

MINING OVERSIGHT & ACCOUNTABILITY COMMISSION

DECEMBER 2, 2015

MEETING

9:00 A.M.



Place of Meeting:

Nevada Department of Transportation
Third Floor Conference Room
1263 South Stewart Street
Carson City, Nevada

MEETING NOTICE AND AGENDA

4th Quarter Meeting of the NEVADA MINING OVERSIGHT & ACCOUNTABILITY COMMISSION

Date and Time of Meeting: **December 2, 2015** **9:00 a.m.**

**Nevada Department of Transportation
Third Floor Conference Room
1263 South Stewart Street
Carson City, NV**

This meeting will also be part of a teleconference. Please call the Department at (775) 684-2100 for the call-in number.

Action may be taken on the items indicated in **BOLD**:

1. ROLL CALL, ESTABLISHMENT OF QUORUM AND OPENING REMARKS

2. Public Comment (See Note 2 below)

In consideration of others, who may also wish to provide public comment, please avoid repetition and limit your comments to no more than three (3) minutes.

3. REVIEW OF REGULATIONS

(a) For Possible Action: Review of LCB File No. R052-15 regulations adopted by the State Environmental Commission; Determination of Findings and Recommendations to be Reported to the Legislative Counsel

The regulations: (1) define “mine-impacted waters” as they relate to a permit for a mining operation from the Division of Environmental Protection; (2) require a plan for reclamation to include a description of any necessary stabilization, management, control or treatment required for mine-impacted waters; (3) provide that the Division may require the operator of a mining operation to implement measures to stabilize, manage, control or treat mine-impacted waters; (4) provide that the surety an operator files with the Division or a federal land management agency may be a cash deposit; and (5) provide that in estimating the cost of executing a plan for reclamation the operator, must, if appropriate, include certain costs associated with the stabilization, management, control and treatment of mine-impacted waters.

(b) For Possible Action: Review of LCB File No. R056-15 regulations adopted by the Commission on Mineral Resources; Determination of Findings and Recommendations to be Reported to the Legislative Counsel

Section 1 of the regulations establish fees for a permit to drill and operate an hydraulically fractured oil or gas well; non-hydraulically fractured oil or gas well; and fees for a request to change the terms of an existing permit to drill and operate an oil or gas well. Section of the regulations increases existing fees from 15 cents to 20 cents for each barrel of oil or each 50,000 cubic feet of natural gas produced from a well.

(c) For Possible Action: Review of LCB File No. R057-15 regulations adopted by the Commission on Mineral Resources; Determination of Findings and Recommendations to be Reported to the Legislative Counsel

Section 2 of the regulations provides that the location of an individual geothermal well or wells in a project area must be surveyed by a professional land surveyor. Section 3 increases the annual fee required of the owner of a geothermal resource or the operator of a geothermal production well or

injection well. An annual fee is also required of the owner or operator of an observational well or a thermal gradient well unless it is plugged and abandoned. Section 4 specifies the required format for copies of electronic logs for geothermal wells. Section 5 deletes provisions requiring annual filing of certain reports specifying the production and temperature of a geothermal resource or a producing domestic well. Section 6 specifies procedures to be followed for the abandonment of a thermal gradient well. Section 7 specifies procedures to be followed for the abandonment of injection, production, or observational wells. Section 8 changes the fee for an application to abandon and plug a well and the fee for an application for any other proposed activity for which the Division conducts an extensive review.

(d) For Possible Action: Review of LCB File No. R081-15 regulations adopted by the Commission on Mineral Resources; Determination of Findings and Recommendations to be Reported to the Legislative Counsel

The regulation revises the form that must be used to report the plugging of certain holes or wells to the Division of Minerals; authorizes an extension of the expiration date of a permit to drill an oil or gas well; revises the requirements for obtaining approval to drill and complete a disposal well; requires the permanent plugging of certain wells; eliminates the fee for applying for a permit drill, deepen or plug back any oil or gas well; requires certain forms to be used to apply for certain approvals; eliminates the authority for an operator of a series of exploratory wells to apply to keep the wells confidential; and makes various other changes relating to oil and gas wells.

4. For Possible Action: Inclusion of Testimony and Exhibits from prior meetings into the record:

March 13, 2015 meeting
September 24, 2015 meeting
November 17, 2015 meeting

5. For Possible Action: Meeting Schedule

6. Briefing to and from Staff; Information received for requests from prior meetings; Suggestions for Future Agenda Topics

7. Commission Comments

8. Public Comment (See Note 2)

In consideration of others, who may also wish to provide public comment, please avoid repetition and limit your comments to no more than three (3) minutes.

9. For Possible Action: Adjournment

NOTE 1: Items on this agenda may be taken in a different order than listed. Items may be combined for consideration by the Commission. Items may be pulled or removed from the agenda at any time.

NOTE 2: Public comment may be made on any issue and any discussion of those items; provided that comment will be limited to areas relevant to and within the authority of the Commission. No action will be taken on any items raised in the public comment period. At the discretion of the Chairman, public comment may be received prior to action on individual agenda items. Public Comment may not be limited based on viewpoint. Prior to the commencement and conclusion of a contested case or a quasi judicial proceeding that may affect the due process rights of an individual the committee may refuse to consider public comment. See NRS 233B.126.

NOTE 3: We are pleased to make accommodations for members of the public who are disabled. Please notify the Department of Taxation in writing, at 1550 College Parkway, Carson City Nevada, 89706 or call (775) 684-2180 prior to the meeting.

NOTE 4: Materials and files for items on this agenda are maintained in the offices of the Department of Taxation located in Carson City, Nevada. Requests for copies of materials and files for items on this agenda may be made to:

Anita Moore, (775) 684-2160, Department of Taxation, 1550 College Parkway, Carson City, NV 89706

Notice of this meeting was posted to the following Carson City location: Department of Taxation, 1550 College Parkway

Notice of this meeting was faxed for posting to the following locations: Nevada State Library & Archives, 100 Stewart Street, Carson City; Legislative Building, 401 South Carson Street, Carson City; Las Vegas Library, 833 Las Vegas Blvd, Las Vegas.

Notice of this meeting was emailed for posting to the following locations: Department of Taxation, 4600 Kietzke Lane, Building L, Suite 235, Reno; Department of Taxation, 2550 Paseo Verde, Suite 180, Henderson; Department of Taxation, 555 E. Washington Street; Las Vegas; Clark County Government Center, 500 South Grand Central Parkway, Las Vegas.

Notice of this meeting was also posted on the Internet through the Department of Taxation website at <http://tax.nv.gov/> ; on the Department of Administration website at <https://notice.nv.gov/> and on the Legislative website at <https://leg.state.nv.us/App/Notice/A/>

AGENDA ITEM 3: REVIEW OF REGULATIONS

(a) For Possible Action: Review of LCB File No. R052-15 regulations adopted by the State Environmental Commission; Determination of Findings and Recommendations to be Reported to the Legislative Counsel

The regulations: (1) define “mine-impacted waters” as they relate to a permit for a mining operation from the Division of Environmental Protection; (2) require a plan for reclamation to include a description of any necessary stabilization, management, control or treatment required for mine-impacted waters; (3) provide that the Division may require the operator of a mining operation to implement measures to stabilize, manage, control or treat mine-impacted waters; (4) provide that the surety an operator files with the Division or a federal land management agency may be a cash deposit; and (5) provide that in estimating the cost of executing a plan for reclamation the operator, must, if appropriate, include certain costs associated with the stabilization, management, control and treatment of mine-impacted waters.

RE: R052-15: Bureau of Mining Regulation and Reclamation – Reclamation

The NDEP is proposing to amend Chapter 519A of the NAC to include a new section which defines “mine impacted waters.” NAC 519A.270 and NAC 519A.345 are revised to require a reclamation plan that describes the measures which may be required to stabilize, manage, control, or treat mine impacted waters from waste and development rock piles, open pit mines and underground mines. NAC 519A.360 is amended to require the costs for stabilization, management, control and treatment of mine impacted waters to be included in the reclamation project bond. It also provides authority for the NDEP to bond for long-term fluid management costs such as perpetual treatment of mine impacted waters. Clarification is provided in NAC 519A.350 to include cash deposits as an acceptable reclamation surety.

This regulation may result in operators of mining operations having to submit a higher reclamation project bond to cover costs associated with stabilization, management, control or treatment of mine impacted waters. This would currently only apply to projects located on private land as the Bureau of Land Management (BLM) has the bonding authority for projects on public lands. This regulation will not have an immediate or long-term adverse economic impact on the public. There will be no additional costs to the State for enforcement of the proposed regulation and the regulation does not overlap, duplicate or conflict with any regulations of other government agencies. The proposed regulation does not include provisions which are more stringent than a federal regulation. The proposed regulation does not impose a fee change. The proposed regulation is essential to the functions and operations of NDEP.

**REVISED PROPOSED REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION**

LCB File No. R052-15

September 9, 2015

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §1, NRS 519A.160; §2, NRS 519A.160 and 519A.230; §3, NRS 519A.140 and 519A.160; §§4 and 5, NRS 519A.160, 519A.190 and 519A.210.

A REGULATION relating to mining; revising provisions relating to a plan for reclamation; requiring an operator of a mining operation to perform certain types of reclamation; revising provisions relating to a surety for reclamation; revising the method for estimating the cost of a plan for reclamation in certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires a person who applies for a permit for a mining operation from the Division of Environmental Protection of the State Department of Conservation and Natural Resources to file with the Division a plan for the reclamation of any land damaged as a result of the mining operation. (NRS 519A.210) **Section 1** of this regulation defines “mine-impacted waters” as contaminated water resulting from a mining operation which requires stabilization, management, control or treatment. **Section 2** of this regulation requires a plan for reclamation to include a description of any necessary stabilization, management, control or treatment required for mine-impacted waters. **Section 3** of this regulation provides that the Division may require the operator of a mining operation to implement measures to stabilize, manage, control or treat mine-impacted waters. **Section 4** of this regulation provides that the surety an operator files with the Division or a federal land management agency may be a cash deposit. **Section 5** of this regulation provides that in estimating the cost of executing a plan for reclamation the operator must, if appropriate, include certain costs associated with the stabilization, management, control and treatment of mine-impacted waters.

Section 1. Chapter 519A of NAC is hereby amended by adding thereto a new section to read as follows:

“Mine-impacted waters” means any contaminated water:

1. Resulting from a mining operation, including, without limitation:

(a) An underground mine;

(b) A mine pit penetrating the water table; or

(c) Waste or development rock piles or other nonprocess components; and

2. Requiring stabilization, management, control or treatment to prevent or mitigate:

(a) The degradation of the waters of this State; or

(b) Adverse effects to the health of human, terrestrial or avian life.

Sec. 2. NAC 519A.270 is hereby amended to read as follows:

519A.270 The plan for reclamation for a mining operation must include:

1. A topographic map of the area of the operation depicting:

(a) The boundaries of the area of the operation;

(b) Surface ownership of the land within the area of the operation;

(c) The areas to be affected in sufficient detail so that they can be located from the ground;

(d) The kind of disturbances, including:

(1) Tailings impoundments;

(2) Leach pads;

(3) Waste rock dumps;

(4) Buildings;

(5) Roads; and

(6) All other surface facilities; and

(e) A description of the land within the area of operation which was affected by:

(1) An operation conducted by a previous operator and which is inactive on the date on which the application for a permit for an operation is filed;

(2) The current operator before January 1, 1981, and which is inactive on the date on which the application for a permit for an operation is filed;

(3) The current operator before January 1, 1981, and which is active on the date on which the application for a permit for an operation is filed;

(4) The current operator on or after January 1, 1981, but before October 1, 1990, and which is inactive on the date on which the application for a permit for an operation is filed; and

(5) The current operator on or after January 1, 1981, but before October 1, 1990, and which is active on the date on which the application for a permit for an operation is filed.

2. A description of any land within the area of operation:

(a) On which the operation is active on or after October 1, 1990; and

(b) Comprising access roads which were created before January 1, 1981.

3. The location of any surface water body within one-half-mile down gradient of the operation which may be impacted by excess sedimentation resulting from the mining operations.

4. An estimate of the number of acres affected by each type of disturbance.

5. A proposed productive postmining use of the land.

6. A proposed schedule of the time for initiation and completion of activities for reclamation.

7. The proposed postmining topography.

8. The technical criteria used to determine the final gradient and stability of slopes created or affected by the mining operation.

9. The proposed methods to be used in reclaiming impoundments used during the operation.
10. A statement of any constraints on the estimated time to complete reclamation caused by the residual moisture content or physical or chemical qualities of impoundments.
11. The kinds of access roads and their estimated width and length which will be built and the manner in which they will be reclaimed.
12. A description of the best management practices employed during operation and reclamation to control erosion and minimize the transport and delivery of sediment to surface water, which must be the best management practices described in the *State of Nevada Handbook of Best Management Practices* or practices equivalent thereto.
13. The proposed revegetation of the land for its postmining land use, including:
 - (a) A plan for the management of topsoil and growth medium;
 - (b) A list of each species of vegetation;
 - (c) The rate of seeding of vegetation;
 - (d) The type of fertilizer and mulch to be used;
 - (e) When the planting will occur; and
 - (f) The proposed methods to monitor and control noxious weeds as described in NAC 555.010 during reclamation.
14. The proposed disposition of:
 - (a) Buildings;
 - (b) Equipment;
 - (c) Piping;
 - (d) Scrap;

(e) Reagents; and

(f) Any other equipment and materials.

15. A description of any surface facilities such as buildings or roads which will not be reclaimed.

16. A description of any necessary monitoring and maintenance of fences, signs and other structures which will be performed by the operator on the reclaimed land.

17. A description of any reclamation which is necessary because of instream mining.

18. *A description of any necessary stabilization, management, control or treatment of mine-impacted waters.*

19. A statement of the effect that the proposed reclamation will have on future mining in the area.

~~19.~~ 20. A statement setting forth the effect that the proposed reclamation will have on public safety.

Sec. 3. NAC 519A.345 is hereby amended to read as follows:

519A.345 The Division may, if appropriate, require an operator of a mining operation to reclaim:

1. Roads and drill pads by:

(a) Recontouring or regrading to round off, cut and fill slopes to the original contour or to approximate the form of the land before its disturbance;

(b) Removing culverts;

(c) Ripping or scarifying the surface;

(d) Constructing water bars;

- (e) Revegetation; and
 - (f) Restoring or stabilizing drainage areas or streambeds.
2. Drill holes from exploration by plugging the holes with the minimum surface plug required pursuant to chapter 534 of NRS.
3. Waste and development rock piles by:
- (a) Regrading to round off sharp edges, enhance the stability, reduce susceptibility to erosion and facilitate efforts for revegetation;
 - (b) Revegetation; ~~and~~
 - (c) Diverting runoff ~~to~~; *and*
 - (d) Implementing measures to stabilize, manage, control or treat mine-impacted waters.*
4. Dams for tailings ponds by:
- (a) Covering with waste rock, topsoil or growth medium;
 - (b) Revegetation; and
 - (c) Rendering the dam incapable of storing any mobile fluid in a quantity which could pose a threat to the stability of the dam or to public safety.
5. Impoundments for tailings by:
- (a) Regrading to promote runoff and reduce infiltration;
 - (b) Covering with waste rock, topsoil or growth medium;
 - (c) Revegetation;
 - (d) Process fluid stabilization; and
 - (e) Diverting runoff.
6. Heaps from leaching by:

(a) Regrading to enhance structural stability, promote runoff, reduce infiltration and control erosion;

(b) Covering with waste rock, topsoil or growth medium;

(c) Revegetation;

(d) Process fluid stabilization; and

(e) Diverting runoff.

7. Solution ponds, settling ponds and other nontailings impoundments by:

(a) Backfilling and regrading to approximate the natural land form; and

(b) Restoring the regime of the surface water to the regime that existed before the disturbance.

8. Buildings, foundations, facilities, structures and other equipment by:

(a) Demolishing to the level of the foundation and burying the demolished items on the site in conformance with applicable requirements for the disposal of solid waste;

(b) Salvaging and sale;

(c) Disposal off of the site in conformance with applicable requirements for the disposal of solid waste; and

(d) Continuing use in a manner consistent with the postmining land use.

9. Open pit mines by:

(a) Performing activities that will provide for public safety;

(b) Stabilizing pit walls or rock faces where required for public safety;

(c) Constructing and maintaining berms, fences or other means of restricting access;

(d) ***Implementing measures to stabilize, manage, control or treat mine-impacted waters;***

(e) Creating a lake for recreational use, wildlife or other uses; and

~~(e)~~ (f) Revegetation.

↪ Reclamation of open pits or rock faces does not require backfilling although backfilling in whole or in part with waste rock from an adjacent mining operation may be encouraged if backfilling is feasible and does not create additional negative environmental impacts.

10. Underground mines by:

(a) Sealing shafts, adits, portals and tunnels to prevent access; ~~and~~

(b) Constructing and maintaining berms, fences or other means of restricting access ~~and~~; *and*

(c) *Implementing measures to stabilize, manage, control or treat mine-impacted waters.*

Sec. 4. NAC 519A.350 is hereby amended to read as follows:

519A.350 1. An operator shall file a surety with the Division or a federal land management agency, as applicable, to ensure that reclamation will be completed on privately owned and federal land. The surety may be:

(a) A trust fund;

(b) A bond;

(c) An irrevocable letter of credit;

(d) Insurance;

(e) A corporate guarantee; ~~or~~

(f) *A cash deposit; or*

(g) Any combination thereof.

2. If the surety is a trust fund:

(a) The operator shall make periodic payments to the trust fund at least annually for the term of the exploration project or mining operation.

(b) The initial payment to the trust must be:

(1) For a new exploration project or mining operation, made before the land is affected.

(2) For an exploration project or mining operation which is active on October 1, 1990, made within 60 days after the operator receives a permit from the Division.

(c) The balance of the trust fund must be sufficient at all times to satisfy the requirements of NAC 519A.360.

3. If the surety is the bond of a corporation:

(a) It must state that the operator shall faithfully perform all requirements of the permit issued by the Division.

(b) The corporation must be licensed to do business in the State of Nevada.

4. The operator may provide evidence of a surety provided by the program for the pooling of reclamation performance bonds developed by the Division of Minerals of the Commission on Mineral Resources pursuant to NRS 519A.290.

5. If the surety is an irrevocable letter of credit, the letter of credit must:

(a) Be executed and issued by a bank authorized and doing business in the State of Nevada or a correspondent bank which is authorized to do business in the State of Nevada.

(b) Be made at the request of the operator.

(c) State that the issuing bank will honor drafts for payment upon compliance with the terms of the credit.

(d) Be irrevocable and issued for at least 1 year.

↪ The operator shall notify the Division at least 60 days before the expiration of the letter of credit. The notice must state whether it will be renewed or replaced with another form of surety.

6. If the surety is insurance:

(a) The policy must guarantee the performance of each reclamation obligation and permitting requirement of the operator if the operator defaults on any such obligation or requirement.

(b) The insurance company issuing the policy must be authorized to conduct the business of insurance in the State of Nevada.

(c) The insurance company issuing the policy must have a superior financial strength rating and a superior credit rating as determined by A.M. Best Company of Oldwick, New Jersey, or equivalent ratings from a nationally recognized insurance rating service.

(d) The policy must provide for a financial guarantee which satisfies the requirements of NAC 519A.360 and which is available at all times if the operator defaults on any reclamation obligation or permitting requirement.

7. If the surety is a corporate guarantee:

(a) Not more than 75 percent of the required surety may be satisfied by the corporate guarantee, which is subject to periodic review and approval by the Administrator of the Division. The remaining portion of the surety must be satisfied by a surety identified in this section.

(b) The audited financial statements of the corporation must indicate that the corporation has two of the following three ratios:

(1) A ratio of total liabilities to stockholder's equity less than 2 to 1.

(2) A ratio of the sum of net income plus depreciation, depletion and amortization to total liabilities greater than 0.1 to 1.

- (3) A ratio of current assets to current liabilities greater than 1.5 to 1.
- (c) The net working capital and tangible net worth each must equal or exceed the amount established for reclamation pursuant to NAC 519A.360.
- (d) The tangible net worth must be at least \$10,000,000.
- (e) Ninety percent of the assets of the corporation must be:
 - (1) Located in the United States; or
 - (2) At least six times the amount established pursuant to NAC 519A.360.

8. *If the surety is a cash deposit:*

(a) The deposit must be deposited with and held in trust by the State Treasurer. Any interest earned on the deposits must be credited to the trust. The State Treasurer may release the deposit either in whole or in part to the operator or the Division only upon receipt of a written request from the Administrator or his or her designee.

(b) The deposit must be sufficient to satisfy the requirements of NAC 519A.360 and the Division shall determine the portion of the deposit to be allocated as the surety for each individual exploration project or mining operation.

9. Any financial information submitted to the Division pursuant to this section must be prepared in accordance with accounting principles that are generally accepted in the United States.

Sec. 5. NAC 519A.360 is hereby amended to read as follows:

519A.360 1. The operator shall provide surety in an amount sufficient to ensure reclamation of:

- (a) The entire area to be affected by his or her project or operation; or

(b) A portion of the area to be affected if, as a condition of the issuance of the permit, filing additional surety is required before the operator disturbs land not covered by the initial surety.

2. The amount of surety required must be based on an estimate of the cost of executing the plan for reclamation which would be incurred by the state or federal agency having jurisdiction over the land.

3. The operator's estimate of the cost for reclamation must be based on either:

(a) The costs of equipment rental, operation and labor which are appropriate for the geographic area undergoing reclamation and which would otherwise be incurred by a third-party contractor who performed the reclamation;

(b) Estimated costs provided by an outside contractor; or

(c) Any other method which is acceptable to the Administrator, the Bureau of Land Management, the United States Forest Service or another federal land management agency, if applicable.

4. In determining the cost of executing the plan for reclamation, the operator shall consider all activities in the plan for reclamation that are required by NAC 519A.010 to 519A.415, inclusive, *and section 1 of this regulation*, or chapter 519A of NRS, including, if appropriate:

(a) Earth moving, regrading, stabilization of heaps and dumps, recontouring of roads and erosion control;

(b) Process fluid stabilization;

(c) *Stabilization, management, control and treatment of mine-impacted waters;*

(d) Revegetation, preparation of seedbed and planting;

~~(d)~~ (e) Demolition of buildings and other structures;

~~(e)~~ (f) Removal and disposal or salvage of buildings, structures, equipment, piping, scrap and reagents;

~~(f)~~ (g) Any ongoing or long-term activities which are required to ~~maintain~~ :

(1) *Maintain* the effectiveness of reclamation or are necessary in lieu of reclamation ~~(f)~~ ;

or

(2) *Ensure the continuation of post-reclamation stabilization, management, control and treatment of mine-impacted waters to protect the waters of this State,*

↳ including , *without limitation,* periodic clean-out of sediment basins *and ponds used to collect mine-impacted waters* or maintenance of berms and fences which are used to prevent access to areas which pose a threat to the public safety;

~~(g)~~ (h) Equipment mobilization and demobilization; and

~~(h)~~ (i) Administration and management by the Division, the Bureau of Land Management, the United States Forest Service and another federal land management agency, if applicable.

5. In determining the cost of executing the plan for reclamation, the operator shall not consider the cost of any activity not included in the plan for reclamation or not required by NAC 519A.010 to 519A.415, inclusive, *and section 1 of this regulation,* or chapter 519A of NRS. This subsection does not limit in any way the authorities of the Bureau of Land Management, the United States Forest Service or another federal land management agency to require surety for purposes other than those of NAC 519A.010 to 519A.415, *and section 1 of this regulation,* inclusive, and chapter 519A of NRS.

AGENDA ITEM 3: REVIEW OF REGULATIONS

(b) For Possible Action: Review of LCB File No. R056-15 regulations adopted by the Commission on Mineral Resources; Determination of Findings and Recommendations to be Reported to the Legislative Counsel

Section 1 of the regulations establish fees for a permit to drill and operate an hydraulically fractured oil or gas well; non-hydraulically fractured oil or gas well; and fees for a request to change the terms of an existing permit to drill and operate an oil or gas well. Section of the regulations increases existing fees from 15 cents to 20 cents for each barrel of oil or each 50,000 cubic feet of natural gas produced from a well.

NOTICE OF ADOPTION OF REGULATION

**THE NEVADA DIVISION OF MINERALS
OF THE COMMISSION ON MINERAL RESOURCES
ADOPTED A REGULATION ASSIGNED LCB FILE NO. R056-15
THAT PERTAIN TO
CHAPTERS 522 OF THE NEVADA ADMINISTRATIVE CODE
(OIL and GAS)
ON
NOVEMBER 5, 2015**

**PROPOSED REGULATION OF THE
COMMISSION ON MINERAL RESOURCES**

LCB File No. R056-15

September 11, 2015

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §1, NRS 522.050, as amended by section 1.5 of Senate Bill No. 44, chapter 36, Statutes of Nevada 2015, at page 173; §2, NRS 522.150, as amended by section 2 of Senate Bill No. 44, chapter 36, Statutes of Nevada 2015, at page 174.

A REGULATION relating to natural resources; establishing fees for drilling and operating an oil or gas well; revising the administrative fee that each producer of oil or natural gas must pay; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Commission on Mineral Resources to prescribe by regulation fees for a permit to drill and operate an oil or gas well and for a request to change the terms of an existing permit. The limit for: (1) a permit to drill and operate an oil or gas well that is not intended to be hydraulically fractured is \$2,000; (2) a permit to drill and operate an oil or gas well that is intended to be hydraulically fractured is \$5,000; and (3) for a request to change the terms of an existing permit to drill and operate an oil or gas well is \$400. (NRS 522.050, as amended by section 1.5 of Senate Bill No. 44, chapter 36, Statutes of Nevada 2015, at page 173) **Section 1** of this regulation establishes such fees.

Existing law requires the Commission to prescribe by regulation administrative fees that must be paid by each producer of oil or natural gas in this State. The administrative fees may not exceed 30 cents for each barrel of oil or each 50,000 cubic feet of natural gas produced from a well in this State. (NRS 522.150, as amended by section 2 of Senate Bill No. 44, chapter 36, Statutes of Nevada 2015, at page 174) **Section 2** of this regulation increases the existing fees from 15 cents to 20 cents for each barrel of oil or each 50,000 cubic feet of natural gas produced from a well in this State.

Section 1. NAC 522.212 is hereby amended to read as follows:

522.212 ~~{The amount of the fee that a}~~

1. A person desiring to drill ~~[a well in search of]~~ *and operate an* oil or gas *well* must pay ~~[pursuant to subsection 1 of NRS 522.050 for a permit is \$200.]~~ *to the Division a fee according to the following schedule:*

<i>Depth (feet)</i>	<i>Conventional well on public or private land</i>	<i>Hydraulic fracturing well on federally owned land</i>	<i>Hydraulic fracturing well on private or State-owned land</i>
<i>0-4,999</i>	\$500 <i>1,000</i>	<i>\$3,500</i>	<i>\$4,500</i>
<i>5,000-10,000</i>	<i>1,000</i>	<i>3,500</i>	<i>4,500</i>
<i>more than 10,000</i>	1,500 <i>1,000</i>	<i>3,500</i>	<i>4,500</i>

2. *An application to reclassify a well from a conventional well for which a permit to drill or operate has been issued to a hydraulic fracturing well must be accompanied by a fee in an amount equal to the difference between the fee for a permit to drill or operate a conventional well and the fee for a permit to drill or operate a hydraulic fracturing well, according to the fee schedule prescribed in subsection 1.*

3. *An application to change the terms of a permit to drill or operate a conventional well or hydraulic fracturing well after the well has been drilled must be submitted on Form 4 and accompanied by a fee of:*

- (a) For administrative changes, one hundred dollars; or*
- (b) For all other changes, \$300.*

4. *As used in this section:*

(a) “Conventional well” means an oil or gas well that is not intended to be hydraulically fractured.

(b) “Hydraulic fracturing well” means an oil or gas well that is intended to be hydraulically fractured.

Sec. 2. NAC 522.342 is hereby amended to read as follows:

522.342 1. The amount of the administrative fee that a producer or purchaser of oil or natural gas must pay pursuant to subsection 2 of NRS 522.150 is ~~15~~²⁰ 15 cents per barrel of oil or per 50,000 cubic feet of natural gas, as appropriate.

2. The administrative fee must be paid on or before the last day of each month and must be prorated to reflect the amount of oil or natural gas produced during the preceding month.

AGENDA ITEM 3: REVIEW OF REGULATIONS

(c) For Possible Action: Review of LCB File No. R057-15 regulations adopted by the Commission on Mineral Resources; Determination of Findings and Recommendations to be Reported to the Legislative Counsel

Section 2 of the regulations provides that the location of an individual geothermal well or wells in a project area must be surveyed by a professional land surveyor. Section 3 increases the annual fee required of the owner of a geothermal resource or the operator of a geothermal production well or injection well. An annual fee is also required of the owner or operator of an observational well or a thermal gradient well unless it is plugged and abandoned. Section 4 specifies the required format for copies of electronic logs for geothermal wells. Section 5 deletes provisions requiring annual filing of certain reports specifying the production and temperature of a geothermal resource or a producing domestic well. Section 6 specifies procedures to be followed for the abandonment of a thermal gradient well. Section 7 specifies procedures to be followed for the abandonment of injection, production, or observational wells. Section 8 changes the fee for an application to abandon and plug a well and the fee for an application for any other proposed activity for which the Division conducts an extensive review.

NOTICE OF ADOPTION OF REGULATION

**THE NEVADA DIVISION OF MINERALS
OF THE COMMISSION ON MINERAL RESOURCES
ADOPTED A REGULATION ASSIGNED LCB FILE NO. R057-15
THAT PERTAIN TO
CHAPTERS 534A OF THE NEVADA ADMINISTRATIVE CODE
(GEOTHERMAL RESOURCES)**

ON

NOVEMBER 5, 2015

**PROPOSED REGULATION OF THE
COMMISSION ON MINERAL RESOURCES**

LCB File No. R057-15

September 14, 2015

EXPLANATION – Matter in *italics* is new; matter in brackets [~~omitted material~~] is material to be omitted.

AUTHORITY: §§1, 2 and 4-7, NRS 534A.090; §§3 and 8, NRS 534A.080 and 534A.090.

A REGULATION relating to geothermal resources; requiring certain locations with geothermal resources to be surveyed by a professional land surveyor; revising the amount of annual fees required from the owner or operator of a geothermal resource or geothermal well; specifying the format for certain electronic logs; eliminating the requirement for an owner of a geothermal resource or operator of a producing domestic well to file certain reports with the Division of Minerals of the Commission on Mineral Resources; revising requirements for the abandonment of geothermal wells; revising the amount of fees required when submitting to the Division an application to engage in certain activities involving geothermal resources; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes the Commission on Mineral Resources to adopt regulations relating to geothermal resources. (NRS 534A.090)

Under existing law, the location of an individual geothermal well or the geothermal wells in a project area must be surveyed by a state water right surveyor. (NAC 534A.205) **Section 2** of this regulation changes that requirement so that such locations must be surveyed by a professional land surveyor.

Existing regulation requires the owner of a geothermal resource or the operator of a geothermal production well or geothermal injection well to submit to the Division of Minerals of the Commission an annual fee of \$475 for each well which produced or was used to dispose of fluids derived from geothermal resources into an underground reservoir during the previous year. (NAC 534A.214) **Section 3** of this regulation increases that fee to \$600 and provides that the fee must be paid only for industrial or commercial wells. The fee is not required for an industrial well if no power is generated at the well and any production by the well was only for the purpose of testing the well. **Section 3** also requires that the owner or operator of an observational well or a thermal gradient well must submit to the Division an annual fee of \$100 for each such well unless the well has been abandoned and plugged.

Section 4 of this regulation specifies the required format for copies of electronic logs that must be submitted to the Division by the operator of a geothermal well. (NAC 534A.350)

Section 5 of this regulation deletes provisions requiring annual filing with the Division of certain reports specifying the production and temperature of a geothermal resource or a producing domestic well, whether the geothermal resource or domestic well was in use during the preceding year and any other information required by the Division. (NAC 534A.410) **Section 1** of this regulation makes a conforming change.

Existing regulation specifies procedures that must be followed when a thermal gradient well or an observational well is abandoned. (NAC 534A.480) Under **section 6** of this regulation, those procedures will be required only for the abandonment of a thermal gradient well.

Existing regulation specifies procedures that must be followed when an injection well is abandoned. (NAC 534A.490) Under **section 7** of this regulation, those procedures also will be required for the abandonment of a production well or an observational well.

Existing regulation requires the owner or operator of a geothermal resource to pay a fee of either \$300 or \$100 when submitting to the Division an application to engage in various activities involving the well. (NAC 534A.540) **Section 8** of this regulation changes the fee for an application to abandon and plug a well from \$300 to \$100. **Section 8** also changes the fee for an application for any other proposed activity for which the Division conducts an extensive review from \$100 to \$300.

Section 1. NAC 534A.180 is hereby amended to read as follows:

534A.180 1. Only the provisions of NAC 534A.170 to 534A.690, inclusive, listed below apply to domestic geothermal wells:

- (a) NAC 534A.190;
- (b) NAC 534A.210;
- (c) NAC 534A.220;
- (d) Subsection 1 of NAC 534A.260;
- (e) Subsection 1 of NAC 534A.270;
- (f) NAC 534A.280;
- (g) NAC 534A.310;
- (h) Subsection 2 of NAC 534A.330;

(i) NAC 534A.340;

(j) ~~Subsection 2 of NAC 534A.410;~~

~~(k)~~ NAC 534A.470;

~~(l)~~ ~~(k)~~ NAC 534A.490 (except subsection 9);

~~(m)~~ ~~(l)~~ NAC 534A.500;

~~(n)~~ ~~(m)~~ Subsections 5 and 6 of NAC 534A.540;

~~(o)~~ ~~(n)~~ NAC 534A.550; and

~~(p)~~ ~~(o)~~ NAC 534A.590 to 534A.690, inclusive.

2. All provisions of NAC 534A.170 to 534A.690, inclusive, apply to commercial wells except:

(a) Paragraph (a) of subsection 1 of NAC 534A.200 (exemption applies to nonprofit organizations only);

(b) Subsections 2, 3 and 4 of NAC 534A.270;

(c) NAC 534A.300;

(d) NAC 534A.320; and

(e) Subsection 9 of NAC 534A.490.

3. Except as otherwise specifically provided in NAC 534A.170 to 534A.690, inclusive, all of the provisions apply to industrial wells.

Sec. 2. NAC 534A.205 is hereby amended to read as follows:

534A.205 1. Except as otherwise provided in subsection 3, the location of an individual geothermal well or the geothermal wells in a project area must be surveyed by a ~~state-water~~ ~~right~~ *professional land* surveyor ~~who is licensed pursuant to chapter 625 of NRS.~~

2. Except as otherwise provided in subsection 3, a certified plat of the location must be filed with the Division within 30 days after the completion of the construction of the well. The plat must:

- (a) Be of a standard size;
- (b) Show the location of any designated lots; and
- (c) Contain a description of the location of the proposed well:
 - (1) Within a 40-acre legal subdivision; or
 - (2) Which includes an accurate course and distance tied to an established corner of a section or quarter section and a full description of the corner to which the tie is made, together with all markings thereon.

3. The provisions of this section do not apply to a thermal gradient well.

Sec. 3. NAC 534A.214 is hereby amended to read as follows:

534A.214 On or before January 31 of each year ~~[, the]~~:

1. The owner of the geothermal resource or the operator of ~~[a]~~an industrial or commercial geothermal production well or geothermal injection well shall submit to the Division a fee of ~~[\$475]~~\$600 for each well which produced or was used to dispose of fluids derived from geothermal resources into an underground reservoir during the preceding calendar year. The provisions of this subsection do not apply to an industrial well which produced fluids during the preceding calendar year if no power was generated at the well and the production was only for the purpose of testing the well.

2. The owner or operator of a thermal gradient or an observational well shall submit to the Division a fee of \$100 for each such well unless the well has been abandoned and plugged.

Sec. 4. NAC 534A.350 is hereby amended to read as follows:

534A.350 1. The operator shall, within 60 days after the completion or cessation of drilling, file with the Division the electrical logs required to be kept. *The filing must include, without limitation, two printed copies, one digital copy and one copy in LASer (LAS) file format.*

2. The operator shall, within 60 days after the removal of the rig, file with the Division all required logs not already filed pursuant to subsection 1, the record of the core, the history of the well and the summary.

Sec. 5. NAC 534A.410 is hereby amended to read as follows:

534A.410 ~~[[~~ The owner of a geothermal resource or the operator of a producing industrial or commercial well shall file, on a form provided by the Division, a monthly report of production and temperature on or before the last day of each month for the preceding month.

~~[2. The owner of a geothermal resource or the operator of a producing domestic well shall file, on a form provided by the Division, a report of production and temperature on or before January 31 of the year immediately following the first full calendar year in which the geothermal resource or domestic well was in use. On or before January 31 of each year thereafter, the owner or operator shall file, on a form provided by the Division, a report which indicates whether the geothermal resource or domestic well was in use during the preceding year. The Division may require such additional information as the Administrator determines is necessary to carry out the provisions of chapter 534A of NRS.]~~

Sec. 6. NAC 534A.480 is hereby amended to read as follows:

534A.480 For abandonment of a thermal gradient ~~[or an observational]~~ well, the following provisions apply:

1. If the well was drilled with air and no water was encountered, the hole must be backfilled with cuttings and a cement plug 50 feet long must be placed at the top of the well.

2. If the well was drilled with mud, the bore must be filled with mud, and a cement plug of 50 lineal feet must be placed at the top of the well.

3. The surface must be restored as near as practicable to its original condition.

Sec. 7. NAC 534A.490 is hereby amended to read as follows:

534A.490 For abandonment of a geothermal ~~for~~*production*, injection *or observational* well, the following provisions apply:

1. Cement used to plug the well, except cement used for surface plugging, must be placed in the hole by pumping through drill pipe or tubing. The cement must consist of a mix which resists high temperatures.

2. Cement plugs must be placed in the uncased portion of wells to protect all subsurface resources. These plugs must extend a minimum of 100 lineal feet above the producing formations and 100 lineal feet below the producing formations or to the total depth drilled, whichever is less. Cement plugs must be placed to isolate formations and to protect the fluids in those formations from interzonal migration.

3. Where there is an open hole, a cement plug must be placed in the deepest casing string by:

(a) Placing a cement plug across the guide shoe extending a minimum of 100 lineal feet above and below the guide shoe, or to the total depth drilled, whichever is less; or

(b) Setting a cement retainer with effective control of back pressure approximately 100 lineal feet above the guide shoe, with at least 200 lineal feet of cement below, or to the total depth drilled, whichever is less, and 100 lineal feet of cement above the retainer.

4. If there is a loss of drilling fluids into the formation or such a loss is anticipated or if the well has been drilled with air or another gaseous substance, a permanent bridge plug must be set at the casing shoe and capped with a minimum of 200 lineal feet of cement.

5. A cement plug must be placed across perforations, extending 100 lineal feet below, or to the total depth drilled, whichever is less, and 100 lineal feet above the perforations. When a cement retainer is used to squeeze cement into or across the perforations, the retainer must be set a minimum of 100 lineal feet above the perforations. Where the casing contains perforations at or below debris or collapsed casing, which prevents cleaning, a cement retainer must be set at least 100 lineal feet above that point, and cement must be squeezed in the interval below the retainer.

6. The approval of the Administrator must be obtained before casing is cut and recovered. A cement plug must be placed in such a manner as to isolate all uncased intervals and guide shoes that are not protected by an inner string of casing. The plug must extend a minimum of 50 feet above and below any such interval or guide shoe.

7. All annular spaces extending to the surface must be plugged with cement.

8. The innermost string of casing which reaches ground level must be cemented to a minimum depth of 50 feet below the top of the casing.

9. The hardness and location of cement plugs placed across perforated intervals and at the top of uncased or open holes must be verified by setting down with tubing or drill pipe a minimum weight of 15,000 pounds on the plug or, if less than 15,000 pounds, the maximum weight of the available tubing or drill pipe string. If a cement retainer or bridge plug is used to set the bottom plug, a test is not required for that interval.

10. The surface must be restored as near as practicable to its original condition.

11. Any interval that is not filled with cement must be filled with good quality, heavy drilling fluids.

Sec. 8. NAC 534A.540 is hereby amended to read as follows:

534A.540 1. A person shall not engage in an activity listed in subsection 3 or 4 without the permission of the Division.

2. The owner of the geothermal resource or operator shall submit an application for permission to engage in an activity listed in subsection 3 or 4 on Form 4 (Sundry Notices and Reports on Wells). Upon request, the Administrator may, as he or she deems appropriate in extraordinary circumstances, grant oral permission to engage in an activity listed in subsection 3 or 4. Oral permission to engage in an activity listed in subsection 3 or 4 does not relieve the owner of the geothermal resource or operator of his or her obligation to submit an application pursuant to this section.

3. The fee is \$300 to file an application for permission to engage in any one of the following activities:

- (a) Increasing the depth of a well;
- (b) Testing of water shut-off;
- (c) Entering or opening a plugged well;
- (d) Shooting, acidizing or fracture treating;
- (e) ~~Abandoning and plugging a well;~~
- ~~(f)~~ Drilling in a direction which is not intended to be vertical, including directional drilling;
- ~~(g)~~ ~~(f)~~ Changing the construction of a hole or well, including:
 - (1) Placing a plug in the hole or well; and
 - (2) Recovering or altering the casing;

~~[(h)]~~(g) Conducting a major work over or cleaning of a well; and

~~[(i)]~~(h) Any other proposed activity for which the Division:

(1) *Conducts an extensive review;*

(2) Conducts a field inspection; or

~~[(2)]~~(3) Evaluates information or documentation regarding the construction of a hole or

well.

4. The fee is \$100 to file an application for permission to engage in any one of the following activities:

(a) Extending a permit;

(b) Changing the ownership of a well;

(c) Changing the status of a well;

(d) Changing the name of a well;

(e) Changing the location of a proposed well; and

(f) ~~[Any other proposed activity for which the Division conducts an extensive review.]~~

Abandoning and plugging a well.

5. The owner of the geothermal resource or operator shall report to the Division any progress regarding or the completion of an activity for which permission was required pursuant to this section and any supplemental history of the well.

6. In the case of a domestic well, the owner of the geothermal resource or the operator shall:

(a) Not engage in an activity listed in paragraph (a) ~~[(f)]~~ or (c) ~~[(e)]~~ or ~~[(f)]~~ of subsection 3, subparagraph (1) of paragraph ~~[(g)]~~(f) of subsection 3 or paragraph (f) of subsection 4 without the permission of the Division; and

(b) Submit to the Division an application for permission to engage in an activity listed in paragraph (a) ~~or~~ (c) ~~or (e) or~~ *of subsection 3*, subparagraph (1) of paragraph ~~(g)~~ *(f)* of subsection 3 ~~or~~ *paragraph (f) of subsection 4*. The owner or operator shall file the application on Form 4 (Sundry Notices and Reports on Wells) and is not required to pay a fee to file.

7. The Division may, as it deems appropriate, observe and release information which is not confidential regarding activities for which permission was required pursuant to this section.

AGENDA ITEM 3: REVIEW OF REGULATIONS

(d) For Possible Action: Review of LCB File No. R081-15 regulations adopted by the Commission on Mineral Resources; Determination of Findings and Recommendations to be Reported to the Legislative Counsel

The regulation revises the form that must be used to report the plugging of certain holes or wells to the Division of Minerals; authorizes an extension of the expiration date of a permit to drill an oil or gas well; revises the requirements for obtaining approval to drill and complete a disposal well; requires the permanent plugging of certain wells; eliminates the fee for applying for a permit drill, deepen or plug back any oil or gas well; requires certain forms to be used to apply for certain approvals; eliminates the authority for an operator a series of exploratory wells to apply to keep the wells confidential; and makes various other changes relating to oil and gas wells.

NOTICE OF ADOPTION OF REGULATION

**THE NEVADA DIVISION OF MINERALS
OF THE COMMISSION ON MINERAL RESOURCES
ADOPTED A REGULATION ASSIGNED LCB FILE NO. R081-15
THAT PERTAIN TO
CHAPTERS 522 OF THE NEVADA ADMINISTRATIVE CODE
(OIL and GAS)
ON
NOVEMBER 5, 2015**

**PROPOSED REGULATION OF THE DIVISION OF MINERALS
OF THE COMMISSION ON MINERAL RESOURCES**

LCB File No. R081-15

September 11, 2015

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: §§1-15, NRS 522.040.

A REGULATION relating to natural resources; revising the form that must be used to report the plugging of certain holes or wells to the Division of Minerals of the Commission on Mineral Resources; authorizing an extension of the expiration date of a permit to drill an oil or gas well; revising the requirements for obtaining approval to drill and complete a disposal well; requiring the permanent plugging of certain wells; eliminating the fee for applying for a permit to drill, deepen or plug back any oil or gas well; requiring certain forms to be used to apply for certain approvals; eliminating the authority for an operator of a series of exploratory wells to apply to keep the wells confidential; making various other changes relating to oil and gas wells; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law: (1) requires the Division of Minerals of the Commission on Mineral Resources to adopt regulations to effectuate the purposes of chapter 522 of NRS; and (2) authorizes the Division to require certain persons to file reports, logs and surveys relating to oil and gas wells. (NRS 522.040) This regulation makes a number of changes to regulations relating to the drilling and operation of oil and gas wells.

Sections 1 and 7 of this regulation revise the form that must be used to report to the Division the plugging of certain holes or wells.

Section 2 of this regulation eliminates outdated language from provisions relating to the tentative approval of certain requests or plan.

Existing regulations provide that a permit to drill or deepen a well for oil or gas expires 24 months after the date of issue unless operations have commenced and the operator is proceeding with due diligence. (NAC 522.220) **Section 3** of this regulation authorizes the Division to grant an extension to this deadline.

Existing regulations require that any person who wants to disposal of salt water, brackish water or other water unfit for domestic use or for livestock, irrigation or other use through the use of a disposal well be approved by the Administrator of the Division. (NAC 522.380) **Section**

5 of this regulation adds a requirement that a person also obtain a permit from the State Department of Conservation and Natural Resources that authorizes the person to inject fluids through a well.

Existing regulations require a well in which production casing has been run but which has not been operated for 1 year, and each well in which no production casing has been run and for which drilling operations have ceased for 30 days, to be immediately plugged. (NAC 522.430) **Section 6** of this regulation adds a requirement that such a well also be permanently plugged. Existing regulation also authorize the Administrator to grant a 6-month extension to the immediate plugging of the well for good cause. (NAC 522.430) **Section 6** authorizes the Administrator to grant such an extension for not more than 1 year.

Section 10 of this regulation eliminates the \$50 fee for an application for a permit to drill, deepen or plug back any oil or gas well.

Section 12 of this regulation requires a person use a particular form to notify the Division and request its approval of or for: (1) an intention to deepen or plug back a well that has been drilled; (2) an extension of the deadline prescribed in subsection 1 of NAC 522.220; (3) an intention to change the location of a well for which a permit to drill and operate has been issued but on which drilling has not yet begun; (4) an intention to begin major maintenance or cleaning of a well; (5) an intention to change the activity status of a well; (6) a change in the name of a well; (7) a change in the owner or operator of a well; and (8) any other proposed activity for which the Division conducts an extensive review.

Section 13 of this regulation revises the requirements for filing a well completion report.

Section 14 of this regulation eliminates the authority for an operator who plans to drill a series of exploratory wells within a given region or area to apply to the Division to have the records for all his or her exploratory wells kept confidential.

Section 15 of this regulation repeals certain forms that are used to make reports to the Division. **Sections 4, 8 and 9** of this regulation make conforming changes.

Section 1. Chapter 522 of NAC is hereby amended by adding thereto a new section to read as follows:

Form 12 must be used to provide the record of plugging a hole or well that is required pursuant to NAC 522.465.

Sec. 2. NAC 522.195 is hereby amended to read as follows:

522.195 If the Division gives tentative approval of ~~an oral or telegraphed~~ a request or plan, the person requesting the approval must promptly submit the request or plan in writing on the proper form for final approval and confirmation by the Division.

Sec. 3. NAC 522.220 is hereby amended to read as follows:

522.220 ~~Unless~~

1. Except as otherwise provided in subsection 2, unless operations have been commenced and the operator is proceeding with due diligence, a permit to drill or deepen a well for oil or gas expires 24 months after the date of issue.

2. The Division may grant an extension of the deadline prescribed in subsection 1.

Sec. 4. NAC 522.250 is hereby amended to read as follows:

522.250 1. Each well which is being drilled or is capable of producing must be identified by a sign posted on the derrick or not more than 100 feet from the well.

2. The sign must be of durable construction. The lettering must be kept in legible condition and be large enough to be legible under normal conditions at a distance of 50 feet. The wells on each lease or property must be numbered in nonrepetitive, logical and distinctive sequence. Each sign must show the number of the well, the name of the lease, which must be different and distinctive for each lease, the name of the lessee, owner or operator and the location by quarter section, township and range.

3. The Division will assign to each well an identification number of the American Petroleum Institute when the drilling permit is approved. This number must be used for identification in:

(a) Electronic data processing; and

(b) The forms listed in NAC 522.480 to ~~522.530,~~522.520, inclusive, *and section 1 of this regulation*, which must also show the name of the company, the number of the lease and the number of the well.

Sec. 5. NAC 522.380 is hereby amended to read as follows:

522.380 1. ~~[The underground disposal]~~*A person who wishes to dispose* of salt water, brackish water or other water unfit for domestic use or for livestock, irrigation or other use ~~[is permitted only upon approval of]~~*with a disposal well must obtain:*

(a) Approval to drill and complete the disposal well from the Administrator ~~[.];~~ *and*

(b) A permit from the State Department of Conservation and Natural Resources pursuant to NRS 445A.300 to 445A.730, inclusive, that authorizes the person to inject fluids through a well.

2. Disposal wells must be cased and the casing cemented in such a manner that no damage is caused to fresh water, oil, gas or other minerals. All injection must be through tubing and below the packer unless another means is approved by the Administrator.

3. The application ~~[to dispose of]~~*for approval to drill and complete a disposal well for* salt water, brackish water or other water unfit for domestic use or for livestock, irrigation or other use must be verified by the applicant and filed in duplicate with the Division. The application must include:

(a) A plat showing the location of each disposal well and the location of all oil and gas wells, including abandoned wells, wells being drilled and dry holes, and the names of lessees of record of land within one-half mile of the proposed disposal well;

(b) The formation and depths to which all wells are currently completed;

(c) The name, description and depth of the formation into which water is to be injected;

- (d) Logs of each disposal well, or a description of the typical stratigraphic level of the disposal formation in each disposal well;
- (e) A description of the casings in each disposal well of the proposed casing program, and the proposed method for testing the casings before use of each disposal well;
- (f) A statement specifying the source of water to be injected;
- (g) The estimated minimum and maximum amount of water to be injected daily;
- (h) The estimated minimum injection pressure; and
- (i) The names and addresses of the operator of the project.

Sec. 6. NAC 522.430 is hereby amended to read as follows:

522.430 1. Each well in which production casing has been run but which has not been operated for 1 year, and each well in which no production casing has been run and for which drilling operations have ceased for 30 days, must be ~~immediately and~~ *permanently* plugged.

2. The Administrator may, for good cause, grant ~~[an additional 6 months]~~ *an extension of not more than 1 year* ~~extensions of up to one year~~ for the well to be plugged.

3. A request for an extension must be submitted on Form 4.

Sec. 7. NAC 522.465 is hereby amended to read as follows:

522.465 Within 30 days after the plugging of a hole or well, a record of the plugging must be submitted to the Division on Form ~~[4.]~~ *12.*

Sec. 8. NAC 522.480 is hereby amended to read as follows:

522.480 1. All producers, transporters, storers and handlers of crude petroleum oil and natural gas in Nevada shall keep, for at least 5 years, appropriate books and records covering their operations in Nevada to substantiate the reports required by NAC 522.480 to ~~[522.530,]~~ *522.520*, inclusive ~~[,]~~ *and section 1 of this regulation.*

2. The Division may require additional reports, data or other information on the production, transportation, storage or handling of crude petroleum oil or natural gas in Nevada if it is necessary or desirable to prevent waste and conserve natural resources.

Sec. 9. NAC 522.485 is hereby amended to read as follows:

522.485 Where the provisions of this chapter require forms to be filed, the forms listed in NAC 522.490 to ~~522.530,~~ **522.520**, inclusive, ~~for other approved machine accounting forms,~~ **and section 1 of this regulation**, may be filed. ~~Applicable forms of the United States Geological Survey may be filed in place of Forms 4, 5 and 7A.*~~

~~—*(See agency for forms.)~~

Sec. 10. NAC 522.495 is hereby amended to read as follows:

522.495 1. A person who desires to drill ~~deepen or plug back~~ any oil or gas well must file Form 2, properly completed, with the Division. ~~A fee of \$50 and a location plat must accompany the application for a permit to drill. No additional fee or location plat is required to deepen or plug back a well which has been drilled.~~

2. The location plat required by this section must be of convenient size, and must have the location of the proposed well within a 40-acre legal subdivision by an accurate course and distance tie to an established corner of a section or quarter section. The plat must contain a full description of the corner to which the tie is made, together with all markings thereon. Ties to offset section or quarter corners on township lines must also show the nearest corner of the adjoining township together with the offset distance. Lots within a lotted section must be shown and designated. The plat must indicate the method used in obtaining all bearings and must show the declination used for compass bearings and the source of the bearing if an angle is turned from

a line of known bearing. The person who prepares the plat must note on the plat whether solar or polaris observations have been used.

Sec. 11. NAC 522.500 is hereby amended to read as follows:

522.500 1. Form 3, ~~[*]~~ properly prepared, must accompany the bond required by NAC 522.230 for the drilling of a single well.

2. Form 3a, ~~[*]~~ properly prepared, must accompany the bond required by NAC 522.230 for the drilling of more than one well.

~~[(See agency for form.)]~~

Sec. 12. NAC 522.505 is hereby amended to read as follows:

522.505 1. Form 4 must be used to:

(a) Notify the Division and request its approval of ~~[-]~~ *or for:*

- (1) A change of *drilling* plans.
- (2) A test of water shutoff.
- (3) A reentering or reopening of a plugged hole.
- (4) A shooting, acidizing or fracture treating.
- (5) A pulling or altering of casing.
- (6) An intention to abandon a well.
- (7) *An intention to deepen or plug back a well that has been drilled.*
- (8) *Extending the deadline prescribed in subsection 1 of NAC 522.220.*
- (9) *An intention to change the location of a well for which a permit to drill and operate has been issued but on which drilling has not yet begun.*
- (10) *An intention to begin major maintenance or cleaning of a well.*
- (11) *An intention to change the activity status of a well, excluding the intention to shut a well in for no longer than 30 days.*

(12) A change in the name of a well.

(13) A change in the owner or operator of a well.

(14) Any other proposed activity for which the Division conducts an extensive review.

↳ Permission in advance does not relieve the operator of the requirement to file the notice.

(b) Report, *without the requirement of Division approval, subsequent* progress or completion of the activities designated in paragraph (a).

(c) Report, *without the requirement of Division approval, the supplemental history of a well, including activities not designated in paragraph (a) which are temporary and do not change the terms of the permit.*

2. The presence of a representative of the Division at the scene of any of the activities required to be reported on Form 4 or any approval of an activity of which the Division must be notified on Form 4 does not relieve the operator of the requirement to file the form or the notice.

The Division may observe and report on these activities.

Sec. 13. NAC 522.510 is hereby amended to read as follows:

522.510 1. Form 5, the well completion report, must be filed for all wells drilled in Nevada. In the case of a dry hole, this report may accompany Form 4. In the case of a well in which drilling operation have been completed, Form 5 must be filed with the Division within 30 days. In the case of a well in which production has not commenced within the 30-day period, a partial Form 5 must be filed with the Division, and an updated Form 5 must be filed within 30 days of the commencement of production.

~~placed in commercial production, Form 5 must be filed with the Division within 30 days after~~
~~the~~ ~~[well is placed in production. Only one Form 5 is required for each well.]~~ ~~drilling~~
~~operations are completed.~~ A second Form 5 is ~~[not]~~ required upon the ~~[abandonment of any~~
~~producing]~~ ~~commencement of production by a well.~~

2. Two copies of all logging surveys run in the wellbore by the operator must be filed with

the Division. The Division will file one of the sets with the Bureau of Mines and Geology. The copy at the Bureau will be available for public inspection when the records are no longer confidential.

Sec. 14. NAC 522.540 is hereby amended to read as follows:

522.540 ~~{1}~~ Records concerning a well will not be kept confidential by the Division unless the owner of the well requests confidentiality in writing or marks “confidential” on the logs of an exploratory well. Upon receiving such a request or log, the Division will keep the records confidential for ~~6 months~~ 1 year after ~~[their receipt]~~ *completion of drilling operations* unless the owner provides a written authorization for an earlier release.

~~{2. — An operator who plans to drill a series of exploratory wells within a given region or area may apply to the Division to have the records for all his or her exploratory wells kept confidential. Such an application must specifically describe the area to be explored and the number and location of exploratory wells contemplated. Upon approval of the application, the Administrator will keep all records of the project confidential for 6 months after receipt of the record. The operator may amend the plan of the project with the written approval of the Administrator. }~~

Sec. 15. NAC 522.450, 522.525 and 522.530 are hereby repealed.

TEXT OF REPEALED SECTIONS

522.450 Water wells.

1. If a well or exploratory hole which is to be plugged may safely be used as a fresh-water well, and the landowner wishes so to use it, the well need not be filled above the required sealing plug set below the fresh-water stratum. Written authority for use of the well or hole as a water

well must be secured from the landowner on Form 10 and filed with and approved by the Division. Authority from the landowner must also include the assumption of full responsibility by the landowner for the final plugging of the well.

2. Approval by the Division to convert the well to a fresh-water well and approval of the plugging of the well to the base of the fresh-water producing stratum releases and discharges the principal and surety from any liability under any bond given to assure that the well would be properly plugged and abandoned.

522.525 Form 8A: Notice of change of owner. Any owner or part owner who is bound under a drilling bond and who conveys his or her interest to another shall file Form 8A, notice of change of owner, with the Division.

522.530 Form 10: Water well completion release. When the lessor wishes to complete a dry hole which is capable of producing water as a water well, Form 10 must be filed with the Division.

AGENDA ITEM 4: For Possible Action: Inclusion of Testimony and Exhibits from prior meetings into the record

March 13, 2015 meeting
September 24, 2015 meeting
November 17, 2015 meeting

Minutes of Meeting
MINING OVERSIGHT & ACCOUNTABILITY COMMISSION
March 13, 2015, 10:00 a.m.

The meeting was held at the Nevada Gaming Control Board, located at 1919 College Parkway, Carson City, Nevada, and by video conference to the Nevada Gaming Control Board, Grant Sawyer Building, 555 East Washington Avenue, Suite 2450, Las Vegas, Nevada.

MINING OVERSIGHT & ACCOUNTABILITY

MEMBERS PRESENT:

John Restrepo, Chairman
Kyle Davis, Vice Chairman
Douglas "Roger" Bremner
Dennis Neilander, Member

MEMBERS ABSENT:

Senator Greg Brower, Member

COUNSEL TO THE COMMISSION PRESENT:

Henna Rasul, Senior Deputy Attorney General

DEPT. OF TAXATION STAFF PRESENT:

Terry Rubald, Deputy Executive Director,
Department of Taxation
Anita Moore, Program Officer
Boards & Commissions,
Division of Local Government Services,
Department of Taxation

MEMBERS OF THE PUBLIC PRESENT:

Carson City:

Alisa Sanchez, Comstock Mining
Jamie Winter, Davis, Graham & Stubbs
John Hadder, GBRW

Ron Leiken, Marigold Mining

John Muntean, NBMG

Rich Perry, NDOM

Jeff Bixler, State of Nevada

Rod Neils, State of Nevada

Larry Wahrenbrock, Silver City Resident

1. ROLL CALL, ESTABLISHMENT OF QUORUM AND OPENING REMARKS

Chairman Restrepo called the meeting to order and asked for the roll call. Terry Rubald, Deputy Executive Director, Department of Taxation, called roll. All members were present except for Senator Greg Brower and Member Neilander. A quorum was established.

2. PUBLIC COMMENT

Chairman Restrepo then asked for public comment.

Larry Wahrenbrock, Silver City resident, came forward for public comment. He requested his letter and comments be entered into the minutes and become part of the official record. He asked how it is possible that a private mining company can use a closed public highway for its exclusive economic gain. How is it that the Nevada Department of Transportation (NDOT) cannot repair a damaged road for three months while previously they could do it in a matter of days? Why should the citizens of Nevada pay for the incompetence of a private company? Why should the goal of a mining company

that has not been profitable for over five years trump the public's right to use a state highway? That is what is known as a reasonable man test. Despite what is said by Comstock Mining, Inc. (CMI) or NDOT, he believes that any reasonable man would conclude that the actions of CMI did substantially contribute to the subsidence and instability of Highway 342 in Gold Canyon. Mr. Wahrenbrock referred to a photo. The blasting and removal of massive quantities of earth immediately adjacent to Highway 342 for a distance of more than a mile would naturally and obviously weaken an already substandard roadway. The deliberate intersection of the historic mine workings known to be unstable only emphasizes the misguided decision by CMI to conduct their pit mining in such a fashion. Highway 342 is the primary means of ingress and egress through the heart of the Comstock historic district. They were told the road would be closed for 90 days until a temporary fix could be made, an additional six months until the permanent repairs are complete. As a result, some businesses will experience a loss of revenue while others will be forced to close their doors, all the while CMI is allowed to use Highway 342 for their own purposes and continue their misguided and incompetent mining activities. Why should CMI be allowed to use the road while all others are not? Why should the residents and businesses suffer economic loss while CMI is allowed to continue as usual while residents are not allowed the same? Mr. Wahrenbrock suggested the road be fixed first and then CMI be allowed to continue mining and losing money.

Member Bremner asked who approved the excavation in the first place. He asked if NDOT closed the highway because it is unsafe because of the pit.

Larry Wahrenbrock stated he did not know who approved the excavation. CMI filed with Storey County special use permit applications, but Storey County does not require them to file specific mining plans. Mr. Wahrenbrock believes NDOT closed the road, as they have done it in the past at this very location. In the past, NDOT has fixed the road, but now due to the actions of CMI, the fix is not as easy. Now there is a proposal to move the road.

Member Bremner asked who is going to pay to move the road. Mr. Wahrenbrock responded that CMI stated they are going to pay for the road to be moved but they want to keep it closed until they mine it all out.

Vice Chairman Davis requested that NDOT be present at the next meeting. Chairman Restrepo agreed.

John Hadder, Director, Great Basin Resource Watch (GBRW), came forward for public comment. GBRW applauds the actions of the Nevada Department of Environmental Protection (NDEP) and the U.S. Environmental Protection Agency (USEPA) in their complaint against Barrick Gold Strike mines and Newmont regarding the gold quarry and the gold strike facilities. It involved mercury contamination and lead contamination. There are a number of issues in the complaint. Mercury-laden waste was mixed with mine tailing waste and disposed of in that way. The EPA and the State of Nevada decided this was in violation of the Resource Conservation Recovery Act (RCRA) and was not excluded under the Bevel Amendment. Mr. Hadder commented that the Bevel Amendment was an amendment to the RCRA to deal with conceptually high-volume, low-hazard waste. In the early 1980s, it was considered too financially onerous for the industry to deal with this type of waste. The distinction of what kinds of wastes are excluded has become vague over the years. The EPA has tried to clarify, and there have been court cases. GBRW applauds the recent decision because mercury is a high-toxicity waste. Mr. Hadder suggested that the State of Nevada speak at a future meeting regarding resource recovery, RCRA in terms of mining wastes, what the Bevel Amendment is, what wastes are being excluded and details on this specific incident so the Commission has a better understanding of how these wastes are being handled and what kind of volumes are involved. Their second recommendation would be a discussion of mass balance calculation, particularly in regard to mercury

and also lead. The idea of a mass balance calculation is that the industry determines how much mercury is going into their processes beforehand. They calculate how many grams of mercury is in per ton of ore and whatever the number comes out to be, they account for where the mercury ends up and how much is captured in the roasting process. If we know where the toxicity is, we have a better sense of how to manage it. GBRW has suggested this, but the industry has resisted stating it is not feasible. Mr. Hadder suggested mass balance calculation be placed on the agenda.

Vice Chairman Davis asked if Mr. Hadder could provide some information on these two topics to the Committee. Mr. Hadder responded that he would do this. Vice Chairman Davis stated he believes NDEP usually attends the third quarter meeting. Terry Rubald confirmed this was correct.

3. AGENCY REPORTS; CONSIDERATION AND POSSIBLE ADOPTION OF RECOMMENDATIONS AND ORDERS

For Possible Action: Mine Safety and Training Section – Informational Presentation

Jeff Bixler, Chief Administrative Officer
Division of Industrial Relations, Department of Business and Industry
Mine Safety and Training Section

Jeff Bixler, Chief Administrative Office, Division of Industrial Relation, Department of Business and Industry, Mine Safety and Training, presented an overview. Mr. Bixler stated they ensure the safety and health of Nevada's miners through compliance inspections, training, technical assistance and consultations. They accomplish this with a staff of 14 employees. Their main office is in Carson City, and they have offices in Elko, Winnemucca and Henderson. Currently, they are down one person. Most of the year, they have been down two people in Elko and Winnemucca. They just hired an Elko inspector and just interviewed for a Winnemucca inspector. The Henderson inspector is going to retire. Staffing is a continued problem. They lose their inspectors primarily due to wage inequality. They leave to work at the mine site because the pay is much higher. Much time is spent on training, and they train their new inspectors with their most experienced inspectors.

Last year they conducted 437 inspections of underground surface exploration. This is about 100 inspections more than last year. They eliminated 909 mining hazards throughout the state. They can close down a section or an entire mine, but they do not fine them. Their intention is to help them fix the problem and continue mining. They want to allow them to keep the money in the State of Nevada, employ more people and buy more equipment. This is a win-win for the state. Regarding technical assistance and consultations, they did 1,900 of each last year. All of their services are free of charge. Last year they trained 695 new miners. They have trained 41 new instructors and 51 people in CPR and first aid.

They have been doing a unique training with the Marines on what is referred to as cave recon. They train them on abandoned mines which helps the Marine overseas, in Afghanistan, etc. Last year they had an Army Ranger instructor and a Navy Seal instructor attend their class.

Federal Mine Safety and Health Administration have been trying to eliminate state grants over the last few years. Congress stepped in and mandated that they continue their state grants. The state grants will stay the same this year and hopefully will continue for the next few years.

Regarding new mining activities, Midway Gold is not operating but still in the build-up phase. They are outside of Eureka, Nevada. They are currently employing 260 people. Pumpkin Hollow, outside of Yerington, is working on an underground shaft with a 2,000 foot goal. They have permits in to being working on the 830 foot developmental drift. Cementation is the contractor employed out there. There are 56 people working for Cementation and 17 working for Nevada Copper. The overall goal is to employ 200 people. AU Gold is a Manhattan placer mine with the potential to employ up to 60 people. They are finding some very impressive gold. Ludwig Mine outside of Yerington is a gypsum mine with an intention to employ about 10 people. Thacker Pass in Humboldt County is a lithium mine.

They employ 10 people; however, this is one of the two mines which intends to supply lithium to the Tesla plant.

Mining activity is on a slight increase in Nevada. There is a potential for many well-paying jobs in rural Nevada.

Vice Chairman Davis asked about the disparities in the wages of their inspectors and what the mines pay and whether there has been any attempt to correct this problem.

Jeff Bixler responded that it has repeatedly come up before the Legislature. With ten steps in a grade, they can only hire at step one. It is at the Governor's level to change that.

Vice Chairman Davis asked if the classification of those types of employees could be changed. Mr. Bixler responded that he would not change the classification, but if they could hire at a higher step, it would be a tremendous advantage.

Member Bremner stated the Budget Office sets the rules where you can only hire at step one. It used to be that you could hire at different steps; however, a few years ago in trying to save money, they would not allow hiring above a step one. Now your chances of hiring will be further eroded if some of the work in the Legislature is successful. They want to erode compensation by further weakening retirement benefits.

4. AGENCY BRIEFINGS

For Possible Action: Pursuant to NRS 514.035(1), Bureau of Mines and Geology Briefing on Exploration and Production Activities in the Metals, Industrial Minerals, Geothermal, and Oil and Gas Industries

Dr. John Muntean, Chief Economic Geologist
Nevada Bureau of Mines and Geology and
Director of the Ralph J. Roberts Center for Research in Economic Geology

Dr. John Muntean, Chief Economic Geologist, Nevada Bureau of Mines and Geology (NBMG), stated every year they put out a report updating the Nevada mineral industry, which includes both the minerals and the energy. They typically report on the previous year and publish about 10 to 12 months later. The reason it is done this way is because much of the information they gather is from security exchange reports, websites and public companies. The report is downloadable for free.

Dr. Muntean provided a presentation. He stated gold is the only commodity that produces over a billion dollars of value. It continues to be the dominant player. The gold boom in Nevada took off in 1978. It peaked in 1998 and saw a long decline until 2010. There was a little bit of an increase and then it dropped off again last year. An increase in price does not mean there is an increase in production. There has been a lot of money spent in Nevada on gold exploration over the last 10 to 15 years. The problem is that we are not showing much for it. Regarding production, 60% of Nevada's 5.4 million ounces of gold produced in 2015 comes from two clusters of gold deposits. One is in the Carlin trend up to the northeast and the other one is in the Cortez area. Between those two, they produce over three million ounces of gold in an area 20 to 30 kilometers across. Barrick and Newmont are the two major companies in Nevada. There is also Kinross, producing in Round Mountain. Gold Corp. pulled out when they sold the Marigold mine. Increasingly, there are junior companies getting into production, like the Midway Company at Pan and Klondex mining underground at Midas and Fire Creek. Big companies like Barrick and Newmont are not going after small mines. It is not worth it to them. Currently 30% production now comes from underground mines in Nevada.

Dr. Muntean showed in his presentation that mining claims peaked in 1990 and then there was a huge drop. Before this drop, there was assessment. In order to maintain your claim, you had to spend \$100 per claim putting it into the ground, drilling, sampling, etc. After that, the federal government said the \$100 goes straight to the government and no work is necessary. Because of this, a lot of claims were dropped.

NBMG's report shows all the active claims at the end of a given year. They also compile drill projects. By focusing on the drill projects, they can tell which companies are serious. In 2006, there were over 100 drill projects. It dropped off considerably in 2009 due to the financial crisis when there was no capital for drilling, especially for the junior companies. It picked up again and has now dropped off because the price of gold has gone down. Some of the stock in the big mining companies has gone down. It is a different game now. The mines are not being rewarded for having a lot of reserves in the ground. Now they are rewarded like most business – by making a profit. The mines have been focused on keeping the assets that make money.

There have not been many discoveries, but discoveries are still being made. The average cost of gold mining is \$900 to \$1000 an ounce. Most of the mines are not making a lot of money, but Cortez Hills is. It has incredible potential. There is also the Gold Rush Deposit. It is below the surface several hundred feet. This is a giant gold deposit.

Regarding other metals, Molybdenum Mt. Hope stopped production because the Chinese investor got into trouble with the law in China. The price of molybdenum is about \$10.50 per pound. The main copper mines are the Phoenix Mine in the Battle Mountain area owned by Newmont and the Robinson Mine, which is the largest producer, near Ely, run by KGHM. Copper is on the rise, and more companies are starting to explore for copper. The Pumpkin Hollow deposit is being put into production. Also, the pit in Yerington is being looked at again as well as the McArthur area. Freeport-McMoRan, one of the largest copper mining companies in the world, is looking at this.

Other valuable non-metallic minerals are lithium. Nevada has the only operating lithium project. Silver Peak has been in Esmeralda County since the 1960's and produces mostly lithium carbonate. Western Lithium near McDermott produces lithium clay. The main lithium clay is hectorite which is a specialty clay used for fracking. Most of the hectorite is going to North Dakota for drilling mud.

Mt. Pass Mine is the only rare earth mine in the United States. It was dormant for many years but is back in production. There is a junior company out of Canada, Elissa Resources, that has found some occurrences of rare earths near Mt. Pass on the Nevada side of the border. They are heavy earths, which are much more valuable. China has had a strangle hold on heavy rare earths. Anything made up of a magnet needs heavy rare earth, so it would be nice if the United States had a reliable supply.

Nevada has a huge potential for geothermal. The question is whether one can make a profit on it. The geothermal plants are concentrated mostly in western Nevada. Regarding Nevada oil, production has really dropped down to nothing. There was a nice boom in the '80s but it has been tailing off. In 2013, Noble Oil did a lot of 3D seismic, drilled a few test holes and then drilled wells in 2014 targeting the Elko Formation. Most of the oil in the rest of Nevada comes from a Paleozoic shale called Chainman shale. It is up in the hills in Elko. In the basin at 8,000 or 9,000 feet deep, it starts getting hot enough to get to the oil window and generate oil. Noble Oil drilled this in a couple of places and hit one of the wells. That was Nevada's first fracking project. That well produced 830 barrels in July 2014. They are not actively exploring anymore.

Vice Chairman Davis asked about the construction at the molybdenum plant at Mt. Hope. Since it is on hold, he asked how long it will be before we start reclaiming the area. This concerns him. He understands the financial problems, but wonders how long we should give a company to get back on their feet and let a mining scar remain before we reclaim it.

Dr. Muntean responded that they started doing some pre-stripping, which is mining off the top of the hill to get at the ore. Dr. Muntean does not know how long it will be before reclamation. He

believes it is on public land, but it is not old enough to be patented. It has been around since the 1970s.

Vice Chairman Davis asked for confirmation that the Western Lithium project is producing fracking sand as well as lithium.

Dr. Muntean stated it is not producing lithium per se. It is producing a lithium-bearing clay. It is the characteristics of the lithium-bearing clay that make it valuable as a drilling mud. They are not producing high volumes. There is a large resource in the McDermott area. It is not like this resource is going to be mined away and sent to North Dakota. They are just trying to find a way to make some money before they go forward with a lithium plant. The Department of Energy did a study to find out if they can actually get the lithium out of the clay and then did a pilot study on a larger scale to see whether they can do it on a larger scale. It is possible.

Vice Chairman Davis mentioned the concerns about sage grouse on that site. He also asked how someone files a mining claim, what it entitles them to and under what circumstances they would lose the mining claim or have it cancelled.

Dr. Muntean responded that when you get to that part of Nevada, there are a lot of sage grouse. Regarding the mining claims, it must be physically stake claimed. You then have 90 days to file with the county and the Bureau of Land Management. There are fees that go to the county and the Bureau of Land Management. Once you have it staked, you can hold on to the claim as long as you pay your fees every year. It roughly amounts to \$150 to \$170 per claim, and there are generally 36 claims per square mile. Companies can hold on to these for years. There are some claims, not many, that have been continuously active from the 1880s or 1890s.

Vice Chairman Davis stated that U.S. Fish and Wildlife and others in Nevada are looking at areas of the state that would be best in terms of habitat for sage grouse, for example. They are trying to do things to limit development in those areas. How does this affect existing mining claims?

Dr. Muntean responded that he did not know. This is going to be a major concern for the mining industry. NBMG has produced a lot of maps for the Governor's office and for Senator Reid's office.

Member Bremner asked about gold exploration waning while it still seems there are plenty of reserves.

Dr. Muntean explained that at the end 2013, Barrick's reserves, not resources, were 31 million ounces of gold. Gold Rush is a resource. Newmont's reserves were also 31 million ounces of gold at the end of 2013. He believes Barrick produced 2.5 million ounces of gold and Newmont produced 1.9 million ounces of gold. So there is 20 years, at least, of reserves by those two companies alone. He believes the junior companies will be mining the smaller ore bodies that Barrick and Newmont pass over.

Member Bremner stated it looks like exploration activity will go down if only the junior companies are doing it.

Chairman Restrepo asked for a copy of the presentation in PDF. Terry Rubald responded that she has an electronic version which she will send out. Chairman Restrepo stated Member Neilander joined them in Las Vegas a little while ago.

5. For Possible Action: Review and Approval of Minutes: December 2, 2014

Member Neilander moved to approve the minutes of December 2, 2014, with a second from Member Bremner. The motion carried.

6. For Possible Action: Meeting Schedule

Terry Rubald stated the Commission generally meets in the second quarter around the third week in June. The principal presentation will be from the Department of Taxation on audits. It was decided that June 18, 2015, at 10:00 a.m. would be best.

7. Briefing to and from Staff; Information Received for Requests from Prior Meetings; Suggestions for Future Agenda Topics

Terry Rubald stated the Department of Wildlife will attend in June. The topic will be the mule deer plan or migration out in White Pine County. Ms. Rubald stated she has added the request to the Department of Transportation. She will add, through the third quarter, the questions about managing hazardous waste. Ms. Rubald pointed out that in the Commissioners' packets Chairman Restrepo provided information pertaining to unemployment questions that came up at the last meeting in the mining sector.

Chairman Restrepo stated the information is from the Governor's office and is an economic profiling of the mining industry in Nevada.

8. Commission Comments

There were no comments from the Commissioners.

9. Public Comment

John Hadder commented regarding the question asked about the molybdenum mine in Eureka. It is in litigation. GBRW has taken them to court, and it is in the Ninth Circuit Court of Appeals right now. GBRW has some serious concerns about their mining plan which they believe needs to be significantly changed to protect the environment and the community in that area. Eureka County is very concerned about this mine, as well. Although they do bring jobs, the county was concerned about the economic ups and downs. Also, adjacent valleys and use of water is competition for water in Diamond Valley. The last time Mr. Hadder was out there, they had scraped the surface for the pit but had not done any excavation. It is a good question as to when it should be reclaimed. It could be a long time before they are able to do mining there.

10. For Possible Action: Adjournment

The hearing adjourned at 11:01 a.m.

Record of Testimony Taken
MINING OVERSIGHT & ACCOUNTABILITY COMMISSION
September 24, 2015, 1:30 p.m.

The meeting was held at the Legislative Building, located at 401 South Carson Street, Room 3137, Carson City, Nevada, and by video conference to the Grant Sawyer Office Building, 555 E. Washington Ave., Room 4412 E., Las Vegas, Nevada.

**MINING OVERSIGHT & ACCOUNTABILITY
MEMBERS PRESENT:**

Kyle Davis, Vice Chairman
Douglas "Roger" Bremner, Member
Dennis Neilander, Member

MEMBERS ABSENT:

Senator Greg Brower, Member

COUNSEL TO THE COMMISSION PRESENT:

Sarah Bradley, Deputy Attorney General

DEPT OF TAXATION STAFF PRESENT:

Terry Rubald, Deputy Executive Director,
Department of Taxation
Anita Moore, Program Officer
Department of Taxation

MEMBERS OF THE PUBLIC PRESENT:

Carson City:
David Toll, Gold Hill resident
Michael Ressel, NBMG
Greg Lovato, NDEP
Elaine Barkdull, Comstock Mining
Jeff Bixler, State of NV, Mine Safety
Rodney Neils, State of NV, Mine Safety
Bill Hoffman, NDOT
Austin Osborne, Storey County
Scott Jolcover, Comstock Mining
Corrado DeGasperis, Comstock Mining
Susan Juetten, GBRW
Rich Perry, NDOM
Dylan Shaver, Nevada Mining Assn.

Las Vegas: none

1. ROLL CALL, ESTABLISHMENT OF QUORUM AND OPENING REMARKS

Ms. Rubald called the roll and established a quorum. Vice Chairman Davis asked if there was any indication if there were ever going to be any other members appointed to this committee. He said by statute, it is supposed to be seven and now it is down to four. Ms. Rubald said that when there is a vacancy, the Governor's Office is contacted to let them know there is a vacancy and that it is open for appointment. She has also previously been in touch with LCB but has not received any indication from those organizations.

(Per the advice of the Deputy Attorney General received at the November 17, 2015 meeting, it was determined that this attendance did not meet the requirements of a quorum therefore the Minutes of this meeting have been converted to Record of Testimony Taken.)

2. Public Comment

Vice Chairman Davis then asked for Public comment.

Mr. David Toll, a resident of Gold Hill introduced himself. He said he was there to ask that the

Commission take the collapse of Highway 342 very seriously and that they seriously investigate what caused it. The highway has collapsed there four or five times since it was first paved over the mine

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shaft, each time, re-plugged and repaved, most recently in 2006. Mr. Toll continued to say that this time, an enormous concrete plug was placed over the shaft and a large earth mass built up all around it, engineered to hold it firmly and forever immobile. Last winter, it failed with a powerful negative impact on all of the Comstock communities. He asked why? He said the evidence suggests that Comstock Mining (CMI) dug the pit too close to the road and destabilized that earth mass that was holding the plug in place. He was told that there is a well-thumbed engineering report in the company library warning against expanding the pit eastward because of danger of undermining the highway. He asked why would the company risk shaving the wall as close to the road as possible and as steep beneath it as possible, knowing it might collapse.

Mr. Toll continued to say this company risked putting haul roads or haul trucks on the public right of way without a permit and was cited for trespass by the BLM. This company risked using non-permitted environmental equipment and was fined a quarter of a million dollars by NDEP. He believes CMI would take any risk to stay solvent and keep its shareholders' golden dreams alive. The failure of the road has expedited CMI access to highly desirable ore beneath and beyond the roadway without waiting months for permits. Mr. Toll said that NRS405.230 provides that "Any person who, in any manner, obstructs any road, street, or alley, or in any manner damages it or prevents travel thereon" is "guilty of a public offense, as prescribed in NRS193.155."

NRS193.155 says that "Where the value of the loss is \$5,000 or more or where the damage results in impairment of public communication, transportation or police and fire protection," which this highway closing did, is a Class C Felony for which CMI had motive and opportunity and from which it is reaping the rewards. Mr. Toll said he thinks that it is reasonable and appropriate for the Commission to determine whether or not a felony has been committed and overlooked.

Vice Chairman Davis thanked Mr. Toll for his remarks and asked if there were any other Public Comment.

Mr. Scott Jolcover, Director of Business Development for Comstock Mining, introduced himself. He said he also owns land in Storey County, Lyon County and Carson. He said he wanted to remind the Commission that he knows they are acutely aware that this is not a court of law and that the testimony before them is not sworn to and that in his personal opinion he believes some of what Mr. Toll has stated is not accurate. Mr. Jolcover said that Mr. Toll's allegations of criminal wrongdoing were presented to the Storey County Sheriff's Department and reviewed by the District Attorney and nothing came out of it. All of the engineering reports that were reviewed by NDOT, by MSHA, by the state mining regulations and mine inspectors - there was nothing that said that the activities of the mining company created the closure or the failure of the shaft that was dug in 1922.

Vice Chairman Davis thanked Mr. Jolcover for his remarks and asked if there were any other Public Comment. There was none.

**3. Presentation: SR 342 road closure and partnership with Comstock Mining and Storey County to rebuild the road
Nevada Department of Transportation, Comstock Mining, and Storey County**

Mr. Bill Hoffman, Deputy Director for the Nevada Department of Transportation introduced himself as well as Austin Osborne of Storey County and also Corrado DeGasperis from Comstock Mining. Mr. Hoffman then proceeded to give the Commissioners a chronology of the events that went on for SR 342 and their collaboration with Storey County and Comstock Mining. Cruz Construction is another group that has helped as well as Kendor Consulting Engineering.

Mr. Hoffman said he would like to give a corridor history and status report; along with his photograph presentation. He said he would like to discuss the Silver Hills Mine Shaft/roadway issues associated with this, the partnerships that were formed, the collaboration, the stick-to-it-iveness of the

group he had introduced, which he felt was beyond anything he had ever experienced - the plan they came up with and the execution of the plan which is being carried out. Mr. Hoffman said he has worked in the transportation field for over 20 years and never seen this kind of collaboration amongst private industry and local agencies. He said when you have a State Department of Transportation, a County and a private mining company, that usually spells a recipe for disaster and that was not the case at all; he felt they worked very well together. Comstock Mining owns the underlying land and NDOT is permitted to have a roadway on their land which is SR 342, so NDOT does not own the land under the road. NDOT is only able to operate and maintain the road based on that agreement that they have with Comstock Mining.

Mr. Hoffman continued by saying that Storey County has the authority over issuing the mining permits – that is why so many different groups have come together. SR 342 is the old historic route up to Virginia City.

Vice Chairman Davis asked how common it is that in Nevada you would have a state highway that is over private land. Mr. Hoffman answered that it happens more frequently than you would think where they have had prior right to that land for many years. Over past history, NDOT has entered into an agreement to make sure that they can continue to use property for the motoring public. It doesn't happen all the time. There are not those situations out there that are in mass, but for the most part, this is a situation that exists throughout the State. So – not very frequently, but it does exist.

Austin Osborne, Planning Director for Storey County said that in Mr. Hoffman's speech to the State of Nevada, this matter is extremely frequent in Storey County. The township was laid over unpatented claims without going through the proper patent process and this situation is dealt with quite frequently. Storey County had a public law passed through their lands bill process that is going to help alleviate the problem with BLM potential ownership of getting these kinds of clouded title matters resolved. Mr. Osborne said what they are dealing with in this particular situation doesn't necessarily involve the BLM exclusively, but does deal with a clouded title issue that is a very common thread on the Comstock and Storey County deals with them on a case by case basis right now.

Member Bremner asked if that is unique to mining because of the mineral rights. Mr. Osborne replied yes, he would argue in historic mining, when you put a town together like Virginia City over a period of six weeks and then people gradually go from their tents to permanent buildings, permanent buildings burn down and then become brick buildings. The point of that process is the town grows faster than the West was settled and that is why this condition exists today.

Member Bremner asked if they could use eminent domain to alleviate the situation when it comes to highways. Mr. Hoffman answered no, this is exclusive to this situation. Member Bremner asked if they were saying this is exclusive to mining; Mr. Hoffman answered yes, in this situation it is. He said there could be any number of reasons why they are not the underlying fee owner which they would need to be in order to exercise eminent domain. Mr. Osborne clarified the question by saying the situation they are dealing with, SR 342 for Gold Hill is not just over mining lands. It is over some of their own private property land as well. He said what they have is a portion of road that failed and had to be addressed very quickly and that portion of the road happened to be over mining claims.

Member Bremner asked if they were saying that the highway right-of-way, the road that has been there a long time – may not have access, may not have ownership of a large part of the right-of-way. He asked if there were a lot of other entities in the State of Nevada where highways are built on land we don't have access or ownership to. Mr. Hoffman, NDOT, stated it is not very frequent and it does happen. It happens quite frequently in Storey County. Member Bremner said he is mystified that we are building highways on lands that we don't really have complete title to that we are paving and doing things on roads that we may lose later on. He said it was flabbergasting.

Mr. Hoffman, NDOT, said they don't practice that any more. He said they were in this situation now because of the situations and incidences that Mr. Osborne (Storey County) spoke to. He said that is not their common practice and approach any more. He said they have signed agreements and easements with property owners to continue using the property, but they don't do that as common practice any more. He said those are things that were agreed to and done many, many years ago.

Member Bremner said “any more”. Those two operative words are unbelievable to him that we don’t do that any more. He said he wouldn’t think they would do that anymore. He said he would think that they would want access to the right-of-way and for perpetuity. He added – why build a road if someday you’re not going to have access? He said he didn’t understand it. He said it seemed like something NDOT should be working on to alleviate. Vice Chairman Davis said that what he thought his colleague was getting at is how do we ensure that that access does continue, that a private property owner, if we’re putting public roads across private property, how do we ensure that that private property owner doesn’t change their mind and then all of a sudden we would not be able to use it.

Mr. Hoffman said it is a practice they do not do any more. Member Bremner asked if it could be solved by a request to legislation to change that, to give NDOT/Storey County some kind of power of eminent domain or something where you could assure the residents of the State of Nevada that their highways are really built on land that the State has total access to and ownership of.

Mr. Osborne clarified that he is representing Storey County, not NDOT. He then said this situation is similar throughout the town. You have, over the last hundred years, roads that initially were wagon trails then made their way into Virginia City. Some of them are toll roads, some of them are limited access. A lot of them went over whatever route was most convenient to get to town. This was the 1860’s, 70’s, all the way up to the 1930’s and 40’s. Gradually over that period of time, the road gets widened and it gets improved and then it gets gravel and people continue to use it and ultimately, it gets paved and then it gets striped and then it ends up where it is today. It is a permanent necessity of Virginia City. Mr. Osborne then said to answer the Commission’s question, what they are doing to resolve it is piece by piece by piece. He said this is really an opportunity to address Comstock Mining through this process and what they are going through is the first time this piece of road is going to dedicate to NDOT an actual legal right-of-way that this portion of the road will sit on. That road and the land beneath it for the first time on this stretch of road will become NDOT’s so it will be owned by the State of Nevada and properly and administratively correctly maintained by NDOT. He said this is setting a precedent for the next quarter mile and the next hundred feet and eventually they will get all the way to the end of Virginia City where the entire road is not on a prescriptive right-of-way but is on an actual legal piece of land, a parcel owned by NDOT.

Continuing his presentation, Mr. Hoffman said the big issue is the Silver Hills Mine Shaft. They have had similar past issues, that shaft under the roadway did have an impact on the roadway. The area received heavy rains in January and February of 2015 so much so the ground was so saturated that this shaft (built over old mine tailings etc.) – all of this rain let to the roadway settling above this mine shaft that was under the roadway. Settling issues were observed which were severe enough to close SR 342 and on February 8th, the road was closed.

Showing another photo slide of the area, Mr. Hoffman said that was the area they are talking about settling going on, right on top of the mine shaft. They needed to address Silver Hills Mine Shaft. They needed to build a short detour around the shaft work, move permanent alignment to the east and build a new roadway on the new alignment. Mr. Hoffman said that Comstock Mining’s plan is to build a shoo fly around the shaft so that they can continue to do work in this area. This is a permanent alignment. He said the two phases are to fix the shaft, finish the detour and then build the alignment to the east – the bottom of the eastern hill where the geotechnical concerns are much less up against the hill. He continued by saying it took tremendous commitment on Storey County’s part, and on Comstock Mining. When he spoke about bringing these three groups together he wouldn’t have expected consensus for years and a consensus was reached within days; NDOT, Comstock Mining and Storey County made tremendous commitment. Mr. Hoffman said they knew they needed to get it done. There are safety issues, tourists, business development and all of those things played very heavily into their commitment to this project. He said it was a great collaboration. They quickly came upon the solution in total for this project – fixed the Silver Hills Shaft - this is something that Comstock Mining did on their own. Work continues on the realignment work, and is ahead of schedule – to meet the December deadline of having that permanent alignment roadway built and usable.

Mr. Hoffman then showed some pictures of the work that has been done – excavating down to the mine shaft – excavating around the shaft – all of the different types of materials that were dumped down the hole to try to plug it. He said Comstock has come in and developed an engineering solution for this which is capping it with heavily reinforced concrete.

Mr. Osborne (Storey County) asked to make the point that what they believe has occurred over the years since the 1940s when originally that cap was put on top of the Silver Hills Shaft is base bedrock. The photograph showed the solid rock on which that plug is being installed. Mr. Osborne said that before this, what happened would be nothing but unconsolidated fill on top of this up to the top of the ridge about 40 feet. He said Comstock has attempted to dig down to that bedrock, put the cap in the bedrock and then engineer backfill all of the ground above it. They believe this cap will be a permanent fix to the road as opposed to all of the fixes that occurred every decade since the 1940s.

Mr. Hoffman then showed photographs of pouring concrete to cap the shaft, the excavation down the roadway, the edge of the roadway, and the shoo fly that was constructed just after the mine shaft. He then introduced Corrado DeGasperis, President of Comstock Mining, resident of Gold Hill.

Mr. DeGasperis said the circumstances leading up to the instability of the road were well-communicated. Early in the year the cracks in the road were identified. There was concern because it was on or near Comstock Mining's operation and they reached out to the State Department of Transportation and immediately got geotechnical people involved. He said the most important thing was to understand the cause so that it could be fixed properly. He said that none of the former repairs of the failures that occurred on that road were sufficient. The last failure, the sinkhole could have been fatal because it happened at night and a car could have gone in. He continued that there was no question that they were concerned because of the proximity of their operation but asked that not to be confused with the allegation that the operation caused the sinkhole. There were eight regulatory visits in a ten day period – three from MSHA on the same complaint but escalating in terms of the level of authority that came out; two from NDEP. NDOT was participating from day one pervasively throughout; one or two from the state mine inspector and there was consensus of the cause, that this loose fill was not stable and the erosion was ultimately going to make it a problem. He said safety was the absolute first and paramount issue and he thinks every action by every agency prioritized safety. He said when they first started discussing with NDOT the potential of shutting down the road, Storey County was not present.

Mr. DeGasperis continued to say that they put an immediate emergency bypass in place so that when the road was closed there was an ability for emergency transport. The alternative route during the closure was a more scenic route around Silver City and up into Virginia City. Another issue beyond safety was the implication to Virginia City commerce. Mr. DeGasperis said they got the best permanent solution for the road and Comstock Mining funded the whole operation. He added one last point – the road parallels the waterway and the waterway happens to be the receptacle or the recipient of any of the remaining mercury from the old-timers' use of mercury in mining. This hasn't been spoken about much, but this actually ends up to be one of the largest environmental cleanups. He said there was also residual gold and silver in those old dumps also and the only efficient way to capture and completely take that mercury out was to put it on their leach pad and capture the mercury and dispose of it safely. He stated their motive was safety first and sustainability second.

Mr. DeGasperis added there were huge obstacles in terms of permits with the Army Corp of Engineers, with NDEP and the Super Fund, with the County, with the State, and that Comstock Mining did not go outside the regulatory scheme to take a shortcut. He said it took everybody caring urgently to make it work the right way.

Mr. Osborne (Storey County) said there is engineering evidence to suggest that the road collapse wasn't caused by a mine or the highwalls or other engineering aspects of the mine.

Member Neilander asked the question if the shoo fly would then be closed and the realignment will go over the capped shaft eventually, or will the shoo fly become the permanent. Mr. DeGasperis said yes, there are three phases: the first being February closure, June 6 reopening; the second phase, while traffic was reopened and has been reopened since then, was fully aligning to the east – removing

almost half a million tons of loose dump material which is a months and months endeavor. This was just completed and the final realignment will incorporate the initial bypass. Initial bypass, permanent, final realignment, permanent, and they were scheduled to be done by the end of the year. The current schedule is about six weeks ahead of schedule to finish before Thanksgiving and they have coordinated with the County between major Virginia City events when they do the final closure.

Member Neilander said he was familiar with these kind of checkerboard ownership scenarios and more so in Southern Nevada, not because of mining but because of the railroads. The way the railroads came in and the way certain towns in Southern Nevada were formed, sort of out of a necessity before there was actually anyone who owned the land. He said he was curious on this particular SR 342 – are there other sections of this road that have collapsed or become unstable? Is this something we can use as a model to address those other sections in the future? Member Neilander continued to say he was certain there are other places where that road has been built on top of mine tailings and other unstable products so it may be a question for Storey County; maybe for NDOT. Mr. Osborne offered to answer his question for Storey County and for Mr. Hoffman as well. He said there are not, to his knowledge any of these other situations that we have here. The Silver Hills Shaft goes straight down in the ground and the road, in 1942 was paved right over the top of the shaft. To his knowledge there are no more of these situations. He said there are other portions of road that are on some kind of unconsolidated fill or other type of material, but non-engineering wise speaking, the road may shift and move and crack but there would never be such a catastrophic failure like there had been over the Silver Hill Shaft.

Member Bremner asked if there is still mining excavation being done on the east side of that pit or is it no longer being done there near the road. Mr. DeGasperis answered by saying if you were looking north the mining activity that was occurring was on the west side of the road and they are no longer mining there and they are in a reclamation mode on the west side for the open pit surface mining. He said the mining activities that are going on now are really not mining activities. They are the final excavation. There are about a hundred thousand tons of loose-fill material that couldn't be removed until the old road was shut down. He said phase three – not too many people think about the third phase because phase two gets the full road up and realigned – is removing the old asphalt and taking that remaining contaminated material out and reclaiming along that. The final realignment will not go back over the permanently sealed shaft so it will be reclaimed over and that will be safe. The next phase of mining is underground, from the northern extension of the pit they are 200 feet into an 800 foot shaft into what looks more like some of the historical Comstock underground mining. Because there are almost 700 miles of underground tunnels beneath Virginia City, there is on occasion sinkholes, even one a few years ago by the school; it is a constant thing the county has to tend to.

Vice Chairman Davis said that a recent time before this that the shaft had failed in 2006 was mentioned. He asked who capped it then and who owned the land. Mr. Hoffman said he did not know. Vice Chairman Davis said he presumed NDOT was involved? Mr. Hoffman replied that he could get that information easily. Vice Chairman Davis said that would be great. He then asked about the number of agencies that had come out in the immediate aftermath of the road. He asked if each of these agencies had made the determination as to what the cause was. Mr. DeGasperis said it was mainly a geotechnical firm; NDOT's geotechnical resources also came out. Most of the assessment was in the context of that loose dump under the road and its insufficiency to support the road. Comstock Mining had a geotech report and NDOT had geotech corroboration. He said they were very focused on how to fix it safely.

Vice Chairman Davis stated he thought there is a difference between whether the highwall is stable, whether it is going to fall into the pit, and whether mining activity actually had some cause in terms of the road failure and that is what he is trying to figure out. He asked Mr. Hoffman, NDOT, if his department actually went in and their geotechnical expertise made the determination that there was no responsibility or if none of the cause of this problem was because of the mining activity occurring right next to the road. Mr. Hoffman answered – no – their geotechnical engineers along with Comstock

Mining both agreed that the shaft was the cause for the failure in the roadway and they needed to focus on that first and foremost for safety, both worker safety, and traveling public safety, local residents.

Vice Chairman Davis said it is a little concerning to him that as far as they could tell, in 2006, they had the same problem. The solution as they now know, was substandard, they did not clear up the title to the road and then continued to let mining happen right next to the road. He said that is really concerning to him that that is the process of events that happened, especially when he sits now and looks at it. Vice Chairman Davis said it always makes him a little bit suspicious when they have government agencies and companies talking about how great they worked together and how there are absolutely no problems. He continued to say it tells him they are not looking hard enough, possibly. He said he was not saying that it is not possible this has been a great exercise in collaboration, but it seems like he hears that a lot from a lot of Nevada agencies. Mr. DeGasparis said he did not blame the Commission for being skeptical, but they want Nevada to be safe and also want it to prosper.

Vice Chairman Davis said he appreciated the response and asked one other question. He asked when did Comstock own the land in question. Mr. DeGasparis said that Comstock Mining owned it in 2006 and it was his understanding NDOT did repair the shaft last time - and they are publicly bid, three or four options, repair the shaft. He said he was not suggesting that it was not sufficient at the time, but with hindsight, none of the previous solutions even before NDOT's, were sustainable. He said they could probably have spent a few years assessing how to stabilize that dump fill, and spent a few years debating on who was going to pay for it. They just said let's clear it to solid bedrock and get geotech to assure that is solid bedrock and put a safe, compacted standard fill over it.

Member Bremner asked if there were other situations, shafts and drifts in Storey County and Virginia City that they have any other problems or potential problems that might be similar to this. Mr. Osborne (Storey County) said it was not his understanding that there are any shafts or anything beneath this road. There probably are adits and other mines and things in the area. There are all sorts of these things that exist in Virginia City and great Virginia City area. They have had sinkholes open up fairly frequently in town, but not necessarily in his understanding beneath as well.

There were no other questions from the Commission, Vice Chairman Davis thanked them and called the next agenda item.

4. AGENCY REPORTS: CONSIDERATION AND POSSIBLE ADOPTION OF RECOMMENDATIONS AND ORDERS

For Possible Action: Department of Conservation and Natural Resources-Division of Environmental Protection Overview – informational presentation pursuant to NRS 514A.070(2):

(a) Overview of Division activities concerning reclamation of mined lands, areas of exploration and former areas of mining or exploration during the immediately preceding calendar year

(b) Report on Enforcement Actions, fees and fines

Greg Lovato, Deputy Administrator for the Nevada Division of Environmental Protection, introduced himself. He provided a Power Point presentation. Mr. Lovato said he oversees the Bureau of Mining regulation, reclamation, as well as corrective actions, which is their cleanup bureau and cleanup facilities. He was at this meeting to give the annual update on the status of reclamation activities at mines, impacted mines in Nevada in 2014. He said this program has been in place and applies to all mining activity since 1989.

Mr. Lovato said their program is in statute and in regulation. It consists of a permitting program prior to land disturbance happening from mining activities, ongoing inspections, a compliance and

enforcement component as well as financial assurance upfront to make sure that there is enough money to complete reclamation activities once a mine closure has been entered. He said their program applies on both public and private lands in Nevada and they have a memorandum of understanding with the federal agencies who also permit mining activities on federal lands to ensure that they are consistent in terms of their requirements bonding and bond release. They have an updated memorandum of understanding as of 2013. It is updated every five years to make sure they are consistent across the state. They have a supervisor, four scientists and engineers. It applies to all mining activities over five acres or removal of a certain amount of tonnage and also to exploration projects above a certain amount.

Mr. Lovato showed photographs of a slope that is stable and reclaimed southeast of Hawthorne near Mina. This is an example of a successful reclamation on a heap leach. Mr. Lovato said the purpose of the presentation is to give an update on their activities on reclamation and also give an update on the fees they collected and any fines they imposed over 2014. They went through 268 total permits, had 3 permits terminated and had 118 projects inspected. They inspect projects at least once every three years on the reclamation side to make sure they understand that the bonding amount they have for final reclamation is consistent with the amount of land they have disturbed and the final configuration.

Mr. Lovato displayed another photograph, this one was an example of a gold and silver mine in Pershing County - Florida Canyon, a partially-reclaimed surface. There is partially re-vegetated slope almost at the angle of repose. It is more stable than anything discussed so far. There are 10,500 acres across the state permitted. This is about five percent increase from last year. Actual reported disturbance during the calendar year was 3,800 acres. There was just a little less exploration activity occurring on an acreage basis across the state in 2014.

Mr. Lovato then showed a photograph which was an example of an exploration, showing the haul roads. This photo was Northern Elko County gold exploration project. The photo shows the haul roads being reclaimed and it takes a few years for things to come back but this shows a successful re-vegetation on an exploration project and the bond has been released.

Next Mr. Lovato showed an update on total permitted disturbance for mining operations in the state. About 190,000 acres, mostly public, but a substantial amount private. This is a 4 percent increase from last year. About 70 percent of the permitted acreage has actually been disturbed and he showed a slide demonstrating this is about 50/50, public and private land.

Next was a photograph of the Pinson Mine in Eastern Humboldt County, Preble Mine leach pad, this is the Newmont facility in Eastern Humboldt County and they got the award for the non-coal category this year. This is the first facility in Nevada to meet all closure and reclamation requirements. This is an example of a successful project from a reclamation standpoint. The next photo showed an example of a mine in Pershing County – Florida Canyon Mine – where they backfilled an excavation with waste rock from another excavation. Ordinarily when you are developing a mine a lot of the waste rock ends up in its own pile, in this area, they ended up directly using excavation from another pit to reclaim this excavation. This received an award, this is an example of a concurrent reclamation with mining.

Regarding fees, Mr. Lovato said his agency is 100% fee-funded and they basically cover all of their activities in the branch, the inspection, the bonding review, and permitting and enforcement. They do not receive any General Fund or grant money. Their fees consist of current fees and modification as well as annual fees. The program provides approximately \$100,000 per year to the Bureau of Mines and Geology and also just to fund their ongoing program. Most of their fees are actually not permit fees, they are annual fees. This amount continues to grow with the number of active mines that have not been permanently closed. They are up to \$1.1 million this year on annual reclamation fees.

About inspections and fines and enforcement, Mr. Lovato said they visit the sites that have a reclamation permit at least once every three years, and there is some big land areas being moved out there. It is important for their inspectors to stay on top of what the topography looks like and it can get confusing out there because there are some large areas being disturbed. What they found is if

someone is outside the bounds of their permitted bond, it is mostly smaller operators and they are not seeing that type of thing happening at the larger mines. All Notices of Noncompliance that they have issued in 2014 are related to those who forgot to file their report as to what they disturbed and what is coming up, so they resolved those really quickly with everyone. There were no fines imposed in 2014.

Mr. Lovato said that in some cases when mines want to move fast, they try to bond with a cash bond quickly because they want to get permitted immediately and they don't want to pay the bonding company, converting to a bond later on.

Member Bremner asked if the reclamation bond requirement is the same for private land as it is for public land. Mr. Lovato replied yes, with one slight difference that they are trying to rectify this year in bonding what they call mine-impacted waters. At a few mines around the state where mining operations may have happened historically and they are still mining, there may be discharges of mine-impacted water occurring and they need to be treated in order to prevent degradation of waters of the state or nearby streams and groundwater; Mr. Lovato said that at the October 14th State Environmental Commission meeting, they plan to propose requiring bonding for that. It will then be presented to this Commission for review, perhaps the next scheduled meeting.

Member Bremner asked, if in Mr. Lovato's opinion, if this requirement was adequate to provide for reclamation of the exposures in the State of Nevada that we have today. Mr. Lovato replied yes. Everything is updated and he was confident that is an adequate amount. Member Bremner commented that the State couldn't do it and wouldn't want to do it if they had to. He said it would be a nightmare if those funds weren't adequate. Mr. Lovato commented, yes, typically, if they do get into a situation where either a company may be getting into financial trouble and isn't able to perform, the bonding company would have the ability to do it themselves, or the State could require the bond to be forfeited and could then perform the work. That is the purpose of these financial assurance mechanisms so that they have the resources available in that circumstance. Member Bremner commented that he has always had a fear that he didn't want some mining activity creating a Super Fund site in the State of Nevada. Mr. Lovato agreed and said there is no denying that there is a significant amount of material being moved around and it is very important that when regulating the construction of these leach pads, these tailings impoundment, these waste rock piles, that we have a good handle on their potential to generate pollutants, acid-generating material, metals that were involved clearly in the Gold King Mine incident in Colorado and Leviathan. He said right now before they pile it up in a waste rock pile, they are running tests to see if it will generate acid. They did not do that before. Mr. Lovato thinks they have learned from that but they need to stay on top of it and keep this program effective and running.

Vice Chairman Davis asked if in these ongoing reclamations, especially in the last couple of years as we have continued to see this drought – is that impacting reclamation activity or success of re-vegetation due to the lack of water? Mr. Lovato said he did not know. He said he would figure that out and let the Commission know how it is impacting. He could not see how it couldn't, but whether it is actually affected any specific projects they are involved with, he did not know.

There were no other questions from the Commission, Vice Chairman Davis thanked them and called the next agenda item.

5. For Possible Action: Review and Approval of Minutes:

□ March 13, 2015

Member Neilander moved for approval of the minutes dated March 13th, 2015. Member Bremner seconded the motion. The motion passed.

Vice Chairman Davis called the next agenda item.

6. For Possible Action: Meeting Schedule

Ms. Rubald said that NDEP and the Division of Minerals have indicated to her that they will be having the regulations adopted by their respective agencies and will need to have approval of those so they can continue on to the Legislative Commission. She said it is her understanding that NDEP will probably have theirs in the middle of October but the Division of Minerals will have theirs ready to go after November 6th so she asked if they could schedule the next meeting for the fourth quarter to be sometime the week of November 9th so they can expedite that and allow the process to go forward to the Legislative Commission.

Ms. Rubald said, regarding the statutory requirement – it is the only open meeting where they don't have an agency that is required to make a presentation.

Member Neilander said it is the open of their four required meetings and it is the open one. Ms. Rubald agreed.

Vice Chairman Davis suggested the 17th of November at 1:30 pm. All parties agreed.

7. Briefing to and from Staff; Information received for requests from prior meetings; Suggestions for Future Agenda Topics

Ms. Rubald brought to the Commission's attention that they had requested a report from the Wildlife Department with regard to the Bald Mountain Mine and the Mule Deer migration, and the Department of Wildlife regretted they could not be at this meeting, but she would ask them again to see if they can make an appearance on the next date. Vice Chairman Davis said he would definitely be interested in that. Ms. Rubald said there would probably be a presentation from the State Geologist as well. Vice Chairman Davis asked if there were any other agencies that are due to give them a report; Ms. Rubald replied no.

8. Commission Comments

The Commission had no comments.

There was no Agenda Item 9.

10. Public Comment

Vice Chairman Davis asked if there was any public comment. There was none.

11. For Possible Action: Adjournment

The meeting was adjourned at 2:52 p.m.

**Record of Testimony Taken
MINING OVERSIGHT & ACCOUNTABILITY COMMISSION
November 17, 2015, 1:30 p.m.**

The meeting was held at the Nevada Department of Transportation, Carson City, Nevada, and by video conference to the Nevada Department of Transportation, 123 East Washington Avenue, Building 'D' (the Materials Lab), Las Vegas, Nevada.

**MINING OVERSIGHT & ACCOUNTABILITY
MEMBERS PRESENT:**

Kyle Davis, Vice Chairman
Douglas "Roger" Bremner
Dennis Neilander, Member

MEMBERS ABSENT:

Senator Greg Brower, Member
(attempted attending by telephone, but
connection was continuously lost)

MEMBERS OF THE PUBLIC PRESENT:

Carson City:
Paul Comba, NDEP-BMRR
Joe Sawyer, NDEP-BMRR
Allen Biaggi, NVMA
Mike Visler, NDOM
Jesse Wadhams, Fennemore Craig
Susan Juetten, GBRW
Lowell Price, NDOM

COUNSEL TO THE COMMISSION PRESENT:

Brett Kandt, Deputy Attorney General

DEPT. OF TAXATION STAFF PRESENT:

Terry Rubald, Deputy Executive Director,
Department of Taxation
Anita Moore, Program Officer
Keri Gransbery, Program Officer
Boards & Commissions,
Division of Local Government Services,
Department of Taxation

1. ROLL CALL, ESTABLISHMENT OF QUORUM AND OPENING REMARKS

Senator Brower was present by tele-conference for the roll call, however the connection was lost several times and he was not able to vote on the action items on the agenda. A quorum was initially established by roll call however the telephone connection with Senator Brower was lost and a quorum could not be maintained.

(Per the advice of the Deputy Attorney General received at this meeting, it was determined that this attendance did not meet the requirements of a quorum therefore the Minutes of this meeting have been converted to Record of Testimony Taken.)

2. PUBLIC COMMENT

There was no public comment.

3. REVIEW OF REGULATIONS (a)

(a) For Possible Action: Review of LCB File No. R052-15 regulations adopted by the State

Environmental Commission; Determination of Findings and Recommendations to be Reported to the Legislative Counsel

The regulations: (1) define “mine-impacted waters” as they relate to a permit for a mining operation from the Division of Environmental Protection; (2) require a plan for reclamation to include a description of any necessary stabilization, management, control or treatment required for mine-impacted waters; (3) provide that the Division may require the operator of a mining operation to implement measures to stabilize, manage, control or treat mine-impacted waters; (4) provide that the surety an operator files with the Division or a federal land management agency may be a cash deposit; and (5) provide that in estimating the cost of executing a plan for reclamation the operator, must, if appropriate, include certain costs associated with the stabilization, management, control and treatment of mine-impacted waters.

Mr. Joe Sawyer the new Bureau Chief with the Bureau of Mining Reclamation said that NDEP appreciates MOAC including review of LCB File Number RO52-15 on this agenda. He provided a short introduction followed by Mr. Paul Comba, the supervisor of the reclamation branch. Mr. Comba has been working on these regulations for the last 18 months.

Regulations adopted by the State Environmental Commission are not effective until reviewed by MOAC. The regulations presented today were adopted by the State Environmental Commission on October 14, 2015/ After review by this commission, the regulations will proceed to the Legislative Commission for their review and approval before they become effective. The date of the next Legislative Commission has not yet been set, but it is anticipated it will be sometime in the first quarter of 2016.

Mr. Comba introduced himself and provided a few slides for the member’s review. Mr. Comba said the primary purpose of these regulations is to make sure sufficient financial resources are set aside to mitigate and correct degradation of waters in the state caused by actual discharges of mine-impacted waters. The situation has occurred in a limited number of active mines in the state and steps are being taken to address these discharges. Nevada Water Pollution Control Law requires mining facilities to offer it in a manner that is protective of water quality.

Defining what is mine-impacted waters (MIW) – include existing or actual contaminated surface water, ground water or seepage from waste rock piles, open pit and underground mines. Examples would be a waste rock pile that over time develops a contaminated seep from infiltration of storm waters through the waste rock pile reacting with it resulting then in a contaminated discharge from the waste rock pile.

For an open pit, that is when a mining ceases in a pit it begins to fill back up with water, and based on the hydro geologic conditions, will become a flow-through system. In other words, ground water will flow into the pit, react with the wall rock, become contaminated and based on ground water degrading, migrate from the open pit to the surrounding ground water systems.

For underground mines, an example of mine-impacted waters is when a seep or a drainage would develop from a portal that would have then impact to nearby surface water and ground water resources.

If a mining operation had any of these problems as just described, the reclamation plan for the project would need to include the necessary measures to stabilize, manage, control or treat the mine-impacted waters. These proposed regulations provide the framework and authority for mitigation of mine-impacted water problems at mining operations MIW located on private lands. If a mine-impacted water problem could not be mitigated or cannot be mitigated by making changes to facility designs or implementing operational control measures, stabilization of the mine-impacted waters must be included in the reclamation project bond. Regarding the regulation change related to cash deposits, this revision provides clarification that a cash deposit is an acceptable financial insurance which can be posted as guaranteed by an operator or a mining company to ensure that project reclamation work will be completed.

NDEP conducted workshops to solicit public comments and input on the proposed regulation changes prior to the State Environmental Commission hearing. Discussions at the public workshops focused on essentially two items of concern. First NDEP explained that mitigation measures and

potential bonding requirement for mine-impacted water discharges would apply to existing facilities with actual problems and not to potential discharges based on modeling results. The second concern involved how would these regulations apply to historical mining components. The regulations as drafted would not apply to such. NDEP has other authorities that operate under Nevada Water Pollution Control Law to address pre-regulation sources of mine-impacted water which has the potential to degrade waters of the state. NDEP's Bureau of Corrective Actions is addressing some of these problems at the Rio Tinto Mine near Mountain City in Elko County and Yerington Mine in Lyon County.

Vice Chairman Davis asked what was the standard to determine whether the water was contaminated. Mr. Comba said it has the potential to degrade ground waters of the state, whether it be surface water or ground water. Vice Chairman Davis asked if all water in the state is protected to drinking water standards. Mr. Comba stated that all ground water is considered a potential drinking water source. Vice Chairman Davis said that is not what he has heard before. He asked if there is water coming from mining operations, mine-impacted waters, it becomes a concern if it can degrade the water going into it, whether it be ground water, surface water lower than its current. Mr. Comba said that was correct. Vice Chairman Davis said the reason we never want to have to pull a bond. His concern is not asking for bonding until there is already somewhat of a problem. Mr. Comba agreed.

Mr. Sawyer said part of the issue is that it is a little difficult to determine what to bond for until you actually have a problem. Prior to actually having mine-impacted waters it was a what-if scenario. They have leak detection and ground water monitoring, so the goal is to not have a leak for mine-impacted waters to begin with. Mr. Sawyer continued to say if they have potentially acid-generating material, they might actually encapsulate that in non-acid generating material and actually other material that might help to neutralize that and they have gone so far as to have prepared surfaces under waste rock dumps now, and in extreme cases, even put liners over waste rock dumps. He feels the goal would be to not have a leak to begin with and manage it on the front end instead of the back end.

Vice Chairman Davis asked when an operation comes forward if that is when they get a water pollution control permit from NDEP. Mr. Sawyer said yes. He confirmed that this would come into place if mine-impacted waters happened despite the safeguards. Mr. Sawyer said yes.

Member Bremner asked how they would determine how much the bond would be. Who determines this? Is this determined on an individual case? Mr. Comba said every mining operation has to come up with its reclamation cost estimate, so it is up to the mining company to get outside consultants. The consultants would develop a treatment strategy for the mine-impacted waters. That is then reviewed by NDEP to ensure that it is sufficient and that an adequate project bond would be in place if there was a mine-impacted water problem.

Member Bremner was clear about his concern there is not enough bonding money. He said he worries about this because of the long term effect that mining can have on the geography and the water in Nevada. He referred to the Super Fund sites and said he does not want something like that to happen again. He said we can't make up for what has happened in the past. Member Bremner said there has been a lot of mistakes made. Mining has been good for Nevada and at the same time, it's been bad for Nevada. There is plenty of proof on both sides of the issue.

Mr. Comba stated that he thinks this proposed regulation only strengthens the program further to prevent what Member Bremner is saying.

3. REVIEW OF REGULATIONS (b)

(b) For Possible Action: Review of LCB File No. R056-15 regulations adopted by the Commission on Mineral Resources; Determination of Findings and Recommendations to be Reported to the Legislative Counsel

Section 1 of the regulations establish fees for a permit to drill and operate an hydraulically fractured oil or gas well; non-hydraulically fractured oil or gas well; and fees for a request to change the terms of an existing permit to drill and operate an oil or gas well. Section of the regulations increases existing fees from 15 cents to 20 cents for each barrel of oil or each 50,000 cubic feet of natural gas

produced from a well.

Mr. Mike Visher, Deputy Administrator for the Nevada Division of Minerals addressed the Commission; with him was Mr. Lowell Price, NDOM oil, gas, and geothermal program manager.

Mr. Visher said that LCB determined the fee action had to be approved by the Commission while the general housekeeping of the regulations that did not address the fee changes could be addressed by the Division and adopted by the Division. They established two different numbers and that is why there is R056 and R081.

To provide some background, Mr. Visher said the Division receives no general fund money. It is all fee-based. They have a current fee for permits to drill of only \$200 and 15 cents per barrel of production. Those are the only sources of revenue for the agency for oil and gas.

In the 2015 legislative session, Senate Bill 44 allowed for an increase on the permit and administrative fees. They have updated the language to be consistent with their current practices and proposed a fee increase to fund the program adequately.

They had a workshop on October 2, 2015 where they proposed an increase on the permit to drill fee based on the depth and the land ownership status. The outcome of the workshop was that it would be more desirable to have a flat rate regardless of the depth. They took this into account. They currently have a fee of \$1,000 to drill a conventional well with a cap of \$2,000. It is \$3,500 to \$4,500 to drill an unconventional well. This is what is proposed for hydraulic fracturing. The difference with these is if they are federal or non-federal. On federal land, the BLM and the Division permits these activities. On non-federal private land, the Division is the sole regulator. There is a \$5,000 cap on those, and they proposed a sundry fee. These fees would be in effect after the well was complete. Based on whether there is substantial input and technical review, a sundry fee is something that changes the permit itself. It could be changing the owner, changing the location, changing specifics to the nameplate on the permit. If it required a technical review by staff, there is a \$300 fee. It was determined during the workshop that changing the administrative fee for 15 cents to 20 cents per barrel was a hardship for the operators. When they undertook the effort to change regulations through SB 44, oil prices were considerably higher. Things have decreased significantly since, and the project margins have eroded away. The language adopted on November 5, 2015 was to leave the administrative fee at 15 cents.

Member Neilander asked about the caps mentioned, but he does not see them in the regulations. Mr. Visher responded that they are in statute though SB 44. Vice Chairman Davis asked what sort of documentation was provided to prove the increase in the barrel fee was a hardship. Mr. Visher responded that testimony was provided at the workshop that there are no longer any profit margins. They did not provide direct dollar amounts regarding their profit margins and were not asked for proof. It was prudent not to raise the fee at this time.

Vice Chairman Davis asked what they will do now that they do not have funding. Mr. Visher responded that they found deficiencies in the way they were doing inspections and made changes in the way they do inspections. Vice Chairman Davis stated those deficiencies would still exist even if oil prices recover. Mr. Visher agreed. It is difficult to forecast what the activity might be in the future. Vice Chairman Davis asked if other states have a fee per barrel of oil. Mr. Visher responded that they do. Some have a severance tax distributed back through the general fund. Some states, like Colorado, do not charge permit fees but have production fees. Vice Chairman Davis asked if the fee they have outlined will adequately fund their program and do inspections to make sure things are safe. Mr. Visher stated that they anticipate that it will be enough. Member Bremner asked what a small operator was. Mr. Price responded that a small operator in Nevada is a company with a dozen employees. Mr. Price stated there are about five small operators.

3. REVIEW OF REGULATIONS (c)

(c) For Possible Action: Review of LCB File No. R057-15 regulations adopted by the Commission on Mineral Resources; Determination of Findings and Recommendations to be Reported to the Legislative Counsel

Section 2 of the regulations provides that the location of an individual geothermal well or wells in a project area must be surveyed by a professional land surveyor. Section 3 increases the annual fee required of the owner of a geothermal resource or the operator of a geothermal production well or injection well. An annual fee is also required of the owner or operator of an observational well or a thermal gradient well unless it is plugged and abandoned. Section 4 specifies the required format for copies of electronic logs for geothermal wells. Section 5 deletes provisions requiring annual filing of certain reports specifying the production and temperature of a geothermal resource or a producing domestic well. Section 6 specifies procedures to be followed for the abandonment of a thermal gradient well. Section 7 specifies procedures to be followed for the abandonment of injection, production, or observational wells. Section 8 changes the fee for an application to abandon and plug a well and the fee for an application for any other proposed activity for which the Division conducts an extensive review.

Mr. Visher stated R057-15 are regulations to amend 534A, geothermal. The last time the regulations were updated was 1995. They are proposing a fee increase to fund the program and update the code with current practices and eliminate some unnecessary annual reporting for geothermal domestic wells. They would like to increase the annual fee for production for an industrial commercial well from \$475 per year to \$600 per year, and then introduce a new fee of \$100 per well for any unplugged observation or temperature gradient well. The incentive is to have the operators plug and abandon those early exploration holes.

The program was short of funds and was subsidized by mining claim fees. They would like to make sure the program can survive on its own. They are no longer going to require the domestic well owner or geothermal well owner to provide annual reports of use. The time spent tracking these down and the information utilized the industry made these reports negligible. They are now clarifying how wells are plugged and reclassifying the sundry for abandoning and plugging, changing it from a \$300 fee to a \$100 fee. They lowered the fee as incentive to request approval from NDOM to PNA a well and then making sure that the domestic well owners, if they intend to use a well for geothermal energy, they have to permit with the Division before they modify it.

They held a workshop on October 2, 2015, and had very little feedback from the industry other than clarification of which wells needed to be paid for.

Member Neilander asked the question – under section 3, Subsection 2, which is the \$100 new fee, annually in the event they don't plug an exploratory well; he said he had no idea what it costs to plug an exploratory well and asked why they chose \$100. He asked if that would incentivize them to plug the well rather than pay the hundred dollars. Mr. Visher responded that they are trying to make sure they at least have something that they have to account for, so if they have to communicate to them that they intend to keep the well open and they are going to pay that \$100, then at least NDOM has an understanding of why. Mr. Visher added that it certainly does not cover the cost of plugging the well, but plugging the wells is very unique. It depends on the depth, the diameter, the location and what NDOM is trying to get a handle on is those that are out there that don't need to be there anymore. He said he was afraid if they charge too much, they are not going to get any compliance. They would like to see some movement and at least the discussions that they have had with some of the operators indicate they don't see that as being unreasonable as long as they are not being held to PNA wells that were not permitted through NDOM.

Mr. Visher said if it is not being used to actually collect information, it no longer meets the definition of an observation well, and as that, it becomes just a borehole. If NDOM chose to, they could work with the Division of Water Resources, to get them involved to force the plugging of the borehole because it's no longer being used as an observation well. It comes back to trying to make sure these old wells that were used get plugged in, abandoned and sealed.

Vice Chairman Davis said that something Mr. Visher said concerned him. If they raise the fee too much, then they are not going to get compliance. He asked if it is a problem where they don't have any enforcement authority. Mr. Visher said No, it isn't that. It is they would like to work with the

operators to get them to do what they want them to do. Vice Chairman asked if they had the ability to make them do it if they didn't want to. Mr. Visher said they do not have fining capability in the statute, so the only leverage they have is permitting. If it is no longer being utilized as an observation well, then it is no longer a geothermal well. He said they then could work with Water Resources. Vice Chairman Davis then said – if NDOM put this \$100 fee in place and the operator doesn't want to plug the well and NDOM bumps the fee up to \$500 and the operator doesn't want to pay it, they just don't? Mr. Visher said if they are required to then NDOM could go through the AG's office. Vice Chairman Davis said he was confused as to when that fee went too high they would have non-compliance. He asked what non-compliance looked like. Mr. Visher said they would not communicate with NDOM with regard to the use of the TG wells, how they are being used, the observation wells - and are they being used or not.

Member Bremner asked if before they do any exploration, do they have to get approval from NDOM? Do they have to get a license or do they have to register with NDOM to get approval to do this in the State of Nevada? Mr. Visher said before they drill a hole, yes. That is what NDOM regulates – the drilling of the hole. There are remote sensing techniques that can be used. There are other drill holes that are out there that already have information that do not require permits to do the exploration but if its on federal land, yes. They have to permit through the BLM for all activities on the surface even before they drill. If it is on private property, they are working with the private property owner who owns the mineral rights, the geothermal rights. They also have to bond for each hole.

Mr. Visher said they won't be able to drill the hole without the permit that they receive from NDOM. So if they are looking to do new work in Nevada, it makes sense that they need to comply with the agency's request. Member Bremner asked the size of the bonding requirement. Mr. Visher said it is \$10,000 minimum and \$50,000 statewide minimum. There is no cap. They can require a larger bond depending on the operator, the location, the depths, track records, but the minimum is \$10,000 and that is defined in statute. When Member Bremner asked if there had ever been any rogue operators, Mr. Price said they have had very good operators, both gas and geothermal within the state. Those who have actually come here stayed and succeeded.

3. REVIEW OF REGULATIONS (d)

(d) For Possible Action: Review of LCB File No. R081-15 regulations adopted by the Commission on Mineral Resources; Determination of Findings and Recommendations to be Reported to the Legislative Counsel

The regulation revises the form that must be used to report the plugging of certain holes or wells to the Division of Minerals; authorizes an extension of the expiration date of a permit to drill an oil or gas well; revises the requirements for obtaining approval to drill and complete a disposal well; requires the permanent plugging of certain wells; eliminates the fee for applying for a permit drill, deepen or plug back any oil or gas well; requires certain forms to be used to apply for certain approvals; eliminates the authority for an operator a series of exploratory wells to apply to keep the wells confidential; and makes various other changes relating to oil and gas wells.

Mr. Visher said that Regulation RO81-15 is the regulation that was adopted by his Division on November 5th which addresses language clarification in Chapter 522 oil and gas. They eliminated the use of the old USGS forms, clarified the types of activities that needed to be filed with the Division for approval and they eliminated the tentative approval by telegraph. Telegraph was being used the last time these regulations were updated. They also clarified when the wells, the well logs could be confidential.

Mr. Visher continued to say they eliminated the language requiring Division approval from oil and gas wells to be converted to a water well. That is done by the Division of Water Resources. They eliminated forms 8A and 10. 8A was a change of operator, the ownership, and instead, they moved that as an action that had to be submitted on Form 4, so that that's administrative sundry. The oil, gas and geothermal databases are now much more robust and they are capturing all of those submissions

of information. NDOM wants to make sure that the actions of staff are covered adequately and funded adequately.

Vice Chairman Davis asked Mr. Visher to look at page 7 of the proposed draft at the bottom of Section 12, number 11. He wanted to make sure that was written correctly. Mr. Visher responded that the intention on this one was that if an operator is going to shut the well in for a brief period of time that they didn't need to wait for NDOM approval. All of the items listed under A, 12A require approval from the agency. If they are going to shut the well in (close the valve, put a valve on top, close it down while they study it) for no more than 30 days, they don't need NDOM approval. If they are going to do it for a longer period of time, that is going to require the technical review to make sure that all of the safety protocols are in place and that they are actually submitting a program to NDOM about what they intend to do. For the short period of time, he did not feel that it was necessary for the approval so that is why it is excluding that component.

Mr. Kandt, the counsel for the Commission, said that because the Commission is created in statute to be a seven-member body, it requires four members to obtain a quorum to take any action and a majority of the members present to actually take the action. He said that in order to take action on the above items, it is not possible this day unless Senator Brower calls back in, but the Commission could, at a later date, arrange a teleconference where staff and himself could be present and any members of the public that want to attend and the rest of the members could just appear by phone and at that point in time, they can take any necessary action.

Member Neilander asked if they would need to rescind the minutes which were approved at the last meeting. Mr. Kandt said he would work with the staff to put everything on the agenda in the appropriate form and the minutes could be approved at the next meeting – with a quorum.

4. For Possible Action: Review and Approval of Minutes:

- ♦ September 24, 2015

This agenda item was skipped. Senator Brower was unable to be reached, and there was no quorum. There was not a quorum at the September 24, 2015 meeting either.

5. For Possible Action: Meeting Schedule

Member Neilander suggested a telephonic meeting to approve the regulations if all four board members could attend. There will be further communication to determine a meeting date.

6. Briefing to and from Staff; Information received for requests from prior meetings; Suggestions for Future Agenda Topics

Terry Rubald stated she was trying to coordinate with the Department of Wildlife on reporting the mule deer migration through Barrick mine. The first quarter of the year will be a report from Business and Industry on training.

Vice Chairman Davis stated that after the telephonic meeting to approve the regulations, he did not want to schedule another meeting until the issue of having more members of this board is dealt with.

Terry Rubald stated the second quarter meeting is the report from the Nevada Division of Environmental Protection (NDEP). The fourth quarter is open.

7. Commission Comments

There were no comments under this agenda item at this meeting.

8. Public Comment

There was no public comment.

9. **For Possible Action: Adjournment**

The meeting adjourned at 3:11 p.m.

DRAFT

NDEP PRESENTATION ON REGULATIONS

Mine-impacted Water Regulations

Mining Oversight and Accountability Commission
November 17, 2015

**Nevada Division of Environmental Protection
Bureau of Mining Regulation and Reclamation**



www.ndep.nv.gov

Purpose of Proposed Regulations

- **Revise bonding requirements to assure adequate funding available to address actual discharges of mine-impacted water to protect water quality.**
- **Maintain consistency on private lands with BLM implementation of bonding requirements on federal lands in Nevada.**
- **Allow cash deposits as an acceptable form of surety.**



Summary of Regulations

- **Definition of Mine Impacted Waters (MIW)**
- **Require stabilization, management, control, or treatment of MIW in the reclamation plan approved by NDEP**
- **Require mitigation of MIW**
- **Require bonding for MIW mitigation**
- **Allow cash deposit as an acceptable form of surety**

Outreach and Public Input on Proposed Regulations

- **NDEP held workshops on August 4 in Elko and August 12 in Carson City.**
- **Concerns expressed:**
 - **How bonding would apply to potential or modeled not actual discharges of mine impacted water.**
 - **Application of bonding to pre-regulation (before 1989) sources.**
- **NDEP has addressed these concerns through discussion or in the regulation.**



Thank you

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