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August 13, 2020

SENT VIA EMAIL TO: rulemaking@idl.idaho.gov

Mr. Mick Thomas
Division Administrator
Minerals, Public Trust, Oil and Gas
Idaho Department of Lands
300 N. 6th Street, Suite 103
Boise, ID 83702

Re: Rulemaking for Docket Number 20-0302-2001

Dear Mr. Thomas:

The Idaho Department of Lands (Lands) commenced a rulemaking in 2019 to implement House Bill No. 141. HB 141 was initiated by the Idaho Mining Association (IMA) with the purpose of updating Idaho's mining statute, in particular, for the specific area of financial assurance requirements for activities such as post closure activities. The Department has published Draft No. 9 of IDAPA 20.03.02 Rules Governing Mined Land Reclamation. The J.R. Simplot Co. (Simplot) has the following comments on Draft No. 9.

010. Definitions.

13. Neutralization

Simplot has commented on this definition before and will do so again. The definition of "neutralization" needs modified to more accurately reflect what this treatment technology does and also to remove any inference or requirements that this technology is needed to meet water standards. The definition implies that this treatment method results in "process water such that discharge or final disposal of those waters does not or will not violate any applicable standards and criteria." Neutralization may be one of several treatment technologies used in the treatment of mine wastes. "Neutralization" can also be used as a term for treating cyanide wastes; however what really occurs is a conversion of the cyanide ion. This can be done either chemically or biologically so as to form a less-toxic/reactive chemical.

Neutralization is a method of adjusting the hydrogen ion concentration of a water so that a pH of a specified range (usually a neutral pH of 7) is obtained. Neutralization may be one of multiple technologies that is used by a permittee so that the discharge meets applicable requirements. It is recognized that for some

waters being treated using neutralization, certain contaminants (such as metals) may be removed. However, the term “neutralization” is specific to adjusting the hydrogen ion concentration.

Recommendation: Change language to:

“Removal of excess acidity or alkalinity by chemical treatment to provide a final pH approximately equal to 7.0. In reference to cyanidation facilities, also means a biological or chemical conversion of cyanide wastes.”

070. Application Procedure and Requirements for Other Mining Operations.....

06. Monitoring Data

Simplot has previously provided multiple comments on this section. Draft No. 9 provides better clarification in regards to the monitoring data that can be provided to Lands, however language in Draft No. 9 is still very problematic:

“The Department will.....and require the operator to furnish additional monitoring data during the life of the project.”

This requirement to furnish additional monitoring data raises a number of questions:

- As to what purpose is this data needed for?
- What is the threshold for requiring such data?
- What regulatory requirement is this data needed for in regards to water quality that Lands has authority for?

The “furnishing of additional monitoring data” needs to be tied into an existing regulatory requirement. As discussed in our July 10 and 24 comments, Lands has no authority over groundwater and surface water standards. Thus, it is not clear what Lands will do with this data in relation to existing regulatory authorities. If Lands believes that a mine operator is causing to or contributing to an exceedance of a surface or groundwater standard, then Lands needs to work with DEQ to address these concerns.

Recommendation. Delete the proposed language and replace with this:

“Operator shall provide any baseline data on groundwater or surface water quality gathered during the planning and permitting process for the operation. During the operation and closure activities, any

groundwater and/or surface water data collected by the operator, as required by any approval or permit, shall be provided to the Department upon request.”

122. Form of Financial Assurance

05. Trusts

The following language was inserted by Lands in Draft No. 9:

“The trust must be a managed fund that is well diversified.”

The term “well diversified” is not defined and it is subjective as to what “well diversified” means. Simplot recommends the use of language from HB 141 instead:

“The trustee shall investment the principal and income of the fund in accordance with general investment practices. Investments can include equities, bonds, and government securities.”

05.c. Trusts (equities)

Simplot agrees with the changes made in Draft No. 9.

05.d. Trusts (bonds)

Simplot agrees with the changes made in Draft No. 9.

Simplot sincerely appreciates the work of Lands on this important regulation implementing HB 141. Please contact me at (208) 7809-7365 if you have any questions.

Sincerely,



Alan L. Prouty
Vice President, Environmental & Regulatory Affairs

C:

Ben Davenport, Idaho Mining Association
Lori Lusty, J.R. Simplot Company

From: [Williams, Dedra](#)
To: [Rule Making](#)
Cc: [Benjamin Davenport](#); [Lusty, Lori](#)
Subject: Simplot Comments on House Bill No. 141 Draft No. 9
Date: Thursday, August 13, 2020 2:05:08 PM
Attachments: [20200813--Ltr to IDL Comments House Bill-141 Draft-9.pdf](#)

Good afternoon Mr. Thomas,

The attached comments are on behalf of the J.R. Simplot Company regarding House Bill No. 141, Draft No. 9.

Thank you,

Dedra

Dedra Williams

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