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STATE OF NEVADA  
DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES  
DIVISION OF ENVIRONMENTAL PROTECTION  
BUREAU OF MINING REGULATION AND RECLAMATION

TRANSCRIPT OF PUBLIC COMMENT HEARING  
DAYTON CONSOLIDATED EXPLORATION PROJECT  
APPLICANT: Comstock Mining Inc., Permit #0315

Wednesday, November 16, 2011  
1:00 p.m.

Legislative Counsel Bureau Building  
401 S. Carson Street, Suite #4100  
Carson City, Nevada

**ORIGINAL**

ENVIRONMENTAL  
PROTECTION

NOV 28 2011

BUREAU OF MINING  
REGULATION & RECLAMATION

PUBLIC COMMENT HEARING TRANSCRIBED BY:  
SHANNON L. TAYLOR, NEVADA CCR #322

1 A P P E A R A N C E S

2  
3 Present for NDEP:

4 Vinson Guthreau  
NDEP Public Information Officer

5 Paul Comba  
6 NDEP-BMRR Supervisor

7 Todd Process  
NDEP-BMRR

8 Todd Suesmith  
9 NDEP-BMRR

10 Jane Clayton  
NDEP-BMRR

11 Vickie Rutledge  
12 NDEP-BAQP

13 Shawn Gooch  
NDEP-BMRR

14 Bruce Holmgren  
15 NDEP-BMRR Chief

16 Karl McCrea  
NDEP-BMRR

17 Kurt Kolbe  
18 NDEP-BMRR

19 Paul Eckert  
NDEP-BMRR

20 Dave Gaskin  
21 NDEP

22 Jeff Collins  
NDEP-BCAP

23  
24  
25 (continued...)

1 Members of the Public:

2 Larry Wahrenbrock  
3 Robert Elston  
4 Chris Brown  
5 Bonnie Brown  
6 Royce Bradley  
7 David Moore  
8 Darlene Cobbey  
9 Patty Marshall  
10 Jack Yates  
11 Gayle Sherman  
12 Ben Wesner  
13 Daan Eggenberger  
14 Cynthia Etchegoen  
15 Susan Juetten

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1 -oOo-

2 MR. GUTHREAU: Hello. This meeting was  
3 scheduled to start at 1:00. So we'll get going.

4 I want to welcome you to the public hearing on  
5 the reclamation permit application for Comstock  
6 Minerals, Dayton Consolidated Exploration Project.

7 My name is Vinson Guthreau. I'm the Public  
8 Information Officer for the Nevada Division of  
9 Environmental Protection. My job today will be to  
10 outline the format of the hearing so we can sort of move  
11 to accommodate all the individuals that are here that  
12 would like to speak. So let me just take a moment to  
13 outline the process, so that there's no confusion as we  
14 move through the hearing.

15 Under State of Nevada law, NDEP is obligated to  
16 transcribe and record this public hearing as it does  
17 become part of the official record.

18 A quick note, if you plan to make a comment  
19 today, please fill out our request to comment card and  
20 provide them to NDEP staff. We have some up here if you  
21 didn't get a chance to utilize them when you signed in.

22 Basically, NDEP is under distinct legal  
23 obligations to review this project based on laws and  
24 regulations that are currently in place. And the number  
25 one goal of the public hearing process is for the public

1 to be a partner with the state in our permanent review  
2 process.

3 This is the opportunity for you to advise NDEP  
4 as to the accuracy of our review process; for instance,  
5 have we missed -- if there's something that you think  
6 we've missed in the process that applies to our  
7 regulations, that we must -- you know, that we need to  
8 legally review. We accept comments from the public.  
9 And we do welcome all of your comments at the hearing  
10 today, either written or verbally.

11 So, basically, we don't want to turn this into  
12 a debate. NDEP staff will respond directly to comments  
13 as part of the final permit action, whatever that ends  
14 up being. And we've -- after we've had -- what we do is  
15 we take some time to review the transcript from the  
16 hearing and compare it with our permit review. And all  
17 of our public comments are then included as part of the  
18 final action.

19 With that in mind, what -- I'll go ahead and  
20 introduce some of the people that are here from NDEP  
21 that will be part of the presentation today.

22 Paul Comba is right there. He's the supervisor  
23 of the reclamation branch. And he'll be providing an  
24 overview of the reclamation program.

25 Next is Todd Process, right there. He's a

1 permit writer in our Reclamation Branch. And he'll be  
2 providing a technical review of the permit application  
3 that was undertaken by NDEP.

4 Let me give you sort of an outline of how the  
5 hearing's going to work. Mr. Comba will start out with  
6 an overview, as I said, of the Reclamation Branch. And  
7 then, once that's done, Todd, Todd Process will provide  
8 the technical presentation of the draft permit.

9 At the conclusion of that presentation, Todd  
10 will ask if there's any questions related to the  
11 technical review. I should point out that this isn't  
12 the public comment period. This is sort of to ask for  
13 clarification, or if you -- if there's something you  
14 don't understand in the presentation. And it'll just  
15 help that portion of it.

16 Once that's done, I'll then close the technical  
17 review questions portion of the presentation, and we  
18 will open public comment period. Once that happens,  
19 please come to the front of the room when your name is  
20 called.

21 And for the purpose of this, it'll be helpful  
22 just to provide you some guidelines, which will be --  
23 it'll be helpful for us if you focus your comments on  
24 what was reviewed under the permit. You know, this --  
25 we don't have jurisdiction over zoning or -- or, you

1 know, special use permit questions. Those were handled  
2 at the local level. We don't have jurisdiction over  
3 that in this permit. So.

4           And, also, I would ask, because we have to  
5 record this hearing, that you try not to shout or talk  
6 from the audience. If you wish to make a comment,  
7 please fill out a request for comment card, and we'll be  
8 happy to accept that comment and that form. It just  
9 helps us keep everything in an orderly fashion, and it's  
10 hard for us to pick up comments from the audience. So,  
11 like I said, if you -- if you have a comment it make,  
12 we're more than happy to accept it. Again, just fill  
13 out a request to comment card and do that, and we'll  
14 complete it that way.

15           This is usually more applicable when there's a  
16 lot more people in attendance. There's a fair amount of  
17 people here. But it's sort of helpful if comments  
18 aren't repeated. Because we will, we will provide a  
19 response to comments as part of our final action. And  
20 so if someone else has -- if someone else has indicated  
21 something that you wanted to speak on, you're more than  
22 welcome to do that, but it's not really helpful to have  
23 repetitive comments.

24           Once you're -- once you come up to the -- once  
25 you come up to the microphone here at the front --

1           Just for clarification, are we using the  
2 hand-held mic or the --

3           UNIDENTIFIED MAN:   Either one.

4           MR. GUTHREAU:   Okay.   You can use either one.  
5 Just remember to turn on your microphone so that we can  
6 pick up what you're saying.   And, also, if you could  
7 clearly state your first and last name for the record.

8           And then, like I also mentioned, we will, we  
9 will be -- we will accept written comments as well at  
10 today's hearing.

11           Once we've received all comments, and everyone  
12 has had an opportunity to speak, we'll then close the  
13 public hearing.

14           As a special note, I know there's -- I know  
15 there's Superfund issues as part of this project.   It's  
16 not part of the public hearing.   But there are  
17 individuals here, that if there are questions related to  
18 Superfund issues, they are here to answer those sort of  
19 technical questions after the hearing is over.   So just  
20 a note on that.

21           Let's see.   So just, again, we respond to all  
22 the comments.   We do make this information available on  
23 our website, [ndep.nv.gov](http://ndep.nv.gov).

24           And you are also welcome to provide NDEP staff  
25 with your name, address, contact information; and we



1 will provide you with the final action on the permit  
2 once that happens, and you could be added to our mailing  
3 list on this project.

4           So with that, I guess, I'll go ahead and turn  
5 it over Paul Comba, and he'll begin an overview of the  
6 Reclamation Branch.

7           MR. COMBA: Okay. Can everyone hear me? Is  
8 that okay? If not, just let me know, please.

9           As Vince mentioned, my name is Paul Comba. And  
10 I am the supervisor of the Reclamation Branch of the  
11 Bureau of Mining Regulation and Reclamation. Vince kind  
12 of explained how we're going to do this presentation.  
13 And what I'd like to do is just provide a brief overview  
14 of the Mining Bureau in general, kind of concentrate  
15 more on the Reclamation Branch, since that's what we're  
16 here to talk about, is a reclamation permit.

17           So we can, basically, use this slide to kind  
18 of give a -- some general information.

19           The Bureau of Mining Regulation and Reclamation  
20 is one of the nine bureaus that makes up the Division of  
21 Environmental Protection. And then the Division of  
22 Environmental Protection is part of the Department of  
23 Conservation and Natural Resources.

24           The Mining Bureau -- woops. The Mining Bureau  
25 was created by legislation which was passed back in

1 1989, and it consists of three bureaus, the Regulation  
2 Branch, or three branches, the Regulation Branch,  
3 Reclamation Branch and the Closure Branch.

4           The Regulation Branch oversees the issuance of  
5 water pollution control permits, which prevent the  
6 degradation of waters of the state during the mining and  
7 the processing of ore.

8           The Closure Branch comes into play when the  
9 mining operation moves into its final phases of its  
10 operation. The Closure Branch takes over the management  
11 and renewal of those water pollution control permits,  
12 the goal still being to protect the waters of the state.

13           Now, the water pollution control permits govern  
14 the design, construction, operation and closure of  
15 mining facilities in the state of Nevada. The  
16 requirement to obtain a water pollution control permit  
17 is not required if we're talking about a sand and gravel  
18 operation. Most industrial minerals operations are  
19 exempt from having to get a water pollution control  
20 permit. And exploration projects are not required to  
21 obtain a water pollution control permit.

22           The Reclamation Branch oversees the issuance of  
23 reclamation permits for mining operations as well as  
24 exploration projects. The reclamation permit,  
25 basically, authorizes the types and the extent of

1 disturbances that can be created by the mining and the  
2 exploration project.

3           Once a reclamation permit is issued, there's  
4 also the caveat that the operator, the permittee has to  
5 post a reclamation surety with either the Bureau of  
6 Mines, when we're talking strictly all private lands, or  
7 the BLM, when we have mixed public and private lands.  
8 And what this financial responsibility does is it  
9 provides a reclamation surety that ensures that the  
10 operator will be responsible for reclaiming the land  
11 that's affected by the exploration project or mining  
12 operation.

13           In the reclamation program, a permit is  
14 required for basically all exploration and mining  
15 operations, whether we're talking precious metals  
16 operation, gold-silver, industrial mineral operation.  
17 The only operations that are exempt from having to get a  
18 reclamation permit are sand and gravel operations.

19           The last item I'd like to talk about on this  
20 slide is the Bureau of Mining Regulation and Reclamation  
21 is the funded bureau. We operate based on the annual  
22 fees that we collect, permit application fees as well as  
23 modification fees for minor and major mods to an  
24 existing permitted facility.

25           The goals or mission of the Mining Bureau are

1 shown on this slide. Protection of waters of the state  
2 is accomplished by issuing the water pollution control  
3 permits to ensure that surface and groundwater resources  
4 are not impacted or degraded during the mining and  
5 processing of ore. The other goal of the Mining Bureau  
6 is to ensure that a productive post mining land use is  
7 restored or produced at the end of an exploration  
8 project or mining operation.

9 Now, these goals to -- and missions, they're  
10 accomplished by requiring an operator to submit a  
11 detailed reclamation plan as well as a permit  
12 application.

13 In permitting a facility, we make the  
14 permitting process transparent. We encourage public  
15 input, public review of the permit, of our permitting  
16 process. Needless to say, that's why we're here today,  
17 to discuss this further and solicit additional input.

18 So that helps us maintain accomplishing our  
19 mission and goals. Once a permit is issued, then the  
20 operator is required to meet permit conditions as well  
21 as the regulatory requirements, so that we ensure that  
22 we continue to, you know, strive to maintain our  
23 mission.

24 And on the reclamation side, the financial  
25 surety requirement ensures that adequate bonding is in

1 place to achieve the final reclamation and closure of a  
2 site or project in case of operator default or project  
3 abandonment.

4           This next slide just shows -- woops. Not that  
5 one. This next slide just shows the organizational  
6 chart of the Bureau. And, hopefully, you can see that.  
7 It's a little difficult to read. But, basically, we  
8 have a Bureau Chief. And under the Bureau Chief, we've  
9 the three branches that I talked about, the Regulation  
10 Branch, Closure Branch and the Reclamation Branch.

11           We also have two BLM employees that work in our  
12 office, one part-time, two out of the five days, the  
13 other one four out of the five days. And then the whole  
14 reason for doing that is they are, essentially, a  
15 liaison between our permitting activities between -- in  
16 the Bureau of Mining Regulation and Reclamation and the  
17 BLM permitting for various projects that involve public  
18 as well as private land.

19           Within the Regulation Branch, there's the  
20 Regulation Branch supervisor, and there's three permit  
21 writers and three compliance inspectors. The Closure  
22 Branch is composed of a supervisor and two permit  
23 writers. The Reclamation Branch has five permit  
24 writers, a program assistant. And generally it's the  
25 Reclamation Branch that works more closely with the BLM

1 folks, because our reclamation plans are tied -- follow  
2 a similar path as the BLM does in approving the plan of  
3 operations for projects.

4           The Reclamation Branch personnel shown there,  
5 not only are they responsible for permitting projects,  
6 but they also are responsible for conducting the  
7 inspections of the various projects that they manage,  
8 whether they're an exploration or a mining project.  
9 Currently, the Reclamation Branch oversees 230 projects  
10 throughout the state of Nevada. That 230 is a  
11 combination of both mining and exploration projects.

12           Since this hearing is discussing a reclamation  
13 permit, I'm just going to touch on the regulations that  
14 apply to the Mining Bureau's reclamation program.

15           In 1989, when the legislature passed the  
16 chapter 519 revised statutes, NRSs, this created the  
17 regulatory framework for NDEP, through the Bureau of  
18 Mining Regulation and Reclamation, to administer a  
19 reclamation program that would oversee reclamation of  
20 land that had been subject to mining operations and/or  
21 exploration projects.

22           In October of 1990, the Nevada Administrative  
23 Code, the NAC, 519 regulations were adopted to implement  
24 the state's reclamation program.

25           Now, although I'm just showing the regulations

1 for the Reclamation Branch, there's a similar set of  
2 statutes, NRSSs, and NACs that apply to the water  
3 pollution control side of our bureau, except they'd be  
4 under chapter 445 rather than chapter 519A.

5           Regulated activities under the State of  
6 Nevada's reclamation program include exploration and  
7 mining operations, once the project exceeds a  
8 disturbance level greater than five acres in size and,  
9 in the case of a mining operation, become -- is greater  
10 than five acres in size and extracts greater than 36,500  
11 tons of material per year. The five-acre threshold is  
12 also on an annual basis, too.

13           An exemption was provided by the legislature  
14 back in '89 when they created the statutes and  
15 regulations for the reclamation program to allow small  
16 miners and small exploration companies not to have to  
17 obtain a reclamation permit for their activities.  
18 "Small exploration company" is less than five acres of  
19 disturbance. "Small miner" is someone who's disturbed  
20 less than five acres and extracts less than 36,500 tons  
21 of material on a yearly basis.

22           And as I mentioned, the other industry that's  
23 not regulated by the mining Reclamation Branch is sand  
24 and gravel operations.

25           Well, I've been talking about various projects

1 that are -- require a reclamation permit, talked about  
2 the regulations that kind of define our program and kind  
3 of provide guidance on how we go about doing business.  
4 So, I guess, at this time, we should really talk about  
5 what is reclamation? And that's kind of shown in this  
6 wordy slide. This definition was actually adopted by  
7 the Nevada legislature back in 1989 and is taken  
8 verbatim out of our statutes and administrative code,  
9 our NACs.

10           Essentially, "reclamation" means any actions or  
11 activities that are performed to return the land that  
12 has been disturbed by an exploration or a mining project  
13 to a post mining land use.

14           That's a pretty simple sentence for a very  
15 complex program. The details of it and just what is  
16 meant by activities to achieve reclamation is going to  
17 be covered in more detail when Todd talks about the  
18 technical aspects of our program, what's involved in the  
19 permitting process, and what's involved in this  
20 particular case in the draft permit for the Dayton  
21 Consolidated Exploration Project.

22           This next slide just shows the applicability of  
23 our reclamation regulations. Although the reclamation  
24 program and regulations were adopted in October of 1990,  
25 the regulations are actually retroactive back to



1 January 1st of 1981. And any surface, any surface  
2 disturbance that have been created by an operator from  
3 this state are subject to the state's reclamation  
4 program if, and this is important to note, as noted in  
5 this slide, that disturbance was created by the current  
6 operator or the current operator is using the affected  
7 land in an active project or operation.

8 Now, the reason for the retroactive date of  
9 January 1981 is that this is the date that the federal  
10 Bureau of Land Management surface mining regulations  
11 were adopted, with the 3809 regs. That's when they came  
12 into effect. So the reclamation program uses the 1981  
13 date as a benchmark to start evaluating when a company  
14 or an operator is obligated to perform reclamation and  
15 when reclamation requirements come into being.

16 The whole idea of making it concurrent with the  
17 BLM requirements is, as I mentioned, a lot of time our  
18 permitting exercises on the reclamation side of the  
19 Bureau kind of follow a parallel, parallel track as the  
20 BLM does in approving a plan of operations and even  
21 talking, going a step further, a NEPA analysis for  
22 various projects throughout the state.

23 Well, that's eight slides that kind of gives an  
24 overview of the Bureau of Mining's program, in  
25 particular the mining reclamation program. We could

1 certainly put up an additional eight to 10 slides to  
2 talk about the water pollution and control side of our  
3 bureau. However, that's really not pertinent to today's  
4 discussion.

5 So kind of lumping that altogether into an  
6 overview, hopefully, that was helpful to kind of give  
7 you some insight of how our program works, what  
8 regulations and statutes guide us.

9 And as -- to get into the technical side of it,  
10 I'm going to turn the microphone over to Todd Process to  
11 talk about the technical permitting aspects of our  
12 program and the -- in particular the Dayton Consolidated  
13 exploration permit.

14 Thank you.

15 MR. PROCESS: All right. Thanks for coming.  
16 I'm Todd Process. I'm a permit writer. And what I do  
17 is I evaluate the application from the operator,  
18 evaluate what they're telling me on the map and telling  
19 me where they're -- what they propose to do, evaluate  
20 that, basically to make sure that we have enough money  
21 set aside like for a surety to have posted with us. And  
22 that's going to be private land. It is private land.  
23 And that puts us in a position where NDEP-BMRR, we will  
24 be the ones that hold them, hold the bond, to make sure  
25 that the reclamation's done. And I will also be the one

1 that goes out and inspects and checks performance and  
2 releases that money when it's done properly.

3 So at this -- well, we'll go through a couple  
4 things and what it all takes to get there.

5 So this is what I first look at when they send  
6 an application in. They're looking at -- we're looking  
7 at corporate information that includes things like  
8 making sure they have a Nevada business license, they're  
9 authorized to operate as a business in the state. We  
10 want to see aerial photographs. That's what these maps  
11 over here are for. We want to see what was existing and  
12 what Paul was touching on, the applicability of the  
13 regulations.

14 In this case, with this project, there's a  
15 number of disturbances that are out there that predate  
16 1981. So the operator that's operating in this boundary  
17 is not obligated to provide bonding for the pre-'81  
18 disturbances that already exist, that they did not  
19 create. It was other people who created that. That's  
20 important for this project.

21 So we ask that those disturbances be defined as  
22 existing and then, also, show us -- if you look at the  
23 maps, you'll see proposed areas where they want to go in  
24 the near future.

25 We want to know what kind equipment's going to

1 be used, the methods for reclaiming -- that's really  
2 important -- how they're going to restabilize the  
3 surface of the earth. And we want to know what that's  
4 going to take, because we want to put a cost on it, we  
5 want to put a bond on it, to hold them to it.

6           The reclamation's time schedule, there's been  
7 some comments on it. It's really an estimation, when  
8 they think they're going to be done with their project.  
9 I can't force them to finish their project any time.  
10 They have the option to finish their project when they  
11 need to finish it.

12           Explorations are not an easy task. It's you  
13 drill here, you find out some results, you go, "Oh,  
14 maybe I don't want to." Maybe it didn't work. Maybe it  
15 does work. It's a research project. Exploration really  
16 is research, in looking at it. So you really can't put  
17 a time line solid on it, say they're going to be done  
18 on -- December 31st of 2013, they're done. It would be  
19 nice if it worked that way, but that's not how  
20 exploration works.

21           I mentioned earlier the equipment and the  
22 reclamation equipment and methods are really important  
23 to analyze, so that we can get a detailed reclamation  
24 cost estimate to determine what the bond's going to be.

25           They also have to include in their application

1 what the post mining land use is going to be, whether  
2 it's industrial, residential, commercial. And mining's  
3 still included, because it's a mining district. So they  
4 can also include that as a post mining land use for the  
5 future.

6 So all these steps have to be put in. The  
7 application for the plan, of course, is in that binder,  
8 that black binder right there. If you haven't seen it,  
9 you're welcome to look at it. It's open for the public  
10 to review.

11 So that's what we went through, what I just  
12 mentioned. I go through the details and the pages to  
13 make sure what they're saying and that it all makes  
14 sense, that it makes sense to you, makes sense to the  
15 public.

16 I put out a notice of intent to the local  
17 newspaper, which is what brings you in here today as a  
18 public comment. We've finished our 30-day public  
19 comment period as of Monday of this week by 5:00  
20 o'clock. That was the end of our 30-day public comment.  
21 But because of the interest, we actually extended, you  
22 know, comments till today, for the hearing.

23 So we'll address those comments, whatever you  
24 want to bring up today, at the end of this. We will  
25 take those, also the written comments I've already

1 received in the office. Those things, I'll take care  
2 of, and we'll address those comments accordingly.

3 A notice of final decision will be issued at  
4 some point. After I go through the comments and I  
5 address them all, then we'll make a notice of final  
6 decision.

7 There's a 10-day appeal period after that  
8 notice of final decision's made.

9 And the permit will become valid upon an  
10 acceptable surety. So the permit -- they have to post  
11 the money with us before they can touch the ground.

12 So one of the things I wanted to make sure that  
13 everyone understands is that, as part of the original  
14 permitting process -- I've been on the property a number  
15 of times now, probably three times in the last six  
16 months. Because part of what I have to do is, when they  
17 send in this application, I want to walk the ground, and  
18 I want to see what the dimensions are of things that  
19 they're building currently. Because under five acres  
20 they didn't have to get a permit. Well, now they want  
21 to go past the five-acre threshold. So I want to walk  
22 the grounds and see examples of what these dimensions  
23 are that they're talking about, so when they propose the  
24 bonding for those dimensions and reclaiming, that it all  
25 makes sense, that the numbers are going to add up

1 properly.

2           Then, once they got operating, you know, I go  
3 and make periodic -- if they're an operating facility,  
4 like a mine site or an exploration site, you know, I  
5 have a schedule. I do 63 projects, approximately. And  
6 like about 30 of those, about half of them, every year,  
7 I make sure I see every year. Now, something close like  
8 this one, I can actually go multiple times a year since  
9 it's close, but a lot of mine are five hours away in the  
10 Carlin trend, so sometimes I only get there once a year.

11           But we do the inspections. I do it to make  
12 sure that what they tell us on these maps, that's where  
13 things actually show up. And if they don't, then  
14 there's other issues that will take care of a  
15 noncompliance. For the most part, I got to say, you  
16 know, 99 percent of the time the operators are right on.  
17 Because they don't want to go into a bad situation with  
18 me. They don't. They want to do the right thing,  
19 because they want to keep moving along and producing.  
20 So I don't find many issues from most operators. They  
21 usually abide by what they say they're going to do.

22           So we do that to make sure the permit's  
23 adequate, that they're staying underneath the permit  
24 totals and acres that they claim they're going to do and  
25 what they're bonded for. Then I will go out. When they

1 propose to us, they'll file an Attachment A for an  
2 earthwork release. They'll say, "Look, we've reclaimed  
3 this. We've seeded it. We want you to release the  
4 earthwork bonding part of what we put together and post  
5 it with the surety." So I'll go back out again and  
6 verify that that earthwork was completely done.

7           And then we -- a minimum of three years we  
8 take, and they'll have to revege. And three years is  
9 the minimal amount of time that would be required before  
10 I would release vegetation. It would have to be  
11 established and be monitored for three years. If it  
12 doesn't work, and it's not coming back, they don't get  
13 their money back. So that's how.

14           So I do a lot of inspections. I see the  
15 property multiple, multiple times as they proceed  
16 through the process.

17           Now, this is how we get there for the bonding.  
18 We look at reclamation cost estimates. I mentioned the  
19 earthwork and revegetation. Those are -- the earthwork  
20 is usually the biggest cost. Those are -- the biggest  
21 dollars get assigned to that. That's the heaviest  
22 equipment, the things that have to move the earth.  
23 Those are the biggest cost item for labor and equipment,  
24 to get that done. Revegetations, it adds up, but it's  
25 not as significant of a cost for the bond.



1           Now, it's based upon equipment rental rates,  
2 fuel, maintenance and costs to run that equipment for  
3 the number of hours that that equipment's going to run  
4 for the time it takes to push those acres back and  
5 recontour those acres. We use federal Davis-Bacon labor  
6 rates. And then there's some additional liability  
7 insurance and contract administration and profit.

8           And the reason we have those at the bottom  
9 there, we set up the reclamation cost estimate in such a  
10 way that the state has to hire a third-party contractor  
11 to go in and do the work. So if Comstock were to walk  
12 away and go bankrupt, or something happens, we have  
13 excess money set aside so the state can hire a  
14 third-party contractor to go in and make sure the work  
15 gets done.

16           And so you see a lot of costs in here. The  
17 op -- the costs that we come up with, and I'll show you  
18 shortly, are actually -- the operator can do those  
19 reclamation for much less. So we have an elevated cost  
20 to make sure that we can pay someone to do it. They can  
21 do it less. That's the incentive for them to do the  
22 work, so they can get their money back. Otherwise, they  
23 risk losing a lot more money.

24           So this, again, once we set up what that  
25 reclamation cost estimate is, that's also in the

1 application, and it works out, and we see that -- once  
2 we find out and agree to that, what that amount's going  
3 to be for the acres that are going to be disturbed, then  
4 we're going to put together the surety. And it's a  
5 number of ways that this can be done. I don't work in  
6 this department directly. But once we establish what  
7 the amount's going to be, it can be posted as a surety  
8 bond or cash or whatever instrument that they want to  
9 use to post with us. But they have -- that has to be  
10 approved through our -- we'll check with the banks. We  
11 go through a process that may verify that that money is  
12 adequate. And we put that in, and we hold that, that  
13 monies, to ensure the reclamation.

14           Currently, the state's total's like  
15 \$1.79 billion. So it's a very serious industry in this  
16 state, obviously, and there's a very serious bonding  
17 that's assigned to that to hold the industry to a  
18 standard of reclaiming. And I've seen some pretty,  
19 pretty excellent work, of reclamation, which I'll show  
20 you a few slides later here, some of the examples of  
21 good reclamation that have been done in Nevada.

22           So here we are, Dayton Consolidated Exploration  
23 Project. We'll get into specifics a little bit more  
24 here. They're obviously the applicant here for the  
25 reclamation permit. That's the only permit they're

1 applying for. I think, Paul reiterated this earlier.  
2 This is -- we don't need a water pollution control  
3 permit on an exploration project, because there's no --  
4 they're not processing any ore. Okay.

5 The activity's all on private lands. I think  
6 everyone's aware of that. So that, therefore, again,  
7 we're going to hold the -- we're going to hold the  
8 surety bond here with the state. So the BLM's not  
9 involved or the Forest Service. There's no federal  
10 agencies involved with this.

11 Okay. These are the -- this, basically, the  
12 maps that are up here, I just wanted to show it to you.  
13 Again, that goes -- the detail's much, much better on  
14 those maps, of course.

15 The proposed disturbance is in the tan. The  
16 current disturbance in the red is the threshold of the  
17 five acres or less that they've already disturbed. Now  
18 they want to -- they found -- you know, they found a  
19 reason to move further ahead with this project. So now  
20 they are proposing, the tan areas, to go and mostly  
21 drill pads and some access roads.

22 There are some other definitions that are in  
23 there. There's operators that have, you know, done  
24 previous disturbances there, and that they're not  
25 responsible for. There's a lot of disturbance up there,

1 if you ever get a chance to look at it. If you can see  
2 from the aerial over here on these maps, this is quite a  
3 bit better. But there's a lot of historic things that  
4 have been done.

5 MR. ELSTON: How do you document what the --  
6 the date of this disturbance, these disturbances? Do  
7 you take their word for it?

8 MR. PROCESS: No, no. There's actually -- you  
9 can go back and catalog disturbances in the past. And  
10 there's actually a map in this application that shows  
11 the pre-'81 disturbances, an aerial photograph of the  
12 pre-'81 disturbances.

13 MR. ELSTON: Okay.

14 MR. PROCESS: So I look at that map, just  
15 determine what's existing, what they are going to use  
16 for access and what they're in the going to touch. And  
17 then we bond for what they're going to propose to do  
18 new.

19 So it, that -- and, again, it goes back to that  
20 '81 definition of the federal government that Paul  
21 mentioned, that '81 definition. So it's pre-'81, and  
22 that disturbance is created by somebody else. They're  
23 not responsible for reclaiming that. That's an  
24 important note.

25 MR. GUTHREAU: Sir, can we get your name for

1 the record, the one that asked the --

2 MR. ELSTON: Robert Elston.

3 MR. PROCESS: So you see a lot of these, the  
4 shaded blue stripes. That's the -- that was done by  
5 previous operators.

6 MR. EGGENBERGER: And so the --

7 MR. GUTHREAU: Identify yourself, please.

8 MR. EGGENBERGER: My name's Daan Eggenberger.  
9 These previously disturbed areas, if they are mined  
10 again, are they -- would there -- will there be bonding  
11 attached to those disturbances?

12 MR. PROCESS: Yeah.

13 MR. EGGENBERGER: So within newly disturbed,  
14 previously disturbed areas --

15 MR. PROCESS: Yeah.

16 MR. EGGENBERGER: -- you will require that  
17 bond?

18 MR. PROCESS: If they go, if they go in and  
19 re-go back into those predisturbances to reactivate  
20 those areas, yeah, they have to bond. They'd have to  
21 bond for that.

22 And that's why it's really important to get  
23 this mapping done solid, so we all know we're on first  
24 base together. It's an important starting point for the  
25 operator and for ourselves.

1 MR. WAHRENBROCK: Larry Wahrenbrock for the  
2 record. Was there any determination as to whether or  
3 not any of the previously disturbed areas constituted  
4 significant cultural resources?

5 MR. GUTHREAU: Could I just interject really  
6 quick.

7 MR. PROCESS: Yeah.

8 MR. GUTHREAU: We'll go ahead and answer, but I  
9 think it might be helpful if we sort of move through the  
10 rest of the presentation.

11 MR. PROCESS: I've got some. You know, save  
12 the question. We'll get to that.

13 MR. GUTHREAU: Yeah, and then we'll -- maybe  
14 your question will -- I guess, my point is that maybe  
15 your question will be answered when the presentation is  
16 done. But, thanks.

17 MR. PROCESS: So here's how the permit, the  
18 draft permit's going to look. We did break it up. I  
19 had them break it up into slopes that are less than 30  
20 percent and greater than 30 percent. And the key for  
21 that is because of how we look at bonding. The steeper  
22 slopes cost more money to bond for and to reclaim.

23 So it was important for me to break those up  
24 acreage-wise. There is a map, again, in the application  
25 that defines which of those drill pads and which of

1 those access roads are greater than 30 percent and less  
2 than 30 percent. And then, in the cost estimator, which  
3 I'll show, we will discuss, we break those up because  
4 the costs assigned for those acres are different.

5 We have some drill sumps. There's quite a few  
6 drill pads. Every time -- every one of those drill pads  
7 you see in the tan colors, we're going to have sumps  
8 associated with them. The drill pads are approximately  
9 40 by 60-foot rectangles. Within those drill pads,  
10 you'll have a sump of -- maybe 10 by six-foot sump that  
11 contains the water that comes out of the hole when they  
12 drill.

13 So that's why we want to list those drill pads.  
14 And that's why I put drill pads with sumps as a combined  
15 disturbance.

16 Again, I mentioned the preexisting roads. I  
17 put a star next to that, because we defined that there  
18 are roads that they are going to use that preexist, that  
19 they don't have to reclaim. They're just using them as  
20 access, and they're pre-'81. And so there's about 3.73  
21 acres of that disturbance that they're going to go back  
22 and re. So they're only doing maintenance on that road.  
23 They didn't construct that road.

24 They're doing some super sumps in case the  
25 water gets to be a little more than they expect, if they

1 hit that. So they wanted to make sure they had some  
2 protection there for waters of the state.

3 And then they have a few acres there that's  
4 called block concept. And I'll get into that a little  
5 bit later. But sometimes in exploration you don't know  
6 where your drilling's going to go. You're not sure what  
7 the results are going to be. And you get a -- you get a  
8 good result, and you go, "Well, now I really want to go  
9 over there now." And so we have 1.69 acres of kind  
10 of -- not defined exactly on the maps, because we don't  
11 know where it's going to go yet. And that's allowable  
12 under a block concept of exploration. And I'll tell you  
13 how I control that acreage, too, in a second.

14 So the acreage comes in at 19.75.

15 I'll go back to where we -- how we determined  
16 the Dayton Consolidated surety, how we know what -- how  
17 do we know where it's at, how much it is. They're going  
18 to post this again. The estimate's 106,936 equal to  
19 about \$5,400 an acre.

20 And I've done this work for 11 years now, and  
21 I've looked at probably 50 different exploration  
22 projects over that time. Typically, an exploration  
23 project will come in around 40 -- about 35 or 4,500.  
24 There is some excess built into the -- into how we did  
25 this reclamation bonding. And I can get into that if



1 you want to get some more details. But we put a little  
2 extra money into it for some things I wanted them to do.

3 So, again, the surety will be posted with  
4 NDEP-BMRR, and we'll hold that surety until the  
5 reclamation's performed and we can release the money  
6 back to them.

7 We'll save a lot of this for discussion at the  
8 end, since this is not my forte on this part of things  
9 here. But we are putting in the permits so, in case  
10 there is any work that's done in the Carson River  
11 Mercury Superfund area, there's conditions that they  
12 have to meet. They can't go in there and touch any of  
13 that area until Bureau of Corrective Actions has the  
14 plan solidified and approved, so they can do the  
15 sampling protocols that we required from them before.  
16 They'd have to do that before they can do any  
17 disturbances in that area. But we do put it in the  
18 permit to let the public know we are aware of it. And  
19 we know we want them to follow through on these  
20 procedures. And Bureau of Corrective Actions will be  
21 the ones that look at the data and look at those  
22 results. And that should be -- I guess, that would be  
23 available to the public if you feel...

24 It's important to note that until this program  
25 is approved for the sampling program with the Bureau of

1 Corrective Actions, they're not allowed to do any  
2 drilling on the project. So this has to be approved  
3 first. Then they can post the bond, and then they can  
4 do the drilling. That would be the step and subsequence  
5 that, I think, that they have to follow before anything  
6 can happen.

7           And at this time, at this time this past week,  
8 it's near -- it's not approved yet. There's still some  
9 fine-tuning of how the sampling's going to be done and  
10 results. What I do know, as I believe, is that there'll  
11 be -- 80 parts per million of mercury is going to be the  
12 standard that they would be testing for and then looking  
13 for it, to see if it's in the soil or not.

14           So there's a few, couple of conditions that  
15 I've done, and I mentioned it earlier, on the block  
16 concept. But also to make sure that they adhere to the  
17 permit conditions and the acreages that they permitted  
18 and proposed, every year, as of April 15 -- April 15 is  
19 a big, important date for us, because -- and we  
20 mentioned, Paul mentioned fees that are paid to us.

21           On reclamation, we get fees every year on April  
22 15th. So what I do is I coordinate. I want to know.  
23 Again, they're going to show me where they have -- this  
24 may be proposed for a year ahead of time. But at the  
25 end of December of this year and the end of December of

1 next year, and every year, they're going to have to show  
2 me exactly where they are at that point in time, as of  
3 December 31st of that year. And on April 15th, they  
4 submit an annual disturbance map to show me where  
5 they're at.

6           Coming up soon is going to be -- they have a  
7 schedule of compliance. They have gone and done  
8 baseline studies, transects on undisturbed land, and  
9 categorized the percent cover and the plant types and  
10 diversity. And that report's going to be coming in to  
11 me at the end of the month, so that we know how to  
12 evaluate when the revegetation is successful.

13           So we have a baseline of undisturbed land, and  
14 then we have disturbed land. When that disturbed land  
15 gets seeded, and it meets their criteria of what we had  
16 it set up as a baseline in the beginning, then they can  
17 get the vegetation and bonding released.

18           And they did do the -- they did the work over  
19 this past summer. They're reviewing the report, and  
20 they're about to submit it. So it's a scheduled  
21 compliance. They have to have it in by the end of the  
22 month.

23           This is one of their claims that they've  
24 recently done some concurrent reclamation on, on a very  
25 rocky surface. But you can see where -- this is a good

1 example of where you have a preexisting road. They used  
2 that preexisting road to make good access. They  
3 reclaimed the -- from the access road up to the pad,  
4 they've reclaimed all of that. But they didn't, did  
5 not -- they're not required to reclaim the access road  
6 that comes off to your left, because it's preexisting.  
7 But because they made the new disturbance up there, they  
8 did have to reclaim all that.

9           This is the Dayton Consolidated project. This  
10 photo's probably a month or a couple months old. This  
11 is actually work that has been recently done, and it  
12 gives you a good example of how recontouring can be done  
13 at the site.

14           Now, this is a less than 30 percent slope, as I  
15 mention on the slide. And you can see in the background  
16 their slopes get steeper and steeper. So anything that  
17 would be done above that truck would be greater than 30  
18 percent. And the cost per acre goes higher as you go  
19 higher up on the mountain. And the cost here is maybe a  
20 little bit lower.

21           But they've done some concurrent reclamation  
22 already. They're not required to do that. That was --  
23 they did that voluntarily.

24           They also did this voluntarily. They put some  
25 straw mulch in to provide some moisture retention.

1 They've done that also to provide some organic matter,  
2 so that when the germination happens of the seeding, the  
3 plants will have something to use.

4 This is an example in other parts of Nevada on  
5 similar types of -- type of terrain where vegetation  
6 has -- or is just beginning to take hold. You can see  
7 the grasses are coming in. Eventually, the forbs and  
8 the other plants, like sagebrush and bitterbrush and  
9 rabbitbrush and some of that, will work its way in, in  
10 succession, down the road. Usually, the grasses are the  
11 first ones that have a chance to germinate first. And  
12 that's good, because that stabilizes the soil very  
13 quickly. You can get the grass to grow the first  
14 season.

15 And so, when you do a seed mix, when you do a  
16 revegetation and a seed mix, you have a mix of grasses  
17 and forbs and different seeds, so that your grasses will  
18 set up, get the soil stable. And then you'll have the  
19 other plants succeed in a couple years later. But it's  
20 a minimal of three years before that, any kind of a bond  
21 release, can happen on that. So they have to be -- we  
22 want to see what happens for three years minimum.

23 And if we can see that there's areas failing,  
24 then we can say, "Well, you need to reseed that area,  
25 need to take care of that."

1           So, I guess, I mentioned that they're in the  
2 file.

3           So one of the things that they also have to  
4 define is a post mining land use. And these are the  
5 acceptable post land mining uses. It's pretty  
6 self-explanatory. I've seen some excellent reclamation  
7 out in the field. I've seen herds of antelope run  
8 across areas in Nevada that -- from fresh vegetation.  
9 There have been a lot of areas in Nevada that had  
10 burned, and devastated by wildfires.

11           And what some of the mining companies have done  
12 on their reclamation, the mix, the seed mix is so nice  
13 varied, and you get a lot of different varieties of  
14 plants that come in. And the wildlife likes to come  
15 right in, because it's all fresh and new veggies for  
16 them. So I've seen some pretty, pretty interesting  
17 herds of antelope and deer range through reclaimed  
18 lands.

19           So if you have any questions, we can deal with  
20 those. Our website will have a -- I think, we're having  
21 the -- we have this program on here, Vince, or on the  
22 web, this; my Power Point program will be on the  
23 website? I don't recall.

24           MR. GUTHREAU: Yes, it is.

25           MR. PROCESS: Okay. Name, phone number.

1           So I can answer any -- if you ask technical  
2 questions about what I reviewed and how I looked at  
3 things, I'm open to that.

4           Yep?

5           MR. ELSTON: Me?

6           MR. PROCESS: No, you, yeah. Sorry.

7           MR. ELSTON: Robert Elston again. Here's a  
8 magic number, 20 acres. And they're right under that.

9           MR. PROCESS: Right.

10          MR. ELSTON: 19.75. What is the -- what  
11 happens above the magic number put in?

12          MR. PROCESS: Above 20 acres, it would require  
13 that they have an air quality permit by the state. And  
14 that would be an air quality -- a different group,  
15 different bureau. But right now --

16          MR. ELSTON: He asked you, well, with  
17 continuing with this.

18          MR. PROCESS: Yep.

19          MR. ELSTON: Have you actually done, you know,  
20 orthophoto-rectified GIS to make sure that they're doing  
21 the 19.75 acres and -- with minus the one point,  
22 whatever it was here, that factor here. So that, you  
23 know, when you just put squares down on a flat  
24 photograph --

25          MR. PROCESS: Right.

1 MR. ELSTON: -- it doesn't really represent --

2 MR. PROCESS: It's a plan view. It's a flat  
3 view. Right.

4 One of the things -- I did fail to mention  
5 that. When we look at the Nevada reclamation cost  
6 estimator, how they -- how we determine what the surety  
7 amount's going to be, it accounts for cut and fill on  
8 steeper slopes.

9 MR. ELSTON: M-hm (affirmative).

10 MR. PROCESS: And that was -- and so we know,  
11 even though this, the acreage, is this in plan view, if  
12 we know it's a cut in the mountain and fill over here,  
13 the program actually takes account for that and how much  
14 material is going to have to be placed back up for  
15 bonding, how much earthwork's going to have to be moved.

16 MR. ELSTON: Okay.

17 UNIDENTIFIED: Can we just move this and get it  
18 on the recording?

19 MR. ELSTON: Okay. But I was just wondering --

20 MR. PROCESS: But you're right, the plan view  
21 is going to be different than your angle view. But when  
22 we do the reclamation cost estimate, it's calculated on  
23 those angles for volume and earthworks, to make sure  
24 that we have enough money to put all that earth back up  
25 on the hillside.



1 MR. ELSTON: Well, what I -- my name's Robert  
2 Elston, and I was just asking about the difference  
3 between plotting this stuff out on a flat air photo and  
4 actually compensating for slope when you're figuring out  
5 the area of disturbance.

6 MR. PROCESS: Right. It actually -- it even  
7 calculates for us the amount of seed acres that are  
8 going to be required on those slopes. So it doesn't  
9 take it in plan view. It actually will -- adds  
10 everything up and all the different angles. And so it  
11 actually gives us an increased disturbance area to make  
12 sure we have enough seed to go back to everything and  
13 make sure there's enough seed mix to cover all the  
14 acres.

15 Yep?

16 MS. SHERMAN: Gayle Sherman. I'm with Comstock  
17 Residents Association.

18 MR. PROCESS: Yep.

19 MS. SHERMAN: I know that in the application,  
20 they discussed its super sumps, because they expect to  
21 encounter water at the Dayton Consolidated.

22 MR. PROCESS: Yeah.

23 MS. SHERMAN: Super sumps. And I kind of  
24 thought, from reading it, that the super sumps would be  
25 sized according to the amount of groundwater they

1 encountered. So it's possible that they will actually  
2 be larger than what they specified in the permit.

3 Is there going to be a provision? Because  
4 there's not much different. There's -- you know,  
5 we're -- we're pretty close to the 20 acres. And it is  
6 a Superfund site. So, obviously, our concern is an air  
7 pollution control permit would be really nice at a  
8 Superfund site, you know, with mercury blowing around.  
9 So is there a provision to recalculate the size of the  
10 project if they run into substantial amounts of water  
11 that cause those super sumps to be increased?

12 MR. PROCESS: They have experience already.  
13 And I'll see if I can get there. I don't have a before  
14 picture, but I do have the after.

15 This is where the super sumps were located,  
16 right here up on the right side of this photograph, and  
17 they've reclaimed them already. They were large, 40  
18 feet, hundred feet. They're large ponds to hold the  
19 water and retain it.

20 You know, the total, I think, is, what? On the  
21 permit, I think it was 1.2 acres. Now, each one of  
22 these super sump areas are, what, 40 feet by -- if I had  
23 my calculator, I could show you. They're, it seemed to  
24 me, like a 10th of an acre, I mean. So if you have 1.2  
25 acres in the permit, you can build 10 of these super

1 sumps. I mean you can build a whole bunch of super  
2 sumps at -- actually, more than that, but point --  
3 they're going to come in about .1, a 10th of an acre.  
4 And they're proposing to bond for 1.2 acres. So you  
5 could have a lot of super sumps. They're putting enough  
6 capacity into the permit to make sure they have enough  
7 room to store the water.

8           And they've had some experience hitting the  
9 water. That's why they built the super sumps  
10 previously, because they hit -- hit water that was more  
11 volume than they expected. So they built those super  
12 sumps to accommodate that. And then, when they realized  
13 that, when they did the under the five-acre threshold,  
14 then they made sure that they proposed building those in  
15 this permit to move ahead. And, then, of course, they  
16 reclaimed them quickly in this case.

17           And that's pretty much how that worked. But I  
18 don't think -- and, again, I'll be doing inspections to  
19 make sure that things are staying within the perimeter.  
20 So if they have 10 of them out there, I can GPS all 10  
21 and make sure it adds up to less than 1.2 acres. I  
22 think, that's what it, what the total was on that.

23           Oh, wrong way. Yeah, 1.2.

24           So it is a -- I mean on a map, it looks like  
25 it's a large scope of things happening. When you add

1 them all up, each one of those little drill pads you see  
2 that are on the map are adding up to .05 acres. Okay.  
3 So 135 drill pads will add up to like seven, seven  
4 acres. They're asking for a permit of, I think, about  
5 eight, eight something, or 8.9, 9.6 or something.

6 So those are the kinds of technical things that  
7 I go through to make sure that what they're asking for  
8 makes sense with the mapping and the scale and  
9 dimensions.

10 And then the inspections that follow, I make  
11 sure that continues to follow, they follow suit with  
12 that every time.

13 MS. JUETTEN: Hi. My name is Susan Juetten.  
14 And I'm with Great Basin Resource Watch.

15 MR. PROCESS: Uh-huh (affirmative).

16 MS. JUETTEN: And I have a couple of questions.  
17 One is about your comparison of the revegetation in the  
18 areas that this permit is -- application is for. And  
19 the slides you showed us, like that --

20 MR. PROCESS: Yeah, that's --

21 MS. JUETTEN: -- to me --

22 MR. PROCESS: Yeah.

23 MS. JUETTEN: I'm not a botanist.

24 MR. PROCESS: Right.

25 MS. JUETTEN: That looks like an area of much

1 greater, much greater rainfall than --

2 MR. PROCESS: Well, that's a spring shot.

3 MS. JUETTEN: And it's a spring shot. And --

4 MR. PROCESS: I'm not sure if it's greater  
5 precipitation, but it's -- it's a spring shot, yeah.

6 MS. JUETTEN: And it's a very different area,  
7 in terms of previous disturbance. It's residential.  
8 I'm not sure that -- I mean even though each of these  
9 little areas might not be in a backyard, we all tend to  
10 refer to this as a residential area.

11 And so I'm concerned that the reclamation areas  
12 are of a different type and quality than -- than you are  
13 used to dealing with. And I just would love to see  
14 what -- the bond requirements for the amounts might  
15 change given that this is a historic district,  
16 residential area, you know, all the additional unique  
17 features of this area and that -- that the surety bond  
18 reflect, even though this is for 19.75, that there's a  
19 cumulative effect here that we don't tend to talk about.  
20 And to repeat myself again, in a residential, slash,  
21 historic area that the amount of bond for a specific  
22 part of this process doesn't take into account  
23 cumulative effects.

24 MR. PROCESS: Sorry. Oh.

25 MS. JUETTEN: Cumulative effects.

1           MR. PROCESS: No, no, no, I don't. No. This,  
2 the reclamation permit would not look at the cumulative  
3 effects.

4           MS. JUETTEN: And so I'm questioning whether  
5 that methodology really represents what's happening.

6           Thank you.

7           MR. PROCESS: Okay. Yeah. Well, let me go  
8 back to the vegetation, because that was the first part  
9 of the question that I can recall. That's why we have  
10 three years to look at the succession of the plants and  
11 see if they're working. It's also what's on part B  
12 here. It's also their study of doing a baseline  
13 vegetation on undisturbed land. So they're going to  
14 have to meet that criteria on the disturbed land to get  
15 the bond released.

16           Now, if we find that the seed mix, for some  
17 reason, they're using is not working, then there will be  
18 modifications to that seed mix. And that may adjust the  
19 cost and the bond slightly. But, typically, the way the  
20 Nevada reclamation cost estimator works is it has  
21 choices of different mixes. And they're -- you know,  
22 it's \$125 an acre. It could be 250 an acre. We tend to  
23 see, as you rise in elevation, you have a more expensive  
24 seed mix. So it does account for those types of  
25 variations in seed mixes.

1           My example of showing the greenery was to show  
2 that we have the ability to stabilize the soil and get  
3 vegetation to work. We don't have a whole lot of  
4 examples in the Virginia City district. But that would  
5 be something that we will see, you know, shortly.  
6 Because they have seeded some of this area already. I  
7 believe, they bought seed. And I think, this -- no, not  
8 this part. I think, this is being seeded already. It's  
9 either seeded or it's about to be seeded as of last  
10 week. I wasn't sure where we're at.

11           So next spring we'll be able to see what  
12 happens here and see, start evaluating that.

13           As far as the residential stuff, that's not  
14 part of the reclamation permit, is whether it's  
15 residential or zoned or anything like that. I'm looking  
16 at what's it going to take to reclaim the land when  
17 they're done.

18           But we can make adjustments on seed mixes and  
19 vegetation if something pines there that doesn't work as  
20 well as we thought.

21           MR. WAHRENBROCK: For the record, my name's  
22 Larry Wahrenbrock. I'm a resident at Silver City.

23           On the -- going back just a little bit to the  
24 super sumps, they also mentioned in their application  
25 that there would be the potential of connecting those

1 sumps. And I assume that would be with a ditch, with  
2 a --

3 MR. PROCESS: Yeah, just -- I think, it's just  
4 a ditch, yeah. I think, that's what they did here. I  
5 think, they had one to the right, below, and they had  
6 one up above. And the water, when that first one  
7 filled, it flowed through a trench and filled up the  
8 next one.

9 So they provide to make sure they contained all  
10 the water on site, it didn't flow anywhere or go  
11 anyplace else. That was the idea behind that design.

12 MR. WAHRENBROCK: Okay. Well, that's  
13 relatively -- I mean it's not a steep slope. It's not  
14 over 30 percent.

15 MR. PROCESS: No.

16 MR. WAHRENBROCK: But there is all -- if they  
17 run into a -- problems down below in Spring Valley,  
18 where there's not that much fall, those ditches could  
19 potentially be rather long. And I was wondering whether  
20 or not there was a calc included for the length of the  
21 ditch or the width of the ditch and the design of the  
22 ditch within the disturbed areas.

23 MR. PROCESS: I think, the disturbance would be  
24 so minor it would be inclusive of the 1.2 acres that  
25 they're currently for.



1 MR. WAHRENBROCK: Thank you.

2 MR. PROCESS: You'd be talking about .001 of an  
3 acre or something very small, adding that ditch in. And  
4 as long as that all stays within the 1.2 acres of the  
5 super sumps, we would count, we could count that as a  
6 disturbance, also.

7 You'll see that they -- it's not that -- I  
8 mean, usually, the whole area is disturbed, as acres.  
9 It's not like this is disturbed, and this is disturbed,  
10 and there's a channel that's disturbed, and everything's  
11 else is lush and green and all this. Usually, the whole  
12 area is, is disturbed and inclusive of their permitted  
13 disturbance.

14 MR. WAHRENBROCK: My point exactly.

15 Back to my previous question, however, on the  
16 maps, I was confused, in looking at the legends of the  
17 maps that were submitted. This is a National Landmark  
18 Historic District. There are landscape features that  
19 are identified as cultural resource features that  
20 contribute to the integrity of the historic district.  
21 Those do not seem to be delineated as to which they are.

22 I submit that the reclamation could be just as  
23 injurious to those cultural resources as the initial  
24 disturbance. And so my concern is that the integrity of  
25 the historic district could be compromised on both ends

1 of what's going on here, with the initial disturbance or  
2 exploration activities and/or --

3 MR. GUTHREAU: I just want to -- I just want  
4 to -- I don't mean to interrupt you. But that is  
5 actually more of a comment. And we'd be happy to take  
6 when we get to the comment period.

7 I would like to just ask if there's anymore  
8 questions about the technical review portion of it. I  
9 think, concerns are applicable. We'll get to those when  
10 we get to the comment period. I know it's sort of hard  
11 to delineate. But, I think, as we get into those  
12 concerns that you have about cultural resources and the  
13 like, we can definitely take those comments when we get  
14 to that point.

15 So are there anymore questions about the  
16 presentation itself?

17 All right. With that, I think, we'll go ahead  
18 and close that portion of the hearing and open public  
19 comment. And we will go ahead and call the first name.

20 Do we have -- I'll call them, yeah.

21 Okay. The first, the first card I have is  
22 Gayle Sherman.

23 MS. SHERMAN: Do you want me to sit here?

24 UNIDENTIFIED: You can sit, you can sit here or  
25 do whatever you like.

1 MS. SHERMAN: Thanks. I'll sit next to  
2 (indistinct).

3 As I previously stated, my name is Gayle  
4 Sherman. I live in Silver City. I've lived there for  
5 35 years. And I'm a member of the Comstock Residents  
6 Association.

7 The Comstock Residents Association has over 400  
8 members that are made up of individuals, families,  
9 retirees and business owners of all ages and  
10 persuasions, who are united in their efforts to preserve  
11 community values and the health and safety of Comstock  
12 communities. CRA is a nonprofit organization registered  
13 with the Nevada Secretary of State's office.

14 I've looked at the draft, the maps and the  
15 application. I understand all of the aspects of this  
16 being a reclamation permit. But I do have some concerns  
17 about the application that I would like to raise.

18 Under the provisions of this permit,  
19 exploratory drilling will occur in the Carson River  
20 Mercury Superfund Site and, also, within the town  
21 boundaries of Silver City. Some of the drill pads are  
22 300 feet or less from residences. Although the permit  
23 provides for a sampling and analysis plan, which must be  
24 implemented prior to any mineral exploration activities,  
25 all disturbed soils should be tested for mercury or

1 other toxic substances prior to exploration, not just  
2 the mine wastes and/or mill tailings referenced in the  
3 permit.

4 CMI should be required to obtain an air  
5 pollution control permit for this project. Although CMI  
6 maintains that the project site is 19.75 acres, the maps  
7 submitted with their application are not true to scale.  
8 It's my understanding that if the project area is over  
9 20 acres, an air pollution control permit is required.

10 Mercury can be absorbed through the skin. As  
11 elemental mercury vaporizes, the vapors are present and  
12 present an inhalation hazard. Because this exploratory  
13 activity is so extensive, 135 drill pads with five to  
14 six bore holes per pad, and very close to residences,  
15 objective confirmation of acreage of the project is  
16 necessary to protect our children and residents from  
17 exposure to airborne mercury from the disturbance of  
18 drilling in contaminated soils.

19 Relying on CMI's assertion of 19.75 acres does  
20 not fulfill the regulatory duty of NDEP to safeguard the  
21 public.

22 CMI states in their application they expect to  
23 encounter water during exploratory drilling. As  
24 previously mentioned, the steep grades of the permitted  
25 area are in the mercury fund site. CMI has proposed

1 sumps and super sumps to control groundwater encountered  
2 in drilling, such as stormwater.

3           The project area is located with -- within 400  
4 feet of the Gold Canyon drainage system and within 800  
5 feet of American Ravine, an ephemeral stream. The  
6 possibility of toxic runoff into water bodies that flow  
7 into the Carson River is a concern to residents.  
8 Mercury in lakes and rivers converted into methylmercury  
9 by certain -- it's converted into methylmercury by  
10 certain bacteria. Methylmercury accumulates in fish  
11 tissue, and it's carried up the food chain to larger  
12 fish, animals and humans. Methylmercury is dangerous  
13 because the concentration of methylmercury increases as  
14 it goes up the food chain.

15           Because drilling will occur within the  
16 Superfund site, additional water pollution control  
17 permits and protection should be required of CMI. The  
18 danger of further mercury contamination of the Carson  
19 River will have a negative effect on many communities in  
20 northern Nevada. And for this reason, extra regulatory  
21 oversight is necessary.

22           NDEP should require CMI to reclaim land  
23 concurrently with drilling activities and not wait until  
24 all of the drilling is completed.

25           NDEP should reduce the duration of the permit.

1 The permit, as written, is for the duration of the  
2 exploratory project. This open-ended permit essentially  
3 lasts forever. The permit should be limited to three  
4 years with repermitting required.

5 NDEP should preclude any mining and exploratory  
6 activity in the Silver City town site as such activities  
7 are not permitted by Lyon County zoning. The applicable  
8 Lyon County zoning for the Silver City town site is  
9 residential, a use that precludes activities  
10 inconsistent with residential uses such as exploratory  
11 mining.

12 NDEP should not grant CMI's request for a  
13 reclamation permit until such time as the applicable  
14 zoning permits permits the underlying activity. To do  
15 so without coordination with Lyon County undermines  
16 local land use ordinances.

17 NDEP should consider taking on the role of lead  
18 agency to provide a coordinated overview of the  
19 permitting process in order to prevent cumulative  
20 environmental degradation inherent in a series of narrow  
21 regulatory reviews. The mining activities that CMI has  
22 already engaged in, along with their future plans for  
23 mining, requires a complex matrix of oversight from  
24 Storey and Lyon counties and a variety of state, local  
25 and federal regulators. Without carefully coordinated

1 participation from all entities, the fragile historic  
2 lands and the health and welfare of residents of the  
3 Comstock are in danger.

4           The potential for damage to air, water and land  
5 from this exploratory project is very high. I am hoping  
6 that NDEP undertakes a more global overview of CMI's  
7 activity, so that all affected parties can live safely  
8 in the shadow of this project.

9           Thank you.

10           MR. GUTHREAU: Thank you very much. Thank you  
11 very much.

12           The next speaker is Robert Elston.

13           MR. ELSTON: Okay. I'll sit up here.

14           MR. GUTHREAU: Okay. Whatever works for you.

15           MR. ELSTON: Okay. I'd just like to spread  
16 out.

17           MR. GUTHREAU: Yeah.

18           MR. ELSTON: Yeah, my name is Robert Elston,  
19 and I'm a resident of Silver City, where I've lived for  
20 40 years. And I have already submitted a written --  
21 written comments to you about -- about the project, that  
22 I have about the reclamation permit. And so I'm not  
23 going to read the whole thing, but I want to go over a  
24 couple of points.

25           Mr. Todd explained the revegetation plan and

1 how, in some ways, that NDEP is going to monitor the  
2 revegetation plan. I would just have to say, I would  
3 like to add, and I would like to submit an attachment to  
4 my letter that I have here, that the target goals for  
5 revegetation should include quantifiable success  
6 criteria with contingency measures that will be invoked  
7 if the criteria are not met.

8 By quantifiable success criteria, I would like  
9 to see a table of what those success criteria are. And  
10 quantifiable success criteria are things that you can  
11 actually measure. I don't know. Like plants per unit  
12 area and actual documentation of what you say that you  
13 have already -- or CMI has already done, documentation  
14 of what constitutes an undisturbed, undisturbed  
15 environmental area with the plant communities.

16 And then, in monitoring, I'd really like to see  
17 a detailed description of the methods, the monitoring  
18 schedule, whether photo documentation is going to be  
19 used.

20 And then, in implementation, I'd like to know  
21 exactly what kind of equipment is going to be used,  
22 how -- what avoidance measures, how the soil is going to  
23 be treated, whether you're going to think about removing  
24 pest plants, such as cheatgrass or whitetop.

25 And how you're going to monitor construction,



1 how you're going to -- whether there's going to be a  
2 specific planting plan and naturing source of the  
3 propagules that you're going to be using, the different  
4 kinds of plants, seedlings and so on.

5           Irrigation, whether you're going to have to --  
6 whether they will have to be doing any irrigation at  
7 all.

8           And then maintenance, what maintenance  
9 activities will be, will be performed, what the schedule  
10 of maintenance is.

11           And monitoring reports, due dates, as-builts,  
12 annual reports, potential contingency measures. Which  
13 if you don't -- if you -- if these things don't work,  
14 you know exactly what's going to be happening, when  
15 you're going to have to -- when you're going to have to  
16 address this. Like they're apparently going to have a  
17 report every year. Is one, is a report a year enough?

18           Contingency funding mechanism, I suppose that's  
19 all -- you've already put that into the bonding.

20           And then how -- when the revegetation  
21 responsibilities are completed, how you're going to  
22 notify everyone, how you're going to confirm this. And  
23 then, is there going to be any plan for long-term  
24 measurement of the sites?

25           Because I want to show you something.

1           And now that I'm standing over here, would  
2 somebody get the other mic.

3           As you very well know, this is a -- this is a  
4 major drainage that drains the whole south side of the  
5 south end of the Virginia range. And all of this stuff  
6 is happening right here in this, in this drainage.

7           MR. GUTHREAU: We're doing an audio recording.  
8 Could you --

9           MR. ELSTON: Yeah, well, I'm pointing at the  
10 map. I'm pointing at the map of -- the one for the  
11 Comstock, for the Dayton exploration plan of the  
12 northern extension, which is in the -- Silver City in  
13 the area zoned residential right here.

14           And then, of course, this is Spring Valley.  
15 This is the other, the other map we're looking at, which  
16 is south of Silver City. And this, this whole area  
17 here, is called Spring Valley. Why is that called  
18 Spring Valley? It's called Spring Valley because it  
19 is -- it contains a lot of springs, and there's a lot of  
20 water that is coming to the surface in this place that  
21 could be contaminated by this.

22           The other, the other questions that I have is  
23 that you don't have -- apparently, you don't have  
24 responsibility for storm drainage, for runoff, for  
25 contamination. Is that right? For water contamination?

1 It's not something you have to worry about?

2 MR. PROCESS: They don't -- we don't issue a  
3 stormwater permit. But they do have -- but we don't  
4 issue that permit.

5 MR. ELSTON: Okay. Who issues that?

6 MR. PROCESS: The water pollution control --

7 MR. ELSTON: Okay.

8 MR. PROCESS: -- and/or the board of pollution.  
9 But. But they don't -- at the end of the description  
10 they do talk about best management practices and models,  
11 controls, yes.

12 MR. ELSTON: Okay. Anyway, I have one comment,  
13 one more comment outside of the -- outside of my letter.  
14 Actually, it's not out. It is in my letter.

15 It looks to me like that there is a mistake in  
16 the amount of -- there's an underestimation of acreage  
17 because of the roadway. They calculate 18,000 feet of  
18 roadway averaging 20 feet wide, which amounts to 8.3  
19 acres rather than 7.2 acres. So that makes -- that  
20 probably needs to be reexamined.

21 I won't, I won't, I won't hold up the rest of  
22 the -- the rest of the hearing by reading this very long  
23 letter to you. But I hope that you will go over it and  
24 address the questions that I raised in it. And I also  
25 would like to submit this attachment that has --

1 concerning success criteria and monitoring for  
2 revegetation.

3 MR. GUTHREAU: Thank you.

4 The next speaker, the next person who would  
5 like to comment is Bonnie Brown.

6 MS. BROWN: May I sit here, please? It'll take  
7 me forever to get up there.

8 I thank you for letting me come today. And my  
9 comments are an echo of what has been said previously to  
10 Gayle and -- Ms. Sherman and Mr. Elston.

11 I, also, as a group, I will not take long. But  
12 as a preface, I want to say thank you to the bureau for  
13 such patience and informative outreach to the public.  
14 It has been a very interesting and easy interface with  
15 the bureau and with everyone who has been there. And I  
16 thank you for that.

17 I, too, have submitted my letter. And it is a  
18 more general letter as a resident of Silver City.

19 I would like to just point out that I reside  
20 within the town of Silver City in Lyon County, Nevada,  
21 the Virginia City National Historic Landmark, the Nevada  
22 State Comstock Historic District, and the U.S.  
23 Environmental Protection agency's designated Carson  
24 River Mercury Superfund Site. I also reside adjacent  
25 to, downwind and downstream from the proposed permit

1 location that is situated in a small, steep canyon at  
2 the confluence of two large drainages of Gold Creek and  
3 the Occidental Grade long canyons.

4           We are here today because of this reclamation  
5 permit, which is absolutely limited to exploration. But  
6 I'm deeply concerned with the ramifications of this  
7 permit and feel that an aggregate assessment of the  
8 broader impact of Comstock Mining Incorporation's  
9 proposed mining on the Comstock, that it must be  
10 considered within the context of this permit.

11           I won't go into much more, except that as a  
12 38-year-old -- 38-year residence directly east and down  
13 from the permit area, I have experienced what  
14 climatologists characterize as small storm incidents,  
15 where we have observed, and this is anecdotal, water  
16 directly flowing off of the site across the highway and  
17 entering the drainages right by my house. And if -- we  
18 have had over five feet of water at different times,  
19 directly been influenced by small storms.

20           I'm sorry. I'm trying to not read the whole  
21 letter, but I'm being pretty choppy here.

22           I also feel that air quality is really  
23 important. Because it seems like just a quarter of an  
24 acre on paper makes the difference here between having  
25 any kind of an air quality permit. And as been brought

1 up earlier, it seems like the actual acreage will have  
2 to be monitored very closely in order to not trigger  
3 that requirement for the air quality permit.

4 I request that this permit not be issued until  
5 the sampling and analysis plan and companion standard  
6 operator procedure has been completed and approved by  
7 the NDEP Bureau of Corrective Actions' Superfund branch.  
8 I believe, Mr. Process mentioned that that is due to  
9 happen soon. And I would request that nothing be done  
10 until that's done.

11 And, also, I request that concurrent  
12 reclamation by drill site be delineated within this  
13 permit.

14 I -- the intensity of the pulsing sound and  
15 vibration of the drilling that will be continuing for an  
16 awful long time here is not permitted -- is not  
17 addressed at all. And I understand that. But the human  
18 toll of what is going to happen just in the exploration  
19 part of this is going to be very great.

20 Thank you for your time.

21 MR. GUTHREAU: Thank you.

22 Larry Wahrenbrock.

23 MR. WAHRENBROCK: Yes. Good job. Not very  
24 many people get it right the first time.

25 For the record, my name is Larry Wahrenbrock.

1 I'm a resident of Silver City and have been for the past  
2 35 years. I thank you for this opportunity and for all  
3 the hard work that you people do on our behalf.

4 I have submitted my comments here in written  
5 format. And I'll try not to be duplicative of testimony  
6 already given. But I have characterized my letter in,  
7 basically, three blocks. One is questions, comments,  
8 and then recommendations.

9 And a basic question that I have is why there  
10 is no consideration of cultural resource protection in  
11 your rules and regulations. And why is there no  
12 requirement for the applicant to provide legal  
13 documentation regarding the applicant's legal right to  
14 perform the proposed activities on the property included  
15 within the project boundaries? This seems astounding to  
16 me. And, third, why there is no mechanism to address  
17 overall impacts and cumulative impacts within the review  
18 process.

19 For my comments, this application proposes  
20 extensive land disturbance, along with the introduction  
21 of heavy industrial activity, including the use of large  
22 drilling and earth-moving equipment on residentially  
23 zoned property and within the town boundaries of Silver  
24 City. Previous activity of this kind was conducted by  
25 the applicant in early 2011 under an exemption, but that

1 activity resulted in serious disruption in the lives of  
2 the residents of Silver City.

3 The applicant states on page nine of the  
4 application that the post mine land use will remain with  
5 the current use, which is mining, minerals, exploration  
6 and development, quote, unquote.

7 On page five of the application, the applicant  
8 states that, quote, "By 1950, the mining and processing  
9 ended," unquote. They also state that in 1976, Houston  
10 International Minerals, it conducted exploratory  
11 drilling. That's a time lapse of 35 years. And during  
12 this time, the surrounding area experienced a  
13 substantial increase in population. New residents  
14 rehabilitated historic buildings and, for residential  
15 use, had constructed numerous new residential units.

16 And I submit that the characterization of the  
17 use of the property as mining and mineral exploration  
18 and development is not really accurate.

19 The activities proposed are being conducted  
20 within a federally designated Virginia City National  
21 Landmark Historic District, as well as the  
22 state-designated Comstock Historic District. The actual  
23 drill pad, pond and road construction, as well as the  
24 proposed reclamation activities have the potential to  
25 adversely impact a variety of known and unknown cultural



1 resources. The National Landmark District has been  
2 listed as threatened due to previous land disturbances  
3 caused by mining activities. The activities proposed in  
4 this application could result in irreversible damage to  
5 the district.

6 Four, there exists a history of violations and  
7 noncompliance with your agency and others regarding  
8 previously permitted activities by Comstock Mining Inc.  
9 and its predecessor companies. This application  
10 proposes activities with significant challenges to  
11 monitoring and compliance.

12 Therefore, a robust and beyond ordinary  
13 compliance stipulations should be incorporated into the  
14 application.

15 The proposed activities are all within the  
16 Superfund site. We've heard a lot about that. But  
17 there are more contaminants of concern than just  
18 mercury. And there's no real comprehensive plan. And  
19 one should be formulated and put into place prior to the  
20 onset of any activity.

21 Proof of rights. I find it astounding that the  
22 applicant is not required to provide documentation  
23 proving that the applicant is either the lessee or the  
24 owner of the property on which the proposed activities  
25 will occur and, if the applicant is the lessee,

1 certification that he or she has the right, power and  
2 authority to conduct the described operation.

3           The application should contain the name,  
4 address and telephone number of the private owner and of  
5 the federal agency for the surface and mineral estates.  
6 I am aware of at least one parcel contained within the  
7 project boundaries, as submitted by the applicant, that  
8 the applicant does not have any legal interest in the  
9 real estate parcel.

10           The applicant states that it's anticipated that  
11 excessive water. Once again, the mercury site comes in,  
12 in the Superfund, and the ponds.

13           My recommendations, I have a couple of, three.  
14 One, under NRS 384.180, the Comstock Historic District  
15 Commission can't provide recommendations to state and  
16 local agencies regarding the appropriate treatment of  
17 historic and cultural resources.

18           I would suggest that your agency formally  
19 request a review of the project by the Comstock Historic  
20 District Commission regarding the potential adverse  
21 effects of the proposed actions relative to cultural  
22 resources in the project site, known and unknown. After  
23 receiving the review, appropriate measures may be  
24 incorporated into your conditions included in the  
25 permit.

1           The applicant states that post mine land use  
2 will remain the same as prior, as a prior activity.  
3 Current zoning and the past use of the property is  
4 inconsistent with this statement.

5           A review by the Lyon County Planning Commission  
6 and the Board of County Commissioners regarding the  
7 impacts of the proposed action should be requested by  
8 your agency prior to issuing this permit. Any  
9 recommendations provided by Lyon County could be  
10 considered by your agency and, if appropriate, included  
11 as conditions.

12           A specific and comprehensive plan of operations  
13 regarding the identification and mitigation of all  
14 contaminates of concern should be formulated. And the  
15 plan needs to be implemented prior to any of the  
16 activities.

17           The proximity of the proposed activities to the  
18 community of Silver City and occupied residences, as  
19 well as the fact that the entire project lies within the  
20 Virginia City National Landmark Historic District and  
21 the Comstock Historic District, requires that  
22 extraordinary monitoring and compliance procedures need  
23 to be placed on the applicant. This is not an ordinary  
24 permit or an ordinary -- and should not have an ordinary  
25 review.

1           The draft permit has an open-ended time frame  
2 for completion of the proposed activities. It only  
3 seems reasonable and prudent for there to be a time  
4 specific allowed for completion of the proposed  
5 activities. The permit could stipulate that the  
6 applicant could reapply if conditions warrant. The  
7 residents should not be subjected to the obvious adverse  
8 effects and disruption this proposed activity presents  
9 for an undetermined period of time.

10           The application includes that -- the  
11 construction of over three miles of dirt roads, numerous  
12 pads, and associated cuts and fills. Vehicular traffic,  
13 together with drilling activities, has the potential to  
14 significantly increase fugitive dust within the areas  
15 surrounding the project. An air quality permit should  
16 be required of the applicant.

17           There should be a requirement for the applicant  
18 to provide a complete legal documentation of the  
19 applicant's right to perform the proposed activities on  
20 all property included within the boundaries of the  
21 application.

22           In conclusion, I would like to express my  
23 deepest concern regarding the matter before you. This  
24 application is not routine. Your agency gains its  
25 authority from the police powers established in our

1 constitution. Those powers are predicated on the  
2 principle that the protection of public health and  
3 welfare is a reasonable function of the government.

4           The application before you, probably more than  
5 any other you have ever reviewed, will adversely affect  
6 residential properties in a small but vibrant community,  
7 a community that is part of the National Landmark  
8 Historic District, a community that has invested private  
9 dollars into the preservation of historic buildings, and  
10 where new construction is regulated for architectural  
11 appropriateness by the Comstock Historic District  
12 Commission, another state agency.

13           I want to believe that your review will be  
14 thorough and comprehensive. I want to believe that the  
15 cumulative effects regarding the degradation of the  
16 historic district will be considered. I want to believe  
17 that your agency will, to the greatest extent possible,  
18 coordinate your review with other federal, state and  
19 local agencies, protect the surface and groundwaters,  
20 resources of our state, protect the air quality of the  
21 area, protect the public from contaminates of concern in  
22 the Carson River Superfund site, hold the applicant to  
23 any and all conditions of approval placed in the permit  
24 and strenuously monitor their activities, vigorously and  
25 comprehensively protect the health and welfare of the

1 residents of Silver City.

2           And, finally, I want to believe that you will  
3 perform your duties as a permitting agency by  
4 comprehensively reviewing the application and by closely  
5 coordinating with other agencies in such a fashion as to  
6 protect the cultural resources, the public health and  
7 welfare, and not merely facilitate the intrusion of an  
8 exploratory mining activity with the potential to do  
9 irreparable damage into a National Historic District.

10           Thank you.

11           MR. GUTHREAU: Thank you.

12           The next person is Daan Eggenberger.

13           MR. EGGENBERGER: My name is Daan Eggenberger.  
14 I'm -- I've been in the Virginia City, Comstock area  
15 since 1969. I own property in Gold Hill. And I'm a  
16 business owner in Virginia City.

17           And just by way of introduction, I'm going to  
18 try really hard not to go back and be specific for this  
19 permit, but it needs a little historical introduction.

20           My own jump into this was early June, when I  
21 was driving down Gold Canyon on a Sunday afternoon in  
22 torrential rains and saw this drilling rig along the  
23 Gold Creek drainage, with a drill pad that had been  
24 pushed over into the drainage, drilling fluids going  
25 into the drainage. And I drove by that, and I just

1 went, "This cannot be happening."

2           So I call -- I sent a letter to NDEP at the --  
3 on Sunday, did a follow-up call, was -- it was suggested  
4 I do a spill report. Which I did. Whoever I talked to  
5 at NDEP, when I did the spill report, yawned when I made  
6 the report in the beginning. He yawned until I started  
7 reading the paragraphs from the cease and desist order  
8 that Comstock Mining was violating at the time.

9           They were pushing that cease and desist letter  
10 to the last day. It was like three days before, before  
11 the line was drawn on the cease and desist letter. Not  
12 only that, they were drilling in an area that was  
13 completely unpermitted. They didn't have a permit to  
14 drill on east side of 342.

15           So that's when I jumped into this whole fray.

16           Now, this is just a partial listing of -- of  
17 what I have on my desk, which is stacks.

18           So my own particular interest has been the fact  
19 that this is the Carson River mercury site. Nobody in  
20 Virginia City, Gold Hill knew that we were part of the  
21 Carson River Mercury Superfund Site. Wow.

22           So, as I got into this, I go, "Well, there's --  
23 NDEP says there's 15 million pounds of missing mercury.  
24 Where in the hell is that?" Well, a lot of it is in the  
25 Carson River, so don't eat the fish.

1           We are living in a Superfund site. People  
2 didn't know that.

3           So I started researching mercury, EPA, NDEP.  
4 Great websites, great information, incredible. And I --  
5 you know, so that was the beginning of my kind of entry  
6 into the mercury Superfund site.

7           So that's a whole separate issue. But it  
8 really spills over into this issue. Because there's  
9 going to be an RCRA, citizens who filed against  
10 everybody, the Comstock Mining, NDEP and EPA. We've  
11 been in a lot of discussions with EPA. We've talked to  
12 Paul.

13           I'm really sorry that Jeff Collins isn't here.  
14 He should be here. His kind of point of view, when I  
15 talked to him originally, well, "Well, that area's been  
16 stepped on a few times." Yeah, it has. But there's  
17 no -- no excuse for not paying serious attention.

18           And the question of where that mercury is  
19 now -- and it's not just mercury. It's mercury, lead  
20 and arsenic, are the main substances that were used in  
21 the milling process, the historic milling process.

22           So now we're going to get to what we're really  
23 talking about at this hearing. I'm going to request  
24 that you not issue this permit until the SAPs -- all  
25 these federal and governmental acronyms. SAP, the



1 sampling and assessment, the plans. Okay. There was  
2 like five minutes spent on the SAP, on the SAPs, "Oh,  
3 yeah, we're going to do a SAP." Well, the SAP is a  
4 sampling and assessment plan that the permit kind of  
5 goes, "Yeah, we're going to require them to do a  
6 sampling and assessment plan."

7 Well, that's really great. And we want them to  
8 sample and assess where the mercury is, where the  
9 contaminates are, how they've moved, how they're going  
10 to move in this 19.75 acres.

11 And so the SAP is completely deficient. I mean  
12 there is no -- there's no possibility for the community  
13 to review the SAP. We don't know at what level the SAP  
14 is going to be. There's numbers of levels of SAP  
15 requirements, like Is it just not a very contaminated  
16 site? Is it going to be a park? We don't know that.  
17 None of that's specified. So the SAP is a very large  
18 part of this permit. Except in the permit, it's not.  
19 It says, "Yeah, we're going to require them to do some  
20 sampling."

21 And when I first talked to Jeff Collins, he  
22 said, "Yeah, we're going to require the mining company  
23 to do some voluntary sampling." And I went, "Are you  
24 out of your mind?" Voluntary sampling.

25 So what I'm requesting is public input into the

1 SAP and a public review into whatever SAP this mining  
2 company and NDEP comes up with and that that be the  
3 basis. The first step in this process is to figure out  
4 where the lead is, where the arsenic is, where the  
5 mercury is. We know, from the Billy the Kid and the  
6 Lucerne mining operations, that those -- we call them  
7 COCs, acronym, contaminates of concern. We now know  
8 there are six -- no, I'm sorry -- five cases of lung  
9 cancer in Gold Canyon, new information the last two  
10 weeks, within the last eight months, five cases of lung  
11 cancer.

12 Now, I can tell you that a personal injury law  
13 firm has called me. And this is going to get -- go much  
14 further than -- than, you know, "Oh, let's give these  
15 guys a mining permit to just kind of explore, and  
16 they'll do some mercury sample." There's serious stuff  
17 going on here. And to spend, you know, 15 minutes on  
18 vegetation and three minutes on the fact that we're  
19 working in a Superfund site, it's pretty incredible.

20 So the SAP is really important.

21 And the one thing -- or another thing I want to  
22 point out is that, after all this brouha with -- you  
23 know, the fact that we're in a mercury Superfund site,  
24 NDEP came out with a wonderful draft report: Draft  
25 Carson River Mercury Superfund Site Long-Term Sampling

1 and Response Plan. This is great. This is great. You  
2 know, this is a great start in regulating mining in the  
3 Carson River Mercury Superfund Site.

4 And, you know, having read that, I want to make  
5 one, one kind of comment on -- I guess, it's on section  
6 two, section two of this draft report, which I'm very  
7 happy to get. On section two, there's a sentence that  
8 goes that the goal of the long-range sampling "is to  
9 provide, in perpetuity, a set of requirements that are  
10 protective of the most at-risk population receptors..."

11 Now, I had to read that a number of times. I  
12 went, "Am I a population receptor?" Like was this  
13 written by some guy on the fifth floor in a cubicle?"

14 I am not a population receptor. I'm a human  
15 being that lives in Gold Canyon, that is extremely  
16 concerned about the environmental degradation.

17 This mining company, in the last 10 years, with  
18 NDEP approvals, has mined through mine and mill tailing  
19 sites that are known to contain mercury, arsenic, lead  
20 and a lot of other organic and inorganic materials. And  
21 they're going to be held accountable for that. That's  
22 in the -- that's in the works, everybody, you know.

23 So, again, I'm sorry to take so much time. I  
24 could do this a half an hour, rant and rave.

25 The SAP is -- we need public participation in

1 the SAP process. We need to know where the sampling's  
2 going to happen. We need to know how deep it's going to  
3 go. Are they going to -- are they going to do the  
4 sampling as deep as they're going to do the excavation?  
5 What's the -- you know, what's the pattern of sampling?

6 So step one, for me, is let's figure out where  
7 that 15 million pounds of mercury is. Let's have NDEP  
8 really do the studies of how many mine and mill sites  
9 and mill tailing sites are here.

10 Thanks a lot.

11 MR. GUTHREAU: Thank you.

12 That is -- that reaches the end of the people,  
13 of the individuals who'd requested to comment. I guess,  
14 I would ask if there is anyone else who would like to  
15 make a comment? We will also accept written comments at  
16 today's hearing, as a reminder.

17 All right. With that, I will close the public  
18 hearing on the exploration permit.

19 Thank you.

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TRANSCRIBER'S CERTIFICATE


I, SHANNON L. TAYLOR, a Nevada Certified Court Reporter, Nevada CCR #322, do hereby certify:

That I was provided by the State of Nevada, Department of Conservation and Natural Resources, Division of Environmental Protection, Bureau of Mining Regulation & Reclamation, with a CD containing a Public Comment Hearing held on Wednesday, November 16, 2011, at 1:00 p.m., regarding the Dayton Consolidated Exploration Project, Comstock Mining Inc., Permit #0315, and that I thereafter transcribed, to the very best of my ability, the contents of said Public Comment Hearing contained on said CD;

That the within transcript, consisting of pages 1 through 77, is the transcription of the above-noted Public Comment Hearing;

I further certify that I am not an attorney or counsel for any of the parties, nor a relative or employee of any attorney or counsel connected with the action, nor financially interested in the action.

DATED at Carson City, Nevada, this 28th day of November, 2011.

  
SHANNON L. TAYLOR  
Nevada CCR #322, RMR

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