

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

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

MINING OVERSIGHT & ACCOUNTABILITY
MEMBERS PRESENT:

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

MEMBERS ABSENT:

Congressman Steven Horsford, Member

COUNSEL TO THE COMMISSION PRESENT:

Henna Rasul, Sr. Deputy Attorney General

DEPT OF TAXATION STAFF PRESENT:

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

MEMBERS OF THE PUBLIC PRESENT:

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

1. Roll Call and Opening Remarks

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

2. Public Comment

Chairman Restrepo then asked for public comment.

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

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

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

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

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

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

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

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

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

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

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

(b) Report on Enforcement Actions, fees and fines

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4. AGENCY BRIEFINGS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7. Public Comment

Chairman Restrepo asked for public comment.

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

There was no other public comment.

8. For Possible Action: ADJOURNMENT

Meeting was adjourned.