



## Regulatory Meeting

 <b>TIME</b>	 <b>LOCATION</b>
February 9, 2022 9:00 a.m.	Richard H. Bryan Building 901 S. Stewart St. Carson City, NV

### **SEC Member Present:**

Chairman Tom Porta  
Vice Chairman Jason King  
Commissioner Kathryn Landreth  
Commissioner Jocelyn Torres  
Commissioner Mark Turner  
Commissioner Michael Visher  
Commissioner Adam Sullivan  
Commissioner Tom Smith

### **SEC Staff Present:**

Sheryl Fontaine, Executive Secretary  
Jessica Higday, Recording Secretary

### **Nevada Division of Environmental Protection Staff Present:**

Greg Lovato  
Danilo Dragoni  
Andrew Tucker  
Rick Perdomo  
Kalin Ingstad  
Jeffrey Kinder  
Shane Martin  
Rob Kuczynski  
Todd Process

### **Attorney General's Office Staff Present:**

Asheesh Bhalla

### **Other Participants:**

Allen Biaggi, Nevada Mining Association

Tina Mudd, Granite Construction Company  
Daren Winkelman and Kayla Alm, Bureau of Sustainable Materials Management

## TRANSCRIPT

**Jessica Higday:** Hello. Hello. Testing. Testing.

**Sheryl Fontaine:** Hello. Yeah. Mr. Porta is gonna be online and those, yeah.

**Jessica Higday:** Hello. Hello. Testing. Testing.

**Tom Porta:** Alright. Good morning, everyone. I'll call this meeting of the Nevada State Environmental Commission hearing to order. The date is February 9 and I show a couple of minutes past 9 o'clock. Sheryl, has the meeting been properly noticed?

**Sheryl Fontaine:** It has.

**Tom Porta:** Very good. And now, would you, or would you please call the roll?

**Sheryl Fontaine:** Jessica? I can do it if you like. Chairman Porta?

**Tom Porta:** Yes. Here.

**Sheryl Fontaine:** Thank you. Vice Chairman King?

**Jason King:** Here.

**Sheryl Fontaine:** Commissioner Landreth?

**Kathryn Landreth:** Here.

**Sheryl Fontaine:** Commissioner Torres?

**Jocelyn Torres:** Here.

**Sheryl Fontaine:** Commissioner Turner? Commissioner Turner? I thought I saw him on there, but apparently not.

**Male Speaker:** Yeah. He's there.

**Sheryl Fontaine:** Oh, is he?

**Male Speaker:** [Inaudible].

**Sheryl Fontaine:** Yeah. Commissioner Turner, we're not hearing you, but that's okay. For now. There's still nothing. I don't know, you're unmuted on our end. Here in spirit. Okay. I'll keep going while we work on Commissioner Turner's audio. Commissioner KC? Commissioner Ott is not going to join us today. Commissioner Visher?

**Michael Visher:** Here.

**Sheryl Fontaine:** Commissioner Wasley is also unable to be here. Commissioner Sullivan?

**Adam Sullivan:** Here.

**Sheryl Fontaine:** And Commissioner Smith?

**Tom Smith:** Here.

**Sheryl Fontaine:** Thank you. With that, we do have a quorum.

**Tom Porta:** Very good. I'd like to wait until we get Mark's audio straightened out here.

**Sheryl Fontaine:** We-

**Mark Turner:** Can you hear me now?

**Sheryl Fontaine:** Yes.

**Mark Turner:** Hello. Alright.

**Sheryl Fontaine:** Perfect.

**Tom Porta:** Very good. Can you hear us, Mark?

**Mark Turner:** Yes.

**Tom Porta:** Good. Good. Alright. We'll go ahead and begin. Sheryl, I'd like you to have or, give a brief, brief on housekeeping rules with our virtual meeting today so everybody is clear on how to proceed and how to check in with the Commission and ask questions.

**Sheryl Fontaine:** Perfect. So, right. Virtual meetings can be a little awkward, especially since this is my first one and Jessica's as well. So, hopefully these items will help make the meeting a little bit smoother. First, if you are participating through Lifesize, if you would please mute your microphone and keep it muted for the entire meeting unless you're speaking. In case you're not familiar with it, there should be a little microphone icon on the bottom left of your screen. If you click on that so that there's a line through the microphone, that indicates that you're muted. I, we are able to mute you on this side, but it will be easier for us if you do that on your end. If you've called in, please do not mute the microphone on your phone. Leave it unmuted and we will mute you on our end. For the public comment period, again, if you're using Lifesize and you'd like to comment, please raise your hand electronically by clicking the icon that looks like a little hand on the bottom right of your screen. If you've called in, we will call

out the last four digits of your phone number and ask if you have a comment. If you do not have public comment, please say 'no' and we will move on to the next number. For providing public comment, before you make your comment, please state your name and who you are affiliated with so that we can make sure we have it properly recorded. Lastly, for the commissioners, during the discussion period, if you would like to make a statement, please also raise your hand electronically and we will call on you so that we don't have people speaking over each other for the transcription. I think that wraps up our housekeeping items, unless, Chairman Porta, you have something else?

**Tom Porta:** No. That will do it. Thank you. I'd like to ask now, are there any changes or revisions to the agenda?

**Sheryl Fontaine:** No, sir.

**Tom Porta:** Okay.

**Michael Visher:** Commissioner, I just have, um Chair, I have one comment with regard to the agenda.

**Tom Porta:** Go ahead, Mike

**Michael Visher:** Sorry, not the agenda. I'm sorry.

**Tom Porta:** Okay. Alright. We'll move into item number two then on the agenda. Public comment, this is a time for the public to provide comment to the Commission on any matters other than which are listed on the agenda. So, if you have a comment about something you'd like to share with the Commission, please raise your hand and Sheryl or Jessica will call upon you to provide your public, public comment. We will have public comment during each of the agenda items for those specific items. So, if you have a comment on those, please wait. But if you have another comment that's not related to the agenda item, please raise your hand now and provide your comment.

**Sheryl Fontaine:** I don't see any raised hands.

**Tom Porta:** Okay. Thank you. Alright. Moving on to agenda item number three, the approval of our minutes from our December 17, 2021 meeting. Do we have any changes, corrections, or comments concerning the approval, or the approval of these minutes from the commissioners?

**Michael Visher:** Yeah. I've got one comment Mr. Chair.

**Tom Porta:** Go ahead, Mike.

**Michael Visher:** Just there's two additional staff that need to be added under NDEP, Sig and Rick. And then there were three DMV staff that were present as well and their

comments are in the meeting minutes as well. So, I just want to indicate them as being present at the meeting.

**Sheryl Fontaine:** Thank you.

**Tom Porta:** Thank you, Mike. Any other comments or corrections to the minutes from our meeting in December? Alright. Seeing none, I'll call for a motion to approve the minutes.

**Kathryn Landreth:** This is Kathryn Landreth. I will approve the minutes of the December meeting, move to approve.

**Tom Porta:** Okay. Is there a second?

**Mark Turner:** Mr. Chairman, Mark Turner for the record, I will second.

**Tom Porta:** Alright. It's been moved and seconded for approval of the December 17, 2021 minutes. Any discussion? Seeing none, I'll call for a vote. All those in favor?

**Male/Female Speakers:** Aye.

**Tom Porta:** Is there any opposition? Alright. The motion passes for approval of the minutes. Alright. Moving on to agenda item number four, Air Penalty Assessments. The first one we have is for JCR Development. And I assume we have someone from the Division to make a presentation.

**Danilo Dragoni:** Good morning, Mr. Chairman, members of the Commission. My name is Danilo Dragoni. I'm the chief of the Bureau of Air Quality Planning with NDEP. Today with me are Andrew Tucker, supervisor for the enforcement branch, and Kalin Ingstad, member of the enforcement team. So, the first recommended penalty is for JCR Development NOAV number, I apologize, 2875. Before actually having Andrew and Kalin describe the enforcement case, I just want to add that for this enforcement case, we just followed the standard procedures for any enforcement case. We investigated the alleged violation. We issued notice of findings. We have an enforcement case. And we issued a final notice of violation, which was not appealed. With that being said, I'll let Andrew start introducing the case.

**Andrew Tucker:** Andrew Tucker for the record. As Danilo said, first, I'll be discussing for JCR Development under NOAV number 2875, the penalty recommendation of \$6,800. This is for failure to apply and obtain operating permit with 14 emission units. Before going into the details of the violation and the enforcement process, I'll give a little bit of history of that permitting, permitting history of JCR. JCR currently holds two Class 2 general air quality operating permits with NDEP one is for a stationary concrete batch plant in Ely, Nevada. The second is for a Class 2 general permit for temporary sources under which JCR has obtained change of location approval to allow operation courtesy of locations in the past. Now, into the specifics for this violation. On July 21, 2021,

NDEP staff observed fugitive dust coming from operations associated with aggregate handling equipment located approximately 0.9 miles south of the intersection of Highway 93 and Industrial Way in Ely, Nevada. NDEP staff stopped at the facility, to talk to the operators about addressing the fugitive dust issues and found that JCR Development was operating the equipment. If you like a little better of where this is located, there's a map included towards the back of the presentation packet that was provided. After returning to the office, NDEP staff became aware that 14, that the 14 emission units that were observed to be operating onsite were not permitted under either of JCR's permits and NDEP staff reached out to JCR to inform them that equipment was not permitted. NDEP sent a letter of alleged findings and an order to appear for an enforcement conference. The enforcement conference was held to provide an opportunity for JCR Development to provide evidence to show cause why NDEP should not find the company in violation of operating without a permit for fugitive dust. During the enforcement conference, JCR Development stated the equipment had been onsite or had been operated at the site from July 5, 2021 until August 5, 2021. Photos depicting some of the unpermitted equipment were provided on pages 5 and 6 of the presentation packet. JCR was unable to show cause why NDEP should not issue NOAVs for both violations. So, NOAVs number 2875 and 2876 were issued on December 13, 2021 and delivered by certified mail on December 20, 2021. Neither of these companies, neither of the NOAVs were appealed. The NOAV issued for the fugitive dust was for minor violation subject to administrative fines specified in Nevada Administrative Code 445B.281. So, penalty recommendations were not made before the State Environmental Commission. NDEP's penalty recommendation today is only regarding the unpermitted equipment under NOAV number 2875. Unless there are questions, I'll turn things over to Kalin to go over any penalty calculations.

**Kalin Ingstad:** Kalin Ingstad for the record. Regarding the compliance status for JCR, they do not currently have any other compliance or enforcement actions against them. The facility has not applied for a change of location approval at that site, but the facility has claimed they are no longer operating there. Now, I'll go through the penalty calculation worksheet for the violation. The base penalty from the penalty matrix for failure to apply for and obtain an operating permit for a Class 2 general source is \$1,000 per major processing system. The Class 2 general penalty was chosen because that's what the unpermitted equipment would have been permitted under. In this case, there are no deviation factors applied to determine the, excuse me, the total gravity fine. There's \$1,000 base penalty multiplied by the number of weeks, which was four, and multiplied by the number of systems, which was one, equaling a total gravity fine of \$4,000. Economic benefit was applied to this case because of the avoided costs for not applying for and paying for a COLA. A COLA cost \$200 per emission unit, and there were 14 emission units, equaling \$2,800. The subtotal is determined by adding the total gravity fine of \$4,000 to the economic benefit of \$2,800, equaling \$6,800. And as there weren't any additional adjustment factors applied here, the total recommended penalty is \$6,800. And this completes our penalty presentation for JCR.

**Tom Porta:** Thank you. Do we have any questions from the commissioners? Alright. Seeing no hands raised, before we bring this back to the Commission for approval, I'd

like to have our AG, Asheesh Bhalla, give a brief explanation of our new process to approve these penalties. As some of you recall, we had one of our approvals remanded by the courts and that was remanded back to us for procedural errors that had occurred. And so, Asheesh, if you could give us a brief on the approval process and I hope every Commissioner did receive their email which had the finding of fact, conclusion of law from Sheryl. If you did not receive those, please let me know now. If not, go ahead, Asheesh. Please give us a brief on how this process should work from now on.

**Asheesh Bhalla:** Thank you, Mr. Chairman. Are you able to hear me now?

**Sheryl Fontaine:** Yes.

**Asheesh Bhalla:** Perfect. Thank you. Thank you, commissioners. So, as the chairman mentioned, we did previously have a remanded matter back to the Commission. You know, from my point of view, it's not really because there was an error necessarily in our process, but because our process was not as clear as they possibly could be for the court on reviewing the documentation underlying the determination by the Commission. As such, we have determined that just a new formalized process of presenting the NOAV to the Commission is in order to make sure that the findings of fact, conclusions of law, and discipline are all clearly documented in a proposed order, which you all should have received. This really just lays out the procedural facts regarding the respondent, when the NOAV was issued, the fact that it is incorporated in the underlying exhibit, the fact that the NOAV constitutes a major violation, and the time periods for when the appeals of the underlying administrative matter have been told. And so, or have expired, excuse me. And so, at this point, there is really no need for the Commission to review the underlying allegations. An investigation has been completed and the penalties have been proposed by the Division to the Commission. So, it's really a matter of formality for the Commission to approve the procedure and to ensure that due process was carried out in accordance with the state's statutes. And so, I think that is as much as I'd like to say right now on the brief, unless, Mr. Chairman, you'd like me to add any more clarification.

**Tom Porta:** Thank you, Asheesh. I think for purposes of a motion being made on these violations, I believe we need to do it in three separate motions. One, the first one is for the finding of the fact approval. And then second one is for the conclusion of law and approval of that. And then the last one is the approval of the penalty amount. And correct me if I'm wrong, in making the motion, we can simply refer to the order documents and the paragraphs for those motions being made. Is that correct?

**Asheesh Bhalla:** That is correct, Mr. Chairman. I also wanted to note that it is up to your discretion. You could take one vote on the proposed order as it is very thoroughly laid out that there are separate findings of fact and conclusions of law. Given our new documented procedure, the Commission could do that. But it is up to your discretion, sir.



**Tom Porta:** Okay. Well, I am all for simplicity. So, we can narrow it down to one vote. But in the motion, it must make clear finding of fact, conclusion of law, and then penalty amount. So, okay. With that, do we have any questions from the Commission about that or do we have questions about the penalty before us for JCR Development?

**Kathryn Landreth:** Mr. Chair, this is Kathryn. Just so I'm clear with the motion. We do not need to add the NOAV 2875, right, because that is a \$500 minor violation?

**Tom Porta:** Yeah. Minor violations are collected and the authority falls under the division to collect those. Only major violations like the one we're hearing for, with the \$6,800 is considered a major violation. Those are, have to be approved by us.

**Kathryn Landreth:** Thank you.

**Tom Porta:** Any other questions or concerns regarding JCR Development? I'm not seeing any hands raised. So, I will entertain a motion.

**Kathryn Landreth:** Mr. Chairman, I think if there's nobody representing JCR present.

**Tim Porta:** Is anyone on our line today or participating from JCR Development that has a comment?

**Sheryl Fontaine:** Please raise your hand if you're trying to speak and we're not hearing you. You may be muted on our end.

**Tim Porta:** I'm not seeing any hands raised. Are you, Sheryl?

**Sheryl Fontaine:** No.

**Tim Porta:** Okay. Alright.

**Kathryn Landreth:** Then I would move this, Mr. Chair, I would move approval of the findings of fact, conclusions of law, and decision related to NOAV 2875.

**Tim Porta:** Thank you, Kathryn. Is there's a second?

**Tom Smith:** Yes. This is Tom Smith. I second the motion.

**Tom Porta:** Thank you. Any discussion?

**Kathryn Landreth:** I would, Mr. Chair, this is Kathryn again. I would just like to note the change and, I think improvement, in the letter sent to the person or company that is subject to this alleged violation, I think the letter form has been much, much improved. I appreciate that. It includes, I think, the maximum penalty. So, with, it's very clear that any party is on notice and if they do not respond, they're subject to whatever penalty falls in that category.

**Tom Porta:** Yes. I agree. Thank you, Kathryn. Any other comments on the motion before us from the Commission? Seeing none, I'll call for the vote. All those in favor, say aye.

**Male/Female Speakers:** Aye.

**Tom Porta:** Do we have anybody in opposition? Seeing none, the motion passes. And moving on to our next agenda item for Premier Magnesia.

**Danilo Dragoni:** Good morning, again, Mr. Chairman. This is Danilo Dragoni for the record. The second recommended penalty is for Premier Magnesia is NOAV 2886. And again, I will let Andrew and Kalin describe the case. But again, also in this case, I just would like to say that we followed the standard process for the enforcement case. We did investigation of the issue a letter of findings. We did have an enforcement conference. We issued a final notice of violation and, which was not appealed by the company. So, that violation is final. And with that, I will let Andrew and Kalin describe the case.

**Andrew Tucker:** Andrew Tucker for the record. Danilo mentioned this penalty that's being recommended is for Premier Magnesia for Notice of Alleged Violation number 2886. The penalty being recommended is \$5,000. A little background on, Premier Magnesia is, Premier Magnesia operates a magnesium bearing mineral mine and processing facility located in Gabbs, Nevada. A map is provided with location of the facility in the presentation material. Premier's operated, facility operates under a Class 2 Air Quality Operating Permit issued by NDEP on January 19, 2016. The violation that we're talking about is for an opacity violation, which was initially discovered on August 12, 2021 when NDEP staff conducted an inspection of Premier's facility. During the inspection, EPA Method 9 Visual Emissions Observations were conducted on both the number five calcining furnace and the M63 elevator discharge. These VE, VEOs, which is visual emission observation, revealed that the average opacity for the calcining furnace was 36% in the average opacity for the M63 elevator discharge was 33%. Both units were limited in the opacity they could emit to 20%. This is a permit condition as well as a regulatory limit under Nevada Administrative Code. On November 5, 2021, NDEP issued a letter of alleged findings and order to appear to an enforcement conference to discuss the alleged findings of noncompliance identified in the letter. The enforcement conference was held December 2, 2021 and Premier was unable to show cause why NDEP should not issue a NOAV for the findings. NOAV number 2886 was issued December 20, 2021 and was delivered by certified mail on December 27, 2021. NOAV number 2886 was not appealed. Unless the Commission has any questions, I will hand things over to Kalin to go through the compliance, compliance status and penalty calculation.

**Kalin Ingstad:** Kalin Ingstad for the record. Regarding the compliance status of Premier Magnesia, they do not currently have any other compliance or enforcement actions against them. The company informed NDEP that they were working on fixes to

their equipment to mitigate opacity limit exceedances in the future. Now, I'll go through the penalty calculation worksheet for the violation. The base penalty for a failed method 9 visible emission observation is not specified in the penalty matrix. So, the default penalty of \$1,000 as specified in the penalty calculation worksheet is used for failed opacity. A deviation factor was applied for the volume of release for opacity. The deviation factor was determined to be 2.5 based on the guidelines for the calculation worksheet, which state that a medium amount of volume of release is any opacity greater than or equal to 30%. And as Andrew mentioned, the opacities for the two systems were 36% and 33%. The adjusted base penalty was determined by multiplying the base penalty of \$1,000 by a deviation factor of 2.5 equaling \$2,500. The total gravity fine is then determined by multiplying \$2,500 by the number of events, which was just one, and then by the number of emission units, which was two, equaling \$5,000. Economic benefit was not applied and there were not any additional adjustment factors applied. So, the total recommended penalty is \$5,000. That concludes our penalty presentation for Premier.

**Tom Porta:** Thank you. Questions from the commissioners? Alright. Seeing none, do we have anybody from Premier Magnesia who would like to comment or discuss this violation? Alright. I'm not seeing any hands raised. So, I'll bring it back to the Commission for discussion. Alright. Nobody has any questions or concerns. So, I guess, I'll go ahead and ask for a motion concerning the Notice of Violation and finding of fact, conclusion of law, and the penalty amount for Premier Magnesia.

**Jocelyn Torres:** This is Commissioner Torres. I'll motion to approve the findings of facts, conclusions of law, and penalty for this case.

**Tom Porta:** Thank you, Jocelyn. Do we have a second?

**Jason King:** Mr. Chairman, Jason King for the record, I would second that.

**Tom Porta:** Alright. We have a motion and a second. I'll ask for a vote. All those in favor, say aye.

**Male/Female Speakers:** Aye.

**Tom Porta:** Any folks in opposition? Alright. Passes unanimously. Thank you. Alright. Moving on to our next agenda item. I guess we have a presentation or discussion regarding the air penalty matrix and some updates. So, [inaudible] from the Division?

**Sheryl Fontaine:** Yes. I am going to go ahead and share my screen so that they can-

**Danilo Dragoni:** That will be fantastic. Thank you, Sheryl. This is Danilo Dragoni for the record. We are just waiting for the presentation to be shared on the screen. But I believe all the commissioners should have a copy of the presentation that we are going to present today.

**Sheryl Fontaine:** You're up, Danilo.

**Danilo Dragoni:** Oh, thanks. Okay. Danilo Dragoni again for the record. So, today, we are, we are, we're going to introduce to the Commission, to the commissioners initiative a) to review and potentially revise the methodologies that the, the, the Division uses to calculate and recommend the penalty to the Commission. And of course, we are looking for the Commission's feedback and support. Next and next, sorry. So, just a brief introduction. As we all know, it's, it's the prerogative of the commission to issue penalties for violation of the air quality program. The Division and NDEP staff calculate and present recommended penalties and we do that by using what we call the penalty matrix, penalty matrix, which is a, this is an ensemble of tools, tables and methodologies that we use to calculate and present the recommended penalty. The intent of this penalty matrix is to guarantee consistency when we, you know, recommend penalties so that we have, again, consistency across the possible range of all the violations that, that we see. The penalty matrix in the document describing the penalty matrix and the doc, and the methodology is available online. And I believe that the last time there was any significant change to this methodology was in 2010. So, the Division kind of decided that maybe it was time to take a look at the penalty matrix again and see if it's working and when it's working, when it's not working, and what we could do to improve it. Next. So, how are we gonna approach this initiative? The first goal, of course, for us would be to identify cases or situations where the current penalty matrix doesn't work very well, and what can be done to improve it. But also we would like to engage the stakeholders and the community to achieve a better understanding on how the industry, for instance, sees the penalty matrix and the communication and the expectation related to violations. Also, we would like to, again, perform a robust outreach to the, to our communities to verify what the impact, especially, of these recommended penalties, especially on small business, small businesses, excuse me, and finally, we would like to engage the public to potentially, you know, engage them and get feedback on what, for instance, if you're missing something, if you're missing communities, or any, any, any members of the public have feedback. Next. So, what in our perspective are the challenges under the existing penalty matrix? Well, the, the magnitude of the calculated penalties, in our opinion, doesn't always appear to correspond to the severity of the violation. Sometimes they might be too high. Sometimes they might be too low. Section, as I mentioned, the penalty hasn't been changed since, significantly changed since 2010. So, section of the penalty matrix might need to be updated. There are few things that maybe the penalty matrix might not be able to account like, for instance, the potential impact of, on air quality and for them or other factors like the proximity to populated areas or sensitive communities. And finally, we, we probably think there is some, some mismatch between the, the NAC and in particular the portion of the NAC that describe the penalties for the minor violation and the penalty, penalty matrix itself. So, we are looking for, potentially to kind of harmonize better the two tools. Next. So, this is, the next two graphs are kind of trying to provide an idea about why, you know, quantitatively, why do we believe that the penalty matrix might need to be changed. And the first graph is intended to provide a brief overview of the, of the type of facility that we are dealing with. And this is for,

what we call, Class 2 facilities. So, members of the commission, I remember we have two different classes of facilities, Class 1 and Class 2. The, in a nutshell, the difference between Class 1 and Class 2 are the potential to emit. The threshold being 100 tons per year of any, any criteria pollutant. So, when a facility asks for a permit, if they're above that threshold 100 tons per year, is a, they, they usually obtain a Class 1 permit, with completely different set of provisions and, and, and limits. But what we're discussing today is about the Class 2, so those that are below that threshold. And the graph is basically describing the distribution of potential to emit with, with respect to the number of facilities. So, the Y axis is the potential to emit, expressed in tons per year. And the number, and the X axis describes the number of facilities that falls under that specific bins of potential to emit. You can see that overall we have a little bit more than 200 facilities that have a permit, a Class 2 permit. But of those 200, if you look at the top bar, about 20, about 20, 25 are, have a very high potential to emit, between 80 and 100. Remember 100 is the limit. And then if we go down to the graph, to the, to the lowest bar, those are the facility that have a very low potential to emit, which is less than 25. And we do have about more than a hundred facilities that fall under that, under that category. So, it's a big kind of divide between very large facilities that have a potential, a very, a very high potential to emit and a very large number of small facilities that have relatively low potential to emit. So, that's, that's one of the things that we want to address with potential distribution of the penalty matrix. Next. So, this second slide, this second graph actually focused on three examples of facilities that belong to the highest category of PTEs, between 80 and 100 tons per year. So, what we are showing here is the difference between what we call controlled emissions and uncontrolled emissions. Many of those facilities that belong to the 80 to 100 category, so those large facilities, come to us and ask a reduction in their limit, permitted reduction in their limit so they can fall below the 100 threshold and belong to the Class 2 permit. There are benefits in belonging to Class 2 benefit, Class 2 permit compared to a Class 1 permit. But because they are asking for this reduction, what we're showing here for the three examples is what their, their uncontrolled emissions would be. And I apologize I cannot see the, from here the slide. But I believe that we're taking about overall a, you know, an increase of over 10-fold between permitted controlled emissions and uncontrolled emissions. And this is very important because any time we have a potential violation in these facilities, every time a control is not working properly, every time a limit is not met or every time a throughput is not, a throughput limit is not met, we go most likely from a controlled situation to an uncontrolled situation. So, we go from very controlled emissions to potentially very high uncontrolled emissions. So, that's where we want to work in reviewing the penalty matrix to tackle this situation where facilities like these three cases potentially have or might have a very high impact on air quality if, if they're not working, if they're not respecting the limit in their permit. On the other side, we want to also, you know, look at those very small facilities, the low bar, the 125 facilities that really are very small facilities with very little potential to emit and those are very two different classes of facilities. Unless there are questions, we'll then let Andrew continue the presentation.

**Tom Porta:** Danilo, this is Tom. I have one question. So, by being a synthetic miner and getting a Class 2 permit, these facilities have also, have also avoided a lot of cost

and time, I, I suspect, getting, getting a Class 1 versus a Class 2. So, by getting a Class 2, they've averted, you know, and rightfully, you know, it's within the regulations to do so. They averted, averted a great cost and also time with regard to getting a Class 1 permit. Is that correct?

**Danilo Dragoni:** That's absolutely correct. And you're totally correct in saying that this is absolutely a legal situation. This is allowed by the regulation. They can choose to have a limited permit to fall down on Class 2 instead of Class 1. Right. You're absolutely correct.

**Tom Porta:** Okay. Thank you. Any other questions for Danilo from the Commission?

**Adam Sullivan:** I have a question for Danilo. This is Adam Sullivan. How many Class 1 facilities are there?

**Danilo Dragoni:** I believe there are in the range of 50, 50 facilities that have a Class 1 permit, 50, 55.

**Adam Sullivan:** And this question might be for Mr. Tucker also. But how large is your staff who are responsible for administering the penalty matrix?

**Andrew Tucker:** So, Andrew Tucker for the record. As far as we're working on the penalty matrix, presenting penalties, enforcement staff, myself and we have two positions under me, one is Kalin and then the other position has recently become vacant, we are working on filling that position. And as far as the compliance evaluation of facilities and that, that is taken on by our compliance branches, so the major source and minor source compliance branch. The major source compliance branch has a supervisor and two staff under it, and the minor source compliance branch has a supervisor and four staff under them that cover all the State of Nevada except for Clark and Washoe Counties.

**Adam Sullivan:** Thank you.

**Tom Porta:** Any other commissioners have a question before they move on? Alright. Seeing none, please proceed.

**Andrew Tucker:** Andrew Tucker for the record. Move to the next slide, please.

**Sheryl Fontaine:** Yes. On my screen, it's, we're on the next slide. Let me see if I can stop sharing and then re-share my screen here. I apologize. We're struggling a little bit here. One moment.

**Andrew Tucker:** If you'd like for us to wait for the presentation to come back up or if you'd like we can move forward.

**Sheryl Fontaine:** Up to you. Yeah. Everyone has the slides. Well, the commissioners, I should say, have the slides in front of them. So, if you want to go ahead while I let you, I'll leave that up to you while I struggle with this.

**Andrew Tucker:** Alright. So, the penalty matrix, you know, has provided a useful tool for like consistency and transparency for penalty recommendations. But as Danilo mentioned earlier, there are still some challenges that we hope to address through revision of the penalty matrix. We're aiming to have penalties that serve as a deterrent but better align with actual facts on air quality and account for the kind of wide variety of factors that affect the impacts of that noncompliance. To the next slide.

**Sheryl Fontaine:** Just about there.

**Andrew Tucker:** Yes. Slide number 9 is where we are now. So, the first area that we're kind of looking at for potential changes is how the base penalties are determined. The methodology under consideration would categorize sources based on their ability, their ability to adversely impact air quality instead of basing it solely on the permit type as the current matrix does. The categorization of sources for the base penalty is kind of the foundation of the methodology for calculating penalties and I'll kind of cover that a little bit more, in a little bit more detail later on. Other areas that we are considering changes in is how penalties for things like failure to maintain controls and recordkeeping and monitoring violations are calculated. Sometimes these ongoing violations can tend to have very high penalties to the point where they actually exceed a company's ability to pay. We're also considering modifiers that are being considered to further tailor penalties to the impacts of noncompliance, putting impacts on sensitive receptors for environmental justice considerations. Additionally, we're looking at possibly adding modifiers that would take into account the timeliness of corrective actions and potentially for penalty reductions for self-reporting violations when there's evidence that corrective actions were completed expeditiously and that the corrective actions were effective in resolving those issues. Move to the next slide. So, we, here, we have an example of a possible change to the classification of sources where determining base penalty is. On the left side, it breaks down the current methodology grouping them by permit type with no real regard to the source of potential to emit or the extent of surface area disturbance permitted under the permit. On the right it shows a possible scheme for categorizing sources that accounts for potential to emit and surface area disturbance acreage. This type of approach would allow for the differentiation in penalties between the small Class 2 sources Danilo mentioned or that are in, you know, that 25 tons or less of potential to emit for any given pollutant. You know, some of these sources maybe just big enough to be required to have a permit and then, you know, having different penalties for, you know, those small sources that have minimal ability to affect air quality but then also kind of being able to have higher penalties for those very large sources that, you know, failure of controls or, you know, failure to comply with some of the conditions of permit may push the emissions up into where, you know, they would normally be a Class 1 source. So, and I'd like to point out that the dollar amounts listed in the slide are there just to kind of help convey a general idea, but not necessarily represent values that we are considering for, you know, potential categories, you know,

potential [inaudible] So, you know, here, we have example base penalties that's based off of the size of the source and the severity of the violation, each column represents a grouping of violations of similar severity and each row represents a group of sources with similar abilities to impact air quality. Under this kind of base penalty structure for violations, minor issues, such as small-scale recordkeeping issues, monitoring or reporting issues would fall under the column for minor impact of deviation, issues such as failure to maintain controls would fall under the moderate category, and issues such as operating without a permit or a failed source test would fall under major impacts of deviation. Using a kind of a more generalized approach for the categorization of these penalty groupings, an approach like this could have provisions where it's kind of well-defined but would allow for certain types of violations to move to a higher base penalty or lower base penalty, depending on the severity of the violation. For example, if you have kind of a facility that would fall under the significant category, if they have, you know, say a couple of months' worth of missing records, we might be able to say, okay, you know, this is a significant deviation of requirements that it warrants going from a minor, not a minor violation, but minor impact to a moderate impact and with a base penalty going from \$500 to \$1,000. Conversely, you have a facility that maybe failed a source test, you know, but this example kind of a complex facility on this table, you know, normally that would fall under the \$3,000 base penalty but say that failed source test was only for a small exceedance of the permit limit and it was on an emission unit that has a relatively low ability to emit. You know, maybe the facility has 100 or, you know, 80 tons a year worth of emissions possible. And we're talking about an emission unit that, you know, maybe emits a ton a year, something like that. The penalty could potentially move down a category because the impacts from that individual source not meeting the requirements is not as great as the, you know, some of the other sources at the facility. Are there any questions at this point before we move on?

**Sheryl Fontaine:** Mike Visher has his hand raised. Mike, I think you can unmute yourself.

**Michael Visher:** Yeah. Mike Visher for the record. A question with regards to -the proposal for the baseline. You had less than 25 tons per year and less than 100 acres. Is there a reason why you don't have a bottom number that has to be exceeded before it falls in there you just have "less thans"?

**Andrew Tucker:** So, the, the lower bound on that could be specified. But we would be talking about sources that would have to be permitted by NDEP. And so, that sort of provides the lower bound for most of the pollutants, the criteria pollutants is about 10 tons per year, but there are some of the pollutants that have a higher minimum threshold for requiring a permit. Off the top of my head, I believe, for volatile organic compounds, the emission limit is, the emission limit is 40 tons. And so, kind of, just using [less than] in that case kind of covers the varying kind of entry points for permitting based off of the potential to emit. And just kind of provides a little bit simpler of an explanation on it, I guess, than saying, you know, between 10 tons and 25 tons if you're this pollutant or that, you know, 20 tons and 25 tons for that, something like that. Does that make-



**Michael Visher:** Yes?

**Andrew Tucker:** -makes sense? And then-

**Michael Visher:** Yes.

**Andrew Tucker:** -as far as for the acreage for surface area disturbances, anything over five acres would have to be permitted per the NAC. But the kind of distribution of those is loosely based off of how the charge for permit maintenance fees, the groupings for that, just as kind of somewhat, somewhat arbitrary grouping but just to, kind of for illustrative purposes, to kind of show how it might be broken down. None of the break points or anything at this point have been set. Obviously, you know, we're still in the process of, you know, working on this. And you know, we have yet to, you know, do the outreach to industry and community and the various stakeholders.

**Michael Visher:** Okay. Thank you for the clarification.

**Andrew Tucker:** Sure. Are we good or any additional questions?

**Sheryl Fontaine:** No additional hands raised.

**Andrew Tucker:** Alright. Andrew Tucker for the record. We can move on to the next slide. So, as Danilo mentioned before, you know, we're kind of exploring a kind of addendum to these possible changes to the regulations to kind of make sure things line up and work well, together well. Some changes being considered are for the minor violations, which allow, you know, for effective improvement or to improve clarity in the regulations where there's a little bit of ambiguity or inconsistency. Examples of some of the regulations that we made minor adjustments for fugitive dust, recordkeeping, monitoring, and change of locations. Then there's some, you know, other regulations that they're looking at that maybe need a little bit more work, because they're difficult or nearly impossible to effectively enforce on and those would be, examples like the odor regulations. Let's move to the next slide. Alright. To kind of give you an idea of the timeline that we're looking at on this. We're aiming to work through the outreach with industry and stakeholders community, review feedback and draft changes for the penalty matrix and potential regulatory changes in the first half of 2022 and potentially proposing changes to the penalty matrix and regulatory changes in the second half of 2022. Next slide, if there's any questions, I'm happy to answer them for you.

**Tom Porta:** Any questions from the commissioners? Thank you, Danilo and Andrew.

**Sheryl Fontaine:** Jocelyn Torres, Jocelyn Torres. I'm sorry, Chairman Porta. Jocelyn Torres, had her hand raised just for a minute.

**Tom Porta:** Yes, go ahead, Jocelyn, I'm sorry.

**Jocelyn Torres:** Sorry, I the mouse double clicked and took it down. This is Commissioner Torres. I just had more about a comment on the presentation. I really like that it's changing to focus on impact because I feel like that, that opens up the opportunity for some of the modifiers that were mentioned, you know, particularly proximity to sensitive receptors and the environmental justice consideration because I think if you're looking at impact, then it's really easy to fold those in, versus if you were, you know, separating it by class, how it looked before. I appreciate that and, and see the line through it, so I just wanted to comment on that.

**Sheryl Fontaine:** And Mark Turner had his hand raised.

**Tom Porta:** Thank you. Yeah, go ahead Mark.

**Mark Turner:** Yeah, thank you, Mr. Chairman. Mark Turner for the record. I just wanted to kind of add on to Commissioner Torres' comments. I think that the impact is important, and you know I understand that the Division has a tough job when we have a state that, probably has one of the widest dispersions of people of, of any state. We have permitted applications that happened literally in the middle of nowhere and then we also have permitted applications that happened in highly populated areas. And I do think it is important to somehow take that into consideration. I'm not sure exactly how you do it, but I do like the fact that's being looked at and I think it's important that impacts to people are factored in to, to these types of things. If it's something that happens out in the middle of nowhere, sometimes you scratch your head as to the severity of the impact and why we're doing this, and you got stuff that happens in the population center where we're very clear. So, that's all I have to say but I wanted to make that comment, so thank you.

**Tom Porta:** Other comments from the commissioners?

**Sheryl Fontaine:** There are no other hands raised.

**Tom Porta:** Okay. I'll have just a couple things regarding, you know the minor violations but correct me if I'm wrong but that table in the NAC, it having, it's got to be 30 or 40 years old with that matrix for minor violations, is that correct?

**Danilo Dragoni:** Danilo Dragoni for the record. I believe so. I see Jeff Kinder, yes, saying yes, so. We all agree, yes.

**Tom Porta:** Yeah, I see that being updated and, you know, I hope that you consider things, I can't remember that matrix exactly but, you know, other things that clearly should fall into the minor maybe being added to that minor table. I would recommend that, and then also my last comment would be that I hope the Division might want to look to maybe other similar states and see what penalty type matrix that they have would be useful as you move forward. So, those are my only comments. Are there any other commissioners, questions, or comment before I open it up to the public? This is a

discussion item only. Okay, seeing none, I'll go ahead and open it up for public comment.

**Sheryl Fontaine:** Okay for the public comment, I'll wait and see if there are any hands raised in the room. Any public comment from the room? And then, if you are, if you have, if you joined via Lifesize and are not on your phone, if you would raise your hand if you're a member of the Lifesize group that would like to make a public comment. I see no hands raised. I will go through and read off the last four digits of the phone numbers that have just called in. If you have a public comment and you are on your phone, when I read the last four digits of your number, please go ahead, and say you either have a comment or you don't. We do have two, last digits 7101 from the Bryan Building. Do either of those have public comments? OK, hearing none, I have a phone number last four digits 9282. OK, hearing none, I've got the last four digits of the phone number 1935. Hearing none, I have one last call-in member with the last four digits 6821.

**Male Speaker:** Yeah, thank you.

**Sheryl Fontaine:** Did you have a public comment? We'll assume no comment from 6821. That concludes the call-in numbers, Chairman Porta.

**Tom Porta:** Alright, so I think that will conclude the presentation for agenda item 6, thanks to the Division staff for that and look forward to what you bring forward to us in the future here on this.

**Danilo Dragoni:** Thank you.

**Andrew Tucker:** Thank you.

**Tom Porta:** Okay, moving on to our regulatory petition, agenda item number 7, permanent regulation petition R085-21.

**Rick Perdomo:** I think we have a presentation that will...

**Sheryl Fontaine:** Yeah, they've got a presentation. I'm going to go ahead and share my screen.

**Rick Perdomo:** Now, we can navigate using it.

**Sheryl Fontaine:** No, it will go, it's just some of these pressing right here.

**Rick Perdomo:** Perfect great. Good morning, commissioners. My name is Rick Perdomo. I'm a Deputy Administrator with NDEP and I appreciate the opportunity this morning to present permanent regulation, R085-21, which amends NAC Chapter 519A to include regulations implementing AB 148 which is commonly referred to as The Bad Actor Statute and was adopted during the 2021 legislative cycle. Next slide please. This presentation is structured as follows. I will summarize why the regulations are

before you today and what they intend to achieve, provide an overview of the regulation drafting process, which includes both formal and informal rulemaking. I'll offer a summary of the material for important sections of the regulation, address notable public comments received during the rulemaking process, and I can respond to any questions that the Commission may have. And I will say I welcome questions at any time during the presentation, so there is no need to wait until the end of the presentation to ask them. Next slide please. So, the first piece of this presentation is why R085-21 is, before you today and what its goals are. And the first issue is need. The regulation takes what is in statute and provides clear regulatory standards for satisfying the affidavit requirement which is part of complying with AB 148. And part of that is including the definition of good standing which is the statutory standard on which the affidavit is based. The second part is the purpose of R085-21 and it really has three main goals. The first is to provide the regulated community with clear direction for satisfying the affidavit requirement, provide the Division with evidence to support a decision as to whether or not the applicant or operator applying for a permit is in default on a regulatory, a reclamation obligation in Nevada or is not in good standing with other state agencies or federal agencies. And the third piece is to provide the public with assurance that the Division is not granting permit to applicants or operators that are not in good standing in other states or, or in default in Nevada. Next slide. So, the next piece of the presentation is to just provide a general summary of the rulemaking process and I will note that the timeline that I'm going to provide here is substantially similar, if not completely similar to R086-21 which will be presented next. So, in August and September of 2021, I completed an initial draft of these regulations that are before you today and they were sent to approximately 284 stakeholders that are on the Bureau of Mining Regulation and Reclamation e-mail listserv which includes individuals from the business, businesses from the regulated community, interest groups, and interested parties. After these regulations were sent out via the listserv, NDEP held meetings with Nevada Mining Association, Coeur Rochester, Great Basin Resource Watch, and Progressive Leadership Alliance of Nevada. In October 2021 we received initial feedback on the draft regulations. I made revisions to the draft regulations based on the comments provided to me during those meetings and the draft regulations were sent to the SEC on November 12, 2021, with a small business impact statement. The SEC forwarded the regulatory package to LCB or the Legislative Counsel Bureau on November 21st, 2021, and the Legislative Counsel Bureau published the initial draft of the regulation in the Nevada Register on November 22nd, 2021. NDEP provided notice of public workshops on December 17th, 2021, and NDEP provided a link to a small business impact survey in that notice and incidentally the NDEP also provided the survey at the public workshops which I will discuss next and no surveys were returned to NDEP. Next slide please. NDEP held an in-person public workshop on January 4th, 2022, and a virtual workshop on January 6th, 2022. During these workshops, I provided a presentation of R085-21 and I received and responded to questions and comments from the public. Total attendance for the workshops was 13 and 59, respectively. The Legislative Counsel Bureau published its draft of the regulation on January 9th, 2022. NDEP continued to receive comments, written comments, up to January 21st, 2022. Notable comments and NDEP's response will be discussed later in the presentation but it is important to note at this time that R085-21 had a green line edit as a result of public

comment on the draft regulation. And for your reference, a green line edit is an edit to the regulation made between the time LCB published its draft of the regulation and the date of this hearing. And the green line edit to the regulation is provided in your packet for review. Next slide please. I would like to take a minute to provide just a very general overview of AB 148. AB 148 has three requirements. First, the statute prohibits the Division from issuing a reclamation permit to any applicant that has defaulted in this state or is not in good standing with the agency of another state, or a federal agency in relation to a reclamation obligation. Second, the statute grants the Division discretion to issue a reclamation permit if the applicant demonstrates that the default or issues that resulted in a lack of good standing had been remedied. The third piece is the statute requires the applicant to submit an affidavit to the Division which attests as to whether or not they are in good standing with an agency of another state and federal agency. These requirements apply to both exploration projects and mining operations, and to the individual applicant and corporate or business entity in the applicant including its persons who have controlling interest in the corporation or business entity. A person who has controlling interest is defined in the statute. I'm not going to repeat that for you today but importantly by statute, a person could be both an individual or business entity or corporation under Nevada Revised Statute. Next slide please. I would like to take a moment to provide an overview of the regulation itself. Section 2 defines a person who has controlling interest and it mirrors what is in AB 148. Section 3-1 contains the affidavit requirements. The first part is the affidavit must be on a form prescribed by the Division. NDEP provided a draft declaration in the SEC packet for informational purposes only and possible discussion but the form itself is not part of the regulatory package that's being voted on under the action item today. As for the form, it's designed as a declaration which is legally sufficient substitute for an affidavit under Nevada Statute. And the reason that it's designed as a declaration is that I decided to use this form because it is more simplistic to execute than an affidavit since it does not require the assistance of a notary public to execute it. It just requires the applicant or operator to just simply execute the declaration under penalty of perjury. The second piece to the regulation is it requires the applicant or operator to attest as to whether or not they have defaulted on any reclamation obligation to the state, and whether or not they are in good standing with agencies of other states and federal agencies related to reclamation obligations outside of this state. In the event there is a default, or the applicant is not in good standing, the applicant must identify the mining operation or exploration project, disclose the dates they were engaged in the project, and indicate whether the default or issues that were related to good standing have been remedied. Good standing is not a term that was defined in AB 148 and for the purpose of this regulation, an applicant or operator is not in good standing if they are currently subject to any settlement, consent decree, or any criminal, civil or administrative order or a violation of federal or state reclamation statute or regulation which is not appealable or has otherwise become final after exhausting all appeals or declining to appeal. I would like at this time to specifically call your attention to the green line edit to the regulation. Again, this green line edit was made between the time LCB published its draft on January 9th, 2022, and the date of this hearing. The section of the regulation that received the green line edit is Section 3-D2 and NDEP made these edits based on comments received from the Nevada Mining Association and Nevada Gold Mines. And

the green line edit deletes the text “has been from this section”, so that applicants or operators must only disclose those projects that are currently subject to a final settlement consent decree or criminal, civil, or administrative order or judgement. The comments from these parties indicated that a prior order or judgment that had been closed or otherwise resolved is not relevant to the termination of good standing. And NDEP found that as a default these projects did not need to be initially disclosed as part of the affidavit and that NDEP does have authority under the regulation to require an applicant or operator to include any other information required by the Division in the affidavit which NDEP believes provides them with enough flexibility to inquire about specific operations or exploration projects, if there is a concern as to whether it impacts NDEP's determination that the applicant or operator is in good standing. The next section is Section 3-2 which is the supplemental affidavit requirement. And the supplemental affidavit requirement must be submitted, or the supplemental affidavit must be submitted on a form prescribed by the Division again and a draft of that form has also been provided for informational purposes and possible discussion today, but once again it's not part of the regulation that's being voted on. The supplemental affidavit is required when a party has not remedied a default or is not in good standing at the time the application for permit is filed. And this section requires the applicant or operator to remedy the default or issues related to good standing within one year, describe the actions taken to remedy the issues related to the default or lack of good standing. And this section also allows the Division to require the applicant to submit any additional information to it that bears on the decision of whether a remedy has occurred. Next slide, please. This section defines what a remedy is for the purpose of the regulation. For a default, the text of the regulation tracks with the text of the statute with one exception. It adds a condition that if an applicant or operator uses the bankruptcy process to relieve itself legally of a reclamation, debt, or obligation referred to in the bankruptcy as discharging these obligations, it is still considered in default for the purpose of obtaining a reclamation permit in Nevada. They must either repay the debt or satisfy the obligation to remedy the default. So, you cannot get in good standing by using the bankruptcy process, in short. The remedy for a lack of good standing requires full and complete satisfaction or compliance whatever condition or requirement in a judgment order, ruling or decision by a federal agency or agency of another state or court. And again, the bankruptcy process cannot be used to remedy issues related to good standing. Next slide please. So, the last piece of the regulation is its applicability to the permitting requirements, and I've summarized that just very generally here because they do repeat throughout the amendments. Sections 7 through 14 describe this and the affidavit requirement is required for permitting actions, generally. The section also states that the Division is prohibited from issuing a permit if otherwise prohibited under AB 148, which means the applicant or operator is in defaulter is not in good standing or issues related to the default or good standing have not been remedied. These requirements apply to new applications for mining operations or exploration projects, requests for an interim permit or an exploration project, and requests to transfer a permit. The affidavit requirement also applies to projects on public land and some combination of public land and private land. Let's see, we lost the presentation, but we are almost done. The last, the last piece is slide 10, which is public comment. We did receive comments from the regulated community and

interested parties and I'll identify the notable ones here. Once again, NDEP did meet with the regulated community during the rulemaking process and received formal written comments from NVMA and NGM, concerning the draft regulation. NVMA is Nevada Mine Association. NGM is Nevada Gold Mines and once again those, those comments were addressed in the green line edit that I previously discussed. Interested parties also expressed their concerns or comments with the, with the regulation during the January 4th, 2022 workshop, I received several comments from the general public. One comment concerned international mines and whether the Division would consider the status of those mines in its evaluation on whether the applicant or operator is in good standing. The short answer to that comment is that the scope of the statute and the affidavit requirement includes compliance with reclamation obligations in Nevada and the standing of the applicant or operator with federal agencies and agencies of other states, so the regulations stay within that scope. Another comment concerned whether a parent corporation is subject to the affidavit requirement, if it's subsidiary applies to the permit and the answer is yes, if the parent corporation has a controlling interest in the subsidiary. During the January 6th, 2022 virtual workshop, I received a question asking to clarify why the scope of good standing only pertain to reclamation statute regulations and not other aspects of the mine. In short, AB 148 states that the Division shall not issue a permit if an applicant has defaulted on reclamation obligation under NRS Chapter 519A which is Nevada's reclamation statute, or is not in good standing with an agency of another state or federal agency in relation to reclamation of a mining operation or exploration project outside of this state. So, the regulation defines in relation to reclamation as a reclamation statute or regulation which is the same scope for mining operations and exploration projects within this state. Final slide please if we can get there. And this, this, this is a slide to allow the Commission to ask any questions, but I will note that we did receive one prior to this presentation and it concerned whether a corporate, it concerns the persons with controlling interest and its reflection in the regulations and in the affidavit. And I would say that currently NDEP's application forms require the corporate applicant to disclose its president, treasurer, and secretary. And the definition of persons with control, who have controlling interest is slightly broader than this current disclosure. So, NDEP intends to add a section to its application form for disclosure of any person who has controlling interest besides what's already disclosed. So, while you're not directly seeing that, that requirement for disclosure of persons with controlling interest in the regulation or affidavit, it will be part of the application. And I will take any questions the Commission may have at this time.

**Tom Porta:** Thank you, Rick. Questions from the commissioners? I have one question, Rick.

**Rick Perdomo:** Sure.

**Tom Porta:** With regard to the Section 3 in the green line edit.

**Rick Perdomo:** Yes.

**Tom Porta:** This, if I heard you correctly it sounds as though, you know, you didn't feel this was necessary as NDEP already has the existing authority to request additional information enough if necessary.

**Rick Perdomo:** Yeah, that's correct. So, the, the concern was that, you know, the regulation as written and, and we may hear public comment from NGM's representative or Nevada Mining Association but ultimately the concern was, you know, the regulation as drafted would require larger corporations, just about any applicant, but larger corporations to go way back in their history, disclose potential consent decrees, administrative orders that have been completely resolved, could create a burden for them to, to track down those records to verify everything and, and really there's a question whether it was actually relevant to the, to the determination of good standing because those issues had been completely resolved by the time that the application had been filed. You know that concern was well taken. There may be instances where NDEP knows of a project or received a public comment that called into question a certain project and what I felt like there was enough flexibility in the regulation to allow NDEP to inquire about those projects, if needed. So as a default, we, we weren't going to require a complete disclosure of all projects that had been subject to administrative orders or, or court judgments and including consent decrees. That that would just be done on a case-by-case basis.

**Tom Porta:** My other question and I see Kathryn has her hand raised, with regard to the Bureau of Mining's resources to implement these new regulations, I saw on the form that you would have no impact. I guess, could you speak a little to that? I'm assuming this is all going to be done during the permitting process by the, by the staff member who is, is conducting the permit application review.

**Rick Perdomo:** Yeah, my, I can just give you kind of my general understanding and that concern was why the affidavit was presented in the bill as a potential solution, so that NDEP staff did not have to actually research past projects for individual applicants that, that we would receive an affidavit from the applicant or operator that would attest as to whether or not they have defaulted in Nevada or whether they are in good standing. That would be used as evidence by NDEP to support a permit decision to be made, that receiving an affidavit that provides that information probably satisfies the substantial evidence requirement for upholding that decision. You know, I say that with the caveat that there could be circumstances where NDEP received information that it would, may have to look into it or require the applicant or operator to provide additional information on, on certain issues but that is, my understanding is generally NDEP when it receives an application and it goes through the process, will make those requests just as a, as a matter of course on other technical matters. So, adding this to those requests would potentially not create a substantial burden on NDEP but, you know, if Todd has any concerns, he's here and answer, answer that. But the idea was the affidavit requirement would be enough for us to make this determination.

**Tom Porta:** Okay and since this is a "bad actor," you know, statute that was passed, does the Division or the bureau plan to do any, I don't know, periodic check into the



information that is submitted on these declarations? Because, you know, if somebody is a bad actor, there's a potential that they think, oh yeah, I'm not in violation of anything and submit the declaration. What, has the Division or bureau looked at any, you know, kind of checks periodically into these declarations?

**Rick Perdomo:** Yeah, I think that's, that's going to be a process that's developed after the fact, and you know, I don't know that we can write that in the regulation on how that would be accomplished. You know, I think what we're, what we are intending to do was to get something structurally that would, that would support an NDEP decision as to whether or not an actor was in default or in good standing in another state and then, and then tackle some of those issues later on, if they present themselves.

**Tom Porta:** Yeah, I wasn't looking for anything specific with the regulation, I just kind of wanted to know the Division's thought on, you know, periodically looking into these declarations just to ensure the information that they submit is, you know, is accurate.

**Rick Perdomo:** Sure, and I can just provide like general information being around BMRR and handling some of the, those issues. I think they have a pretty good handle on, on who the, who the operators are, who the applicants are and, and probably, you know, just base that just on institutional knowledge. But you know, as far as developing a structure and criteria for looking into, you know, these affidavits as part of the application process. I think that's probably something that would have to be developed through internal policy.

**Tom Porta:** Okay. Thank you, Rick.

**Rick Perdomo:** Yeah.

**Tom Porta:** Kathryn, yeah.

**Kathryn Landreth:** Thank you, Mr. Chairman. My question relates to the international issue. And I'm just curious, I understand the limitations that are in these statutes and therefore in the regulation focus on domestic bad acting but I'm curious, if anyone can answer, whether the bureau has discretion if it comes to its attention that the applicant or operator was a bad actor in the, outside the U.S. It just seems to me we shouldn't be encouraging people to do bad things outside the U.S. if they can still get a permit in Nevada. Is there, is there flexibility in the consideration of the application to allow that kind of information to be considered?

**Rick Perdomo:** Not that I'm aware of, off the top of my head. I will say that prior to the statute, there were provisions and regulations that prohibited the Division from issuing a permit to those that were in noncompliance with reclamation obligations in this state. This statute broadens that a bit, both within the state and outside of this state. Ultimately, I, I'm not aware of it in the regulation and really, it kind of in my mind raises a question of how we evaluate, you know, who is in good standing and not good standing in relation to international laws, and whether we're internally qualified to make those

determinations. So, so, you know, I would say it's not reflected in the regulations. The regulations have pretty specific requirements about what it takes to complete an application. This affidavit is one additional requirement and, and that sort of the scope that we stayed within was the affidavit for this state and other states.

**Kathryn Landreth:** Well, I don't see anything in the regulation per se that would exclude the consideration. I understand the mandate of the law and the regulation but I don't see anything that would exclude the bureau from considering bad acting in other countries.

**Rick Perdomo:** Right.

**Kathryn Landreth:** I mean is it, is it prohibited to, you know, if you were to hear about some, really awful failure to, to reclaim in another country, would, is there anything that would exclude the bureau from taking a look at that and considering that in the application?

**Rick Perdomo:** Well maybe, you know, maybe I can provide some context for the requirement outside of this state but we are really looking at, for, for other states was due process, right. So, when you look at our requirement as to whether some, an applicant or operator is in good standing in other states, the standard by which we're judging that is something that legally final. So, so it was important to us that we consider only those actions that have, that have, that are beyond legal dispute, right. So, so when we get into the arena of international law, we get into some serious questions about, you know, what's in legal dispute, what's not in legal dispute. So, so I think when we were crafting this, we really were trying to narrow the scope of what we consider, you know, a requirement, an obligation, a reclamation obligation requirement for other states and we really narrowed that, honed that into making sure that whoever is subject to that requirement has received due process and whatever they're required to do is, is for all, all intent and purposes legally final. So, that's, that's why is crafted that way. You know, initially, you know, I understand the concern but initially my concern, my concern is that, you know, how do we make that judgment for, for projects that are outside the state but, but I'm not sure that, that's, that's a decision for the Division to make. Ultimately, I think that's a decision for the legislature to make because, and whether that's, you know, something that's desirable to be within the scope of the bad actor regulation because in my mind it would take, you know, an amendment to AB 148 to, to allow us to expand that scope, and I just don't see it here.

**Kathryn Landreth:** Yeah, I understand the, I understand the legal issues. I was just, just curious about a really bad actor but yes, I do understand the legal issues when we go outside the United States.

**Tom Porta:** Other questions from the commissioners. Alright, I don't see raised, hand raised, so I'll open it up to public comment. Do we have any public comment in regard to this agenda item? And I see Mr. Biaggi, go ahead.

**Allen Biaggi:** Thank you and good morning. Mr. Chairman and Environmental Commission members, my name Allen Biaggi and I'm here today representing the Nevada Mining Association. The Nevada Mining Association was organized in 1913 with the mission of serving as the public voice for Nevada's mining industry. The association has a diverse membership comprised of more than 500-member companies, making it uniquely positioned to offer comments on matters from exploration to discovery, development and construction, operation and production. to closure and to reclamation. Consistent with the bad actor legislation, our members want to ensure environmental compliance and that operators who have not complied with their reclamation and financial obligations in this state, other states, and at the federal level are not allowed to operate in Nevada. We work closely with the bill's sponsor, Assemblywoman Peters craft legislation that was meaningful and protective of the environment and to the industry. NDEP was given a difficult task of crafting regulations to implement the provisions of AB 148. This is obviously a bit out of their wheelhouse since it involved issues around corporate structure, the definitions of multijurisdictional compliance, and the role of corporate officers, just to name a few. In our opinion, they did a masterful job in developing regulations that are pragmatic and consistent with the legislative language and legislative intent. The NDEP solicited industry and public comments and we believe it considered those comments very carefully. We appreciate the modifications made to the regulatory package in response and we are pleased to be able to support the bad actor regulations as they're proposed today, and we look forward to working with NDEP to ensure operators in the state follow all applicable requirements and are compliant with reclamation and financial assurance obligations. With that, I would be happy to answer any questions the Commission may have.

**Tom Porta:** Any questions for Mr. Biaggi? Alright, seeing none, thank you. I don't see any other hand raised, so Jessica or Sheryl, could you go through the phone number list to see if we have any public comment?

**Sheryl Fontaine:** Yes. Again, I've got, I've got one still from, it looks like from inside the Bryan Building ending 7101, any comment? Hearing none, I've got a phone number ending in 920, I'm sorry, 9282, any comment? Hearing none, I've got a phone number ending in 1935. And that's the last phone number that's called in Chairman Porta.

**Tom Porta:** Alright, so since I don't, since we don't have any further public comment, I'll bring it back to the Commission for discussion. Do we have any discussion with regard to this agenda item? Or questions, more questions for the Division? Alright, seeing none, I'll entertain a motion for this agenda item.

**Kathryn Landreth:** This is Kathryn, I would move to adopt BMRR regulation R086-21.

**Tom Porta:** Thank you, Kathryn.

**Rick Perdomo:** Chairman Porta, if I-

**Female Speaker:** It's an 85 it's 85.

**Rick Perdomo:** It's 85.

**Kathryn Landreth:** Okay, I correct myself, 85.

**Tom Smith:** Commissioner Smith, second, the motion to approve.

**Tom Porta:** Alright, thank you, Tom. Alright, we have a motion and a second. Any discussion? Alright, I'll call the vote. All those in favor, please say aye.

**Male/Female Speakers:** Aye.

**Tom Porta:** Opposition? Very good, the motion passed unanimously for agenda item number 7, regulatory petition R085-21. We're getting in to the second hour of our meeting today. Does anybody want to take a break before we proceed to the next agenda item? I'll just ask the commissioners. Okay, alright, we will proceed on to agenda item number 8, regulation adoption for petition R086-21.

**Todd Process:** Good morning, commissioners. I identify myself as Todd Process, reclamation supervisor for the Bureau of Mining Regulation and Reclamation. Thank you for participating in the hearing today, these are important 519A regulatory changes. Thank you, Rick. That was a great job on that. I wanted to make a quick comment on that, that we have a bad actor list for those people who have already been bad actors in Nevada, and we have a current list that we would not issue a permit to already. So, we have already been doing some of this prior to this regulation being proposed. So, as I mentioned my name is Todd Process, I'm the reclamation supervisor for the program. I, in June of this year, I'll have been here for 22 years prior, and I've been a supervisor for the last five years. I was an environmental permit writer for previous part of, before being a supervisor, so I've done a lot of work in the field. I've seen a lot of reclamation and excellent work that the industry does. I like to lead the program; I like to believe I can lead the world in what we do and how we do it. I get information from and request from other countries and other states because they see us as a leader. And part of this proposal today is to maintain that leadership that we have in this program. So, my presentation today is going to focus on the existing regulations that we want to modify and change and discuss that, these changes with you. Please note that what these two regulatory provisions that are being presented today went through the same process in parallel when it comes to the public comment period and the workshops and the work that we've done with the NM, NMA and the NGM and the, the stakeholders. So, what Rick presented earlier, we did the same exact thing for our R086. Next slide.

**Todd Process:** So, some of the objectives of the presentations, I don't have a backup copy, I'm sorry.

**Sheryl Fontaine:** I apologize, I'll get it back in just a second.

**Todd Process:** Okay.

**Sheryl Fontaine:** This has happened several times during the meeting.

**Todd Process:** The intent is to summarize the regulations. Do you have a copy?

**Tom Porta:** Why don't you go ahead. I think we can follow along.

**Todd Process:** Okay. Okay. Is it lost? So, to present the presentation objection, objectives, to summarize the need and purpose of the regulation, why I'm changing, why the Division is changing some of these things, describe the revised existing regulations and address the public comments that we received during the public comment period, public workshops and then respond to the questions that our commissioners may have. Next slide please. We're on slide 14 in case anyone's following along here, so it was not changing. So, one of the proposals that we have in the existing regulations is to increase the reclamation application permit fees and the annual service fees once a permit is issued. The application fees had not been updated since the initiation of the regulations of 519A back in 1990 and the annual service fees have not been updated since 2002. So, we need to account for inflation, the cost of services and the increases of cost of doing business, computers, so on and to ensure the program has a long-term viability to continue to work effectively for the mining industry. I will be updating the regulations that, to improve clarity and consistency. We're looking to add adequate storm water controls to maintain long-term stability of reclaimed mine sites. We'll talk about some standardization of earth cover depth and topography and post-mining land use, and I'll get to them, those kinds of issues, answer those questions as we go. Let's see we should be on slide, let me go back a little bit, closer. Okay.

**Sheryl Fontaine:** Slide 13?

**Todd Process:** That's right, yeah. Is that 14?

**Sheryl Fontaine:** Yeah, this is 15.

**Todd Process:** Okay, yeah. So, on Section 1 is a, is a minor change. Rather than using the term average number of open holes, we are going to say the maximum number of open holes. That's based upon the number of drill rigs that would be on a mine site or an exploration project at any one time. So that for every drill rig that's on the site, we would be ensuring that they're plugging the wells properly, especially meeting the conditions, if they go through the water table with the drilling program. They have to, there's a requirement to plug that properly and we want to have the maximum number of open holes, so we can bond properly. Section 2, references a number of places in the regulations that had been changed, we, as I, commonly it's noted that we talk about disturbance in the industry in the regulations. We talk about disturbance; however, the actual term of disturbance is not identified as, in NRS. The NRS defines affected land, not disturbed land. So, there's a number of changes in

nomenclature throughout the document and the regulations to say affected land rather than disturbed land. Okay, so Section 4, discusses a timeframe for an application review. I think when the initiation of the regulations came in place, I don't think they would have believed that we have 267 permits issued in the state of Nevada which represents \$3.4 billion in bonding. So, the need to do the proper analysis of an application and make sure we have all the information we need, we need 30 days to do that. We have five permit writers for 267 permits, so we're looking at a pretty significant workload of 54 projects per person. So, we need to extend our time a little bit from 15 days to 30 days to give us that ability to review properly. Next slide, please. So, this is the increase for the application fees. As mentioned, they haven't been updated since 1990. Using the Consumer Price Index, suggests that we should be doubling the fees. We, the fees are based upon private and public land proposed. This usually affects just exploration for an exploration permit because that's where they start is with an exploration permit before it becomes a mine. So, you can see it on the table, what it does, doubling, basically doubling the fee for an application to pay for the permit writer's review time. And honestly, we might, we might break even on that. We'll probably lose a little bit. We'd been losing for a long time. So even increasing the fee, even if we're lucky, to breakeven on a review time for the time it takes a permit writer to do the analysis help us a little. Next slide, please. The other fee increase is related to the annual service fee, we're a fee-based, BMRR is a fee-based program and so it's how we pay our salaries, that's how we pay for our computers, everything that we do. The annual fee, service fees haven't been updated since 2002. We, you know, again I used the Consumer Price Index from that time period, what the fees were in 2002 when they were established in the regulations then and then what it ends up being as a Consumer Price Index defines as a reflect, it reflects an approximate 50% increase in the previously established 2002 fees. So, the increased fee application fees will become effective immediately upon SEC and legislative approval. The way we invoice and, and do the annual service fees, we'll be invoicing for 2021 next week to be paid on or before April 15th. So, the annual fees that will be due from the industry won't really be effective until April 15th of 2023 based on how we invoice. So, there's time for the industry to look at budgets and figure out how the fees are going to affect that. But honestly, we have not had much public comment on the fees at all. Next slide, please. This is the table representing those fees that are current and how they increase. You can see that in the table it's very much a scaled approach, depending upon the number of acres you have permitted. And so, if you're a large operation, the fee affects you the greater way. If you're a smaller operation, the fee increases, affect, you know, in a less dramatic way. So, it gives you an idea of what we'll be doing. We do expect that the annual fees will generate approximately \$700,000 a year for the program which would allow me to hire more staff and take care of some other things that we need to clean up with Documentum and electronic versions of getting documents back in the [inaudible] when I request them. Next slide, please. So, here we're going to get into some of the narrative changes that have happened to be more clear for everybody when they go through the regulations and look at them. Section 7 is here on the slide that's up. We replaced the word kind with types of areas to be affected. Types is how we reflect the type of facility that the mine site has. It would be a tailings facility, a waste rock dump, a mill site. We're explaining the types instead of the kind, it's just a minor change. We're

adding the word heap, to heap leach pads because that's how we all recognized it, the industry recognized them from heap leach pads for copper and gold and silver. We're replacing the word dumps with storage and disposal facilities. There was a question from the public why we did that but honestly, just, we've seen a number of times through the years, you know, the prices change and the global price for silver or gold will change. So, something that was a waste rock 20 years ago is now ore, so that's the reason why we, it's a storage facility is why we're referencing it that way. It could be ore in the future. We added foundations as a type of area to be affected. Buildings are typically on foundations; however, not all foundations are built for buildings. Some foundations are just built for tanks or for other subsidiary infrastructure, so we wanted to make sure it's clear for bonding, that we have foundations covered in different ways. We're looking at haul roads and haul road types. There's a distinction between access and haul roads. The reason is they're bonded differently, and access road is 12 to 15-feet, haul road can be 50, 60 to 100-feet. So, when you look at reclamation and bonding, there's a distinct difference of how you're going to apply the dollars to that for financial assurance. We replaced the word scrap because it was a little bit generic on what that meant and we want to, and we know there's bone yards and things that are out at the mine sites and piping and leftover materials. So, the recyclable or reusable materials, you want to work with that and, and get rid of the word, scrap. We also added the words solid and hazardous waste for disposition of the property. We want everything cleaned up at the end of the day for post-mining land use. Next slide, please. Sections 8 through 10, so again we're, we're adding some time from 15 days to 30 days to review permit modifications. One of the big reasons we're, we're doing that again is the complication, the complexity of mine sites has increased overtime. There's more things going on. It takes time to look at a modification and we just want to have a little more time for the staff that we have to, to accommodate and, and get these modifications done. You know, we're currently not having the ability to, with the number of submittals that come in to us, it's not just initiating a permit, it's also modifications and it's also three-year updates. So, there's a lot of work that goes into one permit and so we need to buy a little time here by going to 30 days to take care of things a little better for ourselves and make sure that we're not missing something that would be a bonding, a financial assurance, is something that we don't want to miss as a financial assurance. We want to give ourselves adequate time to review. Section 9, you see we'll replacing some terminology, lawful disposition and disposal recyclables, reusable materials, and solid and hazardous waste to be consistent with Section 7. Section 10, we're removing the words with minimal surface plug required, we're referencing, to put drill hole plugging. We're referencing Chapter 534, specifically when a bore hole goes through the water table. We're removing the generic word form and replacing with natural topography in this section. It just, this relates to like a test pit or a trench or a drill pad, simple things that should be able to meet the approximate natural topography before the land was affected. Okay, again I mentioned this earlier we're taking disturbance and we're modifying consistently through the document of the regulations to make sure that we're using the word affected and not the word disturbance, again it's a defined term. Next slide, please. Section 11 is the biggest, has the biggest amount of changes in it, so it might be a little bit here. We're just, same, same thing that we just did to be consistent is using, replacing form with natural topography. And we, if you read the

whole context, that says approximate natural topography, we know that some access roads and haul roads and things that are up on steeper inclines on the slope of a mountain are not going to be 100% available to match the natural topography. We understand that it's not feasibly possible, but we want to get as close as we can to original topography. Again, we replaced disturbance and we changed it to it was affected. We replaced development rock piles with storage and disposal facilities for waste rock. We got specific requirements to regrade waste rock facilities and heap leach pads to a three-to-one final slope, unless a three-to-one final slope is not achievable due to site-specific limitations or best engineering judgment. Some of that we'll get at the end of this, at the end of the presentation. We'll discuss those green line edits that were from the public comments. We had found in the field and through our experiences that we know that no matter what type of waste rock material it is, whether it's a diatomaceous earth, or it's barite, or something in between, we know that a three-to-one final slope is going to provide the long-term reclamation stability and provide for a productive post-mining land use. We're increasing, we're putting a requirement to construct storm water diversion sufficient to withstand the 24-hour 500-year event for waste rock facilities and tailings impoundments and heap leach pads. This regulation is already in effect with Rob's group 445 and regulation group. We're trying to match this closely, mostly to assign it to the industrial mineral people who don't have a water pollution control permit. So, by not having a water pollution control permit, they don't have to meet the same standards for a 500-year event, currently it's a 100-year event. So, we want to match what regulation is already doing but really capture the industrial mineral sites that don't have that regulation applied to regulation. Next slide, please. So, one of the other prescriptive changes is having a minimum 2-foot cover on mine process components like tailings facilities and heap leach pads. Again, through time and looking at this 2-foot cover, it acts as an evapotranspiration cover. It stores the water, the meteoric water and keeps it from minimizing the entry and infiltration into a process component upon closure and allows for that moisture that's trapped in the 2-foot cover to be evaporated and not have to go through into the process component. Two-foot has been done as a policy for many years. We're just putting it into the regulatory framework to ease ourselves in the permitting process because often someone would why do I have to do the 2-feet? It's not a regulation, it's your policy and you know we want the 2-foot because we know it's successful, not only for evapotranspiration cover but also valuable for rooting depth and providing again for a productive post-mining land use. We're referring to NAC 535 for rendering tailings, dams incapable of impounding leftover liquid. We're trying, these over tailings impoundments, we're trying to have a little bit of kind of leading the operators a little bit in the regulation to reference what they have to do for the tailings impoundments. And there are probably seven or eight of them in the state that are significantly large, and the requirement is to, from, in NAC 535 is a spillway is required and we didn't get into that kind of detail. We're just referencing that regulation that has to be met for closure of a tailings facility. We also are looking at the established minimum covers for foundations buried in place. There's two, two reasons why we're doing this. One is unbroken, an unbroken foundation. Mill sites are often very structurally reinforced with lots of rebar, extra thick concrete because of the vibrations of the mill and the, and it's very difficult to reclaim these and break them up. So, a lot of operators are like, they've told me they



don't want to break them up, they would rather just cover them. And the 5-foot depth is done on purpose to provide, again, for rooting depth because we know sagebrush is going to go more than 5 feet but you got to give it a chance and so 5 feet was a number we thought we did to provide to rooting depth and to bury that unbroken foundation in place. Now, if it's broken, we want a minimum of 3 feet again for vegetation success, revegetation success. But the broken concrete will allow for the rooting depth to continue through the cracks of the concrete. We're also adding hazardous waste to the types of waste to be disposed of, off site. Next slide, please. Again, the Section 12 replaces dumps with waste rock storage and disposal facilities. So it provides a consistent narrative with Sections 7 and 9, lawful disposition of disposal recyclables, reusable materials, solid and hazardous waste prior to the abandonment of the site, these actions must be accounted for in determining the surety required. So, obviously we want the sites cleaned up and reusable after they're gone and, so we're just getting a little more descriptive of what that means. Next slide, please. So, we, we modified the timeframe to post the bond based upon the three-year update to determine the surety amount. So, we, every three years per regulation, we're updating the cost of, due to inflation to make sure there's always enough money to perform the reclamation in case of operator default. The federal agencies and the federal practice and policy is to post that increased bond within 60 days and the old language had, from the original regulations, had 120 days. So, we're not matching what the requirements are for federal agencies to post additional bonds, 60 days. So, we're just changing that to match up with what federal agencies already require. Let's see, again we're changing the word for clarification to affected. We're clarifying language, allowing the Division to release up to 60% of a surety based upon the mine component upon earthwork completion. That's again following the procedures that BLM has, does the same thing, when we do bond release and we work together to agree, but 60% is what the general, first release is about, and when the earthworks have been completed. So, we're just following a little bit of what BLM does. BLM controls, holds over 90% of the bonding in the state of Nevada. So, it's not us holding all the money, they're holding all the money, so we want to work with them on how we release those bond moneys and making sure we're establishing the same standards. Okay, next slide please. This is a simple one, replacing the word dumps with storage and disposal facilities. Next slide, please. So, through the public comment period, we did receive some public comments from NMA and Nevada Gold Mines, concerns were addressed in green line edits. You'll be able to see in your documents, they were concerned, I'll summarize it a little bit, and there was concern about the 2-foot earth cover and the final the three-to-one slope and the 500-year storm diversions and the foundation cover depth that may have site specific limitations, request to maintain a 15-day document review period. Because the fees will be increased, they want us to keep the 15-day and we're not, that's not going to apply for us, we need 30 days. There was some concern regarding avoiding the application fees if the applicant fails to respond to the Division after one year. We have a number of people that come in, small, usually small miners that, that they have a gold fever and they send us the applications and we send comments out and then three years later we don't hear back. And it happens every year and so we're just trying to find a way to eliminate those submittals if they don't respond to us within one year. It's the same regulation, that's already applied, it's a matching regulation that applies for 445. So,

we're just duplicating that effort in our regulations for reclamation. There are some requests for why we're changing the word form to natural topography. I just think it's a better criteria to explain. It's more specific than just the word form and so we left the natural topography in there. We just mentioned regarding the changing of posting surety from a financial assurance and a surety from 120 to 60 days to match the BLM and US Forest Service. And we mentioned before request for, there was a request for us including NAC 445 or 444 for waste disposal recyclable and solid waste and we replaced that, we're just saying lawful, lawfully disposal or disposition of this waste and recyclables. So, the next slide, I'll go through some of these green version changes based upon the public workshop comments. Next slide, please. So, we added the green line narrative for a three-to-one slope final minimum and based upon site characterization and best engineering judgment, there were questions about whether the three-to-one would be retroactive for waste rock dumps that had been approved at steeper slopes and I'm saying, no, we're not really trying to be retroactive, but however, if we're doing a field inspection and we see erosion, we see rilling, we see no vegetation, we see runoff, we see a stability issue with fissures or something, a crack in the waste rock dump, then that would be taking a two and a half or 2.7 and requiring maybe they need to go to a three-to-one to make that stability long-term. So, it's a field analysis that we would be looking at. It's not, we wouldn't go backward in time unless we felt the need to be retroactive because of a failure happening. And we have had failures. It does not, it's not like it hasn't, there've been failures of waste rock dumps that have been steeper than three-to-one. So, we want to set a standard of long-term stability by using the three-to-one slope. There was some added narrative for stormwater diversions, two-foot cover and foundations and we added the greenline version on less, more or less protections approved by the Division based upon site characterization, best engineering judgment. So, we, even though most of us are environmental scientists in the group, we do have a PhD geotechnical engineer who can do these analyses for us, to work with the operator to see what needs to be done or what can be done to move- move based upon site characterization. We don't want someone regrading a slope or a waste rock down to a three-to-one and pushing the material into a drainage, you know? So, there's going to be situations where we have to evaluate that properly and make sure that maybe they don't need the three-to-one. Maybe they get 2.8 or something. We have to make those adjustments based upon that professional judgment. Section 12 added lawful disposition or disposal. That's for recyclables and the boneyard materials and chemicals, things like that. Section 13, we added approval of by the Division. The way the original regulation read, it looks like the operators are approving themselves, you know, and- and so we put this language in to make sure that we're the ones approving the three-year update. We're the ones that's, you know, determining the bond amount for them to post the financial assurance. Next slide please. So- so we have a few impacts. The application fees will increase and be effective when the regulatory amendment is adopted. As mentioned earlier, the annual reclamation fees will be due on or before April 15th, 2023. And a little caveat that might get missed, per regulation, a major modification fee to an existing permit is the same amount as what a new annual fee will be, the proposed new annual fee. It's always been that way. It's just something to call out that a major modification fee will have to be the higher increased annual fee. That regulation reflects if you have 100 acres and

now you want 130 where you're greater than 25% of an existing permit if there's a major modification, it goes back to public notice and that fee is assigned accordingly as an annual fee. So, there's some other impacts, the three-year reclamation cost updates that come in account for maximum number of drill holes, the revised cover depth, which I said most people are already doing, most of the operations are doing that, regrading requirements if needed and an increasing amount of finance, that may affect the increased amount of financial assurance required. And the last one, the impact would be if the permit application never gets completed within that year, that applicant loses those fees because they didn't follow through with the application and they would have to start over with a new fee. And hopefully that prevents a bunch of ones that come in that go nowhere. Okay. Next slide please. So, if there are any questions, I'll be happy to answer them.

**Tom Porta:** Thank you, Todd. Any questions from the commissioners? Kathryn, I see you still have your hand raised. Do you have a question?

**Kathryn Landreth:** Sorry. Sorry. I thought it went down.

**Tom Porta:** No worries. So, I have a question Todd or maybe Rick. The proposed fees you stated are to increase approximately \$700,000 per year and you alluded to the fact that it's hiring staff, getting additional equipment and so forth. Have you put out kind of a potential budget and how many staff are you looking to hire with regards to this fee increase?

**Todd Process:** I would, in my perfect world, I would hire two more permit writers and my understanding is that that comes in around roughly a \$100,000 a year. We need to hire, I would like to hire someone who can take 30 years' worth of documents, paper documents, and have that ability to make them electronically available to the industry because that really delays, and it's like \$70,000 just to take the microfilm and convert that to electronic versions and it will probably take another 15, 20 years just to take the paper documents and get them into electronic versions. Because what happens is that someone comes into an old mine site and they're like, oh, we want to know what was done before. We want the old documents. It requires my staff to go run around and pull files and make electronic copies and they lose a good portion of that day sometimes what they, from what they were intended to do that day. So, by having more staff, you know, we have 267 permits. I have 29 permits that are waiting for NEPA analysis to come, before we can finalize another 29 permits on top of the 267. Then when I was up in Nevada Mining or the American Engineering and Mining Association meeting in early December, I was informed there's another 10 or 15 permits coming to us on top of that. So, there's that potential that in the next year to a year and a half, we're going to break 300 permits, and I only have a staff of five people. So, at the minimum I would like to get at least two more permit writers and one person that would handle reclamation document and reporting. And of course, that includes more computers and all the things that go along with those hires. So, that, does that answering your question?

**Tom Porta:** Yes. So, you're looking at potentially a max of three right now. And that still leaves on the table a couple of hundred thousand per year. You know, I guess, I just want to make sure the fees are commiserate with need and, and, and right now I'm showing with a bit of excess on the fee.

**Greg Lovato:** Good morning, Chair Porta. Greg Lovato, NDEP administrator. So, I think what, just with our bureau chief Aimee Keys is out on leave and so I'm kind of filling in a little bit here on, on, you know, what we're dealing with. So, the revenues for the mining bureau, the reserve year-over-year has been decreasing just due to increases, merit pay increases, all those kinds of things as staff come in. And so, we already have, you know, a decrease with that and we try to balance out the two things to maintain a reserve to last at least a year or so, so that if, you know, we don't have, you know, suddenly there's a mining downturn, you never know, that we would be able to adjust fees if needed. In the past when we have accrued more than that substantial reserve that we keep for about a year, we have utilized the funds for other purposes. That's only happened once. So, it is a balance to try to keep, you know, up with you know, existing sort of fall behind and then keeping up with changes that are gonna occur in the future in addition to just adding new staff.

**Tom Porta:** Thank you, Greg, that, that explains it. Yeah. Declining reserve, you know, projected, that makes sense. So, I just, I just want to make sure, like I said, that the fee increase is commiserate with, you know, anticipated budget needs and that we aren't going over, but your explanation met that, so. Do we have any other questions from the commissioners?

**Jocelyn Torres:** Thanks. Commissioner Torres for the record. Going through the regulation language I think particularly Section 11, there were a couple instances where you have revegetation, but it doesn't have the other language that you had added, which was about the recontoured surface area. Is there a reason why those aren't consistent?

**Todd Process:** I'm sorry. Let me catch up here.

**Jocelyn Torres:** Yes, no worries. I think its page 18, on the top of page 18 of Section 11.

**Todd Process:** Yeah. The top of 18 I have what best engineering judgment, is that what you have?

**Jocelyn Torres:** Yeah. And then it says B, re-vegetation and then that, that was one of the instances where you didn't add in of the re-contoured surface area. So I was just curious, if it was like specific to that. Have the re-vegetation or are we just missed adding in that language to be consistent.

**Todd Process:** I think overall it's a requirement of the entire, you have to read from the context from the beginning I think, where vegetation is required. So, that's really, that's

referenced, like I said, it's referencing section 4 for dams and tailings, storage, dams for tailings storage and disposal facilities requiring the two-foot cover and then the vegetation is a requirement of that two-foot cover. Does that answer your question?

**Jocelyn Torres:** No. [inaudible] all the other incidences you added, [inaudible] 18, you have revegetation and then it was added, you know, of the recontoured surface area, but it wasn't added on the top one. So, I didn't know if that's an inconsistency or there was a reason why that was left out.

[Crosstalk]

**Rick Perdomo:** Can you direct us to the section again that you're speaking of. I didn't have a copy of it before me.

**Sheryl Fontaine:** Yes.

**Jocelyn Torres:** Sorry, yes. Section 11.

**Sheryl Fontaine:** This one.

**Tom Porta:** Yeah. Oh, okay.

**Sheryl Fontaine:** And this one.

**Jocelyn Torres:** And under 4 B.

**Rick Perdomo:** I believe that is. But, revegetation, you guys left that out [inaudible].

**Todd Process:** I think it's just; I think it's just generically implied because we re, we revegetate everything anyway. I don't think it, and that refers to dams, tailings, and the other ones we've referenced, the two-foot cover.

**Rick Perdomo:** Are you recontouring dams?

**Todd Process:** We're not recontouring the dams. Yeah. The two-foot cover is just a place on the surface. We don't typically recontour everything for a tailings facility unless it's not stable.

**Jocelyn Torres:** Okay. Okay.

**Rick Perdomo:** So that's why was left out since it's not, it's not a [inaudible].

**Male Speaker:** Right.

**Sheryl Fontaine:** Rick, we've got someone else from mining that would like to comment on that.

**Shane Martin:** I'm just thinking out loud...

**Greg Lovato:** Go ahead and say your name.

**Shane Martin:** Oh, okay. Shane Martin.

**Greg Lovato:** You go sit next to Todd. Say your name and...

**Todd Process:** We just thought of an example [inaudible].

**Shane Martin:** Shane Martin, permit writer, reclamation branch. So, I was just thinking of, of the tailings. Dams are usually built at an operational slope of around two-to-one. So, we usually, for example, the Lone Tree tailings dam was built out an operational slope of around two-to-one, but during reclamation in order to make things long-term stable, we want them to recontour it to a three-to-one slope. So, in the case of the Lone Tree, we, we asked them to recontour to a three-to-one slope. So, yeah, it would be the, yeah, the tailings dam in that case would be recontoured to a three-to-one slope and we would have them revegetate the dam after they finished recontouring it. So, I think...

**Rick Perdomo:** Is that, is that the general case or is that just as the specific case because not that it's like, if you're recontouring all of them, then it, I think it would make sense to put that language in there saying of the recontoured surface. But if there are dams that just remain in place, if you just put vegetation on top, then you're not revegetating that, that specific structure, right? It would just be revegetation.

**Shane Martin:** Yeah, I was just using one example. I take it most of the dams out there are built at the operational slope, which is two-to-one, and we want them to reclaim it to a more stable slope.

**Rick Perdomo:** Good. I think the response would be like, the response would be as a general rule, it's not re, the structures that we're talking about there aren't recontoured. There are circumstances where it's revegetation of what's already there. So, adding recontoured would suggest that some contouring is occurring in all cases, which is would not be consistent with what happens on the ground.

**Jocelyn Torres:** Thank you.

**Jocelyn Torres:** thank you.

**Rick Perdomo:** Yeah. Sorry. We got there. It was little, a roundabout way.

**Tom Porta:** Any other questions from the commissioners?

**Adam Sullivan:** I have one comment. Todd, this is Adam Sullivan. I just wanted to compliment you or note that where you have referred to chapters 534 and 535 of the NRS, and the NAC that, that these are good improvements or clarifications that will support ongoing continuity between BMRR and the Division of Water Resources with regard to well [inaudible] and the safety of dams [inaudible] facilities in the future.

**Todd Process:** So, this is Todd Process for the record. So, we're, DWR was on, was with, they have regulation for like bore holes and plugging those properly like [inaudible] the water table. But in addition to that, we have very significant shafts that go down thousands of feet and they go through the water table. Underground mining often has, like they'll have a whole maintenance shop underground that has fluids and coolants and, you know, oil and stuff going through pipelines that go through the water table and we are capturing that inventory so that all those holes that break through the water table, no matter what size, if it's a 24-foot shaft or if it's a six-inch, bore hole, we are bonding to make sure that anything that goes through that water table is going to be properly plugged and [inaudible] when the mine closes. So, there's a lot more to it than just that borehole. There's, there's, you know, there's a lot of it, but DWR already had regulations stuff that are effective for the boreholes. So, they didn't want to take on a 24-foot shaft and make that a borehole. So, we took it upon ourselves to make that change to treat that as a borehole that pierces the water table and it has to be plugged according to the regulations. So, thank you for that. So, I get a one, but there's more to it than that that's why I want to.

**Tom Porta:** Thank you, Adam. Any other questions from the commissioners or NDEP staff? Not seeing any hands raised. So, I'll go ahead and open it up to public comment and I see Mr. Biaggi's hands raised. Go ahead.

**Sheryl Fontaine:** I think I have him muted. I'm sorry.

**Tom Porta:** Okay.

**Sheryl Fontaine:** I apologize, Mr. Biaggi. You were on mute.

**Allen Biaggi:** All right, no problem. Thank you. Once again, good morning, Mr. Chairman, commission members. My name is Allen Biaggi and I'm here this morning representing the Nevada Mining Association. For more than three decades, the association has strongly supported Nevada's regulatory and reclamation programs to help develop what is, as Todd mentioned, internationally recognized as mining's premiere program, the protection of public health and the environment. We understand the need to periodically modify and update the requirements to reflect changing technologies and expectations of public health and environmental protections and ensuring productive post-mining land uses. We also recognize NDEP's mining regulation and reclamation programs are 100 percent supported through fees assessed by the industry. There are no general funds, State of Nevada funds, provided to, to this entity. While we generally don't support fee increases, we do recognize why they're periodically necessary. As with the previous petition, the Division did a good job in

conducting outreach to all interested parties, and we believe they carefully considered all of the comments. We greatly appreciate the changes made to the regulatory petition especially the ones related to the use of best engineering judgment on issues related to design storms, slopes, and cover. We believe the Division has adequately answered all of our questions and concerns with the regulatory package through the associated changes. Consequently, we are supportive of the packages, the package, and the changes to Nevada's reclamation requirements. Be happy to answer any questions you may have.

**Tom Porta:** Any questions for Mr. Biaggi? Thank you, Allen.

**Allen Biaggi:** Thanks, Tom.

**Tom Porta:** Any other public comment? I don't see any hands raised. So, Sheryl, would you go down through the phone list if we still have people on the phone.

**Sheryl Fontaine:** Yeah. Yes, we have two people on the phone, one again from the Bryan building, ending in, 7101. Any comment? Hearing none, we have one other person on the phone ending in 1935. Any comment?

**Tina Mudd:** Yes, ma'am. This is Tina Mudd from Granite Construction Company. I'm also a member of the NVMA and Partnership for Sustainable Nevada. And I just, I wanted to echo Allen's comments in just being grateful that the staff is so, so inclusive of our organization to comment and participate. We really do appreciate that. I just had one clarification question that I was curious about and that was when referring to best engineering judgment, is that a study or a determination by the applicant's professional engineer or is that judgment from NDEP and their staff? The question being, I heard that there was a PhD on staff that could review these things. My question is, if that person leaves or retires or whatever then whose engineering judgment is it actually? I just, I worry about that a little bit being a gray area in the future when it comes to determination so, I would, I will log off now and listen in.

**Todd Process:** Okay. This is Todd Process for the record. So, we anticipate that engineers work together and make decisions, you know. I'm not an engineer either, but I have that staff person, excuse me, and it's an assigned position. So, if there's an engineer that's on board with reclamation that's part of the staff. And if she leaves, I'll hire another person and replace her, so. But the best engineering judgment is based upon what does the consultant or the industry person propose and does it make sense. So, let's say, they said, look, we can't do a three-to-one. Maybe we get to do 2.5 or 2.8. Well, that would require a stability analysis and a soil loss equation and then those engineers would present that to my engineer, and they would evaluate whether that's going to maintain long-term reclamation stability, something other than like, say a three-to-one slope. So that's what we're trying to say, we work with the operators and the consultants to, to get the final decision made.



**Greg Lovato:** And Tina, this is Greg Lovato, NDEP administrator. I'll just add to Todd's answer on that. So, we do employ registered professional engineers' positions within the Bureau of Mining and, you know, similar to other areas of practice there are ethics and requirements associated with being a professional engineer and making sure that you stay within your area of expertise and experience and that's governed by the Board of Professional Engineers and Land Surveyors. And so, you know, really, we're not necessarily talking about an analysis being done by Division staff. The analysis would be completed by the engineer who works for the company, but then the engineer who works for NDEP would be reviewing and approving that analysis. So, hopefully that clarifies the roles and responsibilities.

**Shirley Fontaine:** I think Tina had one more...

**Tina Mudd:** That is exactly. Oh, sorry. Yeah, I had one more question. And does that also apply to the 500-year storm water diversion design? Just from a site-specific limitations and constructability issue with say boundary limitations. That 500-year storm water diversion could be very large in scale, you know, where you're working from riprapping channels from with rocks that are the size of soccer balls and then you get the 500-year storm water diversions and you're looking at, you know, rip rap the size of Volkswagens and much time permit boundary limitations would prohibit us from meeting that. Would, that also, that is also part of the engineering judgment? Yes?

**Todd Procces:** Yes, Todd Procces for the record. Yeah, that would be something to look at specifically and what the site characterization would be. One of the things I was told by an engineer was that the difference between like the 100-year event and a 500-year event is a few inches deeper and a few inches wider. So, it's not, it's not as obstructive as you may think as far as the diversion being increased upon closure of the facility. It's not as punitive as you may think. It's a couple inches, but the rip rap is a, is something like you may have to adjust for if you already have rip rap placed. Often, I only see the rip rap really placed in the most severe places in the diversion, not always lined the whole way, but there's different circumstances. There's, there's different site characterizations, and that's why we have, based upon site characterization, that's why we implemented it into the green line.

**Tina Mudd:** Great. Thank you. I will say that between that 100-year and 500-year currently implementing that in the field, we, based on site characterization, we are seeing very, very different requirements from our hydrologists, so. Okay. Very good. Thank you.

**Tom Porta:** Thank you, Ms. Mudd. Any other public comment? Okay. I'm not seeing any, so I'll bring it back to the Commission for discussion and/or questions for Division staff. Mike, go ahead.

**Mike Visher:** Yeah, Mike Visher for the record. I think this is a nice improvement, Todd. It introduces the flexibility and brings it back in line with best management practices and gives the bureau the flexibility to work with the proponents and addresses

some of the longstanding concerns. So, well done. And to you as well, Rick, on your Section 519A. That was a huge challenge that was put in front of you with that, with that bill. Well done.

**Rick Perdomo:** Thank you.

**Tom Porta:** Thank you, Mike. Other questions, comments from the Commission. Okay. I'm not seeing anybody's hands raised so, we will move forward with a motion.

**Jason King:** Mr. Chairman, Jason King for the record. I move to approve permanent regulatory petition R086-21.

**Tom Porta:** Thank you, Jason. Is there a second?

**Kathryn Landreth:** Kathryn Landreth, I'll second.

**Tom Porta:** Very good. Any discussion? Seeing none, I'll call for the vote. All those in favor, please say aye.

**Male/Female Speakers:** Aye.

**Tom Porta:** Any opposed?

**Tom Porta:** Alright. Petition R086-21 is approved unanimously. Next, agenda item number eight. So, a couple more items here. Greg, I guess you're ready for your briefing.

**Greg Lovato:** Thank you, Chairman Porta, and members of the Commission. For the record, Greg Lovato, NDEP administrator. For this portion, I just wanted to provide two quick updates on some ongoing interesting outreach activities we're engaged in for two different programs. The first is being led by our Bureau of Safe Drinking Water with participation from across the Division. And it comes from Assembly Bill 97 that was passed in the 2021 legislative session. And it concerns per- and polyfluoroalkyl substances or PFAS compounds. So, I did mention this at the June 9th, 2021, SEC meeting. But before I get into our activities under AB-97, I wanted to provide you some additional, just background information. For those of you who may not be aware, PFAS compounds are short and long chain carbon-based synthetic chemicals with fluorine atoms, fluorine with an F, connected to carbon. These compounds came into widespread production in use in the 1950s for basically, their water, oil, and stain repellent properties. They're also, they're surfactants and they, so they're widely used in firefighting foams and many other products. And there have been significant releases across the country to groundwater and fire training areas. Other states such as Minnesota and Michigan have seen significant impacts to drinking water sources from PFAS compounds. More associated with manufacturing and more bulk storage activities, but you can, again, see it in fire training areas. These compounds are much more resistant to biodegradation in groundwater compared to other contaminants,

including fuels and even chlorinated solvents like the dry-cleaning solvent perchloroethylene. The drinking water health advisories from EPA and other states are generally set at very, very low levels compared to other organic contaminants. So, they're in the parts per trillion range instead of parts per billion. So, we're talking about thousands of times lower in terms of health advisory level. Fortunately, here in Nevada, there was some statewide testing required by EPA under the Federal Safe Drinking Water Act in 2013 and 2015. No PFAS was detected in drinking water supplies above the then drinking water health advisory of 70 parts per trillion for two the PFAS compounds. But the results from that event were limited in that they were only a snapshot in time, and they only tested for seven, I'm sorry, seven, as opposed to two of nearly 30 substances for which commercial lab capability now exists. That prior testing targeted all Nevada public water systems serving populations over 10,000 and then four additional smaller systems randomly selected. So, an additional testing under this federal program is being planned in the future for public water systems in the 2023 to 2025 timeframe and then all 29 compounds will be tested for. Although PFAS has not been detected as I mentioned before in Nevada's public water systems, we have obtained some federal funding to assess the potential threat to our water resources and develop communication and contingency plans in the event of a detection or an occurrence. Military installations in Nevada have been ahead in terms of evaluating PFAS occurrence and we have seen significant concentrations above the EPA health advisory levels at those military facilities and we're continuing to work with, and support DOD continued effort in that area. So, now I'll turn to Assembly Bill 97 after that background. Assembly Bill 97 requires NDEP to convene a work group to study issues related to environmental contamination of these compounds, determine location to potentially significant releases, determine sources of exposure, compile information on existing federal, state, and local actions, and develop additional actions right, make recommendations for additional actions to monitor, contain, and clean up environmental contamination from PFAS substances. We have hired a contractor with expertise in PFAS contamination and clean up and have convened the work group and held the first of four anticipated meetings in January. The work group includes over 40 members from a broad group of organizations including academia, airports, water treatment plant operators, local governments, environmental groups, federal agencies, professional firefighters, labs, and trade associations. NDEP has already created a GIS database to evaluate potential sources of PFAS based on industry type as well as vulnerable source water hydrology. The work group is evaluating PFAS plans from US EPA as well as other states that already exist including Utah, Montana, and Iowa. And we have a goal of developing a Nevada PFAS action plan by this summer. The plan will include input from the work group and make recommendations as required by AB97 for targeting additional water sampling as well as action communication and coordination steps in the event of future PFAS detection. So, we're trying to get ahead of that and, and have, you know, coordination, communication steps worked out before we go out and do the sampling and so we kind of know what the game plan is with the different, you know, involved parties. And so, the second program moving on from PFAS is some new outreach within our Bureau of Sustainable Materials Management. And I've invited Bureau Chief Daren Winkelman and staff Kayla Alm to provide you an update on the

Partners for a Sustainable Nevada work group. So, I will turn it over to Daren and, and Kayla to give you that update.

**Daren Winkelman:** Thank you, Mr. Chairman. If I may, Mr. Chairman and members of the Commission, for the record, my name is Daren Winkelman with the Bureau of Sustainable Materials Management. And with me today is Kayla Alm who is our sustainability coordinator. Thank you for allowing us a few minutes to talk to you about the Partners for Sustainable Nevada. As you may recall, several years ago, our bureau began a shift from looking at end of life waste management to an entire life cycle approach also known as sustainable materials. And if I can, I'm going to share my screen just real quick to start. During that transition and through our strategic planning process we received a tremendous amount of feedback regarding the lack of communication and really a lack of cohesiveness, cohesiveness relating to sustainability in Nevada. And one solution is to overcome the patchwork to create a stakeholder group for like-minded passionate people who could discuss sustainability challenges, but more importantly, a group that can really affect change regarding sustainability within the state. We began the process of creating the Partners for Sustainable Nevada and Kayla will go a little bit more into detail here in a moment about the group. I would like to stress that NDEP is the logistics behind the group. We provide the forum and the structure of the group. We help support their meetings. We make sure that discussions are captured and available for all the members and really kind of making sure the groups keep moving forward. We've got to be a part of it and be able to create platforms for these discussions. And ultimately, we want the group to grow and become self-sufficient. And this endeavor is really outside of the norm for NDEP, way outside of the box of our usual activities. And I really can't think Greg Lovato and Jeff Kinder enough for one, you know, listening to our stakeholders and what they wanted and two, trusting us to start the group and again, keeping the groups going forward. Most importantly, really, also we can't thank the chairs and co-chairs enough for taking time out of their busy schedules to create these groups. And to help gain support for this initiative and inspire the group, we created a video, which we aired at the first partnership meeting and hopefully, if I can do this right, we'd like to play that video for you now real quick, it's about two, two and a half minutes

[BEGIN VIDEO]

[END VIDEO]

**Daren Winkelman:** So, with that, now I'd like to turn it over to Kayla to give you just a brief overview of the group structure, what we've been up to, what's been accomplished and, and where the future is headed. So, Kayla, if you wouldn't mind.

**Kayla Alm:** Wonderful. Thank you very much, Daren. [Inaudible] strategic planning process and the stakeholder groups surrounding the topic of sustainability statewide was really instrumental. So, we formed this entire stakeholder group so we can take these smaller efforts that have been going on throughout smaller groups in the state,

and really bring them statewide. Another very important note is we've seen several legislative proposals that create really meaningful change. And so, some of our initial goals [inaudible] as environmental professionals to further enhance and discuss the topics surrounding sustainability. Hopefully through that we can emerge as leaders in sustainability throughout the state and so we can start exploring potential policy changes in upcoming legislative sessions. Next slide please. So, we started this initiative about six months ago, last August of 2021, where we held our first kickoff meeting. Throughout that meeting we asked for a lot of feedback from interested stakeholders and developed six working groups which I'll go into detail on the next slide. Throughout September through this past December these different working groups have been meeting on either bi-weekly or monthly basis to start defining problems and opportunities surrounding their working group topics. Just in the past couple of weeks we held a mid-term meeting in January to provide an update to all six working groups about what they're talking about, making sure there's no overlap, and allowing everyone participating to comment on everything that's been going on so far. The working groups will be working through the next couple of months through the end of March to create a document that we're calling the menu of options So we outlined a couple of different areas that we can work on throughout the state related to these sustainability topics. April and onward we'll be moving towards working on an implementation phase and see what we can take out of those menu of options ideas and then start enhancing throughout the state. Next slide, please. So, these six different working groups that were identified, as I said, came from stakeholder input about different sustainability topics that were most important to our stakeholders. So, one of the groups that came out was education and outreach. [Inaudible] businesses and everyone living in throughout Nevada. Next is our organics management group, looking at composting, anaerobic digestion, food waste, and really is a large topic nationwide. Our next group is policy change and funding. And again, they're the leaders really who are taking some of the different legislative proposals and bringing them forward. Truly creating a unified voice surrounding these. So hopefully, we'll see some success. Next is our recycling working group, and they've been working on how to further recycling collection, transportation, making sure that everything is clean and workable throughout the different markets. Next is our source reduction groups seeing how we can minimize the different waste produced throughout the state. And last but certainly not least, our sustainability group, which is going to tackle all the other topics that have been really a large parts sustainability, but we have yet to really identify what's going to be going and moving forward with that. As you see we have our six different working groups and our chairs and co-chairs. As Daren mentioned, we're here at NDEP as facilitators for this group. We do not want to take lead on a conversation or steer the conversation in a certain way. And so, we have different industry representatives that are from private businesses, nonprofits, different government agencies, to help lead the conversations. So, to ensure that we have a wide range of opinions throughout sustainability to really enhance this group. Next slide, please. So, as part of our kickoff meeting last August, we had the group come up with a mission statement here. But I think the end of this mission statement, as you can read, really is to advance and expand sustainability efforts statewide. And that is what the partnership really aims to do. There are several aspects to sustainability, and we can expand those efforts. That is why we put this

group here together. Next slide, please. Then here's the definition of sustainability of this group, again, also created within the sustainability working group. There are several definitions of sustainability that can mean a variety of different things. So, this is the definition that we decided to create for this group. Right, next slide, please. So next steps, over the next couple of months different working groups are going to be meeting again to create the strategies and tactics to go deeper into detail about what can be done throughout the state to again, further sustainability. March 31<sup>st</sup> as I said, we will be publishing a menu of options. And from there a different nonprofits and private industry, government levels, all levels of city county and state, can take to further enhance sustainability in their sector. So, with that, I'd like to open up to any questions that you guys may have. Thank you again for allowing us to present this information today.

**Tom Porta:** Questions for Kayla or Daren? Anybody? I just want to say I think this is a wonderful step forward involving the community in Nevada and thinking about, you know, to take sustainable resources especially in our state. And I think it's a great step forward. Congratulations on your work. We look forward to hearing more.

**Daren Winkelman:** Great. Thank you.

**Kayla Alm:** Thank you.

**Tom Porta:** Okay, Greg, do you have anything else for us?

**Greg Lovato:** I think that that covers it. I'll just mention on Partners for Sustainable Nevada, as Daren mentioned, you know, we've seen a lot of single issue, recycling bills come before the legislature that may be advantageous for certain sectors or certain locations and businesses. And, you know, the rest of the community, including regulators and other industry, you know, is sort of reacting to those. This is an effort to, you know, take a look at. We produce a recycling report every two years as required by the legislature. And so, you know, by having this network, we can maybe have some more informed perspectives and, you know, variety of experience, you know, both from people who are working in recycling as well as other parts of Nevada to, you know, have that network and be a little more cohesive in what we present. So, I want to thank the staff for being brave enough to, you know, embark on, you know, something that's different. You know, we're used to being scientists and engineers and implementing regulations, and that's challenging, but to sort of open things up and explore, you know, opportunities, I think is going to be a helpful model for other areas where we're not sure exactly what to do next or whatnot. So, anyway, just thanks and I'll, any other questions, we'll take them, or we can move along.

**Tom Porta:** Yeah, I think I'm hopeful that this will, you know, help in the area of E-waste. You know, that's been an issue for many, many years, and maybe this type of group you put together, we can find better ways to handle that particular recycling issue.

**Greg Lovato:** Certainly.

**Tom Porta:** Any other questions for Greg or the staff before I open it up to public comment? Alright, I'm not seeing anybody's hand raised so, that will conclude agenda item number nine. The next agenda item is public comment. I'll open it up to the members of the public who are still with us to provide comment. And Jessica or Sheryl if you could ask. It looks like there is still a couple of people on the phone just to double check.

**Sheryl Fontaine:** I still have someone from 7101, the Brian Building. Any comment? And we still have 1935. I believe it's still Tina Mudd.

**Tina Mudd:** And while I'm here, I'm just going to take advantage of the time to compliment Daren, Kayla, and Bree on this huge effort that they've taken on and I just wanted to reach out. And the diversity of this group that is participating and coming up with these ideas and menu of options is fantastic. It's from every walk of life from, you know, mining and construction to NGOs and recyclers. The group is amazing. And I want to thank all three of them for their continued efforts. They're doing a wonderful job and we're grateful for them.

**Tom Porta:** Thank you Ms. Mudd for that. I don't see we have anybody else. Is that correct, Sheryl?

**Sheryl Fontaine:** Correct, I don't see anybody else either.

**Tom Porta:** Okay, very good. That will conclude then the public comments. And the last item is our adjournment. I want to thank everyone for, especially the Divisions' work on these petitions. They are really big. You know, anytime the legislature hands down something to you all, it's always a very large task, and you know, you still have the same people you're doing the original work with. So, to move forward with these regs, as a result post statute I think, certainly great work and your work with, you work with the regulated community continues to be, you know, spot on. And I want to thank you guys for doing that, it makes our jobs a lot easier here on the Commission to move forward with these regulations. So, I'll adjourn the meeting and thank everyone again.

**Sheryl Fontaine:** Thank you.

**Male Speaker:** Thank you.

**Male/Female Speaker:** Thank you.