

Documents related to the Office of Surface Mining Stream Protection Rulemaking

Volume: 00037389_Hastings_002

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Total Pages: 84

HHSF223200730236G, ERG Task No.
0193.16.001.001.

Dated: April 26, 2010.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2010-10078 Filed 4-29-10; 8:45 am]

BILLING CODE 4160-01-S

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 780, 784, 816, and 817

RIN 1029-AC63

Stream Protection Rule; Environmental Impact Statement

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; notice of intent to prepare an environmental impact statement.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSM), intend to prepare an environmental impact statement (EIS) under section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA) to analyze the effects of potential rule revisions under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act) to improve protection of streams from the adverse impacts of surface coal mining operations. We are requesting comments for the purpose of determining the scope of the EIS.

DATES: To ensure consideration, we must receive your electronic or written comments on June 1, 2010.

ADDRESSES: You may submit comments by any of the following methods, although we request that you use electronic mail if possible:

- *Electronic mail:* Send your comments to sra-eis@osmre.gov.
- *Mail, hand-delivery, or courier:*

Send your comments to Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 252-SIB, 1951 Constitution Avenue, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: John Craynon, Chief, Division of Regulatory Support, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW., MS 202-SIB, Washington, DC 20240; Telephone 202-208-2866.

SUPPLEMENTARY INFORMATION:

Table of Contents

- Why are we planning to revise our rules?
- What is the proposed federal action?

III. How do I submit comments?

IV. How do I request to participate as a cooperating agency?

I. Why are we planning to revise our rules?

On December 12, 2008 (73 FR 75814-75885), we published a final rule modifying the circumstances under which mining activities may be conducted in or near perennial or intermittent streams. That rule, which this document refers to as the 2008 rule, took effect January 12, 2009. A total of nine organizations challenged the validity of the rule in two complaints filed on December 22, 2008, and January 16, 2009 (amended complaint filed February 17, 2009): *Coal River Mountain Watch, et al. v. Salazar*, No. 08-2212 (D.D.C.) ("*Coal River*") and *National Parks Conservation Ass'n v. Salazar*, No. 09-115 (D.D.C.) ("*NPCA*"). Under the terms of a settlement agreement signed by the parties on March 19, 2010, we agreed to use best efforts to sign a proposed rule by February 28, 2011, and a final rule by June 29, 2012. We also agreed to consult with the Fish and Wildlife Service pursuant to the Endangered Species Act, as appropriate, prior to signing the final action. On April 2, 2010, the court granted the parties' motion to hold the judicial proceedings in abeyance.

However, we had already embarked on that course following the change of Administrations on January 20, 2009. On June 11, 2009, the Secretary of the Department of the Interior, the Administrator of the U.S. Environmental Protection Agency (EPA), and the Acting Assistant Secretary of the Army (Civil Works) entered into a memorandum of understanding¹ (MOU) implementing an interagency action plan designed to significantly reduce the harmful environmental consequences of surface coal mining operations in six Appalachian states, while ensuring that future mining remains consistent with Federal law. Among other things, the MOU committed us to consider revisions to key provisions of our rules, including the 2008 rule and approximate original contour requirements, to better protect the environment and public health from the impacts of Appalachian surface coal mining.

Consequently, on November 30, 2009, we published an advance notice of proposed rulemaking (ANPRM) soliciting comments on ten potential rulemaking alternatives. See 74 FR

¹ The MOU can be viewed online at <http://www.osmre.gov/resources/ref/mou/ASCM061109.pdf>.

62664-62668. In addition, consistent with the MOU, we invited the public to identify other rules that we should revise. We also announced our intent to prepare a supplement to the EIS developed in connection with the 2008 rule.

We received approximately 32,750 comments during the 30-day comment period that closed December 30, 2009. After evaluating those and other comments, we determined that development of a comprehensive stream protection rule (one that is much broader in scope than the 2008 rule) would be the most appropriate and effective method of achieving the goals set forth in the MOU and the ANPRM. We believe that this holistic approach will better protect streams and related environmental values. The broader scope of the stream protection rule means that we will need to prepare a new environmental impact statement rather than the supplement to the 2008 EIS that we originally intended to prepare.

II. What is the proposed federal action?

The proposed Federal action consists of revisions to various provisions of our rules to improve protection of streams from the impacts of surface coal mining operations nationwide. We do not believe that it would be fair, appropriate, or scientifically valid to apply the new protections only in central Appalachia, as some commenters on the ANPRM advocated. Streams are ecologically significant regardless of the region in which they are located. Principal elements of the proposed action include—

- Adding more extensive and more specific permit application requirements concerning baseline data on hydrology, geology, and aquatic biology; the determination of the probable hydrologic consequences of mining; and the hydrologic reclamation plan; as well as more specific requirements for the cumulative hydrologic impact assessment.
- Defining the term "material damage to the hydrologic balance outside the permit area." This term is critically important because, under section 510(b)(3) of SMCRA, the regulatory authority may not approve a permit application unless the proposed operation has been designed to prevent material damage to the hydrologic balance outside the permit area. This term includes streams downstream of the mining operation.
- Revising the regulations governing mining activities in or near streams, including mining through streams.

- Adding more extensive and more specific monitoring requirements for surface water, groundwater, and aquatic biota during mining and reclamation.
- Establishing corrective action thresholds based on monitoring results.
- Revising the backfilling and grading rules, excess spoil rules, and approximate original contour restoration requirements to incorporate landform restoration principles and reduce discharges of total dissolved solids.
- Limiting variances and exceptions from approximate original contour restoration requirements.
- Requiring reforestation of previously wooded areas.
- Requiring that the regulatory authority coordinate the SMCRA permitting process with Clean Water Act permitting activities to the extent practicable.
- Codifying the financial assurance provisions of OSM's March 31, 1997, policy statement² on correcting, preventing, and controlling acid/toxic mine drainage and clarifying that those provisions apply to all long-term discharges of pollutants, not just pollutants for which effluent limitations exist.
- Updating the definitions of perennial, intermittent, and ephemeral streams.

We are in the process of developing alternatives for the proposed Federal action. Comments received in response to this notice will assist us in that process.

We will prepare a draft EIS after we complete the initial stages of scoping and identify which rulemaking alternatives will be analyzed in detail. Following release of the draft EIS, we anticipate publishing a notice of proposed rulemaking, unless we select an alternative that makes rulemaking unnecessary.

III. How do I submit comments?

Consistent with 43 CFR 46.235, we invite all interested persons, organizations, and agencies to provide comments, suggestions, and any other information relevant to the scope of the EIS, the scope of the proposed Federal action, potential alternatives for the proposed Federal action, and studies and impacts that the EIS should address. See **ADDRESSES** for the methods by which we will accept comments. We do not anticipate conducting any meetings dedicated to scoping.

Before including your address, phone number, e-mail address, or other

personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. Comments that we receive after the close of the comment period (see **DATES**) or sent to an address other than those listed in **ADDRESSES** may not be considered.

If you previously submitted comments in response to the ANPR, you do not need to resubmit them. We will consider all ANPR comments as part of this EIS scoping process.

IV. How do I request to participate as a cooperating agency?

Consistent with 43 CFR 46.225, we, the lead agency, invite eligible Federal, state, tribal, and local governmental entities to indicate whether they have an interest in being a cooperating agency in the preparation of the EIS. Qualified entities are those with jurisdiction by law, as defined in 40 CFR 1508.15, or special expertise, as defined in 40 CFR 1508.26. Potential cooperating agencies should consider their authority and capacity to assume the responsibilities of a cooperating agency and make the necessary resources available in a timely manner, as discussed in the document entitled "Factors for Determining Cooperating Agency Status,"³ which is Attachment 1 to the Council on Environmental Quality's January 30, 2002, Memorandum for the Heads of Federal Agencies: Cooperating Agencies in Implementing the Procedural Requirements of the National Environmental Policy Act. We will not be able to provide financial assistance to cooperating agencies.

If you have an interest in participating as a cooperating agency, please contact the person listed in **FOR FURTHER INFORMATION CONTACT** and identify those aspects of the EIS process in which you are interested in participating. The regulations at 43 CFR 46.230 and Items 4 through 6 in the document discussed in the preceding paragraph list the activities in which cooperating agencies may wish to participate.

Dated: April 16, 2010.

Sterling Rideout,

Assistant Director, Program Support.

[FR Doc. 2010-10091 Filed 4-29-10; 8:45 am]

BILLING CODE 4310-05-P

³ See <http://ceq.hss.doe.gov/nepa/regs/cooperating/cooperatingagencyememofactors.html>.

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2009-0890]

RIN 1625-AA09

Drawbridge Operation Regulation; Chambers Creek, Steilacoom, WA, Schedule Change

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking; withdrawal.

SUMMARY: The Coast Guard is withdrawing its notice of proposed rulemaking (NPRM) concerning the drawbridge operation regulation for the Burlington Northern Santa Fe Railroad Bridge across Chambers Creek, mile 0.0, at Steilacoom, Washington, by which two-hour notice would have been required for openings from 3:30 p.m. to 7 a.m. every day. The NPRM is being withdrawn because of multiple objections to the proposed change from users of that waterway.

DATES: The notice of proposed rulemaking is withdrawn on April 30, 2010.

ADDRESSES: The docket for this withdrawn rulemaking is available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet by going to <http://www.regulations.gov>, inserting USCG-2009-0890 in the "Keyword" box and then clicking "Search".

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or e-mail Austin Pratt, Chief, Bridge Section, Waterways Management Branch, Thirteenth Coast Guard District; telephone 206-220-7282, e-mail address william.a.pratt@uscg.mil. If you have questions on viewing materials in the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Background

On December 8, 2009, we published an NPRM entitled "Drawbridge Operation Regulation; Chambers Creek, Steilacoom, WA, Schedule Change" in the **Federal Register** (74 FR 64641). The

² See the document entitled "Acid Mine Drainage Policy" at http://www.osmre.gov/guidance/significant_guidance.shtm.

HHSF223200730236G, ERG Task No.
0193.16.001.001.

Dated: April 26, 2010.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2010-10078 Filed 4-29-10; 8:45 am]

BILLING CODE 4160-01-S

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 780, 784, 816, and 817

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Dated: April 16, 2010.

Sterling Rideout,

Assistant Director, Program Support.

[FR Doc. 2010-10091 Filed 4-29-10; 8:45 am]

BILLING CODE 4310-05-P

³ See <http://ceq.hss.doe.gov/nepa/regs/cooperating/cooperatingagencyfactors.html>.

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2009-0890]

RIN 1625-AA09

Drawbridge Operation Regulation; Chambers Creek, Steilacoom, WA, Schedule Change

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking; withdrawal.

SUMMARY: The Coast Guard is withdrawing its notice of proposed rulemaking (NPRM) concerning the drawbridge operation regulation for the Burlington Northern Santa Fe Railroad Bridge across Chambers Creek, mile 0.0, at Steilacoom, Washington, by which two-hour notice would have been required for openings from 3:30 p.m. to 7 a.m. every day. The NPRM is being withdrawn because of multiple objections to the proposed change from users of that waterway.

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SUPPLEMENTARY INFORMATION:

Background

On December 8, 2009, we published an NPRM entitled "Drawbridge Operation Regulation; Chambers Creek, Steilacoom, WA, Schedule Change" in the Federal Register (74 FR 64641). The

From: [Loges, Brian W.](#)
To: [Dale, Debbie](#)
Subject: FW: EIS review
Date: Tuesday, April 20, 2010 3:56:00 PM

From: Rice, Dennis
Sent: Friday, April 16, 2010 1:28 PM
To: BilBao, Li-Tai S.
Cc: Craynon, John; Uranowski, Lois J.; Winters, William R. "Bill"; Loges, Brian W.
Subject: RE: EIS review

I think time spent reading the chapters that I cited in the 2003 draft programmatic EIS would be time well spent on the part of any contractor. It is the most comprehensive and best-presented material that we have. The same holds true for Chapters III (with the notable exception of section H) and IV in the 2008 EIS. Pulling sections of these chapters out in isolation would not be advisable, in my view. Neither of these efforts would significantly impact completion time. If someone suggests otherwise, maybe we could add a little money for an Evelyn Wood speed-reading course ☺. Reading the other documents may well be of limited value, as I acknowledge below.

I also strongly oppose the idea of tiering off any of these other EIS documents. It would be much better to have a comprehensive new EIS than to have to constantly refer back to other documents. Plus, the scope of the stream protection rule is much broader than the 2008 rule, so tiering off that EIS would be inappropriate. In a similar vein, we should not tier off the 2003/2005 programmatic EIS because of its limited geographic scope and other limiting statements within the body of that EIS.

From: BilBao, Li-Tai S.
Sent: Friday, April 16, 2010 1:43 PM
To: Rice, Dennis
Cc: Craynon, John; Winters, William R. "Bill"; Uranowski, Lois J.; Loges, Brian W.; Dale, Debbie; Clark, Paul
Subject: RE: EIS review

Yes, we are paying a premium for fast service and good quality documentation. They will be reviewing all the reference material. Having said all this, we should point out areas that we feel are either a foundation or an item that may be tiered off of. If we expect them to read everything, then we can forget about this being a 10 month project. Believe me they have a heavy load already. If we can provide the pertinent sections, we are already steps ahead. I really don't feel there is anything wrong with this approach because we hold greater knowledge of these documents than anyone else in the consulting world. One final thing, the Director felt this was a good approach for saving time and providing an effective foundation.

Li-Tai Sikiu Bilbao

*Senior Consultant
EIS
10000
10000*

From: Rice, Dennis
Sent: Friday, April 16, 2010 12:53 PM
To: BilBao, Li-Tai S.
Cc: Craynon, John; Winters, William R. "Bill"; Uranowski, Lois J.; Loges, Brian W.; Dale, Debbie; Clark, Paul
Subject: RE: EIS review

Seems to me that the contractors should read or at least skim the listed EIS documents in their entirety (with the possible exception of the 1983 Supplement) to get a good feel for coal mining and the SMCRA regulatory program. They also should be encouraged to improve presentations, formats, and prior discussions, especially for the money we will be paying. However, if we are to select certain sections, I recommend the following:

2008 EIS: Parts I.E.1., III (but we will need to add the other coal fields not included in this description of the existing environment, as well as update descriptions of the other areas and the description of the regulatory environment in III.H.), and IV (updated to reflect new and additional studies).

2003 Draft Programmatic MTM/VF EIS: Chapters 3, 4, 8, and 9 (but remember that this EIS is limited to the steep-slope areas of Kentucky, Virginia, West Virginia, and Tennessee).

2005 Final Programmatic MTM/VF EIS: Sections 5.2.5 through 5.2.15 and 5.2.17 through 5.2.18, plus section 6 (with the same caveat regarding geographic limitations). Actually, this EIS is unlikely to be of significant value apart from the errata list in section 6.

1979 EIS: Sections I through III of Part B may be of limited value.

1983 Supplement: Because of its structure and minimalist approach, this document is unlikely to be of any significant value.

From: BilBao, Li-Tai S.
Sent: Thursday, April 15, 2010 7:47 AM
To: Winters, William R. "Bill"; Dale, Debbie; Uranowski, Lois J.; Loges, Brian W.; Clark, Paul; Rice, Dennis
Cc: Craynon, John
Subject: EIS review
Importance: High

Folks,

We have to pick a time and date next week to meet for about an hour regarding extraction of relevant material from the EISs that are referenced in the SOW. By the 7th of May, we are to have a list of the pertinent sections to be used for the framework of the new EIS. I talked this over with the Director and he felt this would be the right to start a 3 day kick off meeting.

These are the following:

1979 OSM-EIS-1 *Permanent Regulatory Program*

1983 OSM-EIS-1 *Supplement*

2003 DRAFT EIS *Mountain Top Mining and Valley Fills*

2005 EIS *Mountain Top Mining and Valley Fills*

2008 OSM-EIS-34 *Excess Spoil Minimization and Stream Buffer Zones*

Li-Tai Sikiu Bilbao

Top Consultant: *Li-Tai Sikiu Bilbao*

2005-2008

1. *Li-Tai Sikiu Bilbao*

2. *Li-Tai Sikiu Bilbao*

4310-05-P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Notice of Intent to Prepare an Environmental Impact Statement

Stream Protection Rule: RIN 1029-AC63

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement (EIS).

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSM), intend to prepare an environmental impact statement (EIS) under section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA) to analyze the effects of potential rule revisions under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act) to improve protection of streams from the adverse impacts of surface coal mining operations. We are requesting comments for the purpose of determining the scope of the EIS.

DATES: To ensure consideration, we must receive your electronic or written comments on [INSERT date 30 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: You may submit comments by any of the following methods, although we request that you use electronic mail if possible:

- Electronic mail: Send your comments to sra-eis@osmre.gov.
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FOR FURTHER INFORMATION CONTACT: John Craynon, Chief, Division of Regulatory Support, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, MS 202-SIB, Washington, DC 20240; Telephone 202-208-2866.

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environmental consequences of surface coal mining operations in six Appalachian states, while ensuring that future mining remains consistent with Federal law. Among other things, the MOU committed us to consider revisions to key provisions of our rules, including the 2008 rule and approximate original contour requirements, to better protect the environment and public health from the impacts of Appalachian surface coal mining.

Consequently, on November 30, 2009, we published an advance notice of proposed rulemaking (ANPR) soliciting comments on ten potential rulemaking alternatives. See 74 FR 62664-62668. In addition, consistent with the MOU, we invited the public to identify other rules that we should revise. We also announced our intent to prepare a supplement to the EIS developed in connection with the 2008 rule.

We received approximately 32,750 comments during the 30-day comment period that closed December 30, 2009. After evaluating those and other comments, we determined that development of a comprehensive stream protection rule (one that is much broader in scope than the 2008 rule) would be the most appropriate and effective method of achieving the goals set forth in the MOU and the ANPR. We believe that this holistic approach will better protect streams and related environmental values. The broader scope of the stream protection rule means that we will need to prepare a new environmental impact statement rather than the supplement to the 2008 EIS that we originally intended to prepare.

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- Adding more extensive and more specific permit application requirements concerning baseline data on hydrology, geology, and aquatic biology; the determination of the

probable hydrologic consequences of mining; and the hydrologic reclamation plan; as well as more specific requirements for the cumulative hydrologic impact assessment.

- Defining the term “material damage to the hydrologic balance outside the permit area.” This term is critically important because, under section 510(b)(3) of SMCRA, the regulatory authority may not approve a permit application unless the proposed operation has been designed to prevent material damage to the hydrologic balance outside the permit area. This term includes streams downstream of the mining operation.
- Revising the regulations governing mining activities in or near streams, including mining through streams.
- Adding more extensive and more specific monitoring requirements for surface water, groundwater, and aquatic biota during mining and reclamation.
- Establishing corrective action thresholds based on monitoring results.
- Revising the backfilling and grading rules, excess spoil rules, and approximate original contour restoration requirements to incorporate landform restoration principles and reduce discharges of total dissolved solids.
- Limiting variances and exceptions from approximate original contour restoration requirements.
- Requiring reforestation of previously wooded areas.
- Requiring that the regulatory authority coordinate the SMCRA permitting process with Clean Water Act permitting activities to the extent practicable.

- Codifying the financial assurance provisions of OSM's March 31, 1997, policy statement² on correcting, preventing, and controlling acid/toxic mine drainage and clarifying that those provisions apply to all long-term discharges of pollutants, not just pollutants for which effluent limitations exist.
- Updating the definitions of perennial, intermittent, and ephemeral streams.

We are in the process of developing alternatives for the proposed Federal action. Comments received in response to this notice will assist us in that process.

We will prepare a draft EIS after we complete the initial stages of scoping and identify which rulemaking alternatives will be analyzed in detail. Following release of the draft EIS, we anticipate publishing a notice of proposed rulemaking, unless we select an alternative that makes rulemaking unnecessary.

III. How Do I Submit Comments?

Consistent with 43 CFR 46.235, we invite all interested persons, organizations, and agencies to provide comments, suggestions, and any other information relevant to the scope of the EIS, the scope of the proposed Federal action, potential alternatives for the proposed Federal action, and studies and impacts that the EIS should address. See **ADDRESSES** for the methods by which we will accept comments. We do not anticipate conducting any meetings dedicated to scoping.

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. Comments that we receive after the close of the comment period (see **DATES**) or sent to an address other than those listed in **ADDRESSES** may not be considered.

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If you previously submitted comments in response to the ANPR, you do not need to resubmit them. We will consider all ANPR comments as part of this EIS scoping process.

IV. How Do I Request to Participate as a Cooperating Agency?

Consistent with 43 CFR 46.225, we, the lead agency, invite eligible Federal, state, tribal, and local governmental entities to indicate whether they have an interest in being a cooperating agency in the preparation of the EIS. Qualified entities are those with jurisdiction by law, as defined in 40 CFR 1508.15, or special expertise, as defined in 40 CFR 1508.26. Potential cooperating agencies should consider their authority and capacity to assume the responsibilities of a cooperating agency and make the necessary resources available in a timely manner, as discussed in the document entitled "Factors for Determining Cooperating Agency Status,"³ which is Attachment 1 to the Council on Environmental Quality's January 30, 2002, Memorandum for the Heads of Federal Agencies: Cooperating Agencies in Implementing the Procedural Requirements of the National Environmental Policy Act. We will not be able to provide financial assistance to cooperating agencies.

If you have an interest in participating as a cooperating agency, please contact the person listed in **FOR FURTHER INFORMATION CONTACT** and identify those aspects of the EIS process in which you are interested in participating. The regulations at 43 CFR 46.230 and Items 4 through 6 in the document discussed in the preceding paragraph list the activities in which cooperating agencies may wish to participate.

Dated: April 16, 2010

Sterling Rideout /s/

Assistant Director, Program Support

³ See <http://ceq.hss.doe.gov/nepa/regs/cooperating/cooperatingagencyememofactors.html>.

4310-05-P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR 780, 784, 816, and 817

RIN 1029-AC63

Stream Protection Rule; Environmental Impact Statement

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; notice of intent to prepare an environmental impact statement.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSM), intend to prepare an environmental impact statement (EIS) under section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA) to analyze the effects of potential rule revisions under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act) to improve protection of streams from the adverse impacts of surface coal mining operations. We are requesting comments for the purpose of determining the scope of the EIS.

DATES: To ensure consideration, we must receive your electronic or written comments on [INSERT date 30 days after date of publication in the FEDERAL REGISTER].

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- Adding more extensive and more specific permit application requirements concerning baseline data on hydrology, geology, and aquatic biology; the determination of the probable hydrologic consequences of mining; and the hydrologic reclamation plan; as well as more specific requirements for the cumulative hydrologic impact assessment.
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Dated: April 16, 2010

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Assistant Director, Program Support

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April 15, 2010

INFORMATION MEMORANDUM

FROM: Joe Pizarchik, Director, Office of Surface Mining Reclamation & Enforcement

SUBJECT: Stream Protection Rule

ISSUE: Notice of Intent to Prepare an Environmental Impact Statement

I. INTRODUCTION

In accordance with a decision approved by the Assistant Secretary-Land and Minerals Management, OSM is developing a comprehensive stream protection rule to better protect streams from the adverse impacts of surface coal mining operations. This approach means that the bureau must prepare a new environmental impact statement (EIS) instead of a supplement to the EIS prepared in connection with the 2008 stream buffer zone rule because the stream protection rule will be much broader in scope than the 2008 rule. Consequently, as required by regulations adopted by the Department and the Council on Environmental Quality, OSM plans to publish a notice of intent to prepare the EIS. The notice invites the public to comment on the scope of the EIS and suggest alternatives that should be evaluated. It also invites other governmental entities to submit requests to participate in the process as cooperating agencies.

II. BACKGROUND

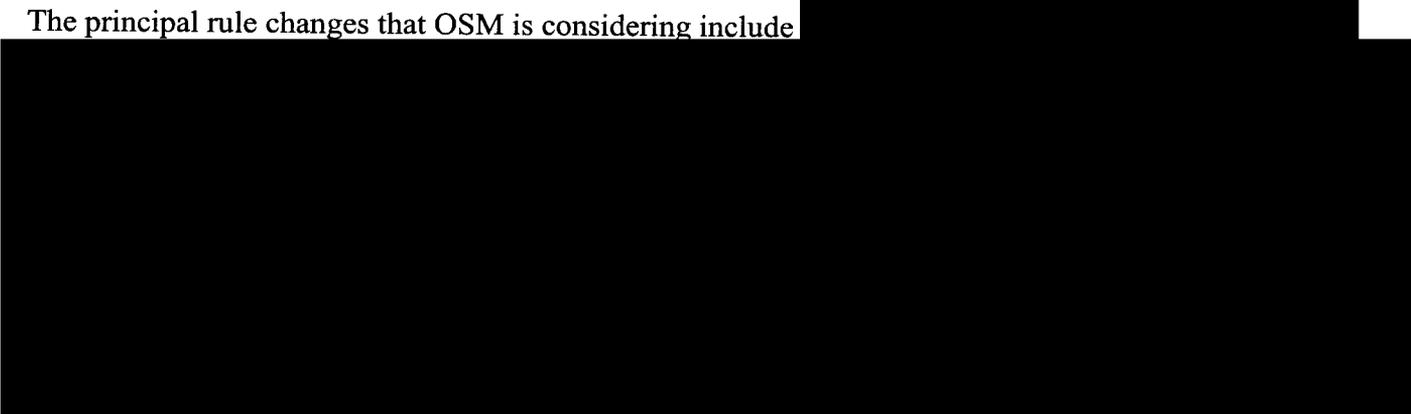
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OSM had already begun developing a revised rule following the change of administrations on January 20, 2009. On June 11, 2009, the Secretary of the Department of the Interior, the Administrator of the U.S. Environmental Protection Agency (EPA), and the Acting Assistant Secretary of the Army (Civil Works) entered into a memorandum of understanding (MOU) implementing an interagency action plan designed to significantly reduce the harmful environmental consequences of surface coal mining operations in six Appalachian states, while ensuring that future mining remains consistent with federal law. Among other things, the MOU committed OSM to consider revisions to key provisions of rules adopted under the Surface Mining Control and Reclamation Act (SMCRA), including the 2008 rule and approximate original contour requirements, to better protect the environment and public health from the impacts of Appalachian surface coal mining.

Consequently, on November 30, 2009 (74 FR 62664-62668), OSM published an advance notice of proposed rulemaking (ANPR) soliciting comments on ten potential rulemaking alternatives. In addition, consistent with the MOU, we invited the public to identify other rules that we should revise.

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The principal rule changes that OSM is considering include



CONTACT: John Craynon, Chief, Division of Regulatory Programs; (202) 208-2866.

>> Repackaging the entire document and we will see if there are any data gaps and have to address those. We'll have to address the outstanding comments that are not removed from consideration. Then we'll have to get that back to you for a second review, isn't that -- or no. That's it. These comments -- so when you repackage and we address the original set of comments you gave us --

>> [Inaudible].

>> Okay.

>> -- to the BEAI'S.

>> Okay.

>> But because the chapter four analysis on this were understood hinges or doesn't hinge on this.

>> Well, I suggest -- that's why we -- one of the reasons we brought them in here is because I -- I was saying I would sure like to have the chapter three to send back out to the team because chapter four should look a lot like chapter three with -- with the alternatives.

>> I -- I don't disagree with that.

>> But there's a time problem.

>> I don't think that -- I think that chapter four could still progress because what we even did when we went through here like MPDS permits we identified that -- that would be of a useful measure to -- to evaluate chapter four. So I think that since we're not really looking at adding a lot of content to -- to -- [inaudible] water staff.

>> Like what --

>> We can start progressing the analysis but probably can't really write the text correctly.

>> Maybe we're sending out the outline that you guys are thinking as you've shown me a number of -- [inaudible] to the tape right away. And say this is the way that the material -- a lot of material from chapter three is going to be repackaged. Send that to all of the appropriate analysts who are going to be working on sections and say, you know, start work -- keeping in mind that this is the way that the existing information with perhaps some additional data for the west will be readdressed in a revised chapter three and keep that in mind as you're preparing your analysis on chapter four. Because the analysis that's going to be done is the same analysis. And I think what we talked about in a way to do the chapter four analysis and more or less be broken down now, you know, restructure the thinking anyway so...

>> You know, it -- it's -- I hate to be so stupid about it, but I think the analysis, the impacting analysis is largely going to be just as an exercise or the spreadsheet and proportions.

>> I don't think there's any problem with that. And -- and what --

>> So it's not going to be a big, long detailed thing.

>> Well, here's -- here's --

>> It'll be [REDACTED]

>> Well, and I will tell you that at least my -- my -- my understanding of where you came to in the mine discussion this morning is that by next

wednesday when it was agreed to provide the MACF [inaudible] for use in the RAI there will be a -- here's the projected shift in production from surface to underground and between the regions based on different alternatives.

>> Yeah. But don't you agree with the actual assessments that are going to be very --

>> well, and -- yeah.

>> what I was going to say is once that -- that information is provided then it becomes a calculator exercise as you were saying. Or spreadsheet exercise to really look at depletes, yeah.

>> Can we get back to the schedule for a second because now at this point we're going to be locked up the first week and a half of January getting chapter four ready. So can we get a commitment as far as when you would have chapter three repackaged and those comments deleted that are no longer relevant so we can maybe get something -- I mean, what's your schedule looking like because we're running up on... All right. We have Thanksgiving next week and then the week after that we start the 1st of December's on wednesday. So we would really...

>> what type of commitments do you have already?

>> I -- I got stuck on "delete" change.

>> Yeah, I would -- I would like to talk -- I want to do -- we need to do what she would say, but I'd like to have a call to my wife. And I know that sounds ridiculous but --

>> No, no.

>> -- small -- small child with medical issues. I have some appointments I have to be at.

>> Absolutely.

>> And I just -- I'll work around it but I just got to have like a 15-minute break.

>> So you'd schedule that three-day lockdown --

>> Yeah, yeah. And I'm willing to do it, but there's a couple things I can't miss.

>> well, if -- if we said in general terms that somewhere around the 6th of December which is the Monday after next.

>> The -- right. Two weeks after.

>> Two --

>> Two weeks. Two weeks. Two weeks from -- from this coming Monday. If you guys can say that within that --

>> Yeah.

>> -- your constraints that -- that by that Monday the 6th you could deliver the product would that -- would that be something you could commit to?

>> That's only eight working days.

>> Shhh...

>> Yeah, next week is -- we gotta be -- I mean, cause some of this --

>> Well, we might be able to deal on a -- in that meeting next Monday if we get the working documents, start -- start organizing remotely. But then so many things are just going to have to get face-to-face as much as I hate that.

>> We don't need a --

>> We're looking for a guy that's gonna [inaudible] --

>> -- date right now, but could we get a commitment to get a date by like Friday close of business?

>> I -- I think we can probably get one in the next hour.

>> Okay. Okay.

>> Yeah, if we can walk out of here today with a date that would -- I would be happy.

>> A date and we're going to get the document back and we're going to get a list of comments that we need to address is what I'm asking for. Or you're going to -- how are we going to deal with comments issue?

>> Well, I haven't seen the -- the -- the extent of the comments.

>> Well, what would you do with the comment forms that were sent on all the water-related sections? I can easily -- I mean, you've got them already --

>> I know I've done --

>> -- and I can make sure you get them.

>> You could review them and then you just send them back to us and say --

>> Red line comments that you don't anybody to know [inaudible] --

>> -- check -- check for any additional things that you need to address.

>> As I say, I -- I -- I know that -- you know, I know [inaudible] here or not. You know, that's being worked on. I'm working on ground water comment so...

>> What Paul and I are doing is going to address comments. You know, reorganization was -- was -- was some were more substantial comments, not number, but in where work was going to be.

>> Yeah.

>> So we are going to be doing comment reviews right now. There's a ton of -- there's some typo stuff which, again, that's straight forward because that --

>> [Inaudible] do those first because those are the easiest.

>> They're easiest but then there's additional content. And I think Paul and I can deliver you guys a revised comment list at the end of the organization.

>> Well, you know, I take that back actually because we don't have to have chapter three done before chapter four is done. As long as you guys understand the structure of what chapter three is going to be, there really isn't a lot of pressure because we can just put off all our technical editing until after chapter four is due.

>> That's -- that's exactly what I was thinking earlier.

>> Yes, that's the -- that what I said.

>> If you could -- if you could send this -- this outline out to the analyst so they understand the structure, they can get busy on chapter four. It's not holding anybody up, and this becomes less time constraint.

>> Yeah.

>> But how will it? That's my question. Since I don't know the road map to chapter four necessarily, how might it affect you guys?

>> Well, I'm going to say this, there are going to be who are going to complain because they want a completed chapter three to look at before they do chapter four. That's, you know, going to be the reality of it.

>> And a lot people wanted the -- complete chapter two before we started work on chapter three and they didn't get it.

>> Okay.

>> But the one thing I want us to remember is we're not necessarily changing content, we're reorganizing which has an effect, but it's not like we're saying you need a whole new chapter on [inaudible].

>> It's -- it's arranging the [inaudible] to some degree.

>> Yeah.

>> So really it's going to be how you guys can contractually have stuff split out where you're this chapter, you're this section, and now your two sections made it merge into one and how you guys parse that out is going to be the issue.

>> That's what I brought up --

>> Yeah.

>> -- before.

>> well --

>> well, that's why the -- that -- that -- that's the advantage of getting the reorganized chapter three --

>> I know.

>> -- as soon as possible. Because they could be working on chapter four now; but if they have to get that in mid December, at least that would give them --

>> I'd rather have an expectation of a high -- of a short turn-around time for us. Bite the bullet. Get done with it, yeah.

>> December 6th.

>> Yeah. What's that?

>> December 6th.

>> And it doesn't drive him crazy. Here. Let me just -- it's gotta be written so it's gotta be done. Let me point out another problem.

>> well, you just said it's not -- December 6th will not work.

>> Yeah, this is --

>> You guys know it's not possible.

>> -- this your comment file with Carl Knox [assumed spelling] reply in red. So he's right in the middle of trying to fix some data that --

>> Yeah.

>> -- that you pointed out, somebody pointed out, is wrong. So when do we bring -- you know, when does that integrated into the...

>> Well, and to the degree that those responses are available, man, that would be great stuff.

>> I don't think we -- I don't know if Paul will need this, though, right now because this is content.

>> Yeah.

>> This is an issue where -- it's not like we're adding a whole new section. It's just --

>> You have to get more data. Kentucky's inaccurate. Table 2 it's unclear. Okay, well, Paul and I are just going to take this table and it's going to get updated and it's going to -- I don't see this as we need any of this stuff yet.

>> So I should just tell him to put it on hold?

>> No, no, have him keep going.

>> I don't think that -- as long as it's not organizational, I think he can rock and roll.

>> [Inaudible] new stuff where this needs to be combined, you can [inaudible].

>> But then he's going to have a section three that's -- that you will have already ripped apart.

>> Yeah.

>> So --

>> But that -- that's what I -- I'm in the middle part. I mean, I'm not the smart [inaudible] --

>> You -- you all decide that.

>> I'm not done arguing answers. I actually had --

>> [Inaudible].

>> -- held a section here. I actually have a section here. [Inaudible conversation]

>> You need to get out and come down and we can -- I need to loosen [inaudible] check you back in before it gets sent to them.

>> Yeah. So you don't --

>> Okay. So and at this point what we need to do is -- can I have that -- where's that Post-It note that you wrote all the things. The -- the -- these sections that you need --

>> Oh.

>> Oh. Three --

>> Oh.

>> Right there. Let me -- okay. Because I don't want to -- [inaudible conversation] share a point now. So, okay.

>> You heard what -- you heard what John just said. He's -- he's got [inaudible] --

>> It is checked out a lock computer right now.

>> I think our section together -- I mean, that stuff [inaudible] -- .

>> Okay. Let me look at the sharehold and try to figure out where this stuff is so I can back to the exact [inaudible].

>> I could tell you where it's at.

>> [Inaudible] -- for travel.

>> All right.

>> And the third day we all -- it's a waste. Plus I got a kid, man. So what should I do? I think the next week we need to -- yeah, I think so too. First -- first weekend or last couple of days in November, first week in December.

>> Like next week what I would like to do is take a shot at really trying to organize and then send it to you, get your thoughts, and then we need to meet --

>> Okay.

>> -- and just hash out everything else.

>> All right. If you look at shared documents...

>> All right.

>> Get -- get the next week?

>> No.

>> Oh.

>> Peter, realize next week is Thanksgiving.

>> Yeah. Right.

>> Yeah.

>> Yeah.

>> Oh, god.

>> He's not thankful for anything.

>> All right.

>> He doesn't celebrate that.

>> Okay.

>> He's ungrateful [inaudible]. [Inaudible conversation]

>> Well, I -- I have a -- I have a trip planned to -- to northern Arizona the week after Thanksgiving so it works out well if we like not do that. It's not going to -- no big deal. So I've already got kind of the clearance to travel next week from -- from the wife so -- or not next week, the --

>> Two weeks. Just switch meetings because that -- this will take precedent over your [inaudible].

>> You know, I can cancel it. That's -- that's not a problem at all.

>> One of the questions -- [inaudible conversation]

>> Those are all --

>> well, let me tell you something.

>> We can discuss -- [inaudible conversation]

>> Did you want Bill or Marcel? Do you want me to go to get Bill --

>> Yeah.

>> -- or Marcella? [Inaudible conversation]

>> I think we need to talk to Marcella. I mean, really it seems like he's --

>> [Inaudible] more level.

>> -- not checked out, but he seems to be needed -- I mean, right now in the topography section. I mean, I -- I'd like to have it I just don't know --

>> well, the smaller the group the faster --

>> The faster it's going to go. [Inaudible Conversation]

>> Because I'm sure it's for a marked period. [Inaudible conversation]

>> Chapter three and then at the bottom of chapter --

>> -- at this point.

>> Yeah.

>> All right. Go ahead.

>> No, the other good thing about doing is [inaudible] could do it.

>> There was a chapter. It says...

>> It should be --

>> I'm -- I'm kind of thinking that we need to do --

>> Yeah.

>> Yeah.

>> You never know, yeah.

>> It's final could we --

>> Grab your chapter three for revised --

>> Next week Thanksgiving.
>> -- for revision.
>> I think it would be good for us to --
>> [Inaudible] Okay.
>> -- digest all document [inaudible] --
>> And that's the one that I'm working on. You notice when you see ground water --
>> [Inaudible] that means --
>> -- it will have my name by it over here.
>> -- [inaudible] great detail given the couple days to [inaudible].
>> But it's only one --
>> There's are not --
>> I need to kind of get my hands around them more.
>> -- changed at this point.
>> -- substance [inaudible] what's in here.
>> This one here?
>> No, yours is only one now.
>> Yeah.
>> That means all the rest -- okay. So...
>> [Inaudible] knock it all out December 6 and then we're -- we're done.
>> So they can go into this folder.
>> [Inaudible] comment stops.
>> At this point everybody stops.
>> You can do that too.
>> It doesn't make any more changes.
>> [Inaudible]
>> You're gonna upload your document.
>> And then what I think would be useful --
>> Yeah.
>> -- is then a week after that --
>> And then they could go in this folder and pull everything.
>> Yeah.
>> But, you know, I'm just [inaudible] --

>> [Inaudible] with these, like, little weekly checks.

>> Okay. [Inaudible conversation]

>> But can you -- Oh, it's on the computer, though.

>> It's on the computer but I can't do it now.

>> Oh, [inaudible] you can't do it now. Okay.

>> So [inaudible] Thanksgiving. we [inaudible] touch base. [Inaudible conversation]

>> Oh, because it's on here.

>> Then that following Monday --

>> It's actually on your computer.

>> -- start our little weekly discussions and say we saw or need to get data in -- in this area or references or --

>> Excuse me a second.

>> [Inaudible]

>> Oh, I'm sorry.

>> No, go ahead.

>> I can -- there's only one document we can't access right now because it's locked. I can either put everything on the zip drive and you can put it on your machine right now and then he could e-mail you the section that's locked --

>> Okay.

>> -- and you'll have everything.

>> Yeah, that'd be great.

>> If that's the way you want to handle it.

>> Yeah.

>> Put them on a zip drive and then I'll also e-mail you the exact location --

>> Okay.

>> -- in a share point where you can --

>> I appreciate it.

>> -- find stuff and then we'll tell everybody to stop any [inaudible].

>> On those sections [inaudible] --

>> Great. Okay.

>> And that's what I think is critical for us just to get it done because if we say, oh, stop do nothing. I want to cover my ass a little bit frankly, and I -- I can see people kind of saying, well, we can't do anything because we're waiting on those guys to -- to finish.

>> Very [inaudible] excuse to bite somebody else --

>> Exactly.

>> -- that they're not working.

>> And that's what I --

>> [Inaudible]

>> So I'd just like to know -- [inaudible conversation]

>> Did I give you your [inaudible] --

>> No, no. I know how to get a hold of you, though.

>> Yeah. Just wanna make I had your all's e-mail address too in case of I --

>> Yeah.

>> Here is the million dollar question and I'll just throw it out there and you guys are real clear. Right now we're taking a lead on reorganizing this thing. Today's discussion having you guys involved has been, I think, fruitful. I know you guys have chapter four coming up, I'll at least throw it out that if we meet the 6th, if you guys want to meet you're more than interested, if you say, "You know what, Sam, you guys just roll it. We can do it." But I don't want to sit there and say you're not invited. I mean --

>> Yeah, I mean, I think we want to be involved in it too obviously because, frankly, I had the next week, week and a half kind of considered that I was going to be working on chapter three comments anyway so... I mean, it's -- you know, I was going to be on chapter three for a while so...

>> You know, I guess I feel that you've invested so much more in the review overall --

>> Yeah.

>> -- for me to be useful I'd have to go back and read all the sections that I haven't read.

>> But you're almost going to have to.

>> I will when they come from you.

>> Yeah.

>> But then -- then -- you know, then -- then I'm kind of a fresh reviewer.

>> But how are you right now going to start doing chapter four analysis not really knowing what all the data that's --

>> That's my point.

>> -- being presented.

>> That's my point. I -- I don't know how I'm going to do that.

>> I mean, I know real quick while in a water call you have to really concern yourself with is that little section in 3.6, but you guys don't know that.

>> Yeah, isn't that -- I mean, that -- I'm not proud of that. That's just the way it's --

>> No, I know. I just --

>> I don't like to work that way.

>> What about this --

>> No, I'm not doing anything for a week by the way because it's going to take another week for them to come up with the metrics so we're still on kind of hold.

>> This won't help the -- the holding pattern's construction. But, as far as kind of a planned attack, if we were to -- I'm just looking at a calendar -- if we were to be -- have our stuff done December 3rd -- we'll meet all week, last couple of days of November --

>> Give me a calendar.

>> -- first couple days of December -- knock out the repackage, look at comments, send it to you -- you all -- the rest of the team -- and then basically you two and Dr. Warner [assumed spelling] take it -- do what we do, take a read through of all the water sections and then -- and have a week to do it. It will be a big task, but have a week -- by December 10th, if amongst ourselves, if we were all in agreement, then give it to the editor in like that December 13th.

>> But we'll forget the editor because see we don't -- since we're not going to resubmit chapter three to you before the PDDEIS is due --

>> Yeah. Okay.

>> -- in February, then we're not under pressure to get it other than people want to see it.

>> How about chapter four?

>> Just to see it with chapter four so...

>> The only pressure we have is just because people would like to see it for chapter four.

>> Right, so, I mean, the sooner you can get it --

>> That's right.

>> -- done that would be better.

>> And I'm thinking we could probably be in agreement with ourselves with the repackage having it reviewed by December 13th.

>> 13th. Okay. And, at that time, we'll also get the revised comments.

>> Yes.

>> Okay.

>> And we'll be deep into section four.

>> Yeah.

>> And Doug we just need to talk about personnel and that kind of stuff. But I -- because the whole section is more streamlined I just see this as being a lot easier to do section four maybe on the -- but once we figure out who's actually going to write each section in that outline.

>> [Inaudible] in front of my calendar.

>> And -- and going back to one of the issues I raised earlier was to what extent are we gonna able to collapse some of the

>> So what I'm hearing, though, is that you wouldn't be -- you've got enough to do -- not to -- the other meeting, do you have any interest?

>> Well, I mean, I thought I heard you say that for next week or week and a half or something you would be available to --

>> I could -- I could do it. It's just I don't know that I have that much to add.

>> Okay. Well, that's fine I just -- I know that we've worked together as a group well. I'm scared about pulling somebody else in because they haven't been part of this --

>> Don't do it, yeah.

>> No, they're going to reinvent the wheel like how we come in and be like well why are you doing --

>> Somebody's gotta call the ball and it's us.

>> Yeah. I mean, why -- I have no problem with anyone in this group.

>> I think you two guys should do it.

>> Yeah, we'll --

>> And -- and -- and --

>> We'll do it. I just don't want to say you're not invited to do it so -- because you guys have helped in this conversation. If you haven't helped then I'd say, "I don't want you there." But, anyways, it's the week of the 6th we can -- if you guys have any interest, you're more than welcome; budgets and time are constrained.

>> Not budgets at all.

>> No. And, actually, it would be the week of the 29th of November.

>> Okay.

>> And then so the week of the 6th what I'm envisioning is like we'll be done with our stuff. Have -- saying here's some -- still some comments we need to resolve, here you go. How do you guys -- how do you three think about how it's all flowing now, kind of get in agreement with there and then --

>> Yeah.

>> My -- my calendar is actually full this week.

>> Because where we meet might depend on if it's just him and I or -- or you guys.

>> Yeah.

>> Yeah.

>> Well, if it's -- meet -- meet halfway in Omaha. [Inaudible]

>> Okay. So let me repeat that, please. So you're saying the -- the -- the week of December 3rd you and Brent will make your changes. Then you will let them look at it the following week --

>> Sunday, Thursday, Friday so --

>> We'll be done on December 3rd.

>> Right, December 3rd. And then you're saying the following week ya'll will review what they've done --

>> Absolutely.

>> -- and make whatever other changes you're going to make. Okay. And then we'll be ready to release the document like by the following Friday which would be --

>> Well --

>> Now I'm all confused. Or I mean --

>> The Friday the 10th or Friday the 17th?

>> Hold on a minute. I'm looking for it. I'm trying to figure out where I'm --

>> I have a haircut on the 17th.

>> The 10th -- or the 17th. Well, that's --

>> I'm good that week.

>> So I could do it [inaudible].

>> That 29th. Let's -- let's roll that way.

>> I don't think that -- that -- that -- that delivery date is -- is at all, like, mission critical. It's just because there maybe some additional editing to do. I think there's days of work but for somebody to get all the figure -- figure table references, the caption references right --

>> Yeah, which -- which we're not going to worry about until after we turn in chapter four.

>> Okay. So you --

>> [Inaudible] typo. I mean, I don't know --

>> I think you have to worry about it because it's going to say see figure 3. -- 3. --

>> It will be in chapter four.

>> And I think that with the delivery date of chapter four of January 12th I think -- maybe I'm -- I'm too optimistic -- but I think on December 13th we could give to you and your editor where we're at. And say -- add polish on it to make it all figure changes and readability. There'll still be some data gaps that were identified in the comments like Utah says, hey --

>> Yeah.

>> -- see these references to add to your section. That -- that can still happen, you know.

>> well, you're right. I mean, we are going to have all that corrected before we start going through chapter four and --

>> It will be a lot better if it is because I wouldn't say it has to be, but --

>> well, then I think, when people start writing chapter four, what they're going to have to do temporarily is when they're referencing something they're going to have to -- well, we'll just have them reference the original chapter three as they have it and then we're just going to have to go back through when we change chapter three and change all their references in chapter four however --

>> Yeah.

>> -- far they get [inaudible] --

>> I -- I think they'll probably have chapter three before they get to that level of detail --

>> Okay.

>> --in chapter four so then that's the last thing we're going to do.

>> Okay.

>> But that's why we need to do --

>> [Inaudible]

>> Yup. And so we're -- we're gonna -- I think if we can work for three solid days or maybe four I think we're in a good position.

>> The other thing -- just to mention because I always mention this because this is how we -- EIS's get thrown out of court is the development of the administrative record which is a big deal to the EIS. So, if you are getting any new references, you need to make sure you have copies of those. What our team has been tasked with doing is, if it's download like a PDF, to actually keep that in a file. We have a -- we have a separate mailbox that we dump things in and so we're -- we're -- we're prepared to deliver all the references that we have to the attorneys in pursuit of this. So they just --

>> He makes a point. [Inaudible conversation]

>> That's one thing that everyone agrees on. You don't want to have to go back in a year from now and try to -- and try to find something off the Internet that's not available anymore. So, if you're -- if you're getting a document off the internet -- internet physically, save it to a file somewhere.

>> We're done.

>> That's a discipline that you just have to develop.

>> Oh, yeah. I don't think we'll be doing the content quite yet. I mean, we'll be working on that after we get this first organizational thing. So, Paul, the -- that week and if anyone else is interested, I don't know what you guys feel like, it's up to you.

>> I'll see if Dad can make it.

>> I don't know. Somebody doesn't know how to handle that.

>> We have some people that -- that -- we have some anchors on our side as well. And they probably wouldn't be anchors if they were part of this meeting and saw the difficulty what we're -- everyone's up against. It's easy when you

read from afar and say, this needs to happen, this needs to happen, this needs to happen.

>> Okay. So you're saying December 6th...

>> We're getting together.

>> You're getting together.

>> No, I'm sorry.

>> November 29th [inaudible] we are getting together. We're going to deliver something -- we will -- we will -- basically, the outline that we have we'll have it pretty much populated with material that's here, and -- and then we'll be able to identify saying, well, no, this comment is still valid because we were missing substance here so --

>> Yeah.

>> Right.

>> -- carry -- carry that forward. So I'm envisioning that we will be able to have a physical word document that has been restructured that dovetails in with the outline that we laid out as well as have a chance to go through any comments. We'll reorganize comments and say we have data gaps and content issues here. And -- and we can deliver, I think, all that by December 3rd. We're going to have to. But -- but we may need a full four days of working.

>> Yup. I mean, it's not going to be -- it's going to be -- it's going to be kind of roughed up because it's not -- because the figure numbers and stuff like that -- [Inaudible]

>> Yeah, it's just organizational that Flo can work on later.

>> Right. Exactly.

>> It's going to be a wobbly project. I mean, it's not going to be polished.

>> And I -- I think I'm hoping that we could [inaudible].

>> So we actually need to put an overhaul on our -- or wherever -- I mean, we could leave that here in [inaudible].

>> The one other person I want to be there, though, I think -- I think we should have a Jeff Coker [phonetic] or -- or -- or the other person would be Dave Hartis [assumed spelling] only because --

>> Yeah.

>> -- they understand the media process --

>> Yeah, you're right.

>> -- and that whatever we say they'll be, we don't need this --

>> I want someone else.

>> No, that's it --

>> Because I haven't been up through a [inaudible].

[Inaudible Conversation]

>> But Dave seems to have a good grasp on it.

>> Dave Vite [phonetic] was in charge. You were of the person --

>> Right.

>> -- who was in charge of this. It's right. here as Dave -- Dave Hartis -- EIS team leader. So he understands technical issues and the media process.

>> That's a really good point to have him involved.

>> Yeah. And with that being said and --

>> It's along the good four days. Is that --

>> I want to ask someone. And the only reason I say that is because -- well, I just think for organizationally we should have someone. Because Paul and I don't understand any of -- [inaudible] --

>> Well, would you rather -- I mean, should I be there because I can fill two shoes, the media shoe and the waterfall [inaudible].

>> Any comment, Paul?

>> I don't know. In -- in my mind flip-flopping back and forth, part of me wants to say --

>> The more people --

>> Yeah.

>> -- you know, is...

>> Part of me wants to say just let us attack on it for -- two of us for -- for a week and then involve you the -- the next week.

>> And involve Dave maybe after. Right? I think you'll be more efficient if it's really just two of you initially.

>> Okay.

>> [Inaudible]

>> [Inaudible] and others review and Dave review and...

>> And have maybe Dave on standby to say, hey, we're going to be pounding out this week. Can you be available if we need to call you on the hurry up and -- and -- so you agree? You know.

>> I agree. Okay.

>> Okay.

>> Sounds good. And I won't waste your guys' budget and keep you focused on stuff you need and we'll just -- you might as well -- unless we're...

>> I can't remember some of the other things you guys wanted to talk about anymore from early this morning. I mean --

>> well --

>> I mean -- I mean, we'll go back to what we talked yesterday about somewhere in here I've got some notes.

>> Sean Mack's [phonetic] gonna send us a list of everybody who's here to day with all the e-mail address and everything.

>> Great.

>> I think that's useful.

>> Yeah.

>> [Inaudible] and we copied twice. The changes to --

>> oh.

>> -- be just put me as the 7130 [phonetic].

>> Oops. Yeah, you're wrong in here.

>> Okay. All right. Now...

>> Yeah, the identification of our work products which I think what we kind of covered at our schedule with [inaudible] and identification of [inaudible] personnel so... I mean, as far as that, I think, by our goals, we talked about [inaudible] --

>> This is everything but this and Doug is going to e-mail you that. And then I'm going to e-mail you the location --

>> Okay.

>> -- where that can be found in the shared file.

>> Okay. And I'll give you -- as soon as we walk downstairs, I can give this back to you because my computer's down there.

>> I gave you guys both my cards yesterday.

>> Yeah.

>> I do travel a lot so just go ahead and just try the cell phone first if you want or my office in Buffalo. I get voice mail forwarded to my computer so -- and my -- on my cell phone so either the Buffalo office or my cell.

>> You mean, voice mail gets actually converted into text?

>> Here, I'll -- this is cool. I just got a -- a voice mail from Jim Bolivar so this is a -- this is just a --

>> A wave file.

>> It's a wave file. Let's see what he has to say.

>> There's some [inaudible] --

>> Hey, Bob. It's Jim Bolivar. Hey, can you give me a call when you get a chance. I may have [inaudible].

[Inaudible Conversation]

>> [Inaudible] I can tell you that.

>> Man, it just keeps going and going and going.

>> whatever the program was that did that now it seemed to cause problems on more people's computers now [inaudible] but I forget what it was called now even though I used to have that.

>> we have -- our phones at work are all voice over the internet via live feed so you can forward the call to anything, to any place.

>> Yup.

>> You can forward the messages.

>> It's pretty neat.

>> And it's free.

>> Yeah.

>> I mean, there's no cost.

>> It's -- our phone bill basically went to -- I mean, our corporate phone bill with 2,000 people went down to, like, zero.

>> Wow.

>> Yeah.

>> That's awesome.

>> Yeah. So government will get there. [Laughter] [Inaudible] hurt himself.

>> You know these CSI's pretty small with 50 people so we don't have a lot of this type of advantages that, you know, a bigger company would have. I used to work for a company that had 13,000 people so, you know, we -- our CAD programs and things like that we had enterprise agreements with [inaudible].

>> Just license and --

>> Okay. So any program [inaudible] had I could put on my computer.

>> Yeah.

>> They'd send me like 10, 12 DVD's every year.

>> We actually have that -- OSM. ***** 090824

>> Yeah. We have -- the same with the [inaudible] -- well, Bentley Products now. You know, Micro Station AS -- I could have any program they had --

>> Right.

>> -- any one of them. And, if I didn't use them, I think they charged me. But ,if I opened it up for two minutes, I get charged for that day. So it was -- it was nice, you know. It was like --

>> See ours is actually, I think, even nicer than that --

>> Yup.

>> -- where we -- OSM buys say 100 licenses of AutoCAD. Any of the coal producing states that uses AutoCAD to review permit files for any OSM employee --

>> Yup.

>> -- can see if a license if those -- if -- if -- can try to check out just like double clicking the icon over and say, is currently anyone using all the 100 licenses. And if there's one free they can use it. Now, the problem is is if you need to use it and they're all checked out then your screwed. But really we've been pretty good, I think --

>> Yup.

>> -- at having more licenses than users.

>> But, yeah, I kind of think it's true. It's kind of, you know, the same with us. I mean, because -- but we pay it on a per day use so it -- it wasn't like we had to have, you know, some certain number which I would guess we did. We had 1,000 licenses okay, but most people [inaudible] is transportation part primarily. [Inaudible] we had like 10,000 or 10,000 licenses for Bentley products, but, you know, since I very, very seldom ever open it.

>> You never got charged for it. Right?

>> Yeah. You know, I was never charged for it but I had it.

>> They charged to your account then?

>> well, just to your office --

>> Okay.

>> -- your call center. [Inaudible] But, yeah, I mean, they had more things than I [inaudible] 3D. I had the -- I had the actual desktop [inaudible] mechanical desktop. I mean, I had this other stuff. Some of them I didn't even know what they were, but it was -- they made you get up there every year so it was --

>> It was pretty neat.

>> So let me just go over the calendar just because I'm -- I'm codifying here which is scary. You're reading on the week of the 29th.

>> Mr. Burt [phonetic] will be back up.

>> And we're going to expect to have draft review on the 6th of December that we'll have back to you guys say by Thursday the 9th?

>> Back to us?

>> well, back to [inaudible] --

>> well, you know, we don't need to see [inaudible] comments.

>> I think we need to talk.

>> Yeah.

>> So we'll have our review done by the 9th.

>> we should probably call the next week or a week after once you guys digest it to say -- and then you guys are --

>> Yeah.

>> -- this isn't going to work or yes it is or this portion won't sell. I just --

>> But we -- once we do our -- our reorganize, will we be able to upload it to -- to SharePoint or how will we -- we -- we have [inaudible].

>> Yeah, I just sent ya'll an e-mail. And. if you don't get your passwords for SharePoint, let me know and I'll follow up on that. And then what I think we should do is probably create a new folder, I guess. We'll have to discuss how we're going to do that, and we'll show it -- we'll tell you where to put it when you're done with it.

>> Just remember the name Jaque [inaudible], J-a-q-u-e.

>> She's our -- she handles all the SharePoint and everything so we'll have to --

>> Okay.

>> -- figure out with her --

>> Yeah,

>> -- or figure out, you know, how you want to -- or Dave because he's been sort of handling the folder --

>> Yeah.

>> -- organization.

>> We'll have it right here except for the one you'll e-mail us for the 6th meeting. And then it's how -- when we bring it back of how to get it to you guys.

>> Right. So one of the guys who has been organizing a lot of the SharePoint isn't here this -- this visit so we'll get with him and see because we don't want to end up with too many -- we need to maybe start getting rid of some of those or putting them somewhere where people won't see them.

>> Yeah.

>> Yeah.

>> So --

>> Okay.

>> -- you guys are gonna stop work on chapter three then?

>> That's what we're -- yeah, I'm just gonna -- except --

>> -- John and Mike now and let them.

>> [Inaudible] I'm gonna upload yours. Do you have your thumb drive --

>> Well, I -- you know, like I say, I also have the recreations section that I kind of took on so, I mean, I don't know if there's anything new [inaudible]. [Inaudible] I did this -- you know, there were a few albums and that.

>> Yeah.

>> [Inaudible]

>> We've got the visual section. There's some of these sort of fluffy sections --

>> Yeah.

>> -- that we have visual.

>> Yeah. I mean, we can go ahead and do those at some point.

>> Yeah. I'm not going to tell those people to stop.

>> Yeah, [inaudible] the water [inaudible].

>> I'm with you.

>> Oh, Paul, you shouldn't have been messing with your old pen there.

>> Yeah, [inaudible].

[Inaudible Conversation]

>> [Inaudible] spring.

>> I could [inaudible] it with stuff. [Inaudible conversation]

>> Is this a good pen or no?

>> Yeah, it is.

>> His favorite pen.

>> Oh, his favorite pen. Well, if you're gonna steal a pen, steal a spring machine pen.

>> Well, I think it's silver. Right?

>> Yeah.

>> It should be easy to see.

>> Here it is.

>> Is that it?

>> Yay!

>> That is not easy to see. [Laughter]

>> Look at that. [Inaudible conversation]

>> Thank you.

>> All right. Paul, put [inaudible] in.

>> Yeah. [Inaudible] [Laughter]

>> Well, thank you all very much. I feel like it was -- it's been productive today.

>> It has been. Thank you.

[Silence]

>> Oh, I just got an e-mail from John Morgan.

>> You got an e-mail?

>> Yeah. I saw it. I haven't looked at it yet. Have you had a chance to look at it?

>> Yep he's talking about...he's in a [redacted] [background noise] [inaudible] [redacted] [inaudible]. And [inaudible] and keep education. [Inaudible] [Background noise].

>> And does that include [redacted]

>> I...it may include [redacted] I don't know what other if it extreme [inaudible] it just may or may not and it [inaudible] break it out.

>> And if we could rest assured that it was included, I've suppose it might be better than not including it, [redacted] It's not going to breakdown in certainly a week, but I [inaudible] all the streams considered.

>> Yup.

>> You know, I don't know that I know enough about the situation to be able to say whether it's reasonable or not, you know, once Ann and Josh and you take a look at it. And if it, you know, nobody told me early in my career that that if you can make an assumption that is logical and reasonable and comfortable using it.

>> You can probably always find someone to do it.

>> Yeah.

>> But if I could [redacted] I looked at it again and at the bottom there was a line that showed the [redacted] [redacted] Those numbers were only a small portion [inaudible].

>> who else do we have on now?

>> This is Josh.

>> Ellie.

>> [Inaudible]

>> Hi.

>> Hello. [Beep sound]

>> Hello, it's Ann.

>> Ann.

[Background noise]

>> who just came on?

>> Eddie, CSI here.

>> Okay.

[Background noise]

>> who else is on the line?

>> Good morning. Sorry. I'm a few minutes late. This is Dave.

>> Hi Dave. [Beep]

>> And someone else?

>> It's John Morgan.

>> John.

[Background noise]

>> Well, so far, it's me, John, Mike, Caroline, Josh, Kathy, Liz, and CSI. And someone.

>> [Inaudible] I just sent you an e-mail, and I think everybody else, about this evening. So hopefully you can open that. You might, you want to stuff it later.

>> Yup, I got that.

[Silence]

>> Now just ask question is there's a write-up on how this building process [inaudible]. Dave can answer that, but I'm sure it's [background phone ringing and dog bark] in the report.

>> I'm sorry, John. What did you say?

>> Josh e-mailed me a question. Is there a write-up on how this [inaudible] process was formed? And I encourage you to say to that. [Dog barking]

>> Got the public involvement plan which says what was going to happen, but was there like a post, post scoping write-up on what was [dog barking], you know, what happened?

>> Oh, yeah. The scoping report itself...

>> The scoping report does say what? Okay.

>> What we did. What the comments were. You know, that sort of stuff. It's, I think it's posted up to the share point.

>> That's the one on this join [inaudible].

>> Let me just go on and just-- alright.

[Coughing]

[Rustling sound]

>> It's actually posted under, scoping -- on the main page here, documents. There's a file called scoping comments.

>> And under that you'll find the report [beeping sound].

>> Gordon.

>> Okay.

>> But there's two appendices, appendixes that are separated from it because they were so large. Okay. It might be easier than, to look at a compressed, the three compressed files. Okay.

>> [Inaudible]

>> Yes, Randy came on.

>> Morning.

>> Good morning.

>> So I guess we have enough to start. First off, on the list, chapters one and two. Chapter one is similar to, I've explained before, I need to get the VMO from John [inaudible] to help streamline for Chapter One the beginning of it. And almost certainly that I would have that just very soon. I'll get that done. [Inaudible] to get that. Chapter Two, I've e-mailed a word file, and it's on Share point, the alternatives are, they should be final as they are written. I'm currently in the process of [inaudible] the Eckert's table reflects what [inaudible].

>> John, this is Joe Glowsky [phonetic]. You and I had a long conversation yesterday and David Bell was in that call too. I thought at the end of the conversation, that it wasn't clear whether Chapter Two [redacted]

[redacted] Has that, am I, did I misunderstand what the conclusion was yesterday?

>> Well, as I read the, beyond the [redacted]

>> Other than a [inaudible] I remember perhaps or [redacted]

Is that your understanding?

>> For [redacted]

>> Yeah. Only for [redacted] because it gets to, there was a big matrix question here.

>> Yeah.

>> But, is that correct? Does he understand the current version?

>> The current version should reflect the rule based on what I've [inaudible].

>> Okay, okay, okay. Well I, that's [inaudible]. As I assume we're going to get into here, it does impact the matrix issues though. Okay. Thank you.

>> Any further questions on Chapter Two as it is right now?

>> John, you're still working on updating the matrix? Did the matrix to comport?

>> Yes.

>> And you mentioned that the latest request was not to, I guess not to abbreviate it, but to actually repeat what each, each alternative is in full?

>> That's what they have asked, yeah. But that [inaudible] the comment...

>> I thought from our conversation yesterday that for those of you who weren't in the conversation obviously, one of our questions was to get a not abbreviated version of the matrix and I got the sense yesterday, David, that we didn't have, we, the group, the team, didn't have the information necessary to reconstruct that after OSM changed it. Again, did I misunderstand the conclusion from yesterday?

>> I searched after we spoke, my files and didn't find the files we were looking for, that had these unabbreviated.

>> So you said somebody asked for...unabbreviated, whatever the right word is...

>> what they meant was that when we refer to a [throat clearing] alternative element, we describe it based on how it compared with others. If it's much like part of another, they went through and said this is like such and such, with the exception. And the comment was that they wanted us to just define each -- what each alternative is without referring to another one to help describe it.

>> Okay. That's, okay. If in fact we're going to do that, obviously it's important for the analysis part. Is OSM going to do -- we don't have the information and, as I understand it, we being the [inaudible].

>> We do because [beeping sound] it's just harder to retrieve because you have to go to a different section of [inaudible] to find out what the other portions of it are.

>> Yeah. It's basically redoing work I did two months, three months ago. Right.

>> It was.

>> And again, David, I, as you and I discussed yesterday, I thought, John, that OSM tinkered with it post September 17. And that nobody really has that paper trail. When I say nobody, again on the team side, because I know obviously, we all know that three became five and the columns got moved. And one is of the U.S. got moved up. But we don't know what else they did to it, or if they impacted other than alternative five.

>> But Joe, that's why I sent the e-mail that accompanied the version of Chapter Two that was sent out for everybody's comments, to review. Yeah, you all had, like, half an hour to review chapter [laughter] and you all did what you could. But in that cover e-mail, I described what I did and it included implementing the decisions made at the face to face on September 17. Which included stuff like moving the stream column to the far left. Cutting off some of those that, some of those topics that didn't appear relevant to the EIS decisions, that needed to be made. And I think as part of that same sort of reorganization of Chapter two, is when we renumbered the alternatives. Because I know as I went through the matrix, I had to make sure that our alternative three cross-references, old alternative three, which was a preferred alternative. Now made a correct cross-reference to the new preferred alternative reflected in alternative five.

>> Okay, I understand that, Mike. But...

>> So I think that the document went from a 917 or 915 version, the one that you all submitted originally, to the 10-2, [background noise] not with additional actual hands-on by the agency, but our own internal manipulation based upon what they gave us. Guidance on 917 and then, via e-mail for that last week of September. E-mail and conference call that last week of September.

>> So David, are you comfortable then that post [inaudible] that OSM has not changed any of the alternatives?

>> Except, except as they rewrote [REDACTED]

[REDACTED] I don't know whether they touched any more of the alternatives than John could speak to that. Because his conversations with Craynon have, you know, focused on at post and pre submission.

>> David. This is Edmundo. I'm going to ask a question here. Probably it's a very naive question, but, you know, I really need to know this. Is there a document containing the matrix, as we show in Chapter Two that contains the full language and not the abbreviated version that we have been using?

>> Yes. I'm sure there is. And that's kind of what we were looking for. And I've, what I was trying to say is I believe it may be that version that was submitted to OSM on or about the 15th of September, when the alternatives analysis was given to them.

>> And where is that document?

>> Well, we all -- we all have that version. [Throat clearing] I don't have my fingers on it right this second, but I'm sure we can come up with it. Because of their direction to not repeat language from previous alternatives, but to build on them, so that they could actually hone in and focus on what the differences were between the alternatives, those previous, as far as I'm concerned anyway, after 1003, those previous versions were, you know, sort of OBE, overcome by events. We were now moving forward with a different thing. So what John says they now want basically to go back to pre 917, is a little [throat clearing] problematic, but we'll just have to spend the time to go back and try to reconstruct stuff.

>> Okay.

>> But, you know, the reconstructing we'd basically, be taking what we already have and just cutting and pasting from [background typing] one into another to make it [inaudible].

>> I think there was some cleanup that went along with it. You know, stuff like that. So...

>> That's the issue with it. I'm listening and I don't know the background or contents, but what is [inaudible] in Chapter Two?

>> That's one of the comments, yeah. But Chapter Two, whether that happens or not, is complete. It's just that in order to understand fully each alternative, you [background typing] might have to refer back to previous alternative. That make sense?

>> Yeah.

>> Because one of, there's the, the following alternative is reference to previous alternative, and it says it is like alternative one with the exception of.

>> Right. Because they wanted to know what the differences were so they could hone in on how they differ. If you recall, you know, just take

>> They want to go back and instead of -- because I thought their rationale was that we don't want you to have to read the two paragraphs. Use separate paragraphs [inaudible] depending on what the different meaning alternative, few alternative brief or something is, you know. So they want us to go back and re-expand it.

>> That's exactly what I'm hearing and your rationale, or your...

>> [Inaudible].

>> [Coughing]

>> But, you know, this requirement instead of saying how they want us to write it all out again?

>> Incredible, huh? Joe, on that [inaudible], Joe, on September 13, at 5:55, you sent to Craynon, the matrix, in its full blown version, for OSM comment. John distributed that out to the team attached to the alternative/matrix sent to John C. He sent it out on 9-14 at 8:05 in the morning. All right. And from that, we received back comments. Comments on the matrix. Remember they inserted an additional column next to each element. All right, that said -- okay, okay, you know, change this, etcetera. That, as far as I know, and can recollect, is the version that I used to comply with their request that we identify in the new matrix, for the Chapter Two submission, only the differences between the alternatives. So that's why I think when we were looking for something between 917 and 10-2, we were looking in the wrong place, because the only version that has the full-blown showing of the alternatives in all their glory, is that September 13 slash 15 version that was commented upon.

>> But, David, let me add to that, and I think Liz probably has these dates emblazoned on her mind, as well. That -- you're right about the 13th and the 14th, and then we took -- we worked our butts off. We took those comments and melded them into the 917 version. Our contract modification was up at 5:00 on September 17. So at 4:00 on September 17 we pushed the button and sent to OSM to Craynon the results of our revised work to reorganize, make sense of, whatever, incorporate all those changes. So the last expanded version, and Liz, please correct me if I'm wrong, the last expanded full version was 917.

>> Oh good. Well, I don't show that as, I don't know if I have that. I'll look in another place.

>> Yeah, I thought of that.

>> I went through. I changed some stuff on [REDACTED] but I don't know if that, after that, if you remember we kind of tried to clarify that with those. And I think, I don't think we did anything after 17th other than that.

>> I think that's right. And it was a, that was a full tilt version and included, at that time David, the stuff below the line, to use the phrase, that solid black line. That was the last full version we saw. Then, if I remember correctly, OSM tinkered with it for whatever reason however they were [background noise] doing it and that's the last full version that I can lay my hands on. And I don't, and I know it's not right when you compare it to the current alternative five. So I...

>> Yeah, that's [inaudible].

>> Okay. That was because the, there were additional changes, I believe, to more than just five, responding to comments and the current one is the one we should be using and it contains all that we should need. The only difference is that we're looking at one alternative you have to go back to another alternative to get some of its content, because they refer back to the previously described alternative. So it's basically administrative work that we have to do to identify all the nuances of each alternative. And what I'm doing is going through the matrix, make sure that matrix shows what is involved in each alternative element option.

>> I just figured out why I don't have anything from the 17th. I was out of the country.

>> David, just for the exercise, I'll send you another copy of it.

>> All right, thanks. [Laughter]

>> So how quickly we forget. I think I had a good time.

>> [Laughter]

>> well, if you weren't doing this, it would have been relatively better.
[Laughter]

[Silence]

>> Okay that was officially clear on this one now? [Coughing] [Laugh]
[Background noise] Okay. On Chapter three. As we all know the water section have been revised. Unless I'm, as provided the reorganization to us, they still have the document of the water portion. They are going, comparing that to the original that they provided comments on, and they're going to modify those comments by removing any of the comments regarding organization and answering some of the comments themselves. And they are hoping to have that done by the end of Tuesday. At which point I think Dave and a few of us decided, it will be best for Dave to take that water section and meld it into the rest of the outline of our table of contents so that it has proper numbering, which will carry through the rest of the document. So that when we respond to comments, and make changes in any numbering, we'll be able to reference the correct figure or table.

[Silence]

[Typing sound]

>> That's how you understand it, isn't it Dave?

>> Hmm-mm. Yep.

>> Yeah, okay. So those areas that are not part of the water section are, we should still be able to respond to comments, make changes on the water section. We can't do anything until we get it back from OSM. Probably Wednesday morning. So there were several portions of the water sections that had content that they didn't think needed to be in the water sections, and this morning I received files which show the, what they're calling the orphan material, which will have to go back in other places, which we can decide. I'll go ahead and look through them, and see if I can parse out where they need to go. They also wanted us to think about [REDACTED]

[REDACTED] I started to read through that. I'm not sure that's true. We have any comment on that from the mining folks?

[Silence]

[Rustling sound]

>> That's like no.

>> This is Eric. I don't think we do. I think that, you know, I agree pretty much with what Brent said the other day.

>> All right. And talk about the question of [REDACTED]. Some of my questions you really answered. Its... [REDACTED] and I think the alternatives are. Do you really see a reason why we should modify our Chapter Three section [REDACTED]

[Silence]

[Rustling sound]

>> I don't really see a need to do that.

>> Yeah. I mean that was a question, I guess, to John Craynon. You know, there was two comments there so caused a lot of extra work. I don't think we need to, [REDACTED]

[REDACTED] And, you know, to go through a lot of extra work to try to pin it down just to the [REDACTED] I don't really think it's necessary.

>> Right. In the [REDACTED]

[REDACTED]
Are there any questions about the status of three or how we're going to proceed putting it together? Do we have issues on problems being able to answer and respond to the comments?

>> Hey John, it might be good for Dave to focus on Chapter Three process the schedule one more time. Since you're on the topic, Dave do you want to take a minute and just focus on Three.

>> Okay. Let's see. I don't think we've [inaudible] anything from the adjusted [inaudible] that I sent out on the 1st, September 1st. Was there anybody has any [background ringing] questions, you know, we gave sort of a respite as everybody should working on Chapter Four now, but it's due January 19th, I think we said, the revisions to Chapter Three. Of course, if you're waiting for information from OSM in order to be working on Four, now is a good time, let's knock out some of the stuff on three, and I'll take the input whenever you have it ready. You don't have to wait [background noise] till the 19th. In putting that together, I think one of the comments I made was to take a real close look at those figures and tables. A number of the figures included additional information like [REDACTED], do not distribute. That has to come off. I can't do it with Adobe Professional. It leaves big blanks. So whoever put together the GIS layers or put those things together, need to take them, take those kind of extraneous information off the figure itself. The same with the figure number. I was able -- for purposes of the draft submission to just cover it up with a white box. But it's not very pretty and it's not very artful. So if you, you know, folks just need to clean up the figures. And then one of the comments that I saw on Chapter Three, and I think it applies sort of universally as, some of them are too small to be read as an 8 1/2 by 11. So please consider whether not you need an entire map of the United States for a particular area or if you can break it up into the particular region you're discussing. The legends are too small and that sort of thing. You all ought to be able to tell whether it's readable, it's not enough that you can expand it on your screen. It's got to be readable on a piece of paper too. We don't want to have a bunch of 11 by 17 foldouts. That just becomes expensive in terms of production. And frankly I think in a way a bit unwieldy for the reader, as well, if they're having to stop and unfold this or that. So I'll take any revisions between now and the 19th. But certainly by the 19th, we need everything in. Was there anything else Mike?

>> Yeah, I do have a question on the figures. The figures appeared based upon [REDACTED]

>> I'm not sure what you mean?

>> Well, I'd have to have a specific and then, I think my [inaudible] reaction is they should be consistent.

>> Well, I think if you look at the color scheme, and this is something that we brought up back in July. The color scheme and just the projections, you know, some of them -- and I don't know what the, I'm no geographer, but like the, when you look north it gets wider. The projection of the U.S. and Canada, and some of them look like something out of, you know, a certain publication.

Some of them look like something out of another. My suggestion is if they, if this rendition is going to go public, then they all need to be, they need to all come out of the same house. Which means they all need to come out of the same GIS shop. Just so that the layers get unified or uniform in nature. Well I guess, I think if you look at something that was done by -- I don't know if Bob Singer's on the line here. If you do something that was started by his folks, you'll see something done by our folks, it's real evident if you look at our, a figure from our eco and a figure from his water resources.

>> I think one of the color schemes is different.

>> I think it may not be possible to have everything consistent because some of the figures have come from other sources.

>> Well, if they're GIS they can be. I mean if they were cut from a PDF from some other document, I agree. But if they're all being done by Arcview or Arc GIS, then they can be consistent. And I know Ted, our GIS guy, has confirmed this with E and E's GIS persons. And just to carry that on, it was our intent [background typing] to forward all those GIS layers to E and E's GIS persons to unify the submittal, as much as we could with, from the figures made by GIS.

>> [Inaudible]

>> Well, I think that's a great goal obviously. I think that's, and I don't know how much coordination is going on now between, two GIS major groups. And I think that should continue. And I think if there's a control issue or a cost issue or a response [inaudible] issue, then, you know, make sure John knows about it. And I think, you know, an EIS should have consistent figures. Just backing up one step, this next version we're talking about is the PD EIS version and our goal should be to get things as consistent as we can for that version. But it's not supposed to go public given the caveat that we know things are flipping out. But this next version is not supposed to be a public version. [Throat clearing] Okay. But I would continue the coordination and if there is a way to accomplish the consistency goal, then I think we need to formalize that, make it an approach that everybody understands and again, if there's responsibility of, for cost issues or whatever, let us know about it now.

>> Josh, this is Liz. We have some, like shape files of, like if you've got photographers we're going to use for photography that we were going to, you know, just [inaudible] layering and [inaudible], but we use Manifold, so I don't know if we should, you guys are going to use Arc if we should just send you...

>> Well...

>> So I just wanted to know. I mean we're not...

>> Okay, well, it was, you know, we've been in several conversations with Bob on this and the first time, I think it was September, when we were here in Atlanta, we had a discussion with Bob on who was doing what with the figures that were developed using a GIS platform. And it was our understanding, Bob's understanding that E and E had the responsibility of getting all GIS figures into a final format. We were just going to give them layers. He spoke with Ted Parks and so that was, that was the agreement there. You know, as long as -- as long as they're not changing data on those figures, or what they, what the intent, what they convey, then that can happen. We can go ahead and get those off to E and E. But if you, you know, say well we don't like this, you need to focus on that, then, you know, if you're changing information conveyed on that figure, then we need to take, we need to maintain control of it. But if it's at the point where we can say, yeah, it's ready to go out this is the figure we're going with, and what we want to go, you know, what we eventually will put out in the draft EIS, goes out in public review, then we can release that. And...

>> Okay. So I guess Bob is, we need to talk to him about...

>> Yup.

>> Okay. Great.

[Background noise]

>> I'll attempt to bring that [inaudible] three, or four. One of the big issues of Four is how we're going to move forward with maintaining consistent matrixes and how we're dealing with them. With, one of the suggestions earlier was that we first need to -- on that the [background typing] acreages. And Liz, you give us an update on where we are with those and what...

>> We have our [inaudible] another reason for [inaudible] they have gone so what I have is a [inaudible] big spreadsheet that has [inaudible] [inaudible] and it's a separate spreadsheet that just has, the acres -- the [inaudible] [Inaudible] all the backgrounding is straight. [Inaudible] and [background typing] so and then there's all the assumptions, the underlying assumptions get all the states -- whether it's active that a certain state carries. We tried to make the map [inaudible] as soon as possible that there's this, their way to have every single state [inaudible] [dog barking] are the upshots on what option would be for each state would be on that underlying spreadsheet. On the big spreadsheet [inaudible] [Background rustling sound] As well, so what I'm waiting on, I've talked to all the [inaudible]. We're still waiting [background rustling sound]. It was just a few data clarifications, [redacted]

[redacted] they've been getting me data. And then I should be getting data from throughout the state fairly soon [inaudible] data from [inaudible] region or something. [Background rustling sound] I was having John check map and check, you know, everything. Just make sure everything looks good. And we should have that out today for five of the regions and then, we'll have data from individual states that we have [inaudible] a little bit more data.

>> So will you be able to post everything with one or two different spreadsheets? Several spreadsheets?

>> It's like one Excel book that has each state on a separate spreadsheet.

>> Okay.

>> And then there's a separate spreadsheet that has everything by region. Like individual state numbers and then, the total regional numbers.

>> And do you post that one file up to Share Point with just a couple of notes on what is missing?

>> Yeah. I'll post both of them up on Share Point. But -- once John gets done looking at it. But yeah, there's a note that each of the, and I can, because I'll just send out an email that I've post it -- I know -- put some notes in there, as well, that you should be able to run their sources everything. On the bigger spreadsheet with data and any exceptions made are with the, on those [inaudible].

>> I think the biggest thing is we're still missing Kentucky and West Virginia data, which is going to be available pretty quickly, we hope. And without those key ones. [Inaudible].

>> Yeah, West Virginia we have and I've totaled it up. We just need to get it on there, and then Kentucky, we're just waiting for breakdown of east versus west.

>> I think one of the things that'll be helpful is to get what we have out to the [inaudible] so they can figure out how they're going to work with it.

>> I don't know, I think [redacted]

>> Right.

>> And John, [inaudible], I know, I happened to run into George and Leslie last week -- this week I guess. And I was discussing this issue with him about [redacted] And the problem is, as you know, that [redacted]

[redacted] But [inaudible]
see on how far we are.

>> Okay, very good John. Excellent.

>> In the same way, Josh, if you could look at it and see if you think it's, if any logic would tweak and at least we afford, because I'm just so concerned we [redacted]

>> Yeah. I'll take a look at it. I'll talk with Don and see what, if anything, we can add. I don't know. I don't know.

>> I mean the biggest thing is to look at what we're, the assumptions we're making about [redacted] Because that is the key number. That we're hoping to get from the court. And so I mean if we can come up with a better idea on [redacted] then I think we've got somewhere we can probably just verify the rest of it.

>> John Morgan, did you send that email to us, also?

>> I sent it to Steve I think.

>> Would you mind sending it to me too?

>> Of course.

>> I'll resend it to everybody on our team.

>> Okay.

>> Yeah, well you will see, [redacted] John Morgan said we [redacted] the [inaudible] and I would like us to go over the logic we applied that, but [background typing] I think that probably with the data we have, that's the best we can do.

>> And it's everything but [inaudible]. And then that data of prints doesn't exist.

>> So then the key right now, the approach right now, is just to go [redacted] on [inaudible], not even pull a hair out of it.

>> [Inaudible] [beeping sound] our vote is yes.

>> I think the data.

>> You haven't been on some of the conversations. We talked recently on this but I mean, I think it would be a [inaudible] because the only [background sirens] [inaudible] come into play with those targets too. That's only one decision that you have to say [inaudible] several springs, otherwise it's either [redacted] for -- and so I think that, you know, [redacted]

[redacted] But that...

>> But also -- And John, this is what you and I and David talked about yesterday, because under [redacted]

[redacted] lack of data there kind of becomes handleable. It was some sort of narrative or [inaudible] made a statement I guess. You know, the problem was that the data [redacted] So we were concerned about that for [redacted]

[redacted] So it doesn't make a hell of a lot of difference. We have John Morgan and Liz and I have not talked about this, but we think it becomes a moot point.

[Silence]

>> For the other alternatives, [REDACTED]

>> Yeah, but it's not going, it's not hard to go to, [REDACTED] so much, [REDACTED] it's he has to identify and perhaps to sort them, [REDACTED] So there's a difference there, I think, Josh. You know, and again because [REDACTED] we're just going to [REDACTED]

>> well there is data [REDACTED]

[inaudible] [REDACTED] And we need to address what those impacts would be, if not [inaudible].

[Silence]

>> That doesn't make sense?

[Silence]

>> well, I think we, you know, yeah it does. I think, you know, taking Edmundo's suggestion, running it by John Morgan, and then having a call, like you said, as early as possible next week. Otherwise we're just kind of spinning our wheels here and...

>> I mean this is the most important thing we've got to deal with.

>> And, you know, I can't be, I can't afford any rework. You can't afford any rework from us. So let's get it the decision made and let's get going.

>> And I think I would also suggest, Josh, after we feel happy with the approach that we, you know, identify and agree with as well, because we can't have them second-guessing us.

>> well, that's true, because that's...

>> And that's absolutely right.

>> I absolutely agree and I think John Morgan, you and [inaudible] need to talk. Run it by Cranen. And we go forward. I mean we can't make this stuff up. We have what we have and OSM send us the data or EPA or the core. It's just, we have what we have. That's it.

>> And the, John Morgan, I think, just said something that is key to our effort. In fact, they sent an email to John Cee, asking him for 10-15 minutes to have a short chat with him but we need to, we need to have, on the same page as we are because if they start taking guessing off us, I'm sure you're referred some of the reasons, the emails from them. This is going to be a never ending story, and we need to stop that now.

>> Well it is, and Edmundo, you know you're right. Scott got a call yesterday [REDACTED]

really want that nailed down. [Background typing] Anyway. For what that's worth.

>> well, and this is a very -- we have our proposed first Tuesday of the month call to OSM. Could we get together late Monday or first thing Tuesday, to get a little further with this and getting our [inaudible] to OSM?

>> I don't know. I [inaudible] John Maxwell [inaudible] that's up to it. Edmundo and John Morgan, I mean, our target with Josh is we're in a critical point and these two guys can agree and can talk [inaudible] then there's something to talk about, on Monday. I've marked Monday I mean, I think it's up to Edmundo and John Morgan.

>> Okay.

>> what do you guys think?

>> well, I mean the model is there. We have looked at it here internally. It's built in a way that

>> would it be possible, or does it make any sense for the rest of the team to do that model so that we can be thinking it over, and if you have any positive contributions as soon as possible?

>> I can send you a screen shot of what the final matrix will look like, with those impacts. But I would prefer to go over the model with John Morgan first. Because I think by reading some of the emails we got from OSM, sending the explanation, which was meant just for our internal consumption, on the previous model, was misinterpreted and criticized so, by OSM. So I want to avoid that. I'll send you what the model will look like, the final product which will show

Just for you to see what it will look like. And it will have some numbers which I would appreciate if not or not quoted or assumed incorrect. It's just an exercise right now.

>> Yeah, I think it's just -- it'd be helpful for everybody to see what sort of outputs we're looking at for that model.

>> [Inaudible] all right. [Laughter] So John Morgan, are you stopping by later tonight?

>> I can do.

>> Yeah. Why don't you come?

>> We serve drinks.

>> we have full drinks.

>> I don't [inaudible] appreciate them to play the optimist. [Laughter]

>> That was really to, I'll email it to you anyway and you're more than welcome to come and, I mean, anybody who's in town, we have a little get-together here today. So...

>> That's kind of short notice for us people in Atlanta.

>> Yeah well.

>> [Inaudible] well, it didn't start really until its more 5:00. But you still got enough time. The reason why I call [inaudible]. [Laughter]

>> What are the other things as far as the...

>> [Inaudible] [laughter]

>> So we don't [background noise] forget about it, we need to start filling out the information on list of errors. I think that's, a spreadsheet went out to everyone [background typing] if we can get that back to Dave or Caroline or Kathy. Just don't want to forget about that because we can do it while we're waiting on other stuff. Any other issues? How about coordinating with OSM, the material or whatever. Is everybody in good shape there? Do they need somebody that come to visit to coordinate? Or...

>> We don't, we just don't want to have a biology person.

>> Okay.

>> I will, I get with Stephanie after we finish with the call here, and see what we can do. I know their looking at people. Yeah.

>> A couple of things. Everybody, thanks for getting all the invoices and progress reports in on time. We submitted the November- May application this week. And everybody's checked out, you know, without, has everybody received their tests?

>> Thank you very much, yes.

>> I'll check. I don't want you yelling me yet, so I'll check.

>> Okay. Perhaps, let me know because we have one that they had left one check out of the envelope that went to [inaudible], so I wanted to make sure that everybody's got theirs for September and October. So and then the other thing. If there's anything pending. You know, [background typing] I noticed some pending that let's not wait your, you know, the last minute to tell OMS about pending issues. Let's make them aware of their pending delays up front, as soon as you see that they're dragging their feet, let's make the correct people know about it so, you know, we're not, then they're going to say well why did you tell us before. So let's make sure that in all your research as needed. [Background noise] And the other thing, that they give you and John Maxwell, we can talk about the production after the meeting.

>> Okay. Sounds good.

>> Do we have the, you know those costs for the combining of the rule, scoping meetings with the, with the EIS and everything. Do we have everybody's costs to John Maxwell?

[Silence]

>> Randy, I'm working on the bulk of that. I don't know whether you requested from the rest of the team any impact...

>> I don't know if there's going to be costs from everybody. That's why I'm asking, the question I'm asking John. Or if he's just come out on the end of the logistics. From your part of the task.

>> I'm not quite sure. [Laughter]

>> Okay.

>> Because you saw John Cranen said yesterday that Gillette's out [inaudible].

>> I was traveling. I got home at 11:00 something last night, from Texas. So I still have to catch up on some of the stuff so...

>> Randy, this is Joe. I don't recall for us to supply that information. I assume you're talking about extra expense associated with the scoping meeting? Is that right?

>> Now, with the public meetings on the DBIS, the fact that they want to combine the role, the role making public meetings with the EIS public meetings.

>> Okay. I'm sorry.

>> I think we haven't had clarity from [inaudible] if he wants us to be involved at all. And that's the biggest gap.

>> well, and I see John, that's where you got to, you know, fill everybody in because I don't. They're not [inaudible] they know. If they are, then we got to get prices from them. So I don't know if they're needed or not.

>> So I mean I think this is a technical mining issue that not having anybody with any mining knowledge at all at the meeting would be a mistake. But that's you know, definitely up for your call.

>> No. Okay, but you being [inaudible] that about the rules, is the extra one that they're asking. The other one was already in the scope. Am I correct John Maxwell?

>> Yeah. I think that we were not, that we were not invited on that, in the way with John Maxwell scoped that out, so...

>> Okay. well, we'll discuss it and then, we'll let you know.

[Clicking sound]

>> Any other questions or issues we need to go over? Right. well, thanks everybody for returning and supporting the cause.

>> Thanks you guys. [Crosstalk]

>> Are you going to set up a call for Monday?

>> I don't think there was a reason to, there's nobody - getting the spreadsheet and stuff worked out.

>> We should anticipate, at least for like Monday, a model and acreages. So we get back and start collaborating a little bit on that. And I'm happy to get everybody, but we should be getting somewhere on that. [Inaudible]

>> You should give me enough time to be able to review the schedule another [inaudible]...

>> Yeah.

>> For me to send an email. That's why...

>> Yeah, because I can, it would be great to send it out and so that we have, like a couple hours to chew on it and then, we have the call and have Edmundo and John Morgan go over the rationale and...

>> Or lack thereof. .. Ration. [Laughter]

>> [Laughter]

>> And that we all are swimming in the same direction. whether it's upstream

or downstream. [Crosstalk]

>> You guys working on that can give us a, just an update Monday morning so we know we should expect something to review on Monday and get together. Keep us, keep us in the loop. If you have [inaudible]. [Inaudible] can you just keep us in the loop on where you're done with the model on [dog barking] Monday morning so we can find out whether, we're going to get a product review and then done.

>> Yeah. I'll let you know Monday morning. I need to, some, sit down with John Morgan and go over the model. It won't take long, [dog barking] but I want to be sure that we're both in agreement with that and [inaudible] agree with today with John Cranen at 12:30 today. So yeah, by Monday before noon, they should be reporting back to the team [dog barking] where we are.

>> Okay. Very good. All right.

>> Okay. Have a good weekend.

>> You too, buddy.

>> [Inaudible] it's John Maxwell from the...

>> I assume you're [inaudible] still...

>> [Beeping sounds]

>> That's not [inaudible] [beeping sounds]. That's not my dog.

>> Oh. Are you Tampa or Gainesville?

>> I'm in Gainesville.

>> Okay. When you call my cell, and I'll call Dave. Dave.

>> Are you just going to stay on this it now?

>> No, no, just put on the regular line. Call me on the cell and I'll call Dave.

>> All right.

>> All right.

>> Call your cell. [Inaudible] your cell phone or your desk top? [Beeping sound]

>> [Inaudible]

>> The proposal rule is [redacted]
[redacted]

>> Right. But.

>> So, but that's.

>> If their, if their [redacted]
[redacted]

>> [Inaudible] playing devil's advocate, I think the most driving [redacted]
[redacted]

>> And this is [inaudible] the 402. So, I think [Inaudible]

>> I, I, I can only tell you what I've heard. Okay? And, and so these are some of the, the things that we, that of specific, the requirements within the rules that will have, will allow operations to go forward in [inaudible] kind of way

>> So it's that aspect of it, the act of operation and the improvements there that I think are, you know, any discussion of that. I don't know that you really, that they had much of that chapter anywhere in the EIS.

>> Yeah, you really, you push the envelope here is that having looked at what's driving the industry to respond to 404 and 402 [inaudible]

>> Than way beyond where the rule is passed.

>> Because, I mean the rule is [redacted]

>> The, the director seems to think that a [redacted]
[redacted]

>> [Inaudible]

>> Discussion to have [inaudible]

>> And with someone other than me. [Laughter]

>> Well, and because I'm not holding up my end of the discussion because, as I said, I'm immediately over my head here, but yeah.

>> You're doing rather well. I'm not; I'm not worried about you. You're doing great.

>> And, and it is a good discussion to have.

>> Yeah, it is.

>> You said foreign language and I think that's, that's the issue because we're just now hearing and process.

>> Well, well, and the important thing is it's not too late.

>> That's right.

>> We've got three more weeks here till we get EIS.

>> Three whole weeks.

>> We've got, you know [inaudible].

>> Do we have a specific list of, and is it addressed in here, resource areas resource things that we should be looking specifically at? I mean there's an itch obviously out there, I want to make sure we scratch it rather than search around for what it is we need to do because we do have only, have three weeks [inaudible]

>> Right. Well, John could probably answer that. How specific are the comments that you've provided? Are they, I mean that's the other piece; I mean hopefully these comments are going to be really useful.

>> The comments don't cover all of those areas.

>> Okay. Well, that doesn't, I mean that's not a good thing.

>> I would agree to that, John, I think that what you just said is actually probably a lot more clarity about where you could augment this document because the comments, we got back from [inaudible] all about detail, it's probably more about what's in the document on how people react to them, rather than what.

>> Yeah.

>> [Inaudible, Speakers Talking Over Each Other]

>> But, but obviously a number of folks have thought about this and said, wait a minute, you know, we don't have a, a [redacted] of this and that. So if there's such a list out there of things that have been identified tell us [inaudible] they can be.

>> The one that we have is the list of [redacted] [inaudible] provides.

>> But I think what [inaudible] is also saying is that, you know, by looking at the rule [redacted]

[redacted] and whatever the 10, 15 elements that, that we have talked about, and to me, that's, that's what I'm hearing her say [inaudible].

>> A lot of it, a lot of it what should be, is already on the books though, right? There's, there's some things [inaudible]

>> Right. Bill, Bill was saying that, well, this isn't the benefit because.

>> So, there's [redacted]

>> [Inaudible]

>> But I think part of, part of the last several months has been to have these sorts of discussions and things have been eliminated from going forward and now they're being brought back in and my point is, we have three weeks, we understand where the agency now is, is directed its attention and we need to be focused and can't flail about trying to figure out what's on, back on the

table, when it was previously off the table. So and, and that's fine and we're willing to, I guess go and, and do that. I'm just asking if, if folks have identified specific areas. I mean I can read the 11 principle elements plus 4, for which, you know, some of which have been eliminated during the course of this, these discussions, but that doesn't tell me what somebody on the other side has said, well, I think this is important, we need to address it. Because as Josh said, with the, was it [redacted] they talked about it.

>> [Inaudible]

>> I mean, we had the discussion.

>> [Inaudible] person said don't worry about it, it's such a [redacted] we don't need to talk about it. So difference is [inaudible].

>>Yeah.

>> [Inaudible]

>> I mean, we mentioned it, now we just [inaudible] face to face meeting that, you know, I mean you talk about [redacted]

>> These guys know, these guys know what it [redacted] when I say these guys, the guys who have worked with the industry understand because of the [redacted]

>> So is the list of [redacted] that you provided [redacted] The list?

>> No. But, you know, I think, you know, Stephanie with John had those [inaudible] for everyone who showed up here at lunch, but I think, you know, [inaudible] elements, I think we need to sit down as a group and say okay, [redacted] Part of the [redacted] of each of this [inaudible] sorry. Yes? Maybe? No? Maybe? And just talk to that, and then that, that probably needs to be talked about in a particular element section. And that's all that needs to be done from the EIS standpoint. Now if we can get that information flexed out a little bit more in a reasonable time for [redacted]

>> And this could go off in 75 directions, I mean your points a good one, David. For example, [redacted]

[redacted] I mean I can sit here and probably think of all kinds of spinoffs of [redacted]

[redacted] It might , it's a [redacted]

[redacted] Period.

And, and to, to go back , I kind of , I'm, I'm, I'm getting, I'm getting what Josh is saying. if we went back and looked at [inaudible] that if an operator [redacted]

[REDACTED]

>> Okay. Here's what I'm going to add to this conversation. We're looking for the, we're looking for [REDACTED]

>> Right.

>> That's makes sense.

>> We're talking about, what does this rule do So. [REDACTED]

>> And I think, I think I understand where Diane's going, but I think the examples were not the best ones to use because they're, in my opinion, they're already covered. Mr. Morgan and I have been involved in some court cases on the opposite sides on this very issue.

>>

[Inaudible]

>> That the insurance companies end up paying for, for, for the, and we, we have some very unique disagreements on some of those things.

>> [Inaudible]

>> Me too.

>> Do we keep this.

>> [Inaudible, Speakers Talking over Each Other]

>> I think I understand where you're going.

>> Look at the elements, right.

>> Those examples, I think are already covered in SMCRA.

>> Okay. But, at least they helped you to get the point.

>> I think, yeah. I understand where you [inaudible] to look for those things that have a [REDACTED]

>> So, do we have [inaudible]

>> And beyond what he's saying, above and beyond the.

>> Right.

>> [REDACTED] I mean [inaudible] to you.

>> [Inaudible]

>> Do we have a list?

>> We're continuing to talk in generalities, and three weeks from now, somebody's going to say, well, why didn't you find out the [REDACTED]

[REDACTED]

>>[Inaudible] list is the 22 items that was established in room in a brainstorming session three weeks ago.

>> I think the clarity is that a lot of people in the [REDACTED]

[REDACTED]

>> And, John, that's all we've got to solve. I mean we've just addressed the ones that are in the box.

>>[Inaudible]

>>There aren't that many.

>> There aren't that many, it's really [inaudible]

>>[Inaudible]

>>where they mine fields and where they don't.

>> what I just heard John say is on our list of [REDACTED] we're not going to do [REDACTED] and we're not going to do [inaudible] that's all I'm asking for, which ones are on the list that OSM has a concern or believes need to be addressed so that then.

>>[Inaudible]

>> I think its communities intervening [inaudible]

>> Okay, but do.

>>[Inaudible]

>> Levels, somebody else.

>> But then, but in the EIS, we can state [REDACTED]

>> Address.

>> we're not going to cause or this will help to cause a [REDACTED]

[REDACTED]

>> Yeah. Right. And we're not going to , yeah, I don't see this, I don't see this, you know, [REDACTED]

[REDACTED]

>>[Inaudible Speakers Talking Over Each Other]

>> But that's, but that's, but that's the, that is a, that is a result, but there's, there's elements in the [redacted]

>> If you, as probably really simple one and I don't know how much of a payoff it is, but requirements to do [redacted]

>> Okay.

>> And.

>> Again, I, I'd say [redacted] is leading that because that [inaudible] last three or four [inaudible] which are doing exactly that. So , and [inaudible].

>> [redacted]

>> Right.?

>> [redacted]

>> [redacted]

>> No.

>> [Inaudible]

>> The cumulative impact [inaudible] to discuss that in my mind anyways, that's where you talk about it.

>> Or you could bring it into that.

>> You could bring it into that but

>> [inaudible]

>> what I have this idea, well, it's the, the world I came from before coming here was on the opposite side of things, not so much , well, I shouldn't say opposite side, I did a lot of enforcement and just touching on, in some cases,

>> But you're really just looking at a [redacted]

>> And not how [redacted]

>> [redacted]

>> [REDACTED]

>> As opposed , [REDACTED]

>> [REDACTED]

>>

[Inaudible]

>> Didn't we have this conversation at the [REDACTED]

>>

[Inaudible]

>> If there isn't a [REDACTED] , it isn't a [REDACTED] at least, then that, that would be an issue. That , those are some of elements. You can fight me on this [inaudible]

>> Oh, I'm not trying to fight.

>>

[Inaudible]

>>I guess I'm not.

>> Take it away, and it will pique your curiosity and you will go out and figure out how to make this, and how to make it work.

>> I'm just trying to get an understanding of where you're coming from.

>> Okay.

>> A clearer understanding. If I can understand you better, then it won't come across as I'm fighting you.

>> I am not the person to communicate these particular issues. What I am telling you is there are people who do this and, and could articulate it and, and get you on the right track. And that's a piece.

>> But, but the level of detail that we have to determine, I mean we can do all these things, but three weeks is three weeks. And.

>>Well, I'm [inaudible]

>> John, let's, let's rather than continue to go back and forth, let's, you know, talk to, to [inaudible] let's talk to the folks that, that perhaps can help us identify some of those things that she's talking about. And then we come back to John and then we figure out and we try to, you know, hammer out the best we can and say, okay, this is, this is what we can come up with and, and it's going to have to, it's going to have to be that way. I mean I don't know what else, what else to do, other than just go at it and tackle it. So.

>> I guess, I guess part of what I'm asking, I understand that the, this, this person who can, can deal with [REDACTED]

[REDACTED] So there's a learning curve there and if we had, if, if the folks who have been dealing with this for the last six or eight months have some areas in mind already, we can focus [inaudible] and say, well, if this, if this happens, what's the, what's the [REDACTED]

>> One, one thing I would then suggest a place to start back when we got the

[REDACTED]

>> If, if you can't discuss , there's certainly discussions of [REDACTED]

[REDACTED]

>> Understand. Yeah. I understand.

>> Okay.

>> Yeah, I don't think [inaudible]

>> And I'm not, I'm sorry I'm coming across as I'm fighting you on it, because I , that's not intent, I'm just trying to get a clearer understanding because I see those list, the 22 as, as [REDACTED] John Morgan, John Maxwell, Don and I spoke about it a couple weeks ago one Sunday and, and we went through it and we were able to flush out a little bit more of what we think [REDACTED]

[REDACTED]

>> well, I know that it is possible to [REDACTED] I know, you know, that, that not always, not across the board, but they're, they're , they , you need the clearest way of looking at it, I think you guys cited a [REDACTED]

[REDACTED]

>> No, and I know for a fact that it's not, and since then we've found something, you know, the core of engineers has [inaudible]

>>

[Inaudible] statistics, or special reservations fund, because that's where it got the best [REDACTED] [inaudible] it's in these areas, so the [inaudible] is probably the best fit that we've got.

>>[Inaudible]

>>we talked about this [inaudible].

>> Those are [REDACTED]

[REDACTED]

game.

>> Okay. So. Okay. Good.

>> But, you know, I am not the expert [inaudible]

>> No, I understand.

>>[Inaudible]

>> Or, you know, [redacted] that's why I'm just or, you know, but don't take away and say Shawley told me this [inaudible]

>> No, but it's good hear that you said that, you know, [redacted] is, is one way to look at it and, and I, I get the impression that at least you're, you're accepting of that, you know, as a method, not the b method perhaps, but it's a method that , because, because when we, when we threw that out and it's about a, it's been a month ago, about a month ago, it's early January, it was, you know, I guess the initial comment was, these were low, okay, come up with something better and then we just stopped, we stopped work on that. But, but I mean it's , yeah. I'm , yeah, there are other, there are other sources.

>>

[Inaudible]

>> I guess the [redacted] is just one thing is with, you know, because if you mine it and if you mine with the, with the proper rights in place, perhaps there could be [redacted]

>> Yeah, that's, that's been a , that , a major aspect of it. And you know it's, you've got three whole weeks, John, that looking at me saying we only have three weeks, but a glass is half full, that's three weeks and we've given you, you know, some terrific comments back and it will all come together.

>>[Inaudible]

>> Figure out what kind of stuff.

>>[Inaudible Speakers Talking Over Each Other]

>> Yeah. I know who, I know it's, I'm trying to think of, of a good way to respond to that. And I'm already censoring what I was going to say. No, it's not out for public comment, we don't.

>> But they are, they are commenting publicly.

>> They are commenting publicly, [redacted] so [inaudible] strongly, and you know, a solid basis in facts. Yeah. That's it. I'm not , I know just probably what you've seen that they've put out publicly that [inaudible].

>>[Inaudible]

>> No, not that I'm aware. No. They , yeah. And the one thing they saw of Chapter 4, where they saw an early, very early draft of Chapter 4 and they saw a Chapter 4 prior to some important discussions that we had in Lexington and, and I have a feeling that what we'd see after, on February 23 will be hugely different from.

>> We hope so.

>> I hope so. I hope so, glass is half full. Anyway.

>> I think we need to take a break.

>> Yeah. Are we [inaudible] Yeah. Are we.

>> Break time.

>> Yeah. Let's take a quick break and then we can come back and do wrap up.

>> Okay.

>> Schedule. Schedule. Schedule.

>>

[Inaudible]

>> You said February 23, I'd never heard that day.

>> Okay, we will talk about that after the break.

>> [Inaudible]

>> February 25th.

>> After the break.

>> we'll talk about it after the break.

>> Okay. what's the, what day of the week of the 23?

>> I think a Wednesday. 25th is a Friday, that's the date you gave us.

>> [inaudible] 24 , yeah, is a Thursday.

>> Okay. Scheduled.

>> we'll talk about that after the break.

>> All right.

[Inaudible]

>> Joe, is the list?

>> Yes.

>> Are you coming back down?

[Inaudible]

>> Steve wanted to go back to stage number one [inaudible] make sure that [inaudible].

[Inaudible, Speakers Talking Over Each Other]

>> [Inaudible] summation, we talked this morning.

>>

[Inaudible]

>> But do you want and offline discussion?

>> No, I think [inaudible].

>> Okay.

>> I just want to make sure we're clear on all that.

>> Yeah, where every bodies on the same page?

>> Yeah.

>> Yeah, not that it's an easy [inaudible], no matter what.

[Inaudible, Speakers Talking over Each Other]

>> Yeah, life's great accomplishment.

>> Actually, I put it together into a gant, did you share the gant with camp B, 16B and [inaudible].

>> I don't think I have, because we have not gotten too.

>> No, we haven't and that's one of the things that I was, I was actually speaking to the director about this last night, we were emailing back and forth and I was saying, you know, that there have been some changes that were not yet reflected on the gant, and one of the reasons for that was because no decision has yet been made regarding the public rule, and I said, I don't open up the [inaudible].

>> ... and I'll turn it over to her to officially welcome you here and give you her highlights so that she can move on with set.

>> Well, as Nancy said, and -- I don't know, before we -- before I say anything, why don't we introduce the OSM folks. You introduced yourselves to me, but I'd like for you to know who you're all working with. As Nancy said, I'm Glenda Owens, the deputy director. Our director, Joe Pizarchik, is speaking in Pittsburgh today, but he is en route right now. And his plan is to be here later this afternoon to give you an overview in what he expects and hopes for this joint endeavor that we are about to undertake. But first, let's -- why don't we introduce our team OSM.

>> [Inaudible] doing interviews. And I'm happy that you're here, really happy that you're here. You're a great group of folks, and I think we have the best team organized here to meet this effort head on. I'll be your contacting officer [inaudible] representative, and I'm going to scratch your heads from now on. [Laughter]

>> [Multiple speaks]

>> [Inaudible] she's been in my face already. We're used to it by now.

>> This is my boss who keeps me in line.

>> I'm John Crane [assumed spelling], and I'm the chief of the regulatory division here, and I'm the project manager and team leader for the regulatory effort and the EIS.

>> Nancy [inaudible], head of acquisition. I'm your contracting officer on this project. And whenever you have a question, absolutely -- you have my card, please contact me.

>> I'm Bill Winters and I'm actually with OSM right out of the Knoxville Field Office. I hope you still are speaking to us. We might wrap this up by February.

>> How you doing? I'm Sterling Laud [assumed spelling] I'm assistant director of program support. We look forward, definitely, to getting as far done today.

>> I'm Doug [Inaudible]. I work for John Crane.

>> [Inaudible]

>> [Inaudible]

[Laughter]

>> What's your phone number?

>> I know that you all introduced yourselves and gave me your name. I have remembered some of your names, but not all of them. But I'm interested in what role you play. So if you could just -- just for a few seconds, tell me your name again and your role in this endeavor, what you expect it to be.

>> Hi. My name is Randy Sosa. And by title, I'm the VP of Construction Operations for Polu Kai, but I'll be assisting Jose with the administration side of this project.

>> Hi, I'm Jose Sosa. I'm an executive vice president and partner in Polu Kai Services, Polu Kai's the prime contractor for this particular project. And I will be the PM and the organizer of the orchestra, the director, if you will, making sure that all our technical people get what they need from you and from

us and that we get things going and number one, try to get all the technical minds down to a set parameter to depart from and to work from, and making sure that we all have the same -- share the same common goal, if you will.

>> So you're going to make sure all the instruments are tuned, and we're all reading off the same sheet of music?

>> I've been trying hard.

[Laughter]

>> He has his backlash for me for many years.

[Laughter]

>> My name is Cynthia De Jesus, and I'm an administrative assistant at Polu Kai Services.

>> Tom Maxwell with Polu Kai Services. I'm the project deputy; help coordinate bringing everything together from the subcontractors and quality control and the -- putting publications together. Kind of coordinating between all of us.

>> I'm David Bell, vice president and general counsel from Plexus Scientific Corporation. We're supporting in a capacity for regulatory involvement, NEPA processes, public involvement, inter-agency coordination.

>> Good afternoon everybody. I'm John Morgan; Morgan worldwide Consultants, and I've got a degree in mining engineering. And our company focusing more on mining aspects, film minimization, AOC issues. [Inaudible] and I go back a long time working on that. And also just regulatory impacts, how it works with the state agencies, tying some of the [inaudible] and also just general overview to make sure how this interrelates to the state agencies and SMCRA as a whole. And also some of the economic impacts for -- the implied costs -- are for some of these changes

>> My name is Joe Soluski [assumed spelling]. I'm the executive VP at ECSI. The first picture up there on the wall -- Walter Hines, who I worked for when this all started -- helped developed the [inaudible]. All I've ever done is -- I'm an attorney by training. And all I've ever done is work in the SMCRA area, until last September 30, when I retired and went to work for Steve at ECSI. So my role here, I think, will be a project manager for selective projects and also contribute on the regulatory side. I hope so.

>> I'm Steve Gardner, President and CEO of ECSI. Background, a Bachelor's Degree of biosystems and agricultural engineering. A Master's in mining, engineering, and environmental systems. Been involved with SMCRA-related projects for 35 years. Started out working in the mining industry in Eastern Kentucky for a group that was doing large scale surface mining operations and saw the need that could do something with the land. They hired biologists and foresters, agronomists, and myself. Shortly after I got there, they stuck me underground surveying. So worked both on the surface and underground. I feel like a pretty broad experience in the field. I mean there are roles in mining, engineering, hydrology -- as you all probably know, John will -- but with agricultural [inaudible] and develop the [inaudible]. I've worked with Garfield, Hahn, Warner [assumed spelling] over the years, and had them involved in a number of projects. We were involved in the watersheds projects in East Kentucky, which to date, since EPA's involvement, is a result of only four permits being issued in Eastern Kentucky.

>> I'm Rick Newsome. I work with Plexus Scientific here in Alexandria, Virginia. And I work with Dave Bell in an advisory and a regulatory consultant basis. And I'll help out anywhere I can.

>> I'm Josh Jenkins. I'm from MACTEC Engineering and Consulting, out of our Atlanta office. I have a lot of overall NEPA experience. MACTEC, who's going

to be supporting this project by providing just support efforts in various resource categories, biology, water. We'll also be helping with some of the documents -- just overall document production.

>> I'm Ann Shortell. I'm a technical manager at MACTEC. So I'll be principally the work that Josh and his group are putting together.

>> Thank you. Well, I'm pleased that I heard a few of you use our acronym, SMCRA, and you've had years of experience working. You worked with Walter Hines?

>> Hundred years ago. [Laughter]

>> Before there was coal.

>> But anyway, I'm very pleased to hear that you've got experience, not only in mining engineering and biology and hydrology -- parts of which are extremely important issues as we go through the development of the EIS, but also with SMCRA and the surface mining requirements, principles, and regulations. That's going to be extremely important as well. I'm sure that -- you've heard that what started out to be an attempt to do a regulation to revise what we had -- what we formerly called our stream buffer zone asking for protection from the areas of streams from the mining has expanded. I mean, you're taking on a much more comprehensive and holistic approach as rulemaking. I don't know how much of a background that you have, but in 2008 OSM promulgated, as I said, what was a stream buffer zone, and it had a narrower focus. When the new administration came in -- and I think that really became effective in 2009.

>> January 12 --

>> January 2009, the new administration came in as one of the refuse of regulations that had recently been promulgated and -- First of all, the regulations -- the stream buffer zone regulation -- two environmental groups challenged that rule, so there's a challenge in [inaudible] court. We've entered into a settlement agreement on that litigation. We're now going to defend that rule because the decision was made that we wanted to re promulgate -- revise that. And so right now we have that litigation stayed while we do the actual re promulgation. But we're under some time constraints here, and that's where the interesting part of this endeavor comes in, because a part of that settlement -- we have agreed to try to get a proposed rule out in February of 2011, and we don't even have to think too hard to realize we have less than a year to get that rule promulgated. Now, that means we've got even less time to get the EIS drafted, because it's the basis for what we're going to do on that rule is our EIS. We've got to get that done. So as I said, we have some time constraints here, which I'm sure you're all aware of, and we have lots of issues because this is a -- I'm also assuming that you've seen concepts for the regulation? So you know the extent and the comprehensive nature of what we are proposing to do and the work that we're going to need support in -- we're going to need in development of EIS. There will be more -- I guess we're going to get into more specific discussions here today. Today is more a matter of contractual discussions. And I see there is an outline for revisions of the project and the project, I guess, is the EIS project? So I'm going to leave that to the project managers and contractual folks to do. I just want to express my sincere appreciation for your being here. This has been -- we've been trying to get this team together and move forward on this EIS for several months. One of the things that I don't know -- if you haven't heard, you will hear of the next -- today or tomorrow -- is that we also have some cooperating agencies that are going to be working with us on the DIS. We have EPA that wants to be a cooperating agency. We have a couple states that have already indicated that they want to be cooperating agencies. So this means for us to establish the kind of expectations that we will have on both sides. It's going to be a two-way street. That's the only way we're going to be able to get through this in a timely manner and get everything done that needs to be done. We are, notwithstanding the fact that EPA is a cooperating

agency, we are the lead agency. Now, one of the things that we did ask our cooperating agencies and another -- there are a couple of other agencies that will be assisting us, like the Corps of Engineers. And let me just back up for a minute. One of the things that is driving us as well as the the litigation is a memorandum of understanding that Secretary of the Interior Administrator of EPA and the deputy assistant something-or-other from the Corps -- their the administrators --

>> Civil works.

>> Civil works. I didn't mean to [inaudible] your position. But anyway, those three have signed on to a memorandum of understanding in which each of the three agencies made certain that short-term commitments -- and we're turning those into long-term. Actually getting the stream buffer zone rule amended or at least getting some guidelines out immediately is one of the shorter term commitments that we made. We actually do have some immediate protective measures that we put out in the interim while we get the regulation promulgated. So we're on track with that as well. The longer term commitment is this rulemaking. And because the EPA and the Corps are signatories on that MO, they have more of an involvement in our rulemaking than they otherwise would and they normally would. And also in our statute there is a provision that says anybody that regulations that we promulgate that have clean water act, air, or water quality implications has to be signed off on by EPA. Now, I can tell you that EPA is taking that very seriously, so we're going to be working and walking with them -- I don't want to say not step -- but we'll be walking down the same path and hopefully we'll be going in the same direction and we'll be moving together as quickly as we can, making sure that we do all that has to be done. So I say all that to say there are a lot of players in this endeavor. And so that's always a challenge. There are a lot of cooks in the kitchen here so we so we've got to make sure that we keep the stew brewing and that we get this dish ready on time. So I'm not sure there's much more I need to say because you need to talk about what it is that you'll be doing and the timelines and how you're going to set everything up. As I said, our director had hoped to be here to welcome you and give you a little bit of his perspective of where things are. And he is very, very much involved in this rule. He is -- I don't know if you're aware it, but he's actually been going around all over the country doing stakeholder outreach meetings so that -- on the concepts that we actually put out. So he's had an awful lot of feedback -- interaction -- with various groups. We fully expect to be [inaudible] will be waiting with baited breath to file any lawsuit in hopes that -- we know this crew is going to challenged. There's no doubt about that. So we need to have an EIS that's going to support the rule with us. We want to do as [inaudible] a rule as possible for any number of reasons. First of all, we need this rule, we need this comprehensive approach to attacking steams. And we also need to put together a rule that's going to withstand judicial challenge, because otherwise this effort will have been for naught. This is a pretty long -- long, protracted and expensive endeavor, first it all to have been for naught. So it's got to be a sustaining action. We're going to depend on you to give us what we need and EIS, so we can do a rule that's going to do what it needs to do. And I think our director will be in to speak to you also when he gets here, just to welcome you and to let you know how important it is to him as well. It's important to us, as the bureau, our assistant secretary, and our secretary who, as I said, was signator on the MOU as well. This is a high priority for you as well. We have every interest -- not only at OSM, but as I said, the assistant secretary and the secretary, to make sure that we do this correctly, do it right, do it on time. And so, welcome to the team.

>> I think it's -- I think it's very critical for us to -- and not something that we've been kicking around now for several weeks and back prior to coming into the meeting we got together and it's very critical that we understand division and understand division of that rule will because obviously the EIS will basically support --

[redacted] But we need to understand and the team needs to understand, so, like, when we're talking about, we can define what box we got to build for you. You know, we don't want to be out there, you know, building a skyscraper if we only need to buy and build a five-story building and that is very critical.

>> That's absolutely correct.

>> Yeah, so these couple of days, I'm hoping that we'll actually set and define, you know, get us to understand what the rule is, you know, get an understanding of what parameters and so on and so forth and understanding again, you know, if you have that true commitment from the EPA, from the Corps and even some of the states because -- like, we were talking during the day, you know, a lot of the states deal with their own Clean Water Act, regs, I mean, they regulate a lot of these parameters so we need to understand [redacted]

[redacted] So we really have to understand the nuts and bolts of what it is that you want to accomplish and how this thing is going to get done, so we can be as effective as we possibly can.

>> Those are things that you do need to understand. And in the next couple of days, we'll lay that out for you.

>> Okay.

>> Short answer. No, we're not taking over for the states. We are providing oversight for the states. We're going to set the federal minimum states will be expected to [inaudible]. They'll be expected to adopt regulations [inaudible]. They'll be expected to regs that are no less effective. And that's why a couple of the states have actually expressed an interest in cooperating agencies because they understand [inaudible] also expressed an interest in cooperating agencies. They understand [inaudible] as well. Fish and wildlife Services also expressed and interest in the cooperating agency. There's a lot of interest because [redacted]

[redacted] But they'll get [inaudible]. Our team will get more into that, the details. I just wanted to give you an overview since the director is not here. I hadn't really planned to because I thought he'd be back. But he'll probably still want to come in and say something to you when he gets in. And we're expecting him to come in around [inaudible] or so. I can see on the schedule, he'll be back [inaudible]. And we'll come back down probably tomorrow sometime just to see how things are going and if there are any questions you have of us. So, again, welcome. We're happy that you're here. And I'm glad to get this EIS underway. Thank you.

>> Thank you very much.

>> Does anybody of any questions yet?

>> We have lots of questions.

[Laughter]

>> I'll let John take over.

>> Before we get into the -- I guess the contractual matters of it, I'm going to talk a little bit about the project as Glenda indicated. This ruling is going to be [inaudible] various and focusing

[Inaudible]

>> Fourteen times over the course of a month, for the record, we met with a number of groups across the country. I was the only one that was there at

every meeting though.

[Inaudible comments]

>> The first concept that's really a part of the rulemaking relates to

[REDACTED]

That's one area that we were focusing on in the [inaudible]. The second one is in the surface mining act, there's a provision that we have to

[REDACTED]

>> No. The only thing that I'd -- you can add more as long as we're here. We're talking about completing the monitoring through -- some states now

[REDACTED]

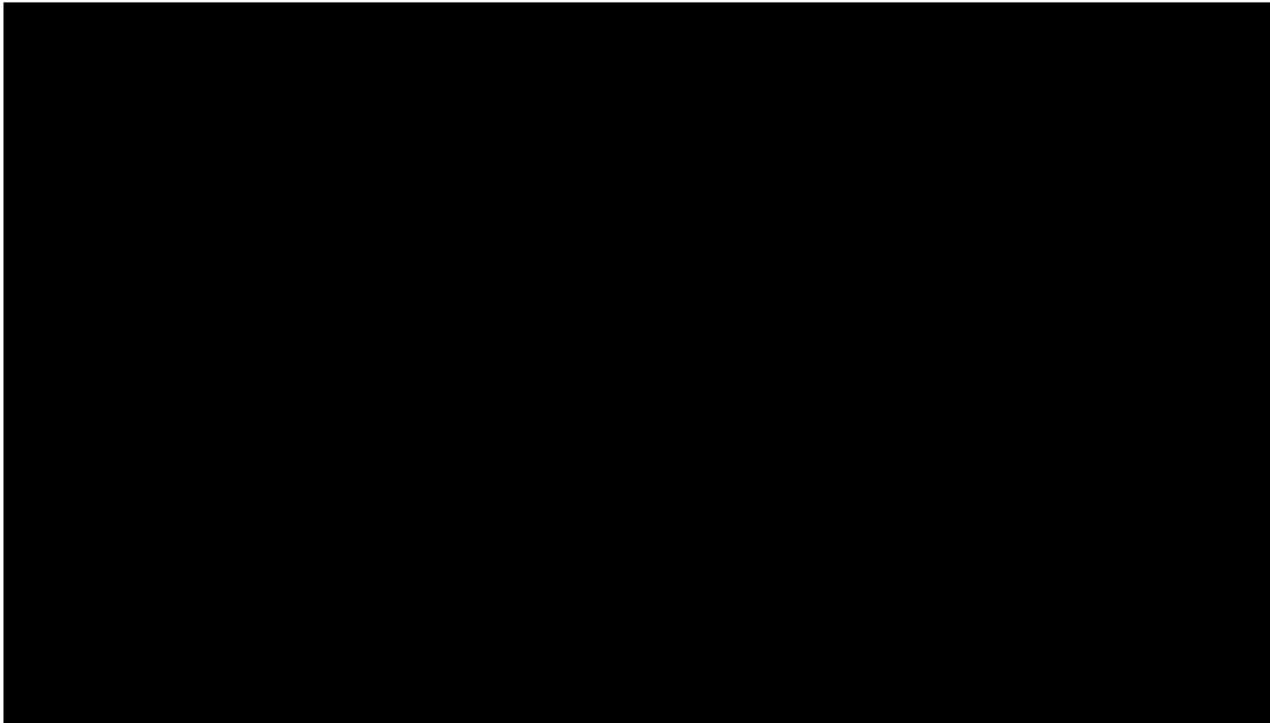
>> The next area really relates to

[REDACTED]

>> [REDACTED]

>> what's that?

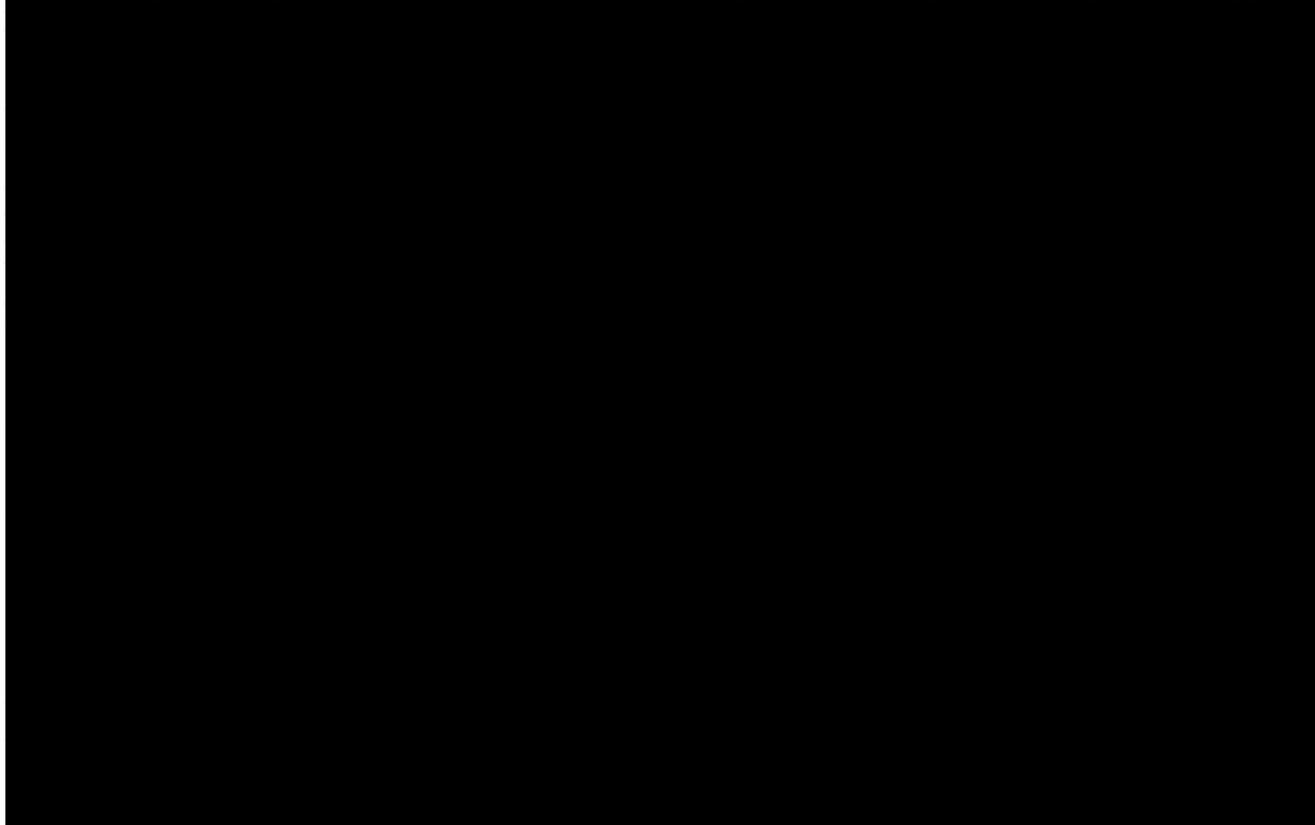
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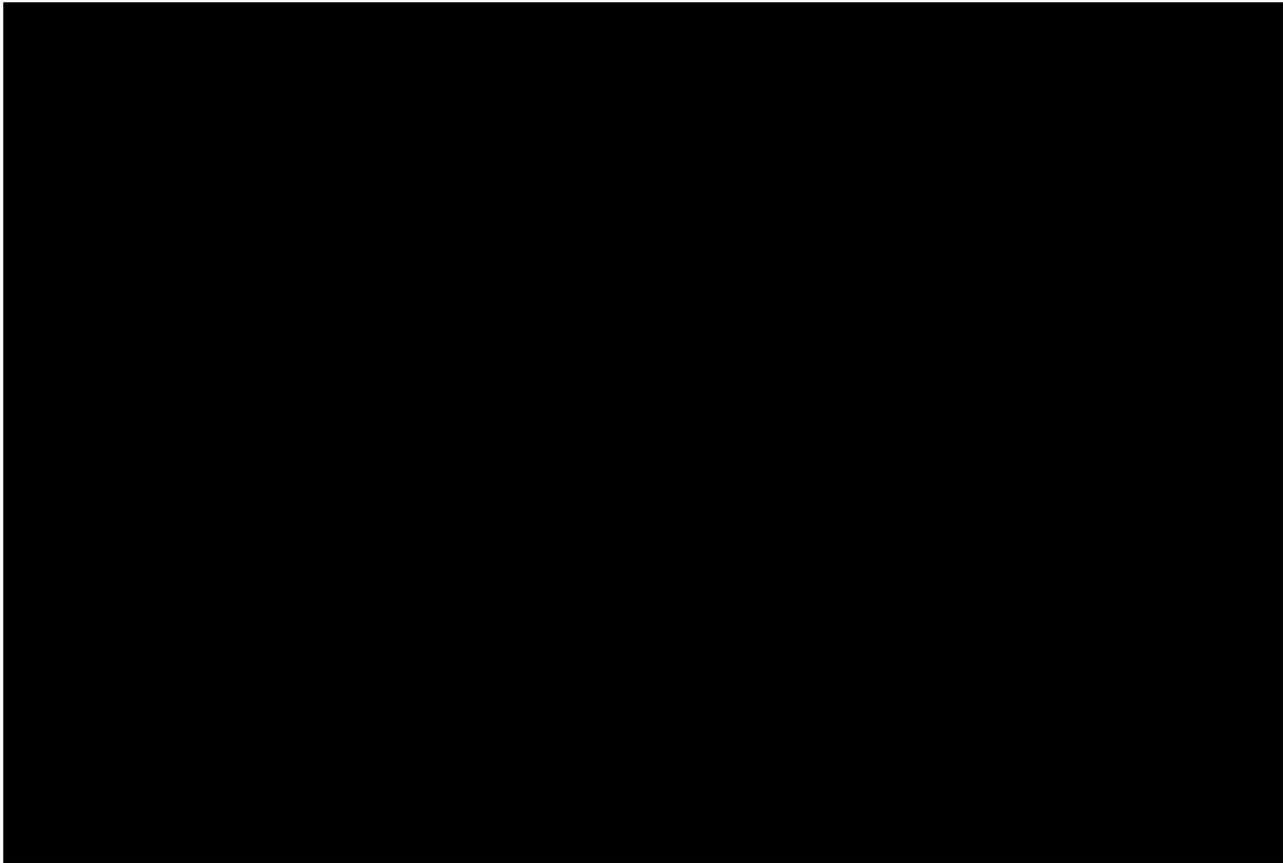


>> [Inaudible]

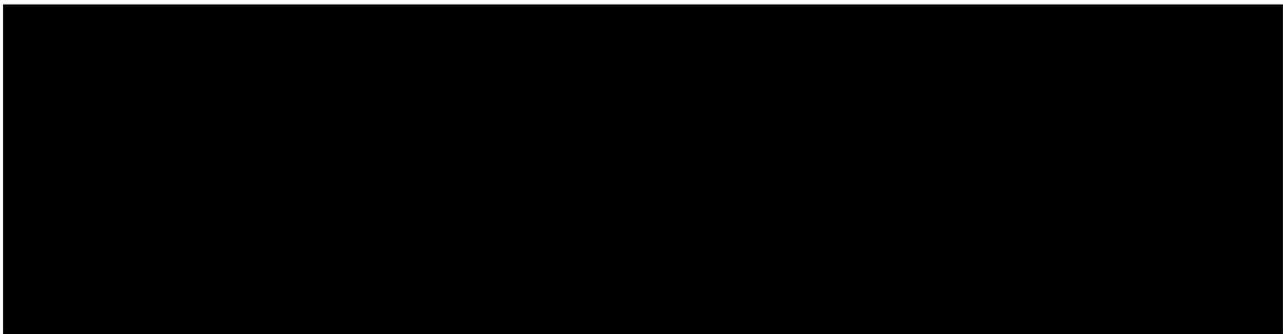
>> [Inaudible]

>> So that's the -- that's where you have the -- the next part is we are looking at making changes for

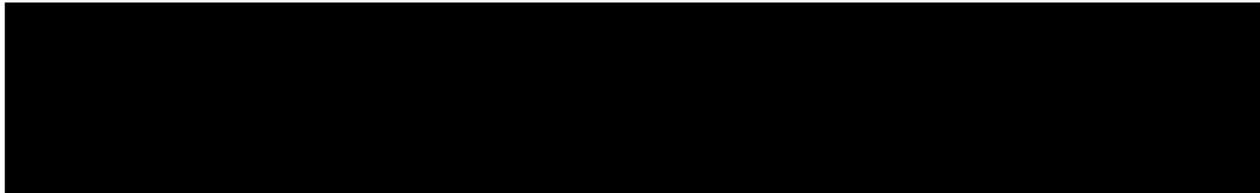




>> [Inaudible]



>> [Redacted]



>> How about [Redacted] John?

>> what's that?

>> [Redacted]

>> Oh, the definition of [Redacted] Thank you,

John.

>> [Inaudible]

>> Did you go to 14 of these, or did you just go to one?

[Laughter]

>> We are looking at [redacted] Right now [redacted]

[inaudible]. And then for [inaudible] Now, did I miss anything else?

>> I don't think?

>> Dennis, did I miss anything in the regulatory -

>> well, I think you should first -- John, did he miss anything?

>> I've got a question on the [redacted] part. [redacted]

>> I think the intention is to [redacted]

>> One thing that you seem to be silent on when you talk about [redacted] Are you thinking of changing that at all?

>> Not in the broad sense, but definitely [redacted]

>> would that be like a [redacted]

>> It could be. Now we did get some comments in the stakeholder outreach that that should be [redacted]

>> [redacted]

>> I know. And I think that is the director's opinion. As we've called talked

about this, it's the idea that [REDACTED]

>> [Inaudible]

>> I didn't hear you talk about [REDACTED]

>> We had some conversation during the stakeholder outreach about the whole issue of [REDACTED] we're actually thinking about how some of [REDACTED]

>> More of that [REDACTED] --

>> [REDACTED]

>> [Inaudible]

>> [Inaudible] we had talked about that a little bit but did not follow through, because the states, there was such a wide discrepancy. Some states they just will not let them [REDACTED]

>> You also talked about -- I'm not getting too specific here but about [inaudible] and that can be such a revolutionary thing. [REDACTED]

>> Folks got issues with it -- some issues. But [REDACTED]

>> Right.

>> That's kind of most of region four. So region four [inaudible]. I can't speak for region three. But we're getting broad, general support for the concept. How that manifests -- you know, what the other EPA regions think about it.

>> So will that be in the rule?

>> As far as?

>> Allowing [inaudible] to [inaudible]

>> [Inaudible] [REDACTED] [inaudible]

>> An option [inaudible]

>> Well, we don't know what [REDACTED]

>> Yeah, and obviously that will be sort of the alternatives that have to be examined.

>> I'm sure they'll let us know their feelings.

>> I'm sure they will too.

>> [Inaudible] a little shy about this.

>> That was really jumped on [inaudible]

>> When John gets here, that may not be a bad question to ask direct, because I think there was a meeting of EPA Friday.

>> Yes, there was.

>> I don't know if they discussed that or not.

>> In part.

>> [Inaudible] see what EPA says when they get [inaudible]

>> We're --

>> Memory makes a big question. And what you have is a proposed rule.

>> We actually are at the point, and this is probably a good place as any [inaudible]. We have begun to draft [inaudible]. We do have [inaudible] this week kind of a [inaudible] but because that will affect where the EIS goes.

>> Yes, it does.

>> And this would be kind of the starting part of [redacted] As Glenda said, and as I [inaudible], we anticipate the EIS as it's being prepared, as you're all doing your work, and you get [inaudible] informing this process. So we don't anticipate the draft version of the rule that we'll be getting in the near future, this week or whatever, to be the final version that we publish in February. We expect that as we hear, you know, what the impacts of different alternatives are as we continue to work with our sister agencies, as we continue this whole process that there's alternatives and our preferred alternative will change, maybe significantly; maybe not [inaudible]. It might not be tweaking around the edges. But this will be, at least our starting point.

>> Another pertinent thing for the EIS, as you know, we publish an [inaudible]. That commentary for that closed last week [inaudible]. We received 25 sets of comments, some arrived [inaudible]. We will provide you, not with the summary, but the comments themselves because a lot of what's in the comments did not say the EIS should address X, Y, and Z; it said the rule should be address X, Y, and Z. I read that as being -- so if the rule should address it, then the EIS obviously has to address it. So as I was summarizing, I tried to incorporate some of those things, but my summary might not be the same as you would summary, so I think it's great they let you see the input we got from the interested stakeholders. We have folks from the environmental groups, folks from the states, folks from the industry that provided this input.

>> [Inaudible]

>> I'm actually kind of surprised [inaudible].

>> [Inaudible]

>> As we know, this needs to be done in a very, very short timeframe. [Inaudible], and I think I have the right team, the right people, the right personalities, to get this done. I think it's very important that you folks provide us guidance. And many times we're saying we want to go this way. I would expect that you all say, we don't recommend that because our experience says -- or why don't you look at these other ways. And mainly because that's

what this effort is, to look at alternative means of doing something the right way. We're expecting -- counting on you to provide that guidance to us -- all of us. [Inaudible] If you see something that's without warrant, talk to us because we need to see fresh eyes on this, I mean, not so fresh, but fresher than ours. We will provide you with what we came up as a list of alternatives. It's not very polished, but we'll be looking at you to polish that up and provide us guidance as well. One thing that I do want to talk about is scoping. Normally when you have an EIS it's [inaudible]. We are allowed to define how we're conducting scoping and really find it as just being responses to the notice of intent. However, if you feel that that is not going to provide this justice, [inaudible] justice, I would look to hear from you. If you feel that the [inaudible] because you can sit here and develop a good rapport, which is not what I want to do. I want this to be a [inaudible] tool [inaudible] and provide the public with [inaudible] effort on your part to help this EIS. But I want EIS to be a handled tool. [Inaudible] If you feel that our having limited the notice of intent to be our scoping is damaging to what we're trying to get out of this, you need to tell us. So with that [inaudible].

>> I have one comment that I think we were kind of going back and forth with that is that, you know, the preparation of the EIS is a process. And if you are shortchanging that process, we may all -- may end up getting hurt at the end of the day. So we have to -- and we have couple of lawyers here -- we also wanted to talk to your legal counsels and make sure that -- because as the deputy director said, this is going to be challenged legally and rather than trying to say, hey, well, you guys skipped a session here or you, you know, you skipped three meetings there, I mean, we really have to make sure that we're covering each and every one of our tracks.

>> And I think that it's essential when the director comes in that he speak up on that matter.

>> I'm sorry, go ahead.

>> I just feel -- I feel equally -- as strongly as you do that because it is a matter that is very controversial, that we should be careful in addressing every little step we're taking.

>> It doesn't take much, as you know, to pull the whole NEPA process into litigation, which stops your rulemaking, you know, dead in its tracks. Scoping is an important part of that process because it helps inform and shape what the decision-maker is actually going to consider. To the extent that the director's been out doing these 14 outreach sessions, I'm not sure in the context of the NEPA process that perhaps someone would not stand up and say, well, I didn't know. I didn't know that that was --

>> Let me qualify, I hate to -- be careful to say that that's not considered as part of the scoping.

>> Okay, so we can't use the [redacted] okay. We just divorced those two concepts. So what is the [redacted]

>> And --

>> And, oh, I'm sorry. One last comment. You know, on your AN PR. You've got 32,000 comments on a notice of proposed rulemaking where there's not even a

rule, right? we're just thinking about doing something. Now you've got an actual rule with specific provisions that are going to hit some guy straight between the eyes, and he's going to say, oh, my Lord, you want me to [REDACTED] stuff like that. Anyway, so [REDACTED] And we could get all the way to the end and somebody with a 42 cent stamp says, guess what, guys.

>> One [inaudible] I'd like you to bring that out. You said --

>> I just said you don't want a procedural challenge.

>> No.

>> I mean, it's going to be difficult enough just on the technical case.

>> And I would kind of endorse the idea here. We don't want the rule that we create that's very defensible that SMCRA brings, but they won't either.

>> Exactly. This is what we talked about earlier today. There are two paths that you have to follow here. One is the procedural leap of stuff, the stuff that just drives the technical guys absolutely bananas, because it doesn't necessarily meet all your requirements on under SMCRA and the rules that need to be put in place to protect the environment, to protect mining, or allow mining, et cetera. So you're right, and everything we've talked about so far has been the technical side. Questions John and Steve and Joe asked have all been technical side.

>> And they've been great.

>> And they're great questions, exactly. The procedural stuff though...

>> well, let's take a little 15-minute break and come back.