

1 DIVISION OF OIL, GAS AND MINING INFORMAL CONFERENCE

2 SKYLINE MINE PERMIT C/0070005

3 WINTER QUARTERS VENTILATION PROPOSAL

4 INFORMAL CONFERENCE

ORIGINAL

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6  
7 TAKEN AT: Department of Natural Resources  
1594 West North Temple  
8 Room 2000  
Salt Lake City, Utah 84111

9 DATE: June 14, 2010

10 TIME: 2:12 p.m. to 3:05 p.m.

11 REPORTED BY: Emily A. Gibb, CSR, RPR  
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A P P E A R A N C E S

- INGRID WIESER, DOGM
- DANA DEAN, DOGM
- DARON HADDOCK, DOGM
- GEORGE LIODAKIS
- TOM KARRENBERG, Anderson & Karrenberg
- RICHARD KAPLAN, Anderson & Karrenberg
- GREGG GALECKI, Canyon Fuel Company, Skyline Mine
- STEVE ALDER, Attorney General/DOGM
- DOUG DOWNING, Ark Land Co.
- WELLS PARKER, Dorsey & Whitney, LLP
- CHRIS HANSEN, Arch Western Bit GP
- BILL PRINCE, Dorsey & Whitney
- WESS SORENSEN, Canyon Fuel Company, Skyline Mine
- CARL WINTERS, Canyon Fuel Company, Skyline Mine
- PRISCILLA BURTON, DOGM
- JIM SMITH, DOGM
- JOE HELFRICH, DOGM
- PETE HESS, Utah DOGM
- STEVE SCHNEIDER, DOGM

1 P R O C E E D I N G S

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3  
4 MR. SCHNEIDER: Okay. I will commence the  
5 record for this informal conference. My name is  
6 Steve Schneider with the Division of Oil, Gas and  
7 Mining. The division director, John Baza, has asked  
8 that I act as hearing examiner today. I serve under  
9 Director Baza as the administrative services and  
10 policy coordinator for the division.

11 In the notice of hearing, it's stated we're  
12 here for the matter of the request for an informal  
13 conference by Anderson & Karrenberg, Richard Kaplan  
14 for the Skyline Mine, Winter Quarters Ventilation  
15 Facility, Carbon County, Utah. And the Cause No. is  
16 C-0007-0005.

17 So this is an informal conference, provided  
18 for in the Utah Administrative Code in the R645  
19 Rules, which pertain to the Division's  
20 coal-regulatory program. And more specifically, the  
21 conference was requested under R645-300-122 and  
22 R645-300-123.

23 So our primary purpose today, and I think  
24 most people know, but our primary purpose is to  
25 accept public comment on this permit application of

1 Skyline Mine for consideration by our coal program  
2 and their upcoming permit decision as part of their  
3 regulatory responsibilities and the coal rules. And  
4 the law firm of Anderson & Karrenberg has  
5 specifically requested this informal conference.

6 I think I understand who's here, but just if  
7 we could just take time to identify who the parties  
8 are who plan to speak or may speak today.

9 MR. KARRENBERG: Tom Karrenberg from  
10 Anderson & Karrenberg. With me is Mr. Liodakis, my  
11 client, Liodakis Ranch, LLC. And Mr. Kaplan is to my  
12 right.

13 MR. SCHNEIDER: Very good.

14 MR. PRINCE: Bill Prince for  
15 Dorsey & Whitney. And with me is Wells Parker from  
16 Dorsey & Whitney representing the mine.

17 MR. SCHNEIDER: Okay.

18 MR. SORENSEN: Wess Sorensen, General  
19 Manager of Skyline Mine, and I have some of my staff  
20 with me.

21 (Clarification by the court reporter.)

22 MR. SORENSEN: Carl Winters, engineering  
23 manager. Gregg Galecki, environmental coordinator of  
24 Skyline Mine. We also have Chris Hansen with us.  
25 He's the AWBG environmental coordinator, and Doug

1 Downing, who is with Ark Land.

2 (Mr. Alder enters the room.)

3 MR. SCHNEIDER: And as you can tell, we do  
4 have a court reporter present, so can I just ask that  
5 we try to make our statements as clear as possible.  
6 And, of course, we should all try to avoid more than  
7 one person speaking at a time for the benefit of all  
8 of us and then, of course, for the court reporter  
9 too.

10 And then just before you speak for the first  
11 time to make your point, if you'd just state your  
12 name for the record to help our court reporter, that  
13 would be very greatly appreciated. I think we  
14 understand who each other represents.

15 We also have Division staff here, if you  
16 want to just quickly go through and -- Dana Dean.

17 MS. DEAN: I'm Dana Dean. I'm associate  
18 director over mining programs.

19 MR. HADDOCK: Daron Haddock, the coal  
20 program manager with the Division of Oil, Gas and  
21 Mining.

22 MR. HESS: Peter Hess, reclamation  
23 specialist, with the Division of Oil, Gas and Mining.

24 MR. HELFRICH: Joe Helfrich, biologist.

25 (Clarification by the court reporter.)

1 MR. HELFRICH: Joe Helfrich.

2 THE COURT REPORTER: Thank you.

3 MR. HELFRICH: H-e-l-f-r-i-c-h.

4 MR. SMITH: Jim Smith, the reclamation  
5 specialist and permit supervisor for the Division.

6 MS. BURTON: Priscilla Burton.

7 MS. WIESER: Ingrid Wieser.

8 MR. SCHNEIDER: Okay.

9 MR. ALDER: Steve Alder. I'm the attorney  
10 for the Division. Apologize for being late.

11 MR. SCHNEIDER: Since we have two primary  
12 parties here and the Division, I want some balance of  
13 formal and informal. We don't want just like one  
14 party to make a complete run and the other party to  
15 wait. But I guess my predecision before starting is  
16 to allow attendees to ask any clarifying questions,  
17 you know, and make -- while the party is making their  
18 comment, provided it's done in a courteous,  
19 respectful manner. Maybe not necessarily full-blown  
20 arguments, you know, while the first party is making  
21 their comments, but any clarifying questions would be  
22 good.

23 So with that thought, I did have an agenda,  
24 and I think that's been routed around. And so after  
25 my introduction, the Division staff will make a brief

1 report on the permit application, as well as the  
2 status of that application. And then I will just  
3 take this time to note that the meeting was  
4 published -- the meeting notice, excuse me, was  
5 published in the Sun Advocate. And I appreciate the  
6 parties trying to work together to set today's date  
7 and time.

8 So under Agenda Item No. 3, then, is the  
9 primary part where we'll accept comments on that  
10 permit application, and that can be provided by  
11 anyone present. I'll need to reach a decision under  
12 Item No. 4 on the date and time to close the informal  
13 conference. I'll explain that a little bit more  
14 later, and then we'll just wrap up under Item No. 5.

15 So with that general outline, are there any  
16 introductory questions?

17 Why don't we proceed with Item No. 2, the  
18 staff report on the permit application.

19 MS. BURTON: You all should have gotten a  
20 fact sheet. If you don't have one, there's one here.  
21 The sheet outlines the general location of the  
22 Skyline Mine facilities, and they are shown on this  
23 map, which was submitted with the application, which  
24 is the land ownership map. And they're outlined as  
25 up -- up Eccles Canyon, within a forest, national

1 forest is the main mines facilities. Just east of  
2 Scofield is the waste rock site. The loadout is at  
3 the intersection of Mud Creek and Eccles Creek. And  
4 this is the location of the proposed ventilation fan,  
5 which is necessary to provide adequate air for the  
6 workings in this general vicinity.

7           If you have access to a USGS plat map, you  
8 can see the -- the -- the location of Winter Quarters  
9 Canyon, which is where the ventilation fan is  
10 proposed to be. And it's -- I think, it's in  
11 Section 1.

12           MR. SCHNEIDER: Yes.

13           MS. BURTON: Yes, it's in Section 1, right  
14 about the middle of the north half. And it's on the  
15 north side of Winter Quarters Creek, which is a  
16 perennial stream. And there is an access road  
17 currently in existence, but the proposal includes  
18 construction of a 500-foot new road branching off  
19 from the access road which crosses the creek.

20           And so the proposal would keep all of the  
21 construction on the north side of the creek, and the  
22 area to be disturbed is slightly less than 3 acres.  
23 The construction will involve creating a pad with  
24 a -- with a crib wall to contain the pad. The  
25 ventilation shaft, the emergency escape shaft, and

1 the slope -- a sloped mine portal. And those are all  
2 described on your fact sheet. And all that will be  
3 fenced within a fence.

4 Outside the fence, within access from the  
5 existing road is a settlement pond and a top soil  
6 pile. And the proposal allows about -- this is the  
7 creek, and it allows a 25-foot buffer from the creek.

8 I think that you've all had a few minutes to  
9 read this, so that pretty much sums it up, I think.  
10 Everybody should be familiar with that.

11 MR. SCHNEIDER: Thank you, Priscilla.

12 MS. BURTON: Okay.

13 MR. SCHNEIDER: Daron?

14 MR. HADDOCK: Okay. My name is Daron  
15 Haddock, coal permit supervisor. And basically what  
16 I was going to do is just tell the folks here where  
17 we're at as far as the permitting process goes with  
18 regard to this particular project. We received this  
19 application on March 23rd of this year. Actually, we  
20 received it -- I guess it was actually last year when  
21 we received the original application, and then it was  
22 subsequently withdrawn.

23 But the current application that we've got  
24 was received March 23rd of this year. We did what  
25 was called an Administrative Completeness Review to

1 make sure that all the parts are there for an  
2 application. And we did determine the application to  
3 be complete on April 1st, 2010. And that's the date  
4 when we consider -- when we consider the application  
5 to be complete, and we start our technical review in  
6 earnest at that point. We also notify other agencies  
7 and other entities and let them know that we do have  
8 this application on file.

9 We considered this application a -- a  
10 revision to the mine plan just because of the  
11 complexity of it. And -- and that's part of the  
12 reason that we're here today is that there -- there  
13 is -- with a revision, there is opportunity for a  
14 hearing, and, of course, that was requested.

15 And the -- the notice was -- there was a  
16 notice required about this application, that it be  
17 published in the newspaper, and so that was done.  
18 The notice was actually published April 6th, 13th,  
19 20th, and 27th. And then there is a 30-day comment  
20 period after the last date of publication. So on  
21 May 27th, the public comment period had closed.

22 We did have a request for the hearing, and  
23 that's why we're here today. We're still in the  
24 middle of our review process. We will take the  
25 comments that we've received and that we will receive

1 into today's hearing and consider those in any  
2 decision we make.

3 We are also waiting for -- one other issue  
4 that needs to be resolved is regarding the -- the  
5 archaeological resources that are in Winter Quarters  
6 Canyon. There is a requirement that we get the  
7 sign-off from the State Historic Preservation Office,  
8 and we are currently working with them to do that.

9 There's a -- I guess it's called an MOU, a  
10 memorandum of understanding, that's being developed  
11 between the mine and ourselves and the State Historic  
12 Preservation Office as to how the archaeological  
13 resources in the Winter Quarters areas will be  
14 protected or mitigated. And we're still waiting for  
15 that to be completed.

16 That's basically where we're at as far as  
17 the project goes. It's just a matter of completing  
18 our review, getting the final few things. There are  
19 a few deficiencies that still need to be addressed,  
20 getting those taken care of, and then we will be able  
21 to render a decision.

22 MR. SCHNEIDER: Thank you, Daron.

23 Any questions on the information?

24 MR. PRINCE: One question. This is Bill  
25 Prince.

1           The deficiency that you indicated had to be  
2 taken care of, are those subject to technical  
3 requests to the mine and you've received information  
4 or you haven't received information?

5           MR. HADDOCK: We have received information.  
6 We -- we actually sent out a list of deficiencies on  
7 May 17th, and the company has responded to those  
8 deficiencies. And -- and we're currently reviewing  
9 those.

10          MR. PRINCE: Okay. Thank you.

11          MR. SCHNEIDER: Okay. Mr. Karrenberg?

12          MR. KARRENBERG: Thank you. I'm Tom  
13 Karrenberg representing Liidakis Ranch, who owns the  
14 property adjacent to this site immediately south of  
15 the creek. I think everybody is familiar generally  
16 with the geography.

17                 First of all, I'd like to say we appreciate  
18 Mr. Prince who's been very good at sharing what  
19 information he's had available and answering as many  
20 of our questions that we put to him that he -- that  
21 he could answer and that, Bill, has been really  
22 appreciated. And I think the Division ought to be  
23 aware that he's been totally cooperative with that  
24 and we appreciate it.

25                 Our concern comes over really a lack of

1 information in two areas, one under R645-301-300  
2 Biology, and the other one under R645-201-400 for  
3 land use and air quality. My client's property is  
4 used extensively for hunting and fishing. In fact, a  
5 substantial thousands of dollars of income come in  
6 from hunting rights that are leased out during the  
7 hunting season, and it is supposed to be -- this is  
8 prime hunting ground and fishing ground.

9           And also, because of the historic nature of  
10 the area with Winter Quarters being there, there's  
11 been plans to develop the property. There's two  
12 areas that we have concern, and I think we've even  
13 talked to Bill about, at least informally.

14           The first and foremost is on the noise that  
15 may be generated by the fans. As I think the -- the  
16 application indicates, this fan is going to be used  
17 as an exhaust fan to clean out a shaft that could be  
18 as deep as 300 feet. Bill has identified for us two  
19 possible fans that may be used, and if I have these  
20 correct I'll -- correct me if I'm wrong.

21           MR. PRINCE: We'll confirm it here.

22           MR. KARRENBERG: -- either with Joy M120 or  
23 a TLT-Babcock fan is the information that we were  
24 supplied with. The -- at least the Joy 120 is a fan  
25 that has a 10-foot diameter, right? We have photos

1 here if anyone would like to see it. But it's quite  
2 a -- it's quite a large apparatus.

3 The -- we checked on the Web sites of the  
4 companies and they do not actually identify the noise  
5 levels that are at the -- coming out of the fans, so  
6 we don't have that information. What we were able to  
7 find out though, is a smaller Joy fan that was only  
8 25 horsepower generates approximately 90 to 106  
9 decibel as an average over an eight-hour period at  
10 the site of the fan. No information about what it  
11 would be at some distance from the fan.

12 The fans that are being considered as  
13 compared to this 25-horsepower fan are actually a  
14 1500-horsepower fan. So presumably, there is going  
15 to be a great deal more noise. We just don't have  
16 that information at the moment and it wasn't in the  
17 application to consider to see what the effects would  
18 be.

19 While there is no particular regulation  
20 right now that we're aware of for the effects of  
21 noise or studies done on wildlife and other  
22 considerations in the physical area, such as where my  
23 client's property is located, OSHA has regulations on  
24 what's permissible eight-hour day average noise level  
25 and before any action has to be taken, and that's an

1 85 decibel average for the day.

2 So this -- so even the 25-horsepower fan  
3 that we do have information is going to exceed that,  
4 which would be the OSHA regulation. And there's all  
5 sorts of studies out there on what noise impact could  
6 have on -- on human beings inside the mine. And I'm  
7 assuming that the mine people will have dealt with  
8 that for their own concerns with the safety of their  
9 employees.

10 But what we don't have and we think ought to  
11 be submitted is some information about what impact,  
12 if any, would be done on the fish and wildlife in the  
13 area, and even just general noise in the area since  
14 this is an area available for development. And  
15 that's our main concern.

16 A second concern that we have on the air  
17 quality is since it's an exhaust fan, we don't know  
18 exactly what is -- at the moment, is going to be  
19 exhausted into the air coming out of a 300-foot  
20 shaft. We assume that there could be quite a bit of  
21 material of some sort.

22 Mr. Prince has informed us that he doesn't  
23 believe that there's any methane gas here, but I  
24 don't know if there's any studies or submission  
25 stating that. And of course, if there's any coal

1 dust coming out, and if so, what is the impact of  
2 that coal dust on the concerns that we have.

3 And so we think that at the least, the  
4 application ought to be supplemented to address these  
5 concerns, find out what the impacts could be from  
6 such a fan system, both on the noise and the air  
7 quality, and submit a plan for any mitigation, if  
8 that's necessary, that could be evaluated not only by  
9 us as an interested party, but of course by the  
10 Division.

11 And basically, that's about as informal and  
12 as fast as I can make it. And I hope -- if there's  
13 anybody that has any questions, I'm happy to address  
14 them. But those are our very narrow, pointed  
15 concerns.

16 MR. SCHNEIDER: Okay.

17 MR. PRINCE: I actually think that --  
18 Mr. Chairman, that, based on the questions you gave  
19 me, I turned them over to the mine and hopefully  
20 they're prepared to address some of those questions.  
21 I think some of the work that was done last week  
22 turned up some information that might be very useful.

23 MR. KARREBERG: Okay.

24 MR. PRINCE: So we'll -- unless there's  
25 more -- I'm sorry. Wess, can --

1           MR. SORENSEN: I think, you know, your  
2 concern about the fan being large and making a noise  
3 is not well founded. You know, in the permit  
4 application package, there's a letter from -- from  
5 Terra Tech that's included in that. And one of our  
6 existing mines, the Sufco Mine had some sound studies  
7 done down there in 2008. It's in a narrow canyon  
8 just like this canyon. And the maximum sound levels  
9 were between --

10           THE COURT REPORTER: Could you please speak  
11 up a little bit?

12           MR. SORENSEN: The maximum sound levels  
13 recorded at the Sufco Mine fan, which is a -- is the  
14 Joy Mine fan that you referred to there, about  
15 120-inch mine fan, was 75.4 decibels and  
16 95.7 decibels. That was the recorded readings during  
17 that 24-hour period.

18           There are things that can be done to the fan  
19 to make it somewhat quieter. That particular fan  
20 does not have any noise dampening with the ducting or  
21 the motor house. We propose noise dampening in the  
22 ducting and in the motor house. There's documented  
23 studies where that reduces the noise level by at  
24 least 25 decibels. Excuse me.

25           Can you hear me still?

1           MR. SCHNEIDER: Wess, excuse me. Just to  
2 clarify, did you say that for this particular site,  
3 you are proposing at this point a dampening?

4           MR. SORENSEN: We would propose using the  
5 best available technology -- commercial available  
6 technology, which includes a noise dampening, similar  
7 to what Dug Out did at their fan in Pace Canyon.

8           As far as air quality, the main purpose of  
9 the fan is to exhaust air from the mine. That air  
10 will normally be 20 percent oxygen, CO2, some carbon  
11 dioxide to balance out the nitrogen. We do exhaust a  
12 little methane, .02 percent. You've got more methane  
13 than that out here than in the Salt Lake Valley, so I  
14 don't believe air quality is a real concern.

15           As far as addressing the effect of noise,  
16 you know, you need to realize that noise dies off as  
17 a high-function power of the -- of the distance you  
18 are away from it. So when you're close to the fan,  
19 the noise is loud. When you get a hundred meters  
20 away, you don't have any noise to amount to much.  
21 You know, the decibel level goes way down.

22           When you're 500 meters away, the decibel  
23 level is going to be normal conversation levels. It  
24 will be similar to the noise you hear in this room.  
25 That fan in here is probably running about

1 55 decibels, if we had a decibel meter in here. If I  
2 knew you had a noisy fan, I would have brought one.  
3 But that's probably about 55 decibels is that hum  
4 that you're hearing right now. Normal conversation  
5 is in the 60- to 65-decibel range.

6 Background levels in that canyon are  
7 probably in the 45- to 60-decibel range, from what  
8 preliminary indications and surveys were done this  
9 last week. So --

10 MR. KARRENBERG: Wess, in the exhaust, would  
11 there be -- any coal dust be pulled out through these  
12 exhaust fans?

13 MR. SORENSEN: There would be some dust in  
14 there, but that's very minimal.

15 This is the insulation I was telling you  
16 about in Sufco. It's down at the bottom of the  
17 canyon. This picture was taken in June 2006. That  
18 fan was installed in '92, I believe. So that's about  
19 14 years worth. And you can see that you can't see  
20 any dust around the -- that fan from an aerial top  
21 photo. So there's very minimal dust that comes out  
22 of the mine.

23 MR. KARRENBERG: The only comment I would  
24 have is, one, that that's information I'm not too  
25 sure outside of the information about what's

1 happening at another site, which is basically  
2 anecdotal if that is sufficient to make a thorough  
3 evaluation. We don't have the noise levels published  
4 by the company, which I would assume would be  
5 available from somebody who is going to buy one of  
6 these fans.

7 And, of course, the biggest -- and we've  
8 worked with Mr. Liodakis when he was speaking at the  
9 mine -- and, of course, I don't know if it was you or  
10 not, but someone had told him that that fan would  
11 be -- you'd be able to hear that noise at least a  
12 mile away.

13 MR. LIODAKIS: That was the original  
14 application.

15 MR. SORENSEN: You can hear a noise like  
16 this a mile away.

17 MR. LIODAKIS: That was on the original  
18 application.

19 MR. KARRENBERG: And it was on the original  
20 application. I'm sorry. I misspoke. And the  
21 concern would be, especially since it's an area that  
22 my client uses for hunting and commercial hunting,  
23 what is the effect of that kind of noise level on the  
24 animals, on basically a pristine wilderness area,  
25 which we don't have any information on. And we think

1 the Division ought to be requiring that kind of  
2 information be supplemented into the record.

3 MR. SORENSEN: This same Terra Tech report  
4 says, Terra Tech does not foresee any impacts to  
5 wildlife associated with the construction of the  
6 shaft fan. Terra Tech anticipates minimal impacts to  
7 wildlife with the exhaust fan. From personal  
8 experience, I've seen deer grazing in the outflow of  
9 exhaust fans. Because in early spring, that's where  
10 there's warmth there coming out of the mine, the  
11 vegetation comes up, they come over and they eat it.

12 MR. KARREBERG: Well again, that -- the  
13 only other comment I would have is that's anecdotal  
14 evidence and I'm not too sure if that's enough to  
15 make a thorough evaluation. But I do appreciate the  
16 information.

17 MR. PRINCE: And may I make a comment on  
18 this, because this information is just becoming  
19 available to this side. We met with Tetra Tech on  
20 Thursday, had them go down to the mine to take  
21 readings in Winter Quarters Canyon for this very  
22 reason, because there weren't readings. And they  
23 point out that they had this letter in the per -- in  
24 the original permit.

25 And this letter has data that's taken from a

1 mine that's much further south, getting to the  
2 picture that was shown to you. So they took readings  
3 in a canyon that is immediately south of this canyon,  
4 which is the Eccles Canyon, where there is -- that's  
5 in fact where the mine is located and the fan. And  
6 they took readings from that and matched them up with  
7 what you'd find in a background level up in Winter  
8 Quarters.

9 Now unfortunately, I couldn't get a report  
10 fast enough. I met with them Thursday and then  
11 unfortunately I had to see a doctor on Friday, so I  
12 couldn't get any --

13 MR. KARREBERG: Obviously.

14 MR. PRINCE: But I think what the data did  
15 show was a couple things that Wess pointed out.  
16 First of all, there's a very, very quick drop-off  
17 from the fan sight to a noise level that gets about  
18 60, which is supposed to be conversation level. And  
19 it is true that you could probably hear it from a  
20 mile out. But the mile out is pretty close to  
21 background, which would be a noise that you would  
22 hear in the -- the canyon background noise is high, I  
23 understand, because of the stream and trees and wind  
24 and whatever else you'd get. And as this drops over  
25 time, down the canyon, now, this isn't necessarily

1 down the canyon, which is just a straight shot from  
2 the fan, you will get a low hum noise. And if you  
3 know what you're listening for, you will be able to  
4 hear this aways down the canyon.

5 That's not the same sound you would get off  
6 to the sides of the canyon, and certainly not the  
7 sound you would get over the top of the canyon. And  
8 sorry I don't have a report to bring out, but this is  
9 the people we hired to go take readings on last week.

10 So I thought what was helpful to know is the  
11 concern that the noise that comes out of the fan --  
12 and this was prior to any of the mitigation steps we  
13 had taken, I think that Wess talked about. The noise  
14 coming out of the fan is going to drop very quickly  
15 in just 150 yards. Where 400 yards, or meters, 400  
16 meters, it's going to be down to background. And  
17 that's without any of the baffling. Or directional,  
18 this fan can be directed a certain direction, which I  
19 think the proposal is to direct it away from  
20 Mr. Liodakis's property, and then whatever else is  
21 the best technology to do.

22 So the readings at least, you're correct,  
23 there's not a fan in that canyon we can juxtapose,  
24 but at least the fan in Eccles Canyon is much more --  
25 it's closer to what this canyon -- they're just one

1 canyon apart, essentially. And that data is, quite  
2 frankly, not inconsistent with what Tetra Tech says  
3 in this -- when did they do this?

4 MR. SORENSEN: March 2009.

5 MR. PRINCE: March of '09, which was, what,  
6 the original application?

7 MR. SORENSEN: Yes.

8 MR. PRINCE: So I would submit there is some  
9 data out there, certainly where Tetra Tech has  
10 proposed in their findings. And there is additional  
11 data which we can't make available today, but we're  
12 trying to collect from the people who took the  
13 sampling.

14 MR. SCHNEIDER: Thank you very much.

15 Are there other comments that people wish to  
16 make?

17 MR. HESS: I have a question. Peter Hess  
18 with Oil, Gas and Mining.

19 How does the fan in the Greens Hollow study  
20 compare with the fan that's to be installed in  
21 Winter Quarters, as far as horse power and cubic feet  
22 per minute, maximum?

23 MR. SORENSEN: Winter Quarters fan will be a  
24 smaller fan than that in Greens Hollow.

25 MR. ALDER: You need to speak up.

1           MR. SORENSEN: The Winter Quarters fan will  
2 be a smaller fan than what's in Greens Hollow. I  
3 don't know the exact size of the one in  
4 Greens Hollow, but I know it's a smaller fan because  
5 of the pressures that are available aren't near as  
6 high at Skyline as they are at Sufco, due to the  
7 extent of the woods.

8           MR. HESS: Thank you.

9           MR. PRINCE: And may I also suggest that we  
10 brought with us, because we knew this was a question,  
11 the MSHA data for methane at the mine that comes out  
12 of the --

13           (Speaking to Wells Parker) Do you have a  
14 copy?

15           MR. PARKER: Huh-uh.

16           MR. PRINCE: This is -- these are MSHA's  
17 statistics from 2009 from the fan that exists at the  
18 mine.

19           MR. KARRENBERG: Thank you.

20           MR. PRINCE: I have two copies there. And  
21 we should probably give one to the -- to the Division  
22 here so they have one too.

23           Okay. So you can look at the numbers. I  
24 think that bears out what Wess said. It's far less  
25 than -- it's far less than 1 percent. It's not

1 ignitable. You couldn't light the methane gas.

2 MR. KARRENBERG: Who prepared this? Where  
3 did that come from?

4 MR. PRINCE: MSHA.

5 MR. WINTERS: From the Mine Safety and  
6 Health Administration.

7 (Clarification by the court reporter.)

8 MR. WINTERS: My name is Carl Winters. From  
9 the Mine Safety and Health Administration is where  
10 the data came from.

11 MR. PRINCE: It's from the federal agency  
12 that monitors gas in the mine and safety of the  
13 miners.

14 MR. SCHNEIDER: I think it's interesting  
15 that, you know, we have before us some issues. And I  
16 think, Mr. Karrenberg, you pointed out that it's hard  
17 to spot the exact regulations that some of the  
18 concerns are -- regulations in the coal program rules  
19 that directly relates to these. I mean, if you have  
20 further cites for that, that would be great.

21 But I think I'm hearing the company is  
22 willing to make additional changes. They've been  
23 conducting additional studies. I'm wondering how,  
24 like, this additional information, either that's been  
25 presented today about the proposals to dampen or

1 direct the air flow or the additional studies, how  
2 that can come into the permit application. If so,  
3 and I guess anyone could answer that, how that might  
4 work.

5 MR. PRINCE: I guess it's a question of  
6 what -- what data would the Division like to have?  
7 The Tetra Tech letter of 2009 I addressed has very  
8 similar data when you match it up. But this happens  
9 to be in a closer canyon that's maybe a little more  
10 consistent with the canyon at Winter Quarters. But  
11 it's -- the numbers pretty much -- some of the  
12 numbers are actually lower in this one than they are  
13 in the other canyons, so it means that background  
14 level is higher in Winter Quarters than it was at  
15 the -- in Sufco.

16 MR. SCHNEIDER: There's no doubt that I  
17 think everyone would wish the parties to reach as  
18 close as a favorable conclusion as we can, whether  
19 it's by the regulation or not.

20 So certainly, I encourage the parties to  
21 continue to work in that way.

22 MR. KARREBERG: No, I think we've been  
23 communicating about as good as we possibly can. Like  
24 I indicated, Mr. Prince has been perfect on that.

25 But, Steve, as far as the regulations, I do

1 think on the biology, under 322.22 on the impacts as  
2 far as the biology on the -- well, it doesn't say  
3 noise. I think it's --

4 MR. SCHNEIDER: Could you repeat that?

5 MR. KARREBERG: Sure. 322.22 -- 220,  
6 excuse me. And the under the land use air quality,  
7 again, it's 412.320. I think those are broad enough  
8 to encompass the concerns we have. And I guess one  
9 of the things we would ask for is maybe if -- if the  
10 noise studies that Bill's indicated have been done,  
11 if they could be put in where we could have a chance  
12 to evaluate them and maybe the Division could as  
13 well, in addition to the one for Tetra Tech.

14 MR. PRINCE: This -- is this data that the  
15 Division -- the Division, I assume, has looked at the  
16 Tetra Tech earlier letter that was submitted as part  
17 of the application.

18 MS. WIESER: Yeah. Sorry.

19 MR. PRINCE: And it didn't raise any issues.

20 MS. WIESER: No. No. I mean, they  
21 addressed the impact of wildlife and how they were  
22 going to go about treating the -- to lower those.

23 MR. PRINCE: Were there any technical  
24 requirements with respect -- any additional  
25 information requested from the mine?

1 MS. WIESER: No. I mean, we had them survey  
2 for what animals were there, were nesting there, like  
3 for raptors, and then deer and elk fawning in the  
4 areas, and none were located in the area. So they're  
5 not living there necessarily. They may be there, so  
6 there wasn't going to be any impacts from fawning or  
7 nesting raptors or anything like that, in the area.  
8 And they did extensive studies. It's not the  
9 Tetra Tech report, but the Western Land report.

10 MR. PRINCE: Western Land Service?

11 MS. WIESER: Uh-huh.

12 MR. PRINCE: Which is part of the permit?

13 MS. WIESER: Yes.

14 MR. PRINCE: And would that information,  
15 would that satisfy the requirements under the rules?

16 MS. WIESER: Yeah, according to the rules.

17 MR. PRINCE: I think, too, the extent that  
18 there is a -- that there is a -- a lack of  
19 information or data, we're prepared to put together  
20 another report and address that. I'm a little  
21 concerned that we're just adding data on data and the  
22 Division has already been comfortable with what we  
23 submitted, and that this won't change that  
24 determination. But we're -- we're willing to respond  
25 to what the Division would like.

1           MR. SCHNEIDER: Can you represent the  
2 Division, Dana?

3           MS. DEAN: Sure. Dana Dean.

4           I'm not sure what's in the package right  
5 now, if there were more technical deficiencies that  
6 apply to any of this, the issues today.

7           MR. HESS: I only did the first review on  
8 the first application, Dana, so...

9           MS. DEAN: Okay. In that review, did you  
10 ask for further information?

11          MR. HESS: No, I did not.

12          MS. DEAN: Okay. I guess if you have  
13 something, then we would be happy to see it,  
14 especially if it's something with the dampening  
15 effects or technology you plan to use. I think even  
16 though we probably have gotten what we need according  
17 to the regulations or what we've gotten in the second  
18 round, if it's something that can clear up the  
19 concerns of the -- of Mr. Liidakis, we would  
20 appreciate having that further information.

21          MR. PRINCE: Okay. We will get that to you  
22 promptly.

23          MS. DEAN: Thank you.

24          MR. PRINCE: And to you also.

25          MR. HESS: Thank you.

1 MR. PRINCE: Now, that information,  
2 Tetra Tech wasn't hired to work on the dampening.  
3 That's an engineering issue, so they were just hired  
4 to take air monitoring and -- along the Winter  
5 Quarters Canyon.

6 MS. DEAN: Right. So it might be two pieces  
7 of information.

8 MR. SCHNEIDER: So are we hearing, then,  
9 the -- we'd see the report from the Tetra Tech as  
10 well as the company's proposals today that they've  
11 discussed about dampening, that would be put black on  
12 white?

13 MR. KARREBERG: It would be helpful. We'd  
14 appreciate it.

15 MR. PRINCE: Okay.

16 MR. SORENSEN: We can do that.

17 MR. HESS: Peter Hess with the Division  
18 again.

19 As far as the air quality issues are  
20 concerned, what we generally deal with when we're  
21 talking about air quality is open stockpiles are  
22 large, flat areas where coal fines or refuse has been  
23 stored at one point in time and then cleaned up,  
24 where wind can pick these fines up and deposit them  
25 elsewhere.

1           The Division has issued violations in the  
2 past for fines being thrown outside of permit  
3 boundary, but we're not dealing with open stockpiles  
4 in this canyon. So based on what I reviewed in the  
5 first application. I can't see where that's really  
6 an issue. That's just my opinion.

7           MR. SCHNEIDER: Seeing any other or hearing  
8 any other comments?

9           MR. PRINCE: There is one other item, and I  
10 think we've talked about this from time to time, and  
11 I'm just not sure it's really in the jurisdiction of  
12 the Division. But the company has an agreement with  
13 Mr. Liodakis covering the land at issue here. And  
14 it's a very, very broad legal agreement that grants  
15 them rights to not only use the land but impact the  
16 land. And I'm not sure it plays a role in this  
17 proceeding, because I've never read that that was  
18 your jurisdiction to make a decision on that.

19           But that's been part of the discussion we've  
20 had with Mr. Liodakis and his attorneys over what  
21 that agreement means, because that's current in place  
22 today and valid and payments are being made under  
23 that. It's in full force and effect.

24           So there is -- there are some issues that I  
25 would -- I would propose that are not within the

1 jurisdiction, possibly, of the Division which may  
2 separate us and your decision may not be able to  
3 address, quite frankly. It may be something else we  
4 have to address.

5 MS. DEAN: Right. Our only concern was that  
6 you have right of access, right of entry. Beyond  
7 that, pretty much any agreements you have with the  
8 landowner.

9 MR. PRINCE: Well, of course, you know we're  
10 not on it.

11 MS. DEAN: Right. Yeah, that's what I'm  
12 saying. Any landowner agreements, we would only be  
13 concerned with right of entry.

14 MR. PRINCE: Okay.

15 MR. KARRENBERG: For what it's worth, I  
16 think you probably have some differences on how to  
17 interpret the agreement, but I think Bill's correct  
18 that the issues that we might have, they do not  
19 really come within the jurisdiction of the Division.  
20 Those would be just general contract issues.

21 MS. DEAN: And I misspoke. We would also be  
22 concerned with post-mining land use --

23 MR. PRINCE: Yes.

24 MS. DEAN: -- that the surface --

25 MR. PRINCE: Yes.

1 MS. DEAN: -- agrees with.

2 MR. KARREBERG: But I don't think those are  
3 impacted by --

4 MR. PRINCE: I don't think so, because we're  
5 not doing any mining on Mr. Liidakis's land. In  
6 fact, we're not affecting anything on that side of  
7 the creek. And the access road appears to be a  
8 private road over on their property up there with a  
9 party well.

10 MS. DEAN: (Nods head.)

11 MR. ALDER: I'm not sure I understood what  
12 was said. Whose agreement -- is it your agreement to  
13 use Mr. Liidakis's land or his to use yours?

14 MR. PRINCE: It's an agreement -- it's a  
15 grant from Mr. Liidakis to our client company to use  
16 his land, the land that is immediately south of the  
17 stream.

18 MR. ALDER: (Nods head.)

19 MR. HADDOCK: Okay. And so for our  
20 purposes, basically that would be considered adjacent  
21 property or adjacent land.

22 MR. SCHNEIDER: Priscilla?

23 MS. BURTON: I am not sure who did the  
24 quality review.

25 But, Gregg, did you modify your air quality?

1           MR. GALECKI: You bring it up, but we did  
2 have to -- no, we didn't have to modify it; however,  
3 as far as airborne admission, that's covered under  
4 a -- not under jurisdiction. And we have a permit in  
5 place. But at this point, we didn't need to modify  
6 until we -- we don't know whether we're -- exactly  
7 what we're going to do there. So once we have that  
8 piece of equipment, then it will go on air quality.

9           MS. BURTON: (Nods head.)

10          MR. SCHNEIDER: Mr. Prince, when do you  
11 think the appropriate time frame would be for the  
12 data on the Tetra Tech or the company's proposal  
13 today to be?

14          MR. PRINCE: I would have to talk to our  
15 client about that data. The Tetra Tech data is an  
16 independent contractor working for us. We'll have to  
17 get back to and see how quickly he can do it. But  
18 our intention would be to do it very quickly. As you  
19 know, the permit is probably ready to be granted and  
20 we're ready to have it granted. So we'll get it to  
21 the Division and to Mr. Liodakis and to his party as  
22 soon as we can.

23           I would like to say this week, but it's --  
24 someone else is writing that report, so --

25          MR. SCHNEIDER: Okay.

1 MR. PRINCE: -- I'd say you better give us  
2 at least a week to get that report. Today's Monday?  
3 Okay. I think we could have it all within a week.

4 MR. SCHNEIDER: Okay.

5 MR. PRINCE: Everything.

6 MR. SCHNEIDER: Other than that item, do the  
7 parties wish to provide any additional information as  
8 part of this informal conference, for example, in  
9 writing, in addition to the oral comments that were  
10 made today?

11 MR. KARRENBERG: Not at the moment, but we'd  
12 like to at least review the information that  
13 Mr. Prince has promised us, and see if it -- need be,  
14 if we will, we will turn something around as soon as  
15 possible, within days --

16 MR. SCHNEIDER: Okay.

17 MR. KARRENBERG: -- if we have any concerns.

18 MR. PRINCE: Can we set a time on that?

19 MR. KARRENBERG: Five days after you get it  
20 to me.

21 MR. PRINCE: Okay.

22 MR. KARRENBERG: I presume. Be careful to  
23 quote me.

24 MR. PRINCE: That's fair.

25 MR. SCHNEIDER: If we could go off the

1 record for a second. I need to speak to counsel just  
2 a moment.

3 (Short recess taken.)

4 MR. SCHNEIDER: Okay. I guess we're ready  
5 to go back on the record.

6 I think we've completed Item No. 3 on the  
7 agenda, then. And if there's any last comment -- I  
8 don't think I heard any before we took the break.

9 So Item No. 4, as Hearing Examiner, I have  
10 the responsibility to determine the time to close  
11 this informal conference. And that's important  
12 because closing that informal conference starts the  
13 clock for the Division's coal program to make their  
14 decision within 60 days of the conference closing per  
15 the coal rules.

16 We talked about some proposed dates already  
17 for some supplemental information to be provided, and  
18 I'd like to provide Skyline just a little bit more  
19 time. I'll ask them to reply by June 23rd, which is  
20 next week, Wednesday, for their supplemental  
21 information. And I appreciate their willingness to  
22 do that.

23 And if Mr. Karrenberg could reply by the  
24 following Wednesday, close of business, June 30th.  
25 Then we'll consider the informal conference closed

1 upon -- at the end of business on June 30th.

2 MR. KARRENBERG: That's doable from our  
3 side.

4 MR. PRINCE: (Nods head.)

5 MR. SCHNEIDER: Okay. So just to summarize,  
6 then, the record will reflect the conference will be  
7 closed June 30th, close of business.

8 Okay. I'd like to thank the parties for  
9 attending today and presenting their information. I  
10 certainly appreciate the parties' efforts to work  
11 together even prior to us coming in today.

12 As Daron explained, the coal staff will  
13 consider the information presented in accordance with  
14 their regulatory responsibilities for the process  
15 that permit in the R645 rules.

16 A transcript will be available for  
17 examination by the public in the Division's Public  
18 Information Center. Don't have a time for that yet,  
19 but they'll do the best job they can in that regard.

20 And parties who have made comment will also  
21 be able to be -- will be provided a copy of the  
22 permit decision. And I think everyone should  
23 understand that decisions by the Division are subject  
24 to appeal.

25 And with that, thank you.

1 MR. PRINCE: Excuse me. Can I clarify  
2 something?

3 MR. SCHNEIDER: Sure.

4 MR. PRINCE: Which decision are we saying is  
5 subject to appeal? The issuance of the permit?

6 MR. ALDER: Yes.

7 MR. SCHNEIDER: A final decision of a  
8 permit.

9 MR. ALDER: Yeah, the decision on closing  
10 the hearing and informal conference.

11 MR. PRINCE: So 30 days after you close this  
12 hearing, this conference could be appealed.

13 MR. ALDER: Well, I think that the rules  
14 don't allow for appeals of informal conference  
15 determinations, and I would interpret that to include  
16 even the decisions of when to close it. So the  
17 decision that is set, you know, would be the decision  
18 on the permit, which would be.

19 MR. PRINCE: Thank you. Thank you for the  
20 clarification.

21 MR. SCHNEIDER: Yes, that was what I  
22 intended to state.

23 So thank you for attending. We're  
24 adjourned.

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(This meeting was adjourned at  
3:05 p.m.)

\* \* \* \* \*

1 DIVISION OF OIL, GAS AND MINING INFORMAL CONFERENCE

2 SKYLINE MINE PERMIT C/0070005

3 WINTER QUARTERS VENTILATION PROPOSAL

4 INFORMAL CONFERENCE

5  
6  
7 TAKEN AT: Department of Natural Resources  
8 1594 West North Temple  
9 Room 2000  
10 Salt Lake City, Utah 84111

11 DATE: June 14, 2010

12 TIME: 2:12 p.m. to 3:05 p.m.

13 REPORTED BY: Emily A. Gibb, CSR, RPR  
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A P P E A R A N C E S

- INGRID WIESER, DOGM
- DANA DEAN, DOGM
- DARON HADDOCK, DOGM
- GEORGE LIODAKIS
- TOM KARRENBERG, Anderson & Karrenberg
- RICHARD KAPLAN, Anderson & Karrenberg
- GREGG GALECKI, Canyon Fuel Company, Skyline Mine
- STEVE ALDER, Attorney General/DOGM
- DOUG DOWNING, Ark Land Co.
- WELLS PARKER, Dorsey & Whitney, LLP
- CHRIS HANSEN, Arch Western Bit GP
- BILL PRINCE, Dorsey & Whitney
- WESS SORENSEN, Canyon Fuel Company, Skyline Mine
- CARL WINTERS, Canyon Fuel Company, Skyline Mine
- PRISCILLA BURTON, DOGM
- JIM SMITH, DOGM
- JOE HELFRICH, DOGM
- PETE HESS, Utah DOGM
- STEVE SCHNEIDER, DOGM

1 P R O C E E D I N G S

2 -o0o-

3  
4 MR. SCHNEIDER: Okay. I will commence the  
5 record for this informal conference. My name is  
6 Steve Schneider with the Division of Oil, Gas and  
7 Mining. The division director, John Baza, has asked  
8 that I act as hearing examiner today. I serve under  
9 Director Baza as the administrative services and  
10 policy coordinator for the division.

11 In the notice of hearing, it's stated we're  
12 here for the matter of the request for an informal  
13 conference by Anderson & Karrenberg, Richard Kaplan  
14 for the Skyline Mine, Winter Quarters Ventilation  
15 Facility, Carbon County, Utah. And the Cause No. is  
16 C-0007-0005.

17 So this is an informal conference, provided  
18 for in the Utah Administrative Code in the R645  
19 Rules, which pertain to the Division's  
20 coal-regulatory program. And more specifically, the  
21 conference was requested under R645-300-122 and  
22 R645-300-123.

23 So our primary purpose today, and I think  
24 most people know, but our primary purpose is to  
25 accept public comment on this permit application of

1 Skyline Mine for consideration by our coal program  
2 and their upcoming permit decision as part of their  
3 regulatory responsibilities and the coal rules. And  
4 the law firm of Anderson & Karrenberg has  
5 specifically requested this informal conference.

6 I think I understand who's here, but just if  
7 we could just take time to identify who the parties  
8 are who plan to speak or may speak today.

9 MR. KARRENBERG: Tom Karrenberg from  
10 Anderson & Karrenberg. With me is Mr. Liodakis, my  
11 client, Liodakis Ranch, LLC. And Mr. Kaplan is to my  
12 right.

13 MR. SCHNEIDER: Very good.

14 MR. PRINCE: Bill Prince for  
15 Dorsey & Whitney. And with me is Wells Parker from  
16 Dorsey & Whitney representing the mine.

17 MR. SCHNEIDER: Okay.

18 MR. SORENSEN: Wess Sorensen, General  
19 Manager of Skyline Mine, and I have some of my staff  
20 with me.

21 (Clarification by the court reporter.)

22 MR. SORENSEN: Carl Winters, engineering  
23 manager. Gregg Galecki, environmental coordinator of  
24 Skyline Mine. We also have Chris Hansen with us.  
25 He's the AWBG environmental coordinator, and Doug

1 Downing, who is with Ark Land.

2 (Mr. Alder enters the room.)

3 MR. SCHNEIDER: And as you can tell, we do  
4 have a court reporter present, so can I just ask that  
5 we try to make our statements as clear as possible.  
6 And, of course, we should all try to avoid more than  
7 one person speaking at a time for the benefit of all  
8 of us and then, of course, for the court reporter  
9 too.

10 And then just before you speak for the first  
11 time to make your point, if you'd just state your  
12 name for the record to help our court reporter, that  
13 would be very greatly appreciated. I think we  
14 understand who each other represents.

15 We also have Division staff here, if you  
16 want to just quickly go through and -- Dana Dean.

17 MS. DEAN: I'm Dana Dean. I'm associate  
18 director over mining programs.

19 MR. HADDOCK: Daron Haddock, the coal  
20 program manager with the Division of Oil, Gas and  
21 Mining.

22 MR. HESS: Peter Hess, reclamation  
23 specialist, with the Division of Oil, Gas and Mining.

24 MR. HELFRICH: Joe Helfrich, biologist.

25 (Clarification by the court reporter.)

1 MR. HELFRICH: Joe Helfrich.

2 THE COURT REPORTER: Thank you.

3 MR. HELFRICH: H-e-l-f-r-i-c-h.

4 MR. SMITH: Jim Smith, the reclamation  
5 specialist and permit supervisor for the Division.

6 MS. BURTON: Priscilla Burton.

7 MS. WIESER: Ingrid Wieser.

8 MR. SCHNEIDER: Okay.

9 MR. ALDER: Steve Alder. I'm the attorney  
10 for the Division. Apologize for being late.

11 MR. SCHNEIDER: Since we have two primary  
12 parties here and the Division, I want some balance of  
13 formal and informal. We don't want just like one  
14 party to make a complete run and the other party to  
15 wait. But I guess my predecision before starting is  
16 to allow attendees to ask any clarifying questions,  
17 you know, and make -- while the party is making their  
18 comment, provided it's done in a courteous,  
19 respectful manner. Maybe not necessarily full-blown  
20 arguments, you know, while the first party is making  
21 their comments, but any clarifying questions would be  
22 good.

23 So with that thought, I did have an agenda,  
24 and I think that's been routed around. And so after  
25 my introduction, the Division staff will make a brief

1 report on the permit application, as well as the  
2 status of that application. And then I will just  
3 take this time to note that the meeting was  
4 published -- the meeting notice, excuse me, was  
5 published in the Sun Advocate. And I appreciate the  
6 parties trying to work together to set today's date  
7 and time.

8 So under Agenda Item No. 3, then, is the  
9 primary part where we'll accept comments on that  
10 permit application, and that can be provided by  
11 anyone present. I'll need to reach a decision under  
12 Item No. 4 on the date and time to close the informal  
13 conference. I'll explain that a little bit more  
14 later, and then we'll just wrap up under Item No. 5.

15 So with that general outline, are there any  
16 introductory questions?

17 Why don't we proceed with Item No. 2, the  
18 staff report on the permit application.

19 MS. BURTON: You all should have gotten a  
20 fact sheet. If you don't have one, there's one here.  
21 The sheet outlines the general location of the  
22 Skyline Mine facilities, and they are shown on this  
23 map, which was submitted with the application, which  
24 is the land ownership map. And they're outlined as  
25 up -- up Eccles Canyon, within a forest, national

1 forest is the main mines facilities. Just east of  
2 Scofield is the waste rock site. The loadout is at  
3 the intersection of Mud Creek and Eccles Creek. And  
4 this is the location of the proposed ventilation fan,  
5 which is necessary to provide adequate air for the  
6 workings in this general vicinity.

7           If you have access to a USGS plat map, you  
8 can see the -- the -- the location of Winter Quarters  
9 Canyon, which is where the ventilation fan is  
10 proposed to be. And it's -- I think, it's in  
11 Section 1.

12           MR. SCHNEIDER: Yes.

13           MS. BURTON: Yes, it's in Section 1, right  
14 about the middle of the north half. And it's on the  
15 north side of Winter Quarters Creek, which is a  
16 perennial stream. And there is an access road  
17 currently in existence, but the proposal includes  
18 construction of a 500-foot new road branching off  
19 from the access road which crosses the creek.

20           And so the proposal would keep all of the  
21 construction on the north side of the creek, and the  
22 area to be disturbed is slightly less than 3 acres.  
23 The construction will involve creating a pad with  
24 a -- with a crib wall to contain the pad. The  
25 ventilation shaft, the emergency escape shaft, and

1 the slope -- a sloped mine portal. And those are all  
2 described on your fact sheet. And all that will be  
3 fenced within a fence.

4 Outside the fence, within access from the  
5 existing road is a settlement pond and a top soil  
6 pile. And the proposal allows about -- this is the  
7 creek, and it allows a 25-foot buffer from the creek.

8 I think that you've all had a few minutes to  
9 read this, so that pretty much sums it up, I think.  
10 Everybody should be familiar with that.

11 MR. SCHNEIDER: Thank you, Priscilla.

12 MS. BURTON: Okay.

13 MR. SCHNEIDER: Daron?

14 MR. HADDOCK: Okay. My name is Daron  
15 Haddock, coal permit supervisor. And basically what  
16 I was going to do is just tell the folks here where  
17 we're at as far as the permitting process goes with  
18 regard to this particular project. We received this  
19 application on March 23rd of this year. Actually, we  
20 received it -- I guess it was actually last year when  
21 we received the original application, and then it was  
22 subsequently withdrawn.

23 But the current application that we've got  
24 was received March 23rd of this year. We did what  
25 was called an Administrative Completeness Review to

1 make sure that all the parts are there for an  
2 application. And we did determine the application to  
3 be complete on April 1st, 2010. And that's the date  
4 when we consider -- when we consider the application  
5 to be complete, and we start our technical review in  
6 earnest at that point. We also notify other agencies  
7 and other entities and let them know that we do have  
8 this application on file.

9 We considered this application a -- a  
10 revision to the mine plan just because of the  
11 complexity of it. And -- and that's part of the  
12 reason that we're here today is that there -- there  
13 is -- with a revision, there is opportunity for a  
14 hearing, and, of course, that was requested.

15 And the -- the notice was -- there was a  
16 notice required about this application, that it be  
17 published in the newspaper, and so that was done.  
18 The notice was actually published April 6th, 13th,  
19 20th, and 27th. And then there is a 30-day comment  
20 period after the last date of publication. So on  
21 May 27th, the public comment period had closed.

22 We did have a request for the hearing, and  
23 that's why we're here today. We're still in the  
24 middle of our review process. We will take the  
25 comments that we've received and that we will receive

1 into today's hearing and consider those in any  
2 decision we make.

3 We are also waiting for -- one other issue  
4 that needs to be resolved is regarding the -- the  
5 archaeological resources that are in Winter Quarters  
6 Canyon. There is a requirement that we get the  
7 sign-off from the State Historic Preservation Office,  
8 and we are currently working with them to do that.

9 There's a -- I guess it's called an MOU, a  
10 memorandum of understanding, that's being developed  
11 between the mine and ourselves and the State Historic  
12 Preservation Office as to how the archaeological  
13 resources in the Winter Quarters areas will be  
14 protected or mitigated. And we're still waiting for  
15 that to be completed.

16 That's basically where we're at as far as  
17 the project goes. It's just a matter of completing  
18 our review, getting the final few things. There are  
19 a few deficiencies that still need to be addressed,  
20 getting those taken care of, and then we will be able  
21 to render a decision.

22 MR. SCHNEIDER: Thank you, Daron.

23 Any questions on the information?

24 MR. PRINCE: One question. This is Bill  
25 Prince.

1           The deficiency that you indicated had to be  
2 taken care of, are those subject to technical  
3 requests to the mine and you've received information  
4 or you haven't received information?

5           MR. HADDOCK: We have received information.  
6 We -- we actually sent out a list of deficiencies on  
7 May 17th, and the company has responded to those  
8 deficiencies. And -- and we're currently reviewing  
9 those.

10          MR. PRINCE: Okay. Thank you.

11          MR. SCHNEIDER: Okay. Mr. Karrenberg?

12          MR. KARRENBERG: Thank you. I'm Tom  
13 Karrenberg representing Liodakis Ranch, who owns the  
14 property adjacent to this site immediately south of  
15 the creek. I think everybody is familiar generally  
16 with the geography.

17                 First of all, I'd like to say we appreciate  
18 Mr. Prince who's been very good at sharing what  
19 information he's had available and answering as many  
20 of our questions that we put to him that he -- that  
21 he could answer and that, Bill, has been really  
22 appreciated. And I think the Division ought to be  
23 aware that he's been totally cooperative with that  
24 and we appreciate it.

25                 Our concern comes over really a lack of

1 information in two areas, one under R645-301-300  
2 Biology, and the other one under R645-201-400 for  
3 land use and air quality. My client's property is  
4 used extensively for hunting and fishing. In fact, a  
5 substantial thousands of dollars of income come in  
6 from hunting rights that are leased out during the  
7 hunting season, and it is supposed to be -- this is  
8 prime hunting ground and fishing ground.

9           And also, because of the historic nature of  
10 the area with Winter Quarters being there, there's  
11 been plans to develop the property. There's two  
12 areas that we have concern, and I think we've even  
13 talked to Bill about, at least informally.

14           The first and foremost is on the noise that  
15 may be generated by the fans. As I think the -- the  
16 application indicates, this fan is going to be used  
17 as an exhaust fan to clean out a shaft that could be  
18 as deep as 300 feet. Bill has identified for us two  
19 possible fans that may be used, and if I have these  
20 correct I'll -- correct me if I'm wrong.

21           MR. PRINCE: We'll confirm it here.

22           MR. KARRENBERG: -- either with Joy M120 or  
23 a TLT-Babcock fan is the information that we were  
24 supplied with. The -- at least the Joy 120 is a fan  
25 that has a 10-foot diameter, right? We have photos

1 here if anyone would like to see it. But it's quite  
2 a -- it's quite a large apparatus.

3 The -- we checked on the Web sites of the  
4 companies and they do not actually identify the noise  
5 levels that are at the -- coming out of the fans, so  
6 we don't have that information. What we were able to  
7 find out though, is a smaller Joy fan that was only  
8 25 horsepower generates approximately 90 to 106  
9 decibel as an average over an eight-hour period at  
10 the site of the fan. No information about what it  
11 would be at some distance from the fan.

12 The fans that are being considered as  
13 compared to this 25-horsepower fan are actually a  
14 1500-horsepower fan. So presumably, there is going  
15 to be a great deal more noise. We just don't have  
16 that information at the moment and it wasn't in the  
17 application to consider to see what the effects would  
18 be.

19 While there is no particular regulation  
20 right now that we're aware of for the effects of  
21 noise or studies done on wildlife and other  
22 considerations in the physical area, such as where my  
23 client's property is located, OSHA has regulations on  
24 what's permissible eight-hour day average noise level  
25 and before any action has to be taken, and that's an

1 85 decibel average for the day.

2 So this -- so even the 25-horsepower fan  
3 that we do have information is going to exceed that,  
4 which would be the OSHA regulation. And there's all  
5 sorts of studies out there on what noise impact could  
6 have on -- on human beings inside the mine. And I'm  
7 assuming that the mine people will have dealt with  
8 that for their own concerns with the safety of their  
9 employees.

10 But what we don't have and we think ought to  
11 be submitted is some information about what impact,  
12 if any, would be done on the fish and wildlife in the  
13 area, and even just general noise in the area since  
14 this is an area available for development. And  
15 that's our main concern.

16 A second concern that we have on the air  
17 quality is since it's an exhaust fan, we don't know  
18 exactly what is -- at the moment, is going to be  
19 exhausted into the air coming out of a 300-foot  
20 shaft. We assume that there could be quite a bit of  
21 material of some sort.

22 Mr. Prince has informed us that he doesn't  
23 believe that there's any methane gas here, but I  
24 don't know if there's any studies or submission  
25 stating that. And of course, if there's any coal

1 dust coming out, and if so, what is the impact of  
2 that coal dust on the concerns that we have.

3           And so we think that at the least, the  
4 application ought to be supplemented to address these  
5 concerns, find out what the impacts could be from  
6 such a fan system, both on the noise and the air  
7 quality, and submit a plan for any mitigation, if  
8 that's necessary, that could be evaluated not only by  
9 us as an interested party, but of course by the  
10 Division.

11           And basically, that's about as informal and  
12 as fast as I can make it. And I hope -- if there's  
13 anybody that has any questions, I'm happy to address  
14 them. But those are our very narrow, pointed  
15 concerns.

16           MR. SCHNEIDER: Okay.

17           MR. PRINCE: I actually think that --  
18 Mr. Chairman, that, based on the questions you gave  
19 me, I turned them over to the mine and hopefully  
20 they're prepared to address some of those questions.  
21 I think some of the work that was done last week  
22 turned up some information that might be very useful.

23           MR. KARREBERG: Okay.

24           MR. PRINCE: So we'll -- unless there's  
25 more -- I'm sorry. Wess, can --

1           MR. SORENSEN: I think, you know, your  
2 concern about the fan being large and making a noise  
3 is not well founded. You know, in the permit  
4 application package, there's a letter from -- from  
5 Terra Tech that's included in that. And one of our  
6 existing mines, the Sufco Mine had some sound studies  
7 done down there in 2008. It's in a narrow canyon  
8 just like this canyon. And the maximum sound levels  
9 were between --

10           THE COURT REPORTER: Could you please speak  
11 up a little bit?

12           MR. SORENSEN: The maximum sound levels  
13 recorded at the Sufco Mine fan, which is a -- is the  
14 Joy Mine fan that you referred to there, about  
15 120-inch mine fan, was 75.4 decibels and  
16 95.7 decibels. That was the recorded readings during  
17 that 24-hour period.

18           There are things that can be done to the fan  
19 to make it somewhat quieter. That particular fan  
20 does not have any noise dampening with the ducting or  
21 the motor house. We propose noise dampening in the  
22 ducting and in the motor house. There's documented  
23 studies where that reduces the noise level by at  
24 least 25 decibels. Excuse me.

25           Can you hear me still?

1           MR. SCHNEIDER: Wess, excuse me. Just to  
2 clarify, did you say that for this particular site,  
3 you are proposing at this point a dampening?

4           MR. SORENSEN: We would propose using the  
5 best available technology -- commercial available  
6 technology, which includes a noise dampening, similar  
7 to what Dug Out did at their fan in Pace Canyon.

8           As far as air quality, the main purpose of  
9 the fan is to exhaust air from the mine. That air  
10 will normally be 20 percent oxygen, CO2, some carbon  
11 dioxide to balance out the nitrogen. We do exhaust a  
12 little methane, .02 percent. You've got more methane  
13 than that out here than in the Salt Lake Valley, so I  
14 don't believe air quality is a real concern.

15           As far as addressing the effect of noise,  
16 you know, you need to realize that noise dies off as  
17 a high-function power of the -- of the distance you  
18 are away from it. So when you're close to the fan,  
19 the noise is loud. When you get a hundred meters  
20 away, you don't have any noise to amount to much.  
21 You know, the decibel level goes way down.

22           When you're 500 meters away, the decibel  
23 level is going to be normal conversation levels. It  
24 will be similar to the noise you hear in this room.  
25 That fan in here is probably running about

1 55 decibels, if we had a decibel meter in here. If I  
2 knew you had a noisy fan, I would have brought one.  
3 But that's probably about 55 decibels is that hum  
4 that you're hearing right now. Normal conversation  
5 is in the 60- to 65-decibel range.

6 Background levels in that canyon are  
7 probably in the 45- to 60-decibel range, from what  
8 preliminary indications and surveys were done this  
9 last week. So --

10 MR. KARRENBERG: Wess, in the exhaust, would  
11 there be -- any coal dust be pulled out through these  
12 exhaust fans?

13 MR. SORENSEN: There would be some dust in  
14 there, but that's very minimal.

15 This is the insulation I was telling you  
16 about in Sufco. It's down at the bottom of the  
17 canyon. This picture was taken in June 2006. That  
18 fan was installed in '92, I believe. So that's about  
19 14 years worth. And you can see that you can't see  
20 any dust around the -- that fan from an aerial top  
21 photo. So there's very minimal dust that comes out  
22 of the mine.

23 MR. KARRENBERG: The only comment I would  
24 have is, one, that that's information I'm not too  
25 sure outside of the information about what's

1 happening at another site, which is basically  
2 anecdotal if that is sufficient to make a thorough  
3 evaluation. We don't have the noise levels published  
4 by the company, which I would assume would be  
5 available from somebody who is going to buy one of  
6 these fans.

7           And, of course, the biggest -- and we've  
8 worked with Mr. Liodakis when he was speaking at the  
9 mine -- and, of course, I don't know if it was you or  
10 not, but someone had told him that that fan would  
11 be -- you'd be able to hear that noise at least a  
12 mile away.

13           MR. LIODAKIS: That was the original  
14 application.

15           MR. SORENSEN: You can hear a noise like  
16 this a mile away.

17           MR. LIODAKIS: That was on the original  
18 application.

19           MR. KARRENBERG: And it was on the original  
20 application. I'm sorry. I misspoke. And the  
21 concern would be, especially since it's an area that  
22 my client uses for hunting and commercial hunting,  
23 what is the effect of that kind of noise level on the  
24 animals, on basically a pristine wilderness area,  
25 which we don't have any information on. And we think

1 the Division ought to be requiring that kind of  
2 information be supplemented into the record.

3 MR. SORENSEN: This same Terra Tech report  
4 says, Terra Tech does not foresee any impacts to  
5 wildlife associated with the construction of the  
6 shaft fan. Terra Tech anticipates minimal impacts to  
7 wildlife with the exhaust fan. From personal  
8 experience, I've seen deer grazing in the outflow of  
9 exhaust fans. Because in early spring, that's where  
10 there's warmth there coming out of the mine, the  
11 vegetation comes up, they come over and they eat it.

12 MR. KARREBERG: Well again, that -- the  
13 only other comment I would have is that's anecdotal  
14 evidence and I'm not too sure if that's enough to  
15 make a thorough evaluation. But I do appreciate the  
16 information.

17 MR. PRINCE: And may I make a comment on  
18 this, because this information is just becoming  
19 available to this side. We met with Tetra Tech on  
20 Thursday, had them go down to the mine to take  
21 readings in Winter Quarters Canyon for this very  
22 reason, because there weren't readings. And they  
23 point out that they had this letter in the per -- in  
24 the original permit.

25 And this letter has data that's taken from a

1 mine that's much further south, getting to the  
2 picture that was shown to you. So they took readings  
3 in a canyon that is immediately south of this canyon,  
4 which is the Eccles Canyon, where there is -- that's  
5 in fact where the mine is located and the fan. And  
6 they took readings from that and matched them up with  
7 what you'd find in a background level up in Winter  
8 Quarters.

9 Now unfortunately, I couldn't get a report  
10 fast enough. I met with them Thursday and then  
11 unfortunately I had to see a doctor on Friday, so I  
12 couldn't get any --

13 MR. KARREBERG: Obviously.

14 MR. PRINCE: But I think what the data did  
15 show was a couple things that Wess pointed out.  
16 First of all, there's a very, very quick drop-off  
17 from the fan sight to a noise level that gets about  
18 60, which is supposed to be conversation level. And  
19 it is true that you could probably hear it from a  
20 mile out. But the mile out is pretty close to  
21 background, which would be a noise that you would  
22 hear in the -- the canyon background noise is high, I  
23 understand, because of the stream and trees and wind  
24 and whatever else you'd get. And as this drops over  
25 time, down the canyon, now, this isn't necessarily

1 down the canyon, which is just a straight shot from  
2 the fan, you will get a low hum noise. And if you  
3 know what you're listening for, you will be able to  
4 hear this aways down the canyon.

5 That's not the same sound you would get off  
6 to the sides of the canyon, and certainly not the  
7 sound you would get over the top of the canyon. And  
8 sorry I don't have a report to bring out, but this is  
9 the people we hired to go take readings on last week.

10 So I thought what was helpful to know is the  
11 concern that the noise that comes out of the fan --  
12 and this was prior to any of the mitigation steps we  
13 had taken, I think that Wess talked about. The noise  
14 coming out of the fan is going to drop very quickly  
15 in just 150 yards. Where 400 yards, or meters, 400  
16 meters, it's going to be down to background. And  
17 that's without any of the baffling. Or directional,  
18 this fan can be directed a certain direction, which I  
19 think the proposal is to direct it away from  
20 Mr. Liodakis's property, and then whatever else is  
21 the best technology to do.

22 So the readings at least, you're correct,  
23 there's not a fan in that canyon we can juxtapose,  
24 but at least the fan in Eccles Canyon is much more --  
25 it's closer to what this canyon -- they're just one

1 canyon apart, essentially. And that data is, quite  
2 frankly, not inconsistent with what Tetra Tech says  
3 in this -- when did they do this?

4 MR. SORENSEN: March 2009.

5 MR. PRINCE: March of '09, which was, what,  
6 the original application?

7 MR. SORENSEN: Yes.

8 MR. PRINCE: So I would submit there is some  
9 data out there, certainly where Tetra Tech has  
10 proposed in their findings. And there is additional  
11 data which we can't make available today, but we're  
12 trying to collect from the people who took the  
13 sampling.

14 MR. SCHNEIDER: Thank you very much.

15 Are there other comments that people wish to  
16 make?

17 MR. HESS: I have a question. Peter Hess  
18 with Oil, Gas and Mining.

19 How does the fan in the Greens Hollow study  
20 compare with the fan that's to be installed in  
21 Winter Quarters, as far as horse power and cubic feet  
22 per minute, maximum?

23 MR. SORENSEN: Winter Quarters fan will be a  
24 smaller fan than that in Greens Hollow.

25 MR. ALDER: You need to speak up.

1           MR. SORENSEN: The Winter Quarters fan will  
2 be a smaller fan than what's in Greens Hollow. I  
3 don't know the exact size of the one in  
4 Greens Hollow, but I know it's a smaller fan because  
5 of the pressures that are available aren't near as  
6 high at Skyline as they are at Sufco, due to the  
7 extent of the woods.

8           MR. HESS: Thank you.

9           MR. PRINCE: And may I also suggest that we  
10 brought with us, because we knew this was a question,  
11 the MSHA data for methane at the mine that comes out  
12 of the --

13           (Speaking to Wells Parker) Do you have a  
14 copy?

15           MR. PARKER: Huh-uh.

16           MR. PRINCE: This is -- these are MSHA's  
17 statistics from 2009 from the fan that exists at the  
18 mine.

19           MR. KARRENBERG: Thank you.

20           MR. PRINCE: I have two copies there. And  
21 we should probably give one to the -- to the Division  
22 here so they have one too.

23           Okay. So you can look at the numbers. I  
24 think that bears out what Wess said. It's far less  
25 than -- it's far less than 1 percent. It's not

1 ignitable. You couldn't light the methane gas.

2 MR. KARRENBERG: Who prepared this? Where  
3 did that come from?

4 MR. PRINCE: MSHA.

5 MR. WINTERS: From the Mine Safety and  
6 Health Administration.

7 (Clarification by the court reporter.)

8 MR. WINTERS: My name is Carl Winters. From  
9 the Mine Safety and Health Administration is where  
10 the data came from.

11 MR. PRINCE: It's from the federal agency  
12 that monitors gas in the mine and safety of the  
13 miners.

14 MR. SCHNEIDER: I think it's interesting  
15 that, you know, we have before us some issues. And I  
16 think, Mr. Karrenberg, you pointed out that it's hard  
17 to spot the exact regulations that some of the  
18 concerns are -- regulations in the coal program rules  
19 that directly relates to these. I mean, if you have  
20 further cites for that, that would be great.

21 But I think I'm hearing the company is  
22 willing to make additional changes. They've been  
23 conducting additional studies. I'm wondering how,  
24 like, this additional information, either that's been  
25 presented today about the proposals to dampen or

1 direct the air flow or the additional studies, how  
2 that can come into the permit application. If so,  
3 and I guess anyone could answer that, how that might  
4 work.

5 MR. PRINCE: I guess it's a question of  
6 what -- what data would the Division like to have?  
7 The Tetra Tech letter of 2009 I addressed has very  
8 similar data when you match it up. But this happens  
9 to be in a closer canyon that's maybe a little more  
10 consistent with the canyon at Winter Quarters. But  
11 it's -- the numbers pretty much -- some of the  
12 numbers are actually lower in this one than they are  
13 in the other canyons, so it means that background  
14 level is higher in Winter Quarters than it was at  
15 the -- in Sufco.

16 MR. SCHNEIDER: There's no doubt that I  
17 think everyone would wish the parties to reach as  
18 close as a favorable conclusion as we can, whether  
19 it's by the regulation or not.

20 So certainly, I encourage the parties to  
21 continue to work in that way.

22 MR. KARREBERG: No, I think we've been  
23 communicating about as good as we possibly can. Like  
24 I indicated, Mr. Prince has been perfect on that.

25 But, Steve, as far as the regulations, I do

1 think on the biology, under 322.22 on the impacts as  
2 far as the biology on the -- well, it doesn't say  
3 noise. I think it's --

4 MR. SCHNEIDER: Could you repeat that?

5 MR. KARREBERG: Sure. 322.22 -- 220,  
6 excuse me. And the under the land use air quality,  
7 again, it's 412.320. I think those are broad enough  
8 to encompass the concerns we have. And I guess one  
9 of the things we would ask for is maybe if -- if the  
10 noise studies that Bill's indicated have been done,  
11 if they could be put in where we could have a chance  
12 to evaluate them and maybe the Division could as  
13 well, in addition to the one for Tetra Tech.

14 MR. PRINCE: This -- is this data that the  
15 Division -- the Division, I assume, has looked at the  
16 Tetra Tech earlier letter that was submitted as part  
17 of the application.

18 MS. WIESER: Yeah. Sorry.

19 MR. PRINCE: And it didn't raise any issues.

20 MS. WIESER: No. No. I mean, they  
21 addressed the impact of wildlife and how they were  
22 going to go about treating the -- to lower those.

23 MR. PRINCE: Were there any technical  
24 requirements with respect -- any additional  
25 information requested from the mine?

1 MS. WIESER: No. I mean, we had them survey  
2 for what animals were there, were nesting there, like  
3 for raptors, and then deer and elk fawning in the  
4 areas, and none were located in the area. So they're  
5 not living there necessarily. They may be there, so  
6 there wasn't going to be any impacts from fawning or  
7 nesting raptors or anything like that, in the area.  
8 And they did extensive studies. It's not the  
9 Tetra Tech report, but the Western Land report.

10 MR. PRINCE: Western Land Service?

11 MS. WIESER: Uh-huh.

12 MR. PRINCE: Which is part of the permit?

13 MS. WIESER: Yes.

14 MR. PRINCE: And would that information,  
15 would that satisfy the requirements under the rules?

16 MS. WIESER: Yeah, according to the rules.

17 MR. PRINCE: I think, too, the extent that  
18 there is a -- that there is a -- a lack of  
19 information or data, we're prepared to put together  
20 another report and address that. I'm a little  
21 concerned that we're just adding data on data and the  
22 Division has already been comfortable with what we  
23 submitted, and that this won't change that  
24 determination. But we're -- we're willing to respond  
25 to what the Division would like.

1           MR. SCHNEIDER: Can you represent the  
2 Division, Dana?

3           MS. DEAN: Sure. Dana Dean.

4           I'm not sure what's in the package right  
5 now, if there were more technical deficiencies that  
6 apply to any of this, the issues today.

7           MR. HESS: I only did the first review on  
8 the first application, Dana, so...

9           MS. DEAN: Okay. In that review, did you  
10 ask for further information?

11          MR. HESS: No, I did not.

12          MS. DEAN: Okay. I guess if you have  
13 something, then we would be happy to see it,  
14 especially if it's something with the dampening  
15 effects or technology you plan to use. I think even  
16 though we probably have gotten what we need according  
17 to the regulations or what we've gotten in the second  
18 round, if it's something that can clear up the  
19 concerns of the -- of Mr. Liidakis, we would  
20 appreciate having that further information.

21          MR. PRINCE: Okay. We will get that to you  
22 promptly.

23          MS. DEAN: Thank you.

24          MR. PRINCE: And to you also.

25          MR. HESS: Thank you.

1 MR. PRINCE: Now, that information,  
2 Tetra Tech wasn't hired to work on the dampening.  
3 That's an engineering issue, so they were just hired  
4 to take air monitoring and -- along the Winter  
5 Quarters Canyon.

6 MS. DEAN: Right. So it might be two pieces  
7 of information.

8 MR. SCHNEIDER: So are we hearing, then,  
9 the -- we'd see the report from the Tetra Tech as  
10 well as the company's proposals today that they've  
11 discussed about dampening, that would be put black on  
12 white?

13 MR. KARREBERG: It would be helpful. We'd  
14 appreciate it.

15 MR. PRINCE: Okay.

16 MR. SORENSEN: We can do that.

17 MR. HESS: Peter Hess with the Division  
18 again.

19 As far as the air quality issues are  
20 concerned, what we generally deal with when we're  
21 talking about air quality is open stockpiles are  
22 large, flat areas where coal fines or refuse has been  
23 stored at one point in time and then cleaned up,  
24 where wind can pick these fines up and deposit them  
25 elsewhere.

1           The Division has issued violations in the  
2 past for fines being thrown outside of permit  
3 boundary, but we're not dealing with open stockpiles  
4 in this canyon. So based on what I reviewed in the  
5 first application. I can't see where that's really  
6 an issue. That's just my opinion.

7           MR. SCHNEIDER: Seeing any other or hearing  
8 any other comments?

9           MR. PRINCE: There is one other item, and I  
10 think we've talked about this from time to time, and  
11 I'm just not sure it's really in the jurisdiction of  
12 the Division. But the company has an agreement with  
13 Mr. Liodakis covering the land at issue here. And  
14 it's a very, very broad legal agreement that grants  
15 them rights to not only use the land but impact the  
16 land. And I'm not sure it plays a role in this  
17 proceeding, because I've never read that that was  
18 your jurisdiction to make a decision on that.

19           But that's been part of the discussion we've  
20 had with Mr. Liodakis and his attorneys over what  
21 that agreement means, because that's current in place  
22 today and valid and payments are being made under  
23 that. It's in full force and effect.

24           So there is -- there are some issues that I  
25 would -- I would propose that are not within the

1 jurisdiction, possibly, of the Division which may  
2 separate us and your decision may not be able to  
3 address, quite frankly. It may be something else we  
4 have to address.

5 MS. DEAN: Right. Our only concern was that  
6 you have right of access, right of entry. Beyond  
7 that, pretty much any agreements you have with the  
8 landowner.

9 MR. PRINCE: Well, of course, you know we're  
10 not on it.

11 MS. DEAN: Right. Yeah, that's what I'm  
12 saying. Any landowner agreements, we would only be  
13 concerned with right of entry.

14 MR. PRINCE: Okay.

15 MR. KARREBERG: For what it's worth, I  
16 think you probably have some differences on how to  
17 interpret the agreement, but I think Bill's correct  
18 that the issues that we might have, they do not  
19 really come within the jurisdiction of the Division.  
20 Those would be just general contract issues.

21 MS. DEAN: And I misspoke. We would also be  
22 concerned with post-mining land use --

23 MR. PRINCE: Yes.

24 MS. DEAN: -- that the surface --

25 MR. PRINCE: Yes.

1 MS. DEAN: -- agrees with.

2 MR. KARREBERG: But I don't think those are  
3 impacted by --

4 MR. PRINCE: I don't think so, because we're  
5 not doing any mining on Mr. Liodakis's land. In  
6 fact, we're not affecting anything on that side of  
7 the creek. And the access road appears to be a  
8 private road over on their property up there with a  
9 party well.

10 MS. DEAN: (Nods head.)

11 MR. ALDER: I'm not sure I understood what  
12 was said. Whose agreement -- is it your agreement to  
13 use Mr. Liodakis's land or his to use yours?

14 MR. PRINCE: It's an agreement -- it's a  
15 grant from Mr. Liodakis to our client company to use  
16 his land, the land that is immediately south of the  
17 stream.

18 MR. ALDER: (Nods head.)

19 MR. HADDOCK: Okay. And so for our  
20 purposes, basically that would be considered adjacent  
21 property or adjacent land.

22 MR. SCHNEIDER: Priscilla?

23 MS. BURTON: I am not sure who did the  
24 quality review.

25 But, Gregg, did you modify your air quality?

1           MR. GALECKI: You bring it up, but we did  
2 have to -- no, we didn't have to modify it; however,  
3 as far as airborne admission, that's covered under  
4 a -- not under jurisdiction. And we have a permit in  
5 place. But at this point, we didn't need to modify  
6 until we -- we don't know whether we're -- exactly  
7 what we're going to do there. So once we have that  
8 piece of equipment, then it will go on air quality.

9           MS. BURTON: (Nods head.)

10          MR. SCHNEIDER: Mr. Prince, when do you  
11 think the appropriate time frame would be for the  
12 data on the Tetra Tech or the company's proposal  
13 today to be?

14          MR. PRINCE: I would have to talk to our  
15 client about that data. The Tetra Tech data is an  
16 independent contractor working for us. We'll have to  
17 get back to and see how quickly he can do it. But  
18 our intention would be to do it very quickly. As you  
19 know, the permit is probably ready to be granted and  
20 we're ready to have it granted. So we'll get it to  
21 the Division and to Mr. Liodakis and to his party as  
22 soon as we can.

23           I would like to say this week, but it's --  
24 someone else is writing that report, so --

25          MR. SCHNEIDER: Okay.

1 MR. PRINCE: -- I'd say you better give us  
2 at least a week to get that report. Today's Monday?  
3 Okay. I think we could have it all within a week.

4 MR. SCHNEIDER: Okay.

5 MR. PRINCE: Everything.

6 MR. SCHNEIDER: Other than that item, do the  
7 parties wish to provide any additional information as  
8 part of this informal conference, for example, in  
9 writing, in addition to the oral comments that were  
10 made today?

11 MR. KARRENBERG: Not at the moment, but we'd  
12 like to at least review the information that  
13 Mr. Prince has promised us, and see if it -- need be,  
14 if we will, we will turn something around as soon as  
15 possible, within days --

16 MR. SCHNEIDER: Okay.

17 MR. KARRENBERG: -- if we have any concerns.

18 MR. PRINCE: Can we set a time on that?

19 MR. KARRENBERG: Five days after you get it  
20 to me.

21 MR. PRINCE: Okay.

22 MR. KARRENBERG: I presume. Be careful to  
23 quote me.

24 MR. PRINCE: That's fair.

25 MR. SCHNEIDER: If we could go off the

1 record for a second. I need to speak to counsel just  
2 a moment.

3 (Short recess taken.)

4 MR. SCHNEIDER: Okay. I guess we're ready  
5 to go back on the record.

6 I think we've completed Item No. 3 on the  
7 agenda, then. And if there's any last comment -- I  
8 don't think I heard any before we took the break.

9 So Item No. 4, as Hearing Examiner, I have  
10 the responsibility to determine the time to close  
11 this informal conference. And that's important  
12 because closing that informal conference starts the  
13 clock for the Division's coal program to make their  
14 decision within 60 days of the conference closing per  
15 the coal rules.

16 We talked about some proposed dates already  
17 for some supplemental information to be provided, and  
18 I'd like to provide Skyline just a little bit more  
19 time. I'll ask them to reply by June 23rd, which is  
20 next week, Wednesday, for their supplemental  
21 information. And I appreciate their willingness to  
22 do that.

23 And if Mr. Karrenberg could reply by the  
24 following Wednesday, close of business, June 30th.  
25 Then we'll consider the informal conference closed

1 upon -- at the end of business on June 30th.

2 MR. KARREBERG: That's doable from our  
3 side.

4 MR. PRINCE: (Nods head.)

5 MR. SCHNEIDER: Okay. So just to summarize,  
6 then, the record will reflect the conference will be  
7 closed June 30th, close of business.

8 Okay. I'd like to thank the parties for  
9 attending today and presenting their information. I  
10 certainly appreciate the parties' efforts to work  
11 together even prior to us coming in today.

12 As Daron explained, the coal staff will  
13 consider the information presented in accordance with  
14 their regulatory responsibilities for the process  
15 that permit in the R645 rules.

16 A transcript will be available for  
17 examination by the public in the Division's Public  
18 Information Center. Don't have a time for that yet,  
19 but they'll do the best job they can in that regard.

20 And parties who have made comment will also  
21 be able to be -- will be provided a copy of the  
22 permit decision. And I think everyone should  
23 understand that decisions by the Division are subject  
24 to appeal.

25 And with that, thank you.

1 MR. PRINCE: Excuse me. Can I clarify  
2 something?

3 MR. SCHNEIDER: Sure.

4 MR. PRINCE: Which decision are we saying is  
5 subject to appeal? The issuance of the permit?

6 MR. ALDER: Yes.

7 MR. SCHNEIDER: A final decision of a  
8 permit.

9 MR. ALDER: Yeah, the decision on closing  
10 the hearing and informal conference.

11 MR. PRINCE: So 30 days after you close this  
12 hearing, this conference could be appealed.

13 MR. ALDER: Well, I think that the rules  
14 don't allow for appeals of informal conference  
15 determinations, and I would interpret that to include  
16 even the decisions of when to close it. So the  
17 decision that is set, you know, would be the decision  
18 on the permit, which would be.

19 MR. PRINCE: Thank you. Thank you for the  
20 clarification.

21 MR. SCHNEIDER: Yes, that was what I  
22 intended to state.

23 So thank you for attending. We're  
24 adjourned.

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(This meeting was adjourned at  
3:05 p.m.)

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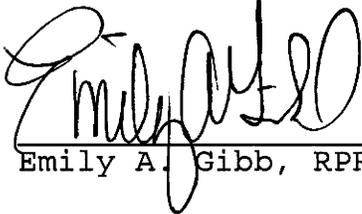
REPORTER'S CERTIFICATE

STATE OF UTAH            )  
                                  )  
COUNTY OF UTAH        )

I, Emily A. Gibb, a Certified Shorthand Reporter and Registered Professional Reporter, hereby certify:

THAT the foregoing proceedings were taken before me at the time and place set forth in the caption hereof; that the witness was placed under oath to tell the truth, the whole truth, and nothing but the truth; that the proceedings were taken down by me in shorthand and thereafter my notes were transcribed through computer-aided transcription; and the foregoing transcript constitutes a full, true, and accurate record of such testimony adduced and oral proceedings had, and of the whole thereof.

I have subscribed my name on this 26th day of May, 2010.

  
\_\_\_\_\_  
Emily A. Gibb, RPR, CSR

**A405600**

**WINTER QUARTERS VENTILATION PROPOSAL - INFORMAL CONFERENCE JUNE 14, 2010**

DIVISION OF OIL, GAS AND MINING INFORMAL CONFERENCE

SKYLINE MINE PERMIT C/0070005

WINTER QUARTERS VENTILATION PROPOSAL

INFORMAL CONFERENCE

**CERTIFIED COPY**

TAKEN AT: Department of Natural Resources  
1594 West North Temple  
Room 2000  
Salt Lake City, Utah 84111

DATE: June 14, 2010

TIME: 2:12 p.m. to 3:05 p.m.

REPORTED BY: Emily A. Gibb, CSR, RPR

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1 APPEARANCES  
 2  
 3 INGRID WIESER, DOGM  
 4 DANA DEAN, DOGM  
 5 DARON HADDOCK, DOGM  
 6 GEORGE LIODAKIS  
 7 TOM KARRENBERG, Anderson & Karrenberg  
 8 RICHARD KAPLAN, Anderson & Karrenberg  
 9 GREGG GALECKI, Canyon Fuel Company, Skyline Mine  
 10 STEVE ALDER, Attorney General/DOGM  
 11 DOUG DOWNING, Ark Land Co.  
 12 WELLS PARKER, Dorsey & Whitney, LLP  
 13 CHRIS HANSEN, Arch Western Bit GP  
 14 BILL PRINCE, Dorsey & Whitney  
 15 WESS SORENSEN, Canyon Fuel Company, Skyline Mine  
 16 CARL WINTERS, Canyon Fuel Company, Skyline Mine  
 17 PRISCILLA BURTON, DOGM  
 18 JIM SMITH, DOGM  
 19 JOE HELFRICH, DOGM  
 20 PETE HESS, Utah DOGM  
 21 STEVE SCHNEIDER, DOGM  
 22  
 23  
 24  
 25

Page 2

1 Skyline Mine for consideration by our coal program  
 2 and their upcoming permit decision as part of their  
 3 regulatory responsibilities and the coal rules. And  
 4 the law firm of Anderson & Karrenberg has  
 5 specifically requested this informal conference.  
 6 I think I understand who's here, but just if  
 7 we could just take time to identify who the parties  
 8 are who plan to speak or may speak today.  
 9 MR. KARRENBERG: Tom Karrenberg from  
 10 Anderson & Karrenberg. With me is Mr. Liodakis, my  
 11 client, Liodakis Ranch, LLC. And Mr. Kaplan is to my  
 12 right.  
 13 MR. SCHNEIDER: Very good.  
 14 MR. PRINCE: Bill Prince for  
 15 Dorsey & Whitney. And with me is Wells Parker from  
 16 Dorsey & Whitney representing the mine.  
 17 MR. SCHNEIDER: Okay.  
 18 MR. SORENSEN: Wess Sorensen, General  
 19 Manager of Skyline Mine, and I have some of my staff  
 20 with me.  
 21 (Clarification by the court reporter.)  
 22 MR. SORENSEN: Carl Winters, engineering  
 23 manager. Gregg Galecki, environmental coordinator of  
 24 Skyline Mine. We also have Chris Hansen with us.  
 25 He's the AWBG environmental coordinator, and Doug

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1 PROCEEDINGS  
 2 -o0o-  
 3  
 4 MR. SCHNEIDER: Okay. I will commence the  
 5 record for this informal conference. My name is  
 6 Steve Schneider with the Division of Oil, Gas and  
 7 Mining. The division director, John Baza, has asked  
 8 that I act as hearing examiner today. I serve under  
 9 Director Baza as the administrative services and  
 10 policy coordinator for the division.  
 11 In the notice of hearing, it's stated we're  
 12 here for the matter of the request for an informal  
 13 conference by Anderson & Karrenberg, Richard Kaplan  
 14 for the Skyline Mine, Winter Quarters Ventilation  
 15 Facility, Carbon County, Utah. And the Cause No. is  
 16 C-0007-0005.  
 17 So this is an informal conference, provided  
 18 for in the Utah Administrative Code in the R645  
 19 Rules, which pertain to the Division's  
 20 coal-regulatory program. And more specifically, the  
 21 conference was requested under R645-300-122 and  
 22 R645-300-123.  
 23 So our primary purpose today, and I think  
 24 most people know, but our primary purpose is to  
 25 accept public comment on this permit application of

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1 Downing, who is with Ark Land.  
 2 (Mr. Alder enters the room.)  
 3 MR. SCHNEIDER: And as you can tell, we do  
 4 have a court reporter present, so can I just ask that  
 5 we try to make our statements as clear as possible.  
 6 And, of course, we should all try to avoid more than  
 7 one person speaking at a time for the benefit of all  
 8 of us and then, of course, for the court reporter  
 9 too.  
 10 And then just before you speak for the first  
 11 time to make your point, if you'd just state your  
 12 name for the record to help our court reporter, that  
 13 would be very greatly appreciated. I think we  
 14 understand who each other represents.  
 15 We also have Division staff here, if you  
 16 want to just quickly go through and -- Dana Dean.  
 17 MS. DEAN: I'm Dana Dean. I'm associate  
 18 director over mining programs.  
 19 MR. HADDOCK: Daron Haddock, the coal  
 20 program manager with the Division of Oil, Gas and  
 21 Mining.  
 22 MR. HESS: Peter Hess, reclamation  
 23 specialist, with the Division of Oil, Gas and Mining.  
 24 MR. HELFRICH: Joe Helfrich, biologist.  
 25 (Clarification by the court reporter.)

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1 MR. HELFRICH: Joe Helfrich.  
 2 THE COURT REPORTER: Thank you.  
 3 MR. HELFRICH: H-e-l-f-r-i-c-h.  
 4 MR. SMITH: Jim Smith, the reclamation  
 5 specialist and permit supervisor for the Division.  
 6 MS. BURTON: Priscilla Burton.  
 7 MS. WIESER: Ingrid Wieser.  
 8 MR. SCHNEIDER: Okay.  
 9 MR. ALDER: Steve Alder. I'm the attorney  
 10 for the Division. Apologize for being late.  
 11 MR. SCHNEIDER: Since we have two primary  
 12 parties here and the Division, I want some balance of  
 13 formal and informal. We don't want just like one  
 14 party to make a complete run and the other party to  
 15 wait. But I guess my predecision before starting is  
 16 to allow attendees to ask any clarifying questions,  
 17 you know, and make -- while the party is making their  
 18 comment, provided it's done in a courteous,  
 19 respectful manner. Maybe not necessarily full-blown  
 20 arguments, you know, while the first party is making  
 21 their comments, but any clarifying questions would be  
 22 good.  
 23 So with that thought, I did have an agenda,  
 24 and I think that's been routed around. And so after  
 25 my introduction, the Division staff will make a brief

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1 report on the permit application, as well as the  
 2 status of that application. And then I will just  
 3 take this time to note that the meeting was  
 4 published -- the meeting notice, excuse me, was  
 5 published in the Sun Advocate. And I appreciate the  
 6 parties trying to work together to set today's date  
 7 and time.  
 8 So under Agenda Item No. 3, then, is the  
 9 primary part where we'll accept comments on that  
 10 permit application, and that can be provided by  
 11 anyone present. I'll need to reach a decision under  
 12 Item No. 4 on the date and time to close the informal  
 13 conference. I'll explain that a little bit more  
 14 later, and then we'll just wrap up under Item No. 5.  
 15 So with that general outline, are there any  
 16 introductory questions?  
 17 Why don't we proceed with Item No. 2, the  
 18 staff report on the permit application.  
 19 MS. BURTON: You all should have gotten a  
 20 fact sheet. If you don't have one, there's one here.  
 21 The sheet outlines the general location of the  
 22 Skyline Mine facilities, and they are shown on this  
 23 map, which was submitted with the application, which  
 24 is the land ownership map. And they're outlined as  
 25 up -- up Eccles Canyon, within a forest, national

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1 forest is the main mines facilities. Just east of  
 2 Scofield is the waste rock site. The loadout is at  
 3 the intersection of Mud Creek and Eccles Creek. And  
 4 this is the location of the proposed ventilation fan,  
 5 which is necessary to provide adequate air for the  
 6 workings in this general vicinity.  
 7 If you have access to a USGS plat map, you  
 8 can see the -- the -- the location of Winter Quarters  
 9 Canyon, which is where the ventilation fan is  
 10 proposed to be. And it's -- I think, it's in  
 11 Section 1.  
 12 MR. SCHNEIDER: Yes.  
 13 MS. BURTON: Yes, it's in Section 1, right  
 14 about the middle of the north half. And it's on the  
 15 north side of Winter Quarters Creek, which is a  
 16 perennial stream. And there is an access road  
 17 currently in existence, but the proposal includes  
 18 construction of a 500-foot new road branching off  
 19 from the access road which crosses the creek.  
 20 And so the proposal would keep all of the  
 21 construction on the north side of the creek, and the  
 22 area to be disturbed is slightly less than 3 acres.  
 23 The construction will involve creating a pad with  
 24 a -- with a crib wall to contain the pad. The  
 25 ventilation shaft, the emergency escape shaft, and

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1 the slope -- a sloped mine portal. And those are all  
 2 described on your fact sheet. And all that will be  
 3 fenced within a fence.  
 4 Outside the fence, within access from the  
 5 existing road is a settlement pond and a top soil  
 6 pile. And the proposal allows about -- this is the  
 7 creek, and it allows a 25-foot buffer from the creek.  
 8 I think that you've all had a few minutes to  
 9 read this, so that pretty much sums it up, I think.  
 10 Everybody should be familiar with that.  
 11 MR. SCHNEIDER: Thank you, Priscilla.  
 12 MS. BURTON: Okay.  
 13 MR. SCHNEIDER: Daron?  
 14 MR. HADDOCK: Okay. My name is Daron  
 15 Haddock, coal permit supervisor. And basically what  
 16 I was going to do is just tell the folks here where  
 17 we're at as far as the permitting process goes with  
 18 regard to this particular project. We received this  
 19 application on March 23rd of this year. Actually, we  
 20 received it -- I guess it was actually last year when  
 21 we received the original application, and then it was  
 22 subsequently withdrawn.  
 23 But the current application that we've got  
 24 was received March 23rd of this year. We did what  
 25 was called an Administrative Completeness Review to

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1 make sure that all the parts are there for an  
 2 application. And we did determine the application to  
 3 be complete on April 1st, 2010. And that's the date  
 4 when we consider -- when we consider the application  
 5 to be complete, and we start our technical review in  
 6 earnest at that point. We also notify other agencies  
 7 and other entities and let them know that we do have  
 8 this application on file.  
 9 We considered this application a -- a  
 10 revision to the mine plan just because of the  
 11 complexity of it. And -- and that's part of the  
 12 reason that we're here today is that there -- there  
 13 is -- with a revision, there is opportunity for a  
 14 hearing, and, of course, that was requested.  
 15 And the -- the notice was -- there was a  
 16 notice required about this application, that it be  
 17 published in the newspaper, and so that was done.  
 18 The notice was actually published April 6th, 13th,  
 19 20th, and 27th. And then there is a 30-day comment  
 20 period after the last date of publication. So on  
 21 May 27th, the public comment period had closed.  
 22 We did have a request for the hearing, and  
 23 that's why we're here today. We're still in the  
 24 middle of our review process. We will take the  
 25 comments that we've received and that we will receive

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1 into today's hearing and consider those in any  
 2 decision we make.  
 3 We are also waiting for -- one other issue  
 4 that needs to be resolved is regarding the -- the  
 5 archaeological resources that are in Winter Quarters  
 6 Canyon. There is a requirement that we get the  
 7 sign-off from the State Historic Preservation Office,  
 8 and we are currently working with them to do that.  
 9 There's a -- I guess it's called a MOU, a  
 10 memorandum of understanding, that's being developed  
 11 between the mine and ourselves and the State Historic  
 12 Preservation Office as to how the archaeological  
 13 resources in the Winter Quarters areas will be  
 14 protected or mitigated. And we're still waiting for  
 15 that to be completed.  
 16 That's basically where we're at as far as  
 17 the project goes. It's just a matter of completing  
 18 our review, getting the final few things. There are  
 19 a few deficiencies that still need to be addressed,  
 20 getting those taken care of, and then we will be able  
 21 to render a decision.  
 22 MR. SCHNEIDER: Thank you, Daron.  
 23 Any questions on the information?  
 24 MR. PRINCE: One question. This is Bill  
 25 Prince.

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1 The deficiency that you indicated had to be  
 2 taken care of, are those subject to technical  
 3 requests to the mine and you've received information  
 4 or you haven't received information?  
 5 MR. HADDOCK: We have received information.  
 6 We -- we actually sent out a list of deficiencies on  
 7 May 17th, and the company has responded to those  
 8 deficiencies. And -- and we're currently reviewing  
 9 those.  
 10 MR. PRINCE: Okay. Thank you.  
 11 MR. SCHNEIDER: Okay. Mr. Karrenberg?  
 12 MR. KARREBERG: Thank you. I'm Tom  
 13 Karrenberg representing Liodakis Ranch, who owns the  
 14 property adjacent to this site immediately south of  
 15 the creek. I think everybody is familiar generally  
 16 with the geography.  
 17 First of all, I'd like to say we appreciate  
 18 Mr. Prince who's been very good at sharing what  
 19 information he's had available and answering as many  
 20 of our questions that we put to him that he -- that  
 21 he could answer and that, Bill, has been really  
 22 appreciated. And I think the Division ought to be  
 23 aware that he's been totally cooperative with that  
 24 and we appreciate it.  
 25 Our concern comes over really a lack of

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1 information in two areas, one under R645-301-300  
 2 Biology, and the other one under R645-201-400 for  
 3 land use and air quality. My client's property is  
 4 used extensively for hunting and fishing. In fact, a  
 5 substantial thousands of dollars of income come in  
 6 from hunting rights that are leased out during the  
 7 hunting season, and it is supposed to be -- this is  
 8 prime hunting ground and fishing ground.  
 9 And also, because of the historic nature of  
 10 the area with Winter Quarters being there, there's  
 11 been plans to develop the property. There's two  
 12 areas that we have concern, and I think we've even  
 13 talked to Bill about, at least informally.  
 14 The first and foremost is on the noise that  
 15 may be generated by the fans. As I think the -- the  
 16 application indicates, this fan is going to be used  
 17 as an exhaust fan to clean out a shaft that could be  
 18 as deep as 300 feet. Bill has identified for us two  
 19 possible fans that may be used, and if I have these  
 20 correct I'll -- correct me if I'm wrong.  
 21 MR. PRINCE: We'll confirm it here.  
 22 MR. KARREBERG: -- either with Joy M120 or  
 23 a TLT-Babcock fan is the information that we were  
 24 supplied with. The -- at least the Joy 120 is a fan  
 25 that has a 10-foot diameter, right? We have photos

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1 here if anyone would like to see it. But it's quite  
 2 a -- it's quite a large apparatus.  
 3 The -- we checked on the Web sites of the  
 4 companies and they do not actually identify the noise  
 5 levels that are at the -- coming out of the fans, so  
 6 we don't have that information. What we were able to  
 7 find out though, is a smaller Joy fan that was only  
 8 25 horsepower generates approximately 90 to 106  
 9 decibel as an average over an eight-hour period at  
 10 the site of the fan. No information about what it  
 11 would be at some distance from the fan.  
 12 The fans that are being considered as  
 13 compared to this 25-horsepower fan are actually a  
 14 1500-horsepower fan. So presumably, there is going  
 15 to be a great deal more noise. We just don't have  
 16 that information at the moment and it wasn't in the  
 17 application to consider to see what the effects would  
 18 be.  
 19 While there is no particular regulation  
 20 right now that we're aware of for the effects of  
 21 noise or studies done on wildlife and other  
 22 considerations in the physical area, such as where my  
 23 client's property is located, OSHA has regulations on  
 24 what's permissible eight-hour day average noise level  
 25 and before any action has to be taken, and that's an

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1 85 decibel average for the day.  
 2 So this -- so even the 25-horsepower fan  
 3 that we do have information is going to exceed that,  
 4 which would be the OSHA regulation. And there's all  
 5 sorts of studies out there on what noise impact could  
 6 have on -- on human beings inside the mine. And I'm  
 7 assuming that the mine people will have dealt with  
 8 that for their own concerns with the safety of their  
 9 employees.  
 10 But what we don't have and we think ought to  
 11 be submitted is some information about what impact,  
 12 if any, would be done on the fish and wildlife in the  
 13 area, and even just general noise in the area since  
 14 this is an area available for development. And  
 15 that's our main concern.  
 16 A second concern that we have on the air  
 17 quality is since it's an exhaust fan, we don't know  
 18 exactly what is -- at the moment, is going to be  
 19 exhausted into the air coming out of a 300-foot  
 20 shaft. We assume that there could be quite a bit of  
 21 material of some sort.  
 22 Mr. Prince has informed us that he doesn't  
 23 believe that there's any methane gas here, but I  
 24 don't know if there's any studies or submission  
 25 stating that. And of course, if there's any coal

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1 dust coming out, and if so, what is the impact of  
 2 that coal dust on the concerns that we have.  
 3 And so we think that at the least, the  
 4 application ought to be supplemented to address these  
 5 concerns, find out what the impacts could be from  
 6 such a fan system, both on the noise and the air  
 7 quality, and submit a plan for any mitigation, if  
 8 that's necessary, that could be evaluated not only by  
 9 us as an interested party, but of course by the  
 10 Division.  
 11 And basically, that's about as informal and  
 12 as fast as I can make it. And I hope -- if there's  
 13 anybody that has any questions, I'm happy to address  
 14 them. But those are our very narrow, pointed  
 15 concerns.  
 16 MR. SCHNEIDER: Okay.  
 17 MR. PRINCE: I actually think that --  
 18 Mr. Chairman, that, based on the questions you gave  
 19 me, I turned them over to the mine and hopefully  
 20 they're prepared to address some of those questions.  
 21 I think some of the work that was done last week  
 22 turned up some information that might be very useful.  
 23 MR. KARREBERG: Okay.  
 24 MR. PRINCE: So we'll -- unless there's  
 25 more -- I'm sorry. Wess, can --

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1 MR. SORENSEN: I think, you know, your  
 2 concern about the fan being large and making a noise  
 3 is not well founded. You know, in the permit  
 4 application package, there's a letter from -- from  
 5 Terra Tech that's included in that. And one of our  
 6 existing mines, the Sufco Mine had some sound studies  
 7 done down there in 2008. It's in a narrow canyon  
 8 just like this canyon. And the maximum sound levels  
 9 were between --  
 10 THE COURT REPORTER: Could you please speak  
 11 up a little bit?  
 12 MR. SORENSEN: The maximum sound levels  
 13 recorded at the Sufco Mine fan, which is a -- is the  
 14 Joy Mine fan that you referred to there, about  
 15 120-inch mine fan, was 75.4 decibels and  
 16 95.7 decibels. That was the recorded readings during  
 17 that 24-hour period.  
 18 There are things that can be done to the fan  
 19 to make it somewhat quieter. That particular fan  
 20 does not have any noise dampening with the ducting or  
 21 the motor house. We propose noise dampening in the  
 22 ducting and in the motor house. There's documented  
 23 studies where that reduces the noise level by at  
 24 least 25 decibels. Excuse me.  
 25 Can you hear me still?

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1 MR. SCHNEIDER: Wess, excuse me. Just to  
 2 clarify, did you say that for this particular site,  
 3 you are proposing at this point a dampening?  
 4 MR. SORENSEN: We would propose using the  
 5 best available technology -- commercial available  
 6 technology, which includes a noise dampening, similar  
 7 to what Dug Out did at their fan in Pace Canyon.  
 8 As far as air quality, the main purpose of  
 9 the fan is to exhaust air from the mine. That air  
 10 will normally be 20 percent oxygen, CO2, some carbon  
 11 dioxide to balance out the nitrogen. We do exhaust a  
 12 little methane, .02 percent. You've got more methane  
 13 than that out here than in the Salt Lake Valley, so I  
 14 don't believe air quality is a real concern.  
 15 As far as addressing the effect of noise,  
 16 you know, you need to realize that noise dies off as  
 17 a high-function power of the -- of the distance you  
 18 are away from it. So when you're close to the fan,  
 19 the noise is loud. When you get a hundred meters  
 20 away, you don't have any noise to amount to much.  
 21 You know, the decibel level goes way down.  
 22 When you're 500 meters away, the decibel  
 23 level is going to be normal conversation levels. It  
 24 will be similar to the noise you hear in this room.  
 25 That fan in here is probably running about

1 55 decibels, if we had a decibel meter in here. If I  
 2 knew you had a noisy fan, I would have brought one.  
 3 But that's probably about 55 decibels is that hum  
 4 that you're hearing right now. Normal conversation  
 5 is in the 60- to 65-decibel range.  
 6 Background levels in that canyon are  
 7 probably in the 45- to 60-decibel range, from what  
 8 preliminary indications and surveys were done this  
 9 last week. So --  
 10 MR. KARREBERG: Wess, in the exhaust, would  
 11 there be -- any coal dust be pulled out through these  
 12 exhaust fans?  
 13 MR. SORENSEN: There would be some dust in  
 14 there, but that's very minimal.  
 15 This is the insulation I was telling you  
 16 about in Sufco. It's down at the bottom of the  
 17 canyon. This picture was taken in June 2006. That  
 18 fan was installed in '92, I believe. So that's about  
 19 14 years worth. And you can see that you can't see  
 20 any dust around the -- that fan from an aerial top  
 21 photo. So there's very minimal dust that comes out  
 22 of the mine.  
 23 MR. KARREBERG: The only comment I would  
 24 have is, one, that that's information I'm not too  
 25 sure outside of the information about what's

1 happening at another site, which is basically  
 2 anecdotal if that is sufficient to make a thorough  
 3 evaluation. We don't have the noise levels published  
 4 by the company, which I would assume would be  
 5 available from somebody who is going to buy one of  
 6 these fans.  
 7 And, of course, the biggest -- and we've  
 8 worked with Mr. Liodakis when he was speaking at the  
 9 mine -- and, of course, I don't know if it was you or  
 10 not, but someone had told him that that fan would  
 11 be -- you'd be able to hear that noise at least a  
 12 mile away.  
 13 MR. LIODAKIS: That was the original  
 14 application.  
 15 MR. SORENSEN: You can hear a noise like  
 16 this a mile away.  
 17 MR. LIODAKIS: That was on the original  
 18 application.  
 19 MR. KARREBERG: And it was on the original  
 20 application. I'm sorry. I misspoke. And the  
 21 concern would be, especially since it's an area that  
 22 my client uses for hunting and commercial hunting,  
 23 what is the effect of that kind of noise level on the  
 24 animals, on basically a pristine wilderness area,  
 25 which we don't have any information on. And we think

1 the Division ought to be requiring that kind of  
 2 information be supplemented into the record.  
 3 MR. SORENSEN: This same Terra Tech report  
 4 says, Terra Tech does not foresee any impacts to  
 5 wildlife associated with the construction of the  
 6 shaft fan. Terra Tech anticipates minimal impacts to  
 7 wildlife with the exhaust fan. From personal  
 8 experience, I've seen deer grazing in the outflow of  
 9 exhaust fans. Because in early spring, that's where  
 10 there's warmth there coming out of the mine, the  
 11 vegetation comes up, they come over and they eat it.  
 12 MR. KARREBERG: Well again, that -- the  
 13 only other comment I would have is that's anecdotal  
 14 evidence and I'm not too sure if that's enough to  
 15 make a thorough evaluation. But I do appreciate the  
 16 information.  
 17 MR. PRINCE: And may I make a comment on  
 18 this, because this information is just becoming  
 19 available to this side. We met with Tetra Tech on  
 20 Thursday, had them go down to the mine to take  
 21 readings in Winter Quarters Canyon for this very  
 22 reason, because there weren't readings. And they  
 23 point out that they had this letter in the per -- in  
 24 the original permit.  
 25 And this letter has data that's taken from a

1 mine that's much further south, getting to the  
 2 picture that was shown to you. So they took readings  
 3 in a canyon that is immediately south of this canyon,  
 4 which is the Eccles Canyon, where there is -- that's  
 5 in fact where the mine is located and the fan. And  
 6 they took readings from that and matched them up with  
 7 what you'd find in a background level up in Winter  
 8 Quarters.  
 9 Now unfortunately, I couldn't get a report  
 10 fast enough. I met with them Thursday and then  
 11 unfortunately I had to see a doctor on Friday, so I  
 12 couldn't get any --  
 13 MR. KARRENBERG: Obviously.  
 14 MR. PRINCE: But I think what the data did  
 15 show was a couple things that Wess pointed out.  
 16 First of all, there's a very, very quick drop-off  
 17 from the fan sight to a noise level that gets about  
 18 60, which is supposed to be conversation level. And  
 19 it is true that you could probably hear it from a  
 20 mile out. But the mile out is pretty close to  
 21 background, which would be a noise that you would  
 22 hear in the -- the canyon background noise is high, I  
 23 understand, because of the stream and trees and wind  
 24 and whatever else you'd get. And as this drops over  
 25 time, down the canyon, now, this isn't necessarily

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1 down the canyon, which is just a straight shot from  
 2 the fan, you will get a low hum noise. And if you  
 3 know what you're listening for, you will be able to  
 4 hear this always down the canyon.  
 5 That's not the same sound you would get off  
 6 to the sides of the canyon, and certainly not the  
 7 sound you would get over the top of the canyon. And  
 8 sorry I don't have a report to bring out, but this is  
 9 the people we hired to go take readings on last week.  
 10 So I thought what was helpful to know is the  
 11 concern that the noise that comes out of the fan --  
 12 and this was prior to any of the mitigation steps we  
 13 had taken, I think that Wess talked about. The noise  
 14 coming out of the fan is going to drop very quickly  
 15 in just 150 yards. Where 400 yards, or meters, 400  
 16 meters, it's going to be down to background. And  
 17 that's without any of the baffling. Or directional,  
 18 this fan can be directed a certain direction, which I  
 19 think the proposal is to direct it away from  
 20 Mr. Liidakis's property, and then whatever else is  
 21 the best technology to do.  
 22 So the readings at least, you're correct,  
 23 there's not a fan in that canyon we can juxtapose,  
 24 but at least the fan in Eccles Canyon is much more --  
 25 it's closer to what this canyon -- they're just one

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1 canyon apart, essentially. And that data is, quite  
 2 frankly, not inconsistent with what Tetra Tech says  
 3 in this -- when did they do this?  
 4 MR. SORENSEN: March 2009.  
 5 MR. PRINCE: March of '09, which was, what,  
 6 the original application?  
 7 MR. SORENSEN: Yes.  
 8 MR. PRINCE: So I would submit there is some  
 9 data out there, certainly where Tetra Tech has  
 10 proposed in their findings. And there is additional  
 11 data which we can't make available today, but we're  
 12 trying to collect from the people who took the  
 13 sampling.  
 14 MR. SCHNEIDER: Thank you very much.  
 15 Are there other comments that people wish to  
 16 make?  
 17 MR. HESS: I have a question. Peter Hess  
 18 with Oil, Gas and Mining.  
 19 How does the fan in the Greens Hollow study  
 20 compare with the fan that's to be installed in  
 21 Winter Quarters, as far as horse power and cubic feet  
 22 per minute, maximum?  
 23 MR. SORENSEN: Winter Quarters fan will be a  
 24 smaller fan than that in Greens Hollow.  
 25 MR. ALDER: You need to speak up.

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1 MR. SORENSEN: The Winter Quarters fan will  
 2 be a smaller fan than what's in Greens Hollow. I  
 3 don't know the exact size of the one in  
 4 Greens Hollow, but I know it's a smaller fan because  
 5 of the pressures that are available aren't near as  
 6 high at Skyline as they are at Sufco, due to the  
 7 extent of the woods.  
 8 MR. HESS: Thank you.  
 9 MR. PRINCE: And may I also suggest that we  
 10 brought with us, because we knew this was a question,  
 11 the MSHA data for methane at the mine that comes out  
 12 of the --  
 13 (Speaking to Wells Parker) Do you have a  
 14 copy?  
 15 MR. PARKER: Huh-uh.  
 16 MR. PRINCE: This is -- these are MSHA's  
 17 statistics from 2009 from the fan that exists at the  
 18 mine.  
 19 MR. KARRENBERG: Thank you.  
 20 MR. PRINCE: I have two copies there. And  
 21 we should probably give one to the -- to the Division  
 22 here so they have one too.  
 23 Okay. So you can look at the numbers. I  
 24 think that bears out what Wess said. It's far less  
 25 than -- it's far less than 1 percent. It's not

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1 ignitable. You couldn't light the methane gas.  
 2 MR. KARRENBERG: Who prepared this? Where  
 3 did that come from?  
 4 MR. PRINCE: MSHA.  
 5 MR. WINTERS: From the Mine Safety and  
 6 Health Administration.  
 7 (Clarification by the court reporter.)  
 8 MR. WINTERS: My name is Carl Winters. From  
 9 the Mine Safety and Health Administration is where  
 10 the data came from.  
 11 MR. PRINCE: It's from the federal agency  
 12 that monitors gas in the mine and safety of the  
 13 miners.  
 14 MR. SCHNEIDER: I think it's interesting  
 15 that, you know, we have before us some issues. And I  
 16 think, Mr. Karrenberg, you pointed out that it's hard  
 17 to spot the exact regulations that some of the  
 18 concerns are -- regulations in the coal program rules  
 19 that directly relates to these. I mean, if you have  
 20 further cites for that, that would be great.  
 21 But I think I'm hearing the company is  
 22 willing to make additional changes. They've been  
 23 conducting additional studies. I'm wondering how,  
 24 like, this additional information, either that's been  
 25 presented today about the proposals to dampen or

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1 direct the air flow or the additional studies, how  
 2 that can come into the permit application. If so,  
 3 and I guess anyone could answer that, how that might  
 4 work.  
 5 MR. PRINCE: I guess it's a question of  
 6 what -- what data would the Division like to have?  
 7 The Tetra Tech letter of 2009 I addressed has very  
 8 similar data when you match it up. But this happens  
 9 to be in a closer canyon that's maybe a little more  
 10 consistent with the canyon at Winter Quarters. But  
 11 it's -- the numbers pretty much -- some of the  
 12 numbers are actually lower in this one than they are  
 13 in the other canyons, so it means that background  
 14 level is higher in Winter Quarters than it was at  
 15 the -- in Sufco.  
 16 MR. SCHNEIDER: There's no doubt that I  
 17 think everyone would wish the parties to reach as  
 18 close as a favorable conclusion as we can, whether  
 19 it's by the regulation or not.  
 20 So certainly, I encourage the parties to  
 21 continue to work in that way.  
 22 MR. KARRENBERG: No, I think we've been  
 23 communicating about as good as we possibly can. Like  
 24 I indicated, Mr. Prince has been perfect on that.  
 25 But, Steve, as far as the regulations, I do

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1 think on the biology, under 322.22 on the impacts as  
 2 far as the biology on the -- well, it doesn't say  
 3 noise. I think it's --  
 4 MR. SCHNEIDER: Could you repeat that?  
 5 MR. KARRENBERG: Sure. 322.22 -- 220,  
 6 excuse me. And the under the land use air quality,  
 7 again, it's 412.320. I think those are broad enough  
 8 to encompass the concerns we have. And I guess one  
 9 of the things we would ask for is maybe if -- if the  
 10 noise studies that Bill's indicated have been done,  
 11 if they could be put in where we could have a chance  
 12 to evaluate them and maybe the Division could as  
 13 well, in addition to the one for Tetra Tech.  
 14 MR. PRINCE: This -- is this data that the  
 15 Division -- the Division, I assume, has looked at the  
 16 Tetra Tech earlier letter that was submitted as part  
 17 of the application.  
 18 MS. WIESER: Yeah. Sorry.  
 19 MR. PRINCE: And it didn't raise any issues.  
 20 MS. WIESER: No. No. I mean, they  
 21 addressed the impact of wildlife and how they were  
 22 going to go about treating the -- to lower those.  
 23 MR. PRINCE: Were there any technical  
 24 requirements with respect -- any additional  
 25 information requested from the mine?

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1 MS. WIESER: No. I mean, we had them survey  
 2 for what animals were there, were nesting there, like  
 3 for raptors, and then deer and elk fawning in the  
 4 areas, and none were located in the area. So they're  
 5 not living there necessarily. They may be there, so  
 6 there wasn't going to be any impacts from fawning or  
 7 nesting raptors or anything like that, in the area.  
 8 And they did extensive studies. It's not the  
 9 Tetra Tech report, but the Western Land report.  
 10 MR. PRINCE: Western Land Service?  
 11 MS. WIESER: Uh-huh.  
 12 MR. PRINCE: Which is part of the permit?  
 13 MS. WIESER: Yes.  
 14 MR. PRINCE: And would that information,  
 15 would that satisfy the requirements under the rules?  
 16 MS. WIESER: Yeah, according to the rules.  
 17 MR. PRINCE: I think, too, the extent that  
 18 there is a -- that there is a -- a lack of  
 19 information or data, we're prepared to put together  
 20 another report and address that. I'm a little  
 21 concerned that we're just adding data on data and the  
 22 Division has already been comfortable with what we  
 23 submitted, and that this won't change that  
 24 determination. But we're -- we're willing to respond  
 25 to what the Division would like.

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1 MR. SCHNEIDER: Can you represent the  
 2 Division, Dana?  
 3 MS. DEAN: Sure. Dana Dean.  
 4 I'm not sure what's in the package right  
 5 now, if there were more technical deficiencies that  
 6 apply to any of this, the issues today.  
 7 MR. HESS: I only did the first review on  
 8 the first application, Dana, so...  
 9 MS. DEAN: Okay. In that review, did you  
 10 ask for further information?  
 11 MR. HESS: No, I did not.  
 12 MS. DEAN: Okay. I guess if you have  
 13 something, then we would be happy to see it,  
 14 especially if it's something with the dampening  
 15 effects or technology you plan to use. I think even  
 16 though we probably have gotten what we need according  
 17 to the regulations or what we've gotten in the second  
 18 round, if it's something that can clear up the  
 19 concerns of the -- of Mr. Liodakis, we would  
 20 appreciate having that further information.  
 21 MR. PRINCE: Okay. We will get that to you  
 22 promptly.  
 23 MS. DEAN: Thank you.  
 24 MR. PRINCE: And to you also.  
 25 MR. HESS: Thank you.

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1 MR. PRINCE: Now, that information,  
 2 Tetra Tech wasn't hired to work on the dampening.  
 3 That's an engineering issue, so they were just hired  
 4 to take air monitoring and -- along the Winter  
 5 Quarters Canyon.  
 6 MS. DEAN: Right. So it might be two pieces  
 7 of information.  
 8 MR. SCHNEIDER: So are we hearing, then,  
 9 the -- we'd see the report from the Tetra Tech as  
 10 well as the company's proposals today that they've  
 11 discussed about dampening, that would be put black on  
 12 white?  
 13 MR. KARRENBERG: It would be helpful. We'd  
 14 appreciate it.  
 15 MR. PRINCE: Okay.  
 16 MR. SORENSEN: We can do that.  
 17 MR. HESS: Peter Hess with the Division  
 18 again.  
 19 As far as the air quality issues are  
 20 concerned, what we generally deal with when we're  
 21 talking about air quality is open stockpiles are  
 22 large, flat areas where coal fines or refuse has been  
 23 stored at one point in time and then cleaned up,  
 24 where wind can pick these fines up and deposit them  
 25 elsewhere.

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1 The Division has issued violations in the  
 2 past for fines being thrown outside of permit  
 3 boundary, but we're not dealing with open stockpiles  
 4 in this canyon. So based on what I reviewed in the  
 5 first application. I can't see where that's really  
 6 an issue. That's just my opinion.  
 7 MR. SCHNEIDER: Seeing any other or hearing  
 8 any other comments?  
 9 MR. PRINCE: There is one other item, and I  
 10 think we've talked about this from time to time, and  
 11 I'm just not sure it's really in the jurisdiction of  
 12 the Division. But the company has an agreement with  
 13 Mr. Liodakis covering the land at issue here. And  
 14 it's a very, very broad legal agreement that grants  
 15 them rights to not only use the land but impact the  
 16 land. And I'm not sure it plays a role in this  
 17 proceeding, because I've never read that that was  
 18 your jurisdiction to make a decision on that.  
 19 But that's been part of the discussion we've  
 20 had with Mr. Liodakis and his attorneys over what  
 21 that agreement means, because that's current in place  
 22 today and valid and payments are being made under  
 23 that. It's in full force and effect.  
 24 So there is -- there are some issues that I  
 25 would -- I would propose that are not within the

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1 jurisdiction, possibly, of the Division which may  
 2 separate us and your decision may not be able to  
 3 address, quite frankly. It may be something else we  
 4 have to address.  
 5 MS. DEAN: Right. Our only concern was that  
 6 you have right of access, right of entry. Beyond  
 7 that, pretty much any agreements you have with the  
 8 landowner.  
 9 MR. PRINCE: Well, of course, you know we're  
 10 not on it.  
 11 MS. DEAN: Right. Yeah, that's what I'm  
 12 saying. Any landowner agreements, we would only be  
 13 concerned with right of entry.  
 14 MR. PRINCE: Okay.  
 15 MR. KARRENBERG: For what it's worth, I  
 16 think you probably have some differences on how to  
 17 interpret the agreement, but I think Bill's correct  
 18 that the issues that we might have, they do not  
 19 really come within the jurisdiction of the Division.  
 20 Those would be just general contract issues.  
 21 MS. DEAN: And I misspoke. We would also be  
 22 concerned with post-mining land use --  
 23 MR. PRINCE: Yes.  
 24 MS. DEAN: -- that the surface --  
 25 MR. PRINCE: Yes.

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1 MS. DEAN: -- agrees with.  
 2 MR. KARRENBERG: But I don't think those are  
 3 impacted by --  
 4 MR. PRINCE: I don't think so, because we're  
 5 not doing any mining on Mr. Liodakis's land. In  
 6 fact, we're not affecting anything on that side of  
 7 the creek. And the access road appears to be a  
 8 private road over on their property up there with a  
 9 party well.  
 10 MS. DEAN: (Nods head.)  
 11 MR. ALDER: I'm not sure I understood what  
 12 was said. Whose agreement -- is it your agreement to  
 13 use Mr. Liodakis's land or his to use yours?  
 14 MR. PRINCE: It's an agreement -- it's a  
 15 grant from Mr. Liodakis to our client company to use  
 16 his land, the land that is immediately south of the  
 17 stream.  
 18 MR. ALDER: (Nods head.)  
 19 MR. HADDOCK: Okay. And so for our  
 20 purposes, basically that would be considered adjacent  
 21 property or adjacent land.  
 22 MR. SCHNEIDER: Priscilla?  
 23 MS. BURTON: I am not sure who did the  
 24 quality review.  
 25 But, Gregg, did you modify your air quality?

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1 MR. PRINCE: -- I'd say you better give us  
 2 at least a week to get that report. Today's Monday?  
 3 Okay. I think we could have it all within a week.  
 4 MR. SCHNEIDER: Okay.  
 5 MR. PRINCE: Everything.  
 6 MR. SCHNEIDER: Other than that item, do the  
 7 parties wish to provide any additional information as  
 8 part of this informal conference, for example, in  
 9 writing, in addition to the oral comments that were  
 10 made today?  
 11 MR. KARRENBERG: Not at the moment, but we'd  
 12 like to at least review the information that  
 13 Mr. Prince has promised us, and see if it -- need be,  
 14 if we will, we will turn something around as soon as  
 15 possible, within days --  
 16 MR. SCHNEIDER: Okay.  
 17 MR. KARRENBERG: -- if we have any concerns.  
 18 MR. PRINCE: Can we set a time on that?  
 19 MR. KARRENBERG: Five days after you get it  
 20 to me.  
 21 MR. PRINCE: Okay.  
 22 MR. KARRENBERG: I presume. Be careful to  
 23 quote me.  
 24 MR. PRINCE: That's fair.  
 25 MR. SCHNEIDER: If we could go off the

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1 MR. GALECKI: You bring it up, but we did  
 2 have to -- no, we didn't have to modify it; however,  
 3 as far as airborne admission, that's covered under  
 4 a -- not under jurisdiction. And we have a permit in  
 5 place. But at this point, we didn't need to modify  
 6 until we -- we don't know whether we're -- exactly  
 7 what we're going to do there. So once we have that  
 8 piece of equipment, then it will go on air quality.  
 9 MS. BURTON: (Nods head.)  
 10 MR. SCHNEIDER: Mr. Prince, when do you  
 11 think the appropriate time frame would be for the  
 12 data on the Tetra Tech or the company's proposal  
 13 today to be?  
 14 MR. PRINCE: I would have to talk to our  
 15 client about that data. The Tetra Tech data is an  
 16 independent contractor working for us. We'll have to  
 17 get back to and see how quickly he can do it. But  
 18 our intention would be to do it very quickly. As you  
 19 know, the permit is probably ready to be granted and  
 20 we're ready to have it granted. So we'll get it to  
 21 the Division and to Mr. Liodakis and to his party as  
 22 soon as we can.  
 23 I would like to say this week, but it's --  
 24 someone else is writing that report, so --  
 25 MR. SCHNEIDER: Okay.

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1 record for a second. I need to speak to counsel just  
 2 a moment.  
 3 (Short recess taken.)  
 4 MR. SCHNEIDER: Okay. I guess we're ready  
 5 to go back on the record.  
 6 I think we've completed Item No. 3 on the  
 7 agenda, then. And if there's any last comment -- I  
 8 don't think I heard any before we took the break.  
 9 So Item No. 4, as Hearing Examiner, I have  
 10 the responsibility to determine the time to close  
 11 this informal conference. And that's important  
 12 because closing that informal conference starts the  
 13 clock for the Division's coal program to make their  
 14 decision within 60 days of the conference closing per  
 15 the coal rules.  
 16 We talked about some proposed dates already  
 17 for some supplemental information to be provided, and  
 18 I'd like to provide Skyline just a little bit more  
 19 time. I'll ask them to reply by June 23rd, which is  
 20 next week, Wednesday, for their supplemental  
 21 information. And I appreciate their willingness to  
 22 do that.  
 23 And if Mr. Karrenberg could reply by the  
 24 following Wednesday, close of business, June 30th.  
 25 Then we'll consider the informal conference closed

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1 upon -- at the end of business on June 30th.  
 2 MR. KARRENBERG: That's doable from our  
 3 side.  
 4 MR. PRINCE: (Nods head.)  
 5 MR. SCHNEIDER: Okay. So just to summarize,  
 6 then, the record will reflect the conference will be  
 7 closed June 30th, close of business.  
 8 Okay. I'd like to thank the parties for  
 9 attending today and presenting their information. I  
 10 certainly appreciate the parties' efforts to work  
 11 together even prior to us coming in today.  
 12 As Daron explained, the coal staff will  
 13 consider the information presented in accordance with  
 14 their regulatory responsibilities for the process  
 15 that permit in the R645 rules.  
 16 A transcript will be available for  
 17 examination by the public in the Division's Public  
 18 Information Center. Don't have a time for that yet,  
 19 but they'll do the best job they can in that regard.  
 20 And parties who have made comment will also  
 21 be able to be -- will be provided a copy of the  
 22 permit decision. And I think everyone should  
 23 understand that decisions by the Division are subject  
 24 to appeal.  
 25 And with that, thank you.

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1 (This meeting was adjourned at  
 2 3:05 p.m.)  
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1 MR. PRINCE: Excuse me. Can I clarify  
 2 something?  
 3 MR. SCHNEIDER: Sure.  
 4 MR. PRINCE: Which decision are we saying is  
 5 subject to appeal? The issuance of the permit?  
 6 MR. ALDER: Yes.  
 7 MR. SCHNEIDER: A final decision of a  
 8 permit.  
 9 MR. ALDER: Yeah, the decision on closing  
 10 the hearing and informal conference.  
 11 MR. PRINCE: So 30 days after you close this  
 12 hearing, this conference could be appealed.  
 13 MR. ALDER: Well, I think that the rules  
 14 don't allow for appeals of informal conference  
 15 determinations, and I would interpret that to include  
 16 even the decisions of when to close it. So the  
 17 decision that is set, you know, would be the decision  
 18 on the permit, which would be.  
 19 MR. PRINCE: Thank you. Thank you for the  
 20 clarification.  
 21 MR. SCHNEIDER: Yes, that was what I  
 22 intended to state.  
 23 So thank you for attending. We're  
 24 adjourned.  
 25 ///

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1 REPORTER'S CERTIFICATE  
 2  
 3 STATE OF UTAH )  
 4 )  
 5 COUNTY OF UTAH )  
 6  
 7 I, Emily A. Gibb, a Certified Shorthand  
 8 Reporter and Registered Professional Reporter, hereby  
 9 certify:  
 10 THAT the foregoing proceedings were taken  
 11 before me at the time and place set forth in the  
 12 caption hereof; that the witness was placed under  
 13 oath to tell the truth, the whole truth, and nothing  
 14 but the truth; that the proceedings were taken down  
 15 by me in shorthand and thereafter my notes were  
 16 transcribed through computer-aided transcription; and  
 17 the foregoing transcript constitutes a full, true,  
 18 and accurate record of such testimony adduced and  
 19 oral proceedings had, and of the whole thereof.  
 20 I have subscribed my name on this \_\_\_\_\_ day  
 21 of \_\_\_\_\_, 2010.  
 22  
 23 \_\_\_\_\_  
 24 Emily A. Gibb, RPR, CSR  
 25

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WINTER QUARTERS VENTILATION PROPOSAL - INFORMAL CONFERENCE JUNE 14, 2010

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**WINTER QUARTERS VENTILATION PROPOSAL - INFORMAL CONFERENCE    JUNE 14, 2010**

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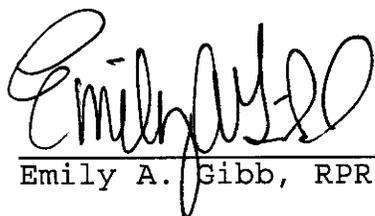
REPORTER'S CERTIFICATE

STATE OF UTAH            )  
                                  )  
COUNTY OF UTAH        )

I, Emily A. Gibb, a Certified Shorthand Reporter and Registered Professional Reporter, hereby certify:

THAT the foregoing proceedings were taken before me at the time and place set forth in the caption hereof; that the witness was placed under oath to tell the truth, the whole truth, and nothing but the truth; that the proceedings were taken down by me in shorthand and thereafter my notes were transcribed through computer-aided transcription; and the foregoing transcript constitutes a full, true, and accurate record of such testimony adduced and oral proceedings had, and of the whole thereof.

I have subscribed my name on this 26th day of May, 2010.

  
\_\_\_\_\_  
Emily A. Gibb, RPR, CSR