



Photo by Nils Hahn

THE HERD IS HERE—Reindeer mill about on the edge of Nome on a sunny January day. The herd has been congregating near the Beam Road.

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Photo by Peggy Fagerstrom

**SURROUNDED**—Lady Nome Nanook Melissa Samuels (42) sets up a block for teammate Rachael Bauman under the heavy guard by Bethel Warriors Audrey Leary and Allison McIntyre. Both Samuels and Bauman were selected to be on the Nome Subway Showdown all-tourney team.

## Report faults management, training for deaths at mine

By Diana Haecker

Almost six months after two construction workers crashed to their deaths on a JLG 120 HX aerial manlift at Alaska Gold Company's Rock Creek mine, the federal Mine Safety and Health Administration has released the final investigation report to the public.

The conclusion: "The accident occurred because management policies and procedures were inadequate," reads the MSHA document. "The manlift was not positioned on solid, level ground and the center hydraulic lift cylinder was being utilized improperly. Task training for persons operating the manlift was incomplete

and did not address the load management system provided on the unit."

Tyler Kahle, 19, of Tomahawk, Wis., and Craig Bagley, 28, of Anchorage crashed to their deaths while doing construction work at the mine on July 19. They were employed by Alaska Mechanical Inc., the contractor building the mill facilities at the Rock Creek mine for Alaska Gold Company/NovaGold. According to their families, the men not only worked together at the mine, but also were fishing buddies.

Just 40 minutes before the end of their shift July 19, a calm warm sum-

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## Help wanted: Alaska Gold looks to fill ranks at mine

By Diana Haecker

With Alaska Gold Company/NovaGold Resources' Rock Creek gold mine transitioning from construction to commissioning, AGC managers now face a challenge in coming up with a crew to staff the gold mine operation.

While bringing down the high unemployment rate of the region was one of the selling points to make the first open pit hard rock mine on the Seward Peninsula palatable to the Nome public, realities are that AGC needs more workers and the area's employment rate is as high as ever.

In arguments reiterated time and again from the beginning of public

comments sought during the brief permitting process up until recent court documents upholding the challenged wetlands permit, employment opportunities for Nomeites and regional residents was stressed as a positive factor to permit the mine.

Now, a year and a half into the mine's construction—six months behind schedule and with a \$40 million cost overrun—coming up with the necessary crew to bring the mine online is a challenge, according to AGC General Manager Jim Mallory.

Mallory, who had spent a good

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## Large chunk of NSEDC's 2006 income deemed taxable

*Corporation may owe IRS millions on some of its income in earlier years*

By Laurie McNicholas

Norton Sound Economic Development Corp. reported \$6.4 million in taxable "unrelated business income" on its 2006 Form 990, submitted to the Internal Revenue Service Nov. 12, 2007.

The taxable amount represents about 25 percent of the corporation's gross income in 2006. NSEDC may be liable for millions of dollars in taxes, interest and penalties for earlier years

when none of its revenues were reported as unrelated business income on 990 returns.

Like the other five Community Development Quota groups in western Alaska, NSEDC has nonprofit tax-exempt status as a social welfare organization under 501(c)(4) of the Internal Revenue Code. However, gross income from a business that is not substantially related to the tax-exempt purpose of the organization, other than the need for funds, is subject to unrelated business income taxes (UBIT). Several CDQ groups, including NSEDC, apparently became aware of potential UBIT issues within the past year or so.

Tax-exempt corporations that report unrelated business income on Form 990 also file

Form 990-T, which allows for certain deductions. The tax rate schedule for corporations is 34 percent on taxable income between \$335,000 and \$10 million. The IRS provided The Nome Nugget with a copy of NSEDC's 2006 Form 990 informational report, which is open to public inspection, but not the corporation's Form 990-T.

NSEDC's Form 990 for 2006 lists as unrelated business income \$5.7 million from investments other than dividends and interest from securities, and \$700,162 in harvesting revenues transferred to the corporation from its crab harvesting partner, Norton Sound Ventures LLC. NSEDC's original 50 percent investment in NSV increased to 59.5 percent in 2005.

NSEDC has held a 50 percent interest in Glacier Fish Co. LLC, the corporation's pollock and cod harvesting partner, since 1998. Both NSV and Glacier Fish Co. are listed under "taxable subsidiaries and disregarded entities" on NSEDC's 990 returns for 2004, 2005 and 2006.

In 2006 NSEDC reported \$12.8 million in harvesting income related to the corporation's exempt function. Royalties received by NSEDC and other Community Development Quota groups for their share of CDQ harvests in Bering Sea/Aleutian Islands fisheries are statutorily exempt from taxes. The North Pacific Fisheries Management Council annually

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## • Accident

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mer day, Bagley “positioned the manlift basket at the upper portion of the roof of the mill building where Kahle entered the man basket with Bagley to be transported to the ground.” Kahle had been working on the roof of the mill building and just wanted a ride down to the ground. Bagley rotated the turntable of the manlift toward the southern end of the mill building until the boom and the man basket were clear of the mill roofline. As Bagley maneuvered the boom, the manlift began to topple. The basket hit the side of the mill building below the roofline. The boom struck the ground. “Both men were tied off to the basket. The cause of death was attributed to blunt force trauma,” reads the report.

According to Nome ambulance volunteers, Kahle was unconscious and co-workers performed CPR on him. Bagley was still conscious and talking when the ambulance arrived. Bagley was taken to Nome first and died at the Norton Sound Health Corporation emergency room on 7:49 p.m. A second ambulance transported Kahle to the hospital and he was pronounced dead at 9:09 p.m.

The MSHA report was released Jan. 16 to the general public and clearly spells out the reasons for the two iron worker’s deaths: management failed to see that the JLG manlift was improperly set up for three days before the crash occurred. Operators of the manlift were not trained beyond watching an introductory video called “The Sky is the Limit,” and operators were not made aware of the load management system of the unit.

### The investigation

MSHA sent two investigators to Nome the day after the accident. Their investigation revealed the sequence of events before the crash and determined that the boom of the manlift was in a near vertical position when Bagley picked up Kahle from the roof of the mill building.

While the boom was extended 93 feet, the horizontal extension of the boom was approximately 40 to 48 feet. The operator rotated the boom without retracting the length of the boom or lowering the boom until he was approximately positioned at a 45-degree right angle from the mill building and the axles of the manlift.

At this time he began to lower the boom. When the boom reached the 60-foot radius limit the warning system (with which Bagley was not familiar) activated—suddenly stopping the manlift, causing it to bounce.

Investigators also noted that decals showed that the end of the man basket should never be extended more than 60 feet from the pivot point of the turntable of the JLG. The machine had a load management warning system designed to warn the operator visually and audibly when approaching the 60-feet limit. The warning system did not fail, but Bagley had not been trained to know about the load management system.

Another factor that led to the machine toppling was that it was not set up properly. “The surface area where the JLG was parked was not level and was made up of loose unconsolidated gravel,” says the report. The manlift had been sitting on a 6 percent slope. “In an attempt to level the machine, two 3.5-inch by 3.5-inch wooden blocks approximately two feet long had been placed under the right rear tire prior to the accident. Both blocks were found broken after the manlift tipped over,” reads the MSHA document.

The report identified a lack of training as the third component causing the accident. “The task training for the persons assigned to operate the manlift did not identify the safe operating procedures and limitations of the load management system that was critical to safely operate the manlift,” says the report.

Just five days prior to the crash, MSHA inspectors had been to the Rock Creek mine, noting three violations for AMI and one for AGC. Since the end of July until Dec. 21, AMI racked up 13 unassessed violations and AGC had eight.

Amy Louviere, MSHA spokeswoman said that AMI was issued citations for violations. “They will be required to abate the violations and they will be assessed civil penalties for those violations,” Louviere said.

### Life after the crash

Ever since July 19, 2007, the families of Kahle and Bagley have tried to wrap their minds around the devastating loss of their loved ones. Michele Kahle, Tyler’s mother, said in an interview with *The Nome Nugget* last week

that the time that had elapsed between the accident and MSHA’s report had been pure torture on her family.

The Kahle family received the report hand-delivered by the MSHA investigator Stephen Cain on Dec. 14, 2007. The Bagley family received the report on Dec. 18.

Michele Bagley, Craig Bagley’s wife, said that her first reaction after reading through the report was a sigh of relief that neither her husband nor Kahle were at fault in the crash. She remembered getting a call by her husband’s supervisor saying that there was an accident and that emergency personnel stabilized Bagley to get him medivaced out of Nome. “It just sounded like he had a few broken bones,” remembered Michele Bagley. The next call came from another mineworker, who said that Bagley had died.

“We were forced to wait an unreasonable amount of time for the report or before any information made available to us,” Kahle said. She summed up the contact with MSHA, saying, “Upon Tyler’s death, MSHA initiated contact with us twice. Once via phone and once via mail.”

In an earlier e-mail exchange with *The Nome Nugget*, prior to the final report, Kahle said that her family, contrary to a MSHA spokesperson’s statement to the *Nugget*, was not constantly briefed on the status of the investigation. “This would imply that as the investigation proceeds through its various stages that we would be notified. That was not the case. All contact since the initial notification has been initiated for us or by us, and then they respond,” wrote Kahle.

She added that the only details the family had been provided were in response to a Freedom of Information Act request to MSHA that was sent to obtain copies of the citations that were issued to AMI/AGC (Nova Gold) in 2007. “This was sent to MSHA after AMI/AGC declined to respond to our requests for copies of the MSHA citations that they were issued as a result of the accident,” she wrote.

Grappling with the reason for her only son’s death, Kahle said that regulations and laws are not set up to protect victims, but the businesses. For example, she said that in this case, the lack of training and negligent management resulted in her son’s death, but the employer is protected by an Alaska statute that bars victims from suing a negligent employer. The Alaska Worker’s Compensation statute is considered “exclusive remedy,” meaning that the employee gives up the right to file a lawsuit against the employer and in return an employee gets lost wages

and medical treatment without having to prove fault.

Also, criminal charges cannot be pressed. According to the Alaska State Troopers, in order to criminally prosecute the employers, investigators must prove that there was the intent to hurt or kill the two men. AST responded to the site after the accident, but closed the file because there was no foul play suspected.

Not satisfied with the answers they were or weren’t getting, the Kahles came to Nome in September and hired two experts to independently investigate the manlift and to gather more information. However, the manlift had been moved off-site the day they arrived and was enroute to the Nome port as they were trying to locate it.

More than 100 days into the grieving process, Kahle contacted Congressman Don Young’s office with the request for MSHA to deliver an official explanation of “why 105 days post death, we have yet to receive any information as to the cause of our son’s death except for what we have uncovered ourselves despite efforts to stop us,” Kahle wrote.

The day the MSHA report was made public, Congressman Young held a six-minute speech at the House on why he does not support a miner’s safety bill. “This is just another nail in the coffin for Alaska’s economy and Alaska’s mines,” Young said. “As heart-wrenching as it is when we have a death in a mine, compared to other parts of the world, we have the safest mining industry in the world,” Young said.

Michele Bagley was going through her own battle to cope with the loss of her husband. She said that she remembered the last trip the whole family made together was on Memorial Day. “We all went fishing at the Homer Spit,” she said. Bagley left behind two children, 8 and 9 years old, from a previous relationship who were living with him and Michele and her three children, ages 15, 14 and 12.

The family had been torn apart as the younger children are no longer in her custody and now live with their mother.

Currently, Michele Kahle said that she is still trying to get all of Tyler’s belongings from AMI. “I contacted Kurt Imig, CFO today (last Thursday) and I am awaiting a response. That was my fourth correspondence with AMI Management concerning this,” Kahle wrote in an e-mail.

She added that her son’s employer paid for the funeral costs, paid the extended family’s way to Wisconsin for the funeral and that Alaska Gold promised a \$15,000 donation toward a baseball field renovation project in

memory of Kahle.

Michele Bagley said that she was promised a full reimbursement of her husband’s funeral, but NovaGold and AMI came \$1,000 short to cover the \$9,000 expense. Bagley said that NovaGold donated \$15,000 to the church she and her husband attended. “Craig has died on his job and it makes me mad that these companies get away with it. Tyler and Craig should’ve never been in this basket,” Bagley said. Unlike the Kahle family, Michele Bagley did not embark on her own investigation and let her attorney handle things. What she resolved to do, however, is to petition against every big mine going up in Alaska and to petition against the worker’s compensation law that protects companies from civil lawsuits when a death or injury occurs.

She said that in the last conversations she had on the phone with her husband, he kept telling her what an unsafe workplace the mine construction site was and that they had a lot of problems. “These companies need to know that they’re messing with people’s lives,” said Bagley. She added that her children still have a hard time believing that their stepfather is dead. “Sometimes, we all feel that he’s still working away from home in Nome,” said Bagley.

AMI’s headquarter office in Anchorage was contacted numerous times by *The Nome Nugget*, but as of press time, no phone calls were returned.

“Mom, I’m going to Alaska,” remembered Michele Kahle her son saying. “He loved it up there in Nome. He didn’t drink, he was a clean-cut kid from a small town, trying to make some money.” Tyler Kahle and his cousin Paul Nyberg of Healy worked together at Rock Creek. She said that the loss of her son devastated her family to the point where she and her husband Tom can hardly go about daily life and work. “We cannot sleep, we cannot normally function, we are zombies,” described Michele Kahle. The lives of other family members were also affected to the point where a “normal” life seems impossible at the moment.

She added that Nomeites responded to her letter to the editor printed in *The Nome Nugget* last December with calls and letters. “We appreciate it. It showed again that he was making us proud because people thought highly of him,” Kahle said.

She added, sobbing, “I wish for the owners of these companies to come to our house and sit through a movie of Tyler’s life to see what they took from us.”

## • Jobs

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part of his career at open pit mines in South America, recently transferred from Canada to fill the job as general manager after Warren Woods left NovaGold earlier this month and former general manager Doug Nicholson was transferred to NovaGold’s Donlin Creek project.

Mallory now sorts through realities and challenges to determine how more workers can be enticed to sign up for 12-hour days with a schedule of two weeks on, one week off.

“It is difficult to attract people to Rock Creek,” said Mallory in an interview last week. He said that he’s been busy in his first weeks on the job analyzing what the hold-up is and meeting with the Job Center and community movers and shakers to get a grip on the employment challenge. He added that while there are positions available for mill trainees, full-blown apprenticeship programs have not been developed to train people in certain trades needed for the mine.

As of Jan. 15, there are 99 employees working at the Rock Creek mine. Mallory said that he was pleased to see that 60 of the employees are Alaska Natives or American Indians. 30 are Bering Strait Native Corp. shareholders and eight are Sitnasuak Native Corp. shareholders. About 72 are from the local area, 15 from other parts of Alaska and 11 from the Lower 48, with one, Mallory himself, hailing from Canada.

AGC is looking to fill about 150 positions this year and is examining strategies to recruit and retain qualified workers. “We’re looking at incentive programs, bonuses and rewards and recognition strategies to attract more workers,” said Mallory.

Turnover at Rock Creek concerns Mallory. “The estimated turnover had been 29 to 30 percent. These numbers are concerning, and we’re only just beginning to analyze the reasons for these turnover rates,” he said.

“A lot goes into our recruiting program to bring these employees to Nome Operations, and we’ll be looking into strategies to not only attract but retain our new-hire and longer-service employees,” Mallory said.

While many employees can enter the work force at entry level without training or with minimal necessary training, some jobs at the mill or higher-level positions need to be filled with experts imported into Nome, Mallory said.

He said that several of the open positions require some experience specific to mining.

“We do have a number of entry-level positions where we’re willing to train, and we’ll be looking to the local talent for those positions. That doesn’t mean you’re guaranteed a job, but we will be working a little harder to recruit locally. In our recruiting process we’ll continue to screen our candidates, interviewing for ability, comprehension, accountability and enthusiasm.”

Kawerak’s Education, Employ-

ment and Training division works in partnership with AGC to bring in workers from area villages and help them to transition from their home community to Nome and a job at the mine. Lew Tobin heads those supportive services and said that out of 17 villagers, 15 were gainfully employed at the mine. Kawerak assists the people with transportation to and from a training or job site, tools and materials for a job, housing assistance for those attending training away from their permanent residence, work and safety essentials, initial union dues, work clothing, boots and glasses, and other necessary needs. Tobin added that the service also includes arranging for driver’s license training and tests. “It costs about \$1,000 per person to bring them in to Nome and set up everything so they can take the driver’s license test,” said Tobin. With the recent unannounced closure of the Nome office of the Division of Motor Vehicles, scheduling and organizing village travels for driver’s tests were even more challenging, said Tobin.

At the peak of construction, the main contractor, Alaska Mechanical Inc., employed up to 200 employees, mostly from outside of Nome. Mallory told *The Nome Nugget* that AMI hired 51 persons locally, “however, some did not work more than a few days.” AMI contracted with local businesses Fimon Trucking, Q Trucking, Alaska Cab Garage/Board of Trade, Steve’s Repair, Bering Straits Native Corp., Alaskimo and KL Trucking.

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