would provide assistance for smaller communities in
14 getting their certifications together.

15 CHAIRMAN BEDESSEM: So, now clarify. This
16 is just for cease and transfer?

17 MR. EDWARDS: That is just for cease and
18 transfer.

19 CHAIRMAN BEDESSEM: So communities should
20 just be encouraged to file paperwork by January 1st,
21 regardless of the fact that that paperwork may show that
22 either they can't provide all of the finances necessary
23 for that, or in addition, that they don't know. Because
24 there's a lot of communities that don't have a very good
25 handle on what their -- what the status is of their

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1 finances with respect to the solid waste program.

2 MR. EDWARDS: Right. And that is very
3 correct. A lot of the smaller communities really don't
4 have a good grasp on that. And so, as we -- we prepared
5 a draft letter that would go out right after the minerals
6 committee meeting if they're okay with us going this
7 route. And that's one of the places they could check.
8 We don't know. So what we're looking at is the know or
9 don't know should not be a deal killer, provided that
10 they can get to the point when they apply for funding.

11 So what we're looking at seeking some approval
12 from the legislature on is using a little bit of the
13 funding they made available to us to provide a limited
14 target of assistance to smaller communities to develop a
15 roadmap and a work plan for what you would have to put
16 together and what you would need. Not to do rate
17 setting, not to do costs, but to help develop just a
18 roadmap, give them a guideline. We think that would help
19 the long-term goal and principle of the Act, which is to
20 get cleanup and get communities into the process of
21 cleanup. So that's one.

22 Second major topic is the C and D landfill
23 issue and permitting new facilities. Once again, we want
24 to clarify for the legislature that, for the purposes of
25 the Act, we believe that C and D landfill is separated

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1 from the classic definition of municipal solid waste.
2 The legislature made a very specific language change in
3 the Act as they were going through with what we interpret
4 to be the intent of saying, well, you can still do C and
5 D, et cetera. That becomes important because if a
6 community wants to close but they've got a little bit of
7 room that they have to fill for the purposes of reaching
8 grade for drainage, C and D waste is a cost-effective way
9 to do that. So, provided you do adequate protection of
10 the groundwater resource for a limited time, the clean C
11 and D could be used for that purpose. But if you request
12 cease-and-transfer money and get state funding, you can

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13 no longer put in your traditional municipal waste, which
14 contributes to the issue. So we'll present that to the
15 legislature for some discussion. But I think that's the
16 direction we'll be able to go.

17 One of the other provisions that we'll need to
18 address in the rule-making is an interesting provision
19 that got added in. Four million of the 41 million was
20 set aside for reimbursement for past remediation. And
21 that's remediation activities that occurred between July
22 of 2006 and December of 2012. So there's \$4 million set
23 aside for that. The statute does not provide specific
24 guidance or criteria. So we're working on that. So the
25 challenge was, what would you really consider that?

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1 We're looking to do that on a two-step process. We have
2 to have some -- this included in the rules, and the
3 provision of the rules is for certain eligibility, how
4 the Department would administer that. But the real
5 challenge is trying to figure out what the universe looks
6 like.

7 And I'm sorry. I'm taking a lot longer than I
8 anticipated. Shut me up if you want to.

9 MR. APPELGATE: We're asking you the
10 questions.

11 MR. EDWARDS: The sooner I shut up, the
12 less likely it is I'll make a mistake.

13 But we're looking -- we need to define the
14 universe first. So what is considered past remediation,
15 and are we talking about five communities that want money
16 or 50? And are we talking about \$100 million or \$2
17 million? So the approach we're looking to take is to
18 send a letter out to every operator, reminding them of
19 this provision in the statute. The staff has looked at
20 three primary criteria that we would consider to be above
21 and beyond normal operations. Because clearly, the
22 legislation is not intended to say, well, normal
23 operations or operational costs will be covered. So what
24 have we done that's been above and beyond?

25 So we'd be sending a letter out to all of the

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1 operators, saying, here's what we consider the three
2 eligible categories to be, so do this. Don't give us a
3 detailed cost. But for now, let us know, do you intend
4 to apply for funding under this program? If you intend
5 to apply, what do you think your costs might be? Just
6 give us an estimate. And if you feel that there are any
7 other categories that would constitute enhanced
8 remediation, let us know, and we'll consider that as part
9 of our final process.

10 We then could take that information, see if
11 there's something more we need to include in our rules,
12 include that in there. And then when the rules are done,
13 we would ask communities to make official application
14 under the process that's set up through that public
15 rule-making.

16 MR. HANSON: One question in this respect.
17 We started a diversion program several years ago. It's
18 been in place I think in Laramie for three, four years,
19 which, of course, is -- could be considered part of a
20 remediation because we're taking stuff that normally
21 would have gone into the landfill and diverted into,
22 whatever, composting, whatever. Is that a viable means
23 of applying for this kind of support if we divert,

24 thereby not using the landfill to the extent that we have
25 to, and we didn't fill it as quickly?

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1 MR. APPELEGATE: But it doesn't actually go
2 to the issue of cleaning up the contamination that's at
3 the landfill.

4 MR. HANSON: No. But it goes to the --

5 CHAIRMAN BEDESSEM: Preventing it.

6 MR. HANSON: -- matter of extending the
7 life of the landfill.

8 MR. APPELEGATE: Those will be the type of
9 requests that they'll have to try to navigate around.

10 MR. EDWARDS: And that really is the key.

11 One is it extends the life of the landfill. It limits
12 the amount of material that's going there. But it does
13 not in itself address the question of landfill
14 remediation and cleanup. Because, in essence, a lot of
15 the material that you're recycling is not necessarily the
16 material that's contributing to the groundwater
17 challenges in the first place.

18 CHAIRMAN BEDESSEM: I have a specific
19 question with regard to this. If my memory serves me
20 well, I thought that the remediation money is targeted to
21 the top ten on the priority list. And so, when you say
22 how big is the universe --

23 MR. APPELEGATE: This is just for that four
24 million.

25 MR. EDWARDS: This is just for that four

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1 million.

2 MR. APPELEGATE: Four million past the
3 remediation.

4 CHAIRMAN BEDESSEM: And it can be for any
5 facility in the state?

6 MR. EDWARDS: Provided it was --

7 CHAIRMAN BEDESSEM: Not just the top --

8 MR. EDWARDS: Right.

9 MR. APPELEGATE: We're getting close to the
10 question I asked here.

11 MR. EDWARDS: The statute provides no
12 distinction between the top priority list and the other.

13 MR. APPELEGATE: That was a Department
14 exercise to come up with the priority list. Right?
15 That's not statutorily driven?

16 MR. EDWARDS: Correct. For the \$4
17 million.

18 CHAIRMAN BEDESSEM: For the four million?

19 MR. EDWARDS: So that's where we're trying
20 to navigate through that to get to what would be a
21 reasonable package. So, in the \$4 million, it's those
22 that have taken efforts in the past above and beyond
23 normal operations and that have done enhanced --

24 MR. APPELEGATE: They might have
25 pump-and-treat systems, or they might have done

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1 specialized covers. They might have something that they
2 can argue was an aspect of remediation, but they did it
3 prior and proactively.

4 MR. EDWARDS: You answered that far better
5 than I could have because you also did it a lot shorter
6 than I would have. But that's exactly correct. Because
7 they did something above and beyond that is starting to
8 clean up the groundwater and prevent the increase of the

9 problem. So normal intermediate cover, putting a cover
10 on a landfill that's closing, those are part of a permit
11 operation. So it's those things that are targeted
12 towards cleaning up something that had already existed.

13 So the priority list for like the top eleven
14 that is in there is for those that are ongoing that have
15 leachate and groundwater problems that need to be cleaned
16 up first, because they create the greatest potential
17 hazard for the resources of the state. So that's where
18 the remediation money would go.

19 So what we're hoping is that the \$5 million for
20 fires comes back to us. We don't know. But if we assume
21 that, you peel off the \$4 million. So that would be --
22 so, by the time you take the four million out, add the
23 five million back in, we have a program, but it's still
24 not sufficient to do the entire program.

25 MR. APPLEGATE: So I want to be very

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1 transparent about my comment. I don't know if it would
2 influence the rule-making or not, but I want to be
3 transparent. So I believe when the legislature has put
4 this money aside, that's good. Right? But my experience
5 is suggesting that remediation of the state's landfills
6 could either be a -- I'm just going to throw numbers
7 out -- a \$50 million exercise or a \$500 million exercise.
8 And that has to do with the cleanliness, the standards
9 that one tries to reach and how aggressive one wants to
10 be in that exercise.

11 And so I'm going to -- so two parts to this
12 question. Does the rule-making go to the issue of
13 standards in terms of, okay, if we have a remediation,
14 these are the standards we're going to try to achieve?
15 If it does go to that issue, I'm just sharing an interest
16 of mine, which would be that you would lean a little bit
17 on the voluntary remediation program which has been used
18 to clean up hazardous waste sites in Wyoming and which I
19 think provides a good framework for these landfills in
20 that it allows alternate cleanup standards based on the
21 use. A landfill, to me, really lends itself to an
22 industrial soil cleanup standard and maybe attenuation-
23 type cleanups for groundwater to where maybe you can
24 clean up Wyoming's landfills for, again, \$100 million,
25 rather than \$500 million.

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1 So that's my interest in sort of putting that
2 out there. And I don't know enough about the legislation
3 to know if it's guiding you guys towards this
4 establishment of standards or defining what cleanup
5 action means.

6 MR. EDWARDS: The existing statute and
7 regulations of the Department already define cleanup
8 standards for landfills. So we would be looking to
9 follow and comply with those standards. So we're not
10 looking --

11 MR. APPLEGATE: But aren't those different
12 than voluntary remediation standards? Or do you have the
13 ability under those standards to have alternate cleanup
14 standards?

15 MR. EDWARDS: I'm not up to speed enough
16 to be able to answer the distinction with other programs.

17 CHAIRMAN BEDESSEM: Let me interject here.
18 I think if you describe the discussions you've had with
19 respect to the capping approach, that may answer some of

20 Dave's questions. Your first thrust is to look at just
21 capping these old facilities so --

22 MR. APPELEGATE: My concern is that we
23 don't go out and somehow develop a regulatory framework
24 that encourages to put in pump-and-treat systems for
25 every groundwater contamination problem we have. Because

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1 all of the evidence would suggest that you could go out
2 and pump and treat these plumes for a hundred years and
3 probably not change their concentrations such as you
4 would reach drinking water standards. So that's my --

5 CHAIRMAN BEDESSEM: So I would encourage
6 Mr. Edwards to kind of share with you some of the
7 discussions with regard to capping.

8 MR. APPELEGATE: I might be addressing a
9 concern that's already been addressed.

10 CHAIRMAN BEDESSEM: No, because I don't
11 think -- I'm not sure they're going to --

12 MR. APPELEGATE: My concern is that we
13 would go out and try to clean up a couple landfills to a
14 very high standard, and then all of a sudden you go back
15 to the legislature and say, okay, you gave us 45 million,
16 and we cleaned two landfills. Now what we really need is
17 500 million to clean up the rest.

18 CHAIRMAN BEDESSEM: But what I'm saying is
19 this capping approach leads me to believe that you're
20 looking to get the greatest bang for your buck. And
21 that's what you presented to the minerals committee. So,
22 if you would kind of fill us in a little on that, it
23 might help.

24 MR. EDWARDS: To the extent I can -- and
25 it doesn't mean that the area might not deserve some

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1 additional input and consideration. But again, to fall
2 back on it, there are standards for cleanup that are
3 already in place. We weren't looking in this rule-making
4 to work on those.

5 But when you look at the priorities that are in
6 there, one, there are some landfills that have very
7 significant leachate issues that will require pump and
8 treat because of their location and the proximity to
9 rivers. So, no matter what, we will get into some
10 systems where an aggressive pump and treat will be
11 required, and that's the nature of the beast.

12 A lot of the other landfills are in areas
13 where, by simply capping and handling your drainage and
14 getting -- and preventing the groundwater infiltration
15 that may be entering the system, if we really have no
16 real indicators of problems or we see a long-term
17 diminution of those, we would still get into a monitoring
18 program, where they would drill and monitor. And then
19 the question is, what standards would you test for in
20 your monitoring program? How long would you do that?

21 EPA requires post-closure monitoring of 30
22 years, but you have the ability to reduce that if you can
23 make the case that there's not a public health and
24 environment threat. You have considerations in there to
25 reduce the criteria you test for, reduce the frequency.

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1 So those are things we are looking at as a cost-control
2 mechanism.

3 See, keep in mind that the director and I
4 both -- the way we look at this is every department is a

5 steward of the state resources. And that includes the
6 finances. So we need to manage those as best we can. I
7 prefer to look at it as I would treat them like my own
8 money. And I have no interest in wasting it and making
9 it as efficiently as possible. So that's the approach.
10 Will we be 100 percent successful in that effort?
11 Probably not. But if you -- if you cap first and
12 eliminate the problem from growing, eliminate the
13 groundwater, see if that will self-attenuate the issue,
14 but you have to monitor for that. If there is a
15 groundwater issue in there that you have to treat, then
16 we have to treat.

17 And keep in mind, we look at this from two
18 standpoints. One is the state cost. You look at the
19 state cost. It could be 300 million. It could be 500
20 million. But we also have a local community cost. And
21 there's a lot of communities out there that don't have a
22 chest of gold coins. The finances become really
23 important for them, as well. So we actually look at this
24 as how do we -- how do we get to where we need to go with
25 the smallest investment and being the most effective in

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1 our operations?

2 MR. APPLGATE: Yeah. I appreciate that.

3 MR. EDWARDS: Now, as part of the cost
4 control, if you don't mind -- I know I'm taking longer.
5 I could share a couple of other items.

6 The financial responsibility is not a direct
7 provision under the landfill remediation, but indirectly,
8 I feel it will be. Most communities will look probably
9 to go to the State Land and Investment Board for a loan
10 to cover their costs, spread their costs out over time.
11 The State Land and Investment Board also requires a
12 financial test before they get approved for a loan as to
13 their ability to repay. So, whether it's done under
14 cease and transfer officially up front and it's part of
15 the process or under landfill remediation when they come
16 in for SRF money, chances are there's going to be a
17 financial test.

18 What we're encouraging communities to do is, if
19 every community can come in on January 1 as though they
20 were coming in for cease and transfer, do their financial
21 responsibility, if we can provide that targeted
22 assistance, it would help the smaller communities,
23 whether they come in for landfill remediation for an SRF
24 loan or for cease-and-transfer funding. So it's a way of
25 trying to maximize the opportunities for everybody and

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1 get us to an earlier cleanup.

2 When you come to the actual oversight that DEQ
3 would have to do of these facilities, that also could be
4 a cost factor. There's two different items that come
5 into play, and they would both be touched on briefly in
6 the rules. The legislation includes two options. A
7 community can elect to take charge of their own work and
8 to take the lead for that work and basically be the lead
9 for it. Because the legislation gives the Department the
10 ability to, under the appropriate agreements and under
11 the appropriate conditions that the community would agree
12 to, to delegate the authority for procuring design,
13 construction and every other services to the local
14 community, which then means the Department would provide
15 oversight of that.

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16 We've been working very hard with the State
17 Land and Investment Board to coordinate that. Because if
18 they're getting state funding, they're going to be
19 reporting to there. We don't want to duplicate. We need
20 to make sure that the state portion of the funds are
21 properly used. So we'll be tracking those. But in some
22 of those cases, the larger communities -- and I'll just
23 pick one. Pick Casper. If you want to look at a
24 community that should have the capability of doing their
25 own, and likely would, they could get into that a lot

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1 quicker than the State could. They've already -- they're
2 more familiar with their system. They could probably get
3 a more cost-effective solution than if we come in from
4 the outside and try to do that. So that's one scenario.

5 The other is you pick a very small community
6 that doesn't have the in-house resources to manage a
7 contract who doesn't want to. They can request the
8 Department to assist them in those efforts. The
9 legislation provides authority for the Department to
10 solicit services, contracting on behalf of local
11 communities. So we would be working hand in hand with
12 the local community. They need to be part of the
13 decision process.

14 But in that regard, the Department would have a
15 much higher responsibility role. So what the director
16 and I have done is we looked around internally at
17 resources that might already be available that have
18 expertise in that area so we don't have to staff up. We
19 will not be looking to add new staff anywhere. So how
20 can you do that?

21 The other program, my other hat is the
22 Abandoned Mine Lands program. AML does that all the
23 time. They're very familiar with it. I don't know if
24 anybody here was familiar with, prior to 2006, under the
25 Abandoned Mine Lands funds, there was provision for

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1 public facilities funding. We worked directly with the
2 State Land and Investment Board. There was a certain
3 amount of money each year peeled aside. Public
4 facilities could come in and request funding assistance.
5 That was approved through the State Land and Investment
6 Board. We had those same two scenarios, one where like
7 Sweetwater County Hospital says, "We'll take care of our
8 own stuff." So the Department basically did general
9 oversight, payment processing.

10 We had some other small communities, I believe
11 Manville might have been one, where the Division stepped
12 up and did that work. So what we're looking at is
13 capturing existing resources, not re-creating, not
14 scaling up in an area if it's not necessary. So there's
15 several ways to control the costs and effectively use the
16 funds, one of which is the standards for cleanup, but the
17 other is the broader implementation.

18 So what I've looked at -- I'm really waxing
19 eloquent here. And usually people tell me just wax.
20 Don't get eloquent. It doesn't take as long.

21 But as we've looked at developing the rules,
22 I've been personally focussing my efforts on what are the
23 physical implementation steps and the operational
24 requirements the Department has? So how can we
25 streamline that? How do we define those authorities?

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1 Because doing that concurrent with the rules should help
2 inform and it does help inform the rule-making process
3 and what we need in the rules to allow that to happen.
4 And as the rules develop, it lets us know, based on what
5 we get at our operational approach, is the best or needs
6 to be streamlined.

7 MR. APPLGATE: Thank you. I appreciate
8 that.

9 MR. EDWARDS: Stop waxing.

10 MR. APPLGATE: No. I think that last
11 thing you said there is very important, I think, that you
12 capture that. You look at the rule-making. You thought
13 about the physical steps to implement it and the
14 operational requirements for your Department. I think
15 that's a very good kind of framework.

16 MR. EDWARDS: You will get a chance to see
17 all this, of course.

18 MR. APPLGATE: And we're getting an early
19 heads-up.

20 MR. EDWARDS: Yes. What my thought was
21 here, while it's taken a little longer, is to give you
22 some of that background as to the items that we'll be
23 rolling into the rule-making and we'll be bringing to the
24 advisory board. So it will help hopefully put it into
25 some perspective, give you some chance to think about it

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1 before we get it here.

2 Now, this is very aggressive, but Luke asked me
3 to mention to the board that we would like to, as you're
4 considering your next board meeting, look at perhaps the
5 last week in November, first week in December as a
6 target. I checked with Gina, because that would be --
7 you got another quarterly meeting. Correct? But we're
8 simply saying that could be a good time for us. We've
9 talked with -- I've talked with Water Quality folks. It
10 appears that they might have something in that same time
11 frame we could bring together.

12 Now, that would be very aggressive for us. We
13 understand that. But we are looking to target the month
14 of October as a very aggressive outreach with all of the
15 major stakeholders that are involved in this. So we
16 would like to be prepared to bring it then. That would
17 allow adequate time for the aggressive stakeholder, plus
18 30-day public notice process. But our hope is, through
19 the very aggressive stakeholder outreach, that the public
20 comment review process might go smoother with fewer
21 questions and issues that come up if we've been able to
22 anticipate them through our public comments. I mean, our
23 internal public outreach. Just as a placeholder, we'd
24 like to mention that.

25 See, I've already shared with you more than I

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1 know, so it's up to you to figure out which. It's been a
2 four-month process for me, which has been actually very
3 interesting, and I appreciated the chance to be involved
4 in this. So, again, my apologies for not meeting with
5 the advisory board the first meeting so you knew who I
6 was before we got to this point. Even if -- and I'll say
7 this. The director will be going out to hire a new
8 administrator. If it is somebody other than me -- he and
9 I have talked. Whichever way this goes, me, somebody
10 else, whichever way it goes, I'll be involved in this
11 process through the -- in some form or another through

12 the legislative process. I've been involved in the
13 development of this. Even if somebody else comes on
14 board, it will be important to maintain that continuity
15 through the process. So, one way or the other, I would
16 be involved through sort of the culmination of this
17 current ongoing effort.

18 I also tend to be pretty practical in one
19 regard. We're not going to get it right the first year
20 we go out for projects. The first year we're going to
21 learn a lot about what's working right, what's not
22 working right, where we can be more efficient and save
23 some money or things that we need to expand on and cover
24 more of.

25 So I would figure the first year will be kind
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1 of a steep learning curve both for the operators and for
2 us. Second year will go smoother, but we'll still be
3 learning. It would be my hope that by the third year
4 into the program, we will have developed a pretty well
5 organized program that has the bugs worked out.

6 CHAIRMAN BEDESSEM: You discussed the fact
7 that you have this money that's set aside but not
8 necessarily released by the legislature. And going to
9 this budget session, asking them to release an amount of
10 money, what are they expecting to hear from you as far
11 as -- in other words, what do you have to have
12 accomplished in order to feel comfortable making that
13 request?

14 MR. EDWARDS: Well, a lot of what I shared
15 today, only less of it. What they will be looking for is
16 the assurance that we've got our rules in hand and that
17 they know what we're doing. Because they'll want to see,
18 as well, the rules so they understand how we intend to
19 implement it. So, even if the governor hasn't formally
20 approved those, I would expect that they would want to
21 see or at least have access to the rules.

22 The other part of it is that they will want
23 assurance that we've got a program that we can implement
24 and manage effectively. Because we're on trial here,
25 too, as well, as far as -- because it's twofold. Can and
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1 will communities step up and do their part, and can and
2 will the Department be able to handle the program
3 effectively and deliver what they envisioned? I think
4 it's sort of a two-step process. And that's why, even
5 though we stumbled out of the blocks on the rules, we've
6 been aggressive in getting those done. Because if I were
7 sitting in the legislature, it's one of the things I
8 would look for. How are you going to do this?

9 So, on a simplistic world, I think it's those
10 two items, plus confirmation from -- you know, that's the
11 other reason why we would want to do an aggressive
12 outreach with stakeholders. The stakeholders were
13 heavily involved in the development of the legislation.
14 Landfill operators, they've been there. They understand
15 this. It's important to them.

16 Part of the aggressive outreach with the
17 stakeholders is to get their input, make sure we're on
18 the right track, that they have a comfort with us. We
19 cannot lobby. We do not ask others to lobby on our
20 behalf, period, bar none. I want to be clear about that.
21 But we can fully expect that the operators, having been
22 heavily engaged in the development of this, will be

23 heavily engaged in the initial implementation. So I
24 would think the legislature would be looking for their
25 confidence in the program, as well. But I do want to

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1 emphasize that we don't lobby, period, neither me, nor my
2 staff.

3 CHAIRMAN BEDESSEM: Thank you. I fully
4 appreciate the level of discussion. On my agenda,
5 there's not a time limit on each person here. So I
6 appreciate that.

7 MR. EDWARDS: My first time here, I didn't
8 want to take a lot. But these are two really important
9 items. And I would have been very uncomfortable bringing
10 them to you cold with the rule-making package.

11 CHAIRMAN BEDESSEM: Any other questions
12 from the board members?

13 (No response.)

14 MR. EDWARDS: Thank you.

15 CHAIRMAN BEDESSEM: Thank you for your
16 appearance today. We'll move on to Mike and the grant
17 requests.

18 MR. JENNINGS: Thank you, Madam Chair. If
19 you've got your board packets, I only have one
20 reimbursement recommendation in front of you this
21 morning. And if you look at the sheet that says
22 monitoring reimbursement program agenda for September
23 19th, 2013 Water and Waste Advisory Board meeting, again,
24 one application is for Bridger Valley, and it was for
25 some additional well installation. And they requested

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1 just under \$19,000. And the Department is recommending a
2 little over 17,000. There's some reductions based on the
3 application. They were missing some receipts. Some
4 mileage rates exceeded what we normally reimburse at.
5 There were some per diem backups missing, some other
6 stuff.

7 Haven't received any comments, per se, from the
8 applicant. However, as I typically do in these
9 situations, I always leave it open if they can provide
10 the additional information. We're certainly willing to
11 look at it in the future. I have talked with -- Debbie
12 Neesis with Uinta County. She had called me and
13 indicated to me that she's going to be working on getting
14 the additional information to me. And so it's just a
15 matter of what date in the future they get that to me,
16 and again, what date you folks are going to meet.

17 So that said, that's our recommendation on
18 that. And does anybody have any questions about any of
19 the information I gave you in the packet?

20 (No response.)

21 MR. JENNINGS: If nobody does, if somebody
22 wants to make a motion as far as approving it --

23 MR. HANSON: I just had a comment that I
24 was glad, from a city council perspective, that you
25 reduced the 50 cents down there.

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1 MR. JENNINGS: I've heard that from a
2 number of individuals.

3 MR. HANSON: We go through things with --
4 what it's called? Fine-toothed comb?

5 CHAIRMAN BEDESSEM: I think we have the
6 process down pretty well. We always like to see that you
7 leave it open-ended.

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8 MR. JENNINGS: Absolutely.
9 MR. APPLGATE: Madam Chair, I make a
10 motion that we approve the reimbursement for Bridger
11 Valley.
12 MR. JONES: Second.
13 MS. CAHN: As --
14 MR. APPLGATE: As suggested by the WDEQ.
15 CHAIRMAN BEDESSEM: Which is \$17,140.76.
16 MS. CAHN: I second.
17 CHAIRMAN BEDESSEM: Mr. Jones has
18 previously seconded.
19 MS. CAHN: Oh, I can't hear you.
20 CHAIRMAN BEDESSEM: I have a motion and a
21 second. All those in favor?
22 (All members vote aye.)
23 CHAIRMAN BEDESSEM: Any opposed, same
24 sign.
25 (No response.)

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1 MR. JENNINGS: Madam Chair, thank you.
2 And when we reach the break, if it's okay, I do have the
3 cost spreadsheet. I just need you to fill out your
4 recommendation and sign and date.
5 CHAIRMAN BEDESSEM: I'm filling out the
6 one I have.
7 MR. JENNINGS: That's great. Thank you.
8 By the way, if, again -- and I'll just mention -- Madam
9 Chair, if I can just mention this. If at any time,
10 particularly for the new members, in the information I
11 send you, if you do see something in there that you're
12 scratching your head about, please feel free to give me a
13 call. I'll be glad to provide you with whatever
14 additional information you request.
15 The second part of what I have here is we're
16 working on a revision of Solid Waste Guideline Number 12,
17 which deals specifically with participation in the State-
18 guaranteed trust account. And we're doing a revision on
19 it. Primarily the changes in this particular document
20 deal with a worksheet we put together. Hopefully at some
21 point, it will be interactive online to make it easier
22 for folks at the various facilities to basically plug in
23 their numbers and determine essentially what their
24 financial assurance payments are going to be. And so we
25 kind of developed that.

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1 Additionally, we were looking at the costs on
2 this. But we decided that it probably might be a good
3 idea to -- there are going to be some facilities closing
4 and capping fairly soon, so we should be getting some
5 actual in-state numbers, which will probably give us a
6 little better handle on what, if any, potential changes
7 we may have to the costs that are involved in calculating
8 financial assurance. So we're going to wait and see if
9 we can't get a little more hard data on that before we
10 potentially consider changing those numbers.
11 At any rate, the other thing that we also added
12 to this one, in lieu of some of the stuff that's been
13 going on, particularly relative to some of the statutory
14 requirements that have come up, is we wanted to try to
15 give people some credit for any funds they may have set
16 aside for closure or post-closure activities. Then they
17 could actually take that off of the gross, and that would
18 potentially reduce their financial assurance premiums,

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19 which we thought would be a fair thing to do.
20 I had one comment that came in to me. It was
21 from Cindy Langston, who operates the Casper balefill
22 facility. And Cindy had two questions. She looked at it
23 online. And the first question she had was the dates for
24 payment. We have two different types of facilities, Type
25 1 and Type 2. Type 1 I believe is over 20 tons a day

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1 material coming in; Type 2, less than that. When they
2 first originally came into the program, there are two
3 different dates as far as when their financial assurance
4 is due. And she asked if that was going to remain the
5 same. And to the best of my knowledge and as far as our
6 intent, yes, that will remain the same.
7 The other question she had was -- and it was a
8 suggestion. Because on the portion where I mentioned the
9 funds that would be set aside, whether for closure or
10 post-closure, to get credit for that, she was wondering
11 if we had any thoughts on what we would require for proof
12 of that. And it's an excellent suggestion. We'll be
13 kicking that around. I think it's a good idea. That may
14 segue back into some of the financial responsibilities
15 statute and what we may or may not require for that as
16 far as what their -- what they'll have to show us. That
17 might be a good way to maybe apply that to this as an
18 instrument to show us that, yes, this is what we have set
19 aside. But that was a question she had for that. And so
20 I'm certainly taking that under consideration.

21 Madam Chair, any of the board have any
22 questions?

23 CHAIRMAN BEDESSEM: Mike, according to the
24 public notice for this meeting, we are allowed to take a
25 public comment on any submissions or things brought up by

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1 the solid waste program for discussion. So, prior to
2 board discussion, we typically like to hear if anyone in
3 the audience would like to make any comments. So I just
4 wanted to check and see if there's anyone that would like
5 to speak at all on any comments on guideline before we
6 launch into further discussion.

7 I'm hearing no volunteers here.

8 MR. HANSON: Has the public seen them?

9 MS. CAHN: Yeah, that's a good question.

10 MR. HANSON: They can't comment on this.

11 I think this is the document. Right?

12 MR. JENNINGS: Yes. Madam Chair, if I
13 may, on the public notice, the public notice is 30 days
14 ago. Again, I can't speak to who looks for that stuff.
15 However, there's some information within the public
16 notice that would either lead them to the document or to
17 myself to get them to the document. And it is posted on
18 the DEQ website in the Solid and Hazardous Waste web page
19 area where it's listed on there. My name is also on the
20 public notice. And obviously, for anybody who has any
21 questions, whether it's reimbursement or this particular
22 instrument, they are more than welcome to give me a call,
23 and I can give them the information.

24 Again, Ms. Langston with Casper had found it
25 and did contact me. But to the best of my knowledge,

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1 nobody else has attempted to contact me on this.

2 MR. EDWARDS: As a side comment relative
3 to that -- and this is in the looking-forward --

4 the Department is going through an extensive IT
5 development process. One of those we're looking at is
6 some refinements to the home page, where we can perhaps
7 do a better job of posting notices of things out for
8 review and different meetings, because the current site
9 could use some, perhaps, upgrades. But as part of that
10 going forward, we'll also be addressing that on a
11 department-wide basis for notifications and public
12 accessi bility.

13 CHAIRMAN BEDESSEM: With respect to this
14 guideline, I know in general the Agency isn't required to
15 submit guidelines to advisory boards for review. We're
16 particularly interested in this because a lot of the
17 changes that were redefined in the rule-making were based
18 on the fact that items were being removed from the rule
19 and placed in a guidance instead, which is why -- like,
20 for example, I think the Department came out with
21 controlling contaminated soil guideline revision. But
22 this one was brought forward because it was so tied to a
23 decision that was made by the advisory board recently.

24 We would in general, though, like when we're
25 discussing a guideline, even though it's not the

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1 Administrative Procedures Act this kind of public comment
2 has to follow, that we do get effective public comments.
3 And I know in general that when you submit packets to the
4 board that are like the reimbursement requests, that we
5 typically do them maybe two weeks before the board
6 meeting just so that you can have up to the minute the
7 very last request so they we don't delay reimbursements
8 to communi ties.

9 However, if there's -- if there's something in
10 that board packet like a guideline to give the board a
11 longer time to review, it would be preferred if we get
12 that at the time of the public notice, the 30 days
13 beforehand. Because for us on the board, we didn't have
14 the 30-day. We got it at the two-week time. And so I'm
15 not aware of whether that guideline was out there 30 days
16 ahead at the public notice time or not. And since there
17 wasn't a link to the public notice, I don't know if it
18 was out there for that 30-day time. Do you know if that
19 was the case?

20 MR. JENNINGS: The guideline itself, at
21 the point that that went out, there was some last-minute
22 changes as far as how we were dealing with it. So, to be
23 honest, it was a little bit in flux at the time the
24 public notice came out. It kind of got firmed up. And I
25 apologize for not having that absolutely ready to go at

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1 that point. Again, your point is well taken. And we're
2 going to do a better effort next time. Particularly, as
3 you point out, it would sure be nice if you folks had a
4 little bit extra time to review this. I will make an
5 extra effort to make sure we do that.

6 CHAIRMAN BEDESSEM: And also, if you feel
7 like there's going to be a number of other guidelines,
8 for example, like the general permit that you're working
9 on in coordination with the rule-making, that it would be
10 beneficial if those were -- if there's a public notice
11 regarding that and that those items would be out at the
12 time of the public notice, even though they're
13 technically not required as far as the Administrative
14 Procedures Act. But would appreciate your cooperation in

15 that.

16 Are there any other comments with respect to
17 that public notice?

18 MR. HANSON: Just a question. You have an
19 Appendix A there. Is that just a specific example of how
20 to use the guidelines? I just didn't understand that.
21 Which is version August, question mark, 2013.

22 MR. JENNINGS: Madam Chair, Appendix A
23 basically deals with specifics within financial
24 assurance. These are the items that the facilities are
25 required to -- and it's in the rules. They basically

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1 have to go and say, okay, how much of this do you have?
2 How much of that do you have? This gives you a little
3 more explanation as to what's behind that as far as --
4 so, if somebody's wondering about, for instance, the cost
5 of their liner and as far as -- and they may go out to
6 bids with an engineering firm. And so the things that
7 would have to be addressed if they're going to submit
8 that particular information, at a minimum, again, for
9 that particular one there, bulleted items, it would have
10 this, it would have this, and it would have this.

11 Not knowing any other specifics, this at least
12 helps them to understand this is the basis for this.
13 Things lying outside that, fine. Otherwise, not knowing
14 that, here's what you can go by to determine your costs.

15 MR. HANSON: So it's sort of a sample
16 page?

17 MR. JENNINGS: Of a fashion, yes. It
18 basically gets into the details of why these costs are
19 the way they are. Here's what you need to look at.

20 MR. HANSON: I looked at the first page
21 there, and it says twelve-inch line or whatever. I
22 thought probably a specific landfill might be -- might
23 have slightly different figures. So a sample page, this
24 is what you'd probably have?

25 MR. JENNINGS: Yeah. Like I say, if

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1 they're going to an engineering firm and they're saying,
2 hey, we need to have cost estimates so we can do our
3 financial assurance, they'd say, well, what do you need
4 for reclamation? So, again, they could take this
5 information and go, well, it has to have this, this, this
6 and this. Tell us what it would cost. And then they can
7 use that, submit that information, and then we can
8 basically figure out what their premium is going to be.

9 MR. APPLGATE: I have a follow-up on that
10 because I still don't feel like we've quite answered the
11 question. It sounds like it's an example, but it doesn't
12 really say it's an example. And if you were to -- I
13 mean, this guideline has very specific dollar amounts.
14 And I think it's useful. I'm not being critical. I'm
15 sort of just making a comment about how it can be
16 introduced, so when it's used, it can be more clear. You
17 asked a good example. But it doesn't say it's an
18 example. It's an example to come up with closure costs.
19 Is that what I'm reading here? Also, costs are going to
20 be changed over time. This will be outdated by next year
21 with inflation. So I guess I'm just suggesting if you
22 change the title a little bit and maybe add a little
23 bit --

24 MR. HANSON: As an example?

25 MR. APPLGATE: Yeah. Just say the

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1 following is an example of a component that would be
2 necessary to develop post-closure cost estimates and
3 includes costs that were reasonable at the time in which
4 the document was developed.

5 MS. CAHN: August, question mark, 2013.

6 MR. APPLGATE: I think that simple
7 introductory paragraph --

8 MR. JONES: But it explains that right
9 above that bracket. It says reclamation includes but may
10 not be limited to the following activities. So that in
11 itself suggests to me it's an example.

12 MR. APPLGATE: I just think you should
13 use better terminology. Say something like reclamation
14 costs using \$10,200 per acre.

15 CHAIRMAN BEDESSEM: Excuse me. I think
16 the issue here is that when this was originally written,
17 it seems like it was geared toward using the worksheet in
18 Appendix B. Now, we're giving the option of using the
19 worksheet in Appendix B or doing bids. But the narrative
20 at the front end in Appendix A, it doesn't really explain
21 that, so hence you are getting confusion here on the
22 board and probably by operators who are reading that. So
23 I think you need to clarify the front end. It's an
24 example, if you're using bids, these are the categories
25 we want you to use. But if you're using Appendix B, this

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1 is what you are going to do. So you have to clarify it.

2 MR. APPLGATE: That's all I'm saying.

3 MR. HANSON: Madam Chair, I could make a
4 very simple suggestion. In the first line of the first
5 paragraph, replace the word "supplement" with the word
6 "example." The following information is provided as an
7 example. Then we are clear as to what's meant here.
8 Because when I read "supplement," I thought, oh, this is
9 very specific.

10 But coming back to your point, Mr. Applegate,
11 this is just an example of how to fill this.

12 MR. JENNINGS: Madam Chair, well taken.
13 Looking at your confusion, I'm a little too close to it,
14 so it makes sense to me, but I totally understand where
15 you're coming from. The actual dollar figures in this,
16 again, just for clarification, if you're not going to
17 have somebody else submit a bid or submit an estimate, an
18 engineering firm submit an estimate, these are the
19 figures that it used. So the only thing you really need
20 to supply is, whether it's acreage or how many running
21 feet of fence you have or water diversion structure, the
22 cost is the cost. But if you have somebody -- an
23 engineering firm submit it, then we can basically
24 substitute that. Again, these are the things we're
25 looking at. By the way, here's the costs we're using.

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1 If you wish to use another one, then have an engineering
2 firm.

3 CHAIRMAN BEDESSEM: So what you just said,
4 clarify that.

5 MR. JENNINGS: By the way, I did note
6 there were a couple of formatting things in there that
7 somehow didn't happen. I'll get those squared away.

8 MS. CAHN: I have a couple quick comments.

9 CHAIRMAN BEDESSEM: And I do, as well.

10 MS. CAHN: Okay. Go ahead.

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11 CHAIRMAN BEDESSEM: The first one that I'm
12 particularly concerned about is that in the -- in
13 calculating costs in Section 2, it says use of bids in
14 lieu of worksheet costs. So we're looking at an
15 alternative to the worksheet. So I guess the language in
16 Chapter 7 current rule says that it's -- says written
17 estimate, not a written bid. And so the concern I have
18 is that these are estimates for closure, post-closure
19 costs. And getting bids from contractors for something
20 that you are probably not going to do for 10, 20 years
21 may not be that easy to get, for contractors to spend
22 their time providing their written bid to you for
23 something that they know you are not doing.
24 And so it seems to me that you need to provide
25 an option to have -- to include bids and/or engineer

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1 estimates because those engineer estimates can be based
2 on bid tabulations. Like, in other words, we did a
3 closure. These other sites, these are the averages we
4 have. And so we're going to provide an estimate. That's
5 what engineers do all the time. And prior to right
6 before going out for a bid, they'll work up their
7 engineers' estimate. Right now, the way it's written,
8 it's implying that all you can submit is a contractor
9 bid, which some communities may have difficulty in
10 getting an engineer estimate. That seems like it would
11 be an appropriate thing to also be allowed to be
12 considered.

13 MR. JENNINGS: Madam Chair, would the
14 easiest correction be get rid of "bid" and put
15 "estimate"? Would that solve that?

16 CHAIRMAN BEDESSEM: Yeah, engineering
17 estimate. And that engineering estimate can be based on
18 bids that are received but not require the community to
19 get written bids and attach written bids. I think that's
20 a more practical way to approach things. That's my
21 suggestion on that.

22 MS. CAHN: We would need a change on the
23 second sentence following that. Instead of written bids,
24 it should be written estimates.

25 CHAIRMAN BEDESSEM: You can do a word
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1 search.

2 MR. APPLGATE: And put engineering
3 estimate every time? That way you're going to have some
4 sort of stamp associated with that.

5 MR. EDWARDS: As just a very general
6 comment tracking with the earlier discussions on the
7 rule-making, as we get into this in the next year or so,
8 and that's what Mike indicated, as well, that we will be
9 getting bids on projects that will help inform this. So
10 chances are the guideline worksheets will be filled out
11 with estimates based on recent bids elsewhere in the
12 project. So the further we go into this, the more
13 defined that will be. Unless they're ready to go
14 immediately, chances are that's where they're all going
15 to come from, is work on the ground.

16 CHAIRMAN BEDESSEM: So that was my first
17 comment. The second one was in Section 2-2 and 2-3. You
18 talk about funds that were previously earmarked for
19 closure, post-closure. And a concern I have -- and I
20 don't know if this is a valid concern or not. But it
21 seems like I've heard that the term "earmarked" could

22 potentially have some specific legal or financial
23 criteria. And so this goes back to probably a similar
24 comment to what Cindy Langston had, is that it would be
25 beneficial to explain what earmarking means. So it goes

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1 back to her question about what do we do to prove we set
2 this money aside? So earmark has a certain definition.
3 I don't know if that's the definition we want in here.
4 So I don't know if that's the appropriate term or not.
5 Regardless of whether it is or isn't, however, it should
6 be defined in here so people know what it means to
7 qualify for set-aside.

8 MR. JENNINGS: At least defined relative
9 to what --

10 CHAIRMAN BEDESSEM: To how it's used in
11 this guidance. So, if they just stuck it in another
12 account and can show you the sheet that says it is, then
13 they can move it later. Does that count? So what do you
14 mean by this earmarking of funds? And define that it's
15 the way it's defined in the guideline. Anyway, that
16 seems a time to sync Cindy Langston's comments.

17 And then the third comment I have is it seems
18 several times you talked about the fact that initially
19 the reason that these were pulled out of the rule and put
20 in a guideline was so that you could update costs more
21 easily, not have to go back to rule-making to update
22 costs, because you're saddled with costs that are very
23 old. So the question is, when you do that, based on the
24 bid tabs, you know, update these costs over time, are
25 those going to be published? Are you going to revise

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1 this guideline annually? Is it going to come back out
2 for public comment? I guess I'm just asking you to think
3 about what your procedure is for how this is going to be
4 maintained. So my hope is that you'll let us know at the
5 next meeting what changes were made in the guideline and
6 what approach you want to take for dealing with it for
7 the long term on how to manage it. Because it seems like
8 a guideline that will keep changing.

9 Appendix A, I had that same question that was
10 brought up by other board members regarding that
11 narrative in the front. Make it more understandable that
12 the choices were with respect to the engineers' estimate
13 or going through the worksheet. But it does say in
14 Section 2 that written bids should be prepared for
15 post-closure activities which are described in Chapter 7,
16 Section 3(e)(i) and (ii) of the regulations. Can you put
17 in, comma, as applicable? Because if you're doing a
18 site-specific cost estimate and there are items on that
19 list that don't apply to that site, there's no reason
20 they need to put that in there. So, if you just put as
21 applicable if those things are not in that closure, then
22 they don't need to put those in. I don't think you're
23 giving anything up. We're really just clarifying that.
24 So, comma, where applicable or as applicable. I don't
25 know what the correct grammar is. Maybe Lorie knows the

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1 answer to that.

2 With respect to Appendix A, there's language in
3 there that acknowledges that buildings don't necessarily
4 have to be demolished at closure so that there's an
5 option. If they're planning to do that when they're
6 doing a site-specific cost estimate, they'll have that

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7 cost in there for decommissioning those buildings, but
8 perhaps not, depending on the site. However, there isn't
9 similar language for the perimeter fencing. The section
10 on perimeter fence basically says for post-closure costs,
11 what is the cost to remove that? And I believe there are
12 several permits out there leaving the fences up at the
13 end of the post-closure period that are approved, and yet
14 they don't have the option to take that cost out, which
15 seems inconsistent. So, if you could look at maybe
16 putting that language in the part on fencing, as well,
17 that would be appreciated.

18 Those are all the comments that I have. Do you
19 have additional ones?

20 MS. CAHN: Just an editorial. On 3.0,
21 compliance dates, Type 1, the first bullet, it's missing
22 the word "comply." So it's Type 1 sanitary landfills
23 should have complied.

24 MR. JENNINGS: Thank you.

25 MS. CAHN: And then just kind of similar

0072

1 to Klaus, on 6.0 after -- Alan, you're going to sign it.
2 The guideline history at the very bottom says August,
3 question mark, 2013.

4 CHAIRMAN BEDESSEM: That is the date on
5 the bottom.

6 MR. JENNINGS: Madam Chair, when it
7 happens, it will get a date.

8 MS. CAHN: It will get updated there,
9 September or something?

10 CHAIRMAN BEDESSEM: Yeah. September or
11 October or whenever that's final.

12 MS. CAHN: That's all I had.

13 MR. JENNINGS: And, Madam Chair, are there
14 any other board members that have any other comments on
15 that?

16 CHAIRMAN BEDESSEM: No. But we would love
17 to hear you report back at the next meeting and let us
18 know how those were addressed.

19 MR. JENNINGS: Excellent.

20 CHAIRMAN BEDESSEM: And thank you for the
21 opportunity to comment on this.

22 MR. EDWARDS: Procedural question because
23 I'm unfamiliar with the process. Since you had several
24 changes, is the procedure, then, that we make those and
25 bring it back for your action at that point in time, or

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1 how does that work?

2 CHAIRMAN BEDESSEM: Well, typically with
3 respect to guidelines, we appreciate the opportunity to
4 give comment. But to my recollection, in the
5 Administrative Procedures Act, we're not required to
6 formally approve or pass that on.

7 MR. EDWARDS: So, if we were to
8 incorporate your changes and comments and address those
9 to the best of our knowledge, that would be the two of
10 us?

11 CHAIRMAN BEDESSEM: Right. So,
12 essentially, I'm just asking to be informed at the
13 next -- have the board informed of how those changes were
14 resolved.

15 MR. EDWARDS: Thank you. I would state
16 I'll be here through the remainder of your meeting, as
17 well. So, if there's any other questions you have for

091913 solid & haz waste
18 our program, I'll be here until you're done.
19 CHAIRMAN BEDESSEM: If there are no
20 additional questions for the Solid and Hazardous Waste
21 administrator, we can move on to the Water Quality
22 Division.
23 MR. APPLGATE: Can we take a five-minute
24 break?
25 CHAIRMAN BEDESSEM: We'll take a
0074
1 ten-minute recess.
2 (Hearing proceedings concluded
3 10:48 a.m., September 19, 2013.)
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1 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.
7

8 Dated this 14th day of October, 2013.
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15 _____
16 RANDY A. HATLESTAD
17 Registered Merit Reporter
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