



## Minerals Regulatory Program Procedures

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In accordance with [Executive Order 2020-02, Transparency in Agency Guidance Documents](#), guidance documents promulgated by the department are not new laws. They represent an interpretation of existing law, except as authorized by Idaho Code or incorporated into a contract.

### Agency Contact

Minerals Regulatory Program Manager, Boise Staff Office

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## Section 5 – Legal Authorities

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### Agency Contact

Minerals Regulatory Program Manager, Boise Staff Office

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## I. Statutes and Rules

- Title 39, Chapter 65, Idaho Code**, Waste Tire Disposal
- Title 47, Chapter 7, Idaho Code**, Mineral Rights in State Lands
- Title 47, Chapter 13, Idaho Code**, Idaho Dredge and Placer Mining Protection Act
- Title 47, Chapter 15, Idaho Code**, Idaho Surface Mining Act
- Title 47, Chapter 18, Idaho Code**, Financial Assurance
- Idaho Code § 58-104**, Idaho Land Board - Powers and Duties
- Idaho Rules of Civil Procedure**, Subsection 84(g), Payment of Fee – preparation of transcript
- IDAPA 20.03.01**, Rules Governing Dredge and Placer Mining in Idaho
- IDAPA 20.03.02**, Rules Governing Exploration, Surface Mining, and Closure of Cyanidation Facilities
- IDAPA 20.03.03**, Rules Governing Administration of the Reclamation Fund

## II. Case Law

**State ex rel. Andrus v. Click**, 97 Idaho 791, 554 P.2d 969 (1976). The Idaho Supreme Court upheld the permit, bonding, and restoration requirements of the Dredge and Placer Mining Protection Act and determined that these requirements are not a “taking” of private property without compensation. This statute’s stated purpose is in protecting state lands and watercourses from pollution and destruction and in preserving these resources for the enjoyment and benefit of all people. Statutory or regulatory provisions that are reasonably related to an enactment’s legitimate

purpose are within the legitimate police powers of the state. The court also upheld the applicability of state mining regulations on federally administered lands.

### **III. Land Board Directives**

- July 14, 1981** Portion of the Salmon River (from the North Fork down to Long Tom Bar) is withdrawn from mineral entry.
- July 14, 1981** Portion of the South Fork Boise River (Anderson Dam to Neal Bridge) is withdrawn from mineral entry.
- July 13, 1982** Portion of the Middle Fork Boise River (Roaring River to Arrowrock Reservoir) is withdrawn from mineral entry.
- December 10, 1985** Dredge/placer permits are approved by the Land Board but may then be signed by the Director.
- October 13, 1987** Portion of Lower Salmon River (Hammer Creek to the mouth) is withdrawn from mineral entry.
- August 9, 1988** Portions of the following rivers are withdrawn from mineral entry:
- North Fork Payette River (Cabarton Bridge to Banks).
  - South Fork Payette River (Sawtooth Wilderness Boundary to Banks).
  - Main Payette River (Banks to Black Canyon Dam).
  - Upper Priest River (Canadian Border to Priest Lake).
  - South Fork Boise River (Anderson Ranch Dam to Neal Bridge).
  - Snake River (middle section above King Hill).
  - Henry's Fork of the Snake River (Henry's Lake to Ashton Reservoir).
- October 11, 1988** Portion of the Lower Boise River (Lucky Peak Dam to Star Bridge) is withdrawn from mineral entry except for flood control purposes.
- December 13, 1988** Portions of the Snake River within the Birds of Prey Area and Hells Canyon National Recreation Area are withdrawn from mineral entry.
- April 10, 1990** Portions of the following rivers are opened to recreational dredge mining:
- Snake River (middle section above King Hill).
  - South Fork Payette River (Sawtooth Wilderness Boundary to Banks).
- April 21, 1992** All of the state owned portion of the South Fork Salmon River is withdrawn from mineral entry.
- June 14, 2004** Fee schedule for the Bond Assurance Fund is approved.

**May 19, 2020** Bond Assurance Fund participation policy approved. Sets the actual allowable disturbance at 40 acres and the actual allowable cost at \$220,000 for participation in the Bond Assurance Fund. Also sets a minimum reclamation cost of \$5,500 per acre to opt out of the Bond Assurance Fund.

#### **IV. Attorney General Opinions**

**November 8, 1976** **Patrick J. Kole, Assistant Attorney General**

***Effective Date of Idaho Surface Mining Act***

All surface mining operations affecting land after May 31, 1972 are required to comply with the act, and any pit or overburden pile that is being affected after May 31, 1972 must also comply with the act. No “grandfather rights” were preserved for existing operations that expand onto or affect land after May 31, 1972.

**April 26, 1978** **Ursula Kettlewell, Assistant Attorney General**

***Meaning of withdrawals under Idaho Code § 47-1323***

The case of Duke Parkening v. State of Idaho (Idaho County, Case No. 12170) established that- “placering or dredging in any manner” is placer mining and those activities are prohibited on streams that have been withdrawn from mineral entry.

**January 20, 1981** **David H. Leroy, Attorney General**

***Applicability of Surface Mining Act to underground lode mining and exploration prior to underground mining***

Underground lode mining is not surface mining and therefore is not regulated by the Surface Mining Act. Exploration prior to underground mining, however, is regulated by the Surface Mining Act. This act does not distinguish between exploration operations intended to discover the mineability and merchantability of a surface mine or a subsurface or underground hard rock mine.

**June 30, 1982** **LMR, Legal Counsel (L. Mark Riddoch, Assistant Attorney General)**

***Authority of Land Board to withdraw rivers from mineral entry***

The Board of Land Commissioners is empowered by Idaho Code § 47-702, as amended, to withdraw specifically described tracts of State lands, including riverbeds, from mineral entry and exploration upon proper procedure.

**August 5, 1997** **Steve Schuster, Deputy Attorney General**

***Voluntary permitting and bonding when no IDL authority exists***

IDL can only exercise those powers and enforce those regulations specifically given to it by the Idaho Constitution and existing statutes. If a mining operation does not fall under the permitting requirements of Title 47, Chapters 13 or 15, Idaho Code, then IDL cannot, and should not, accept plans and bonds for those operations. A signed agreement with a federal agency is not sufficient for IDL to acquire an authority where it does not otherwise exist.

**March 31, 2016**

**Angela Kaufmann, Deputy Attorney General**

***IDL's usage of Policy #9 to default and terminate an instrument for use on endowment lands***

IDL may use its Policy #9 to default and terminate an endowment leasing instrument if the same party is in default or noncompliance in a mining regulatory program, the Forest Practices Act, the Lake Protection Act, or some other regulatory program and if the endowment leasing instrument requires compliance with all State laws as a condition of the instrument. IDL may not deny assignments or approvals of regulatory instruments if the permittee is in default of an endowment leasing instrument.

**April 19, 2016**

**Angela Kaufmann, Deputy Attorney General**

***Water rights for surface mining reclamation ponds***

If the reclamation plan calls for ponds to remain post-reclamation, IDL does not have the authority to require an operator to obtain a water right as part of the reclamation plan. IDL may require an operator to include pond backfilling as a reclamation cost under some circumstances.

**July 7, 2017**

**Angela Kaufmann, Deputy Attorney General**

***IDL's Authority to require bonding for acid rock drainage***

For Reclamation Plans permitted prior to July 1, 2019 IDL does not have the authority to "bond" for acid rock drainage. IDL may require that the reclamation plan include descriptions of foreseeable and site-specific nonpoint water quality and acid rock drainage impacts, and a description of the BMPs to address each. Whether IDL may require that an amended or supplemental plan be submitted when there is a change regarding water management will be fact and site-specific.

## **V. Interagency Agreements**

Memorandum of Understanding, Idaho Department of Water Resources and Idaho Department of Lands (Attachment 43)

Memorandum of Understanding, Idaho Department of Transportation and Idaho Department of Lands (Attachment 10)

Nonpoint Source Memorandum of Understanding; U.S. Environmental Protection Agency, Idaho Department of Environmental Quality, Idaho Department of Lands, Idaho Department of Water Resources, Idaho Soil Conservation Commission, Cooperative Extension Service – University of Idaho, U.S.D.A. Soil Conservation Service, U.S.D.A. Agricultural Stabilization and Conservation Service, U.S.D.A. Forest Service (Northern, Intermountain, and Pacific Northwest Regions), U.S. Department of the Interior Bureau of Land Management (Attachment 44)

Mining Appendix to Nonpoint Source MOU; Idaho Department of Lands, Idaho Department of Environmental Quality, Idaho Department of Water Resources, Idaho Department of Fish and Game, U.S.D.A. Forest Service (Northern, Intermountain, and Pacific Northwest Regions), U.S. Environmental Protection Agency, U.S. Department of the Interior Bureau of Land Management (Attachment 45)

Phosphate Mining Memorandum of Understanding, Idaho Department of Lands, Bureau of Land Management, U.S. Forest Service (Attachment 46)

Memorandum of Understanding Between Idaho Department of Lands and the Bureau of Land Management (Attachment 47)

Memorandum of Understanding Between Idaho Department of Lands and the USDA Forest Service, Regions 1 and 4 (Attachment 48)



## Section 10 – Program Administration and Definitions

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### Agency Contact

Minerals Regulatory Program Manager, Boise Staff Office

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## I. Area Responsibilities

### A. Processing

Areas will process all dredge/placer permit, reclamation plan, and closure plan applications within the Area boundaries. Bureau or other IDL personnel will assist, as requested.

### B. Administration

Areas will answer questions from potential and existing mine operators concerning applicability of regulations and compliance.

### C. Signatures

Area Managers, or their designee, shall sign all plan and permit approvals.

### D. Inspections

Areas will perform:

- i. Site visits
- ii. Compliance inspections.
- iii. Bureau or other IDL personnel will assist, as requested.

### E. File Retention

The Areas will retain complete files for all plans and permits; however, the office of record is the Boise Staff Office.

## **F. Policy Changes**

Area personnel will submit comments concerning recommendations for policy and procedure changes to the applicable Operations Chief. The Operations Chief will then review the requested changes and discuss them with the Program Manager.

## **II. Bureau Responsibilities**

### **A. Support to Areas**

The Bureau will provide information and guidance to the Areas to ensure consistency and completeness. This may include assistance in reviewing plan or permit applications, documents, letters, and other materials.

### **B. Office of Record**

The Bureau will receive and maintain plan and permit information sent to the Bureau from the Areas at the Boise office, with complete files being retained at the Area offices.

### **C. Procedures**

The Bureau will review procedures on an on-going basis and make adjustments when necessary. In most cases, the Bureau will solicit input from Area staff, Executive staff, and Legal staff on all policy and procedure changes. At the discretion of the Bureau input will also be solicited from other agencies (local, state and federal), industry representatives, and the public.

## **III. Definitions**

**069 Mining Operation** – Mining operations comprised of quarries, decorative stone, building stone, and aggregate materials including sand, gravel and crushed rock as enumerated in IDAPA 20.03.02.069).

**070 Mining Operation** – Mining operations with a higher potential for geotechnical, geochemical, or post closure issues than 069 mines including hardrock, underground, phosphate, and complex industrial mining operations (IDAPA 20.03.02.070).

**Adjustment** – A change to a reclamation plan that is smaller than Material Changes. (IDAPA 20.03.02.080.03).

**Approximate Previous Contour** - A contour reasonably comparable to that contour existing prior to disturbance, or that blends with the adjacent topography (IDAPA 20.03.01.010.02 and IDAPA 20.03.02.010.01).

**Best Management Practices or BMPs** (Dredge or placer mining) - Methods, measures, or practices to prevent or reduce nonpoint source (NPS) water pollution, including, but not limited to, structural and nonstructural controls, and operation and maintenance procedures. Usually, BMPs are applied as a system of practices rather than a single practice. BMPs are selected on the basis of site-specific conditions that reflect natural background conditions; political, social, economic, and technical feasibility; and stated water quality goals (IDAPA 20.03.01.010.03).

**Best Management Practices or BMPs** (Surface or underground mining) – Practices, techniques or measures developed or identified by the designated agency as described in IDAPA 58.01.02 “Water Quality Standards,” which are determined to be a cost effective and practicable means of preventing or reducing pollutants generated from nonpoint sources to a level compatible with water quality goals (IDAPA 20.03.02.010.02).

**Board** - The Idaho State Board of Land Commissioners or its designee (IDAPA 20.03.01.010.04 and Idaho Code § 47-1503(1)).

**Cyanidation** - The method of extracting target precious metals from ores by treatment with cyanide solution, which is the primary leaching agent for the extraction ( Idaho Code § 47-1503(2)).

**Cyanidation facility** - That portion of a new ore processing facility, or a material modification or a material expansion of that portion of an existing ore processing facility, that utilizes cyanidation and is intended to contain, treat, or dispose of cyanide containing materials including spent ore, tailings, and process water ( Idaho Code § 47-1503(3)).

**Department** - The Idaho Department of Lands or its designee (IDAPA 20.03.01.010.05 and IDAPA 20.03.02.010.04).

**DEQ** - The Department of Environmental Quality (IDAPA 20.03.01.010.06 and IDAPA 20.03.02.011.02).

**Director** - The head of the Idaho Department of Lands or his designee (IDAPA 20.03.01.010.07 and Idaho Code § 47-1503(4)).

**Discharge** - With regard to cyanidation facilities, when used without qualification, any spilling, leaking, emitting, escaping, leaching, or disposing of a pollutant into the waters of the state (IDAPA 20.03.02.010.06).

**Disturbed Land or Affected Land** - The land area included in mined areas, overburden or waste rock disposal areas, topsoil stockpiles, mineral stockpiles, roads, settling ponds, tailings ponds, and other areas disturbed on the surface of mining operations (IDAPA 20.03.01.010.08 and Idaho Code § 47-1503(5)). Disturbed acres will often be less than the total permitted acres.

**Exploration Drill Holes** - Holes drilled from the surface to locate mineral bodies and to determine the mineability and merchantability thereof ( Idaho Code § 47-1503(14)).

**Exploration Operations** - Activities performed on the surface of lands to locate mineral bodies and to determine the mineability and merchantability thereof. These activities include, but are not limited to, construction of roads, trenches, and exploration drill holes (IDAPA 20.03.01.010.25 and Idaho Code § 47-1503(8)).

**Exploration Roads** - Roads constructed to locate mineral bodies and to determine the mineability and merchantability thereof ( Idaho Code § 47-1503(15)).

**Exploration Trenches** - Trenches constructed to locate mineral bodies and to determine the mineability and merchantability thereof ( Idaho Code § 47-1503(16)).

**Final Order of the Board** - A written notice of rejection or approval, the order of a hearing officer at the conclusion of a hearing, or any other order of the board where additional administrative remedies are not available (IDAPA 20.03.01.010.09 and Idaho Code § 47-1503(27)).

**Financial Assurance** – Means the monetary assurance in such form and amount as are necessary for the board or third party to perform the reclamation activities required in the Mined Land Reclamation Act (Idaho Code § 47-1503(29)).

**Groin** - The v-shaped area along the edge of a dam, waste rock pile, or other filled area where the filled area is in contact with the adjacent ground and stormwater is often concentrated.

**Groundwater** - Any water of the state which occurs beneath the surface of the earth in a saturated geological formation of rock or soil (IDAPA 20.03.02.010.06).

**Hearing Officer** - That person selected by the director to hear public hearings for new applications or other hearings related to violations (IDAPA 20.03.01.010.10 and Idaho Code § 47-1503(26)).

**Land Application** - With regard to cyanidation facilities, a process or activity involving application of process water, wastewater, surface water, or semi-liquid material to the land for the purpose of disposal, pollutant removal, or groundwater recharge (IDAPA 20.03.02.010.07).

**Material Change** –

a. According to the Mined Land Reclamation Act , a change which deviates from the approved reclamation plan and causes one (1) of the following to occur:

- i. Results in a substantial adverse affect to the geotechnical stability of overburden disposal areas, topsoil, stockpiles, roads, embankments, tailings facilities or pit walls;
- ii. Substantially modifies surface water management, not to include routine implementation and maintenance of BMPs;
- iii. Exceeds the permitted acreage; or
- iv. Increases overall estimated reclamation costs by more than fifteen percent (15%).

b. For Underground mines with an approved reclamation plan, a new opening to an underground mine is also a material change. (IDAPA 20.03.02.010.08).

**Material Modification or Material Expansion** - With regard to cyanidation facilities:

a. The addition of a new beneficiation process, or a significant change in the capacity of an existing beneficiation process, which was not identified in the original application and that significantly increases the potential to degrade the waters of the state. Such process could include, but is not limited to, heap leaching and process components for milling; or

b. A significant change in the location of a proposed process component or site condition which was not adequately described in the original application; or

c. A change in the beneficiation process that alters the characteristics of the waste stream in a way that significantly increases the potential to degrade the waters of the state.

d. For a cyanidation facility with an existing permit that did not actively add cyanide after January 1, 2005, reclamation and closure related activities shall not be considered to be material modifications or material expansions of the cyanidation facility (IDAPA 20.03.02.010.09).

**Material Stabilization** - Managing or treating spent ore, tailings, other solids and/or sludges resulting from the cyanidation process in such a manner to minimize waters or all other applied solutions from migrating through the material and transporting pollutants associated with the cyanidation facility ensuring that all discharges comply with all applicable standards and criteria (IDAPA 20.03.02.010.10).

**Mine Panel** - The area designated by the permittee as an identifiable portion of a mine on a map submitted pursuant to Idaho Code § 47-1317 or 47-1503.19, and IDAPA 20.03.01.010.11.

**Mined Area** - Surface of land from which overburden or minerals have been removed other than by drilling of exploration drill holes (Idaho Code § 47-1503(11)).

**Mineral** - Coal, clay, stone, sand, gravel, metalliferous and non-metalliferous types of ores, and any other similar, solid material or substance of commercial value to be excavated from natural deposits on or in the earth (Idaho Code § 47-1503(06)).

**Mining Operations** - The activities performed on the surface of a surface mine or underground mine in the extraction of minerals from the ground, including the excavating of pits, removal of minerals, disposal of overburden, and the construction of haulage roads, exclusive of most exploration operations. Any exploration operations which, exclusive of exploration roads, (a) occur over a period of twelve (12) consecutive months and result in more than five (5) contiguous acres of newly affected land, or (b) which, exclusive of exploration roads, occur over a period of twelve (12) consecutive months and result in newly affected land consisting of more than ten (10) noncontiguous acres, if such affected land constitutes more than fifteen percent (15%) of the total area of any circular tract which includes such affected land, shall be deemed to be a surface mining operation (Idaho Code § 47-1503(07)).

**Mineral Stockpile** - Mineral extracted during surface mining operations and retained at the surface mine for future rather than immediate use (Idaho Code § 47-1503(20)).

**Mining Waste Tire** - A waste tire which is greater than fifty-four (54) inches in diameter and was used in mining operations (Idaho Code § 39-6501(06)).

**Motorized Earth-moving Equipment** - Backhoes, bulldozers, front loaders, trenchers, core drills, suction dredges with an intake diameter exceeding eight (8) inches, and other similar equipment (IDAPA 20.03.01.010.13 and IDAPA 20.03.02.010.11).

**Mulch** - Vegetation residues or other suitable materials to aid in the stabilization of soil and soil moisture conservation (IDAPA 20.03.01.010.14).

**Natural Watercourse** - Any stream in the state of Idaho having definite bed and banks, and which confines and conducts continuously flowing water (IDAPA 20.03.01.010.15).

**Neutralization** - Treatment of process waters such that discharge or final disposal of those waters does not, or shall not violate all applicable standards and criteria (IDAPA 20.03.02.010.12).

**Operator** - Any person or persons, any partnership, limited partnership, or corporation, or any association of persons, either natural or artificial, including but not limited to every public or governmental agency engaged in surface mining or exploration operations, or engaged in the operation and/or permanent closure of a cyanidation facility, whether individually, jointly, or through subsidiaries, agents, employees, or contractors and shall mean every governmental agency owning or controlling the use of any surface mine when the mineral extracted is to be used by or for the benefit of such agency. It shall not include any such governmental agency with respect to those surface mining or exploration operations as to which it grants mineral leases or prospecting permits or similar contracts, but nothing herein shall relieve the operator acting pursuant to a mineral lease, prospecting permit or similar contract from the terms of the chapter (Idaho Code § 47-1503(25)).

**Overburden or Waste Rock** - Material extracted by an operator that is not a part of the material ultimately removed from a mine and marketed by a permittee, exclusive of mineral stockpiles (Idaho Code § 47-1503(13)). Overburden is comprised of topsoil and waste (IDAPA 20.03.01.010.16).

**Overburden Disposal Area** - Land surface upon which overburden is piled or planned to be piled (IDAPA 20.03.01.010.17 and Idaho Code § 47-1503(13)).

**Peak** - A projecting point of overburden (Idaho Code § 47-1503(17)).

**Permanent Cessation** - Mining operations as to the whole or any part of a dredge/placer permit area have stopped and there is substantial evidence that such operations will not resume within one (1) year. The date of permanent cessation is the last day when mining operations are known or can be shown to have occurred (IDAPA 20.03.01.010.18).

**Permanent Closure** - Those activities which result in neutralization, material stabilization, and decontamination of cyanidation facilities and/or facilities' final reclamation (IDAPA 20.03.02.010.13).

**Permanent Closure Plan** - A description of the procedures, methods, and schedule that will be implemented to meet the intent and purpose of the chapter in treating and disposing of cyanide-containing materials including spent ore, tailings, and process water and in controlling and monitoring discharges and potential discharges for a reasonable period of time based on site specific conditions (Idaho Code § 47-1503(21)).

**Permit Area** - The area designated in a dredge or placer permit as the site of a proposed placer or dredge mining operation, including all lands to be disturbed by the operation (IDAPA 20.03.01.010.19).

**Permittee** - The person in whose name the permit or plan is issued and who is to be held responsible for compliance with the conditions of the permit or plan by the department (IDAPA 20.03.01.010.20).

**Person** - Any person, corporation, partnership, association, or public or governmental agency engaged in mining, whether individually, jointly, or through subsidiaries, agents, employees, or contractors (IDAPA 20.03.01.010.21).

**Pilot Facility –**

**a.** A testing cyanidation facility that is constructed primarily to obtain data on the effectiveness of the beneficiation process to determine:

i. The feasibility of metals recovery from an ore; or

ii. The optimum operating conditions for a predetermined process to extract values from an ore.

**b.** A pilot or testing cyanidation facility operated for one (1) year for a single test or two (2) years for multiple tests, during which time no more than ten thousand (10,000) tons of ore are evaluated for the testing process(es), unless the applicant can demonstrate that a greater amount is necessary for a specific purpose in the testing process (IDAPA 20.03.02.010.15).

**Pit** - An excavation created by the extraction of minerals or overburden during mining or exploration operations (IDAPA 20.03.01.010.22 and Idaho Code § 47-1503(22)).

**Placer Deposit** - Naturally occurring, unconsolidated surficial detritus containing valuable minerals, whether located inside or outside the confines of a natural watercourse (IDAPA 20.03.01.010.23).

**Placer or Dredge Mining or Dredge/Placer Mining** - The extraction of minerals from a placer deposit, including remining for sale, processing, or other disposition of earth material excavated from previous placer or dredge mining (IDAPA 20.03.01.010.26). This does not include mining for coal, clay, stone, sand, gravel, phosphate, uranium, oil, or gas (IDAPA 20.03.01.010.12)

**Placer or Dredge Mining Operation** - Placer or dredge mining which disturbs in excess of one-half (1/2) acre of land during the life of the operation (IDAPA 20.03.01.010.27).

**Placer Stockpile** - Placer mineral extracted during past or present placer or dredge mining operations and retained at the mine for future rather than immediate use (IDAPA 20.03.01.010.24).

**Pollutant** - Chemicals, chemical waste, process water, biological materials, radioactive materials, or other materials which, when discharged cause or contribute adverse effects to any beneficial use, or for any other reason, may impact the surface or ground waters of the state (IDAPA 20.03.02.010.16).

**Post Closure** - A description of the procedures, methods, and schedule for monitoring, care and maintenance, and water management that will be implemented on a mine panel after cessation of mining operations for a period not to exceed thirty (30) years unless the board determines a longer period is necessary (Idaho Code § 47-1503(30)).

**Process Waters** - Any liquids which are intentionally or unintentionally introduced into any portion of the cyanidation process. These liquids may contain cyanide or other minerals, meteoric water, ground or surface water, elements and compounds added to the process solutions for leaching or the general beneficiation of ore, or hazardous materials that result from the combination of these materials (IDAPA 20.03.02.010.17).

**Real Property** - Land and appurtenances as defined in Section 55-101, Idaho code (IDAPA 20.03.02.010.18).

**Reclamation** - The process of restoring an area disturbed by a mining operation or exploration operation to its original or another beneficial use, considering land uses, possible future uses, and surrounding topography. The objective is to re-establish a diverse, self-perpetuating plant community, and to minimize erosion, remove hazards, and maintain water quality (IDAPA 20.03.01.010.28 and IDAPA 20.03.02.010.19).

**Revegetation** - The establishment of the pre-mining vegetation or a comparable vegetative cover on the land disturbed by mining operations (IDAPA 20.03.01.010.29 and IDAPA 20.03.02.010.20).

**Ridge** - A lengthened elevation of overburden (Idaho Code § 47-1503(23)).

**Riprap** - A layer of rock used to stop erosion, often placed in a constructed channel or on a steep slope. Rock material used shall be sound, dense, durable, angular rock fragments, that are resistant to weathering and free from quantities of soil, shale, or organic matters. Riprap must be appropriately sized, graded, and placed to resist movement from anticipated water depths and velocities.

**Road** - A way for the passage of vehicles including bed, slopes, and shoulders (IDAPA Idaho Code § 47-1503(24)), (1) constructed within the circular tract circumscribed by a placer or dredge mining operation, or (2) constructed solely for access to a placer or dredge mining operation or placer or dredge exploration operation, provided, that a way dedicated to public multiple use or being used by a governmental land manager or private landowner at the time of cessation of operations, and

not constructed solely for access to a placer or dredge mining operation or placer or dredge exploration operation, shall not be considered a road for purposes of this act (IDAPA 20.03.01.010.30).

**Settling Pond** - A manmade enclosure or natural impoundment structure constructed and used for the purpose of treating mine process water and/or runoff water from adjacent disturbed areas by the removal or settling of sediment particles. Several types of settling ponds or a series of smaller ponds may be used in water management. The most common type is a recycle or recirculation pond which is used to pump clarified water back to the wash plant operation (IDAPA 20.03.01.010.31).

**Significant Change** – For an underground mine, a fifty percent (50%) increase in the areal extent of the disturbed affected land (Idaho Code § 47-1503(18)).

**Small Cyanidation Processing Facility** - A cyanidation facility which chemically processes less than thirty-six thousand five hundred (36,500) tons of ore per year and no more than one hundred twenty thousand (120,000) tons of ore for the life of the project at any one (1) permitted cyanidation facility. No person or operator may concurrently hold more than one (1) small cyanidation processing facility permit, if located within ten (10) miles of each other (IDAPA 20.03.02.010.21).

**Surface Mine** - An area where minerals are extracted by removing the overburden lying above and adjacent to natural deposits thereof and mining directly from the natural deposits thereby exposed (Idaho Code § 47-1503(09)).

**Surface Waters** - The surface waters of the state of Idaho (IDAPA 20.03.01.010.32 and IDAPA 20.03.02.010.22).

**Tailings Pond** - An area on a surface mine enclosed by a man-made or natural dam onto which has been discharged the waste material resulting from the primary concentration of minerals in ore excavated from a surface mine (Idaho Code § 47-1503(28)).

**Topsoil** - The unconsolidated mineral and organic matter naturally present on the surface of the earth that is necessary for the growth and regeneration of vegetation (IDAPA 20.03.01.010.33). When excavated and sold, topsoil is considered a mineral.

**Treatment** - Any method, technique or process designed to change the physical, chemical, or biological character or composition of a waste for the purpose of disposal. (IDAPA 20.03.02.010.23).

**Underground Mine** – An area where minerals are extracted from beneath the surface of the ground by means of an adit, shaft, tunnel, decline, portal, bore hole, drill hole for solution mining, or such other means of access beneath the surface of the ground, other than a pit (Idaho Code § 47-1503(10)).

**Water Balance** - An inventory and accounting process capable of being reconciled that integrates all potential sources of water that are entrained in the cyanidation facility or may enter into or exit from the cyanidation facility. The inventory must include the water holding capacity of specific structures within the facility that contain process water. The water balance is used to ensure that all process water and other pollutants can be contained as engineered and designed within a factor of safety as determined in the permanent closure plan (IDAPA 20.03.02.010.24).

**Water Management Plan** - A document that describes the results of the water balance and the methods that will be used to ensure that pollutants are not discharged from a cyanidation facility into waters of the state, unless permitted or otherwise approved by the DEQ (IDAPA 20.03.02.010.25).

**Waters of the State** - All the accumulations of water, surface and underground, natural and artificial, public or private, or parts thereof which are wholly or partially within, which flow through or border upon the state. These waters shall not include municipal or industrial wastewater treatment or storage structures or private reservoirs, the operation of which has no effect on waters of the state (IDAPA 20.03.02.010.26).

**Weak Acid Dissociable (WAD) Cyanide** - The cyanide concentration as determined by Method C, Weak Acid Dissociable Cyanide, D2036, the American Society of Testing Materials Book of Standards, "Standard Methods for the Examination of Water and Wastewater," Method 4500 CN- I, or other methods accepted by the scientific community and deemed appropriate by the DEQ (IDAPA 20.03.02.010.27).



## Section 15 – Application Acceptance

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In accordance with [Executive Order 2020-02, Transparency in Agency Guidance Documents](#), guidance documents promulgated by the department are not new laws. They represent an interpretation of existing law, except as authorized by Idaho Code or incorporated into a contract.

### Agency Contact

Minerals Regulatory Program Manager, Boise Staff Office

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## I. Permit or Plan Receipt

### A. Received by Area

Dredge/Placer permits, reclamation plans, and closure plans should be submitted to the applicable Area office for review and approval. The Area will start a processing checklist (Attachment 1a for dredge/placer permits, Attachment 1b for reclamation plans). The partially completed checklist (through item 1.b) must be included with the permit or plan copy submitted to the Bureau for a permit or plan number. Copies of the Supervisory Area map or fee schedule are not part of the application and should not be retained. They are just for use by the Permittees.

If the entire plan is in electronic format or is on 8.5x11 inch paper, an electronic copy can be placed in the Lands and Waterways Processing Center Document Exchange ‘New-Inst-Number’ folder. A number will then be assigned to the plan. Plans with oversized maps must have the original hard copy sent by regular US Mail to the Bureau.

New permit and plan numbers will begin with the Area number ([S][Area number][four digit plan number], e.g. S602900 for reclamation plans and P600012 for dredge/placer permits), so please make sure the Area where the plan is located is identified. Except for the original, all copies should be retained at the Area for interagency review, if needed. IMS can only store one Area location, so if staff from a different Area is administrating the site they will not receive information from the Bureau concerning this permit or plan. All reports, mail and

correspondence generated by the Bureau will be routed to the Area where the permit or plan is located.

#### **B. Received by the Bureau**

If an application is first received by the Bureau, the original will be retained at the Bureau and a copy will be forwarded to the applicable Area office with a permit or plan number and a partially completed checklist (Attachment 1a/b). The Bureau will only complete the checklist through item 1.b.

#### **C. Time Stamp**

The application form must be time stamped on the front the day IDL receives it. If an application is received during an office or site visit, the application shall be date stamped upon receipt. Date stamping on the front ensures that the stamp will be retained on photocopies.

## **II. Determine Type of Mining**

The Area office must determine whether the proposed project should be processed under the Dredge and Placer Mining Rules (IDAPA 20.03.01) or the Mined Land Reclamation Rules (IDAPA 20.03.02). The definitions in Section 10 of these Procedures should assist in this determination. Generally, dredge/placer mining involves excavating river or stream gravels and washing them with water to remove heavy minerals such as gold or garnets. The river or stream gravels may be from an active body of water or from older gravel deposits high above existing bodies of water.

If the applicant used the wrong application form, then the application package must be returned to the applicant as incomplete with an explanation and a blank form of the correct type.

If the operation is determined to be a surface or underground mine, then the initial evaluating office must also determine the size of the operation and the IDAPA section that the mining operation will be processed under. This determination must be made upon receipt of an application to verify the correct application fee has been submitted. The definitions in Section 10 of these Procedures should assist in this determination of whether a mine should be processed as an 069, 070, and/or a Permanent Closure Plan.

## **III. Verifications Needed Prior to Permit or Plan Number Assignment**

The two verifications discussed below are critical to ensuring that IDL can pursue legal action, if needed, against an operator. The Area office processing the permit or plan must do both verifications, and the plan should be returned as incomplete if one of the verifications indicates a problem.

#### **A. Existing Permits or Plans**

The Land Information Management System (LIMS) must be examined to determine if there is an existing permit or plan that covers the same location as the proposed mining project.

If a permit or plan already exists for the exact same parcel contained in the new plan, then the existing permit or plan should be assigned to the new permittee and the new application can be processed as an amendment. Overlapping reclamation plans should not be allowed due to the problem this creates in determining which party is responsible for the reclamation.

If the assignor refuses to assign the permit or plan, then a new application must be submitted by the assignee and the plan must specifically state that the new operator will reclaim all areas that are disturbed by the previous mining activities. The previous plan can be cancelled only after the new plan is approved and financial assurance has been provided. Consultation with the Program Manager and legal staff is recommended.

If the applicant has an approved permit or plan adjacent to the newly proposed site, then it should be processed as a plan amendment and not a new plan. Approval of a reclamation plan amendment will not affect the requirements of the existing mine site (IDAPA 20.03.02.090.02). Having separate plans for what will become one large operation makes administration of the site quite complicated and requires keeping multiple records instead of just one.

## **B. Business Registration**

Permits and plans must be held by legal entities. If a permittee is not a legal entity, then we cannot take legal action against them if needed. If a business is listed as the operator on the application form, but it is not registered, then the permit or plan cannot be processed under that name. If the applicant also used their personal name (e.g. John Doe dba Doe Run Excavation), then the permit or plan can be processed with the person as the applicant and the permittee. Otherwise, the permit or plan shall be returned as incomplete until a legal entity is listed on the application form.

Legal entities in Idaho are:

1. Individuals or groups of individuals with shared interests.
2. Businesses, corporations, organizations, nonprofits, LLCs, or other legal entities that are registered with the Idaho Secretary of State. Business registration can be verified at: <https://sosbiz.idaho.gov/search/business>

## **IV. State Mineral Ownership**

### **A. Land Information Management System**

Area staff shall check the application's legal description in the Land Information management System (LIMS). If the state owns the land or the mineral estate a mineral lease may be required prior to commencing mining. Contact the Mineral Leasing Program Manager for additional information on this process.

For closure plans on endowment surface ownership, a commercial lease may be required if the ore being processed is not from the same parcel under the same mineral lease. A commercial lease shall be processed under the Uniform Leasing Procedures.

**B. Impact of State Mineral Ownership**

1. Dredge/placer permits may be held up pending resolution of state-owned mineral rights.
2. Reclamation and closure plan processing must proceed regardless of any mineral or surface rights issue. The Surface Mining Act and associated rules do not require an applicant to prove ownership or control of the mined area.



## Section 20 – Dredge & Placer Permit Review & Approval

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In accordance with [Executive Order 2020-02, Transparency in Agency Guidance Documents](#), guidance documents promulgated by the department are not new laws. They represent an interpretation of existing law, except as authorized by Idaho Code or incorporated into a contract.

### Agency Contact

Minerals Regulatory Program Manager, Boise Staff Office

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## I. Applicability of Permit Requirements

### A. When Permits Are Needed

Placer or dredge mining operations that disturb in excess of one-half (½) acre of land over the life of the operation, including roads, must have an approved permit and bond (IDAPA 20.03.01.020.03).

Placer or dredge mining operations may not commence until the placer mining permit has been approved by the board, the department has received a financial assurance or “bond” meeting the requirements of the dredge and placer mining rules, and the permit has been signed by the director and the permittee (IDAPA 20.03.01.021.01). Road construction, topsoil stripping, and settling pond construction required for a placer operation are considered mining operations.

### B. When Permits Are Not Needed

The following activities do not require a dredge or placer mining permit:

1. Operations that fall under the authority of the Idaho Mined Land Reclamation Act and associated rules (IDAPA 20.03.01.012.03).
2. Dredging operations conducted for the sole purpose of establishing and maintaining a channel for navigation (IDAPA 20.03.01.012.05).

3. The use of a suction dredge with an intake diameter of eight (8) inches or less (IDAPA 20.03.01.012.06).
4. Exploration with a cumulative surface disturbance of less than one half (1/2) acre including roads. Exploration is covered in Section 45 of these Procedures (IDAPA 20.03.01.020.03).

### **C. Withdrawn River Segments**

The Land Board has withdrawn some river segments from placer and dredge mining and restricted those activities on other river segments (IDAPA 20.03.01.060.02). A list of these withdrawals and restrictions is provided in Attachment 2.

## **II. Application Submittal**

### **A. Application Receipt**

Please see Section 15 of these Procedures for information on application receipt and permit numbering.

### **B. Application Package Contents**

An application package must be submitted to IDL with an appropriate application fee (IDAPA 20.03.01.021.02). A complete application package should contain the following (IDAPA 20.03.01.021.02):

1. Application form that is filled out and signed by the applicant and land owner (IDAPA 20.03.01.021.03) (Attachment 3). If the project is on USFS or BLM land, then the District Ranger or Manager shall sign the application.
2. Vicinity map.
3. Detailed maps of the operation.
4. Water management information, including settling pond designs.
5. Written reclamation plan.

### **C. Application Fee**

The application fee is fifty dollars (\$50) for each ten (10) acres of land, or portion thereof, which is being permitted. Application fees shall not exceed one thousand dollars (\$1,000), and they are nonrefundable (IDAPA 20.03.01.021.02.g).

### **D. Application Completeness**

All dredge/placer applications shall be examined for completeness. Area staff shall process the application based upon the filing information provided, not based upon assumed conditions. Area staff should not prepare maps or text for the applicant, as this may preclude an objective review of the plan. IDL's responsibility is to review the materials submitted by an applicant. The applicant can hire a private consultant to assist with permit preparation if needed.

Application requirements are detailed below.

#### **E. Incomplete Application**

If an application is deemed incomplete, Area staff will send a letter of incompleteness (Attachment 4) to the permittee that identifies the deficiencies (IDAPA 20.03.01.022.09). No further processing is required until all necessary information is submitted (IDAPA 20.03.01.021.03). The completeness review should be done within 30 days of the time stamp.

#### **F. Notifications and Hearings**

After the permit number is assigned and the Area believes the application is complete, the Area office will initiate the interagency notification as described in Section 30 of these Procedures and hold a hearing if determined to be necessary.

#### **G. Inspection**

An inspection should be completed as part of the permit review. The applicant shall be contacted a reasonable time prior to the inspection and asked that an employee or representative be present for the inspection. Area staff shall attempt to find a time and date that the applicant is available. If the applicant fails to find a representative, or that representative fails to appear, the inspection may proceed as planned (IDAPA 20.03.01.021.08).

### **III. Map Requirements**

#### **A. Vicinity Map**

A vicinity map shall be shown on 7.5 minute topographic maps or an equivalent base map (IDAPA 20.03.01.021.04). It should be of sufficient size and detail to allow Area staff to drive to the site.

#### **B. Operational Maps**

Maps of the proposed operation shall be in sufficient detail to show the following (IDAPA 20.03.01.021.04):

1. The location of existing roads and anticipated access and main haulage roads planned for construction in connection with the mining operation.
2. The approximate location, and the names of all known streams, creeks, springs, wells, or bodies of water within one thousand (1,000) feet of the mining operation.
3. The approximate boundaries of all lands to be disturbed in the process of mining, including legal description to the quarter-quarter section.
4. The approximate boundaries and acreage of the lands that will become disturbed land as a result of the placer or dredge mining operation during the first year of operations following issuance of a placer mining permit.
5. The planned location and configuration of pits, mineral stockpiles, topsoil stockpiles, and waste dumps within the mining property.
6. Scaled cross-sections, of length and width, which are representative of the placer or dredge mining operation, showing the surface contour prior to mining and the expected surface contour after reclamation activities have been completed.
7. The location of required settling ponds, the design plans, construction specifications and narrative to show they meet both operating requirements and protection from erosion, seepage, and flooding that can be anticipated in the area.

8. Surface and mineral control or ownership map of appropriate scale for boundary identification.

## **IV. Placer Permit Settling Pond Requirements**

Detailed plans and specifications for settling ponds shall be drawn to a scale of one (1) inch = ten (10) feet and include the following components (IDAPA 20.03.01.021.05):

### **A. Map**

A detailed map of the settling pond location, including:

1. Dimensions and orientation of the settling ponds and/or other wastewater treatment components of the operation.
2. Distance from surface waters.
3. Pond inlet/outlet locations including emergency spillways and detailed description of control structures and piping.
4. Location of erosion control structures.
5. Ten (10) year flood elevation (probable high water mark)

### **B. Cross Section**

A detailed cross-section of the pond(s) including:

1. Dimensions and orientation.
2. Proposed sidewall elevations.
3. Proposed sidewall slope.
4. Sidewall width.
5. Distance from and elevation above all surface water.
6. Slope of settling pond location.

### **C. Description**

Written description of the construction method(s) including:

1. Bottom material.
2. Sidewall material.
3. Pond volume.
4. Volume of water to be used in the wash plant.
5. Discharge or land application requirements.
6. Any pond liners or filter materials to be installed.
7. Compaction techniques

## **V. Placer Permit Reclamation Plan Requirements**

A reclamation plan must be submitted in map and narrative form and include the following information (IDAPA 20.03.01.021.06):

### **A. Stream Restoration Plan**

Describe and show:

1. How streams disturbed by the mining operation shall be replaced on meander lines with a pool structure conducive to good fish and wildlife habitat and recreational use.
2. How and where riprap or other bank stabilization methods will be used to ensure that, following abandonment, stream erosion will not exceed the rate normally experienced in the area.
3. How the reconstructed stream will not contribute to degradation of water supplies, if applicable.

## **B. Grading Plan**

Describe and show:

1. The contour of the proposed mine site after final backfilling and/or grading, with grades listed for slopes after mining.
2. The planned reclamation of tailings or sediment ponds.
3. Show roads to be reclaimed upon completion of mining

## **C. Water Management**

On a drainage control map, show the best management practices to be utilized to minimize erosion on disturbed lands.

## **D. Revegetation**

Show plans for both concurrent and final revegetation of disturbed lands. Indicate soil types, slopes, precipitation, seed rates, species, topsoil, or other growth medium storage and handling, time of planting, method of planting and, if necessary, fertilizer and mulching rates. Make a premining estimate of trees on the site by species and forest lands utilization consideration in reclamation.

## **E. Reclamation Costs**

Provide an estimate of total reclamation cost to be used in establishing the financial assurance amount. The cost estimate should reflect costs for a third party contractor, not the operator's costs.

The cost estimate should include the approximate cost of grading, revegetation, equipment mobilization, labor, and administrative overhead (insurance, performance bonding, profit, etc).

# **VI. Permit Processing**

## **A. Other Needed Approvals**

The following documents must be approved prior to approval of the Dredge/Placer Permit:

1. Stream Channel Alteration Permit from the Idaho Department of Water Resources (IDAPA 20.03.01.022.05), if needed.
2. Mineral Lease or Riverbed Mineral Lease from IDL if operations are on endowment land or in navigable waters.

## **B. Bonding**

The Area staff processing the permit must determine if the operation will provide financial assurance through the Bond Assurance Fund or if a traditional reclamation bond will be required. See Section 40 of these Procedures for more details. Financial assurance information is required in the permit documents.

## **C. Conditioned Approval**

If an application fails to meet the requirements listed above, or in the rules, the approval may be written with conditions that bring the application into compliance (IDAPA 20.03.01.022.08). These conditions will be added to the approval as stipulations in addition to the usual stipulations in the approvals.

## **D. Draft Permit Documents**

After the application has been reviewed, the area will prepare a board memorandum (Attachment 5), a permit (Attachment 6), and a location map (JPEG) for the Land Board's review (Attachment 7). The map should show the location of the mine in the state and the respective county, and the outline of the operation on a 7.5 minute topographic map or an equivalent. These documents will be forwarded to the Program Manager for processing. The Program Manager will review the permits for compliance with the applicable rules and these procedures. If any questions arise, they will be discussed with the Area staff.

When the final documents are ready for Land Board approval, the Program Manager will get the approval scheduled for the Land Board consent agenda.

## **E. Land Board Approval**

The Program Manager will answer any questions that come up during the Land Board briefing or the Land Board meeting. A placer permit application should be approved by the Land Board within ninety (90) days of receipt of a complete application or within ninety (90) days of when weather conditions allow access to the site. Copies of the approved consent agenda item will be placed in the Bureau file and sent to the Area.

## **F. Permit Issuance**

After the Land Board takes action on the permit application, the Program Manager will forward all permit materials to the Resource Protection and Assistance (RPA) Bureau Technical Records Specialist (TRS), who will then notify the permittee of the approval and request financial assurance for the site. After financial assurance is received, the TRS will prepare and mail two (2) copies of the permit to the permittee for signature. The permittee shall sign both copies and return them to the Bureau for signatures by state officials.

One (1) signed permit will be returned to the permittee. Mining may begin after the permittee has the executed permit. The other signed permit will be retained by the Bureau. A copy will be sent to the Area.

### **G. Permit Withdrawal**

If financial assurance and the signed permit are not received by IDL within twelve (12) months of the Land Board's approval, the approval shall be withdrawn (IDAPA 20.03.01.022.10). Permit withdrawal may be extended an additional year upon written request by the applicant and for good cause.

## **VII. Permit Denial**

### **A. Denial by the Board**

The Land Board may deny any application for a permit on state land, a stream or riverbed, or on any unpatented mining claim if the proposed operation would not be in the public interest. The factors to be considered include economics, recreational use of the lands, fish and wildlife habitat, or permanent damage to a stream channel (IDAPA 20.03.01.022.07). The Idaho Department of Water Resources may specifically request that IDL deny any an application that they believe would result in permanent damage to the stream. A board memo and map will still need to be prepared and reviewed by the Land Board. The Program Manager will answer any questions by the Land Board or their staff and will sign the denial letter.

### **B. Reapplication**

If the board disapproves the application, the applicant shall be informed of the rules that have not been complied with, the manner in which they have not been complied with, and the requirements necessary to correct the deficiencies. The applicant may then submit an amended application (IDAPA 20.03.01.022.09).

### **C. Outstanding Violations**

The Land Board should not approve an application for a permit submitted by anyone who is not in compliance with either the Dredge and Placer Mining Protection Act or the Idaho Mined Land Reclamation Act Mining and applicable rules. Applications submitted by someone who has caused the department to withdraw from the Bond Assurance Fund and has not reimbursed IDL for those costs shall not be approved (Idaho Code § 47-1815).



## Section 25 – Reclamation Plan Review and Approval

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In accordance with [Executive Order 2020-02, Transparency in Agency Guidance Documents](#), guidance documents promulgated by the department are not new laws. They represent an interpretation of existing law, except as authorized by Idaho Code or incorporated into a contract.

### Agency Contact

Minerals Regulatory Program Manager, Boise Staff Office

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## I. Applicability of Reclamation Plan Requirements

### A. When Reclamation Plans are Required

Reclamation Plans are required for surface and underground mining operations if an operator is removing minerals from any land in the state for immediate or ultimate sale of the mineral commodity. Bartering, or exchanging the excavated material for excavation services or other goods or services, is considered to be a sale and a plan would be required. The removal and sale of topsoil is also considered to be mining because soil contains clay, silt, sand, and rock fragments. Peat mining is also considered mining.

### B. When Reclamation Plans Are Not Required

The following activities do not require a reclamation plan:

1. Operations under the authority of the Dredge and Placer Mining Protection Act and associated rules (IDAPA 20.03.02.001.05.b).
2. Mining on tribal land owned by a recognized Native American tribe.
3. Mining when the material is not being removed for immediate or ultimate sale (Idaho Code § 47-1506(a)). Generally, this will occur when a landowner excavates material for use on their own property. The operator, however, is still required to reclaim the mined

area (Idaho Code § 47-1509). If the material is used on land owned by someone else, then a plan may be required.

4. Surface mining that occurred prior to May 31, 1972 and the pit or overburden pile has not been used since that date (IDAPA 20.03.02.001.05.b).
5. Underground mining operations that occurred prior to July 1, 2019 and have not increased the areal extent of disturbed affected land by more than 50% after July 1, 2019 as defined by a "Significant Change" per Idaho Code § 47-1503 (Idaho Code § 47-1518(c)).
6. Surface mining within the right-of-way of a public highway by a public or governmental agency for maintenance, repair, or construction of a public highway, provided the affected land is an integral part of such highway (IDAPA 20.03.02.001.05.b). Removing material from a road cut would require a plan if the road is not being widened accordingly.
7. Sand and gravel mining operations in state-owned beds of navigable lakes or rivers if they have a valid riverbed mineral lease, a mineral lease bond, a valid stream channel alteration permit from IDWR, and a plan of operations for the mineral lease approved by IDL (IDAPA 20.03.02.001.05.c).

### **C. County or Highway District Notifications**

If a public or governmental agency is mining material for maintenance, repair, or construction of a public highway and the site is less than 2 acres they should submit a Notice of A Mining Operation to be Conducted by a public or governmental agency for maintenance, repair, or construction of a public highway (Attachment 8).

Reclamation of these sites must include (IDAPA 20.03.02.001.05.d):

1. Regrading back to the approximate previous contour.
2. Filling in or regrading pits or trenches that are hazardous to people and wildlife.
3. Revegetation.

The Area shall forward a copy of the Notice to the Bureau and retain the original. The Bureau will assign the notice a number and notify the Area of the number by phone or e-mail. The Area shall then send a letter to the highway district and acknowledge the receipt of the Notice (Attachment 9).

If the highway district's ultimate plan is to disturb more than two acres, a reclamation plan should be submitted instead of the above Notice (see below).

### **D. Non-Highway Government Use**

When a city, county, or other governmental agency is mining material that is not being used for a public highway, a normal reclamation plan and financial assurance is required. The exemption provided in IDAPA 20.03.02.001.05.d only applies if the material is used for highways or roads. Use of the material by a city for a sewer treatment plant, for example, would require a reclamation plan and financial assurance.

## II. Idaho Transportation Department

IDL has a MOU with the Idaho Transportation Department (ITD) regarding reclamation plans (Attachment 10). ITD refers to their plans as material source plans. Each ITD material source has an ITD identification number that consists of a two letter county designation followed by a number. This number should always be referenced with the reclamation plan number in written correspondence to make sure ITD is clear about which material source is being discussed.

### A. Area Review

ITD material source plans have been sent out for interagency review by ITD prior to submittal to IDL. As a result, all they require is review by the Area and a county notification.

### B. Reclamation Plan Number

ITD has a designated block of plan numbers, which started with the 1400 and 1500 series numbers and is now in the 1600s. They assign the number to the plan prior to submittal, so the Area prefix is not used for these plans. The Area staff should check IMS to verify this plan number has not been used yet, as ITD sometimes makes errors with number assignments.

### C. Bonding

Bonding for ITD material sources is generally not required (IDAPA 20.03.02.120.06). The only exception is when they are mining from a state mineral lease, which requires that all operators provide a bond. In this instance, ITD bonding is provided through a statewide bond issued by the Department of Administration (Attachment 11).

### D. Area Approval

As per the MOU, plans should be approved within 30 days of submittal. After the review is done, the Area prepares a department memo and an approval letter. The letter shall be sent to ITD, and copies of the memo and the letter shall be sent to the Bureau.

## III. Application Submittal

### A. Application Receipt

Please see Section 15 of these Procedures for information on application receipt, fee determination, and permit numbering.

### B. Application Package Contents

An application package must be submitted to IDL (IDAPA 20.03.02.069.03). A complete application package should contain the following (IDAPA 20.03.02.069.03):

1. Application form (Attachment 12) that is filled out and signed by the applicant (IDAPA 20.03.02.069.03.a). An out-of-state operator shall designate an in-state agent authorized to act on behalf of the operator (IDAPA 20.03.02.069.03.d).
2. Vicinity map.
3. Detailed maps of the operation.
4. Water management information, including settling pond designs.

5. Written reclamation plan.

**C. Application Fee**

Applicants are required to pay a fee upon submittal. The application fee is listed in the table in IDAPA 20.03.02.068. The fee is set based on the permitted area identified in the application and which IDAPA 20.03.02 section IDL determines the Plan will be evaluated under (069 or 070). For questions regarding whether a Plan should be evaluated under 069 or 070 consultation with the Program Manager is recommended.

**D. Application Completeness**

All reclamation plan applications shall be examined for completeness. Area staff shall process the application based upon the information provided, not based upon assumed conditions. Area staff should not prepare maps or text for the applicant, as this precludes an objective review of the plan. IDL's responsibility is to review the materials submitted by an applicant. The applicant can hire a private consultant to assist with plan preparation if needed.

Application requirements are detailed below. The completeness review should be done within one week of IDL receiving the plan.

If a plan is complete, it must be approved within 60 days of the time stamp (date of receipt) or the plan is automatically approved as submitted (IDAPA 20.03.02.080.03.a).

**E. Incomplete Application (within 30 days)**

If an application is deemed incomplete, Area staff will send a letter of incompleteness (Attachment 13) to the permittee within thirty (30) days after receipt of a reclamation plan (IDAPA 20.03.02.080.01.a). This letter shall identify the deficiencies. This letter is required to remove the sixty (60) day approval deadline. After the letter is sent, the applicant must submit the information required to complete the plan. The processing will then start over at the beginning of this subsection of the procedures, and a new sixty (60) day approval deadline will be determined by the date stamp on the additional information submitted. The same plan number will be used if one has already been assigned by the Bureau.

**F. Denial of Application (31-60 days)**

If the application is deemed to be incomplete or inaccurate more than thirty (30) days after receipt of the plan, but prior to the sixty (60) day approval deadline, then the application must be rejected. The Area shall prepare a rejection letter and send it to the applicant (Attachment 14). The letter will state the reasons the application has been rejected, the factual findings upon which the rejection is based, a statement of the applicable statute(s) and rule(s), the manner in which the application failed to fulfill the requirements of these rules, and the action that must be taken or conditions that must be satisfied to meet the requirements of the chapter and these rules (IDAPA 20.03.02.080.07). A copy of the letter shall be sent to the respective Operations Chief and the Bureau.

The applicant may then submit an amended application for review. As with an incomplete application, the processing will start over at the beginning of this Subsection of the Procedures

(IDAPA 20.03.02.080.07). The same plan number will be used if one has already been assigned by the Bureau.

### **G. Notifications and Hearings**

After the reclamation plan number is assigned and the Area believes the application is complete, the Area office will initiate the interagency notification as described in Section 30 of these Procedures and hold a hearing if determined to be necessary.

### **H. Inspection**

An inspection should be completed as part of the plan review. The applicant shall be contacted a reasonable time prior to the inspection and asked that an employee or representative be present for the inspection. Area staff shall attempt to find a time and date that the applicant is available. If the applicant fails to find a representative, or that representative fails to appear, the inspection may proceed as planned (IDAPA 20.03.02.080.03.b).

If weather conditions prevent an inspection, and the inspection is needed to evaluate the application, then the review may be postponed pending an inspection. Written notice to an operator shall be sent by the Area. The approval deadline may be postponed until thirty (30) days after weather conditions permit an inspection (IDAPA 20.03.02.080.03.b).

## **IV. Map Requirements**

### **A. Vicinity Map**

A vicinity map shall be shown on 7.5 minute topographic maps or an equivalent base map (IDAPA 20.03.02.069.04). It should be of sufficient size and detail to allow Area staff to drive to the site (Attachment 15).

### **B. Operational Maps**

Maps of the proposed operation shall be in sufficient detail (Attachment 16) to show the following (IDAPA 20.03.02.069.04):

1. The location of existing roads and anticipated access and main haulage roads planned for construction in connection with the mining operation.
2. The approximate location and the names of all known streams, creeks, springs, wells, or bodies of water within one thousand (1,000) feet of the mining operation.
3. The approximate boundaries of all lands to be used in the process of mining, including legal description to the quarter-quarter section.
4. The approximate boundaries and acreage of the lands that will become disturbed land as a result of the mining operation during the first year of operations.
5. The planned storage locations of fuel, equipment maintenance products, wastes, and chemicals that will be utilized in the mining operation.
6. The planned location and configuration of pits, overburden piles, reject materials, topsoil storage, wash plant ponds, and sediment ponds that will be used.
7. Scaled cross-sections by length and height showing surface profiles prior to mining.

8. The location of settling ponds and a description of best management practices, especially if pits will be dewatered. Direct discharge into surface waters is not an acceptable water management plan for dewatering pits.
9. Surface and mineral control or ownership map of appropriate scale for boundary identification.

## **V. Reclamation Plan Requirements**

### **A. Plans Processed Under Section 069**

Reclamation Plans for quarries, decorative stone, building stone, and aggregate materials including sand, gravel and crushed rock are processed under Section 069 of IDAPA 20.03.02. These plans must be submitted in map and narrative form (Attachment 17) and include the following information (IDAPA 20.03.02.069.05):

1. Where surface waters are likely to be impacted and when requested by the director, documents identifying and assessing foreseeable, site-specific nonpoint sources of water quality impacts upon adjacent surface waters and the BMPs the operator will use to control such impacts during mining and reclamation.
2. Scaled cross-sections by length and height, showing planned surface profiles and slopes after reclamation.
3. Roads to be reclaimed.
4. A plan for revegetation of affected lands including soil types, slopes, precipitation, seed rates, species, handling of topsoil or other growth medium, time of planting, method of planting and, if necessary, fertilizer and mulching rates.
5. The planned reclamation of wash plant or sediment ponds.
6. A drainage control map which identifies the location of BMPs that will be implemented to control erosion and such nonpoint source water quality impacts during mining and reclamation activities.

### **B. Plans Processed Under Section 070**

Reclamation Plans for other mining operations, including hardrock and phosphate mining, are processed under Section 070 of IDAPA 20.03.02. These plans must be submitted in map and narrative form and include the information required under Subsection 069.05 above and the following additional information (IDAPA 20.03.02.070.04):

1. A description of the planned reclamation of tailings or sediment ponds.
2. An estimate of total reclamation cost to be used in establishing the financial assurance amount. The cost estimate should include the approximate cost of grading, revegetation, equipment mobilization, labor, materials, and administrative overhead (insurance, bonding, profit, etc). The cost estimate should reflect costs for a third party contractor, not the operator's costs.
3. A description of foreseeable, site-specific impacts from mining operations and the BMPs that will be used to mitigate any impacts.
4. Other pertinent information the Department has determined is necessary to ensure that the operator will comply with the requirements of the chapter. This could include any Best Management Practices for controlling non-point source pollution (sediment, selenium, arsenic, nitrates, etc.) (IDAPA 20.03.02.140.01).
5. A description of post-closure activities.

6. Dimension of underground mine openings at the surface, if any, and description of how each mine opening will be secured to eliminate hazards to human health and safety.

## **VI. Operating Plan Required for Plans Processed under Section 070**

In addition to the above information, reclamation plans processed under IDAPA 20.03.02.070 must include an operating plan (IDAPA 20.03.02.070.05). Operators on BLM or USFS land are already required to prepare and submit operating plans to those agencies, and the Area office shall obtain a copy of it through the joint review process (See Section 50 of these Procedures). Other operators who are not required to submit an operating plan for a mining operation to the BLM or USFS shall submit, as part of the reclamation plan, an operating plan that includes the information in this Subsection.

### **A. Maps**

Maps shall show the following (IDAPA 20.03.02.070.05.a):

1. The location of existing roads and anticipated access and principal haul roads planned to be constructed for mining operations.
2. The boundaries and acreage of the affected lands.
3. The planned location of pits, mineral stockpiles, overburden piles, and tailings ponds for the mining operation.
4. The location and, if known, the names of all streams, creeks, or water bodies within the area of the affected lands.
5. The drainage adjacent to the area where the surface is being utilized by mining operations.
6. The approximate boundaries and acreage of the lands that will become affected during the first year of mining operations.

### **B. Coarse and Durable Specifications**

Additional information regarding coarse and durable rock armor may be required if rock armor is proposed to be used for reclamation of the mine facilities (IDAPA 20.03.02.070.05.b). The Area shall consider the type, size, and potential environmental impact of the facility when determining what additional information should be required. This information may include, but is not limited to, one (1) or more of the following:

1. A description of the quantities, size, geologic characteristics, and durability of the materials to be used for final reclamation and armoring.
2. A description of how the coarse and durable materials will be handled and/or stockpiled, including a schedule for such activities that will ensure adequate quantities are available during reclamation.

### **C. Geotechnical Report**

The director may, after considering the type, size, and potential environmental impact of the facility, require the operator to prepare a geotechnical analysis and report, signed by an engineer registered in the state of Idaho (IDAPA 20.03.02.070.05.c). This report will show that the following mine features will be constructed in a manner that is consistent with industry standards to minimize the potential for failure:

1. Waste rock or overburden stockpiles.
2. Pit walls proposed to be more than one hundred (100) feet high.
3. Pit walls where geologic conditions could lead to failure of the wall regardless of the height.

If failure of these structures can reasonably be expected to impact adjacent surface or ground waters or adjacent private or state-owned lands, the analysis may be required to consider the long-term stability of these structures, the potential for groundwater accumulation, and the expected seismic accelerations at the site.

## **VII. Reclamation Plan Processing**

### **A. 60 Day Time Limit**

If a reclamation plan is complete, it must be approved within sixty (60) days of the time stamp (date of receipt) or the plan is automatically approved as submitted (IDAPA 20.03.02.080.03.a). All hearings (Section 30 of these Procedures), interagency coordination (Section 50 of these Procedures), inspections, and plan reviews must be completed within this sixty (60) day time frame.

### **B. Financial Assurance (“Bonding”)**

The Area staff processing the reclamation plan must determine if the operation will provide financial assurance through the Bond Assurance Fund or a different form. See Section 40 of these Procedures for more details. Financial Assurance information is required in the approval documents.

### **C. Approval Memo**

Area staff shall prepare an approval memo (Attachment 18) that provides Lands and Waterways Processing Center the information needed to enter the plan in LIMS, and identifies any issues associated with the approval. The description should mention any substantive comments received from other agencies, any issues regarding state reserved mineral rights, if the plan is resolving a noncompliance issue, or other pertinent information. Memos should be signed by the plan reviewer, and a signed copy should be sent to the Bureau with the approval letter. The approval memo is not sent to the applicant.

The financial assurance portion of the memo has four different formats. Attachment 18 includes wording for participation in the Bond Assurance Fund because it is most commonly used. Language for other situations is compiled in Attachment 19. The different financial assurance scenarios are as follows:

1. All private plans, and highway district plans on endowment land, under the Bond Assurance Fund (BAF) must pay a specific amount based on the disturbed acres (Attachment 18).
2. ITD and highway district plans on non-endowment land are exempt from financial assurance (IDAPA 20.03.02.120.06) (Attachment 19).
3. ITD plans on endowment land must reference the statewide bond through the Department of Administration (Attachment 19).

4. All private plans, and highway district plans on endowment land, not eligible under the Bond Assurance Fund must provide financial assurance in an amount specific to the operation (Attachment 19).

See Section 40 of these Procedures for more information on financial assurance.

#### **D. Approval Letter**

If the application will be denied, Subsection 25.III above should be consulted.

If the application will be approved, Area staff shall prepare an approval letter to the applicant. Attachment 20 is a form letter with the standard stipulations. Attachment 20 presumes that the operation will have financial assurance provided through the Bond Assurance Fund (see stipulation #4). If that is not the case, then one of the following approval letters must be used:

1. ITD and highway district plans on non-endowment land that are exempt from financial assurance will use Attachment 21.
2. ITD plans on endowment land already have financial assurance through the Department of Administration and will use Attachment 22.
3. All private plans, and highway district plans on endowment land, not eligible under the Bond Assurance Fund must provide financial assurance and will use Attachment 23.

The standard stipulations may only be changed after conferring with the Program Manager. A copy of the approval letter and memo should be sent to the Bureau. Copies of blank financial assurance forms should not be sent to the Bureau.

Stipulations in addition to the standard stipulations may be added to address minor shortcomings with the applications. These stipulations must be enforceable through the Mined Land Reclamation Act or IDAPA 20.03.02 and discussed with the operator prior to approval. An example of an acceptable stipulation would be for a specific storm water best management practice because IDAPA 20.03.02.069.05 requires this information. An example of an unacceptable stipulation would be for noxious weed control because nothing in the Mined Land Reclamation Act or IDAPA 20.03.02 requires weed control.

#### **E. Financial Assurance Forms Sent With Approval**

The approval letter should be sent with the required financial assurance forms. See Section 40 of these Procedures for detailed financial assurance information. If the operator will be making a payment to the Bond Assurance Fund, then an acknowledgement form should be sent (Attachment 34).

If a traditional financial assurance is being required, the financial assurance information sheet (Attachment 27), surety form (Attachment 29), collateral bond form (Attachment 30), and sample letter of credit (Attachment 31) should all be sent. The operator can decide which type to use and will discard the unneeded forms.

**F. No Approval for Operators Who Owe the Bond Assurance Fund**

Mining Applications submitted by someone who has caused the department to withdraw from the Bond Assurance Fund and has not reimbursed IDL for those costs shall not be approved (Idaho Code § 47-1805). In addition, those who have outstanding payments to the Bond Assurance Fund shall not have any other plans, or plan amendments, approved until their account is paid in full.



## Section 30 – Notifications & Hearings

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In accordance with [Executive Order 2020-02, Transparency in Agency Guidance Documents](#), guidance documents promulgated by the department are not new laws. They represent an interpretation of existing law, except as authorized by Idaho Code or incorporated into a contract.

### Agency Contact

Minerals Regulatory Program Manager, Boise Staff Office

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## I. County Notifications for Reclamation Plans

Only reclamation plans and permanent closure plans require a notification to the county. The area shall send a Notice of Reclamation Plan Application (Attachment 24) to the local planning and zoning authority at the county or city in which the operation is located (IDAPA 20.03.02.080.02.b). The notice should be sent as soon as a number is assigned to the plan. A copy of the plan shall not be sent unless requested in writing by the county or city (Idaho Code § 47-1505(7)). A copy of the county/city notice must be forwarded to the Bureau.

Generally, no other interaction with the planning and zoning authority is required or needed. Planning and zoning responsibilities are retained by local governments and they are empowered to determine if mining is an appropriate land use on private lands. The Area staff shall not assist an operator in obtaining a conditional use permit. Responses to written requests for information, or written statements regarding the approval status of a reclamation plan, are acceptable. IDL appearance at a planning and zoning meeting is not required or necessary and is generally not appropriate.

## II. Interagency Notifications

These notices (Attachment 25) should be sent as soon as a number is assigned to the permit or plan and the Area has determined that the plan is complete. Section 50 of these Procedures describes interagency coordination in more detail for situations that require more than a simple notification.

### A. Dredge/Placer Interagency Review

Area staff shall send the complete application out for interagency review to the Idaho Department

of Environmental Quality, the Idaho Department of Fish and Game and the Idaho Department of Water Resources (IDAPA 20.03.01.022.04). If the proposed operations are located on federal lands, the IDL will notify the U.S. Bureau of Land Management or the U.S. Forest Service by adding their names to Attachment 25. All these agencies shall be given 30 days to review and comment on the permit application.

## **B. Surface and Underground Mining and Closure Plan Interagency Review**

Interagency review is required when one or more of the following is true:

1. The site may affect surface water.
2. Ground water is reasonably expected to appear in the pit.
3. The mining operation is reviewed under the requirements of IDAPA 20.03.02.070 (hardrock, underground, and phosphate mines).
4. A permanent closure plan for a cyanidation facility is being review under the requirements of IDAPA 20.03.02.071.

Upon receipt of the plan number the Area should send the application with Attachment 25 to the Idaho Department of Environmental Quality, the Idaho Department of Fish and Game and the Idaho Department of Water Resources for review (IDAPA 20.03.02.080.02.a). If the proposed operations are located on federal lands, copies should also be sent to the U.S. Bureau of Land Management or the U.S. Forest Service. The federal agency contacts can be added to the names on Attachment 25. When possible, allow these agencies 30 days to review and comment on the application.

Surface mines for decorative stone, building stone, and gravel that are unlikely to affect surface or ground waters do not require interagency notification (IDAPA 20.03.02.080.02.a). Courtesy copies shall be sent to the U.S. Bureau of Land Management or the U.S. Forest Service if operations are proposed on lands they administer.

## **III. Public Hearings**

A public hearing may be held for dredge/placer permit, mine reclamation plan, or cyanidation facility closure plan applications. If concerns are registered with IDL by the public, affected land owners, federal land management agencies, the applicant, or other interested entities, or if IDL determines that the proposed operations can reasonably be expected to significantly degrade adjacent surface or ground waters, then a public hearing on the application shall be held (IDAPA 20.03.01.030 and IDAPA 20.03.02.110.01).

### **A. Public Hearing Time and Location**

The public hearing shall be held in the locality of the proposed operation at a reasonable time and place chosen by Area staff (IDAPA 20.03.01.030.04 and IDAPA 20.03.02.110.03).

Mined land reclamation plans have approval deadlines of sixty (60) days, and permanent closure plans have approval deadlines of one hundred eighty (180) days. Hearings do not extend these time limits, so they must be scheduled promptly after receipt of the applications.

## **B. Hearing Notification**

Area staff shall give notice of the date, time, and place of the hearing to the following parties (IDAPA 20.03.01.030.05 and IDAPA 20.03.02.110.04):

1. Federal, state, and local agencies.
2. Native American tribes, as applicable.
3. Affected landowners.
4. Any persons who petitioned for the hearing.

The hearing notice shall be sent by certified mail and postmarked not less than thirty (30) days before the scheduled date of the public hearing for proposed dredge/placer mining operations, and twenty (20) days before the scheduled date of the public hearing for mining or cyanidation facility operations.

## **C. Public Notice**

The director shall notify the general public of the date, time, and place of the hearing by placing a newspaper advertisement once a week, for two (2) consecutive weeks, in the locale of the area covered by the application. The two (2) consecutive weekly advertisements shall begin between seven (7) and twenty (20) days prior to the scheduled date of the hearing (IDAPA 20.03.01.030.06 and IDAPA 20.03.02.110.05).

A copy of the application shall be placed for review in a conspicuous place in the local area of the proposed mining operations, in the nearest IDL Area office, and in IDL's administrative office in Boise.

The public notice shall describe the potentially significant surface water quality degradation and shall contain the applicant's description of the measures that will be taken to prevent degradation of adjacent surface waters from nonpoint sources of pollution (IDAPA 20.03.01.030.07 and IDAPA 20.03.02.110.05).

One primary reason for holding a public hearing is to receive comment on the measures the applicant will use to protect surface water quality from nonpoint source water pollution (IDAPA 20.03.01.030.03 and IDAPA 20.03.02.110.01.b). Another important reason for holding a public hearing is to determine if the application meets the requirements of the applicable Rules (IDAPA 20.03.02.110.01.a).

## **D. Hearing Coordinator**

Area staff shall typically act as the Hearing Coordinator. The Hearing Coordinator may be an Area Manager, Operations Chief, Resource Specialist, or a contracted third party. The appearance of neutrality is important in selecting a Coordinator, regardless of their position within the Department.

## **E. Public Comment Period**

The public comment period shall extend until the close of the hearing. The hearing coordinator may extend the public comment period beyond that date, as necessary, but the sixty (60) day

approval deadline for reclamation plans cannot be extended for this reason.

**F. Hearing Attendees**

Any person may appear at the public hearing and offer oral or written testimony (IDAPA 20.03.01.030.08 and IDAPA 20.03.02.110.06). The hearing coordinator should limit testimony to issues relevant to the application.

**G. Hearing Transcript**

The hearing shall be recorded and transcribed. The transcription shall include the certification language in Attachment 26 (Idaho Rules of Civil Procedure).

**H. Hearing Decision Preparation**

The Hearing Coordinator shall develop a decision document that includes a recommendation to the Director. The Hearing Coordinator will work with the Bureau and Legal Department on policy and legal issues.

The Hearing Coordinator will contact the Director upon completion of the hearing to identify a schedule which will allow a timely review by the Director.

The Hearing Coordinator will provide a copy of a draft decision document to the Legal Department for review prior to submission to the Director. Transcripts and other submitted testimony or exhibits shall accompany the draft document.

The Final Order should be issued by the Director within thirty (30) days following the hearing. A copy of the Final Order and the recommendation of the Hearing Coordinator shall be mailed to the applicant and the parties appearing and giving written or oral testimony.



## Section 35 – Permit & Plan Amendments and Adjustments

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In accordance with [Executive Order 2020-02, Transparency in Agency Guidance Documents](#), guidance documents promulgated by the department are not new laws. They represent an interpretation of existing law, except as authorized by Idaho Code or incorporated into a contract.

### Agency Contact

Minerals Regulatory Program Manager, Boise Staff Office

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## I. When Amendments or Adjustments Are Needed

### A. Operator Initiated

A mine permittee may amend their permit or plan at any time. These amendments are commonly done to expand beyond the permitted area, change the method of operation, increase the size of the excavated area, change the design of waste rock dumps, modify the reclamation to be done, etc.

### B. When an Amendment is Required

If circumstances arise which require significant change in the permit or plan, IDL may require an amendment. The area office must send a letter to the operator that identifies why the amendment is needed and outlines what is needed in the amendment. The details regarding when an amendment can be required vary depending on the type of permit or plan:

1. For **dredge/placer mining**, the circumstances requiring an amendment are most often:
  - i. Changing the method of excavation or processing.
  - ii. Increasing the permitted acreage.
2. For **mined land operations**, the circumstances requiring an amendment should meet the definition of a material change (IDAPA 20.03.02.010.08). These are most often:
  - i. Results in a substantial adverse effect to the geotechnical stability of overburden disposal areas, topsoil, stockpiles, roads, embankments, tailing facilities, cyanidation facilities or pit walls.
  - ii. Substantially modifies surface water management or a water management plan, not to include routine implementation of BMPs.

- iii. Exceeds the permitted acreage.
  - iv. Increases overall estimated reclamation costs by more than fifteen percent.
  - v. For Underground mines with an approved reclamation plan, a new opening to an underground mine.
3. For **closure plans**, changes should first be discussed with DEQ, and the permittee has thirty (30) days to respond with the requested amendment. The circumstances requiring a permanent closure plan to be amended include (IDAPA 20.03.02.091.01):
- i. A material modification or material expansion (IDAPA 20.03.02.010.09) in the cyanidation facility design or operation for which the approved permanent closure plan is no longer adequate.
  - ii. Conditions substantially different from those anticipated in the original permit for which the approved permanent closure plan is no longer adequate.
  - iii. A material change (IDAPA 20.03.02.010.20) occurs.

### **C. When an Adjustment is Required**

If circumstances arise where changes to a Reclamation of Permanent Closure Plan arise but do not meet the level of a Material Change or a Material Modification/Expansion a Plan may be adjusted to document the change(s). The details regarding when an adjustment can be required vary depending on the type of permit or plan:

- 1. For **dredge/placer mining**, adjustments are not delineated in the Dredge and Placer mining Act and are not applicable.
- 2. For **mined land operations**, Adjustments to an approved reclamation plan may be made by agreement between the director and the operator, if the adjustment is consistent with the overall objectives of the approved reclamation plan and so long as surface and ground water quality standards will be met. Adjustments are due to changes that are smaller than material changes (IDAPA 20.03.02.090.03).
- 3. Adjustments to an approved permanent closure plan may be made by agreement between the director and the operator, if the adjustment is consistent with the overall objectives of the approved permanent closure plan and so long as surface and ground water quality standards will be met (IDAPA 20.03.02.091.04).

## **II. Submittal of Amendments and Adjustments**

### **A. Application Required**

The permittee shall submit an application to amend the plan with a standard application form (IDAPA 20.03.01.025 and IDAPA 20.03.02.090). An application form is not required for adjustments .

### **B. Amendment Fees**

Dredge/Placer, reclamation plan, and closure plan amendment applications shall also submit an application fee as stated in Section 20, Section 25, and Section 80 of these Procedures. Adjustments do not require fees.

### **C. Closure Plan Amendment Requirements**

An application to amend a permanent closure plan shall include:

1. A written description of the circumstances that necessitate the amendment.
2. Data supporting the request.
3. The proposed amendment.
4. A description of how the amendment will impact the estimated cost to complete permanent closure pursuant to the chapter.
5. A cost estimate to implement the amended permanent closure plan, prepared in accordance with IDAPA 20.03.02.071.02.
6. Payment of a reasonable fee as may be determined by the director in accordance with Idaho Code § 47-1506(g).

### **D. Application Number**

The permit or plan number will remain the same. A letter extension will not be added to the permit or plan number.

### **E. Review and Approval**

An application to amend a permit or plan will be reviewed and processed as a new permit or plan would be (IDAPA 20.03.01.025, IDAPA 20.03.02.090 and IDAPA 20.03.02.091).

Operators who are not current with payments to the Bond Assurance Fund should not be allowed to amend their permits or plans (Idaho Code § 47-1805).

### **F. Limited Scope for Reclamation Plans**

The scope of the review and approval shall be limited to those areas affected by the proposed amendment. Approval of an amendment shall not be conditioned upon the performance of any actions not required by the approved reclamation plan or the proposed amendment itself, unless the operator agrees to perform such actions (IDAPA 20.03.02.090.02).

### **G. Actions That Are Not Amendments**

The following actions shall not be processed as permit or plan amendments:

1. Increasing the number of disturbed acres reported for participation in the Bond Assurance Fund.
2. Changing a mailing address.
3. Assigning a permit or plan.

## **III. Unforeseen Events**

Unforeseen events for dredge/placer permits and reclamation plans are generally things beyond the control of a mine operator, such as floods, severe storms, unexpected rock instability, emergencies, and similar events. A reasonable person would not foresee that a problem was going to occur, and that the permit or plan would need to be amended as a result. Unforeseen events are **not** related to poor BMP use or maintenance, nonconformance to a plan or rule that causes a problem, mining without an approved permit or plan, or similar actions.

**A. Operations May Continue**

If an operator finds that unforeseen events or unexpected conditions require immediate deviation from an approved permit or plan, the operator may continue mining as dictated by the changed conditions (IDAPA 20.03.01.026 and IDAPA 20.03.02.100). These operations may not comply with the currently approved permit or plan, but this is expected to be a temporary condition pending submission and approval of an amended permit. This shall not excuse the mine operator from complying with the financial assurance, BMP, and reclamation requirements for dredge/placer mining (IDAPA 20.03.01.035 and 040) and mined land reclamation (IDAPA 20.03.02.120 and 140) (IDAPA 20.03.01.026.01 and IDAPA 20.03.02.100.01).

**B. Notification for Dredge/Placer Mining**

Notification of such unforeseen events shall be given to the department within forty-eight (48) hours after discovery (IDAPA 20.03.01.026.02).

**C. Notification for Mined Land Reclamation**

Notification of such unforeseen events shall be given to the department within ten (10) days after discovery (IDAPA 20.03.02.100.02).

**D. Deadline for Submission of Amendment**

An application to amend the permit shall be submitted within thirty (30) days of deviation from the approved permit or plan by the operator (IDAPA 20.03.01.026.02 and IDAPA 20.03.02.100.02).



## Section 40 – Bonding

In accordance with [Executive Order 2020-02, Transparency in Agency Guidance Documents](#), guidance documents promulgated by the department are not new laws. They represent an interpretation of existing law, except as authorized by Idaho Code or incorporated into a contract.

### Agency Contact

Minerals Regulatory Program Manager, Boise Staff Office

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## I. Types of Financial Assurance

Financial assurance types are described in IDAPA 20.03.01.035 and IDAPA 20.03.02.122. Attachment 27 is a financial assurance information packet to be given to mine operators and their bonding companies as needed. Original financial assurance documents shall be physically forwarded to the Bureau in Boise for processing.

### A. Surety Bonds

IDAPA 20.03.01.035.02.a and IDAPA 20.03.02.122.01 discuss surety bonds. They are issued through an insurance company and the customer pays a yearly fee to the insurance company. The customer’s insurance agent will often have a national company underwrite the actual bond. For example, Bob’s Insurance Company may acquire a bond for a mining company, but the actual company guaranteeing the bond would be a company such as Travelers Insurance, National Guaranty and Fire Corporation, etc. This company must be listed in Circular 570 of the U.S. Department of the Treasury.

The mining company is called the principal on the bonding forms. The principal on a surety bond does not have to be the same entity identified as the permittee or operator.

The actual bond consists of an IDL form with a Power of Attorney from the insurance company attached to it. Attachment 28 is the surety bond form for dredge/placer permits, and Attachment 29 is the surety bond form for reclamation plans and mineral leases. The expiration date of the bonds is one hundred twenty (120) days after notice for placer mining, and ninety (90) days after notice for surface mining, so different bond forms must be used. The form has a space for the amount of the bond, the bond number, the principal, the insurance company providing the coverage, the permit or plan number, and other applicable information.

A “Bond Rider” or “Rider” is a document issued by the insurance company that modifies the terms of the bond. These are often issued to change the amount of the bond, the permit or plan that it covers, or even the mining company. They become an official part of the bond and must also have a Power of Attorney from the insurance company. Only the insurance company who issued the bond can issue a bond rider. Bond riders must also be sent to the Bureau in Boise for processing.

If a bond is received and the permit or plan number is missing or incorrect, then a bond rider is needed to correct it. The surety company has a copy on file, so simply entering the permit or plan number is not an acceptable fix.

When a permit or plan is assigned to a new operator, and the new operator is providing a surety bond, the bond must include the following bond rider (IDAPA 20.03.01.027 and IDAPA 20.03.02.122.01.c): “[Surety company or principal] understands and expressly agrees that the liability under this bond shall extend to all acts for which reclamation is required on areas disturbed in connection with (placer/dredge mining permit OR surface mining reclamation plan [number] or permanent closure plan [number]), both prior to and subsequent to the date of this rider.”

## **B. Certificates of Deposit and Time Deposit Receipts**

Certificates of Deposit are also called a CD, and they are discussed in IDAPA 20.03.01.035.02.b and IDAPA 20.03.02.122.02. IDL must hold a CD or a time deposit receipt that identifies the principle, the permit or plan holder, and other details. A collateral bond form will also be required with the CD (Attachment 30). CDs are kept at the State Treasurer’s Office for safekeeping. The following requirements must be met:

1. The current market value, not the face value, determines the value of the CD for use as a bond. Penalties for early withdrawal must not reduce the value of the CD below the amount shown on the collateral bond form.
2. The CD must be issued in the name of “John Doe or Idaho Department of Lands”.
3. Interest will be allowed to accrue and may be paid by the bank, upon demand, to the permittee, or other person which posted the collateral bond. IDL does not have a legal right to any accumulated interest.
4. The amount of a CD shall not exceed the maximum amount insured by the Federal Deposit Insurance Corporation or Federal Savings and Loan Insurance Corporation or their successors. In April, 2020 this is \$250,000 per depositor, per ownership category, per bank.

5. Banks issuing CDs shall waive all rights of set-off or liens which it has or might have against such certificates. This is handled by the Bureau requesting that a bank sign a specific waiver. The bank must put a hold on these accounts to prevent withdrawal of the funds without IDL authorization.
6. All CDs and time deposit receipts shall be automatically renewable.
7. The CD or time deposit receipt must be issued by a bank licensed to do business in Idaho. A jurisdiction agreement may be needed to accomplish this. IDL must also have the ability to cash this bond in Idaho.

The account party does not have to be the same entity identified as the permittee or operator.

### **C. Letter of Credit**

These are also called a LOC, and they are discussed in IDAPA 20.03.01.035.02.c and IDAPA 20.03.02.122.03. A LOC is an instrument executed by a bank doing business in Idaho, made at the request of a customer, which states that the issuing bank will honor drafts for payment upon compliance with the terms of the credit. The customer pays a yearly fee to the bank to maintain this line of credit. IDL must hold the original LOC, usually in the Bureau files. A collateral bond form will also be required with the LOC (Attachment 30). The following requirements must be met:

1. The format for the LOC is very rigid and generally cannot be changed (Attachment 31). Consultation with the Bureau and a Deputy Attorney General is required for any deviations from the given format.
2. LOCs must be issued by an institution authorized to do business in the state of Idaho or through a confirming bank authorized to do business in the state of Idaho which engages that it will itself honor the credit in full. Alternatively, a foreign bank may execute or consent to jurisdiction of Idaho courts. Consult with Bureau if this is needed.
3. The account party on a LOC must be identical to the entity identified as the permittee or operator.

### **D. Cash**

An operator must give a check or cash to IDL with a collateral bond form (Attachment 30). The check will be cashed and the money deposited in the appropriate dedicated account. IDL keeps any interest that accrues from cash bonds.

### **E. Real Property**

Real property may be used as financial assurance as described in IDAPA 20.03.02.122.04. It may not be used for dredge/placer mines. Real property is land and appurtenances as defined in Section 55-101, Idaho Code. This includes water rights, mining claims, and buildings on the land. The real property must be a perfected, first lien security interest in real property located within the state of Idaho, in favor of the state of Idaho. Property that has been, or will be, mined is generally not acceptable. The following information must be submitted:

1. Value of the real property, with a deduction for reasonable IDL expenses to sell the property. The operator must pay for an appraisal, with an IDL approved appraiser;
2. Legal description of the property and a site improvement survey with recorded easements, if any;
3. Proof of ownership and title;
4. Current title binder providing evidence of clear title; and

5. Phase I environmental assessment.

An IDL deed of trust form may be used for lands 40 acres or less in size. An IDL mortgage form must be used for larger parcels.

## **F. Trusts**

A trust may be used as financial assurance as described in IDAPA 20.03.02.122.05. It may not be used for dredge/placer mines. Each trust will have a customized trust agreement negotiated between IDL, the operator, and the trustee. The proposed trustee, range of investments, initial funding, schedule of payments, trustee fees, and expected rate of return must be provided by the operator. The following conditions will also apply:

1. The joint party on the trust must be identical to the permitted entity;
2. Trustee must have the authority to act as a trustee regulated and examined by a federal or state agency;
3. Equities may include stock funds or stock index funds, but not individual stocks or direct investments in the operator's company or parent company. Corporate equities must not exceed seventy percent (70%) of the total value of the trust fund;
4. Bonds or money market funds must be investment-grade rated securities having a Standard and Poor's rating of AAA or AA or an equivalent rating from a nationally recognized securities rating service;
5. Initial funding must be sufficient to cover the estimated costs needed. Payments may be made over time as the operation grows. If covering post-closure costs, payments must equal the estimated need at the time of closure;
6. Disbursements from the trust will only occur upon written authorization of the Department;
7. Trusts will be irrevocable; and
8. Income accrued on trust funds will be retained in the trust, except as otherwise agreed by the director under the terms of an agreement governing the trust.

## **G. Corporate Guarantees**

Corporate Guarantees may be used as financial assurance as described in IDAPA 20.03.02.122.06. They may not be used for dredge/placer mines. A corporate guarantee is essentially a promise that the operator will perform the reclamation. If they go bankrupt, then no money may be available for IDL to perform the reclamation. As a result, these forms of financial assurance have several requirements:

1. Only 50% or less of a mine's overall financial assurance can be met with a corporate guarantee;
2. Only operations covered by IDAPA 20.03.02.070 and 071 may use a corporate guarantee;
3. Post-closure costs may not be covered by a corporate guarantee; and
4. Several financial tests and other requirements are listed in IDAPA 20.03.02.122.06.

## II. Financial Assurance Cancellations

Cancellation notices for surety bonds, certificates of deposit, time deposit receipts, and letters of credit are usually received by the Bureau. If an Area office receives a financial assurance cancellation notice, they shall retain a copy and send the original to the Bureau for follow up. The action required is dependent on the type of financial assurance.

### A. Surety Bond

1. For surety bonds on dredge/placer mines, IDL must be given one hundred twenty (120) days notice prior to the date of cancellation (IDAPA 20.03.01.035.04).
2. For surface mines and closure plans, IDL must be given ninety (90) days notice prior to the date of cancellation (Idaho Code § 47-1512(f)).

The Bureau will respond with a letter to the surety company acknowledging the cancellation. If the cancellation date stated in the notice is less than the prescribed time, then the letter will state that the actual cancellation date is one hundred twenty (120) or ninety (90) days from the date IDL received the notice. The letter shall also state that IDL will retain liability against the bond until the site is reclaimed or a replacement bond is posted, even if it is past the cancellation date. This is allowed according to the terms on the bond form and the applicable rules (IDAPA 20.03.01.035.04). A copy of this letter will be sent to the operator and the Area office.

When the response letter to the surety company is sent, a letter requesting replacement bonding will also be sent to the operator. If the operator does not submit an acceptable replacement bond prior to the effective date of cancellation, or within thirty (30) days following written notice of cancellation by the director, whichever is later, then IDL may seek injunctive relief and the operator shall cease mining activities due to a lack of bonding (IDAPA 20.03.01.035.04 and Idaho Code § 47-1512(f)).

### B. Certificate of Deposit and Time Deposit Receipts

These must be automatically renewable, and the banks cannot release the funds without written permission from IDL. If a cancellation notice is received, then the Bureau will send a letter to the bank stating that the financial assurance cannot be released by IDL until a replacement is provided or reclamation is completed. A copy of the letter will be sent to the operator and the Area. When the response letter to the bank is sent, a letter requesting replacement financial assurance will also be sent to the operator.

If a bank errors and releases the funds prior to a replacement being accepted, then the bank is liable for the financial assurance amount according to the signed waiver of all rights of set-off or liens.

### C. Letter of Credit

Cancellation notices for LOCs must be acted upon immediately. LOCs are unlike surety bonds in one important respect: When a surety bond expires, IDL can still cash it after the expiration date; When a LOC expires, it is gone and IDL has nothing.

The terms of the letter of credit require that IDL be given one hundred twenty (120) days notice prior to the date of cancellation. The Bureau will respond with a letter to the bank acknowledging the cancellation. If the cancellation date stated in the notice is less than the prescribed time, then the letter will state that the actual cancellation date is one hundred twenty (120) days from the date IDL received the notice. A copy of this letter will be sent to the operator and the Area office.

When the response letter to the bank is sent, a letter requesting replacement financial assurance will also be sent to the operator. If the operator does not submit an acceptable replacement thirty (30) days prior to the effective date of cancellation and reclamation is not completed, then IDL may cash the Letter of Credit and hold the cash as financial assurance.

### **III. Financial Assurance Through the Bond Assurance Fund**

Most operators of dredge/placer mines and surface mines provide financial assurance through the Bond Assurance Fund (BAF) (IDAPA 20.03.03.016). Participants in the BAF pay a yearly fee to IDL, and all such fees are deposited into a dedicated account. This account is used to fund reclamation of a site when an operator fails to perform the required reclamation. Any operator who provides financial assurance at a rate of \$5,500 per acre or more may opt out of the BAF.

#### **A. Operations Not Eligible for the BAF**

Not all mining operations may participate in the BAF. Eligibility is limited to reduce the risk of overdrawing the fund due to overly expensive reclamation. The following dredge/placer or surface mines are not eligible for participation in the BAF (IDAPA 20.03.03.017):

1. A mine with greater than forty (40) acres of un-reclaimed disturbed land. Un-reclaimed disturbance is that which does not meet the final bond release criteria in IDAPA 20.03.01.035.07 and IDAPA 20.03.02.120.10.
2. Mines with an estimated reclamation cost in excess of one hundred thousand dollars (\$220,000), regardless of surface acreage.
3. Phosphate mines.
4. Hardrock mines such as gold, silver, molybdenum, copper, lead, zinc, cobalt, and other precious or base metal mines.
5. Mines with a reasonable potential to release heavy metals or other substances harmful to human health or the environment, but not including substances such as fuels and other materials commonly used in excavation or construction.
6. Mines with unresolved violations of IDAPA 20.03.01 and IDAPA 20.03.02, unless payment of the BAF resolves the violation.
7. Mines on BLM or USFS land, or on lands with federal reserved mineral rights that require a federally recognized financial assurance. Neither the BLM nor the USFS currently recognizes the BAF as an acceptable form of financial assurance (IDAPA 20.03.03.020).

## **B. Other Limitations on BAF Participation**

In addition to limiting the liability associated with each mine, the BAF attempts to limit the liability associated with each operator. The most common reason IDL has cashed financial assurance and contracted reclamation in the past is due to bankruptcy of an operator. An operator with multiple operations could hold an unacceptable level of risk for the BAF. The following limitations shall apply in addition to the ones cited above IDAPA 20.03.03.017 and 018:

1. An operator who has multiple permits or plans may not participate in the BAF with more than a total amount of forty (40) disturbed acres. Consultation with the Instrument Management System or the Program Manager may be required to determine this because some operators have permits or plans in more than one Supervisory Area. An operator who has multiple plans and permits with a total disturbance in excess of forty (40) acres may participate in the BAF with one (1) or more sites that contain less than forty (40) acres of total disturbance. These operators may also choose to not participate in the BAF at all. A plan or permit that does not provide alternative financial assistance through the BAF must be covered by some other form of financial assurance.
2. Operators who have one (1) or more mining operations that are ineligible to participate in the BAF may also choose to not participate in the BAF respect to all other mining operations in their name. An operator who does not participate in the BAF must provide some other form of financial assurance.
3. Operators with unresolved violations of IDAPA 20.03.01 and IDAPA 20.03.02.
4. Operators who have not reimbursed the BAF after forfeiting money from the Reclamation Fund.
5. An operator who has forfeited some other form of financial assurance.

## **C. Fee Amount**

The fee is based on the number of disturbed acres, which is usually less than the total permitted acres. The acreages of disturbed or affected land at the mining operation shall not be rounded when determining annual payments (IDAPA 20.03.03.026.02). The fee schedule is established by the Land Board and can only be modified by the Land Board (IDAPA 20.03.03.026.01). The basic fee schedule is listed on Attachment 32. Please note that this schedule is prorated for new plan approvals when only part of a year is being paid for. Use the spreadsheet in Attachment 33 to determine the prorated payment amounts. Acres used to calculate the fee shall include all currently disturbed acres and those acres planned to be disturbed during the next twelve (12) months (IDAPA 20.03.03.026.02).

## **D. When BAF Payments Are Made**

New mine operators will be assessed a prorated fee upon lease, plan, or permit approval. The amount of the fee and the number of disturbed acres through the billing cycle (ending November 1) shall be included in the approval documents. Payment must be made prior to the start of mining operations.

All other BAF participants are billed annually around mid-September with a due date of November 1. Late payment penalties of twenty-five dollars \$25.00 or one percent (1%), of the outstanding balance, whichever is greater, shall be assessed. Late penalties will not be waived except in unusual circumstances such as an assignment.

### **E. Acknowledgement Forms**

Permit or plan holders are responsible for paying the fees and providing written acknowledgement of their participation in the fund (Idaho Code § 47-1803(2)). The operator may have someone else pay the fee, but an authorized signature from the operator is required on the acknowledgement form (Attachment 34).

### **F. Assignments**

When a permit or plan is assigned, financial assurance requirements are also assumed by the new permit or plan holder. If the new operator is not eligible to participate in the reclamation fund, they must provide some other form of financial assurance before the assignment is approved. No fees will be refunded following an assignment (IDAPA 20.03.03.026.05). All BAF payments are non-refundable (IDAPA 20.03.03.026.03).

### **G. Supplemental Payments**

If the Area determines that an operator has disturbed more acreage than was covered under the BAF, the Area may request a supplemental payment from the operator (IDAPA 20.03.03.026.04). Supplemental payments are not prorated. To determine the amount of the supplemental payment, subtract the lower payment amount from the higher payment amount.

If the operator's disturbance is only one payment level higher than was paid for, the Area may use their discretion as to whether or not a supplemental payment is needed prior to the next annual billing. If, however, the operator's disturbance is two or more payment levels higher, the Area shall request the supplemental payment.

### **H. Lack of BAF Payment**

Non-payment of the fee constitutes a lack of financial assurance for those operators required to participate in the reclamation fund (IDAPA 20.03.03.026.06). The following schedule presents the dates and tasks to be completed in order to ensure that operators are submitting yearly payments. This schedule also guides the Minerals Program Manager and the Minerals Program Specialist to understand the processes completed by the RPA Bureau Technical Record Specialist (TRS), Fiscal, and the Area Offices, and the deadlines that all parties involved have to meet.

1. Second Friday in September – No changes can be accepted from the Areas for BAF accounts.
2. Last Week of September – Fiscal, with help from the Minerals Program Specialist, sends out the yearly BAF bill with the BAF Acknowledgement Form uncertified.
3. November 1 – BAF accounts not paid are considered in default, but Fiscal allows a one-week grace period.
4. Second/Third week in November – Fiscal runs late fees, and the RPA Bureau TRS checks IMS, Navision, and the receipt log for payments of every default BAF account. The Areas receive notice of BAF accounts in default in their jurisdiction, and have four days to review these accounts and report back to the RPA Bureau TRS.
5. Third or Fourth Friday in November – Fiscal, with help from the Minerals Program Specialist, sends first notice of default uncertified and certified.

6. Third week in December (week before Christmas) – The Minerals Program Specialist contacts plan holders with accounts in default by phone, notifying them that their accounts are in default.
7. First Friday in February – The Minerals Program Specialist sends the first notice seeking legal resolution uncertified and certified to all remaining BAF accounts in default.
8. First Friday in March – The Minerals Program Specialist sends the second notice seeking legal resolution uncertified and certified to all remaining BAF accounts in default.
9. First Friday in April – The Minerals Program Specialist drafts judicial checklists for any remaining BAF accounts in default. The Minerals Program Manager and the RPA Bureau Chief review the judicial checklists. Once the Minerals Program Manager and the RPA Bureau Chief approve the judicial checklists, the accounts are forwarded to the Attorney General’s Office for legal remedy.

See Section 70 of these Procedures to determine what actions can be taken after Judicial Checklists are submitted to the Attorney General’s Office.

#### **I. BAF Acknowledgement Form Collection**

Pursuant to Idaho Code §47-1512(b), (j), and IDAPA 20.03.03.026.02 and 20.03.02.120.07, a BAF Acknowledgement Form must be completed by the operator and returned to IDL every year. Failure to do so may constitute a lack of financial assurance, which can result in penalties of \$500.00 to \$2,500.00 per day of non-compliance. The following collection schedule presents the dates and tasks to be completed by the Minerals Program Specialist.

1. Last week of September – Send out the BAF Acknowledgement Form with the yearly BAF billing.
2. Third week of November – Send Areas an update in a spreadsheet of all BAF Acknowledgement Forms with acreage discrepancies with Aerial Review KMZs.
3. First Friday in December – Send out a letter requesting BAF Acknowledgement Forms from any account that hasn’t submitted one for that year.
4. First Friday in January – Send Areas a second update in a spreadsheet of all BAF Acknowledgement Forms with acreage discrepancies with Aerial Review KMZs.
5. Second Friday in January – Send out a second letter requesting BAF Acknowledgement Forms from any account that still hasn’t submitted one. Send Areas updates as necessary.

## **IV. Other Agency Bonds Are Recognized**

Interagency MOUs generally describe how financial assurance is recognized between agencies and the coordination required for setting financial assurance amounts and reducing or releasing financial assurance. The intent is to prevent an operator from providing financial assurance twice for the same operation.

## **A. Federal Financial Assurance**

Financial assurance provided to either the U.S. Forest Service or the Bureau of Land Management that equal or exceed the amount determined by the department shall satisfy the department's financial assurance requirements for placer and surface mining (IDAPA 20.03.01.035.11 and IDAPA 20.03.02.120.08). A copy of the federal financial assurance should be submitted to the department by the other agency.

Federal financial assurance should only cover reclamation on the respective federal lands because these federal agencies generally do not have any regulatory authority over private or state lands. Financial assurance on private or state lands must be held by IDL or another agency with authority over private or state lands.

If the Area determines that a cyanide facility closure financial assurance established by a federal agency is inadequate because it has not included one (1) or more permanent closure tasks required by IDL, the Area may require the operator to file an additional financial assurance amount to satisfy the IDL requirements (IDAPA 20.03.02.121.06).

## **B. Other State Financial Assurances**

Other state agencies may have financial assurance authority on specific mine components when those components are present. Financial assurance provided to these agencies that equal or exceed the amount determined by the department shall satisfy the department's financial assurance requirements. A copy of the other state agency financial assurance should be submitted to the department by the other agency. These may include, but are not limited to:

1. Dam safety financial assurance held by Idaho Department of Water Resources (IDWR). They have permitting and financial assurance authority for tailings dams over a specific size. The plans are called abandonment plans and deal specifically with how dams and their impoundments are reclaimed to ensure long term stability.
2. Cyanide financial assurance held by Idaho Department of Environmental Quality (IDEQ). They have permitting and financial assurance authority for cyanide processing facilities permitted and constructed prior to July 1, 2005. Cyanide facilities permitted or modified after this date will provide financial assurance through IDL.

# **V. When Financial Assurance is Required**

## **A. Dredge/Placer Permits**

All dredge/placer permits must have financial assurance in place prior to the permit being mailed to the applicant for signature (IDAPA 20.03.01.022.10) and prior to any placer mining operations being started. See Subsection 20.I of these Procedures for information regarding what constitutes placer mining.

If financial assurance is not obtained within twelve (12) months of the Land Board's approval, the approval shall be withdrawn (IDAPA 20.03.01.022.10).

## **B. Reclamation Plans**

The following reclamation plans must have financial assurance:

1. All surface mining operations on endowment land conducted by a city, county, or local highway district on a state mineral lease must have valid financial assurance as required under the terms of the lease. Usually financial assurance will be provided by participation in the Bond Assurance Fund (Section III of this Procedure). If they have over forty (40) disturbed acres, however, then financial assurance must be through some other form (Section I of this Procedure). The mineral lease financial assurance must may not be used to provide reclamation financial assurance must.
2. Surface mining operations conducted by the Idaho Transportation Department on endowment lands with a mineral lease must have valid financial assurance as required under the terms of the lease. A statewide bond through the Department of Administration, Bureau of Risk Management, is used to cover this financial assurance requirement (Attachment 11). This financial assurance shall be noted in the approval memo and letter (Attachment 18 with language from Attachment 19, and Attachment 22).
3. All other mining operations required to have a reclamation plan must have financial assurance in place before mining begins (IDAPA 20.03.02.120.01).

If financial assurance is not obtained within eighteen (18) months of plan approval, the reclamation plan may be cancelled by IDL. The operator may request an extension prior to the end of the eighteen (18) months (IDAPA 20.03.02.120.01). An operator may resubmit the plan at any time for subsequent review and possible approval.

### **C. Closure Plans**

Prior to beginning construction or operation of a cyanidation facility under IDL's authority, but no later than ninety (90) days after approval of a permanent closure plan, an operator shall submit a closure financial assurance on the appropriate IDL form (IDAPA 20.03.02.121.01).

Financial assurance may be provided incrementally if the approved plan contains discrete phases and incremental financial assurance was specifically approved. Financial assurance should increase as the additional permanent closure liability increases. The financial assurance must precede the additional liability (IDAPA 20.03.02.121.01).

If phased financial assurance is not authorized, the operator is required to file the entire amount required to complete permanent closure of all planned phases prior to any construction (IDAPA 20.03.02.121.01).

## **VI. Financial Assurance Amounts**

### **A. Dredge/Placer Mining**

The amount of the financial assurance shall be the reasonable costs of reclamation plus ten percent (10%), but it may not exceed one thousand eight hundred dollars (\$1,800) for any given acre of disturbed land (Idaho Code § 47-1317(b)).

## **B. Surface Mining**

Mines with five (5) or less disturbed acres will submit financial assurance of at least five thousand dollars (\$5,000) per acre unless the estimated reasonable costs of reclamation is demonstrated to be less than that amount. The financial assurance may not exceed fifteen thousand dollars (\$15,000) per acre unless the following conditions have been met (IDAPA 20.03.02.120.02):

1. The Area has determined that higher amount of financial assurance is needed to reclaim the mine.
2. The Area has sent the operator written notice stating why they believe the higher amount of financial assurance is needed. Attachment 35 is a sample letter. This letter also requests the written waiver to a hearing mentioned in the next step.
3. IDL has conducted a hearing before the Land Board where the operator is allowed to give testimony concerning the amount of the proposed financial assurance. The hearing may be waived, in writing, by the operator. The hearing shall not extend the time limit in which the department must act on a plan, so this letter must be sent out in the first week or two after a plan is received.

Mines with more than five (5) disturbed acres will submit financial assurance in the amount necessary for the Board to pay the estimated reasonable costs of reclamation (IDAPA 20.03.02.120.03). These costs include all indirect costs listed in IDAPA 20.03.02.120.04. Salvage value may not be used to reduce or discount reclamation costs (IDAPA 20.03.02.120.05).

## **C. Closure Plans**

The financial assurance shall be in an amount equal to the total costs estimated under IDAPA 20.03.02.071.02.k and 20.03.02.121 (IDAPA 20.03.02.121.01).

For closure plans affecting five (5) or less disturbed acres, the Board may require financial assurance in excess of five million dollars (\$5,000,000) if the following conditions have been met (IDAPA 20.03.02.121.02):

1. The Area has determined that the higher amount of financial assurance is needed to ensure permanent closure.
2. The Area has sent to the operator written notice explaining why they believe the higher amount of financial assurance is needed. A sample letter should be similar to Attachment 35.
3. IDL has conducted a hearing before the Land Board where the operator is allowed to give testimony concerning the amount of the proposed financial assurance. The hearing may be waived, in writing, by the operator. The hearing shall not extend the time limit in which the department must act on a plan.

Closure plans with more than five (5) disturbed acres will submit financial assurance in the amount necessary for the Board to pay the estimated reasonable costs of reclamation (IDAPA 20.03.02.121.03). These costs include all indirect costs listed in IDAPA 20.03.02.121.04. Salvage value may not be used to reduce or discount reclamation costs (IDAPA 20.03.02.121.05).

#### **D. Blanket Financial Assurance**

When a mine operator has multiple mining sites, IDL may accept a blanket financial assurance instead of separate financial assurances under approved permits or plans. This provision does not apply to the Bond Assurance Fund. The amount of the blanket financial assurance shall be the sum of all the separate financial assurance that are being combined into a single bond (IDAPA 20.03.01.035.03 and IDAPA 20.03.02.122.07).

A blanket surety bond shall include a rider that dictates how much financial assurance is associated with each permit or plan. A collateral bond (CD, time deposit receipt, LOC, cash) shall include a spreadsheet attachment that indicates how much financial assurance is associated with each permit or plan.

### **VII. Annual Financial Assurance Review for Surface Mining and Closure Plans**

#### **A. Surface Mining Financial Assurance Review**

Surface mining operators are required to keep their financial assurance amount up to date every year (IDAPA 20.03.02.120.07). At the beginning of each calendar year, the operator shall notify the Area of any increase in the acreage of affected land which will result from planned surface mining activity within the next twelve (12) months. The financial assurance must be increased as needed to cover the additional acreage.

An operator's failure to maintain adequate financial assurance is a violation of IDAPA 20.03.02.120.07. Surface mining operations may not be conducted on additional acreage until the appropriate financial assurance and accompanying form has been filed with IDL. An operator must submit an additional financial assurance and the appropriate form within ninety (90) days of receiving a written request from IDL.

#### **B. Closure Plan Financial Assurance Review**

The Area shall periodically review closure financial assurances to determine their adequacy for implementing an approved permanent closure plan (IDAPA 20.03.02.121.07). Once every three (3) years, the operator shall submit an updated permanent closure cost estimate to the Area for review. The Area will review the updated estimate to determine whether the existing financial assurance amount is adequate. Any resulting change in the amount of the financial assurance does not in and of itself require an amendment to the permanent closure plan (IDAPA 20.03.02.121.07.a).

When the director determines that there has been a material change in the estimated reasonable costs to complete permanent closure (IDAPA 20.03.02.121.07.b):

1. The Area shall notify the operator in writing of his intent to reevaluate the amount of the financial assurance. Within a reasonable time period determined by the Area, the operator shall provide a revised cost estimate to implement the approved permanent closure plan.

2. Within thirty (30) days of receiving the revised cost estimate, the area shall notify the operator in writing of the financial assurance calculation adequacy.
3. Within ninety (90) days of receiving the Area's notification of adequacy, the operator shall make the appropriate adjustment to the financial assurance or IDL will reduce the financial assurance as appropriate.

The above financial assurance reviews may be conducted by a qualified independent party to verify the accuracy of the revised estimated costs to complete permanent closure. The qualified independent party shall be selected by IDL and the operator, and paid for by the operator, as described in Subsection 80.D of these Procedures (IDAPA 20.03.02.121.07.d).

The Area may conduct an internal review of the amount of each financial assurance annually to determine whether it is adequate to complete permanent closure (IDAPA 20.03.02.121.07.c). No fee is charged for this review.

## **VIII. Financial Assurance Reduction and Release**

### **A. Timely Response Is Required**

An operator's request for financial assurance reduction or release must be answered within thirty (30) days of the receiving the request, unless weather conditions prevent inspection (IDAPA 20.03.01.035.06 and .07 and IDAPA 20.03.02.120.09 and .10). The Area shall provide the operator a Request For Financial Assurance Release Form (Attachment 36) and inspect the site to verify the request. If the Area agrees with the request, they shall also sign the above form and send it to the Bureau with a copy of the inspection report. The Bureau will then review the request. If approved, the Bureau will make the appropriate changes to the Information Management System and send a letter to the operator approving the request.

Financial assurance release for closure plans may only be done following a closure plan financial assurance review as described in Subsection 40.VII.B above (IDAPA 20.03.02.121.08). This could be a formal review through an independent third party, or an annual review by the Area.

### **B. Financial Assurance Release Guidelines**

Financial assurance release for dredge/placer and surface mining may occur under the following schedule (IDAPA 20.03.01.035.07, IDAPA 20.03.02.120.10, and IDAPA 20.03.02.140.11):

1. Sixty percent (60%) of the financial assurance may be released when the required backfilling, regarding, topsoil placement or drainage control structure installation has been completed as specified in the permit or plan.
2. After seeding or other revegetative activities have been completed an additional twenty-five (25%) of the financial assurance may be released.

The remaining financial assurance shall not be released until a permit or plan is ready for retirement. See Section 60 of these Procedures for more details.

Financial assurance release for closure plans shall be done according to the schedule in the permanent closure plan. The schedule may be adjusted to reflect the operator's performance of permanent closure activities and their demonstrated effectiveness.

Upon completion of a closure activity, the operator may request in writing a financial assurance reduction for that activity. The Area will consult with DEQ and verify that the activity meets the requirements of the permanent closure plan. If it does, the Area will send a memo to the Program Manager requesting financial assurance release. The memo will specify:

- i. The amount of financial assurance to be released.
- ii. The activities completed to justify the financial assurance release.
- iii. The response received from DEQ.
- iv. The amount of the remaining financial assurance.

The Bureau will then make the appropriate changes to the Information Management System and send a letter to the operator approving the request.

Final financial assurance release may only occur after IDL approval of the permanent closure report, and when the closure plan is ready for termination. See Section 85 of these Procedures for more details.



## Section 45 – Exploration

In accordance with [Executive Order 2020-02, Transparency in Agency Guidance Documents](#), guidance documents promulgated by the department are not new laws. They represent an interpretation of existing law, except as authorized by Idaho Code or incorporated into a contract.

### Agency Contact

Minerals Regulatory Program Manager, Boise Staff Office

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## I. What Constitutes Exploration

Exploration is the activities performed on the surface of lands to locate mineral bodies and to determine the mineability and merchantability thereof. These activities include, but are not limited to, construction of roads, trenches, and exploration drill holes (IDAPA 20.03.01.010.25 and IDAPA 20.03.02.010.13). Exploration only requires a notification. A permit or plan is not required as long as the activities fit the definitions of exploration. The following criteria shall be used to differentiate between exploration and a mining operation:

### A. Placer Or Dredge Exploration

Placer or dredge mining exploration causes a cumulative surface disturbance of up to one-half (½) acre of land, including roads. Cumulative disturbance may occur over the span of several years. Any cumulative disturbance in excess of one-half (½) acre of land is considered placer or dredge mining and a permit is required (IDAPA 20.03.01.020.03).

### B. Surface Mining Exploration

Surface mining exploration affects five (5) contiguous acres or less, not including exploration roads, during a period of twelve (12) consecutive months (IDAPA 20.03.02.010.47). No sale of the material may occur. If material is being sold, then it is a surface mining operation and a plan is required regardless of size.

If the disturbance is noncontiguous, exploration can affect ten (10) noncontiguous acres or less, not including exploration roads, during a period of twelve (12) consecutive months. The ten (10) acres, however, must constitute less than fifteen percent (15%) of the smallest circle that can be drawn around the affected land (IDAPA 20.03.02.010.47).

Any surface mining exploration disturbance in excess of the above amounts shall be deemed to be a surface mining operation and a reclamation plan must be submitted (IDAPA 20.03.02.010.47).

## **II. Exploration Notification**

### **A. Notice**

Any person desiring to conduct exploration operations using motorized earth-moving equipment shall, within seven (7) days of commencing exploration, notify the director (IDAPA 20.03.01.020.01 and IDAPA 20.03.02.060.03). The notice shall include the following (IDAPA 20.03.01.020.01 and IDAPA 20.03.02.060.04):

1. The name and address of the operator.
2. The legal description of the exploration operation and its starting and estimated completion date.
3. The anticipated size of the exploration operation and the general method of operation.

### **B. Confidentiality**

Exploration notices shall be treated confidential pursuant to Idaho Code § 74-104 through 74-108, and IDAPA 20.03.02.060.05.

### **C. Recreational Suction Dredging**

Motorized earth moving equipment does not include suction dredges with an intake diameter of eight inches (8") or less (IDAPA 20.03.01.010.12 and 013.06). These suction dredges are administered by the Idaho Department of Water Resources under their recreational dredging program. This only applies to the regulatory program. Riverbed mineral leasing on navigable rivers has a different definition of motorized equipment.

### **D. Bonding**

No bonding is required under IDAPA 20.03.01.020.04 or IDAPA 20.03.02.060.01 for exploration. Exploration on state lands, however, may require bonding under Title 47, Chapter 7, Idaho Code or related rules.

## **III. Notification Receipt and Processing**

Exploration notices should be sent to the applicable Area office. If they are received by the incorrect Area office or the Bureau, they will be forwarded to the correct Area office. The Bureau shall be sent a copy if received by the Area first, or the Bureau shall retain a copy if sent to the Bureau first.

### **A. Receipt**

Exploration notices shall be reviewed by the Area upon receipt to determine the level of activity and land ownership.

## **B. Inspections**

Exploration on state and private lands should be inspected during drilling, trenching, or other activities when possible. Inspections after reclamation shall be conducted to ensure the sites have been adequately reclaimed.

Exploration on BLM or USFS lands does not require inspections unless an inspection is requested. These agencies can require bonding for this level of activity and should administer these exploration operations by themselves.

## **C. Record Retention**

Exploration notices shall be retained for at least one year, or until the exploration is completed and the site has been successfully reclaimed. If more exploration on this same site is anticipated, or if a mine may be developed, then the records should be retained for future reference. Exploration may occur for several years prior to mine development. The notice shall be filed in folders by county and operator at the Bureau.

# **IV. Exploration Reclamation**

Reclamation of exploration sites must occur within one year of abandonment (IDAPA 20.03.01.020.04 and IDAPA 20.03.02.060.01). On unpatented federal mining claims, one (1) pit or trench may be left open pending verification by federal mining examiners (IDAPA 20.03.01.020.04.a and IDAPA 20.03.02.060.06.b&c).

## **A. Basic Reclamation Requirements**

Operators who conduct dredge/placer exploration (less than one-half (½) acre) or surface mining exploration of two (2) acres or less shall reclaim the disturbed areas as follows:

1. Drill holes will be plugged within one (1) year of abandonment with a permanent concrete or bentonite plug (IDAPA 20.03.01.020.04.a and IDAPA 20.03.02.060.06.c).
2. Disturbed areas will be regraded to the approximate previous contour (IDAPA 20.03.01.020.04.b and IDAPA 20.03.02.060.06.a).
3. Revegetate the disturbed areas (IDAPA 20.03.01.020.04.c and IDAPA 20.03.02.060.06.b) in accordance with either IDAPA 20.03.01.040.17 (dredge/placer mining) or IDAPA 20.03.02.140.11 (surface mining).
4. If water runoff from exploration operations causes siltation or other pollution of surface waters, the operator shall prepare disturbed lands and adjoining lands under his or her control, as is necessary to meet state water quality standards (IDAPA 20.03.01.020.04.d and IDAPA 20.03.02.060.06.d).

## **B. Additional Reclamation Requirements**

Dredge/placer exploration (less than one-half (½) acre) and surface exploration in excess of two (2) acres has the following additional reclamation requirements:

1. Lands disturbed by an exploration operation shall be top-dressed to the extent that such overburden is reasonably available from any pit or other excavation created by the exploration operation, with that type of overburden that is conducive to the control of

erosion or the growth of vegetation that the operator elects to plant thereon (IDAPA 20.03.01.020.04.e and IDAPA 20.03.02.060.07.e).

2. Any water containment structure created in connection with exploration operations shall be constructed, maintained, and reclaimed so as not to constitute a hazard to human health or the environment (IDAPA 20.03.01.020.04.f and IDAPA 20.03.02.060.07.f).

### **C. Large Surface Mining Exploration**

In addition to the previous reclamation requirements, surface mining exploration larger than two (2) acres has the following reclamation requirements (IDAPA 20.03.02.060.07):

1. Abandoned exploration roads shall be cross-ditched as necessary to minimize erosion. The director may request in writing, or may be petitioned in writing, that a given road or road segment be left for a specific purpose and not be cross-ditched or revegetated. Once approved, this permission cannot be revoked.
2. Ridges of overburden shall be leveled so as to have a minimum width of ten (10) feet at the top.
3. Peaks of overburden shall be leveled so as to have a minimum width of fifteen (15) feet at the top.
4. Overburden piles shall be reasonably prepared to control erosion.



## Section 50 – Interagency Coordination

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In accordance with [Executive Order 2020-02, Transparency in Agency Guidance Documents](#), guidance documents promulgated by the department are not new laws. They represent an interpretation of existing law, except as authorized by Idaho Code or incorporated into a contract.

### Agency Contact

Minerals Regulatory Program Manager, Boise Staff Office

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## I. MOUs

IDL has signed several MOUs with other state and federal agencies. The intent of these documents is to have all the permitting agencies review and approve the same documents at or near the same time. These MOUs are listed in Section 5 of these Procedures. The Joint Review Process describes the agency coordination processes.

## II. Reviews by Other State Agencies

Permits or plans may need to be reviewed by the Idaho Departments of Water Resources (IDWR), Environmental Quality (IDEQ), and Fish and Game (IDFG). The purpose of these reviews is to identify if permits are also needed from these agencies, suggest improvements to the proposal that will lessen impacts on water quality and wildlife, and to determine if the application meets the requirements of the pertinent IDL administered rules. All dredge/placer permit, large reclamation plan, and closure plan applications must be sent to these other state agencies for review (IDAPA 20.03.01.022.04 and IDAPA 20.03.02.080.02(a)). Reclamation plans for gravel pits, quarries, and decorative rock sources that are minor or are not expected to affect surface or ground water quality do not have to be sent to the other state agencies (IDAPA 20.03.02.080.02(a)).

### A. Idaho Department of Water Resources

Work done below the ordinary high water mark of a stream or river in Idaho may require a stream alteration permit from IDWR. This includes culvert installations, fills, bridges, etc. More information is available at IDWR’s website. Dredge/placer permits may not be approved until

the IDWR permit is issued (IDAPA 20.03.01.022.05). It is also recommended that reclamation plans not be issued until the stream channel alteration permit is issued or is ready to be issued. The proposed mining project may be altered during the processing of the stream alteration permit. Impacts to streams may change as the mine design changes, and mitigation commonly changes. Applications should be considered incomplete until the IDWR permit is issued.

If water is withdrawn from a lake or stream, a water right may be needed. Lack of a water right, however, is not sufficient justification to deny an application. IDL rules do not require water rights to be acquired prior to plan approval, but it is a valid question to ask during plan processing.

If water or mill tailings will be impounded behind a dam for the proposed mining project, then a dam safety permit may be needed from IDWR. More information about this permitting process can be found at IDWR's website. The proposed mining project may be altered during the processing of the dam safety permit. Applications should be considered incomplete until the IDWR permit is ready to be issued. IDWR may wish to hold the financial assurance for dams and impoundments. The amount is for the actual cost, and IDWR has similar requirements as IDL. This is acceptable as long as IDL and IDWR agree on the financial assurance amounts.

## **B. Idaho Department of Environmental Quality**

Water quality is the most common concern expressed by IDEQ about mining applications. The proper use and construction of best management practices in IDAPA 20.03.01.040 and IDAPA 20.03.02.140 should minimize those concerns. IDEQ comments that can be related to IDL rules should be addressed during application review and approval. Please keep the following suggestions in mind when discussing proposed operations and when reviewing applications:

1. Water pumped from excavated mine pits should not be discharged directly into surface waters. The pumped water will get muddy when equipment drives through, or excavates in, the water. The water should be pumped into settling ponds and clarified before being discharged. Land application may also be used.
2. Storm water should be diverted early, and diverted often, from access roads. Rolling dips, out-sloping, relief culverts, and other techniques can be used to get rid of surface runoff and prevent erosion. This can also reduce the amount of maintenance the operator will need to spend on his roads.
3. Silt fences, straw wattles, and similar structures must be installed properly and inspected regularly in order to be effective.
4. Storage areas for fuel, lubricants, and other chemical products should be away from surface waters and in a bermed and lined containment area. Equipment should be parked and serviced outside of pits where ground water is kept pumped down.

Air quality is not addressed in IDL administered rules and permits or plans should not be delayed due to concerns about air quality. Applicants must work out air quality permit issues with IDEQ.

Facilities that use cyanide for ore processing must have a cyanidation permit from IDEQ. The maximum IDEQ financial assurance under permits prior to 2006 is one hundred thousand dollars (\$100,000). New, or amended, permits for using cyanide must also have a closure plan reviewed

and approved by IDL. Extensive coordination will be needed between IDEQ and IDL for new cyanidation permits (IDAPA 20.03.02.071 and 080.04). Financial assurance must be assessed at actual cost.

### **C. Idaho Department of Fish and Game**

Concerns about effects on fish species and seeding/planting mixes are the most common responses from IDFG. Please keep the following suggestions in mind when discussing proposed operations and when reviewing applications:

1. Culverts should be sized appropriately and placed at stream grade to allow fish passage. The guidelines from the timber program are generally adequate.
2. Intake structures for pumping or diversions should be properly screened to prevent intake of young fish.
3. In stream activities should be timed to eliminate impact on eggs or fry in spawning areas.
4. Seed mixes should use some native materials when possible. Natives are often slower to establish, so some cover-type crops (e.g. annual ryegrass, crested wheatgrass) may need to be included for rapid green up. Weed type species (e.g. reed canary grass) should be avoided.
5. Plantings should only use native materials. Russian olive, tamarisk, and other exotics should be avoided.

### **D. Other Issues Outside IDL Authority**

Members of the public, and sometimes other agencies, will attempt to have IDL assert authority over issues that are outside IDL jurisdiction. All IDL staff should respond that these issues are outside of IDL's statutory authority. As a result, IDL staff should not spend time or resources on them. They should be left up to other agencies, or to potential legal actions between private parties. These may include, but are not limited to:

1. County or city planning and zoning processes on private lands.
2. Blasting.
3. Dust, noise, hours of operation, and similar nuisance issues.
4. Effects on well water quality or quantity without a clear proof of cause and effect.
5. Safety of pit walls related to either the operator's employees or trespassing members of the public.
6. Truck spills or accidents off the mine site.
7. Privately held mineral rights that have been separated from the private surface ownership.
8. Any mining activity on tribally owned lands within a tribal reservation.

## **III. Reviews by Federal Agencies**

When processing applications for mining operations on BLM or USFS administered lands, the Area office shall contact the applicable agency and discuss the completeness of the applicant's plan. If the plan is incomplete, then the Area shall follow the steps outlined in Section 20 or 25 of these Procedures for incomplete applications.

Reviews by federal agencies follow a much different approval process than IDL reviews, and several terms need to be defined to understand the federal processes.

**A. Proposed Action**

The action proposed by the mining company. The proposed action partly determines the level of review required by the federal agencies.

**B. National Environmental Policy Act (NEPA)**

This federal law requires the impacts of federal actions to be analyzed and publicly disclosed. One or more alternatives to the proposed action may result through the NEPA process. These alternatives may be analyzed in as much detail as the initial proposed action. The public involvement is not a voting process on whether or not the project should move forward; it is just a process to inform the public of what the expected impacts are and to gather comments from the public regarding the adequacy of the agency review and the expected impacts.

**C. Scoping**

This is a process of gathering comments from other agencies and the public regarding what types of analysis should be conducted, what alternatives should be explored, and other relevant topics related to the proposed action. Scoping is conducted early in the NEPA process. If the project changes substantially, or a lengthy period of inactivity occurs in the middle of the process, then a project can be rescoped.

**D. Categorical Exclusion (CE)**

This is a NEPA decision that essentially states no impacts are anticipated if the project is implemented as planned. It is also used for emergency situations when the danger or impacts of inaction may be greater than the proposed action. Studies may or may not be done, and approval can be done anywhere from overnight to a year depending on the situation. A small exploration program with no road construction, no sensitive species, and no conflicts with land use plans might be approved with a CE. Repair of a washed out road that has stranded people might be done under a CE.

**E. Environmental Assessment (EA)**

This is a type of NEPA document generally used for smaller projects with minimal impacts to federal land. Studies may be conducted by the federal agency, but approval can usually be done in a year. An exploration program with minimal road construction, avoidance of sensitive species, and no conflicts with land use plans might be approved with an EA. A small quarry or decorative stone source might also be approved with an EA.

**F. Environmental Impact Statement (EIS)**

This is the large NEPA document that people are most familiar with. It is used for large projects or projects that may substantially affect sensitive resources. For large mining projects, these documents will generally take three (3) to five (5) years. State and federal agencies will often agree on the extent and content of the plans of study that are used to analyze the projects impacts. Multiple studies may be conducted to determine the potential for, or extent of, impacts to communities, existing land uses, and natural resources. A draft EIS (DEIS) is usually

issued for comment prior to the final EIS to make sure all the issues are covered in sufficient detail. The format of an EIS may prevent its effective use as a reclamation plan, so mining companies may prepare a reclamation plan for the agencies after the EIS is approved.

#### **G. Record of Decision (ROD)**

The final decision resulting from the NEPA process. Often a draft is released for comment prior to publication in the federal register. The ROD may use the proposed action, or combinations of the proposed action and alternatives that were analyzed. Mitigation of impacts to wetlands and other resources may also be specified.

### **IV. How IDL Participates in Federal Review Processes**

#### **A. Why IDL Should Participate**

The dredge/placer and mined land reclamation authorities given to IDL also cover federal lands. The Idaho Supreme Court determined in *State ex rel. Andrus v. Click* that state regulations can be enforced on federally administered lands. The participation of IDL in several plan reviews and approvals has demonstrated the effectiveness of state participation in improving resource decisions on federal lands.

#### **B. What Types of Mining Projects on Federal Lands IDL Should Review**

IDL should only participate in a review process when a dredge/placer permit or reclamation plan will need to be reviewed and approved by IDL. Operations that IDL classifies as exploration only require a notification to IDL, so a detailed IDL review of a proposed exploration plan is generally not needed. The review should only confirm that endowment land is not involved and that the proposed activity does not require a permit or plan.

#### **C. When IDL Participation Should Begin**

When an Area office is notified that mining activity is being proposed on federal lands, they should contact the respective district office of the federal agency and determine if a dredge/placer permit or reclamation plan will be needed.

If a permit or plan is needed, then Area staff shall coordinate their review with all other state and federal agencies that also have a permitting authority. This review process may start in the scoping stage and go through the Record of Decision.

#### **D. Coordinating Dredge/Placer Permit Approvals**

Dredge/placer mining applications do not have an approval deadline, so the federal and IDL review processes can follow a similar schedule. IDL approval, however, must go through the Land Board. Area staff should plan the approval accordingly. They could submit the approval package to the Bureau as soon as they are fairly certain that the federal agency involved will be approving the same proposed plan. If Area staff wait until the federal approval is completed, then another month or more may pass before the IDL approval can be put on the Land Board agenda and approved. Land Board meetings do occasionally get cancelled, so Area staff should not make promises about when approvals can be completed.

## **E. Coordinating Reclamation Plan Approvals**

Federal reviews will often take longer than a typical IDL review. If a plan is approved by IDL too early in the NEPA process, then a plan amendment will likely be needed at a later date after the federal agency has approved a modified plan. A more efficient process is to coordinate the reviews so they occur almost simultaneously.

Reclamation plan applications have a sixty (60) day approval deadline or they are automatically approved as submitted. To avoid this timing conflict, IDL should attempt to schedule the official plan submittal to IDL so that it does not occur until near the end of the federal review process.

This can be done by:

1. Encouraging the applicant to submit a draft plan to IDL for review with the other agencies. This can be accomplished by the applicant not submitting an application form, which is required for a complete plan (IDAPA 20.03.02.069.03(a) and IDAPA 20.03.02.070.02(a)). Most mine operators will comply with this request. Reviewing an EA or an EIS accomplishes much the same thing.
2. Reviewing an application package and determining that additional information is needed. The applicant must be notified in writing within the first thirty (30) days after receiving an application that:
  - i. The plan is incomplete and cannot be processed for approval (IDAPA 20.03.02.080.01(a)).
  - ii. The following information is needed before the plan can be considered complete (list the information needed).
  - iii. The plan will likely change as it is reviewed through the NEPA process, so resubmittal should not be done until the federal review nears completion.

If an EIS is being prepared, IDL approval should be withheld until the final EIS has been published and the preparing federal agency is ready to sign the ROD. In some cases the applicant may want to wait until after the ROD is signed because they will prepare a separate, and more concise, reclamation plan for the permitting agencies. This plan will be for the actions approved by the EIS.

## **F. How IDL Should Participate**

Participation should be limited to information regarding the mine design and operations, and the plans of study and related reports that provide the data to support the proposed designs or their alternatives. The following subjects are examples of information pertinent to IDL's review:

1. Haul road location, construction, maintenance, and reclamation.
2. Topsoil salvaging, storage, and use.
3. Waste dump location, design, content, stability, construction, and reclamation.
4. Tailings pond location, design, content, stability, construction, reclamation, and dam abandonment.
5. Mine pits design, stability, and reclamation.
6. Fuel storage location, design, BMPs, and reclamation.
7. Processing area location, design, and reclamation.
8. Mine drainage prevention, potential sources, management, and control.
9. Storm water management and BMPs.
10. Revegetation.

#### 11. Erosion control.

Topics such as transportation corridors on public roads, endangered species, air quality, visual aesthetics, socio-economics, etc. are beyond the authority of the Dredge and Placer Mining Protection and Mined Land Reclamation Acts and rules. IDL staff should avoid spending time on these issues.

Official comment periods will need to be coordinated through the Governor's Office of Energy and Mineral Resources.



## Section 55 – Assignments

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In accordance with [Executive Order 2020-02, Transparency in Agency Guidance Documents](#), guidance documents promulgated by the department are not new laws. They represent an interpretation of existing law, except as authorized by Idaho Code or incorporated into a contract.

### Agency Contact

Minerals Regulatory Program Manager, Boise Staff Office

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## I. Assignments Are Allowed

### A. General

Dredge/placer permits, reclamation plans, and closure plans may be transferred from an existing permittee to a new permittee (IDAPA 20.03.01.027 and IDAPA 20.03.02.130). A notarized assignment form is required. Please follow the uniform assignment procedures. The new permittee shall then be responsible for the past permittee's obligations.

### B. Terminology

The Assignor is the existing operator, before the assignment is approved. The Assignee is the new operator who will be taking over responsibility for the operation.

### C. Closure Plan Assignment

In addition to the form described above, the Assignee must provide a written notice to the Area that includes a specific date for transfer of permanent closure responsibility, coverage, and liability between the old and new operators no later than ten (10) days after the transaction occurs. An operator shall be required to provide this notice at the same time notice is provided to the DEQ as required by IDAPA 58.01.13, "Rules for Ore Processing by Cyanidation" (IDAPA 20.03.02.130.02).

## **II. Financial Assurance Required Prior to Approval**

### **A. Financial Assurance Replacement Needed**

Replacement financial assurance must be submitted before an assignment is approved (IDAPA 20.03.01.027 and IDAPA 20.03.02.130). If a highway district or ITD is the Assignee, then financial assurance may not be required (Section 40 of these Procedures).

### **B. Determine Eligibility of Assignee for Participation in the Bond Assurance Fund**

The Area shall determine if the Assignee is eligible for participation in the Bond Assurance Fund. Usually eligibility is only an issue if the Assignee is near or over the limitation of forty (40) disturbed acres. See Section 40 of these Procedures. If eligibility cannot be determined through IMS, then the Area should contact the Program Manager for assistance.

If the assignee is eligible, then they will need to sign a participation form (Attachment 34) and return it to IDL.

If the assignee is not eligible, then they will need to provide some other form of financial assurance prior to the assignment being approved.

If either party is not current with payments to the Bond Assurance Fund, then the assignment cannot be approved (Idaho Code § 47-1805) until financial assurance is provided by a payment to the Bond Assurance Fund (Assignee is eligible) or submittal of some other form of financial assurance (Assignee is not eligible).

### **C. Bond Assurance Fund Payment**

If the Assignor participated in the Bond Assurance Fund, and the Assignee is also eligible to participate, then no additional payment is needed from the assignee if the account has a zero balance. The Assignee will then be billed in the fall through the normal billing process.

If the Assignor had some other form of financial assurance, and the Assignee is eligible for the Bond Assurance Fund, then a prorated payment must be made by the Assignee prior to approval of the assignment.

### **D. Other Forms of Financial Assurance**

For mining operations covered by a Certificate of Deposit, time deposit receipt, cash, Letter of Credit, Surety bond, trust, real property, or a corporate guarantee the replacement financial assurance must be submitted prior to IDL approving the assignment. The amount should be at least equal to the existing financial assurance.

If a surety bond is submitted as a replacement, the following rider must be filed with the department as part of the replacement financial assurance before the existing financial assurance will be released: "(Surety company or principal) understands and expressly agrees that the liability under this bond shall extend to all acts for which reclamation is required on

areas disturbed in connection with (Permit or Plan Number), both prior to and subsequent to the date of this rider” (IDAPA 20.03.01.027 and IDAPA 20.03.02.122.01).

#### **E. Bond Release or Refund**

After an assignment has been approved, the assignor’s financial assurance will be refunded or released in accordance with procedures established by the Lands and Waterways Processing Center.

Refunds will not be made for an assignor’s payment to the Bond Assurance Fund. Bond Assurance fees are nonrefundable (IDAPA 20.03.03.026.03).

### **III. Permits or Plans In Good Standing**

Permits or plans must in good standing when an assignment is approved. Noncompliance should be addressed before the assignment is approved. Alternatively, the Assignee must commit in writing to correct any noted noncompliance by a certain date.

### **IV. Assignee In Good Standing**

An assignment shall not be approved if the assignee has caused forfeiture from the Bond Assurance Fund and has not reimbursed the fund (Idaho Code § 47-1805).



## Section 60 – Permit or Plan Retirement

In accordance with [Executive Order 2020-02, Transparency in Agency Guidance Documents](#), guidance documents promulgated by the department are not new laws. They represent an interpretation of existing law, except as authorized by Idaho Code or incorporated into a contract.

### Agency Contact

Minerals Regulatory Program Manager, Boise Staff Office

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## I. Retirement of Dredge/Placer Permits and Reclamation Plans

### A. Definition of Retirement

Dredge/placer permit or reclamation plan retirement is a termination that follows reclamation by the operator and inspection by IDL (IDAPA 20.03.01.050.01 and IDAPA 20.03.02.150.01). Financial assurance release accompanies permit or plan retirement.

Closure plan terminations are analogous to a retirement but are covered in Section 85 of these Procedures.

### B. Dredge/Placer Reclamation Standards Under IDAPA 20.03.01

Reclamation must meet the following standards for a permit to be eligible for retirement:

1. Reclamation of the site is completed as per the permit (IDAPA 20.03.01.035.07).
2. Disturbed lands are not contributing sediment or other pollution to surface waters outside the disturbed land in excess of state water quality standards (IDAPA 20.03.01.035.07.c.i).
3. All equipment and structures related to the mining activity are removed, or the remaining equipment and structures are brought under an approved placer or dredge mining permit and bond by a new permittee (IDAPA 20.03.01.035.07.c.ii).
4. Temporary sediment or erosion control structures have been removed and reclaimed (IDAPA 20.03.01.035.07.c.iii).
5. After two (2) growing seasons following fertilization or watering (IDAPA 20.03.01.040.17.c), the vegetation productivity is at least comparable to the productivity that existed prior to the permitted mining, unless the permit specified otherwise (IDAPA 20.03.01.035.07.c.iv). This may be measured as cover that is at least

- seventy percent (70%) of the cover found on adjacent lands or a designated reference area (IDAPA 20.03.01.040.17.d).
6. Roads that will be abandoned (IDAPA 20.03.01.040.05.e) must be:
    - i. Cross-ditched.
    - ii. Ripped.
    - iii. Revegetated.
    - iv. Otherwise obliterated to control erosion.
  7. Settling ponds (IDAPA 20.03.01.040.07) shall be:
    - i. Dewatered.
    - ii. Detoxified.
    - iii. Stabilized. This includes regrading to control erosion and regrading the site back to the approximate original contour. Stabilization may also require removal and disposal of settling pond contents.
  8. Topsoil is replaced (IDAPA 20.03.01.040.08 and 040.12).
  9. Site is regraded to minimize erosion and to approximate existing contours (IDAPA 20.03.01.040.10).
  10. Disturbed watercourses are restored to a configuration and structure conducive to good fish and wildlife habitat and recreational use (IDAPA 20.03.01.040.10.b).
  11. Waste materials are stabilized and revegetated, and water management is constructed to ensure long term stability of the fill (IDAPA 20.03.01.040.11).

Exceptions to the revegetation requirements are found in IDAPA 20.03.01.040.17.m. These exceptions should rarely be used if mine plans are adequately designed.

### **C. Mined Land Reclamation Standards Under IDAPA 20.03.02**

Reclamation must meet the following standards for a plan to be eligible for retirement:

1. Reclamation of the site is completed as per the reclamation plan (IDAPA 20.03.02.120.10).
2. Disturbed lands are not contributing sediment or other pollution to surface waters outside the disturbed land in excess of state water quality standards (IDAPA 20.03.02.120.10.c.i).
3. All equipment and structures related to the mining activity are removed, or the remaining equipment and structures are brought under an approved placer or dredge mining permit and bond by a new permittee (IDAPA 20.03.02.120.10.c.ii).
4. Temporary sediment or erosion control structures have been removed and reclaimed (IDAPA 20.03.02.120.10.c.iii).
5. After two (2) growing seasons following fertilization or watering, the vegetation productivity is at least comparable to the productivity that existed prior to the permitted mining, unless the permit specified otherwise (IDAPA 20.03.02.140.11.b.i). This may be measured as cover that is at least seventy percent (70%) of the cover found on adjacent lands or a designated reference area (IDAPA 20.03.02.140.11.b.ii).
6. Roads that will be abandoned (IDAPA 20.03.02.140.05.e) must be:
  - i. Cross-ditched.
  - ii. Revegetated.
7. Topsoil is replaced (IDAPA 20.03.02.140.04.d).
8. Site is regraded (IDAPA 20.03.02.140.06) to:
  - i. Minimize erosion.

- ii. Lower slopes to flattest possible grade.
  - iii. Ensure mass and surface stability.
- 9. Waste materials are stabilized and revegetated, and water management is constructed to ensure long term stability of the fill (IDAPA 20.03.02.140.07).
- 10. Tailing impoundments are decommissioned so they are not a hazard to human or animal life (IDAPA 20.03.02.140.09). Steps to achieve this include:
  - i. Dewatering a tailings pond to the extent necessary to provide an adequate foundation for the approved post-mining use.
  - ii. Channeling surface waters around the reservoir and impoundment structure or through the reservoir and breached structure. Permanent civil structures shall be designed and constructed to implement either method of channeling. The structure shall provide for erosion-free passage of waters and adequate energy dissipation prior to entry into the natural drainage below the impounding structure.
  - iii. Detoxifying hazardous chemical residues within the tailings pond or covering them with an adequate thickness of non-toxic material, to the extent necessary to achieve water quality standards in adjacent surface waters.
  - iv. Reclaiming the reservoir and impoundment structure after implementing the required dewatering, detoxification, and surface drainage control measures. Reclamation shall consist of covering the reservoir and impoundment with topsoil or other material conducive to plant growth. Where such soils are limited in quantity or not available, and upon approval by IDL, physical or chemical methods for erosion control may be used. All such areas are to be revegetated unless specified otherwise.

Exceptions to the revegetation requirements are found in IDAPA 20.03.02.140.11.h. These exceptions should rarely be used if mine plans are adequately designed.

#### **D. Operator Initiated**

Permit or plan retirement is initiated by the mine permittee. IDL cannot force an operator to retire their permit or plan.

An operator who has completed reclamation must fill out a Retirement Request and Bond Release form (Attachment 36), sign it, and submit it to the appropriate Area office.

#### **E. Retirement Inspection**

An Area office that receives a signed retirement form shall contact the permittee and schedule an inspection. The purpose of the inspection is to:

1. Document the site conditions and verify that reclamation has been completed as per the approved permit or plan.
2. Inspect the revegetation, water management structures, and sediment runoff to determine if the reclamation meets the standards listed above and in the applicable rules (IDAPA 20.03.01.040 and IDAPA 20.03.02.140).

The inspection shall be documented with an inspection report. Requests for bond reduction or release generally require a response within thirty (30) days. See Subsection 40.VIII of these Procedures for more details.

## **F. Retirement Approval**

If the Area determines that the permit or plan is eligible for retirement, they shall sign the Retirement Request and Financial Assurance Release form (Attachment 36) and forward it to the Program Manager via e-mail with a copy of the inspection report. This documents the Area's recommendation regarding plan retirement and financial assurance release.

The Program Manager will review all Retirement Request and Financial Assurance Release forms before final approval. If approved, the Bureau will send a letter to the mine operator informing them that the permit or plan is retired and the financial assurance is released. Lands and Waterways Processing Center will update IMS and Navision to reflect the retired status of the permit or plan and discontinue any billings.

## **G. Retirement Denial**

If the Area determines that a permit or plan is not ready for retirement, they shall send a written response to the operator within thirty (30) days of the retirement request describing what actions are needed to complete reclamation. A copy of the written response shall be sent to the Bureau.

If the Bureau finds a potential deficiency in the retirement or financial assurance release request, they will discuss with Area staff and determine what the next steps are.

# **II. Cancellation of Permits and Plans**

## **A. Definition of Cancellation**

Permit or plan cancellation is a termination that follows administrative or legal action to cancel a permit or plan (IDAPA 20.03.01.050.02 and Idaho Code § 47-1513(a)). Cancellation is often opposed by the mine operator, and financial assurance forfeiture may accompany cancellation.

## **B. When Cancellation Is Done**

Dredge/placer permits, reclamation plans, and closure plans may be cancelled for the following reasons:

1. Inadequate financial assurance for the permit or plan (IDAPA 20.03.01.050.02.a and Idaho Code § 47-1513(a)).
2. Mining has permanently ceased and final reclamation has not commenced within one (1) year of cessation of operations (IDAPA 20.03.01.050.02.c and IDAPA 20.03.02.140.10.b). Permanent cessation is defined as follows:
  - i. For dredge/placer mining, permanent cessation occurs when mining operations on the permit area have stopped and there is substantial evidence that such operations will not resume within one (1) year. The date of permanent cessation is the last day when mining operations are known to have occurred (IDAPA 20.03.01.040.16.c);
  - ii. For surface and underground mining, permanent cessation occurs if no substantial amount of mineral or overburden has been removed, or overburden placed on an overburden dump, during the prior three (3) years. The date of

permanent cessation is three (3) years past the last day when mining operations are known to have occurred (IDAPA 20.03.02.140.10.c).

3. For closure plans, closure must be initiated according to the timeframes in IDAPA 20.03.02.111.01.
4. Operator fails to comply with the permit or plan or the applicable statutes or rules (IDAPA 20.03.01.050.02.e and Idaho Code § 47-1513(a)).

Dredge/placer permits may also be cancelled if operations do not commence within two (2) years of permit approval (IDAPA 20.03.01.050.02.b), or if inspection fees are delinquent (IDAPA 20.03.01.050.02.d).

Closure plans may also be cancelled if financial assurance is not submitted within ninety (90) days of plan approval (IDAPA 20.03.02.121.01).

### **C. How Cancellation Is Done**

Section 70 of these Procedures describes enforcement and how a permit or plan may be cancelled through IDL action.

## **III. Financial Assurance Forfeiture and Reclamation**

### **A. Financial Assurance Forfeiture**

After the necessary administrative and legal actions have been taken to cancel a permit or plan, the financial assurance must be secured by the Bureau. How the financial assurance is secured varies with the type of financial assurance:

1. For surety bonds, the Bureau will send a letter to the bonding company with a copy of the permit or plan cancellation letter and a copy of the bond. The bonding company may ask for additional information, which should be forwarded by the Bureau. If the surety company refuses to honor the bond, or balks at paying, assistance from legal staff may be needed. Alternatively, IDL could work with the bonding company to have them perform the reclamation.

The language in IDL's surety bond allows IDL to collect on the bond even after the date of cancellation: "Such cancellation notice, however, shall not affect any liability that shall have accrued under this bond prior to the effective date of cancellation."

2. For letters of credit, the Bureau will arrange a time for either the Bureau staff or Area staff to meet with the appropriate bank personnel and collect a check made out to State of Idaho, Department of Lands. The issuing office should first be called to determine if the bond can be collected at a branch in Boise, or if the Area staff will need to visit the branch that issued the bond. The following documents should be brought to the bank at the prearranged meeting:
  - i. A cover letter asking for the bond money.
  - ii. The original bond paperwork.
  - iii. A copy of the permit or plan cancellation letter.

Letters of Credit must be cashed before the cancellation date. They are worth nothing after the date of cancellation. If the permit or plan cancellation process will extend past a cancellation date, then the letter of credit must be cashed and held as a cash bond pending a conclusion to the permit or plan cancellation process.

3. For certificates of deposit, the same process as described above for letters of credit should be followed.

Certificates of deposit are automatically renewable, so they do not expire. IDL requires the bank to sign a letter that pledges the bank to not release funds without written permission from IDL (Attachment 37). If the bank has released the funds, then the bank must pay IDL the bond amount.

4. Cash bonds are already held by IDL in a dedicated account.

Once the financial assurance money is acquired, it must be deposited or transferred to the dedicated regulatory reclamation account. The Bureau will then notify the Area how much the financial assurance is, and that the money is available. If other money in the dedicated account is available for use, then the Bureau will notify the Area how much they are authorized to spend.

If the site is on USFS or BLM lands then those agencies may request that the financial assurance be turned over to them for contracting. IDL should comply with these requests if no private or state lands are involved.

## **B. Scope of Work**

The Area will develop a scope of work (Attachment 38) to be used for reclamation contracting. The Project Requirements section may refer to a detailed attachment that describes specific tasks to be done. The scope of work should reflect the following constraints:

1. How the site will be legally accessed.
2. The reclamation described in the respective permit or plan.
3. Whether the original reclamation goals or designs can now be achieved.
4. Reclamation needed to control erosion, maintain water quality, and revegetate the site.
5. Revegetation plan including seed mix and rate, and any fertilization or mulching that is needed.
6. The funds available for the project.
7. Dates for starting and completing the work.
8. Optional tasks that might be awarded depending on cost.
9. Interagency comments, if appropriate.
10. Contract Supervisor from the Area and their contact information (phone and e-mail).

The scope of work can be developed in conjunction with the Bureau's effort to cancel the permit or plan and forfeit the financial assurance. The Bureau and Purchasing will assist with preparing the scope of work as needed.

Complex sites may require some reengineering or other consulting work prior to finishing the scope of work. Areas should draw upon IDL resources and experts from other agencies to assist with this effort. If these resources are not available, then IDL can contract for professional services in addition to contracting the construction work.

### **C. Contract Development and Solicitation**

The Area will forward the completed scope of work to Purchasing with a list of companies that are capable of the work and are located close to the work site. Purchasing will solicit quotes or bids from these vendors. The quotes or bids should be done lump sum for known quantities or discrete tasks. Rates for people and equipment should also be requested from the vendor so the rates can be used for contract adjustments.

A bid packet will be compiled that consists of the following documents:

1. Invitation to quote and instructions (Purchasing).
2. Schedule A that contains (Purchasing):
  - i. Lump sum quotes for discrete tasks.
  - ii. Hourly rates for people and equipment.
  - iii. Proposed start and end dates.
3. Scope of work (Area and Bureau).
4. Map or maps of the site (Area).
5. Information on a site visit, if planned (Purchasing).

### **D. Informal and Formal Bidding**

Work under five thousand dollars (\$5,000) can be hired on the spot with no quotes or bidding. Large projects, however, should not be broken into small projects to avoid soliciting other quotes. This applies to both construction (earth moving, revegetation, etc.) and professional services (survey, engineering, hydrologist, soil scientist, etc.). Shopping around for better deals is always recommended.

Requests for Quotes (RFQs) are used for construction and professional services in the amount of five thousand dollars (\$5,000) to one hundred thousand dollars (\$100,000). Three (3) or more vendors should be recommended to Purchasing by the Area so the vendors can be contacted and given a RFQ. The companies should be given 2 (two) weeks or more to submit a quote. This can be adjusted based on the size and complexity of the project. The project will also be posted on IDL's internet site to attract more quotes.

Formal bids are used for all construction or professional services contracts over one hundred thousand dollars (\$100,000). They are formal because bid awards for contracts of this size are appealable by those who were not awarded the contract. Three (3) or more providers must be given bid packets, and the contract must also be advertised in at least one (1) paper local to the project. Advertising must be for at least two (2) consecutive weeks.

### **E. Site Visit**

The Area should schedule a sight visit approximately one (1) week before RFQs or bids are due. This allows the vendors some time to look at the scope of work before the meeting. This also allows the Area some time to answer questions that come up during the site visit. Notes should

be taken regarding the questions and answers given at the site visit. When all the questions are answered after the site visit, and prior to the date that RFQs or bids are due, the Area shall send copies of the questions and answers to all of the vendors interested in the project.

**F. Professional Services Time Limit**

Professional service contracts cannot exceed one year, including extensions. Anything longer must be awarded through a Request For Proposal (RFP) process. Contact Purchasing for more information. If time is critical, a one year contract may be awarded to do preliminary work while the RFP process goes forward.

**G. Contract Award**

The Area will evaluate the quotes or bids with the Bureau and Purchasing. The evaluation should consider the following points:

1. Bids for required tasks.
2. Bids for optional tasks.
3. Proposed timelines.
4. Project specific factors.

After a successful bidder is chosen, Purchasing will prepare and send an e-mail informing the successful vendor of IDL's choice. The e-mail will also be posted to the intranet for access by the Area and the Bureau. A request for insurance, bonding, W-9, and other needed information will accompany the e-mail.

**H. Contract Oversight**

The Area will perform contract oversight. This does not require someone from the Area to be on site every day. Oversight may also be given to a separate vendor under a professional services contract. A pre-work conference is often scheduled to make sure all parties have the same understanding of the project and expectations. Periodic inspections may be done depending on travel time to the site, the size or complexity of the project, and availability. An inspection should be done when the project is substantially complete and before equipment is removed from the site. A final inspection may then be needed prior to final payment.

If a contract modification is needed, it must be documented with a modification form. Area staff should get a cost estimate from the contractor prior to modifying the contract. Please contact Purchasing if a modification is needed.



## Section 65 – Inspections

In accordance with [Executive Order 2020-02, Transparency in Agency Guidance Documents](#), guidance documents promulgated by the department are not new laws. They represent an interpretation of existing law, except as authorized by Idaho Code or incorporated into a contract.

### Agency Contact

Minerals Regulatory Program Manager, Boise Staff Office

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## I. General Guidance

### A. Areas Do Inspections

Area offices are responsible for conducting inspections and performing any follow up work that needs to be done as a result of the inspection. This follow up work may include, but is not limited to:

1. Requesting additional financial assurance or payment to the Bond Assurance Fund.
2. Requesting a plan amendment.
3. Contacting other agencies when needed.
4. Informing the operator that BMPs need improvement or cleaning out.

### B. Inspection Scheduling

The permittee must be contacted and provided an opportunity to attend the inspection, especially if the operation is active. Routine inspections should be scheduled and conducted to minimize disruption of the operation. Inspections for alleged violations can be scheduled with less warning and less coordination with the permittee, especially if water quality is being impacted.

### C. Inspection Report Needed

Inspections shall be documented on the inspection form in Attachment 50. A copy of this inspection report, and any photos taken, shall be forwarded to the bureau. A copy of the inspection report shall also be sent to the operator.

## **D. Content of Inspection Reports**

Inspection reports should provide the following information:

1. Permit or plan number.
2. Date.
3. Operator name.
4. Who represented the permittee or operator.
5. Estimate of disturbed acres.
6. Estimate of reclaimed acres.
7. Status of the operation.
8. Equipment currently on site.
9. Whether surface waters are visibly impacted from the operation.
10. Whether the operation is in compliance with the permit or plan.
11. Whether the operation is in compliance with the applicable rules.
12. Suggestions, if any, for bringing an operation into compliance. These should be descriptive, and not prescriptive.

## **E. Follow Up Work Requests**

If the operator needs to perform some follow up work as a result of the inspection, that request must be made in a separate cover letter sent with the operator's copy of the inspection report. An inspection report alone cannot be relied upon to inform an operator that certain tasks need to be completed.

If the Area office believes that the Bureau should do some follow up work, that request shall first be reviewed by the Operations Chief. The request will be forwarded to the Bureau by the Operations Chief after they have reviewed the request and verified that it should be addressed by the Bureau.

# **II. Dredge/Placer Inspections**

## **A. Inspection Authority**

Area staff may conduct inspections of a dredge/placer operation to determine compliance with the Dredge/Placer Act, the Rules, and the permit (IDAPA 20.03.01.051.01).

## **B. When Inspections Are Needed**

Inspections shall be done at least once annually, or when the following occurs:

1. New permit applications or amendments are submitted.
2. IDL is notified of alleged violations or complaints.
3. Requests for financial assurance reduction are received.
4. Requests for permit retirement are received.

## **C. Inspection fees**

Permittees shall be billed an annual inspection fee by the Bureau on or before May 1 of each year. The amount of the inspection fee is (IDAPA 20.03.01.051.01.a):

1. Two hundred fifty dollars (\$250) for dredge/placer mines on private, BLM, or state lands.

2. One hundred dollars (\$100) for dredge/placer mines on USFS land.

Late payments will be assessed a twenty five dollar (\$25) penalty for the first late month, with an additional one percent (1%) penalty accruing for each additional month (IDAPA 20.03.01.051.01.b).

Nonpayment of the inspection fees is a violation that may cause IDL to cancel a permit after the second billing goes unpaid.

#### **D. Violation Inspections**

Inspection costs related to a reported violation shall be assessed at actual costs and shall be in addition to the regularly billed inspection fees described above (IDAPA 20.03.01.051.01.c).

These costs include the following:

1. Mileage to and from the mine site.
2. Employee meals.
3. Lodging.
4. Personnel costs.
5. Administrative overhead.

Costs are due and payable thirty (30) days after receipt of the inspection cost statement. The Area staff shall track these costs and send a letter with an itemized billing to the permittee with a copy to the Bureau. The Bureau will post the charges and late fees will start accruing if payment is not received in a timely manner.

### **III. Mined Land Reclamation Inspections**

#### **A. Inspection Authority**

IDL employees have the right to enter upon lands affected or proposed to be affected by exploration, surface mining or underground mining to determine compliance with applicable statutes, rules, and reclamation plans. Inspections shall be conducted at reasonable times in the presence of the operator or their authorized employee or representative. Inspections may proceed if the operator fails to make a representative available on request. IDL employees may be asked to present appropriate credentials verifying their employment and identity (IDAPA 20.03.02.160.01). A standard badge, I.D. card, or business card may be used for this purpose.

#### **B. When Inspections Are Needed**

Inspections of mines shall be done according to the following schedule:

1. When the following occurs:
  - i. New permit applications or amendments are submitted.
  - ii. IDL is notified of alleged violations or complaints.
  - iii. Requests for financial assurance reduction are received.
  - iv. Requests for permit retirement are received.
2. Reclamation plans where financial assurance is provided through the Bond Assurance Fund should be inspected at least every three years to update the estimate of disturbed acres. Air photos three years or less can also be used.

3. Reclamation plans on active phosphate mines and large open pit mines should be inspected at least twice a year.

## **IV. What To Look At During Inspections**

### **A. Pre-Inspection Review**

Area staff should review the permit or plan prior to the inspection and become familiar with it. The most current air photos of the operation (from the Land Records Database, Google Earth, Earth Explorer (USGS), or other sources) can also be examined to determine the amount of disturbance.

### **B. Compare Activity to the Permit or Plan**

The permit or plan should be compared to the actual activity in terms of the area covered, how mining is being conducted, and where the mine features are located.

### **C. Financial Assurance Evaluation**

The adequacy of the financial assurance should be evaluated in a general sense during the inspection. This can be accomplished by:

1. Documenting the amount of the disturbed area.
2. Verifying that excavation is proceeding at the depths and side slopes in the approved plan.
3. Evaluating whether the existing operations will allow the reclamation to proceed as stated in the approved plan.
4. Inspecting reclaimed areas to determine the success of the reclamation.

### **D. Best Management Practices**

The BMPs should be examined to determine if they are:

1. Installed properly.
2. Maintained as needed.
3. Being used appropriately.
4. Achieving the desired objective.

### **E. Surface Water Impacts**

If surface waters are immediately adjacent to the mining operation, they should be examined to determine if sediment from the mining operation has been deposited into the surface waters. This deposition could be from storm water or direct placement.

### **F. Operation within Boundaries**

The outside edges of the operation should be looked at to verify that property boundaries or fences are being respected.

### **G. Fuel Storage**

Fuel storage areas can be inspected to determine if a proper containment area has been constructed and maintained.

## **H. Waste Tire Disposal**

Mining waste tires should be handled as specified in the Mining Waste Tire Burial Guidelines (Attachment 49).



## Section 70 – Enforcement Actions

In accordance with [Executive Order 2020-02, Transparency in Agency Guidance Documents](#), guidance documents promulgated by the department are not new laws. They represent an interpretation of existing law, except as authorized by Idaho Code or incorporated into a contract.

### Agency Contact

Minerals Regulatory Program Manager, Boise Staff Office

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## I. Administrative Remedies

### A. General

Administrative remedies are those that IDL can pursue through the Area office and the Bureau. They must be documented through written or electronic correspondence that can be used as evidence if enforcement moves into legal action. All administrative remedies must be exhausted prior to proceeding to a legal remedy covered in Subsection II below. Most administrative remedies are handled by the Area office.

### B. External Complaints

Complaints may be received from neighbors, members of the public, and other agencies. Complaints could be written or spoken. All complaints will be directed to the applicable Area office.

If the complaint concerns issues outside of IDL jurisdiction (e.g. blasting, dust, noise, hours of operation, etc.), then the Area office shall respond that the specific issues are outside the jurisdiction of IDL. Suggestions for the proper agency to consult should be given by the Area (DEQ, local planning and zoning, etc.).

If the complaint concerns issues that could be under the authority of IDAPA 20.03.01 (Dredge/Placer Mining Rules) or IDAPA 20.03.02 (Mined Land Reclamation Rules), then the Area shall contact the permittee and arrange for an inspection to discuss the complaint. The complaint should be treated as a possible non-compliance issue, but judgment on the complaint should be reserved until Area staff can meet with the permittee and inspect the mine site.

All complaints should receive a written response with a summary of:

1. Whether IDL has the authority to address the complaint.
2. The actions taken by IDL to follow up on the complaint.
3. Any actions that the operator has been requested to do by IDL to resolve the complaint and any potential violations.

### **C. Step 1: General Noncompliance**

If a permittee is not operating in compliance with the applicable rules or the permit or plan, the Area office should discuss the non-compliance with the permittee during an inspection, at the office, or over the phone (Idaho Code § 47-1513(a)). At the end of that discussion, the permittee should have a clear understanding of the following:

1. **What condition or action has caused the noncompliance?**

Be as specific as possible. Examples:

- i. The observed inadequacies of BMPs.
- ii. Expansion of the disturbed area beyond the permitted boundaries, or beyond the number of acres covered by the Bond Assurance Fund.
- iii. Failure to perform concurrent reclamation.
- iv. Failure to provide adequate financial assurance.
- v. Starting mining before a permit or plan has been approved and covered by financial assurance.

2. **What part of the permit, plan, or rule has not been followed?**

Again, be specific. Cite the rule down to the subparagraph level, or to the portion of the plan that is not being followed.

3. **What actions are needed to resolve the noncompliance?**

Sometimes specific actions can be recommended (e.g. submit a plan amendment, increase financial assurance, stockpile the topsoil, etc.), but often IDL should avoid prescriptive remedies. For example:

- i. Do recommend alternate BMPs for controlling erosion, but do not order a specific BMP to be installed.
- ii. Do recommend an appropriate seed mix for the site, but do not require that specific species be used.
- iii. Do recommend that high walls in a quarry be benched, but do not require specific bench heights and widths.

4. **When do the above actions need to be completed?**

An operator should generally be given thirty (30) days to resolve noncompliance. This can be adjusted based on an emergency situation, access, extent of work to be done, etc.

The discussion with the operator must be followed with a letter that restates the discussion (IDAPA 20.03.01.051.02.a). The Area may send the letter certified if they are not sure the deadline will be met. The letter will allow IDL to better pursue legal action, if needed. Without this letter, IDL may have to repeat the above step. A copy of the letter shall be sent to the Bureau.

### **D. Emergency Action Required**

If immediate and irreparable injury, loss, or damage may be expected to occur due to the non-compliance, and the operator is unwilling or unable to take emergency action to remedy the situation, the Area shall contact the Operations Chief and prepare a judicial referral checklist

recommending injunctive relief (Temporary Restraining Order). These may be granted without a hearing (IDAPA 20.03.01.051.04.b or Idaho Code § 47-1513(d or e)) if a judge can be convinced the threat is real and immediate. The judicial referral checklist shall be forwarded to the Operations Chief for follow up action.

Examples of irreparable injury, loss, or damage include, but are not limited to:

1. Erosion or instability that threatens a public road or occupied structures.
2. Ongoing, unpermitted, and excessive sediment delivery to surface waters.
3. Impending failure of a sediment or tailings dam.
4. Capture of a river by a gravel pit.
5. Using hazardous materials as backfill if those materials could contaminate groundwater.

#### **E. Step 2: General Noncompliance**

Area staff shall re-inspect the site within fifteen (15) days after the deadline for resolution of the non-compliance. If the operator has not addressed the non-compliance, the area shall again discuss the issue with the operator and reaffirm the resolution of the non-compliance.

The area shall follow up the second discussion with a second letter by certified mail. The letter should state the following:

1. The first deadline agreed upon with the operator was not met.
2. The violations that have occurred.
3. How the non-compliance can be resolved.
4. Deadline for resolution. Generally, thirty (30) days is adequate.
5. Consequences of not resolving the violations, which may include IDL seeking injunctive relief, civil penalties, and permit or plan cancellation.

If the operator has not addressed the non-compliance by the date specified in the second letter, the area shall prepare a judicial referral checklist with a recommended action and forward it to the Operations Chief.

#### **F. Bureau Initiated Actions**

The Bureau may take administrative action when permit and plan holders fail to pay fees or submit financial assurance. The Bureau will generally follow the same guidelines for administrative action that are used by the Areas.

If the operator does not comply with requests to pay fees or provide financial assurance, the Bureau will notify the Area and prepare a judicial referral checklist for cancellation of the permit or plan and other applicable actions.

## **II. Legal Remedies**

### **A. Judicial Referral Checklist**

Legal action by a Deputy Attorney General is requested through a judicial referral checklist drafted by whoever is requesting legal action (Attachment 39). Legal actions may include:

1. Cancellation of permit or plan (IDAPA 20.03.01.051.02.g or Idaho Code § 47-1513(a)).
2. Forfeiture of financial assurance (IDAPA 20.03.01.051.02.g or Idaho Code § 47-1513(b)).
3. Injunctive relief against an operator who:

- i. Conducts exploration or mining operations and violates or exceeds the terms of the permit, plan, statute, or rule (IDAPA 20.03.01.051.04.a.i and a.ii and Idaho Code § 47-1513(d or e)).
  - ii. Has an insufficient financial assurance to reclaim a dredge/placer mine in the event of forfeiture (IDAPA 20.03.01.051.04.a.iii).
  - iii. Conducts mining without an approved permit, plan, or financial assurance (IDAPA 20.03.01.051.04.a.ii and Idaho Code § 47-1513(d or e)).
  - iv. Violates the terms of an approved permit or plan, or violates an applicable statute or rule, and immediate and irreparable injury, loss, or damage to the state may be expected to occur (IDAPA 20.03.01.051.04.b or Idaho Code § 47-1513(d or e)).
4. Civil penalties in the amount of five hundred dollars (\$500) to two thousand five hundred dollars (\$2,500) per day of violation (IDAPA 20.03.01.051.06.a or Idaho Code § 47-1513(f)).
5. Civil penalties equal to the cost of reclamation when operations occur without permit or financial assurance (IDAPA 20.03.01.051.05 or Idaho Code § 47-1513(c)).
6. Civil penalties in the amount of one thousand dollars (\$1,000) to five thousand dollars (\$5,000) when a permittee willfully or knowingly falsifies any records, plans, specifications, or other information required by the board; or when a permittee willfully fails, neglects, or refuses to comply with any of the provisions of the applicable rules (IDAPA 20.03.01.051.06.b or Idaho Code § 47-1513(g)).

## **B. Formal Complaint**

After a Judicial Referral Checklist is submitted to the Deputy Attorney General, a Formal Complaint will be drafted by legal staff (IDAPA 20.03.01.051.02.c or Idaho Code § 47-1513(a)).

This complaint specifies:

1. The nature of the violation.
2. The steps IDL has taken to resolve the violation.
3. The failure of the permittee to adequately resolve the violation.
4. The legal actions that IDL will pursue to resolve the violations.

The permittee will have thirty (30) days to answer the complaint and request a contested case hearing. If no answer is received and a hearing is not requested, the allegations in the complaint are deemed admitted by the permittee and the Bureau will proceed to cancel the permit or plan and forfeit the financial assurance (IDAPA 20.03.01.051.02.d and g or Idaho Code § 47-1513(a)).

## **C. Contested Case Hearing**

If the permittee answers the formal complaint and requests a hearing, then a contested case hearing will be held. Please refer to Section 75 of these Procedures.

## **D. Civil Action in District Court**

Whenever the board determines that a permittee has not complied with the provisions of the act or these rules, the board may file a civil action in the district court for the county wherein the violation or some part occurred, or in the district court for the county where the defendant resides. The board may request the court to issue an appropriate order to remedy any alleged violation (IDAPA 20.03.01.003.01.c or Idaho Code § 47-1514(c)).



## Section 75 – Contested Case Hearings

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In accordance with [Executive Order 2020-02, Transparency in Agency Guidance Documents](#), guidance documents promulgated by the department are not new laws. They represent an interpretation of existing law, except as authorized by Idaho Code or incorporated into a contract.

### Agency Contact

Minerals Regulatory Program Manager, Boise Staff Office

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## I. General Information

### A. Hearing Request

If the permittee answers a formal complaint and requests a hearing, the Director will appoint a hearing officer. A Director’s order is needed to appoint the hearing officer. Legal staff will prepare the necessary document.

### B. Hearing Deadline

The hearing must be held within thirty (30) days of the permittee’s request for a hearing (IDAPA 20.03.01.051.02.d or Idaho Code § 47-1513(a)). The parties shall be contacted to establish a mutually agreeable time. An official order is needed to notify the parties of the scheduled hearing. Legal staff will prepare the necessary document.

### C. Consult With Deputy Attorney General

Consultation with legal staff is essential throughout a contested case hearing. This section of the procedures is a very brief summary. Sections 104 through 780 of IDAPA 20.01.01 pertain to contested case hearings and contain a complete description of the contested case hearing process for IDL.

## **II. Pre-Hearing**

The hearing officer should schedule and conduct a pre-hearing conference with the parties. It may be conducted via phone and must be at least fourteen (14) days prior to the actual hearing. The purpose of the conference is to:

1. Determine what specific issues are in dispute.
2. Determine what facts are not in dispute.
3. Determine who the participating parties are, and who will be giving testimony. Third parties may participate at the discretion of the hearing officer.
4. Establish a deadline for the submittal of evidence and documents pertaining to the issues. The participants will supply the hearing officer with enough copies of the information for IDL and each party in the contested case. This deadline should be at seven (7) days prior to the actual hearing.

The pre-hearing conference must be recorded. The hearing officer should also take notes and prepare a brief summary for the record following the hearing.

## **III. Hearing**

The hearing will be conducted in accordance with Title 67, Section 52, Idaho Code, and IDAPA 20.01.01.104 through 780. The board shall issue subpoenas at the request of the director and at the request of the permittee (IDAPA 20.03.01.051.02.d or Idaho Code § 47-1513(a)). Persons who testify will be sworn in.

The hearing will be recorded (Idaho Code § 67-5242(3.d)), and it may be conducted remotely ((Idaho Code § 67-5242(3.e)).

The hearing officer must regulate the course of the proceedings to assure that there is a full disclosure of all relevant facts and issues, including such cross-examination as may be necessary ((Idaho Code § 67-5242(3.a)).

## **IV. Decision**

The hearing officer shall enter an order in accordance with IDAPA 20.01.01.720. If adverse to the permittee, the order shall designate a time period within which a prescribed corrective action should be taken. The designated time period shall be sufficient to allow a reasonably diligent permittee to correct any violation.

Upon the permittee's compliance with the order, the director will consider the matter resolved and shall take no further action with respect to such noncompliance.

## **V. Judicial Review**

Any operator dissatisfied with any final order of the board may, within twenty eight (28) days after notice of such order, obtain judicial review thereof by appealing to the district court of the state of Idaho for the county wherein the operator resides or has a place of business, or to the district court for the county in which operation is located (Idaho Code § 67-5273).

When the board finds that justice so requires, it may postpone the effective date of a final order made, pending judicial review. The reviewing court, including the court to which a case may be taken on appeal, may issue all necessary and appropriate orders to postpone the effective date of any final order pending conclusion of the review proceedings.



## Section 80 – Cyanide Closure Plan & Approval

In accordance with [Executive Order 2020-02, Transparency in Agency Guidance Documents](#), guidance documents promulgated by the department are not new laws. They represent an interpretation of existing law, except as authorized by Idaho Code or incorporated into a contract.

### Agency Contact

Minerals Regulatory Program Manager, Boise Staff Office

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## I. General Information Regarding Cyanide and Closure Plans

### A. What Is Cyanide?

Cyanide is a combination of one atom of carbon and one atom of nitrogen. The chemical formula is  $CN^-$ . This ion is quite reactive and toxic. Cyanide is often shipped as sodium cyanide ( $NaCN$ ), which is a white powder. For mining operations it is shipped in a more stable briquette form. When dissolved in water ( $H_2O$ ), hydrogen cyanide is formed:  $NaCN + H_2O = HCN + NaOH$ . Hydrogen cyanide is a colorless and mostly odorless gas, although some people may detect a slight almond aroma. It will stay in solution if dissolved in enough water, and the pH is kept high (basic, usually pH ten (10) to eleven (11)). If the pH is brought down to eight (8) or below, cyanide will be released as a gas.

### B. Why Is Cyanide Used for Mining?

Cyanide forms very strong bonds with silver and gold. Cyanide is put into solution, as described above, and the pH is raised to create a basic solution. This leaching solution is sprinkled over crushed ore. Sometimes the ore is run of mine (not crushed). The barren solution percolates through the ore, including the microscopic pore spaces within rock particles, and picks up the gold and silver. The now pregnant solution is sent to a mill where gold and silver is stripped from the solution and further refined. The barren solution is returned back to the leaching circuit after any needed pH or cyanide adjustments.

Cyanide leaching is not used for all gold deposits. It is only effective when used with gold deposits that have been oxidized through natural weathering processes. It is most effective when the gold is in very small particles disseminated throughout the rock. Ore deposits with large particles of free gold, or with a lot of pyrite or other sulfide minerals, will not leach very well with cyanide. Sulfide minerals also form strong bonds with gold, and can rob the solution of this metal. Sulfides can also form very long lasting complexes with cyanide that are difficult to neutralize. Ore with sulfide minerals can be roasted (oxidized) and then leached.

### **C. What Are the Potential Pitfalls?**

Most people object to the use of cyanide due to the potentially harmful effects on surface waters and wildlife if it is released. In reality, the containment strategies are quite regulated and effective when properly implemented. This results in very few cyanide releases. Cyanide in the open environment does break down into carbon and nitrogen quite rapidly, especially when exposed to air and sunlight. Bacteria and some other organisms can also break down cyanide. Fish, amphibians, and most terrestrial animals, however, will die from a sufficient exposure to cyanide. Chemicals that neutralize cyanide can be added to the leaching solution when leaching is done. The DEQ regulations are the main enforcement control for the use of cyanide during the leaching and milling processes.

Perhaps a more important concern is long term impacts to the ore from the leaching process. Many other metals in the ore are mobilized by the effect of cyanide. Arsenic, copper, and cadmium are some of the most common. These metals may not be removed in the milling process, so they continue to circulate in the solution and the ore. After leaching is completed, these metals are still quite mobile in the spent ore. Water percolating through the spent ore often does not meet surface water quality standards because cyanide has mobilized so many different compounds. Nitrates from the blasting agents (ammonium nitrate) and the breakdown of cyanide can also be quite elevated in the water. All these constituents can linger for years in water that drains through the spent ore. The IDL regulations act in concert with DEQ regulations to address the effective closure and long term monitoring requirements of ore processing sites that use cyanide.

## **II. Applicability of Closure Plan Requirements**

### **A. When Closure Plans are Required**

Closure plans and financial assurance are required for ore processing by cyanidation if an operator is (IDAPA 20.03.02.001.05.b):

1. Constructing or operating a cyanidation facility that did not have a cyanidation permit approved by the DEQ prior to July 1, 2005.
2. Materially modifying or materially expanding an existing cyanidation facility after July 1, 2005. A material modification or expansion is defined in Subsection 10.III of these procedures.

A closure plan is required in the above circumstances regardless of the type of mining involved and the location of the milling facility. A stand alone "custom mill" would also fall under this requirement.

## **B. When Closure Plans Are Not Required**

The following activities do not require a closure plan:

1. Milling operations under a cyanidation permit approved by the DEQ prior to July 1, 2005 (IDAPA 20.03.02.001.05.b).
2. Milling operations that use other types of ore processing such as flotation, electrowinning, crushing, etc. that are not associated with a dredge/placer or surface mine.

## **III. Preapplication Conference**

### **A. Coordination With DEQ**

These permits will be closely coordinated with DEQ, who will still issue a permit under IDAPA 58.01.13, Rules for Ore Processing by Cyanidation. IDL's authority for these sites is restricted to the closure plan and financial assurance.

### **B. Preapplication Conference**

Prospective applicants should meet with IDL and DEQ prior to preparing and submitting an application package (IDAPA 20.03.02.071.03). The purpose of these meetings is to discuss:

1. The application requirements.
2. How the application will be processed.
3. Site visits to the proposed location.

The preapplication conference should trigger a period of collaborative effort between the Department, the DEQ, and the applicant in developing checklists to be used by the agencies in reviewing an application for completion, accuracy, and protectiveness. The goal of the preapplication discussions is to ensure that the submitted application package is complete.

### **C. Cold Application Submittals**

An applicant may submit an application package without a preapplication conference. If it is incomplete, it must be returned to the applicant within thirty (30) days of IDL receiving the package (IDAPA 20.03.02.080.01.b).

## **IV. Application Submittal**

### **A. Application Receipt**

Please see Section 15 of these Procedures for information on application receipt and permit numbering.

### **B. Application Package Contents**

The application package submitted to IDL must contain the following (IDAPA 20.03.02.071.04):

1. Application form that is filled out and signed by the applicant. An out-of-state operator shall designate an in-state agent authorized to act on behalf of the operator.

2. Proof that the applicant is a registered business entity with the Idaho Secretary of State.
3. A permanent closure plan as prescribed in IDAPA 20.03.02.071.02.
4. The DEQ cyanide permit application and supporting materials.
5. A five thousand dollar (\$5,000) nonrefundable application processing and review fee (IDAPA 20.03.02.071.05.a.i).

### **C. Application Completeness**

All closure plan applications shall be examined for completeness. Area staff shall process the application based upon the information provided, not based upon assumed conditions. Closure plan requirements are detailed in Section V of this Procedure. The completeness review must be done within thirty (30) days of IDL receiving the plan.

If a plan is complete, it must be approved within one hundred eighty (180) days of the time stamp (date of receipt) or the plan is automatically approved as submitted (IDAPA 20.03.02.080.04.b.ii).

### **D. Application Fee**

Within thirty (30) days of receiving an application package, the Area shall provide a detailed cost estimate to the operator which includes (IDAPA 20.03.02.071.05.a):

1. A description of the scope of the Department's review.
2. The assumptions on which the Department's estimate is based.
3. An itemized accounting of:
  - i. The anticipated number of labor hours.
  - ii. Hourly labor rates (fully loaded).
  - iii. Travel expenses.
  - iv. Any other direct expenses.
  - v. Indirect expenses equal to ten percent (10%) of the estimated direct costs.

### **E. Application Fees Over \$5,000**

If the Department's estimate is greater than five thousand dollars (\$5,000), the applicant will either pay the balance of the Department's estimate or commence negotiations with the Department to establish a mutually agreeable fee. The applicant may appeal to the Board if a fee cannot be negotiated within twenty (20) days from issuance of the Department's estimate. The Board shall:

1. Review the Department's estimate.
2. Conduct a hearing where the applicant is allowed to give testimony to the Board concerning the Department's estimate.
3. Establish the amount of the application review and processing fee.

If the fee is more than five thousand dollars (\$5,000), the applicant shall pay the balance of the fee within fifteen (15) days of the Board's decision or withdraw the application. The fee negotiations must be done within the one hundred eighty (180) day review time.

## **F. Cost Estimate Verification Fee**

The Department may employ a qualified independent party, acceptable to the operator and the Board, to verify the accuracy of the permanent closure cost estimate (IDAPA 20.03.02.071.05.b). This cost estimate is the basis for the financial assurance amount (IDAPA 20.03.02.121.01). The applicant shall be responsible for paying the Department's cost to contract a consultant for the cost verification (IDAPA 20.03.02.071.05.b).

The applicant may participate in the Department's processes for identifying qualified parties and selecting a party to perform this work (IDAPA 20.03.02.071.05.b). Typically this is done by:

1. IDL choosing a pool of potential consultants that have the needed expertise.
2. The applicant narrowing the list down to two or three candidates, and stating any potential conflicts of interest due to past or existing contracts between the applicant and the potential consultant.
3. IDL selecting the consultant from the applicant's short list.

If the USFS or BLM establishes a financial assurance amount for permanent closure of a cyanidation facility on federal land, IDL may employ the same firm retained by the federal agency to verify the accuracy of the permanent closure cost estimate (IDAPA 20.03.02.071.05.b). If IDL chooses not to employ the firm retained by the federal agency, they shall provide a written justification explaining why the firm was not employed.

## **G. Incomplete Application**

If an application is deemed incomplete, Area staff will send a letter of incompleteness (Attachment 40) to the permittee within thirty (30) days after receipt of a closure plan (IDAPA 20.03.02.080.01.b). This letter shall identify the deficiencies. This letter is required to remove the one hundred eighty (180) day approval deadline. After the letter is sent, the applicant must submit the information required to complete the plan. The processing will then start over at the beginning of Subsection III above, and a new one hundred eighty 180 day approval deadline will be determined by the date stamp on the additional information submitted. The same plan number may be used if one has already been assigned by the Bureau (see below).

## **H. Denial of Application**

If the application is deemed to be incomplete or inaccurate more than thirty (30) days after receipt of the plan, but prior to the one hundred eighty (180) day approval deadline, then the application must be rejected. The Area shall prepare a department memorandum and letter for the denial. The letter will state (IDAPA 20.03.02.080.07):

1. The reasons the application has been rejected.
2. The factual findings upon which the rejection is based.
3. A statement of the applicable statute(s) and rule(s).
4. The manner in which the application failed to fulfill the requirements of these rules.
5. The action that must be taken or conditions that must be satisfied to meet the requirements of the chapter and these rules.

The applicant may then submit an amended application for review. As with an incomplete application, the processing will start over at the beginning of Subsection III above. The same

plan number may be used if one has already been assigned by the Bureau (see below) (IDAPA 20.03.02.080.07).

### **I. Notifications and Hearings**

The Area should initially provide a written notification to only DEQ (IDAPA 20.03.02.080.04.a). After IDL and DEQ determine that the plan is complete, the Area office will initiate the interagency notification for the other involved agencies as described in Section 30 of these Procedures, and hold a hearing if determined to be necessary.

### **J. Inspection**

An inspection may be needed to fully evaluate the closure plan. The applicant shall be contacted a reasonable time prior to the inspection and asked that an employee or representative be present for the inspection. Area staff shall attempt to find a time and date that the applicant is available. If the applicant fails to find a representative, or that representative fails to appear, the inspection may proceed as planned (IDAPA 20.03.02.080.04.c).

If weather conditions prevent an inspection, and the inspection is needed to evaluate the application, then the review may be postponed pending an inspection. Written notice to an operator shall be sent by the Area. The approval deadline may be postponed until thirty (30) days after weather conditions permit an inspection (IDAPA 20.03.02.080.04.c).

## **V. Closure Plan Requirements**

### **A. Identity of Parties Involved**

The plan shall identify the current owner of the cyanidation facility and the party responsible for the permanent closure and the long-term care and maintenance of the cyanidation facility (IDAPA 20.03.02.071.02.a).

### **B. Timeline**

The plan shall include a timeline showing (IDAPA 20.03.02.071.02.b):

1. The schedule to complete permanent closure activities, including neutralization of process waters and material stabilization, and the time period for which the operator shall be responsible for post-closure activities. These post-closure activities shall include, but are not limited to, monitoring and maintenance (IDAPA 20.03.02.121.06.a).
2. The schedule to begin each phase of construction, operation, and/or permanent closure activities and any associated post-closure activities if the operator plans to complete these tasks in phases.

### **C. Neutralization Plan**

The plan shall provide the objectives, methods, and procedures that will achieve neutralization of process waters and material stabilization during the closure period and through post-closure (IDAPA 20.03.02.071.02.c).

### **D. Water Management Plan**

The plan shall provide a water management plan from the time the cyanidation facility is in permanent closure through the defined post-closure period. The plan shall be prepared in accordance with IDAPA 58.01.13, "Rules for Ore Processing by Cyanidation," administered by the DEQ, as required to meet the objectives of the permanent closure plan (IDAPA 20.03.02.071.02.d).

#### **E. BMPs**

The plan shall include (IDAPA 20.03.02.071.02.e):

1. The schematic drawings for all BMPs that will be used during the closure period and the defined post-closure period.
2. A description of how the BMPs support the water management plan.
3. An explanation of the water conveyance systems that are planned for the cyanidation facility.

#### **F. Maps and Cover Designs**

The operator shall provide proposed post-construction topographic maps and scaled cross-sections showing the configuration of the final heap or tailing facility, including the final cap and cover designs and the plan for long-term operation and maintenance of the cap. Caps and covers used as source control measures for cyanidation facilities must be designed to minimize the interaction of meteoric waters, surface waters, and groundwaters with wastes containing pollutants that are likely to be mobilized and discharged to waters of the state (IDAPA 20.03.02.071.02.f).

Prior to approval of a permanent closure plan, engineering designs and specifications for caps and covers must be signed and stamped by a professional engineer registered in the state of Idaho (IDAPA 20.03.02.071.02.f).

#### **G. Monitoring Plans**

The plan shall include monitoring plans for surface and ground water during closure and post-closure periods. The monitoring plans shall be adequate to demonstrate water quality trends and to ensure compliance with the stated permanent closure objectives and the requirements of the chapter (IDAPA 20.03.02.071.02.g).

#### **H. Potential Impacts**

The plan shall provide an assessment of the potential impacts to soils, vegetation, and surface and ground waters for all areas to be used for the land application system and provide a mitigation plan, as appropriate (IDAPA 20.03.02.071.02.h).

#### **I. Waste Handling**

The plan shall provide information on how the operator will comply with the following statutes during operation and permanent closure (IDAPA 20.03.02.071.02.i):

1. The Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq.
2. The Idaho Hazardous Waste Management Act, Title 39, Chapter 44, Idaho Code.
3. The Idaho Solid Waste Management Act, Title 39, Chapter 74, Idaho Code.
4. The appropriate state rules, if any, for the above statutes.

#### **J. Level of Detail**

The plan shall provide sufficient detail to allow the operator to prepare an estimate of the reasonable costs to implement the permanent closure plan (IDAPA 20.03.02.071.02.j).

#### **K. Cost Estimate**

The plan shall provide an estimate of the reasonable estimated costs to complete the permanent closure activities specified in the permanent closure plan in the event the operator fails to complete those activities (IDAPA 20.03.02.071.02.k). The estimate shall:

1. Identify the incremental costs of attaining critical phases of the permanent closure plan and a proposed financial assurance release schedule.
2. Assume that permanent closure activities will be completed by a third party whose services are contracted for by IDL as a result of a financial assurance forfeiture.
3. Include indirect costs as described in IDAPA 20.03.02.121.04.

#### **L. Phasing Information**

The plan shall describe the following information if the operator proposes to complete cyanidation facility construction, operation, and/or permanent closure activities in phases (IDAPA 20.03.02.071.02.l):

1. How these activities will be phased and how, after the first phase of activities, each subsequent phase will be distinguished from the previous phase or phases.
2. How any required post-closure activities will be addressed during and after each subsequent phase has begun.

#### **M. Additional Information**

The operator shall provide any additional information that may be required by the Department to ensure compliance with the objectives of the permanent closure plan and the requirements of the chapter (IDAPA 20.03.02.071.02.m).

## **VI. Closure Plan Processing**

#### **A. 180 Day Time Limit**

If a closure plan is complete, it must be approved within one hundred eighty (180) days of the time stamp (date of receipt) or the plan is automatically approved as submitted (IDAPA 20.03.02.080.04.b). All fee negotiations, hearings (Section 30 of these Procedures), interagency coordination (Section 50 of these Procedures), inspections, and plan reviews must be completed within this one hundred eighty (180) day time frame.

#### **B. Financial Assurance**

Closure plans may not be covered by the Bond Assurance Fund (IDAPA 20.03.03.017). All other types of financial assurance authorized under IDAPA 20.03.02.122 may be used. See Section 40 of these Procedures for more details. Financial assurance information is required in the approval documents.

### **C. Approval Memo**

Area staff shall prepare an approval memo (use Attachment 18 and replace the word “reclamation” with the word “closure”) that provides Lands and Waterways Processing Center the information needed to enter the plan in IMS, and identifies any issues associated with the approval. The description should mention any substantive comments received from other agencies, any issues regarding financial assurance amounts, if the plan is resolving a noncompliance issue, or other pertinent information. Memos should be signed by the plan reviewer, and a signed copy shall be sent to the Bureau with the approval letter via the Lands and Waterways Document Exchange. The approval memo is not sent to the applicant.

The financial assurance portion of the memo shall list the amount of the closure financial assurance required. See Section 40 of these Procedures for more information on financial assurance.

### **D. Approval Letter**

If the application will be approved Area staff shall prepare an approval letter to the applicant (Attachment 41). The stipulations in Attachment 42 should be used with the appropriate financial assurance information from the department memo.

The standard stipulations may only be changed after conferring with the Program Manager. A copy of the approval letter and memo can be sent via the Lands and Waterways Document Exchange. Copies of blank financial assurance forms should not be sent to the Bureau.

Stipulations in addition to the standard stipulations may be added to address minor shortcomings with the applications. These stipulations must be enforceable through the Surface Mining Act or IDAPA 20.03.02 and discussed with the operator and DEQ prior to approval.

### **E. Application Denial**

Closure plans may be denied (IDAPA 20.03.02.080.07) if:

1. The application is inaccurate or incomplete.
2. The cyanidation facility as proposed cannot be conditioned for construction, operation, and closure to protect public safety, health, and welfare, in accordance with the scope and intent of these rules, or to protect beneficial uses of the waters of the state, as determined by the DEQ pursuant to Title 39, Chapter 1, Idaho Code, Section 39-118A, and IDAPA 58.01.13, “Rules for Ore Processing by Cyanidation” and other DEQ rules cited therein.

If the application will be denied, Attachment 42 should be used for a denial letter.



## Section 85 – Permanent Closure Completion & Reporting

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In accordance with [Executive Order 2020-02, Transparency in Agency Guidance Documents](#), guidance documents promulgated by the department are not new laws. They represent an interpretation of existing law, except as authorized by Idaho Code or incorporated into a contract.

### Agency Contact

Minerals Regulatory Program Manager, Boise Staff Office

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## I. Implementation of a Permanent Closure Plan

### A. When Closure Plans are Implemented

Unless otherwise specified in the approved permanent closure plan, an operator must begin implementation of the approved permanent closure plan (IDAPA 20.03.02.111.01):

1. Within one (1) year of the final addition of new cyanide to the ore process circuit for small cyanidation processing or pilot facilities.
2. Within two (2) years of the final addition of new cyanide to the ore process circuit for all other cyanidation facilities.
3. If the product recovery phase of the cyanidation facility has been suspended for a period of more than two (2) years.

### B. Partial Financial Assurance Release

See Subsection 40.VIII of these Procedures.

### C. Permanent Closure Report

The operator shall submit a permanent closure report to the Department for review and approval. A permanent closure report shall be of sufficient detail for IDL and DEQ to issue a determination that permanent closure has been achieved. The permanent closure report shall address (IDAPA 20.03.02.111.02):

1. The effectiveness of material stabilization.
2. The effectiveness of the water management plan and the adequacy of the monitoring plan.
3. The final configuration of the cyanidation facility and its operational/closure status.
4. The post-closure operation, maintenance, and monitoring requirements, and the estimated reasonable cost to complete those activities.

5. The operational/closure status of any land application site of the cyanidation facilities.
6. Source control systems that have been constructed or implemented to eliminate, mitigate, or contain the short and long term discharge of pollutants from the cyanidation facility, unless otherwise permitted.
7. The short and long term water quality trends in surface and ground water through the statistical analysis of the existing monitoring data pursuant to the ore-processing by cyanidation permit.
8. Ownership and responsibility for the site upon permanent closure during the defined post-closure period.
9. The future beneficial uses of the land, surface waters, and ground waters in and adjacent to the closed cyanidation facilities.
10. How the permanent closure of the cyanidation facility complies with the Resource Conservation and Recovery Act, Hazardous Waste Management Act, Solid Waste Management Act, and appropriate rules.

## **II. Receipt and Review of Permanent Closure Report**

### **A. Receipt of a Permanent Closure Report**

Within sixty (60) days of receipt of a permanent closure report, the Area shall issue to the operator a determination of approval or disapproval of the permanent closure report (IDAPA 20.03.02.112.01).

### **B. Decision Required**

IDL's determination to approve or disapprove a permanent closure report shall be based on the permanent closure report's demonstration that permanent closure has resulted in long-term neutralization of process waters and material stabilization (IDAPA 20.03.02.112.02).

### **C. Termination of Closure Plan**

The director shall terminate a permanent closure plan upon request of the operator, provided all the provisions and objectives of the permanent closure plan have been met as defined in Subsection I above and the applicable rules (IDAPA 20.03.02.150.02). Upon a determination that permanent closure has been completed in accordance with the approved permanent closure plan and upon consultation with the DEQ that the operator's request to terminate a plan should be approved, the Area will notify the operator that:

1. Any authority to continue cyanidation operations is terminated
2. The balance of the permanent closure bond is released (IDAPA 20.03.02.150.02 and IDAPA 20.03.02.121.06.c).

### **D. Disapproved Report**

If a permanent closure report is disapproved, the Area shall provide the operator a written identification of (IDAPA 20.03.02.112.02):

1. Errors or inaccuracies in the permanent closure report.
2. Issues or details which require additional clarification.
3. Failures to fully implement the approved permanent closure plans.
4. Failures to ensure protection for public health, safety, and welfare or to prevent degradation of waters of the state.

5. Outstanding violations or other noncompliance issues.
6. Other issues supporting IDL's disagreement with the contents, final conclusions or recommendations of the permanent closure report.

**E. Failure To Complete Closure**

If an operator fails to adequately perform permanent closure, then the steps outlined in Section 70 of these Procedures should be pursued. Consultation with DEQ must occur throughout the administrative and legal processes.

Cancellation of the closure plan and bond forfeiture may proceed after the administrative and legal processes are exhausted. Please refer to Subsection 60.II of these Procedures for more details. Closure plan cancellation follows the same process as reclamation plans. The only difference is the coordination required with DEQ, as mentioned in the previous paragraph.

**PLACER PERMIT PROCESSING CHECKLIST FOR AREA USE**

**PERMIT NUMBER:** \_\_\_\_\_ **AREA:** \_\_\_\_\_

**APPLICATION NAME:** \_\_\_\_\_ **PHONE:** \_\_\_\_\_  
 \_\_\_\_\_

1. *Original* Permit submitted to Area or Bureau: \_\_\_\_\_ (Date)
  - a. Date Stamped on front right corner: \_\_\_\_\_ (Yes / No)  
 \_\_\_\_\_ (Yes/No/ N/A)
  - b. Corporate Registration with Secretary of State: \_\_\_\_\_ N/A
  - c. Area determines that the application is complete  
 (including signature and full address, must be done  
 within 30 days of 1a date) \_\_\_\_\_ (Yes / No)
  - d. Date COMPLETE application submitted: \_\_\_\_\_  
 (Same date as 1a unless additional information is  
 received) \_\_\_\_\_ (Date)
  - e. Processing fee paid and fee amount \_\_\_\_\_ (Yes/No)(\$)  
 \_\_\_\_\_
2. *Original* Permit/Plan forwarded to Bureau: \_\_\_\_\_  
 (Must be within 5 days of date in 1a) \_\_\_\_\_ (Date)
3. Application and Plan sent to Agencies (ASAP after 1a) \_\_\_\_\_ (Date) (N/A)
4. Mineral rights verified: \_\_\_\_\_  
 State / Private / Federal Mineral (circle all that apply) \_\_\_\_\_ (Date)  
 If state, forward copy to Mineral Leasing Program  
 Manager: \_\_\_\_\_ (Date)
5. Located within Core or Important Sage Grouse Habitat  
 (yes on private, provide IDL LB Plan Sage-Grouse BMPs  
 to Permittee) \_\_\_\_\_  
 (yes on State, forward copy to Mineral Leasing Program  
 Manager) \_\_\_\_\_ (Yes/No)
6. Existing Plan Overlap \_\_\_\_\_ (Yes/No)
7. Placer Permit, board memorandum, and location map  
 documents sent to Program Manager for Land Board  
 Review \_\_\_\_\_ (Date)  
 \_\_\_\_\_ Initials  
 \_\_\_\_\_

**RECLAMATION PLAN PROCESSING CHECKLIST FOR AREA USE**

**PLAN NUMBER:** \_\_\_\_\_ **AREA:** \_\_\_\_\_

**APPLICATION NAME:** \_\_\_\_\_ **PHONE:** \_\_\_\_\_

\_\_\_\_\_ **EMAIL:** \_\_\_\_\_

1. *Original* Plan submitted to Area or Bureau: \_\_\_\_\_ (Date)  
 a. Date Stamped on front right corner: \_\_\_\_\_ (Yes/No)  
 b. Corporate Registration with Secretary of State: \_\_\_\_\_ (Yes/No/N/A)  
 c. Area determines that the application is complete (including signature and full address, must be done within 30 days of 1a date) \_\_\_\_\_ (Yes/No)  
 d. Date COMPLETE application submitted: \_\_\_\_\_ (Date)  
 (Same date as 1a unless additional information is received)  
 e. Approval Deadline to Applicant, 60 days from 1d \_\_\_\_\_ (Date)  
 f. Determine if Plan is to be processed under 069 or 070 \_\_\_\_\_ (069/070)  
 (If 070 notify Program Manager and Bureau Chief)  
 g. Processing fee paid and fee amount \_\_\_\_\_ (Yes/No)(\$)
  2. *Original* Plan forwarded to Bureau: \_\_\_\_\_ (Date)  
 (Must be within 5 days of date in 1a)
  3. Permitted Area & Disturbed Area Polygons sent to Land Records \_\_\_\_\_ (Date)
  4. Application and Plan sent to Agencies, if applicable (ASAP after 1a) \_\_\_\_\_ (Date)(N/A)
  5. Notice of Reclamation Plan Application sent to County or City: \_\_\_\_\_ (Date)  
 (ASAP after 1a)
  6. Mineral rights verified: \_\_\_\_\_ (Date)  
 State / Private / Federal Mineral (circle all that apply)  
 If state, forward copy to Mineral Leasing Program Manager: \_\_\_\_\_ (Date)
  7. Located within Core or Important Sage Grouse Habitat \_\_\_\_\_ (Yes/No)  
 (yes on private, provide IDL LB Plan Sage-Grouse BMPs to Permittee)  
 (yes on State, forward copy to Mineral Leasing Program Manager)
  8. Existing Plan Overlap \_\_\_\_\_ (Yes/No)
  9. Department Memorandum signed by Area Manager: \_\_\_\_\_ (Date)  
 (Include any special stipulations)
  10. Mail Reclamation Plan denial/approval letter with stipulations \_\_\_\_\_ (Date)  
 (If within Sage-Grouse Core/Important include SG Pamphlet)  
 (Include Customer Service Survey)  
 (CC Copy to Bureau)
- \_\_\_\_\_ Initials

## Withdrawn River Segments

Under the authorities of Idaho Code § 47-702(2), 47-1323, and 58-104(9) the following segments of navigable rivers have been withdrawn from mineral entry and exploration:

- **The bed of the Boise River** from Lucky Peak Dam in Township 2 North, Range 3 East, B.M., downstream to Star Road in Township 4 North, Range 1 West, B.M. Withdrawal does not include excavation for flood control purposes (October 11, 1988 Land Board).
- **The bed of the South Fork of the Boise River** from Anderson Ranch Dam in Township 1 South, Range 8 East, B.M., downstream to Neal Bridge in Section 34, Township 3 North, Range 6 East, B.M. (August 9, 1988 Land Board).
- **The bed of the Middle Fork of the Boise River** from the east boundary of Township 5 North, Range 8 East, B.M., downstream to the west boundary of Section 1, Township 3 North, Range 5 East, B.M. (July 13, 1982 Land Board).
- **The bed of the North Fork of the Payette River** from Cabarton Bridge in Section 31, Township 13 North, Range 4 East, B.M. to Banks in Section 32, Township 9 North, Range 3 East, B.M. (August 9, 1988 Land Board).
- **The bed of the South Fork of the Payette River** from the Sawtooth Wilderness boundary in Section 12, Township 9 North, Range 9 East, B.M. to Banks in Section 32, Township 9 North, Range 3 East, B.M. (August 9, 1988 Land Board). This river segment is open for recreational suction dredging, but no exploration location or lease applications will be accepted by the Idaho Department of Lands for this river section (April 10, 1990 Land Board).
- **The bed of the Main Payette River** from Banks in Section 32, Township 9 North, Range 3 East, B.M. to Black Canyon Dam in Section 22, Township 7 North, Range 1 West, B.M. (August 9, 1988 Land Board).
- **The bed of the Upper Priest River** from the Canadian Border in Section 12, Township 65 North, Range 5 West, B.M. to the confluence with Priest Lake in Section 19, Township 63 North, Range 4 West, B.M. (August 9, 1988 Land Board).
- **The bed of the Middle Fork of the Clearwater River** from the town of Lowell downstream to the town of Kooskia ([Idaho Code § 47-1323\(1\)](#)). Dredge mining in any form is prohibited.
- **The bed of the Lochsa River** from the Powell Ranger Station downstream to its junction with the Selway River at Lowell forming the Middle Fork ([Idaho Code § 47-1323\(1\)](#)). Dredge mining in any form is prohibited.
- **The bed of the Selway River** from its origin downstream to the town of Lowell ([Idaho Code § 47-1323\(1\)](#)). Dredge mining in any form is prohibited.
- **The bed of the Salmon River** from the mouth of the North Fork of the Salmon River in Township 24 North, Range 21 East, B.M., downstream to Long Tom Bar (July 14, 1981 Land Board).
- **The bed of the Salmon River** from Hammer Creek in Township 28 North, Range 1 East, B.M. downstream to the mouth in Township 29 North, Range 4 West, B.M. (October 13, 1987 Land Board).

- **The bed of the Middle Fork of the Salmon River** from its origin downstream to its confluence with the Main Salmon River ([Idaho Code § 47-1323\(2\)](#)). Dredge mining in any form is prohibited.
- **The bed of the South Fork of the Salmon River** from the south boundary of Township 20 North, Range 6 East, B.M. downstream to the mouth (April 21, 1992 Land Board).
- **The bed of the St. Joe River**, including tributaries, from its origin downstream to its confluence with Coeur d'Alene Lake, except for the St. Maries River and its tributaries ([Idaho Code § 47-1323\(3\)](#)). Dredge mining in any form is prohibited.
- **The bed of the Henry's Fork of the Snake River** from its point of origin at Henry's Lake in Section 21, Township 15 North, Range 43 East, B.M. downstream to its point of confluence with the backwaters of Ashton Reservoir, Section 13, Township 9 North, Range 42 East, B.M. (August 9, 1988 Land Board).
- **The bed of the Snake River** from Section 5, Township 11 South, Range 20 East, B.M., to King Hill (August 9, 1988 Land Board). This river segment is open for recreational suction dredging, but no exploration location or lease applications will be accepted by the Idaho Department of Lands for this river section (April 10, 1990 Land Board). Producing leases may be renewed.
- **The bed of the Snake River** from the east boundary of Township 6 South, Range 8 East, B.M., to the west boundary of Township 1 South, Range 2 West, B.M., encompassing the Birds of Prey Area (December 13, 1988 Land Board).
- **The Idaho bed of the Snake River** consisting of the east ordinary high water mark to the center of the main channel (State of Idaho ownership in the Hell's Canyon National Recreation Area), from the north boundary of Township 20 North, Range 4 West, B.M., downstream to the south boundary of Township 31 North, Range 5 West, B.M. (December 13, 1988 Land Board).



IDAHO DEPARTMENT OF LANDS
APPLICATION FOR DREDGE/PLACER MINE PERMIT APPROVAL

PERMIT NUMBER \_\_\_\_\_

The Idaho Dredge and Placer Mining Protection Act (Title 47, Chapter 13, Idaho Code) requires any operator of a dredge or placer mining operation to obtain a Dredge/Placer Mine Permit and bond. There is a \$50.00 application fee required for each 10 acres of land, or portion thereof, which is being permitted. If a Stream Channel Alteration Permit is required for the operation, it must be issued prior to issuance of the Placer Mine Permit.

When an applicant will be mining on lands administered by the U.S. Forest Service or Bureau of Land Management, it is necessary to obtain the proper federal approvals in addition to the Department of Lands. Each agency's application requirements are similar but not exactly the same. Please review both state and federal application requirements, and develop one plan which meets the requirements of the agencies involved.

After the mine plan has been finalized, five (5) copies of this application must be submitted to the Idaho Department of Lands, Bureau of Minerals, at the above address. When the department receives an application, the appropriate federal agency will be notified of said application, and it will be reviewed for completeness within thirty (30) days.

All placer mine permit applications will be processed in accordance with Rule 022 of the Rules Governing Exploration and Placer Mining Operations In Idaho (IDAPA 20.03.01) and applicable Memorandums of Understanding with state and federal agencies.

When the Department of Lands determines, in consultation with the DEQ, that there is an unreasonably high potential for nonpoint source pollution of adjacent surface waters, baseline pre-project surface water monitoring information will be required. An out-of-state permittee is required to designate an in-state agent authorized to act on behalf of the permittee. If the applicant is not the owner of the lands described in the application, the land owner is required to endorse the application prior to permit issuance.

APPLICATION INFORMATION

- 1. Name \_\_\_\_\_
d/b/a \_\_\_\_\_
2. Address \_\_\_\_\_ Telephone \_\_\_\_\_
3. Claim Name(s) \_\_\_\_\_
4. Claim Owner(s) \_\_\_\_\_
5. Designated In-state Agent and Address: \_\_\_\_\_
6. Legal Description to the 1/4 \_\_\_\_\_
Section \_\_\_\_\_ Township \_\_\_\_\_, Range \_\_\_\_\_
7. Acreage: \_\_\_\_\_ (include map as outlined on Page 2)
8. County: \_\_\_\_\_
9. The Operations Will Be Conducted On (USFS, BLM, IDL or Private) \_\_\_\_\_

10. Describe How to Get to Mining Operation: \_\_\_\_\_  
\_\_\_\_\_

11. Describe the Mining Operation Including Commodity Type, Proposed Start-up Date, Mining Method, Equipment to be Used, and Duration of Operations on an Annual Basis and for the Life of the Project: (Use additional sheets, if necessary) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

12. Please Provide the Following Maps of Your Mining Operation (Rule 021):
- a. A vicinity map prepared on a standard USGS 7.5' quadrangle map or equivalent.
  - b. A site map which adequately shows the location of existing roads, access roads, and main haul roads, which would be constructed or reconstructed for the operation. Also, list the approximate dates for construction, reconstruction and abandonment.
  - c. Show the location and names, if known, of all streams, creeks or bodies of water within 1,000 feet of the surface mining operation.
  - d. Show the approximate boundaries of the lands which will be affected by the mining operation. This map must be of adequate scale for boundary identification.
  - e. Show the approximate boundaries and acreage of the lands that will become affected by the mining operation during the first year of operations.
  - f. Show the planned location of all tailings ponds and ancillary structures associated with the mining operation.
  - g. Show the planned configuration of all pits, settling ponds, mineral stockpiles and overburden piles which will be developed by the mining operation.
  - h. Develop a surface and mineral control or ownership map of appropriate scale for boundary identification.
  - i. Develop scaled cross sections of the mine showing surface profiles prior to mining at maximum disturbance and after reclamation.
  - j. Show the location of required settling ponds, the design plans, construction specifications and narrative to show they meet both operating requirements and protection from erosion, seepage, and flooding that can be anticipated in the area. Where a dredge is operating in a stream, describe by drawing and narrative, the operation of the filtration equipment to be used to clarify the water.

Detailed plans and specifications for settling ponds shall be drawn to a scale of 1 inch = 10 feet and include the following:

- (1) A detailed map of the settling pond location, including:
  - (a) dimensions and orientation of the settling ponds and/or other wastewater treatment components of the operation;
  - (b) distance from surface waters;
  - (c) pond inlet/outlet locations including emergency spillways and detailed description of control structures and piping;
  - (d) location of erosion control structures; and
  - (e) 10-year flood elevation (probable high water mark).
- (2) A detailed cross-section of the pond(s) including:
  - (a) dimensions and orientation;
  - (b) proposed sidewall elevations;
  - (c) proposed sidewall slope;
  - (d) sidewall width;
  - (e) distance from and elevation above all surface water; and
  - (f) slope of settling pond location.

(3) Narrative of the construction method(s) describing:

- (a) bottom material;
- (b) sidewall material;
- (c) pond volume;
- (d) volume of water to be used in the wash plant;
- (e) discharge or land application requirements;
- (f) any pond liners or filter materials to be installed; and
- (g) compaction techniques.

(4) If the proposed ponds are:

- (a) less than 2,500 feet<sup>2</sup> surface area;
- (b) less than four (4) feet high;
- (c) greater than fifty (50) feet from surface water; and
- (d) constructed on slopes of 3:1 or flatter;

the plans and specifications for settlings ponds shall contain information in items (1) a, b, and d; (2) a, b, e and f. This information may be prepared as a sketch map showing appropriate elevations, distances and other required details.

13. An operator must prepare a document which **identifies and assesses the foreseeable, site-specific, nonpoint** sources of water quality impacts upon adjacent surface waters, and the best management practices the applicant will use to control the nonpoint source impacts.
14. A reclamation plan must be developed and submitted in map and narrative form. The reclamation plan must include the following information:
- a. Show how watercourses disturbed by the mining operation shall be replaced on meander lines with a pool structure conducive to good fish and wildlife habitat and recreational use. Show how and where riprap or other methods of bank stabilization will be used to ensure that, following abandonment, the stream erosion will not exceed the rate normally experienced in the area. If necessary, show how the replaced watercourse will not contribute to degradation of water supplies;
  - b. On a drainage control map show and list the Best Management Practices which will be utilized to control erosion on or from the affected lands.
  - c. On a site map show which roads will be reclaimed, the approximate dates for reclamation, and describe the reclamation to be accomplished.
  - d. Develop a re-vegetation plan which identifies how topsoil or other growth medium will be salvaged, stored and replaced in order to properly re-vegetate the area, identify the type of soil to be replaced, the slope of the reclaimed areas, and precipitation rates. Based on this information, identify the seed species, the seeding rates, the time and method of planting the soil, and fertilizer and mulch requirements.
  - e. Describe and show how tailings or sediment ponds will be reclaimed.
  - f. Make pre-mining estimate of the number and species of trees on site.
  - g. Estimate the actual cost of reclamation which includes the cost for equipment mobilization, re-grading, seed, fertilizer, mulch, labor and any other pertinent costs.

Date: \_\_\_\_\_ Applicant Signature \_\_\_\_\_

Date: \_\_\_\_\_ Land Owner Signature \_\_\_\_\_

RETURN COMPLETED FORM AND REQUIRED APPLICATION FEE TO THE APPLICABLE AREA OFFICE

# Idaho Department of Lands Supervisory Areas

PLEASE SUBMIT APPLICATIONS TO  
THE CORRESPONDING AREA  
OFFICE

## Priest Lake Supervisory Area

4053 Cavanaugh Bay Rd  
Coolin, ID 83821  
Phone 208-443-2516

## Pend Oreille Supervisory Area

2550 Highway 2 West  
Sandpoint, ID 83864-7305  
Phone 208-263-5104

## Mica Supervisory Area

3258 W Industrial Loop  
Coeur d'Alene, ID 83815  
Phone 208-769-1577

## Ponderosa Supervisory Area

3130 Highway 3  
Deary, ID 83823  
Phone 208-877-1121

## Payette Lakes Supervisory Area

555 Deinhard Lane  
McCall, ID 83638  
Phone 208-634-7125

## Southwest Supervisory Area

8355 West State St.  
Boise, ID 83714  
Phone 208-334-3488

## St. Joe Supervisory Area

1806 Main Ave.  
St. Maries, ID 83861  
Phone 208-245-4551

## Clearwater Supervisory Area

10230 Highway 12  
Orofino, ID 83544  
Phone 208-476-4587

## Maggie Creek Supervisory Area

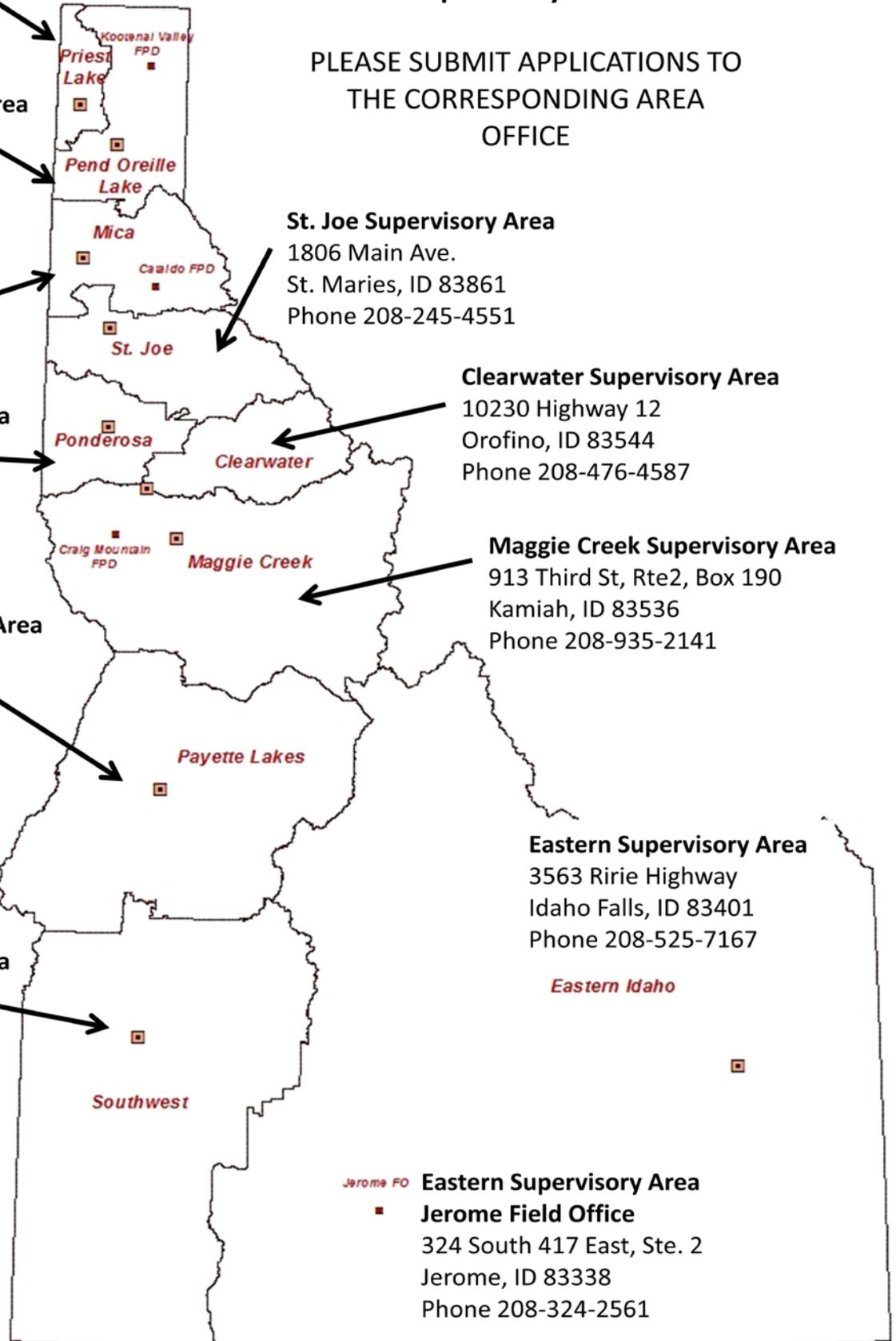
913 Third St, Rte2, Box 190  
Kamiah, ID 83536  
Phone 208-935-2141

## Eastern Supervisory Area

3563 Ririe Highway  
Idaho Falls, ID 83401  
Phone 208-525-7167

## Eastern Supervisory Area

**Jerome Field Office**  
324 South 417 East, Ste. 2  
Jerome, ID 83338  
Phone 208-324-2561



Sample Letter for Incomplete Dredge/Placer Permit Application

Area Letterhead

Date

Applicant's Name  
Address

SUBJECT: Incomplete Permit Application

Dear Applicant,

The Department has reviewed your Application for Dredge/Placer Permit Approval. The application is incomplete as submitted and cannot be processed for approval. Subsection 021.03 of IDAPA 20.03.01 (Rules Governing Dredge and Placer Mining in Idaho) states that incomplete applications will not be reviewed until all necessary information is submitted. The following information is needed before the application can be considered complete:

[List of All Deficiencies in Application, as per IDAPA 20.03.01.022.09.](#)

Please provide the above information within 30 days of receiving this letter. If the information is not received within this 30 day period, then your application may be denied due to a lack of the information required by Section 021 of IDAPA 20.03.01. A new application, and application fee, will then be required to restart the permitting process.

If you have any questions, please call me at [Phone Number](#).

Sincerely,

Name  
Title

STATE BOARD OF LAND COMMISSIONERS  
Land Board Date  
Consent Agenda

SUBJECT

Application for Dredge/Placer Permit No. XXX, Permittee, Mailing Address.

BACKGROUND

On, Application Date, Application signatory representing Permittee Name submitted a dredge/placer mining permit application covering XX acres of private/state/federal? land, owned by Landowner. The lands are located in portions of the X¼X¼, Section XX, Township XX North, Range XX East, B.M., in XXXXXX County. The general location is distance and direction from closest town, Idaho.

DISCUSSION

Brief description of operation and reclamation. Here is a sample:

Applicant's Name proposes excavation of three units, in sequence, over a period of two years for the purpose of mining alluvial deposits of industrial garnet. Mining activities will include both wet and dry panel techniques, and new stream channel construction to ensure minimal disruption to stream and aquatic habitat and potentially improve long term stream and aquatic habitat. Maximum disturbance at any one time will be 4.0 acres. Topsoil and overburden will be stockpiled for use in reclamation.

Pre-mining activities include: survey of project area; construction of siltation berms, interceptor or diversion channels, settling basins, access roads; installation of sediment fence; placement of wash plant; and removal of timber and topsoil.

Mining will occur as weather conditions permit. Best Management Practices (BMPs) will be used. As mining is completed in each panel, overburden and topsoil will be redistributed to final grade over the reclaimed area. The site will be planted with native species and wetland plants and pasture grasses, as approved by Best Management Practices (BMPs) for Mining in Idaho (IDL 1992). It is anticipated that mining will occur throughout the year as conditions permit.

Information on the interagency review is also needed:

The application was circulated to the Idaho Department of Environmental Quality, Idaho Department of Fish and Game, Idaho Department of Water Resources, and U.S.D.A. Forest Service (USFS) for review. No comments or objections were received from any of the Idaho agencies. The U.S.D.A. Forest Service expressed concern regarding the potential for headcutting on the upstream reach due to downstream connections between existing channels and newly created channels, and the effect of a lower floodplain as a result of mining. Review of the proposed mining plan and design standards of the 1994

Environmental Assessment and discussion between USFS, Idaho Dept. of Lands and ECG indicate that the above concerns will be mitigated by engineered channel design standards.

### RECOMMENDATION

Approve issuance of the attached permit subject to the plan submitted in the application, submission of the required \$XXXXX bond and compliance with the Rules and Regulations Governing Dredge and Placer Mining Operations in Idaho.

### BOARD ACTION

### ATTACHMENTS

1. Location Map
2. Draft Permit



STATE OF IDAHO  
DEPARTMENT OF LANDS

**DREDGE/PLACER MINING PERMIT NO. XXX**

Pursuant to Dredge/Placer Mining Permit Application No. XXX, approved by the State Board of Land Commissioners on [Land Board Date](#), [Permittee](#), [Mailing address](#), is hereby authorized to conduct a placer mining operation in conformity with the Idaho Dredge and Placer Mining Protection Act (Idaho Code § 47-13) and the Rules Governing Dredge and Placer Mining Operations in the State of Idaho, on the following described lands:

A XX acre tract located in portions of the X<sup>1</sup>/<sub>4</sub>X<sup>1</sup>/<sub>4</sub> Section XX, Township XX North, Range XX East, B.M., XXXXXX County. The land is owned by [Landowner](#). The permit area is more fully set forth in Dredge/Placer Permit File No. XXX with the Idaho Department of Lands.

This permit is issued subject to and in compliance with the plan of operation and the following stipulations:

1. All refuse, chemical and petroleum products and equipment shall be stored and maintained in a designated location 100 feet away from any surface water and disposed of in such a manner as to prevent their entry into surface and groundwater.
2. State water quality standards will be maintained at all times during the life of the operation. In the event that a violation of water quality standards occurs, mining operations on the site will cease immediately, corrective action will be taken and the Department of Environmental Quality will be notified.
3. There will be a 20 foot buffer of undisturbed riparian vegetation maintained between the mining operation and any streams at all times.
4. Erosion and non-point source pollution shall be minimized by careful design of the site access and implementing Best Management Practices which shall include, but are not limited to:
  - a. Diverting all surface water flows around the mining operation;
  - b. Removing and stockpiling vegetation and slash, except timber, for use in erosion control and reclamation;
  - c. Removing and stockpiling all topsoil or suitable plant growth material for use in reclamation;
  - d. Removing and stockpiling fine sand, silt and clay from the settling ponds for use in reclamation; and
  - e. Constructing settling ponds below ground level when conditions allow.
5. A bond of \$1,800 per affected acre with a minimum of [\\$Acres x 1800](#) will be submitted, prior to issuance of this permit, and maintained with the Department of Lands for the acres to be affected.
6. Upon placement of equipment and construction of settling ponds, permittee will provide notification to the Department of Lands prior to conduct of actual mining operations.

7. If a stream channel alteration is involved, a Stream Channel Alteration Permit shall be obtained from the Idaho Department of Water Resources and shall govern the diversion of the stream and reconstruction of the permanent channel of the waterway involved.
8. All water intake lines will be screened to prevent fish entrapment, and diversion dams must allow for fish passage.
9. The permitted area is to be reclaimed concurrent with mining, according to the approved plan.

Failure to comply with the Idaho Dredge and Placer Mining Protection Act, the Rules Governing Dredge and Placer Mining in Idaho, the plan of operation and these stipulations may result in cancellation of this permit.

It is understood and agreed that all of the stipulations of this permit must be complied with in the conduct of the mining operation.

\_\_\_\_\_  
 GEORGE B. BACON, Director

\_\_\_\_\_  
 Applicant

\* \* \* \* \*

STATE OF IDAHO \_\_\_\_\_ )  
 ) ss  
 COUNTY OF \_\_\_\_\_ )

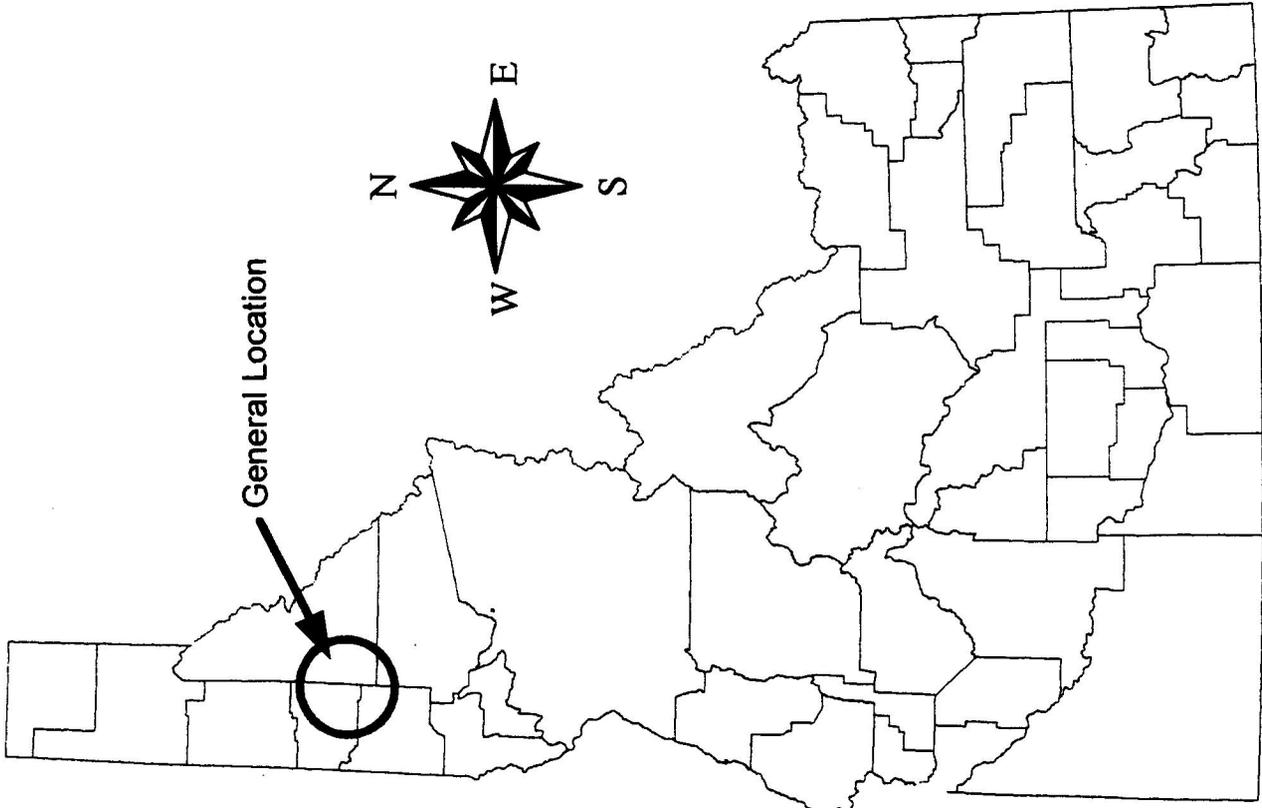
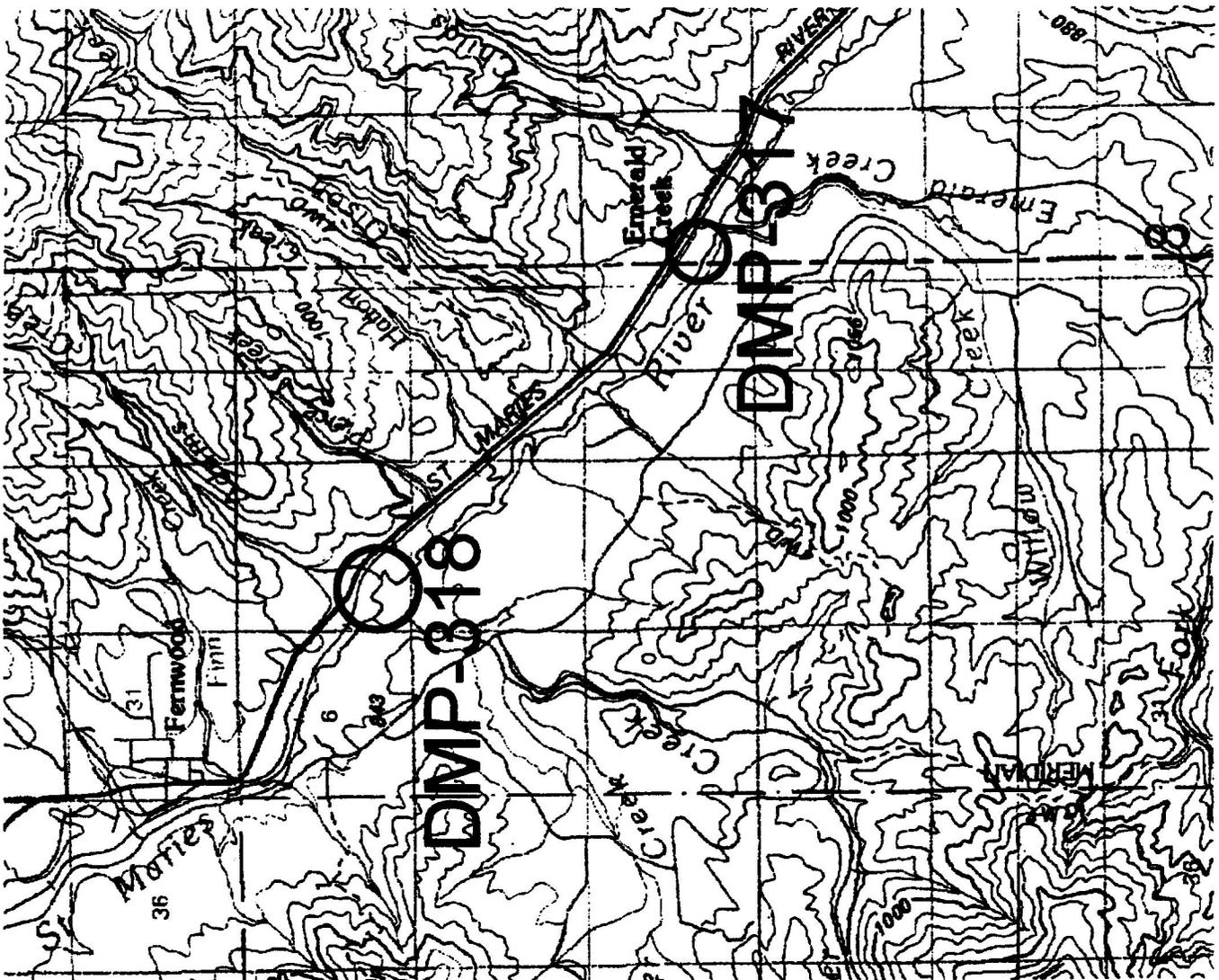
On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, before me, a notary public, personally appeared \_\_\_\_\_, known to me to be the person whose name is subscribed to the within instrument, and acknowledged by me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first written above.

(SEAL)

\_\_\_\_\_  
 Notary Public for: \_\_\_\_\_  
 Residing at: \_\_\_\_\_  
 My Commission Expires: \_\_\_\_\_

# Location of Dredge and Placer Mining Permits 317 and 318





IDAHO DEPARTMENT OF LANDS

NOTICE OF SURFACE MINING OPERATIONS TO BE CONDUCTED BY A PUBLIC OR GOVERNMENTAL AGENCY FOR MAINTENANCE, REPAIR, OR CONSTRUCTION OF A PUBLIC HIGHWAY

1. \_\_\_\_\_ (Operator) \_\_\_\_\_ (Contact Person)
\_\_\_\_\_ (Address) \_\_\_\_\_ (Telephone)
(City, State and Zip Code)
2. \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_ B.M. \_\_\_\_\_
1/4 1/4 Section Section Township Range County
3. \_\_\_\_\_ (Existing Affected Acreage) \_\_\_\_\_ (Total Planned Affected Acreage)
4. \_\_\_\_\_ (Property Owner's Name) 5. \_\_\_\_\_ Dist. to Surface Water

This notice shall certify that \_\_\_\_\_ plans to operate a noncommercial surface mining operation for construction and/or maintenance of public highways and roads, on the lands described above. We agree and understand that the following conditions must be adhered to in conduct of the mining operation:

- 1. If our operations disturb less than two acres, a reclamation plan is not required and only this notice shall be completed (Idaho Code § 47-1519). If our operations disturb two acres or more, a reclamation plan shall be completed as required by Idaho Code § 47-1506.
2. Operation and reclamation of this material source will be in compliance with Idaho Code § 47-1509 and the Rules Governing Exploration, Surface Mining, and Closure of Cyanidation Facilities in Idaho (IDAPA 20.03.02).
3. The material source will be regraded to stabilize all pit slopes and to blend with adjacent topography.
4. Available topsoil and overburden will be stockpiled and protected from erosion so that it may be used in reclamation.
5. Where possible, regrading and revegetation will be kept concurrent with the mining operation.
6. Erosion and degradation of surface waters will be prevented by using and maintenance of nonpoint source erosion controls as required by IDAPA 20.03.02.
7. Revegetation must be completed as specified in Section 140 of the above referenced rules.

IDL 1860(3)
11/19/09

**8. Development and operation of the source will comply with all other county, state and federal laws. Where applicable, the Bureau of Land Management Free Use Permit will also govern the operation of this source.**

**Draw a general location map below, indicating main access routes to the material source and legal sections. Where applicable, attach a copy of your Bureau of Land Management Free Use Permit.**

**DATE:** \_\_\_\_\_

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Title**

\* \* \* \* \*

**State of Idaho**        )  
                                  ) ss  
**County of** \_\_\_\_\_)

**Subscribed and sworn to before me on the day and year written above.**

**My Bond Expires:** \_\_\_\_\_

\_\_\_\_\_  
**Residing at:**

**(Seal)**

**INDICATE SECTION NUMBERS ON GENERAL LOCATION MAP DRAWN BELOW:**

Sample Letter for Acknowledging a Notice of Surface Mining Operations from a County, City, or Highway District

Area Letterhead

Date

Applicant's Name

Address

SUBJECT: Surface Mining Notice No. XXXX

This correspondence is acknowledgement the following Notice of Surface Mining Operations has been received and accepted in this office:

<u>PLAN NO.</u>	<u>ACRES</u>	<u>COUNTY</u>	<u>LEGAL DESCRIPTION</u>
S- XXXX	X.X	XXXXXXXX	XX¼ XX ¼ Section XX, Township XX North or South, Range XX East or West, Boise Meridian

If two or more acres are affected by the mining operations, then a reclamation plan must be submitted to this office for review and approval. Affected land includes overburden disposal areas, mined areas, mineral stockpiles, mine roads, settling ponds, and other areas disturbed at the surface mining operation site. Please see Section 069 of the Rules Governing Exploration and Surface Mining Operations in Idaho (IDAPA 20.03.02) for more information on the requirements of reclamation plans.

Should you have any questions, you may contact me at the above address or telephone (208) XXX - XXXX.

Sincerely,

Name

Title

CC: Bureau of Surface and Mineral Resources, Boise

MEMORANDUM OF UNDERSTANDING  
BETWEEN THE STATE OF IDAHO DEPARTMENTS OF  
TRANSPORTATION AND LANDS

RELATING TO  
THE APPROVAL OF MATERIAL SOURCE RECLAMATION PLANS

I. Purpose:

To provide a process for jointly identifying, communicating and coordinating those actions of common concern to both the Department of Lands, hereinafter called "Lands", and the Idaho Transportation Department, hereinafter called "ITD", relating to the management of programs, properties, work areas and resources involved in approval by the Department of Lands of Material Source Reclamation Plans.

II. Authority:

Section 67-2510, Idaho Code.

Sections 58-104(8)(9), 115, 313, 401, 406, 416, 332, 335A, 603 and 1301 through 1304.

Idaho Surface Mining Act, Title 47, Chapter 15, Idaho Code, hereinafter referred to as the "Act".

III. Responsibilities and Procedures:

A. Objectives

1. To provide that notice is given by ITD or Lands to the other agency whenever their respective program and policy recommendations or other actions would materially affect the other's operations relating to Material Source Reclamation Plans.
2. To eliminate duplication of effort where possible, to resolve policy and management differences and to achieve maximum effectiveness between the agencies concerning the use of funds and personnel.

B. Mutual Responsibilities: ITD AND LANDS WILL:

1. Develop and carry out an active communication plan whereby each agency will apprise the other of pro-

posed plans, policies and actions which affect the other agency. Each agency will respond to this notice with a written or verbal response according to the requirements of this agreement.

2. Designate appropriate personnel to act as a representative of the agency concerning any issues which arise under this agreement.
3. Promptly bring to the attention of the other party any instance of failure to conform or dissatisfaction with the language or intent of this agreement.

C. ITD Responsibilities: ITD WILL:

1. Comply with the Act and any rules and regulations pertaining to preparation of Reclamation Plans for submission to Lands.
2. Comply with guidelines for source reclamation as contained in ITD's "Division of Highways Materials Manual", Sections 16-277.0 through 16-282.2 and the "Roadway Design Manual", Section V Seeding 14-529.
3. Coordinate reclamation plan preparation, as necessary, with the Departments of Health and Welfare (Bureaus of Air and Water Quality), Fish and Game, and Water Resources, and verify this coordination upon submission of the plan to Lands.
4. Revise the reclamation plan if it is found not to be in compliance with the Act or regulations promulgated therefrom.
5. Resolve recommendations for revision of reclamation plans within sixty (60) days of notice, and in all cases, prior to plan approval by the Transportation Board or their designee.
6. The Materials Section will file the reclamation plan with Lands. The plan will include an adequate number of photographs of the site to document the pre-existing land form and vegetation of the area under review. The locations from which the photos were taken must be included on the reclamation plan drawings.
7. Not allow clearing of vegetation, overburden or other earthwork prior to approval of the reclamation plan by the Materials Engineer and the Roadside Program Coordinator.
8. Require each contractor to post an adequate bond to ensure reclamation of the source as per the ap-

proved reclamation plan.

9. Notify Lands when the source reclamation is completed, so that a site inspection may be conducted prior to release of the contractor's bond.
10. Notify Lands when the source reclamation is completed on ITD-operated sources, so that a site inspection may be conducted.

D. Lands Responsibilities: LANDS WILL:

1. Issue a block of Reclamation Plan numbers to ITD, to be used as new plans are drafted, and with a new block to be issued as necessary.
2. Review the submitted reclamation plan and forward to the Director for approval within five (5) days, provided the plan substantially complies with items C1, C3 and C6 above.
3. Notify ITD of any deficiency in a reclamation plan which requires corrective action.
4. Conduct a subsequent on-site review of deficiencies identified in the approved reclamation plan and resolve those problems with ITD prior to completion of the use of the source site.
5. Waive the bonding requirements of the Act in favor of the bond supplied by the contractor for source operation and in lieu of the self-bonded status of material sources operated by ITD.

D. Emergency Action Due to an Unforeseen Event:

1. When ITD determines that unexpected conditions require immediate changes in or additions to an approved plan:
  - a. ITD may continue surface mining operations in accordance with the procedures dictated by such conditions.
  - b. Notice of such changes shall be given to Lands within ten (10) days of discovery.
  - c. A proposed supplemental or amended plan shall be submitted within thirty (30) days of discovery, showing compliance with the reclamation requirements of Sections 47-1509 and 47-1510 of the Act.
2. When ITD determines that an unexpected event requires urgent action and operation of a source not under a

current reclamation plan, ITD will:

- a. Contact Lands and submit a basic proposal outlining the emergency and the basic details of the operation of the source requesting a thirty (30) day approval to be granted by the Director of Lands as soon as possible, thereby allowing work to begin.
- b. Have the Materials Section submit within thirty (30) days an approved plan to Lands for filing.
- c. Conduct surface mining operations under such emergency approval so as to comply with applicable laws and regulations of the State, unless a variance is granted for a specific emergency condition by the agency involved.

E. Communications Concerning Reclamation Plans:

Reclamation Plans, and other required oral and written communications from ITD, will be submitted to the Dept. of Lands addressed as follows: Attention: Mined-land Reclamationist, Statehouse, Boise, Idaho. All Lands correspondence or other communications will be directed to the Materials Supervisor, Boise, unless he directs Lands to contact the District office directly on a specific question. The Districts may contact the Mined-land Reclamationist directly if information is needed concerning plan preparation or approval.

IV. Press/Public Information Relations:

- A. Whenever a statement, either written or oral, is to be made to the press which would affect or cite the other agency, the affected agency will be given a copy of the proposed statement or press release two (2) full working days before the information is released to the press.
- B. The Director or designated representative of the agency making the press statement will be available to discuss the issue with the affected agency at least one-half day before the press receives the information, in order to make any changes that are agreed upon.
- C. The Department's public information officers should coordinate the exchange of press information and make appropriate distribution.

V. Limitations:

Nothing in this Memorandum of Understanding shall be construed as limiting or expanding the statutory or regulatory responsibilities of ITD or Lands in performing

functions granted to them by law; or as requiring either to expend any sum in excess of its respective appropriation. Each and every provision of this agreement is subject to the laws and regulations of the State of Idaho and to the laws and regulations of the United States.

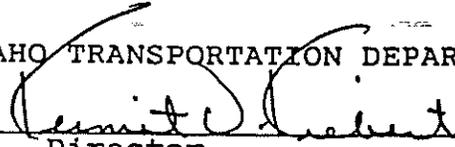
VI. Effective Date:

This Memorandum of Understanding shall become effective upon signature by the Directors of the Idaho Transportation Department and the Department of Lands, and will remain in force unless formally terminated by either party after thirty (30) days written notice to the other party of intention to do so.

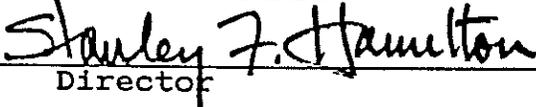
VII. Amendments:

Amendments to this agreement may be proposed at any time by either party, and shall become effective upon mutual approval.

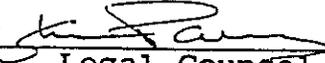
IDAHO TRANSPORTATION DEPARTMENT:

By   
Director

DEPARTMENT OF LANDS:

By   
Director

APPROVED AS TO FORM:

By   
Legal Counsel  
Idaho Transportation Department

MINERAL LEASE BOND

For  
State of Idaho

KNOW ALL BY THESE PRESENTS:

That the UNDERSIGNED, an agency of the State of Idaho as Principal, and the RETAINED RISK FUND FOR THE STATE OF IDAHO, through the Bureau of Risk Management as surety, are held and bound firmly in the just sum of

ONE HUNDRED THOUSAND (\$100,000) DOLLARS,

to be paid to the State of Idaho, Department of Lands, if such agency fails to faithfully and diligently perform the duties as prescribed by Title 47, Chapter 7, Idaho Code covering mineral leases. The Retained Risk Fund and said Principal are hereby jointly and severally bound unto each other by these presents.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH That the bond may be cancelled by the surety by the service of written notice of cancellation upon the Director of the Department of Lands of the State of Idaho, such cancellation to be effective at the expiration of sixty (60) days after the service of such cancellation notice by the surety on the Director by registered mail. Such cancellation notice, however, shall not affect any liability that shall have accrued under this bond prior to the effective date of cancellation.

NOW THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, That if the said Principal, has faithfully and diligently performed, executed and discharged, and shall continue faithfully and diligently to perform, execute and discharge all and singular the duties according to the above law, then this obligation to be void and of no effect, otherwise to remain in full force and effect.



STATE AGENCY/PRINCIPAL (Please Type)

Idaho Transportation Department

Name of Agency

PO Box 7129

Business Mailing Address

Boise, ID 83707-1129

208-334-8806

CITY/ZIP

Business Phone

SIGNED and dated this

6

day of

NOVEMBER

19

97

*[Handwritten Signature]*  
SIGNATURE OF DEPARTMENT HEAD OF PRINCIPAL

SIGNATURE OF MANAGER OF RETAINED RISK FUND

*[Handwritten Signature]*  
Cynthia E. Ness, Manager  
State of Idaho Risk Management

SRM 6/94

RECLAMATION BOND

For  
State of Idaho

KNOW ALL BY THESE PRESENTS:

That the UNDERSIGNED, an agency of the State of Idaho as Principal, and the RETAINED RISK FUND FOR THE STATE OF IDAHO, through the Bureau of Risk Management as surety, are held and bound firmly in the just sum of

ONE HUNDRED THOUSAND (\$100,000) DOLLARS,

to be paid to the State of Idaho, Department of Lands, if such agency fails to faithfully and diligently perform the duties as prescribed by Title 47, Chapter 15, Idaho Code and the Idaho State Board of Land Commissioners Rules and Regulations Governing Idaho Surface Mining Reclamation. The Retained Risk Fund and said Principal are hereby jointly and severally bound unto each other by these presents.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH That the bond may be cancelled by the surety by the service of written notice of cancellation upon the Director of the Department of Lands of the State of Idaho, such cancellation to be effective at the expiration of sixty (60) days after the service of such cancellation notice by the surety on the Director by registered mail. Such cancellation notice, however, shall not affect any liability that shall have accrued under this bond prior to the effective date of cancellation.

NOW THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, That if the said Principal, has faithfully and diligently performed, executed and discharged, and shall continue faithfully and diligently to perform, execute and discharge all and singular the duties according to the above law, then this obligation to be void and of no effect, otherwise to remain in full force and effect.



STATE AGENCY/PRINCIPAL (Please Type)

Idaho Transportation Department  
Name of Agency

PO Box 7129  
Business Mailing Address

Boise ID 83707-1129 208-334-8806  
City/ZIP Business Phone

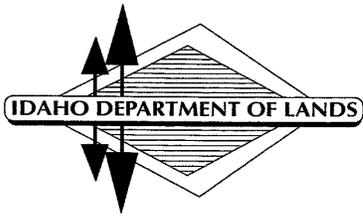
SIGNED and dated this 6 day of NOVEMBER, 19 97

[Signature]  
SIGNATURE OF DEPARTMENT HEAD OF PRINCIPAL

SIGNATURE OF MANAGER OF RETAINED RISK FUND

[Signature]  
Cynthia R. Ness, Manager  
State of Idaho Risk Management

BRM 8/96



**IDAHO DEPARTMENT OF LANDS**

**APPLICATION FOR RECLAMATION PLAN APPROVAL**

Reclamation Plan Number: \_\_\_\_\_

**GENERAL INFORMATION**

The Idaho Mined Land Reclamation Act, Title 47, Chapter 15, Idaho Code requires the operator of a surface mine, a new underground mine, or an existing underground mine that expands the July 1, 2019 surface disturbance by 50% or more to obtain an approved reclamation plan and financial assurance. Fees are charged as shown on the attachment.

When an applicant is mining on lands administered by the U.S. Forest Service or Bureau of Land Management, it is necessary to obtain the proper federal approvals in addition to the Department of Lands. Each agency's application requirements are similar, but not exactly the same. Please review both state and federal application requirements, and develop one plan which meets the requirements of all the agencies involved.

If ponds or lakes are created during the mining process and will remain after reclamation is completed, the Idaho Department of Water Resources (IDWR) requires the operator or landowner to obtain a water right. If a water right cannot be obtained prior to a plan being submitted, then the reclamation plan must include backfilling to an elevation above the local ground water table. Bond calculations must include those backfilling costs.

After the reclamation plan has been finalized, an electronic copy or five (5) hard copies of the application package must be submitted to the appropriate Area office of the Idaho Department of Lands. When the application is received, the appropriate federal or state agencies will be notified of the application. The department shall deliver to the operator, if weather permits and the plan is complete, the notice of rejection or notice of approval of the plan within sixty (60) days after the receipt of the reclamation plan or amended plan.

All reclamation plan applications will be processed in accordance with Section 080 of the Rules Governing Mined Land Reclamation (IDAPA 20.03.02) and applicable Memorandums of Understanding with state and federal agencies.

**APPLICATION INFORMATION**

1. NAME: \_\_\_\_\_ d/b/a: \_\_\_\_\_

2. ADDRESS: \_\_\_\_\_

CITY, STATE, ZIP CODE: \_\_\_\_\_

3. TELEPHONE and EMAIL: \_\_\_\_\_

(000-000-0000)

(e.g. john.doe@email.com)

4. DESIGNATED IN-STATE AGENT AND ADDRESS: (if Company's main place of business is 'out of state')

5. PROOF OF BUSINESS REGISTRATION (if applicable): If applicant is a business, please attach proof of registration with the Idaho Secretary of State.

6. LEGAL DESCRIPTION (Section, Township, and Range) TO THE QUARTER-QUARTER SECTION:

\_\_\_\_\_

7. ACREAGE and COUNTY(ies): \_\_\_\_\_

(Acres)

(e.g. Ada through Washington)

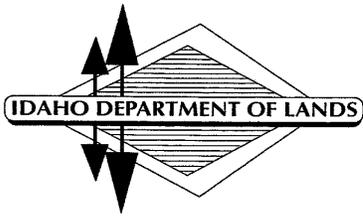
8. OWNERSHIP: (check applicable)

- Private  U.S. Forest Service  Bureau of Land Management  Idaho Department of Lands

9. COMMODITY TYPE, PROPOSED START-UP DATE: \_\_\_\_\_

10. SITE NAME OR MINE NAME (if any): \_\_\_\_\_

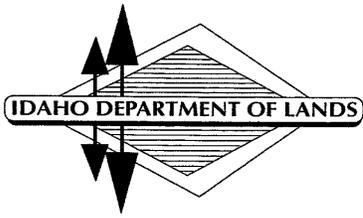
11. TYPE OF MINING: (check applicable)  Surface  Underground  Both



## IDAHO DEPARTMENT OF LANDS

12. Please provide the following maps of your mining operation (Subsections 069.04 or 070.03 of IDAPA 20.03.02):
- a. A vicinity map prepared on a standard USGS 7.5' quadrangle map or equivalent.
  - b. A site map which adequately shows the location of existing roads, access roads, and main haul roads which would be constructed or reconstructed for the operation. Also, list the approximate dates for construction, reconstruction, and abandonment.
  - c. On a site location map, show the following;
    - i. The approximate location and names, if known, of drainages, streams, creeks, or bodies of water within 1,000 feet of the surface mining operation.
    - ii. The approximate boundaries and acreage of the lands:
      1. That will become affected by the mining operation.
      2. That will be affected during the first year of operations.This map must be of appropriate scale for boundary identification.
    - iii. The planned configuration of all pits, mineral stockpiles, overburden piles, topsoil stockpiles, sediment ponds, and tailings facilities that will be developed by the mining operation.
    - iv. Location of all underground mine openings at the ground surface, if any.
    - v. The planned location of storage for fuel, equipment maintenance products, wastes, and chemicals utilized in the surface mining operation.
  - d. A surface and mineral control or ownership map of appropriate scale for boundary identification.
  - e. Scaled cross-sections of the mine showing surface profiles prior to mining, at maximum disturbance, and after reclamation.
13. A reclamation plan must be developed and submitted in map and narrative form (Subsections 069.05 or 070.04 of IDAPA 20.03.02). The reclamation plan must include the following information:
- a. On a drainage control map show and list the best management practices which will be utilized to control erosion on or from the affected lands.
  - b. A description of foreseeable, site specific water quality impacts from mining operations and proposed water management activities or BMPs to comply with water quality requirements.
  - c. A description of post-closure activities, if any, such as water handling and treatment.
  - d. Which roads will be reclaimed and a description of the reclamation.
  - e. A revegetation plan which identifies how topsoil or other growth medium will be salvaged, stored and replaced in order to properly revegetate the area. Identify soil types, the slope of the reclaimed areas, and precipitation rates. Based on this information, identify the seed species, the seeding rates, the time and method of planting the soil, and fertilizer and mulch requirements.
  - f. Describe and show how tailings facilities and process or sediment ponds will be reclaimed.
  - g. Dimensions of underground mine openings at the surface and description of how each mine opening will be secured to eliminate hazards to human health and safety.
  - h. For operations over five (5) acres, estimate the actual cost of third party reclamation including direct and indirect costs for mobilization, re-grading, seed, fertilizer, mulch, labor, materials, profit, overhead, insurance, bonding, administration, and any other pertinent costs as described in IDAPA 20.03.02.120.

**APPLICANT SIGNATURE:** \_\_\_\_\_ **DATE:** \_\_\_\_\_



## IDAHO DEPARTMENT OF LANDS

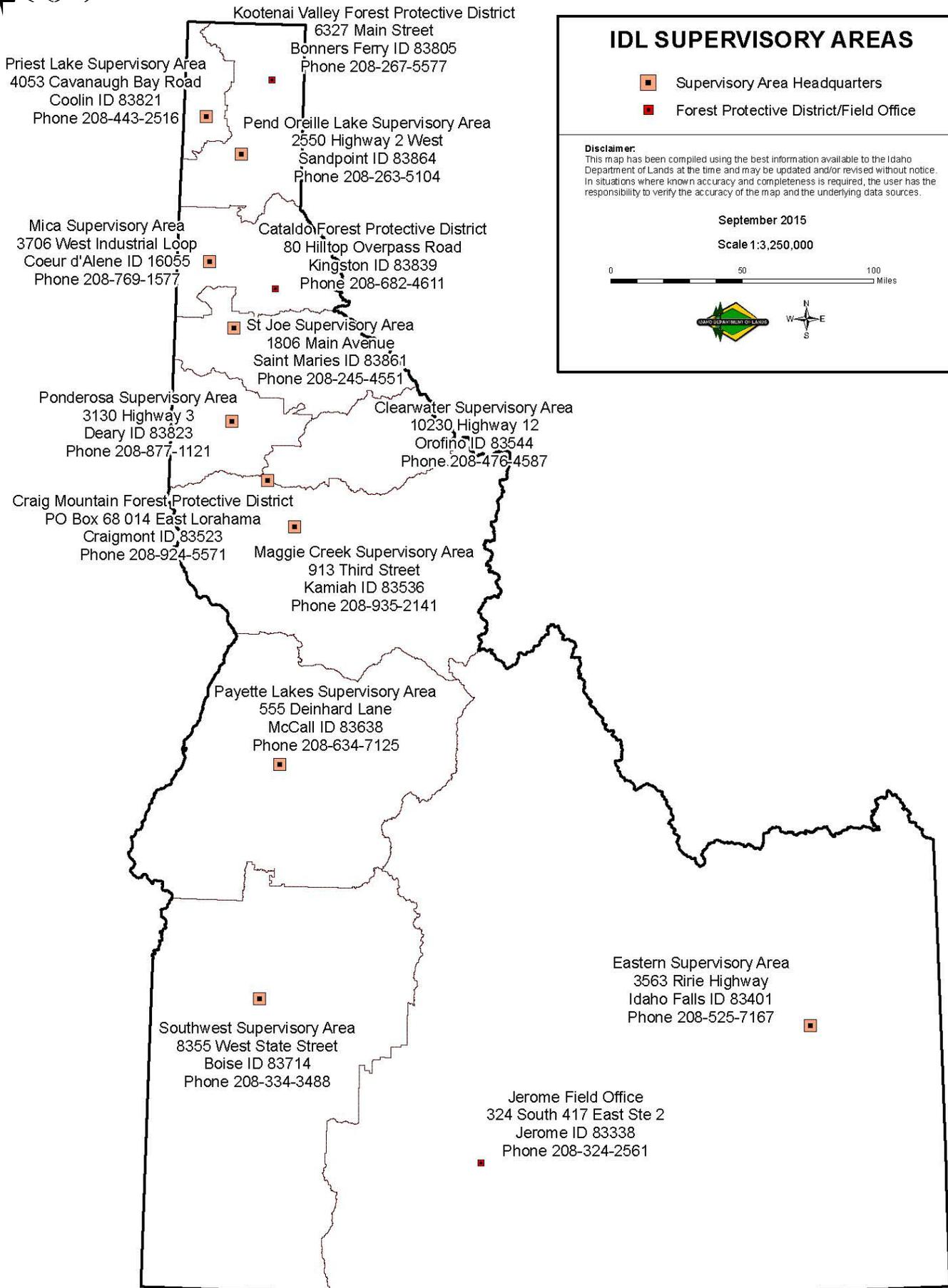
### Application Fee Schedule

Acres are determined by the number entered in item 7 on the Application Form.

Type of Plan	Fee (Dollars)
Section 069* of IDAPA 20.03.02, Reclamation Plan 0 to 5 acres	Five hundred (\$500)
Section 069 of IDAPA 20.03.02, Reclamation Plan >5 to 40 acres	Six hundred (\$600)
Section 069 of IDAPA 20.03.02, Reclamation Plan over 40 acres	Seven hundred fifty (\$750)
Section 070** of IDAPA 20.03.02, Reclamation Plan 0 to 100 acres	One thousand (\$1,000)
Section 070 of IDAPA 20.03.02, Reclamation Plan >100 to 1000 acres	One thousand five hundred (\$1,500)
Section 070 of IDAPA 20.03.02, Reclamation Plan >1000 acres	Two thousand (\$2,000)
* Section 069 is for gravel pits, quarries, decorative stone sources, and simple industrial mineral mines	
** Section 070 is for hardrock, phosphate, and underground mines, and complex industrial mineral mines	



# IDAHO DEPARTMENT OF LANDS



**IDL SUPERVISORY AREAS**

- Supervisory Area Headquarters
- Forest Protective District/Field Office

**Disclaimer:**  
This map has been compiled using the best information available to the Idaho Department of Lands at the time and may be updated and/or revised without notice. In situations where known accuracy and completeness is required, the user has the responsibility to verify the accuracy of the map and the underlying data sources.

September 2015  
Scale 1:3,250,000

Sample Letter for Incomplete Application for Reclamation Plan

Area Letterhead

Date

Applicant's Name  
Address

SUBJECT: Incomplete Application for Reclamation Plan

Dear Applicant,

The Department has reviewed your application for reclamation plan approval. The application is incomplete as submitted and cannot be processed for approval. Subsection 080.01 of IDAPA 20.03.02 (Rules Governing Exploration, Surface Mining and the Closure of Cyanidation Facilities) states that incomplete applications may be returned for correction and resubmission. The following information is needed before the application can be considered complete:

List of All Deficiencies in Application.

Please provide the above information within 30 days of receiving this letter. This letter constitutes a rejection of the application. No further action will be taken on this application until the information required by Section 069 or 070 of IDAPA 20.03.02 is received.

If you have any questions, please call me at Phone Number.

Sincerely,

Name  
Title

Sample Letter for Rejection of Application for Reclamation Plan

Area Letterhead

Date

Applicant's Name

Address

SUBJECT: Rejection of Application for Reclamation Plan

Dear Applicant,

The Department has reviewed your application for reclamation plan approval. The application is inaccurate or incomplete as submitted and cannot be approved as submitted. Subsection 080.07 of IDAPA 20.03.02 (Rules Governing Exploration, Surface Mining and the Closure of Cyanidation Facilities) states that inaccurate or incomplete applications shall be denied. The following information is needed before the application can be considered complete:

List all deficiencies in the application with specific references to rules that require the information.

If the application has inaccuracies or is not internally consistent, state what the specific inaccuracies or inconsistencies are.

Plainly state what the applicant must do to fix the above deficiencies in the application.

When all the above information is received by the Department, and the application fulfills the requirements of Section 069 or 070 of IDAPA 20.03.02, the plan will be processed for approval.

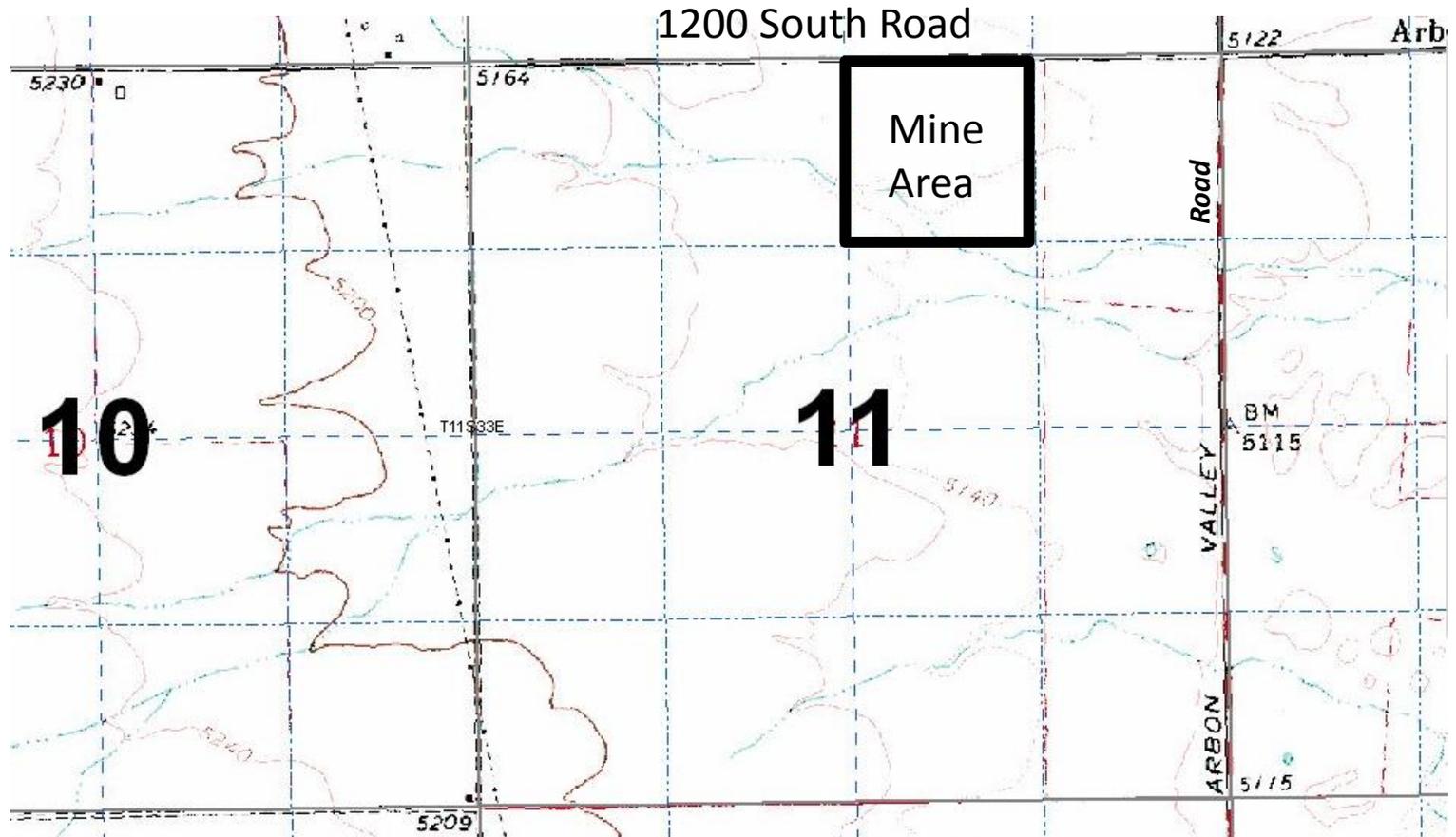
If you have any questions, please call me at Phone Number.

Sincerely,

Name

Title

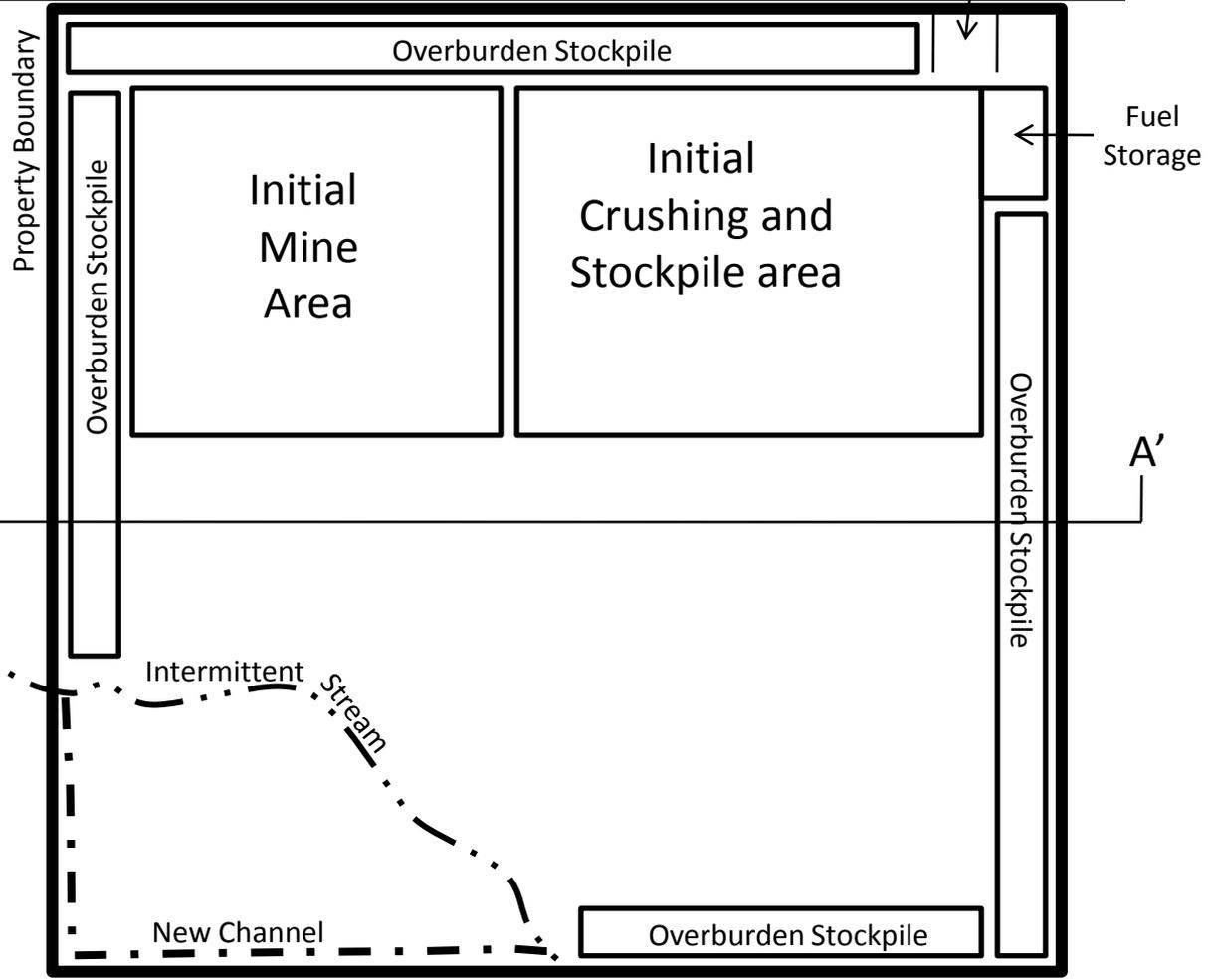
General Location Map  
Arbon Valley Sand And Gravel, Inc.  
NW1/4NE1/4 Section 11, T11S, R33E



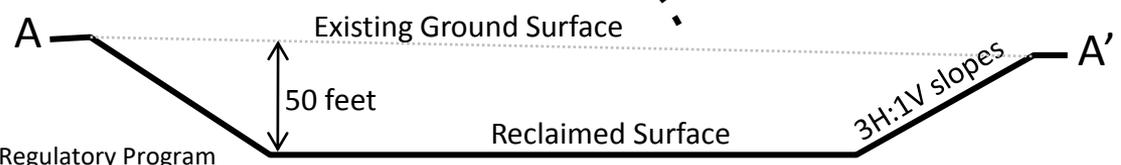
# Arbon Valley Sand and Gravel, Inc. Reclamation Plan Map

1200 South Road

Entrance



0 400  
Scale in feet



Arbon Valley Sand and Gravel, Inc.  
Reclamation Plan  
40 acres in NW1/4NE1/4 Section 11, T11S, R33E

**Operation of Source**

Excavation will start in the northwest corner of the property and work to the east and then south. The crushing and stockpiling area will move to the pit floor when the excavation is large enough. This will minimize visual and noise impacts. Approximately 12 acres will be affected the first year.

Access from 1200 South Road will be through the northeast corner of the property. Fuel storage will be located near the entrance. Approximately one foot of sandy loam topsoil will be removed from the area to be mined and the crushing area. The topsoil will be stockpiled along the perimeter of the property. Topsoil stockpiles will be shaped and seeded to minimize erosion. Fences will be maintained during the operation.

The pit will be approximately 50 feet deep. No groundwater will be encountered. Operational slopes will be 3H:1V. Vertical faces will not exceed 15 feet in height during excavation. The southeast corner of the site will not be excavated until the intermittent stream is rerouted as shown on the map. The new stream course will be dug and seeded one season prior to being used so the grass can take root.

Dust will be controlled at all times. Noxious weeds will be controlled on site during operations and for two years following final reclamation. Clean backfill materials may be placed in compacted lifts on the pit floor. No wood, metal, asphalt, or garbage will be used for backfilling.

**Final Reclamation**

Reclamation of pit walls will occur as sections of the pit reach final depth. Reclamation of the pit floor will not start until half of the pit area is excavated and free of stockpiles.

Final slopes will be 3H:1V. Pit walls and floor will be left reasonably smooth

Topsoil will be spread uniformly over the pit walls and floor to a depth of at least 12 inches. The entire disturbed area will be fertilized with 20 tons/acre composted manure and drill seeded as follows:

Piute Orchardgrass	5 lbs/acre
Western Wheatgrass	4 lbs/acre
Slender Wheatgrass	4 lbs/acre
Great Basin Wildrye	2 lbs/acre
Sainfoin	3 lbs/acre
Small Burnett	2 lbs/acre

The seed will then be covered with 2 tons/acre of weed free straw that is crimped in place. Seeding will occur between September 1 and March 1.

# SURFACE MINE APPROVAL MEMORANDUM

RECLAMATION PLAN NUMBER: S-plan number

APPLICANT: Applicant's name, dba, & address

LEGAL DESCRIPTION: Insert legal description here. If more than one Section is involved, the number of acres per Section will need to be specified so it can entered into IMS.

AGENCY REVIEW The application was or was not (choose one) sent out for state agency review. Note comments here if they impact plan approval, require an additional stipulation, or cover issues that need to be addressed by the applicant. If a state mineral lease exists or is needed, that should also be noted here.

OPERATIONAL DETAIL: Describe the operation in a couple of sentences. If operations have already started, please note that here. Bonding should be sent in within 30 days if operations have started.

RECLAMATION DETAIL: Describe reclamation in a couple of sentences.

BONDING: A prorated payment to the bond assurance fund of \_\_\_\_\_ for \_\_\_\_\_ acres through November 1, 200\_ and annual payments thereafter based on disturbed acreage.

STIPULATIONS: Approve the application subject to the standard stipulations. If additional stipulations will be added, list them here and then insert them after stipulation #3 in the approval letter.

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

**Surface Mine Approval Memorandum  
Alternative Bonding Language for Non-Bond Assurance Fund Scenarios**

**ITD and Highway District plans on non-endowment land exempt from bonding will use the following language in the Bonding section:**

ITD and Highway Districts sources are exempt from bonding under Idaho Code § 47-1519.

---

**ITD plans on endowment land are required to have a bond due to the terms of the lease, and will use the following language in the Bonding section:**

This operation is covered by the Idaho Transportation Department's statewide bond issued by the Idaho Department of Administration Bureau of Risk Management.

---

**All private reclamation plans, and Highway District reclamation plans on endowment land, not eligible under the Bond Assurance Fund must provide a traditional bond (surety, certificate of deposit, cash, or a letter of credit) in an amount specific to the operation. Highway District mines on endowment land are required to have a reclamation bond due to the terms of the lease. These plans will use the following language in the Bond section:**

An initial reclamation bond in the amount of \$\_\_\_\_\_ for \_\_\_\_\_ acres will be submitted to and maintained with the Idaho Department of Lands prior to conducting any surface mining operations.

Area Letterhead

Date

Name

Addr

City,State,Zip

This correspondence is notification the following reclamation plan was approved on :

<u>PLAN NO.</u>	<u>ACRES</u>	<u>COUNTY</u>	<u>LEGAL DESCRIPTION</u>
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-

The plan was granted approval subject to the following terms and conditions:

1. All refuse, chemical and petroleum products and equipment shall be stored and maintained in a designated location, 100 feet away from any surface water and disposed of in such a manner as to prevent their entry into a waterway.
2. State water quality standards will be maintained at all times during the life of the operation. Should a violation of water quality standards occur, mining operations will cease immediately, corrective action will be taken, and the Department of Environmental Quality will be notified.
3. Erosion and non-point source pollution shall be minimized by careful design of the site access and implementing Best Management Practices, which may include, but are not limited to:
  - a. Diverting all surface water flows around the mining operation.
  - b. Removing and stockpiling vegetation and slash, except merchantable timber, for use in erosion control and reclamation;
  - c. Removing and stockpiling all topsoil or suitable plant growth material for use in reclamation.
4. In accordance with provisions of Idaho Code title 47, chapter 18, a payment to the state reclamation fund of \$ for disturbed acres over the next months shall be paid by , 2009. This payment will constitute financial assurance in lieu of a reclamation bond. Approval of this reclamation plan is conditioned upon receipt of the above payment by the date

shown and annual payments in accordance with Idaho Code title 47, chapter 18 and IDAPA 20.03.03. Please ensure that you complete the enclosed acknowledgment and return it with your payment. This reclamation plan will be considered in good standing upon receipt of the above payment and signed acknowledgment.

5. If the reclamation plan is not bonded within 18 months of approval, or if no operations are conducted within three years, the department may withdraw this plan. This shall not prevent the operator from re-applying for reclamation plan approval.

6. Acceptance of this permit does not preclude the operator from obtaining other necessary permits and approvals from state and federal authorities, i.e. Storm Water Pollution Prevention Plan (SWPPP), waste water generation and/or air quality permits, consultation with the National Oceanic and Atmospheric Administration Fisheries, U.S. Army Corps of Engineers 404 Permit and Stream Channel Alteration Permits for each production process.

7. At the beginning of each calendar year the operator or plan holder shall notify the director of any increase in the acreage of affected lands which will result from the planned surface mining activity within the next twelve (12) months. A correlative increase in the bond will be required for an increase in affected acreage.

8. The Idaho State Board of Land Commissioners Greater Sage-Grouse Conservation Plan, Approved on April 21, 2015, includes an Implementation Plan for Idaho Department of Lands' Regulatory and Assistance Activities. This reclamation plan approval has been granted to the operator for mining activities within the ([Select one: Core or Important](#)) Sage Grouse Habitat Zone. The operator is encouraged to review and voluntarily implement the applicable Mining Regulatory Best Management Practices for mining operations in Core or Important sage-grouse Habitat Zones from the enclosed list. The operator is invited to review the entire Idaho State Board of Land Commissioners Greater Sage-Grouse Conservation Plan on the internet here: <https://www.idl.idaho.gov/sage-grouse/2017-1017-updated-lb-sgcp.pdf>.

Please note -- pursuant to Idaho Code section 47-1512(a), operations cannot commence until the bond payment established in Stipulation No. 4 is submitted to this department. Failure to submit payment before mining commences may subject you to legal action by the state pursuant to Idaho Code section 47-1513(d), which may include issuance of an order by the district court to temporarily restrain your mining operations without prior notice to you.

If the department does not receive a written notice of objection from you regarding these stipulations by [insert date two weeks from date of letter](#), the stipulations will be considered as accepted.

If you have any questions, you may contact me at the above address or telephone (208) .

Your Name  
Title

Enclosure(s): IDL Mining Operations and Greater Sage-Grouse FAQ and Best Management Practices (BMPs)

CC: Bureau



### Bond Assurance Fund Acknowledgement Form

Mineral Lease/Dredge and Placer Permit/Reclamation Plan No. \_\_\_\_\_

In accordance with 47-1803(2), this payment and my signature certify that I shall perform the requirements of the approved mineral lease, dredge and placer permit, or reclamation plan listed on this bill, and that I shall comply with all administrative rules governing the operation.

\_\_\_\_\_  
**Print** name of lessee or permit/plan holder Revised Acres (if needed)

\_\_\_\_\_  
**Signature** of lessee or permit/plan holder Date

Sample Reclamation Plan Approval Letter For Bond Exempt Plans

Area Letterhead

Date

Name

Addr

City,State,Zip

This correspondence is notification the following reclamation plan was approved on  
:

PLAN NO.	ACRES	COUNTY	LEGAL DESCRIPTION
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The plan was granted approval subject to the following terms and conditions:

1. All refuse, chemical and petroleum products and equipment shall be stored and maintained in a designated location, 100 feet away from any surface water and disposed of in such a manner as to prevent their entry into a waterway.
2. State water quality standards will be maintained at all times during the life of the operation. Should a violation of water quality standards occur, mining operations will cease immediately, corrective action will be taken, and the Department of Environmental Quality will be notified.
3. Erosion and non-point source pollution shall be minimized by careful design of the site access and implementing Best Management Practices, which may include, but are not limited to:
  - a. Diverting all surface water flows around the mining operation.
  - b. Removing and stockpiling vegetation and slash, except merchantable timber, for use in erosion control and reclamation;
  - c. Removing and stockpiling all topsoil or suitable plant growth material for use in reclamation.
4. ITD and Highway District sources are exempt from bonding under Idaho Code § 47-1519.
5. The Idaho State Board of Land Commissioners Greater Sage-Grouse Conservation Plan, Approved on April 21, 2015, includes an Implementation Plan for Idaho Department of Lands' Regulatory and Assistance Activities. This reclamation plan approval has been granted to the operator for mining activities within the (Select one: Core or Important) Sage Grouse Habitat Zone. The operator is encouraged to review and voluntarily implement the applicable Mining Regulatory Best Management Practices for mining operations in Core or

Important sage-grouse Habitat Zones from the enclosed list. The operator is invited to review the entire Idaho State Board of Land Commissioners Greater Sage-Grouse Conservation Plan on the internet here:

<https://www.idl.idaho.gov/sage-grouse/2017-1017-updated-lb-sgcp.pdf>

If the department does not receive a written notice of objection from you regarding these stipulations by [insert date two weeks from date of letter](#), the stipulations will be considered as accepted.

If you have any questions, you may contact me at the above address or telephone (208) .

Your Name  
Title

Enclosure(s): IDL Mining Operations and Greater Sage-Grouse FAQ and Best Management Practices (BMPs)

CC: Bureau

Sample Reclamation Plan Approval Letter for ITD on Endowment Land

Area Letterhead

Date

Name

Addr

City,State,Zip

This correspondence is notification the following reclamation plan was approved on  
:

PLAN NO.	ACRES	COUNTY	LEGAL DESCRIPTION
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The plan was granted approval subject to the following terms and conditions:

1. All refuse, chemical and petroleum products and equipment shall be stored and maintained in a designated location, 100 feet away from any surface water and disposed of in such a manner as to prevent their entry into a waterway.

2. State water quality standards will be maintained at all times during the life of the operation. Should a violation of water quality standards occur, mining operations will cease immediately, corrective action will be taken, and the Department of Environmental Quality will be notified.

3. Erosion and non-point source pollution shall be minimized by careful design of the site access and implementing Best Management Practices, which may include, but are not limited to:

- a. Diverting all surface water flows around the mining operation.
- b. Removing and stockpiling vegetation and slash, except merchantable timber, for use in erosion control and reclamation;
- c. Removing and stockpiling all topsoil or suitable plant growth material for use in reclamation.

4. This operation is covered by the Idaho Transportation Department's statewide bond issued by the Idaho Department of Administration Bureau of Risk Management.

5. The Idaho State Board of Land Commissioners Greater Sage-Grouse Conservation Plan, Approved on April 21, 2015, includes an Implementation Plan for Idaho Department of Lands' Regulatory and Assistance Activities. This reclamation plan approval has been granted to the operator for mining activities within the (Select one: Core or Important) Sage Grouse Habitat Zone. As this operation is located on endowment lands, the operator is required to review and implement the applicable Mining Regulatory Best Management Practices for

mining operations in Core or Important sage-grouse Habitat Zones from the enclosed list. The operator is invited to review the entire Idaho State Board of Land Commissioners Greater Sage-Grouse Conservation Plan on the internet here: <https://www.idl.idaho.gov/sage-grouse/2017-1017-updated-lb-sqcp.pdf>.

If the department does not receive a written notice of objection from you regarding these stipulations by [insert date two weeks from date of letter](#), the stipulations will be considered as accepted.

If you have any questions, you may contact me at the above address or telephone (208) .

Your Name  
Title

Enclosure(s): IDL Mining Operations and Greater Sage-Grouse FAQ and Best Management Practices (BMPs)

CC: Bureau

Sample Reclamation Plan Approval Letter with Traditional Bond

Area Letterhead

Date

Name

Addr

City,State,Zip

This correspondence is notification the following reclamation plan was approved on \_\_\_\_\_ :

PLAN NO.    ACRES    COUNTY    LEGAL DESCRIPTION

—

The plan was granted approval subject to the following terms and conditions:

1. All refuse, chemical and petroleum products and equipment shall be stored and maintained in a designated location, 100 feet away from any surface water and disposed of in such a manner as to prevent their entry into a waterway.
2. State water quality standards will be maintained at all times during the life of the operation. Should a violation of water quality standards occur, mining operations will cease immediately, corrective action will be taken, and the Department of Environmental Quality will be notified.
3. Erosion and non-point source pollution shall be minimized by careful design of the site access and implementing Best Management Practices, which may include, but are not limited to:
  - a. Diverting all surface water flows around the mining operation.
  - b. Removing and stockpiling vegetation and slash, except merchantable timber, for use in erosion control and reclamation;
  - c. Removing and stockpiling all topsoil or suitable plant growth material for use in reclamation.
4. An initial reclamation bond in the amount of \$\_\_\_\_\_ will be submitted to and maintained with the Idaho Department of Lands prior to conducting any surface mining operations.

5. If the reclamation plan is not bonded within 18 months of approval, or if no operations are conducted within three years, the department may withdraw this plan. This shall not prevent the operator from re-applying for reclamation plan approval.

6. Acceptance of this permit does not preclude the operator from obtaining other necessary permits and approvals from state and federal authorities, i.e. Storm Water Pollution Prevention Plan (SWPPP), waste water generation and/or air quality permits, consultation with the National Oceanic and Atmospheric Administration Fisheries, U.S. Army Corps of Engineers 404 Permit and Stream Channel Alteration Permits for each production process.

7. At the beginning of each calendar year the operator or plan holder shall notify the director of any increase in the acreage of affected lands which will result from the planned surface mining activity within the next twelve (12) months. A correlative increase in the bond will be required for an increase in affected acreage.

8. The Idaho State Board of Land Commissioners Greater Sage-Grouse Conservation Plan, Approved on April 21, 2015, includes an Implementation Plan for Idaho Department of Lands' Regulatory and Assistance Activities. This reclamation plan approval has been granted to the operator for mining activities within the (Select one: Core or Important) Sage Grouse Habitat Zone. The operator is encouraged to review and voluntarily implement the applicable Mining Regulatory Best Management Practices for mining operations in Core or Important sage-grouse Habitat Zones from the enclosed list. The operator is invited to review the entire Idaho State Board of Land Commissioners Greater Sage-Grouse Conservation Plan on the internet here:  
<https://www.idl.idaho.gov/sage-grouse/2017-1017-updated-lb-sgcp.pdf>.

For your convenience I have enclosed bond forms and instructions. Please note -- pursuant to Idaho Code section 47-1512(a), operations cannot commence unless the bond established in Stipulation No. 4 is submitted to this department. Failure to submit the bond before mining commences may subject you to legal action by the state pursuant to Idaho Code section 47-1513(d), which may include issuance of an order by the district court to temporarily restrain your mining operations without prior notice to you. This reclamation plan will be considered in good standing upon receipt of reclamation bonding.

If the department does not receive a written notice of objection from you regarding these stipulations by **insert date two weeks from date of letter**, the stipulations will be considered as accepted.

Sample Reclamation Plan Approval Letter with Traditional Bond

If you have any questions, you may contact me at the above address or telephone (208) .

Your Name  
Title

Enclosure(s): IDL Mining Operations and Greater Sage-Grouse FAQ and Best Management Practices (BMPs)

CC: Bureau

Area Letterhead

County  
Address  
City, State

**NOTICE  
RECLAMATION PLAN APPLICATION**

The State of Idaho, Department of Lands (IDL), as required by the Idaho Surface Mining Act (Idaho Code § 47-1505(7)), is giving your county or city notice of an individual or company proposing a mining activity.

NAME OF OPERATOR: \_\_\_\_\_

ADDRESS OF OPERATOR: \_\_\_\_\_

PLAN NUMBER: \_\_\_\_\_

LEGAL DESCRIPTION: \_\_\_\_\_

IDL has reviewed the application for completeness in accordance with Idaho Code § 47-1506. If the application could impact surface waters, it has been submitted to the Idaho Department of Water Resources, Department of Environmental Quality, and Department of Fish and Game with a request for comments within 30 days. This review process must be finalized and the operator notified within 60 days or the reclamation plan becomes automatically approved as submitted under the statute.

Cities and counties may review the non-confidential portions of the plan at the respective IDL Area Office or the State Office in Boise. IDL works with other agencies to ensure that environmental, water quality, and reclamation standards are maintained. We rely on cities and counties to address land use issues, including planning and zoning, and operational requirements (i.e. hours of operation, etc). If you have any questions or comments you may contact me at the above address, or telephone (208) [XXX-XXXX](tel:208-XXX-XXXX).

**YOUR NAME**

CC: Bureau

**MEMORANDUM**

DATE: **Insert date**

TO: **Name**, Department of Fish and Game, **City**  
**Name**, Department of Environmental Quality, **City**  
**Name**, Department of Water Resources, **City**

FROM: **Your Name and initials**

SUBJECT: **Applicant Name and Plan Number**

The subject plan is attached for your review and comment. Please ensure that written comments are received by **Give Date three or four weeks from above date, if possible** in order to be included in the approval process. If you wish to visit the site, please contact me before this date so an on-site meeting can be arranged.

Thank you for participating in the joint review process. If you have any questions, please contact me at the above address or telephone number.

CC: Bureau

Sample Certificate of Transcription

CERTIFICATE OF TRANSCRIPTION

The undersigned does hereby certify that he or she correctly and accurately transcribed and typed the above transcript from the recording of the \_\_\_\_\_ [describe hearing: e.g. hearing before the hearing officer X, oral argument before commission Y, etc.] which was recorded on [date] in the above-entitled action or proceeding [or, name the proceeding if the transcript is not on a format without a case caption].

Dated and certified this \_\_ day of \_\_, 200\_.

\_\_\_\_\_  
Transcriber



# IDAHO DEPARTMENT OF LANDS

## RESOURCE PROTECTION AND ASSISTANCE BUREAU

### FINANCIAL ASSURANCE INFORMATION AND INSTRUCTIONS

The following types of financial assurance are accepted by the Idaho Department of Lands (IDL). All types of financial assurance must be submitted on an IDL form with accompanying documents attached.

#### **1. Bond Assurance Fund**

For reclamation plans that are under 40 disturbed acres, the plan holder may be required to participate in the Bond Assurance Fund (BAF) program. For more information on the BAF program, please see the BAF information packet on IDL's regulatory mining page on its website.

#### **2. Surety Bonds**

Surety bonds are purchased from a bond or insurance company licensed to do business in Idaho. The company issuing the bond must include their bond number and the lease/plan/permit number on the upper right hand corner of the form. The bond must be made payable to the State of Idaho and carry the notarized signature of the surety and signature of the principal. The surety company issuing the bond must be listed as an acceptable surety in Circular 570 of the U.S. Department of the Treasury. **A surety bond form is available below.**

#### **3. Collateral Bonds – All of these bonds must be submitted to the Department with a completed, notarized collateral bond form. This form is available below.**

##### **❖ Certificate of Deposit and Time Deposit Receipt**

Certificates of deposit and time deposit receipts must be issued by a federally insured institution. Certificates and receipts will not be released for re-issuance and should therefore be automatically renewable. Banks must agree to waive all rights of set-off or liens which it may have against such certificates, and will place holds on those funds that prevent the operator from withdrawing funds until the IDL sends a written release to the bank. The certificate or deposit receipt must be made out to the principal (first) or the Idaho Department of Lands (second), (i.e., "John Doe, et al or Idaho Department of Lands"), in that order. If the issuing bank is not located in the State of Idaho or does not have a branch in Idaho, then a jurisdiction agreement must be executed by the bank and returned to IDL.

##### **❖ Letters of Credit**

Letters of credit must be issued by an institution authorized to do business in the State of Idaho, or through a confirming bank authorized to do business in the State of Idaho, which engages that it will itself honor the credit in full. In addition, a foreign bank must consent to jurisdiction of Idaho courts. Wording of the credit document must provide for

presentation at a bank in the State of Idaho. The account party on all credits must be identical to the entity identified on the lease, permit or plan. The credit document must exactly follow the wording of the enclosed sample. A Certificate of Secretary (see sample) must always accompany a letter of credit. **An Irrevocable Standby Letter of Credit form is available below.**

❖ **Cash**

An operator or lessee may submit a cash bond to be held by IDL. Interest does not accrue on cash bonds.

❖ **Real Property**

Real property used as a collateral bond must be a perfected, first lien security interest in real property located within the state of Idaho, in favor of the state of Idaho. A deed of trust form acceptable to the Department is required for all lands 40 acres or less, or a mortgage form approved by the Department. See IDAPA 20.03.02.122.04 for additional requirements.

#### **4. Trusts**

Trusts uses for financial assurance must be initiated with a Memorandum of Agreement (MOA) between the Operator and IDL. The MOA must describe the proposed trustee, range of investments, initial funding, schedule of payments, trustee fees, and expected rate of return. The Operator must be the joint party on the trust with IDL. Trusts will be irrevocable. Payments may be made over time to keep the amount of the trust equal to the estimated reasonable cost of reclamation. Income accrued on trust funds will generally be retained in the trust. See IDAPA 20.03.02.122.05 for additional requirements. **A sample trust MOA is available on the IDL website.**

#### **5. Corporate Guarantee**

Corporate guarantees can only be submitted for hardrock, phosphate, and other mines approved under Section 070 of IDAPA 20.03.02, and for permanent closure plans approved under Section 071 of IDAPA 20.03.02. The amount of a corporate guarantee is limited to a maximum of 50% of an operation's total financial assurance, and cannot cover post-closure costs. A parent company may provide the corporate guarantee if they meet the same financial criteria as the operator and submit an indemnity agreement to IDL. The financial criteria and other details are described in IDAPA 20.03.02.122.06.

**NOTE: ALL FINANCIAL ASSURANCE TYPES REQUIRE A FULLY EXECUTED ORIGINAL IDL ISSUED BOND FORM. THE FINANCIAL ASSURANCE REQUIREMENT IS NOT SATISFIED UNTIL THE PROPER FORM HAS BEEN SUBMITTED WITH THE APPROPRIATE DOCUMENTATION ATTACHED THERETO.**



State of Idaho
DEPARTMENT OF LANDS

Surety Bond Number \_\_\_\_\_

Lease/Plan No(s). \_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS, That we \_\_\_\_\_, as principal and \_\_\_\_\_, a corporation organized under the laws of the State of \_\_\_\_\_, and having its principal place of business in the State of \_\_\_\_\_, in the City of \_\_\_\_\_, as surety are held and firmly bound unto the State of Idaho, in the sum of \_\_\_\_\_ dollars (\$ \_\_\_\_\_) lawful money of the United States, conditioned on the payment of all damages to the surface and improvements thereon of lands described in the above lease/plan/permit specified and any outstanding balances as set forth in the lease/plan/permit. For such payment, well and truly to be made, we bind ourselves, our and each of our heirs, executors, administrators, successors and assignees, as the case may be, jointly and severally, firmly by these presents.

THE CONDITION of the foregoing obligation is such that:

WHEREAS, by lease/plan/permit bearing the above serial number, the lessee/plan holder/permittee was granted specific rights under and pursuant to Idaho Code title 47, chapters 7, 15 or 16, and the pertinent rules and regulations of the Idaho State Board of Land Commissioners; and

WHEREAS, said lessee/plan holder/permittee has, by virtue of the lease/plan/permit above referred to, entered into certain covenants and agreements set forth in such lease/plan/permit, under which operations are to be conducted; and

WHEREAS, the said principal, in consideration of being permitted, in lieu of the lessee/plan holder/permittee, to furnish this bond agrees and by these presents does hereby bond himself to fulfill on behalf of the lessee/plan holder/permittee all of the obligations of the said lease/plan/permit in the same manner and to the same extent as though he were the lessee/plan holder/permittee. It is understood and agreed by the surety and the principal that if there is outstanding restoration obligations on the premises, or if outstanding payments are due, this bond shall extend to cover all acts for which restoration is required or payment of such outstanding amounts due, both prior to and subsequent to the date of this bond, until notified in writing by the Idaho Department of Lands that such requirements have been met or the bond has been replaced. The Idaho Department of Lands may require payment of the entire sum of this bond, or portions thereof, upon written notice to the surety, by the department, of the lessee/plan holder/permittee's failure to perform any obligations and/or pay any amounts due under the above referenced statutes and pertinent rules.

The surety shall pay to the Department of Lands the sum of this bond, or portions thereof, as requested by the department within 30 days of receipt of such written notice. In the event of a partial distribution, the remaining funds and liabilities shall not be released until the department notifies the surety, in writing, of release of remaining liability or requires payment of the remaining bond liabilities. Payment of the full sum of the bond to the department shall release the surety of all liabilities and obligations.

NOW THEREFORE, if the above principal shall in good faith observe, carry out and comply with all the laws now existing or hereafter enacted, designed or intended for the protection of the surface owner of said lands against damage and resulting loss caused by any operations carried on under said lease/plan/permit, or if any such damage and resulting loss shall so occur nevertheless, for which damage and loss reimbursement is required and made, then this obligation shall become void, otherwise to remain in full force and effect; and the liability of the surety under this bond for any one or more defaults of the principal under said lease/plan/permit shall not exceed in the aggregate the sum stated herein above; It is further provided, however, that the bond may be cancelled by the surety by the service of written notice of cancellation upon the Director of the Department of Lands of the State of Idaho, such cancellation to be effective at the expiration of ninety (90) days after the service of such cancellation notice by the surety on the Director by registered mail. Such cancellation notice, however, shall not affect any liability that shall have accrued under this bond prior to the effective date of cancellation.

Signed on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

(Signature of Principal)

(Signature of Surety)

(Business Address)

(Business Address)

ACKNOWLEDGEMENT OF SURETY

State of \_\_\_\_\_ )
:ss
County of \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year 20\_\_\_\_, before me, a Notary Public, personally appeared \_\_\_\_\_, known to me to be the \_\_\_\_\_ of the corporation that executed the instrument, or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same, or the individual who executed the instrument on their own behalf.

In Witness Whereof, I have hereunto set my hand and affixed my official seal of day and year first above written.

Idaho Department of Lands, Minerals Regulatory Program
Minerals Regulatory Program Procedures

ATTACHMENT 27

Notary Public For \_\_\_\_\_ Residing at: \_\_\_\_\_
My Commission expires \_\_\_\_\_, 20\_\_\_\_\_

Page 160



State of Idaho
DEPARTMENT OF LANDS
COLLATERAL BOND

LEASE/PLAN/PERMIT NO(s). \_\_\_\_\_

BOND TYPE

Bank: \_\_\_\_\_
Address: \_\_\_\_\_
City/State: \_\_\_\_\_

\_\_\_\_\_ Cash
# \_\_\_\_\_ Certificate of Deposit
# \_\_\_\_\_ Letter of Credit
\_\_\_\_\_ Other (Specify)

KNOW ALL MEN BY THESE PRESENTS, That we \_\_\_\_\_, as principal are held and firmly bound unto the State of Idaho, in the sum of \_\_\_\_\_ dollars (\$\_\_\_\_\_ ) lawful money of the United States. For such payment, well and truly to be made, we bind ourselves, our and each of our heirs, executors, administrators, successors and assignees, as the case may be, jointly and severally, firmly by these presents.

THE CONDITIONS of the foregoing obligation are such that:

WHEREAS, by lease/plan/permit bearing the above number, the lessee/plan holder/permittee was granted specific rights under and pursuant to the provisions and requirements of Idaho Code title 47, chapter 7, 8, 13, 15 or 16 or Idaho Code title 58, chapters 1, 3 and 6 and the pertinent rules and regulations of the Idaho State Board of Land Commissioners, or policy; and

WHEREAS, said lessee/plan holder/permittee has, by virtue of the lease/plan/permit above referred to, entered into certain covenants and agreements set forth in such lease/plan/permit, under which operations are to be conducted; and

WHEREAS, the said principal, in consideration of being permitted in lieu of the lessee/plan holder/permittee, agrees to furnish this collateral bond, and by these presents does hereby bond himself to fulfill on behalf of the lessee/plan holder/permittee, all of the obligations of the said lease/plan/permit and in the same manner and to the same extent as though he were the lessee/plan holder/permittee. It is understood and agreed by the lessee/plan holder/permittee and the principal that if there are outstanding obligations on the premises, and if outstanding payments are due, this bond shall extend to cover all acts for which restoration or payment of outstanding amounts due, if required, both prior and subsequent to the date of this bond until notified in writing by the Idaho Department of Lands that all obligations have been completed and all amounts due have been paid or the bond has been replaced and all liability under this bond has been released. The Idaho Department of Lands may require payment of the entire sum of this bond, or portions thereof, upon written notice to the appropriate agent, by the department, of the lessee/plan holder/permittee's failure to

perform outstanding obligations and/or pay amounts due under the above referenced statutes, rules and policies.

The appropriate agent shall pay to the Department of Lands the sum of this bond, or portions thereof, as requested by the department within 30 days of receipt of such written notice. In the event of a partial distribution, the remaining funds and liabilities shall not be released until the department notifies the appropriate agent, in writing, of release of remaining liability or requires payment of the remaining bond liabilities. Payment of the full sum of the bond to the department shall constitute release of this bonding liability and obligation.

NOW THEREFORE, if the above principal shall in good faith observe, carry out and comply with all the laws now existing or hereafter enacted, designed or intended for the protection of the surface owner of said lands against damage and resulting loss caused by any operations carried on under said lease/plan/permit, or if any such damage and resulting loss shall so occur nevertheless, for which damage and loss reimbursement is required and made, then this obligation shall become void, otherwise to remain in full force and effect; and the liability of the principal under this bond for any one or more defaults of the principal under said lease/plan/permit shall not exceed in the aggregate the sum stated herein above. It is further provided, however, that a letter of credit may be cancelled by the issuing bank by the service of written notice of cancellation upon the Director of the Department of Lands of the State of Idaho, such cancellation to be effective at the expiration of one hundred and twenty (120) days after the service of such cancellation notice by the principal on the Director by certified mail.

Signed on this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

(Signature of Principal)

(Business Address)

ACKNOWLEDGMENT OF PRINCIPAL

State of \_\_\_\_\_ )
County of \_\_\_\_\_ ) ss

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year 20\_\_\_\_, before me, a Notary Public, personally appeared \_\_\_\_\_, known to me to be the \_\_\_\_\_ of the corporation that executed the instrument, or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same, or the individual who executed the instrument on their own behalf.

In Witness Whereof, I have hereunto set my hand and affixed my official seal of day and year first above written.

Notary Public for: \_\_\_\_\_
Residing at: \_\_\_\_\_
My Commission expires: \_\_\_\_\_, 20 \_\_\_\_\_

(Bank Letterhead)

IRREVOCABLE STANDBY LETTER OF CREDIT

(Date) \_\_\_\_\_

ISLC No. \_\_\_\_\_

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

State of Idaho  
Department of Lands  
300 North 6<sup>th</sup> St, Suite 103  
Boise, ID 83720

We hereby establish our Irrevocable Standby Letter of Credit in your favor for the account of (Name of Plan, Permit, or Lease Holder) to the extent of \_\_\_\_\_ (Written Amount) U.S. Dollars (\$ Numerical Amount). Drafts are payable at sight when presented at any branch of the (Name of Bank or Other Institution) and accompanied by a signed statement from an authorized representative of the Idaho Department of Lands that (Name of Plan, Permit, or Lease Holder) has not complied with the terms and conditions of (Plan, Permit, or Lease Number).

It is a condition of this letter of credit that it shall be automatically extended without amendment for additional periods of one year from the present or future expiration date hereof unless one hundred and twenty (120) days prior to such expiration date we shall notify you, in writing, via certified mail, return receipt requested, that we elect not to renew this letter of credit for such additional period. Upon receipt of such notice, the balance of the letter of credit may be drawn upon prior to its expiration date by your clean draft drawn at sight on us presented at any branch office of the (Name of Bank or Other Institution).

Drafts drawn under this credit must bear the following clause: "Drawn under (name of bank or other institution), Letter of Credit No. \_\_\_\_\_, dated \_\_\_\_\_," and the amount of each draft must be endorsed thereon.

This instrument cannot be amended without written consent of an authorized representative of the Idaho Department of Lands.

Unless otherwise expressly stated, this credit is subject to the "Uniform Customs and Practice for Documentary Credits (2007 Revision) International Chamber of Commerce Publication No. 600" or by subsequent Uniform Customs and Practice fixed by subsequent Congresses of the International Chamber of Commerce.

We hereby engage with the drawers, endorsers, and holders in due course of drafts drawn under and in compliance with the terms of this credit that such draft(s) will be duly honored on presentation to the drawee bank.

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Authorized Signature (Cosigner if required)

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

IRREVOCABLE STANDBY LETTER OF CREDIT

(Name of Plan, Permit, or Lease holder)

(Date) \_\_\_\_\_

ISLC No. \_\_\_\_\_

CERTIFICATE OF SECRETARY

I, \_\_\_\_\_ (Name) \_\_\_\_\_, as Secretary of (Name of Institution), hereby certify as follows:

(1) That \_\_\_\_\_ (Name) \_\_\_\_\_ who signed this Letter of Credit on behalf of (Name of Institution) was then \_\_\_\_\_ (Title) \_\_\_\_\_ of said institution;

(2) That this Letter of Credit was issued in compliance with all applicable State and Federal Laws, Rules, and Regulations; and

(3) That this letter of credit was duly signed for and in behalf of said corporation by authority of its governing body, and is within the scope of its corporate powers.

In witness whereof, I, \_\_\_\_\_ (Name) \_\_\_\_\_, as the Secretary of (Name of Institution), have executed this certificate and affixed the seal of (Name of Institution) on this \_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

Name

Title

(affix corporate seal)

STATE OF \_\_\_\_\_ )  
 ) ss  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, before me, a Notary Public, in and for said county and state, personally appeared \_\_\_\_\_ (Name) \_\_\_\_\_, known or identified to me to be the Secretary of (Name of Institution), the corporation that executed the foregoing instrument, and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

(Seal)

\_\_\_\_\_  
Notary Public for the State of:

Residing at:

Commission expires:



State of Idaho
DEPARTMENT OF LANDS

Surety Bond Number \_\_\_\_\_

Permit No(s). \_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS, That we \_\_\_\_\_, as principal and \_\_\_\_\_, a corporation organized under the laws of the State of \_\_\_\_\_, and having its principal place of business in the State of \_\_\_\_\_, in the City of \_\_\_\_\_, as surety are held and firmly bound unto the State of Idaho, in the sum of \_\_\_\_\_ dollars (\$ \_\_\_\_\_) lawful money of the United States, conditioned on the payment of all damages to the surface and improvements thereon of lands described in the above lease/plan/permit specified and any outstanding balances as set forth in the lease/plan/permit. For such payment, well and truly to be made, we bind ourselves, our and each of our heirs, executors, administrators, successors and assignees, as the case may be, jointly and severally, firmly by these presents.

THE CONDITION of the foregoing obligation is such that:

WHEREAS, by lease/plan/permit bearing the above serial number, the permittee was granted specific rights under and pursuant to Idaho Code title 47, chapters 13, and the pertinent rules and regulations of the Idaho State Board of Land Commissioners; and

WHEREAS, said permittee has, by virtue of the lease/plan/permit above referred to, entered into certain covenants and agreements set forth in such lease/plan/permit, under which operations are to be conducted; and

WHEREAS, the said principal, in consideration of being permitted, in lieu of the permittee, to furnish this bond agrees and by these presents does hereby bond himself to fulfill on behalf of the permittee all of the obligations of the said lease/plan/permit in the same manner and to the same extent as though he were the permittee. It is understood and agreed by the surety and the principal that if there is outstanding restoration obligations on the premises, or if outstanding payments are due, this bond shall extend to cover all acts for which restoration is required or payment of such outstanding amounts due, both prior to and subsequent to the date of this bond, until notified in writing by the Idaho Department of Lands that such requirements have been met or the bond has been replaced. The Idaho Department of Lands may require payment of the entire sum of this bond, or portions thereof, upon written notice to the surety, by the department, of the permittee's failure to perform any obligations and/or pay any amounts due under the above referenced statutes and pertinent rules.

The surety shall pay to the Department of Lands the sum of this bond, or portions thereof, as requested by the department within 30 days of receipt of such written notice. In the event of a partial distribution, the remaining funds and liabilities shall not be released until the department notifies the surety, in writing, of release of remaining liability or requires payment of the remaining bond liabilities. Payment of the full sum of the bond to the department shall release the surety of all liabilities and obligations.

NOW THEREFORE, if the above principal shall in good faith observe, carry out and comply with all the laws now existing or hereafter enacted, designed or intended for the protection of the surface owner of said lands against damage and resulting loss caused by any operations carried on under said lease/plan/permit, or if any such damage and resulting loss shall so occur nevertheless, for which damage and loss reimbursement is required and made, then this obligation shall become void, otherwise to remain in full force and effect; and the liability of the surety under this bond for any one or more defaults of the principal under said lease/plan/permit shall not exceed in the aggregate the sum stated herein above; It is further provided, however, that the bond may be cancelled by the surety by the service of written notice of cancellation upon the Director of the Department of Lands of the State of Idaho, such cancellation to be effective at the expiration of one hundred twenty (120) days after the service of such cancellation notice by the surety on the Director by registered mail. Such cancellation notice, however, shall not affect any liability that shall have accrued under this bond prior to the effective date of cancellation.

Signed on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

(Signature of Principal)

(Signature of Surety)

(Business Address)

(Business Address)

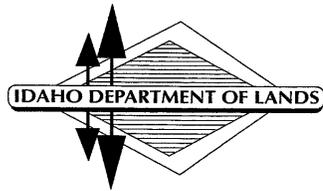
ACKNOWLEDGEMENT OF SURETY

State of \_\_\_\_\_ )
:ss
County of \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year 20\_\_\_\_, before me, a Notary Public, personally appeared \_\_\_\_\_, known to me to be the \_\_\_\_\_ of the corporation that executed the instrument, or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same, or the individual who executed the instrument on their own behalf.

In Witness Whereof, I have hereunto set my hand and affixed my official seal of day and year first above written.

Notary Public For \_\_\_\_\_
Residing at: \_\_\_\_\_
My Commission expires \_\_\_\_\_, 20\_\_\_\_\_



State of Idaho
DEPARTMENT OF LANDS

Surety Bond Number \_\_\_\_\_

Lease/Plan No(s). \_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS, That we \_\_\_\_\_, as principal and \_\_\_\_\_, a corporation organized under the laws of the State of \_\_\_\_\_, and having its principal place of business in the State of \_\_\_\_\_, in the City of \_\_\_\_\_, as surety are held and firmly bound unto the State of Idaho, in the sum of \_\_\_\_\_ dollars (\$ \_\_\_\_\_) lawful money of the United States, conditioned on the payment of all damages to the surface and improvements thereon of lands described in the above lease/plan/permit specified and any outstanding balances as set forth in the lease/plan/permit. For such payment, well and truly to be made, we bind ourselves, our and each of our heirs, executors, administrators, successors and assignees, as the case may be, jointly and severally, firmly by these presents.

THE CONDITION of the foregoing obligation is such that:

WHEREAS, by lease/plan/permit bearing the above serial number, the lessee/plan holder/permittee was granted specific rights under and pursuant to Idaho Code title 47, chapters 7, 15 or 16, and the pertinent rules and regulations of the Idaho State Board of Land Commissioners; and

WHEREAS, said lessee/plan holder/permittee has, by virtue of the lease/plan/permit above referred to, entered into certain covenants and agreements set forth in such lease/plan/permit, under which operations are to be conducted; and

WHEREAS, the said principal, in consideration of being permitted, in lieu of the lessee/plan holder/permittee, to furnish this bond agrees and by these presents does hereby bond himself to fulfill on behalf of the lessee/plan holder/permittee all of the obligations of the said lease/plan/permit in the same manner and to the same extent as though he were the lessee/plan holder/permittee. It is understood and agreed by the surety and the principal that if there is outstanding restoration obligations on the premises, or if outstanding payments are due, this bond shall extend to cover all acts for which restoration is required or payment of such outstanding amounts due, both prior to and subsequent to the date of this bond, until notified in writing by the Idaho Department of Lands that such requirements have been met or the bond has been replaced. The Idaho Department of Lands may require payment of the entire sum of this bond, or portions thereof, upon written notice to the surety, by the department, of the lessee/plan holder/permittee's failure to perform any obligations and/or pay any amounts due under the above referenced statutes and pertinent rules.

The surety shall pay to the Department of Lands the sum of this bond, or portions thereof, as requested by the department within 30 days of receipt of such written notice. In the event of a partial distribution, the remaining funds and liabilities shall not be released until the department notifies the surety, in writing, of release of remaining liability or requires payment of the remaining bond liabilities. Payment of the full sum of the bond to the department shall release the surety of all liabilities and obligations.

NOW THEREFORE, if the above principal shall in good faith observe, carry out and comply with all the laws now existing or hereafter enacted, designed or intended for the protection of the surface owner of said lands against damage and resulting loss caused by any operations carried on under said lease/plan/permit, or if any such damage and resulting loss shall so occur nevertheless, for which damage and loss reimbursement is required and made, then this obligation shall become void, otherwise to remain in full force and effect; and the liability of the surety under this bond for any one or more defaults of the principal under said lease/plan/permit shall not exceed in the aggregate the sum stated herein above; It is further provided, however, that the bond may be cancelled by the surety by the service of written notice of cancellation upon the Director of the Department of Lands of the State of Idaho, such cancellation to be effective at the expiration of ninety (90) days after the service of such cancellation notice by the surety on the Director by registered mail. Such cancellation notice, however, shall not affect any liability that shall have accrued under this bond prior to the effective date of cancellation.

Signed on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

(Signature of Principal)

(Signature of Surety)

(Business Address)

(Business Address)

ACKNOWLEDGEMENT OF SURETY

State of \_\_\_\_\_ )
:ss
County of \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year 20\_\_\_\_, before me, a Notary Public, personally appeared \_\_\_\_\_ of the corporation that executed the instrument, or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same, or the individual who executed the instrument on their own behalf.

In Witness Whereof, I have hereunto set my hand and affixed my official seal of day and year first above written.

Notary Public For \_\_\_\_\_
Residing at: \_\_\_\_\_
My Commission expires \_\_\_\_\_, 20\_\_\_\_\_



State of Idaho
DEPARTMENT OF LANDS
COLLATERAL BOND

LEASE/PLAN/PERMIT NO(s). \_\_\_\_\_

BOND TYPE

Bank: \_\_\_\_\_ # \_\_\_\_\_ Cash
Address: \_\_\_\_\_ # \_\_\_\_\_ Certificate of Deposit
City/State: \_\_\_\_\_ # \_\_\_\_\_ Letter of Credit
\_\_\_\_\_ Other (Specify)

KNOW ALL MEN BY THESE PRESENTS, That we \_\_\_\_\_, as principal are held and firmly bound unto the State of Idaho, in the sum of \_\_\_\_\_ dollars (\$ \_\_\_\_\_) lawful money of the United States. For such payment, well and truly to be made, we bind ourselves, our and each of our heirs, executors, administrators, successors and assignees, as the case may be, jointly and severally, firmly by these presents.

THE CONDITIONS of the foregoing obligation are such that:
WHEREAS, by lease/plan/permit bearing the above number, the lessee/plan holder/permittee was granted specific rights under and pursuant to the provisions and requirements of Idaho Code title 47, chapter 7, 8, 13, 15 or 16 or Idaho Code title 58, chapters 1, 3 and 6 and the pertinent rules and regulations of the Idaho State Board of Land Commissioners, or policy; and

WHEREAS, said lessee/plan holder/permittee has, by virtue of the lease/plan/permit above referred to, entered into certain covenants and agreements set forth in such lease/plan/permit, under which operations are to be conducted; and

WHEREAS, the said principal, in consideration of being permitted in lieu of the lessee/plan holder/permittee, agrees to furnish this collateral bond, and by these presents does hereby bond himself to fulfill on behalf of the lessee/plan holder/permittee, all of the obligations of the said lease/plan/permit and in the same manner and to the same extent as though he were the lessee/plan holder/permittee. It is understood and agreed by the lessee/plan holder/permittee and the principal that if there are outstanding obligations on the premises, and if outstanding payments are due, this bond shall extend to cover all acts for which restoration or payment of outstanding amounts due, if required, both prior and subsequent to the date of this bond until notified in writing by the Idaho Department of Lands that all obligations have been completed and all amounts due have been paid or the bond has been replaced and all liability under this bond has been released. The Idaho Department of Lands may require payment of the entire sum of this bond, or portions thereof, upon written notice to the appropriate agent, by the department, of the lessee/plan holder/permittee's failure to perform outstanding obligations and/or

pay amounts due under the above referenced statutes, rules and policies.

The appropriate agent shall pay to the Department of Lands the sum of this bond, or portions thereof, as requested by the department within 30 days of receipt of such written notice. In the event of a partial distribution, the remaining funds and liabilities shall not be released until the department notifies the appropriate agent, in writing, of release of remaining liability or requires payment of the remaining bond liabilities. Payment of the full sum of the bond to the department shall constitute release of this bonding liability and obligation.

NOW THEREFORE, if the above principal shall in good faith observe, carry out and comply with all the laws now existing or hereafter enacted, designed or intended for the protection of the surface owner of said lands against damage and resulting loss caused by any operations carried on under said lease/plan/permit, or if any such damage and resulting loss shall so occur nevertheless, for which damage and loss reimbursement is required and made, then this obligation shall become void, otherwise to remain in full force and effect; and the liability of the principal under this bond for any one or more defaults of the principal under said lease/plan/permit shall not exceed in the aggregate the sum stated herein above. It is further provided, however, that a letter of credit may be cancelled by the issuing bank by the service of written notice of cancellation upon the Director of the Department of Lands of the State of Idaho, such cancellation to be effective at the expiration of ninety (90) days after the service of such cancellation notice by the principal on the Director by certified mail.

Signed on this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

(Signature of Principal)

(Business Address)

ACKNOWLEDGMENT OF PRINCIPAL

State of \_\_\_\_\_ )
County of \_\_\_\_\_ )ss

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year 20\_\_\_\_\_, before me, a Notary Public, personally appeared \_\_\_\_\_, known to me to be the \_\_\_\_\_ of the corporation that executed the instrument, or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same, or the individual who executed the instrument on their own behalf.

In Witness Whereof, I have hereunto set my hand and affixed my official seal of day and year first above written.

Notary Public for: \_\_\_\_\_
Residing at: \_\_\_\_\_
My Commission expires: \_\_\_\_\_, 20\_\_\_\_\_

(Bank Letterhead)

IRREVOCABLE STANDBY LETTER OF CREDIT

(Date) \_\_\_\_\_

ISLC No. \_\_\_\_\_

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

State of Idaho  
Department of Lands  
300 North 6<sup>th</sup> St, Suite 103  
Boise, ID 83720

We hereby establish our Irrevocable Standby Letter of Credit in your favor for the account of (Name of Plan, Permit, or Lease Holder) to the extent of \_\_\_\_\_ (Written Amount) U.S. Dollars (\$ Numerical Amount). Drafts are payable at sight when presented at any branch of the (Name of Bank or Other Institution) and accompanied by a signed statement from an authorized representative of the Idaho Department of Lands that (Name of Plan, Permit, or Lease Holder) has not complied with the terms and conditions of (Plan, Permit, or Lease Number).

It is a condition of this letter of credit that it shall be automatically extended without amendment for additional periods of one year from the present or future expiration date hereof unless one hundred and twenty (120) days prior to such expiration date we shall notify you, in writing, via certified mail, return receipt requested, that we elect not to renew this letter of credit for such additional period. Upon receipt of such notice, the balance of the letter of credit may be drawn upon prior to its expiration date by your clean draft drawn at sight on us presented at any branch office of the (Name of Bank or Other Institution).

Drafts drawn under this credit must bear the following clause: "Drawn under (name of bank or other institution), Letter of Credit No. \_\_\_\_\_, dated \_\_\_\_\_," and the amount of each draft must be endorsed thereon.

This instrument cannot be amended without written consent of an authorized representative of the Idaho Department of Lands.

Unless otherwise expressly stated, this credit is subject to the "Uniform Customs and Practice for Documentary Credits (2007 Revision) International Chamber of Commerce Publication No. 600" or by subsequent Uniform Customs and Practice fixed by subsequent Congresses of the International Chamber of Commerce.

We hereby engage with the drawers, endorsers, and holders in due course of drafts drawn under and in compliance with the terms of this credit that such draft(s) will be duly honored on presentation to the drawee bank.

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Authorized Signature (Cosigner if required)

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

IRREVOCABLE STANDBY LETTER OF CREDIT

(Name of Plan, Permit, or Lease holder)

(Date) \_\_\_\_\_

ISLC No. \_\_\_\_\_

CERTIFICATE OF SECRETARY

I, \_\_\_\_\_ (Name) \_\_\_\_\_, as Secretary of (Name of Institution), hereby certify as follows:

(1) That \_\_\_\_\_ (Name) \_\_\_\_\_ who signed this Letter of Credit on behalf of (Name of Institution) was then \_\_\_\_\_ (Title) \_\_\_\_\_ of said institution;

(2) That this Letter of Credit was issued in compliance with all applicable State and Federal Laws, Rules, and Regulations; and

(3) That this letter of credit was duly signed for and in behalf of said corporation by authority of its governing body, and is within the scope of its corporate powers.

In witness whereof, I, \_\_\_\_\_ (Name) \_\_\_\_\_, as the Secretary of (Name of Institution), have executed this certificate and affixed the seal of (Name of Institution) on this \_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

Name

Title

(affix corporate seal)

STATE OF \_\_\_\_\_ )  
 ) ss  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, before me, a Notary Public, in and for said county and state, personally appeared \_\_\_\_\_ (Name) \_\_\_\_\_, known or identified to me to be the Secretary of (Name of Institution), the corporation that executed the foregoing instrument, and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

(Seal)

\_\_\_\_\_  
Notary Public for the State of:

Residing at:

Commission expires:



## STATE BOND ASSURANCE FUND FEE SCHEDULE

>40 acres, not eligible to participation*	
35 to 40 acres	\$ 550.00
30 to 35 acres	500.00
25 to 30 acres	450.00
20 to 25 acres	400.00
15 to 20 acres	350.00
10 to 15 acres	300.00
5 to 10 acres	250.00
2 to 5 acres	200.00
2 acres or less	100.00

\*Traditional forms of bonding are required (Surety bond, Cash, Certificate of Deposit, Letter of Credit).

In addition to the fee for reclamation bonding, the annual fee for State Mineral Lease bonds is \$100.00.

Bond Assurance Fund  
Prorated Payment Schedule

	A	B	C	D	E	F	G	H	I	J	K	L	M
1					<i>PRORATION FROM FIRST OF MONTH BILLING DUE DATE</i>								
2	Month Plan is approved	September	October	November	December	January	February	March	April	May	June	July	August
3	Month payment is due	<b>Yearly Bill Due November</b>	<b>December</b>	<b>January</b>	<b>February</b>	<b>March</b>	<b>April</b>	<b>May</b>	<b>June</b>	<b>July</b>	<b>August</b>	<b>September</b>	<b>October</b>
4	>35 to 40 acres	\$ 550.00	\$ 500.00	\$ 455.00	\$ 410.00	\$365.00	\$320.00	\$275.00	\$225.00	\$180.00	\$135.00	\$ 90.00	\$ 45.00
5	>30 to 35 acres	\$ 500.00	\$ 455.00	\$ 415.00	\$ 375.00	\$330.00	\$290.00	\$250.00	\$205.00	\$165.00	\$125.00	\$ 80.00	\$ 40.00
6	>25 to 30 acres	\$ 450.00	\$ 410.00	\$ 375.00	\$ 335.00	\$300.00	\$260.00	\$225.00	\$185.00	\$150.00	\$110.00	\$ 75.00	\$ 35.00
7	>20 to 25 acres	\$ 400.00	\$ 365.00	\$ 330.00	\$ 300.00	\$265.00	\$230.00	\$200.00	\$165.00	\$130.00	\$100.00	\$ 65.00	\$ 30.00
8	>15 to 20 acres	\$ 350.00	\$ 320.00	\$ 290.00	\$ 260.00	\$230.00	\$200.00	\$175.00	\$145.00	\$115.00	\$ 85.00	\$ 55.00	\$ 25.00
9	>10 to 15 acres	\$ 300.00	\$ 275.00	\$ 250.00	\$ 225.00	\$200.00	\$175.00	\$150.00	\$125.00	\$100.00	\$ 75.00	\$ 50.00	\$ 25.00
10	>5 to 10 acres	\$ 250.00	\$ 225.00	\$ 205.00	\$ 185.00	\$165.00	\$145.00	\$125.00	\$100.00	\$ 80.00	\$ 60.00	\$ 40.00	\$ 20.00
11	>2 to 5 acres	\$ 200.00	\$ 180.00	\$ 165.00	\$ 150.00	\$130.00	\$115.00	\$100.00	\$ 80.00	\$ 65.00	\$ 50.00	\$ 30.00	\$ 15.00
12	2 acres or less	\$ 100.00	\$ 90.00	\$ 80.00	\$ 75.00	\$ 65.00	\$ 55.00	\$ 50.00	\$ 40.00	\$ 30.00	\$ 25.00	\$ 15.00	\$ 5.00
13													
14	Normal billings will be sent out around September 1st, and will be due by November 1st.												
15	Bills are generally due by the first of the second month following approval, when the bond coverage starts. This gives at least 30 days for payment.												
16		(e.g. If a plan is approved in January, the bill would be due March 1)											
17													
18	Bills for new plans that would be due August through October should include the one to three months plus the one year fees.												
19		(e.g. When a plan is approved June through August they should pay for 15 to 13 months. Add the August through October billing amount to the November billing amount.)											

6/22/2020

**MINERALS, PUBLIC TRUST, OIL AND GAS DIVISION**  
**RESOURCE PROTECTION & ASSISTANCE BUREAU**  
300 N. 6th Street Suite 103  
PO Box 83720  
Boise, ID 83720-0050  
Phone (208) 334-0200  
Fax (208) 334-3698



**STATE BOARD OF LAND COMMISSIONERS**  
*Brad Little, Governor*  
*Lawrence E. Denney, Secretary of State*  
*Lawrence G. Wasden, Attorney General*  
*Brandon D Woolf, State Controller*  
*Sherri Ybarra, Sup't of Public Instruction*

Date

Customer No: «Cust\_No»

### Bond Assurance Fund Acknowledgement Form

Please complete this form and return it to the Idaho Department of Lands, PO Box 83720 Boise, ID 83720.

**Any questions can be answered by the area office-map and phone numbers are located on page two.**

Reclamation Plan # «Lease Number»  
Current Permitted Acreage # «PERMITTED ACREAGE»  
Current Disturbed Acreage # «DISTURBED ACREAGE»

In accordance with Idaho Code § 47-1803 (2), this payment and my signature certify that I shall perform the requirements of the approved mineral lease, dredge and placer permits, or reclamation plan listed on this bill, and that I comply with all administrative rules governing the operation.

Please indicate the number of acres currently disturbed \_\_\_\_\_ \*\*

---

**PRINT Name of Permit/Plan Holder**

---

**Signature of Permit/Plan Holder**

**Date**

This form must be completed and returned pursuant to Idaho Code § 47-1512(b), (j), and IDAPA 20.03.03.026.02 and 20.03.02.120.04. Failure to do so may constitute lack of bonding which can result in penalties of \$500.00 to \$2500.00 per day of non-compliance.

**\*\*A reduction in acreage must be documented and submitted**

*"Trusted Stewards of Idaho's Resources, From Main Street to Mountaintop"*

# Idaho Department of Lands Management Areas

**Priest Lake Supervisory Area**  
4053 Cavanaugh Bay Road  
Coolin, ID 83821  
(208) 443-2516

**Kootenai Valley Forest Protective District**  
6327 Main Street  
Bonners Ferry, ID 83805  
(208) 267-5577

**Pend Oreille Supervisory Area**  
2550 Highway 2 West  
Sandpoint, ID 83864-7305  
(208) 263-5104

**Mica Supervisory Area**  
3258 West Industrial Loop  
Coeur d'Alene, ID 83815  
(208) 769-1577

**Cataldo Forest Protective District**  
80 Hilltop Overpass Road  
Kingston, ID 83839  
(208) 682-4611

**St. Joe Supervisory Area**  
1806 Main Avenue  
St. Maries, ID 83861  
(208) 245-4551

**Ponderosa Supervisory Area**  
3130 Highway 3  
Deary, ID 83823  
(208) 877-1121

**Clearwater Supervisory Area**  
10230 Highway 12  
Orofino, ID 83544  
(208) 476-4587

**Craig Mountain Forest Protective District**  
P.O. Box 68,  
014 East Lorahama  
Craigmont, ID 83523  
(208) 924-5571

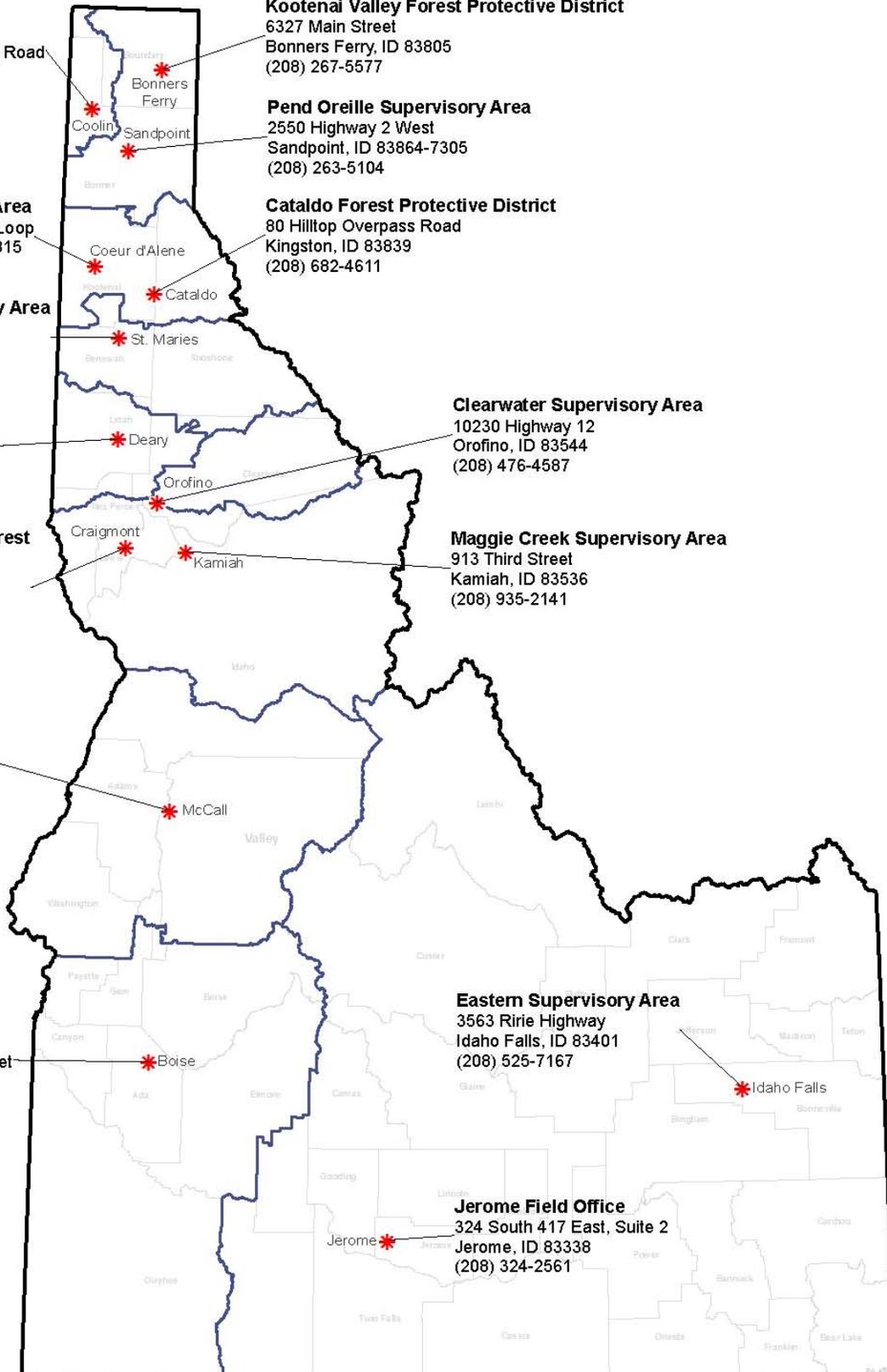
**Maggie Creek Supervisory Area**  
913 Third Street  
Kamiah, ID 83536  
(208) 935-2141

**Payette Lake Supervisory Area**  
555 Deinhard Lane  
McCall, ID 83638  
(208) 634-7125

**Southwest Supervisory Area**  
8355 West State Street  
Boise, ID 83714  
(208) 334-3488

**Eastern Supervisory Area**  
3563 Ririe Highway  
Idaho Falls, ID 83401  
(208) 525-7167

**Jerome Field Office**  
324 South 417 East, Suite 2  
Jerome, ID 83338  
(208) 324-2561



Revised: April 2014

Sample Letter For Requesting Bonds in Excess of \$15,000 per acre

Area Letterhead

Date

Name

Addr

City,State,Zip

The bond calculations you provided indicate that the actual cost of reclamation for this mine is in excess of \$15,000 per acre. The Idaho Department of Lands (IDL) has reviewed these calculations and agrees that they are complete. Therefore, IDL has determined that a bond in excess of \$15,000 per acre is necessary to meet the reclamation requirements of the Idaho Mined Land Reclamation Act (title 47, chapter 15, Idaho Code).

This letter is IDL's notice required by paragraph 120.02 of the Rules Governing Mined Land Reclamation (IDAPA 20.03.02). IDL believes a bond in excess of \$15,000 for this reclamation plan is necessary to cover the actual costs of reclamation in the event IDL forfeits the bond and performs the reclamation specified in the plan. A smaller reclamation bond may not provide sufficient funds to perform reclamation that controls runoff, maintains water quality, and meets the requirements of title 47, chapter 15, Idaho Code.

If you object to this bond amount, you may appear before the State Board of Land Commissioners (Land Board) and give testimony concerning the amount of the proposed bond. The next available Land Board meeting is **INSERT DATE HERE, MUST BE WITHIN 60 DAYS OF PLAN RECEIPT**. If you have no objection to the proposed bond amount, your right to a hearing must be waived in writing as required by paragraph 120.02(c) of IDAPA 20.03.02. Please provide the written waiver by **FOUR WEEKS PRIOR TO THE ABOVE DATE SO ITEM CAN BE ADDED TO BOARD AGENDA IF WAIVER IS NOT RECEIVED**. Otherwise, the bond amount for this reclamation plan will be added to the next Land Board agenda.

If you have any questions, you may contact me at the above address or telephone (208) .

Your Name

Title

Enclosure(s)

CC: Bureau



**DOCUMENTATION OF COMPLETED RECLAMATION WORK  
REQUEST FOR FINANCIAL ASSURANCE RELEASE**

**Reclamation Plan or Placer Permit No. \_\_\_\_\_**

In accordance with Idaho Code title 47, chapter 15 and the Rules Governing Mined Land Reclamation (IDAPA 20.03.02) OR Idaho Code title 47, chapter 13 and the Rules Governing Placer and Dredge Mining Operations in Idaho (IDAPA 20.03.01), an operator shall notify the Department of Lands, in writing, of any request for partial or full financial assurance release and/or reclamation plan or placer permit retirement.

Upon receipt of a written request for financial assurance release or reclamation plan or placer permit retirement, the department shall respond within thirty (30) days, weather permitting, and notify the operator of the department's action regarding the request.

By signing this request, IDL concurs that partial or final reclamation has been completed on the lands covered by the reclamation plan or placer permit, and the reclamation meets the intent of the applicable statute or rule and the intent of the reclamation plan/placer permit with accepted approval stipulations.

- We request:**
- Partial financial assurance release in the amount of \_\_\_\_\_**
  - Full bond release**
  - Reclamation plan retirement**
  - Placer permit retirement**

\_\_\_\_\_  
**SIGNATURE OF OPERATOR**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**SIGNATURE OF AREA MANAGER**  
**Idaho Department of Lands**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Bureau Signature / Position**  
**Idaho Department of Lands**

\_\_\_\_\_  
**Date**

- Mark for destruction**
- Retain**

**IDL RPM0003**  
**4-03-20**

Letterhead

Date

Address

SUBJECT: Certificate of Deposit No.: XXXXXXXXXXXX, in the amount of \$XXXXXXX  
Placer Permit or Reclamation Plan No.: XXXXXXX  
Operator Name OR: Idaho Department of Lands

Please acknowledge with your signature below that until notice of release of said document shall have been received by you from the Idaho Department of Lands no redemption, withdrawal, or payment on account of said document shall be authorized to the depositor(s) or depository, other than through presentation to you of said certificate. It is understood that these instructions are irrevocable except as the Idaho Department of Lands may otherwise consent to in writing.

Procedures of the Idaho Department of Lands require that you waive all rights of set-off, liens and loans that you have or might have against this certificate.

Please have a duly authorized officer of your bank acknowledge receipt of this notice and instructions contained herein by signing and returning this document to the Idaho Department of Lands at the above address. This bond is not considered complete until this letter is signed and returned to the Idaho Department of Lands. A copy of this notice should be attached to the time deposit duplicate.

If you have any questions, please contact me at (208) 334-0261.

Eric Wilson  
Navigable Waters/Minerals Program Manager

ACKNOWLEDGEMENT

Bank name acknowledges receipt of the above instructions and has marked their records accordingly. The funds are available and are being held for the Idaho Department of Lands and have not been pledged to any other loan at this time or any other institution; will not be offset against; and are not subject to any prior or future lien.

Acknowledged by: \_\_\_\_\_ Date: \_\_\_\_\_

Title: \_\_\_\_\_

State of \_\_\_\_\_ )

County of \_\_\_\_\_ )ss

Subscribed and sworn to before me on the date shown above.

My Commission Expires \_\_\_\_\_

Notary public for: \_\_\_\_\_

Residing at \_\_\_\_\_

**SCOPE OF WORK**

PROJECT NAME:

LOCATION:

CONTRACT ADMINISTRATOR:

PROJECT REQUIREMENTS:

PAYMENT: Payment will be made at the rate of \$ \_\_\_\_\_ per hour. Payment will be made upon receipt of an itemized statement from the Contractor for completed work.

All production materials are the property of the State of Idaho

IDAHO DEPARTMENT OF LANDS  
JUDICIAL REFERRAL CHECKLIST

I. File Information:

Special Deadlines or Time Constraints:      \_\_\_\_\_ Yes      \_\_\_\_\_ No

Type:      \_\_\_\_\_ Surface Mining      \_\_\_\_\_ Dredge/Placer      \_\_\_\_\_ Mineral Leasing

Violation of:

Plan/Permit/Lease Number: \_\_\_\_\_

Rule (Specify): \_\_\_\_\_

Statute (Specify): \_\_\_\_\_

Lease/Permit Term (Specify): \_\_\_\_\_

PERMITTEE/LESSEE NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

CITY, STATE, ZIP \_\_\_\_\_

TELEPHONE NUMBER: \_\_\_\_\_

DESIGNATED AGENT (if applicable)

Bond Type:      \_\_\_\_\_ Cash      \_\_\_\_\_ Cert. Deposit      \_\_\_\_\_ LOC      \_\_\_\_\_ Surety

BOND AMOUNT: \_\_\_\_\_

BOND COMPANY: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY, STATE, ZIP \_\_\_\_\_

Legal Description of lands involved: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

County Where Lands are Located: \_\_\_\_\_

Land Ownership:

Surface Ownership: \_\_\_\_\_

Mineral Ownership: \_\_\_\_\_

**II VIOLATION INFORMATION:**

Brief Description of the violation: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attempts to Remedy (List dates of all contacts made to remedy the situation, i.e. letters, telephone conversations, personal contact):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Samples: Water, soil, other materials involved: \_\_\_\_\_

If so, describe: \_\_\_\_\_

\_\_\_\_\_

**III SEQUENCE OF EVENTS**

1. Date Plan/Permit/Lease Approved: \_\_\_\_\_

2. Date Bond Requested/Received: \_\_\_\_\_

3. Date of Contacts Regarding Violation: \_\_\_\_\_

IV Field Person Assigned to Case: \_\_\_\_\_

Boise Staff Person: \_\_\_\_\_

Other Agency Personnel Involved: \_\_\_\_\_

Other Technical Persons Involved/Available: \_\_\_\_\_

V Supporting Information: \_\_\_\_\_ File Copy Attached

Photos available upon request \_\_\_\_\_

Estimate Available to Remedy Problem \_\_\_\_\_

Checklist Prepared by \_\_\_\_\_ Date: \_\_\_\_\_

Approved for Action: \_\_\_\_\_ Chief, Bureau of Minerals

Sample Letter for Incomplete Application for Permanent Closure Plan

Area Letterhead

Date

Applicant's Name

Address

SUBJECT: Incomplete Application for Permanent Closure Plan

Dear Applicant,

The Department has reviewed your application for permanent closure plan approval. The application is incomplete as submitted and cannot be processed for approval. Subsection 080.01 of IDAPA 20.03.02 (Rules Governing Exploration, Surface Mining and the Closure of Cyanidation Facilities) states that incomplete applications may be returned for correction and resubmission. The following information is needed before the application can be considered complete:

List of All Deficiencies in Application.

Please provide the above information within 30 days of receiving this letter. This letter constitutes a rejection of the application. No further action will be taken on this application until the information required by Section 071 of IDAPA 20.03.02 is received.

If you have any questions, please call me at Phone Number.

Sincerely,

Name

Title

Sample Permanent Closure Plan Approval Letter

Area Letterhead

Date

Name  
Addr  
City,State,Zip

This correspondence is notification the following closure plan was approved on :

PLAN NO.	ACRES	COUNTY	LEGAL DESCRIPTION
----------	-------	--------	-------------------

The plan was granted approval subject to the following terms and conditions:

1. All refuse, chemical and petroleum products and equipment shall be stored and maintained in a designated location, 100 feet away from any surface water and disposed of in such a manner as to prevent their contact with stormwater or their entry into a waterway.
2. State water quality standards will be maintained at all times during the life of the operation. Should a violation of water quality standards occur, operations will cease immediately, corrective action will be taken, and the Department of Environmental Quality (DEQ) will be notified.
3. Operation of the site will be conducted as outlined in the Ore Processing by Cyanidation Permit issued by DEQ.
4. An initial closure bond in the amount of \$\_\_\_\_\_ will be submitted to and maintained with the Idaho Department of Lands prior to implementing any construction related to the approved closure plan.
5. If the closure plan is not bonded within 90 days of approval the department will cancel this plan. This shall not prevent the operator from re-applying for closure plan approval.
6. Acceptance of this permit does not preclude the operator from obtaining other necessary permits and approvals from state and federal authorities, i.e. Storm Water Pollution Prevention Plan (SWPPP), waste water generation and/or air quality permits, consultation with the National Oceanic and Atmospheric Administration Fisheries, U.S. Army Corps of Engineers 404 Permit, and Stream Channel Alteration Permits for each production process.

Sample Permanent Closure Plan Approval Letter

For your convenience I have enclosed bond forms and instructions. Please note -- pursuant to Idaho Code section 47-1512(a), operations cannot commence unless the bond established in Stipulation No. 4 is submitted to this department. Failure to submit the bond before construction commences may subject you to legal action by the state pursuant to Idaho Code section 47-1513(d), which may include issuance of an order by the district court to temporarily restrain your mining operations without prior notice to you. This closure plan will be considered in good standing upon receipt of reclamation bonding.

If the department does not receive a written notice of objection from you regarding these stipulations by [insert date two weeks from date of letter](#), the stipulations will be considered as accepted.

If you have any questions, you may contact me at the above address or telephone (208) .

Your Name  
Title

Enclosure(s)

CC: Bureau

Sample Letter for Rejection of Permanent Closure Plan

Area Letterhead

Date

Applicant's Name  
Address

SUBJECT: Rejection of Application for Permanent Closure Plan

Dear Applicant,

The Department has reviewed your application for permanent closure plan approval. The application is inaccurate or incomplete as submitted and cannot be approved as submitted. Subsection 080.07 of IDAPA 20.03.02 (Rules Governing Exploration, Surface Mining and the Closure of Cyanidation Facilities) states that inaccurate or incomplete applications shall be denied. The following information is needed before the application can be considered complete:

List all deficiencies in the application with specific references to rules that require the information.

If the application has inaccuracies or is not internally consistent, state what the specific inaccuracies or inconsistencies are.

Plainly state what the applicant must do to fix the above deficiencies in the application.

When all the above information is received by the Department, and the application fulfills the requirements of Section 071 of IDAPA 20.03.02, the plan will be processed for approval.

If you have any questions, please call me at Phone Number.

Sincerely,

Name  
Title

**MEMORANDUM OF UNDERSTANDING  
BETWEEN THE IDAHO DEPARTMENT OF WATER RESOURCES  
AND THE IDAHO DEPARTMENT OF LANDS**

**RELATIVE TO FOREST PRACTICES,  
NAVIGABLE WATERS, THE IDAHO DREDGE AND PLACER MINING ACT  
AND  
THE STREAM CHANNEL PROTECTION ACT**

This Memorandum of Understanding (MOU) is entered into by the Idaho Department of Lands (IDL) and the Idaho Department of Water Resources (IDWR). The provisions contained in this MOU pertain to stream channel alterations, in conjunction with forest practices and dredge and placer mining, which impact navigable waters, endowment lands and/or non-federal forestlands. This MOU supercedes the amended Memorandum of Understanding dated July 9, 2002.

**I. PURPOSE:**

It is the policy of the State of Idaho to protect the lands, lakes, streams, and rivers within the State of Idaho, and the State of Idaho acquired title upon statehood to the bed of all navigable waters, and endowment lands.

**II. STATEMENT OF MUTUAL BENEFIT AND INTERESTS:**

The State Board of Land Commissioners, through IDL, has authority under the Idaho Forest Practices Act, Title 38, Chapter 13, Idaho Code, to regulate forest practices; and has authority under the Idaho Dredge and Placer Mining Act, Title 47, Chapter 13, Idaho Code, to protect lands, lakes and streams from damage resulting from dredge and placer mining.

IDWR has authority under Title 42, Chapter 38, Idaho Code, to regulate the alteration of stream channels for the health, safety and welfare of the public and to protect stream channels from alteration for protection of fish and wildlife habitat, aquatic life, recreation, aesthetic beauty, and water quality; and has authority under Title 58, Chapter 4, Idaho Code, to interpose any objections to timber sales on state land because of any interference with the conservation of the irrigation water of any watershed.

Silviculture activities including discharges of dredge and fill material for construction and maintenance of forest roads are not prohibited by or subject to regulation under Section 404 of the Clean Water Act and its implementing regulations. *See* 33 U.S.C. § 1344; 33 C.F.R. Part 323. This exemption does not relieve IDL from obtaining other approvals required under the Clean Water Act regulations.

**2007 MOU BETWEEN THE  
IDAHO DEPARTMENT OF WATER RESOURCES  
AND THE IDAHO DEPARTMENT OF LANDS**

The responsibilities of IDWR and IDL must be coordinated to provide service to the citizens of Idaho, to administer the policies of the State and to avoid waste and duplication of effort.

**III. INTER-AGENCY PROCEDURES:**

IDWR and IDL shall, annually, hold IDWR Regional – IDL Area level meetings in the spring at the respective IDL Supervisory Area Offices. The Idaho Department of Environmental Quality, Idaho Department of Fish and Game (Regional Fishery Biologist), and the US Army Corps of Engineers will be invited to attend these spring meetings. Combination of these Area meetings for efficiency reasons is encouraged when endorsed by both IDL and IDWR.

The purpose of the annual meetings is to exchange information on programs, inform each other of pending activities as provided for in sections of this agreement and to discuss matters pertaining to the accomplishment of mutual objectives of stream channel protection.

IDWR and IDL staff shall meet and develop an Administrative Procedures and Guidance Document relative to the Forest Practices Act and the Stream Channel Protection Act to be used as a guide to field staff and to provide a list of principal contacts. Each Department and their respective staff will handle their own activities and utilize their own resources, including the expenditure of their own funds, in pursuing these objectives. Each Department will carry out its separate activities in a coordinated and mutually beneficial manner.

**IV. OPERATIONS ON ENDOWMENT OR PUBLIC TRUST LANDS:**

***IDAHO DEPARTMENT OF WATER RESOURCES SHALL:***

a. Consider IDL activities that are reviewed at the annual spring meetings or follow-up notification, that meet the requirements of the Forest Practices Act, the Stream Channel Protection Act, and IDAPA 37.03.07, as complying with IDWR procedural requirement for such activities. Any IDL activities (including but not limited to Section V.a. of this MOU) presented at the meeting will not require submission of a Stream Channel Alteration Permit application. IDWR reserves the right to comment on the timing and methods used to complete these projects, to ensure channel stability, for the protection of fish and wildlife habitat, water quality, aquatic life, recreation, and aesthetic beauty.

b. Provide to IDL a copy of all joint applications for permits to alter a stream channel within 20-work days from receipt, in PDF electronic format, which would alter streams on or adjacent to endowment lands, on or adjacent to lands administered by IDL or occupying the beds of navigable streams or beds of lakes and non-federal reservoirs. Notify IDL of activities on non-state lands, which develop subsequent to the annual

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IDAHO DEPARTMENT OF WATER RESOURCES  
AND THE IDAHO DEPARTMENT OF LANDS**

spring meetings that may affect IDL lands, streams or programs. IDL shall consider this notification as meeting the intent of Sections 42-3803 and 42-3804, Idaho Code.

c. Upon request, furnish to IDL copies of all drawing, maps, and specifications relating to applications submitted to IDWR.

d. Include special terms and conditions in permits, which will affect endowment lands or state owned beds of navigable streams as requested by IDL.

e. Provide assistance in identifying the ordinary high water mark on navigable rivers for establishment of jurisdiction purposes for the Stream Channel Protection Act and for title purposes. IDWR and IDL recognize that rivers are dynamic and established land surveys do not always reflect the mean or ordinary high water mark under the Stream Channel Protection Act.

f. Comment to IDL regarding approval under the Stream Channel Protection Act after receiving comments solicited from other agencies in connection with proposals to alter or occupy beds of navigable rivers or as part of dredge and placer mining activities and refer applications or applicants desiring a permit to alter or occupy beds or waters of navigable lakes, non-federal reservoirs, located on navigable rivers to IDL.

g. Upon request by IDL, deny a permit which IDL determines will adversely affect endowment lands.

h. Inform IDL of law, rule and policy changes relating to the Stream Channel Protection Act and provide training to IDL employees concerning Stream Channel Alteration requirements as necessary.

***IDAHO DEPARTMENT OF LANDS SHALL:***

a. Meet or exceed the procedural requirement of IDWR Stream Channel Alteration Rules and Regulations and Minimum Standards (Rules), adopted by the Idaho Water Resource Board (IWRB), to protect stream channels on State of Idaho Lands and on other lands administered by IDL.

b. Provide maps to IDWR Regional Stream Channel Coordinator at the annual meetings. These maps will identify predetermined areas, including stream name and legal description, where IDL activities may have an effect on stream channels. Such activities may include, but are not limited to, proposed timber sales, mining operations, roads, culverts, bridge construction, maintenance projects, stream channel restoration projects and fishery habitat improvement projects.

c. Provide a Joint Application for Permit (IDWR form No. 3804B) to IDWR for activities not covered under either the IDAPA 37.03.07.055 or .064 proposed to be

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carried out in protected reaches of streams designated in an IWRB adopted comprehensive river plan. For example, stream channel relocation and reconstruction activities require filing a Joint Application for Permit.

d. Notify, in writing, IDWR Regional Stream Channel Specialist or Regional Manager of activities that develop subsequent to the annual meeting that are located in or will likely affect a perennial stream channel, including applications for lease or easements in navigable waters or endowment lands.

e. Review and comment on IDWR annual Recreational Suction Dredging Permit and Attachments and consider it as an activity jointly authorized, review and comment on other Joint Applications submitted and accept an application to IDWR to alter a stream channel as an application to IDL to occupy or alter the bed of a navigable stream or river, including approval as joint review for projects not requiring IDL lease agreements or easements. Indicate whether or not permits from IDL are required, or whether IDL approvals are to be part of IDWR approval.

f. Furnish to IDWR and other interested parties where applicable copies of all applications for dredge and placer mining permits, surface mine reclamation plans, riverbed mineral leases, easements, logging operations or any proposal to alter or occupy the bed of any stream or river.

g. Prepare permits, lease easements as required by Land Board policy, include on each permit issued a statement indicating that a permit from IDWR may be required and provide copies to IDWR when stream channel alterations are proposed.

h. Deny permits, leases or easements upon request of IDWR if IDWR determines that the project would damage a stream channel.

**V. OPERATIONS ON PRIVATE LANDS:**

***IDAHO DEPARTMENT OF WATER RESOURCES SHALL:***

a. Consider a completed Notification of Forest Practices and completed Supplemental Notification Form for private timber harvest activities as a stream channel alteration permit, provided all activities meet the requirements of the Forest Practices Act and the Stream Channel Protection Act and IDAPA 37.03.07. Projects not installed or maintained to meet these criteria must be removed.

Projects qualifying for approval under the Notification of Forest Practices and completed Supplemental Notification Form are:

- Installation of round, squash culverts, open arch or open box culverts, forty (40) square feet open end area or less.
- Installation of culverts, less than sixty (60) feet in length, constructed in non-fish-bearing, perennial streams.

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IDAHO DEPARTMENT OF WATER RESOURCES  
AND THE IDAHO DEPARTMENT OF LANDS**

- Construction of bridges on nonpublic roads, seventy-five (75) feet or less in length, that do not require placement of piers within the mean high water marks; cause an encroachment of the stream channel with fill material, or cause wetlands to be filled.
- Construction or reconstruction of fords less than seventy-five (75) feet in overall length and twenty-five (25) feet in width.
- Removal of perennial stream crossing culverts (40 square feet open ended area or less). Removal of culverts must be done during low flows and if practical, during dry stream conditions created by temporary diversion or dewatering. All fill over the culvert, perched material, and fill encroaching on the channel must be removed using machinery equipped with a bucket and placed in stable locations, above the high water mark, seeded and mulched. Once the culvert is removed, the banks need to be sloped back to a stable configuration, seeded and mulched.

Applicants must provide a description of the project, the location by stream name, quarter/quarter, section, township and range. Applicants must also verify that the project is exclusively for forest practices activities and will be installed and maintained in accordance with applicable regulations of the Stream Channel Protection Act and Forest Practices Act.

All new or reconstructed stream crossing structures in any stream supporting a fishery must provide for fish passage.

b. Process Stream Channel Alteration Permits for projects involving Forest Practices and other projects that do not meet the criteria under item V.a. above. When the banks must be armored, when in-channel structures are required to ensure stream stability in conjunction with installation or removal of stream crossings, when using machinery equipped with a blade or operating machinery within the stream channel for stabilization, improved fish passage or placement of woody debris for fish habitat and anytime state water quality standards cannot be met, a Stream Channel Alteration Permit and a Section 404 permit is required.

c. Investigate and enforce any violation of the Stream Channel Protection Act that cannot be resolved under the Forest Practices Act or as requested by IDL. IDWR reserves the right to undertake a separate enforcement action any time it is determined necessary for protection of fish and wildlife habitat and water quality as required by law.

d. Inform IDL of law, rule and policy changes relating to the Stream Channel Protection Act and provide training to IDL employees concerning Stream Channel Alteration requirements as necessary.

e. Include a statement on permits indicating whether the permit also constitutes approval from IDL; that an additional authorization is necessary from IDL or that a permit is not required, as requested by IDL.

**2007 MOU BETWEEN THE  
IDAHO DEPARTMENT OF WATER RESOURCES  
AND THE IDAHO DEPARTMENT OF LANDS**

***THE IDAHO DEPARTMENT OF LANDS SHALL:***

- a. Meet or exceed the procedural requirement of IDWR Stream Channel Alteration Rules and Regulations and Minimum Standards (Rules), adopted by the Idaho Water Resource Board (IWRB), to protect stream channels on State of Idaho Lands and on other lands administered by IDL.
- b. Review and comment on IDWR annual Recreational Suction Dredging Permit and Attachments and consider it as an activity jointly authorized, review and comment on other Joint Applications submitted and accept an application to IDWR to alter a stream channel as an application to IDL to occupy or alter the bed of a navigable stream or river, including approval as joint review for projects not requiring IDL lease agreements or easements. Indicate whether or not permits from IDL are required, or whether IDL approvals are to be part of IDWR approval.
- c. Ensure that the completed Notification of Forest Practices and Supplemental Notification Form meet stream channel alteration permit criteria for forest practices and stream channel crossing projects. IDL will furnish IDWR's Stream Channel Specialist and other interested parties a copy of all completed Supplemental Notifications.
- d. Consider failure to follow requirements of the Forest Practices Act a violation of permit conditions and report to IDWR related NOV's pertaining to stream crossings and stream channel alterations. Work not in compliance with the Notice of Forest Practices and Supplemental Notification Form will be considered a violation of the Stream Channel Protection Act.
- e. Coordinate oversight and enforcement with IDWR when violations do not fall under the Forest Practices Act. Violations of the Forest Practices Rules require corrective action and potential mitigation. Normally accepted restoration and mitigation practices for violations of the Forest Practices Act pertaining to stream crossings and stream channel alterations are:
  - The removal of materials placed within a stream channel as a result of a silviculture violation.
  - Stabilization and re-vegetation of all areas disturbed as a result of a silviculture violation.
  - IDL or Idaho Department of Fish and Game fishery enhancement projects permitted by IDWR for the installation or removal of large woody debris from impacted stream channels. Placement of material in a stream channel for activities other than culverts and bridges, and not directed under a Notice of Violation issued by IDWR or IDL, may require filing of an application under Section 42-3803, Idaho Code.
- f. Refer applicants not covered by a Forest Practices Notification, and desiring to alter a stream channel to IDWR.

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g. Furnish to IDWR and other interested parties where applicable copies of all applications for dredge and placer mining permits, surface mine reclamation plans, riverbed mineral leases, easements, logging operations or any proposal to alter or occupy the bed of any stream or river.

h. Consider an approved Stream Channel Alteration Permit for the removal of gravel bar or bed material from non-navigable rivers by a flood control district for flood control purposes as final state approval for this activity. IDL has determined that the requirements of the Dredge and Placer Mining Act, Title 47, Chapter 13, or the Surface Mining Act, Title 47, Chapter 15, do not apply, regardless of the disposition or sale of the material removed for this purpose. The operator is not mining materials from a placer deposit and the activity is not a surface mining operation.

i. Inform IDWR of law, rule and policy changes established by the Board of Land Commissioners relating to navigable streams, to dredge and surface mining and the Forest Practices Act. IDL will provide training for IDWR staff as necessary.

j. Deny permits, leases or easements upon request of IDWR if IDWR determines that the project would damage a stream channel.

**VI. MAINTENANCE AND REVISION PROCEDURES:**

The Idaho Department of Lands and Idaho Department of Water Resources will hold a state level meeting in Boise, whenever mutually agreed to be necessary, to discuss a broad policy, standards and procedures of mutual interest and to consider the adequacy of the terms of this memorandum. This Memorandum of Understanding may be amended by mutual consent of the parties hereto as often as necessary to maintain the stated objectives and may be terminated by either party by providing written notice thirty (30) days prior to the termination date.

\_\_\_\_\_  
DIRECTOR  
Idaho Department of Lands

\_\_\_\_\_  
Date

\_\_\_\_\_  
DIRECTOR  
Idaho Department of Water Resources

\_\_\_\_\_  
Date

MEMORANDUM OF UNDERSTANDING  
IMPLEMENTING THE NONPOINT SOURCE WATER QUALITY PROGRAM  
IN THE STATE OF IDAHO

*I. AGENCIES TO THE AGREEMENT*

This Memorandum of Understanding is made between: U.S. Environmental Protection Agency (EPA); Idaho Department of Health and Welfare, Division of Environmental Quality (IDHW); Idaho Department of Lands (IDL); Idaho Department of Water Resources (IDWR); Idaho Soil Conservation Commission (SCC); Cooperative Extension Service, University of Idaho (CES); U.S. Department of Agriculture, Soil Conservation Service (SCS); U.S. Department of Agriculture, Agricultural Stabilization and Conservation Service (ASCS); U.S. Department of Agriculture, Forest Service, Northern, Intermountain and Pacific Northwest Regions (Forest Service); U.S. Department of Interior, Bureau of Land Management (BLM).

*II. PURPOSE*

This agreement outlines the roles and responsibilities of the management agencies in implementing the nonpoint source water quality provisions of the Federal Clean Water Act for the State of Idaho.

State agencies may enter into interagency cooperative agreements under authority of Title 67, Chapter 23, Idaho Code.

*III. AUTHORITIES, ROLES, AND RESPONSIBILITIES*

**U.S. Environmental Protection Agency**

The Environmental Protection Agency (EPA) has authority under Section 319 of the Clean Water Act (33 U.S.C. 466 et seq.) to ensure that nonpoint source impacts to water quality are adequately addressed by the state. EPA has authority to review and approve, or disapprove, state water quality standards (Section 303). EPA has authority under Section 309 of the Clean Air Act to comment on National Environmental Policy Act (NEPA) documents developed by the federal land management agencies.

**Idaho Department of Health and Welfare, Division of Environmental Quality**

The Idaho Department of Health and Welfare, Division of Environmental Quality (IDHW) is delegated authority for control of water pollution under the Clean Water Act; the Idaho Environmental Protection and Health Act of 1972, Title 39, Chapter 1, Idaho Code, as amended; and Title 1, Chapter 2, Water Quality Standards and Wastewater Treatment Requirements, Rules and Regulations of IDHW.

Under the Antidegradation Policy, IDHW is the lead state agency for holding Basin Area Meetings, implementing a procedure for identifying Stream Segments of Concern and designating Outstanding Resource Waters, and implementing a coordinated monitoring program (Executive Order No. 88-23).

IDHW is the statewide designated management agency for implementation of Section 319 of the Clean Water Act. The Nonpoint Source Management Program (1989) contains the implementation actions prepared by an interagency work group. The IDHW administers (jointly with SCC) the State Agricultural Water Quality Program (Title 39, Chapter 36, Idaho Code). IDHW addresses waste treatment aspects of mining through plan and specification review, and provides direct regulatory oversight for cyanide leaching facilities (Title 39, Chapter 1, Idaho Code). IDHW addresses forest practices through implementation of the Forest Practices Water Quality Management Plan (1988), revision of water quality standards, and assessment of BMP effectiveness (Title 39, Chapter 13, Idaho Code). IDHW is responsible for implementation of the State Nutrient Management Act (Title 39, Chapter 1, Idaho Code), and Rules and Regulations for Nutrient Management (Title 1, Chapter 16).

Pursuant to the Ground Water Quality Protection Act, IDHW is designated as the primary agency to coordinate and administer ground water quality protection programs for the State of Idaho (Title 39, Chapter 1, Idaho Code). IDHW has the responsibility for collecting ground water quality monitoring data for management of regional and local ground water quality. IDHW is the lead agency in coordinating the preparation of a Comprehensive Ground Water Quality Protection Plan and Ground Water Quality Standards with the Ground Water Council. IDHW addresses ground water quality protection through the permitting of land application of waste water (Title 1, Chapter 17, Idaho Code) and regulation of on-site sewage disposal systems (Title 39, Chapters 1 and 16, Idaho Code). IDHW is the designated lead agency for the Public Drinking Water Program (Title 37, Chapter 21 and Title 39, Chapters 1 and 18, Idaho Code), the Underground Storage Tank Program and the Wellhead Protection Program. Agricultural ground water issues are addressed through the state's Nonpoint Source Section 319 Program and the Ground Water Quality Council.

#### **Idaho Department of Lands**

The Idaho Department of Lands (IDL) has authority to administer the Idaho Forest Practices Act (Title 38, Chapter 1, Idaho Code), the Dredge and Placer Mining Protection Act and the Idaho Surface Mining Act (Title 47, Chapters 13 and 15, Idaho Code), and the Idaho Lake Protection Act (Title 58, Chapter 13, Idaho Code). Under the Antidegradation Policy IDL is designated as the lead agency for surface mining, dredge and placer mining, and forest practices on all lands within the state (Executive Order 88-23).

IDL has the responsibility to ensure compliance with forest practice BMPs on all lands in the state. On state forest lands, IDL has the responsibility to apply BMPs which will provide for protection of beneficial uses of water. On private lands, IDL has the responsibility to administer the Forest Practice Act, Rules and Regulations, and take enforcement action when needed.

IDL provides other state agencies the opportunity to review and comment on mine applications, BMP design, and reclamation plans. Pre-operational site reviews and subsequent site inspections are often conducted in coordination with other state and federal agencies.

IDL has entered into separate MOUs with the USFS and BLM to coordinate the administration of their respective laws and regulations pertaining the mining operations on National Forest System and Bureau of Land Management lands.

### **Idaho Department of Water Resources**

The Idaho Department of Water Resources has authority to regulate stream channel alterations under the Stream Channel Protection Act (Title 42, Chapter 38, Idaho Code) and the safety of most impoundment structures, including irrigation and stock pond facilities, and mine tailings impoundments under the Dam Safety Act (Title 42, Chapter 17, Idaho Code). Wastewater disposal by injection wells is regulated under Title 42, Chapter 39, Idaho Code. The Idaho Department of Water Resources also has statutory responsibility for administering the appropriation and allotment of surface and ground water resources of the state, including geothermal resources, and to protect the resources against waste and contamination, Title 42, Chapter 2, Idaho Code.

IDWR has the responsibility to administer the Stream Channel Protection Act on all continuously flowing streams within the state boundaries for any activity which will alter a stream channel. IDWR has entered into separate MOUs with the USFS, BLM, Idaho Department of Transportation and other road districts to protect streams and their associated environments by close coordination and cooperation on all projects with the potential to alter stream channels. Other projects must seek individual permits through an application and permit process involving all interested agencies, and the Army Corps of Engineers, for review under Section 404. Applications are processed simultaneously under a joint state and federal review with separate approvals. IDWR can not subrogate permitting authority.

IDWR has the responsibility to maintain the natural resource geographic information system for the state as well as a comprehensive ground water data system which is accessible to the public. This is an integral part of the ground water protection program.

## State Soil Conservation Commission

The responsibilities of the State Soil Conservation Commission, Department of Lands, are defined by Title 22, Chapter 27, Idaho Code. The Commission offers assistance to the supervisors of the 51 Soil Conservation Districts (SCDs), organized as provided in the Soil Conservation District Law in carrying out their powers and programs.

SCC jointly (with IDHW) administers the State Agricultural Water Quality Program (SAWQP). SCC is authorized to contract with IDHW to provide technical assistance for SAWQP projects. The State Agricultural Pollution Abatement Plan designates the SCC and SCDs as the agricultural nonpoint source management agencies at the state and local level, respectively. The SCDs may enter into contracts with IDHW for planning and implementation of ground water and surface water projects pursuant to rules and regulations of the Agricultural Water Quality Program (Title 39, Chapter 36, Idaho Code).

The SCC is the lead agency for coordinating implementation of the Antidegradation Policy for agricultural activities through the SCDs (Executive Order 88-23). The Commission works to secure the cooperation and assistance of state and federal agencies in the work of the Districts.

## University of Idaho, Cooperative Extension Service

The extension system, under the Smith-Lever Act of 1914, was designated as the education arm of the United States Department of Agriculture. In July of 1989, the USDA Water Quality Program that supports the President's Water Quality initiative designated Extension as having the key role in water quality education and a lesser role of technical assistance.

Extension has responsibility to prepare news items, bulletins, publications and educational material to inform and educate the general public about water quality issues and enacted legislation. Extension provides agri-chemical application and rate recommendations, based on research, and consistent with water quality goals.

Cooperation and coordination with other agencies is of utmost importance. Extension will assist in building staff capacity for the planning, delivery and analysis of water quality procedures. Production management systems will be expanded and enhanced through cooperation with SCS in updating field office technical guides, other references, and through organized professional training. Extension is one of three lead agencies (CES, SCS, ASCS) in implementing USDA water quality initiatives such as hydrologic unit planning and demonstration project activities.

## **United States Department of Agriculture, Soil Conservation Service**

The Soil Conservation Service (SCS) receives its authority and direction from the Soil Conservation and Domestic Allotment Act, Section 7 (Public Law 46-74; USC 590a(3)), the Agriculture and Consumer Protection Act, Title 10, and the Agricultural Credit Act, Title 4. The SCS provides technical assistance to units of government and private land users for the planning and implementation of water quality measures and initiatives.

The SCS maintains, periodically revises, and supplements the Field Office Technical Guide which serves as one source for the state to consider in adopting agricultural best management practices.

The SCS administers USDA-SCS programs such as PL-566 Small Watershed Program, Conservation Operations, Resource Conservation and Development (RD&D), River Basin Planning, Soil Survey, Snow Survey, Emergency Watershed Protection, and the Plant Materials Program, each of which has a water quality component. The SCS shares leadership with ASCS and CES in implementing USDA water quality initiatives such as hydrologic unit planning and demonstration project activities.

The SCS assists in developing tools to quantify environmental and economic effects of BMPs, and supports and encourages more resource data collection and research, including monitoring, in the areas of surface and ground water.

## **Agricultural Stabilization and Conservation Service**

The ASCS administers a number of agricultural programs, several of which directly benefit Idaho's water quality. Conservation and land-use adjustment assistance is provided through sharing with individual farmers the cost of installing needed soil, water, woodland, and wildlife conserving practices under the annual and long-term Cost-Share Programs, the Conservation Reserve Program, and the Rock Creek Rural Clean Water Program. The ASCS shares leadership with the SCS and CES in implementing USDA water quality initiatives; which include hydrologic unit planning and demonstration project activities, and Agricultural Conservation Program (ACP) special water quality projects.

## **United States Department of Agriculture, Forest Service**

The Forest Service, under the Organic Act of 1897 (16 U.S.C. 551), the Multiple Use Sustained Yield Act of 1960 (16 U.S.C. 528), as amended, and the National Forest Management Act of 1976 (16 U.S.C. 1600), is directed to regulate the occupancy and use of National Forest System Lands.

The Clean Water Act, as amended, (33 U.S.C. 1323) directs the Forest Service to meet state, interstate and local substantive as well as procedural requirements respecting control and abatement of pollution in the same manner, and to the same extent as any nongovernmental entity.

Executive Order 12372 (September 17, 1983) directs the Forest Service to make efforts to accommodate and foster inter-governmental partnership by relying on state processes, to the extent feasible for state coordination and review of proposed federal financial assistance and direct federal development.

The U.S. Forest Service is responsible for the management of over 20.4 million acres of National Forest Service lands in Idaho. These are public lands that form the headwaters of many of Idaho's important river systems. The Forest Service has the statutory authority to regulate, permit and enforce land-use activities on the National Forest System lands that affect water quality.

As the designated management agency, the Forest Service is responsible for implementing 1) nonpoint source (NPS) pollution control; and 2) the Idaho State Water Quality Standards on National Forest System lands. The basis of the Forest Services's nonpoint source pollution control policy stems from the: National Nonpoint Source Policy (December 12, 1984); Forest Service Nonpoint Strategy (January 29, 1985); and the USDA Nonpoint Source Water Quality Policy (December 5, 1986). The Forest Service's water quality policy is to: 1) promote the improvement, protection, restoration and the maintenance of water quality to support beneficial uses on all national forest service waters; 2) promote and apply approved best management practices to all management activities as the method for control of NPS pollution; 3) comply with established state or national water quality goals; and 4) design monitoring programs for specific activities and practices that may affect or have the potential to affect in-stream beneficial uses on National Forest System lands.

The Forest Service also coordinates all water quality programs, on National Forest System lands within its jurisdiction, with the local, state and federal agencies, affected public lands users, adjoining land owners, and other affected interests.

#### **Bureau of Land Management**

The Taylor Grazing Act of 1934, as amended, authorizes livestock grazing on public land and provides for protection from erosion and soil deterioration.

The Federal Land Policy and Management Act of 1976, as amended, requires that public lands be managed in a manner that will protect the quality of water resources, and that in developing or revising land use plans the Secretary shall provide for compliance with

applicable pollution control laws, including state and federal air, water, and noise implementation plans.

The Public Range Lands Improvement Act of 1978 requires that the public lands be managed to maintain and improve condition of rangeland values.

The Federal Water Pollution Control Act of 1972, as amended, requires federal agencies to meet state, interstate, and local substantive as well as procedural requirements respecting control and abatement of pollution. Executive Order 12372 (September 17, 1983) directs BLM to foster inter-governmental partnership by relying on state processes for coordination and review of proposed federal financial assistance and federal programs.

BLM is responsible for the administration, management and protection of 12 million acres of public land in Idaho. It has statutory authority to regulate, license, and enforce land use activities that affect water quality. BLM is the designated nonpoint source management agency on the lands under its management. The BLM's goals are to maintain or improve surface and ground water quality consistent with state and federal water quality standards, minimize harmful consequences of activities that result in nonpoint source pollution, and inventory, monitor, and evaluate water quality data necessary for the proper management of the public lands. The BLM also coordinates all water quality programs with the local, state and federal agencies, affected public land users, adjoining land owners, and other affected interests.

#### *IV. DEFINITIONS*

**Best Management Practice (BMP):** A practice or combination of practices determined by the state to be the most effective and practicable means of preventing or reducing the amount of pollution generated by nonpoint sources. (IDHW, 1985. Idaho Water Quality Standards.)

**Designated Management Agency:** An agency identified by an Area Waste Treatment Plan or the Nonpoint Source Management Program and designated by the Governor as lead in implementing the program on lands which the agency administers.

**Federal Lands:** For this agreement only, lands administered by the USDA, Forest Service, and USDI, Bureau of Land Management.

**Federal Land Management Agencies:** For this agreement only, the USDA, Forest Service, and USDI, Bureau of Land Management.

**Nonpoint Source Pollution:** Ground and surface water pollution that comes from many varied, non-specific and diffused sources and can be categorized by the general land disturbing activity that causes the pollution (Title 39, Chapter 36, Idaho Code).

V. NOW THEREFORE THE PARTIES MUTUALLY AGREE:

1. To implement the feedback loop concept as described in the Idaho Water Quality Standards and Wastewater Treatment Requirements (Section 16.01.2050,06. and Section 16.01.2300,04). This standard is based on implementation of BMPs and use of a process to evaluate the effectiveness of BMPs in restoring and maintaining the beneficial uses of the waters of the state as designated in the Idaho water quality standards.
2. To be consistent with the Idaho Nonpoint Source Management Program, 1989, as required by Section 319 of the Clean Water Act. For federal agencies, criteria for federal consistency are contained as a checklist in the Nonpoint Source Management Program.
3. To jointly coordinate monitoring activities as outlined in the Coordinated Nonpoint Source Water Quality Monitoring Program for Idaho, 1990 (IDHW). Included are development of standard monitoring techniques, cooperative monitoring programs, and sharing of water quality data.
4. To provide information on water quality conditions and effectiveness of BMPs biannually to IDHW for inclusion in the Idaho Water Quality Status Report (Section 305-b) and updates of the Nonpoint Source Assessment (Section 319) of the Federal Clean Water Act.
5. To participate in the Basin Area Meetings implementing the Antidegradation Policy.
6. To utilize a common data base, such as EPA's STORET and BIOS system or IDWR's Environmental Data Management System as the central repository for water quality data in the state and to coordinate the training to implement such a system.
7. To develop and encourage interagency participation in water quality training programs.
8. To develop and implement specific agreements on topics such as agriculture, forestry, and mining nonpoint source water quality control programs. These agreements will be incorporated as appendices to this memorandum.

VI. IDAHO DEPARTMENT OF HEALTH AND WELFARE AGREES:

1. To coordinate water quality management planning and implementation efforts by the state with other state and federal agencies and keep them updated on any changes to state standards, regulations or guidelines.

2. To invite other Idaho State and federal agency representation on policy or technical advisory committees that relate to water quality issues.
3. To review the federal agency's listing of proposed projects and activities scheduled for NEPA process, participate in those affecting water quality and provide timely review comments for finalizing the NEPA documents.
4. If a drainage has a significant acreage of mixed ownership, the Department shall take the lead in coordinating participation of various landowner, development of the monitoring plan and implementation of the field work.

*VII. THE FEDERAL LAND MANAGEMENT AGENCIES AGREE:*

1. That federal agencies will be subject to, and comply with, state requirements in the same manner and to the same extent as any other party to this agreement, or other non-governmental entity.
2. To annually, by May 1, develop or update water quality monitoring plans to meet the intent of the Antidegradation Policy and the NPS Water Quality Management Program, and provide to IDHW monitoring results information relative to the feedback loop.
3. To annually provide, to the designated IDHW and IDL offices, by May 1, a general schedule of proposed land-disturbing activities during the forthcoming year. Projects and programs for which the federal agencies specifically request assistance will be identified.
4. To involve the IDWR, IDHW and IDL at the appropriate time in the NEPA process for projects having significant potential to impact beneficial water uses.
5. To incorporate the ten items for Federal Consistency Review Criteria (pages 26-28 of the Idaho Nonpoint Source Management Program) into NEPA documents.
6. To insure that all new and renewed plans, leases, contracts, special use authorizations, easements, right-of-way documents and other agreements involving permitted activity on federal lands, contain provisions for compliance with all water pollution control statutes and regulations (federal and state) under the authority of the Clean Water Act.
7. To provide in-house training to federal personnel to increase employee awareness of, and sensitivity to, the importance of maintaining water quality, potential impacts to water quality, applicable state and federal law, and state-of-the-art techniques used to prevent water quality problems.

VIII. IT IS FURTHER AGREED:

1. That in cases of conflict between agency missions, the agencies will provide an opportunity for informal conflict resolution prior to taking other actions provided by law.
2. That nothing in this agreement shall be construed as limiting or affecting in any way the legal authority of the federal agencies in connection with the proper administration and protection of federal lands in accordance with federal laws and regulations.
3. That nothing in this agreement shall be construed as obligating the signing parties to expend funds in any contract or other obligation for future payment of funds or services in any contract in excess of those available or authorized for expenditure.
4. To periodically (two-year interval) review this Memorandum of Understanding and make revisions and updates as necessary to meet the purpose of the agreement. Amendments shall become effective following written approval by all parties.
5. That this agreement shall become effective as soon as it is signed by the parties and shall continue in force unless terminated by mutual written consent or any party upon thirty days notice in writing to the other parties of intention to terminate upon a date indicated.
6. That no member of, or delegate of Congress, or Resident Commissioner of the United States, shall be admitted to any share or part of this agreement, or to any benefit that may arise therefrom.
7. That each provision of this agreement is subject to the laws and regulations of the State of Idaho, and the laws and regulations of the United States.
8. The program or activities conducted under this agreement or memorandum of understanding will be in compliance with the nondiscrimination provisions contained in the Titles VI and VII of the Civil Rights Act of 1964, as amended; the Civil Rights Restoration Act of 1987 (Public Law 100-259); and other nondiscrimination statutes: namely, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, and the Age Discrimination Act of 1975.

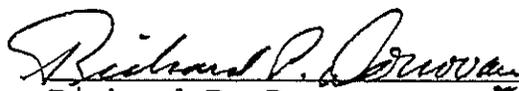
They will also be in accordance with regulations of the Secretary of Agriculture (7 CFR-15, Subparts A & B), which provide that no person in the United States shall on the grounds of race, color, national origin, age, sex, religion, marital status, or handicap be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving federal financial assistance from the Department of

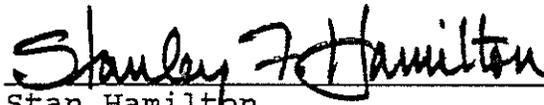
Agriculture or any agency thereof.

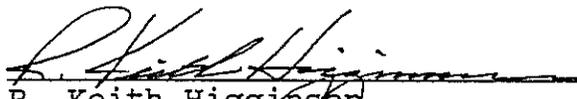
9. That the Memoranda of Understanding of September 1, 1988, between the Forest Service and Department is replaced upon approval and execution of this Memoranda of Understanding and its appendices.

This Memorandum of Understanding is made between: U.S. Environmental Protection Agency (EPA); Idaho Department of Health and Welfare, Division of Environmental Quality (IDHW); Idaho Department of Lands (IDL); Idaho Department of Water Resources (IDWR); Idaho Soil Conservation Commission (SCC); Cooperative Extension Service, University of Idaho (CES); U.S. Department of Agriculture, Soil Conservation Service (SCS); U.S. Department of Agriculture, Agricultural Stabilization and Conservation Service (ASCS); U.S. Department of Agriculture, Forest Service, Northern, Intermountain and Pacific Northwest Regions (Forest Service); U.S. Department of Interior, and the Bureau of Land Management (BLM).

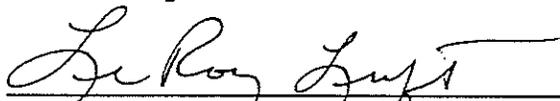
  
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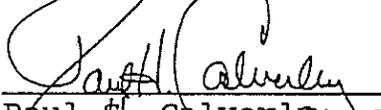
  
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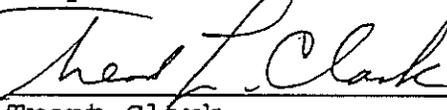
  
Stan Hamilton  
Idaho Department of Lands

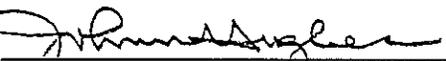
  
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**APPENDIX TO THE MEMORANDUM OF UNDERSTANDING IMPLEMENTING  
THE NONPOINT SOURCE WATER QUALITY PROGRAM  
IN THE STATE OF IDAHO SPECIFYING IMPLEMENTATION  
OF THE MINING WATER QUALITY PROGRAM**

***I. AGENCIES TO THE AGREEMENT***

This Appendix to the Memorandum of Understanding (MOU) is made between the Idaho Department of Lands (IDL), Idaho Department of Health and Welfare, Division of Environmental Quality (DEQ), Idaho Department of Water Resources (IDWR), Idaho Department of Fish and Game (IDFG), U.S. Department of Agriculture, Forest Service, Northern, Intermountain and Pacific Northwest Regions (Forest Service); the United States Environmental Protection Agency (EPA); and the U.S. Department of Interior, Bureau of Land Management, Idaho State Director (BLM).

***II. PURPOSE AND SCOPE***

This is an appendix to the memorandum of understanding implementing the nonpoint source water quality program in the State of Idaho. The purpose of this agreement is to coordinate the implementation of the antidegradation policy of the state and the nonpoint source water quality management program for all mining operations. The Appendix also describes the relationship and supporting activities of the agencies with regard to nonpoint source discharges which have surface or ground water quality impacts, generated by mining activities under their jurisdiction. This Appendix is not intended to transfer any regulatory authorities or responsibilities from coordinating agencies to the lead agency.

***III. LEGAL AUTHORITIES***

The legal authorities of the agencies participating in water quality management, as it relates to mining, are listed in the Memorandum of Understanding Implementing the Nonpoint Source Water Quality Program in the State of Idaho.

***IV. DEFINITIONS***

**Best Management Practice (BMP):** A practice or combination of practices determined by the state to be the most effective and practicable means of preventing or reducing the amount of pollution generated by nonpoint sources (IDHW, 1985. Idaho Water Quality Standards and Wastewater Treatment Requirements). For the purpose of this Appendix, mining BMPs are listed in the Idaho Surface Mining Act, Dredge and Placer Mining Protection Act, and BMP Manual for Mining Operations in Idaho. BMPs may be comparable to soil and water conservation practices required by the USFS or BLM.

**Coordinating Agency:** An agency which is party to this agreement and which works with the lead agency to implement the nonpoint source surface and ground water quality programs for mining operations under its jurisdiction.

**Coordination Meeting:** A meeting of the lead and coordinating agencies with a mining project representative, usually conducted on the project site, to review progress and compliance with agency regulations and the approved plans. Frequency of meetings is dependent on project size and complexity.

**Designated Uses:** The designated uses for which waters of the State are to be protected include: agricultural and domestic water supplies; cold and warm water biota; salmonid spawning; primary and secondary contact recreation; industrial water supplies; wildlife habitat; and aesthetics. Special resource waters may be designated and listed in the Idaho Department of Health and Welfare Rules Sections 01.02110 - 01.02160. Modification of these rules can be made only through amendment, pursuant to Section 67-52, Idaho Code. Idaho water right law which prioritizes beneficial uses of water as those uses for mining, agriculture, domestic, commercial purposes and fish and wildlife does not supersede the Idaho Environmental Protection and Health Act which guarantees the protection of water quality for coexisting uses.

**Field Inspection:** A meeting or review conducted at the mine site by a regulatory agency to ensure compliance with that agency's specific laws, rules, plans or permits. Field inspections are conducted as deemed necessary by the regulatory agency for the proper administration of its laws, rules, plans or permits.

**Lead Agency:** An agency, either BLM, USFS, or IDL, which has the lead responsibility for coordinating the administration of the approved plan of operation, reclamation plan or permit, and inspecting the operation for compliance with the approved plan of operation or reclamation plan.

**Nonpoint Source Pollution:** Ground and surface water pollution that comes from many varied non-specific and diffused sources and can be categorized by the general land disturbing activity that causes the pollution [Idaho Code title 39, chapter 36).

## **V. GENERAL**

*The agencies mutually agree that:*

1. For operations on federal mining claims, the lead agency will be determined as outlined in the Memorandums of Understanding between the Idaho Department of Lands and the U.S. Department of Interior, Bureau of Land Management (January 28, 1987) and the U.S. Department of Agriculture, Forest Service, Regions 1 and 4 (November 27, 1985). These memoranda of understanding are intended to coordinate the administration by the Idaho Department of Lands and U.S. Forest Service or U.S. Bureau of Land Management of their respective authorities and

regulations pertaining to mining operations on private, state, and federal lands under state and federal jurisdictions. These memoranda are also intended to achieve efficient use of manpower and appropriations by reducing unnecessary, duplicative, and overlapping applications, notices, and inspections by Department of Lands, U.S. Forest Service, and Bureau of Land Management, and double bonding, to the extent legal and practicable.

2. The lead agency and the IDL will require and ensure that BMPs are designed, implemented and maintained at each operation for the purpose of protecting or maintaining the designated uses of the waters of the state, and for providing protection for public health and safety.
3. In cases of conflict between agency opinions, requests, or time frames, the agencies will provide an opportunity for informal conflict resolution prior to taking independent actions provided by law.
4. Project reviews and coordination for federal, state, and local permit evaluations will be scheduled concurrently with the National Environmental Policy Act (NEPA) process, when NEPA is applicable. The IDL is responsible for ensuring that mine operators implement and maintain their BMPs to protect designated uses of waters in Idaho.
5. The DEQ is responsible for monitoring water quality and notifying the IDL when mining operations may be degrading waters of Idaho.
6. Each managing agency should consider modifying existing mining regulations or policies as needed to incorporate the provisions of Idaho's Ground Water Quality Plan.

## **VI. AGENCY REVIEW AND PRE-PROJECT COORDINATION**

### ***The Idaho Department of Lands will:***

This section will apply when a reclamation plan or placer mining permit is required by the IDL. Coordinating agencies should be aware that mining and milling on National Forest System lands and BLM administered lands, which do not require a placer permit or reclamation plan, are reviewed under the NEPA process.

- 1) Forward one copy of a complete dredge and placer mining permit application, plan of operation or reclamation plan to the coordinating state and federal agencies for review and comment. The application shall include information identifying foreseeable site-specific nonpoint sources of water quality impacts and a water management plan which

outlines how ground and surface water quality will be protected during each phase of the mining operation.

- 2) When the director of the IDL determines, after consultation with DEQ, that there is a reasonable potential for nonpoint source pollution of adjacent surface and ground waters, the director shall request, and the operator shall provide to the director, baseline pre-project water monitoring information and furnish specified ongoing monitoring data during the life of the project as required in the monitoring plan. When monitoring is required, IDL will forward a copy of the monitoring plan and information to the DEQ.
- 3) Specify the lead agency and their field contact and phone number.
- 4) Specify the IDL field contact and phone number.
- 5) Specify the date that all comments must be received by the IDL. Also, specify whether IDL will act as a clearinghouse for state agency comments or whether the state agencies should comment directly to the federal agency responsible for the NEPA process.
- 6) After coordinating schedules with the coordinating agencies, specify the date and time for a field review or the date by which a review must be requested.
- 7) Incorporate the coordinating agency's written comments, that are relevant to IDL's authorities, in the dredge and placer mining permit, or reclamation plan. Verbal comments will be accepted by the due date provided they are followed-up with written comments within specified time frames. Plans or permits may be approved with conditions that address a coordinating agency's concerns. The IDL should notify an operator when a coordinating agency does not feel that the proposed BMPs are adequate to protect water quality.
- 8) The best management practices, initially proposed by an operator, shall be considered accepted at the time the IDL approves the reclamation plan or placer permit.

***The U.S. Forest Service will:***

- 1) Provide a scoping statement to the coordinating agencies for projects that require an Environmental Assessment or an Environmental Impact Statement on National Forest System lands.

- 2) Provide one (1) copy of the complete plan of operation to the IDL.

***The Bureau of Land Management will:***

- 1) Provide a scoping statement to the coordinating agencies for projects that require an Environmental Assessment or an Environmental Impact Statement on BLM land.
- 2) Provide one (1) copy of the complete plan of operations to the IDL.
- 3) Forward Notices to the IDL.

***The U.S. Environmental Protection Agency will:***

- 1) Administer and oversee the implementation of the Clean Water Act Sections 402 and 319, which require the states to address and control point and nonpoint source impacts to water quality.
- 2) Coordinate with IDL to complete a field review, when any portion of the operation falls under the administration of the EPA.
- 3) Coordinate with the IDL and DEQ to develop and establish any EPA required water quality monitoring programs.

***The Division of Environmental Quality will:***

- 1) Coordinate with the IDL to complete field reviews.
- 2) Review the dredge and placer mining permit application, plan of operation or reclamation plan with respect to the following areas:
  - The need for a monitoring plan.
  - The location of water quality monitoring sites.
  - Identification and use of BMPs.
  - Adequacy of wastewater impoundments under 30 feet in height, such as settling ponds and tailings ponds.
  - Potential threats to surface and ground water quality.
  - Handling and storage of hazardous and deleterious materials, such as fuels, chemicals, and toxic substances.
  - Other laws and rules administered by DEQ.
- 3) Forward comments, verbally with written follow-up at a minimum, to IDL for a reclamation plan, plan of operation or placer permit by the time specified by IDL.

- 4) Consult with the IDL and the lead agency to determine if there is a reasonable potential for nonpoint source pollution. When pre-project baseline and ongoing water quality monitoring is necessary; request, through IDL, that the operator provide such water quality monitoring data. The DEQ will specify the general locations, frequency, parameters, duration and methods of sampling that need to be in the monitoring plan. The operator is responsible for submitting a site-specific monitoring plan for approval.
- 5) Review and approve water quality monitoring plans for operations required to have them.
- 6) The DEQ has responsibility for permitting and administration of a cyanidation facility. They will provide notice to the lead and coordinating agencies of receipt of an application for a cyanidation permit.

***The Department of Fish and Game will:***

- 1) Conduct, review and approve, or provide fisheries monitoring when the operator is required by IDL, to monitor fisheries.
- 2) Provide information, to the IDL and the lead agency, regarding potential threats to fish, aquatic biota, avian and terrestrial wildlife, and recommend mitigation measures.
- 3) Provide information to the IDL regarding the need for permits required by the IDF&G, by the time specified by IDL.

***The Department of Water Resources will:***

- 1) Coordinate with IDL to complete a field review, when any portion of the operation falls under the administration of the IDWR.
- 2) Review and comment on the permit application, operation or reclamation plan with respect to the following regulatory functions of the IDWR:
  - a. The need for a Stream Channel Alteration Permit;
  - b. The need for dam or tailings dam construction approval;
  - c. The need for Well Construction Permits;
  - d. The need for Water Appropriation Permits;
- 3) Review and comment on the permit application, operation or reclamation plan with respect to:

- a. Other laws, rules and regulations administered by the IDWR;
  - b. Identification and use of BMPs required for stream channel alteration permits;
  - c. Need for additional information from the operator required to evaluate the project.
- 4) Provide the lead agency and/or IDL with copies of all applications filed by the operator or his agents with the IDWR.

### ***VII. INSPECTIONS (Mine Reviews)***

This section applies to all mineral operations where inspections may be required for compliance with state and federal law. This section is not intended to limit or increase an agency's authority. All agencies that are party to this MOU recognize the need for voluntary cooperation. As referenced on page 2, paragraph 6 herein, there are two MOUs which determine the lead agency for each mining site. The lead agency designates one person to oversee operations at the site. All other agencies should coordinate with this lead agency coordinator. The lead agency is responsible for ensuring compliance with the plan of operation (USFS or BLM), placer permit or reclamation plan, whichever are applicable. If the lead agency/minerals administrator decides there is a compliance problem with a coordinating agency's permit, they should contact the appropriate coordinating agency. If a coordinating agency decides there is a compliance problem with the plan of operation, placer permit or reclamation plan, they should contact the lead agency's field representative, not the operator. Regional inter-agency coordination groups may develop site-specific MOUs to coordinate mine permitting and administration.

#### ***The lead agency will:***

- 1) Conduct field inspections of mining operations on a regular basis, as determined by the lead agency, during which the operation is inspected for compliance with the plan of operation, dredge and placer mining permit or surface mine reclamation plan.
- 2) Ensure that the operator implements BMPs on the mine site in accordance with the approved plan of operation, placer mining permit or reclamation plan.
- 3) Inform the coordinating agencies of the lead agency's inspection schedule and provide an opportunity for participation by the coordinating agencies.
- 4) Forward copies of the field reports to the coordinating agencies, on request.

***The Division of Environmental Quality Will:***

- 1) Participate in field inspections, as necessary.
- 2) Ensure that the mining operation is using correct water quality monitoring techniques and water quality assurance in implementing the approved monitoring plan. DEQ will conduct water quality monitoring and surveillance to assure compliance with Water Quality Standards.
- 3) Inform the lead agency in advance of water quality monitoring schedules, cyanidation facility inspections and field inspections being conducted for assuring water quality compliance.
- 4) Notify the lead agency, when a field inspection by DEQ is necessary due to a water quality complaint.
- 5) Notify the lead agency of existing or potential water quality violations on a mine site.
- 6) Document inspections of a water quality complaint with a field report and photos, and forward a copy of the report to the lead agency.

***The U.S. Environmental Protection Agency will*** conduct inspections as necessary to fulfill its statutory obligations. The EPA will notify the lead agency of any planned inspections and of the inspection results.

***The Department of Water Resources will*** inform the lead agency and/or IDL of monitoring schedules, compliance inspections and any enforcement actions taken or being considered against the operator and/or his agents.

***The Department of Fish and Game will*** inform the lead agency of monitoring schedules planned by the department.

**VIII. INTERAGENCY COORDINATION MEETINGS/INSPECTIONS**

This section applies to operations where a reclamation plan or a placer mining permit is required by IDL.

***The lead agency will:***

- 1) Conduct coordination meetings on mining operations when the lead agency determines, based on potential water quality impacts, size, or permitting logistics, that periodic interagency coordination is necessary.

- 2) Provide advance notice to the coordinating agencies of the time and place of the meeting.
- 3) Provide a written agenda for the meeting.
- 4) Will notify the operator, in advance, of the agencies who are attending the meeting.
- 5) Discuss BMP implementation and effectiveness.
- 6) Provide meeting notes from the coordinating agencies and operator, within 30 days.

***The coordinating agencies will:***

- 1) Attend coordination meetings or provide adequate prior notice of absence.
- 2) Provide information on issues within the agency's areas of authority and expertise.
- 3) Provide recommendations, as appropriate, on BMP design and implementation as they affect resources within that agency's jurisdiction and expertise; and
- 4) The DEQ will provide information on water quality conditions and documented water quality violations and impairment of designated uses.

***IX. FEEDBACK LOOP PROCESS/ANTIDegradation***

This section applies to all mineral operations, regardless of size or permit requirements.

***The lead agency or the Department of Lands will:***

1. Require and ensure that the water management plan, as part of the reclamation plan, will be implemented and maintained for the purpose of providing full protection and maintenance of designated uses and providing for protection of the environment, public health, safety and welfare as identified in the state water quality standards.

2. Request that operators submit two copies of ongoing monitoring data, as required for the life of the project, and ensure that the DEQ receives one (1) copy of all monitoring data.
3. Notify DEQ and IDF&G as soon as possible of suspected impairment of designated or existing beneficial uses, and submit any available documentation of the problem, such as photos or field reports.
4. Notify DEQ and coordinating agencies as soon as possible after a plan or permit violation is identified.
5. Follow up on suspected plan of operation, reclamation plan or placer permit violations reported by a coordinating agency by inspecting the mine site as soon as possible and documenting any plan or permit violations.
6. Notify the operator when a water quality problem has been identified. If BMPs are being implemented properly but water quality criteria are not being met, or the designated and existing uses are being impaired, the lead agency, and IDL when requested by the lead agency, will conduct a timely evaluation and require BMP installations or modifications. No agency may design BMPs for an operator. However, the lead agency must ensure that an operator installs or modifies the BMPs when water quality is being degraded or designated uses are not being protected.
7. Review and confirm, based on a prearranged schedule that recommended BMP installations or modifications, needed to correct a water quality problem, have been implemented at the mine site. If they have not been implemented, the lead agency may initiate enforcement action pursuant to its authorities. The lead agency will notify DEQ and IDL of the intent to initiate an enforcement action and of any threat to water quality the plan or permit violation may impose. DEQ may then

proceed as directed under Section IX, DEQ paragraph 5. If BMPs have been modified, DEQ shall proceed as outlined in Section IX, DEQ paragraph 1.

***The Division of Environmental Quality will:***

1. Determine, by water quality monitoring and surveillance, whether the BMPs are meeting water quality criteria or fully protecting designated

uses and providing for protection of the environment, and the health, safety and welfare of the people of this state.

2. Follow up on suspected water quality violations by inspecting the site as soon as possible and documenting or sampling as necessary to verify water quality violations and identify source areas.
3. Notify the lead agency and IDL as soon as possible of suspected plan or permit violations of the plan of operation, reclamation plan or placer mining permit. When appropriate, provide written and photo documentation.
4. If water quality criteria are not being met, or designated uses are being impaired, provide the lead agency with a written report within ten days after a suspected water quality violation is discovered. The report should document the water quality violations, and contain recommendations for correcting the problems. Photographs should be used to document problems whenever possible. DEQ will request in writing that the lead agency evaluate the best management practices and modify those on-site practices to protect water quality and designated uses. The lead agency will then proceed as outlined in Section IX, lead agency or IDL paragraph 6.
5. If water quality criteria are not being met, or designated uses are being impaired, or water quality impairment results from a cyanide facility, and the operator refuses to modify or upgrade existing BMPs, as required by the IDL, the DEQ may initiate enforcement action by preparing a compliance schedule or instituting administrative or civil proceedings. DEQ shall notify the lead agency of the intent to initiate enforcement action. This shall not preclude the lead agency from taking its own enforcement action.
6. The director may seek injunctive relief to prevent or stop imminent and substantial danger to the public health or the environment as provided in Section 39-108, Idaho Code.

***The Department of Fish and Game will:***

1. Determine by monitoring and surveillance, whether the BMPs are effective in protecting fish and wildlife resources.

2. If fish and wildlife are being adversely impacted by mining, then IDF&G will provide the IDL with appropriate documentation and request that BMPs be modified.

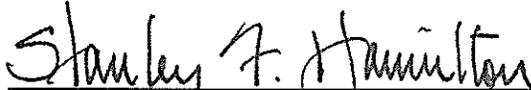
**X. *LIMITATIONS***

Nothing in this Appendix shall be construed as increasing, limiting or modifying, in any way, the authority or statutory or regulatory responsibilities of the State or the Federal Government, or bind either to perform beyond their respective authorities, or require any agency to assume or expend any sum in excess of available appropriations. Each and every provision of this Appendix is subject to the laws and regulations of the State of Idaho, the laws of the United States, and the regulations of the Secretary of Agriculture and Secretary of the Interior.

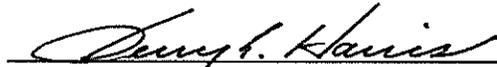
**XI. EFFECTIVE DATE**

This Appendix shall become effective upon the signature of all agencies and will remain in force unless formally amended and approved by all agencies.

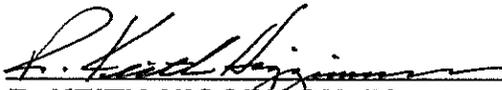
This Appendix may be formally terminated by any agency after sixty (60) days written notice to the other signators of his intention to do so.

  
\_\_\_\_\_  
STANLEY F. HAMILTON, Director  
Department of Lands

10-26-93  
Date

  
\_\_\_\_\_  
JERRY L. HARRIS, Director  
Department of Health & Welfare

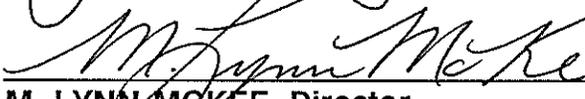
11/12/93  
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\_\_\_\_\_  
R. KEITH HIGGINSON, Director  
Department of Water Resources

10/28/93  
Date

  
\_\_\_\_\_  
JERRY M. CONLEY, Director  
Department of Fish & Game

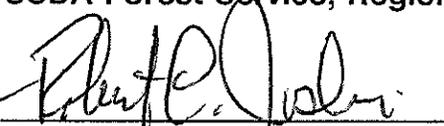
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Date

  
\_\_\_\_\_  
M. LYNN MCKEE, Director  
Idaho Operations Office, EPA Reg. 10

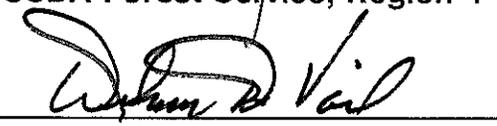
12/15/93  
Date

*CEO adm*  
  
\_\_\_\_\_  
DAVID F. JOLLY, Regional Forester  
USDA Forest Service, Region 1

1/3/94  
Date

*AS-KEB*  
  
\_\_\_\_\_  
GRAY F. REYNOLDS, Regional Forester  
USDA Forest Service, Region 4

1/19/94  
Date

  
\_\_\_\_\_  
DELMAR D. VAIL, State Director  
Bureau of Land Management,  
U.S. Dept. of the Interior

12-21-93  
Date

## MEMORANDUM OF UNDERSTANDING

among

Bureau of Land Management, Idaho State Office  
U.S. Forest Service, Caribou National Forest  
and  
State of Idaho, Idaho Department of Lands

I. INTRODUCTION

This Memorandum of Understanding (MOU) carries out the various authorities, responsibilities, and duties of each agency, specifically those vested under the Mineral Leasing Act of 1920, as amended, the National Environmental Policy Act of 1969, the Organic Administration Act of 1897, the Federal Land Policy and Management Act of 1976, the National Forest Management Act of 1976, and the Surface Mining Act, Title 47, Chapter 15 of the Idaho Code.

This MOU applies to lands administered by the Bureau of Land Management (BLM), the Caribou National Forest (USFS), the State of Idaho Department of Lands (IDL), and to private lands underlain by Federal phosphate minerals.

II. PURPOSE

This interagency MOU establishes policy for coordinating and consolidating *reclamation* bonding related to mining of federal phosphate on Caribou National Forest, BLM, State, and private lands in Idaho. The intent of this MOU is to avoid duplication of bonding by the participating agencies and improve customer service by enabling the phosphate lessee/operator to file all of the required reclamation bonds with BLM as the designated lead reclamation bonding agency.

III. DEFINITIONS

1. Participating Agency -- An agency which is a participating partner in this MOU and which cooperates with the lead bonding agency for their respective lands.
2. Lead Bonding Agency -- That agency which accepts lead responsibility for holding and managing the reclamation bonds.
3. On-lease -- All activities within the Federal lease

boundary, including reclamation, that require bonding.

4. Off-lease -- All activities outside the Federal lease boundary including roads, rights-of-way, mine dumps, and other related facilities that require a bond.

#### IV. GOALS AND OBJECTIVES

The BLM is the sole agency for determining and holding the non-reclamation bonds for inactive and active leases, permits, licenses, and royalty production for Federal minerals.

In addition, this MOU designates BLM as the lead bonding agency responsible for receiving and holding all of the on-lease reclamation bonds and off-lease reclamation bonds for special use permits associated with the lessee/operator phosphate operation.

Bonding requirements for reclamation on Special Use Permits on and off lease in association with phosphate mining is determined by each participating agency to satisfy that agency's authority. The agencies then coordinate on the total amount of bond required for each lessee/operator. The lead bonding agency holds the larger amount of the bonds requested by the participating agencies.

If the participating agencies find it necessary to make a claim against a bond being held by the lead agency (BLM), that lead agency holding the bond agrees to take collection action. The lead agency obtains approval from the participating agencies before releasing a bond or reducing the bond amount. Bonds are released only for the designated mining operation, lease, or portion thereof upon concurrence in writing by the participating agencies. Funds necessary for a claim are transferred to and administered by the appropriate surface management agency.

Bond instruments acceptable to the agencies differ to some extent. Although the participating agencies encourage the lessee/operator to file all of their bonds with BLM, the agencies also recognize that the lessee/operator may be limited by the bond instruments available to them, which may necessitate filing bonds with more than one agency or with one of the participating agencies. Reclamation bonds for National Forest lands and State of Idaho lands must be through an instrument acceptable to that agency.

If the lessee/operator wants to post a bond with the lead agency, and that agency cannot accept the bond under their laws, rules, and regulations, the other participating agencies can receive and hold the bond provided they can do so within their authority.

## V. LIMITATIONS

This MOU is not intended to waive or otherwise negate any Federal or state laws or regulations. All operators/lessees must fully comply with all applicable federal and state laws and regulations pertaining to bonding related to phosphate mining and associated off-lease activities. IDL has specific authority to ensure adequate mine reclamation on all lands in Idaho under the Surface Mining Act.

This instrument in no way restricts the Forest Service or the State of Idaho from participating in similar activities with other public or private agencies, organizations, and individuals.

This instrument is neither a fiscal nor a funds obligation document.

Pursuant to Section 22, Title 41, United States Code, no member of, or Delegate to, Congress will be admitted to any share or part of this instrument, or any benefits that may arise therefrom.

## VI. COORDINATION

If consensus among the participating agencies cannot be reached on reclamation bond requirements, the agencies will provide for informal conflict resolution before taking individual action. If a compromise cannot be reached, each agency can administer bonding requirements according to their respective laws, authorities, and regulations.

The agencies will meet at least annually to review and revise reclamation bond requirements. Each agency also promptly informs the other participating agencies of any new *conditions* or circumstances that might affect the bond status.

## VII. TERMS OF AGREEMENT

Any of the participating agencies, in writing, may terminate this MOU in whole, or in part, at any time before the date of expiration, following at least 30 days notice to the other participants. Modifications within the scope of this MOU must be in the form of an amendment executed by the three participating agencies before any changes are performed. Modifications will become effective upon signature by all of the participants.

In the event this agreement is terminated or expired, each participating agency agrees to maintain the existing bonds under their jurisdiction until such time as an agreement is reached among the operator/lessee, BLM, IDL, and FS to replace or release the reclamation bonds.

This MOU is executed as of the last date shown below and expires 5 years from that date, at which time the MOU is subject to review, renewal, or expiration.

Specific work projects or activities which involve the transfer of funds, services, or property between the parties of this MOU will require the execution of separate agreements or contracts, contingent upon the availability of funds.

Principal contacts for this instrument are:

Area Manager  
Bureau of Land Management  
Pocatello Resource Area  
1111 N 8th Avenue  
Pocatello, ID 83201-5789

District Ranger  
U.S. Forest Service  
Caribou National Forest  
421 W 2nd South  
Soda Springs, Id. 83276

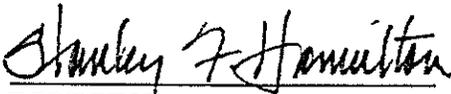
Chief, Bureau of Minerals  
State of Idaho, Department of Lands  
954 W. Jefferson Street  
Boise, Id. 83720

FOR THE BUREAU OF LAND MANAGEMENT  
IDAHO STATE OFFICE

  
STATE DIRECTOR

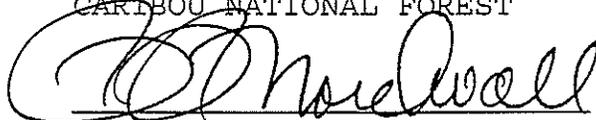
Date: 1.24.97

FOR THE STATE OF IDAHO  
DEPARTMENT OF LANDS

  
DIRECTOR

Date: 2-27-97

FOR THE U.S. FOREST SERVICE  
CARIBOU NATIONAL FOREST

  
FOREST SUPERVISOR

Date: 2/6/97

MEMORANDUM OF UNDERSTANDING  
BETWEEN THE  
DIRECTOR  
IDAHO DEPARTMENT OF LANDS  
STATE OF IDAHO  
AND THE  
IDAHO STATE DIRECTOR  
BUREAU OF LAND MANAGEMENT  
U.S. DEPARTMENT OF THE INTERIOR

THIS MEMORANDUM OF UNDERSTANDING is entered into between the Idaho Department of Lands, hereinafter called the State, and the Bureau of Land Management, U.S. Department of Interior, hereinafter called BLM.

A. PURPOSE

This memorandum is entered into pursuant to Idaho Code 67-2328 and Code of Federal Regulations, Title 43, Parts 3600, 3802, and 3809. It is mutually recognized that the State is charged with administration of the Idaho Dredge and Placer Mining Protection Act and the Idaho Surface Mining Act (Idaho Code, title 47, chapters 13 and 15 respectively, and Dredge and Placer Mining, and Surface Mining Rules); the BLM is charged with administration of congressional enactments and regulations thereunder (43 CFR 3600, 3802 and 3809, The Materials Act of 1947, as amended; the General Mining Law of 1872, as amended; and the Federal Land Policy and Management Act of 1976) applicable to BLM lands and other lands under contract or agreement.

This Memorandum of Understanding is intended to coordinate the administration between the State and BLM of their respective laws and regulations pertaining to mining operations on federal lands and under federal jurisdiction. This agreement is further intended to achieve more efficient use of personnel and appropriations by reducing unnecessary, duplicative, and overlapping applications, notices, etc., overlapping inspections by state and federal personnel and double bonding, insofar as is lawful and practicable.

B. DEFINITIONS

1. Community Pit -- A site from which nonexclusive disposals of mineral

materials can be made from federal lands. A mining and reclamation plan has been prepared by BLM for each Community Pit.

2. Mineral Material Site -- Any site from which disposals of salable mineral materials can be made from federal lands.
3. Cooperating Agency -- That agency which cooperates with the lead agency.
4. Lead Agency -- That agency holding more than fifty percent of the land ownership to be affected and/or which accepts lead responsibility for management of a notice or plan (as per definition No. 8).
5. Exploration and Mining Operations -- Operations defined under Idaho Code, 47-1503.5 and .6; 47-1313 and BLM's Federal Land Policy Management Act, 43 CFR 3602.1, 3802.0-5(f), 3809.0-5(f).
6. Notice -- A formal notification of intent to conduct operations, including reclamation on BLM lands as defined under BLM's 43 CFR 3809.05(f) and (j) and Idaho Code, 47-1506(c).
7. Off-site Activities -- All means of access developed, improved or constructed outside the boundaries of unpatented mining claims, permits, or specified areas of operation, including all necessary rights-of-ways.
8. On-site Activities -- All means of access, including improvements and facilities, developed or constructed within the boundaries of unpatented mining claims, permits, or specified areas of operation.
9. Operating Plan -- Includes exploration notices, operating plans, mineral material mining and reclamation plans, dredge permits and surface mining reclamation plans that require formal notification and approval to conduct operations; including reclamation on federal and state lands in accordance with BLM's 43 CFR 3602.1, 3802.1, 3809.1-3, 3809.1-5, and Idaho Code title 47, chapters 13 and 15.
10. Reclamation Plan -- Procedures that will be conducted, where applicable, in accordance with Idaho Code, title 47, chapter 15, and 43 CFR 3602.1-2, 3802.1, 3609.1-1.
11. Reclamation Permit -- Procedures to reclaim affected mined lands under an

approved plan that will be conducted, where applicable, in accordance with Idaho Code title 47, chapter 13.

12. Federal Lands -- Those lands under the jurisdiction of the Idaho State Director, Bureau of Land Management, U.S. Department of Interior.

13. Special Category Lands -- Federal lands which are:

- a. Designated for potential addition to, or an actual component of the National Wild and Scenic Rivers System.
- b. Designated Areas of Critical Environmental Concern.
- c. Within Wilderness Areas.
- d. Closed to off-road vehicle use.

C. PERMITS, NOTICES, PLANS AND RECLAMATION

Persons conducting exploration and mining operations on federal lands are required to comply with both state and federal laws and regulations. However, in order to prevent duplication of efforts, the parties mutually agree to the following:

1. The State will act as the lead agency and the BLM as the cooperating agency for:

- a. Surface mining operations which disturb less than five acres, except those occurring within Special Category Lands, or within mineral material sites.
- b. Dredge or other placer operations which require a Dredge and Placer Mining Permit.

2. The BLM will act as lead agency and the State as the cooperating agency for:

- a. Surface mining operations which disturb five or more acres.
- b. Dredge or other placer mining operations which do not require a Dredge and Placer Mining Permit.
- c. All operations within Special Category Lands.
- d. Mineral material disposals.
- e. All exploration operations, regardless of size.
- f. All operations within Wilderness Study Areas.

The BLM will have sole authority over off-site activities and all surface disturbance impacts caused by underground operations on federal lands. Where off-site activities require a bond or a right-of-way, the BLM may combine such activities with the State plan, issue a right-of-way and require bonding for the off-site activities separately.

4. When BLM is the cooperating agency and the State is the lead agency, BLM will conduct archeological and endangered species reviews and forward comments to the State where federal lands are involved.
5. The lead agency will:
  - a. Receive the operator's proposed plan or notice and send a copy to the appropriate cooperating agency.
  - b. Request comments from the cooperating agency and receive comments within 30 days after receipt of the copy of the plan or notice. Upon written request by the cooperating agency, allow an additional 20 days for comment if the delay is necessary, excluding delays caused by inclement weather. The State will proceed independently in processing the plan if BLM cannot meet the State's schedule.
  - c. Where bonding authority exists, require a bond from the operator in accordance with applicable laws and regulations. Mineral material sales from Community Pits will be exempt from bonding by either agency by paying a reclamation fee to the BLM in lieu of a bond.
  - d. Forward a copy of the operating plan approval letter and any subsequent proposed plan amendments to the cooperating agency.
6. The cooperating agency will: Upon request of the lead agency, review plans, notices, and amendments and submit information to the lead agency within specified time frames. If a delay in response exceeding 30 days is needed, notify the lead agency of the specific reason for the delay and request additional time (up to 20 days) for response. If more time is needed to meet certain requirements of that agency, that agency will independently assess and approve the plan on their own time schedule.

**D. INSPECTION AND ENFORCEMENT**

All operations on federal lands will be inspected by either the lead agency or cooperating agency for compliance with applicable state laws and federal regulations. An agency inspection form will be completed and filed with each agency, noting any non-compliance and the general progress of the operation. The final inspection and compliance check will be conducted jointly, whenever possible. Prior to bond reduction or release, the lead agency will give full consideration to the recommendations of the cooperating agency.

1. The lead agency is responsible for resolving all incidents of non-compliance and will keep the cooperating agency informed.
2. The cooperating agency will assist the lead agency in resolving noncompliance, including bond forfeiture, upon request by the lead agency.

E. **EXCHANGES OF INFORMATION**

Information received by the State or BLM specifically marked "confidential" or "proprietary" shall remain confidential in accordance with applicable laws and regulations, unless released in writing by the applicant. In the event confidential information is necessary for approval of a plan by an agency other than the one which received it, the applicant shall comply independently with the other agency's laws and regulations to obtain approval to commence mining operations.

F. **BONDING**

Bonding requirements will normally be determined by the lead agency under its specific authority, but will give full consideration to the bonding requirements of the cooperating agency. The BLM maintains the right to separately bond off-site activities under federal regulations as well as collect a reclamation fee in lieu of a bond for any mineral material disposal made from a BLM Community Pit.

A single bond provided to the lead agency in the name of that agency shall be in the amount required to satisfy that agency authority and a copy of the bond forwarded to the cooperating agency. A bond provided to cooperating agency under their rules may be accepted by the lead agency, when that bond amount would be greater than that normally required by the lead agency.

**G. RESTRICTIONS AND EXCLUSIONS**

Both agencies recognize that some administrative requirements imposed by law make it impossible to combine the state laws and federal regulations into one administrative effort. In these instances, each agency will take independent action to fulfill these obligations, and keep the other agency informed.

**H. LIMITATIONS**

Nothing in this Memorandum of Understanding shall be construed as limiting or modifying in any way the authority or statutory or regulatory responsibilities of the State Board of Land Commissioners or State Director as binding either the State or BLM to perform beyond their respective authorities, or require either party to assume or expend any sum in excess of available appropriations. Each and every provision of this Memorandum of Understanding is subject to the laws of the State of Idaho, the rules of the State Board of Land Commissioners, the laws of the United States, and the regulations of the Secretary of the Interior.

**I. TERM OF AGREEMENT**

1. This Memorandum of Understanding shall become effective upon signature of both parties and will remain in effect for a period of five (5) years, at which time it will be reviewed to determine whether it should be renewed, modified or terminated. This Memorandum of Understanding will expire at the end of the specified term unless formally reaffirmed or rewritten if necessary.

2. This Memorandum of Understanding may be formally terminated by either party after thirty (30) days' written notice to the other of his/her intention to do so.

**J. AMENDMENTS**

Amendments to this agreement may be proposed at any time by either party, and shall become effective upon approval by both.

**K. REQUIRED CLAUSES**

1. During the performance of this agreement, the participants agree to abide by the terms of Executive Order 11246 on nondiscrimination and will not discriminate against any person because of race, color, religion, sex, or national origin. The participants will take affirmative action to ensure that applicants are employed without regard to their race, color, religion, sex, or national origin.

2. No member or delegate to Congress, or resident Commissioner, shall be admitted to any share or part of this agreement, or to any benefit that may arise therefrom, but this provision shall not be construed to extend to this agreement if made with a corporation for its general benefit.

**FOR THE STATE OF IDAHO  
DEPARTMENT OF LANDS**

**FOR THE U.S. DEPARTMENT OF  
THE INTERIOR  
BUREAU OF LAND MANAGEMENT**

Stanley F. Hamilton  
DIRECTOR

3-5-96  
DATE

Martha G. Hahn  
STATE DIRECTOR

1-8-96  
DATE

MEMORANDUM OF UNDERSTANDING  
 BETWEEN THE  
 IDAHO DEPARTMENT OF LANDS  
 AND THE  
 USDA FOREST SERVICE, REGIONS 1 AND 4  
 CONCERNING MINE RECLAMATION LAWS AND REGULATIONS

THIS MEMORANDUM OF UNDERSTANDING is entered into between the Idaho Department of Lands, hereinafter called the State, and the USDA Forest Service, Regions 1 and 4, hereinafter called the Forest Service.

A. PURPOSE

THIS MEMORANDUM OF UNDERSTANDING is entered into pursuant to Idaho Code Section 67-2348 and 16 U.S.C. 551a. It is mutually recognized that the State is charged with administration of the Idaho Dredge and Placer Mining Protection Act and the Idaho Surface Mining Act (Idaho Code, Title 47, Chapters 13 and 15, respectively, and Dredge and Placer Mining Regulations); the Forest Service is charged with administration of congressional enactments and regulations thereunder (36 CFR 228 and General Mining Laws of 1872) applicable to National Forest System Lands and other lands under contract or agreement. This Memorandum of Understanding is intended to coordinate the administration between the State and Forest Service of their respective laws and regulations pertaining to mining operations on National Forest System lands. This agreement is further intended to achieve more efficient use of personnel and appropriations by reducing unnecessary, duplicative, and overlapping applications, notices, overlapping inspections by State and Federal personnel, and double bonding, insofar as is lawful and practicable.

B. DEFINITIONS

1. Cooperating Agency - That agency which cooperates with and assists the lead agency.
2. Lead Agency - That agency which accepts lead responsibility for management of plan of operation.
3. Exploration and Mining Operations - Those mineral related activities requiring a plan or notice within the jurisdiction of both State and Forest Service as defined by Idaho Code 47-1313, 47-1503.5 and .6, and Forest Service Regulations 36 CFR 228.3(a).
4. Notice - a formal notification of intent to conduct operations, including reclamation, on National Forest System lands as defined under Forest Service 36 CFR 228 and Idaho Code 47-1506(2)(c).
5. Plan - Formal notification that requires approval to conduct operations; including reclamation on National Forest System and State lands in accordance with Forest Service 36 CFR 228 and Idaho Code, Title 47, Chapters 13 and 15.
6. Off-site Activities - All mineral related activities including access, conducted outside the boundaries of specified areas of operation.
7. On-site Activities - All mineral related activities conducted within the boundaries of specified areas of operation.

8. Specified Area of Operation - Area where the usual mining operation is taking place or is proposed and would generally be that localized area specifically identified under State law and covered by a State approved permit or plan.

9. Reclamation - Procedures that will be conducted, where applicable, in accordance with Idaho Code, Title 47, Chapters 13 and 15, and 36 CFR 228.

10. Compliance Enforcement - Administration and inspection of sites and legal action, including bond forfeiture, and pursuing available administrative and legal remedies for reclamation of affected lands, in accordance with an agency's applicable laws and regulations.

11. National Forest System lands - Land areas administered by the Forest Service.

12. Authorized Officer - Forest Service employee having the Line Authority to approve a Notice of Intention to operate and/or a Plan of Operations. Except for specific circumstances, this is normally the District Ranger.

13. Landowner - The agency responsible for the management of that land. For the purposes of the State meeting their requirements, the Forest Service is in effect the "landowner."

#### C. PERMITS, LICENSES, OPERATING PLANS, AND RECLAMATION PLANS

1. For operations on National Forest System lands, the Forest Service will be the lead agency and the Authorized Officer will act as the lead agent; however, upon office or field review of an operation where the agencies agree that it is in the best interest of the agencies or the operator, the State may act as lead agent.

The lead agency will:

a. Upon receipt of a plan or notice, determine whether the proposed operation might require active participation from the cooperating agency and, if so, submit a copy of the proposed plan or notice to the cooperating agency for comment or for cooperating agency approval, if necessary.

b. Prior to approval of the plan, give due consideration to timely comments from the cooperating agency. The lead agency will proceed independently in processing the plan if the cooperating agency cannot provide comments within 15 days.

c. Inspect for compliance with the approved plan of operation.

d. Promptly notify the cooperating agency of operations not complying with the approved plan.

e. When warranted, inform the cooperating agency of any other pertinent matters regarding the general conduct of the operation.

f. Notify the operator to proceed independently in obtaining approval of a plan and/or permit when there is disagreement between the agencies.

g. Coordinate with the cooperating agency on standards of reclamation for compliance with both State and Federal laws, rules, and regulations on mineral related activities.

h. If necessary, schedule and conduct a field review of the proposed operation and coordinate with the cooperating agency to provide for a joint review if warranted.

2. When both agencies require a mining and reclamation plan, an operator shall submit one plan with copies for review and approval by both agencies. This should expedite the review/approval process for large projects.

3. The Forest Service will have sole authority over off-site activities on National Forest System Lands as State laws do not cover these.

4. Upon receipt of a proposed plan involving a dredge and placer mining site in excess of one-half acre, the authorized officer will within 10 days acknowledge by affixing their signature as the "landowner" and transmit a copy to the State of Idaho, Department of Lands.

5. Information received by the State or Forest Service specifically marked "confidential" shall remain confidential in accordance with applicable laws and regulations, unless released in writing by the applicant. In the event confidential information is necessary for approval of a plan by either agency, the applicant shall comply independently with the requesting agency's laws and regulations.

#### D. COMPLIANCE ENFORCEMENT

Each agency shall have the responsibility for enforcement of its applicable regulations, rules, and laws. The lead agency provides the principal contact when working with the operator. Neither party is obligated to the other party for personnel or expenditures of funds that are not within its appropriation or allotments.

#### E. BONDING

When applicable, the lead agency, after consulting with the cooperating agency, shall have the responsibility to set the amount of the bond required for reclamation work.

If the bond amount exceeds that required by the State, the operator shall post an additional bond with the Forest Service covering the excess amount.

In the event one agency finds it necessary to make a claim against a bond being held by the other, the agency holding the bond agrees to take collection action.

Upon recovery, the two agencies will coordinate reclamation. It is further agreed that the agency holding the bond will act in behalf of the other agency on any matters concerning the bond.

It is intended that the lead agency assume the responsibility of receiving and holding the reclamation bond, in most cases.

If the operator want post a bond with the lead agency, and that agency cannot accept it under their laws, rules, and regulations, then by mutual agreement between the agencies, the other agency can receive and hold the bond provided it can do so within its authority and/or with written consent of the operator.

The agency holding the bond agrees not to release the bond until the reclamation work required by the plan has been completed in a manner satisfactory to the other agency.

F. LIMITATIONS

This agreement is not intended to waive or otherwise negate any Federal or State laws and regulations or any other requirements of duties under such laws, rules, and regulations. All operators shall fully comply with all applicable Federal and State laws and regulations pertaining to mining and mine reclamation.

G. COORDINATION

In addition to the above provisions, the agencies will:

Promptly inform the other of any new or possibly heretofore unknown mineral related activities that might effect either or both agencies.

H. EFFECTIVE DATE

This Memorandum of Understanding shall become effective upon signature by the Director, Department of Lands, and Regional Foresters for Regions 1 and 4, and will remain in force unless formally terminated by either party after 60 days written notice to the other of its intention to do so.

In the event either party terminates this agreement, each agency agrees to maintain the existing bonds until such time as an agreement can be reached between the operator, the State, and the Forest Service to replace or release the bond.

I. AMENDMENTS

Amendments to this agreement may be proposed at any time by either party and shall become effective upon written approval by both parties.

Stanley F. Hamilton  
STANLEY F. HAMILTON, Director  
Department of Lands

11-27-85  
Date

for Busta La Mours  
TOM COSTON, Regional Forester  
Region 1

9-18-85  
Date

for George A. Roethlisberger  
J. S. FIXIER, Regional Forester  
Region 4

7-9-85  
Date



## MINE WASTE TIRE BURIAL GUIDELINES

### **Authority**

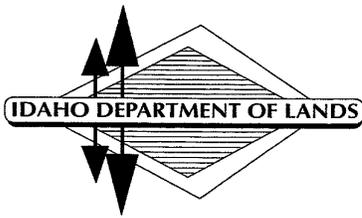
Mining waste tires are exempted from the state's normal tire recycling and disposal requirements by Idaho Code § 39-6501(06). "Mining waste tire" means a waste tire greater than fifty-four (54) inches in diameter which was used in mining operations. Mining waste tires may be disposed of by burial. The Department of Lands has prepared these guidelines to govern the burial of these tires in mine pits and overburden piles (waste rock dumps).

### **Guidelines**

1. Operators wishing to bury tires must have permission of the landowner prior to tire burial.
2. Backfilled pits are preferable as sites for burying mine waste tires. Overburden piles may be utilized, however these are non-preferred sites.
3. Mine waste tires should not be buried in or immediately above aquifers, ground water, and saturation zones. If necessary to utilize these areas, the tires shall be buried at least 50 feet above the zones.
4. An initial layer of one foot of earthen material should be placed over the mine waste tires as soon as possible to prevent vector breeding and to reduce the potential for fire.
5. Tires should be buried as deeply as possible, but in no case should tires be buried less than 10 feet below the surface of the ground.
6. Tires buried under fill should be placed in a random pattern in the filled area and should not be stacked on each other, but can be placed touching tread surfaces.
7. If mine waste tires are stockpiled before burial, then:
  - a. Open flame burning should be prohibited within 50 feet of the stockpile.
  - b. A 50 foot fire lane should be maintained around the stockpile.

- c. Tires should not be stockpiled under high voltage power lines.
  - d. Heavy machinery and vehicles working a waste tire stockpile should be equipped with fire extinguishing equipment. Foam is best employed on small tire fires at the point of ignition.
  - e. Earthen material for fire fighting should be available within a reasonable haul distance. Smothering a tire fire with dirt or sand is the best option for extinguishing tire fires. This technique is faster and more economical than foams or water and does not contribute to runoff pollution.
  - f. Mosquito and rodent control measures should be implemented to reduce the risk of creating an infectious breeding ground. It is suggested that mine waste tire stockpiles be exposed to sunlight to allow evaporation of moisture or covered with tarps to prevent standing water in the stockpile.
8. Stockpiled tires should be removed to a burial site and buried as soon as possible, but at least every six (6) months.

IDL 1994



**IDAHO DEPARTMENT OF LANDS**  
**ACTIVE MINE INSPECTION REPORT**

**Operator Data**

**Inspection Data**

Operator Name:  
Physical Location:  
City, State, Zip: , ,  
Lat:  
Long:

Mailing Address:  
Street:  
City, State, Zip: , ,  
Email:  
Phone:

Inspector's Name:  
Area Office:  
Inspection Date:  
Inspection Report Date:  
Reclamation Plan No.:  
Mineral Lease No.:  
Operator Representative Onsite:

**General Information**

Location Description:

Site Description:

Equipment Description:

Distance/Relationship to Natural Watercourses:

**Mineral Ownership Information**

Mineral Interest Owner:  Private  Federal  State  Other:

Split Estate?:  Yes  No Surface Owner:

**Activity Information**

Exploration  Surface/Open Pit  Dredge/Placer  Underground  Other:

Operational  Past Activity  Producing  Other:

Commodity:

Stockpile(s) Type and Size (yd<sup>3</sup>):

Permitted Acres:

Acres Disturbed:

Acres Reclaimed:

Description of pits, trenches, ponds, BMPs, etc. (Include number and size):

**Reclamation Plan and Bonding Information**

Yes	No	N/A
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Was the entire reclamation plan verified at inspection?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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If no, describe, in the comment section, aspects of the plan not verified and why.

Was the operation consistent with the reclamation plan?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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If no, describe, in the comment section, all discrepancies or changes in practice observed.

Are any deviations or inconsistencies a result of unforeseen events?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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If Yes, describe, in the comment section, the unforeseen event.

Does the current bond appear to be commensurate with current activities?

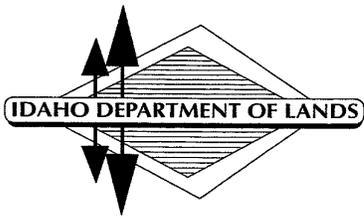
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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If no, describe, in the comments section, conditions why the bond may not be commensurate.

Bond Type:  BAF  Traditional:

Bond Amount:

Comments:



**IDAHO DEPARTMENT OF LANDS**  
**ACTIVE MINE INSPECTION REPORT**

**Inspection Summary**

Required Comments and Issues of Concern:

Attachments:

Travel Time:

Inspection Time: Start Time:                      End Time:                      Total Hours:

Inspector Signature:

Date of Signature:

Below and next page intentionally left blank. For Inspector use (add photos, etc.)