

Negotiated Rulemaking Meeting Notes – April 30, 2024

Name of Negotiated Rulemaking: Rules Governing Mined Land Reclamation (IDAPA 20.03.02)

Docket number: 20-0302-2401

Location: Idaho Department of Lands, Boise Staff Office, Garnet Conference Room

Date/Time: Tuesday, April 30, 2024 – 10:00 a.m. MT

Attendees: See participant list

Facilitated by: Eric Wilson, – Resource Protection and Assistance Bureau Chief, Idaho Department of Lands (IDL)

This is the third of 6 scheduled meetings in April and May, 2024.

Eric Wilson presented an overview of rulemaking and reviewed the draft rule changes.

Discussion:

- **Question:** What is the relationship between the proposed definitions of “Disturbed Acres”, “Permitted Acres”, and “affected lands”? **Response:** Disturbed Acres are a subset of the Permitted Acres. These two new definitions are used further down in the rule, especially in regards to financial assurance.
- **Question:** Why were all the uses of “shall” replaced? **Response:** The Division of Financial Management and the Office of the Administrative Rules have given specific direction regarding elimination of the word shall. IDL replaced this word with “may”, “must”, or other words depending on context.
- **Comment:** The application forms could be included in the rule. **Response:** This would require a negotiated rulemaking to modify the form, which is a lot of work to go through for simple changes.
- **Comment:** DEQ is moving to change “ground water” to “groundwater” in their rules. This will reduce word count for the Zero Based Regulation goals. **Response:** It is not clear if the Idaho Department of Water Resources was also making that change. This will be investigated further.
- **Comment:** Section 200 should specifically state what rule changes from 2019 do or do not apply to reclamation plans based on when the plans were approved. **Response:** This would not be a simple task and runs the risk of being interpreted as conflicting with statute. The requestor offered to put together some suggested wording for consideration.
- **Question:** Should “Permitted” or “Disturbed” acres be referenced in Subsections 120.05, 06, and 08? **Response:** If financial assurance is only required for the disturbed acres, then these subsections may not clearly communicate that. Some adjustment is needed to make that more clear.