

BEFORE THE STATE BOARD OF LAND COMMISSIONERS
STATE OF IDAHO

In the matter of:)	
Riverbed Mineral Lease Application)	
No. E500017)	FINAL ORDER
Donald Smith,)	
Applicant.)	

I. NATURE OF PROCEEDINGS/ISSUES

The Idaho Department of Lands (IDL) through the State Board of Land Commissioners (Board) is authorized to lease the beds of navigable rivers of the state of Idaho between the high water marks for mining purposes pursuant to Idaho Code §§ 58-104(9) and 47-714, and the corresponding administrative rules promulgated by the Board, IDAPA 20.03.05 *Riverbed Mineral Leasing in Idaho*.

Mr. Donald Smith submitted an application for a riverbed mineral lease, on the Salmon River, on or about February 27, 2014. On June 24, 2014, after receiving a copy of the Idaho Department of Water Resources (IDWR) Recreational Mining Permit that was issued to Mr. Smith, IDL found Mr. Smith's lease application to be complete. IDL provided notice of the application and sought input from various state and federal agencies on July 17, 2014. In addition, IDL deemed that holding a public hearing would be in the best interest of the public and on July 23 and 30, 2014, IDL published a notice of application and hearing, in *Idaho County Free Press*, in which public comments were solicited. A public hearing was held on September 3, 2014, at the IDL Payette Lakes Supervisory Area Office in McCall, Idaho.

The Hearing Officer prepared and submitted a memo on this matter to IDL on January 13, 2015. The Hearing Officer recommended approving the lease with a condition that would require Mr. Smith to comply with all of the conditions of his IDWR Recreational Mining

Permit, which prohibits the use of suction dredges with nozzle diameters greater than five inches.

On February 17, 2015, this matter was brought before the Land Board where Mr. Smith provided oral and written testimony. In his testimony, Mr. Smith requested that the recommended condition requiring compliance with the IDWR permit be removed. He stated that the IDWR permit he received authorized the use of a five inch dredge. It did not authorize the use of an eight inch dredge or two five inch dredges in tandem, as he requested in his application. At this meeting, the Board voted to table a decision on the matter to allow IDL the opportunity to review the transcript and documents submitted into the record.

On March 26, 2015, Mr. Smith emailed IDL to provide clarification regarding the testimony he gave at the February Land Board Meeting. In his email, Mr. Smith reiterated that he applied to use either an eight inch dredge or a pair of five inch dredges in tandem, but received authorization to use only one five inch dredge. He stated, "I have determined that a 5-inch dredge will be wholly inadequate for most of the lease area."

This matter was brought to the Land Board again on April 21, 2015. At this meeting, the Board voted to deny Mr. Smith's riverbed mineral lease application on the basis that the Board cannot issue a lease that would exceed parameters set by IDWR. This denial allows Mr. Smith the opportunity to obtain authorization from IDWR to use the desired equipment prior to making application for a riverbed mineral lease.

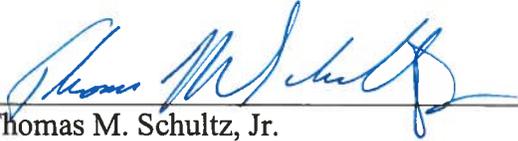
II. FINAL ORDER

On the basis of the record, it is my order that Riverbed Mineral Lease application number E500017 be denied by IDL. This is a final order of the agency. Any party may file a motion for reconsideration of this final order within fourteen (14) days of the service date of this order. The agency will dispose of the petition for reconsideration within twenty-one (21) days of its receipt,

or the petition will be considered denied by operation of law. Idaho Code § 67-5246(4).

Pursuant to Sections 67-5270 and 67-5272, Idaho Code, any party aggrieved by this final order or orders previously issued in this case may appeal this final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which: the hearing was held, the final agency action was taken, the party seeking review of the order resides, or the real property or personal property that was the subject of the agency action is attached. An appeal must be filed within twenty-eight (28) days of the service date of this final order, of an order denying petition for reconsideration, or the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. Idaho Code § 67-5273. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal. Idaho Code § 67-5274.

DATED this 5th day of May, 2015


Thomas M. Schultz, Jr.
Director, Idaho Department of Lands

CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of May, 2015, I caused to be served a true and correct copy of the foregoing document, by the method indicated:

Donald Smith
PO Box 144
Riggins ID 83549

- U.S. Mail, postage prepaid
- Hand Delivery
- Overnight Mail
- Facsimile:
- Email:

- U.S. Mail, postage prepaid
- Hand Delivery
- Overnight Mail
- Facsimile:
- Email:

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Renee Miller
Idaho Department of Lands