

SUMMARY *of* PROCEEDINGS



JOINT MINERALS, BUSINESS & ECONOMIC DEVELOPMENT COMMITTEE

COMMITTEE MEETING INFORMATION

May 16-17, 2019 | 8:30 a.m.
Gillette College Pronghorn Center Flex Space
300 W. Sinclair St.
Gillette, Wyoming

COMMITTEE MEMBERS PRESENT

Senator Jim Anderson, Co-Chairman
Representative Mike Greear, Co-Chairman
Senator Bo Biteman
Senator Chris Rothfuss (May 16)
Representative Donald Burkhart
Representative Tom Crank
Representative Shelly Duncan
Representative Danny Eyre
Representative Dan Furphy
Representative Bill Henderson (May 17)
Representative Bunky Loucks
Representative Joe MacGuire

COMMITTEE MEMBERS NOT PRESENT

Senator Henry H.R. "Hank" Coe
Senator Jeff Wasserburger

LEGISLATIVE SERVICE OFFICE STAFF

Brian Fuller, Staff Attorney
MaryBeth Oatsvall, Legislative Editor
Kelley Shepp, Research Analyst

Please refer to **Appendix 1-02** to review the Committee Sign-in Sheet for a list of other individuals who attended the meeting.

The Committee Meeting Summary of Proceedings (meeting minutes) is prepared by the Legislative Service Office (LSO) and is the official record of the proceedings of a legislative committee meeting. This document does not represent a transcript of the meeting; it is a digest of the meeting and provides a record of official actions taken by the Committee. All meeting materials and handouts provided to the Committee by the Legislative Service Office, public officials, lobbyists, and the public are on file at the Legislative Service Office and are part of the official record of the meeting. An index of these materials is provided at the end of this document and these materials are on file at the Legislative Service Office. For more information or to review meeting materials, please contact the Legislative Service Office at (307) 777-7881 or by e-mail at lso@wyoleg.gov. The Summary of Proceedings for each legislative committee meeting can be found on the Wyoming Legislature's website at www.wyoleg.gov.

EXECUTIVE SUMMARY

The Joint Minerals, Business and Economic Development Interim Committee (Committee) met for two days in Gillette. The Committee received information regarding oil and gas issues in the state, the potential for the State to assume a larger role in the analyses required under the National Environmental Policy Act (NEPA), coal plant closures in Wyoming, solid waste disposal site reimbursements, the Wyoming Energy Authority, the objections process for mining permit applications, and updates regarding the Department of Environmental Quality and carbon-capture technologies in Wyoming. The Committee requested bill drafts regarding the Wyoming Energy Authority, initiatives and funding for supporting Wyoming coal, the repeal of certain requirements for reports to the Committee, the objections process for applications for mining permits, and the regulation of commercial disposal wells.

CALL TO ORDER (MAY 16, 2019)

Co-Chairman Anderson called the meeting to order at 8:30 a.m. The following sections summarize the Committee proceedings by topic. Please refer to **Appendix 1-01** to review the Committee Meeting Agenda.

APPROVAL OF RULES

The Committee adopted the proposed interim committee rules with amendments, **Appendix 1-04**.

WYOMING ENERGY AUTHORITY

Brian Fuller, LSO Staff Attorney, gave an overview of the topic summary on the Wyoming Energy Authority (**Appendix 2-01**) and 2019 Senate File 0037 (**Appendix 2-02**). The overview included Committee requirements and issues for the Committee to consider before the Energy Authority commences in 2020.

Jason Begger, Executive Director, Wyoming Infrastructure Authority (WIA), provided the Committee with an update on the Wyoming Energy Authority and discussed the process for its creation, input from stakeholders, energy roles in Wyoming, converging activities, timeline, and next steps (**Appendix 2-04**). Mr. Begger also provided the Committee with the Wyoming Energy Authority Implementation Report (**Appendix 2-05**), which outlines funding levels, areas of focus, staffing, identified efficiencies, collaboration and next steps for establishing the Energy Authority.

Todd Parfitt, Director, Department of Environmental Quality (DEQ), discussed the Energy Authority and repurposing a position for energy efficiency and other programs.

Public Comment

Carla Hubbard, Administrator, Wyoming Pipeline Authority (WPA), provided the Committee with a handout from the WPA and discussed observations and obstacles to consider (**Appendix 2-06**).

Co-Chairman Greear moved to have LSO draft a bill that would specifically designate credentials for some of the WEA board's voting members and amending appropriation language and the definition of "natural resource." The motion passed by voice vote.

CARBON CAPTURE/UTILIZATION/STORAGE UPDATE

Mr. Begger discussed the Wyoming Integrated Test Center (ITC), tenant support, technical assistance, operations, competitions, technology and research, business development, and Wyoming efforts (**Appendix 3-01**). Mr. Begger also discussed regulatory roadblocks related to a federal tax credit, Department of Energy funding opportunities, and carbon-capture efforts in other states.

Scott Quillinan, Director of Research & Communications, Univ. of Wyoming School of Energy Resources, provided the Committee with a handout on carbon capture, utilization, and storage and discussed components of carbon capture, current commercial scale projects, storage initiatives, and opportunities, including CarbonSAFE (**Appendix 3-02**). Mr. Quillinan noted that Wyoming would be expected to provide up to a 20% state match if the project is selected for funding.

Public Comment

Greg Schnacke, Executive Director, Denbury Resources, asked the Committee to support a letter that will be provided to the Department of Treasury regarding guidance and rules for the Section 45Q tax credit and how the credit doesn't work for carbon-capture projects and the enhanced oil recovery (EOR) industry.

The Committee directed Mr. Schnacke to prepare a letter for the Department of Treasury and to submit the letter to LSO for the Committee to review.

Don Collins, Chief Executive Officer, Western Research Institute, discussed the process for securing federal funding and working with other states and federal lawmakers to support as many projects as possible.

Mark Christensen, Commissioner, Campbell County, discussed issues with the Section 45Q tax credit as they pertain to electric cooperatives and corporations and providing a marketplace to transfer credits.

Shawn Taylor, Executive Director, Wyoming Rural Electric Association, noted that changes to the rules regarding the 45Q tax credit will help cooperatives.

Doug Frank, Ion Clean Energy, provided an overview of Ion Clean Energy, its technology and expressed his belief that the 45Q tax credit will make projects more feasible.

SOLID WASTE DISPOSAL SITES/REIMBURSEMENTS

Cynthia Langston, Solid Waste Manager, City of Casper, provided an overview of **Appendices 4-01** and **4-02**, and requested a bill that would require DEQ to issue a one-time payment to landfill owners who have previously received landfill remediation program credit but would be unable to use the credit for future remediation projects.

Luke Esch, Administrator, Solid and Hazardous Waste Division, DEQ, discussed the success of the cease-and-transfer program and the landfill-remediation program and stated that there is no need for additional funding or changes to the program. Mr. Esch gave the Committee background on the programs and the prioritized list of 52 projects.

Craig McOmie, Landfill Remediation, Cease & Transfer Program Supervisor, DEQ, discussed required audits DEQ and the landfill operators perform.

No members of the public commented on this topic.

COAL PLANT CLOSURES

Review of 2019 Senate File 0159 (New opportunities for Wyoming coal fired generation)

Mr. Fuller provided an overview of 2019 Senate File 0159 (**Appendices 6-01 and 6-04**), which sets requirements for utility rate-setting if a utility closes a coal-fired electric plant and attempts to recoup the costs of replacement facilities.

Kara Fornstrom, Chairman, and Chris Petrie, Chief Counsel, Public Service Commission (PSC), provided an overview of the PSC's path forward as it implements the law (**Appendix 6-06**). Ms. Fornstrom noted that the PSC would seek comments from stakeholders on standards established in Senate File 0159.

Jon Cox, Vice President of Government Affairs, and Rita Meyer, Vice President for Wyoming, Rocky Mountain Power, provided a presentation on Rocky Mountain Power's activities in Wyoming and the region, (**Appendix 6-02**). Mr. Cox discussed the company's 2019 Integrated Resource Plan, which calls for four of its coal-fired facilities in Wyoming to be closed earlier than previously anticipated. Mr. Cox also discussed the implications of Senate File 0159 and its implementation. Mr. Cox discussed with the Committee the process for selecting the plants for early closure. Ms. Meyer discussed reclamation of the plants slated for early closure.

The Committee requested information at its next meeting with detailed information regarding why the four Wyoming plants were selected for early closure.

Mr. Begger and Renny MacKay, Senior Policy Advisor, Office of Governor Mark Gordon, provided the Committee with policy recommendations for initiatives to help support Wyoming coal (**Appendix 6-06**). The initiatives Mr. Begger discussed included Energy Innovation Funding and funding for coal marketing (**Appendix 6-07**).

Public Comment

Abby Briggerman, Wyoming Industrial Energy Consumers (WIEC); provided an overview of WIEC and asked the Committee to consider sponsoring a bill that would allow a purchaser of an otherwise retired coal-fired plant to sell electricity directly to retail users (**Appendix 6-03**).

Travis Deti, Wyoming Mining Association, stated his group's opposition to any additional tax on the coal industry.

Senator Dan Dockstader expressed his support for Senate File 0159 and encouraged the Committee to make any changes to Senate File 0159 that are necessary to support Wyoming's coal industry

Mr. Collins discussed the infrastructure of the generation facilities and suggested retaining physical assets in lieu of reclamation in order to spur economic development.

The Committee voted to create a working group on this topic to work with the Corporations Committee. Co-Chairman Greear appointed Senator Rothfuss, Representative Crank, and Representative Eyre for the working group. Co-Chairman Greear also requested that Senator Dockstader serve on the working group.

Senator Rothfuss moved LSO to prepare draft bills based on the policy proposals Mr. Begger presented. The motion passed by voice vote.

DEPARTMENT OF ENVIRONMENTAL QUALITY

Director Parfitt gave the Committee an overview of the Department and the programs over which they have regulatory primacy and provided the Committee with an update on the State of the Environment Report (**Appendix 7-01**), which includes DEQ's contributions to protecting Wyoming's environment by monitoring, permitting, inspecting, enforcement, and restoration and remediation activities. Director Parfitt also discussed public-records requests, the self-auditing program, bonds, and the commenting process for rules, projects, and permit applications.

No members of the public commented on this topic.

NEPA ANALYSES/STATE'S ROLE

Beth Callaway, Policy Advisor, Office of Governor Mark Gordon, provided an overview of the National Environmental Policy Act (NEPA) and NEPA activities at the state level and the governor's efforts to seek solutions to streamline and improve analyses in the state. Ms. Callaway also discussed Wyoming's current role as a coordinating agency and a joint lead agency (**Appendices 8-04 and 8-05**). Ms. Callaway noted a study that the Office of State Lands and Investments conducted that included recommendations for better utilizing existing mechanisms to improve the NEPA analysis process. Ms. Callaway noted that Governor Gordon has held preliminary discussions with the Department of Interior, and the governor's office is seeking input on the scope of the state's role and necessary resources to implement any agreed-upon process.

Public Comment

Mr. Deti and Phil Densmore, Peabody Energy, recommended caution and expressed concern with expanding the state's role in the NEPA process, leading to the taxing of state resources and taking away from current responsibilities. Mr. Densmore discussed inefficiencies with NEPA for federal leasing and permitting.

Stephanie Kessler, Program Director, Wyoming Outdoor Council, expressed frustration with the length of the NEPA process and the lack of transparency in federal responses.

Commissioner Christensen provided an overview of county- and state-led NEPA analyses (**Appendix 8-03**) and expressed eagerness in working with the state and federal agencies toward greater state and local involvement in preparing NEPA analyses.

CONSIDERATION OF NECESSARY REPORTS

Co-Chairman Greear gave an overview of the list of reports due to the Committee (**Appendix 14-01**). After Committee discussion on what is necessary for reporting purposes, Senator Rothfuss moved to have LSO draft a bill to eliminate requirements for reports that are no longer necessary. The motion passed by voice vote.

No members of the public commented on this topic.

The Committee recessed at 4:43 p.m.

CALL TO ORDER (MAY 17, 2019)

Co-Chairman Greear called the meeting to order at 8:30 a.m.

REVIEW OF OBJECTIONS PROCESS FOR MINING PERMITS

Katie Legerski, Executive Director, Wyoming Contractors Association (WCA), Chris Fare, Environmental Manager, Melgaard Construction, and Mr. Deti provided an overview of possible changes to W. S. 35-11-406(k) for third-party objections and pre-decisional hearings for applications for mining permits (**Appendix 10-01**). They noted the need to remove discretion for informal conferences and ensure a streamlined appeals process.

Mr. Deti expressed support for the proposed language.

Kyle Wendtland, Land Quality Administrator, DEQ, stated the current process has been proven, tested and is compliant with the federal Surface Mining Control and Reclamation Act. Mr. Wendtland expressed support for the proposed language and believes it adds clarity and efficiency to the process.

Public Comment

Shannon Anderson, Staff Attorney, Powder River Basin Resource Council (PRBRC), discussed concerns regarding the existing process for mining permit objections and the contested-case hearings held on the objections to the application (**Appendix 10-03**). Ms. Anderson recommended a period of at least 30 days between the end of the comment/objection period and any informal conference.

Ms. Kessler expressed support for the modification and expanding this outside of coal mines to include small mines.

Mr. Fuller provided an overview of a bill draft based on the recommended changes to W.S. 35-11-406(k) (**Appendix 10-02**).

Representative Burkhart moved to have LSO proceed with the bill draft. The motion passed by voice vote.

WYOMING OIL AND GAS LAW

Co-Chairman Greear gave an overview on the inception of this topic and applications for permits to drill, forced pooling, and bonding.

Applications for Permits to Drill (APD)

Mr. MacKay discussed the governor's work to move the oil-and-gas industry forward and noted that the governor prefers a regulatory approach for solving current issues.

Mark Watson, Supervisor, Wyoming Oil & Gas Conservation Commission (WOGCC), provided an overview of **Appendices 11-03** and **11-04** and outlined recent rule changes. Mr. Watson discussed issues with operatorship and issues with APDs, including the proliferation in APD filings in the last few years. Mr. Watson outlined potential solutions to the APD issue and noted the need for regulatory certainty.

Representative John Eklund provided an overview of APD issues and recommended changes to statutes as possible solutions (**Appendix 11-10**).

Representative Aaron Clausen discussed further the drilling-permit and split-estate issues in Converse County. He discussed possible changes to the penalty for owners forced to pool who do not pay the costs of drilling.

Pete Obermueller, President, Petroleum Association of Wyoming (PAW), Randy Bolles, Devon Energy, and Jarred Kubat, Vice President of Land, Legal & Regulatory, Wold Energy Partners, LLC, provided an overview of the APD issue, noting the application backlog at the WOGCC, the protest docket, perpetual permit renewals, and potential solutions (**Appendix 11-06**). Mr. Obermueller expressed support for regulatory solutions and noted the industry's contribution to Wyoming through taxes paid. Mr. Kubat provided recommendations for streamlining the permitting process and spacing review (**Appendix 11-07**). Mr. Bolles discussed the importance of being the operator and securing the APD first and outlined the work of an industry working group to develop potential solutions.

Public Comment

Conner Nicklas, Wyoming Land and Mineral Owners Association, discussed the need to eliminate the hoarding incentive for APDs, ensuring the rights of all parties, and the participation of land and mineral owners in any regulatory changes at the WOGCC.

Jim Magagna, Executive Vice President, Wyoming Stock Growers Association, noted that solutions may impact private land and surface owners and encouraged the WOGCC to define a process to allow landowners to be involved in the development of any potential rules.

Enrique Nelson, Valeen Energy, LLC, appreciates recognition of APD issues, particularly in Laramie County and discussed a desire to ensure more public participation.

Forced Pooling

Mr. Watson provided an overview of forced pooling (**Appendix 11-03, p. 35-45**) and discussed examples of forced pooling in other states and the risk-penalty approach Wyoming has adopted for landowners who do not pay their shares of drilling costs.

Representative Eklund discussed issues with the forced pooling statute, W. S. 30-5-115 and policies behind potential solutions.

Representative Clausen discussed the 300% penalty for nonparticipating landowners and encouraged the Committee to consider amending the percentage.

Mr. Obermueller and Steve Degenfelder, Kirkwood Oil and Gas, discussed the reasoning that pooling is needed for spacing of wells for mineral, lease and surface owners. They provided the Committee with examples of deeds for mineral rights and spacing diagrams and encouraged a regulatory and statutory scheme that incentivizes cooperation, particularly among energy companies (**Appendix 11-09**).

Public Comment

Mr. Nicklas discussed the need of participation of land and mineral owners in any regulatory changes and expressed support for an exception for landowners to the statutory penalty.

Bonding

Mr. Watson discussed the Split Estate Act, bonding, and WOGCC involvement (**Appendix 11-03, p. 28-34**). He noted that, under current statute, a surface landowner can object only to the amount of the bond that an operator posts.

Representative Clausen discussed issues with split estates within Converse county and stated that current statute did not allow objections regarding a lack of good-faith negotiations and that statute only authorizes actual damages, not the depreciation in value of the property.

Mr. Obermueller and Mr. Degenfelder provided the Committee with an example of an old Deed Record (**Appendix 11-09**) and discussed the split-estate issue, including the importance of keeping landowner relationships positive.

Public Comment

Frank Moore, Converse County landowner, expressed frustration with landowners being forced into a surface-use agreement because of the operator's ability to bond on and how it's a no-win situation. Mr. Moore also expressed concern with the inability to object based on a lack of good-faith negotiations and the inability to reach agreements with operators regarding the timing of entry for operations.

Mr. Nicklas discussed the need for participation of both land and mineral owners in oil and gas surface use agreements and the need for statutory changes to ensure that surface-use agreements and authorized damages were fair.

Produced Water

Senator Anderson provided an overview of this subtopic and the challenges and potential for use of produced water.

Tom Kropatsch, Deputy Supervisor, WOGCC, provided an overview of produced water from oil-and-gas operations and options for management, including disposal, evaporation, pits, reuse in oil-and-gas operations, and the permitting process for produced water (**Appendices 7-02 and 7-03**). Mr. Kropatsch also discussed the role of the WOGCC in this process.

Kevin Frederick, Water Quality Division Administrator, DEQ, provided an overview of DEQ's role in produced water and management, noting that most of the Department's work concerned disposal of produced water.

Mr. Kropatsch discussed a proposal to give the WOGCC authority to regulate Class Two commercial injection wells and issue permits for those wells. Mr. Kropatsch noted that the change would provide greater efficiency in managing produced water.

Public Comment

Ms. Anderson expressed concerns with the location for disposed water and protection of aquifers.

Representative Eyre moved to have LSO draft a bill to authorize WOGCC regulation of Class Two commercial injection wells. The motion passed by voice vote.

Seth Frentheway, Beneficial Use Water Alliance, and Marvin Nash, Encore Green, discussed his group's work to increase the use and reuse of produced water, particularly in agriculture. Mr. Frentheway discussed his group's work to secure necessary regulations to allow for the cleaning and repurposing of produced water for agricultural uses (**Appendix 13-01**). Mr. Frentheway further discussed the challenges in reusing produced water (**Appendix 13-04**). Mr. Nash discussed the development of a process for cleaning produced water.

Public Comment

Mr. Magagna expressed enthusiasm at the idea of repurposing produced water for use in agriculture.

MEETING ADJOURNMENT

There being no further business, Co-Chairman Greear adjourned the meeting at 3:16 p.m.

Respectfully submitted,

Senator Jim Anderson, Co-Chairman

Committee Meeting Materials Index

Index Number	Agenda Item	Document Description	Document Provider
1-01		Agenda	LSO
1-02		Committee Meeting Attendance	LSO
1-03	Call to Order	Sample Interim Committee Rules	Legislative Service Office
1-04	Call to Order	Proposed Interim Committee Rules-Minerals	Legislative Service Office
2-01	Wyoming Energy Authority	Topic Summary-Wyoming Energy Authority	Legislative Service Office
2-02	Wyoming Energy Authority	2019 Senate File 0037 (Wyoming energy authority)	Legislative Service Office
2-03	Wyoming Energy Authority	Notes on Authority Status	Wyoming Energy Authority
2-04	Wyoming Energy Authority	Energy Authority Presentation	Wyoming Infrastructure Authority
2-05	Wyoming Energy Authority	Energy Authority Report	Wyoming Infrastructure Authority
2-06	Wyoming Energy Authority	Energy Authority Thoughts	Wyoming Pipeline Authority
3-01	Carbon Capture/Utilization/Storage Update	Wyoming Integrated Test Center Presentation	Wyoming Infrastructure Authority
3-02	Carbon Capture/Utilization/Storage Update	CCUS Presentation	UW School of Energy Resources
4-01	Solid Waste Disposal Sites/Reimbursements	Landfill Remediation Letter	City of Casper
4-02	Solid Waste Disposal Sites/Reimbursements	Landfill Remediation Funding-Appendix	City of Casper

JOINT MINERALS, BUSINESS & ECONOMIC DEVELOPMENT COMMITTEE *Summary of Proceedings*

6-01	Coal Plant Closures	Topic Summary-2019 Senate File 0159	Legislative Service Office
6-02	Coal Plant Closures	Rocky Mountain Power Update	Rocky Mountain Power
6-03	Coal Plant Closures	WIEC Presentation	Wyoming Industrial Energy Consumers
6-04	Coal Plant Closures	PSC Memorandum	Public Service Commission
6-05	Coal Plant Closures	2019 Senate File 0159	Legislative Service Office
6-06	Coal Plant Closures	Policy Proposals	Wyoming Infrastructure Authority
6-07	Coal Plant Closures	Coal Plant Closures	Wyoming Infrastructure Authority
7-01	Department of Environmental Quality	State of the Environment Report	Department of Environmental Quality
7-02	Department of Environmental Quality	Class I and II Commercial Disposal	Oil and Gas Conservation Commission
7-03	Department of Environmental Quality	Class I and II-Appendix	Wyoming Oil and Gas Conservation Commission
8-01	NEPA Analyses/State's Role	Letter of Support	Union Wireless
8-02	NEPA Analyses/State's Role	NEPA Comments	Greg Hunter
8-03	NEPA Analyses/State's Role	County and State NEPA Analyses	Wyoming County Comm'rs Ass'n
8-04	NEPA Analyses/State's Role	BLM Report in Response to Improving Planning and NEPA	Beth Callaway, Policy Advisor, Office of Governor Mark Gordon
8-05	NEPA Analyses/State's Role	Study on Management of Public Lands in Wyoming	Beth Callaway, Policy Advisor, Office of Governor Mark Gordon
10-01	Review of Objections Process for Mining Permits	Proposed Language-W.S. 35-11-406	Wyoming Contractors Association
10-02	Review of Objections Process for Mining Permits	20LSO-XXXX: Mining permit applications-objections	Legislative Service Office
10-03	Review of Objections Process for Mining Permits	Mine Permit Objections-Concerns	Powder River Basin Res. Council

JOINT MINERALS, BUSINESS & ECONOMIC DEVELOPMENT COMMITTEE *Summary of Proceedings*

11-01	Wyoming Oil and Gas Law	Topic Summary: Oil and Gas Law	Legislative Service Office
11-02	Wyoming Oil and Gas Law	Summary of Recent Oil and Gas Bills	Legislative Service Office
11-03	Wyoming Oil and Gas Law	Oil and Gas Issues	Wyoming Oil and Gas Conservation Commission
11-04	Wyoming Oil and Gas Law	Oil and Gas Issues-Appendix	Wyoming Oil and Gas Conservation Commission
11-05	Wyoming Oil and Gas Law	APD Documents	Wyoming Oil and Gas Conservation Commission
11-06	Wyoming Oil and Gas Law	APD Presentation	Wold Energy Partners
11-07	Wyoming Oil and Gas Law	Permit Recommendations	Wold Energy Partners
11-08	Wyoming Oil and Gas Law	APD Filing Information	Wyoming Oil & Gas Conservation Comm'n
11-09	Wyoming Oil and Gas Law	Deed and Permit Information	Petroleum Ass'n of Wyoming
11-10	Wyoming Oil and Gas Law	APD Issues	Representative John Eklund
13-01	Oil and Gas Issues/Continued	Produced Water Memorandum	Beneficial Use Water Alliance
13-02	Oil and Gas Issues/Continued	Produced Water: Overview	Wyoming Oil and Gas Conservation Commission
13-03	Oil and Gas Issues/Continued	Produced Water: Appendix	Wyoming Oil and Gas Conservation Commission
13-04	Oil and Gas Issues/Continued	Reusing Produced Water	Beneficial Use Water Alliance
13-04	Oil and Gas Issues/Continued	Reusing Produced Water	Beneficial Use Water Alliance
14-01	Final Business	List of Reports Due	Legislative Service Office