



# **NEVADA LEGISLATURE JOINT INTERIM STANDING COMMITTEE ON GROWTH AND INFRASTRUCTURE**

*(Nevada Revised Statutes [NRS] 218E.815)*

## **DRAFT MINUTES**

**February 3, 2026**

The first meeting of the Joint Interim Standing Committee on Growth and Infrastructure for the 2025–2026 Interim was held on Tuesday, February 3, 2026, at 9 a.m. in Room 165, Nevada Legislature Office Building, 7230 Amigo Street, Las Vegas, Nevada. The meeting was videoconferenced to Room 3137, Legislative Building, 401 South Carson Street, Carson City, Nevada.

The agenda, minutes, meeting materials, and video recording of the meeting are available on the Joint Interim Standing Committee's [meeting page](#). The video recording may also be found at <https://www.leg.state.nv.us/Video/>. Copies of the video record can be obtained through the Publications Office of the Legislative Counsel Bureau [LCB] ([publications@lcb.state.nv.us](mailto:publications@lcb.state.nv.us) or 775/684-6835).

### **COMMITTEE MEMBERS PRESENT IN LAS VEGAS:**

Assemblymember Howard Watts, Chair  
Senator Rochelle T. Nguyen, Vice Chair  
Senator Carrie Ann Buck  
Senator Julie Pazina (alternate for Senator Fabian Doñate)  
Assemblymember Max E. Carter II  
Assemblymember Venise Karris  
Assemblymember Heidi Kasama  
Assemblymember Jason Patchett

### **COMMITTEE MEMBER ABSENT:**

Senator Fabian Doñate

**LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:**

Keely Latham, Senior Policy Analyst, Research Division  
Anthony Ciaramella, Senior Policy Analyst, Research Division  
Christina Harper, Manager of Research Policy Assistants, Research Division  
Jessica Dummer, Senior Principal Deputy Legislative Counsel, Legal Division  
Lauren Spratt, Deputy Legislative Counsel, Legal Division  
Christian Thauer, Principal Program Analyst, Fiscal Analysis Division

DRAFT

*Items taken out of sequence during the meeting have been placed in agenda order.  
[Indicates a summary of comments or clarification.]*

## **AGENDA ITEM I—OPENING REMARKS AND INTRODUCTIONS OF MEMBERS AND STAFF**

### ***Chair Watts:***

Good morning, everyone. Welcome to today's meeting of the Joint Interim Standing Committee on Growth and Infrastructure. Would our Committee staff please take the roll?

[Roll call was taken and reflected in members present.]

### ***Chair Watts:***

Thank you. We have all members present. We have a quorum. Welcome to everyone joining us both here in Las Vegas as well as up in Carson City and anyone joining us virtually today for our first meeting of this interim. Just to go over today's agenda, we will do some brief introductions for our Committee members and staff. We will take, then, our first period of public comment. After that, we will receive an orientation of our Committee Brief from staff. Then we will go into our informational presentations and discussions for today related to The Boring Company. After that, we will discuss potential topics for future meetings and then finish with our second round of public comment before the adjournment of today's meeting.

Please do sign in if you are attending in person. If you are interested in providing public comment by phone, you can find the call-in information on our agenda, which is also posted on the Nevada Legislature's website. I will give that information out for anyone who is listening. You can dial 888-475-4499, and when prompted for a meeting ID, please enter 89101529729 and then press the pound sign, and when prompted for a participant ID, please press the pound sign again.

With that, I would like to welcome everyone to the first meeting of this interim for the Growth and Infrastructure Committee. You know, I think we are going to have some robust conversations about a range of transportation, energy, and related issues.

I have the pleasure of serving as the Chair of the Committee this interim. This is my second interim serving on this Committee. I also have served on the Committee on Growth and Infrastructure during all four of my regular sessions in the Legislature. It is good to be back and working with all of you again. We are going to do brief introductions from members of the Committee. We will start with my Vice Chair, Senator Nguyen.

### ***Vice Chair Nguyen:***

Good morning, everyone. I am a Senator from Senate District 3, and I most recently served as the Chair of Growth and Infrastructure in the Senate. That was my second time serving on that Committee. Previously, I served in my very first session on the Assembly side as a Committee member during my very first session. This is my second interim serving on this Committee, and I look forward to the conversations and the discussions that we will be having on a variety of topics ranging from traffic safety to energy and obviously what we are doing here today.

**Chair Watts:**

Thank you very much, Senator. Next, we will go to Senator Pazina.

**Senator Pazina:**

Thank you so much, Chair. I am fortunate to serve as the Senator in District 12, which covers West Henderson, Silverado Ranch, Green Valley Ranch, Seven Hills. I am actually sitting here as an alternate today, so this is my first time on the Growth and Infrastructure Committee in the interim, sort of. I served as Vice Chair of the Senate Committee of Growth and Infrastructure during the regular session and Chair of Commerce and Labor. I am excited to be here, and I look forward to a robust discussion. Thank you for having me.

**Chair Watts:**

Thank you very much, Senator, and thank you for filling in, in your role as an alternate today. We appreciate it. Next, we will go to Assemblymember Kasama.

**Assemblymember Kasama:**

Thank you, Chair. I represent Assembly District 2, which is on the west side of the Valley. If you draw a big circle around Red Rock Resort, that would be my District. I have served with the Chair previously on Growth and Infrastructure. I have always enjoyed this Committee. You know, much of it is what drives our economy, and how do we handle growth, and so, very excited to be serving again and look forward to all of the robust discussion as well. Thank you.

**Chair Watts:**

Thank you. Next, we will go to Assemblymember Karris.

**Assemblymember Karris:**

Thank you, Chair. I am the Assemblymember for wonderful District 10. We are west of the 15 all the way up to Cimarron between Sahara and Charleston for the most part. It is an old District. It is still in the province of the City of Las Vegas, one of the few districts that is totally enclosed. I am very happy to be here. I did serve on Growth and Infrastructure during the regular session, and I am thrilled to be on this interim Committee. Thank you.

**Chair Watts:**

Thank you so much. Next, we will go to Assemblymember Patchett.

**Assemblymember Patchett:**

Thank you, Chair. I am the Assemblyman for Assembly District 19, which encompasses East Henderson, and Logandale, and Moapa Valley, now to Mesquite. As many of you know, I was appointed to this position in November 2025, and served in the special session; so this is my first appearance in an interim Committee. I am looking forward to the opportunity to serve and enjoy the great conversations that we have today.

**Chair Watts:**

Thank you, Assemblymember. There is the phrase of, "May we live in interesting times," and you have certainly chosen an interesting time to join this body. So, welcome. Next, we will go to Assemblymember Carter.

**Assemblymember Carter:**

I am a lifelong Las Vegas. I represent all of Sunrise Mountain; starts in Lake Las Vegas out in Henderson, and all of those areas in the foothills of Sunrise Mountain in Henderson, around the corner, through the wetlands, and over to the east side of Las Vegas—the old east side of Las Vegas, which is where I live. This is my second time on this Committee, and it is critically important to my community, just like it is to every community. We are all facing energy, utility, and transportation issues that need desperately to be addressed.

**Chair Watts:**

Thank you. And last but not least, we will go to Senator Buck.

**Senator Buck:**

Thank you so much, Chair. I represent Senate District 5 in Henderson, and I look forward to serving on this Committee, continuing to serve. I served during this session. Thank you.

**Chair Watts:**

All right. Thank you very much. Again, I am pleased to serve as the Chair of this Committee during the interim. I represent Assembly District 15 right in the center of the Las Vegas Valley. It is the heart of our community, the heart of our economy, and so energy and transportation issues are central to helping the people that all of us represent be able to get around to meet their needs as well as get to work and help power our state's economy. Again, it is a pleasure to be working with you all and serving with you all again this interim.

I also would like to take time to introduce our Committee staff. We will begin with our Committee Policy Analyst, Keely Latham. It is wonderful to work with you again. Ms. Latham served as Policy Analyst for the Assembly Committee on Growth and Infrastructure during the last session. Also with our staff in the Research Division is Anthony Ciaramella, a Senior Policy Analyst, and Terese Martinez, a Research Policy Analyst [*sic*]. Joining us from the Legal Division this interim, we have Jessica Dummer, a Senior Principal Deputy Legislative Counsel, and Lauren Spratt, Deputy Legislative Counsel. And then our fiscal staff this interim will be Christian Thauer who is a Principal Program Analyst with the Fiscal Division at LCB. They will be helping provide us with key support as we conduct our business this interim. As you are reaching out to the Committee, you will be interacting with our staff, and we very much appreciate all the support that you provide to us to help make these meetings happen, including reaching out to presenters, conducting research, and providing other support.

I would just like to take another moment to thank all of the staff that help us conduct our business during the interim, from the staff at the legislative buildings here in Las Vegas, as well as in the Capitol in Carson City, our Legislative Police who help keep us safe, as well as our AVH [Audio Visual Hearings Unit] staff who help us manage all of our teleconferencing and allow people to participate in the interim remotely. So, thank you all for everything that you do to help make these meetings happen.

## **AGENDA ITEM II—PUBLIC COMMENT**

### ***Chair Watts:***

With that, we will now move to the second item on our agenda for today, which is public comment. Anyone who would like to provide public comment today can do so; again, we will also have a second public comment period at the end of today's meeting. We will be asking commenters to please limit their public comments to two minutes. You can also submit your comments in writing, including after this meeting, to our Committee email, and again, you can find that information on our agenda, which is also posted on the Nevada Legislature's website. If anyone would like to provide public comments either here in Las Vegas or down in Carson City, please come forward. Okay. We will begin here in Las Vegas. We do have someone wishing to make public comment. Please remember to state and spell your name for the record before you begin. Welcome.

### ***Hector Arreola, Policy Fellow, Nevada Environmental Justice Coalition:***

Good morning, Chair Watts, and members of the Committee. We are here to demand accountability for The Boring Company for their environmental harm done to our community. What we are witnessing is negligence disguised as progress and innovation. In 2023, the Company received eight safety citations totaling \$100,000. In 2024, they received three more citations for about \$425,000 in fines, and firefighters suffered chemical burns, but the violations did not stop there. In 2025, state environmental regulators cited the company over 800 times for mishandling drilling fluid and wastewater with fines exceeding \$3 million. The Clark County Water Reclamation District issued a \$500,000 violation for dumping toxic fluid into our storm drains and sewage system. A pool of green liquid was also found on the Paradise site across the street from UNLV [University of Nevada, Las Vegas] causing alarms for neighbors. They have also been cited three times by Clark County for reckless construction, including drilling dangerously close to the monorail support beams, which forced a temporary shutdown.

Yet, after all of these citations and millions of dollars racked up in fees, our Governor's Office waived every single cent. Why does the company owned by the wealthiest man on earth need these fees waived? A truly innovative underground transportation system would look like a public subway built by union labor. To put things into perspective, one subway car moving 200 people takes up the same space as three of Tesla's model X vehicles moving only 12 people. Underground public transit would actually alleviate street traffic and offer relief from extreme heat for riders, but we sacrificed all of that for The Boring Company. Nevada deserves mass transit that is built with respect for our land, air, water, and the people of our state, not companies that treat regulations as obstacles rather than a responsibility. We urge our Legislature to find ways to hold them accountable before more harm is done. Thank you.

### ***Chair Watts:***

Thank you very much. Go ahead.

### ***Janet Carter, Las Vegas, Nevada Resident:***

Good morning, Chairman Watts, and members of the Committee. First of all, I would like to say that this gentleman who was sitting here said it probably better than I could because he had the facts in front of him. I do not have numbers, but I do know that as a longtime resident of the State of Nevada and a resident of the City of Las Vegas, I can tell you that we have a huge dearth in efficient, clean, and accessible public transportation. He said

something I felt very important, which is about being underground to start with, for some of the major lines can help a lot with alleviation from the heat that we all face. There is a bus stop probably 50 yards from my home. I cannot go there in summer and wait for the bus there. If the bus is even five minutes late, I have stood in 100-plus-degree temperatures waiting for a bus in a stop that has no shade and is against a wall that sun hits on directly. I am a senior, and I take medication for hypertension. I am likely to collapse if I were to wait. And I am an active person who is still working. There are many, many people like me in this city, and in this community, and in this county, and in this state who rely, who need public transportation. I am fortunate not to have to rely on public transportation, but many do, and we need to show respect for them and their needs and have efficient and easily accessible, and yes, at times, underground or at least accessible in terms of availability of shade and cooling, public transportation. And if we are going to build tunnels into our city, let us put trains in them; let us put light rail in them; let us put a subway system in them. If not, a more highly efficient bus system in the more outlying areas might be the solution. Light rail might also be the solution, especially if we can take advantage of highway dividers in the light to put where the light rail is. We can do a lot better, and we can do a lot better for our people here in Nevada. So, thank you.

**Chair Watts:**

Thank you so much, Ms. Carter. Okay, seeing nobody else coming forward in Las Vegas at this time, we will go to Carson City. Please go ahead.

**Jaina Moan, Nevada Director of External Affairs, The Nature Conservancy:**

Thank you. Good morning, Chair Watts, and members of the Committee. In Nevada, increasing demand from new large load customers, like data centers, are prompting concerns about how additional electricity will be generated and the cost burden to electricity consumers in the state. Renewable energy from solar, wind, and geothermal sources can help meet demand quickly, affordably, and reliably, but communities still have concerns about building out these energy sources.

The Nature Conservancy recently released a new report titled *A State Policy Roadmap to a Faster Clean Energy Buildout*. This report is designed as a guide for elected state officials as they create policies that accelerate renewable energy deployment while maximizing benefits to climate, conservation, and communities—what we call the “three Cs.” The report describes eight policy pathways for state Legislators to consider along with case study documentation of how each pathway has been implemented in other states.

For Nevada, we recommend that Legislators consider the following pathways: implement proactive planning and zoning, that is pathway number three; provide state assistance for local permitting, pathway number five; establish voluntary citing standards and guidelines to avoid and minimize impacts, pathway number six; and look to mitigating impacts, pathway number eight. The report can be accessed at the newsroom pages at [nature.org](http://nature.org), and I also submitted a written comment to the Committee that includes additional information and a link to the report. (Agenda Item II)

As issues of energy development are discussed during the interim, we appreciate the consideration of the Committee members of these pathways that can help Nevada balance energy demand with the needs of communities and nature. Thank you so much for your time and for your service on this Committee.

**Chair Watts:**

Thank you for your comments. We have someone else coming up to the table. Whenever you are ready, please go ahead.

**Peter Krueger, Representing Responsible Retailing and Trade Alliance:**

Good morning, Chair Watts, Vice Chair Nguyen. I am here to ask the Committee to consider a redo on an interim BDR [bill draft request] from last session, BDR 51-428, also referred to as the "55-mills bill" regarding lubricating oils. This finds its home in NRS 590.120. Under existing law, petroleum distributors pay 55 mills on every gallon of lubricating oils sold in the state. Who is not paying the fee and has never paid the fee are big box stores, retailers, auto body shops—people of that nature. And those quantities are usually sold in one-gallon, five-gallon containers. We are looking for fairness, and in talking with DMV [Department of Motor Vehicles] in past sessions, their feeling is to bring these people on as licensed suppliers or in some way having to collect the tax, the juice would not be worth the squeeze. So, what I will provide the Committee is simply legislation, suggested legislation that would eliminate the 55 mills on lubricating oils, but add a number of something like 35 mills on diesel fuels that were in the original legislation in 1955.

I am asking a redo and a reconsideration by this Committee of legislation that was approved last session, but failed to make the first Committee deadline. With that, Chair Watts, and members of the Committee, thank you. We look forward to seeing if we can push this over the finish line. Thank you.

**Chair Watts:**

Thank you, Mr. Krueger. Okay. Seeing nobody else coming forward in Carson City, AVH [Audio Visual Hearings Unit], does anyone wish to provide public comment by phone this morning?

**AVH, Information Technology Services, Administrative Division, LCB:**

To provide public comment, please press \*9 to take your place in the queue. Chair, we have nobody to provide public comment at this time.

**Chair Watts:**

Can we check one more time, AVH? I believe we did have somebody that wished to provide comment.

**AVH:**

Chair, there are no callers currently on the line.

**Chair Watts:**

All right. Thank you. We will have another public comment period at the end of today's meeting.

### **AGENDA ITEM III—PRESENTATION OF THE INTERIM COMMITTEE BRIEF**

***Chair Watts:***

With that, we will move on to the next item on our agenda, which is the presentation of our Interim Committee Brief. For that, I will turn things over to our Policy Analyst, Ms. Latham.

***Ms. Latham:***

Thank you, Chair Watts, members of the Committee. Good morning. This interim I will be serving as this Committee's Policy Analyst. Just to note, as nonpartisan staff, I cannot advocate for nor oppose any item that the Committee will consider, and I am available to assist the Committee and its members on any issues related to policy.

For the Interim Committee Brief, I will give a short overview, but the complete document can be found on the Committee webpage and in your meeting materials. (Agenda Item III) The Committee Brief provides information on Committee staff, the Committee's authority and jurisdiction, historical information, and reports that may be of interest to the Committee. Also found is information on membership and meeting dates. The Committee may consider a wide range of topics related to transportation and energy, which are listed in the document. As you may know, the Legislative Commission has authorized six meetings in total for the Committee, and the Committee may request up to ten bill draft requests. With that, I will leave the members to review the Committee Brief at their convenience. Please feel free to reach out to me if you have any questions. Thank you, Chair.

***Chair Watts:***

Thank you. Members, are there any questions for Ms. Latham about the Committee Brief? Okay, seeing none, thank you very much. There is some very helpful information in there, so I hope members will take some time to review it at their leisure.

### **AGENDA ITEM IV—DISCUSSION REGARDING THE BORING COMPANY WITH THE OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION SECTION, DIVISION OF INDUSTRIAL RELATIONS, DEPARTMENT OF BUSINESS AND INDUSTRY**

***Chair Watts:***

With that, we are going to move on to the main topics for our discussion today, which are related to The Boring Company. And before we begin, I want to make a couple of notes. We will not be conducting Item VI on our agenda, which is a discussion with The Boring Company. We received correspondence from representatives of The Boring Company at 8:40 p.m. on Sunday that unfortunately, they would not be able to attend today's meeting, which is unfortunate given the questions and concerns that I and many of the people that I represent—and I think many of the members on this Committee—have. So, we will be having discussions with the Division of Industrial Relations (DIR) and Nevada OSHA [Occupational Safety and Health Administration], thank you for coming today; as well as the Nevada Division of Environmental Protection (DEP), who I believe is participating from Carson City. Thank you for coming today as well.

I just want to set the stage a little bit before we begin this conversation. This is an issue that is occurring in the District that I represent. Most of The Boring Company's operations are within Assembly District 15. And there has just been a stream of disturbing news about

violations of health and safety practices during The Boring Company's operations, and I just want to give a small sampling of some of the things that have been reported through press inquiries and public records requests.

The accelerants cure the grout that seals the tunnel's concrete supports, helping the grout set properly and protecting the work against cracks and other deterioration. They also seriously burn exposed human skin. At the Encore dig site, such burns became almost routine, workers there told Nevada's OSHA. An investigation describes workers being scarred permanently on their arms and legs. According to the investigation, at least one employee took a direct hit to the face. Ten to 15 workers suffered chemical burns.

An intern was nearly crushed when a bin made out of two-ton concrete blocks collapsed; it had been overloaded with muck and the metal brackets holding it together gave way. Altogether, OSHA found eight violations it categorized as serious and fined The Boring Company a total of \$112,000. The Company is contesting those findings.

Encore crews tunneled for 24 hours a day with each employee working 20 12-hour shifts, six or sometimes seven days a week, some later told OSHA inspectors. Workers were forced to spend entire 12-hour shifts in the tunnel, including lunch breaks and ask for permission to use the bathroom. Besides the long hours, these workers complained to the state agency about faulty machinery and a lack of personal protective equipment.

In May 2023, a Boring technician was driving a forklift into the tunnel when its brakes failed, causing the machine to careen down the hill before it fell onto its side. The worker was thrown a few feet from the forklift, which might otherwise have crushed him as it tumbled over.

The Company has been cited for permitting and water pollution violations in 2019, 2021, 2022, 2023. State regulators have accused The Boring Company of violating environmental regulations nearly 800 times in the last two years. Repeated violations of a settlement agreement that the Company had entered into after being fined \$90,000 five years ago for discharging groundwater into storm drains, which flows into Lake Mead, without a permit. The Company failed to hire an independent environmental manager to regularly inspect its construction sites. State regulators counted 689 missed inspections. The Company is disputing that violation letter.

Just last month, probably a little bit more than a month ago, a construction worker suffered a crush injury after being pinned between two 4,000-foot pipes, according to police records. Firefighters used a crane to extract him from the tunnel opening.

During a training exercise, after two hours in the tunnels, two firefighters reported irritation on their legs. They were taken to the hospital where it was determined that their legs had been burned by the chemicals in Boring's tunnel. The firefighters' skin was permanently scarred according to findings from the subsequent OSHA investigation. The Boring Company had supposedly told them, quote, "We could just wash it off after," and that it was, quote, "just mud." Another firefighter reported that The Boring Company, quote, "Had someone put their full arm in the muck," and tell them, quote, "They would be fine." "It seems like people are going to have to die because they will not make things safe for us," one current Boring employee said anonymously. When asked to describe safety protocols and training, one employee, who left in recent weeks, put it simply, "There is none."

The Boring Company twice installed tunnels without permits to work on a county property. The county approved them retroactively, tacking on a \$900 fee for each permit. Boring requested that the county no longer require it to hold a special permit, that, among other things, mandates operators to report serious injuries and fatalities and grants the county additional authority to inspect and regulate their operations.

An employee with the County Road Division tailed a Boring Company truck that spilled mud onto city streets. The trucks have no marking and no license plates. A truck route that the company had reported to the county must have been totally false, concluded Dean Mosher, an Assistant Manager for the Roads Division. A few months later, a truck hauling waste from the project spilled gravel, rock, and sand on Interstate 15, slowing traffic for more than four hours during rush hour. The driver was fined \$75 for an unsafe or unsecured load.

Without the county's knowledge, a Boring contractor relied on a permit held by a county contractor to store muck near apartment buildings in the Commercial Center shopping plaza very close to where I live and in the District that I represent and along one of the busiest thoroughfares in Las Vegas. The county fined that contractor \$1,549.

Boring was cited for illegally connecting to a sewer without approval. Environmental regulators found the Company was dumping untreated groundwater into the sewer with one official writing that, "Boring staff were unsure of how long they had been bypassing the treatment system."

Critical Las Vegas infrastructure was extensively damaged after an illegal dumping of drilling waste. District inspectors from the Clark County Water Reclamation District directed the Company to cease the discharge, but The Boring Company refused. The next day, inspectors returned and directed the workers to stop illegally dumping. The Boring Company superintendent agreed to their orders and then waited until their backs were turned to hook up the illegal discharge once again.

Then, Commissioner of the Nevada Transportation Authority (NTA), David Groover, partially denied The Boring Company's bid for the ability to operate routes to the airport coming up from the tunnels while their application was being considered. Groover was, after that, removed from his position on the Commission by the Director of the Department of Business and Industry. Thank you for coming today. A June hearing on this application never took place without further explanation from the NTA. Within days of reporting on this matter, the NTA posted a notice on its website stating the hearing would be rescheduled, but it never was. Airport officials say they were unaware of the plan and confirmed The Boring subsidiary, Paradise Transportation, had not entered into an agreement with Reid International Airport to have an onsite staging area, a requirement for all transportation services.

These are some of the issues that have been brought to light thanks to reporting from the press related to The Boring Company. They have brought concern from my constituents. They have brought concerns from members of the community who are concerned that this Company is not playing by the rules, and that is putting the health and well-being of our community and its workers at risk. And the purpose of today's meeting, one, is to get this information out into the open, to get what answers we can about some of the recent high-profile incidents that have occurred in our community. And then, to make sure, one, that our state agencies tasked with regulating The Boring Company are positioned to

be able to do that and are committed to ensuring that these abuses do not occur moving forward, and to figuring out what action, if any, the Legislature can take to create stronger accountability for companies like Boring that have a history of repeated violations and seem to get away by contesting and complaining instead of changing their behavior.

I want to very briefly also address those that are not present at the meeting today. We did ask the Nevada Transportation Authority to attend today's meeting and discuss The Boring Company's transportation permit for the airport. As was recently reported, that decision has been challenged in court. As a result, the Transportation Authority declined our information requests as well as to attend the meeting.

The Boring Company, as I noted, also declined to attend the meeting. I am very concerned with The Boring Company's mode of operating here in our city. Elon Musk, who is the owner of the Company, has been noted as saying, quote,

You have to get permission in advance as opposed to, say, paying a penalty if you do something wrong, which I think would be much more effective. To say, look, if we are going to do this project, if something goes wrong, we will be forced to pay a penalty.

It is clear that many things have gone wrong, and instead of paying a penalty, this Company fights all violations, tooth and nail. I am concerned that breaking the law and breaking the rules has essentially just become a cost of doing business for companies in Musk's orbit. During some of the research in advance of this meeting, we learned that The Boring Company has fought every single penalty levied against it by OSHA and NDEP, despite being a repeat violator. I learned that the Tesla Gigafactory, another major Musk project, is also a major source of wage theft complaints in this state. And through communications with OSHA, we learned that Daehan Solution Nevada in Fernley is facing, what I believe, the largest OSHA penalty in the nation—over \$4 million. They are one of three companies in the state facing classification in the severe violator enforcement program but have also contested their penalties. They are also, according to their LinkedIn, a tier one partner with Tesla. It is extremely concerning that these companies within the orbit of Elon Musk are continuing to violate the protections for our workers and for our community. This is a company that is valued at \$7 billion in 2023, but they could not provide any staff to come to our meeting and answer questions from this Committee about their history of violations and demonstrate a plan to clean up their act moving forward.

The seven-page response (Agenda Item VI) that they provided has been posted for everyone to see on our website, and it barely addressed the information that we requested from them. I asked them for their training plan for the training exercise with Clark County Fire. They directed me to a legal memo from the Division, which references the plan. I wanted to see that plan for myself. The Division has compiled many of the files related to their interactions and meetings with the Company. One of them is the slide presentation from The Boring Company. It contains a hyperlink to the training plan and when you click on that link, it goes to an access-restricted Google document.

I asked for general information on Boring Company's personal protective equipment requirements and inventories and was again directed to a legal memo specifically related to the training exercise with the fire department.

I asked for details on all of the Company's violations within the state and received a partial response. It did not include the fines that they have received for tunneling without a permit, dumping tunnel cuttings at Commercial Center, and shutting down the I-15.

I asked for proof that The Boring Company is maintaining their forklifts after that worker was thrown from their forklift in 2023. That documentation was not provided.

I asked for and received information on when an independent environmental manager was hired, but I am not able to ask The Boring Company why it is that NDEP counted 689 missed inspections since that settlement date.

I received information about the water treatment process that is currently employed by Boring, but I am not able to ask them today why it was that untreated water was discharged into our sewer system and whether Filippo Fazzino—The Boring Company Superintendent who blatantly disregarded the requests from our Water Reclamation District to stop dumping damaging sludge into our sewer system—is still employed by the Company and managing these water treatment systems. I asked for and did receive acknowledgement that it was not, quote, “Just groundwater that was illegally dumped,” as was recently stated by staff with The Boring Company, but that surfactants and sediments were also dumped into our sewer system, and we do not know the heavy metals profiles and chemical profiles of those sediments.

The Boring Company has, in its letter, offered to provide tours of their facilities to the members of this Committee, and I would like to respond by reiterating my offer and request for The Boring Company to come before this Committee and answer our questions and demonstrate the, quote, “Deep commitment to responsible tunneling,” that they have indicated, but that I think has been questionable, at best, to date.

The Governor’s Office was also asked to come to this meeting and respectfully declined stating quote, “There is nothing that our office can offer in terms of relevant helpful information,” and that, quote, “This Office had minimal, if any, actual involvement here.”

The day that the Nevada OSHA citations were issued related to the firefighters receiving chemical burns, The Boring Company called the Governor’s Office, who contacted the Director of the Department of Business and Industry. The next day, both of those individuals met with OSHA leadership and legal counsel and were able to immediately determine that the citations were legally insufficient. By that afternoon, there was another meeting held with top staff from the Governor’s Office, the Department of Business and Industry, Nevada OSHA, The Boring Company, and the LVCVA [Las Vegas Convention and Visitors Authority]. Unfortunately, because the Governor’s Office is not here, I cannot ask them if they consider convening these two major meetings within 24 hours to be, quote, “minimal, if any, actual involvement,” and if this level of engagement is something that any business concerned with state regulation can avail themselves of by contacting the Governor’s Office, or if it is only those that have direct lines of communication to key officials in the Governor’s Office. They noted that the Governor is, quote, “Committed to compliance with, and enforcement of, all legal, regulatory, and safety requirements for all businesses,” but that the Governor's Three-Year Plan also provides that state agencies will, quote, “facilitate a business-friendly regulatory environment” by, quote, “changing the regulatory culture to one of partnership and collaboration with industry.”

I would like to know if the Governor’s Office is aware that their involvement and that of their cabinet is having a chilling effect on the commitment to enforce requirements for all businesses and creating a culture of fear for regulators to do their jobs. This has been reported to the press by whistleblowers within state agencies, and these are concerns that have been shared with me, anonymously, by state employees as well.

It is important to note that State Water Engineer Adam Sullivan was fired by the Department of Conservation and Natural Resources Director James Settlemeyer after going too fast to protect declining water levels in our community. Director Settlemeyer also oversees the Division of Environmental Protection.

I would like to know if the Governor is aware that the Nevada Occupational Health and Safety Review Board, which he is responsible for appointing, is statutorily required to have two members representing labor and must have at least one labor representative in attendance for the Board to have quorum to meet and adjudicate issues of contested citations from OSHA. I would like to know if the Governor is aware that only one of those labor positions is currently filled on this Review Board and that the alternate position representing the general public is also unfilled. I would like to know if the Governor is aware that the Board, which has historically met roughly monthly, failed to meet between July 9 and November 12 of last year, and that after failing to meet for four months, in the November 2025 Board meeting, the Chair stated, quote, "Given the two vacancies on the Board, Board membership is thin and quorum issues could therefore arise again. Therefore, the Board urges the two vacancies to be filled as soon as possible." I would like to know what the Governor's plan is to fill those vacancies.

I would like to know if the Governor's Office knows that in May of 2025 there were representatives from two labor organizations on the Review Board, the operating engineers and the IBEW [International Brotherhood of Electrical Workers], and now that the sole labor representative is not even affiliated with the labor organization. She is the former Labor Commissioner appointed by Governor Sandoval. I can think of many unions I would be glad to provide recommendations to the Governor for appointments to that Board, including, probably, the Professional Fire Fighters of Nevada.

I would like to know if the Governor's Office is satisfied with the fact that when a forensic analysis was requested to understand who erased their minimal, if any, actual involvement in the OSHA case log, IT [information technology] staff simply responded that no previous version of the file could be found.

Overall, I would like to know if the Governor is satisfied with the track record of activities by The Boring Company in our community and their violations of our health and safety standards.

Again, I would invite the Governor's Office to provide responses to the questions that I was not able to ask them in person today, but have now put onto the record and to appear at a future meeting if they would like to discuss these issues further.

With that, we will now move on to Agenda Item IV, which is a discussion of the regulation of The Boring Company with representatives from the Division of Industrial Relations and Nevada OSHA. Thank you so much for coming to our meeting today. I think we are going to have many questions from the members of the Committee, but I would like to turn things over to you if there are any introductory statements that you would like to make.

***Kristopher Sanchez, Ph.D., Director, Department of Business and Industry (B&I):***

First thing that I want to say is that OSHA is comprised of dedicated state employees that get up every day, work hard to keep Nevadans safe, that we are an agency that follows the law. We are an agency that values transparency. We are here today to answer any questions that the Committee may have and welcome any of those questions.

***Victoria Carreón, Administrator, DIR, B&I:***

Chair, members of the Committee, we appreciate the opportunity to be here with you today. Just to provide you some context. We work together to put safety and health first in Nevada. We are responsible for all aspects of workplace safety, starting with prevention, enforcement, and workers' compensation. So, on the prevention side, we have our Safety Consultation and Training Section. For enforcement, we do have Nevada OSHA. We also have our Mine Safety and Training Section, which is responsible for both prevention and enforcement, but specifically at mine operations. We also have our Mechanical Compliance Section, which is responsible for the safety of boilers, elevators, pressure vessels, and escalators. Then on the workers' compensation side, we have our Workers' Compensation Section that is responsible for ensuring that injured workers receive the benefits they are entitled to on a timely basis.

Specifically for Nevada OSHA, which I know is the subject of what we are here for today, Nevada OSHA is what is considered a state plan, which means that the federal government has given Nevada the authority to run the OSHA program here in Nevada. In order to do that, we must maintain effectiveness, at least as effective as the federal program. Every employer is responsible for ensuring that they are maintaining a workplace free of recognized hazards. That is the employer's responsibility, and then OSHA's responsibility is to enforce safety standards. They do that through three different kinds of inspections. One are programmed plan inspections; those are inspections where we are doing inspection at a high-hazard industry. There is a programmed list, and those are typically industries like construction, manufacturing—those that have high injury rates. Those are comprehensive inspections of the entire business. Then we have complaints and referrals, and so those result in a partial inspection based on whatever that complaint was, and then they also investigate fatalities and accidents when those arise. So, that is kind of OSHA's authority.

They do have the authority to issue citations. In order to issue those citations, they do have to meet certain legal criteria; otherwise, we cannot issue a citation. I think that it is important to note that we have articulated—both the Department of Business and Industry as well as the Division of Industrial Relations—to all of our OSHA staff that they have our full support to conduct the inspections in accordance with the law, and they have our full support to propose citations in cases where all of those legal requirements are met. We have articulated that to our staff, and I think, as the Director said, every one of our staff is really passionate about workplace safety and ensuring that every Nevadan goes home safe every day.

In this case, as you know, we had three willful citations that were issued in May and then they were withdrawn. I think that it is important to note the reason they were withdrawn was based on legal analysis conducted by our Legal Counsel, Sally Ortiz, who is here with us today. Because of that, they were withdrawn. We take this very seriously that, you know, we had a case file that did not meet the legal sufficiency of what was needed. Our Agency has taken a very comprehensive and collaborative approach with Nevada OSHA to review all of our policies and to ensure that we implemented new policies. We have like five new standard operating procedures as well as new policies to try to ensure that we have the highest quality of case files that when citations are proposed that we are ensuring that we are meeting the legal criteria that are necessary.

We also are ensuring that there is sufficient review in the case of willful citations. I think that we are trying to ensure that we have the highest quality, highest level of consistency and a thorough review. I am really proud of the OSHA team and how they have come together to try to address all of these issues. I just want you to know that we have every

faith in our staff. We have a really quality team in Nevada OSHA. We have our new Chief Administrative Officer, Kym Heckman, who is in the audience here. She started in late October, and we are very confident in the leadership of our team and in our staff. Thank you.

***Director Sanchez:***

The other thing I think is really important for me to say straight away and on the record is that we follow the law, the Business and Industry, period. There is no additional pressure that is added to me to sway a decision one way or the other. It does not happen. It will not happen in my leadership of Business and Industry. I do not care the title of the individual on the other side of the phone. We take our jobs very seriously at Business and Industry, and my expectation for everybody that works in the Agency is to follow the law. We do not take into consideration someone's pocketbooks or their political leanings. We cannot do that. We have to look at the facts of each individual case, and the case has to be won or lost on the merits of those facts. Period. That may mean that the outcome is not one that everybody desires, but that is not our concern. Our concern is that we follow the facts, and we follow the law and any questions that may be derived in the press, I understand that. We are happy to address those in more detail here today.

But the idea that there is external pressure that is swaying my decision-making, or our Division's decision-making, or that there is any pressure that comes from me as a result of pressure from on high is incorrect. It is conjecture. It is frankly written by people that do not understand the process, have not taken the time to get to know the process, understand what it is we have to do, and that is unfortunate. I understand that that is just kind of the way things are done, at least in the media sometimes, but we are here to address those concerns and get into the weeds, so to speak, if that is what the Committee desires. Thank you.

***Chair Watts:***

All right. Thank you very much. Seeing no other remarks. We will move to the Committee for questions. I am going to start with Vice Chair Nguyen.

***Vice Chair Nguyen:***

Thank you. Sorry, I was a little taken aback that it was insinuated that the people on this Committee were not fully educating themselves or attempting to educate themselves on the process, but I will have some other questions for that and hopefully you can help clarify maybe what your intent was in insinuating that the members on this dais were not paying attention to what was going on and did not have the best interest of transparency and accountability in mind.

But with that being said, I did nearly about two years ago have the opportunity to tour this tunnel project operated by The Boring Company here in Las Vegas. Like many Nevadans, I was curious about what the promise of a new infrastructure and innovation would look like in our community. When a project of this scale is proposed right beneath our City, I think it is appropriate for all Legislators—and I encourage everyone to go out and look at this project—for us to see firsthand what these projects look like and ask questions. During that tour, I saw the drilling equipment up close. In fact, they were bragging; the representatives

were bragging about this equipment. And you could see them firsthand at some of the substations. You can see old drills that are in there. You can see how the environment just destroys these 14-foot-in-diameter-like drills; and they stand as like a memorial and testament to the power of our natural environment.

I remember being in those deep, underground, tight, confined spaces and asking questions. I went there with my 13-year-old son, at the time, because he had an interest in the science and the ability, and even at 13 years of age, he was asking questions during our tour about if there is a fire, how do you get out? How do fire trucks get into this, like, small space? What are the concerns about worker safety and collapsing of roads? I do have a smart child, and I am not going to brag about my son here, although I will if you want me to—he had concerns about the low water table, and information and concerns about contamination, and all of those kind of things, and worker safety, and community safety, especially when you are placing people with heavy machinery, and chemical agents, and restricted egresses, and the margin for error in those circumstances, incredibly small.

I guess at the time, I had confidence that we would not have projects like this without the safety mechanisms in place. That we would not get to the point where we had hundreds, let alone almost thousands of complaints regarding everything from environmental concerns to worker safety, to the monorail potentially collapsing. And the idea that we are now moving throughout town where a mass population is, including over to the airport, gives me a lot of concerns.

Again, I think all of us on this Committee are prepared and do inform ourselves and do go out of our way to inform ourselves of the process that is in place for these things, but we also saw the news reports. We saw the articles about two firefighters suffering chemical burns during training exercises and that those OSHA violation citations were withdrawn and the fines were reduced. These are not hypothetical risks; those are real injuries, real exposure, and real consequences. A lot of people make it their mission on this Committee, on both sides of the aisle, to make sure that we are protecting firefighters, that we are protecting our first responders. That protection is not just words that come out of our mouth during a campaign cycle or in these Committee hearings, but these are real there.

So for me, I see this hearing today, not just about innovation versus regulation, but about whether our systems of review for enforcement and accountability are functioning as intended. Whether or not they are strong enough to protect workers, first responders, and the public when the stakes are high—like they are in this circumstance. I am extremely disappointed that we do not have the Governor's Office here to answer some of those questions that the Chair so eloquently laid out. I am incredibly disappointed that a company valued at \$7 billion that has a team of government affairs and lobbyists were unable to make the time today for us to ask those questions, to make sure that our communities are protected from environmental disasters, and the like. We do not want to wait until it is beyond chemical burns or our communities' water is poisoned. We want to make sure that we can do what we can now.

We are a coequal branch of government, and it may feel like we are only that way during the 120 days during a legislative session every other year, but this is the time where we are able to vet those. I know this is not directed at the people at this table so much, but it is incredibly frustrating. So, that will kind of get me into some of my questions, and if you feel that I am not educated on this, hopefully you will be able to clarify that assertion.

But I would like to talk about how the system for review is set up for OSHA citations. In this situation, if there are citations or there are complaints that are lodged and they are ultimately substantiated by OSHA, can you talk about how they are reviewed first internally or whether or not that administrative review structure . . . Can you talk a little bit more about that? I am not sure who wants to take that on.

***Administrator Carreón:***

Thank you for the question. The internal review process for any OSHA-proposed citation is that the Compliance Safety and Health Officer, which is called a CSHO, that is the OSHA inspector, will write up the inspection narrative, violation worksheets. They will submit all of that to their supervisor for review. The supervisor reviews it and sends it on to the district manager. There is a district manager in Las Vegas as well as one in Reno. It goes to the district manager; the district manager is the one who decides whether to propose citations or not. And then if citations are proposed, then it is released, and that is the process. Thank you.

***Vice Chair Nguyen:***

Can I ask follow-up questions? Thank you and thank you, Chair, for the follow-up on that. Just to get this clear, there is an initial investigation on the ground, or a complaint comes in. Is that a correct understanding?

***Administrator Carreón:***

That is correct.

***Vice Chair Nguyen:***

But that line of review and that transparency does not stop right there. It would not just go immediately from there to a citation.

***Administrator Carreón:***

Thank you for that question. As part of an inspection, the Compliance Safety and Health Officer will actually conduct an opening with the employer. At that point, the employer can decide whether or not to allow the OSHA inspection to proceed. The Compliance Officer will then document whatever the hazards may be through photo evidence, through video. They will talk to employees; they will talk to management representatives; and they will do document requests for any additional information that is needed. A case file is pretty comprehensive. We provided a link to the entire case file for this particular inspection. (Agenda Item IV) You will see that there is a lot of documentation that is taken into account.

Then the inspector then looks to see are there citations that are possible. And if so, they have to look to see if the four legal criteria are met. Those criteria are, is there a standard that applies? We have to look at the safety standards and see if something applies. And then we look to see if that standard was violated; that is the second one. The third one is, was there employee exposure to the hazard. Then the last one is, was there employer knowledge of the hazardous condition. They will look at all of those factors and decide whether they think citations should be proposed. There is a whole complex method to determine what level of citations there are. And so, they would go through that, and there are various calculations, also, to determine how much the penalty would be.

They go through all of that, and that is the case file that they then submit to their supervisor. And like I said, it goes to the supervisor, then it goes to the district manager. Once the Compliance Officer has what they think is, you know, they have completed the investigation, then they will actually conduct a closing conference with the employer to tell them what hazards have been identified and whether or not citations may be proposed.

***Vice Chair Nguyen:***

It is fair to say that this investigatory-like process is pretty intense. You have that three-factor test; you are interviewing workers; you are interviewing employers; you are doing any witnesses. It is kind of, like, for those of us in the public that are hearing about this process for the first time, it sounds like it is not something where someone just makes a complaint and it immediately goes to that fine level.

***Administrator Carreón:***

That is correct. It is an extensive investigation process and there are actually four factors that have to be present in order to do the citation.

***Vice Chair Nguyen:***

Okay. So, four factors; it is even more, like, scrutiny. Is there just one person that is doing this investigation, or is there a team that is doing an investigation like this? Does it also depend on the severity of the allegation or potential investigation, or how does that work?

***Administrator Carreón:***

Usually it is a single CSHO who does the investigation; however, if there are safety and health hazards that are alleged, then we may have a joint inspection. You could have an industrial hygienist if there are health hazards alleged, and you could have a safety specialist if there are safety hazards. You could have two inspectors on the same investigation who are looking at different aspects, and that would actually be counted as two different inspections.

***Vice Chair Nguyen:***

In a circumstance like this where you had chemical burns, you had outside people from the firefighters that were injured. Would this be a circumstance where you had the health and safety and you had multiple people involved in an investigation such as this?

***Administrator Carreón:***

In this specific case, because it was a health violation, we did assign an industrial hygienist, and I believe there was another CSHO, who was also an industrial hygienist who was there in a training capacity.

***Vice Chair Nguyen:***

For the investigatory-like process that you have just laid out with the four factors, the multiple people that are a part of the investigation, the review of all these documents, the interviews, all of those things; how long does that process usually take?

**Administrator Carreón:**

According to the statute, we have six months to complete an OSHA inspection from the date of employee exposure. We like to have the cases completed within 60 to 90 days, is the goal. Sometimes they do go the entire six months.

**Vice Chair Nguyen:**

So, it is fair to say that in a situation like this, your team on the ground that are the initial first responders, I guess, and first investigators, are doing a very thorough job.

**Administrator Carreón:**

Yes, they are responsible for doing a thorough job on the inspection.

**Vice Chair Nguyen:**

After they have completed this investigation, which at best takes about 60 days but sometimes will go up to six months, and they have compiled this report, they put together their recommendations. You said that it then goes to their supervisor. When it is at the supervisor level, what kind of review process takes place at that supervisory level?

**Administrator Carreón:**

The supervisor is responsible for reviewing the entire case file.

**Vice Chair Nguyen:**

Okay. Is there one supervisor that is responsible for that or are there multiple supervisors? Is there a similar-like structure that there is on that initial investigatory level?

**Administrator Carreón:**

If it is a joint safety and health inspection, then you would have the safety supervisor reviewing the safety inspection and the health supervisor would be reviewing the health inspection. But otherwise, if it is just a single inspection, it would just be the one supervisor, but then it does go to the district manager.

**Vice Chair Nguyen:**

Okay. So, under these circumstances, not only did you have that potentially up to six months of investigatory-like process where the interviews were taking place, you had multiple people on the ground doing that first initial investigation, thoroughly vetting, questioning, getting all this stuff, making the recommendation. It then goes to the supervisory level where, again, you have a team of two people that are supervisors in this circumstance because it was health and safety, as well, also reviewing that just to make sure that there are not any issues, and there are not any concerns. Is that my understanding?

**Administrator Carreón:**

In this particular case, there was just the one supervisor reviewing because it was just a health inspection. Just to clarify.

**Vice Chair Nguyen:**

Okay. The next thing is, after it goes through that level, how long does that process take where that supervisor reviews these documents in this recommendation?

**Administrator Carreón:**

That is just going to depend on the specific case, so there is not a specific time period for that.

**Vice Chair Nguyen:**

Okay. Under these circumstances, do you know how long that time period was?

**Administrator Carreón:**

I am not certain how long it was.

**Vice Chair Nguyen:**

Is that something that you can find for the Committee and provide us after the fact?

**Administrator Carreón:**

We can provide that.

**Vice Chair Nguyen:**

Perfect. After it goes from not only that initial investigatory process during that six months where they are reviewing, interviewing, talking to the employer and talking to the employee, then it goes to the supervisor. The supervisor is reviewing that documentation, making sure that that is in compliance. It then goes to the district manager. Is that correct?

**Administrator Carreón:**

That is correct.

**Vice Chair Nguyen:**

Okay. After the district manager gets it, is there any policy or procedure in place on who reviews that, or is it just one person that reviews that documentation to determine whether or not they are ultimately going to issue that citation?

**Administrator Carreón:**

It is the district manager's decision. At the time of that inspection, we had in place a best practice of if it was going to be a willful citation proposed that we would have our legal counsel review it prior to being released. However, in this case, that did not occur.

**Vice Chair Nguyen:**

When it gets to the district manager level, is that the first time that you have that legal opinion and review, or are there different areas where there is legal review of those recommendations?

**Administrator Carreón:**

There is not a policy for legal review at any other time. But somebody could reach out to legal at any point if they thought it was necessary.

**Vice Chair Nguyen:**

After it goes through the investigatory process, then to the supervisor for additional scrutiny and review, then to the district manager, who prior to issuing those citations, consults with legal counsel to make sure that everything—all the i's are dotted, all the t's are crossed, everything looks in place, it is only after that time that a citation is issued.

**Administrator Carreón:**

The legal review does not occur in every case. As I was saying, at the time of this inspection, it was the best practice for legal to review specifically willful citations. But for general citations that happen on an everyday basis that are not willful, legal does not review those.

**Vice Chair Nguyen:**

Do you know if legal reviewed in this case?

**Administrator Carreón:**

Legal did not review before the citations were issued, but legal did review it on May 29, the day after the citations had been issued.

**Vice Chair Nguyen:**

And did they provide any kind of opinion after the citations were issued?

**Administrator Carreón:**

Yes. Legal did provide an opinion after the citations were issued.

**Vice Chair Nguyen:**

And who was that opinion provided to? And why was it done after the citations instead of prior to?

**Administrator Carreón:**

Our Division Counsel, Sally Ortiz, who is here with us today, is the person who reviewed. She actually reviewed the violation worksheets the day after the citations were issued. And I am sorry, what was your other question?

**Vice Chair Nguyen:**

Why did it happen?

***Administrator Carreón:***

It was an oversight that it was not given to legal prior to issuance of the citations. And like I said, at the time, it was the best practice to do that. It was not in policy. Since then, we have corrected that and created a willful review policy that clearly marks out the timeline that legal needs to have to ensure that they have adequate time to review the citations.

***Vice Chair Nguyen:***

I guess this question then is for Ms. Ortiz. Can you describe why that was previously the best practice, and what you have done to close those oversights as was described before in not having legal review this prior to a citation being issued?

***Sally Ortiz, Legal Counsel, Nevada OSHA:***

When I first started working for Nevada OSHA back in 2013, they did not have an avenue open to them to prosecute willful. I expressed to them that I had no problem doing it, but they had to be covered. They had to be completely clear. There could not be any ambiguity because willfuls are the most serious classifications that OSHA can issue. At that point was when we developed a chart that they could look at to even determine if there was a possibility that a willful was going to be in existence. And if they were able to answer certain questions in the affirmative, then they could move forward with that. When the citations were proposed, they would submit them to me so that I could help fill in the blanks, because at that point, they had not been in the habit of doing willful citations. That process has worked for us really well for the last 12 years.

I cannot speak to why I did not receive these, but I reviewed the violation worksheets when I had them in my possession.

***Vice Chair Nguyen:***

When we look at this, obviously, it appears on the surface that there are protections in place to make sure that a frivolous or unsubstantiated citations will not be issued because there are so many levels of things that should protect against any issues that there are. What have you done moving forward? Are these new policies and procedures in place now in writing for the general public to be able to see, for people issuing complaints to be able to examine in order to move forward?

***Administrator Carreón:***

The willful review policy that I mentioned earlier was provided to the Committee. It is available publicly. We put it into the drop box file that we have all of the documents related to this case. So yes, it has been provided publicly.

***Vice Chair Nguyen:***

Then finally, thank you, Chair, for your indulgence if it is okay for me to ask a couple more questions around this. When you as legal counsel are reviewing these complaints and you are reviewing this when it gets to this level after the investigatory process, have you done anything to ensure that there is more communication earlier on? If you have legal counsel that is reviewing this, sometimes the people that are on the ground doing that six months of initial real time, immediate, kind of investigation, if they do not know what kind of

information to provide you because they are not lawyers, what kind of policies or what kind of procedures have you proposed to make sure that we are not wasting the time and losing any of that potential evidence or collection of evidence or investigation early on to find out about that?

***Ms. Ortiz:***

I am part of the DIR Legal Section, and I do not have the authority to guide Nevada OSHA on how they have to do things. What we can do is at the time was the best practice, so I gave them information through work product. If you are thinking that there is a possibility that a willful is here, look at this form, answer these questions, and that gives you the idea of whether you have something that just needs to be more thorough answers for it or whether you do not have it at all. And they do that because they never enter an inspection with any citations in mind. They just discover them as the facts show themselves. So that is what was there for guidance for them.

On the normal citations, I do not really have much of anything to do with those. Anything that is not a willful has never been part of my review process unless the supervisor, or the inspector, or the district manager brought it to me for a specific reason that they had some debate, and then I would look at it. But other than that, there is no process that I have given them where they have to present anything to me, or they have to do it in a certain way.

***Vice Chair Nguyen:***

I understand that you want the facts to lead the investigation. But I know that in almost every single other agency, including, even with our law enforcement agencies, if there are questions that police officers have when they are doing their investigation, they routinely will reach out to prosecutors or district attorneys in order to ask questions about the legality. Especially when in this situation, we have already learned that as a part of this initial investigation, they are looking at those four criteria to determine whether or not to escalate these.

I will let some other people jump in on some of these questions, but I do have some questions about what kinds of things have been put in place, and I appreciate your candor in answering some of those. Thank you, Chair.

***Chair Watts:***

Thank you. I am going to ask a couple of questions right now, but I do want to start by expressing my appreciation to you. You were the first agency to respond to our request for information. I think your responses were very thorough. They were extremely helpful for me in understanding both the issues related to this specific case, which has gotten a lot of attention, as well as your overall interactions with The Boring Company and your overall approach to protecting health and safety in our workplaces. I do want to say your commitment to doing that does shine through. I know we are asking a lot of questions. Some of those questions are really tough. I know that there were some things about this particular case that were kind of out of the ordinary and you were honest and forthright about that. I just want to make sure that I express to you and to all of your staff that we appreciate the work that you are doing, that we see that you are being forthright, and that our goal is to identify how we can support you, because in some of this information I have seen that The Boring Company has, you know, has 17 different complaint case files. Many of which have been resolved without a citation, some of which have citations that are still

contested, and I think four are still open investigations. When I see that, I see a history of issues, and we want to make sure that we are supporting you and ensuring that your Agency does have the ability to work with employers that want to do things right and also to hold employers accountable that refuse to do things right.

I do want to follow up a little bit briefly on this issue with this case. I appreciate the honesty about the legal review not having been conducted beforehand. You know, what you provided was that it was a rare oversight for citations of this magnitude. It also seems like a rare level of engagement from the Governor's Office. How long, and I guess this question might be for you, Ms. Ortiz, how long did you have to review those worksheets and determine the legal sufficiency of them?

**Ms. Ortiz:**

I reviewed them while we were having the conference call on May 29. They were the only piece of the file that I had, and while they were having a discussion, I just pulled them up so that I could be more familiar with what they were discussing since I had been out of the office until the 28<sup>th</sup>, and that is when I was just told we are going to have this meeting, so I just pulled up the violation worksheets to look at that. And unfortunately, just a cursory glance showed some very disturbing anomalies, mistakes, omissions. Then I started looking at them carefully, still on the call, and I was able to immediately see that we just did not have enough there to meet our burden. But that is why the recommendation was to withdraw pending further review because I have not seen the rest of the file. It could be that the information to support them is in the file. They just did not put it into the violation worksheets correctly.

**Chair Watts:**

Thank you so much because that is my next question. I think one of the issues of concern that has come up is that these citations were rescinded very quickly based upon that review that showed that these standards were not in place. I read through most of the information that you provided, and again, I appreciate you being very thorough with that.

I think my question, and this is probably not for you but more for you, Ms. Carreón, is where do we stand in terms of going back and reviewing those worksheets? Have there been conversations with the investigators who were present to see . . . You know, I saw there were a lot of the issues that were brought up were problems with what was kind of documented in the worksheet. As was just noted, there actually may be more justification for, if not willful citations, some other citation. Where do we stand in the process of thoroughly reviewing that case and determining if there is the opportunity to reissue some form of citation based on what was collected by the investigators going through that case?

**Administrator Carreón:**

As I mentioned early on, there is six months from the date of employee exposure to issue the citations. After they were withdrawn pending further review, we did receive additional information from The Boring Company, which we provided you. They had a slide presentation, they had some other training documentation, and things like that. The Nevada OSHA took all of that into account to review and determine whether the citations should be issued or proposed at a different level or proposed at all. The inspection narrative that we provided you showed that there was a determination that we did not meet those four legal criteria to issue citations based on the hazards that had been alleged.

**Chair Watts:**

Thank you for that. I have another really basic question. We are talking about details of kind of what is legally sufficient. I understand, as it was stated, your job is to follow and administer the law. But just because an issue does not meet those four criteria for a citation does not mean that there was not an issue. I mean, there are certain things that might not rise to the level of OSHA being able to administer a citation, but that does not mean that there were not technically violations, conditions that were questionable or unsuitable for the health and well-being of workers at a job site.

**Administrator Carreón:**

It is true that there can be hazards certainly present that did not rise to the level of citation and those are discussed with the employer during the closing conference so that they understand. And we do tell them that they are expected to abate all the hazards, because as I stated at the very beginning of this, every employer is responsible for ensuring that they are maintaining a workplace free of recognized hazards. That is the general duty clause and that overrides everything that employers are responsible for.

**Chair Watts:**

Thank you. Can you discuss how was that conversation handled in the closing for this case? Because again, the issue, particularly with potential exposure to these caustic chemicals and chemical burns, has been a known hazard at this worksite for quite some time, and it seems like that hazard has not been fully abated. Can you discuss that portion of how you handled that conversation with the Company?

**Administrator Carreón:**

I was not part of the conversations with the Company after the citations were withdrawn to determine what the next step would be. However, you can see provided in the records that there was a memo from The Boring Company articulating to how they wanted to move forward in partnership with Nevada OSHA. They wanted to meet monthly with the Chief Administrative Officer; they wanted to make available that Nevada OSHA could come to see their trainings that they do with the fire department. I mean, they did express an interest in trying to ensure that there would be safety going forward and trying to address the issues that had occurred.

**Chair Watts:**

Thank you. That is, again, I think, the overriding concern is the information that you provided has showed a history of complaints. And again, some of those have not risen to citations. It sounds like there are processes in place for there to at least be conversations about identifying those issues, those hazards, having them be abated. And yet, we see issue after issue; we see multiple complaints that are still open right now. I think that is what I and members of this Committee are looking for answers. I think maybe there is only so far that you can go in providing those answers and maybe that is what we need The Boring Company here for, and unfortunately, they are not. But you know, is there anything that you can provide us in terms of understanding how we are going to get to a place where we are not seeing more complaints, more violations, more of these issues being brought up again and again and again from The Boring Company?

**Administrator Carreón:**

I really appreciate that question. I think that in our discussions with The Boring Company, we have told them that once they get through all of these inspections and complaints, they have an opportunity, should they choose, to work with our Safety Consultation and Training Section, which I mentioned earlier on is our prevention arm. They can come do a consultation free of charge. They do a survey, they review all the hazards, anything that they find must be abated, but there are no citations. Businesses that want sort of a more longer-term relationship with our Safety Consultation and Training Section can become a Safe Partner. There is also a program we call SHARP, which is the Safety and Health Achievement Recognition Program, and VPP, which is the Voluntary Protection Program. So those are recognition programs for businesses that have chosen to go a step above and ensure that they have a quality safety health management system.

I think it is helpful just to reiterate what is a quality safety health management system. That is one where there are four things present. The first is you have to have management commitment and employee involvement. The management team has to embrace safety as a core value, and they have to take the employees and empower them to take safety into their own hands as well. There has to be a true collaborative relationship with the management and the employees. There also needs to be a worksite analysis to ensure what are all the hazards, make sure that you know what the potential hazards can be. The third piece is putting in place hazard prevention and controls, actually trying to abate the hazards, as you mentioned earlier, or try to prevent them. You know, elimination of hazards is the best way, but if not, there is a whole hierarchy of controls that can be put in place. And then the last critical piece is safety and health training. If you have all of those elements of an effective safety health management system, then you should have less complaints, you should have less injuries, and those are the businesses that, you know, that are in those recognition programs that are model employers and have really tried to take ownership of the safety of their employees. We have discussed that with The Boring Company in some of these meetings, that we would really love for them to get to that point where if they have got the employee engagement and the management team working together, they can be successful.

**Chair Watts:**

Thank you for that. I really appreciate you providing that information. It seems like it has been very difficult for them to get into that because of the frequency of complaints that have been levied against the Company and their contesting of these complaints, which has lasted, in some cases, up to two and one-half years. Do you have any recollection of when you first brought up this SCATS [Safety Consultation and Training Section] program, which I think you also . . . I want to make sure this is clear, is free technical assistance provided by your Agency to any interested employer to develop these best practices. Do you have any recollection of when you made the offer of providing these resources and these various recognition and rewards, which includes less frequent investigations or site visits to The Boring Company?

**Administrator Carreón:**

We first became engaged with The Boring Company, I believe, in 2022, which is when they first started their operations, and they invited us to the site to view the tunneling process, similar to how they invited Senator Nguyen. And we brought our whole team; we brought our leadership from Nevada OSHA. We brought our leadership from Nevada SCATS, our Safety Consultation and Training Section, and we also brought our Mine Safety Training

Section because they have a little more expertise in underground construction. We brought them all, and we did discuss with them then, you know, what we offered through SCATS. They did not, at that time, ask for our services.

***Chair Watts:***

Thank you. I see looking at this that in 2022, there were 3 complaints or referrals, and from 2022 to present, there were 16 complaints or referrals related to The Boring Company and involving Nevada OSHA. It does seem like there are opportunities for them to get support in order to get out of this pattern of repeat violations, but they have not taken your Agency up on those. Again, that was something that would be good to ask them, but they are not here to discuss that.

Then you mentioned a little bit about the abatement and mitigation and some of the meetings that are planned. Have there been any of those regular meetings since the closing conference related to this, the firefighter issue?

***Administrator Carreón:***

Yes, there was one. For a while we did not have a Chief Administrative Officer, so there was one meeting that I held with The Boring Company and the district manager. And then, since Kym Heckman became the Chief Administrative Officer, they have had a meeting as well, and I think they had that in January.

***Chair Watts:***

Okay. Thank you. I have a couple of just quick clarifying questions about penalties, and you provided a good breakdown of the penalties or the citations that are available for Nevada OSHA to issue. My reading of that is that a business cannot face a failure-to-abate penalty while a case is contested, because essentially the citation has not been finalized, so they are not necessarily required to abate. Is that a correct understanding? Can you discuss how that works?

***Ms. Ortiz:***

Yes, that is correct. If a matter is being contested, they do not have to abate. But that is also one of the reasons why we will sometimes have settlements or that we offer them discounts on their penalties if they go ahead, despite contesting, if they still go ahead and fix it, even if they disagree with the citation. We usually give them credit for that because we want to encourage those abatements more than we want anything else.

***Chair Watts:***

Right. Thank you. I appreciate that. The Boring Company is clearly not taking your Agency up on that. Citations that were issued in 2023 are still pending before the Health and Safety Review Board. I think they have a meeting coming up soon where hopefully they will be looking at this case. But essentially, they have been able to avoid abatement of the issues raised in those citations due to the fact that they have contested, they have refused to participate in any informal or negotiated resolution to that case. It is now dragging on again for two and one-half years, understandably for reasons outside of the Agency's control because you do not manage the Review Board. Am I misunderstanding anything?

**Administrator Carreón:**

That is correct. I did want to mention that the case with the eight citations was supposed to be heard at the February meeting. However, it is going to be continued because there was a conflict that The Boring Company attorney could not make it for the date because the date had been moved a week from when it was originally continued to. Unfortunately, it will not be heard at the February meeting. I just wanted to make sure that was known.

**Chair Watts:**

Okay, thank you. Two and one-half years and counting. What about a repeat violation? Again, there is the failure to abate and there is also the repeat violation. So how does that work? If a citation is still being contested, can they be issued a citation for a repeat violation of those issues? Do you understand what I am saying?

**Ms. Ortiz:**

In order to issue a repeat classification, the previous inspection upon which the classification is based has to be a final order. For instance, if you have four open cases, you cannot use any of them to support a repeat violation, because they are all still not final orders.

**Chair Watts:**

Okay. Thank you for that. Again, it seems that strategic foot-dragging on the part of The Boring Company and some other major violators actually reduces the Agency's ability to hold them accountable to mitigate and abate these hazards and to employ the citation structure designed to ensure that those hazards get mitigated and that we do not see a repetition of the same issues. I have a couple of other questions, but I am going to take a break, and I am going to go next to Assemblymember Karris.

**Assemblymember Karris:**

Thank you, Chair. I also have just a couple of questions if you can bear with me. A couple are very simple. These two are for the public, the difference between a willful citation and one that is not, if you could clarify.

**Administrator Carreón:**

In the information that we provided to the Committee, we have the definition of a *willful violation*, and it is "a violation that occurs when an employer intentionally disregards OSHA regulations or demonstrates plain indifference to employee safety."

**Assemblymember Karris:**

Thank you. I know we all have that, but I just want to make sure those listening also have that. And then, we sometimes suffer in these hearings for a lot of acronyms; if you could explain what CSHO is for the public.

**Administrator Carreón:**

Sure. A CSHO is a Compliance Safety and Health Officer. That is an OSHA inspector, and there are two kinds. There is either an industrial hygienist that does health inspections, and there is also a safety specialist to do safety inspections.

**Assemblymember Karris:**

Great. Thanks for that. Now, on to what I would really like to know about these—I do not know what to really call them—questionnaire sheets you are giving. Are they something that people are trained on from the beginning? Like the first inspectors that go on sites? I just want to say I am a 30-year member of the IBW [*sic*] [International Brotherhood of Electrical Workers]. I have been on construction sites with OSHA coming on site for complaints, for minor injury, for major injury, for death. Okay. So, I know the importance of the OSHA teams getting out there. What I am concerned with, is it going through the vast chain of people and committees to get to a point at the end where it is not valid because it is literally legally insufficient data? Ms. Ortiz brought up this idea of, she made up these sheets so they could ask these questions. Is that something that the officers that go out in the field are trained with in the beginning? They even know if they should start using this sheet when they go on site, or is this something that comes later?

**Administrator Carreón:**

I think using that sheet would come later once they have assessed what the hazards are and what standards may have been violated to see if a willful violation would apply. One of the procedures that we put into place, actually a couple of them, where we had standard operating procedures we put into place for the violation worksheets, as well as for the inspection narrative, and we put in a lot of examples. I know our staff worked very closely with our Division Counsel, Ms. Ortiz, to try to ensure that when staff put together a citation, that it will have all four legal elements, and it will be legally sufficient. We really worked hard after this citation and knowing that we had some insufficiencies to ensure that we had some really concrete examples, some concrete language that staff could use and different examples for different scenarios. It is an evolving document. Our program coordinators are still working and getting feedback from people like, oh, it would be really nice to have an example on this, example on that. We are really trying to get feedback from our staff and keep it a living document to ensure that we have got examples that our staff can use. And that is what I was saying earlier, just having consistency because we have to treat every business the same. We have to make sure that our language is the same and that we have the highest quality of inspections.

**Assemblymember Karris:**

Thank you for that. My biggest concern here is transparency. The public really, really needs to be aware of what is happening here. I feel for our firefighters—that they are going into a training mission and there is something in the tunnel that has nothing to do with the training mission that has injured them. This could drag on for two and one-half, three years, four years, we do not know. It is already past the six-month mark. Everything was proceeding and then we find out there are legal insufficiencies and now it is another six months since then. We are just going to keep going with this. I just do not like to see these things drag on, and I am hoping that with enough information, we can make some changes that makes your job easier when these cases come up. Thank you.

**Chair Watts:**

Thank you. Next, we will go to Senator Pazina.

**Senator Pazina:**

Thank you so much, Chair, and I would also like to echo the Chair's comments from earlier that I really appreciate that you have come here today to answer our questions. The question I had is really for The Boring Company, and I was disappointed to see that they are not here today, but I will ask it anyway because I think it is important, and I would love to get an OSHA perspective on it as well. I work in the trade show and events industry. We have so many visitors, so many workers locally and from around the state that come into events at the Las Vegas Convention Center. And with these tunnels underneath the parking lots . . . Just speaking from experience, we have CONEXPO coming up with incredibly heavy machinery that is going to be taking up a lot of weight on those parking lots. We will have a number of visitors, a number of exhibitors, a number of workers that are ensuring that everything is set up. What load-bearing weight . . . I guess I should say what actions have been taken to determine that it is safe for all of this heavy machinery and for thousands and thousands of people to be walking across these lots when the Boring tunnels are underneath them? Thank you.

**Chair Watts:**

It is okay if that is outside of your scope, you do not have to. Again, there are questions that we have for The Boring Company that cannot be answered because they are not present. So . . .

**Administrator Carreón:**

Yes, that is outside of our scope, and so we are unable to answer that question.

**Senator Pazina:**

And thank you again. That was really a question I had today for The Boring Company, and I am so disappointed that they are not here to answer it, but I appreciate that your team showed up, and I hope that work is done between The Boring Company and OSHA to determine what is safe. Thank you.

**Chair Watts:**

Thank you. Members, additional questions? I believe Senator Nguyen has some.

**Senator Nguyen:**

Thank you. I feel like I have gone down, like, a legal wormhole. You had talked about how there—obviously it sounds like, I mean, just a general practice on public policy is that if something is bad, you do not want to see any abatement or mitigation of those circumstances be held against the company that is making those corrective actions. I always think of it in this way. If you have a water spill in a grocery store and someone slips and falls on it, it is not necessarily an admission at trial if that company later goes and cleans up that water spill, so other people do not slip and fall on it. It sounds like we have some of those policies in place that encourage correction of these behaviors. But as you said, until there is a final, I guess, conclusion to some of these investigations, it is not considered complete. You could have, as Assemblymember Karris had mentioned, some of these things dragging on for years while the violations continue. Are there things that we, as a legislative body, can enact in statute that would give greater protections to workers and the community to have people do that? Or, are we just relying on the fact that ultimately, if there is a conclusion, that these should have been corrected, and then you

have the next 100 or so complaints come through that that is just on a company like Boring to now have to deal with the consequences that they did not correct those actions and you have that ultimate decision?

***Administrator Carreón:***

There are options that the Legislature could consider. We mentioned earlier that we have the Occupational Safety and Health Review Board, and it is a five-member board that is appointed by the Governor. In other states, they have different models. Oftentimes, there is an administrative law judge that decides the cases. We do have a long lag time with our Board. They have been working hard to schedule cases, and we have been encouraging them to do so, but there is a long lag time. I mean, it is possible that having an administrative law judge dedicated to working on these cases would enable them to be resolved in a quicker manner. And, we would be happy to provide more information about what other states do. Thank you.

***Senator Nguyen:***

No, thank you. That is an incredible suggestion. I think that is what I know I am looking for, and I think other members that are sitting up on this dais today are, like, what can we do to speed up this process? What can we do to make sure that the safety protocol and violations and concerns are addressed earlier? That kind of brings me to this Review Board. In some of these other jurisdictions where they may have more independence with that administrative law judge. Are you familiar with any of those other practices in other states, and how that works, and how there is more of an independence so you would not run into an emergency, you know, Executive Department that can call a meeting and rescind citations within 24 hours?

***Administrator Carreón:***

I know that Ms. Ortiz has gone to conferences where she meets other people from other states, so I do not know if you have some greater insight; if not, we can provide more information.

***Ms. Ortiz:***

I am aware of the other state plans. All have their own unique mechanisms of doing it, which means that in some states, the administrative law judge is more independent from it. But to be perfectly frank, Nevada has the most separation between the adjudication of the cases for OSHA and OSHA itself. That has been well established with the Nevada Supreme Court to show that we actually do not have a lot of crossover or anything that can be considered a conflict of interest. But each other state plan is individual, and it is not something I could tell you today as a blanket statement on the rest of the programs.

***Senator Nguyen:***

Just for future reference, I would love to see what some of these other pieces that we could further enhance that independent investigation and the separation of power issues that might occur. Obviously, looking at the Safety Review Board and that five-member makeup, I have concerns that they appear to be all appointed by one individual. Obviously, it is the Governor's appointees, and the fact that I think some of the protections that were in place to protect not only employees, but also to protect the general public are currently lacking from that. Again, not really a question for you because I do not think you have anything to do with that, but that would be a question I would also have for the Governor's Office is,

again, reiterating, if you have a five-member review board that would review any of these contested OSHA citations and you do not have that administrative law judge, but two of those people are supposed to be from labor and the two members that previously sat on it from labor, being the operating engineers as well as IBEW, are no longer present, I feel like you do not have that labor voice.

As far as the concerns that the general public that we have heard in public comment that they have about issues that are going on here on this site throughout the underground of the center of town where a lot of our population lives and works and people come and play and hopefully that feel like they are safe when they drink water out of our fountains or take a shower in their hotel room or give their mix, you know, any of these potentially contaminated water sources with their baby formula. We want to make sure that there are protections in place there. The one member that is sitting from the general public, the fact that that person is no longer there, too, makes me question the validity and the safety that this Review Board is supposed to protect. Those would be more my questions for the Governor's Office, and hopefully we can get those answers during the course of this interim, as we are looking to see if there are things that we can do to further protect the community from any of these violations and help you guys do your job in a more efficient, independent way.

You had mentioned something about the forensic that B&I IT said they just could not find an earlier version of a file. Director Sanchez, could you maybe provide some more information on what was done to find out about that missing case file?

**Director Sanchez:**

Along with our B&I IT, we actually worked with the Office of the OCIO [Office of the Chief Information Officer]. We had a desire; I had a desire to figure out where that information went, and how it was deleted. I requested that they do a forensic analysis because of that. Unfortunately, both the OCIO's review and our internal IT did not yield any results, so we do not have any additional information as to how that happened or who did it.

**Senator Nguyen:**

Obviously, I have sat on other committees, as have some of the members here today, about some of the IT forensic cybersecurity hacking information. When the state had that hacking incident earlier in the year, they hired a third-party vendor to help recover from that. Were there any other independent investigators brought into this forensic audit or was it just through those two agencies that you had mentioned before internally?

**Director Sanchez:**

I did not bring in a third party.

**Senator Nguyen:**

Did you see any of these other forensic breaches or other missing documents or altered documents in any other areas or just with respect to this one high-profile case?

**Director Sanchez:**

I am not aware of any others.

**Senator Nguyen:**

Then, do you have any documentation or report card, like regarding the analysis and the methodologies and the results? Are they available to this body as well as the public on ultimately determining that their forensic analysis—I think they came back that it was inconclusive—in determining who modified the document and when? Do you have any documented—is there a memo? Is there a report? On what the investigation was? What the methodology was? You know, any of that kind of information?

**Director Sanchez:**

I do not.

**Senator Nguyen:**

Okay. Do you have any procedures or policies that you have now put in place, given that inconclusive report? Obviously, I have concern, and I know some of my constituents that are very involved in transparency and public records are obviously going to be very concerned about how public records are potentially altered or go missing and whether or not that is prevalent throughout this Agency or throughout the state. Have you conducted or started the process of figuring out what you need to do in terms of cybersecurity to make sure that something like this does not happen again in the future?

**Director Sanchez:**

I also value transparency, I think, as much as you and your constituents. It is one of the reasons why I wanted to see what happened here and get to the bottom of it. We rely on the OCIO and what the requirements are for those sort of investigations. They often lead those up. They set those requirements, they set those parameters, and they develop a methodology that I think is done for many reasons. One is that they are outside of our agency; they are impartial, and they are able to do those investigations. I would have to defer to what they have and how they set that methodology and the tools at which they used to do that. I do not have visibility into how they access the back end of my Agency in terms of all my data. That is a question that I cannot answer—certainly get the information and provide to the Committee, but I have to rely on the experts over at the OCIO's office—what they do.

**Senator Nguyen:**

When you realized that, and I appreciate that you immediately started that investigation to find out how those records went missing or were altered and, you know, concealed in this particular circumstance. I do appreciate your forward thinking on that. Did you also file any kind of police report? Because it is, I mean, removing, altering, destroying, or concealing any record of public record deposited in a public office is actually a category C felony. Did you make that criminal complaint with, and police report, with a corresponding, in this case I guess it would be a corresponding law enforcement agency about that violation?

**Director Sanchez:**

No, I was waiting for the investigation to come back to determine whether or not we could identify an individual that we may file against. Obviously, we did not find any specific individual. And so no, there was no file.

**Senator Nguyen:**

Thank you, Chair.

**Chair Watts:**

Thank you. Thank you all. I think we are almost there. I want to talk a little bit about timelines. It was discussed earlier, and you provided this in some of the backup materials. You stated OSHA has six months from the date of employee exposure to inspect and issue a citation. I know that among the other policies that were adopted to help improve processes at OSHA, for these high-profile cases there is a mandatory 30-day legal review. How does that fit into this timeline?

**Administrator Carreón:**

I am not quite sure. You are saying, how does it fit into the six-month timeline?

**Chair Watts:**

Correct.

**Administrator Carreón:**

Okay. I mean, we wanted to make sure that these—that any willful or high-profile cases are resolved more quickly. I mean, we do not really want them to go six months because we want to ensure that if we are going to propose citations, we want to do that as quickly as possible because we want to get the abatement because that is, in the end, what we really want is to make sure that we correct any hazards that occur. The new policy regarding willful citations tries to provide sufficient time for legal. I believe it is like 30 days for our Legal Counsel to review in order to make sure that we get a thorough review of the citation before we propose it.

**Chair Watts:**

Thank you. And then in the event that there is a hazard that provides kind of like an imminent danger to workers, does that 30-day window pose any sort of potential problem in, as you said, the overall mission of reviewing a case and getting a citation issued, if necessary, as quickly as possible?

**Administrator Carreón:**

I know that as part of inspections, oftentimes . . . I mean, if there is an imminent danger, I believe that the CSHO will bring it to the attention immediately. And you know, if it is something that can be corrected, like, right there, then that is the expectation that it will be done immediately. I think that as part of the penalty structure, there is also some reductions for quickly fixing a hazard during the process. We do try to encourage the employers to fix them as quickly as possible, especially if it is an imminent danger as you stated.

**Chair Watts:**

Thank you. Yes. And you did provide information on how some of the informal settlements can be reached to quickly address the issue, and I believe it is an automatic halving of the citation amounts. Once the citation is issued, a business has 30 days to pay, contest, or

enter an informal settlement process. But from what I could see, there seems to be no limit on the timeline for the Review Board to decide contested matters. As we heard, the matter relating to these 2023 citations against Boring has just been continued again from the upcoming February meeting. Is that correct? There is no mandatory timeline for the Review Board to adjudicate these matters?

**Administrator Carreón:**

There is not a mandatory time frame; however, there is a federal measure that looks at how long it is taking to complete an entire investigation. That is called the lapse time, and Nevada is compared to other states as well as federal OSHA. And unfortunately, we have a very lengthy lapse time currently; I think it is over 400 days. That is unfortunate and that is due to some of these lengthy delays with the Review Board. It is something that federal OSHA does look at, and something that we have our eye on and would like to improve.

**Chair Watts:**

Great. If you could provide some follow-up information so we can kind of see that and also see where we stand with regards to other states that would be helpful.

Building off of that, because this is my next question, is there a target or a best practice for either lapse time or for what Nevada OSHA specifically would like to see in terms of once something gets brought before the Review Board, when they would like to see that get addressed and resolved?

**Director Sanchez:**

On this question of the Board, one thing I think that is relevant here that is important to mention is that I have had a couple of meetings with the Board Chair, encourage them to get cases scheduled. Often in doing that, it accelerates the process a little bit. You know, it is not a problem that is unknown to us. We have been, as much as we can, encouraging them to get, you know, schedule more meetings, if necessary, do everything that they can to start to move cases through the process, because this is an issue that we have identified and have been trying to solve.

**Chair Watts:**

Great. Go ahead.

**Administrator Carreón:**

I was going to say I believe it is around 180 days is the average. That is correct. I think that is the target that we are trying to get to, and we are over 400 days.

**Chair Watts:**

Okay. Thank you. I know this is going to sound like an extremely basic question, but it seems like more frequent meetings of the Board would help address this backlog. You are welcome to provide any additional information. Again, it seems like ideally, when the Board is functioning at kind of full capacity, they are meeting roughly monthly. There is nothing in statute that spells out a mandatory meeting time—mandatory number of meetings or frequency for that Board. It seems like they might need to even tighten that meeting

frequency more to ensure, especially that the backlog that developed because the Board did not have quorum and was unable to meet for months has piled up, but also just maybe with the overall caseload and volume that we are seeing. Again, the simple question is them meeting more frequently would help with this lapse time. Is that correct?

**Administrator Carreón:**

That would be correct.

**Chair Watts:**

Okay. Thank you. The last questions I had. You provided this table, kind of showing the settlement or the citations and how they are disposed, and I think that was informative to me. One of the things that stood out to me is that more than 50 percent of the kind of numerical citations are all contested. Again, this just points back to my concern that major violators use contesting penalties as a way to drag their feet. They are probably aware of this lapse time, too. This allows them to essentially delay their ability to be held accountable to that. Regarding that table, in this instance, with the citations that were issued for the firefighters, where does that fall? Is that the citation withdrawn? What category kind of does that fit in for that resolution of that case?

**Administrator Carreón:**

Since those citations were withdrawn, it is not on this table because these are the ones that had penalties issued.

**Chair Watts:**

Okay.

**Administrator Carreón:**

I did want to clarify that actually, the majority of them are the ones that are not contested. If you look at the bottom of that table, it says—it starts at the top, it is contested appealed case, formal settlement agreement, dismissed case, and violation not contested. The ones that are not contested, that is the majority of them. You can see that the highest number is the one that says EISA, that is the Expedited Informal Settlement Agreement. That is where you can just say within that 30 days, we will just pay half, and they are done, and they have to do their abatement. So that and no change in penalty, those are the ones that is the highest amount.

**Chair Watts:**

Thank you. Yes, and I appreciate that. I just want to clarify this, because I think it is really important information for the public to know, right; 2025, OSHA penalties, 723 grand total. The vast majority of those violations were not contested; 119 of those, no financial penalty was applied whatsoever. Again, not putting a burden on the business, getting the issue addressed; 320, so almost half of the total kind of caseload here, no change in the penalty. And then, yeah, massive utilization of this EISA process, this informal settlement where they agree to fix the problem. They, you know, something bad happened, the penalties get cut in half, and hopefully everything moves on as it should be going forward.

The thing that I wanted to bring up is if you look at the initial penalty total, it is \$11,900,000, just under \$12 million. And if you look at the contested pending appeal cases, that is \$6.4 million. The point I want to make is that while most businesses that end up in this process get them resolved quickly, and I think very reasonably and effectively, what we are seeing is the highest dollar amount violators are contesting their cases—just 62 cases, so less than 10 percent of the overall caseload, but they have an initial penalty that is over 50 percent of the penalties that were levied are contesting their cases.

***Administrator Carreón:***

If you would like to have the full spreadsheet so you can see what they are, we would be happy to provide it to you. But the reason that the ones pending appeal is so large is because that Daehan case, that you mentioned earlier, is one of those, and so that is the vast majority of it.

***Chair Watts:***

It is about \$4 million. Is that correct?

***Ms. Ortiz:***

It is more; it is closer to five.

***Chair Watts:***

Oh, okay. Thank you. Let us see here. One other question. Have there been any notable changes to the Agency's vacancy rate over this fiscal year?

***Administrator Carreón:***

Yes, we have had an increase in vacancies, and we also received additional positions as part of the budget process. There were a lot of delays due to the cyberattack slowdown, the whole hiring process with HR, and we have just now started getting going with that. We did have two new Compliance Safety Health Officers start this week, so we are very excited about that. And then we have five of the seven new Industrial Hygienist positions that the Legislature granted us. Those are being filled on February 17, so we are excited that we are finally getting a little momentum to start to fill some of these positions.

***Chair Watts:***

Thank you. We wanted to make sure that we provided you with the resources that you need to carry out your mission. And will you just please keep us updated on how some of that moves forward? We want to make sure that there are no barriers to recruiting and retaining the expertise that we need to carry out the organization's mission.

Last question I have. What does it take—you mentioned, you know, the general duty clause that all employers have—what does it take for OSHA to determine that an entity has violated that? What does it take for OSHA to determine that a worksite is so unsafe that it needs to be shut down?

**Ms. Ortiz:**

If I understand the question correctly, you are asking when the general duty clause would be applicable. That is usually when there is no vertical standard that specifically addresses a hazard, but it is a hazard that is easily recognizable specifically from the industry. Even though I do not have a specific thing on this whole being a bad idea while you are working, you know that it is actually a hazard. That is when the general duty clause is applicable to them. When they are issued under that, OSHA has slightly more responsibility to show why it should have been acknowledged as a hazard since there is not a specific law that covers it. That is done through the investigation process itself. It is something that they work with the employers to recognize, to address regardless of whether they disagree with whether it is a hazard or not, but that is what the purpose of the general duty clause is. I am sorry, I do not recall what the second part of your question was.

**Chair Watts:**

No problem. What does it take for Nevada OSHA to determine that a worksite is so unsafe that it needs to be shut down?

**Ms. Ortiz:**

That is not so much the general duty clause, that goes more to the imminent danger. If you have an imminent danger situation, especially one that cannot be easily resolved or that the employer is straight out denying that it is a hazard, the Nevada OSHA has the option of issuing a stop work order, so to speak. It is actually this worksite is closed down. It is not really telling them that they cannot work—you cannot work here. So that is a last-ditch effort because most people, if you have an imminent danger situation, they do not typically argue with OSHA about it.

**Chair Watts:**

Thank you. I appreciate that. You know, it seems like this has not arisen to the level of imminent danger. But again, the pattern of problems and violations that we have seen here is deeply concerning, and we are looking to figure out, again, how we can make sure that you have all the tools at your disposal to continue to strike the balance, which again, a lot of these documents show you have been doing. You have a graduated approach to enforcement. Your goal is to fix the problem and make sure that these places are safe. But when we have these serious violators, repeat violators, we need to make sure that we have the tools to hold them accountable as well.

I think there was already a request for information about kind of the other adjudication models that exist, and I would just, you do not have to answer this right now, but if there is anything in terms of policies or practices in other state OSHAs that we can look to, to expand your toolbox in order to carry out your mission, if you find anything, can you please look for that, and let us know so that we can consider any statutory changes that might need to be made to effectuate that?

**Administrator Carreón:**

We appreciate that invitation, and we would be happy to work with you and the Committee on any policy proposals.

***Chair Watts:***

Thank you so much. Members, any other questions? Okay. Seeing none, that concludes this item. Thank you so much.

**AGENDA ITEM V—DISCUSSION REGARDING THE BORING COMPANY WITH THE DIVISION OF ENVIRONMENTAL PROTECTION, STATE DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES**

***Chair Watts:***

We will now move to Agenda Item V, a discussion regarding The Boring Company with the Division of Environmental Protection within the State Department of Conservation and Natural Resources (DCNR). Welcome to the table, team NDEP [Nevada's Division of Environmental Protection]. Please get comfortable, and we will begin by turning things over to you if there are any introductory remarks you would like to make.

***Jennifer Carr, P.E., Administrator, NDEP, DCNR:***

Good morning, Chair Watts, Vice Chair Nguyen, and members of the Committee. With me today are Jeffrey Kinder and Rick Perdomo, who are two of my three Deputy Administrators. Thank you for inviting us to join you here today. I am relatively new to this Committee, and there are some of you that I have never met because we do not often engage with Growth and Infrastructure during sessions. Please let me know if there is any general Agency context that you may need as we answer questions for you today. With that, we stand for questions. Thank you.

***Chair Watts:***

All right. Thank you. Appreciate that overview. Again, we did receive some of the materials that you provided to us in response to the request for information and appreciate the time and effort and detail that you put into those. (Agenda Item V)

I guess I will start by looking over this, similar to what we heard from the Division of Industrial Relations and Nevada OSHA, you lay out the Agency's graduated approach to compliance, which I think makes sense. Again, we want to take a light touch and help those that want to follow the rules without putting an undue burden on them, but we also need to ratchet up the penalties on the bad actors who refuse to follow the rules. You provide a timeline in these materials that shows that The Boring Company had a history of illicit discharges starting in 2019. Within six months of applying for their first permit, they already entered into a compliance agreement with the Division. A year later there is a finding of a violation of that compliance agreement. In what will start to sound very familiar, they contested that. I think it took about two years to resolve. In 2022, a settlement agreement and consent order is reached, and in your materials, you also note that it is exceedingly rare that when, quote, "Once a settlement is reached, it is rare that it is not fully complied with." In September 2025, we see this notice of violations and demand for penalties. You note that entities that struggle with compliance receive more scrutiny. Is it fair to say that The Boring Company struggles with compliance?

***Administrator Carr:***

Thank you, Chair Watts, for the question. Yes.

**Chair Watts:**

I appreciate that. This is a very forthright and a quick exchange. You also noted in some of your materials that there is a history of compliance or recalcitrance factor when you are determining penalties, and that ranges from 0 to 25 percent. Do you have any information available on what The Boring Company's recalcitrance factor is?

**Administrator Carr:**

Thank you for the question, Chair Watts. In our response to your initial questions that we provided, we did describe some of our general penalty calculation and assessment procedures. That ability to assign a factor of either potentially reducing a penalty for entities that have a good history of compliance or increasing a penalty for entities that are more recalcitrant or struggle with compliance is part of that evaluation of what a potential settlement offer for a finding of alleged violation in order might consist of. That compliance or recalcitrance factor comes sort of towards the end of the calculation. The whole process includes having the finding of alleged violation in order issued by the agency, the entity, the violating entity, whoever they may be, is generally ordered to appear and show cause as to their side of the story, essentially why they think we should not continue to pursue additional action or fines and penalties. And then, generally, in the Bureau of Water Pollution Control, that information is taken to what we call a penalty panel, internally. It is an independent panel of our managers, bureau chiefs that offer to serve on a penalty panel for any one individual enforcement process. They look over the facts and the work of the agency and the information brought by the company during the show cause meeting. Then they work through a series of metrics to look at various factors that could contribute to a penalty. Penalties and water pollution control are capped at \$25,000 per violation per day. That is the general range that the penalty panel is working through. Once they look at potential assessment of fines and penalties related to the gravity, the duration, those sorts of factors, then the potential percentage of either reduction or increase of penalty from 0 to 25 percent would then be applied just based on the larger picture of the compliance history of that company.

**Chair Watts:**

Thank you. If you have any follow-up information so that we can understand how that multiplier was assessed in the violation of the settlement agreement, that would be helpful.

You do mention in your backup materials that straight calculations of penalty violations per day can escalate quickly into the millions and become unreasonable as a regulatory deterrent. How did you determine that higher penalties would be an unreasonable deterrent in this case where we have a multibillion-dollar corporation owned by the world's richest man?

**Administrator Carr:**

Thank you for the question. I apologize. I do not think I did fully answer your first question. I was off on the process of how we arrive at fines and penalties. I think they are somewhat tied together. The initial finding of alleged violation and order that we issued in December of 2020 that was appealed sort of preempted the entire process of the normal penalty panel of bureau chiefs and the process that we would go through to calculate a potential penalty. Because of that appeal, the ultimate result was a negotiated settlement agreement, an administrative order on consent, as you are aware, that we have both signed as of October 24, 2022. The assessment of the penalty in this particular case was one of a negotiated settlement that occurred during the process of issuing that administrative order.

**Chair Watts:**

Okay. I guess I just need a little bit of clarity. Obviously, we have that initial settlement agreement which had a negotiated penalty, I believe it was \$90,000 and essentially a promise not to break the rules anymore and a pathway laid out to do that. Again, we have the more recent issue of the finding of violations of that settlement agreement and proposed penalties there. I guess, just to really quickly close the loop on this issue of considering how compliant or recalcitrant a company is in following environmental regulations, was that factor used in determining what penalties to levy for the violation of the settlement agreement?

**Administrator Carr:**

Thank you for the question. In the assessment of the stipulated and other penalties that we issued in September of 2025, the answer is yes. The recalcitrance did factor in and that is demonstrated in two different ways. The settlement agreement and administrative order on consent includes certain types of penalties that the Company stipulated to if they violate certain elements of the law that were detailed in the settlement agreement, then stipulated penalties would take effect. With the first penalty being worth \$1,000, the second penalty being worth \$2,000, et cetera, et cetera, up to \$5,000 for any penalty for violations more than five. There is a portion of the stipulated penalties in September of 2022 that are purely stipulated penalties, and the escalation of those penalties does occur up through the fifth penalty, and then they are \$5,000 for each penalty after that. There are three portions to the stipulated penalties letter and other penalties that we issued in September 2022. The third portion of that were violations of laws and regulations that were not necessarily stipulated to by the Company in the administrative order, but fell under their general duty to comply with permits and other laws and regulations of Nevada. The escalation of penalties can be seen in that assessment as well. There were some entries into the tables of stipulated penalties where we escalated the penalties. If they were found to be violating the same permit condition at the same site on multiple dates, we escalated the penalty for their failure to learn from a prior inspection.

**Chair Watts:**

Thank you. You mentioned that particularly with minor violations, that per day penalty can rapidly reach large numbers. I mean, given the size of The Boring Company and their operation and this repeated history of issues, would you consider the violations of the settlement agreement to be minor or more significant?

**Administrator Carr:**

Thank you for the question, Chair Watts. I think there is a mix. In the other penalties in particular, there are different types of penalties or violations that are enumerated in that document. I hesitate to couch any one particular violation as major versus minor, but there are various environmental effects of any one particular type of violation. We do work to consider the impact or the potential impact of any one particular violation as we go through the thought process of determining penalties. I would hesitate to go any deeper in regard to the stipulated penalties and any particular opinion of them because we are still under the dispute resolution process with the Company and working through that.

**Chair Watts:**

Okay. I understand that. I will just say, this is, again, this is a question that I have heard from many is that we have this long history of issues, some of which are directly related to the regulation of NDEP, some of which are related to OSHA, some of which are at the local government level. Again, what we have seen is relatively small penalties being brought forward and an ongoing history of violations that goes back six years at this point. And so, I understand that you may be restrained, but I just want to make sure that it is clear for the record that a lot of people are questioning why—with the ability to assess larger penalties against The Boring Company for violating the settlement agreement, which is a rare occurrence—why I think almost ten times as much could have been assessed in penalties, it was not. I want to make sure that I get that question on the record. If you have difficulty in speaking to that because The Boring Company decided to contest even this penalty that was far lower than the maximum it could have been, I understand.

Could you describe the dispute resolution process that is going on right now? You referenced it. It is under SA-AOC [Settlement Agreement and Administrative Order on Consent], Title XV. Can you just, process-wise, tell us how that works?

**Rick Perdomo, Esquire, Deputy Administrator, NDEP, DCNR:**

Good morning, Chair Watts. The dispute resolution process has multiple steps. The first one is NDEP issuing a notice of violation to the regulated entity, The Boring Company. The next step in the process is if TBC, or The Boring Company, objects we go into an informal discussion about potentially resolving that. If that is unsuccessful in resolving it, then eventually the entire dispute is submitted to the Administrator to make a decision. Throughout the entire process, the Division and The Boring Company can engage in negotiation and potentially reach agreement. If that agreement is not reached, it is eventually submitted to the Administrator. The Administrator makes a decision, and that decision is part of the administrative order on consent once it is issued.

**Chair Watts:**

Thank you. Is there any information you can provide about where in the process you are, or are you not able to do that at this time?

**Mr. Perdomo:**

Sure. Right now, we are currently in the informal negotiation period. If you look at the process, there are options to extend that period if the parties are finding that the engagement is productive, so that is where we are at right now. I believe we have asked for additional information on some of the claims and some of the objections that The Boring Company has made. I believe we received that information recently and are currently reviewing it. I will say that the dispute resolution process was intended to expedite the resolution of these matters rather than the alternative under statute, which is to go to court and engage in litigation.

**Chair Watts:**

Thank you. I appreciate that. Again, I understand that you cannot respond to this next point, but I think it is important that we get it on the record. My concern is, again, I think \$3 million or multimillion-dollar penalties could have been assessed. Instead, we saw penalties that were in the range of \$200,000 to \$300,000. I do not want to speculate on the outcome of this process where there is dispute resolution, but I think there is going to be a

lot of disappointment from me and for members of the community, if what we have here is a history of six years of consistent violations, negotiations, agreements being reached, promises being made by The Boring Company, promises being broken by The Boring Company, and penalties that do not seem to be effective in getting the Agency to change its behavior and follow the rules that are set in place to protect our environmental health and safety. These penalties that were levied for violating the settlement agreement are less than what was levied by the Clark County Water Reclamation District for Boring's blatant disregard in dumping their mining sludge into our sewer system and damaging some of that infrastructure. I understand if you cannot comment on it, but again, I think it is really important that that point gets made within this Committee.

I guess the way that I will put a question on it is similar to what we asked the Division of Industrial Relations and OSHA. Are there any tools, best practices, or anything—understanding that this is rare that a company struggles to be compliant for so often in such a repeated fashion—what can we do to ensure that your Agency has the teeth to hold them accountable? Are there any changes that we can make in the policy, tools, or resources provided to your agency?

***Ms. Carr:***

Thank you for the question. I believe that the body of our laws and regulations for the Division of Environmental Protection are thorough and sound. We are delegated the authority under several of the federal acts, this case being under the Clean Water Act, and we implement that with a tremendous amount of dedication of our staff. I do believe the laws that we have, the statutory provisions for enforcement, work very well, and we will see how this particular case continues to unfold as the story is not yet over.

***Chair Watts:***

Yes. The story is not yet over. Again, I hope that this story has a happy ending, but I continue to see chapter after chapter of dark clouds. Again, I want to start by saying that I mean no disrespect to you, Administrator, or to your team. As you know, I have worked with you for several years; I believe that you have integrity, and you are doing the best you can. That being said, I have to respectfully disagree that what has happened to date has been sufficient. Maybe the laws and structures are sufficiently in place, but I, and I think many of the members of the community, do not feel like what has happened has been sufficient to end what has been really a six-year period of a litany of violations by this Company to uphold their responsibilities.

I will pause there. I do have one more question, but I will move on to any other members that have questions for the Division. Vice Chair Nguyen.

***Vice Chair Nguyen:***

Thank you. I just have a couple of questions that kind of came up during your testimony. I tend to agree that I do have some serious concerns that six years and hundreds of violations, settlements, and then violations of the settlements means that we are running sufficiently. I think there is always room for improvement. If there are other things that you can think of that would allow your Agency to avoid six years and hundreds of violations and violations of settlement agreements, and rise us to a level, maybe, that is more than sufficient, I think this Committee would be open to hearing what those might be.

It got me thinking about this. We have been talking in terms of—a lot about the civil nature of these violations, settlement agreements that were entered into. At what point does your Agency determine that these violations of the Clean Water Act have risen to a level where they rise from civil to criminal, and you make those referrals over to various law enforcement agencies to do their investigation of these repeated violations?

**Ms. Carr:**

Thank you for the question. Sorry for the delay. Rick and I were conferring a bit over here.

While there are criminal penalty provisions in our statutes, I am not aware, except, you know, in very rare cases, where we have discussed the movement from civil to criminal. There have been some cases, very few and far between, that I have had with U.S. EPA in this regard, more related to critical infrastructure and those sorts of things that have a closer tie. Intent, willful intent, I believe, is part of the standard for criminal, and generally, we work within the civil realm. It is a reasonable question; it is just not something that our Agency has a history of pursuing. I do not know if you want to add anything.

**Mr. Perdomo:**

As Chair Watts said at the outset, we pursue violations on a graduated scale. You know, one of the tools in our toolbox is assessing civil penalties. Usually when we need to step to the next level, it is through an injunction. I would say that that is actually written into the agreement. There is authority under this agreement with The Boring Company to seek an injunction, which would stop construction activities for those activities that endanger human health and the environment. But to my knowledge, moving further into the criminal realm, I cannot think of one instance where we have gotten to that point; usually an injunction is sufficient to resolve the issue.

**Vice Chair Nguyen:**

At least during the course that the both of you have been with this Agency—and I am not sure how long that is combined with everyone sitting at the table—but you have not been involved in utilizing that aspect of, I guess, the statutory authority, or it is just your focus within your Agency is on that civil part. Is it fair to say that your Agency is more concerned with the civil remedies and action that you can take?

**Mr. Perdomo:**

Yeah. The civil penalty for an injunction can lead to severe penalties. I can think of one instance where we pursued an injunction. There was, in this instance, real concern for human health. The party that was violating the law was not complying with the injunction, and we did pursue a contempt order against that person, and that person ultimately ended up in jail for a little while.

**Vice Chair Nguyen:**

Can you elaborate on what the circumstances of that extreme case were? Assuming it was public record—[inaudible] and someone went to jail.

**Mr. Perdomo:**

Yes. It is public record. In that instance, I believe, and this happened a while ago, so forgive me if my recollection is not as clear as it should be. It was a sewage release at an occupied RV [recreational vehicle] park that was resulting in exposure to those contaminants to the individuals that were living there and potentially contaminating drinking water, too.

**Vice Chair Nguyen:**

Do you recall in that situation, was it one isolated incident, or was it like a situation like this where you had violations over a six-year period that amounted to hundreds of complaints?

**Ms. Carr:**

Thank you for the questions, Vice Chair Nguyen. I remember that case. I have been here a little while. It was a drinking water, operator case where it was a small mobile home park as Rick stated. There was, as I recall, E. coli contamination of the water supply. It was in the waning years of that mobile home park. It was slowly being vacated and going out of business, but it did put public health at risk, so we did pursue formal enforcement in that case. We did take that one to district court. When we do, oftentimes, we pursue the maximum penalties and then let the courts help us figure out what the official final penalty is. That particular one resulted in a penalty on the order of between \$400,000 and \$500,000, I believe. I very much remember the day where the gentleman was in court and told to come to the next court date with a plan for compliance or a toothbrush, and he came to the next hearing with neither a plan for compliance or a toothbrush, so he went to jail without his toothbrush. A little side story there, but it was related to the fact that public health was put at risk related to E. coli exposure.

**Vice Chair Nguyen:**

I guess my question is—I am trying to determine at what level do these violations rise to the level where you have serious concerns that civil infraction or civil penalties, civil investigation, injunctions, violations of those injunctions that lead to a contempt of court, which it sounds like that happened in that scenario, at what point does the repeated violations, especially after a settlement has not been agreed to, rise to the level where it is knowingly and willful in your minds where you would escalate it to report it to law enforcement officials? Is that in your policies and procedures? Is that something that should be in your policies and procedures? Is that something that we should address statutorily? I am just curious on when it gets to that point, and who can make that call? Law enforcement is never going to investigate this if no one ever brings it to their attention, so I am curious on how it rises to that level. Like what makes it so bad? Does one person have to get sick? Do 100 people have to get sick? Do people have to die? Like where does it start for you?

**Ms. Carr:**

Thank you for the question. I appreciate the question, and obviously, it is a difficult one. We have a really effective program on balance for addressing things at the lowest level possible and then escalating them, as necessary, to achieve compliance, as was indicated in the write-up recognized by Chair Watts, and certainly, as your questions have been coming forth. We are in a situation where we do have a settlement agreement that the Company is still struggling to comply with, whether it be their requirement to obtain permits or their struggle just to simply comply with those permits.

This is a very unique project as well. It is moving fast. It is extended into a number of areas of town. Most of our permits are more sort of static facilities. We are also challenged with just the nature of the project. But my staff have stepped up admirably to ensure that we are looking at what is important along the way. They review what we know about the environment before these tunnels are drilled. We are issuing permits that are intended to be protective of human health and the environment. The discharge permits reflect Nevada water pollution control law for standards for the Las Vegas wash and other groundwater protection permits issued under state law.

And the fact that the administrative order on consent and settlement agreement exists is fundamentally because they appealed the initial order in, was it 2019? If we had just simply settled that case in 2019, we would not necessarily have the settlement agreement administrative order. I think it is a helpful tool because it does clearly lay out the responsibilities of the Company. At this point, we will continue to address new or ongoing violations of the Company related to their permits and their practices that violate state and federal law. We will have to make these judgment calls that you are asking about along the way. At what point do we decide that an action reaches a level of egregiousness that causes us to take a different path? We will cross that bridge when we get there, but I do not have a clear definition for when that point will be reached.

***Vice Chair Nguyen:***

Thank you. I appreciate that, and like I said, I am just trying to understand the process and to figure out where we can help agencies like you, and OSHA, and other agencies give further guidance on when, if there is anything we can do to help speed up the process or to make sure that people are being held accountable. Thank you, Chair.

***Chair Watts:***

Thank you. Again, in my opinion, understanding that I am not in your shoes as the regulator, I would respectfully submit that that bridge has been crossed. And we need to escalate what we are doing in order to hold this Company accountable.

I do want to ask briefly about the green pond at the Firefly site. So, the subject of obviously some significant media attention recently, I sent a request for information about it, which you did provide, and it was very thorough. Again, I am not an expert, so here is the kind of fundamental issue that I am seeing. You did go out and visit the site after receiving complaints in November 2025. You noted that there was not an improper discharge of water during that visit, but my understanding is there, or very close by, there has been a history of illicit discharges by The Boring Company, historically, including some of those mentioned by the Clark County Water Reclamation District. You noted that the water was most likely groundwater possibly mixed with stormwater, and that groundwater flows through this channel in a manner similar to an underground river, and that the excavation and tunnel access at the site was utilized to receive soil from the Paradise to Westgate tunnel segment project. Essentially, what you said was you went there, but based on what you saw, that there was nothing blatantly going wrong at the time, you decided not to sample the water and that it is common for some of the naturally occurring metals and minerals in the surrounding rock to turn that pond green.

Again, based on everything that we have seen here today, the question that is kind of in my mind and I think in a lot of my constituents' minds is—were there accelerants from the tunneling that was happening that was going through that area? Were there chemical surfactants involved, and drilling fluids involved with that? I do not know what is used in

The Boring Company's drilling fluids. I know that often bentonite clay is involved and that can have a heavy metals profile within it. Again, my concern is were these chemicals or heavy metals being added to or disturbing and amplifying the pollution in that groundwater? And while the local water distribution system might not be drawn from that source, you mentioned this kind of groundwater flowing like an underground river. To me, this potentially creates a pathway for additional pollution to move through our shallow groundwater aquifer. Again, at a basic level, can you explain why, given all this history of issues and given the complaints, why there was a decision not to take a sample of that water to see what the quality of it was, what the profile was for any chemicals, heavy metals, to see if that was an issue that might need to be remediated?

**Ms. Carr:**

Thank you for the question. At that location, it is our understanding that the Company had thought about putting an access point or a station of some sort, but because of the particular characteristics of the soil structure underground, it was producing a tremendous amount of water. If you have been to the site, they have probably described how their tunnel-boring equipment works, where they call it "porpoising." They come up and then they go back down again. So, this was one of the sites where the Boring equipment was, you know, had access to the surface or other construction material was going in and out. It was a construction site for the tunnel. As we have been told, the excess groundwater in the area caused them to rethink their design for that location, and they chose not to construct a permanent structure there. By the time that water accumulated, the tunnel had already been sealed off. The tunnel itself, the concrete, it was done; the tunnel had been passed through the area, and they were just no longer going to use that site. Whatever materials, construction materials and whatnot, discharge from active drilling activities were not present at that location at the time. They were in the process of filling in that hole, and it got inundated with groundwater flow just in that area.

Like we described in our response, we had not seen any discharge of water off of that site, and the water that my inspector had observed, in his professional opinion, it was groundwater and potentially stormwater based on the time of year that it flowed into the hole. Based on his experience, which I stand by, the green color is not abnormal necessarily for groundwater in the area or mineral influences on water, generally, to turn water green. So, just based on his experience, and what he was seeing at the site, and knowing the stage of construction that that particular location was under, and the fact that they were not doing any active construction there just led my inspector to make his assessment of the situation, which again I stand by. He chose not to pursue laboratory analysis of that water at the time, and when he went back on reinspection, the hole was continuing to be filled in and with the soil reaching the surface to complete that construction activity and the water basically went back where it came from.

I would note, just anecdotally, I have, in my professional experience, particularly when I was working in the drinking water program, we would occasionally receive complaints when a water system is flushing their lines cause sediment can accumulate in the water supply lines. There have been instances where we have received complaints from folks about water in their bathtub looking green and that is in the potable drinking water supply. Again, we were not terribly surprised by the color of that water. And so, it did not lead us necessarily to believe that it needed laboratory analysis.

**Chair Watts:**

Okay. Again, this is something that I am just struggling with as a layperson. I understand, and it seems like there is a lot of expertise, but again, there is discussion of groundwater flowing pretty significantly through this area. The water pit was not lined. Again, I just do not understand how the water is not going anywhere from that area. Yet, it is described by the inspector that groundwater flows through this channel in a manner similar to an underground river. How does that not potentially take any contamination—which again, we do not know what it was because there was no testing done—and create a pathway and vector to move that somewhere else? I know that there is significant difference between the shallow groundwater and the deeper groundwater that we rely on for our drinking supply, but as you know, there are pathways and connections that are very complex in these underground water systems.

The thing that I am, I guess struggling to understand is why it was determined that it was acceptable. I mean—when you say, “back to where it came from,” it is mostly groundwater. It is now in the ground, but we basically took this pond and filled it in with dirt, and we do not know whether that the kind of chemical profile of that was altered in a way that increases the contamination of the groundwater aquifer. That is just what I am struggling to understand. Why again, on a site with a notorious violator of environmental regulations, that we did not at least take a test of that and ensure that they are not impairing the quality of that groundwater more than it already is.

**Ms. Carr:**

Just maybe some additional description of the soil and groundwater environment in that area or the general area of the downtown Las Vegas Valley. As you might imagine, if you go back before Las Vegas was developed, there would have been various, you know, drainages and runoff streams and of various depths that would carry stormwater just like they do on the edges of town now that have not been developed. Over time, those areas were graded over; they were flattened; they were built on. If any of those particular channels had sort of a gravelly bottom, and then they were covered over for development, that is the sort of quote, unquote “underground river” that we are talking about. Just because the flow path is a little bit easier for water to flow through than something like the very hard material in the Las Vegas Valley, known as caliche, that you may have encountered in discussions before. That is almost as hard as concrete.

When you have that in the valley . . . There was a report in, I think it was 2016, that was done for, I believe it was for the Clark County Water Reclamation District that talks about the shallow groundwater of that area of Las Vegas. And it does describe the area of that very shallow groundwater that is largely created by the existence of people and irrigation and everything associated with living in the Las Vegas Valley. This groundwater aquifer, of very shallow nature, has developed over time, and it does generally flow towards the Las Vegas wash as it would have if the streams had been there back prior to development.

I do not know if that helps you at all in relationship to kind of imagining in your mind how that works. As far as this particular hole, I would liken it to a kid playing at the beach where they are up on the beach and they dig a hole and the water comes into it, but the waves are not necessarily putting water in the hole. Just the flow of the water underneath the sand enters the hole and then you play with it and then you fill in the hole and the water goes back under the beach. Again, if that helps with a mental image of what we believe we were dealing with at that particular location, it would be similar to that type of activity as well.

**Chair Watts:**

It helps in some sense; it does not help reassure my concerns. I do not think that that is a pond that anybody would want to swim or play in. Again, I think I have made it clear that I am just extremely concerned that we are not doing enough to make sure that this Company is held to the most stringent standards in its activities, and that there is a potential pathway for additional contaminants to get into our groundwater at this site. I do not think continuing to go back and forth on it is going to get us anywhere. I believe Senator Nguyen has another question.

**Vice Chair Nguyen:**

I am also not going swimming there as well.

I guess my question has to do with this. We heard, and we are aware that the Clark County Water Reclamation District did fine them for not this particular pond, but for dumping stuff into the sewer at this very same, like, location in this area. Obviously, your agency decided that this did not rise to the level of even testing that pond to make sure that it was in compliance or was not contaminating any of the surrounding area. And that is fine; I am not going to get into whether or not I agree with that, although I have concerns about that methodology.

I guess my question is, what kind of communication do you have with other agencies like the Clark County Water Reclamation District? They obviously, on this very same site, with this very same Company, decided that it rose to the level where they—I think the fine was around \$500,000 for that particular incident in that particular location under a very, I mean, it is the exact same location. We have all seen the pictures. Again, I would not go swimming in there. I probably would not touch that water with my hands, let alone want to walk around in the dirt, even around it. But, can you explain to me, kind of what the relationship is that you have with other similarly situated agencies that are trying to protect the community and consumers in this area?

**Ms. Carr:**

Thank you, Vice Chair Nguyen. We have a strong relationship with our local government agencies on several different levels. That particular incident that has been referred to a couple of times where Clark County Water Reclamation District has fined The Boring Company close to \$500,000, that was for the discharge of removed dewatered groundwater and drilling materials into their sanitary sewer. They took the lead on that and have pursued that because it was their infrastructure. We have not yet decided exactly what we are doing with that particular event. We are still deliberating that violation for that activity and that illicit discharge. That was related to their sanitary sewer.

There is another aspect of regulation of—there are several, actually—aspects of regulation of the Las Vegas Valley. One is related to construction stormwater permitting that the agency does. And then there is another permit called the municipal separate storm sewer system permit, or the MS4 permit. And that MS4 permit is issued to a collective of entities in the Las Vegas Valley that address the storm sewer as opposed to the sanitary sewer. The storm sewers, the storm drains, more common vernacular, and that is the stormwater control program that is done under the MS4 permit in the Las Vegas Valley. We also have a

strong partnership with the entities that are under the MS4 permit issued by our Agency, because they are the ones that often take the lead on illicit discharges to storm drains and those sorts of things. We really do work in partnership with a lot of these different local agencies and make decisions along the way as to who is going to be in the lead on any particular situation that occurs. Jeff, if you want to add anything to that.

***Jeffrey Kinder, P.E., Deputy Administrator, NDEP, DCNR:***

I would just add to that we have regular monthly coordinated calls with these other partner agencies. As well as one thing I do not think we have mentioned, under the administrative order on consent, when that was created we began a monthly meeting with The Boring Company, and Clark County has joined us in those meetings. Once a month, we do meet with The Boring Company to go over what are their planned activities, to raise any concerns we have with permitting. I think much like the people from Nevada OSHA mentioned, if we see something wrong, we can correct it real time. That has allowed us to ensure better compliance going forward outside of what was mentioned in the stipulated penalties.

***Vice Chair Nguyen:***

I am sorry. I am just a little confused on the timeline. You are meeting monthly with, like, Clark County. You are meeting monthly with The Boring Company post the settlement in 2022, yet, this \$500,000 fine occurred in late 2025. Is that correct? Were there not any warning signs before that ultimate decision? I am assuming there was some sort of investigatory process that Clark County went through before they issued a \$500,000 fine for dumping?

***Ms. Carr:***

Thank you for the question. In that particular incident in August of 2025, the NDEP had received an anonymous complaint through our spill-reporting hotline of illicit discharge activity at the site, and the anonymous complaint alleged that it had begun in April. And certainly, we had had inspectors out there under construction stormwater permitting, and other activities, as well as other local governments had various inspectors out there. It was discharged to small clean outs, systems that connected to their sewer initially and later their manholes that somehow escaped observation somewhere between April when the violation was alleged to have begun and August when we received this bill report, at which point, Clark County inspectors went out, and some of that has already been described today, and NDEP inspectors went out as well. That \$500,000, as I understand it, was a penalty that they assessed in two parts, and it is enumerated in their invoice. One was a penalty for the duration of the discharge, and the other was a recovery of their costs to basically clean out their manholes in their sewer system. That is how that \$500,000 was arrived at.

***Vice Chair Nguyen:***

I am less concerned about the \$500,000, but it sounds like your investigators were out there in conjunction or at the same time as Clark County. Were there actual discussions with Clark County Water Reclamation District where they were like, we are going to take this on even though the close proximity of this, even though we have it substantiated, we are looking at it as a respect to that particular violation? Again, the close proximity, the fact that you were under the settlement agreement that had been violated multiple times. You were aware of the player that you were dealing with here. You still were like, yeah, no, we are still not going to test that water.

**Ms. Carr:**

Thank you for the question. The construction site location are the same. The events of the discharge to the sanitary sewer during drilling activities and the ponded green accumulation of water were two different events. As things were unfolding in August, we were in communication with the Clark County Water Reclamation District about that illicit discharge, and we largely let them take the lead because it was their infrastructure, but we were in close communication with them about the events as they were unfolding in August with that discharge by The Boring Company into Clark County's sewer manhole.

**Vice Chair Nguyen:**

Thank you. Obviously, I am not a part of it, but as a layperson, given the close proximity, given the fact that—it just seems very odd to me that with a known bad actor who has had multiple violations, even violations that were issued by your Agency in the past, that rose to the level of a settlement agreement that you knew they were in violation of, that there were not preventative things. I can understand giving a company the benefit of the doubt under other circumstances, but it seems like in this circumstance, you would err on the side of protecting the consumer, but it sounds like that is not really the circumstances and the conclusion that you came to on this particular green pond.

**Chair Watts:**

All right; we are going to move on. Members, any other questions for the Division?

We did get a question about why was the State Engineer fired, but I do not think that . . . While there is a close connection between the State Engineer's regulation of water quantity and your regulation of water quality, I understand that that is outside of your purview. We are not going to put that question to you, but it is a question that I think is worth asking and some concern about the regulatory robustness within the Department of Conservation and Natural Resources.

Seeing no other questions, again, I want to thank you for your time. I know that we asked some tough questions. I remain concerned. I think the thing I am struggling with is figuring out how to support you. Again, this is not to say that I think anything inappropriate or untoward has happened. I know that you all carry out your mission with integrity. I understand that this is a very kind of unique case with a company that just repeatedly fails to comply over a period of years despite being asked, being assisted, and being told repeatedly.

You know, I think there is concern that, as you mentioned, the Division is still looking at how it is going to handle an issue that the Clark County Water Reclamation District already resolved with a fine. I am trying to figure out, is there something that we need to do to empower you or even push your Agency to throw the book at a company like Boring when we have a record of abuses this significant so that we can try and change that behavior? Do we need to try and create a more rigorous kind of testing or enforcement regime above what is required, because I believe you are doing what is required? But maybe we need to go a step beyond that in order to hold this Company accountable. Do you need more staffing in order to meet the significant demands that have been placed on you to try and get this Company into compliance? Those are things that I am, that we are going to be trying to figure out as a Committee to see if there is any role for us to play as a Legislature.

I think we have made very clear some of our concerns, and I think it is important that as you have already received some complaints from members of the public and others that you hear the concerns that we have as Legislators. And if you have any ideas coming out of this—I know you did not have any to share today—we would appreciate them so that, again, we can get to the bottom line of ensuring that The Boring Company or any other company that behaves in such an irresponsible fashion is being held accountable and that we get them to a point where they are in compliance and protecting the health and well-being—because that is what these environmental regulations are about: protecting the health, and safety, and well-being of our community. So, thank you again for coming and presenting to us today.

**Ms. Carr:**

Chair Watts, if you could indulge me for another moment, I would have something just in closing if that is okay.

**Chair Watts:**

Yes, go ahead.

**Ms. Carr:**

Thank you. I very much appreciate the perspective of the members, and I have very much heard you and taking it to heart. It has been interesting times. If you consider the timeline that we have been talking about today that started in 2019 and goes through to 2025, there have been significant stressors on the Agency during that time. As this project was beginning to unfold, as you obviously would recall, we had gone into lockdown. Our Agency had never had the ability, or opportunity, or technology to telework when we sent everybody home in a matter of like three days. Thankfully, like two weeks before that, we were given Office 365, so we sent everybody home to learn how to use it.

There was a number of things that have sort of been unfolding over time, including the vacancy issue that was brought up with Business and Industry there at the end. Over the course of time, our Agency has suffered as high as approximately 20 percent vacancy. One in five of our positions has been vacant over the course of the last few years, and during the height of that, a couple of years ago, this program in particular was on average 30 percent vacant, and the permitting branch for this program was 50 percent vacant. We have since rebuilt that team; our vacancy rate has improved tremendously. For the first time in a long time, water pollution control became fully staffed, at least for a brief period of time, but we have had a tremendous amount of turnover in staff and supervisors. I hope we are on the other side of that now, and that the resources that we have been provided through our budget and through the Legislature, now that they are largely filled, we will be able to serve not just this project but all of our water pollution control permittees in a more thorough manner.

**Chair Watts:**

Thank you. I appreciate you providing that information and context. Again, I just want to reiterate that our bottom line is making sure that we . . . First of all, I want to say we are going to be continuing to follow this with interest. Again, the bottom line, at least from my

perspective, but I think I speak for most or all of the members here, is that we want to help you carry out everything that you brought forward about this approach. The critical thing is how do we deal with these kind of serial bad actors, and we want to do everything that we can to help you hold them accountable for the benefit of our community. Thank you again for all your time and for answering our questions today. That concludes that item.

## **AGENDA ITEM VI—DISCUSSION REGARDING THE BORING COMPANY WITH THE BORING COMPANY**

[This agenda item was not heard.]

## **AGENDA ITEM VII—DISCUSSION OF POSSIBLE TOPICS TO BE ADDRESSED AT FUTURE MEETINGS**

### ***Chair Watts:***

We are going to move to the last item on our agenda today, which is a discussion of possible topics to be addressed at future meetings. I just want to take a few minutes to talk a little bit about some of the things that I have already heard and that we are going to be working on across this interim. I want to open it up to members. We will do our best. I am not going to guarantee that we will accommodate, but any ideas that you would like to bring forward, we will work to try and incorporate something on those during our meetings during the interim.

And then last, I would like to make clear to the members of the public as well. We heard even during public comment, a suggestion for potential legislation. Members of the public, if you have issues that you care about, that you would like this Committee to spend time on, please reach out. Again, I cannot make guarantees, but we will do the best that we can to be responsive to that either in the topics that we cover during our meetings.

We also always solicit from our community partners and other interested stakeholders to provide ideas or policy to this Committee for consideration in our work session at the end of this interim in August. Again, there is no guarantee, but we really encourage you to provide those ideas and feedback—the sooner the better. Once we get ideas, we can try and make sure that we have some discussion and public vetting of them before we ultimately decide whether or not to put them onto a work session and recommend those as bills coming out of this interim committee. I wanted to make that point clear.

We are still figuring out our agendas, but as Vice Chair Nguyen mentioned, traffic safety is going to be an important issue that we are going to be discussing more during the interim. We are going to be talking about transportation funding, including both our roadways as well as what was brought up by some of our public commenters in terms of funding for mass transit systems within the state. We are going to try to take a comprehensive look at that.

Our late-March meeting, which has now been moved from the 24<sup>th</sup> to the 25<sup>th</sup>, will be a joint meeting with the Interim Committee on Natural Resources focused on issues related to data centers in the state. This is something we have heard a lot of interest and concern about, so we are bringing both of those Committees together so that we can look at all of the resource issues both related to water and energy when it comes to data centers.

We are going to be looking at some other transportation, energy, electricity issues as well. I just wanted to provide a quick lay of the land of some of the things that we already have on board, and now open it up to any questions or comments that other members of the Committee would like to make; and we will start with Vice Chair Nguyen.

***Vice Chair Nguyen:***

I am very much looking forward to this. I think there is a bunch of topics that I think I would like to see us tackle and address, everything from our modernization of transmission lines and how that affects consumer ratepayers, everything from wildfire liability, and also some updates from some of the traffic safety legislation that we passed in the 2025 Legislative Session, and what that might look like going forward. Those are some of the high-level topics that I have heard from my constituents, and that I would like to see some follow through from the previous session and what that looks like moving forward.

***Chair Watts:***

Thank you. Assemblymember Carter.

***Assemblymember Carter:***

Thank you, Chair Watts. I just wanted to bring it up that I am Chair of the AB 256 Committee set up to study light rail and regional rail; and that we are meeting. We are due to take in the task with giving a report to this Committee by July, and I am working on the workflow and agendas, and please, anybody who comes up with an idea or has critical stakeholders that need to be involved, please reach out to me so we can make sure they are heard before we bring as complete a report as we can back to this Committee in July.

***Chair Watts:***

Thank you very much, Assemblymember. As both members and members of the public will note in our Committee Brief, there is both that committee and there is also a work group, I believe on transit to trails. While those are kind of independent of this Committee itself, we are going to make sure that we have time to hear back from those entities, probably at our work session, and we will be in communication to make sure that any recommendations brought forth by either of those committees have the opportunity to be considered by this Committee in its final work session. Thank you.

Members, any other? All right. Well, thank you very much.

**AGENDA ITEM VIII—PUBLIC COMMENT**

That brings us to the last item, the truly last item on our agenda for today, which is public comment. Again, we will ask folks to limit their remarks to two minutes, to please state and spell your name before beginning. We have somebody coming forward in Las Vegas, so if anybody else would like to come forward in Las Vegas, please do. Same with Carson City. If anyone would like to come forward. Looks like it is just one person. All right. No, not today. Thank you, and then if anyone would like to provide public comment by phone, please go ahead and call in. We will begin down here in Las Vegas. Please go ahead.

***Olivia Tanager, Executive Director, Sierra Club, Toiyabe Chapter:***

Thank you, Chair, and members of the Committee. I just want to thank the Committee profusely for the great questions that you all asked today and for doing your homework on this issue. It is something my organization has been concerned about for quite some time. We have had members and folks affiliated with our organization who have also toured the Boring tunnels and have raised serious concerns throughout the process.

It became clear to me long ago, but was made clear again today that The Boring Company does not want to be held accountable. Their lack of presence here today certainly is not that of somebody who is totally innocent in some of the questions that you all are raising. Certainly, their actions are indicative of a long-term pattern of the way that corporations operate in Nevada that my organization is trying to put a stop to with corporations viewing Nevada and Nevadans as a piggy bank and dumping ground. I appreciate the attention to this issue.

I also hope that local government will be doing thorough reviews and the way in which the Boring tunnel was permitted, and how we can beef up the local permitting process, as well, to avoid such infractions going forward. And certainly, at every level of permitting, not just local government, but every level of permitting within the state.

I do not know if you all have heard, but The Boring Company is also looking at doing a tunnel up in northern Nevada, running out from the Reno-Sparks area to the Tahoe-Reno Industrial Center or TRIC. That is something that my organization is incredibly concerned about and will be fighting vociferously again at every level of permitting.

We have seen The Boring Company is not interested in being a good actor here in Nevada. They are not interested in following labor protections or labor laws. They are not interested in protecting our natural resources, and therefore it is beholden to me and to my organization to fight that again vociferously. And so, we will be doing that as more information comes to light about that process. There was a feasibility study that GOED [Governor's Office of Economic Development] conducted to that effect. I have not seen the feasibility study yet, but would be curious as to its contents.

As you heard today in public comment, we are interested in true solutions to our traffic woes here in Nevada, which includes reliance on mass transit. And I look forward to working with Assemblymember Carter as part of the AB 256 Task Force and with members of this Committee on that issue.

***Chair Watts:***

Can you begin to wrap up?

***Ms. Tanager:***

And yes, I was just going to note that I also look forward to working with this Committee on another industry that certainly needs more guardrails, and that is data centers. Looking forward to working with you this interim. Thank you.

***Chair Watts:***

Thank you very much. Okay, seeing no one else coming forward, AVH, would anyone like to provide public comment by phone?

**AVH:**

To provide public comment please press \*9 now to take your place in the queue. Caller, you are unmuted and may begin.

***U.S. Representative Dina Titus (D-Nevada), Congressional District 1:***

Oh, thank you very much. Thank you for letting me speak to your Committee today. I just wanted to add some of the things that I have been working on and the same topic that you all are taking on, and thank you for doing it because it really impacts my District.

Last year I wrote Governor Lombardo demanding transparency into why his administration helped Boring evade fines related to the dumping of toxic chemicals and tunnels right in the heart of Las Vegas. This put the safety of firefighters at risk as well as those in the general area. I asked who made the call to rescind the fine and what actions had been taken to ensure safety violations were addressed appropriately in the future. Shortly after I sent that letter, Governor Lombardo released his, because he called it legal justification, for rescinding the fine. Well, that prompted more questions than answers, and I am really glad to hear you all bringing up some of these same questions. Thank you for doing that.

Some of the things that we wanted to see answered were what legal analysis did Nevada OSHA conduct before issuing the citation? Why were the fines discussed in a closed-door meeting between Boring and state officials, not through the official appeals process? After rescinding the fines, was any further review done to assess whether updated citations were warranted? And now I am trying to urge my colleagues to get answers to these vital questions as well as some of those that you have raised.

Now, the public might be wondering where was The Boring Company while all this was coming to light. A reasonable person might expect them to host some public meetings to shine light on their protocols or explain what on earth was in that green sludge pit, but that is absolutely wrong. That was not happening. They do not even have a communications staffer to address these. And as you know, they are not even here today to answer your questions. The Boring Company has shown that it will push through this project that whatever it costs to our workers, to our first responders, to our neighbors, and to the environment, generally. Our constituents deserve action and accountability from state regulators who are mandated to do this sort of oversight. There is just too much on the line for anything less.

I am submitting for the record, if you accept that is okay, Mr. Chairman, a longer testimony (Agenda Item VIII A) that lays out the timeline and some of the quotes that have been in different articles that The Boring Company folks made that just kind of pooh-poohed this and blew it off, and as you know, it is very difficult to get more information on it.

Thank you for holding this hearing and for taking consideration of some of the questions that I am trying to get the answers to, which fit just right with the same things that you are doing. I yield back.

***Chair Watts:***

Thank you so much, Representative Titus. It is always good to hear from you, and we appreciate you calling as well as sending in those additional comments. Appreciate your advocacy for the District that we both share, and this is going to take a whole of government approach from the federal level all the way down to the state and local levels to

address this. And just want to express my appreciation for your work to try and raise some of these questions and get answers. We will continue to work in partnership between our different levels of government to do just that.

AVH, do we have any other callers on the line?

**AVH:**

Chair, we have no additional callers for public comment.

**Chair Watts:**

All right. Thank you very much, everybody. That concludes today's meeting. Our next meeting I believe will be on March 3. We have announced that we did move that from the originally planned date. So, everyone, please make sure you have your calendars marked for March 3, and we will have more information coming out on that meeting shortly. Thank you all. We are adjourned.

[The following public comment and informational items were received for inclusion in the record:

- Kimberly Maxson-Rushton, Esquire, Executive Director and General Counsel, Livery Operator's Association of Las Vegas (Agenda Item VIII B);
- Ryan Cherry, Chief of Staff, Office of the Governor, (Agenda Item VIII C); and
- The Clark County Water Reclamation District (Agenda Item VIII D).]

**AGENDA ITEM IX—ADJOURNMENT**

There being no further business to come before the Committee, the meeting was adjourned at 12:34 p.m.

Respectfully submitted,

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Terese Martinez  
Research Policy Assistant

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Keely Latham  
Senior Policy Analyst

APPROVED BY:

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Assemblymember Howard Watts, Chair

Date: \_\_\_\_\_

## MEETING MATERIALS

AGENDA ITEM	PRESENTER/ENTITY	DESCRIPTION
Agenda Item II	The Nature Conservancy	Public Comment
Agenda Item III	Keely Latham, Senior Policy Analyst, Research Division, Legislative Counsel Bureau	Committee Brief
Agenda Item IV	Victoria Carreón, Administrator, Division of Industrial Relations, Department of Business and Industry	Information Request
Agenda Item V	Division of Environmental Protection, State Department of Conservation and Natural Resources	Information Request
Agenda Item VI	The Boring Company	Information Request
Agenda Item VIII A	United States Representative Dina Titus (D-Nevada), Congressional District 1	Letter
Agenda Item VIII B	Kimberly Maxson-Rushton, Esquire, Executive Director and General Counsel, Livery Operator's Association of Las Vegas	Written Public Comment
Agenda Item VIII C	Ryan Cherry, Chief of Staff, Office of the Governor	Letter
Agenda Item VIII D	Clark County Water Reclamation District	Written Public Comment

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