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**MICHAEL VISHER**  
 Administrator

**Commission on Mineral Resource**  
**Oil Barrel Fee Workshop**  
**Tuesday, October 27, 2020**  
**10:00 A.M.**

**Minutes**

Staff via Zoom Conference	Public via Zoom Conference
Mike Visher	Michael O’Neal, Grant Canyon Oil & Gas
Lowell Price	
Rob Ghiglieri	
Sherrie Nuckolls	
Courtney Brailo	
Art Henderson, Commissioner	

**Mike Visher:** Opened the workshop at 10:00 A.M. He thanked everyone for attending the workshop via Zoom conference and mentioned that this is an informal workshop to gather public comment on the proposed NAC 522.342 temporary change.

**COMMENTS BY THE GENERAL PUBLIC**

None

**Mike Visher:** Reviewed the proposed temporary change to the regulations of NAC 522.342.1 on page 12. The only change is the administrative fee for production of oil and gas and a reduction from 15 cents to 5 cents per barrel. As a temporary change it would take effect 35 days after the hearing is adopted. The hearing is scheduled for November 16<sup>th</sup> and will need a quorum of the Commission. If adopted, the temporary regulation change will be effective until November 1, 2021, giving operators approximately 11 months of reduced rates for the fee. The Commission decided on reducing the fee from \$0.15 to \$0.05 per barrel to lessen the financial burden on the oil industry but still be able to pay for well inspections and annual dues to the Interstate Oil and Gas Compact Commission. The actual financial savings to the industry will be dependent on the actual production reported during the effective term of the temporary regulation.

**Michael O’Neal:** We at Grant Canyon Oil and Gas appreciate this, this is very helpful. I want to try to understand the process. This (fee) is from the Division of Minerals which is the State Commission (of Mineral Resources). This is a fee that we pay, for well inspections, etc. How was this proposed, who proposed it, and how does it get from where it’s at into law?

**Mike Visher:** There’s a time period where agencies are not allowed to make permanent changes to regulations, and we’re in that timeframe. From July of the year prior to a Legislative session until the end of the Legislative session, we’re locked out from making any permanent changes to our regulations. But we can make either temporary regulation changes or emergency regulation changes. Temporary regulation changes, by statute, expire November 1<sup>st</sup> of the following year unless it’s indicated to be earlier than that. It’s a bit of an expedited process that doesn’t

have to go to the Interim Legislative Commission for review and approval. It's adopted by our Commission and we have a special meeting set for November 16<sup>th</sup> for that hearing and that's where they would adopt the change. Then the statute states we have to wait 35 days before it becomes effective. That process takes the place of Interim Legislative Commission review. It can't be a permanent change and if we do want to make a permanent change we have to wait until after the legislative session. Again that would be something that would have to be proposed and recommended by the Commission on Mineral Resources for us to move forward to make any permanent changes. We would go through the same process with a public workshop and public hearing by our Commission. But for permanent change, those would also have to go to the Legislative Commission for review and if the Mining Oversight and Accountability Commission (MOAC) is a viable entity, it would have to be heard by the MOAC prior to the Interim Legislative Commission.

**Michael O'Neal:** Thank you, whose idea was this?

**Mike Visher:** It was our oil and gas commissioner, Art Henderson who requested we look into the impact that it might have and quantify the savings. Commissioner Henderson is on this Zoom call right now as well.

**Michael O'Neal:** Art Henderson?

**Mike Visher:** Yes.

**Michael O'Neal:** Art, I appreciate you, so you're with the State?

**Art Henderson:** Yes, I'm the Oil and Gas Commissioner and have been for the last 7 years.

**Mike Visher:** Michael, you may remember when we developed the hydraulic fracturing regulations; Art Henderson was integral to the development of those regulations. He's been working with us on many of the oil and gas issues related to the agency. The Division of Minerals has seven Commissioners that our agency reports to and each of those members represents a different facet of the minerals industry, Art represents oil and gas.

**Michael O'Neal:** Great, Art I appreciate it. This will be a segue to bring up this other topic but prior to bringing up the other topic, I'm sure you can understand that with today the oil prices are \$39.50 when I looked this morning. Our oil head price is anywhere between \$33.50 and \$29.50. We've worked with the BLM for royalty reduction rate which we were able to get on a temporary basis which has been very helpful. We have also worked with our refinery where oil prices below a certain cap the reduction rates change. They don't want to lose our production, they don't want us to shut in wells, because then they lose employees, those employees go work for the mines and they never get them back. When the price gets down below a certain threshold, they have agreed to take a certain reduction in pay. You guys can imagine that the oil and gas industry in Nevada is hard to begin with. We have to import our equipment, most of our lands are on federal lands, and to do anything is very complicated. Now we have Sagebrush Ecosystem Technical Team (SETT) which the State agreed to sign a memorandum of understanding with the BLM.

What I also wanted to bring up is the proposed legislation to increase the net proceeds of mines tax from 5% to 7.75% of the gross, not the net proceeds. The gross which will kill the industry, just flat out kill it. I know that that isn't what this is about this morning and I appreciate this but it's almost like we're going to give these guys some peanuts and then hit them really hard next year with this proposed legislation. I wanted to get your comments and make my comments on these. We plan to do everything we can to keep this from happening but with the shortfall and budgets that the state is facing this is something that they think will help but it's going to kill the industry.

**Mike Visher:** I agree Michael, I think both SJR1 and AJR1 were intended to be shots across the bow for the mining industry. They we're really looking at the gold mining industry to get their attention. Whereas AJR2 would increase the net proceeds cap in the Constitution from 5% to 12%. That was really put out as an olive branch to get talking and find a way to make something work. That language is fixed and that language changes the Constitution, but the actual amount gets set by legislation up to that cap. It enables them to increase the net proceeds from 5% to 12% but how they do that would be determined through legislation. Preliminary discussions have been looking at a tiered system where producers generating less than 10 or 20 million dollars gross would not be affected by the change and would be using the same formula as in place right now. Our Commission will be sending a letter as statutorily enabled to provide insight, make recommendations with regards to natural resource policy in the state. This is something that obviously is very concerning to our Commission and our agency. Anything that impacts the industry in a negative way hits us financially because we are reliant on mining claim fees to survive. We do not receive any general fund money. Between 76% and 80% of all of the revenue we receive comes from mining claim filings at the county level. Anything that negatively impacts the filing of mining claims hurts our agency. Right now AJR1 and SJR1

also remove the exemption from taxing of not just patent mining claims but unpatented mining claims. It leaves the door open for another way to tax those who have unpatented mining claims in the state as well. That would significantly impact exploration, as well as, production in this state. I do not think anybody really intends for that to happen but it's something we're going to have to be mindful of and watch out for.

If approved by the public, any changes to the Constitution and the impacts to net proceeds would not start until 2023. The vote by the public would be in 2022. They make changes to the Constitution but the Legislature will decide the details about how Net Proceeds actually moves forward. The Legislature will decide if certain industries are left unchanged or whether some are singled out and if so, how. Because it also impacts the geothermal industry as well since they also pay net proceeds. I think this is one of the unintended consequences by the Legislature.

There will be more opportunities for you and the rest of the industry to have your voices heard. I think it's really important that you drive home the relative size of the industry and the impacts. The Legislature is not looking to go hit the small companies; they're trying to go after those with the biggest and deepest pockets. The last thing that Nevada should be doing is penalizing the industries that were able to survive the pandemic relatively unscathed. Oil got hit because the oil prices were hit. That is one of the things that the Legislature really doesn't understand when they made the changes to the net proceeds and taxes. The operators do not get to set the price of product that they sell, so there's no means to pass along a tax increase to the consumer. All it does is affect your bottom line and your ability to survive. That's no different than most of the mining companies they produce a product, a commodity that they have no control over its price, it's set on a global or national market. Only those that are in a contract for deliverables have the ability to pass on any additional costs. I think there's a lot more discussion that need to be had in educating the Legislators. There will be more opportunities for that as we move forward. We want to ensure you that the Commission will be sending a letter to the Legislature and the Governor to lay out what these potential impacts are and why it's not good for the state, as well as, try to outline some of these key points with regards to the minerals industry in the state.

**Michael O'Neal:** I appreciate that, it was certainly helpful. I wasn't aware that it was possibly going up to 12% or 12.5% but anything that's connected to the gross can really hurt you. What's interesting is I know of companies that have struggled to pay their taxes. Not only are companies not paying their taxes, which probably happens in every state, but you're exactly right to not hit them when they're down. If they make it through the pandemic then get things back up and going again, that's what you want. You need that to generate revenue for the state. Will we be informed when the Legislature will want to hear from us, is that in February or when is that?

**Mike Visher:** The Legislature starts up again in February, there are bill draft requests that the legislators are all provided the opportunity to submit. Those could be changes to statute that can be related to a pet project or issue that they have, or something more far reaching. Each of those bill draft requests gets posted in the states Nevada Legislature Personalized Legislative tracking system (NELIS). You can sign up for that and follow along. If you Google NELIS and sign up you can actually track those bill draft requests that may have an impact on the oil industry. You can also do keyword searches. The problem is right now the bill draft requests only have a one sentence descriptor that is often extremely vague and you have no idea what it's really about. Anytime there's a change to it, or if it's scheduled for a meeting, NELIS will let you know. That's the easiest way because then you can see what's important to you for legislation that you want to follow along with and I would encourage you to do that. Beyond that if you'd like me to give you an update as things come in I'd be perfectly happy to do that.

**Michael O'Neal:** That would be great.

**Mike Visher:** Okay.

**Michael O'Neal:** Anything you can forward our way would be appreciated. You speak about these Legislators that they have things they try and hit people blindsided on and that's kind of what happened to us on SETT. I mentioned earlier working on federal lands in Nevada in our industry has been difficult. We've been doing it for 15 years you guys may or may not know. Some things work better than others but at the same time it seems to be getting tougher. The SETT which is the Sagebrush Ecosystem Technical Team (SETT) kind of blindsided us. We'd love to talk to the Governor about it. There are already so many stipulations in our leases where we're stymied for 6 months to do anything anyway and when we do something it could take 2 years to get a permit.

So we get a lease, we pay for the lease, we sign up and receive the lease stipulations and then we're slapped with this new SETT. To me, at first I thought it was a memorandum of understanding but it is law from my understanding. What they've done is adopted a mitigation type of debit and credit system that can work or has worked maybe for

Wyoming or Colorado. Well, compare the oil and gas industry in Wyoming and Colorado to the industry in Nevada and use the same SETT regulations, that doesn't make sense at all. What I'm talking about is you got to get these mitigation credits that could cost anywhere from \$1,000 up to \$4,000 per credit and yields your project uneconomic. I'm aware of a project in Nye County that was moving forward with a simple reentry of \$350,000 by the time SETT got finished they said all in is going to be \$400,000 so it's just uneconomic. Now with that being said, it's there and we have to deal with it. Anything that you guys can do to help the state understand.

This SETT has really hammered everybody wanting to either come into the state to do something or people that are already in the state it's making it extremely difficult and it's this bird. I'll give you a quick example, we're in Pine Valley where we've been for years and have put together some leases out there trying to get a project going. There's a real nice family that owns a ranch in part of our unit. A resident there has lived his entire life and has never seen any sage grouse. The method that was used to try and figure out where bird general habitats are or priority habitats are, doesn't work. We respect all types of birds but what doesn't make sense when we have a solar farm down in southern part of Nevada, I think it's called Crescent, (Dunes) it's killing hundreds of birds or the wind farms up by Ely in White Pine County, they're killing hundreds of birds, even eagles. Something's got to move on this one direction or another in order to help us because it's just continuing to make things a lot more difficult. I'm sorry to bring this up this morning but since I've got your attention I thought I'd let you know our thoughts on this SETT.

**Mike Visser:** The SETT is a complicated issue, there is a lot of agencies that are caught in the crosshairs on this one. They're doing the best they can with not a lot of information and trying to adapt as best they can. We do work with SETT and we have worked to educate them on the exploratory nature of minerals in the state. The colors you see on a map right now those are meant to be dynamic and can be changed. It's not an easy process, it's slow, it's cumbersome, I understand that. The stipulations with the leases make it very difficult to move forward but there is a waiver process. I do not know if you've tried that process at all with the BLM but there is a process where you can get a waiver to those stipulations. I'm not saying that you would be able to, but there is a pathway to do that and that was part of the changes that were made to the BLM regulations. It's being treated on a case by case basis so you kind of have to make it personal to get them to understand what the particular responses of your project are and what you're trying to achieve. I'd like to talk to you more about this and get into some of those particulars and see if there isn't something to do to assist. It may just be putting you in contact with the right person to have those discussions. The process is getting better but there are still a lot of assumptions that are that are not correct. We have to bring them up on a case by case basis while they adjust and adapt. Remember the whole thing was done to prevent a listing by the Fish and Wildlife Service. If the bird was listed then it impacts everything, not just on public lands, but on private land as well. That would have an even greater impact to the minerals industry in the state. The effort was try to do everything we can to limit a listing of the bird by Fish and Wildlife Service. This comes up for review again so the state has to be able to document and demonstrate that the current system with the conservation credit system is working. I think it is working to a degree, but I understand that not everyone is happy with it, and certainly there's an additional cost that was not anticipated when some of the operators initiated their development. Part of our job at the Division of Minerals is to try and educate the public and the Legislature on these impacts. The more information you provide to me, the more I can make sure it's relayed to the right agencies, either sister agencies or the Governor's office or the legislators. I'd appreciate the opportunity for us to have some additional conversations on these topics.

**Michael O'Neal:** Great, I would like to do that. Just real quick, when did the discretion fall to the BLM? I know what you're talking about as far as stipulations where it said that the BLM authorized officer could wave, but had to do it in conjunction with the Wildlife and Nevada Division of Environmental of Protection. When did that law change and when it became just the discretion of the BLM?

**Mike Visser:** As I recall that started in spring of 2019 but then it got complicated because that Approved Resource Management Plan Amendment (ARMPA) was appealed there was litigation tied to that. The judge ruled and said, no you have to go back to what was in place before. But it didn't affect all of the ARMPA so I'll have to refresh my memory for you and look up that stuff again specifically. I know right now that the waiver to the stipulations component is in place, but it does require a coordinated effort to demonstrate the cases to why. That includes working with not just the BLM but with the Department of Wildlife to a degree as well. That is in place right now.

**Michael O'Neal:** So they do have to work with the Wildlife Division?

**Mike Visher:** The BLM is looking to get consensus as best they can, and part of that is to get Wildlife nodding in the same direction.

**Michael O'Neal:** I see. It is just the matter of something that doesn't happen every day at the BLM. Oil and gas is such a small industry and it becomes a whole reeducation process every time you go through something with them. We have learned to live with that and it's not that big of a problem. We certainly have a good relationship with the BLM so I'm glad to hear that this is leaning where BLM can make the vote but they'd like to have verification by everybody. I'm sorry to get off the track but getting back we really appreciate the barrel tax reduction, that's going to help us tremendously, every little bit helps.

**Mike Visher:** That's good to hear, that was the intent. Giving 11 months of some relief and hopefully you can make the most of it.

**Michael O'Neal:** We have a couple of projects that we really want to get going. Lowell knows we want to put some gas in it at Bacon Flat and with the barrel tax going down, that's going to help.

**Mike Visher:** That's good to hear, I appreciate all the comments Michael. Art did you have anything you'd like to say?

**Art Henderson:** No. I really appreciate the feedback; we were very concerned about the oil industry in Nevada. We wanted to try to do something. As we mentioned, when we were in need a few years ago, because we were having a struggle at the Division, the members of the oil industry came to our support. Now we wanted to return that back and we're going to do everything we can to keep the oil industry a viable industry in Nevada. I look forward to seeing you, maybe you can come to the Legislature in person or however you're going to do it, we'd be happy to see you if you come.

**Michael O'Neal:** Keep me informed Art and I would be happy to come in person.

**Art Henderson:** Okay, that'll be great, the more that come the better chance we have to explain our situation.

**Mike Visher:** That concludes the workshop portion.

#### **COMMENTS BY THE GENERAL PUBLIC**

None

#### **ADJOURNMENT**

10:45 A.M.