

From: [Wendy Miller](#)
To: [Rule Making](#)
Subject: Additional rule making comments
Date: Wednesday, October 7, 2020 4:49:08 PM
Attachments: [10-7-2020-Comment 5- D2.DOCX](#)
[ATT00001.htm](#)

To Amy or whom it may concern: see attached below

----- Forwarded Message -----

From: Jeremy C. Chou <jcc@givenspursley.com>
To: EWilson@idl.idaho.gov <ewilson@idl.idaho.gov>; mthomas@idl.idaho.gov <mthomas@idl.idaho.gov>
Cc: Wendy Miller <>wendolian5@yahoo.com>
Sent: Wednesday, October 7, 2020, 03:38:01 PM PDT
Subject: Additional rule making comments

Eric and Mick,

Please consider the attached as Keceph Mountain LLC's additional comments regarding rulemaking.

Please do not hesitate to call if you have questions or comments.

Many thanks,

Jeremy Chou

Wendy Miller
Keceph Mountain L.L.C.
P.O. Box 202
Silverton, Idaho 83867

October 7, 2020

Idaho Department of Lands
300 N 6th Street, Suite #103
Boise, ID 83702

Re: Comments for 20.03.02 rulemaking

Dear Eric and Mick,

Thank you for answering Keceph Mountain L.L.C.'s (Keceph) questions and considering Keceph's comments regarding the 20.03.02. Please accept this correspondence as additional comments of Keceph.

Confidentiality is Vital in Mining

Mining companies can have all kinds of problems and unnecessary competition if confidentiality of mineralization is not properly maintained by IDL.

180 PUBLIC AND CONFIDENTIAL INFORMATION (10/7/2020)

03. Plans and BMPs. An operator will not unreasonably designate as confidential portions of reclamation or permanent closure plans which detail proposed BMPs to meet state surface and ground water quality standards. Confidential portions of reclamation or permanent closure plans may be shared with DEQ in its coordinating role under these rules, as reasonably necessary.

Can IDL restrict DEQ from distributing it to their staff and ensure they will not disclose it once received? What will IDL do with confidential information for the other agency's they want to share information with and include in the permitting process that are outside the statutory authority granted in the law? How do you plan to handle confidentiality so it does not get passed to other agencies that have different confidentiality criteria?

The law does have specific places IDL is to disclose (Idaho Code 47-1515). The law also has specific protection for mining companies in the following location:

47-704 9 f)

The leaseholder demonstrates a mineral resource is present on the public lands using industry standard to estimate or project a mineral resource that is likely viable for future mineral development. The board shall recognize its role as a partner on behalf

of state lands and provide confidentiality to the leaseholders regarding resource estimates that may be reported. If the leaseholder determines in the future to drop any mineral lease, the board may use this information for public consumption to encourage and support mineral development on those leases.

The law says the DEQ or any agency CANNOT see the mineral resources estimates. In 20.03.02, please provide protection to mining companies in these areas.

Reducing Regulatory Burden in Mining

With respect to reducing regulatory burdens, Governor Little's Executive Order 2020-01 states in the first sentence:

“WHEREAS, excessive regulation at all levels of government can impose high costs on businesses, inhibit job growth, and impede private sector investment;”

The truth of the statement above is shown with Midas Gold, an Idaho company, whose gold mine will eventually cover nearly 2,000 acres for three open-pits and the historic mine disturbance. As of February 2020, they estimate they have spent just over **\$53 million dollars for the permitting process alone, and they are not done yet! They also estimated that monthly costs for consultants and professionals will top two million dollars a month! Midas Gold has waited 4 years in the permitting process and is still awaiting approval.** (<https://yellowpinetimes.wordpress.com/category/news-2020/page/5/-Feb 23,2020>)

Before 20.03.02 the mining industry was already entangled with significant regulatory burden causing mining companies years in the permitting process, but with 20.03.02 the regulatory encumbrances have increased which increases projected costs and length of time to gain approval.

The copper mine near McKay, Idaho has 95% of their land on patented claims which should reduce permitting requirements, and the remaining 5% on Forest Service and BLM. They have spent 2 years so far just for baseline data before even starting the permitting process. The company's projected budget to move from exploration to production is \$3 million dollars. **With the temporary 20.03.02 rules, their cost estimate for only Idaho Department of Land's (IDL's) reclamation plan is \$150,000 as of May 30, 2020.** Total estimate permitting cost including studies, consults, etc., all in, is around \$450,000. (https://polaris.brighterir.com/public/phoenix_global_mining/news/rns/story/w05318r)

American CuMo, is an Idaho company near Idaho City and also open-pit mine, their conceptual pit is around 780 acres in size plus waste disposal area, tailings area, and mill.

Here are their estimated (05/2020) associated permitting costs:

Environmental Analysis - \$713 K
Baseline Studies - Startup - \$12.5 M
Environmental Plan of Ops - \$800 K

Mining Plan of Ops - \$1.2 M
Environmental Impact Statement (EIS) - \$23.5 M
Permitting Process - \$3.0 M
Intergovernmental Task Force creation - \$500 K
Mill site & Tailings Site (geotech...) Studies - \$550 K

For a grand permitting process cost of: \$44.8 Million
(https://cumoco.com/projects/cum_project/)

20.03.02 basically does not take into account the size of a mining operation with its permitting material, it forces all small businesses and individual miners to do these requirements! **For the benefit of mining companies, IDL, the state of Idaho, and the United States, the main purpose of this entire comment to IDL is for 20.03.02 to reduce excessive regulatory burden for mining companies in Idaho according to Governor's Little's Executive order 2020-01:**

WHEREAS, this effort changed the dynamic for agencies. Previously, each rule the agency wanted to eliminate had to be justified as a new rulemaking action; however, in 2019, every regulation that agencies wanted to keep had to be justified, changing the burden of proof and combating bureaucratic inertia; and

WHEREAS, the new process proved to be successful, leading to historic regulatory reform with 75-percent of all rules cut or simplified in less than one year...

Reducing regulatory encumbrances in mining increases mining interest for new mineral discoveries, increases investment opportunities, increases jobs, and increases mining companies' production of minerals and ultimately increasing funds to State and its people.

Reducing Regulatory Burden in 20.03.02

In 20.03.02, IDL's definition of "operating plan" is almost identical to their definition of "reclamation plan." In reality an operating plan is very different than a reclamation plan. Just like operating a mine is very different from reclaiming a mine. IDL's definition of "reclamation plan" allows for what would normally be in a federal operating plan to be in IDL's reclamation plan.

05. Applicability (Under Title and Scope)

These rules apply to all exploration, mining operations, and permanent closure of cyanidation facilities on all lands in the state, regardless of ownership.

IDL is authorizing themselves here to mandate regulatory burden **for all mine operations on federal lands**, even though the applicant has already or will be going through significant federal permitting requirements.

What this does is force the operator to increase costs and delay time in production because IDL requires the operator on federal lands to do whatever it takes to get approval from IDL too, besides what the federal agency already requires. This seems mostly due to IDL's

definitions described above and taking almost everything out of IDL's "operating permit", which for the federal agency means a mining plan and reclamation plan, and put it all under IDL's "reclamation plan" requirements. The State of Idaho's intentions are clear in Idaho Code.

47-1506(2)

The board shall promulgate rules or guidelines to allow the content of a nonfederal operating plan to be determined based upon the type and size of the mining operation.

(c) **No operator who is required to submit an operating plan for a mining operation to an entity of the federal government shall be required to submit an operating plan to the board.** This provision shall apply to all lands, regardless of surface or mineral ownership, covered by the operating plan submitted to the entity of the federal government.

The law is saying on federal lands operators don't have to submit operating plan to the state. It seems that IDL's definitions circumvent the Legislature's wishes in granting an exemption to reduce excessive permitting efforts and costs for all operations permitted and bonded on federal lands. The way 20.03.02 has it now is it gives IDL authority to require all operation on federal lands be excessively permitted by IDL as well.

The laws' intent was basically to bring separation in mining to the federal requirements and state requirements. Federal lands were treated one way, and non-federal lands treated another way. The purpose of rulemaking is to provide clarity to the law and not confuse it. With 20.03.02 the way it is currently written, it brings great confusion to the law instead of bringing out the true intention of the law which is to bring federal and state separation. This separation helps keep from confusion, increased expenses, and lengthening the permitting process.

Mining operations on federal lands require a document called by some federal agencies a "Plan of Operation" (POO) or something similar. Contained within the POO is a section on the mining plan, a section on the environment, and a section on reclamation. It was from that understanding, the Legislature exempted "operating plans" for mines on federal lands.

But, since the department later went with different nomenclature/definitions, they divided the mine permit into an "Operating Plan" and a "Reclamation Plan". Which now IDL mostly gutted the operating plan and put all relevant mining/operating related information into the reclamation plan – which reclamation follows mining and is not mining. IDL through definitions/nomenclature, requires that all mining operation in Idaho go through their permitting process too, even those on federal lands intended by the legislature to be exempted.

IDL also includes National Environmental Policy Act (NEPA) in the mining permitting process. Governor Brad Little writes about reducing regulatory encumbrances appropriately, **"President Trump targeted the behemoth National Environmental Policy Act, or NEPA, for change"** Idaho's congressional delegation and I wholeheartedly backed his effort and will do everything we can to support the transformation, which enables much-needed transportation and

land management projects **to move forward more quickly while maintaining necessary environmental protections and public input.**” (September 23, e-mail by Governor Brad Little)

069. Application Procedure and Requirements for Quarries, Decorative Stone...

01. Approval Required. Approval of a reclamation plan by the Department is required even if approval of such plan has been or will be obtained from a federal agency.

So even though there is one reclamation plan, there is approval required by IDL and also the federal agency.

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

01. Approval of a reclamation plan by the Department is required even if approval of such plan has been or will be obtained from a federal agency...

IDL is again emphasizing here that all mining operations in Idaho, regardless how small they are, must be reviewed and approved by their department, even if they are on federal lands and already permitted and bonded by the federal agency. As these rules are written, that can be explained as nothing less than redundant approval and adding overload into the permitting process.

Many questions have arisen because this is new for underground mines. In the past, the miner got approved by the federal agency and off to work they went. But in IDL's proposed rules, IDL requires approval on the permitting action of federal lands and is bringing along additional requirements and costs which were not necessary before.

With respect to building a house that was referred to by IDL, you do have to get different permits depending on who is doing it, what size it is, and where it is located. However, you do **NOT** have to pay another fee and submit your well plan to the foundation inspector for review and approval which is what IDL is currently doing in these rules.

According to 20.03.02 now, the operator will have to fulfill the state operating plan requirements and the federal's operating plan requirements. The operator will also have to fulfill the state's reclamation requirements and the federal's reclamation requirements. The federal agency has reclamation requirements that IDL does not require, and 20.03.02 is adding to the federal's requirements. IDL is not only hurting others but is hurting itself. The reason is mining companies can't mine until the permitting process is approved, and IDL gets royalties from mining companies producing minerals.

IDL said the federal agency determines reclamation guidance on federal lands, while IDL is over state and private lands. If that is the case, then why does IDL require being a part of the federal permitting requirements and charge the small business owner for doing it? Why can't the state review the federal agency approval, but not charge the mine operator?

IDL said the State's reclamation requirements are broader, while federal requirements are more strict. If that is the case, then the comment above is very applicable. Let the federals regulate their land so IDL can regulate their land without getting sidetracked by little mines on federal lands.

In the 20.03.02 meetings it was stated that IDL collaborates with other government agencies. Please interact with the federal and other agencies to make wise cuts in regulations. While you are not going to change the whole structure of the feds, that is NOT necessary to reduce Idaho's regulatory encumbrances.

The federal agencies larger operating plan has a section for a reclamation plan. The State is basically opposite in that their large reclamation plan has a section for an operating plan. These two completely different structures along with how they function results in increasing regulatory encumbrances and cause major confusion. IDL is molding 20.03.02 rules. So now is a good time to make changes to increase clarity and actually reduce regulatory burden instead of merely changing definitions. While it would help for mining law to be updated, IDL can do a lot to help fix these encumbrances in 20.03.02 right now without changing the law.

Summary of Duplication of State and Federal Agency Permitting Requirements

Who must file an application:

IDL: With 20.03.02, everyone is to file an application and pay fees.

Forest Service (FS): Notice of Intent (NOI) for small disturbance up to several acres, and 1,000 tons removed. Plan of Operations for significant disturbance or in unique settings or when using earth-moving equipment. There are no fees.

Bureau of Land Management (BLM): Notice of Intent with a disturbance of up to 5 acres. Plan of Operations for disturbance over 5 acres or in a unique setting or using earth-moving equipment. Fees may be required based on size of operation and complexity.

From IDL 20.03.02 Rules: Specifically the Reclamation Plan:

This is a current list of what IDL requires in their Reclamation Plan and then duplicate requirements of what FS and BLM require in their Plan of Operation.

05. Reclamation Plan Requirements. Reclamation plans must be submitted in map and narrative form and include the following: (3-20-20)

Required by IDL, FS, and BLM

a. Where surface waters are likely to be impacted and or 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 surface mining and reclamation from mining operations and proposed management

activities, such as BMPs or other measures and practices, to comply with water quality requirements; (3-20-20)T

Required by IDL, FS, and BLM

c. Roads to be reclaimed; (3-20-20)

Required by IDL, FS, and BLM

d. 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; (3-20-20)

Required by IDL, FS, and BLM

e. The planned reclamation of wash plant or sediment ponds; (3-20-20)

Required by IDL, FS, and BLM

f. A drainage control map which identifies the location of BMPs that will be implemented to control erosion and water quality impacts during mining and reclamation activities; (3-20-20)

Mostly Required by IDL, FS, and BLM

h. For operations over five (5) acres, an estimate of total reclamation cost to be used in establishing a financial assurance amount. The cost estimate will include, but is not limited to, the approximate cost of grading, revegetation, equipment mobilization, labor, and other pertinent direct and indirect costs of a third-party to complete reclamation. (3-20-20)

Required by both IDL, FS, and BLM

04. Reclamation Plan Requirements. Reclamation plans must include all of the information required under Subsection 069.05 and the following additional information: (3-20-20)

a. A description of the planned reclamation of overburden disposal areas, tailings facilities, or and sediment ponds; and (3-20-20)

Required by IDL, FS, and BLM

b. 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, and other pertinent costs for third party reclamation. (3-20-20)

Required by IDL, FS, and BLM

c. A description of foreseeable, site-specific impacts from acid rock drainage water quality impacts and the BMPs and other measures and practices that will be used to mitigate any impacts from such acid rock drainage water quality impacts. This may be met by including...To assist in meeting the requirements of 069.05.a of these rules, a summary of requirements from a SWPPP, IPDES permit, ground water point of compliance, and other permits or approvals or BMPs related to foreseeable water quality impacts on the affected land. (3-20-20)

Required by IDL, FS, and BLM

d. Structures that will be built to help implement a SWPPP, IPDES permit, Point of Compliance or other permits or approvals related to foreseeable water quality impacts on the affected land.

Required by IDL, FS, and BLM

e. Additional information regarding coarse and durable rock armor if any is proposed to be used for reclamation of mine facilities. The director may, after considering the type, size, and potential environmental impact of the facility, require the operator to include additional information in the operating plan. Such information may include, but is not limited to, one (1) or more of the following:

Required by IDL, FS, and BLM

f. 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. 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 ground water accumulation, and the expected seismic accelerations at the site. The report must bear the imprint of an Idaho licensed professional engineer that is both signed and dated by the engineer. The report shall show that the following features, if present, are designed in a manner that is consistent with industry standards to minimize the potential for failure:

Required by IDL, FS, and BLM

i. Any waste rock or overburden stockpiles;

Required by IDL, FS, and BLM

i. Location and dimensions of all underground mine openings at the ground surface, including but not limited to vents, shafts, and adits, or stopes; and (3-20-20)

Locations Required by IDL, FS, and BLM, but not dimensions

ii. A description of how each mine opening in subparagraph 070.04.d i of these rules will be secured during reclamation to eliminate hazards to human health and safety. (3-20-20)

Required by IDL, FS, and BLM

h. A description of post-closure activities. that includes the proposed length of the post-closure period and the following: (3-20-20)

Required by IDL, FS, and BLM

i. A summary of procedures and methods for water management including any likely IPDES permit, stormwater permit, and monitoring required for any ground water point of compliance, along with sufficient information to support a cost estimate for such water management activities.

Required by IDL, FS, and BLM

- i. Other pertinent information the Department has determined is necessary to ensure that the operator will comply with the requirements of the chapter. (3-20-20)

Required by IDL, FS, and BLM

IDL Exceeding Statutory Authority

The department is adding requirements beyond what is authorized by law.

000. LEGAL AUTHORITY.

Title 47, Chapter 15 (“chapter”), Idaho Code, authorizes the Board to promulgate rules pertaining to mineral exploration; mining operations; reclamation of lands affected by exploration and mining operations, including review and approval of reclamation and permanent closure plans; requirements for financial assurance for reclamation and permanent closure, and to establish a reasonable fee for reviewing and approving reclamation plans and permanent closure plans, including the reasonable cost to employ a qualified independent party, acceptable to the applicant and the Board, to review reclamation plans and permanent closure plans and to verify the accuracy of cost estimates. ...

47-1506 (g)

The board may require a reasonable fee for reviewing and approving a permanent closure plan or reclamation plan. The fee may include the reasonable cost to employ a qualified independent party, acceptable to the operator and the board, to verify the accuracy of the cost estimate required in subsection (f)(4) of this section and section 47-1512(c), Idaho Code.

The law allows for a third party to **only verify** “the accuracy of the cost estimate required in subsection (f)(4) of this section and section 47-1512(c), Idaho Code.” IDL appears to be proposing to have a third party to review the **entire** reclamation plans and **all** permanent closure plans, but the law does NOT appear to authorize a third party to review the **whole** reclamation and permanent closure plans.

001.04. Other Laws

Operators engaged in exploration, mine operation, and operation of a cyanidation facility shall comply with all applicable laws and rules of the state of Idaho including, but not limited to the following:

- a. Idaho water quality standards established in Title 39, Chapters 1 and 36, Idaho Code; IDAPA 58.01.02, “Water Quality Standards”; and IDAPA 58.01.11, “Ground Water Quality Rule,” administered by the Department of Environmental Quality (DEQ).

b. Requirements and procedures for hazardous and solid waste management, as established in Title 39, Chapter 44, Idaho Code, and rules promulgated thereunder including, IDAPA 58.01.05, “Rules and Standards for Hazardous Waste” and IDAPA 58.01.06, “Solid Waste Management Rules,” administered by the DEQ.

c. Section 39-118A, Idaho Code, and applicable rules for ore processing by cyanidation as promulgated and administered by the DEQ as defined in IDAPA 58.01.13, “Rules for Ore Processing by Cyanidation.”

d. Section 39-175, Idaho Code, and applicable rules for the discharge of pollutants to waters of the United States as promulgated and administered by DEQ in IDAPA 58.01.25, “Rules Regulating the Idaho Pollutant Discharge Elimination System Program.”

e. Idaho Stream Channel Protection Act, Title 42, Chapter 38, Idaho Code, and applicable rules as promulgated and administered by the Idaho Department of Water Resources.

f. Idaho Dam Safety Act, Sections 42-1710 through 42-1721, Idaho Code, and applicable rules promulgated and administered by the Idaho Department of Water Resources.

47-1517(a)

in accordance with all applicable statutes and regulations pertaining to water use and mining safety applicable to exploration and mining operations

The law was specific “to all applicable statutes and regulations pertaining to water use and mining safety applicable to exploration and mining operations.” No place was found in the law where operators are required to comply with all laws and rules of state of Idaho, but it appears that IDL regulations covers most the main ones in 9 (a-f).

070 APPLICATION PROCEDURE AND REQUIREMENTS FOR OTHER MINING OPERATIONS INCLUDING HARDROCK, UNDERGROUND AND PHOSPHATE MINING.

04.f.

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. 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 ground water accumulation, and

the expected seismic accelerations at the site. The report must bear the imprint of an Idaho licensed professional engineer that is both signed and dated by the engineer...

If an out-of-state company proposes a mine and they have their own professional engineer already on staff, they still have to hire an Idaho personal engineer? More importantly, where is the “MUST” be an Idaho licensed professional engineer required in Title 47, Chapter 15? This is added expense and red-tape instead of reducing the regulatory burden.

080.02 Agency Notification

(a) Nonconfidential material submitted under Sections 069, 070, and 071 shall be forwarded by the director to the Idaho Department of Water Resources, Environmental Quality, and Fish and Game for review and comment. The director may decide to not circulate applications submitted under Section 069 if the director determines the impacts of the proposed activities are minor and do not involve surface or ground waters.

47-1506 (h)

The board shall coordinate its review of activities in a reclamation plan, operating plan, and permanent closure plan under statutory responsibility of the department of environmental quality with that department, but that coordination shall not extend the time limit in which the board must act on a plan submitted.

The law authorizes IDL to involve Department of Environmental Quality, but does not specifically include Idaho Department of Water Resources and Fish and Game. The more agencies included in the permitting process, then the higher chances for requirements to be added. The more requirements, the greater chance for lack of approval.

So the director can choose to not involve all the other agencies if the application for a quarry or aggregate type mine, but has to involve the agencies in all hardrock mines, no matter how small or insignificant? That seems like excessive regulatory burden on the applicant and Department.

110 Public Hearing

01.b. Agency Concern. The director determines, after consultation with the Department of Water Resources, DEQ, the Department of Fish and Game, and affected Indian tribes that the proposed mining or cyanidation facility operations could reasonably be expected to significantly degrade adjacent surface and/or ground waters or otherwise threaten public health, safety or welfare...

47-1506 (h) The board shall coordinate its review of activities in a reclamation plan, operating plan, and permanent closure plan under statutory responsibility of the department of environmental quality with that department...

According to law, IDL is only authorized to coordinate/forward permitting material to department of environmental quality, NOT department of water resources, the department of fish

and game, and Indian tribes. IDL can request information and participate in the process, if they want to, just like any other person.

14. Financial Assurance Provided to the Federal Government.

Any financial assurance provided to the federal government that also meets the requirements of Section 120 shall be sufficient for the purposes of these rules. A mine providing financial assurance through an order under the Comprehensive Environmental Response, Compensation, and Liability Act is not required to submit financial assurance to the Department as described in Idaho Code 47-1512(n).

Section 120 is Financial Insurance Requirements of the state and lists 22 subpoints. Is IDL confusing/mixing Federal and state oversight on federal lands?

Permitting Process Especially Burdensome to Small Mining Businesses

Governor Brad Little discusses supporting small businesses because it is the back bone of our economy. He also mentions supporting our #1 employer---small business. Governor Little states, “My Zero-Based Regulation plan earlier this year ensures Idaho regulations remain streamlined and simple moving forward. All these steps prevent small businesses from wasting time and money on compliance costs, enabling more resources to go toward innovation and creating jobs.” (September 23, 2020; by Governor Brad Little)

While Keceph is interested in reducing regulatory encumbrance to support all mining companies, Keceph has particular interest in helping small mining businesses. Keceph Mountain L.L.C is a small mining business. Alan Gilda, in all his rulemaking posts to IDL, has done an excellent job of showing how excessive costs and unnecessary regulations would cause almost all small mining businesses to not be able to mine. I especially recommend Alan Gilda’s latest post at <https://www.idl.idaho.gov/news/rulemaking/docket-no-20-0000-2000f/> under *Written Public Comments on Proposed Rules* dated 10/2/2020. Alan specifically shows where IDL is overloading small businesses and has good, reasonable solutions.

These proposed rules in 20.03.02 and excessive costs for small businesses are suddenly being dumped on the small underground mining operations because before underground mines were not regulated so extreme. The additional regulation adds to the confusion.

IDL was not concerned that they will now require the same permitting requirements for a mine of a few acres as they do for a mine of 100's and 1,000's of acres. A lot of the requirements probably is not even applicable to a small underground mine operation and/or is already addressed by the federal agency. In fact, IDL seemed oblivious to the fact that a small underground hardrock mine does not have millions of dollars available to spend on consultants and professionals to compile all this permitting material for a few acres of disturbance. IDL requiring small mining businesses to provide the same permitting material as what large mining businesses are required to submit for large mining disturbances is excessively burdensome.

IDL has mentioned to conduct exploration first. **While exploration does precede mining, if the permitting process is so complex, costly, tedious, and excessive for a small business to mine, why invest any money into doing exploration in Idaho?**

Governor Little desires small businesses to be successful and profitable, and so the governor is requiring less regulations for small businesses and this should include mining as well.

Governor Little Helps Lead Idaho in Economic Prosperity

(Idaho Leads in Economic Rebound: Governor Little Highlights Steps to Strengthen Economy, September 18, 2020)

Idaho's Strong Economic Position is shown by the following:

“Idaho is #1 state for economic momentum (FFIS index)”

“Idaho is #1 state for financial solvency ([Barron's report](#))”

“Idaho is #1 state in personal income growth over past year ([PEW](#))”

“Idaho is #3 state for best employment rate ([U.S. Bureau of Labor Statistics](#))”

Governor Little attributes these results to six steps for “accelerating such a strong economic rebound.” One of these six steps is the following:

#3: “Idaho has cut red tape to ease burden on businesses and strengthen the coronavirus response.”

The article states, “when we reduce regulatory friction, good jobs follow. **Idaho became the least-regulated state in the nation in 2019 after 75-percent of regulations were cut or simplified in a matter of months. Governor Little's Zero-Based Regulation executive order and other actions ensure regulatory rollbacks will continue.**”

Governor Little's Executive Order on Zero Based Regulation states: “WHEREAS, the new process proved to be successful, leading to historic regulatory reform with 75-percent of all rules cut or simplified in less than one year. The effort led to the elimination of 250 rule chapters, 1,804 pages of regulations, and close to 31,000 restrictions. For every new rule chapter added, 83 were eliminated, and Idaho become the least regulated state in the country;” **Mining regulations in Idaho needs to follow Governor's Little example by including Executive Order 2020-01 in the 20.03.02 process!**

Including Executive Order 2020-01 in 20.03.02

001. TITLE AND SCOPE.

01. Title.

These rules are titled IDAPA 20.03.02, “Rules Governing Mined Land Reclamation,” IDAPA 20, Title 03, Chapter 02.

02. Purpose.

These rules are intended to provide for the protection of public health, safety, and welfare, by ensuring that all the lands within the state disturbed by exploration and mining operations are properly reclaimed and ensuring the proper permanent closure of cyanidation facilities and thereby conserve natural resources; aid in the protection of wildlife, domestic animals, and aquatic resources; and reduce soil erosion. It is also the purpose of these rules to implement the **State of Idaho's** antidegradation policy as set forth in [Executive Order No. 88-23](#) as it pertains to exploration and mining operations and cyanidation facilities operating in the state...

Why not also include “And these rules (do/don't) comply with Executive Order 2020-01...reduction of regulatory burden...”?

071

03. Preapplication Conference.

Prospective applicants are encouraged to meet with the Department [well in advance of preparing and submitting an application package to discuss the anticipated application requirements and application procedures](#), and to arrange for a visit or visits to the proposed location of the cyanidation facility. The preapplication conference may 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.

Is the permitting so unpredictable and complicated that a pre-meeting is needed to discuss anticipated application requirements and application procedures? Shouldn't the new rulemaking effort produce a regulatory process that is more straight forward for all and in light of Executive Order 2020-01, reduce the overall regulatory burden, or at a minimum remain neutral, as compared to the previous rule?

As shown in many examples in this IDL comment, there is a need to implement Executive Order 2020-01 through all of 20.03.02.

Mineral Resources are Significant to Idaho's Future

Idaho, known as the gem state, has been blessed by the Lord to contain large amounts of diverse mineralization. Phosphate is Idaho's most leading and thriving industrial mineral. **“It is estimated that more than half of America's phosphate reserves are located in Idaho's Bear Lake, Bingham, Bonneville, and Caribou counties.”** Ammonium phosphate fertilizer and other vital chemicals is produced from phosphate. America needs not only phosphate, but all kinds of minerals, to function and produce all kinds of products.

(<https://digitalatlas.cose.isu.edu/geog/mining/minemain.htm>)

SE Idaho Phosphate district with over 100 years of product has multiple large, open-pit mines in production, 3 large mills employing over 350 workers each, and several mines in permitting stage. (<https://www.idahogeology.org/current-historic-mining-activity>, slide 6,16-25).

“Today an Idaho district has produced well over 1.2 billion troy ounces of silver, more than 3.3 million tonnes of zinc, and more than 8 million tonnes of lead.” Other Idaho mineral producers include: +100's of gravel pits and quarries aggregate, dimension stone, lime, garnet, zeolites, pumice, sand & gravel, gemstones. (<https://investingnews.com/daily/resource-investing/precious-metals-investing/silver-investing/silver-zinc-and-lead-production-in-idahos-coeur-dalene-mining-district/>, 7/2018) (<https://www.idahogeology.org/current-historic-mining-activity>, slide 26-30)

In the last 8 years, non-fuel mineral production (phosphate, aggregate, industrial minerals, silver, gold, lead, zinc, copper, etc) went from **2011 highest at \$1.4 Billion** but has declined to just under **\$600 million in 2018**. IDL should do its' part in helping all companies mine minerals for Idaho by reducing unnecessary, excessive, burdensome regulations instead of heaping more on them which can especially lead to driving small mining businesses out of the state. **Idaho's mining potential has barely been tapped as far discoveries, successful mines, mineral production, possible jobs, and significant income that can benefit entire cities and districts. Therefore, Idaho should do all it can to increase mining momentum, and one significant way to do this is reducing mining regulations excessive load.** (<https://www.idahogeology.org/current-historic-mining-activity>, slide 4)

Conclusion

While IDL does have different divisions, each individual division should do what is the best for all of IDL including finances. By reducing costly and ineffective regulatory burden, mining companies produce more which means more royalties to the state, and these royalties have the ability to make far more for the state than rent and fees. For example, IDL's 2018 Annual Report states \$78,583 was received in rent plus fees and \$2.3 million came from royalty.

Likewise, the state of Idaho already had excessive mining regulation that has taken years for mining companies to get the permitting process completed and this was before IDL's proposal to add more burdensome regulations to the permitting process. **Reduced permitting regulation increases mining companies' production resulting in more mineral resources, more jobs, and more investment opportunity.**

I would encourage IDL to change 20.03.02 to provide more efficiency and clarity while cutting permitting process regulations to increase mineral production for the future of all mining companies, Idaho Department of Lands, the State of Idaho, and the United States of America.