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BEFORE THE  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
LAND QUALITY DIVISION

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DEQ LAND QUALITY DIVISION ADVISORY BOARD MEETING  
SPECIFICALLY REGARDING NON COAL RULE PACKAGE  
REVISIONS TO RULES  
CHAPTERS 1 AND 11

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TRANSCRIPT OF PROCEEDINGS

10:00 A.M.

JULY 20, 2005

PURSUANT TO PUBLIC NOTICE given to all parties in  
interest, this matter came on for hearing in the  
Council Chambers of the Town Hall, 219 South Third  
Street, Glenrock, Wyoming.

LQD STAFF IN ATTENDANCE:

RICHARD A. CHANCELLOR, ADMINISTRATOR

SANDRA GARCIA, SECRETARY

BOARD MEMBERS IN ATTENDANCE:

MARSHALL GINGERY, CHAIRMAN  
JAMES GAMPETRO  
CHET SKILBRED

\* \* \*

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Torrington, WY 82240  
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## 1 P R O C E E D I N G S

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3 Reporter's Note: Proceedings prior and  
4 subsequent to those transcribed below were  
5 reported, but not transcribed.

6 \* \* \*

7 CHAIRMAN GINGERY: At this time, Rick, if  
8 you would like to tell us more of what we're trying  
9 to accomplish with this meeting.

10 MR. CHANCELLOR: Okay. Before I get into  
11 the rules themselves, Craig put together a slide show  
12 to give some background for the rules. And so Jim  
13 you may have to come around here to see the slide  
14 show.

15 MR. GAMPETRO: Oh.

16 MR. CHANCELLOR: And the rest of the Board  
17 may also want to move.

18 CHAIRMAN GINGERY: We're going to move this  
19 direction for Jim.

20 MS. GARCIA: Jim, would you do me a favor?

21 (Whereupon, there was a discussion off the  
22 record.)

23 MR. CHANCELLOR: This rule package -- a  
24 little background. Since 9/11 and those other --  
25 other natural disasters and bankruptcies and such

1 that -- it had a big impact on the bond market.

2           What's happened, some bond companies that  
3 operators were using had expressed a desire to leave  
4 the mining bonding reclamation market. So there is  
5 fewer companies involved, which means that the prices  
6 have gone sky high, basically.

7           There is one mine that was paying, for  
8 example -- I think they were paying like \$750,000 for  
9 their bond costs. And over a four-year period, they're  
10 paying \$2.5 million for the same bond amount. So it's  
11 just drastically increased.

12           And so the Mining Association approached the  
13 State and said, is there anything we can do to increase  
14 the options available -- or whatever we can do to look  
15 at bonding for the mines. And one of the rationales we  
16 looked at -- we said we would look at this, as long as  
17 it did not increase the risk to the State in case of a  
18 default.

19           So that's what the background is for changing  
20 these rules.

21           Some of the changes proposed to the coal  
22 rules -- definitions of the bond itself, (inaudible)  
23 statistical rating organizations -- we'll get into that  
24 -- increasing self-bond limits, and looking at the net  
25 worth and non-domestic assets.

1           And for the -- next slide -- the bond  
2 definition -- the rules right now are pretty specific  
3 on what type of bond instruments are acceptable. We  
4 want to change the rules to allow some flexibility, in  
5 case -- there is people out there right now that are  
6 looking at developing different financial instruments  
7 that will serve the same purpose as our surety bonds,  
8 whatever we have today. And so we're trying to gain  
9 some flexibility in case those things come about we can  
10 more quickly accept those.

11           One issue with the coal rules, that these  
12 alternate methods must be approved by OSM before they  
13 are instituted. So basically the rules allow for us to  
14 go to OSM and get quick approval without going through  
15 rule making. Because the coal rules seem to be much  
16 more arduous to go through than the non-coal. And so  
17 provide more flexibility for operators to look at  
18 different types of instruments.

19           The alternate rating organizations, the  
20 current rules specify that Standard & Poor's and  
21 Moody's are the only two rating organizations that can  
22 be used. But there are other nationally recognized  
23 rating organizations that the Securities & Exchange  
24 Commission recognize. And so we want to broaden that  
25 -- our scope of using those different organizations.

1 And the main issue there is to make sure that they are  
2 recognized by the SEC and that the risk ratings must be  
3 comparable -- whichever -- however they rate things;  
4 some use AA, AAA, whatever -- be equivalent to Moody's  
5 or Standard & Poor's ratings. So as long as they are  
6 equivalent, it doesn't have to be Moody's or Standard &  
7 Poor's.

8           Looking at increased self-bonding limits.  
9 Right now the operator's self-bond is limited to 25  
10 percent of the net worth. We want to allow to  
11 increase that if the company can meet more stringent  
12 financial demonstrations. And also, looking at  
13 corporate guarantees, increasing those also; in this  
14 case, to 30 percent, if those additional financial  
15 benchmarks are met. So we're trying to raise the cap  
16 on the self-bond limits if the company can show they  
17 are stronger than what the current rules are.

18           Right now the assets are limited to those  
19 within the United States. Right now we have mining  
20 companies that are global in scope. And by only  
21 limiting them to the assets in the United States that  
22 puts more restrictions on them. We recognize that  
23 these companies are multi-national companies, and we  
24 wanted to look at a foreign parent guarantee and using  
25 foreign assets. We have included rules that you will

1 see that we feel that gives protection to the State by  
2 requiring additional financial paperwork, I guess you  
3 would call it, that show that these foreign assets or  
4 the foreign parent guarantee can be collected upon.  
5 And there is rules that we will request be in place to  
6 do that.

7           On non-coal -- the non-coal bonding rules are  
8 different than the coal bonding rules. Some places  
9 they are very similar, and some places they are  
10 different. And so the rules that we do for non-coal  
11 are not exactly like we do for the coal rules.

12           Again, we look at alternate statistical  
13 rating organizations, we looked at foreign corporate  
14 guarantees and non-domestic assets. We also looked at  
15 cleaning up the language in the non-coal rules that had  
16 not been really looked at for probably decades. And  
17 the rules changes in non-coal require some changes in  
18 other sections, just because they reference back and  
19 forth. So non-coal has more clean-up in this than the  
20 coal rules.

21           Again, the non-coal rules are -- plan to  
22 mirror the coal rules on alternate rating  
23 organizations. Again, that's to increase flexibility  
24 in that part of it.

25           Again, corporate guarantees and non-domestic

1 assets -- again, will be allowed to accept foreign  
2 parent corporate guarantees and foreign non-parent  
3 corporate guarantees. And also non-domestic assets can  
4 be used in the calculations.

5           Again we took out some redundant language  
6 that -- we went through, working on these non-coal  
7 rules, and in some areas said, well, we don't need this  
8 rule because we have already covered it someplace else.  
9 So we did some clean-up in the non-coal.

10           MR. HULTS: That's it.

11           MR. CHANCELLOR: That's it. With that,  
12 we'll go into the actual language themselves. There  
13 should be for the audience -- we have these available  
14 if you need them. We're working from -- what we call  
15 the strike underline and the statement of reasons  
16 version.

17           And we'll start with the coal rules, if I  
18 remember right. Looking at changing the definition of  
19 the -- of what a bond means. What we added there is a  
20 -- more language to the sentence there in the first  
21 paragraph, to say, this term shall also include the  
22 following, which the operator has deposited with the  
23 Department of Environmental Quality in lieu of a surety  
24 bond or self-bond instrument.

25           It's more just clean-up of the language.

1 Because we added a new item (B) and a new item (vi).  
2 (v) said, an alternative method of financial assurance  
3 is acceptable to the administrator and provides for a  
4 comparable level of assurance for performance of  
5 reclamation obligations. The alternative method of  
6 financial assurance must first be approved by the  
7 Office of Surface Mining; or (vi) a combination of any  
8 of these bonding methods.

9           We've always accepted a combination of those  
10 above. We just want to clarify in the rules that  
11 that's available. We do it already. We probably would  
12 not have to change the rule, but we thought since we're  
13 doing it we'll change it.

14           Again, on the coal side we talked to OSM as  
15 we developed these regulations, and they felt that they  
16 had to give approval to the alternative financial  
17 assurance instrument. And so if a financial  
18 institution came to us and said, here's a different  
19 type of instrument that we feel can cover bonds, and we  
20 look at it and we feel that it would be workable, we  
21 would propose that in a letter to OSM and then they  
22 would give us feedback saying, yes, you can use that  
23 because it has the same level of assurance as a surety  
24 bond. Or they would say, no. But it would not have to  
25 go through rule making to include that. And that just

1 gives some flexibility.

2 CHAIRMAN GINGERY: Board members, on this  
3 Chapter 1 we just went over, do you have any  
4 questions at this time?

5 MR. SKILBRED: No.

6 CHAIRMAN GINGERY: In the audience is there  
7 anyone who would like to make a statement or are you  
8 following along here?

9 Let me ask: Should we wait until the end or  
10 should we do motions chapter by chapter?

11 MR. CHANCELLOR: I think it's small enough  
12 we can probably wait until the end.

13 CHAIRMAN GINGERY: All right. We'll wait  
14 until the end.

15 MR. CHANCELLOR: Next we go to Chapter 11  
16 of the coal rules, which is the self-bonding program.

17 MS. GARCIA: What page?

18 MR. CHANCELLOR: Page 5 of the strike and  
19 underline.

20 MS. GARCIA: Okay.

21 MR. CHANCELLOR: We changed some -- in  
22 paragraph large A we changed some language to include  
23 other nationally recognized rating organizations that  
24 are acceptable to the regulatory authority.

25 And we added language saying that additional

1 rating organizations must be approved as a nationally  
2 recognized statistical rating organization as defined  
3 by the Securities & Exchange Commission, and goes on to  
4 say that if the additional rating organization uses a  
5 different rating system, only ratings that are  
6 equivalent to a rating of "A" or higher by either  
7 Moody's Investment Service or Standard & Poor's  
8 Corporation qualify. Because different rating  
9 organizations may have different -- may use numbers  
10 instead of letters or whatever. And so that's just to  
11 make sure we're looking at the same level of rating.

12           And there again, just to -- I think we looked  
13 at this -- there were I think maybe a half a dozen  
14 rating organizations that the Securities & Exchange  
15 Commission had recognized. And so there's no reason  
16 not to use those, if the mine wants to use that  
17 service, instead of being limited just to those two.

18           CHAIRMAN GINGERY: All right.

19           MR. CHANCELLOR: Any questions? Then we'll  
20 go on to the next one.

21           Rule Change No. 3, also in Chapter 11.

22           Here we're looking at the limit on self  
23 bonds. There in large A, the first part of that  
24 paragraph shows the old level of 25 percent. Here we  
25 are adding a phrase to allow for an increase in the

1 self-bond amount to 35 percent of the tangible net  
2 worth for those operators that have a ratio of total  
3 liability to net worth of 1.5 or less and a ratio of  
4 current assets to current liabilities of 1.7 or  
5 greater.

6 MR. GAMPETRO: When you talk the net worth,  
7 are you talking about book, or are you talking about  
8 market value on the assets of the company?

9 MR. CHANCELLOR: I'll defer to Deanna Hill,  
10 our bonding analyst.

11 MS. HILL: The actual figure listed in  
12 their audited financial statement.

13 MR. GAMPETRO: I'm sorry, I'm having  
14 trouble hearing you.

15 MS. HILL: It's the actual figures that are  
16 pulled out of their audited financial statements. So  
17 it would be --

18 MR. GAMPETRO: It would be depleted values,  
19 book values, not market values.

20 MS. HILL: Right.

21 CHAIRMAN GINGERY: Any other questions at  
22 this time? All right.

23 Did that satisfy your question?

24 MR. GAMPETRO: Yes.

25 MR. CHANCELLOR: And there in B is --

1 likewise, B covers the parent corporate guarantee.  
2 We allow that to increase to 30 percent from 25  
3 percent, if again, they meet the higher or the more  
4 stringent ratios.

5           One issue that we may face on this one is  
6 that the Office of Surface Mining -- they wanted I  
7 guess better justification on how the more stringent  
8 ratios relate to increasing percentage by amount.  
9 That's why the statement of reasons here tries to  
10 explain -- list some examples or whatever of how that  
11 relates, why with these more stringent ratios we should  
12 allow more self-bonding.

13           And if the Board recommends that we go  
14 forward with these rules, we'll touch base again with  
15 the Office of Surface Mining, to see if these examples,  
16 this discussion, satisfies their concerns. If not, we  
17 won't change the rule necessarily, but we'll try to  
18 beef up the statement of reasons. I just want to let  
19 the Board know that.

20           MR. GAMPETRO: Another question. If the  
21 self-bonding is at 25 or 30 or 35 percent, is there  
22 any restriction on further encumbering those assets,  
23 as part of that?

24           I might -- I might have a certain net worth  
25 today, or a ratio of assets to liabilities, and that

1 might satisfy 35 percent. And as soon as we get that  
2 taken care of, I could go out and borrow against it  
3 tomorrow if there are no restrictions against that.

4 MR. CHANCELLOR: I'll again defer to  
5 Ms. Hill.

6 MS. HILL: We actually, on -- the  
7 self-bonds actually show up as a liability on the  
8 financial statements. So that would reflect to the  
9 banking institution whether they are going to allow  
10 additional -- or attach a lien to some property.

11 MR. GAMPETRO: Is the bonding something  
12 that's recorded as a liability, if they would go out  
13 to borrow against those assets?

14 MS. HILL: It is a liability.

15 MR. GAMPETRO: And it's recorded?

16 MS. HILL: Uh-huh.

17 MR. SKILBRED: And then Jim, every year you  
18 have to refile for that bond, that self-bond. So  
19 it's not like it goes on for five years or something.

20 MR. GAMPETRO: Thank you.

21 MR. SKILBRED: So every year you redo it.

22 MR. CHANCELLOR: And also, we have the  
23 ability to require quarterly unaudited statements.  
24 Or monthly --

25 MS. HILL: Usually quarterly.

1           MR. CHANCELLOR: So if we see a trend in  
2 the ratios that is not a good trend, we can require  
3 updates more often.

4           MR. GAMPETRO: Okay.

5           MR. CHANCELLOR: Because the whole trick  
6 with self-bond is that you catch the cut-off before  
7 the company goes bad, so they can go out and get a  
8 surety bond to replace it. Because if the company  
9 goes down the tubes real quick you could be stuck  
10 with it. So it's very important that we watch that  
11 and make sure that if things do trend down that we  
12 get them to replace the bond, the self-bond with a  
13 surety bond.

14           MS. HILL: We subscribe to Dun &  
15 Bradstreet's alert services, and we can get Dun &  
16 Bradstreet's report of self-bonding.

17           But my screen will flash and send me an  
18 e-mail if there's any change in someone's financial  
19 position. So we do get some notifications of things  
20 changing.

21           MR. CHANCELLOR: We know when the average  
22 days to pay bills -- if that changes from say 30 days  
23 up to 60 days, they notify us that it's changed. And  
24 that helps us to track the financial activities of --

25           MR. GAMPETRO: It would seem like the

1 biggest potential variable here is the actual value  
2 of the assets compared to the book value. If you are  
3 talking about depreciated real estate structures,  
4 they are probably worth more -- in most cases. I  
5 don't know, maybe a mine isn't. But than the book  
6 value. If you are talking about land, it's probably,  
7 in Wyoming, worth more than the book value, in most  
8 cases. If -- to me, that would be the biggest  
9 variable, is the difference between book and market  
10 value of assets, in terms of the security to the  
11 State of those assets.

12 MR. CHANCELLOR: Yeah. We have no  
13 experience to date, thankfully, where we have had to  
14 pull in a self-bond, to test the whole system. There  
15 has been a couple cases where we requested a  
16 self-bonded company to get a surety bond, which they  
17 have done. So, so far -- we've been dealing with  
18 self-bonds now for a couple decades, and we have not  
19 had to test the system.

20 CHAIRMAN GINGERY: I have a question -- are  
21 you finished?

22 MR. GAMPETRO: Yes.

23 CHAIRMAN GINGERY: I have a question.  
24 After reading pages 8 and 9, what are we -- with th  
25 Office of Surface Mining, what is their concern, real

1 concern here? Are we still accomplishing the same  
2 thing?

3 MR. CHANCELLOR: The concern with the  
4 Office of Surface Mining is that they have certain  
5 requirements in the federal rules that we have to be  
6 as stringent as. What we're doing with these rules  
7 here, we're pushing those boundaries.

8 CHAIRMAN GINGERY: Okay.

9 MR. CHANCELLOR: And so they need to  
10 justify why our new system is as stringent as their  
11 rules.

12 CHAIRMAN GINGERY: Okay.

13 MR. CHANCELLOR: So if their rules say 25  
14 percent and we now want to do 30 or 35 percent --  
15 we're allowed to have alternate bonding systems, but  
16 they need to justify that it's still as protective as  
17 their rule, as their current rule is. So they want  
18 to make sure that we have good justification for  
19 saying we can go higher in this case.

20 CHAIRMAN GINGERY: Okay. Let's see. Any  
21 other questions? Did you have any more to add to  
22 Chapter 2, the self-bonding?

23 MR. CHANCELLOR: We're still on Chapter 11?

24 CHAIRMAN GINGERY: 11, I meant.

25 MR. CHANCELLOR: The next one -- if there

1 are no questions on Item No. 3 we'll go to Item No. 4  
2 on page 11.

3 CHAIRMAN GINGERY: Okay.

4 MR. CHANCELLOR: And this is the area where  
5 we talk about using assets outside the United States  
6 or using a foreign corporate guarantee or a  
7 non-parent -- a foreign non parent corporate  
8 guarantee.

9 This goes back to back in the late '80s,  
10 early '90s, Pathfinder Mine. We denied a foreign  
11 parent corporate self-bond. They went to the Council,  
12 and the Council directed us to develop a way to do  
13 foreign corporate guarantee and self-bond. So we went  
14 through and with the Attorney General developed some  
15 provisions that we felt was protective of the State.  
16 And we did so. And -- but we never did change the  
17 rules, both coal and non-coal.

18 And Kennecott recently has come in for a  
19 foreign corporate parent guarantee. So we felt best if  
20 we're going to do this, let's put that -- those  
21 provisions in the rules, so it's clear that, one, it's  
22 do-able, and two, what they need to do to make it  
23 happen.

24 And so the issue with the -- when we use --  
25 there are two issues here. One is the non U.S.A.

1 assets, use those in the calculations. And one is the  
2 foreign corporate guarantee.

3           And so I through III are the provisions that  
4 we have done in the past and are doing right now, just  
5 putting that into rule form. One, we require a legal  
6 opinion from a business -- from a legal firm in the  
7 country that -- where the foreign parent is  
8 headquartered concerning the possibility of a self-bond  
9 in that country. Because they have different laws.  
10 The firm is selected by the Land Quality Division, but  
11 paid -- the bills are paid for by the company  
12 requesting the self-bond. But we pick it. So there --  
13 so really the legal organization is giving us -- is  
14 working for us. But we don't pay the bill.

15           CHAIRMAN GINGERY: Uh-huh.

16           MR. CHANCELLOR: Also, there may be costs  
17 associated with going to a foreign country and  
18 collecting that self-bond. So we also require an  
19 estimate of the cost of doing that. And we also  
20 require a separate bond to cover that cost. And that  
21 bond is not a self-bond. It's a bond that we can  
22 quickly cash in to cover the cost of collecting the  
23 foreign self-bond.

24           And the last one just states that the  
25 financial statement shall be in English. We had one

1 foreign corporate guarantee given to us in French.  
2 Well, that doesn't do us a whole lot of good, because  
3 we can't speak French. And we're not going to pay for  
4 having it translated. So we have that there just to  
5 clarify that foreign company financial statements have  
6 to be presented to us in English for us to review and  
7 evaluate them.

8           And Bob Green of Kennecott -- if you have any  
9 questions on how this process has worked -- it's been a  
10 long process, for various reasons. But he's going  
11 through that process right now with a foreign parent  
12 corporate guarantee.

13           MR. SKILBRED: Okay.

14           MR. GREEN: Thank you for recognizing the  
15 British and Australian --

16           MR. CHANCELLOR: They are close enough to  
17 American.

18           CHAIRMAN GINGERY: Any questions? I think  
19 we can move on, then.

20           MR. SKILBRED: Okay.

21           MR. CHANCELLOR: That's it for the coal  
22 portion of it. We'll now move on to the non-coal.  
23 And maybe this would be a good time to vote on the  
24 coal.

25           CHAIRMAN GINGERY: Okay. I would entertain

1 a motion for -- on the non-coal regs.

2 MR. CHANCELLOR: The coal regs.

3 CHAIRMAN GINGERY: The coal regs, before we  
4 move on to the non-coal. So that's in Chapter 1 and  
5 Chapter 11, as has been presented to us.

6 MR. GAMPETRO: So moved.

7 MR. SKILBRED: Seconded.

8 CHAIRMAN GINGERY: A motion has been made  
9 and seconded. Any additions or corrections? Anyone  
10 from the audience have a comment?

11 All right. Some hands did go up. Since it's  
12 a small group I'll take your comment before we vote.

13 MR. GREEN: It's just going to be a brief  
14 comment.

15 I just wanted to voice strong support for  
16 this rule change, in that -- that the bonding  
17 topography out there has become very problematic.  
18 Several sureties have outlined they don't even want to  
19 be in the business any more, as far as underwriting  
20 bonds for big mining industry. It makes things  
21 extremely difficult.

22 The changes that are here in this rule  
23 package are going to make things much more workable,  
24 but also bring it up into the 21st Century, if I might,  
25 in that with all of the potential global-based

1 companies that are involved in mining these days, this  
2 will recognize that. And we greatly appreciate it.

3 CHAIRMAN GINGERY: Okay.

4 MR. GREEN: So I just wanted to express  
5 strong support.

6 CHAIRMAN GINGERY: Thank you for that  
7 comment.

8 MR. GRANT: I'm Matt Grant, Wyoming Mining  
9 Association.

10 I just rise in support of the rules also,  
11 from the mining industry. Like Bob said, the bonding  
12 companies have demonstrated that they want out of the  
13 business. A lot of them have done that by raising  
14 their rates, and it makes it very non-economical, or  
15 not as economical as before, to file those surety  
16 bonds. So the increased rates on the self-bonding --  
17 it's more strict, more stringent financial rules, so it  
18 has to be a very top notch company to meet those rules.  
19 And the Advisory Board recognizes that, with the more  
20 strict rules, it's going to be a very top notch quality  
21 company.

22 Further indication is the mining companies in  
23 Wyoming are -- they are not mom and pop operations,  
24 they are global corporations and it's a global market.

25 So we rise in support of the rules, and I

1 would like to see the rules pass. Thanks.

2 CHAIRMAN GINGERY: Thank you for your  
3 comments.

4 All right. All in favor of the motion  
5 signify by saying "aye".

6 MR. SKILBRED: Aye.

7 MR. GAMPETRO: Aye.

8 CHAIRMAN GINGERY: Aye. Those opposed?  
9 The motion carries unanimously; three.

10 MR. GAMPETRO: As an aside, I would  
11 certainly hope that the State of Wyoming takes into  
12 consideration those companies that are no longer  
13 willing to insure risk situations and not give them  
14 business in low risk situations where they would like  
15 to have it, and move on to companies that are willing  
16 to insure risk and get away from this concept of  
17 insurance companies liking to collect premiums but  
18 don't want to pay for anything.

19 And I would hope that goes on the record and  
20 I would hope somebody takes a look at who does the  
21 State of Wyoming do business with to insure their  
22 vehicles, their property, and so on. And I hope it's  
23 none of these companies that are refusing bond to our  
24 number one industry.

25 CHAIRMAN GINGERY: I think that's an

1 excellent point. And I'm sure that will take a  
2 little work to find -- or to pursue that.

3 Are we ready then for Chapter 6?

4 MR. CHANCELLOR: Chapter 6, the non-coal  
5 regulations.

6 Again, the first change there, the large A  
7 talks about using other rating sources besides Moody's  
8 and Standard & Poor's. Very similar -- identical --  
9 language to the coal regulations.

10 The second rule change to the non-coal is on  
11 page 14. There again, we talk about -- the language  
12 here starts deviating from the language in the coal  
13 rules, just because over the years the coal regulations  
14 and the non-coal regulations have diverged. Because  
15 one's -- one has oversight by the federal government  
16 and one does not. So the language is a little  
17 different.

18 The concept is the same, that we would allow  
19 a foreign parent corporate guarantor or foreign  
20 non-parent corporal guarantor to be self-bonded for an  
21 operation.

22 So we look at that page 14, (xi), we're just  
23 adding that concept into the rules. We already do it,  
24 but we just want to catch it in the rule.

25 Also there in large B we have that language

1 to again recognize that for self-bonds a foreign  
2 corporate -- foreign parent corporate or foreign  
3 non-parent corporate guarantee is allowable.

4           Then (xii) again would look at the -- the  
5 ability to include assets outside the United States in  
6 their calculations. And likewise (xiii) would look at  
7 allowing, when we do have a foreign parent corporate  
8 guarantee or non-parent -- foreign non-parent corporate  
9 guarantee -- what are the requirements to do that.

10           So both (xii) and (xiii) we require those  
11 very same things that we require for the coal  
12 companies; a legal opinion from a firm doing business  
13 in that country, the cost of collecting that bond, a  
14 separate bonding instrument to cover that cost, and an  
15 audited statement in English and not some foreign  
16 language.

17           MR. GAMPETRO: Does most of these other  
18 countries use FASB accounting principles?

19           MR. CHANCELLOR: I don't know.

20           MS. HILL: They vary from country to  
21 country, which is why we added that, because the  
22 particular French statement that we got -- their  
23 accounting is set up completely different. The  
24 rules are different.

25           MR. GAMPETRO: Would they have to totally

1 restate their P & L and balance sheets and so on?

2 MS. HILL: According to our rules, yes.

3 Which may sound like a pain in the tush, but it's a  
4 small fee to be able to sell bonds.

5 MR. GAMPETRO: How else would you  
6 understand what it says?

7 MS. HILL: Especially the one that comes in  
8 French.

9 MR. GREEN: I would just offer that you UK  
10 and Australia do use FASB.

11 MR. GAMPETRO: And they are in the right  
12 language, too.

13 MR. GREEN: Close.

14 MR. GAMPETRO: To a degree.

15 MR. CHANCELLOR: Now, (xiv) is again just a  
16 clarification that a non-parent corporation guarantor  
17 is allowable. Just some clean-up there.

18 CHAIRMAN GINGERY: Okay. Rule change  
19 number 3 on page 16, we struck out the small "b".  
20 Said that if the administrator has authorized a  
21 parent corporate guarantee, the parent corporation  
22 shall supply all information required under  
23 subsection (a)(ii).

24 We felt that was probably covered elsewhere;  
25 doesn't really need to be in the rule. Maybe just be

1 renumbered (c) to (b).

2           The last change to the non-coal rules, number  
3 4 on page 18 is a change in small (c). We added  
4 additional limitations to show that Section 2(a)(xii)  
5 through (xiv) that they have to look at. Probably  
6 should have included -- I think we have it there. On  
7 page 14 and 15 is where you see those items. So you  
8 can refer back there.

9           MR. SKILBRED: Okay.

10           CHAIRMAN GINGERY: I had a question as I  
11 was reading near the end there.

12           Do you have to take this back to the Attorney  
13 General? Or do we have them review it before it goes  
14 on? What's the procedure there?

15           MR. CHANCELLOR: Before we go to the  
16 Council, we do give another shot to the Attorney  
17 General's Office --

18           CHAIRMAN GINGERY: All right.

19           MR. CHANCELLOR: -- and let them make sure  
20 that any changes that happen at the Board level --  
21 that they're still okay with the legality of it.

22           CHAIRMAN GINGERY: Okay. I just wanted  
23 clarification on that.

24           Do you want us to vote on this non-coal --

25           MR. CHANCELLOR: Well, if there are any

1 comments ...

2 CHAIRMAN GINGERY: Okay. Any additional  
3 comments?

4 They look like a satisfied group out there.  
5 Oh, go ahead.

6 MR. GRANT: I just have the same comments  
7 again; the Mining Association rises in support of the  
8 non-coal rules.

9 CHAIRMAN GINGERY: Thank you.

10 MR. GREEN: And the same basic comments of  
11 support for Chapter 6 changes, as well. Thank you.

12 CHAIRMAN GINGERY: Any other comments?

13 All right. I would entertain a motion then  
14 for the non-coal rules that we have just went over.

15 MR. SKILBRED: I move that we adopt the  
16 rules as written in Chapter 6 for the non-coal  
17 program.

18 MR. GAMPETRO: I second it.

19 CHAIRMAN GINGERY: There's a motion and a  
20 second.

21 Any additional discussion or comments?

22 Hearing none, all in favor, signify by saying  
23 "aye".

24 MR. GAMPETRO: Aye.

25 MR. SKILBRED: Aye.

1                   CHAIRMAN GINGERY: Aye. Three to zero.

2 Thank you.

3                   (After further proceedings which were not  
4 transcribed, the meeting was adjourned.)

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REPORTER'S CERTIFICATE

July 26, 2005

I hereby certify that the proceedings I was asked to transcribe are contained fully and accurately in the notes taken by me, and that this is a correct transcript of the same.

Rebecca S. Doby  
Registered Professional Reporter  
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