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TESTIMONY ON RECLAMATION BONDING FOR MINING AND MINERALS OPERATIONS ON NATIONAL FORESTS FOR THE NEVADA STATE LEGISTLATURE ASSEMBLY'S NATURAL RESOURCES, AGRICULTURE, AND MINING COMMITTEE

BY

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Introduction. Thank you, Mr. Chairman, and committee members for providing this opportunity to appear before your Assembly's Natural Resources, Agriculture, and Mining Committee today. My name is Robert Vaught, and I am the Humboldt-Toiyabe National Forest Supervisor. My testimony will include a brief background on the Forest's minerals program and address reclamation bonding requirements for mining and mineral operations on National Forests.

As part of the reclamation bonding requirements, I will also discuss the bond calculation process, allowable financial assurance bonding instruments, and sureties. I'll then conclude my testimony by

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providing recent examples of bankruptcies and abandoned mines that have occurred on the Forest.

Background. The Humboldt-Toiyabe has had **the largest** locatable minerals program of **any** National Forest in the country for several years. Approximately **360 mining plans** currently operate on the Forest that range from small exploration projects to the **largest producing gold mine** on a National Forest. **The total bonding associated with these plans is about $14 million.**

Reclamation Bonding Requirements. I'll begin my presentation by answering the question, why *do* National Forests require reclamation bonds for mining and minerals operations?

Mining and minerals reclamation bonds are required for three specific purposes:

1. To protect the Government and the American taxpayers against financial loss when mining operations default or are abandoned,

2. To also protect surface resources following mining and prospecting activities, and

3. To cover the estimated costs for stabilizing, rehabilitating, and reclaiming lands affected by mining.

The Forest Service began requiring reclamation bonds in 1974. The requirements for obtaining and administering reclamation bonds are located in Forest Service Manuals and Handbooks and can be viewed on the following web site at www.fs.fed.us/im/directives/fsm/2800/2840.txt.

Bond Calculation Process. The next topic I will address will cover *how* the Forest Service calculates bonds. Bond calculations are based on the estimated costs to the Forest Service to reclaim **ALL** aspects of a mining operation. Typical costs addressed by bond calculations include:

- Removal of equipment, facilities, and materials
- Removal or treatment of hazardous materials
- Earthwork such as regarding and topsoil replacement
- Installation of erosion control structures
- Revegetation activities
- Water treatment and monitoring and
- Administrative costs

After a bond is calculated by Forest Service personnel based on a mining operator's proposed activity, the bond is discussed in detail with the operator to ensure that both parties have a clear understanding of the future reclamation costs.

To better assist both Forest Service personnel and mining operators in estimating bond costs, a **draft** National Reclamation Bond Estimation Guide has been prepared by the Forest Service. The Nevada Division of Environmental Protection *and* the Nevada Mining Association are currently reviewing this guide. The final guide should be available by the end of the year.

Allowable Financial Assurance Bonding Instruments.

Forest Service regulations allow the use of several financial assurance instruments for reclamation bonding purposes. These instruments include sureties, deposited securities, irrevocable letters of credit from banks or financial institutions, cash, or assignment of savings accounts or certificates of deposit.

The Forest Service **does not, however,** accept corporate guarantees as a bonding instrument. One reason for this policy is that the **value** of a mining operator's assets, which are the basis for and underwrite the corporate guarantee, often drops rapidly when problems occur due to decreased commodity prices or other factors. As a company subsequently approaches a bankruptcy situation, assets are depleted and **may not be** available for reclamation of the site.

Mining companies have traditionally used sureties as their primary bonding instrument. Sureties have been increasing difficult to obtain in the past couple of years. Decreasing mineral commodity prices, world events, and corporate bankruptcies are some of the reasons. While the Humboldt-Toiyabe has observed more limited surety bond availability and higher surety bond costs, mining companies with **sound financial backing and business plans are able** to obtain bonds. One current example of such surety bonding is the impending sale of the Jerritt Canyon property by AngloGold to Queenstake Resources. Queenstake has been able to secure several million dollars in reclamation bonds through AIG Environmental, a large, financially sound insurer.

Bankruptcies and Abandoned Mines. Before I conclude this testimony, I will mention three producing gold mines (Mt. Hamilton, Aurora, and Griffon) on the Humboldt-Toiyabe that have gone into bankruptcy or have been abandoned in the past few years. **On very short notice,** we have been forced to collect the reclamation bonds and manage and reclaim the sites to prevent impacts from cyanide and other contaminants to Forest resources.

To date, about **$3.8 million** has been spent on reclamation of these sites; another **$1.5-to-$2 million** is needed to fully complete the reclamation. The Forest collected $3.3 million in reclamation bonds for these sites, so an **additional** half million dollars of appropriated funds have already been spent on these properties. This means that other critical programs were not funded. **In addition to the remaining $1.5-to-$2 million needed to finish reclamation, the Forest Service will have to monitor and maintain the sites for many years.**

Conclusion. Thank you, Mr. Chairman, and committee members. I will be happy to answer any questions that you or the committee may have.

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