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Amount of Corporate Guarantees Held by the State of Nevada, as of 2002

• Bargold Corporation (Barrick)	\$ 8,123,202.00
• Barrick Goldstrike Mines	\$ 37,762,500.00
• Franco-Nevada (Newmont)	\$6,150,000.00
• Homestake (Barrick)	\$17,240,323.00
• Newmont Gold Mining	\$ 162,524,652.00
• Glamis Gold	\$5,494,940.00

Total	\$237,295,617.00
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I 1 of 15

**Nevada Bankrupt Mining Companies
(1998-2000)**

1. **Alta**
2. **Arimetco**
3. **Mineral Ridge**
4. **Jumbo**
5. **Atlas**
6. **Pruett Ranches**
7. **Homestead**
8. **McNamara**
9. **Spencer**
10. **Atlas Precious Metals**

Provision of Surety

NAC 519A.350 General requirements. (NRS 519A.160)

1. An operator shall file a surety with the division or a federal land management agency, as applicable, to ensure that reclamation will be completed on privately owned and federal land. The surety may be:
 - (a) A trust fund;
 - (b) A bond;
 - (c) An irrevocable letter of credit;
 - (d) Insurance;
 - (e) A corporate guarantee; or
 - (f) Any combination thereof.
2. If the surety is a trust fund:
 - (a) The operator shall make a payment to the trust fund annually for the term of the exploration project or mining operation.
 - (b) The initial payment to the trust must be:
 - (1) For a new exploration project or mining operation made before the land is affected.
 - (2) For an exploration project or mining operation which is active on October 1, 1990, made within 60 days after the operator receives a permit from the division.
 - (3) At least the amount required for reclamation pursuant to NAC 519A.360 divided by the number of years in the term of the project or operation.
 - (c) The annual payments must be:
 - (1) Made within 90 days after each anniversary date of the first payment.
 - (2) The difference between the amount required for reclamation pursuant to NAC 519A.360 and the current amount of the trust fund divided by the number of years remaining in the term of the project or operation.
3. If the surety is the bond of a corporation:
 - (a) It must contain an indemnity agreement guaranteeing payment to a trust fund for reclamation, the division or a federal land management agency, if applicable.
 - (b) It must state that the operator shall faithfully perform all requirements of the permit issued by the division.
 - (c) The corporation must be licensed to do business in the State of Nevada.
4. The operator may provide evidence of a surety provided by the program for the pooling of reclamation performance bonds developed by the division of minerals pursuant to NRS 519A.290.
5. If the surety is an irrevocable letter of credit, the letter of credit must:
 - (a) Be executed and issued by a bank authorized and doing business in the State of Nevada or a correspondent bank which is authorized to do business in the State of Nevada.
 - (b) Be made at the request of the operator.
 - (c) State that the issuing bank will honor drafts for payment upon compliance with the terms of the credit.
 - (d) Be irrevocable and issued for a period of at least 1 year.The operator shall notify the division at least 60 days before the expiration of the letter of credit. The notice must state whether it will be renewed or replaced with another form of surety.
6. If the surety is insurance:

(a) The operator shall submit to the division a certified financial statement for the financial warrantor's most recent fiscal year and a certification by an independent auditor that, as of the close of the year, the financial warrantor meets the requirements of this subsection. The financial statement must set forth all nonrecurring items which affect net income.

(b) The net worth of the financial warrantor must be at least:

(1) Ten million dollars; and

(2) Twice the amount of all financial warranties.

(c) The tangible fixed assets of the financial warrantor in the United States must be worth at least \$20,000,000.

(d) The ratio of the liabilities to the net worth of the financial warrantor must not be more than 2 to 1.

(e) The net income, excluding nonrecurring items, of the financial warrantor must be positive.

(f) The financial warrantor must be authorized to conduct the business of insurance in the State of Nevada.

7. If the surety is a corporate guarantee:

(a) Not more than 75 percent of the required surety may be satisfied by the corporate guarantee, which is subject

to periodic review and approval by the administrator of the division. The remaining portion of the surety must be

satisfied by a surety identified in this section.

(b) The audited financial statements of the corporation must indicate that the corporation has two of the following three ratios:

(1) A ratio of total liabilities to stockholder's equity less than 2 to 1.

(2) A ratio of the sum of net income plus depreciation, depletion and amortization to total liabilities greater than 0.1 to 1.

(3) A ratio of current assets to current liabilities greater than 1.5 to 1.

(c) The net working capital and tangible net worth each must equal or exceed the amount established for

reclamation pursuant to NAC 519A.360.

(d) The tangible net worth must be at least \$10,000,000.

(e) Ninety percent of the assets of the corporation must be:

(1) Located in the United States; or

(2) At least 6 times the amount established pursuant to NAC 519A.360.

8. Any financial information submitted to the division pursuant to this section must be prepared in accordance

with accounting principles that are generally accepted in the United States.

(Added to NAC by Environmental Comm'n, eff. 9-19-90; A by R089-01, 10-25-2001)

NAC 519A.355 Provision of statewide surety for exploration projects. The applicant for a permit for an

exploration project may provide a statewide surety for all projects conducted within the State of Nevada.

(Added to NAC by Environmental Comm'n, eff. 9-19-90)

NAC 519A.360 Amount of surety required.

1. The operator shall provide surety in an amount sufficient to ensure reclamation of:

(a) The entire area to be affected by his project or operation; or

(b) A portion of the area to be affected if, as a condition of the issuance of the permit, filing additional surety is required before the operator disturbs land not covered by the initial surety.

2. Except as otherwise provided in subsection 6, the amount of surety

required must be based on an estimate of the cost of executing the plan for reclamation which would be incurred by the state or federal agency having jurisdiction over the land.

3. The operator's estimate of the cost for reclamation must be based on either:

- (a) The costs of equipment rental, operation and labor appropriate for the geographic area;
- (b) Estimated costs provided by an outside contractor; or
- (c) Any other method which is acceptable to the administrator, the Bureau of Land Management, the United States Forest Service or another federal land management agency, if applicable.

4. In determining the cost of executing the plan for reclamation, the operator shall consider all activities in the plan for reclamation that are required by NAC 519A.010 to 519A.415, inclusive or chapter 519A of NRS, including, if appropriate:

- (a) Earth moving, regrading, stabilization of heaps and dumps, recontouring of roads and erosion control;
- (b) Process fluid stabilization;
- (c) Revegetation, preparation of seedbed and planting;
- (d) Demolition of buildings and other structures;
- (e) Removal and disposal or salvage of buildings, structures, equipment, piping, scrap and reagents;
- (f) Any ongoing or long-term activities which are required to maintain the effectiveness of reclamation or are necessary in lieu of reclamation, including periodic clean-out of sediment basins or maintenance of berms and fences which are used to prevent access to areas which pose a threat to the public safety;
- (g) Equipment mobilization and demobilization; and
- (h) Administration and management by the division, the Bureau of Land Management, the United States Forest Service and another federal land management agency, if applicable.

5. In determining the cost of executing the plan for reclamation the operator is not required to consider the cost of any activity not included in the plan for reclamation or not required by NAC 519A.010 to 519A.415, inclusive, or chapter 519A of NRS. This subsection does not limit in any way the authorities of the Bureau of Land Management, the United States Forest Service or another federal land management agency to require surety for purposes other than those of NAC 519A.010 to 519A.415, inclusive, and chapter 519A of NRS.

6. The department shall require surety in the amount prescribed in subsections 2 to 5, inclusive, unless the operator demonstrates to the satisfaction of the administrator that a lesser amount will be sufficient to ensure that the required reclamation will be completed. The division shall consider:

- (a) The financial strength of the company;
- (b) The value of the assets of the company;
- (c) Past reclamation performance of the company;
- (d) Extent of proposed concurrent reclamation;
- (e) Ease of implementation of the proposed reclamation plan; and
- (f) Other factors presented by the applicant.

(Added to NAC by Environmental Comm'n, eff. 9-19-90; A by R090-00, 7-27-2000)
NAC 519A.365 Submission to division of information regarding estimation of

costs for reclamation. The

operator shall submit, on a form provided by the division or in a similar manner:

1. Documentation for his calculation of the cost of executing the plan for reclamation;
2. The source of his estimates of costs;
3. A list of specific activities which will be performed to reclaim the affected acres such as those in NAC 519A.360 for each type of disturbance; and
4. The total acreage of each disturbance requiring the same activity to be performed for reclamation.

(Added to NAC by Environmental Comm'n, eff. 9-19-90)

BIAGGI, Administrator

7-1670

7-1678

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ation Control

887-5856

Regulation and Reclamation

884-5259

STATE OF NEVADA

KENNY C. GUINN

Governor



Waste Management
Compliance Activities
Federal Facilities

Air Quality
Water Quality Planning
Facsimile 887-6396

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
DIVISION OF ENVIRONMENTAL PROTECTION

333 W. Nye Lane, Room 138
Carson City, Nevada 89706-0851

August 30, 2000

Mr. Robert V. Abbey
Bureau of Land Management
40 Financial Boulevard
PO Box 12000
Carson City, Nevada 89520-0006

Re: Corporate Guarantees for Mining Operations and Exploration Projects

Dear Bob:

As you well know, the current period of low metals prices has caused financial difficulty for much of the mining industry, and has resulted in a number of bankruptcies. At such a time, reclamation surety is a critical issue. I would like to clarify the State's obligation regarding corporate guarantees as reclamation surety.

Corporate guarantees are allowed by state law (NRS 519A.130) and regulation (NAC 519A.350). The State may accept a corporate guarantee for a mining operation or exploration project when the legal requirements are met. If an operator suffers financial distress and cannot or will not fulfill the obligations of the corporate guarantee, the State cannot assume those obligations. We will, however, work cooperatively with the Bureau of Land Management and other appropriate agencies to use available resources to ensure the completion of as much reclamation at the site as possible.

The effectiveness of the mining regulatory programs in Nevada is in large part due to the close working relationship we enjoy with our fellow agencies, especially the BLM. We hope to continue and even improve our good working relationship with your agency, and look forward to coming out of these difficult financial times with environmental programs that are even stronger and more effective than before.

Sincerely,

Allen Biaggi
Allen Biaggi
Administrator

Tom Leshendok, BLM NSO
Gabrielle Carr
Jolaine Johnson
David Gaskin

Analysis of Nevada Mine Bonding Corporate Guarantees A Case for Repealing the Authority

A corporate guarantee is essentially an assurance by a company that they are good for the reclamation. It is a promise by the company's CEO that they will not go bankrupt and additionally that they will fulfill their pledges to clean-up their sites. If a company goes bankrupt, it is the public that is left to clean the sites, if they get cleaned at all.

In 2001, with the new regulations issued under the Clinton administration, the Bureau of Land Management (BLM) no longer accepts corporate guarantees. Although the Bush administration repealed most of the regulations issued by the previous administration, it allowed the new bonding regulations, including the ban on corporate guarantees, to remain.

Most western states with hardrock mining also do not allow corporate guarantees. The exceptions are Arizona and Alaska. In Arizona, many of the mines have been mined for decades for copper; their lack of bonds and corporate guarantees for existing bonds are becoming a liability because many copper mining companies are losing money. In Alaska, most miners are very small operations, therefore the corporate guarantee program is not widely used.

Nevada had 10 companies go bankrupt covering 29 sites on BLM land during 2000. Most of these were small mines, although one exception was Arimetco who owned both the Yerington and Paradise Peak Mines. Yerington had essentially no bond because it is an old mine. Estimates for clean-up of that site range to \$250,000,000. Paradise Peak, first permitted in the 1960s, had \$1,157,000 in secured and \$3,467,181 in unsecured bonds. Clearly, Arimetco took advantage of the potential for corporate guarantees. The costs will likely far exceed the total bond that had been calculated for Paradise Peak.

The Pegasus Corporation also went bankrupt during the late 1990s. Just months prior to their bankruptcy, they could have obtained a corporate guarantee. They have one mine in Nevada, Florida Canyon, which currently has a \$16,900,000 bond. Florida Canyon was reorganized as Pegasus Gold. One of their mines in Montana, Zortman-Landusky, which had been bonded for \$25,000,000, was not reorganized. Had it been a corporate guarantee, Montana would have been liable for the entire clean-up. The actual costs of clean-up have recently been estimated to exceed \$100,000,000 for which Montana is currently liable. The Zortman-Landusky mine is an example of the costs to be expected at sites in Nevada because of its' size, complexity of processes, and amounts of groundwater contamination.

Additionally, a company does not necessarily need to go bankrupt to default on their reclamation commitments thus requiring the state to clean their site. Canyon Resources of Golden, Colorado, abandoned a site in Montana rather than spend the estimated \$14,000,000 required for clean-up. Their bond was just \$1,900,000. Canyon does not operate in Nevada.

Current Law and Regulations

Corporate guarantees are referred to in the Nevada Revised Statutes as follows:

"Surety" means, but is not limited to, a trust fund, surety bonds that guarantee performance or payment into a trust fund, letters of credit, insurance, **corporate or other guarantees of performance**, or any combination of these or other forms of security approved by the director of the state department of conservation and natural resources and used to ensure that reclamation will be completed. NRS 519A.130, emphasis added.

That is the only reference in the statute; all other references to surety in the statute authorize NDEP to establish a sufficient surety and to set regulations. The legislature appears to have left it up to the Nevada Division of Environmental Protection (NDEP) and the State Environmental Commission (SEC) to write the specifics. It appears that removing this is the only change that would be required from a bill.

The regulations are found at NAC519A.350 which provide that up to 75% of the bond for a specific project may be secured by corporate guarantee if the company meets some minimum financial standards. Specifically, the regulations state:

If the surety is a corporate guarantee:

(a) Not more than 75 percent of the required surety may be satisfied by the corporate guarantee, which is subject to periodic review and approval by the administrator of the division. The remaining portion of the surety must be satisfied by a surety identified in this section.

(b) The audited financial statements of the corporation must indicate that the corporation has two of the following three ratios:

- (1) A ratio of total liabilities to stockholder's equity less than 2 to 1.
- (2) A ratio of the sum of net income plus depreciation, depletion and amortization to total liabilities greater than 0.1 to 1.
- (3) A ratio of current assets to current liabilities greater than 1.5 to 1.

(c) The net working capital and tangible net worth each must equal or exceed the amount established for reclamation pursuant to NAC519A.360.

(d) The tangible net worth must be at least \$10,000,000.

(e) Ninety percent of the assets of the corporation must be:

- (1) Located in the United States; or

(2) At least 6 times the amount established pursuant to NAC 519A.360.
NAC519A.350.7.

NAC 519A.360 provides for the "Amount of surety required" which is the bond amount. There is no limit on the number of projects or total sum of corporate guarantee that may be obligated in this way. While there is a requirement that the net working capital and tangible net worth each must equal or exceed the amount established for reclamation, there is no provision for considering a company's similar liabilities in other states or countries. This is because corporate guarantees are not shown as a liability on a company's balance sheet.

These regulations appear to require fairly substantial guarantees of a company's health. A closer look shows the loopholes in the regulations. For example, there is no definition of liability. A company's overall reclamation liability is a part of the company's total liabilities. In Newmont's 2001 annual report to the Securities and Exchange Commission, they report almost \$177,000,000 in total reclamation and remediation liabilities with \$126,000,000 being for just reclamation. Because Newmont's bonds in Nevada are much more than the amount reported in their 2001 annual report (see the discussion below), there are many questions about the liabilities shown on the balance sheet. Also, the regulations do not provide for a limit and Mr. Dave Gaskin of NEEP has indicated that there is no limit to the total corporate guarantee amount that a company must hold.

There are also concerns about the "corporate veil" that most mining companies have been setting up for nearly every mine. Each individual mine supposedly owned by a mining company is usually a wholly owned subsidiary. This "corporate veil" is designed to insulate the parent company from the liabilities of their subsidiaries. As part of their recent acquisitions, Newmont provided the SEC a "s3 registration" document. The following passage is from that document:

We are engaged in the production of gold, the exploration for gold and the acquisition and development of gold properties worldwide. We produce gold from operations in North America, South America, Australia, New Zealand, Indonesia, Uzbekistan and Turkey. We are also engaged in the production of, and exploration for, copper and zinc.

As a result of the restructuring described above, Newmont USA is a subsidiary of Newmont Mining. The operations of Newmont USA and its subsidiaries consist primarily of those of Newmont Mining Corporation and its subsidiaries prior to the February 2002 acquisitions referred to above.

Newmont Mining is primarily a holding company and has no material operations, sources of income or assets other than our equity interest in our subsidiaries.

Because substantially all of our operations are conducted by our subsidiaries, our operating cash flow and our ability to service our indebtedness, including any debt securities that may be issued pursuant to this prospectus, depends upon the cash flow of our subsidiaries and their ability to make transfers to us in the form of loans, dividends or otherwise. Our subsidiaries are separate legal entities that have no obligation to pay

any amounts due pursuant to such debt securities, other than Newmont USA through its guarantees of such debt securities, or to make any funds available for that purpose in the form of dividends, interest, loans, advances or other payments. If we cannot obtain sufficient funds from our subsidiaries, we may not be able to meet our obligations on the debt securities that may be issued pursuant to this prospectus.

Newmont Mining's right and the ability of holders of its securities to participate in any distribution of assets of Newmont USA or any other subsidiary of Newmont Mining upon its liquidation or reorganization are subject to the prior claims of creditors of Newmont USA or such other subsidiary, as the case may be. Such claims may include claims by holders of debt of Newmont USA or such other subsidiary, as the case may be, and claims by creditors in the ordinary course of business.

Newmont Form S-3, page 1-2, emphases added.

There are various incidences where sites owned by companies with Nevada corporate guarantees are listed on the Superfund National Priorities list. The companies do not consider or vastly underestimate or deny these potential liabilities on their balance sheet. One case in point is Newmont's Dawn Mine. Dawn Mining is a subsidiary of Newmont. Dawn Mine is an inactive, open-pit uranium mine on the Spokane Indian Reservation in Washington. The following passage is from Newmont's 2001 annual report.

In 1991, Dawn's mining lease at the mine was terminated. As a result, Dawn was required to file a formal mine closure and reclamation plan. The Department of Interior commenced an analysis of Dawn's proposed plan and alternate closure and reclamation plans for the mine. Work on this analysis has been suspended indefinitely. In mid-2000, the mine was included on the National Priorities List under CERCLA, and the EPA has initiated a remedial investigation/feasibility study under CERCLA to determine environmental conditions and remediation options at the site.

The EPA has asserted that Dawn and the Company are liable for reclamation or remediation work and costs at the mine. Dawn does not have sufficient funds to pay for the reclamation plan it proposed or for any alternate plan, or for any additional remediation work or costs at the mine. **The Company will vigorously contest any claims as to its liability.** The Company cannot reasonably predict the likelihood or outcome of any future action against Dawn or the Company arising from this matter.

In late 1999, Dawn initiated state approval for a revised mill closure plan that, if implemented, would expedite the reclamation process at the mill. The State of Washington has approved this revised plan. The currently approved plan for the mill is secured by a \$14.1 million bond, **which is guaranteed by the Company.**

Newmont 2001 10K Filing, page 84, emphases added. This passage illustrates two things: (1) potential CERCLA liability could result in a significantly higher liability than Newmont

currently acknowledges and, (2) that Newmont, the parent company, does not intend to assume liability for its subsidiary companies. Newmont also has CERCLA issues at Idarado, Resurrection Mining Company (Leadville Colorado). Other pollution issues could result in additional costs at the San Luis Mine as well. This suggests that the liabilities as considered by Nevada when assessing a companies liabilities could be a substantial underestimate.

A mining company's income and a portion of their assets depends on and directly fluctuates with commodity prices, the most important one in Nevada being the price of gold. In 1999, the price of gold bottomed at \$252/ounce; currently, because of uncertainties in the global economy, the price has risen to greater than \$340/ounce. While there are things that companies can and have done, like lay off employees, buy larger trucks, and do less concurrent reclamation, there are certain minimum costs for producing gold. There is a very substantial range in the costs per mine, but the average for Nevada is near \$200/ounce. For most mines with costs less than \$250/ounce, changed prices have large effects on a company's income.

Amount of Corporate Guarantees in Nevada

The most recent list of bonds in Nevada was obtained from the BLM's web page in 2000. This list has not been updated since it was originally accessed. The State of Nevada does not maintain a list that they could provided us according to a response to an email to Dave Gaskin of the EMRR. The 2000 list itemizes \$475,000,000 in total bonds.

NDEP did provide us with a list of corporate guarantee amounts. The following is a breakdown of corporate guarantees by company provided by NDEP in 7/02.

Amount of Corporate Guarantees held by NDEP			
	Bargold Corporation		\$8,123,202.00
	Barrick Goldstrike Mines		\$37,762,500.00
	Franco-Nevada		\$6,150,000.00
	Homestake Mining		\$17,240,323.00
	Newmont Gold Mining		\$162,524,652.00
	Glamis Gold		\$5,494,940.00
	Total		\$237,295,617.00

Of this list, Franco-Nevada has been purchased by Newmont and Homestake has been purchased by Barrick Goldstrike. Additionally, Bargold is a subsidiary of Barrick operating primarily at the Round Mountain Mine. It can be seen that Barrick holds approximately \$63,000,000 and Newmonts hold approximately \$169,000,000 of the total corporate guarantees; in sum, Newmont and Barrick account for 98% of the corporate guarantees. Notably, Placer Dome, which operates the Pipeline Deposit, Cortez and Bald Mountain Mines, does not have any corporate guarantees for a total of \$26,467,590 in bonds. (This is probably an outdated estimate.)

Of the \$475,000,000 in bonds on the 2000 list of bonds used for this analysis, corporate guarantees secured \$215,000,000 or 45% of them. There is an additional \$22,000,000 in corporate guarantees at private land mines (Ken Snyder, now owned by Newmont, tops this list) and for exploration projects around the state. These were not included on the BLM's list.

Of the 28 mining operations with corporate guarantees, more than 20 of them have more than 70% of their total surety as a corporate guarantee.

Federal Actions

As discussed above, the current 3809 regulations (governing mining operations on public lands) do not allow corporate guarantees for new mine projects. For existing sureties, they are grandfathered. The local BLM has publically stated in meetings of the Nevada Bonding Task Force, of which Great Basin Mine Watch is a member, that as sureties are released, the corporate guarantee portion is released first to eliminate the corporate guarantees. However, there is a Department of Interior task force that is considering the so-called bonding crisis that may recommend repealing or postponing the effective date of the elimination of corporate guarantees.

The Bonding Crisis?

During the past year, some of the industry has reported difficult with obtaining sureties from usual insurance companies. At a meeting of the bonding task force that Great Basin Mine Watch has been participating in, Newmont reported that they had been asked by three of their companies to obtain new surety companies. The smaller companies at the meeting, including Apollo have also indicated an inability to obtain sureties. However, the other major companies, including Barrick Goldstrike and Placer Dome, indicated they were having no trouble obtaining sureties. Additionally, even though they walked away from a bond in Montana, Canyon Resources recently reported having been able to obtain a surety for their Kings Mine in California.

The price for sureties have been reported to vary from 1 to 2 percent per year. For a \$100,000,000 bond, the company would have to put up about \$1- to 2,000,000. This is a trivial amount compared to the cash flow at the mine, but this is the instrument that some companies are having trouble obtaining. Letters of credit usually require a company to put up significant collateral in addition to paying a high interest rate and therefore are more costly and less desirable. Other forms of surety, such as cash, required companies to put up the entire bond in cash. The bond pool in Nevada is not available for bonds greater than \$3,000,000 and its' terms would not be favorable to companies used to paying 1% of the bond per year.¹

¹The bondpool requires that a company put up from 50 to 80% of the bond initially followed by the remainder in equal installments for five years. The intent is for the pool to be fully funded to protect the Nevada state treasury.

Additional Problems with Corporate Guarantees

In addition to making the public ultimately liable for 75% of the clean-up of mine sites that fail to perform due to bankruptcy or for other reasons, there are at least two additional problems with corporate guarantees.

First, if during a periodic review a company with corporate guarantees no longer qualifies under the Nevada code, a crisis could ensue. Once disqualified, the covered mines would basically be without a bond. Would the state require them to cease operations until they could post a bond? How would a company obtain sureties from the market in this case? These questions are unanswered and are more than just an academic exercise. Rapid changes in gold prices could easily change a company's income and assets so that they do not qualify. If the market becomes worse, would a financial company be more likely to provide a surety in bad times for the mining business when they will not during good times.

Second, corporate guarantees are anti-competitive. If only the richest companies qualify, the juniors are put at a disadvantage. It is difficult to understand why a smaller company would support the continuance of corporate guarantees.

Alternatives

There are various legal instruments for posting bonds. Most popular is a surety wherein a company pays a small annual premium and post collateral in return for the surety company agreeing to pay off or perform. This is cheapest method. Letters of credit are guarantees from a bank that they will pay off should the company fail to perform. These are more costly annually and require more collateral; both factors lead to the industry not favoring them if they can get something else. Cash requires that they put up the entire amount in cash prior to commencing work. Environmental insurance is a policy that is purchased at the beginning of mining. The policy pays to clean the site, whether done by the mining company or by another contractor. There is also the state bond pool which is accessible for up to a \$3,000,000 bond.

Who Opposes and Who Might Support the Legislation

Any legislation that affects corporate guarantees will be opposed and supported by different groups of people. Because Newmont has had difficulties obtaining sureties from financial companies, they are likely to oppose the legislation. Because Barrick has substantial corporate guarantee, one would expect them to oppose the legislation. If a large company like Barrick is unable to obtain a surety, they might not oppose an end to corporate guarantees because it would give them a competitive advantage. Placer Dome has no corporate guarantees, but it is rumored that they may want one in the future due to a potential bonding problem in Montana.

Small companies should not oppose the legislation since the regulations exclude them. Corporate guarantees just benefit their large competition.

The beneficiaries of the legislation include taxpayers. If either Newmont or Barrick would default, the potential liability would be a huge drain on the state. The state is not reinsured for the potential liability and should not be since it is essentially the state doing what the industry should be doing for itself. We intend to work with taxpayer groups to obtain their support for this legislation.

Additionally, environmental and other progressive groups would support the legislation. The Progressive Leadership Alliance of Nevada has prioritized this bill into its second tier of legislative priorities for 2003.

Summary of Needed Legislation

A bankrupt mine threatens the environment. Essentially, the granting of corporate guarantees where the state assumes some of the liability is a case of socializing the risk of making a profit. As long as the companies with bonds secured with a corporate guarantee remain healthy, Nevada experiences no problem. But the risk to Nevada taxpayers is substantial especially since most of the corporate guarantees are used by just two companies (Newmont and Barrick).

The taxpayer and environment of Nevada require protection from the threat posed by corporate guarantees. The needed legislation essentially removes from the definition of surety the inclusion of corporate guarantees in NRS 519A. Because of the existing corporate guarantees, the bill should provide for phasing them out over a five-year period. A company must replace an existing corporate guarantee instrument within 5 years; also, as a company retires its existing bonds covered by a combination of corporate guarantees and other instruments, it is the corporate guarantee that is released first. Absolutely no new corporate guarantees would be issued after the bill becomes law.