
STATE OF MONTANA
DEPARTMENT OF COMMERCE

HARD ROCK MINING IMPACT BOARD ORIENTATION

TRANSCRIPT OF PROCEEDINGS

Helena, Montana
Tuesday, September 11, 2018
8:42 - 1:20 P.M.

BOARD MEMBERS PRESENT:

Keith Kelly, Helena, MT
Mark Thompson, Butte, MT
Donna von Nieda, Nye, MT
Jane Weber, Great Falls, MT

DEPARTMENT OF COMMERCE STAFF:

Jennifer Olson
A.C. Rothenbuecher
Anne Pichette
Jodee Prevel
Amy Barnes
Bonnie Martello

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2	<p>1 MS. OLSON: We can get started with the</p> <p>2 official transcript. We have a court reporter here,</p> <p>3 but just know, please ask any questions, we want to</p> <p>4 keep this as much as a learning experience for you.</p> <p>5 And then also if there's any questions that we can't</p> <p>6 answer, we'll definitely help you along the way and</p> <p>7 find out the answer to any of your questions.</p> <p>8 So with that, I'll hand it over to Anne.</p> <p>9 MS. PICHETTE: Good morning, everyone. This</p> <p>10 is the orientation. Just for the record, we're going</p> <p>11 to start the meeting with a roll call, even though we</p> <p>12 can see all of you here, in case anyone has joined us</p> <p>13 on the phone, we want to make sure that they have a</p> <p>14 sense of who all is here and who they are talking to</p> <p>15 if they have questions on the phone today, too.</p> <p>16 So, Keith Kelly?</p> <p>17 MR. KELLY: Anne?</p> <p>18 MS. PICHETTE: Present?</p> <p>19 MR. KELLY: I'm here.</p> <p>20 MS. PICHETTE: Donna von Nieda?</p> <p>21 MS. VON NIEDA: Von Nieda, present.</p> <p>22 MS. PICHETTE: Von Nieda, thank you.</p> <p>23 MS. VON NIEDA: Yes.</p> <p>24 MS. PICHETTE: Mark Thompson?</p> <p>25 MR. THOMPSON: Present.</p>	4
3	<p>1 MS. PICHETTE: Jane Weber?</p> <p>2 MS. WEBER: Present.</p> <p>3 MS. PICHETTE: Thank you. And then since</p> <p>4 some of our board members are new and some of our</p> <p>5 staff members are new, we thought we would like to</p> <p>6 take a few moments and have each of you tell us a</p> <p>7 little bit about yourself, introduce yourselves to</p> <p>8 your fellow board members and to the staff here.</p> <p>9 Would you like to start, Mark?</p> <p>10 MR. THOMPSON: Do I have to? My name is</p> <p>11 Mark Thompson, I'm the vice president of</p> <p>12 Environmental Affairs at Montana Resources, which is</p> <p>13 the copper mine in Butte. I'm also the president of</p> <p>14 the Montana Mining Association. I'm happy to be</p> <p>15 here.</p> <p>16 MS. PICHETTE: Thank you.</p> <p>17 MS. WEBER: And I'm Jane Weber and I'm</p> <p>18 retired Forest Service 31 years, so I have a</p> <p>19 forester's background from the University of Montana.</p> <p>20 And I've been a county commissioner in Cascade County</p> <p>21 for eight years and I'm very involved with the EPA</p> <p>22 Superfund sites over in the Great Falls area just</p> <p>23 because of my background, I've taken an interest in</p> <p>24 that and taken care of the lead of the county.</p> <p>25 So it is my pleasure to be here. This is</p>	5
	<p>1 the first time I'm getting orientation, so it's going</p> <p>2 to be great.</p> <p>3 MR. KELLY: Good morning, my name is Keith</p> <p>4 Kelly, I'm trying to go back to the first year, I</p> <p>5 guess. I retired, really, I moved back from</p> <p>6 Washington, D.C. after working for President Obama on</p> <p>7 Veterans Employment Training Service, was my last</p> <p>8 stint in Washington, D.C.</p> <p>9 As being an old Vietnam vet, they brought me</p> <p>10 back there, or somebody did, two and a half, three</p> <p>11 years. And so I retired from that. And then prior</p> <p>12 to that, of course, worked in Governor Schweitzer's</p> <p>13 administration, and I even go back far enough to</p> <p>14 Governor Schwinden's administration.</p> <p>15 And here on this, when the call was made to</p> <p>16 me, I had the good fortune prior to, the federal</p> <p>17 Whitehouse made me get off of it, but now I'm back</p> <p>18 on, the Bank of the Rockies board of directors, which</p> <p>19 is, their headquarters out in White Sulphur Springs,</p> <p>20 which is the community that may or may not be</p> <p>21 impacted coming down the road on hard rock mining.</p> <p>22 So my representation here, I do go to the</p> <p>23 bank board meetings monthly and kind of know</p> <p>24 something about banking, not a lot, but some. And</p> <p>25 I'm really happy to be here, look forward to this.</p>	
	<p>1 MS. VON NIEDA: Hi, my name is Donna von</p> <p>2 Nieda. As you can see, I hold the seat that is for a</p> <p>3 school board trustee. I've been a member of the</p> <p>4 Absarokee Public School District school board for</p> <p>5 about 12 years and we have, of course, a very keen</p> <p>6 interest in hard rock mining impact for not only for</p> <p>7 our county, but our school district.</p> <p>8 And so it has been my pleasure to serve on</p> <p>9 this board for a few years and I'm very grateful and</p> <p>10 glad to be here.</p> <p>11 MR. KELLY: And if I could ask a question.</p> <p>12 MS. VON NIEDA: Yes.</p> <p>13 MR. KELLY: Since I came through Red Lodge</p> <p>14 last night and down there, somebody asked a question,</p> <p>15 do you have authority to paint that whole street of</p> <p>16 Absarokee with all the paints for your homecoming</p> <p>17 game or something?</p> <p>18 MS. VON NIEDA: This is our homecoming</p> <p>19 week.</p> <p>20 MR. KELLY: One end of the town to the other</p> <p>21 is painted and my wife asked, you know, do you have</p> <p>22 permission from the highway department to do that or</p> <p>23 not?</p> <p>24 MS. VON NIEDA: No, we have never gotten</p> <p>25 permission, and if you had gone to Nye and Fishtail,</p>	

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6	<p>1 you would have seen that --</p> <p>2 MR. KELLY: Carried out there, too?</p> <p>3 MS. VON NIEDA: Yeah, it depends on if there</p> <p>4 are kids who play, they have paws out there, too. So</p> <p>5 yes, our, this is our homecoming week, so, yes.</p> <p>6 MR. KELLY: Boy, that whole town was painted</p> <p>7 from one end to the other.</p> <p>8 MS. VON NIEDA: It is painted, yeah.</p> <p>9 MS. OLSON: Well, now I have to ask, what is</p> <p>10 the mascot?</p> <p>11 MS. VON NIEDA: Huskies. And it's orange</p> <p>12 and black. So there's paw prints and black and</p> <p>13 orange all over the place.</p> <p>14 MS. OLSON: So maybe we'll share just a</p> <p>15 little bit about ourselves from staff. A. C., do you</p> <p>16 want to go?</p> <p>17 MS. ROTHENBUECHER: Sure. I'm A. C.</p> <p>18 Rothenbuecher, Marty is head bureau chief, but that's</p> <p>19 who I speak with, bureau chief. We've been through a</p> <p>20 reorg in the community development division. So I'm</p> <p>21 the operations manager responsible for supporting</p> <p>22 operations of the division as a whole and supervising</p> <p>23 our programmatic staff.</p> <p>24 We work on planning, infrastructure,</p> <p>25 community vitality, housing programs, and then our</p>	8	<p>1 say, than regularly, just simply based on need, and</p> <p>2 then also based on, you know, whenever there's an</p> <p>3 action or activity happening.</p> <p>4 So, but know that we're all here to help and</p> <p>5 support you, so if you ever have questions, we are</p> <p>6 happy to answer any of them, so.</p> <p>7 Jodee, do you want to introduce yourself?</p> <p>8 MS. PREVEL: I'm Jodee Prevel, I'm the</p> <p>9 administrative support supervisor and administrative</p> <p>10 assistant to the board. I've only been at Department</p> <p>11 of Commerce for about three months now, so this is</p> <p>12 all very new to me, but I'm ready to learn.</p> <p>13 MS. PICHETTE: Morning, everyone. I'm Anne</p> <p>14 Pichette and I am your administrative officer. So</p> <p>15 you can just reach out to me any time you have</p> <p>16 questions of the board or just think of anything you</p> <p>17 need and I will do my best to get you an answer.</p> <p>18 I've been in this position here as a staff</p> <p>19 to the Coal Board and the Hard Rock Mining Impact</p> <p>20 Board about a year and a half, but I've been at</p> <p>21 commerce for almost six. So I'm very excited to be</p> <p>22 here and I'm so glad to meet you all face to face</p> <p>23 instead of just on the phone and e-mail.</p> <p>24 MS. OLSON: Did you want to introduce</p> <p>25 yourself?</p>
7	<p>1 board administrative is attached to the Coal Board</p> <p>2 and Hard Rock Mining Board. I've been at the</p> <p>3 Department of Commerce for less than a year and a</p> <p>4 half. So this is also an opportunity for me to learn</p> <p>5 as well.</p> <p>6 MS. OLSON: So my name is Jennifer Olson,</p> <p>7 I'm the community development division administrator.</p> <p>8 I've worked for commerce for about 14 years. I've</p> <p>9 had the pleasure of working in a variety of</p> <p>10 different programs as the program specialist and the</p> <p>11 program manager as the bureau chief and now as the</p> <p>12 division administrator.</p> <p>13 So I have enjoyed my time and kind of get</p> <p>14 addicted to the work that we do because it helps</p> <p>15 communities in so many different ways, so it's pretty</p> <p>16 exciting to watch all of that development and growth</p> <p>17 and community strive.</p> <p>18 But on a personal note, I have three kids,</p> <p>19 all of which are at home for a moment before they</p> <p>20 head off back to college. And actually my daughter</p> <p>21 is just home actually moving, graduated from U of M</p> <p>22 and she moved out of state, came back, so she is</p> <p>23 trying to get her feet underneath her, but, anyways.</p> <p>24 So it's really great to have you all here.</p> <p>25 This board tends to meet more irregularly, I would</p>	9	<p>1 MS. BARNES: Sure. I'm Amy Barnes, I am the</p> <p>2 legal counsel for the Hard Rock Mining Impact Board,</p> <p>3 but that's not all I do. I am actually legal counsel</p> <p>4 for the Department of Commerce, and then the Coal</p> <p>5 Board. I give legal advice to the Board of</p> <p>6 Investments, Montana Heritage Commission, I have got</p> <p>7 a lot of different roles, so it is pretty fun.</p> <p>8 But I've been at commerce for about three</p> <p>9 years now and I am excited to walk you guys through</p> <p>10 this impact plan process today.</p> <p>11 MS. MARTELLO: And I'm Bonnie Martello and</p> <p>12 I'm the paralegal here at the department, support</p> <p>13 Amy in her endeavors of the board and all of our fun</p> <p>14 that we have with those. And I've been at Department</p> <p>15 of Commerce since 2011, so, yeah, we're here to</p> <p>16 help.</p> <p>17 MS. OLSON: All right. So, like I said,</p> <p>18 we'll kind of keep this low key so, please, stop,</p> <p>19 interrupt us, ask questions as we go through.</p> <p>20 There's no, you know, so pressure is off today.</p> <p>21 The only decision you have to make today is</p> <p>22 when is the next meeting, so that's a good thing.</p> <p>23 But I think if there isn't anything else, we'll move</p> <p>24 to the next agenda item.</p> <p>25 MS. PICHETTE: Great. Thank you. And I</p>

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<p>10</p> <p>1 notice we have quite a few members of the public with 2 us today. So for the start of our orientation, we 3 just want to give an opportunity for public comment, 4 if anybody here wants to make public comment. We 5 would just ask that for the benefit of the folks who 6 might be on the phone, if you would state your name 7 clearly and spell it if it's complicated. And you 8 could come up to the podium if you like, if 9 anybody --</p> <p>10 MS. DAVEY: Go up to the podium?</p> <p>11 MS. PICHETTE: If you want to do any public 12 comment, you have an opportunity.</p> <p>13 MS. DAVEY: I'm Maureen Davey, commissioner 14 in Stillwater County. We are home of the Sibanye 15 Stillwater Mine. And I'm very glad to see that you 16 are meeting again. I went over your past minutes 17 from a couple of years ago and I said the same 18 thing.</p> <p>19 It's very important to us that you meet at 20 least once a year so you can do some of those duties 21 that we need, the hard rock mines, need you to take 22 care of. And new board members and, Keith, Maureen 23 Davey from Columbus, we have known each other for 24 quite a while.</p> <p>25 MR. KELLY: Oh, yeah. Sure, now it's coming</p>	<p>12</p> <p>1 very limited, to kind of help out with special 2 projects and like today, because of my natural 3 interest in the hard rock plan, and this board.</p> <p>4 And I would just like to make a comment to 5 the board members, and those of you that have been on 6 the board, you know and understand this, but for the 7 new members, while it may not seem like you have a 8 whole lot to do, when a plan is submitted, what you 9 do is just critically, critically important.</p> <p>10 Because that sets the whole stage for the 11 tax base sharing and the distribution of the metal 12 mines license tax and all of those things that is 13 critically important to those counties that are 14 affected.</p> <p>15 So don't think you're on a do-nothing board 16 just because you don't meet a whole lot, but when you 17 do, you're going to have some very, very important 18 decisions to make. Thank you.</p> <p>19 MR. WALLACE: Bill Wallace, Sweetgrass 20 County commissioner, also chairman of the MACo Hard 21 Rock Mining Board Committee, just here to support you 22 guys and tell you the work you do is very important 23 as Harold said, keep up the good work.</p> <p>24 MR. JOHNSON: I guess since we're doing 25 introductions, I'm Dave Johnson, I'm the</p>
<p>11</p> <p>1 back.</p> <p>2 MS. DAVEY: But glad to be here, glad to see 3 that you are meeting and I'm going to say we have the 4 best hard rock mine in the state.</p> <p>5 MS. PICHETTE: And just for the benefit of 6 everyone here, we want to make sure you all know that 7 there is a sign-in sheet up front here, and there is 8 a copy of the binder that the board will be going 9 through today for their orientation. If you all want 10 to look through that, make sure, that you're welcome 11 to.</p> <p>12 MR. BLATTIE: Morning, I'm Harold Blattie, 13 it's B-L-A-T-T-I-E, and I'm a former Stillwater 14 county commissioner. And in that capacity, 15 participated in the amendments to the Stillwater Mine 16 for the thousand ton per day.</p> <p>17 And then as an adjoining county, neighboring 18 county, affected county, I also participated to a 19 more limited extent in the East Boulder plan. So one 20 of the few people left around somewhat available that 21 has had some hands-on experience in going through 22 this process.</p> <p>23 So I'm also retired executive director of 24 the Montana Association of Counties and got brought 25 back into service on a very limited basis, emphasis</p>	<p>13</p> <p>1 environmental manager of the Stillwater Mine. So I'm 2 here representing the mine just to get a kickoff and 3 hear how things progress as we start this, this new 4 board and kickoff session. So, thank you, appreciate 5 the opportunity to be here.</p> <p>6 MS. PICHETTE: Well, thank you everyone. If 7 nobody --</p> <p>8 MS. DAVEY: Anne, could I say one more 9 thing?</p> <p>10 MS. PICHETTE: Yes.</p> <p>11 MS. DAVEY: The previous board very 12 diligently was going over the Guide to the 13 Implementation of the Hard Rock Mining Impact Act, 14 and I don't think they quite finished it, but I hope 15 that it does get finished and that the efforts on 16 it, several of these board members that are still 17 here, continues.</p> <p>18 MS. PICHETTE: So, yes, if nobody has any 19 questions as we start, we'll just start going through 20 your binder here, after the agenda, this is the kind 21 of gray one first.</p> <p>22 We just have a table of contents here so you 23 have an idea of what we are going to talk about 24 today. So think in your mind any questions you might 25 have, we want to make sure everybody walks away today</p>

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<p>14</p> <p>1 feeling comfortable about their new board membership 2 positions. 3 And to start here with Tab 1, just for all 4 of your reference, we just have the contact 5 information for everyone here. If sometime today you 6 would take a moment and look at your own information 7 and let me know if anything has changed, is outdated 8 or is incorrect, I would appreciate that. That way 9 we make sure we get all of your information to you in 10 a timely fashion. And then if you want to turn to 11 Tab 2, now that we know how to reach you, this is how 12 you reach us. 13 So everyone who is here today who you may 14 want to communicate with, we've given you e-mail and 15 phone numbers here. Probably the most important 16 e-mail is the one at the bottom, which is our shared 17 e-mail address. That way you can reach any and all 18 of us, whoever is able to answer fastest. 19 But we also wanted to make sure as your 20 staff that we gave you all of our direct contact so 21 we can get answers, too, as quick as possible. So 22 please hold on to that, use it if you need. 23 If you have questions after today, you can 24 e-mail any of us and give us a call and we're here to 25 help you through all of this process and through each</p>	<p>16</p> <p>1 participation law and the public records law. 2 So as you can see, there's four different 3 places that we look to see how boards operate and how 4 that communication occurs amongst between board 5 staff, board members and the public. 6 So as you can see at the very beginning, 7 Montana Constitution Article II, Section 8, talks 8 about the right of participation. So the public 9 has the right to expect that the government will 10 allow and promote public opportunities for 11 participation and also provide a reasonable 12 opportunity for that. 13 So part of what we do is try to ensure, or 14 what we actually do ensure, that the agenda is 15 announced; that if there's a decision about when that 16 a meeting is going to occur, that we put it on the 17 state eCalendar, we send it out to our doc list serve 18 or any individual that is interested as well as 19 making sure that you all have it. 20 So this is kind of a unique situation, I 21 would say, from the orientation perspective because 22 the chair, under the statutes for the Hard Rock 23 Mining Impact Board, there are three ways in which a 24 board meeting can be called. 25 It can be called by a forum or the majority</p>
<p>15</p> <p>1 of your meetings, so please don't hesitate to contact 2 us. 3 Next, you'll see on Tab 3, we have a few 4 different board procedures, some information we 5 want to make sure you have and feel comfortable, and 6 A. C. has a presentation she's going to give about 7 open meetings -- or Jennifer, I do apologize, 8 Jennifer is going to talk to us about open meetings 9 and your responsibilities. 10 MS. OLSON: Perfect. So if we want to just 11 start with that tab. So I'm just going to go through 12 some, some basic information about open public 13 meetings and public participation and public records, 14 there's a couple of dry things in here, but I think 15 good information, particularly because of the, not 16 only because the board's responsibility is to ensure 17 that the public is engaged, but then also how do we 18 records manage that and also how do we make sure that 19 the public is always engaged regardless of the 20 communication that it has that occurs. So we'll go 21 through some basics here, but happy to talk through 22 any questions. 23 So basic information, this all comes from 24 the Montana Constitution, open public meeting laws 25 that is found appropriate to state law, the public</p>	<p>17</p> <p>1 membership. It also can be called by the chair or 2 there could be another reason to be calling that. So 3 with an orientation, we called this meeting because 4 we wanted to make sure, number one, that you all were 5 educated on what the responsibilities were, but then 6 also there's no chair at this point. 7 So next meeting, that will be an agenda item 8 that be will taken care so that there is a chair that 9 could effectively carry out that responsibility, but 10 really to ensure that that right of participation can 11 be carried out effectively. 12 Also Article II, Section 9 is the right to 13 know. So when board communications happen, the 14 public also has a right to know in order to ensure 15 that they have opportunity to be back or to provide 16 feedback or an interest in the information that may 17 be discussed or exchanged. And so Montana 18 Constitution clearly establishes that there is an 19 ability for that information to be made available. 20 The only thing that there is an exception to 21 is, if there's an individual privacy concern. So, 22 you know, while the board is administratively -- so, 23 excuse me, the board is administratively attached to 24 the Department of Commerce, provides staff, so you're 25 not involved in the personnel matters, but that's a</p>

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18	<p>1 good example of a reason that there would be privacy</p> <p>2 concerns because of personnel matters. So doesn't</p> <p>3 necessarily come up very often.</p> <p>4 So meeting, Montana Open Public Meeting Law</p> <p>5 defines the term "meeting" as any convening of a</p> <p>6 quorum. So right now we have a quorum of a five</p> <p>7 board membership. Three would establish the quorum.</p> <p>8 So right now we're having a meeting even though it is</p> <p>9 an orientation meeting.</p> <p>10 The constitutional -- or the constituent</p> <p>11 membership of the public agency, which is described</p> <p>12 further in 2-3-203, which is that quorum. And also</p> <p>13 it can include not only the physical meeting of</p> <p>14 people, so this board being here at the same time,</p> <p>15 same location, establishes a quorum, but that can</p> <p>16 also be determined electronic.</p> <p>17 So if there is an e-mail correspondence that</p> <p>18 would be, you know, everybody is on, and they all</p> <p>19 start to talk within that e-mail correspondence or</p> <p>20 chain, that establishes a meeting. So when the board</p> <p>21 staff set a meeting, you'll notice that we say just,</p> <p>22 we're just going to give you information.</p> <p>23 That sending the information does not</p> <p>24 constitute a meeting. However, your reply all back,</p> <p>25 if you were to reply back to everybody, would</p>	20	<p>1 the smallest ministerial act.</p> <p>2 So that's why we make sure that, hey, we're</p> <p>3 going to notice everybody, even an orientation</p> <p>4 setting. We want to make sure that everybody has the</p> <p>5 right to participate.</p> <p>6 MS. VON NIEDA: Do we have a list, because I</p> <p>7 don't think our county commissioners were aware about</p> <p>8 the meeting?</p> <p>9 MS. OLSON: So we have a list serve. So a</p> <p>10 couple of things that we do is, we advertise that on</p> <p>11 the state eCalendar and then we send it out via on</p> <p>12 our hard rock mining impact list, so Anne can</p> <p>13 definitely look to make sure.</p> <p>14 But anybody can say, hey, I'd like to be</p> <p>15 part of that and we can definitely add to the</p> <p>16 commissioners, yeah, we want to make sure that you</p> <p>17 know about that, too.</p> <p>18 And we can definitely make those not on</p> <p>19 that -- or Stillwater Mine, we're happy to make sure</p> <p>20 that you're on there. If there is a specific e-mail</p> <p>21 or general e-mail or even three different e-mails, we</p> <p>22 can add them all.</p> <p>23 MS. ROTHENBUECHER: There are two places on</p> <p>24 our website under the Hard Rock Mining Impact Board</p> <p>25 under board meetings, and then there's also, the</p>
19	<p>1 constitute a meeting. So we try to send information</p> <p>2 one way, which is here is the meeting or here is the</p> <p>3 agenda or here is the location, logistics, or here's</p> <p>4 the website you can find all the information. That</p> <p>5 doesn't establish that meeting.</p> <p>6 But, so we always try to make sure that</p> <p>7 you're aware that when you reply all, that could be a</p> <p>8 violation of open meeting law. Any questions about</p> <p>9 that? I want to make sure, and we'll go into some</p> <p>10 other, other conversations and examples here.</p> <p>11 So a public agency, which is Department of</p> <p>12 Commerce, is any public or governmental body bureau,</p> <p>13 board, commission, agency of the state, or any</p> <p>14 organization or agency supported in whole or in part</p> <p>15 by public funds or expending of the funds.</p> <p>16 So the Hard Rock Mining Impact Board</p> <p>17 falls squarely within that definition. So if not</p> <p>18 only -- you don't, you not only apply to the</p> <p>19 definition of meetings, but then you also apply to</p> <p>20 public agency.</p> <p>21 And the Montana Attorney General has held</p> <p>22 that the Constitution requires that any meeting of a</p> <p>23 public agency, so of the Hard Rock Mining Impact</p> <p>24 Board, be open to the public, whether the matter</p> <p>25 being considered involves large issues of policy or</p>	21	<p>1 website is kind of being revamped, there's also</p> <p>2 meeting trainings and events for the entire division</p> <p>3 and you will also see that we have put the call-in</p> <p>4 number on that so folks who wanted to call in as</p> <p>5 well.</p> <p>6 MS. OLSON: Very great question. So there</p> <p>7 is some basic requirements when it comes to open</p> <p>8 public meetings. But there is, we hold regular</p> <p>9 meetings with notice to the public. We follow</p> <p>10 internal operating procedures with respect to notice</p> <p>11 and participation.</p> <p>12 So that what we just went through and</p> <p>13 explained is the same thing that we would do with</p> <p>14 other boards, particularly our Coal Board, because</p> <p>15 we're following that same standard procedure, so we</p> <p>16 want to make sure that the public is used to, keep</p> <p>17 current communication about board meetings from</p> <p>18 commerce, that we are following that same protocol.</p> <p>19 Also, those meetings must be open to the</p> <p>20 public. So one of the things we try keep the door</p> <p>21 open and make sure that people know that it is,</p> <p>22 you're definitely welcome to come in, not only the</p> <p>23 notification, but ensuring that there's</p> <p>24 accommodations. So typically in our notices we'll</p> <p>25 say, if there's an accommodation that you need, let</p>

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<p>22</p> <p>1 the department know.</p> <p>2 MS. WEBER: Jennifer, can I just ask, how</p> <p>3 far in advance will you typically notice a meeting?</p> <p>4 MS. OLSON: So we're required to notice them</p> <p>5 at least, it's in here, but my recollection is that</p> <p>6 we have to notice them at least 72 hours in advance.</p> <p>7 However, we try to get them out at least a week in</p> <p>8 advance so that there's a little bit more time</p> <p>9 available for folks.</p> <p>10 However, I'll note that because if there is</p> <p>11 something that comes up and the board is saying, hey,</p> <p>12 the chair needs to have you guys meet and this is,</p> <p>13 you know, we got to call a meeting because we got to</p> <p>14 take an action or make a decision on something, then</p> <p>15 that could also be why there's a more restricted time</p> <p>16 frame, but, yeah, at a minimum we have to follow the</p> <p>17 law.</p> <p>18 MR. KELLY: Can I ask a question here? If</p> <p>19 I'm not available or we're out and about on a short</p> <p>20 notice and that, will a telephone call in constitute</p> <p>21 presence in the meeting?</p> <p>22 MS. OLSON: Yeah. Great question, yeah. So</p> <p>23 a physical presence is not required to be, to</p> <p>24 establish a quorum, so can be a conference call or a</p> <p>25 webinar or any sort or other electronic means that</p>	<p>24</p> <p>1 the board is looking for some direction</p> <p>2 specifically about an issue for legal counsel to be</p> <p>3 present.</p> <p>4 So we'll talk a little, we'll go through,</p> <p>5 Amy will go through the hard rock mining impact. So</p> <p>6 Harold had talked about an amendment, you know,</p> <p>7 there's a responsibility that the board has when an</p> <p>8 amendment comes up.</p> <p>9 And so the board might say, hey, I'd like</p> <p>10 to call legal staff just to get some idea of</p> <p>11 what -- that orientation was two years ago, and I</p> <p>12 can't quite remember what the orientation packet</p> <p>13 said about amendment, so what is my responsibility.</p> <p>14 So you can call Amy and directly ask.</p> <p>15 You also might say as a board, you know, we</p> <p>16 would like to have legal counsel come and just kind</p> <p>17 of walk through that process with us at the next</p> <p>18 time that we meet.</p> <p>19 Legal counsel might show up in person or</p> <p>20 might be available via conference call or could send</p> <p>21 you a memo, too. So there's a lot of different ways</p> <p>22 that you could be interacting with legal staff.</p> <p>23 And there are some things, particularly from</p> <p>24 a public process when there's a, we'll go through the</p> <p>25 act again, when an impact plan is submitted and</p>
<p>23</p> <p>1 you can fully participate, as well as the public. We</p> <p>2 offer opportunity for those folks that are chiming in</p> <p>3 in the conference call, a webinar, to also</p> <p>4 participate.</p> <p>5 So there are some exceptions though, again,</p> <p>6 individual privacy, so -- excuse me. So if there is</p> <p>7 something that comes up regarding individual privacy,</p> <p>8 and if the presiding officer determines that the</p> <p>9 demands of the individual privacy exceeds the merits</p> <p>10 of public disclosure, but minutes still must be</p> <p>11 taken.</p> <p>12 So the right of individual privacy may be</p> <p>13 waived, but the individual about whom the</p> <p>14 discussion pertains and in that event, the meeting</p> <p>15 must be open.</p> <p>16 MS. WEBER: Jennifer, I'm sorry to ask</p> <p>17 another question.</p> <p>18 MS. OLSON: Yeah, please do.</p> <p>19 MS. WEBER: Are counsel normally at the</p> <p>20 meetings?</p> <p>21 MS. OLSON: Depends upon the -- not</p> <p>22 necessarily.</p> <p>23 MS. WEBER: Okay.</p> <p>24 MS. OLSON: Depends upon the agenda and what</p> <p>25 meeting needs are there. Also, it depends upon if</p>	<p>25</p> <p>1 there's a hearing involved that happens at the local</p> <p>2 government level, to ensure that there's</p> <p>3 participation.</p> <p>4 What you'll kind of see is this little bit</p> <p>5 of reversal. Legal staff will make sure that,</p> <p>6 particularly Bonnie, who can help to make sure that</p> <p>7 we're walking through the hearing process because</p> <p>8 there is specific things that are called out to</p> <p>9 ensure that we have met all the criteria.</p> <p>10 So then she, to support Amy, will come</p> <p>11 through and say, okay, these are the specific things</p> <p>12 that we need and then Amy will definitely be more</p> <p>13 engaged. But that happens only, well, only when</p> <p>14 there's really a necessitated need, otherwise we have</p> <p>15 the four us to help you.</p> <p>16 MS. WEBER: Thank you.</p> <p>17 MS. OLSON: Yeah, go ahead.</p> <p>18 MS. VON NIEDA: I know this is just a</p> <p>19 general thing, but at a later point, I think it would</p> <p>20 be good to address when we talk about regular</p> <p>21 meetings for the Hard Rock Mining Impact Board, I</p> <p>22 believe the act specifies that we at least meet once</p> <p>23 a year to approve the disbursements from the</p> <p>24 Department of Revenue.</p> <p>25 And when we have, such as happened in the</p>

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<p style="text-align: center;">26</p> <p>1 last couple of years where, and happened in the 2 past where we're not meeting, how can we address 3 that. Because I think, while it is great that, 4 quote, "nothing happened" with regard to 5 misappropriation of funds, I think that it is not in 6 keeping with the spirit of the act. 7 MS. OLSON: So we can, we can definitely 8 walk through that, that statute. Amy is going to be 9 walking through some things. 10 MS. VON NIEDA: Okay. 11 MS. OLSON: Actually, it's funny that you 12 bring that up, we had, Amy and I had had that 13 discussion, so I think that that's a great question 14 that I would love to have her chime in on. 15 MS. VON NIEDA: Right. 16 MS. OLSON: And we'll go through some of the 17 other things that the department does do as part of 18 the statute as well. 19 Montana Public Participation in Governmental 20 Operations Act can kind of, continuing on this, the 21 act applies to governmental agencies defined as any 22 board, bureau, so this is getting again that this 23 does apply to the Hard Rock Mining Impact Board as 24 well other boards that are administratively attached 25 to the Department of Commerce and other state</p>	<p style="text-align: center;">28</p> <p>1 noticed on the next meeting agenda or action could be 2 taken. 3 So I would encourage you, particularly as 4 the next agenda is set to, you know, obviously let 5 other board members know and let Anne know what 6 specific items you feel like are important to be at 7 the next meeting to be sure that the public is aware 8 so that they can fully engage in that as well. Any 9 question on that? 10 So no explicit time requirements, but we 11 must give reasonable notice on the actions that are 12 of significant interest to the public. So the 13 Constitution states that any doubt as to whether an 14 action is of significant interest to the public, 15 should be resolved in favor of increased public 16 participation. So any non-ministerial decision or 17 action that has meaning to or affects a portion of 18 the public requires notice and an opportunity to 19 participate. 20 So you can see that there's, there's a lot 21 of latitude or a lot of white-bread that is given as 22 to what is the definition of public engagement when 23 it comes to those significant actions. 24 So by default, if you are questioning of 25 significant, I would say it's probably significant to</p>
<p style="text-align: center;">27</p> <p>1 agencies. And the Governor's policy is to provide as 2 much public participation as possible in all of the 3 board meetings and events. 4 So not only as the appointees from the 5 Governor on this board, but then also as staff and 6 the executive, we try to make sure that that does 7 happen to ensure as much participation and public 8 engagement. 9 So the agency may not take an action or on 10 any matter discussed that is of significant interest 11 to the public unless that matter is noticed, included 12 on the agenda and public comment has been allowed on 13 that matter. 14 So in keeping with that theme of public 15 engagement, so when we look at the agenda for today, 16 you can see that there was, there really is only one 17 action. And the reason that is, is because -- well, 18 first of all, we didn't have a chair to help set up 19 what the agenda item should be, so really just an 20 education. But then also wanted to make sure that we 21 had the next meeting set up so that we can start to 22 meet the needs and responsibilities of the board. 23 If there was something discussed today, that 24 would be the board's opportunity to say we'd like to 25 have more discussion on this and then it would be</p>	<p style="text-align: center;">29</p> <p>1 ensure that it's part of that agenda, that allows 2 more opportunity for conversation, feedback from the 3 public and input. 4 So in an emergency situation, if it's 5 affecting public health or safety, that could be a 6 reason why the board needs to make a decision right 7 away. Also to maintain or protect the interests of 8 the agency. 9 Maybe if that's filing a lawsuit or becoming 10 a party to an administrative proceeding, that could 11 be another reason why there's limited public 12 participation. 13 So that would be something that definitely 14 we want to still take minutes on, follow up to make 15 sure that we're able to capture the intent of why it 16 met that exception. And, lastly, if there's just 17 purely ministerial discretion decisions. 18 For instance, I think, you know, if there's 19 something right at the meeting and you are like, 20 gosh, I need some tablets or something, can we just 21 make sure that we have tablets at the meeting to 22 write on. If that's something that the board needs, 23 we can definitely provide that. The public isn't 24 really going to, you know, such as a minute thing and 25 it helps you to do your job, we want to help you do</p>

<p>30</p> <p>1 that, so.</p> <p>2 So we have some department guidelines as</p> <p>3 well. So not only do we look at the Constitution of</p> <p>4 the public meeting law, but the department also</p> <p>5 establishes from that consistency perspective some</p> <p>6 guidelines on public participation.</p> <p>7 So informational materials are provided at</p> <p>8 the earliest possible opportunity for the public to</p> <p>9 go to the website that A. C. was talking to ensure</p> <p>10 that they can see all of the information that you all</p> <p>11 are going to see.</p> <p>12 Also provide a copy of the orientation</p> <p>13 binder here for the public to see everything that you</p> <p>14 are seeing as well. In case there is something from</p> <p>15 a length of some sort of technical document that</p> <p>16 can't put on the website or there is something that</p> <p>17 includes PII, personal identifiable information, or</p> <p>18 sensitive data, we will redact that or not make that</p> <p>19 available so that we can protect the interests of</p> <p>20 whatever organization or entity or individual is</p> <p>21 providing that.</p> <p>22 So that includes something that they would</p> <p>23 want to be, the public would be able to find that's</p> <p>24 easily accessible and that would be interested to all</p> <p>25 individuals.</p>	<p>32</p> <p>1 that in a summary fashion.</p> <p>2 So, notification. We maintain a list of</p> <p>3 interested parties and organizations that the</p> <p>4 electronic list that I was speaking of. Anybody can</p> <p>5 ask to be included as part of that list, so it</p> <p>6 doesn't have to be approved or anything. We still</p> <p>7 have to follow federal law. So they have to opt in</p> <p>8 to all of our e-mail systems and we send them an</p> <p>9 e-mail that they can document that.</p> <p>10 We're actually changing to a new e-mail</p> <p>11 system to allow that to be easier because the</p> <p>12 current e-mail system actually is a little bit more</p> <p>13 restrictive. So we're going to be changing things in</p> <p>14 the next, well, before the end of the year, so the</p> <p>15 next three to four months to go to what we call gov</p> <p>16 delivery, and so that will help hopefully make sure</p> <p>17 that everybody is on a better e-mail system all of</p> <p>18 those notifications.</p> <p>19 What we have been seeing is that some of</p> <p>20 our, what we call our e-mail lists have been going to</p> <p>21 spam or get lost somewhere along the way and then the</p> <p>22 recipients aren't getting that. And also if they opt</p> <p>23 out twice, we can't ever add them again with our</p> <p>24 e-mail.</p> <p>25 So if I say, okay, so, Jennifer, Jennifer</p>
<p>31</p> <p>1 If, in the course of your work on the board,</p> <p>2 you find that there is something in the binder that</p> <p>3 wasn't available on the website or via e-mail, let us</p> <p>4 know. We want to make sure that we're helping you</p> <p>5 follow these laws as well. And we pretty much</p> <p>6 provide for the hard rock everything that you have</p> <p>7 here on our website and or make it available here.</p> <p>8 So we're actually increasing our</p> <p>9 technology advancements. So we put our agenda on the</p> <p>10 website right now, so we are working to put more of</p> <p>11 the orientation binder and everything else like that</p> <p>12 on the website so that more people can see what</p> <p>13 we're, what we're doing and what's going on. And</p> <p>14 we're following suit, actually increasing how we are</p> <p>15 doing Coal Board as well to that end. So we're</p> <p>16 learning, we're going and we're improving, slowly,</p> <p>17 but we're getting there.</p> <p>18 So the other thing is, is we want to make</p> <p>19 sure that the public can make informal and</p> <p>20 constructive contributions. So hearing it and seeing</p> <p>21 it and being able to read it, it is important to</p> <p>22 having that information available online is part of</p> <p>23 that public participation that the department likes</p> <p>24 to carry out. Also, if there is anything that is</p> <p>25 somewhat complex or technical, that we can provide</p>	<p>33</p> <p>1 Olson, I share my e-mail address with Anne and then I</p> <p>2 say, you know what, I can't, I don't know what this</p> <p>3 is about, I'm going to opt out and then I am no</p> <p>4 longer able to add that e-mail back in at the</p> <p>5 department to ensure that we received those</p> <p>6 communications.</p> <p>7 So we're changing our system. So it might</p> <p>8 be something where that might be a little bit of a</p> <p>9 problem for if the commissioners, it goes into spam</p> <p>10 or goes somewhere else or somebody opted out, any</p> <p>11 number of machinations of why, so.</p> <p>12 MS. VON NIEDA: I think that that's a good</p> <p>13 thing to look at, because as people change in public</p> <p>14 office, they wouldn't necessarily know to opt in.</p> <p>15 MS. OLSON: Yeah.</p> <p>16 MS. VON NIEDA: So that's good.</p> <p>17 MS. OLSON: Yeah.</p> <p>18 MS. WEBER: So something that could be done</p> <p>19 is, Bill will be running the meeting next week at the</p> <p>20 Montana Association of Counties for the hard rock</p> <p>21 committee.</p> <p>22 MS. OLSON: Yes.</p> <p>23 MS. WEBER: And that might be something that</p> <p>24 you could provide Bill some information on how those</p> <p>25 commissioners then could opt in.</p>

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1 MS. OLSON: Yeah.

2 MS. WEBER: And that could be a way to just

3 to inform all of them.

4 MS. OLSON: And we typically do attend those

5 meetings, our staff, so we can definitely update

6 that. We aren't quite there with the e-gov delivery,

7 we are just transitioning. So by January we'll have,

8 hopefully be up and running to make sure that

9 everybody has transitioned over.

10 The other thing we have done is, we used to

11 have individual e-mail addresses, so it would be like

12 doc hard rock mining or doc coal board or doc TCEP or

13 on goes the list. And instead, we're trying to just

14 make it simpler.

15 So doc CDD at MT dot gov, you can get us for

16 anything, and then it will automatically come to the

17 division and we can definitely get connected so

18 there's no confusion along the way.

19 MS. VON NIEDA: And I think having, possibly

20 for Bill and Maureen, and having clear instructions

21 as to what the website address is, how to navigate to

22 that, it sounds ridiculous, but, I mean, literally

23 step by step is very useful when you're handing out

24 information like that, click here, you know, this is

25 what you'll see.

35

1 Because I think if we do have people who

2 are in transition but they have those instructions,

3 they can -- the commissioners and school board and

4 others can still pass that information on and they

5 can still stay current with knowing what, what is

6 planned.

7 MS. OLSON: You bet. We're happy to help

8 facilitate that. Those are great, great thoughts.

9 Anything else?

10 So at any rate, so we also notify any

11 interested persons of any public hearings or other

12 decision-making proceedings prior to the

13 decision-making and supplement this with notification

14 with informal notice to all interested persons or

15 groups having requested those in advance.

16 So if somebody were to say, hey, I'd like

17 to see copies of those meeting minutes when they

18 become official, then we'll make sure that we provide

19 that, make sure that we provide that information to

20 them.

21 And we typically don't hand out, typically,

22 we don't hand out draft meeting minutes because there

23 could be edits or changes that you all want to make

24 to that, so we like to make sure that that

25 information is clear and consistent, reliable, so

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1 then we'll provide that after the board has approved

2 them. And, again, we always post all of our meeting

3 minutes after we have held the meeting on our website

4 and those have been approved.

5 So some basic requirements that we also

6 follow here at the department is publication. So on

7 our agenda we post the notice of time and a place,

8 the place of the hearing. And we also -- so 48

9 hours, see, I knew I was questioning that.

10 So the reasonable period before the meeting,

11 that rule of thumb is 48 hours. So if there is some

12 sort of an emergency situation or need to call that

13 meeting right away, there could be, the chairman

14 could call that and say 48 hours, we'll need to have

15 a meeting. So then we help to set up that location.

16 We help to set up the notification, send the e-mails

17 out, post that on the state eCalendar.

18 But, the thing to point out here is it is a

19 minimum. So we try to afford a lot more time than

20 just 48 hours because, again, trying to communicate,

21 engage the public is a primary responsibility not

22 only for the agency and the board, but then also

23 being encouraged by not only the constitutional

24 meeting law and the Governor.

25 So new items, we were thinking about the

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1 agenda, should not be added to the agenda at the

2 hearing, but carried over to the next meeting that is

3 regularly scheduled or a special meeting with

4 notice.

5 So the role of the chair is important to

6 control the discussion of those items in order to

7 ensure that one is appropriate and you have time to

8 comment, but then also that it is part of the agenda

9 for the next time.

10 So if there is anything that we're looking

11 at for the next meeting, we'll have a chair here,

12 we'll start to add those, but the role of the chair

13 is significant as you all know in order to help

14 maintain, control the operations and the

15 administration of those meetings.

16 Public should have the opportunity to obtain

17 information related to every agenda item when notice

18 is published. So decision-makers and public should

19 be on equal footing with respect to that public

20 decision or that decision that is being made by the

21 board.

22 So if there is, so if the commissioners

23 wanted to have a copy of the board packet, we would

24 send that information along at the same time that you

25 all would receive your packet.

<p>38</p> <p>1 Also, we're trying to make everything much 2 more electronic so you'll start to see some changes 3 in the coming 12 to 16, 18 months, that all the 4 packets and whatnot become more electronic so that 5 you can access instead of having the binder shipped 6 to you if you want to, did I leave that, did I bring 7 that, where did that go. Although I'm a tactile 8 person, so I write on everything, so, anyways. 9 So if you have other means, just let us 10 know. And actually we'll go through e-mail addresses 11 here in a little bit, but that will be our primary 12 way of sending information out. 13 So consent agendas should be treated as part 14 of a regular agenda with respect to notice and open 15 public meetings. So there is no expectation of board 16 discussion or public comment, and items should not be 17 a significant interest to the public and no 18 discussion or comment may need to take place. 19 So some basic requirements for public 20 comment. So we want to make sure that there's an 21 opportunity to provide comment on each agenda item. 22 So as you can see, the agenda as it stands for 23 today, we open up with an opportunity for public 24 comment. 25 However, before there's any decision being</p>	<p>40</p> <p>1 keep track of the time so that the board doesn't have 2 to, but rather just be the control for the 3 conversation. 4 Public must be given opportunity to comment 5 on items that are not on the agenda. So open public 6 meeting. So at the beginning of the agenda, there's 7 always an opportunity for public comment, plus an 8 opportunity for anyone to come in and say, hey, you 9 know, I'd like to talk about X, Y and Z, I'd like the 10 board to take a, take some time and consider that, 11 maybe go through some things, et cetera, et cetera. 12 That's an opportunity for that to ensure that even 13 though it might not be on the agenda, that the board 14 is hearing the needs of the concerns of the public. 15 So Montana Public Records Act. So I'm 16 sitting here thinking Bonnie is our records 17 management guru, so I feel a little abashed by trying 18 to do this on my own, but, so chime in, Bonnie, if 19 I've said something that is not clear or you want to 20 add to that. 21 So there's -- obviously, all of the records 22 that we have for the board are part of the Montana 23 Records Act, but the actions of the board takes the 24 meeting minutes, are permanent public record. So we, 25 department, are responsible to the ensure that that</p>
<p>39</p> <p>1 made by the board, each agenda item would need to 2 have public comment so that the public has an 3 opportunity to try to comment on any of those 4 items. 5 So as an example, we were talking about 6 payments, that could be something where before the 7 board says, yep, I want to, we want to take some 8 action on this, we need to open that up to ensure 9 that the public doesn't have to, you know, insert 10 themselves, but has an appropriate time to be able to 11 provide that comment. 12 Some agencies limit comment period allowed 13 for each speaker, but the courts haven't made a 14 decision on this. So if we have a public meeting or 15 hearing, the board, the chair, can decide that, you 16 know, we have got a hundred people standing here and 17 there's a lot of interest in this one topic, so we're 18 going to limit everybody to five minutes or two and a 19 half minutes so that you can provide an opportunity 20 for everyone to participate, but then also provide 21 a fair and equitable way to have everyone 22 participate. 23 That, again, that responsibility definitely 24 falls to the chair to mind the time of that and 25 manage that. However, staff can definitely help</p>	<p>41</p> <p>1 permanent record stays so that people can access that 2 record. 3 So to that, considering that, public 4 information is really subject to disclosure, so 5 anything that the board is taking an action on, like 6 meeting minutes, would be public information. So 7 information prepared, owned, used or retained by any 8 public agency related to the transaction of official 9 business regardless of form would be something that 10 the public can ask for. 11 So we have a public information process, 12 meaning that we do keep track of who has been asking 13 for what so that we can ensure that we not only 14 fulfill that requirement to the degree that they 15 need, but then also if it comes up, we can report 16 back and ensure that we are able to provide 17 information that was accurately and effectively. 18 MS. WEBER: So, Jennifer, has the department 19 ever recorded the meetings and then posted them 20 verbatim online on the website? Because, I mean, we 21 meet so infrequently, the minutes would take forever 22 to get approved. 23 So in the county what we are doing is 24 recording ours, the minutes aren't there, but the 25 recording is immediately put up on the website and</p>

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<p>1 then we time and date the minutes, so you can go to 2 the website and listen to particular parts of the 3 recording and that's what we approve then in our next 4 meeting. 5 But it at least gives the public an 6 opportunity to hear the discussion. I mean, if they 7 want to sit through eight hours of it, they can, but 8 they can wait until the minutes are approved and then 9 just go to the particular time/date stuff -- 10 MS. OLSON: Sure. 11 MS. WEBER: -- for a particular topic. Have 12 you ever done that? 13 MS. OLSON: For this specific board, not 14 that I'm ever aware of. But the other thing I was 15 thinking is, we just talk about kind of like the 16 department as a whole and I wonder if Bonnie has a 17 thought on that as well. 18 MS. MARTELLO: Yeah. So, again, I'm Bonnie 19 Martello and we are transitioning to actually putting 20 the actual recordings online so, and then it would 21 be the action items would actually have, you could 22 click on the action item and hear what was the 23 discussion of the action item. So that's in the 24 process, we're in the process of doing that. 25 So then we would still provide the minutes</p>	<p>1 interested in knowing more about hard rock mining 2 impact more and I'd like to, you know, get a copy of 3 the orientation binder. 4 So then we would take that request and we 5 would help to fill that request, removing and 6 redacting any, again, sensitive data or personally 7 identifiable information that was not to be 8 disclosed. 9 So agencies must adopt and follow records 10 retention schedule. So most, as an example, most 11 Coal Board grant and program-related records are kept 12 for five years after project closeout because of 13 grant award. 14 So here we do keep copies of all of the mine 15 documents and the mining impact plan documents, 16 excuse me. And then we also do keep obviously 17 records of all meeting minutes or any handouts or 18 that are either provided by the staff or received by 19 the public as well. 20 So who is -- what is, excuse me, what is 21 protected from disclosure. So confidential 22 information, as we talked about sensitive information 23 in PII is confidential information. So individual 24 privacy clearly outweighs the merits of disclosure. 25 Related to judicial deliberations in</p>
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<p>1 that would have to be approved, because until records 2 retention policy changes at the state level, we 3 still have to provide that as the actual official 4 meeting minutes, but we are kind of transitioning 5 that way. 6 And on that, is you guys will be able to go 7 out to the website and get your packets that are 8 right there also. So we're transitioning that way, 9 but it is not quite there. 10 MS. WEBER: Great. It is convenient for the 11 public. 12 MS. MARTELLO: Yeah. 13 MS. OLSON: And we have a court reporter 14 here. As Jodee says, she's only been with the 15 department for about three months, so part of what 16 we're doing is transitioning there for her role, but 17 then also, as an example, our Coal Board, and we do 18 have that, we'll often provide a full transcript of, 19 the court reporter is here, we'll provide that full 20 transcript, which is a good nighttime reading if you 21 have a copy. 22 So every person has the right to examine 23 and obtain a copy of any public information of the 24 state. So any member if the public or interested 25 party can reach out to the department and say, I'm</p>	<p>1 adversarial proceedings, so anything that might harm 2 in regards to those judicial proceedings for 3 deliberations. Those things that are necessary to 4 maintain security of state facilities and information 5 systems. And also designated as anything 6 confidential, so by other statute, et cetera, so 7 anybody that's got a secret sauce, you wouldn't be 8 disclosing that. 9 Agencies may not distribute or sell a 10 distribution list without permission of those on the 11 list. So we, our distribution list we keep here and 12 so we can constantly add to it, however we don't 13 disclose it. 14 So if an individual calls us and says, hey, 15 you know, was the other commissioners on there, we 16 can say, okay, so we can look for the commissioners, 17 but we can't give you a full list. We want to make 18 sure that anybody who has asked to be part of that 19 list, isn't, isn't part of a distribution list that 20 is then being used for other reasons that wasn't the 21 intent or the purpose of the hard rock committee, all 22 the work engagement, that sort of thing. 23 And it does not apply to a list of 24 individuals who sign attendance sheets or sign-in 25 sheets at an agency or hearing or meeting. So that</p>

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1 attendance list that we have here is different than
 2 our e-mail list that would have all of those folks
 3 saying I want that information.
 4 So you'll see oftentimes in the meeting
 5 minutes that we'll take that attendance list and then
 6 we'll record that as members of the public present
 7 and put their name and then post that online.
 8 MS. PICHETTE: Jennifer?
 9 MS. OLSON: Yes.
 10 MS. PICHETTE: I think somebody had a
 11 question back here.
 12 MS. DAVEY: So my e-mail is on a list for
 13 everybody to get?
 14 MS. OLSON: So it is just the name of the
 15 individuals. So we would put Commissioner Maureen
 16 Davey, and that's what would be on there.
 17 MS. MARTELLO: And if someone requests it
 18 and they want to, you know, as a whole, we would
 19 redact any information that, that goes on like that
 20 before it goes out to whoever the requester is.
 21 MS. OLSON: We collect the e-mail address so
 22 we can make sure that you have information, so really
 23 just a recording of who and any titles. But great
 24 question, I apologize, and clarify that.
 25 Closed meeting minutes are excluded from

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1 public disclosure requirements. Obviously, to
 2 protect the confidential information. Also, agencies
 3 must adopt procedures to ensure encrypted personal
 4 information is protected from disclosure.
 5 So just what Bonnie was saying, so we'll
 6 protect that. If it were to become electronic, that
 7 would be encrypted in order to ensure that that
 8 wasn't transferred electronically and then somebody
 9 had it and we didn't protect it.
 10 Personal information is first and last name
 11 with one or more of the following, so this is the
 12 personal information that is protected. Anything
 13 that would be Social Security number, EIN, IDs,
 14 driver's license number, ID card numbers, even a
 15 birthday, medical record information, any of that
 16 would be important.
 17 So Bonnie is going to talk to you about
 18 your e-mail address were you did provide your birth
 19 date, that would be something that is a good example
 20 of it is protected personal information.
 21 So if the public said, hey, I want to see
 22 all the correspondence of anything that the board has
 23 ever submitted to the Department of Commerce, that
 24 would be something that we would redact, so we are
 25 wanting to make sure that your personal information

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1 is also protected.
 2 The department will continue to use
 3 nondisclosure agreements to provide process for
 4 conducting or providing protection for confidential
 5 information. So basically what we're talking about
 6 here is, again, those secret sauces.
 7 So if there is anything that is submitted to
 8 the Hard Rock Mining Impact Board that would have a
 9 trademark to it or something that's specific to that
 10 business that is trademarked, we would redact that
 11 before providing that, not only to the rest of the
 12 public but then also anybody who wanted to just
 13 review the records as well. So it's not just
 14 requesting to receive it, but it's also requesting to
 15 view it.
 16 An applicant provides affidavits
 17 specifically identifying confidential documents or
 18 portions thereof. So if somebody individually were
 19 to come and provide information and then they have an
 20 affidavit, we follow that procedure as well.
 21 If requested for identified information is
 22 received by the department, the department gives ten
 23 days notice to applicant to obtain an order
 24 protecting information. If nothing is given to us,
 25 then we release that.

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1 So if there was some sort of secret sauce
 2 and they didn't have something in place, we
 3 would -- or if they did, we would contact them and
 4 say, hey, this has been requested, you have ten days
 5 and they could then say, we're going to get a court
 6 order to not disclose that and then we would
 7 obviously follow that court order. So the court, not
 8 the agency, determines if information is public or
 9 confidential.
 10 So what is that process. So upon
 11 receiving a request for information, the public
 12 agency must make the information available for
 13 inspection or copying. Or if the information cannot
 14 be readily identified and gathered, we'll provide the
 15 person with an estimate of time to fulfill the
 16 request and any fees that may be charged to cover
 17 actual costs.
 18 So a good example would be, the amount of
 19 information is so vast that we can't provide that,
 20 then they would work with legal staff and then we
 21 would give an estimation of that cost of time and
 22 they could choose to pay for that and then we would
 23 fulfill that requirement, again, still making sure
 24 that we have protected any sort of information that's
 25 private.

<p style="text-align: right;">50</p> <p>1 Agency is not required to alter or customize 2 information in any form specified by the requester, 3 but we could do that and be charged a fee for that 4 work. So if there is, say, they want everything 5 exactly in this format and then this way and sent to 6 me on this time frame, then we would again have that, 7 any potential fee. But of course the public then 8 can do that and we're happy to help with that. This 9 might cause a little more time to put it in that 10 format and cost.</p> <p>11 If an agency denies a request for 12 information, we must provide a written explanation. 13 Denial or failure to provide estimated time to 14 fulfill a request, provides immediate standing for 15 the requester to file a complaint in the court and 16 if it prevails, may be awarded costs and attorney 17 fees.</p> <p>18 So we take this very seriously because 19 there's implications not only about, you know, the 20 responsibilities that we have to fulfill them, but 21 even more so the public's right to know and the 22 public to be able to participate to have access to 23 them really is of paramount importance and clearly 24 not only to the court, but then also to all of 25 the statutes that we have looked at and the</p>	<p style="text-align: right;">52</p> <p>1 that we are sitting at and copies of specific 2 documents can be available either free or for a 3 reasonable copy charge, plus the employee time.</p> <p>4 So let's go through a few questions just to 5 make sure that I haven't said something or missed 6 something along the way and I want to just kind of 7 walk through them.</p> <p>8 So there are two different types of public 9 comment that you must allow public meeting. So, and 10 they are all in the agenda. What, do you remember 11 what those two are? So there's an opportunity to 12 comment on each item on the agenda and then there is 13 comment not on the agenda.</p> <p>14 So the public can say, I would like to 15 comment on this orientation binder or the public can 16 comment and say, can we have that in a different 17 location or the board can think about a different 18 location for the meeting.</p> <p>19 So when a public -- when must a public 20 meeting be open? Always, except for the one 21 instance where, right here, sorry, if it's about 22 personnel information that can be a closed public 23 meeting.</p> <p>24 So when must a public meeting be noticed and 25 public participation allowed. Sorry, I wasn't</p>
<p style="text-align: right;">51</p> <p>1 Constitution, it's really saying let's help them 2 out.</p> <p>3 So we do our due diligence and we make sure 4 we go through everything and give them as much as we 5 can in regards to the information that they are 6 requesting that can't be redacted.</p> <p>7 So there is some also guidelines that we 8 have for just public inspection. Like I said, it can 9 just be for viewing. So all files other than 10 personnel files and those files required by law or 11 requirements of personal privacy are to remain 12 confidential.</p> <p>13 And so the other ones are open to the public 14 and public inspection can occur. So if the 15 individual were to stop by this morning and say, hey, 16 I'd like to see them right now, that could be a 17 problem because it might not be available, we might 18 have to go down to our current records and pull that 19 out.</p> <p>20 But we would definitely work with them and 21 say, you know, we're happy to set up a time, let us 22 figure out when you can come review and inspect them, 23 we will have them available, set you up in a place 24 that you can come and look at them.</p> <p>25 They are located right here in the building</p>	<p style="text-align: right;">53</p> <p>1 following along. Yes, exactly. Yeah, exactly. So 2 when an agency is making a decision on an item of 3 significant interest. Remember, we chatted about, so 4 what is significant interest. If there's a question, 5 I would default to it is significant.</p> <p>6 If it's, you know, ministerial and it's very 7 minor, that could be definitely feedback for the 8 public as well, or just conversation amongst the 9 board members.</p> <p>10 So how much time before a meeting must be 11 noticed? I've confused you because I said it.</p> <p>12 MS. VON NIEDA: 48 hours.</p> <p>13 MS. OLSON: That's awesome. So 48 hours is 14 the general rule of thumb. However, again, if 15 there's an emergency, public health situation, it 16 could be less, but it is highly unlikely that this 17 board will experience that.</p> <p>18 So here is an example, and this is getting 19 to the conversation about ex parte communication, 20 making sure that open public meeting law has 21 occurred so that we don't violate the definition of 22 meeting.</p> <p>23 So Mary sends an e-mail to her fellow public 24 agency board members about information she's learned 25 from a friend about an item that is noticed on the</p>

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<p>54</p> <p>1 board's meeting in two days. Joe and Jim, who are on 2 the board, both reply to all, each giving their 3 thoughts about the item and how -- and the 4 information Mary has provided. So has any law been 5 violated? 6 MS. VON NIEDA: Yeah. 7 MS. WEBER: Yes. 8 MS. OLSON: And how many times? 9 MS. WEBER: All three times. Mary, Jim and 10 Joe. 11 MS. OLSON: So, yeah, there's three. Yes, 12 exactly, three times. So, yes, it is an open public 13 meeting, but once for Mary's e-mail and then Joe's 14 e-mail, and then Jim's e-mail to all, uh-huh. 15 So every single time there's a reply to all 16 we have violated open public meeting because we have 17 had an essential meeting. 18 So what constitutes a public meeting? 19 MS. WEBER: Any time a quorum is 20 discussing. 21 MS. OLSON: Yeah, exactly. Any convening of 22 a quorum that the members of the public or agency is 23 here, discuss or act upon any matter, so you have the 24 responsibility. 25 So that's, again, so if you ever have</p>	<p>56</p> <p>1 So the courts decide what is open public 2 meeting law and what the public engagement process 3 is, not the agency. So, yeah, if it is a question 4 to you, it is most likely going to be a question. 5 And I always tell staff, you know, like 6 anything, if it were on the front page of the Tribune 7 would everybody think the same thing. So in the 8 larger scale, if it is questionable, it is probably 9 something to be better discussed in the open public 10 forum. 11 Any other questions, though, about not only 12 the responsibilities of open public meeting law, the 13 notification requirements or how we help to engage or 14 communicate with the public? 15 MS. VON NIEDA: I would simply say that 16 coming from a nine-member board, it is a lot easier 17 to have things like small committee meetings than it 18 is from a small board that's much more critical on a 19 small board not to be very careful about 20 communication. 21 But we also found on our school board that 22 opening for public comment both before and at the end 23 of the meeting is important because people will 24 listen, might not know ahead of time what they want 25 to say, but sometimes at the end will definitely have</p>
<p>55</p> <p>1 questions, you can definitely call us, chat with us 2 and say, well, holy cow, what is going on here, I 3 don't know, we're happy to answer. Or you can e-mail 4 us individually. So sending, a board member sending 5 one e-mail to Anne is not a violation of open 6 meeting. 7 MS. WEBER: No, but I think we should talk 8 about if I sent an e-mail to Donna, we discuss 9 something, and then I send an e-mail to Keith, and 10 relay to Keith what Donna and I have discussed, and 11 then I contact Mark, and talk about what Keith and 12 Donna and I discuss and what their opinions, then you 13 essentially bypassed the whole system. 14 MS. OLSON: Right. So if you are 15 undermining the intent of the law, and the intent of 16 the law is to allow the public to participate in the 17 conversation and you're trying to, you know, usurp 18 that by individually having conversations, I would 19 say that that would violate. 20 And, again, the courts have made a decision 21 that, hey, we're -- if there's a significant interest 22 and you haven't afforded the opportunity to the 23 public, they are going to default to saying this 24 allows for more of a public meeting law, then that 25 could be where they are.</p>	<p>57</p> <p>1 off-agenda items that they want to say. So I would 2 just say that that would be a good rule of thumb. 3 MS. OLSON: Yeah, definitely. Any other 4 thoughts or comments? Questions? 5 MS. WEBER: Thank you. That was real 6 thorough. 7 MS. OLSON: So we'll go ahead and move on to 8 the next item on our agenda, which is Bonnie, who is 9 going to go through e-mail accounts. 10 MS. MARTELLO: So mine are going to be super 11 fast because we don't quite have everybody's 12 information to get you set up on the state system 13 quite yet. There is in there. 14 So if I can have you guys fill out the top 15 part to where the black line is. Turn that into 16 Jodee when you're done, and then -- so the state is 17 going to, so that we can kind of better adhere to the 18 records management and public records request, we're 19 going to be giving, providing a state e-mail to all 20 committee members. 21 That is how you will communicate with us 22 here at the Department of Commerce and that is how 23 you guys will receive your information through the 24 state website, or state e-mail. And it will be 25 faster for you guys to be able to get your e-mails.</p>

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<p style="text-align: center;">58</p> <p>1 Some of you county commissioners, don't want 2 you to meld this board and county stuff together or, 3 you know, bank work and this stuff together, so it's 4 easier to keep it separate, we are not getting a 5 request and it's coming out that we're having 6 personal information from you because we have had to 7 go search your e-mail. 8 So this is mostly safeguarding you guys on 9 that it is just board information and it is not any 10 other information that we're, we're out there looking 11 for it if we have to. 12 And later, once I have all the information 13 and we have assigned you guys your e-mail addresses, 14 I will do a full-blown walkthrough on how you guys 15 get on, how you access your e-mail, you know, how we 16 deal with records retention and that kind of stuff at 17 that time. 18 Once you guys provide this to Jodee, it will 19 go to our IT department. It will give you guys your 20 information to make sure that you haven't, one, have 21 a state ID before and if it does, then that's the, 22 you know, that will then carry with you. And then, 23 two, if it doesn't, then we'll give you a new one. 24 And then once they get to them, we shred 25 them, that information is then gone. But, so that's</p>	<p style="text-align: center;">60</p> <p>1 ability to kind of have that open communication to 2 make sure that you have the support you need to get 3 on and get the information we need. 4 MS. VON NIEDA: Perfect. Thank you. 5 MS. MARTELLO: Any questions? Okay. 6 MS. OLSON: So that also will be our primary 7 way, after it is set up, of communicating with you, 8 so that way we have all of your board packets and 9 whatnot. 10 So, you know, if there's any trouble, you 11 have the access to the department's resources, so our 12 IT staff is here to help, kind of troubleshoot that 13 with you, or anything that you might be challenged 14 with in regards to accessing that, so Jodee can help 15 you with that. 16 Additionally, I would add that it is also a 17 double sign on, so it has an encryption. So you have 18 a code that goes in that changes every 60 seconds as 19 well as your regular password. But that allows for 20 any information that, you know, if somebody is trying 21 to break in or whatever. 22 So the state has that across the board, no 23 pun intended. But, anyways, so that everybody has 24 not only that safety and security, but then if 25 there's any assistance, we need to bring on other</p>
<p style="text-align: center;">59</p> <p>1 why we're asking for date of birth, is just to make 2 sure that if you were a state employee, we have the 3 right state employee, so that, you know. 4 So that's the only reason why. I know 5 everybody is kind of grumbling over why we ask, but 6 that's IT's and to make sure that we have the right, 7 the right individual attached to that e-mail. 8 So next meeting, possibly, or if we have to 9 have, you know, a webinar or whatever, I would then 10 go step by step how you can get on and how, you know, 11 how that looks and how you can communicate through 12 there with everyone, so. 13 MS. WEBER: Bonnie, I see a prepopulated 14 under the phone, you just want our mobile phone 15 number? 16 MS. MARTELLO: Correct, yeah. 17 MS. VON NIEDA: I live in an area where we 18 have no cell service, so I do have a Google phone 19 number which routes my number to my home. 20 MS. MARTELLO: That is fine. 21 MS. VON NIEDA: Is that okay? 22 MS. MARTELLO: That's fine. Yeah. It's 23 just in case we have to get a hold of you because, 24 you know, something went down or you are having 25 issues and we have to call you back, we have that</p>	<p style="text-align: center;">61</p> <p>1 staff to help and facilitate the updates or changes. 2 So any questions about that? 3 MR. KELLY: Are you suggesting we need 4 another new password, is that what you are saying? 5 MS. OLSON: Well, it is a little -- 6 MS. MARTELLO: I'm also going to go over 7 that once we have them deployed and I will, you know, 8 we'll bring a laptop here and we'll physically have 9 you guys log into it, make sure you're comfortable 10 with it. 11 Because, like I said, that is how most of 12 the state government is going, is everyone is being 13 assigned an e-mail account for safekeeping for you 14 guys so that we're not out getting your personal 15 information that's going to an e-mail or we're 16 figuring out stuff for Lewis and Clark County that we 17 probably shouldn't know about or other counties that 18 we are sending to, you know, we're sending that board 19 information to. 20 And then we get an information request that 21 we have to go out and search and we're finding, you 22 know, we have to turn it over, you know. So we're 23 trying to just safe keep you guys and the individuals 24 that you guys work for, that for your personal data 25 information that we don't really need, so.</p>

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1 So that's something that we're, most boards
 2 across the state are doing that are attached to the
 3 state government, just trying to keep that
 4 information, you know, here. So we'll make sure you
 5 are comfortable, we'll make sure, you know, before I
 6 walk out of here with them, we'll make sure you're
 7 good to go, so, yeah.
 8 I promise you, you will be comfortable
 9 before you walk out. And then if I'm not
 10 available, Jodee is always a good one to contact,
 11 too, if you have any issues with that kind of stuff,
 12 so, yeah.
 13 MS. VON NIEDA: So after we fill this out,
 14 the birthday information will be shredded?
 15 MS. MARTELLO: And I need your address.
 16 Yeah, everything will be shredded. Once I give that
 17 over to our security manager, Terry Lockhart, he will
 18 enter you, make sure that you either have an account
 19 or you haven't, and then he literally shreds it, it
 20 won't ever be seen again.
 21 MS. VON NIEDA: Okay. Great.
 22 MS. MARTELLO: So you guys are the third
 23 board that we have started this with, so there's two
 24 before this one, and so we're just trying to get
 25 everybody on the same page so we can move forward

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1 with it.
 2 MS. OLSON: And the other thing that we do
 3 is, so if the public wants to reach out to you,
 4 then it's also a state e-mail rather than a personal
 5 one.
 6 MS. MARTELLO: It's not your personal e-mail
 7 address that we are providing to any, you know,
 8 members of the public who may want to have contact
 9 with you. And that's the one, the state e-mail would
 10 be the one that is posted out on the state website as
 11 a member of the Hard Rock Mining Impact Board, that
 12 is, the state e-mail will be there, so it won't be
 13 any personal information that's going out there.
 14 MS. WEBER: So will we be able to get the
 15 state e-mail on our phone?
 16 MS. MARTELLO: You can. I can show you,
 17 yeah.
 18 MS. WEBER: Great. Okay. So I can have
 19 mine done.
 20 MS. MARTELLO: E-mails, and they are ready
 21 to go. Just hand it to Jodee when you're done and
 22 we'll get you going at the next meeting and we will
 23 spend some extra time on it, make sure you guys are
 24 comfortable, so. Okay.
 25 MS. OLSON: Okay. Any questions for

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1 Bonnie?
 2 MS. VON NIEDA: Thank you.
 3 MS. OLSON: Thanks, Bonnie. All right.
 4 Should we take maybe a five, ten-minute break. We'll
 5 convene at five after 10:00.
 6 (Whereupon, a brief recess was taken at 9:55
 7 to 10:18 A.M.)
 8 MS. PICHETTE: So, thank you everyone. For
 9 the folks on the phone, we're starting back in from
 10 the break. We're going to be talking about board
 11 member handbook here.
 12 And just as a reminder, for anyone who may
 13 be on the phone, if you have any questions, your line
 14 may currently be muted, so you'll need to hit the
 15 star key and then the 2 to be able to be unmuted for
 16 us to hear any questions you may have as we move
 17 through the orientation today.
 18 MS. ROTHENBUECHER: Okay. Thank you. This
 19 is A. C. Rothenbuecher, I'm the operations manager
 20 for the community development division and I'm going
 21 to be working on talking slowly and clearly, I
 22 sometimes can be fast.
 23 We have in Tab 4, which is the next tab
 24 we're going to go through on your orientation binder
 25 review, which is the board member handbook. This

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1 comes from the Governor's office.
 2 I am not going to read the entire thing, I
 3 don't think that that's necessary, but one we want to
 4 talk about that is included for your review, when you
 5 have time and you would like to, you may have
 6 reviewed it already.
 7 And then, two, we're just going to highlight
 8 a couple of specific areas in the handbook and then
 9 see if there are any questions, and then we're
 10 going to let Anne briefly go through the Robert's
 11 Rules of Order as we think about running our board
 12 meetings.
 13 MR. KELLY: I do have a question.
 14 MS. ROTHENBUECHER: Yes.
 15 MR. KELLY: It is not clear to me. Are we
 16 getting advice from counsel or are we a
 17 decision-making board that we advise the
 18 department?
 19 MS. OLSON: You are decision making.
 20 MS. VON NIEDA: The guide calls us a
 21 quasi-judicial board.
 22 MR. KELLY: Oh, we're quasi. So the third
 23 one down. Okay. Got you.
 24 MS. ROTHENBUECHER: So since you bring that
 25 up, that's a great question, on Page 2 after the

<p style="text-align: right;">66</p> <p>1 cover page, quasi-judicial boards. These boards make 2 independent decisions and have unique governing 3 structures. While many of them are allowed to make 4 their own decisions, in most cases agency attorneys 5 will still advise and direct quasi-judicial boards to 6 ensure that they are making decisions within their 7 jurisdiction, which is kind of what we talked, 8 touched on a little bit throughout as you were 9 inquiring about the role and the presence of legal 10 counsel.</p> <p>11 Questions? I'm going to then move on to 12 Page 2, just going to highlight a couple of things 13 on these pages. Some of these we've already 14 discussed in Jennifer's presentation.</p> <p>15 But one of them is, you know, the right to 16 participation and the right to know. Jennifer walked 17 through that in her last presentation, I'm not going 18 to go through that.</p> <p>19 Also, I want to highlight open government, 20 again, under Montana law, all meetings are open to 21 the public regardless of the nature of the issues 22 being discussed.</p> <p>23 The other area which I had on my list to 24 highlight, but I don't know how much I'm going to hit 25 this one home again, so you had a lot of e-mail</p>	<p style="text-align: right;">68</p> <p>1 like to highlight. So the role of a chair, 2 suggestions for the chair, are time management and 3 keeping members and the public on schedule, keeping 4 members and public comments to the approved agenda 5 items and topics. Being respectful by keeping 6 comments, meetings and all discussions respectful.</p> <p>7 Providing services or other assistance to 8 staff as they help you, your board, by taking meeting 9 minutes or other services for your meeting. Again, 10 here having open meeting laws, ensuring an open 11 meeting, ensuring that the public has the right to 12 participate and that they introduce themselves when 13 presenting or commenting.</p> <p>14 Motions. So we get to that point when we're 15 having a full meeting, ensuring and advising members 16 that they need to clarify or adjust motions when 17 necessary. Ensuring that the meeting follows 18 applicable rules for process to keep order.</p> <p>19 Keeping discussion on the motion at hand 20 and following general procedures, which typically 21 include a motion, a second, discussion and then a 22 vote by members.</p> <p>23 And something that we have talked a lot 24 about particularly, we're thinking about Coal Board, 25 making sure that it is clear to the public, but</p>
<p style="text-align: right;">67</p> <p>1 conversation, but communicating by e-mail, just a 2 reminder to make sure you respect the public's right 3 to participate and know that even e-mail 4 communication can be subject to public review and 5 scrutiny, and the board has had some discussion 6 about some suggestions on how you are 7 communicating.</p> <p>8 The next one I'm going to turn to is Page 3. 9 Jennifer mentioned briefly a quorum, so typically a 10 majority of a membership constitutes a quorum, the 11 minimum number of members who are required to be 12 present in order to do any business. As she 13 mentioned, we have a quorum today and for a 14 five-member board a quorum would need to be three.</p> <p>15 We talked a little bit about meetings, on 16 kind of the announcements, so I'm not going to go 17 through that. Presiding officer or chair, as 18 Jennifer has mentioned, we do not currently have a 19 chair of this board, as this is an orientation 20 meeting and this could be an item that you want to 21 put on your agenda at your next regularly scheduled 22 meeting, so right now you see Anne and I and Jennifer 23 kind of running the show today.</p> <p>24 So just a reminder as you are thinking about 25 roles of chairs, I think this is an area that I'd</p>	<p style="text-align: right;">69</p> <p>1 particularly since we have so many of these meetings 2 maybe on conference call or provide that opportunity, 3 that you announce your name and say, you know, here I 4 am voting for or here I am doing this motion. We had 5 that issue where the public is not aware of who is 6 making the motion because we're adding this 7 technology piece.</p> <p>8 And then the other thing that we want to 9 remind chairs and board members is when a chair needs 10 to leave early or has a conflict of interest, they 11 may recuse themselves and the position by assigning 12 to their vice-chair or another member, as guided by 13 their rules.</p> <p>14 Okay. Then Page 4. Something we haven't 15 touched on yet in this orientation is legislative 16 communications. So every legislative session many 17 board members get involved in the legislative 18 process.</p> <p>19 The most important distinction is to know 20 whether you are participating as a private citizen or 21 in your capacity as a board member. And in order to 22 participate and introduce yourself as representing 23 your board, you must follow specific steps.</p> <p>24 So there is role of the Governor in these 25 types of communications I want to highlight here, is</p>

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1 this kind of last sentence under Governor's role.
 2 Boards must work with their agency structure, so in
 3 this case, Department of Commerce, to coordinate all
 4 legislation and lobbying efforts.
 5 And we're here to kind of walk you through
 6 and answer any questions you might have if you are
 7 asked a question or you're asked about your role or
 8 you should be representing, or if you just kind of
 9 want to walk it through one of the staff here, please
 10 let us know.
 11 Approval. So boards must work through their
 12 public meeting rules to allow public comment and
 13 input on bills of interest. And also a vote of
 14 approval must take place for a board to move forward
 15 in the approval process.
 16 Majority must support a bill either
 17 specifically or a concept generally to allow some
 18 flexibility in the legislative process and then they
 19 must seek agency approval.
 20 So, again, agencies and the executive branch
 21 work to coordinate all these efforts and so this is
 22 to ensure there aren't duplicative or conflicting
 23 efforts.
 24 So in terms of testimony, all board members
 25 should only give testimony that is factual, relevant

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1 and informative and approved by their board. And
 2 there's more information here on testimony to which
 3 you may want to read at a later date.
 4 And then I'm not going to speak to advisory
 5 councils, they are just talking about a
 6 quasi-judicial board in this case. Questions on Page
 7 4 on legislative communications?
 8 MS. WEBER: Has that happened very often in
 9 the past for this --
 10 MS. VON NIEDA: Actually, I spoke on behalf
 11 of the school board because there was a bill in the
 12 last legislative session regarding the allocation of
 13 impact monies and so that, you know, as part of the
 14 board, my school board, I spoke on behalf of that.
 15 MS. WEBER: Not as part of this board?
 16 MS. VON NIEDA: No, but I did reference that
 17 I was a member of this board just for the sake of
 18 clarity, but I was speaking as a member of our school
 19 board.
 20 MS. OLSON: So to answer the question, no,
 21 not generally and actually as you can see, the
 22 legislative communications, you would want to make
 23 sure that if you're speaking on behalf of this
 24 board, that you have not only worked and been with
 25 the Governor's office, that they have, you know, not

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1 only what their thoughts are or what the
 2 department's thoughts are, particularly if they are
 3 taking a position on any sort of legislative action,
 4 that it conforms with the executive.
 5 And so if you're going to speak, you know,
 6 as another board member, not of this board, you need
 7 to, want to make sure that you're clarifying that
 8 you're not speaking on behalf of this board, that
 9 you're only speaking on behalf of the board that
 10 you're there.
 11 Because, you know, a lot of times,
 12 particularly like we have people that are on the
 13 board for quite a bit of time, or they might
 14 recognize you as somebody else, it is good to
 15 identify that what your role is and what your
 16 purpose is, particularly if you are going to testify
 17 as a personal citizen.
 18 So any, any public board member, excuse me,
 19 board member can testify in front of the legislature
 20 as a member of the public as well, but you want to
 21 make sure that you are very clear in how you distinct
 22 what line and goal you are fulfilling so that you
 23 don't kind of trigger or step in the middle of an
 24 issue related to legislation.
 25 MS. WEBER: We meet so infrequently, I

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1 couldn't see us having --
 2 MS. VON NIEDA: Actually, my, whoever holds,
 3 whoever holds a school board position, would probably
 4 weigh in at some point. You know, this is something
 5 that comes up maybe every ten years, it just
 6 happened, happened last year, but I would say any one
 7 with that trustee position is going to be
 8 testifying.
 9 MS. WEBER: But you were testifying on
 10 behalf of the school board trustee.
 11 MS. VON NIEDA: Yes.
 12 MS. WEBER: Not this board.
 13 MS. VON NIEDA: Right.
 14 MS. WEBER: I just see it would be very rare
 15 that we ever do it because we just don't get together
 16 often enough and we would have to agree to the
 17 testimony as a board.
 18 MS. OLSON: Yeah.
 19 MS. WEBER: Thank you.
 20 MS. ROTHENBUECHER: The last piece that is
 21 in this handbook and we want to speak to and we also
 22 want to talk a little bit about the staff support in
 23 terms of media communications and, you know, press
 24 communications.
 25 So we may have media that attend meetings

<p style="text-align: center;">74</p> <p>1 or report on statements or actions taken by the 2 board. As a board member, you have the support of 3 the staff here at commerce. And so we have a 4 communications team, can assist you with, you know, 5 reach out to the press or the, you know, media 6 increase, but you're encouraged to let, you know, 7 media know that they can contact you outside of a 8 meeting either for assistance with a response or as 9 an informational update so they can keep other board 10 members, the agency and the Governor's office 11 informed of current and potential news stories. 12 You can answer those questions on your own 13 or can you work with us here and we can support you 14 in that. But it is much appreciated if you kind of 15 let us know that you've been asked, what you are 16 planning to do and if you need any support from our 17 staff here at commerce. 18 And some quick tips to consider. Always 19 ensure that your interactions with media are 20 respectful, of course. You have the right to not 21 comment and/or request to have another person 22 complete the conversation, whether that be commerce 23 staff or another board member. 24 Our staff is available and wants to help 25 you. As I mentioned, you must follow all</p>	<p style="text-align: center;">76</p> <p>1 there's a call, say, from the media that they are 2 asking, hey, I hear that the board will be in Helena 3 having a meeting, what is that about. 4 So we handle those automatically, so we 5 don't always -- in fact, I would say our practice is 6 not to engage and involve you in our responses to the 7 committee, excuse me, to the media because of that 8 very reason. They typically want specifically. 9 Just to kind of compare it to our other 10 board, typically what I have seen with our other 11 board, is the media shows up to the meeting and then 12 they want to talk with the chair or the chair is 13 at a -- of course, a project for Coal Board, and then 14 the chair shows up for a ribbon cutting or a 15 groundbreaking, and then they ask the individual at 16 that time to give a comment. 17 So it is kind of that, more of that 18 interaction that would occur rather than typically 19 a -- I haven't ever -- well, I shouldn't say that. A 20 Coal Board chair has been called specifically by 21 reporters to ask them questions about, you know, any, 22 any number of different things as it relates to coal, 23 coal industry, coal projects, the Coal Board actions 24 and anything like that. And he has generally, you 25 know, decided, you know, whether or not to</p>
<p style="text-align: center;">75</p> <p>1 confidentiality rules as they apply to your work. 2 And, again, if you're speaking on behalf of the 3 board, please ensure that you have the approval and 4 support of your board along with an approved 5 response. 6 So just some additional resources here that 7 are included in the Governor's handbook that you can 8 see here, and then we can always, we can follow up 9 with getting you kind of the direct information for 10 our communications team if you ever should need that. 11 Any questions or additions? 12 MS. WEBER: So I just want to ask, again, do 13 you have any examples, I know that your role is 14 relatively new, but is there any recollection that 15 the board has actually done a statement to the media 16 on a decision that had been made by the board? 17 Because, again, we meet so infrequently, if 18 somebody wants to prepare talking points to give to 19 the media, it looks like board approval is needed, 20 and we would have to do that on a conference call, I 21 suppose, if that came up because it's usually time 22 sensitive with the media. 23 MS. OLSON: Right. Exactly. So from 24 our -- so we have a communications team. Our 25 commerce director typically will, you know, if</p>	<p style="text-align: center;">77</p> <p>1 participate on his own and then just lets us know. 2 But I can't say that the Coal Board also 3 has never kind of collectively had a talking point 4 for the media and developed that in order to get that 5 out, nor has this board. 6 MS. WEBER: Okay. 7 MS. OLSON: So I think it really just stems 8 from what is the board questions that went on. 9 MS. WEBER: Sounds safest to refer to the 10 staff. 11 MS. OLSON: Yeah. And we have a great 12 communications team. Not only do they help maintain 13 or set up some information so that it has the look 14 and feel of all of commerce, that sort of a thing, 15 but then handle all of those inquiries. And then, 16 you know, if there's any press-related events, then 17 they also work on that, you know, with us, with 18 staff. 19 So they are pretty great support. I would, 20 I would kind of make it akin to legal. They kind of 21 come in when there is media and then they kind of go 22 to the background when there's not. 23 MS. WEBER: Thank you. 24 MS. OLSON: Yeah. 25 MS. ROTHENBUECHER: Any other questions,</p>

<p style="text-align: center;">78</p> <p>1 comments? Okay. So I'll turn it to Anne to Tab 5. 2 MS. PICHETTE: So your next tab will come in 3 handy at your next time you get together when you're 4 having a meeting. 5 So just briefly in here is Tab 5, is a short 6 little packet about Robert's Rules of Order, how to 7 go through a meeting, some very basic information. I 8 would say one of the most important is the first page 9 where it has some very basic rules, why we use 10 Robert's Rules of Order to help a meeting. 11 Stay on track, make sure the public is being 12 able to be involved and to make sure that we have 13 motions for decisions that are being made. And then 14 I would say, too, just as a reminder on Page 2, at 15 the bottom of the Page 2, as we have talked before 16 about quorums here, it talks about the majority vote 17 and how many members you need present for decisions. 18 But also, as we kind of, to reiterate, keep 19 in mind, too, the numbers of this board when you are 20 all sitting somewhere together whether you're a 21 quorum or not. 22 And I think each board is different, but 23 just to give you sort of a hint, Coal Board meetings 24 are typically most of the day. So people come in to 25 town the night before, if the board is going to be</p>	<p style="text-align: center;">80</p> <p>1 just walks through the process of different motions, 2 when you would use a certain motion. 3 And I think after we did our introductions 4 here, I suspect you all have some more information 5 and then basic packet already in practice for 6 meetings that you already are a part of. We just 7 want to make sure you have this, know that you have 8 this great cheat sheet as a guide for going forward 9 when we start having a meeting that's not an 10 orientation. 11 So just want to make sure you have that 12 there for reference. You may want to bring these 13 with you to each meeting so that you got some of your 14 reference materials and have that there as needed. 15 Are there any questions about the process of 16 a meeting? Then I will also mention that I forgot 17 when you came back from break to let you know that we 18 will be breaking at approximately noon for lunch. 19 We'll be having lunch brought in, so it will 20 just be out in the hallway. So once we're ready to 21 break, we'll be out there. You can come back in. We 22 should have enough. We would like the public to come 23 join us as well, just grab it out there and we can 24 make room for everybody to have a place to sit. So 25 sorry I didn't mention that when we came back from</p>
<p style="text-align: center;">79</p> <p>1 having dinner together, is on the agenda with the 2 address and a space is reserved large enough for the 3 public to come if they want. 4 So, you know, it kind of depends on the 5 business of this board, but just to kind of give you 6 reference, it means outside of this building as well. 7 You know, as you mentioned, the e-mails back and 8 forth and, you know, if it's one person, there's 9 time, what did you do. 10 But just kind of to keep that in mind for 11 when you are making decisions and whether or not you 12 have a quorum to vote, but also kind of thinking of 13 the other times you might have a quorum outside of 14 meeting with the majority to make a decision. 15 And then also I'd like to point out on 16 Page 5, there's some very basic information about 17 making a motion. And then also just for your 18 reference starting on Page 7, this guide has some of 19 the frequently asked questions information that you 20 might find helpful as we kind of move forward outside 21 of the orientation setting. 22 And then you'll have kind of a bright pink 23 divider page in there. And then you'll find this 24 little set of cheat sheets. And I think this will 25 probably become the most helpful to you. It kind of</p>	<p style="text-align: center;">81</p> <p>1 break. 2 If there aren't any questions, I'm going to 3 turn it over to Amy who you met this morning. 4 MS. BARNES: Good morning, everybody. My 5 name is Amy Barnes, again, I am your legal counsel. 6 So I wanted to take this opportunity to go 7 through the statutes and ARMs that are applicable to 8 the board, and then also the guide. I'm not going to 9 read through everything because that would take 10 longer than a day. 11 But to start with, you'll find the statutes 12 found on, behind Tab 7 -- or Tab 6, excuse me, in 13 your little handout. So if you just want to flip 14 through just to kind of see how many statutes we have 15 that apply to the board. 16 I think these are just, we have just the two 17 main statutes. The Hard Rock Mining Impact Act 18 itself is included, and then also the Tax Base 19 Sharing Act is included as well. So those are found 20 under Title 90, Chapter 6, Part 3 and Part 4. 21 And today I really want to focus on the Hard 22 Rock Mining Impact Act itself because that is what is 23 going to be the most relevant in terms of timing with 24 this new impact plan that is coming down the pike. 25 And so we're going to start with Part 3.</p>

<p style="text-align: right;">82</p> <p>1 So you'll see we have got 90 dash 6 dash 301 2 through 331, several statutes, but I really want to 3 pay attention to just two of them, which is 90 dash 6 4 dash 302, the definitional section, and then we're 5 also going to go through 90 dash 6 dash 307, the 6 impact plan to be submitted. 7 So if you're focused on time and you want to 8 manage your time in the most efficient manner, I 9 would read those two statutes. And I would reread 10 307 at least twice. There is a lot of information. 11 Within that one section, it is multiple pages, and 12 it, it is loaded with lots of information. 13 A majority of the guide is just reiterating 14 what is found in that section over and over again. 15 So read, please, please read Section 90 dash 6 dash 16 307, and I'm going to be talking about that a little 17 more when I go through some slides. So we'll put 18 that on hold. 19 And then you'll find also Part 4, which is 20 your Property Tax Base Sharing Act. It is included 21 in your binder as well behind the Hard Rock Mining 22 Impact Act. And this is going to come into play 23 after you actually have approved the impact plan. 24 So, again, that's what I'm focusing on, the Hard Rock 25 Mining Impact Act itself today, so that will be the</p>	<p style="text-align: right;">84</p> <p>1 that's where you see the definition. 2 And then submission, submission and approve 3 the submission of the plan. The notice of receipt of 4 a plan for review. Computation of time. The 5 contents of an objection to a plan. Submission of 6 objections to the board. Filing of objections during 7 the extension period. Notification of board 8 concerning negotiations on the plan. 9 Ex parte communications with board members, 10 that one is really important. The implementation of 11 approved impact plan. The waiver of an impact plan 12 requirement and evidence of provision of service or 13 facility. 14 So if we -- the only one I want to really 15 read to you right now is, take the time to actually 16 read it, is 8.104.210, the ex parte communications 17 with board members. So if you can flip to that one. 18 Page 5. 19 So subsection 1 is going to be what is 20 applicable to you as a board member. It states, "No 21 representative of any party to the plan may 22 communicate with any board member outside the context 23 of a public meeting on any issue related to the plan 24 until the plan receives final approval." 25 So right now we are within a 90-day review</p>
<p style="text-align: right;">83</p> <p>1 most relevant over the next few months. 2 There are some definitions in the Property 3 Tax Base Sharing Act that could be applicable, even 4 though they are not found in the other Part 3, Hard 5 Rock Mining Impact Act. 6 So do keep the definitional section in mind 7 when you are reading through the Hard Rock Mining 8 Impact Act itself. So that's the only section I 9 would really advise you to read as soon as 10 possible. 11 So that's it for the actual statutes that I 12 want you to focus on. And then we get to the ARMs, 13 the administrative rules, and there are a lot more 14 rules I want you to read as soon as possible. 15 So the first couple of sections of rules are 16 just general informational sections, but I want you 17 to focus on reading, we're looking at subchapter 2. 18 So we're in Title 8, Chapter 104, subchapter 2. If 19 you look at the table of contents, you can make marks 20 on that, it might be easiest to try to highlight what 21 I want you to focus on. 22 So if you look at Section 8.104.203, that is 23 the format and the contents of the plan, an impact 24 plan, so please read that. And then I'm going to 25 have you read all the way through 8.104.211B, so</p>	<p style="text-align: right;">85</p> <p>1 period, an impact plan was just submitted from the 2 Copper Butte project. So at this point this rule is 3 applicable. So I really want you guys to keep in 4 mind and if anybody contacts you and you're not sure 5 about what you can or cannot communicate, feel free 6 to give me a call or e-mail. Let me know if you want 7 to talk through any, any situation that may arise. 8 But I want to reiterate that it says any party, no 9 representative of any party to the plan may 10 communicate with any board members. 11 Okay. So that's, those are the statutes 12 and the ARMs that I want you all to focus on as soon 13 as possible. Take some time to read through it, and 14 I will try to help you. 15 So if there are any questions that come up 16 while you're reading down the road, feel free to give 17 me a call and I'm going to do my best to try to 18 answer all of your questions. 19 So next I want to kind of walk through the 20 guide a little bit just to try and give you a little 21 bit of orientation as to how to handle this giant 22 document that may seem a little intimidating. 23 So the guide is broken down into six 24 different chapters, and if you flip to the table of 25 contents in your --</p>

<p style="text-align: right;">86</p> <p>1 MS. ROTHENBUECHER: You guys, it's a 2 separate binder.</p> <p>3 MS. ROTHENBUECHER: So you can truck it 4 around.</p> <p>5 MS. BARNES: Your guide is a separate 6 binder. So flip to the table of contents. You'll 7 see that it has got six different chapters there and, 8 again, my focus today is on preparing you for the 9 impact plan process. Now that we have one that's 10 been submitted, I want you all to be aware of what is 11 going to be happening in the near future.</p> <p>12 So I want you to highlight, and if you want, 13 I brought some little tabbies, too, if you want to 14 mark any of the appendixes in the back, you know, 15 talking, just so you can find it in here later.</p> <p>16 So if we look at Chapter 1, so I would 17 recommend that you read subsection 2 and 3 there. 18 When the plan is submitted and received for review, 19 and then review and approval of the plan. So we're 20 under Chapter 1, and then subsections 2 and 3.</p> <p>21 So then we're going to skip to Chapter 3, 22 and I want you to read the entire Chapter 3. This is 23 the review and approval of an impact plan. And 24 you'll notice that some of these things are 25 reiterated multiple times throughout this document.</p>	<p style="text-align: right;">88</p> <p>1 second paragraph it says, "An effective local 2 governmental units include at least the local 3 government units within which the mineral 4 development is located and those that will experience 5 an increased need to provide services and facilities 6 as a result of the mine."</p> <p>7 And then you'll see that it has statutory 8 references within there. So if you're concerned 9 about making sure that the language that's included 10 here is exact to the statute, which is going to be 11 your guiding language, you can go back and reread 12 what you read already in your statute and make sure 13 that it is the same thing, you're not misinterpreting 14 anything.</p> <p>15 So this is one appendix I would recommend 16 that you read through and you can kind of go through 17 it briefly. It is, again, after you read through the 18 chapters of statutes, it is going to seem very 19 familiar to you.</p> <p>20 So then we get to B. This is an outline, a 21 sample outline of an impact plan. If you want, you 22 can go ahead and go through it. I think it is mainly 23 in here to actually help developers try and draft 24 their impact plan. So I don't have that one tabbed, 25 so that's something that I would highly recommend</p>
<p style="text-align: right;">87</p> <p>1 It is just trying to help, this document was 2 created to try to help the board members, the 3 turnover, the public and developers how to 4 actually understand and interpret the statutes and 5 the ARMs. So they say it multiple different times. 6 Third time is a charm, I guess.</p> <p>7 And then, let's see. And then in Chapter 4, 8 subpart B and C, and that's out of the chapters, 9 those are the ones that I want you to focus on. So 10 then we're going to get to all the appendixes that 11 are found after those chapters.</p> <p>12 And it might be just easiest, because we 13 actually flip to where the appendix starts and 14 there's not really a great page number, it is just 1A 15 dash 1.</p> <p>16 MS. ROTHENBUECHER: It's a pink sheet 17 between, yeah, the main part of your guide and the 18 appendices, if that helps out, whatever.</p> <p>19 MS. BARNES: So the first one is the 20 checklist for requirements for a hard rock mining 21 impact plan. Everybody find that, first appendix? 22 Okay. Great. So this is one that I would like for 23 you to read. It has a lot a great little tidbits of 24 information in there.</p> <p>25 Like I'll point out in the middle of that</p>	<p style="text-align: right;">89</p> <p>1 that you read.</p> <p>2 But the next one is one I do have tabbed and 3 that is key definitions and events. And that is 4 Appendix 2 dash 1. Are you all following along or is 5 anybody lost?</p> <p>6 MR. KELLY: 2 dash 1, you said?</p> <p>7 MS BARNES: Yeah, Appendix 2 dash 1 is where 8 it is, key definitions and events. So that is one I 9 would flag. So you can flip through it just to see, 10 it is quite long, but I think it will be helpful as 11 you're reading through the statutes and ARMs and 12 other chapters of the guide.</p> <p>13 The next appendix is the impact plan sample 14 table of contents and index. Again, I would skip 15 through this and I would skip through the next one as 16 well, Appendix 5, sample conditions and assumptions 17 until we get to Appendix 6.</p> <p>18 Appendix 6-A, preparation, review and 19 approval of Hard Rock Mining Impact Act. This 20 contains timetables and procedures. This one is 21 pretty helpful. It's a nice long narrative, so 22 instead of having a checklist, it's more of just 23 a nice narrative explaining the impact plan 24 process.</p> <p>25 So, again, after you read through the</p>

<p style="text-align: center;">90</p> <p>1 statutes and ARMs, it is going to be very familiar to 2 you, but if you're kind of struggling with how the 3 ARMs actually -- or how the statute sets things up in 4 the subsection, this has a nice chronological order 5 to it.</p> <p>6 So that was one that I would definitely 7 double highlight, that's something that would be 8 helpful to you. And you'll see on Page 6 of this 9 appendix, it does include a timetable to try and 10 give you an understanding of how long this process is 11 going to take.</p> <p>12 Like I said, we have entered already the 13 90-day review period. So you'll see that that's the 14 first thing that's listed here. And then there's a 15 30-day potential extension of time, another 30 days 16 of potential negotiations going on.</p> <p>17 And then some of these things are just, 18 kind of depends on if it comes up or if it doesn't 19 come up whether or not this process will continue or 20 could end in 90 days.</p> <p>21 And then there's another checklist that's 22 found, Appendix 6-D, dash D. I didn't actually 23 highlight this one, but this is still part of 24 Appendix 6. So if you find it helpful, then give it 25 a second to read.</p>	<p style="text-align: center;">92</p> <p>1 needs to be done. So I put a flag on that just to 2 read through it, kind of give yourself an idea of 3 what will be expected if we get to a contested case 4 hearing down the road.</p> <p>5 Okay. So after that you'll see there is an 6 overview of the Hard Rock Mining Impact Act and the 7 Property Tax Base Sharing Act. These are also great 8 documents to try and help you and other -- just 9 another document to explain what, what's actually in 10 these two different acts.</p> <p>11 And this is nice because it pulls out in 12 different sections what actually is happening. 13 You'll see there's the purpose of the act, the role 14 of the Hard Rock Mining Impact Board. If you don't 15 like reading the statutes, if you don't like reading 16 through the statutes, this is just kind of maybe a 17 more easier way to digest the information, so I 18 would flag that one. And that goes on for several 19 pages.</p> <p>20 And then you'll see after that there's a 21 summary. And this one I would double flag because 22 this one is going to be very helpful, I think. It 23 breaks down the roles and responsibilities of the 24 different interest parties that are involved in this 25 process.</p>
<p style="text-align: center;">91</p> <p>1 Or if it looks like you've already got this 2 information down, then feel free to cruise through 3 it quickly. Gives you a couple of different samples 4 of notices and some documents that you may be 5 receiving over the next 90 days.</p> <p>6 Appendix 7 is an objection to a proposed 7 hard rock mining impact plan. So if one of the local 8 governments, they are not sure how to actually 9 formulate their objection or want to see a sample of 10 one, they can read this and kind of get a little idea 11 of what, what they can put in their objection.</p> <p>12 So I don't have it highlighted for you. And 13 then I think the next one I have is not for quite a 14 while. So I skip through a lot of these samples that 15 are included in here until we actually get to, I 16 think it is Appendix 17, XVII dash 1, is the page I'm 17 looking at. And it is titled Informal Consent to Pay 18 Sharing Procedure.</p> <p>19 So if we do have a hearing at the end of the 20 90-day review period, this is going to be a very 21 important document to help us guide the process of 22 holding a contested case hearing.</p> <p>23 So they have written out this procedure to 24 try and help myself, as legal counsel, but also you 25 as board members, through the process of what</p>	<p style="text-align: center;">93</p> <p>1 We have got the mineral developer, the local 2 governmental units, the public, Hard Rock Mining 3 Impact Board, Department of Environmental Quality, 4 and the Department of Revenue. Did everybody find 5 that one? At the bottom of the page it says Summary 6 dash 1 and then dash 2.</p> <p>7 And then after you have that, you have, I 8 think they have also included the statutes and the 9 administrative rules within your guide. They do have 10 those also in your binder, too, so. You have them 11 twice. If you lose one of them, you can have them 12 someplace else.</p> <p>13 And there's also a few more extra statutes 14 that are actually included in the guide, including 15 your Enabling Act found at 215-18-22, talks 16 about -- also they have got the statute that relates 17 to quasi-judicial boards and what rules apply to 18 those boards, how you are allocated to the Department 19 of Commerce board and purposes. So there is a few 20 more statutes that are included in the guide.</p> <p>21 Also the operating permits, which I'll be 22 referencing that statute in a little bit. 82 dash 4 23 dash 335. It is where the developer actually applies 24 for his operating, his or her operating permit. They 25 include the metalliferous mines, mines license tax as</p>

94	<p>1 well, those statutes. And then also you have</p> <p>2 administrative rules, which are several pages long.</p> <p>3 Okay. So then the last thing I wanted to</p> <p>4 point out to you is at the very end of your, it is</p> <p>5 the last document basically at the end of your</p> <p>6 guide. And it is titled Hard Rock Mining Impact</p> <p>7 Board Formal Statement of Policies and Guidelines.</p> <p>8 So this is one that I would double flag as</p> <p>9 something that each one of you should take the time</p> <p>10 to read through. And it explains kind of a little</p> <p>11 bit more about what this guide is, but then also some</p> <p>12 of your general policies for just operating the</p> <p>13 board. What your responsibilities are. Some of the</p> <p>14 interpretations that have been made by past boards to</p> <p>15 actually go through statutes and ARMs.</p> <p>16 MR. KELLY: You are on the impact guide on</p> <p>17 the Summary 1, is that where you're at?</p> <p>18 MS. BARNES: So on that policies and</p> <p>19 guidelines, is what the page is page numbered.</p> <p>20 MS. VON NIEDA: Almost at the end.</p> <p>21 MS. BARNES: Yes, it's after the</p> <p>22 administrative rules.</p> <p>23 MR. KELLY: Okay. Which ones now?</p> <p>24 MS. BARNES: Sorry. I think that the --</p> <p>25 MS. PICHETTE: Polices and guidelines dash</p>	96	<p>1 you're not going to actually find this language in</p> <p>2 the statute or even in the ARM. It is a little</p> <p>3 nugget in here that former boards thought it was</p> <p>4 important, that the board member actually itself is</p> <p>5 helping the local governments and the developer</p> <p>6 through this process.</p> <p>7 So that's the guide. I hope, you know, to</p> <p>8 some focus attention on the specific things, it won't</p> <p>9 seem too daunting. And if there's anything that</p> <p>10 comes up while you're reading it, if that seems like</p> <p>11 it's complex in the statute or ARMs, feel free to</p> <p>12 give me a call and we'll walk through how to</p> <p>13 interpret it.</p> <p>14 MS. VON NIEDA: Now, we have done a lot of</p> <p>15 work on streamlining this guide because --</p> <p>16 MS. BARNES: Yes.</p> <p>17 MS. VON NIEDA: -- you know, there is MCA</p> <p>18 and ARM references all over and if you actually read</p> <p>19 the guide, which we did, cover to cover, some of the</p> <p>20 examples are either, you know, redundant or not.</p> <p>21 And one of the, one of the decisions that</p> <p>22 was made was to put the MCA and ARM references to the</p> <p>23 back with footnotes or superscripts and in the</p> <p>24 process of doing this, we found mistakes.</p> <p>25 MS. BARNES: Okay.</p>
95	<p>1 2.</p> <p>2 MS. BARNES: Yeah, that's the second page,</p> <p>3 yeah. So the title on the first page is Hard Rock</p> <p>4 Mining Impact Board Formal Statement of Policies and</p> <p>5 Guidelines.</p> <p>6 So, like I said, I would double flag this</p> <p>7 one. One that you should definitely read through.</p> <p>8 And if you look at subsection C, subsection C, it</p> <p>9 says, "Policies related to operation of the board."</p> <p>10 This kind of walks through a couple more policy</p> <p>11 statements that the board has implemented.</p> <p>12 And you'll see subsection 5, C, subsection 5</p> <p>13 at the bottom of Page 5. "Upon receiving the formal</p> <p>14 submitted -- formerly submitted impact plan, the</p> <p>15 board will notify the county of its responsibility to</p> <p>16 publish notice promptly of its receipt of the plan,</p> <p>17 to publish notice and hold a public hearing on the</p> <p>18 plan during the review period and to provide the</p> <p>19 board with a copy of each notice to the board. The</p> <p>20 board will also inform the effective local government</p> <p>21 units and the developer of the procedures and</p> <p>22 requirements for filing objections before making</p> <p>23 board recommendations or modifications to the plan</p> <p>24 after it has been submitted for review."</p> <p>25 So that is something that is applicable that</p>	97	<p>1 MS. VON NIEDA: Related to that. So what's</p> <p>2 happened to the draft as it stands now?</p> <p>3 MS. BARNES: Sure. So I think as far as I</p> <p>4 know, it was being worked on, right?</p> <p>5 MS. VON NIEDA: Right.</p> <p>6 MS. BARNES: They didn't actually approve</p> <p>7 anything?</p> <p>8 MS. VON NIEDA: No, no, so we're in the</p> <p>9 process of it.</p> <p>10 MS. BARNES: Right. I think that's where it</p> <p>11 is now.</p> <p>12 MS. VON NIEDA: Okay.</p> <p>13 MS. BARNES: But because we have an impact</p> <p>14 plan that's submitted, we knew it was coming soon.</p> <p>15 We didn't actually publish, I don't think we</p> <p>16 published the draft.</p> <p>17 MS. VON NIEDA: Right.</p> <p>18 MS. BARNES: Because it wasn't approved by</p> <p>19 the board yet.</p> <p>20 MS. VON NIEDA: Right.</p> <p>21 MS. BARNES: And I think the developer who</p> <p>22 submitted the plan was using this guide that you all</p> <p>23 have in front of you right now because that was</p> <p>24 what's been approved by the plan.</p> <p>25 MS. VON NIEDA: Right.</p>

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<p>98</p> <p>1 MS. BARNES: And in place.</p> <p>2 MS. VON NIEDA: So what do we do going</p> <p>3 forward with all of the work that was done on the</p> <p>4 guide previous?</p> <p>5 MS. BARNES: I think it is up to the board</p> <p>6 on how you want to handle that. If you want to</p> <p>7 pick up, because, Donna, you were here before, you</p> <p>8 were part of the process.</p> <p>9 MS. VON NIEDA: Right.</p> <p>10 MS. BARNES: So if you remember, you know,</p> <p>11 kind of what your intent was to kind of -- what your</p> <p>12 edits were, what you were trying to accomplish, you</p> <p>13 can inform your other board members of what was going</p> <p>14 on and where you guys left off. And if the board</p> <p>15 decides that they want to continue down that road,</p> <p>16 they can go ahead and pick it up and continue making</p> <p>17 some changes.</p> <p>18 But right now because we have an impact plan</p> <p>19 that's been submitted, I would say might be best just</p> <p>20 to kind of put that on hold for a little bit of time</p> <p>21 so we can get through this process.</p> <p>22 MS. VON NIEDA: Sure.</p> <p>23 MS. BARNES: So you are going to be busy.</p> <p>24 Even though there aren't, you know, the first 90</p> <p>25 days, there's not a lot for the board to be actually</p>	<p>100</p> <p>1 the disbursements.</p> <p>2 MS. BARNES: So are you talking about the</p> <p>3 payment to counties, statutory appropriation? So if</p> <p>4 you look at Section 90 dash 6 dash 331 in your</p> <p>5 statutes, so it is the last one in your statutes, of</p> <p>6 Part 3.</p> <p>7 MS. VON NIEDA: Of Part 3?</p> <p>8 MS. BARNES: Yeah. So payment to counties,</p> <p>9 statutory appropriation. So I don't --</p> <p>10 MS. WEBER: Can you get us to the page?</p> <p>11 MS. BARNES: Page 9.</p> <p>12 MR. KELLY: 9 of, where are we at?</p> <p>13 MS. BARNES: So you're in your statutes in</p> <p>14 your Tab 6.</p> <p>15 MS. VON NIEDA: 6.</p> <p>16 MS. PICHETTE: In the gray book.</p> <p>17 MS. BARNES: In your binder. Page 9, sorry.</p> <p>18 MS. PICHETTE: So Tab 6, Page 9.</p> <p>19 MR. KELLY: Page 9, you said?</p> <p>20 MS. BARNES: Page 9, yeah. So it is that</p> <p>21 last section you'll find on Page 9, 90 dash 6 dash</p> <p>22 331. So if this is the thing you're referencing on,</p> <p>23 it is the statutory appropriation. And it states</p> <p>24 that "Prior to each October 31st, all monies</p> <p>25 segregated by county in the hard rock mining impact</p>
<p>99</p> <p>1 acting on, there's still a lot of things that are</p> <p>2 going to be happening. You're going to be</p> <p>3 receiving notices of things and having to give</p> <p>4 notices of what you're receiving. Does that answer</p> <p>5 your question?</p> <p>6 MS. VON NIEDA: Yeah, definitely. Yeah.</p> <p>7 And I'm fine with that. I was just, I was just</p> <p>8 interested.</p> <p>9 Now, with regard to my question about the</p> <p>10 yearly disbursements, because my understanding from</p> <p>11 our previous information from, you know, the DOR and</p> <p>12 others, was that we are, even if it is kind of just a</p> <p>13 cursory approval, we're supposed to be an approval of</p> <p>14 those numbers that come from Stillwater Mine, at</p> <p>15 least that's really what has been happening for</p> <p>16 years.</p> <p>17 And when we reconvene the board after quite</p> <p>18 a hiatus of not meeting, I think there was a time</p> <p>19 they didn't meet for four or five years --</p> <p>20 MS. BARNES: Right.</p> <p>21 MS. VON NIEDA: -- something like that, it</p> <p>22 was brought to the attention of the board by</p> <p>23 actually, I believe Maureen did this, that it was not</p> <p>24 in keeping with the, with the statutes, that we were</p> <p>25 not at least looking at those numbers and approving</p>	<p>101</p> <p>1 trust accounts, all allocations in the hard rock</p> <p>2 mining impact trust account established in Section 90</p> <p>3 dash 6 dash 304, sub 2, as of the immediately</p> <p>4 preceding September 30th must be paid to the county</p> <p>5 for which the funds have been held in deposit. The</p> <p>6 payments to the counties are statutorily appropriated</p> <p>7 as provided in 17-7-502. The funds received by the</p> <p>8 county must be deposited in the county hard rock</p> <p>9 mining trust account established in 7-6-225."</p> <p>10 So I don't see anything in there</p> <p>11 referencing the board's approval of that statutory</p> <p>12 appropriation.</p> <p>13 MS. VON NIEDA: Okay.</p> <p>14 MS. BARNES: What could come into play is,</p> <p>15 and I'll talk about this when I get to my slides, if</p> <p>16 you have an impact plan that's talking about the</p> <p>17 developer actually making prepayments of taxes or</p> <p>18 issuing impact bonds, they could make those</p> <p>19 payments directly to the board.</p> <p>20 And that would be in the impact plan.</p> <p>21 That's decided by the developer, how they actually</p> <p>22 want to pay for all the impact that they are causing</p> <p>23 from their development. And so if they decide, well,</p> <p>24 we don't want to pay the local government directly,</p> <p>25 we'd rather pay the board directly, they put that in</p>

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102	<p>1 the impact plan.</p> <p>2 So then the board would receive those</p> <p>3 payments and would disburse those payments to the</p> <p>4 local governments based on the need. So the local</p> <p>5 governments would come to the board and say, hey,</p> <p>6 look, we need to build a new school or something,</p> <p>7 whatever the public service is that's being impacted,</p> <p>8 they let us know when they actually need the money.</p> <p>9 They request it from the board and I think that's</p> <p>10 when you would be approving the disbursement of those</p> <p>11 payments.</p> <p>12 MS. VON NIEDA: Okay.</p> <p>13 MS. BARNES: From the hard rock mining</p> <p>14 impact account.</p> <p>15 MS. VON NIEDA: See, my understanding from</p> <p>16 John Beaudry, correct me if I'm wrong, Maureen, was</p> <p>17 that he was specifically here at least a few years to</p> <p>18 report to the board of the numbers from Stillwater</p> <p>19 Mine.</p> <p>20 MS. BARNES: Sure.</p> <p>21 MS. VON NIEDA: And that for the board</p> <p>22 approval, specifically. So I could --</p> <p>23 MS. BARNES: If the board was receiving</p> <p>24 those payments.</p> <p>25 MS. VON NIEDA: I don't know whether --</p>	104	<p>1 that's where you get to be the judge, jury and</p> <p>2 executioner. You don't need to put that in the</p> <p>3 minutes, the judge.</p> <p>4 MS. VON NIEDA: And we have had within our</p> <p>5 impact area for Stillwater Mine, we have had, shall</p> <p>6 we call it discussion about, about the distribution</p> <p>7 of these metal mines money. So it has to do with</p> <p>8 student -- mine employee children accounting for each</p> <p>9 school and all of those things.</p> <p>10 So at least in our neck of the woods it is a</p> <p>11 big deal. And there was, there was a concern that</p> <p>12 that wasn't being carried out prior and so since we</p> <p>13 hadn't met since 2016, we're again running into the</p> <p>14 same thing, where even John Beaudry, from the</p> <p>15 Stillwater Mine said, you know, you're just trusting</p> <p>16 the Department of Revenue to be sending these monies</p> <p>17 out but nobody is checking to see whether this is the</p> <p>18 correct money for each school, each district based on</p> <p>19 the numbers.</p> <p>20 MS. BARNES: The numbers. Got it. Okay.</p> <p>21 So that, I can definitely look into and clarify that</p> <p>22 it is just a formality, I'll definitely look that</p> <p>23 statute up and make sure.</p> <p>24 MS. VON NIEDA: But it has to be, it has to</p> <p>25 occur, it should occur before the monies are</p>
103	<p>1 MS. BARNES: Harold, do you have something</p> <p>2 to add?</p> <p>3 MR. BLATTIE: Yes. What Donna is</p> <p>4 referencing is the board is required to annually</p> <p>5 approve the distribution of the metal mines license</p> <p>6 tax.</p> <p>7 MS. BARNES: Oh, the metal mines license?</p> <p>8 MR. BLATTIE: Yes. And that's based upon</p> <p>9 the monitoring report that is submitted by the mine.</p> <p>10 There's two different monitoring reports, just to</p> <p>11 confuse things a little bit. But that changes each</p> <p>12 year based upon the employees, where the employees</p> <p>13 are at.</p> <p>14 And so when the money comes to the county,</p> <p>15 it took 40 percent that goes into the trust, and then</p> <p>16 there is the balance. But there's the distribution</p> <p>17 to the schools at that time and that distribution</p> <p>18 to each of the schools has, that's what is being</p> <p>19 approved.</p> <p>20 MS. BARNES: Okay.</p> <p>21 MR. BLATTIE: And, yes, it really is a</p> <p>22 formality, but this is where you come into a</p> <p>23 quasi-judicial role is, you're adjudicating that.</p> <p>24 We'll say that one of the schools, affected schools,</p> <p>25 impacted schools came in, said that isn't right,</p>	105	<p>1 disbursed.</p> <p>2 MS. BARNES: Preapproval.</p> <p>3 MS. VON NIEDA: Their approval, yeah.</p> <p>4 MS. DAVEY: One thing, I've got the June</p> <p>5 26th, 2015 minutes and it was approved in there.</p> <p>6 MS. BARNES: Okay.</p> <p>7 MS. DAVEY: So there was action taken in</p> <p>8 '15.</p> <p>9 MS. VON NIEDA: And so we received what John</p> <p>10 used to give us, a report of numbers for each school</p> <p>11 and he would go through that.</p> <p>12 MS. BARNES: So this is the money that</p> <p>13 Department of Revenue is collecting, not that is</p> <p>14 being paid directly to the board, okay.</p> <p>15 MR. BLATTIE: The board receives a portion</p> <p>16 of that and then it is to pay the board expenses,</p> <p>17 then at the end of the year the board is allowed to</p> <p>18 retain a hundred thousand dollars as a reserve.</p> <p>19 Any remainder of that that is unspent then</p> <p>20 is distributed back to the counties where as if it</p> <p>21 hasn't been needed to start with or the same</p> <p>22 percentage.</p> <p>23 MS. VON NIEDA: Harold, do you have a copy</p> <p>24 of that sheet of paper that you had at the</p> <p>25 legislature that was showing --</p>

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1 MR. BLATTIE: I think it is still posted on
 2 the department's website that shows that flow of the
 3 distribution of the metal mines license tax. If it
 4 isn't, it should be.
 5 MS. ROTHENBUECHER: We'll double-check.
 6 MS. VON NIEDA: That might be something for
 7 our board.
 8 MR. BLATTIE: Yeah, that should be in the
 9 handbook.
 10 MS. VON NIEDA: Wouldn't you agree? I'm
 11 visualizing it, but you know what I'm talking
 12 about?
 13 MS. ROTHENBUECHER: Yeah, I'm pretty
 14 sure I do.
 15 MS. VON NIEDA: It has got columns and it
 16 shows where, shows that 40 percent and then all the
 17 distribution to the schools and county.
 18 MR. WALLACE: And the reserve account.
 19 MS. VON NIEDA: Yeah, and the reserve
 20 account.
 21 MS. BARNES: So under Section 90 dash 6 dash
 22 304, accounts established, it does talk about money
 23 being paid into the hard rock mining impact trust
 24 account under the provisions of 15-35-117. I am
 25 guessing that's referencing the metal mines license

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1 tax.
 2 MS. VON NIEDA: Probably.
 3 MS. BARNES: So it states, "After first
 4 deducting the administrative and operating expenses
 5 of the board, as provided in 90-6-303, and then
 6 establishing and maintaining a reserve amount of
 7 \$100,000, as provided in subsection 2 of this
 8 section, the remaining money must be segregated
 9 within the account by county of origin."
 10 MS. VON NIEDA: Right.
 11 MS. BARNES: So that's the payment that
 12 you're interested in?
 13 MS. VON NIEDA: Right.
 14 MS. BARNES: Whether the board has to make
 15 an actual approval of that distribution.
 16 MS. VON NIEDA: Well, I think there was 2014
 17 when this was first brought up, I think if I recall
 18 correctly, John Beaudry was the one who was
 19 concerned that it was no oversight. He said frankly
 20 from his point of view, he's happy to give whatever
 21 figures and let, let that happen, but from the
 22 standpoint of the counties, that's probably not a
 23 good idea without some kind of oversight.
 24 MS. BARNES: Okay. I'll look into that a
 25 little bit and see if I can get you a better

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1 answer.
 2 MS. VON NIEDA: No problem. But it is all
 3 drawn out in that, in that diagram.
 4 MS. BARNES: Okay. All right. Do we have
 5 any other questions about the statutes or ARMs in the
 6 guide before I jump into kind of walking through the
 7 impact plan process slides? Donna?
 8 MS. VON NIEDA: This is separate. You're
 9 going to hate to hear from me. Do we have bylaws as
 10 a board?
 11 MS. BARNES: Well, you do have those guides,
 12 what do we call it.
 13 MR. KELLY: Guides.
 14 MS. BARNES: Guides -- policies and
 15 guidelines. I didn't see any bylaws.
 16 MS. VON NIEDA: I was just curious because I
 17 haven't see any bylaws and as an organization usually
 18 there are, so I hate to be a thorn in your side,
 19 but --
 20 MS. BARNES: Oh, no.
 21 MS. VON NIEDA: -- but I have these
 22 questions.
 23 MS. ROTHENBUECHER: I haven't seen any
 24 bylaws and I believe --
 25 MR. KELLY: We're offering the policies and

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1 guidelines --
 2 MS. VON NIEDA: Great. Thank you.
 3 MS. BARNES: That is the closest thing to
 4 bylaws that I have come across.
 5 MS. VON NIEDA: Thank you.
 6 MS. BARNES: Any other questions?
 7 MR. KELLY: Back to this other book?
 8 MS. BARNES: We're actually going to move on
 9 to a power point. So I've got copies of the power
 10 point if you would like them. Feel free to write all
 11 over your power point presentation.
 12 MR. KELLY: Maybe we should put this into
 13 the orientation.
 14 MS. BARNES: Are you ready for the power
 15 point? Okay. So like I was stating earlier, I want
 16 to focus on the impact mining process itself today
 17 because that's what --
 18 MS. DAVEY: Thank you very much. We have to
 19 head down the road.
 20 MR. THOMPSON: Appreciate it. See you next
 21 time.
 22 MS. BARNES: Thanks for your comments.
 23 So I'm going to talk about the impact plan's
 24 process itself generally, how it goes, how you can
 25 actually have a waiver of the impact plan

<p style="text-align: center;">110</p> <p>1 requirement, and how do you amend an impact plan 2 that's already been approved and in operation. 3 And then I'm briefly going to talk about the 4 tax prepayment, property taxes and impact bonds, 5 those are the two ways that a developer can pay for 6 and make good on its promise to pay for all the 7 increase in financial, financial public service costs 8 that are going to be impacted because of the 9 development. And then finally I'm going to touch on 10 briefly the Property Tax Base Sharing Act. 11 So the impact plan process, and I've 12 included statutory references and some administrative 13 rules references so that if you need to go back and 14 you want to reread something. But, like I said, 90 15 dash 6 dash 307 is the section that you, each one of 16 you need to read at least once, I'd recommend two or 17 three times. 18 I'm going to be going through, most of the 19 information that's in this power point presentation 20 comes from that section. And 90 dash 6 dash 308 is 21 really, I mean, you can get all the information you 22 need from that short section just by title, which is 23 permit procedure and review of impact plan to run 24 concurrently, so I'll explain that in a second. 25 And then the ARMS are what I went over today</p>	<p style="text-align: center;">112</p> <p>1 way is through other funds obtained from the 2 developer. 3 So when does a developer actually have to 4 submit an impact plan. A developer has to submit an 5 impact plan when they are a large scale mineral 6 developer, and they file an application for a permit 7 under 82-4-335, which is the operating permit. 8 And they can submit the actual impact plan 9 any time after they file that application. There's 10 no deadline, like you have to submit it within six 11 months or two years. But the guide, you'll see in 12 the guide that they do recommend, the board has 13 recommended that they wait until they are closer to 14 receiving the actual operating permit, or they are 15 further down the road in the environmental review 16 before they actually submit the impact plan. 17 You don't want to be submitting your 18 application for a permit and then submitting that 19 plan the next day. You want to take the time to 20 actually work with who you think are going to be 21 impacted, the local governments who are going to be 22 impacted and draft up your impact plan. 23 So the impact plan review and permitting 24 process are supposed to be happening at the same 25 time, which is what is stated in that one section.</p>
<p style="text-align: center;">111</p> <p>1 of what I thought you all should take the time to 2 actually read through. So we keep talking about an 3 impact plan, but I don't know if anybody has actually 4 described what it is. 5 So the impact plan itself will describe the 6 economic impact that a large scale of mineral 7 development will have on local governmental units. 8 And according to statute, it must include the 9 following information: A timetable for the 10 development, including opening and closing dates; the 11 estimated number of people that are coming into the 12 impacted area; the increased capital and operating 13 cost to local government units for provide 14 services; and lastly, the financial or other 15 assistance the developer will give to local 16 governments to meet the increased need for 17 services. 18 So within the impact plan, they have to 19 commit to pay all the increased capital and net 20 operating cost to the local governmental unit and 21 they can do that through one of three ways. Through 22 tax prepayments, which is explained further in 23 Section 90 dash 6 dash 309, or through special 24 industrial local government facility impact bonds, 25 which is discussed earlier in 90-6-310. Another</p>	<p style="text-align: center;">113</p> <p>1 So they are supposed to actually run concurrently, it 2 is not receive the operating permit and you can 3 consider the impact plan, it's supposed to all happen 4 at the same time. 5 And so when you submit, when the developer 6 submits the impact plan, who do they actually have to 7 submit it to, the affected counties and then the 8 board. And that submission will actually trigger the 9 90-day review period. 10 And since the board received an impact plan 11 last week, I believe, or two weeks ago now, August 12 31st, don't quote me on that, August 30th or 31st, 13 now the local governments have 90 days to actually 14 review what's in the impact plan. You'll see there's 15 an ARM reference there talking about submission. So 16 after -- 17 MS. WEBER: Let me just ask a question, Amy. 18 MS. BARNES: Sure. 19 MS. WEBER: So the county has 90 days or the 20 board also has 90 days? 21 MS. BARNES: Well, it's just a 90-day review 22 period. The board is kind of sitting back. 23 MS. WEBER: Okay. 24 MS. BARNES: And the local governments are 25 the ones who are actually going to be --</p>

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<p style="text-align: center;">114</p> <p>1 MS. WEBER: Providing comments?</p> <p>2 MS. BARNES: The board is going to be</p> <p>3 reviewing the actual impact plan, and there's nothing</p> <p>4 that you can do, but the local government is the one</p> <p>5 who will actually go through and read it and if there</p> <p>6 is something they want to object to --</p> <p>7 MS. WEBER: Okay.</p> <p>8 MS. BARNES: -- they got 90 days to actually</p> <p>9 review the impact plan.</p> <p>10 MS. BARNES: So after they receive the</p> <p>11 impact plan, the governing bodies of the affected</p> <p>12 counties have to publish notice of that receipt of</p> <p>13 the impact plan in a newspaper of general circulation</p> <p>14 within the county.</p> <p>15 So in this case, Meagher County will have to</p> <p>16 publish notice in the newspaper of general</p> <p>17 circulation within Meagher County.</p> <p>18 MS. WEBER: Then is it their responsibility</p> <p>19 also to post it on their own website so the public</p> <p>20 has an opportunity to see it, because I'm assuming it</p> <p>21 is this thick?</p> <p>22 MS. BARNES: So they would have to provide</p> <p>23 like how the public can actually get a copy of it and</p> <p>24 review. So whether that's going to be online or if</p> <p>25 they have to come into a county building to see a</p>	<p style="text-align: center;">116</p> <p>1 were affected, they can also submit an objection.</p> <p>2 MR. THOMPSON: So most counties in Montana</p> <p>3 have a commission. I mean, they hold a public</p> <p>4 hearing, but the local fire department could file an</p> <p>5 objection, it doesn't have to solely come from the</p> <p>6 county to be --</p> <p>7 MS. BARNES: As long as they are an affected</p> <p>8 local government.</p> <p>9 MR. THOMPSON: So they could be affected</p> <p>10 either -- they believe they are affected or they have</p> <p>11 to be identified in the plan as being affected?</p> <p>12 MS. BARNES: No, it doesn't have to be</p> <p>13 identified in the plan. So let's say the plan only</p> <p>14 identified one local governmental unit that was</p> <p>15 actually affected, is what they believed, but in</p> <p>16 reality there were a couple others that were affected</p> <p>17 because they were going to have to see an increase in</p> <p>18 public services based on the development. So those</p> <p>19 other nonidentified affected local government units</p> <p>20 can file an objection.</p> <p>21 MS. WEBER: So, for example, in an</p> <p>22 incorporated town. So that's probably the most</p> <p>23 logical thing.</p> <p>24 MS. BARNES: So you'll see under your</p> <p>25 definitional section in your statutes, a local</p>
<p style="text-align: center;">115</p> <p>1 copy, it's really up to the discretion of the county,</p> <p>2 but they have to make it available.</p> <p>3 Okay. So now we're in the 90-day review</p> <p>4 period. This is where the public is going to come</p> <p>5 into play, going to participate. The governing body</p> <p>6 of the county where the fiscal impacts on the local</p> <p>7 government units are forecasted to be the most</p> <p>8 costly. They are required to hold a public hearing</p> <p>9 on the impact plan within 90 days of when they</p> <p>10 received it.</p> <p>11 So at any point there's not actually -- at</p> <p>12 any point during the 90-day review period is when</p> <p>13 they actually have to have a public meeting. But</p> <p>14 it's probably better to do it sooner rather than</p> <p>15 later so you can get public comment on it and then</p> <p>16 that may or may not impact how the local governments,</p> <p>17 how they object or don't object.</p> <p>18 So objections can't be filed by members of</p> <p>19 the public, it has to come from an actual affected</p> <p>20 local governmental unit. And it can come from</p> <p>21 those who are identified in the impact plan as an</p> <p>22 affected local governmental unit.</p> <p>23 Or if a local governmental unit wasn't</p> <p>24 actually identified in the impact plan as being</p> <p>25 affected, but they can prove that they actually</p>	<p style="text-align: center;">117</p> <p>1 government unit is defined as a county, city, town,</p> <p>2 school district or any of the following independent</p> <p>3 special districts.</p> <p>4 So you have rural fire department districts,</p> <p>5 public hospital district, solid waste management</p> <p>6 district, county, water and sewer district, county</p> <p>7 water district, sewer district or park district. So</p> <p>8 those are all considered local government units when</p> <p>9 we're talking about local government units.</p> <p>10 And then the other thing in our handy dandy</p> <p>11 Section 90-6-307, it states that an affected local</p> <p>12 government unit that has not been identified in an</p> <p>13 impact plan submitted to the board as being likely to</p> <p>14 experience increased capital and operating costs</p> <p>15 providing services that can be expected as a result</p> <p>16 of development, they may object to the impact plan</p> <p>17 under the provisions of this section if the local</p> <p>18 government unit clearly demonstrates that it is</p> <p>19 likely to experience increased capital and operating</p> <p>20 costs from the mineral development.</p> <p>21 So it has to clearly demonstrate, it can't</p> <p>22 just be, well, we disagree with whatever you state in</p> <p>23 the impact plan, we think we're going to have an</p> <p>24 impact, they have to show it.</p> <p>25 MR. THOMPSON: Okay. So there is a, I</p>

<p style="text-align: center;">118</p> <p>1 didn't follow, there is a list of entities in here, 2 but it is not limited to just that list because it 3 could be something else if it can clearly show. 4 MS. BARNES: So there's a definition of what 5 a local government unit is, that's one thing. So you 6 have to fit within one of those to actually be 7 qualified as a local government unit under the 8 statute as we're talking about what a local 9 government unit is. 10 MR. THOMPSON: Okay. 11 MS. BARNES: So if you can check off one of 12 those boxes, the next thing you have to show is 13 whether or not you can clearly demonstrate that your 14 local government is going to have an increase in 15 capital and operating expenses because of the 16 developer development. 17 MR. THOMPSON: Okay. 18 MS. BARNES: So if you can show that, that 19 you are actually an affected local government unit, 20 but the developer just didn't add you into the impact 21 plan or name you as an affected local government 22 unit, then you could be considered an affected local 23 government unit just not named in the impact plan. 24 So it is just, I think it is just a way to 25 make sure the developer is, you know, just in case</p>	<p style="text-align: center;">120</p> <p>1 there were impacts. 2 MS. BARNES: Thanks, Harold, for the 3 example. Does that answer your question? 4 MR. THOMPSON: Yeah, for now. 5 MS. VON NIEDA: So going back to, you know, 6 the whole, the whole -- I think we started with the 7 opening up to public participation as much as 8 possible. Let's say you have a public hearing and, 9 you know, all of these individuals show up, they 10 would have to, am I understanding correctly, they 11 would have to become a part of, put their objection 12 with one of these local government units in order to 13 be heard, is that -- 14 MS. BARNES: Well, they can be heard at the 15 public hearing, I think that's the perfect forum for 16 them to state whatever objections they may have to 17 the impact plan. But that is not something that the 18 board will actually review. 19 So the board will only, and we'll get there, 20 we're kind of jumping ahead a little bit. 21 MS. VON NIEDA: Sorry. 22 MS. BARNES: No, that's okay. So the 23 public's participation is going to occur at 24 the -- they can come to any meeting, of course, any 25 open meeting that the board is holding, but there</p>
<p style="text-align: center;">119</p> <p>1 they didn't include somebody that was affected, this 2 is a way to include them. Harold? 3 MR. BLATTIE: Could I offer a real life 4 example of that? 5 MS. BARNES: Sure. 6 MR. BLATTIE: Okay. When the East Boulder 7 plan was originally submitted to Sweetgrass County, 8 Stillwater County and the county represents all of 9 the jurisdictions of the governmental units in the 10 negotiations, if you will, but Stillwater County 11 objected on the basis of impacts specifically to the 12 Reed Point School District, hence, it's Stillwater 13 County because of the housing was where that was. 14 And so that was where the board had to 15 exercise its quasi-judicial role and adjudicated that 16 objection and found in favor of Stillwater County. 17 And so Stillwater was then identified as a 18 potentially affected unit, that's the terminology 19 that's in that plan. 20 And, you know, I think it might be of some 21 help to you to maybe review some of the existing 22 plans so you get some feel for the things that are in 23 there, but that's a real life example of a 24 jurisdiction not being identified in the original 25 plan submitted, but was able to demonstrate that</p>	<p style="text-align: center;">121</p> <p>1 are, I think their opportunity to actually make their 2 comments is going to be at the public hearing that 3 the county is going to be holding. 4 MS. VON NIEDA: Okay. 5 MS. BARNES: And then if they feel that 6 they are representing another district that they feel 7 is an impact-affected district, they can actually try 8 and file an objection. 9 MS. VON NIEDA: Okay. 10 MS. BARNES: And whether or not that 11 objection is going to stand because they can 12 actually demonstrate it, will be determined by the 13 board. 14 MS. VON NIEDA: Okay. 15 MS. BARNES: So going to talk about that 16 process. 17 MS. WEBER: So is it inappropriate for this 18 board to attend any of the hearings to hear what is 19 said? 20 MS. BARNES: To the public hearing that the 21 county is putting on? 22 MS. WEBER: Right. Is it appropriate for us 23 to be there or is that considered ex parte kind of, 24 even though we are not having a conversation we would 25 still be hearing what's being said.</p>

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<p style="text-align: center;">122</p> <p>1 MS. BARNES: You know, I can't remember 2 reading anything in the guide, but that's something 3 that I'll look through the guide and see if there is 4 any guidance specifically on the board members 5 attendance at the public hearing before I state my 6 opinion. 7 MS. WEBER: Okay. 8 MS. BARNES: That's a great question. Okay. 9 Any other ones on this slide? 10 So they are going to hold a public hearing, 11 and at some point after that objections could be 12 made, or even before that, before the meeting, the 13 hearing, objections can be made. 14 But then there's also an affected local 15 government, if they need more time, they can request 16 that the board approve a 30-day extension. So it's 17 only 90 days, they are going to have another 30 days 18 tacked on, so 120 days to review the impact plan and 19 essentially make objections. But if one local 20 governmental unit is making that request, that 21 request only applies to them, the extension only 22 applies to them. 23 And then we have got, I've got an ARM 24 reference here on how you actually calculate the 25 days. So if you're concerned about, well, let's make</p>	<p style="text-align: center;">124</p> <p>1 they file an objection saying you need to add us, and 2 actually identify the affected local government and 3 this is why they clearly demonstrate the number 4 showing how their public services are going to be 5 increased and operating expenses. 6 So they file the objection. We, as a board 7 would notify the developer and the other local 8 governments of the objection and then the local 9 government and the developer are going to have 30 10 days to try and come to some sort of reconciliation 11 about the objection. And if they do, then we just 12 need to modify the plan, which is outlined in the ARM 13 on how we actually go about modifying an impact plan 14 that hasn't quite been approved yet. 15 But if they can't reconcile after 30 days of 16 trying to negotiate what their objection is, then the 17 board is going to hold a hearing. And the board 18 won't hold hearings throughout this process. Let's 19 say we get an objection within 30 days and then, you 20 know, they have got 30 days to actually negotiate, so 21 that's 60 days. 22 It is not like the board is going to jump in 23 and hold a hearing just on this one objection. They 24 are going to wait until the review period is done and 25 hear all the objections and rule on all of the</p>
<p style="text-align: center;">123</p> <p>1 sure we get the days right, there's an ARM that is 2 relevant. And there's nothing too different about 3 how to calculate the time and the days. 4 If the 90-day falls on a Saturday, that's 5 not actually counted, you go to the next business day 6 which is, as long as it is not a holiday, that would 7 be the 90th day. 8 Okay. So we're still on our 90-day review 9 period and let's just say no local government 10 actually files an objection to the impact plan. Then 11 the impact plan is reviewed -- there is an approved 12 by the board without any review, but that's probably 13 unlikely, especially the Copper Butte project, but 14 we'll see. 15 The other way -- so if we don't have 16 objections, it will be approved, but if there are 17 objections, there are two different things that are 18 going to be happening. We are going to have 19 reconciliation and/or a hearing. And I've got some 20 ARMs reference there that you can look back on 21 later. 22 So with the reconciliation, let's say we 23 have got an affected local government or let's say 24 one that wasn't identified in the impact plan, they 25 believe they are an affected local government, so</p>	<p style="text-align: center;">125</p> <p>1 objections. 2 So if there are outstanding objections that 3 haven't been reconciled at the end of the review 4 period, then the board is going to hold a contested 5 case hearing. And then the board is required to make 6 findings regarding the actual impact plan that was 7 objected to and make an amendment to impact plan as 8 appropriate. 9 So that is generally how you get through an 10 impact plan process. And then after, shortly after, 11 the developer must submit to the board a guaranty, a 12 written guaranty that will meet the increased costs 13 of public service and facilities. 14 And the board in reply will notify the 15 Department of Environmental Quality of its receipt of 16 the guaranty and of any failure of the developer to 17 actually comply with Section 90-6-307. 18 MR. THOMPSON: Is the written guaranty some 19 kind of surety of some form or fashion or just a 20 letter that says I guaranty this? 21 MS. BARNES: I think it's more than just an 22 I guaranty. I think it is, I'm sure the guide has 23 probably a sample of what is actually outlined for 24 the guaranty. I can't tell you off the top of my 25 head what they need to include in it.</p>

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<p style="text-align: right;">126</p> <p>1 MR. THOMPSON: Okay.</p> <p>2 MS. BARNES: But if that's something you're</p> <p>3 interested in, this is a great opportunity to go to</p> <p>4 your guide and look at the table of contents to see</p> <p>5 if there's something, you know, a little bit more</p> <p>6 specific information that is written on it and review</p> <p>7 it. If you don't have the answer --</p> <p>8 MR. THOMPSON: I was just asking the</p> <p>9 question, but I know I need to do my homework, too,</p> <p>10 so.</p> <p>11 MS. BARNES: But that's great.</p> <p>12 MS. WEBER: Yeah, the statute doesn't say</p> <p>13 much.</p> <p>14 MR. KELLY: The guide at the end may suggest</p> <p>15 something.</p> <p>16 MS. BARNES: Yeah. There may be a sample.</p> <p>17 I honestly can't tell you of the sample that's in</p> <p>18 there off the top of my head. Donna, do you have</p> <p>19 something to add?</p> <p>20 MS. VON NIEDA: Yeah, the board must notify</p> <p>21 DEQ of its receipt of the guaranty, I can understand</p> <p>22 us doing that, but any failure to comply with the</p> <p>23 section.</p> <p>24 So, again, what oversight procedure do we</p> <p>25 have and are there certain things that obviously it</p>	<p style="text-align: right;">128</p> <p>1 MS. VON NIEDA: Got it. Yeah, they didn't</p> <p>2 have a public meeting or, okay, I get it.</p> <p>3 MS. BARNES: And then as soon as they</p> <p>4 actually comply with it, then we would notify the DEQ</p> <p>5 that they complied with it.</p> <p>6 MS. VON NIEDA: But to Jane's comment, then,</p> <p>7 it might behoove us, for example, to be at the public</p> <p>8 meeting to understand that it was actually, for</p> <p>9 example, I mean, I'm just thinking.</p> <p>10 MS. BARNES: Well, I'm sure I will be</p> <p>11 attending the public hearing.</p> <p>12 MS. VON NIEDA: So then you can tell us,</p> <p>13 right?</p> <p>14 MS. BARNES: Definitely. And I don't know</p> <p>15 if other staff members will be attending or not.</p> <p>16 MS. VON NIEDA: Okay. Yeah.</p> <p>17 MS. BARNES: Yeah, I plan on keeping tabs on</p> <p>18 this process closely.</p> <p>19 MS. VON NIEDA: Thank you.</p> <p>20 MS. ROTHENBUECHER: I was just looking at,</p> <p>21 in the guide, Chapter 3, Page 15. It is not very</p> <p>22 descriptive on written guaranty. There's basically a</p> <p>23 paragraph that basically says what Amy's slide says,</p> <p>24 but then it gives a little bit more detail on the</p> <p>25 financial guaranty piece.</p>
<p style="text-align: right;">127</p> <p>1 implies something that we're supposed to be doing</p> <p>2 with regard to some kind of assurance that we can</p> <p>3 make to the DEQ.</p> <p>4 MS. BARNES: So this is coming out of</p> <p>5 Section --</p> <p>6 MS. VON NIEDA: 90 dash 6.</p> <p>7 MS. BARNES: Yeah, 90-6-307.</p> <p>8 MS. VON NIEDA: Which is that big long</p> <p>9 one.</p> <p>10 MS. BARNES: Yeah, our main statute that</p> <p>11 we're going to reread several times.</p> <p>12 MS. VON NIEDA: Right. But, you know,</p> <p>13 having read that, that just jumped out at me because</p> <p>14 I don't remember there being any specific</p> <p>15 procedures or reference to how would we go about even</p> <p>16 knowing that any failure.</p> <p>17 MS. BARNES: So I think it's when we're</p> <p>18 going through this process of the impact plan, let's</p> <p>19 say, the developer is refusing to cooperate in some</p> <p>20 way.</p> <p>21 MS. VON NIEDA: Oh, okay. Something like</p> <p>22 that, okay.</p> <p>23 MS. BARNES: Then we would notify DEQ, say,</p> <p>24 hey, look, don't issue the operating permit because</p> <p>25 they haven't complied with whatever --</p>	<p style="text-align: right;">129</p> <p>1 And then to your question, I think a little</p> <p>2 bit the enforcement of commitments on Chapter 3, Page</p> <p>3 16. So I was looking for a sample to answer the</p> <p>4 question as well, but I didn't see --</p> <p>5 MS. BARNES: No sample.</p> <p>6 MS. ROTHENBUECHER: -- I didn't see that</p> <p>7 yet, and there's not a whole lot of description, but</p> <p>8 maybe to point for the public as well there may be</p> <p>9 some benefit in us looking at --</p> <p>10 MS. BARNES: Well, we can look at old ones,</p> <p>11 too, to see what was --</p> <p>12 MS. ROTHENBUECHER: Old ones, too. I stand</p> <p>13 corrected. I stand corrected. In the appendices,</p> <p>14 Appendix 8 says sample written guaranty of compliance</p> <p>15 and then Appendix 9, financial guaranty requirements,</p> <p>16 a sample of financial guarantees.</p> <p>17 MS. BARNES: Perfect.</p> <p>18 MR. KELLY: I don't know if that addresses</p> <p>19 it, too, right at the very end of the policies and</p> <p>20 guidelines, the very last page in here kind of has</p> <p>21 got some, lays out some things what the board does</p> <p>22 and the DEQ then does meet this with some specificity</p> <p>23 it looks like --</p> <p>24 MS. VON NIEDA: But that probably circles</p> <p>25 back to things like the metal mines reporting and</p>

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<p>130</p> <p>1 things like that for us to be able to know whether 2 those financial guarantees are actually being carried 3 out. 4 MS. BARNES: Okay. So any other questions 5 about the impact plan process in general? I'm sure 6 questions will arise as you go through the statutes 7 and the ARMs and the guide. So, again, feel free to 8 shoot me an e-mail or give me a call and I'm more 9 than happy to look up an answer for you or give you 10 an answer on the spot, if I can. 11 MS. VON NIEDA: It was very appreciated. 12 Thank you. Very appreciated. 13 MR. KELLY: What I get a sense is because 14 the one was filed, the clock is running, I mean, the 15 game has started, and we better get up to speed with 16 what our piece of the pie is. 17 MS. BARNES: Right. 18 MS. VON NIEDA: Do we have a copy of the 19 filing that was made? 20 MS. BARNES: I think you'll be getting it 21 after my presentation. 22 MS. VON NIEDA: Oh. 23 MR. KELLY: Next. 24 MS. BARNES: I know the excitement. 25 MS. WEBER: So is there any responsibility</p>	<p>132</p> <p>1 kind of exercise, so we make sure it has been 2 handled. 3 MR. THOMPSON: Is that something you 4 anticipate the department will put out and then copy 5 us so that we know it went out? 6 MS. BARNES: Yes. Yeah, that seems like 7 it's something -- or text me, unless you want 8 something, or one of you board members want to 9 volunteer. 10 MS. VON NIEDA: I think that would qualify 11 under that Number 3, that ministerial duty. 12 MS. ROTHENBUECHER: Action. 13 MS. VON NIEDA: Right, that Jennifer was 14 going through. 15 MS. WEBER: But I would ask that they at 16 least, somehow this board gets notified when their 17 public hearing is going to be held. 18 MS. BARNES: Sure. Sure. 19 MR. KELLY: Do you have an observation for 20 the research whether we should just on our own attend 21 those? 22 MS. BARNES: The public hearing? 23 MS. WEBER: You can let us know then? 24 MS. BARNES: Yeah, I'm going to read through 25 the guide for that specific point and see if it has</p>
<p>131</p> <p>1 on our part to make sure that the county does get 2 moving and get the public hearing scheduled? I mean, 3 what is our role in helping guide the county? 4 MS. BARNES: Sure. So that's what I pointed 5 out in your policies and guidelines, I think it was 6 subsection C through C-5. So in your guide, at the 7 end of the guide. 8 MR. KELLY: Yeah, that section is kind 9 of -- 10 MS. BARNES: So policies and guidelines, 11 Page 5, at the bottom of the page, "Upon receiving a 12 formally submitted impact plan, the board will notify 13 the county of its responsibility to publish notice 14 promptly of its receipt of the plan, to publish 15 notice and hold a public hearing on the plan during a 16 review period and to provide the board with a copy of 17 each notice to the board." 18 MS. WEBER: So do you help facilitate that 19 as the Department of Commerce writing, drafting a 20 letter so there is something on the record that has 21 notified the county of their responsibility to hold 22 the meeting or how do we do that? 23 MS. BARNES: I think, I think the department 24 can handle that. 25 MS. WEBER: To me it seems like a staff</p>	<p>133</p> <p>1 any guidance on whether board members should or 2 should not attend. 3 MS. WEBER: I would see an advantage to 4 being able to hear what the public has to say or 5 other governmental entities have to say. 6 MS. BARNES: You just need to be careful of 7 ex parte conversation. 8 MS. WEBER: Exactly. I mean, for us to have 9 any conversation with those folks would be 10 inappropriate. We would have to just be mute in the 11 back of the room without wearing any badge that says 12 we're on the board. 13 MR. KELLY: The only difference is the name 14 tag, we're protected -- 15 MS. VON NIEDA: I do agree with Jane that if 16 we're to ever adjudicate something, the more 17 information we had just would be I think useful. 18 MS. WEBER: And I think we really would have 19 to control ourselves. And if somebody approached us, 20 we would have to say, I'm sorry, we're just here to 21 listen to the hearing, we would be involved in this 22 process later down the line and it is inappropriate 23 for us to engage and, you know, just hold fast to 24 that. 25 MS. BARNES: Right.</p>

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<p>134</p> <p>1 MS. WEBER: But you need to tell us whether 2 it is appropriate or not.</p> <p>3 MS. BARNES: Yeah, I will. I will 4 definitely look into that.</p> <p>5 MS. VON NIEDA: Alternatively, if there was 6 a recording, we could maybe just listen to the 7 recording.</p> <p>8 MS. WEBER: Well, for me, I'm closer. I'd 9 rather just sit through the meeting than go to sleep 10 listening to an audiotape.</p> <p>11 MS. BARNES: I think I'm going to be done 12 pretty quickly. I don't want to overload the board 13 members with too much information.</p> <p>14 MS. WEBER: This is really good. This is 15 really helpful. Very, very good. Thank you.</p> <p>16 MS. BARNES: Okay. So I want to briefly 17 touch on developer payments. Like I was talking 18 before we got into the slide show about the impact 19 plan specifying whether or not they want to make 20 those payments to the local government themselves or 21 to the board, they can do that within the impact 22 plan.</p> <p>23 And if they are made to the board, the board 24 is going to deposit those payments into the hard rock 25 mining impact account. And the board must pay the</p>	<p>136</p> <p>1 not really going to be a big impact on any of the 2 local government units, so, you know, we think we're 3 going to make a decision to actually file for 4 petition to waive the impact plan requirement to the 5 board, so then we file a petition with the board.</p> <p>6 And they can't just make that determination 7 for whatever reason. They actually, there has to be 8 some criteria that are actually met. And the board 9 doesn't have to do a full out waiver, it can do a 10 conditional waiver. If certain conditions are 11 actually met, then they can have a waiver of the 12 impact plan or it could be a full-blown waiver.</p> <p>13 And board is required by statute to set some 14 criteria before they can grant the waiver, and that 15 is found in ARM 8.104.218, included on the next 16 slide. So if 1, 2 or 3 listed here in the slide, are 17 present, one of these conditions are present, then 18 the board can grant a waiver to the impact plan.</p> <p>19 So I'm just going to read you two. For 20 example, it says, the board will grant a waiver if no 21 potentially affected local government unit requests 22 the board to deny the waiver or to require an impact 23 plan.</p> <p>24 So you have got local governments that are 25 actually, they get to comment, you know. And</p>
<p>135</p> <p>1 local government after it evidences it is providing 2 or preparing to provide an additional service. And 3 there's, I think there's a specific ARM on, well, 4 what does that evidence actually entail, so there's a 5 little bit more information in the administrative 6 rules.</p> <p>7 Okay. So I'm going to buzz through the next 8 few slides because they are not really applicable to 9 what's happening to the board currently, but I'm 10 going to talk about a waiver of an impact next, which 11 can be found in our still Section 90 dash 6 dash 307, 12 subsection 14.</p> <p>13 And this happens if you have a permittee, 14 somebody who already holds an operating permit. They 15 weren't a large scale mineral developer when they 16 applied for that operating permit, so they didn't 17 have to file an impact plan.</p> <p>18 So if you have a current permittee with an 19 operating permit who ends up becoming a large 20 scale mineral developer, DEQ will make that 21 determination. And if that happens, the permittee 22 will be notified by the DEQ that they are now a large 23 scale mineral developer and the permittee will say, 24 okay, well, you know what, we are only going to be a 25 large scale mineral developer for two years, there's</p>	<p>137</p> <p>1 there's a public participation that is required. So 2 if there aren't any objections or request to deny the 3 waiver, then the board can go ahead and grant the 4 waiver.</p> <p>5 And then if the conditions in 1(a) or 6 2 -- in 1(a) or 1(b) are present, they can grant it, 7 or if the condition in 3 is present, they can grant 8 it. You can read through those if you're interested. 9 So that's a waiver.</p> <p>10 And the impact plan amendment is going to 11 seem very similar to the actual process of the impact 12 plan itself in the rule process. And it is found at 13 Section 90-6-311. So there are two different ways to 14 amend an impact plan.</p> <p>15 The impact plan itself can provide for 16 amendment under definite conditions. Otherwise, the 17 governing body of an affected county or the mineral 18 developer themselves can petition the board for 19 amendment to approve the impact plan if certain 20 conditions are present.</p> <p>21 So those conditions you will see down below 22 under Option 2, employment at the large-scale mineral 23 development is forecast to increase or decrease by at 24 least 75 persons, which is over or under the 25 employment levels contemplated by the approved impact</p>

<p style="text-align: right;">138</p> <p>1 plan.</p> <p>2 It becomes apparent then that an approved</p> <p>3 impact plan is materially inaccurate because of</p> <p>4 errors in assessment and two years have not elapsed</p> <p>5 since the date the facility begins commercial</p> <p>6 production.</p> <p>7 The third one is the governing body of an</p> <p>8 affected county and the mineral developer join</p> <p>9 together in a petition to amend the impact plan for</p> <p>10 whatever purpose they find necessary.</p> <p>11 So then we get notice. The board is</p> <p>12 required to publish the notice in this case, since</p> <p>13 they are receiving the petition to amend the impact</p> <p>14 plan, the board will publish notice of the petition.</p> <p>15 At least once in a newspaper of general circulation</p> <p>16 in the affected county within ten days of receipt of</p> <p>17 petition. And then we start a 60-day review period,</p> <p>18 as opposed to 90 days.</p> <p>19 MR. KELLY: Did the board publish the notice</p> <p>20 of the amendment?</p> <p>21 MS. BARNES: Of the petition to amend.</p> <p>22 MR. KELLY: The petition to amend?</p> <p>23 MS. BARNES: Yeah.</p> <p>24 MR. KELLY: Okay.</p> <p>25 MS. BARNES: And that sets off the 60-day</p>	<p style="text-align: right;">140</p> <p>1 parties and get the word out of what the findings are</p> <p>2 and the administrative tasks of that. So that is how</p> <p>3 you can amend an impact plan.</p> <p>4 And then these last slides I included in</p> <p>5 here, but I don't think I'm going to take the time to</p> <p>6 go through them right now. This is what will be</p> <p>7 happening after the impact plan is actually</p> <p>8 approved.</p> <p>9 So I did mention earlier, though, that we</p> <p>10 looked at the impact plan is going to, there's going</p> <p>11 to be a commitment to pay all of the increased</p> <p>12 capital and then operating cost to the local</p> <p>13 government. And they could do that through tax</p> <p>14 prepayments, industrial, special industrial local</p> <p>15 government facility impact bonds or other funds.</p> <p>16 And so I went through and talked a little</p> <p>17 bit more about the property tax prepayments that the</p> <p>18 developer could choose to implement, which will be in</p> <p>19 the impact plan.</p> <p>20 So as you're reading through the impact</p> <p>21 plan, this is something you can look for to see what</p> <p>22 the developer actually decided to go with. The tax</p> <p>23 prepayments, or are they proposing impact bonds or</p> <p>24 are they proposing other funds.</p> <p>25 And then very, very briefly, because I'm</p>
<p style="text-align: right;">139</p> <p>1 review period. So just like with the regular or</p> <p>2 general impact plan process, if there aren't any</p> <p>3 objections to the petition to amend the impact</p> <p>4 plan, then it is approved as proposed by the</p> <p>5 petitioner.</p> <p>6 And if there are objections, then we're</p> <p>7 going to go through our reconciliation and/or hearing</p> <p>8 process. And I put in here, there's also, if they</p> <p>9 wanted to propose some sort of amendment, or some</p> <p>10 sort of modification to the amendment before it gets</p> <p>11 approved, that's dealt with in ARM 8.104.213.</p> <p>12 So during reconciliation, let's say that</p> <p>13 they actually want to change the amendment to somehow</p> <p>14 that's what was negotiated between the objecting</p> <p>15 party, they can go ahead and do that.</p> <p>16 So then we have reconciliation. They've</p> <p>17 got 30 days to resolve the objection. And if all of</p> <p>18 the objections cannot be resolved, then the board</p> <p>19 will hold a contested case hearing on the proposed</p> <p>20 amendment. And, again, the board must make findings</p> <p>21 regarding the portions of the amendment that were</p> <p>22 objected to and amend the impact plan as they seem</p> <p>23 appropriate.</p> <p>24 And of course after that is done, they can</p> <p>25 file notice with all of the parties, the affected</p>	<p style="text-align: right;">141</p> <p>1 sure lunch is here and you're all starving, the</p> <p>2 Property Tax Base Sharing Act. So this is found in</p> <p>3 Part 4, just after our impact plan, hard rock mining</p> <p>4 impact plan -- or Hard Rock Mining Impact Act, so it</p> <p>5 is 401 through 405. And the purpose of it is to</p> <p>6 share the burden and the benefits of the different</p> <p>7 taxing jurisdictions that are affected by this large</p> <p>8 scale mineral development.</p> <p>9 So if one taxing jurisdiction is receiving a</p> <p>10 lot of the benefits but not many of the burdens, this</p> <p>11 is, the statute provides a way to try and equitably</p> <p>12 distribute all of those increase, the valuation of</p> <p>13 the taxes that are going to be going into the local</p> <p>14 government.</p> <p>15 So whatever that increase in property tax</p> <p>16 base is, they want it equitably distributed across</p> <p>17 the different taxing jurisdictions that are affected,</p> <p>18 so that one jurisdiction isn't getting a windfall</p> <p>19 without the burdens that are associated.</p> <p>20 And it comes into play when you have an</p> <p>21 approved impact plan that's been filed by a large</p> <p>22 scale mineral development. And it identifies an</p> <p>23 actual jurisdictional revenue disparity. So this is</p> <p>24 something else to think about as you are reading</p> <p>25 through the impact plan.</p>

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<p>142</p> <p>1 And the board does have the responsibility 2 to notify the developer, all affected local 3 government units and the Department of Revenue if 4 there is a disparity. 5 So the last thing I'll just point out is, 6 90-6-404 will step you through how to actually 7 allocate this increase in taxable valuation. It 8 tells you 20 percent is going to go to this 9 jurisdiction, the remaining 80 percent is going to 10 be allocated like this, it will step you through 11 exactly how to distribute the funds. 12 And the impact plan can actually request to 13 do it in a different way from what the statute says 14 if it finds that there is reasons to actually step 15 aside from the statute. And that is in, let me make 16 sure I get the words right. 17 Yeah. So the developer can actually modify 18 the distribution formula if modification is needed in 19 order to ensure a reasonable correspondence between 20 the occurrence of the increased costs resulting from 21 a mineral development and the allocation of taxable 22 valuation resulting from the mineral development. 23 So that's another thing to look to see if 24 the impact plan is proposing some other form of 25 allocation or if the statute is going to stand, or if</p>	<p>144</p> <p>1 MS. BARNES: And I'll get back to you on the 2 questions that you already proposed today. I'll 3 probably just send an e-mail to all the board 4 members. Just remember not to hit reply to all. If 5 something else comes up, I'll be sure to communicate, 6 if a board member proposes something and I'll 7 communicate that back to the rest of the board so 8 they all know. Okay. Lunchtime. 9 MS. PICHETTE: So lunch is just out here in 10 the hall. 11 (Whereupon, a lunch recess was taken at 12 12:01 to 12:51 P.M.) 13 MS. PICHETTE: So thank you, Amy, for the 14 presentation and information in the slides and 15 everything. And as she said, if you guys have any 16 questions, her e-mail address and contact information 17 is in Tab 2, so you can reach out to her on those 18 legal questions, or as I mentioned before, you can 19 reach out to any of us and we'll get those questions 20 to Amy for you so you can get a quick response. 21 We just have a couple of items left here on 22 the agenda. So we're now on Tab 7. And just for 23 your reference -- in the gray book. And just for 24 your reference, there's historical lists in there of 25 the impact plans that we have received as a board, so</p>
<p>143</p> <p>1 the statute is even going to be applicable in the 2 first place, if there is going to be an equitable 3 distribution of taxes. 4 So that's all I have for you for now. 5 MR. KELLY: What is the effect of jx revenue 6 disparity? 7 MS. BARNES: Oh, sorry, that's my shorthand. 8 Jurisdiction. 9 MR. KELLY: Got you. 10 MS. BARNES: Trying to cut down on sight 11 words. So effect of jurisdictional revenue 12 disparity. 13 MR. KELLY: I thought it was special 14 taxes. 15 MS. BARNES: Yeah, I've got a few 16 abbreviations in there, but I think the other ones 17 are probably more straightforward. 18 So, again, if any questions arise after 19 going through all this material, feel free to call 20 me. 21 MS. VON NIEDA: Very helpful. Thank you 22 very much. 23 MS. WEBER: Thank you. 24 MS. VON NIEDA: That was a lot of hard work. 25 Thank you.</p>	<p>145</p> <p>1 you have that in there for you to review. 2 And then Jodee here is going to talk to you 3 briefly about travel and how you get reimbursed for 4 the items you get reimbursed for for your time 5 today. 6 MS. PREVEL: Hand one out to everybody so 7 they can get one filled out for today. 8 So, again, I'm Jodee Prevel, I help assist 9 the board with logistics, getting things set up to 10 make the meeting. So part of that is going over 11 travel expense voucher. 12 So this top part, that needs to be filled 13 out completely, that is obviously just your 14 information. And then that second part, we need to 15 know the date of departure to the meeting, the time 16 that you left to attend the meeting, the time you 17 arrived either at the meeting or the hotel, how many 18 miles you traveled one way, and then the date that 19 you are leaving to go back home and then an estimated 20 arrival time. 21 The overnight lodging, that is mostly 22 something that I'll be doing. If you need a room 23 while traveling to a board meeting, I can definitely 24 assist with that, and get a hold of me. My number is 25 in the orientation book and I can definitely get that</p>

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<p style="text-align: center;">146</p> <p>1 set up for you if just let me know where you're going 2 to be staying. That way you won't have to be paying 3 anything up front and not having to attach any 4 receipts. 5 If you are having to pay it up front to stay 6 somewhere, please make sure you attach your receipt 7 with the voucher here. That way, we can get you 8 reimbursed. 9 The meal reimbursement, I will definitely be 10 doing all of that for you guys. This all depends on 11 your travel times. So once I have everything 12 calculated for you, then I'll have, put in a 13 calculation of what, which meals you qualify for on 14 that. 15 And then just make sure you sign it and date 16 it and give them to me after every board meeting and 17 I'll make sure to collect them, too. What else? 18 Sorry? 19 MS. ROTHENBUECHER: Did you want to go 20 through the list of -- 21 MS. PREVEL: I think I just need the updated 22 information from Mark. Looks like on the member 23 sheet, it looks like we have a different address 24 previously. So if you want to fill out one of these, 25 we can get you reimbursed.</p>	<p style="text-align: center;">148</p> <p>1 might qualify you for the dinner. 2 So when she said don't worry about the 3 meals, she'll cover that, we really need to know just 4 how many miles and the time you left home this 5 morning to get here so we know how long it takes and 6 Jodee will take care of the rest for you. 7 MS. OLSON: And if you do have trouble 8 getting reimbursed or something like that, just give 9 Jodee a call, too. Sometimes, just go through with 10 the, you know, time when our fiscal people are 11 working on a ton of different things, they might be a 12 little bit slower than normal, but you can always ask 13 her for whereabouts they are, too. 14 MS. PREVEL: And also included in that 15 reimbursement is a \$50 stipend. That's whether 16 you're here at the meeting or on a conference call, 17 you get that. 18 MS. PICHETTE: Great. So just give any of 19 us a call or send us an e-mail if you have any 20 questions on that and Jodee's information is in that 21 information about this e-mail list, because she's the 22 main contact once you get those for any difficulties 23 you're having. 24 So the next thing we'll talk about is any 25 other board matters for you going forward.</p>
<p style="text-align: center;">147</p> <p>1 And then if you just want to turn to address 2 and telephone list to make sure all of that 3 information is accurate. If not, let me know and 4 I'll get you a W-9 and get it updated. This should 5 be at the very beginning of the orientation. Just 6 double-checking, and address there. 7 MR. KELLY: I was going to check, do I get 8 to claim overnight if I come in 15 miles into town or 9 not? 10 MS. PICHETTE: When you came in from Red 11 Lodge. 12 MR. KELLY: I was going to ask, but -- 13 MS. ROTHENBUECHER: Any questions on 14 travel? 15 MS. PREVEL: Any questions, yeah? 16 MS. ROTHENBUECHER: Reimbursement? 17 MR. KELLY: Really, since you provide lunch, 18 you didn't claim that, right? 19 MS. ROTHENBUECHER: Like she said, if you 20 just filled in the time in and time out, she can 21 worry about the meals for you. 22 MS. PICHETTE: Probably then you can turn in 23 the form now because then we can figure out 24 approximately what time you would get home based on 25 how long it took you to get here. Sometimes that</p>	<p style="text-align: center;">149</p> <p>1 MS. OLSON: So is there maybe anything that 2 we didn't cover today that you are curious about and 3 then we do have, we did receive the Hard Rock Mining 4 Impact Plan from Tintina Sandfire America, so we'll 5 pass those out. 6 But I want to make sure that if there's 7 anything here, just kind of board operations, I know 8 that you didn't see this in advance, we walked 9 through everything, but, and we can always give it to 10 you guys next time, but if there is anything there 11 and then if there's anything kind of logistically 12 that you're looking for us to help with for the next 13 meeting, whenever that is, then also deciding on the 14 next board meeting. So that's some things to think 15 about. 16 So any thoughts about anything that we 17 didn't cover or want to present or want to go back 18 over or anything like that? 19 MR. KELLY: Just so I understand the time 20 frame, so we have an impact plan received, so the 21 clock is running. That would kind of necessitate a 22 board meeting in a couple of months, be something 23 with regard to this particular impact, is that right, 24 the timing? 25 MS. OLSON: And there could be a few things</p>

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<p>150</p> <p>1 that happen at the local level that would necessitate</p> <p>2 the board getting together as well.</p> <p>3 MR. KELLY: Getting together, okay.</p> <p>4 MS. WEBER: Because it seems like we should</p> <p>5 be meeting shortly after the public hearing.</p> <p>6 MS. BARNES: Or before.</p> <p>7 MS. WEBER: Or before, okay.</p> <p>8 MS. BARNES: Yeah, I mean, I don't know when</p> <p>9 the public hearing is going to happen.</p> <p>10 MS. WEBER: Right.</p> <p>11 MS. BARNES: And if they end up waiting, you</p> <p>12 know, 60 days or so.</p> <p>13 MS. WEBER: So you think there is going to</p> <p>14 be an actual --</p> <p>15 MR. KELLY: Who triggers the public hearing,</p> <p>16 the DEQ? Who triggers the public hearing?</p> <p>17 MS. BARNES: So it is triggered by the</p> <p>18 impact plan being submitted to the affected local</p> <p>19 governments. So they, they should have received the</p> <p>20 impact plan.</p> <p>21 MR. KELLY: Yeah.</p> <p>22 MS. BARNES: And so Meagher County is going</p> <p>23 to have to hold a public hearing within 90 days of</p> <p>24 the receipt of that impact plan. I don't honestly</p> <p>25 know if they are thinking about doing it in the next</p>	<p>152</p> <p>1 MS. OLSON: Yes. Or have an additional</p> <p>2 meeting.</p> <p>3 MS. BARNES: Yeah. Yeah.</p> <p>4 MS. OLSON: And then I was just looking at</p> <p>5 the ten-day to notify the developer of any</p> <p>6 objections. So if there was an objection, then the</p> <p>7 board -- so even as that hearing is going on, there</p> <p>8 could be other reasons why, you know, even starting</p> <p>9 in November other things could be happening where</p> <p>10 there will be more, those other needs for the board</p> <p>11 to act on and make a decision.</p> <p>12 MS. BARNES: But if there's just</p> <p>13 notifications, then that would be something that I</p> <p>14 think commerce staff could handle. If an objection</p> <p>15 comes in and the board has to notify so and so of the</p> <p>16 objection, I think commerce staff could handle that</p> <p>17 notification, just like we talked about with the</p> <p>18 guidelines with the submission of the impact plan,</p> <p>19 communicating what the county needs to do and with</p> <p>20 developer, so.</p> <p>21 MS. WEBER: Well, I'll just throw out, if we</p> <p>22 want to go early, Thursday, November 8th, I'm just</p> <p>23 throwing dates out here.</p> <p>24 MS. VON NIEDA: That's state volleyball, so</p> <p>25 I'm going to be at MSU, probably.</p>
<p>151</p> <p>1 40 days or 30 days or what, what their thought</p> <p>2 process is.</p> <p>3 MS. WEBER: So do you think we ought to meet</p> <p>4 in October?</p> <p>5 MS. OLSON: I think you could meet in</p> <p>6 November and be fine. There's two different time</p> <p>7 frames that potentially could trigger. Correct me if</p> <p>8 I am wrong, Amy, but one is, any local government can</p> <p>9 ask for an extension that's already listed. And so</p> <p>10 then the board has to consider that extension and</p> <p>11 then either grant that extension or deny that.</p> <p>12 And then also if there's any other local</p> <p>13 governments that weren't specifically named that</p> <p>14 would want to be included and then the board could,</p> <p>15 would have to take an action on that.</p> <p>16 MS. BARNES: They would file an objection.</p> <p>17 MS. OLSON: An objection.</p> <p>18 MS. BARNES: So that would be taken care of</p> <p>19 with the objection process. So reconciliation, and</p> <p>20 if that's not going to work out, then that will be</p> <p>21 part of the hearing, a contested case hearing.</p> <p>22 So even if we do schedule a meeting for</p> <p>23 November at some point and something comes up in the</p> <p>24 meantime that you need to act on sooner, we can</p> <p>25 always reschedule.</p>	<p>153</p> <p>1 MS. WEBER: So maybe then Thursday, November</p> <p>2 15th, the next week.</p> <p>3 MS. VON NIEDA: That's a possibility.</p> <p>4 MR. KELLY: I will probably not be in the</p> <p>5 state around that time, so I would have to do it</p> <p>6 telephonically up to around the first of November,</p> <p>7 the end of October. That may be too --</p> <p>8 MS. OLSON: And it doesn't have to be on</p> <p>9 a -- you can choose any day of the week as well, so.</p> <p>10 MS. VON NIEDA: For me, if we did a Tuesday</p> <p>11 at the end of October like the 30th, that would work</p> <p>12 for me. As we get further, for me personally, as we</p> <p>13 get further into volleyball season, I'm more stuck</p> <p>14 on the weekends because tournaments start happening,</p> <p>15 you know, football starts, I mean. That's the life</p> <p>16 of a school person.</p> <p>17 MS. WEBER: The 30th works for me. Does</p> <p>18 that work for you, Keith, or are you gone?</p> <p>19 MR. KELLY: Yeah, probably, since I haven't</p> <p>20 scheduled a flight, that's --</p> <p>21 MR. THOMPSON: Well, we probably wouldn't</p> <p>22 receive an objection until towards the end of</p> <p>23 November.</p> <p>24 MS. BARNES: Potentially, yeah.</p> <p>25 MS. OLSON: So the other reason is, the one,</p>

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1 one reason to have a meeting is to select a chair,
 2 but is there any other business right now before the
 3 board that would need to --
 4 MS. VON NIEDA: Can we just do that
 5 telephonically? That's the one thing we needed to do
 6 is --
 7 MS. OLSON: And then you could -- I think
 8 Mark's point, you could choose later in November if
 9 that would be --
 10 MS. WEBER: Know more about the hearing
 11 then.
 12 MR. THOMPSON: Well, that's what I was
 13 thinking, maybe if we could, we could kind of leave
 14 it a bit looser to see how things play out and see
 15 what comes our way, and then to try and pick a date
 16 and not have anything and then having to meet the
 17 next week.
 18 MS. OLSON: So just --
 19 MS. VON NIEDA: You're gone until March? So
 20 you'll be gone until March, in November?
 21 MS. OLSON: Oh, beginning in November?
 22 MR. KELLY: Yeah.
 23 MS. OLSON: And we can always, yeah, make
 24 sure that you have your materials in so that you can
 25 participate, so. So just to throw out some dates,

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1 the week of the 19th, that is Thanksgiving week.
 2 MS. VON NIEDA: That won't work for me.
 3 MS. OLSON: So might want to just --
 4 MS. WEBER: Well, what if we did like
 5 October 30th, just to get a --
 6 MR. KELLY: Get a sense of -- is that too
 7 early?
 8 MS. WEBER: But we could actually just do a
 9 call and then name a chairman and then we would know
 10 maybe more about if we could get some answers on Amy
 11 from business from the hearing and maybe they would
 12 be having hearings.
 13 MS. BARNES: An actual e-mail before the
 14 meeting. But if anything else comes up in the
 15 meantime --
 16 MS. WEBER: But if a hearing had happened,
 17 then we could at least have some feedback on it.
 18 MS. VON NIEDA: But, Mark, you're not
 19 available then, right?
 20 MS. WEBER: Oh, the 30th doesn't work for
 21 you?
 22 MR. THOMPSON: Okay. Should be okay.
 23 MS. WEBER: Yeah, I didn't hear you say you
 24 weren't.
 25 MR. KELLY: So I hear October 30th is

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1 possibly a telephone call?
 2 MS. VON NIEDA: Yeah.
 3 MS. WEBER: Yeah.
 4 MS. VON NIEDA: That's fine, as long as I
 5 don't have to drive, I'm good with that.
 6 MS. ROTHENBUECHER: Do you like starting at
 7 8:30, phone call or --
 8 MS. VON NIEDA: That's fine with me.
 9 MS. WEBER: I'm good with that.
 10 MS. PICHETTE: Just to make sure I have it
 11 right, start putting materials together, is the only
 12 item of business the selecting of a chairperson at
 13 this time that we don't need to publicly notice?
 14 MS. OLSON: So I also might just throw out
 15 there, from a Coal Board -- excuse me, Hard Rock
 16 Mining Impact Board budget. So the board is budgeted
 17 for four meetings a year at \$50 per diem. After
 18 that, we start to exceed our budget.
 19 So if the only item on the agenda is
 20 to -- and you get that per diem regardless. So if
 21 the only item is to select a chair, and it really is
 22 up to you if you want to have that. It just limits,
 23 it limits the budget for the subsequent meetings.
 24 MR. KELLY: So what are you suggesting,
 25 maybe we don't do that and kind of wait later?

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1 MS. OLSON: Right. Right. Maybe having
 2 that towards the November time frame, you will be
 3 probably a little bit more closer to maybe a meeting
 4 that's happening at the local level, more activities
 5 that are potentially going to be on the agenda.
 6 MS. VON NIEDA: That's fine with me, too.
 7 MR. KELLY: Yeah.
 8 MS. OLSON: So we do have money in the
 9 account always, the \$100,000 is there, if it goes
 10 over, but it's specifically designated for anything
 11 that really the board needs as it relates to the
 12 impact plan, so like try not to dip into that unless
 13 you need to, so.
 14 MS. WEBER: So the concern is that if we did
 15 a telephone conference call on the 30th to appoint
 16 the chair, maybe have some feedback for what we know
 17 is going on in the community.
 18 MS. OLSON: Or maybe not.
 19 MS. WEBER: Or maybe not. We would be
 20 spending \$50 of per diem to do that.
 21 MR. KELLY: That constitutes a meeting?
 22 MS. OLSON: Yes, it does. Which is fine.
 23 It is just that from a budgetary perspective, we ask
 24 the legislature for only \$50 per board member or per
 25 meeting per year -- or, excuse me, for the rest of

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158	<p>1 the year. You know, so every, every meeting is where</p> <p>2 that per diem comes from.</p> <p>3 So from a budgetary perspective, I'm just</p> <p>4 trying to, if we have some more items in the, on the</p> <p>5 agenda, that that seems right.</p> <p>6 MR. KELLY: Just to help for clarification,</p> <p>7 it sounds like this board has not been too active the</p> <p>8 last couple of years.</p> <p>9 MS. OLSON: Right.</p> <p>10 MR. KELLY: Saved a lot of money. But with</p> <p>11 things happening now, we anticipate that that would</p> <p>12 change so we could end up using five or six meetings</p> <p>13 a year?</p> <p>14 MS. OLSON: That's right. And we're, just</p> <p>15 as a reminder, we're on a biennial budget, so we're</p> <p>16 in the second year of the biennium from a fiscal</p> <p>17 perspective. So any money that we didn't spend last</p> <p>18 fiscal year --</p> <p>19 MR. KELLY: Still there.</p> <p>20 MS. OLSON: Well, it's -- yeah. Harder to</p> <p>21 get to because we don't have those things, but the</p> <p>22 administrative costs, yeah, we would be compressed</p> <p>23 into this year. So, and then what happens on a</p> <p>24 statute perspective, is there's \$100,000 that's</p> <p>25 always available for the board to use if the impact</p>	160	<p>1 MR. KELLY: Pardon?</p> <p>2 MR. THOMPSON: Do you know when you are</p> <p>3 leaving the state?</p> <p>4 MR. KELLY: Around the first of November.</p> <p>5 MR. THOMPSON: Oh, around the first.</p> <p>6 MR. KELLY: We haven't locked it in, but the</p> <p>7 last weekend of October, first of November.</p> <p>8 MS. PICHETTE: I'm going to say, as a</p> <p>9 reminder, there are three holidays in November, so if</p> <p>10 that helps you with your travel schedule.</p> <p>11 MS. OLSON: Yeah, the last week of November</p> <p>12 doesn't have any holidays.</p> <p>13 MS. VON NIEDA: That would be the week of</p> <p>14 the 26th, right. Yeah.</p> <p>15 MR. THOMPSON: The end of November would be</p> <p>16 coming up on the 90 days.</p> <p>17 MS. VON NIEDA: Yeah, because they filed,</p> <p>18 they filed on the 31st?</p> <p>19 MS. OLSON: Yes. We can double-check the</p> <p>20 date stamp just in case I am wrong, but I believe it</p> <p>21 is the 31st.</p> <p>22 MS. VON NIEDA: 30th or 31st.</p> <p>23 MS. WEBER: So the only day that week that I</p> <p>24 can do would be the 29th, which is a Thursday.</p> <p>25 MS. VON NIEDA: 29th.</p>
159	<p>1 plan is causing, that that development is causing the</p> <p>2 board additional cost.</p> <p>3 But that hundred-thousand dollars also goes</p> <p>4 towards helping meet the needs of the statute to, if</p> <p>5 we have to purchase a, or rent, excuse me, a facility</p> <p>6 that would accommodate, you know, a large community</p> <p>7 meeting, a couple of those over the course a couple</p> <p>8 of times, et cetera, et cetera.</p> <p>9 So I guess I would advise you if there's a</p> <p>10 lot of meeting agenda items, probably be better to</p> <p>11 group them. If there's only one agenda item to</p> <p>12 select a chair, I would recommend, but it is up to</p> <p>13 you.</p> <p>14 MS. VON NIEDA: I think that is a good</p> <p>15 idea.</p> <p>16 MS. WEBER: So we're looking at November</p> <p>17 then?</p> <p>18 MS. VON NIEDA: Like the 27th, maybe or --</p> <p>19 MR. KELLY: Thanksgiving.</p> <p>20 MS. OLSON: 22nd is Thanksgiving, so then</p> <p>21 that would be that following Tuesday of Thanksgiving.</p> <p>22 MS. VON NIEDA: Or the week before, I guess,</p> <p>23 you could look at the 13th maybe.</p> <p>24 MR. THOMPSON: Keith, do you know when you</p> <p>25 are leaving the state?</p>	161	<p>1 MS. WEBER: Sorry.</p> <p>2 MS. VON NIEDA: I could do that.</p> <p>3 MS. WEBER: I have board meetings. But then</p> <p>4 Keith would be gone.</p> <p>5 MR. KELLY: Well, but I'll call in anyway,</p> <p>6 so. It looks like Mark --</p> <p>7 MR. THOMPSON: Thursdays are usually bad for</p> <p>8 me, but if that's your only day --</p> <p>9 MS. WEBER: Sorry, I got a commission</p> <p>10 meeting that --</p> <p>11 MS. VON NIEDA: Well, and we don't know</p> <p>12 about John. John might have some restrictions as</p> <p>13 well.</p> <p>14 MS. OLSON: So we can do a tentative and</p> <p>15 then send an e-mail and Anne can call all of you if</p> <p>16 there is a change to that date. So if you want to,</p> <p>17 you can have a first primary and then a potential</p> <p>18 secondary or however you want.</p> <p>19 MS. VON NIEDA: And that could potentially</p> <p>20 be a call-in meeting as well, right?</p> <p>21 MS. OLSON: Yeah. Yeah. And then Amy, I</p> <p>22 think that would be more likely that Amy will be able</p> <p>23 to give you an update.</p> <p>24 MR. THOMPSON: But if we have one that late</p> <p>25 in November, should we, or is it even appropriate to</p>

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<p>1 think about having it in White Sulphur?</p> <p>2 MS. BARNES: The meeting. I think we could</p> <p>3 have it here in Helena, I mean.</p> <p>4 MS. WEBER: That creates all of the staff</p> <p>5 having to travel.</p> <p>6 MS. OLSON: Yeah, I think it depends</p> <p>7 on -- we can always change those logistics,</p> <p>8 particularly based on if there's anything, as the</p> <p>9 communities are moving faster, but, yeah, that's up</p> <p>10 to you if you want to, we can --</p> <p>11 MR. KELLY: Let me suggest if you stay away</p> <p>12 from the last Thursdays in the month. The other</p> <p>13 conflict is I have bank board meetings, are always on</p> <p>14 that last Thursday, which happen to be in White</p> <p>15 Sulphur, so if you want to come to that.</p> <p>16 MS. PICHETTE: If we just have the meeting</p> <p>17 in the same place, you can call into one place.</p> <p>18 MS. VON NIEDA: And what time is your</p> <p>19 meeting?</p> <p>20 MR. KELLY: The bank boards?</p> <p>21 MS. VON NIEDA: Yeah.</p> <p>22 MR. KELLY: Yeah, they run pretty much into,</p> <p>23 I think it's all afternoon, I think.</p> <p>24 MS. VON NIEDA: Afternoon.</p> <p>25 MR. KELLY: Yeah. If you bump up -- if it's</p>	<p>1 brought up was November 15th.</p> <p>2 MR. KELLY: Yeah. That gives you a little</p> <p>3 breathing room.</p> <p>4 MR. THOMPSON: Well, the other thing I think</p> <p>5 we need to consider is, you know, we're going to be</p> <p>6 electing a chairman, too, it would be nice to have as</p> <p>7 many in-person people sitting in.</p> <p>8 MS. VON NIEDA: Right.</p> <p>9 MR. KELLY: I do, too.</p> <p>10 MS. VON NIEDA: Maybe John needs to be told</p> <p>11 as far as -- is he available by phone?</p> <p>12 MR. KELLY: Either that or just elect him</p> <p>13 absentia right now.</p> <p>14 MS. PICHETTE: So would that be a discussion</p> <p>15 that would be put on the next agenda as a consent</p> <p>16 agenda item that doesn't require him to have any</p> <p>17 comment about it?</p> <p>18 MS. ROTHENBUECHER: He's coming back in the</p> <p>19 next couple of weeks.</p> <p>20 MS. PICHETTE: I think we will be able to</p> <p>21 have contact with him starting at the end of next</p> <p>22 week or the beginning of the following week.</p> <p>23 MS. ROTHENBUECHER: So if you guys are</p> <p>24 proposing a date, we'll reach out to John and see if</p> <p>25 it works.</p>
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<p>1 away from Thursday, but I can work around that.</p> <p>2 MS. WEBER: If you do it by telephone and I</p> <p>3 don't have to travel, I have some times open, but I</p> <p>4 don't have four hours open on the other days of the</p> <p>5 week, I have two hours open.</p> <p>6 MS. OLSON: So is one -- the 29th doesn't</p> <p>7 work because Keith will be --</p> <p>8 MR. KELLY: Well, I'm traveling to and</p> <p>9 there, I mean. But, so Wednesday would be better.</p> <p>10 MS. OLSON: Okay.</p> <p>11 MR. KELLY: Unless there is some magic about</p> <p>12 Thursdays.</p> <p>13 MS. VON NIEDA: Well, Jane doesn't have</p> <p>14 Wednesday.</p> <p>15 MS. WEBER: I'm free on Wednesday from about</p> <p>16 9:30 until 11:30, I have two hours.</p> <p>17 MR. KELLY: An 8:30 meeting?</p> <p>18 MS. VON NIEDA: If it was by phone, you</p> <p>19 said?</p> <p>20 MS. WEBER: Right. If it was by phone. I'm</p> <p>21 free 9:30 until 11:30.</p> <p>22 MS. VON NIEDA: I'm just wondering if the 90</p> <p>23 days is November 30th whether that's really pushing</p> <p>24 up against that.</p> <p>25 MS. OLSON: So the other date that was</p>	<p>1 MS. VON NIEDA: The 15th of November.</p> <p>2 MS. WEBER: And even the 14th would work if</p> <p>3 we are doing it by telephone, not looking at all day,</p> <p>4 I have from 9:00 until 11:00 on the 14th.</p> <p>5 MS. VON NIEDA: And Mark thought we should</p> <p>6 all like be together.</p> <p>7 MR. KELLY: So November 15th possibly in</p> <p>8 person.</p> <p>9 MS. WEBER: I could travel on the 15th.</p> <p>10 MS. VON NIEDA: On the 15th, okay.</p> <p>11 MS. ROTHENBUECHER: Right now we're sort of</p> <p>12 hearing Helena maybe, a location for trying to be in</p> <p>13 person?</p> <p>14 MS. OLSON: Maybe, because I think if the</p> <p>15 public hearing is on the 15th in White Sulphur</p> <p>16 Springs, we may not want to be there that --</p> <p>17 MR. KELLY: Oh, the same day.</p> <p>18 MS. OLSON: Well, no, I'm just saying, we</p> <p>19 don't know that, so if you would like, we can confirm</p> <p>20 a location, we can tentatively put Helena and then we</p> <p>21 can let you know.</p> <p>22 MR. THOMPSON: Let's see what the</p> <p>23 developments are on the plan that's submitted and</p> <p>24 then we can -- I'm thinking if there's a lot of, if</p> <p>25 there's a lot of public comment, it would be better</p>

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<p>166</p> <p>1 for us to go there instead of a bunch of White 2 Sulphur Springs folks trying to make a 3 middle-of-the-day meeting in Helena. 4 MS. OLSON: So that kind of gives us a 5 little opportunity, about ten days is when we 6 particularly provide that comment, so about November 7 8th, so that if the community is having that public 8 meeting, we'll kind of get some feedback potentially, 9 and then you can decide on the location or we'll firm 10 up the location, but we'll put Helena tentative on 11 our website so that people know that it's subject to 12 change. 13 MS. KELLY: Tentative November 15th meeting 14 in Helena. 15 MS. OLSON: You got it. 16 MS. ROTHENBUECHER: We'll reach out to John 17 and let you guys know if that's an issue. 18 MR. THOMPSON: And we were going to look 19 into the Stillwater question that was posed earlier 20 as to do we have some role in assigning money to 21 school districts, was it? 22 MS. BARNES: The approval of the -- 23 MS. VON NIEDA: Amy is going to check on 24 that. 25 MR. THOMPSON: So that may be something</p>	<p>168</p> <p>1 MS. VON NIEDA: I'm just asking because as a 2 board, we always have to approve the old minutes. 3 MS. OLSON: Yeah. 4 MS. VON NIEDA: Before they are actually 5 published. But, yeah, that could be a problem. 6 MR. KELLY: Yeah. What are you talking 7 about. 8 MR. THOMPSON: Looked good to me. 9 MS. VON NIEDA: So we have November 15th as 10 a tentative meeting in Helena, right? 11 MS. OLSON: Uh-huh. 12 MR. KEITH: In person. 13 MS. VON NIEDA: In person. Sounds good. 14 MS. OLSON: Anything else that you are 15 thinking about for the agenda or anything like that, 16 we'll add the chairman. 17 MS. WEBER: We'll also have the e-mail 18 instructions? 19 MS. OLSON: Yeah, e-mail instructions, 20 yeah. 21 MS. PREVEL: And that's starting at 8:30, 22 sorry? 23 MR. KELLY: 8:30 our time? 24 MS. OLSON: Uh-huh. If there is anything, 25 let us know, otherwise we'll probably just look to an</p>
<p>167</p> <p>1 for -- 2 MS. OLSON: For the agenda. 3 MR. THOMPSON: -- for the agenda as well. 4 MS. OLSON: So we can follow up with any 5 questions that you had for Amy and then the flowchart 6 as well, provide just kind of an update on the agenda 7 of any sort of questions from the 8 orientation, we can call that an agenda item, and the 9 chair. 10 Any other agenda items. 11 MS. VON NIEDA: Do we have minutes that have 12 to be approved from old meetings? 13 MS. OLSON: I don't, I don't know. We'll 14 look into that to make sure that the last meeting 15 minutes, if that was something that -- 16 MS. VON NIEDA: I don't remember doing that, 17 so. 18 MS. OLSON: So we can -- 19 MR. THOMPSON: There's only a few people 20 that can vote on that. 21 MS. OLSON: And we might want to just ask, 22 you know, if there's anything that, from a legal 23 perspective. 24 MR. THOMPSON: And, Keith, we might have to 25 abstain from --</p>	<p>169</p> <p>1 hour or two-hour meeting. 2 MS. VON NIEDA: Okay. That sounds good. 3 MS. PICHETTE: And, Jane, to answer your 4 question, Bonnie will do an actual hands-on training 5 for you once we have -- you'll have basic 6 instructions in there, but she promises some training 7 to make sure it works for everyone. 8 MS. WEBER: Do we need to make a motion for 9 adjournment? 10 MS. OLSON: I was going to say, unless 11 there's anything from the public, we're adjourned. 12 MS. SCHLEPP: Just really quick, I just 13 wanted to let you know that we are very proud to put 14 in our impact plan. All of the work on it has been 15 done by John Beaudry, who was the planner for 16 Stillwater County and then worked for the Stillwater 17 Mine until he retired. 18 So he's been working on this for the last 19 year and really put some scientific efforts into it. 20 And it has been a little challenging because one of 21 these hasn't been done in Montana for a really long 22 time, so to make sure that we cover everything. And 23 but happy, happy to answer any questions at any time 24 on it. My name is Nancy Schlepp and I work for 25 Sandfire Resources America.</p>

1 THE COURT REPORTER: Spell your last name.

2 MS. SCHLEPP: S-C-H-L-E-P-P.

3 MS. OLSON: Okay. Anything else? Anne,

4 A. C.?

5 MR. KELLY: I do have one question. Some of

6 you ladies in your former life want to be a school

7 teacher or what? Homework assignments.

8 MS. OLSON: We can adjourn.

9 END OF ORIENTATION

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