Minutes of the Meeting
MINING OVERSIGHT & ACCOUNTABILITY COMMISSION
June 26, 2014, 10:00 a.m.

The meeting was held at the Nevada State 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 4406, Las Vegas, Nevada.

MINING OVERSIGHT & ACCOUNTABILITY MEMBERS PRESENT:
John Restrepo, Chairman
Douglas Roger Bremner, Member
Dennis Neilander, Member

MEMBERS ABSENT:
Kyle Davis, Vice Chairman
Senator Greg Brower, Member

COUNSEL TO THE COMMISSION PRESENT:
Henna Rasul, Senior Deputy Attorney General

DEPARTMENT OF TAXATION STAFF PRESENT:
Terry Rubald, Deputy Executive Director
Anita Moore, Program Officer,
Boards & Commissions,
Division of Local Government Services
Janet Kelley, Supervisor, Centrally Assessed
Bonnie Duke, Supervising Auditor
Terri Upton, Supervising Auditor
Jennifer Lewis, Auditor
Jake Coval, Auditor
Bill Farrar, Auditor
Craig Stevenson, Auditor
Bill Shilling, Property Appraiser

MEMBERS OF THE PUBLIC PRESENT:

Carson City:
Jim Faulds, Nevada Bureau Mines & Geology
Mark Farman, Nevada Department of Wildlife
Alan Jenne, Nevada Department of Wildlife
Rich Perry, Nevada Division of Minerals
John Hadder, Great Basin Resource Watch
Russell Guindon, Legislative Counsel Bureau

Las Vegas:
Jim Wadhams, Newmont Mining Corp.

1. Roll Call and Opening Remarks

Chairman Restrepo called the meeting to order, stating this was the second quarter meeting for 2014. He then asked for the roll call. Terry Rubald called roll. Vice Chairman, Kyle Davis and Senator Greg Brower had excused absences. Terry Rubald stated there was a quorum.

2. Public Comment

Chairman Restrepo asked for public comment.

John Hadder, Director of the Great Basin Research Watch (GBRW), came forward for public comment. He stated the hydraulic fracturing regulations will be on the September agenda. The public is concerned about how these regulations can be reviewed and appealed by the public and the opportunities the public will have to see the regulations in final draft form prior to September.

Also, regarding the item on the agenda from the Nevada Department of Wildlife pertaining to significant impact to wildlife lands from mining, he has a comment letter handout regarding the Long Canyon Mine Project in the North Pequas. His organization's concern is that with these kinds of mining and exploration projects in areas which are part of our unique and beautiful landscape, along with the wildlife and the recreational possibilities, cause a permanent loss. They do not feel the sensitive areas are being adequately addressed.

There was no further public comment.

3. Presentation: Effects of Mining on Wildlife Habitat
Alan Jenne, Habitat Division Administrator, Nevada Department of Wildlife

Alan Jenne, Habitat Division Chief, Nevada Department of Wildlife (NDOW), introduced himself and thanked the Commission for the opportunity to speak. He and Mark Farman, Habitat Staff Specialist, wanted to highlight their program and how they deal with mining in their division and within the Nevada Department of Wildlife. They gave a PowerPoint presentation. The mining program is managed within the Habitat Division. This includes Mark Farman's position and three and one-half positions spread across the state regionally. There is a split position located in Ely. The project-related technical review and mitigation design work is dealt with by the entire department, so although they do have specific mining biologists that deal specifically with mining, when it comes to commenting and addressing impacts and bring the best plans forward, the entire Department is available. Regarding funding of the program, it is generated through the mining assessment fees. In the past, they used that as match towards federal grants to help carry the program. They have made some changes and are seeing funding of this program decrease. As far as the mining program components, it is primarily related to the industrial artificial pond permits and the issuance of the industrial artificial ponds. That comes with a per-pond permit annually of $125 that generates some funds. The actual funding mechanism of this is the mining assessment fee that each permit holder must have. The other major component of this is the technical review and support. This involves communicating with project proponents as they propose projects to get them the best available science on what kind of conflicts they could anticipate in a given area for wildlife and working with them to minimize these conflicts. This means working within the National Environmental Policy Act (NEPA) process as cooperating agencies, and then if there is mitigation necessary, NDOW is there to help the federal land managers. Part of this which overlaps with the Nevada Division of Minerals (NDOM) is the Abandoned Mine Lands surveys and closures. They work closely with them to minimize impacts to wildlife and make sure surveys are conducted. Another major component of the mining program was the mining assessment fee-funded projects. As their funding has decreased in this category, this has had to decrease as well.

Mark Farman, Habitat Staff Specialist, Nevada Department of Wildlife, continued the presentation. He stated one of the key elements of the program is what they call industrial artificial pond permits (IAPP). Essentially, anybody that develops an artificial pond that has the potential to kill wildlife must obtain an IAPP from them. The only exceptions are artificial ponds for agricultural or recreational purposes. They mostly have mining-related artificial ponds that are permitted. However, they do have quite a few fossil fuel Nevada Energy power plants in their southern region. They have approximately six or seven gas and coal-fired power plants that are permitted. They have two solar energy projects that are permitted and one or two geothermal plants. They also have some unique situations. They have an oil and gas recycling facility in Southern Nevada that has a permit, and there is an ammonia nitrate facility in Northern Nevada.

Mr. Farman moved on to the next slide. He commented that the reported wildlife mortalities are questionable. One reason is these are industry-reported mortalities, and some of these ponds are not visited very often. Mortalities are reported on a quarterly mortality report form that all permit holders are required by law to submit to them on a quarterly basis. The big caveat, especially when we talk about the large-scale lithium ponds in Clayton Valley, is that it has been estimated the actual mortalities are anywhere from two to five times what is being reported on this graph. The regulations were passed by the Nevada State Legislature in 1989. Through fencing, covering of toxic ponds with bird netting, bird balls and chemical neutralization to reduce cyanide concentrations in ponds, you can see a dramatic reduction in mortalities that occurred once the program started. Then you will see a boost in mortalities that occurred in the mid '90s. They believe that is because they went from one mining biologist to three mining biologists. There is a big increase in reported mortalities once their mining biologists trained staff for the mining company on how to report and identify mortalities. More recently, you will see another little spike they believe is because of the almost 5,000 acres of ponds in Clayton Valley. NDOW has a western, eastern, and southern region. There are 71 active permits. These are facilities that are either processing ore or generating electricity. There is a huge range in the size of the ponds that are hazards to wildlife, anywhere from less than an acre up to 470 acres per pond. These ponds were formerly owned by Chemetall Foote, and are now owned by Rockwood Lithium. This has more mortalities than any mining project in the state. They are enormous. Unfortunately, the Bureau of Land Management (BLM) tells us the same valley may have anywhere from four to six additional projects that may be developed some day. These projects are there is because lithium is found in the groundwater. It is a very unique process. They use evaporation through a series of cascading ponds, so the initial part of the process stream is beneficial to wildlife. Some of these have brine shrimp that attract waterfowl right next to ponds that are toxic. Some of the ponds are so toxic that within ten minutes the wildlife dies from salt toxicosis.

Mr. Farman continued through the slides stating you can see the effects of their mining biologists educating their staff and developing protocols for reporting. You can see the little bump in reported mortalities. Before 2008, it was solely the industry reporting on its own. Their permits require wildlife-proof fencing. Many people think their program only has authority if the water quality is toxic. Because they have situation where some of the ponds are steep sided and have no escape ramp, there are drowning hazards for wildlife. They make sure sumps and ponds that are steep sided are also fenced. A big issue is covering. They get mortalities in the bird netting. There is a new matting technology. The regulations they developed gives companies flexibility to use netting or bird balls. The bird balls are a little more expensive than netting, but they are much more efficient for avoiding mortalities. Their regulations also allow them to impose operational standards such as chemical neutralization or isolation. Unfortunately, there is what is called ponding on heap leach piles where there is an inefficient drainage system that leaches cyanide through the heap pile. This is a technique used to leach out gold that is found on the ore material. Fortunately, it is not that common. They recently found a dead golden eagle on one of these things. NDOW has quarterly wildlife mortality reports, and they also have ways that people can notify them by telephone.

They rely greatly on mining assessment fees for funding. They are trying to become self-sustainable because if they do not use mining assessment fees, their only other choice is to use sportsman dollars. NDOW is one of the few self-funded agencies in Nevada. Not only do they have license dollars, they get most of their funding from federal wildlife grants. The sole source of the federal wildlife grants are Pittman-Robertson excise taxes on sporting goods sales, mostly guns and ammo, but some other things. The prior director decided it was not fair to sportsmen to have our mining program subsidized by sportsmen. At that point, they shifted the three mining biologists to the account that is solely funded by mining assessments fees. Through a combination of trying to eliminate sportsman subsidies, they spend roughly $250,000 a year on really good mining-related environmental projects that the industry supports. For a number of reasons, they are depleting that account fairly rapidly. The whole source of this approach is two critical regulations. One is legislatively defined, Nevada Revised Statutes (NRS). The other is from the Nevada Administrative Codes (NAC). Their commission did the actual fee schedule. There are two key points. The enabling legislation says “Each permit holder will pay to the Department an assessment to be defined by our Commission." This is not just the gold mining industry, but all permit holders. It was their Commission and the NAC that decided to limit the payment of assessment fees to just the gold mining industry because it adopted the language that said "Only those permit holders who process material through a mill or a heap leach pad pays the following assessment fees." They feel that it is time to broaden the base of the assessment fees beyond just the gold mining industry. The assessment fee schedule is based on the tons of ore processed, and there is a legislatively-defined cap of $10,000 per year for each permit. Right now, their mining assessment fees bring in roughly $250,000 per year. They have program costs, not including those important environmental projects, of roughly $500,000. They have traditionally funded around $250,000 of environmental projects, but for the first time ever this year, they put a stop to all new proposals. They are running out of funds in that account and are not proposing any new environmental projects. They are trying to be self-sustaining with 100% funding with mining assessment fees. The account balance is depleting very quickly.

Member Bremner asked if the 75% federal funds from sportsmen dollars were collected on ammunition taxes, motorboat fuel, etc.

Mr. Alan Jenne responded that yes, they are Pittman-Robertson funds, which are federal excised taxes.

Member Bremner asked if there were any federal funds available.

Mr. Alan Jenne answered that Wallop-Breaux is also used, which are fishing-supported funds.

Member Bremner asked if these sportsman's dollars are used much like general funds for their projects.

Mr. Alan Jenne responded yes. The only other funds that they have within NDOW, besides the federal grants, are user-base funded. They have licensed dollars which are very limited. Beyond that, they receive a very small amount of general fund from the State that goes towards their non-game program. They are strapped as far as other venues for funding.

Chairman Restrepo asked what their plans were to broaden this definition under the administrative code to include more permit holders than the gold mining industry.

Mr. Alan Jenne stated this is one of the project challenges they are going to describe at the end of their presentation.

Chairman Restrepo asked if there was an acceptable level of mortality that would still allow the wildlife populations to continue to reproduce and prosper.

Mr. Alan Jenne referenced the numbers. Populations are still managing to thrive. It is mostly localized conditions that are resulting in mortalities. They could not definitely say there is a population effect. These numbers are from across the state – a tracking mechanism of self-reporting relative to the facilities.

Chairman Restrepo asked if there are any plans for increasing, improving or enhancing what has been done so far in terms of the reporting process. He asked if they were optimizing it at this point based on the resources.

Mr. Alan Jenne responded that for specific categories of wildlife, they have a 24-hour reporting period phone-in. If they are migratory birds, waterfowl, related to solution-based ponds, big game species, they must report within 24 hours. Beyond that, they are currently working on making their mortality database more user friendly and trying to improve online reporting abilities.

Mr. Jenne went on to discuss the next major component of their mining program. It is the communication of what resources are available and impacts potential projects could have on related wildlife. They work with federal land management agencies to be involved early in the process. They also work with project proponents to communicate those values before they get set on a project or project location. They do this with all projects, not just mining-related projects. This is the technical review, and they spend quite a bit of time on this. The annual budget for this program is the mining assessment fee for the mining biologists, but because of decreasing funds when they have other specialty biologists, that time is currently being coded to the Pittman-Robertson. They have a technical review grant but are still subsidizing a little bit with Pittman-Robertson dollars because they realize how quickly the mining assessment funds and the mining program funds are decreasing. The technical review begins very early in the morning. They have a data sharing program with all of their available data on databases that are geospatially available to project proponents. The proponents can send them a data sharing request describing where the project location is, and they supply them with the best available data they have within those boundaries. It gives the proponent an early heads-up to the potential impacts to species. Another portion that is available is the chat. It is the crucial habitat assessment tool, and it was part of the Western Governors' Association. They work with public land management agencies to work within the NEPA process. The NEPA process requires the federal government to integrate environmental values in their decision-making processes. One of the key components they work within is the cooperating agency status. They sign an MOU which designates them as a cooperating agency. With that come measures of performance that are expected from the agency. They are there for biological assistance identifying baseline data needs. One of their key roles that lines up well with their mission is trying to supplement the baseline data needs or trying to identify them. Sometimes they will conduct wildlife surveys and ask for plant surveys. Sometimes they are multi-year. NEPA is not a very quick process. Sometimes mining industry does have the issue that minerals are where the minerals are, but other things can be modified such as anti-perch devices, power line designs or alignments, timing restrictions and trying to minimize noise near Sage-grouse leks. As the project moves into the final stages, and they have looked at all the opportunities to minimize and avoid impacts, then they look for ways to offset the impact on the impacted wildlife population. This would be guzzlers, chainings to improve the habitat and other habitat restoration techniques such as seedings, wildfire restoration adjacent to impact to the project habitat footprint. As the project receives approval from BLM or the land management agency, and they get their Record of Decision, NDOW is still involved. They still continue to work with the mine to monitor the population and assess how the wildlife is adjusting. They continue to look for opportunities to make modification using adaptive management. They try to learn lessons to take into future discussions with project proponents. Post project, NDOW deals with proponents as they go into closure to identify opportunities to benefit wildlife in the reclamation. Sometimes they end up in situations where they have historical mines that have been either underfunded or companies have gone bankrupt. NDOW then steps in and works with other agencies to resolve issues. Typically, these are quite involved, and the process of getting money to work on these projects is a tough thing.

Member Bremner asked who established the bonding amount for the historical bankrupt or under-bonded projects.

Mr. Alan Jenne asked Mr. Perry to respond, but added there is a committee or commission established within the Division of Minerals that sets that.

Member Bremner asked if that was the Division of Minerals or the Environmental Protection Agency.

Mr. Rich Perry, Nevada Division of Minerals, came forward to respond. He stated currently, if it is on federal ground, it is established by the BLM. If it is on private ground or a mixture, it is the Bureau of Mining Regulation Reclamation, which is part of the Nevada Department of Environmental Protection.

Member Bremner responded that we heard some stuff from Environmental Protection about this before, but the only thing we heard was that they had a lot of money. Now we are being told some of these projects are under-bonded. Is that correct?

Mr. Mark Farman responded that many of these are very old projects, and he has been told many of older projects were underfunded. The BLM believes the more recent projects have adequate funding. An example is the huge Superfund site in Yerington where there is an older project that had an ownership change. It was sold and probably never bonded adequately in the first place. The only time the state agency is in that leadership role is if it is either on private land or a mix of private and public land. With 87% of Nevada managed by federal land agencies, almost all of these projects are going to have BLM in the lead for bonding.

Member Bremner asked if the federal government would pick up the cost of these projects.

Mark Farman cited an example of what happened with the mine by Yerington. The only time the federal government comes in and pays, usually millions of dollars, for the cleanup is if it is declared a Superfund site. That opens up a huge pot of money that is available that would not be available otherwise. For quite a period of time, the State of Nevada felt that it could handle the issues with this mine on its own, and it was opposed to having it declared a Superfund site. However, over time, the decision was made to let the federal government come in and spend additional money to clean up the site.

Member Bremner asked it we have any sites now that are not being cleaned up.

Mr. Mark Farman responded that he did not have the knowledge to answer that question.

Mr. Alan Jenne responded that the BLM does have an Abandoned Mines Land program, and they do deal with some of the smaller cost projects. NDOW has cooperated with them on some different mines out in the eastern region.

Mr. Mark Farman added that there are over 250,000 abandoned minds in this state. Because of the sheer magnitude of these, typically, they only survey those that have been slated for closure by the BLM. They cannot close a large number of them because of the cost, so they focus on those that have been deemed a public health hazard by the BLM. It would be cheaper just to seal them off with a bulldozer or cover them up with a permanent solid structure, but they often install what are called bat-compatible gate closures if they confirm it is an important habitat for either birds or bats.

Mr. Alan Jenne stated one key portion of the mining assessment fees funds environmental projects. It did help fund AML bat closure gates and removing the PVC mine claim markers. They have worked with the Diversity Division to get helicopter and ground surveys of golden eagles. They have also done sage grouse and mule deer telemetry studies. They have worked with the mining association in designating and funding these projects. It has been a success, but these funds are fading. The challenge NDOW is facing with the mining program is education on what permits are necessary, especially on things such as temporary ponds and sumps. They are educating their non-typical users such as geothermal and power production. Another challenge are the ponds that are so large it is not feasible to cover them.

Mr. Mark Farman brought attention to the slide that said "There are no applicable quantitative water quality thresholds." Many people think NDOW has a threshold used to determine whether or not a permit is needed. They mistakenly think that there is some engineering manual with international standards used by design engineers with 50 parts per million for cyanide. This is a misunderstanding, and there are no magic thresholds. There are too many different species involved, and too many different life stages. They have seen cyanide-related mortalities down in the low 20s. It is a risk management system that they have.

Mr. Alan Jenne stated, regarding the Chairman's question pertaining to creating a financially self-sufficient program, the intent under NRS was for permit holders to pay an assessment. It was determined by their commission at that time, in cooperation with the mining association, to only charge those that were processing or had heap leach. As this program has continued to develop, and as industry has changed, they are seeing new players on the landscape. The lithium is a perfect example of very large ponds with very high potential to impact wildlife. They are spending a lot of agency time in trying to minimize this impact, but literally, the only fee being paid is the $125 annual permit fee. The industry is not paying an assessment. NDOW is reviewing NAC. Instead of assessing on a tons-of-ore process type basis, they might try a pond basis. They have met with industry staff to discuss this, and will then work with their commission to make some adjustments. They would like to make it more equitable across the industries that are utilizing the industrial artificial ponds. A large benefit of this will be that they can get to a point where they can not only support the mining biologists and the program, but also move back to where they are doing the environmental projects which have an on-the-ground benefit to wildlife.

Mr. Mark Farman stated there are two good models for a self-sustaining program. Their agency was part of the passage of Assembly Bill 307. In the last legislative session, there was broad support for NDOW being reimbursed by power companies, mostly renewable power companies. He believes it also applies to transmission lines and traditional power plants. There is a precedent set for cost recovery as opposed to using sportsmen dollars to do the technical review and permitting. The other example is what the BLM uses called a cost recovery approach. The way this works is whenever a proponent builds a project, and there is required NEPA and other environmental clearances, the project proponent helps pay for those environmental studies.

Chairman Restrepo asked if NDOW has a schedule for implementing additional regulations or recommending additional regulations. He asked how much of this is within the NAC, which they can somewhat control, versus an NRS that requires changes in law. It seems this is a very dysfunctional system right now.

Mr. Alan Jenne stated it was a best attempt, and it has definitely evolved. The NRS does cap the assessment fee at $10,000. They are trying to work within the NRS and trying to redefine within the NAC to work on a per-pond basis. They will be moving forward with this in the next year and a half.

Mr. Mark Farman reemphasized that they are trying to do as much as they can through NAC revisions with their own commission and will hopefully not need to increase the $10,000 cap that is in NRS, thereby not going through the legislative process.

Chairman Restrepo stated that he would like NDOW to report to the Mining Oversight and Accountability Commission (MOAC) quarterly on the progress they are making with these revisions. It seems to be a critical issue for the operation of their agency. The issue of running out of funds because of some potentially politically motivated change in whom the permit holders are or should be is problematic. If MOAC could get a minor memo report once a quarter on the progress NDOW is making, it would be very helpful.

Mr. Alan Jenne stated they would be pleased to supply a memo report.

Mr. Mark Farman clarified that it is not an expansion of the permits they are reviewing. It is an expansion of having all permit holders pay assessment fees.

Chairman Restrepo responded that he understood it was an expansion of the base of permit holders.

Mr. Mark Farman clarified that it is not the base of permit holders. They feel the different types of ponds and industries are adequately covered by permits. What is not adequate, in their opinion, is that only a subset of the permit holders pay assessment fees. They are looking at an expansion of the assessment fee base and not the permit base.

Chairman Restrepo stated he now had a better understanding. He thanked Mr. Farman for the clarification.

Member Neilander stated the statue appears to be broad with the exception of the tax. He asked if they have the authority to increase fees through the NAC if necessary and broaden the assessment base. The only statutory issue would be if they bumped up against the cap.

Mr. Alan Jenne responded that if they tried to raise the assessment fee above $10,000, they would have to go back to the NRS and go through the Legislature.

Mr. Mark Farman stated the other thing in NRS that is a limiting factor is the cost of the annual permit fee which is capped at $125 per year. He stated he brought copies of the key regulations which he could provide to the MOAC members.

Member Neilander stated he would like a copy. He commented that MOAC has heard testimony from this agency and other agencies about the under-bonded, under-funded projects. There has been discussion about NEPA, and the fact that most of our land here is federal land. NEPA was adopted in 1976. The testimony seems to be on track with the current projects. The bonding is good and the regulations are up-to-date, for the most part. The fracking issue is something we will all have to deal with. It seems like NDOW's funding is barely enough to cover what they need for current things. It is all of these old projects that predate NEPA that are still just sitting around. It just seems like that is where NDOW puts the crumbs, whatever crumbs they have left. It is more of a policy question, probably not even for this Commission, but this seems to be the bigger issue right now.

Mr. Alan Jenne responded there is a void out there that could definitely be filled

Member Bremner asked if NDOW is working with any of the proposed fracking operations and if these will generate ponds that will need oversight.

Mr. Alan Jenne answered yes, they have been. They have been working with Noble Energy on the Mary's River project. Noble Energy has proposed a closed-loop system so they should not have anything more than sumps during drilling.

Member Bremner stated some of the fracking operations have generated water with some unusual things including radioactive selenium. This is something we should be concerned about, and obviously NDOW is, so that is good. Member Bremner then asked if NDOW had any concerns about Wildhorse Reservoir regarding mercury pollution and the major fish hatchery in northeastern Nevada.

Mr. Alan Jenne responded that they monitor mercury within the fish population. He will check into this. He does not believe there is a mercury warning on Wildhorse Reservoir. Because of the low water elevations experienced up there this year, they have lifted limits on the cold water fishery. He does not believe that mercury has led to a restriction on edible portions. He will send more information to Terry Rubald.

Chairman Restrepo stated he appreciated NDOW giving testimony today.

4. AGENCY BRIEFINGS

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; summarizing activities of the minerals and geothermal industries in Nevada for calendar year 2012

Jim Faulds, Director, Nevada Bureau of Mines and Geology (NBMG) and State Geologist, came forward for this presentation. His agency does an annual report summarizing activity in the minerals industry, geothermal industry and oil and gas industries over a calendar year. The report usually comes out a year after that calendar year to assure they have all the data. The report he is discussing today if for 2012. NRS 514 describes the mission of NBMG, Nevada's Geological Survey. Their annual budget is about one million dollars per year. That is down from about $2.7 prior to the recession. Because of the budget cuts this report has been funded by the NDOM passed through to them with the approval of the Commission on Mineral Resources.

They are Nevada's Geological Survey, and are responsible for understanding the natural hazards in the state as well as its natural resources. Mr. Faulds reviewed the 2012 report. Geologic framework studies allow them to gain a better understanding of how mineral deposits form and how to explore for them. They establish databases so the data is universally accessible through our website. They also play an important role is sample curation, cuttings of core, mining district files, rock collections and web access. They are housed at the University of Nevada, Reno (UNR) and play a role in education as well in training the next generation of geologists. The mineral industry report describes the amount of production for metals, industrial minerals, which are things like sand and aggregate, and limestone, which is used in cement, oil and gas and geothermal. He has bound copies if anyone on the Commission would like one. This was a very large industry in 2012, on the order of $10.7 billion. The leader in that is gold production followed by copper, silver, sand and aggregate, geothermal and then barite, a small amount of oil and gas and other deposits. They have been doing this report since 1980 so it tracks these things over several decades. This tracks the number of active claims in Nevada, which for 2012 was about 195,000. This plots the price of gold relative to the amount of active claims. In recent years, those claims are tailing off a bit, and there is a big drop-off in 2013 and more recently because of the drop in the price of gold. You can see what parts of the state have the greatest amount of activity. You can see both the overall amount of claims in the state as well as the new claims that were issued. All of this is superimposed on active metal mines in the state. There is quite a bit of activity in north central and northeast Nevada, the famous Carlin Trend. There is also a fair amount of activity in western Nevada.

Gold production in Nevada is the key. We are the nation's leader in gold with 5.6 million ounces produced in 2012. This was up slightly from previous years. There is tracking of the gold produced in the U.S. since 1835 to 2012, which shows the U.S. and Nevada are in the biggest gold boom in history. Nevada is a world leader in gold production. In 2012 we produced 6.5% percent of the world's gold. If we were a separate country, that would make us the fourth largest producer of gold in the world. In 2012, we produced 76% of the U.S. gold. In 2012, Nevada passed the 200 million total gold production over historical times. We passed the 200 million ounce mark. It is important to know that 85% of that has been produced since 1981, and 30% of that in the past decade. The past couple decades were clearly in the biggest gold boom in our history. We also produced a number of other precious metals and base metals. We produced a fair amount of silver, which is commonly a by-product of gold. Also, we are the first in the U.S. in terms of non-fuel mineral production -- non-fuel meaning outside of oil and gas and coal. We are also a big copper producer. Arizona leads in copper, but we are not too far down the list. We are the nation's leader in the production of barite. Barite is very important for use in drilling. Barite produced in Nevada goes into drilling in other parts of the country. Sand and gravel are also a very important part of the minerals industry.

They are working on producing web applications so that one can click on the databases on our website and get interactive maps. The mineral industry report also tracks geothermal activity through time. We are in a bit of a boom here compared to mineral production and the effect on the economy. We actually think that one day this can become one billion dollars. It is very well-established that Nevada has more geothermal energy potential than any other state. Right now, we are second in the nation behind California in the production of geothermal energy. Although there have been some recent geothermal power plants with economic trouble, most of them are doing quite well. One of the recent success stories in McGinness Hills, northeast of Austin. It is operated by Ormat, producing nearly 40 megawatts of energy, and came on line about a year and a half ago. It has been so successful that they are drilling to build a second power plant there. This is in a region of the state where geothermal activity was thought to be not as promising as the northwest and western parts of the state. The Stillwater complex, just east of Fallon, is another success story. This reflects a growing trend in renewable energy parks in the state where we have both a geothermal power plant and a solar power plant. Energy from solar can at times enhance the energy produced from geothermal where renewable energies can be kept going 24/7. NBMG played a significant role in helping develop that system. They are able to make a 3-D model. This helped Ormat develop their system. McGinness Hills is a blind system which means there are no surface hot springs or femorals at the surface. There are indications at the surface, something called silica center that is produced from paleo hot springs which are no longer active. They estimate that 75% of Nevada's geothermal resources are blind or hidden, not much different than finding a hydrocarbon deposit these days. Geologic/geophysical studies are required to further develop the industry. NBMG contributes in a variety of ways such as detailed mapping, characterization of subsurface, 3-D modeling.

Almost 90% of Nevada's petroleum production is from Railroad Valley in east central Nevada. Nobel Energy is working here, and initial results are promising. Railroad Valley has produced 45 million barrels since 1954. The individual oil fields within Railroad Valley are tailing off, indicating a mature field. Some of the oil fields in other parts of the country did not look very different from this before the infusion of new technology and with fracking. We need the appropriate regulations and to make sure fracking is done safely and successfully.

In summary, Nevada mineral and energy production collectively is nearly an $11 billion industry, gross. We need new discoveries to maintain these industries. It is important to note that 50% of Nevada is covered by basins and another large part is covered by younger volcanic rocks that may hide these old mineral deposits. The sediments and the basins may obscure our geothermal resources. We need to conduct the geologic studies in order to see through that cover and understand where these resources are in-depth. Examples are Round Mountain Mine in central Nevada, the Toquima Mountains and the Toiyabe Mountains.

There are three focus areas in the state. Natural hazard studies as well as resource studies in Clark County and the Reno-Carson urban corridor, and then focusing a fair amount of NBMG resources to gain a better understanding of northeast Nevada for oil and gas potential. Then there is Long Canyon gold deposit in the Pequop Mountains in Northeast Nevada.

Chairman Restrepo thanked Mr. Faulds. He asked if the tabular data in the reports is available on the website in Excel spreadsheets for download.

Mr. Jim Faulds answered that not every figure has an Excel spreadsheet attached for download. If it does not, you can contact their agency, and they will provide the data. He will check to see that the Excel spreadsheets are coupled with the charts.

Chairman Restrepo stated there is very interesting information on the charts. It would be nice to have the spreadsheets to do some analytics for those individuals that are looking at the industry, both in state and out of state.

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

(a) Department of Taxation Report of expenses and deductions of each mining operation, pursuant to the requirements of NRS 362.120(5);

(b) Report on net proceeds of minerals tax projections, as reported to the Economic Forum.
Department of Taxation

(c) For Possible Action: Department of Taxation – Net Proceeds of Minerals Audit Status – informational presentation pursuant to NRS 514A.070(2):

(1) Identification of audits of mining operators to be conducted for the remainder of the 2014 calendar year;

(2) A report of the results of each audit of a mining operator or other person completed by the Department during the immediately preceding calendar year;

(3) A report of the status of each audit of a mining operator or other person that is currently in process.

Terry Rubald, Deputy Executive Director, Department of Taxation, spoke about expenses and deductions. NRS 362.120 asks us to report to you on the expenses and deductions of each mining operation. As part of that report, we produce the net proceeds bulletin, which is essentially our tax role for net proceeds. We produce this annually, and we show the gross yield by operator, the deductions taken by each operator, and the resulting net proceeds.

Ms. Rubald gave a high-level profile of the 2013 production year results. On Page 189 of your packet, you will see the ten-year history of the gross yield of all operators. For 2013, the gross yield is $8,804,000,000, which is down from the 2012 production by almost $1.6 million. On Page 191 of the net proceeds in your packet, you will see a ten-year history of the net proceeds which in 2013 was $3.2 billion, and again, this is about $1.6 billion less than the prior year. On Page 194, you will see the annual net proceeds and the tax revenues produced since 1971. In 2013, the number for net proceeds is a little larger than the figure you saw on Page 191 because we include the royalties on that figure, and they are always taxed at 5%. The total net proceeds of both operators and royalties amounts to $3.4 billion, from which taxes for the state and county together have been collected in the amount of about $170,000,000 with about $88.6 million going to the counties and $82.3 million going to the state. Between the county and the state is usually about 50/50, and there is a graph of this on Page 196. That graph shows the relative proportion between state and county of the distribution of the tax. As you have heard many times, the largest producer in the state is gold and silver, and you can see the relative distributions of that on Page 197 where gold and silver had gross proceeds of $8.1 billion, and everyone else paled by comparison. Starting at Page 201 is the roll, which lists each taxpayer and shows the gross yield and the deductions. We have a column called calculated net and then another one called reported net. We also have the tax rates and the taxes due. You will see on the first page that the operators listed all had a calculated net and a reported net which are the same. The first one listed there is AU Mines, Inc., which is Manhattan Gulch Mine, a gold mine. The total gross yield is only about $116,000, but they have allowable deductions of $3.9 million. The reported net is zero because you cannot get much lower than that, but the calculated net is a negative $3.8 million, which is the gross yield less the allowed deductions. And once you get to zero for net proceeds purposes, there is really no point in going further than that. Now turn your attention to Page 234. This is not produced in our net proceeds report. It is so the MOAC can see the breakout of the different kinds of deductions. We are showing total costs of extraction, which amounts to a little over 55% of the total. We then have a total cost of transportation to places of refining, reduction and sale. It is about 2.91% of the total. The total cost of the actual reduction, refining and sale is about 25%. The items below the line are royalties, depreciation and the return on investment. This is a deduction allowed to the geothermals only, and is about 16.61%. The total allowable deductions amounted to $5.7 billion, and the net-to-gross ratio overall was 36.35%. The most profitable industry this year is oil, while geothermal is the least profitable of those earning a net. Bentonite, moly, salt and turquoise are either non-producing or not profitable at all. Ms. Rubald then asked if there were any questions regarding this part of the report.

Member Neilander noted in some of the audits, as the years go by and legislation has been amended, the self-use of electricity is one of the allowable deductions. He asked if this is causing problems as far as interpretation. In some of the audits, that is one that gets contested by the industry.

Terry Rubald responded that this is peculiar to the geothermal industry because they have power plants, but in general for the gold, that has not been an issue.

Ms. Rubald continued on to the next agenda item. This is a presentation that was recently made to the Economic Forum about the projections for net proceeds. She explained how we forecast the net proceeds. The three major items we look at are price, production and the net-to-gross ratio. She presented a slide from Kitco which showed the dominance of the gold industry. The first metric that we look at is the price of gold. Over the last 20 years, there was a significant rise in the price of gold per ounce, topping out in 2011 with a significant decline in 2013. Over the last five years from May 2009 to May 2014, the low in 2009 was $909 per ounce, while the high was $1,900 dollars per ounce in the 2011. In 2013, the cumulative average was $1,411. To date, in 2014, it has been $1,294. It has actually been trading lower than that recently. Part of the reason for the decline in gold prices is the strengthening of the U.S. dollar. When the dollar gets strong, gold appears to go down and vice versa. The other major reason is the actual supply and demand for gold. If the price is higher when it is being measured, not only in U.S. dollars but also in Japanese Yen, Pound Sterling and Euros and every other major currency, then we know that the gold demand is higher, and it has actually increased in value. Consequently, if gold is higher in U.S. dollars while at the same time cheaper in every other currency, then we can conclude that the U.S. dollar has weakened and that gold has actually lost value in other currencies. In addition to the price metric, overall production affects our net proceeds revenues. In 2012, 5,500,059 gold ounces were produced in Nevada along with 8.1 million ounces of silver and 145 million pounds of copper. In 2012, the gross yield of gold was $9.2 billion. The price per ounce at $1,663 was derived by dividing the total amount of gross yield by the ounces reported as sold. So our Nevada-derived price was just a little lower in 2012 than the Kitco average of $1,669. In 2013, we had about 67,000 ounces less gold in 2000 than in 2012, and the average price dropped from $1,663 per ounce to $1,393 for about 16%. This compares to the Kitco average price for 2013 of $1,411. Copper was down from 2012 and also dropped in price from $3.63 per pound to $3.22 per pound, 11%. On the other hand, silver production was up almost 1.9 million ounces over the prior year, but the price dropped from $30.99 an ounce to $22.88 an ounce, a 35% drop in price. The geothermal power plants produced 374 million more kilowatts than the year before, and there was really very little change in the average price. The total gross yield for gold dropped from $9.2 billion in 2012 to $7.65 million in 2013. Ms. Rubald showed a Bureau of Mines slide tracking the net-to-gross ratio, which is our third metric.

Under the law, a mine has to report the value of any mineral extracted that was sold, exchanged, removed from the state in form ready for sale or used in a manufacturing process. The law also provides that certain costs incurred in producing the mineral may be deducted. When you compare the net proceeds to the gross yield, you get this ratio. When the number is lower, it means there were more costs to produce the mineral. When the ratio is higher, it means it was less expensive to produce the mineral, that the mine was more efficient or that the grade of ore was higher or easier or less costly to extract, or that the price per ounce was greater, thus generating more profit. Statewide for all mineral types, the highest net-to-gross ratio occurred in 2011 and 2012 at 46%. It has since dropped to levels more in keeping with the mean average of about 28% percent. This is a sliding scale, so the net-to-gross ratio actually affects the tax rates. If the net-to-gross ratio is less than ten, then the tax rate is 2%. If it is greater than 50, the tax rate is 5%. If the mine has a gross yield of at least $4 million, then it automatically goes to 5%. We do not talk about the sliding scale for that. If the mine is a geothermal, the rate can be no higher than the county combined rate, so the maximum there could be $3.66 dollars. This is just a 'what-if,' trying to demonstrate how the tax is calculated. For example, let us say that the overlapping combined rate is $1.77, which is pretty close to one of the counties in the state. If you had a gross yield of a million dollars and the net proceeds were $400,000 dollars, then the net-to-gross ratio is 40%. You would know from the sliding scale that the tax rate would be 4% if it was a gold mine, and it would generate $16,000 in taxes, 40% or about $6,400 would go to the county. Seventeen cents goes to the state debt rate, or $680 dollars, in this example. $8,920 would go for the general State General Fund. You can compare this to a geothermal mine where the maximum rate would only be the county combined rate, and the distribution is the same for the county and the state debt, but nothing goes to the State General Fund in that case. Royalties are always taxed at 5%. The upshot of this distribution of the tax between state and county is about 50/50.

Ms. Rubald showed slides of the way the proceeds of minerals tax system looked prior to 2008. The taxpayers reported it by February 16th. We took a couple of months to certify the value, and the taxpayers paid the tax by May 10th. In 2008, legislation was passed to create a prepayment system. Ms. Rubald showed slides of this and gave an explanation. Starting on March 1st, the taxpayers not only project what they think is going to happen in the current year, they also prepay on that, and then they have the opportunity to adjust those prepayments on a quarterly basis because there is a penalty if they do not reach at least 90% of their estimate of their actual production, so they have the opportunity to amend their reports and make additional payments. Finally, what has happened then, when we go back to the original system, the February 16th date has actually become the true-up date for all of the payments that were earlier made as the projections. This is what actually occurred in 2013. At the beginning of 2013, we had a balance of overpayments from the industry from 2012, which we carried forward to apply to the 2013 projection payment, and that was over $19 million. On March 1st, the taxpayers made projection payments of $204 million, so the total cash on hand was $223 million. We could not know until April 20, 2014, almost 13 months later, that the actual amount due would only be $170 million. When the true liability became known, the taxpayers had overpaid their taxes by some $52.8 million dollars. But in March 2014, we applied $31.6 million dollars of cash to the prepayments that were due on March 1, 2014. After the certification in April, we received additional tax payments of a little over $2 million for the production year 2013. Those were from taxpayers who had underestimated. After making those adjustments to cash and applying the prepayments to the actual tax liability due, the net amount of overpayments to be carried forward to next year is $23.3 million. For the 2014 production year that we are still in, we received prepayments on March 1st in the amount of a little over $47 million. As mentioned before, we have already applied $31.6 million dollars of credits. So the total amount of net proceeds projected for the production year 2014 is $78.8 million, but 40% percent of it was received last year in overpayments. We will not know what the actual total tax liability will be for the production year 2014 until April 2015. Let us assume the prepayments made on March 1, 2014 were accurate. Then we still have to do something with the 2014 carryforward of $23.2 million. We will apply that carryforward to the projection payments that are made on March 1, 2015. If we assume for a moment that the level of net proceeds in 2015 will be about the same as 2014, which was about $80 million, then the total we could expect in new cash to distribute after applying the 2014 carryforward would be about $57 million. About 50% of that is the state's portion, and 50% percent is the county's portion.

Ms. Rubald asked for questions and stated Russell Guindon, Senior Deputy Fiscal Analyst, Legislative Counsel Bureau, is here. He had invited her to speak at the Economic Forum and has been very gracious in assisting with all of this forecasting. He is also here for questions.

Member Neilander stated this notion of prepaying was done with the gaming tax several years ago to fill a budget gap we had in one particular year. He clarified they are paying three months and then truing up. He asked if this will sunset soon.

Terry Rubald responded that the legislation has provided for a sunset every two years since implementation in 2008, but it has always been renewed. The trouble is, if we would ever go off the system, there would be a year with no distribution to the counties. It is due to sunset again next year.

Ms. Rubald went on to the next agenda item. She stated she would combine the items on the agenda under 5(c). Basically, what the law requires is a report of what audits we will be conducting this year, the status of pending audits, and the results of prior audits. She asked the Commission members to turn the confidential information. Because this has to do with ongoing audits, NRS 362.55, requires the Department to keep this confidential. On the second page, you will see the list of candidates for audits to be conducted by the Division of Local Government Services over the next year. Bonnie Duke, the supervisor of our audit section in Local Government Services is here to explain how this list was developed. Following that page is a report of the results of each audit that was actually completed over the last year. Both our Supervising Auditors, Bonnie Duke and Terri Upton, are here to entertain your questions on the individual audits. The first one is on Page 4. It is a Decision Letter from the State Board of Equalization on an audit for EP Minerals that was with us for seven years. We finally came to a conclusion on that with a stipulated agreement on issues that began in 2007 and were resolved. After that Decision Letter, there are write-ups for each of the audits that we completed. Finally, the third section beginning at Page 16 discusses the status of each pending audit.

Bonnie Duke, Supervising Auditor 2, Department of Taxation, came forward to answer questions. She introduced herself and explained the audit section is responsible for conducting audits of the net proceeds minerals tax return. They are also responsible for conducting audits for real property transfer tax. They conduct the performance audits for the property tax system. On March 11, 2014, they conducted their annual meeting to select net proceeds of mineral tax audits for the coming year. Terry Rubald, Deputy Executive Director, Janet Kelly, Supervisor of the Centrally Assessed section and Bonnie Duke were present at that meeting. They reviewed the listing of taxpayers, information from ongoing audits, settlement of prior audits, issues in calendar industry reviews and certain trends. The criteria they used to select returns for audit were if the audit was requested by the State Board of Equalization or another body, they weigh that criteria. If specific issues occur that may affect a particular type of operation, a particular industry group, they look at that criteria. They look at the size of the operation. They also look at indicators from prior audits to see if they need to follow up on those. They look at operations with significant increases or decreases in gross yield or deductions, and they look at new operations. They also look at any other risk factors. In the industrial minerals group, EP Minerals was selected as the highest priority. That is due to the stipulation of the State Board of Equalization case. EP Minerals filed multiple returns for its separate geographical operations, so in this stipulation, it was agreed that EP Minerals would be audited for 2013. The audit will include those locations as well as the operations of the properties previously owned by Moultan. EP Minerals acquired the assets of Moultan in 2013, so that will be included in the audit. The primary issues raised in the stipulation are cost allocations and the mining processes versus the manufacturing processes and the use of the proportionate profit method to impute the gross yield at the mouth of the kiln for those products that are sold after that manufacturing process.

Two additional companies were chosen, Ameris, which was formerly known as Sealite, and Grefco. These companies were also selected because they produced diatomaceous or similar to EP Minerals, so they wanted to look at a couple in that industry. In order to maintain fair and equitable assessment of taxpayers in similar industries and similar situations, the selection committee felt that those were the appropriate audits in that sector. The initial scope of the audits will be for production year 2013. In the case of Grefco and Ameris, once they get through 2013, they may find something, so they will expand the scope of that audit to earlier years if necessary. They think this is a more efficient way to approach this rather than getting bogged down in multiple years at once. They can be a little more efficient if they do it that way.

In the precious metals group, Veris Gold, which was formerly known as Queenstake and formerly known as Utah-Nevada Gold, their Jerritt Canyon process project was selected as the highest priority. That was based on findings in the 2010 and 2011 audit that indicated potential understatement of gross yield in the 2012 and 2013 years. This is related to their accounting and reporting certain financing arrangements. Veris Gold recently declared bankruptcy, so they are going to address that issue as they move forward with their audit of Veris Gold. They are working with the Attorney General's Office to assure it is done properly. In addition, the Selection Committee chose another company from the precious metals group. Coeur Rochester was selected because it is slightly different than the pure gold companies. Its primary product is silver, but gold is a significant by-product. Again, the scope for Coeur Rochester will be the 2013 year, with the understanding that they may expand the scope if they find issues that require opening prior years.

In the geothermal group, two properties were chosen. Those were Beowawe and Dixie Valley, both operated by Terra-Gen Operating, LLC. The statutes and regulations associated with geothermal properties are a little more complicated than the other industries. The Compliance section of the Department of Taxation, which is Terri Upton's group, recently completed an audit of Ormat. They had several findings, so the Committee thought it was appropriate to pick some other geothermals to follow up on that. Subsequent to that meeting, a limited-scope audit was added to the list that they hope to complete within the upcoming year. This was an issue raised in the desk audit for Newmont. The desk audit questioned some of the deductions of certain technology costs, so they wanted to have a limited-scope audit of Newmont to address just that issue.

Selection of audits from the oil and gas industry was deferred until they can get these done. Also, gemstones were deferred. Hopefully, they can pick those up in their next cycle. They believe that this is a fairly optimistic schedule, but they do believe they can complete these audits with their current staffing levels in the next year. It is quite a few more audits than they have bit off in the past, but they have made a lot of changes in the way they approach the audits. They have addressed a number of efficiency issues and are hoping to get back on schedule by getting more audits done per year.

Member Neilander asked for clarification on the Newmont selection, verifying it is a limited-scope audit probably based on desk reviews of more recent returns. He asked how many they have captured over 95% of the revenue since the Committee was formed.

Terry Rubald responded that the answer was yes, the largest gold producers, Barrick and Newmont, have, for the most part, been completed by the Compliance Division.

Member Neilander complimented them on the auditing model they have created. They have been given a difficult situation, and it seems to be working efficiently. Early on, we had discussions about the audit cycle. He asked what they project the audit cycle to be through a 100%.

Bonnie Duke stated she had not calculated 100%. If they could accomplish eight audits per year, that would be max. They are pushing the envelope with eight audits per year. There are approximately 120 companies.

Terry Rubald stated last year she was very optimistic. It was prior to us taking over completely, and she thought these could be completed much faster. The optimistic projection has been downgraded. In order to do the full audits as planned, we will not be fast about it. We will have to consider, as one of the criteria in the future, that are we capturing the largest share of dollars. She would also like to state that every year, each operation is looked at in the desk reviews, and many millions of dollars are disallowed during the desk review process. We think we still are maintaining good coverage.

Member Neilander added this is something many people do not understand because those things never make it to the Nevada Tax Commission (NTC). A lot of money is settled upfront through the desk audit review. The risk model you are using uses the desk audit as well as the other factors that you mentioned. Unfortunately, no two audits are ever the same. He certainly understands the audit cycle may be longer than initially proposed, but that is just the nature of it.

Chairman Restrepo thanked Commissioner Neilander for bringing up some great points and observations based on his long-term experience working in this arena. He congratulated Terry Rubald and Bonnie Duke for an incredible job with somewhat limited resources.

Terri Upton, Supervising Auditor 2, Department of Taxation came forward to discuss completed and pending audits. She stated the Compliance section has completed one audit in this last cycle, and that was of Newmont. Prior to that, they completed ORMAT Mining Company, which is a geothermal plant. Ormat was completed in May of 2012. However, Ormat petitioned the audit findings. They have some disagreements regarding allowable deductions. The Department has worked with them, has had several discussions and multiple meetings. That matter went before the NTC yesterday morning, and the NTC chose to table that discussion or decision until they received an Attorney General Opinion (AGO). This has been requested. They will be happy to come before this Commission when they have more developments on this matter.

Member Neilander asked if the Attorney General's Office was going to provide an opinion on the self-funding for power sources, as well.

Terri Upton responded what the NTC asked for specifically was with regard to return on investment, if they were allowed to have that initially, or if they could continue to take that investment as they had repowering events.

Ms. Upton went on to say the second overview would be for Newmont. The Department completed five mining audits for Newmont in October of 2013. A deficiency was billed. The audit was for the period of 2009, 2010 and 2011. In the audit, the Department disallowed some deductions that they had taken as well as the value of the net proceeds or the gross yield. The Newmont leadership petitioned the audit, and it is currently in discussion with Department leadership regarding the allowability of those deductions

Bonnie Duke reported on their activities of the last year. They concluded the Barrick Gold Corporation Venture Two properties. This was a limited-scope audit. It was conducted for the production year of 2011 for the returns filed by Barrick for the Cortez properties. Venture Two Cortez is essentially the same in Lander County. The draft audit report was delivered to the taxpayer for final review and comment. The taxpayer accepted the findings. The limited purpose of the audit was to determine the appropriate gross yield and calculate any amount due to or from the taxpayer. The results of the limited-scope audit included a finding that the taxpayer had made an overpayment due to a duplication error in reporting. The tax preparer requested that the tax be credited to 2014 rather than a refund. Because of the dollar amount, that went before the NTC yesterday. The NTC approved it.

They have an ongoing audit right now with Veris Gold. As discussed earlier, they were formally known as Yukon Nevada Gold or Queenstake, the Jerritt Canyon project. That audit is nearing completion. They do have waivers of limitation in place and work papers for that. The draft audit findings were delivered to the taxpayer for review and comment. They met with the taxpayer representative to go over their findings. The representative responded to the findings, and they responded back. All of the issues are resolved except the separate reporting for toll milling and purchased work. Generally, an integrated mining company will do the mining and processing all in one. For example, Jerritt Canyon will purchase work from another mining operation and take it. This is tracked separately. As mentioned earlier, they have declared bankruptcy. She does not think the bankruptcy will have any impact on finishing the audit.

Member Bremner asked if the Jerritt Canyon Mill is closed.

Bonnie Duke responded that the Jerritt Canyon Mill has not closed. They are still operating, but they have declared bankruptcy in Canada and also in the United States.

They are very near completion on that one. The other audit they have is the Round Mountain audit. They have waivers of limitation in place on that one as well. The draft findings were delivered to the taxpayer. They will be meeting next week to go over the draft findings. September 30, 2014 is their deadline. That is where the waivers of limitation are in place.

The other project is the Robinson Mine in White Pine County. They have waivers of limitation in place for that, as well. Right now, they are still waiting for the taxpayer's information. They hope to get that by the end of this month, have findings drafted and to them over the next couple months.

Member Neilander asked if when the state is required to provide a refund, interest is involved. If you issue a notice of deficiency, there is potentially a penalty, and then an interest component that the taxpayer has to pay. What happens in the case of a refund? Does the state have to pay the same level of interest?

Terry Rubald answered yes, we do have to pay interest. She asked Terri Upton is it comes from the date of the beginning of the audit.

Terri Upton called upon Jennifer Lewis, who is the auditor who calculated the interest.

Jennifer Lewis, Auditor 3, Department of Taxation, came forward. She stated interest is calculated depending on the date that accrual was determined as an overage, and the rate has been split twice during, say from 2008 forward. This is all generated by the NRS. She believes it in NRS 362 that determines this. So it is based on when that payment was made to the Department or due to the Department and made that the interest will continue accruing. There is a split rate, and it is brought forward on the calculation. The rate changed. She believes it was .75 and 1%. The Department gives a value as to when the credit was given to going forward.

Chairman Restrepo asked if the process works the same way in both directions.

Jennifer Lewis responded that it does. For credit and if they have a deficiency, or if they have a credit, interest is calculated based on each figure by the rate determined by 352.

Bonnie Duke commented that there is one caveat to this. It is NRS 361.468, paragraph two. It indicates that no interest is allowed on any refund of any penalty or interest paid to the taxpayer if the tax receiver determines that the overpayment was made intentionally or by reason of carelessness. So there is one caveat when interest will not be due, and that's only for property tax, not for other kinds of tax.

Chairman Restrepo asked Terry Rubald if we formally adopt these regulations and orders at this point.

Terry Rubald responded she believed there was an adoption of the report.

Member Neilander moved to that the Commission formally adopt the findings as presented today by the Department of Taxation.

Member Bremner made the second motion.

The motion passed.

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

- **March 14, 2014**

Member Neilander stated there was a typo on Page 3, second paragraph where it says "detain." It should say "detail." Member Neilander then moved to approve the minutes.

Member Bremner made the second motion. The motion passed.

7. **For Possible Action: Meeting Schedule**

Terry Rubald stated the statutes require that the Commission meet once a quarter, and the third quarter you will have a report from the Department of Environmental Protection. Ms. Rubald has visited with the Administrator to make sure that she is available. The Administrator will be available the third week in September. We usually meet on a Wednesday or Thursday. Ms. Rubald suggested September 24th or 25th.

Chairman Restrepo stated the September 24th would be best for him.

Member Neilander responded the 25th would be better for him, but he could do the 24th. He would probably be in Las Vegas.

Chairman Restrepo answered that if it was a short meeting, he would be in Las Vegas. The next meeting was set for September 24, 2014.

8. Briefing to and from Staff; Suggestions for Future Agenda Topics

Terry Rubald stated there were no briefings from staff.

9. Public Comment

There was no public comment.

10. For Possible Action: Adjournment
The meeting was adjourned at 12:27 p.m.