

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

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

MINING OVERSIGHT & ACCOUNTABILITY

MEMBERS PRESENT:

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

MEMBERS ABSENT:

Senator Greg Brower, Member

COUNSEL TO THE COMMISSION PRESENT:

Henna Rasul, Senior Deputy Attorney General

DEPT. OF TAXATION STAFF PRESENT:

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

MEMBERS OF THE PUBLIC PRESENT:

Carson City:

Alisa Sanchez, Comstock Mining
Jamie Winter, Davis, Graham & Stubbs
John Hadder, GBRW
Ron Leiken, Marigold Mining
John Muntean, NBMG
Rich Perry, NDOM
Jeff Bixler, State of Nevada
Rod Neils, State of Nevada
Larry Wahrenbrock, Silver City Resident

1. ROLL CALL, ESTABLISHMENT OF QUORUM AND OPENING REMARKS

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

2. PUBLIC COMMENT

Chairman Restrepo then asked for public comment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4. AGENCY BRIEFINGS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6. For Possible Action: Meeting Schedule

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

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

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

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

8. Commission Comments

There were no comments from the Commissioners.

9. Public Comment

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

10. For Possible Action: Adjournment

The hearing adjourned at 11:01 a.m.