

# **MINING OVERSIGHT & ACCOUNTABILITY COMMISSION**

**December 17, 2013**

**MEETING 10:00 A.M.**



Place of Meeting:

Legislative Building  
401 S. Carson Street  
Room 2135  
Carson City, Nevada

Video Conference To:

Legislative Counsel Bureau  
Grant Sawyer Office Building  
Room 4412  
Las Vegas, Nevada

## **MEETING NOTICE AND AGENDA**

### **NEVADA MINING OVERSIGHT & ACCOUNTABILITY COMMISSION**

**Date and Time of Meeting:** December 17, 2013 10:00 a.m.

**Place of Meeting:** Legislative Building  
401 S. Carson Street  
Room 2135  
Carson City, Nevada

**Video Conference To:** Grant Sawyer Office Building  
Room 4412  
Las Vegas, Nevada

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. **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):**

#### **Overview of Mercury Program**

4. Presentation by Department of Conservation and Natural Resources – Sagebrush Ecosystem Technical Team, “Sage Grouse and Mining”

5. **For Possible Action: REVIEW OF REGULATIONS**

**Review of LCB File No. R172-12, regulations adopted by the Nevada Tax Commission; Determination of Findings and Recommendations to be Reported to the Legislative Counsel**

The regulation repeals provisions regarding the accelerated depreciation of certain capitalized costs to determine the net proceeds of minerals tax upon permanent closure of a mine.

6. **For Possible Action: Approval of Minutes for October 31, 2013**
7. Briefing to and from Staff; Suggestions for Future Agenda Topics and Meeting dates
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:  
Terry Rubald, Deputy Executive Director, Department of Taxation 1550 College Parkway Carson City, NV 89706

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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; 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 [www.tax.state.nv.us](http://www.tax.state.nv.us)

## **For Possible Action: REVIEW OF REGULATIONS**

### **Review of LCB File No. R172-12, regulations adopted by the Nevada Tax Commission; Determination of Findings and Recommendations to be Reported to the Legislative Counsel**

The regulation repeals provisions regarding the accelerated depreciation of certain capitalized costs to determine the net proceeds of minerals tax upon permanent closure of a mine.



STATE OF NEVADA  
DEPARTMENT OF TAXATION  
Web Site: <http://tax.state.nv.us>

1550 College Parkway, Suite 115  
Carson City, Nevada 89706-7937  
Phone: (775) 684-2000 Fax: (775) 684-2020

RENO OFFICE  
4600 Kietzke Lane  
Building L, Suite 235  
Reno, Nevada 89502  
Phone: (775) 687-9999  
Fax: (775) 688-1303

BRIAN SANDOVAL  
*Governor*  
ROBERT R. BARENGO  
*Chair, Nevada Tax Commission*  
CHRISTOPHER G. NIELSEN  
*Executive Director*

LAS VEGAS OFFICE  
Grant Sawyer Office Building, Suite 1300  
555 E. Washington Avenue  
Las Vegas, Nevada 89101  
Phone: (702) 486-2300 Fax: (702) 486-2373

HENDERSON OFFICE  
2550 Paseo Verde Parkway, Suite 180  
Henderson, Nevada 89074  
Phone: (702) 486-2300  
Fax: (702) 486-3377

December 9, 2013

Brenda J. Erdoes, Legislative Counsel  
Legislative Counsel Bureau  
Legal Division  
401 South Carson Street  
Carson City, Nevada 89701-4747

Dear Brenda:

On behalf of the Nevada Tax Commission (NTC), I would like to submit LCB File No. R172-12, reviewed by LCB on July 23, 2012 and adopted without revisions by NTC on December 9, 2013.

The attached package includes a Notice of Adoption; Secretary of State Filing Form, Informational Statement, and Small Business Impact Statement, as well as the adopted regulation.

The regulation is next scheduled on the agenda of the Mining Oversight and Accountability Commission for its recommendation on December 17, 2013. The recommendation will be forwarded to you immediately after the meeting.

It is my understanding this regulation will be placed on the agenda of the Legislative Commission on December 20, 2013. Please let me know if you need anything else.

Sincerely,

A handwritten signature in blue ink, appearing to read "Terry E. Rubald".

Terry E. Rubald  
Deputy Executive Director  
Division of Local Government Services  
Department of Taxation  
(775) 684-2095

cc: Debra Corp by e-mail



BRIAN SANDOVAL  
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Phone: (702) 486-2300  
Fax: (702) 486-3377

December 9, 2013

## **NOTICE OF REPEAL OF ADOPTED REGULATION**

The Nevada Tax Commission repealed adopted permanent regulations pertaining to Chapter 362 of the Nevada Administrative Code, LCB File No. R172-12, on December 9, 2013. The regulation proposed for repeal has to do with allowing accelerated depreciation for certain mine property for purposes of calculating the net proceeds of minerals tax. If a mine has complied with all the applicable provisions of NRS Chapter 519A, Reclamation of Land Subject to Mining Operations, agrees to extend the time allowed for the department to file a certificate of delinquency pursuant to NRS 360.420 to the date of final audit, and gives public notice that the mining operation will close within 36 months after the date on which the petition is filed with the Commission, then the mining operator may petition the Nevada Tax Commission for permission to depreciate leasehold improvements, buildings, fixed machinery and fixed equipment at the accelerated rate provided in NAC 362.140. A copy of the regulation as adopted is attached hereto.

  
Terry E. Rubald  
Deputy Executive Director  
Department of Taxation

SECRETARY OF STATE  
FILING DATA

Form For Filing  
Administrative Regulations

FOR EMERGENCY  
REGULATIONS ONLY

Effective date \_\_\_\_\_

Expiration date \_\_\_\_\_

Agency: Nevada Tax Commission /  
Department of Taxation

Permanent Regulations  
LCB File No. R172-12

\_\_\_\_\_  
Governor's signature

Classification:      **PROPOSED**      **ADOPTED BY AGENCY**      **EMERGENCY**

**Brief description of action:** Adoption of regulations repealing Nevada Administrative Code (NAC) Chapter 362 provisions regarding the accelerated depreciation of certain capitalized costs to determine the net proceeds of minerals tax.

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**Authority citation other than 233B: AUTHORITY: §§1-4, NRS 360.090 and 362.120**

**Notice date: 11-5-13**

**Date of Adoption by Agency: 12-9-13**

**Hearing date: 12-9-13**

**PROPOSED REGULATION OF THE  
NEVADA TAX COMMISSION**

**LCB File No. R172-12**

July 23, 2012

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

AUTHORITY: §§1-4, NRS 360.090 and 362.120.

A REGULATION relating to taxation; repealing the provisions regarding the accelerated depreciation of certain capitalized costs to determine the net proceeds of minerals; and providing other matters properly relating thereto.

**Section 1.** NAC 362.040 is hereby amended to read as follows:

362.040 1. ~~{Except as otherwise provided by NAC 362.100 to 362.160, inclusive, leasehold}~~ *Leasehold* improvements and buildings must be depreciated over a 20-year period using the straight-line method.

2. ~~{Except as otherwise provided by NAC 362.100 to 362.160, inclusive, fixed}~~ *Fixed* machinery and equipment must be depreciated over a 20-year period using the straight-line method.

3. Mobile machinery and equipment must be depreciated over a 10-year period using the straight-line method.

4. Automobiles and light service vehicles must be depreciated over a 5-year period using the straight-line method.

5. ~~{Except as otherwise provided by NAC 362.100 to 362.160, inclusive, an}~~ *An* integrated processing assembly must be depreciated over a 20-year period using the straight-line method.



Subsequent additions to the unit must also be reported and be depreciated over a 20-year period using the straight-line method.

6. If any property is disposed of before the end of the depreciation period, the remaining amount of allowable depreciation, if the property had remained in use, may be reported in total as an additional expense of depreciation for the reporting period. The amount of depreciation must be reduced by the amount of any consideration received for the property from sale, insurance recovery, trade-in or any other reimbursement, but not below zero.

7. A mining operator may petition the Nevada Tax Commission for reconsideration of the allowable depreciation of property. The Commission may adjust the allowable depreciation if the petitioner presents satisfactory evidence that the expected life of the property is longer than that which is provided for in this section. ~~[If the Commission finds that the petitioner has presented satisfactory evidence that the expected life of the property is shorter than that which is provided for in this section, the petitioner must comply with the provisions of NAC 362.100 to 362.160, inclusive, to apply for permission to depreciate the property in the accelerated manner prescribed by NAC 362.140.]~~

**Sec. 2.** NAC 362.368 is hereby amended to read as follows:

362.368 1. To assess and tax the net proceeds of an operating facility which extracts geothermal resources, the gross yield of the geothermal resources must be determined pursuant to this section.

2. If the transaction involves the direct, arms-length sale of the geothermal resource, the gross yield of the geothermal resource equals the proceeds of the sale of the geothermal resource.

3. If the transaction involves the indirect sale of the geothermal resource, the gross yield of the geothermal resource is the total revenue received from the sale of any electricity, heat or

other by-product of the geothermal resource that is agreed upon by the parties to the sale, less any processing allowance or transportation allowance. If the selling price includes any costs for processing or transportation, the person extracting the geothermal resource shall report those costs on a form prescribed by the Department. The Department shall consider those costs in determining the gross yield of the geothermal resource.

4. In the case of an indirect sale of a geothermal resource that is used to produce electricity, all energy, capacity and other payments received, if any, must be included in the gross yield of the geothermal resource.

5. If the costs associated with the processing allowance or transportation allowance are included in a bona fide arms-length contract, the costs shall be deemed to be an appropriate deduction from the selling price. Such costs may include the negotiated costs for the operation, maintenance and replacement of the plant which are paid by the operator of the field, reduced by any negotiated costs for the operation, maintenance and replacement of the field which are paid by the operator of the plant. The negotiated costs must be set forth in a written contract or other document specified by the Department and may include, but are not limited to:

(a) A negotiated sharing by percentage of the operating and maintenance costs of the field and the plant; or

(b) A negotiated agreement that the operator of the field will pay for necessary improvement to the plant.

6. If the costs associated with the processing allowance or transportation allowance are not included in a bona fide arms-length contract, the Department must consider the following:

(a) The annual total cost of operating and maintaining the plant, transmission line and any other facility or equipment used to transport the geothermal product after all mining functions

and processing are complete, including, but not limited to, any reasonable and prudent costs incurred for direct wages, benefits, workers' compensation, supplies, materials and charges for overhead, general liability insurance incurred because of the plant and transmission line and costs for obtaining and maintaining any permit for a site, permit relating to air quality or any other permit or license required to operate the plant or transmission line. The transportation allowance for a transmission line is allowed only in direct proportion to the relationship of the field operator's investment to the total cost of the transmission line.

(b) ~~[Except as otherwise provided in NAC 362.100 to 362.160, inclusive, the]~~ *The* depreciation of the capital investment in the plant and transmission line using the straight-line method over the useful life of the asset established in accordance with the *Personal Property Manual*.

(c) Any charges for wheeling electricity or for loss of power in the transmission line.

(d) Amortization of each long-term contract to purchase power using the straight-line method over the stated life of the contract. Any amount amortized pursuant to this paragraph must not exceed 60 percent of the original book value of the plant and transmission line.

(e) An allowance for return on the investment in the plant and transmission line, calculated by multiplying the cost of acquiring the plant and transmission line, as recorded in the books and records of the operator, by the overall rate of return on capital. The overall rate of return on capital must be based on the appropriate electric industry cost of capital study conducted by the Department pursuant to NAC 361.408 and 361.425.

7. For the purpose of paragraph (e) of subsection 6:

(a) If an agreement for the purchase of power is in effect, the Department may grant an allowance for a return on the investment for a period that is equal to the remaining term of the

agreement or 15 years, whichever is less. If such an agreement is not in effect, the Department may grant the allowance for a period that is equal to the remaining useful life of the plant and transmission line or 15 years, whichever is less.

(b) If the plant or transmission line is repowered or a reinvestment in the plant or transmission line occurs, the taxpayer may apply to the Department for an extension of the allowance specified in paragraph (a). The Department may grant an extension pursuant to this paragraph for a period that is equal to the remaining life of the assets purchased for the repowering or reinvestment or 15 years, whichever is less. The remaining life of those assets must reasonably reflect the useful life of those assets established in accordance with the *Personal Property Manual*.

(c) To calculate the allowance specified in paragraph (a), the Department may require the taxpayer to submit any additional information specified by the Department, including, without limitation:

(1) A statement setting forth the amount of any recapitalization or repowering of the plant or transmission line;

(2) A statement setting forth the established life of the assets purchased; or

(3) An audit of the books and records of the taxpayer.

(d) If the Department grants an extension pursuant to paragraph (b), the amount of the return on the investment must not exceed the amount of the recapitalization or repowering of the plant or transmission line.

8. As used in this section, “*Personal Property Manual*” has the meaning ascribed to it in NAC 361.1361.

**Sec. 3.** NAC 362.100, 362.110, 362.120, 362.130, 362.140, 362.150 and 362.160 are hereby repealed.

**Sec. 4.** Sections 1, 2 and 3 of this regulation do not apply to or affect:

1. Any depreciation of assets approved by the Nevada Tax Commission before the effective date of this regulation; or

2. Any powers or duties of the Department of Taxation or any mining operator relating to any depreciation of assets approved by the Nevada Tax Commission before the effective date of this regulation.

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### **TEXT OF REPEALED SECTIONS**

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**NAC 362.100 Eligibility of mining operator for accelerated depreciation. (NRS 360.090, 362.120)**

1. A mining operator may petition the Nevada Tax Commission for permission to depreciate leasehold improvements, buildings, fixed machinery and fixed equipment in the accelerated manner prescribed in NAC 362.140 if the mining operator has:

(a) Complied with all applicable provisions of chapter 519A of NRS and the regulations adopted pursuant thereto;

(b) Agreed in writing to extend the time allowed for the Department to file a certificate of delinquency pursuant to NRS 360.420 to the date on which the Department completes a final audit; and

(c) Given public notice that the mining operation will close within 36 months after the date on which the petition is filed with the Commission.

2. The public notice must set forth one or more reasons for the closure and the date on which the closure is expected. The notice must be delivered personally or sent by certified mail to the county commissioners of the county in which the mining operation is located and to the Budget Division of the Department of Administration and:

(a) If the mining company is publicly held, appear in the annual reports which the company is required to provide to the Securities and Exchange Commission and which it provides to its stockholders; or

(b) If the mining company is not publicly held, be sent to all creditors whose money financed the assets for which the company is seeking permission to use the accelerated depreciation method.

**NAC 362.110 Filing of petition and accompanying documents. (NRS 360.090, 362.120)**

A petition to depreciate leasehold improvements, buildings, fixed machinery and fixed equipment in the accelerated manner prescribed in NAC 362.140 must:

1. Be filed with and approved by the Nevada Tax Commission before the date on which the mining operator is required to file the annual statement required by NRS 362.110.

2. Be accompanied by a copy of each public notice which was sent pursuant to NAC 362.100.

3. Be accompanied by a copy of the plan for reclamation filed with the Division of Environmental Protection of the State Department of Conservation and Natural Resources.

4. If the mining operator filed a plan of operation with the Division of Environmental Protection of the State Department of Conservation and Natural Resources, be accompanied by the plan.

5. Be accompanied by:

(a) A notarized statement which is signed by an officer of the company; or

(b) A copy of the plan for productive use of the land after the mining has stopped, ➔ setting forth the proposed disposition of the leasehold improvements, buildings, fixed machinery and fixed equipment.

**NAC 362.120 Temporary closure not acceptable justification for allowance of petition.**  
(NRS 360.090, 362.120) The Nevada Tax Commission will not accept closure of a mining operation because of a temporary change in economic conditions or any other closure of a mining operation which the Commission determines to be temporary as the justification for allowing a petition to depreciate leasehold improvements, buildings, fixed machinery and fixed equipment in the accelerated manner prescribed in NAC 362.140.

**NAC 362.130 Permission to depreciate assets granted to specific company only. (NRS 360.090, 362.120)** Permission to depreciate assets in the accelerated manner prescribed in NAC 362.140 must be granted to a specific mining company and does not follow any transfer of the assets. For the purposes of this section, a subsidiary or affiliate of a mining company is a separate company.

**NAC 362.140 Manner of depreciation. (NRS 360.090, 362.120)**

1. If the Nevada Tax Commission grants a petition, the leasehold improvements, buildings, fixed machinery and fixed equipment must be depreciated at the following rates:

<u>Year</u>	<u>Percentage</u>
1.....	10
2.....	20
3.....	30
4.....	40

2. The amount of the remaining depreciation allowed for the asset, less any salvage value not previously subtracted, must be multiplied annually by the allowed percentage beginning on the date on which the first annual statement required by NRS 362.110 is filed after the date on which the petition is granted. The percentage which must be used for the first year of accelerated depreciation is 10 percent whether or not the remaining useful life of the asset is 36 months. If the mining operator acquires leasehold improvements, buildings, fixed machinery or fixed equipment after the petition is granted, such assets must be depreciated in the same manner as the existing assets using 10 percent for the first year of depreciation.

3. The salvage value of an asset must be calculated on the basis of the projected value of the asset at the time of the anticipated disposition. If excess depreciation is taken because a mining operator underestimated the salvage value of an asset, penalties and interest pursuant to NRS 360.417 must be applied to any underpayment of tax resulting therefrom.

4. The mining operator shall credit the decrease in tax liability resulting from the accelerated depreciation against the estimates or final taxes due pursuant to NRS 362.115.



**NAC 362.150 Annual audits by Department; requirement of surety. (NRS 360.090, 362.120)**

1. The Department may conduct annual audits of any mining operation that is allowed to depreciate its assets in the accelerated manner prescribed in NAC 362.140.
2. If the Department determines that it is possible that the mining operator will continue to process, sell or stockpile the mined product for longer than the agreed time, the Department shall require the mining operator to file a surety with the Department. The surety must be:
  - (a) Executed by the mining operator as principal and by a corporation qualified under the laws of this State as surety;
  - (b) Payable to the State of Nevada;
  - (c) A bond, letter of credit or any other form of security authorized by NRS 100.065; and
  - (d) Conditioned upon the punctual payment of all taxes on the net proceeds of mines, including all penalties and interest.
3. The total amount of the surety must not be less than the amount the Department determines to be the potential liability for taxes, penalties and interest at the time that the mining operation could continue beyond the date of closure specified in the notice required by NAC 362.100. The mining operator shall file the surety within 30 days after the Department notifies him or her of such a duty.

**NAC 362.160 Duties of operator who fails to cease or reopens operation. (NRS 360.090, 362.120)** If a mining operator who has been allowed to depreciate assets using the accelerated method fails to cease operations on the date of closure specified in the notice required by NAC 362.100 or at any time reopens the mining operation, the mining operator shall:

1. Notify the Department in writing within 30 days after the date agreed upon or the reopening of operations;
2. Pay to the Department within 30 days after demand the difference between the net proceeds taxes using the straight-line method of depreciation over a 20-year period and the amount paid using the accelerated method for any year in which the accelerated method was used; and
3. Pay to the Department within 30 days after demand penalties and interest pursuant to NRS 360.417.

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED BY  
ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066**

**LCB FILE R172-12**

**Repeal of NAC 362.100 through 362.160, Accelerated Depreciation**

The following statement is submitted for amendments, additions and deletions, to Nevada Administrative Code (NAC) 361 adopted by the Nevada Tax Commission.

**1. The Need for and Purpose of the Permanent Regulation.**

The purpose of the permanent regulation, LCB File No. R172-12, is to repeal the provisions regarding the accelerated depreciation of certain capitalized costs to determine the net proceeds of minerals upon permanent closure of a mine. The regulations proposed for repeal have to do with allowing accelerated depreciation for certain mine property for purposes of calculating the net proceeds of minerals tax. If a mine has complied with all the applicable provisions of NRS Chapter 519A, Reclamation of Land Subject to Mining Operations, agrees to extend the time allowed for the Department to file a certificate of delinquency pursuant to NRS 360.420 to the date of final audit, and gives public notice that the mining operation will close within 36 months after the date on which the petition is filed with the Commission, then the mining operator may petition the Nevada Tax Commission for permission to depreciate leasehold improvements, buildings, fixed machinery and fixed equipment at the accelerated rate provided in NAC 362.140.

The regulations were adopted in 1991. In the twenty-two years since then, 72 mines were shutdown<sup>1</sup> but only one mine applied for accelerated depreciation. Ultimately the mine that applied did not receive accelerated depreciation because, upon audit, the Department found the mine had not actually closed. The finding was upheld by the Nevada Tax Commission after 10 years of litigation.

Repeal of the regulations will remove regulations which are not used or useful in determining the net proceeds of minerals tax.

**2. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.**

The Department of Taxation (Department), as staff to the Nevada Tax Commission (NTC), solicited comment from the public by sending notice of workshops and hearings by electronic or regular mail as follows:

<u>Date of Notice</u>	<u>Workshop/ Hearing</u>	<u>Date of Workshop</u>	<u>Number Notified</u>	<u>Representing Businesses</u>
11-4-13	Workshop	11-22-13	400	102
11-5-13	Hearing	12-09-13	400	102

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<sup>1</sup> Based on data from the Nevada Division of Minerals

The mailing list included the interested parties list maintained by the Department, as well as officials of local jurisdictions subject to these regulations.

Comments were received from Department staff during the workshop and adoption hearing.

The comments addressed the repeal of NAC 362.100 regarding the eligibility of a mining operator for accelerated depreciation; NAC 362.110 providing for the filing of a petition and associated documents; NAC 362.120 providing that the Nevada Tax Commission will not accept temporary closure of a mine as a justification for accelerated depreciation; NAC 362.130 limiting accelerated depreciation to a specific mining company and does not follow any transfer of assets; NAC 362.140 providing the manner of depreciation; NAC 362.150 providing for annual audits of companies that have been granted accelerated depreciation; and NAC 362.160 enumerating the duties of an operator who fails to cease or reopens operations after accelerated depreciation has been granted.

A copy of the audio taped comments or the record of proceedings may be obtained by calling the Nevada Department of Taxation at (775) 684-2100 or by writing to the Nevada Department of Taxation, 1550 East College Parkway, Carson City, Nevada 89706, or by e-mailing the Nevada Department of Taxation at [ware@tax.state.nv.us](mailto:ware@tax.state.nv.us).

The Legislative Counsel Bureau (LCB) completed its review of submitted revisions on November 8, 2013. NTC adopted the regulation at the hearing held on December 9, 2013.

**3. The number of persons who:**

**(a) Attended and testified at each workshop:**

<u>Date of Workshop</u>	<u>Attended</u>	<u>Testified</u>
11-22-13	4	1

**(b) Attended and testified at each hearing:**

<u>Date of Hearing</u>	<u>Committee/Public Attended</u>	<u>Testified</u>
12-9-13	71	1

**(c) Submitted to the agency written comments:**

<u>Date of Workshop / Hearing</u>	<u>Number Received</u>
12-9-13 Hearing	1

<b>Name</b>	<b>Telephone</b>	<b>Business Address</b>	<b>Business Telephone</b>	<b>Electronic Mail Address</b>	<b>Representing</b>
Terry Rubald	775-684-2095	1550 College Parkway Carson City, NV 89701	775-684-2095	<a href="mailto:trubald@tax.state.nv.us">trubald@tax.state.nv.us</a>	Dept of Taxation
Tim Crowley	775-829-2121	201 W. Liberty St., Ste. 300 Reno, NV 89501	775-829-2121	<a href="mailto:tim@nevadaminig.org">tim@nevadaminig.org</a>	Nevada Mining Association

4. **A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.**

Comments were solicited from affected and interested local governments, businesses and persons, by notices posted at the Nevada State Library; various Department of Taxation locations throughout the state; and at the Main Public Libraries in counties where an office of the Department of Taxation is not located. Comments were also solicited by direct email to county officials and other interested parties lists maintained by the Department. Approximately 25.5% of the approximately 400 direct notices were sent to individuals or associations representing business.

Department staff commented on some or all of the proposed language changes during the workshop process and during the Adoption Hearing of the Nevada Tax Commission. A representative of the Nevada Mining Association (NMA) responded to inquiry from Department staff that the tax committee of the NMA had considered the regulation repeal but had no comment. No other comments from small businesses were made.

A copy of the audio taped comments or the record of proceedings may be obtained by calling the Nevada Department of Taxation at (775) 684-2100 or by writing to the Nevada Department of Taxation, 1550 East College Parkway, Carson City, Nevada 89706, or by e-mailing the Nevada Department of Taxation at [ware@tax.state.nv.us](mailto:ware@tax.state.nv.us).

5. **If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

The permanent regulation was adopted with no changes, as none were made by the general public or the Nevada Mining Association. NTC adopted the permanent regulation as written; and believed no changes other than those made were necessary.

6. **The estimated economic effect of the adopted regulation on the businesses which it is to regulate and on the public. These must be stated separately, and each case must include:**

- (a) **Both adverse and beneficial effects; and**
- (b) **Both immediate and long-term effects.**

***Beneficial Effects***

Repeal of the regulation will remove regulations which are not used or useful in determining depreciation of real property. Depreciation is otherwise calculated pursuant to NAC 362.040 at a straight-line rate, and in particular includes subparagraph 6, which allows all remaining allowable depreciation if any property is disposed of before the end of the depreciation period. The Department assumes that in a mine closure, the assets are sold or dismantled, thus NAC 362.040(6) would allow all remaining depreciation.

With regard to why the regulations are not used or useful, at workshops held on May 1, 2000 and July 7, 2000, mining industry participants reported that the regulations were not workable as written, particularly the public notice section in NAC 362.100, which was described as “antiquated.” Under NAC 362.100, application of accelerated depreciation is dependent upon permanent closure of the mine. In order to qualify, one of the conditions requires public notice that the mining operation will close within 36 months after the date on which the petition is filed with the Commission. Public notice includes noticing county commissioners, notice of closure in SEC shareholder reports, or, if not publicly held, notice to all creditors.

The comments from industry at the workshops in 2000 were that public notice causes anxiety to the local community. In addition, it is difficult to predict the date of mine closure, the end of life of a mine may or may not actually happen as predicted, and there is no benefit gained in making a public announcement, years in advance of actual closure.

### ***Adverse Effects***

Repeal of the regulation would remove the ability to accelerate depreciation for a mine that will permanently close. The value of an allowable deduction to a taxpayer is the reduction to the gross yield, resulting in lowering the taxable net proceeds of the minerals. Accelerated depreciation allows the deduction of depreciation earlier in the life of a mine prior to closure.

### ***Direct Effect***

Repeal of the regulation will not result in any immediate increase in taxable net proceeds to taxpayers. Similarly, there will be no immediate effect on state or local government revenues. Two mines permanently closed between 2008 and 2012 (the last was a gypsum mine in Clark County). There was no production and no taxes were due, therefore accelerated depreciation would not have changed the net proceeds result. Mine operators considering permanent closure may still rely on NAC 362.040(6) to capture any remaining depreciation.

### ***Indirect Effect***

The indirect effect of repeal of the regulation will mean taxpayers will continue to rely on the current method of straight-line depreciation as an allowable deduction. Since the regulation has not been used or useful, there is little to no change in the amounts of deductions claimed.

## **7. The estimated cost to the agency for enforcement of the adopted regulation.**

The Department does not anticipate any cost to the agency for enforcement.

8. **A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

There are no other state or government agency regulations that the proposed amendments duplicate.

9. **If the regulation includes provisions that are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.**

The Nevada Tax Commission is not aware of any provision in this regulation which is also governed by federal regulation.

10. **If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.**

The regulation does not provide for a new fee, and does not increase an existing fee.

11. **Is the proposed regulation likely to impose a direct and significant economic burden upon a small business or directly restricted the formation, operation or expansion of a small business? What methods did the agency use in determining the impact of the regulation on a small business?**

The Department determined that the proposed regulation does not impose a direct and significant economic burden upon a small business or restrict the formation, operation or expansion of a small business. In making this determination the Department requested comments from mine companies and from the Nevada Mining Association. There was either no response or no opposition.



STATE OF NEVADA  
DEPARTMENT OF TAXATION

Web Site: <http://tax.state.nv.us>

1550 College Parkway, Suite 115  
Carson City, Nevada 89706-7937  
Phone: (775) 684-2000 Fax: (775) 684-2020

RENO OFFICE  
4600 Kietzke Lane  
Building L, Suite 235  
Reno, Nevada 89502  
Phone: (775) 687-9999  
Fax: (775) 688-1303

BRIAN SANDOVAL  
Governor

ROBERT R. BARENGO  
Chair, Nevada Tax Commission  
CHRISTOPHER G. NIELSEN  
Executive Director

LAS VEGAS OFFICE  
Grant Sawyer Office Building, Suite 1300  
555 E. Washington Avenue  
Las Vegas, Nevada 89101  
Phone: (702) 486-2300 Fax: (702) 486-2373

HENDERSON OFFICE  
2550 Paseo Verde Parkway, Suite 180  
Henderson, Nevada 89074  
Phone: (702) 486-2300  
Fax: (702) 486-3377

**Small Business Impact Statement**  
Per NRS 233B.0609

For the Repeal of NAC 362.100 through NAC 362.140

***Description of How Comment was Solicited from Affected Small Businesses***

The Department of Taxation contacted the Nevada Mining Association Executive Director on November 4, 2013 to request a response regarding the impact to mining small businesses if NAC 362.100 through NAC 362.140 were repealed. In addition, the Department conducted a public meeting/workshop on November 22, 2013 to solicit input on the impact of repeal of NAC 362.100 through NAC 362.140.

The public meeting/workshop was held at the Legislative Building, 401 South Carson Street, Room 3138, Carson City, Nevada with video conferencing to the Grant Sawyer State Office Building, 555 East Washing Avenue, Room 4412, Las Vegas, Nevada. The meeting was also broadcast on the internet at [www.leg.state.nv.us](http://www.leg.state.nv.us).

In accordance with NRS 241.020, a meeting notice and agenda was posted for this meeting/workshop at the principal office of the Department of Taxation in Carson City, Nevada, as well Department of Taxation offices in Reno, Henderson, and Las Vegas, and on the Department's website at [www.tax.state.nv.us](http://www.tax.state.nv.us) and the Legislative Counsel Bureau website at <http://leg.state.nv.us>. The notice was also posted at the NV State Library and Archives, the Las Vegas Library, the Clark County Government Center, the Attorney General's office, and the Legislative Counsel Bureau. In addition, the workshop notice was mailed to all persons on the Department of Taxation's interested parties list.

Copies of the minutes from this meeting will be available from the Department of Taxation, Local Government Services Division, 1550 College Parkway, Carson City, Nevada 89706, or call Jane Ware at (775) 684-2066.

***Estimated Economic Impact of the Proposed Repeal of Regulation***

The regulations proposed for repeal have to do with allowing accelerated depreciation for certain mine property for purposes of calculating the net proceeds of minerals tax. If a mine has complied with all the applicable provisions of NRS Chapter 519A, Reclamation of Land Subject to Mining Operations, agrees to extend the time allowed for the department to file a certificate of delinquency pursuant to NRS 360.420 to the date of final audit, and gives public notice that the mining operation will close within 36 months after the date on which the petition is filed with the Commission, then the mining operator may petition the Nevada Tax Commission for permission to depreciate leasehold improvements, buildings, fixed machinery and fixed equipment at the accelerated rate provided in NAC 362.140.



The regulations were adopted in 1991. In the twenty-two years since then, 72 mines were shutdown<sup>1</sup> but only one mine applied for accelerated depreciation. Ultimately the mine that applied did not receive accelerated depreciation because, upon audit, the Department found the mine had not actually closed. The finding was upheld by the Nevada Tax Commission after 10 years of litigation.

### Beneficial Effects

Repeal of the regulation will remove regulations which are not used or useful in determining depreciation of real property. Depreciation is otherwise calculated pursuant to NAC 362.040 at a straight-line rate, and in particular includes subparagraph 6, which allows all remaining allowable depreciation if any property is disposed of before the end of the depreciation period. The Department assumes that in a mine closure, the assets are sold or dismantled, thus NAC 362.040(6) would allow all remaining depreciation.

With regard to why the regulations are not used or useful, at workshops held on May 1, 2000 and July 7, 2000, mining industry participants reported that the regulations were not workable as written, particularly the public notice section in NAC 362.100, which was described as "antiquated." Under NAC 362.100, application of accelerated depreciation is dependent upon permanent closure of the mine. In order to qualify, one of the conditions requires public notice that the mining operation will close within 36 months after the date on which the petition is filed with the Commission. Public notice includes noticing county commissioners, notice of closure in SEC shareholder reports, or, if not publicly held, notice to all creditors.

The comments from industry at the workshops in 2000 were that public notice causes anxiety to the local community. In addition, it is difficult to predict the date of mine closure, the end of life of a mine may or may not actually happen as predicted, and there is no benefit gained in making a public announcement, years in advance of actual closure.

### Adverse Effects

Repeal of the regulation would remove the ability to accelerate depreciation for a mine that will permanently close. The value of an allowable deduction to a taxpayer is the reduction to the gross yield, resulting in lowering the taxable net proceeds of the minerals. Accelerated depreciation allows the deduction of depreciation earlier in the life of a mine prior to closure. *See attached demonstration.*

### Direct Effect

Repeal of the regulation will not result in any immediate increase in taxable net proceeds to taxpayers. Similarly, there will be no immediate effect on state or local government revenues. Two mines permanently closed between 2008 and 2012 (the last was a gypsum mine in Clark County). There was no production and no taxes were due, therefore accelerated depreciation would not have changed the net proceeds result. Mine operators considering permanent closure may still rely on NAC 362.040(6) to capture any remaining depreciation.

### Indirect Effect

The indirect effect of repeal of the regulation will mean taxpayers will continue to rely on the current method of straight-line depreciation as an allowable deduction. Since the regulation has not been used or useful, there is little to no change in the amounts of deductions claimed.

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<sup>1</sup> Based on data from the Nevada Division of Minerals

***Methods Considered to Ascertain the Impact of Repeal of Accelerated Depreciation on Small Business***

The Department considered data provided by the Nevada Division of Minerals as to the number of permanently closed mines since 1991 compared to the number of mines that applied for accelerated depreciation as a result of mine closure. As stated above, 72 mines closed but only one applied for accelerated depreciation. As a result of litigation going up to the Supreme Court regarding the definition of mine closure, the applicant was ultimately denied accelerated depreciation. Based on the actual lack of use of the available regulation, the litigation that resulted from the single application, and consideration of testimony by industry representatives at workshops in 2000 on the antiquated nature of the regulation, the Department found the regulations were not used or useful.

**CERTIFICATION**

I certify that the information contained in this statement was prepared properly and is accurate to the best of my knowledge or belief.



Terry E. Rubald  
Deputy Executive Director  
Nevada Department of Taxation

**For Possible Action: Approval of Minutes for October 31, 2013**

**Minutes of the Meeting**  
**MINING OVERSIGHT & ACCOUNTABILITY COMMISSION**  
**June 26, 2013, 10:00 am**

The meeting was held at the Nevada Legislative Building Room 2135, located at 401 S. Carson Street, Carson City, Nevada, and by video conference to the Grant Sawyer Office Building, 555 E. Washington Avenue Room 4412, Las Vegas, Nevada

**MINING OVERSIGHT & ACCOUNTABILITY  
MEMBERS PRESENT:**

John Restrepo, Chairman  
Kyle Davis, Vice Chairman  
Dennis Neilander, Member  
Douglas Roger Bremner, Member  
Robert Campbell, Member  
Senator Greg Brower, Member

**MEMBERS ABSENT:**

Congressman Steven Horsford, Member

**COUNSEL TO THE COMMISSION PRESENT:**

Henna Rasul, Sr. 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:**

Mike Visser, NDOM  
David Gaskin, NDEP  
Colleen Cripps, NDEP  
Bob Fulkerson, PLAN  
Stacey Shinn, PLAN  
Bruce Holmgren, NDEP  
Jim Wadhams, Fennemore Craig  
Jesse Wadhams, Newmont Mining Co.  
John Muntean, NBMG/UNR  
Howard Watts III, PLAN  
David Zahrt  
Ed Euling, Las Vegas

**1. Roll Call and Opening Remarks**

Chairman Restrepo called the meeting to order and asked for the roll call. Terry Rubald called roll. All members were present except Congressman Horsford.

**2. Public Comment**

Chairman Restrepo then asked for public comment.

Bob Fulkerson of the Progressive Leadership Alliance of Nevada (PLAN) was the first to offer public comment. Mr. Fulkerson said that at the last MOAC meeting on June 26<sup>th</sup> he raised serious allegations that the mining industry was largely responsible for methyl mercury poisoning of Nevada waters and fisheries and he cited some studies suggesting mercury emissions from tailings facilities and active heap leach operations are now probably double the amount of mercury being released into the air, compared to that being reported under state requirements.

He stated that what he heard the Nevada Division of Environmental Protection (NDEP) administrators saying was that other sources are largely responsible, mining is not really to blame for this, and we can't tell that economic development is part of NDEP's mission so we can't come down too hard on mining.

Mr. Fulkerson said there are two issues that this raises. One is that none of the economic development authorities that exist in Nevada have environmental protection in their mission statement. Economic development belongs nowhere in the mission statement for NDEP. Their first mission and priority should be singularly focused on protecting our environment. More important than that, he would urge MOAC in the strongest possible terms to get to the truth about mercury contamination in Nevada and ask them to please place the issue of unregulated fugitive mercury emissions from mining tailings and heap leach operations on their next meeting agenda. He said PLAN can suggest some specific experts to be invited.

He reminded the members that according to the EPA's toxic release inventory, mining accounts for 98 percent of all toxic pollutants released into Nevada. Every day, methyl mercury from active gold mines is polluting our water and contaminating our fish and wildlife. Mr. Fulkerson said to please not let this continue to happen.

Mr. Fulkerson continued in regard to reclamation – the general accounting office recently reported that out of 57 hard-rock operations in 12 western states, they have 24 million dollars less than would be needed to fully cover the estimated reclamation costs. Most of that was in Nevada. He stated 99 percent of the money that is needed is in Nevada. According to the EPA, the taxpayers could be 'put up' for as much as 4 billion dollars to clean up pollutants from hard-rock mining. Meanwhile, the Nevada mining industry takes billions in gold and other hard-rock minerals without compensating taxpayers as a whole. States like Nevada are covering these cleanup costs and PLAN urges MOAC to change that.

Member Bremner asked Mr. Fulkerson about his statement that there were other sources of mercury besides mining. He asked what they were. Mr. Fulkerson replied the worldwide mercury emissions were China, coal-fired power plant, and "things like that". Member Bremner said he was asking about Nevada specifically and asked about things like old batteries. Mr. Fulkerson said he did not recall.

Member Bremner said that Mr. Fulkerson made a "big pitch" about Wildhorse last meeting. He asked what economic development or source affects Wildhorse besides mining. He answered his own question with the response "Nothing".

Chairman Restrepo asked if there was any further public comment. There was none.

### **3. 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**

Mr. David Gaskin, Deputy Administrator of the Nevada Division of Environmental Protection presented an NDEP report on mine reclamation activities covering calendar year 2012. Mr. Gaskin reminded the members that the statute covering this Commission's requirements says that at the third regular meeting in each calendar year, NDEP shall present a report concerning the Division's activities regarding reclamation of mined lands, areas of exploration, former areas of mining or exploration during the immediately preceding calendar year including, without limitation, and accounting of the amounts of fees collected for permits issued by the Division and any fines imposed by the Division.

Recapping the program, Mr. Gaskin said the mission of the reclamation program is making sure that mining operations and exploration projects become properly reclaimed to a safe and stable condition and provide a productive post mining land use. Requirements are in NRS and NAC 519A. The program issues reclamation permits, conducts inspections, carries out compliance and enforcement of reclamation requirements and covers financial assurance for reclamation.

Mr. Gaskin began a power point program: He showed a photo of a heap leach pad that has been reclaimed and re-vegetated. The intent is to try to make it look like the pre-mining topography. Reclamation branch is a part of the Bureau of Mining Regulation and Reclamation and NDEP. Staff comprises one supervisor, four scientists, and engineer and one administrative assistant. The scope of the program covers both public and private lands. Mining operations need to have an annual disturbance of five acres or more and removal of 36,500 tons of material in a year for exploration projects and a disturbance of five acres or more, so there are some smaller operations that don't require permitting.

The next photo was another picture to break up the monotony of the regulations. It showed a large waste drop dump that is being successively reclaimed from bottom to top getting a re-vegetated part on the bottom, covering, then regarding and starting to do the concurrent reclamation. Mr. Gaskin said they try to start reclaiming before the mine closes just so they have the equipment on site and the resources to do it. They will separate segments of the mine that is ready for reclamation as they go.

Another slide showed a list of the activities of the reclamation branch last calendar year. There was an inventory of 504 total permits covering both mining and exploration. 249 of these are active. The others are inactive, either not built yet or in the final stages of reclamation. NDEP received 25 new applications in 2012; 67 modifications to existing permits and inspected 127 projects throughout the state.

Next, a few pie charts to show some information on the scope of the reclamation program. Each permit has a list of acres that are allowed to be disturbed. This may be done over a number of years, but the permit gives initial acreage for allowed disturbance. For exploration projects, there was a total of 9,800 acres approved for disturbance. About two thirds (6,000 acres) of that was public, and 3,000 was private. For mining operations, the distribution is a bit more even between public and private: 88,000 acres to 77,000 acres for a total of 166,000 acres.

Another slide showed the increase in bonding that NDEP holds over the years and the various mechanisms that are allowed. 2013 has a total of over 2 billion dollars in reclamation bonding which they hold in case operators are unwilling or unable to reclaim their projects.

Vice Chairman Davis asked if there was a problem in terms of the amount of bonding in place. He asked if there was a danger that any of the permits held right now, if those companies did go out of business, would we be able to do all of the work?

Mr. Gaskin replied if that question had been asked 15 years ago there could have been a concern mainly because the bonding is jointly done between the state and federal land managers and BLM was lagging behind in making sure the bonds were updated. He said maybe there is a bond in place but BLM haven't looked at it in 10 years or so and accounted for inflation or expansion. NDEP has put forth an effort over the past number of years to work more closely with BLM. One of the main jobs of the liaisons at NDEP is to do updated cost estimation. If the BLM districts aren't able or willing to do this, NDEP will help them and provide their expertise to make sure bonding is up to date. Mr. Gaskin said he thinks they are more adequately covered and coverage is over 99 percent.

Ms. Colleen Cripps, Administrator of the Division of Environmental Protection added that she completely agrees with Mr. Gaskin's characterization of the bonding program but wanted to make it clear that she thinks what Mr. Fulkerson was referring to (public comment) was areas where there have been historic mining that occurred prior to the State's program and not covered by bonding. Those facilities would include things like the Carson River mercury site, things where there have been historic mine operations and those are typically across the entire country being cleaned up using the Superfund Program.

Vice Chairman Davis asked Mr. Gaskin to explain bonding through the BLM. Mr. Gaskin stated NDEP has a memorandum of understanding with the BLM and the Forest Service to allow for joint bonding on sites because most sites in Nevada are mixed public and private; it would be problematic if NDEP held a bond and BLM held a bond and both tried to reclaim the site – it would be problematic. NDEP tries to coordinate and make sure the bonding is completely adequate for reclamation of the whole site and they coordinate on how those moneys are expended should it be necessary.

Vice Chairman Davis asked if BLM holds the bond if the project is located entirely on BLM land. Mr. Gaskin replied that typically, they do. If it is only on private land, NDEP holds the bond, but it varies. It depends on the proportion of public versus private.

Vice Chairman Davis asked Mr. Gaskin to explain a bit more on the corporate guarantee portion of bonding, what it is and how it works. Mr. Gaskin said in our statute and regulations, a corporate guarantee is allowed as a financial assurance mechanism. There is much economic criteria that a company has to put forth to demonstrate they qualify; there are different economic ratios on how much their reclamation obligation is and how much their capital is, how much their income is and their debts. They go through a financial analysis. The largest mining companies are the only ones that are able to qualify. In 2001 BLM did disallow future corporate guarantees on public land which affected most of the projects in the state, so the existing amounts were just frozen and are decreasing as reclamation takes place; there is no increase on the public projects, but on purely private projects or on private portions, there has been a small increase of the use.

Vice Chairman Davis asked if the BLM doesn't allow corporate guarantees anymore on public land; Mr. Gaskin replied that the Forest Service never did. It is in the statutes to still allow the guarantees on private land. Vice Chairman Davis asked if he could find that information in the regulations in terms of what those guidelines are. Mr. Gaskin said yes, and that NDEP also has a corporate guarantee review panel that annually reviews the financial health of the companies and goes over a projection into the future to make sure they are looking at a spectrum, not just a shot in time, because prices go up and down of metals; things can look good today and tomorrow they are not.

Chairman Restrepo asked how the level of bonding is determined; if there is some kind of engineering analysis done. Mr. Gaskin said yes, there is a reclamation cost estimate that is prepared by the operator reviewed by the agencies. They have developed a standardized reclamation cost estimator which is a full spreadsheet program that uses standardized cost estimation rates like RS Means and other national rates that are incorporated into and tailored into specific mine reclamation activities. This helped standardize that process for routine activities like regrading and recontouring of a site, and doing the earthwork so that it makes the cost estimating process more standardized. It is also easier to prepare and easier to review.

Member Bremner asked if NDEP happens to know how much money was spent on reclamation last year, how many projects were approved and how much money was actually expended. Mr. Gaskin said he is not sure how much money was actually expended and he thought there were two or three projects that were wrapped up last year. He did not know how much was spent, he stated that NDEP just holds the bond amount which is an estimate. The operators who perform that reclamation at their own expense use their own equipment and if they want, hire contractors. How much it costs is up to them. Member Bremner asked if NDEP goes out and inspects the work. Mr. Gaskin said yes, after it is done; if they want a buyoff and a reduction on the bond, NDEP has to go out there and inspect it and make sure it is properly reclaimed. Member Bremner asked again if anyone knows how much was spent. Mr. Gaskin stated not that he knows of; individual companies would know.

Chairman Restrepo asked if there were any other questions then asked Mr. Gaskin to continue. Mr. Gaskin displayed another photo showing some lateral stripes on the side of a hill – exploration roads that have been reclaimed, in the process of re-vegetation.

Mr. Gaskin continued regarding reclamation fees - the program is 100 percent funded by permit fees that are collected from the operator to cover all of the expenses of the reclamation branch activities, all of the permit writing, inspection. NDEP does not use any general fund or federal grant money.

There are 2 basic kinds of permit fees. One is the applications for new permits as they come in. They have a certain fee paid based on the size of the project and if there are modifications subsequent to the issuance of the permit, charge a fee for modification, again, based on the scope of the modification. This covers NDEP time spent on putting together the permits on the applications and also for reviewing modifications, making sure they are in accordance with the regulations. The other type of fee is an annual fee. There is a statutory fee that helps support the Nevada Bureau of Mines and Geology in the statutes. NDEP contributes about \$100,000 per year to NBMG, to their activities, and the regulatory fee is just for annual updates and oversight of the permits, collecting the reclamation reports on acreages, and just keeping track of how reclamation has gone.

Mr. Gaskin then showed a graphic displaying the total permit fees collected in 2012 as \$74,000. Almost half of the amount was on minor modifications that go on as a mining operation adapts to changing conditions and changing prices. A graph showed permit applications - \$9,000, major modifications about \$17,000 and smaller modifications about \$9,500. Two very large 'pieces of the pie' are for the mining program. He displayed on a slide that mining activity pays close to a million dollars for their annual fees, and the smaller amounts are exploration, statutory and regulatory. Smaller activities, smaller reclamation requirements, smaller fees.

Regarding fines and enforcement there were three notices of noncompliance issued in 2012. All notices were for the same type of violation which was a failure by the operator to submit additional reclamation bond required by the State. NDEP makes sure they review the bond amounts periodically no less than three years and every time they do a major change. When NDEP does not feel an operator has sufficient bond, they notify the operator of this. In these three cases there was a corrective action plan developed and a payment plan. The operators remedied the bonding shortfall in appropriate times and no fines were imposed.

Vice Chairman Davis referred to one of the power point slides and asked if, when doing an exploration project, they control the access to that area or is it open and anybody can get in there. Mr. Gaskin said that on private land the access would certainly be limited. He said on public land in the very active areas they would limit the access to what is currently being done with large equipment.

Vice Chairman Davis commented that if the operators are reclaiming these roads they are using for exploration but there is no actual access to control that, is one of the biggest problems that we have on our public lands in Nevada: somebody creates a road and then all of a sudden it is a road now, and then we can have people driving off-highway vehicles all over it, and now we've got a problem. Even if there is reclamation occurring to try and reclaim that road, if there is the ability for somebody to be able to get in there on their quad, we have not actually fixed the problem. He asked if we see these roads still remaining after NDEP has already signed off the bond and everything and all of the exploration is done. Mr. Gaskin replied they take great pains to reclaim the road and make it undrivable. If that is in the reclamation plan on public land, a lot of the roads they use are existing and they might utilize them to get to an exploration area, so those existing roads would continue to be open if that is what the federal land manager has designated that road as. If it is not, then it's reclaimed and undrivable, but it is really the federal land manager controlling that.



#### 4. AGENCY BRIEFINGS

**(a) For Possible Action: Pursuant to NRS 513.093(3)(a) and (b), Division of Minerals briefing on the activities of the Division, to include accounting of any fees or fines imposed or collected and the current condition of mining and of exploration for and production of oil and gas.**

Mr. Mike Visser, Deputy Administrator for the Division of Minerals and current acting administrator briefed the commission. Mr. Visser pointed out that the former administrator, Helen Coyer, retired September 20<sup>th</sup> and the newly appointed administrator is Richard Perry. He is currently an engineer with Water Resources working and living in Elko and will start his job as the administrator of DOM on November 12<sup>th</sup>.

Mr. Visser said that DOM continues with the Abandoned Mine Lands Program which is their marquee program. This is to address physical safety hazards from legacy mines, not any of the current mining, but historic, 50 years old. This is where the bulk of DOM expenditures occur.

Over the summer, DOM had eight interns from UNR doing work inventorying new hazards, securing new hazards. They put in over 25,000 miles across the state, worked in 14 of the 17 counties, identified over 300 new sites, logged over or secured over 300 sites and then also because these are fences generally, temporary measures to exclude people from going into these to get hurt, there is a maintenance issue, so DOM has to maintain and repair these. Over 400 sites were repaired.

DOM assists with the land management agencies, the BLM, the Forest Service, National Park Service, with efforts to do what are called hard closures. This is where DOM is looking to more permanently address the safety issue. This can be through backfills, polyurethane foam closures, installation of bat gates or grates, culvered gates. There is a variety of methods that can be utilized to more permanently address this and DOM provides the necessary information that the land managers need to know with regard to the ranking of the hazard and the history of that hazard. DOM can access some of the underground maps from the Nevada Bureau of Mines and Geology and their database, and also maintain the history of that hazard. Once it is inventoried, it goes into the database and DOM tracks the securing efforts. From fences to repairs, DOM archives that photographic information to keep track of the history of each one.

DOM currently has over 17,700 sites logged in their system of about 50,000 they think are statewide that could cause injury or fatality. They did have one incident west of Yerington this summer where a motorcyclist who was finished with a permitted off-road race saw a trail up the hillside, a single track, got to the top and saw a hole in the ground; before he could stop, he went into it and rode his bike down 40 feet down the shaft. The motorcycle wedged at 40 feet and the rider fell another 20 feet. He was rescued within 5 hours and only had a broken ankle. This site was known to DOM. It did have some fence work up about 10 years ago but it is on private property. It is up to the private property owner to maintain it, but it is also an area that gets frequented by visitation; this is a challenge for the owners. DOM keeps track of the history so they understand when it came into their system, when they knew about it, when the owner was notified, what attempts the owner made to secure the site. This is an ongoing issue that DOM constantly has to deal with.

DOM has contract and securing work that is continuing and ongoing. They do some continued inventory work as well as some park closure work through their contractor and have started a backfill program east of Gardnerville near an old mine site. They will have six sites that will be closed over the next two days and will never have to worry about them again – this is the ultimate goal.

Another activity that DOM is working on is being audited through the LCB audit division. It has been seven years since DOM had its last audit. Audits today are not so much on a fiscal basis, but more on a process basis, so they are looking for process improvement. Four areas were identified as being of concern and DOM is working through the process to address those. There were two on the AML side regarding notification to the claimants and making sure that there was a regimented process

to follow up, whether the claimant contacted DOM or not, and making sure that all of the contact information and the communication is documented in the database. DOM is modifying their database and their procedures to take into account that as well as a notification to the counties.

Statutes and regulations allow DOM to communicate to the counties regarding hazards that are within each county but there is no funding dedicated for that. There was one that was planned on which was supposed to come from the Medallion Fund, so any time the State seal was used on a minted coin, DOM would receive a little bit of money and the counties could request some of that money to assist with securing efforts in the county. Unfortunately, that revenue stream never really materialized and DOM doesn't have much except about \$1,500 in that account.

DOM has, over the years, granted money from that account to the counties to secure efforts. The last time was about 3 years ago in Nye County for work around the City of Tonopah and DOM needs to make sure that the counties are aware of the hazards that they may be able to address. DOM is trying to streamline the communication effort with the counties so that the county receives accurate information should they choose to take the legal effort to work with the property owner or claimant.

The other elements are on the oil, gas and geothermal side. One was from a prior audit that was waiting for new regulations to be put into effect and DOM is working with LCB now to put those into effect. Another element is with inspections. DOM is not required to do inspections, but as the regulators of the permits for oil, gas and geothermal wells in the state, there is an implied inspection process. DOM has implemented this. DOM has about 600 wells in the state that have been permitted through their office. Since they started the program about a month ago they have been to over 100 of those sites and will be putting this information into a database so the public will be able to see the history of when the sites were inspected.

DOM regulates the permitting of the well itself. There is not much gas production in the state. DOM regulates how oil is extracted from the ground and how it is stored. If there are issues with regard to leaks or spills, that is handled through the NDEP. DOM works with NDEP through the inspection process. If DOM finds anything they forward that information not just to the operators but to NDEP as well to follow up. To date, DOM has not seen any incidents or spills of any sort. The only issue found is insufficient signage; this is an operator requirement – to put signs up for every well, and some of the signs were lacking. These are minor issues and are being addressed.

Mr. Visser said he just received the final findings letter this week and DOM will be going through the formal process that LCB has for reviewing this and moving forward to make corrections.

With regard to permits, DOM has not seen much of an influx of permits from the geothermal side. Things have tapered off dramatically with geothermal. There is an ebb and a flow with regard to the demand from the utilities. For geothermal (which is the best base-load provider for electricity to the grid because its 24/7) it still cannot compete with natural gas or coal. It is more than twice the cost of gas and coal – what it requires is renewable portfolio standards to help drive that and in California and Nevada, we have those. This is what drives the geothermal industry, but it requires the utilities to be willing and able to contract for that service. Right now, DOM is seeing a bit of a downturn in that. As the standards increase over time and they are required under Nevada and California statutes, DOM will see an increase again.

Nevada has two geothermal facilities that will be on-line by the end of the year. One near Hazen (which will be providing electricity to SMUD, the Sacramento Municipal Utility District) just east of Fernley and one from Ormat that is near Gabbs. By the end of the year there will be 23 plants operating geothermal in Nevada. That makes Nevada second to California for the entire country.

Oil exploration has continued in Nevada. Noble's Exploration in Elko County is continuing to drill. They have almost finished the first hold and they will be mobilizing to a new site. There are no immediate plans to do any hydraulic fracturing. There are steps in place that they are required to notify DOM well in advance of when they intend to fracture, but they have not provided notification. Mr. Visser said that with the rig moving off to another site, he did not see that happening in the immediate future.

DOM does have one other permitted well in the state, one operator permitted to do hydraulic fracturing (in Railroad Valley) but they also are required to notify DOM in advance when they intend to do this. DOM has not been notified of fracturing yet and it may be far in the future before it is done. Mr. Visser continued to say that Nevada is not a big oil-producing state. This provides the benefit to Nevada in that we can learn from all of the other states how best to regulate oil companies.

Mr. Visser said that DOM will be going to the Interstate Oil and Gas Compact Commission in Long Beach, California. They have an annual meeting where all of the states that regulate oil and gas in the country meet to discuss the state of the industry as well as the state of the regulations in the industry. This is where DOM can learn from other states to best move forward and DOM can get more insight as to how other states address unique challenges that hydraulic fracturing presents to state regulators. DOM is moving forward with the hydraulic fracturing program that is required under SP390 to work with NEP with a program to assess the impacts of hydraulic fracturing on waters in the state. DOM will be holding their initial stakeholders meeting next month to move forward on this.

Mr. Visser said everything is in line with what DOM expects except the abandoned mine securing fee. On a chart which is in the exhibit package, he pointed out this is the bottom item. He said it is difficult to budget this two years out. This is a fee many operators don't remember they have to pay and it is tied strictly to a permit they get for disturbance on public land, only on public land. When the permit is issued, it is \$20 an acre.

DOM did their own internal audit this spring to go back three fiscal years to see if there were any permits they missed in the process. DOM had been historically relying just on the BLM and felt that was insufficient. They have since worked out a program within NEP so when a permit is issued, DOM is immediately notified and can work to remind the operators that they have 30 days to pay \$20 an acre on public land permitted disturbance. It is a one-time fee. If there is a minor modification, there is an increase in the public land permitted disturbance and another invoice would be issued. The internal audit resulted in additional moneys that were supposed to be paid to DOM and this is dedicated just to securing efforts of the Abandoned Mine Lands Program. DOM receives all of their fees from industry. 81 percent of DOM revenue comes from mining claim fees. They expect to see a decrease in this year's fees as reported to the counties. DOM is just now at the final end of the first quarter reporting.

Mr. Visser stated that by the end of the year and by the end of January, DOM will have a more accurate representation of what they are looking at with regard to their budget and what they will have available to spend for their programs as well as carryover into future years. Right now, they are looking at approximately a 10 percent decrease in revenue. This is subject to change.

Vice Chairman Davis wanted to discuss the audit from LCB. He asked if there had not been inspections of wells that DOM has permitted in the past. Mr. Visser replied that DOM does not have a routine inspection program. He said what they do are inspections by exception, when they think there is an issue, they go out and do the inspections. When DOM is in the area to witness casing and smutting jobs on existing operations they will do inspections on those that are in route to that site or in the vicinity, but DOM does not have a regimented program where every well has to be inspected by a certain date. When the well is first drilled, it is inspected. Mr. Visser said that whether it is geothermal or oil and gas, the operators are trying to extract everything they can out of these wells. If there is an issue with integrity or leaks, it is to their detriment to allow that to continue. What DOM finds is more like housekeeping issues, things such as a new operator that purchased a prior company and did not realize their permit state; the well has to have a sign on it stating certain specifications and they were just negligent in following up on that part. DOM has not found any issues to date but it is something they recognize that needs to be done so it has been implemented.

Mr. Visser continued to say that DOM has an inspection report they have drafted. There is a program in place to do the inspections but they are challenged in that they have one manager for the oil, gas and geothermal program. DOM does not have additional staff to do the inspections and the revenue that comes from the permits and fees on oil, gas and geothermal does not fully support that program. DOM is looking to address how they might increase the revenue to supply the necessary funding to support these activities.

Vice Chairman Davis asked if DOM has the authority to increase those fees. Mr. Visser replied in some capacities, yes, but geothermal is under 534(a) and oil and gas is under 522. DOM has a request to LCB to re-evaluate the authority to create new permits. They do have the ability to raise fees on the production side. Right now, they are at 10 cents per barrel on oil. That can go up to 20 cents but that is capped in the statute at 20 cents. DOM hopes be putting together a bill drafting a request to amend those statutes. Mr. Visser said that many of those have been in place since 1987 and have not kept up with the times. DOM will need to meet with the stakeholders and hold the workshops to see how best to look at increasing the fees.

Mr. Visser then said DOM has the authority to regulate this and to implement anything they need to do to meet the requirements under the statutes, so his answer to Vice Chairman Davis' question is – yes, DOM does have the authority to create new permits and a fee structure that is supportive of that. Also DOM will gain insight from the IOTCC by seeing where other states are with regard to permits and fees and will make sure that they are on par with other states as well. Mr. Visser stated DOM had to be careful that they don't put fees in place that hurt the smaller operators which is currently what the bulk of the operators are with oil in Nevada. Nevada has smaller companies and needs to be cognizant of that. On the geothermal side activity is more robust but DOM is looking at a downturn in that industry.

Vice Chairman Davis said that the fees need to cover the cost of the program. He said it is part of DOM legislative package next session to ensure and to ask for statutory direction to actually do these inspections. Mr. Visser said this is implied and this is the issue. Vice Chairman Davis said DOM is not required to do the inspections. Mr. Visser agreed. He said that DOM will be trying to increase the authority to do the inspections and increase the authority to raise fees to support the hiring of additional staff to facilitate those inspections and allow DOM to have some redundancy within the Division so they are not reliant on just one person.

Vice Chairman Davis then asked if the new inspection program that DOM is putting in place is going to be a regular ongoing program or if they just want to make sure they get out there at least one more time. Mr. Visser replied that DOM absolutely expects this to be ongoing. When Vice Chairman Davis asked how frequently that would be, Mr. Visser replied that once they got halfway through the program he thought that would drive the determination as to whether it has to be done every six months, every year or every two years. Nevada has a variety of different kinds of wells. They would require different frequencies in visits. Every single well would not be revisited within so many months or years. It will depend on the type of well and its history.

Vice Chairman Davis commented that we cannot pretend that these problems don't happen. When they do happen, they are big problems and there is significant pollution that comes from them. Vice Chairman Davis said this happens in other states and he thinks it is important if Nevada is going to be permitting this process to bring these substances out of the earth, they make sure to do everything possible to make sure this does not become a problem, and this is concerning to him. He mentioned he is glad to hear that this is something that is now being done and he would hope that we do have some legislative direction to require those inspections. He feels it is important. Mr. Visser agreed.

Vice Chairman Davis then asked how these fees compare to other states in terms of where they are, lower, higher, or about the same? Mr. Visser answered that Nevada is a little under the median for other states. On the permits, Nevada is right in line with other states. The difference is the number of permits that might be required. Mr. Visser said when an oil operator wants to submit a sundry or a change to the original permit, there is no fee associated with that, but there is a fee on the geothermal side. It is \$300 every time they do a sundry, and the sundry could be everything from having decided to drill not as deep, or they decided to drill in a different manner. Any change to the existing permit requires a sundry and on the geothermal side, there is an additional fee that comes from that, but on oil, there is not. DOM hopes to implement a fee on oil, as well as address a fee structure for hydraulic fracturing or unconventional well stimulation.

Vice Chairman Davis then asked about Noble moving the mentioned rig around in different sites; when a company or operator is done drilling and operations are closed, does DOM have reclamation requirements? Mr. Visser said yes, they do. He continued to say once they have completed the well, they have a period of time to hold that in place. It is capped, it is safe, but they cannot keep it open forever. They must make a determination whether they are going to be utilizing it or not, and if not, they have to plug and abandon that well. There are bonds in place to cover that as well, so they have to submit a bond to cover the plug-in and abandoning of the wells in the state. For Noble, they have 9 permits through DOM. They have got 4 pending with the BLM, these have not been issued yet. DOM is still waiting to see where they are going to go next. They have one of eight additional sites that they can go to. They have not told DOM yet when that is going to happen. It takes time to mobilize one of these rigs. It has over 80 semi-loads that have to mobilize all of the equipment. It does not happen overnight, but the wells are capped, and they are in place. They do a cement job again at the bottom to make sure there is no interaction with the fluids in the ground as part of the drilling program that DOM has to receive and approve. DOM gets daily reports on the overnight and prior-day operations and if there are any questions they are asked. DOM talks to Noble about twice a week just on questions or updates on acronyms that are used in the daily reports that are pertinent to the program itself.

Vice Chairman Davis asked if there were requirements for reclamation such as new roads. Mr. Visser replied that currently, that is on private property, so that has worked out with the private property owner. On public lands that would be administered through the BLM.

Chairman Restrepo asked Mr. Visser when DOM thought they would be beginning and completing the information of the audit recommendations. Mr. Visser said they have started the implementation of the recommendations. The LCB findings have been reported to DOM so far and they will be meeting on November 8<sup>th</sup> to review those findings and discuss what DOM's preliminary responses are going to be. DOM has already implemented a number of steps – making changes to the inspections, which has been in place for over a month. Mr. Visser said the regulatory change is in the process. For the AML issues, DOM has already made changes to their database. The remainder of the changes were made over the next three months. After DOM receives all of the information in for calendar year 2013, they will make a wholesale switchover to the new components of the database.

Chairman Restrepo asked if Mr. Visser thought that by the end of the second quarter of 2014 DOM would be 'ready to go' in terms of everything being implemented. Mr. Visser replied that he saw no reason why not.

**(b) For Possible Action: Pursuant to NRS 514.035(1), Bureau of Mines and Geology briefing on the activities of the Bureau undertaken since its previous report, to include the current condition of mining and of exploration for and production of oil and gas.**

Dr. John Muntean, an economic geologist for the Nevada Bureau of Mines, and also the director for the Center of Research and Economic Geology at the University of Nevada-Reno, presented the briefing to the commission. Dr. Muntean presented in place of the state geologist, Jim Faulds.

Dr. Muntean said his focus would mainly be on mineral exploration and mining. He said he would also give the commission an overview of the activity of the state and some of the things that the Bureau does.

Dr. Muntean began his report: Regarding mining, NBMG supports the mining and mineral exploration industry, not just production, but everything from the exploration, permitting, production and remediation as far as NBMG has a legislative mandate to provide information on the geology of Nevada and its resources, the geology of it. NBMG is more of a scientific group providing baseline information rather than a regulatory agency; this information is important in helping government agencies and legislatures make informed decisions on Nevada's lands. NBMG provides information in the form of maps, databases, sample libraries, reports and important mineral assessments. NBMG reports on the

mineral industry and the mining industry as well as oil and gas and geothermal in the form of annual mineral industry reports that are on their website. NBMG is just finishing up the 2012 report.

NBMG has also done, for NDM, exploration surveys to get an idea of how many companies are exploring in Nevada, the expenditures, how many people they employ, geologic mapping and many applications across disciplines. NBMG does research on how many mineral deposits form and how to explore for them. NBMG trains graduate students; this replaces an aging population of geologists in the state.

Dr. Muntean said the 2012 report would be released in about a month's time. It was another record year for non-fuel mineral production. \$11.2 billion dollars of non-fuel minerals were produced in Nevada. 5.615 million ounces of gold were produced in 2012, a slight increase over 2011. Nevada is the third largest gold producer in the world after China and Australia. The USGS reported Nevada gold production to be 2.6 million ounces for the first 6 months of 2013; this suggests a slight decrease. Gold production peaked in Nevada in 1998 at over 8 million ounces – it has been on a long decline except for the last two years.

Several new gold mines have been put into production in 2012 and 2013. Dr. Muntean showed the commission the list in a presentation and pointed out that Newmont and Barrick are only each seen on one list while the rest of the companies on the list are smaller. Royal Mountain is a joint venture between Kinross Gold and Barrick Gold, but Comstock Mining, Imperial Medals and ATNA Resources are all small companies. Barrick and Newmont are mining new ounces but it is basically expansions of their existing open pits or going underground at the bottom of an open pit, and mining resources that have not been mined in the past.

In 2012 NDM contracted NBMG to do an exploration survey of the industry – minerals and energy. Based on that survey, NBMG was more comprehensive than what NDM did in the past. 350 companies were contacted and many were out of business. Information was gathered from 250 companies including expenditure information on 80 companies as well as how many people they employ. From that data, in 2011, a minimum of \$675 million was spent on exploration, \$609 million of that was on minerals, metals. Gold accounted for 90 percent of the expenditures. 1040 people were directly employed in exploration.

Dr. Muntean directed the commission's attention to a slide on his presentation. He said sometimes exploration is equated with mineral production in Nevada. It is almost two different groups: one mining, one exploration, and they have different needs as far as access to land, etc. He directed the commission's attention to a chart on spending by sector. Of the amount spent on metals, mostly gold, \$209 million was spent by two companies. Greater than 90 percent of the remainder was spent by small companies and most of those have budgets of less than \$10 million.

Where are the new mines going to be? Mount Grouse, one of the world's largest molybdenum deposits is about 30 miles north of Eureka. They started construction this year. One of their major investors, a Chinese investor, got in trouble with the Chinese government and that agreement with that investor was cut off, so Mount Grouse is actively looking for new investors to restart the construction of the mine. Pumpkin Hollow is in Lyon County and is scheduled to go into production in 2014-2015. The underground portion of the mine is fully permitted. It is also the subject of a land deal, Mark Amodei land exchange, to turn some of the federal land near the mine into private land. Long Canyon is a gold deposit between Elko and Wells just south of I-80. Newmont paid a junior company \$2.1 billion for that deposit. They plan to put it into production into 2015. Gold Rush is a major deposit in the Barrick's Cortez Mine area. It is about 6 miles south of their Cortez Hills deposit. They basically have gold over a 4 mile strike length. It is probably going to be a ground mine, but this is still uncertain. Midway Gold is going to put two mines into production southeast of Eureka, the Pan and Goldmont deposits. Barrick, in the joint venture with Midway, is looking at Spring Valley near Lovelock and there is an underground high-grade gold deposit near Battle Mountain called Fire Creek that the company is still exploring underground.

Referring to another chart in his presentation, Dr. Muntean pointed out railroad projects. He said the governor was trying to get Burlington Northern involved more in moving freight around in Nevada. It is mostly Union Pacific. The railroad would be hauling copper concentrates from Pumpkin Hollow to a smelter, probably overseas.

Dr. Muntean said that exploration spending is slowing down in Nevada. The gold price plummeted in 2013 from a February high of \$1,684 to as low as \$1,223 in July. It is currently \$1,350. The amount of claims decreased a bit from 2012. The big uncertainty is how those claims are going to decrease in 2013. At least 106 projects were drilled in 2012, 94 of them for gold compared to 113, this indicates it is already slowing in 2012.

Dr. Muntean continued to say that exploration by spending by junior companies has been grinding to a halt. Several junior companies which get their funding on the Toronto and Vancouver Stock Exchanges are not spending money, only keeping money for their corporate overhead and probably reducing their land positions to a smaller land position to save money. They are basically in survival mode right now. Large companies have had layoffs, including Newmont and Barrick, who rarely lay people off in Nevada.

Pointing to another slide in his presentation, Dr. Muntean wanted to discuss how the Bureau provides data to make informed decisions. One of the things they have done in the past and continue to do is mineral assessments, trying to get a feel for the potential. The Forest Service and the BLM sometimes think of making lands wilderness areas and cannot enter it for mineral entry anymore. The NBMG is now getting into the BLM's permitting data which is in a complex database. NBMG is trying to gather all of the data they can – this will help the BLM, the Forest Service and also the mining industry. NBMG has downloaded all of the permitting data on the BLM for minerals since permitting started in 1980; placed the records into a spreadsheet and then put it into GIS. Dr. Muntean said that one way to look at mineral potential is that people have explored there in the last 30 years and spent money there. There is probably a feeling there might be something there.

Another slide referred to geothermal production. Gross proceeds were \$162 million. \$11.2 million were non-fuel mineral production. Gold is the major player and will continue to be for many years. The capacity is increasing greatly. There was a big increase in 2003; Dr. Muntean attributed it mainly to NBMG, Jim Faulds, and the group that have been working closely helping companies discover which are mainly blind deposits where there is no surface expression, no hot springs at all, just hot water several hundred feet below the surface. He then displayed another slide showing geothermal power plants in the Great Basin.

Regarding the Noble Energy project, Dr. Muntean said Noble was planning to drill 5 to 8 wells in 2013. They only started to drill one well, and there is an oil shale called the Elko Shale. It crops out right near the town of Elko, similar to the oil shales in Western Colorado. Because of the big faults that bound the Ruby Mountains, that oil shale has been dropped down to great depth. "Once you get deeper, you get hotter. You bring that shale oil through the oil window, but since it's a shale, it's just sticking in there. It hasn't really moved up. The cap rock is right above it, apparently, so they're looking for producing oil from that shale." If they are successful, it could change things in Nevada. Many are watching closely for the results.

There were no questions from the members to Dr. Muntean.

## **5. For Possible Action: Approval of Minutes for June 26, 2013**

Senator Brower moved to approve the minutes for the meeting June 26, 2013. Vice Chairman Davis seconded the motion. The motion was passed. The minutes were accepted.

## **6. Briefing to and from Staff; Suggestions for Future Agenda Topics and Meeting dates**

The members discussed various dates for the next meeting and agreed on December 17, 2013.

Future topics were discussed and Vice Chairman Davis said he would like an overview from the Division of Environmental Protection on what the mercury program looks like, the progress made and what has happened in the last 5 to 7 years. He also mentioned he would be interested in the issue of wildlife, such as Sage Grouse, and a program for industrial ponds that the mining industry has with the Department of Wildlife. He would also be interested in what wildlife impacts may be occurring from mining activities in the state.

## **7. Public Comment**

Chairman Restrepo asked for public comment.

Mr. Ed Euling, in Las Vegas, addressed the members. He stated he had attended many meetings in Southern Nevada. He commented on the minutes which had been prepared for the June meeting. Mr. Euling was very complimentary to the individual who wrote the minutes. He complimented the commission.

There was no other public comment.

## **8. For Possible Action: ADJOURNMENT**

Meeting was adjourned.