



Mineral Lease Bonding Policy

This agency guidance document is not a new law. This document is an interpretation of existing law, except as authorized by Idaho Code or incorporated into a contract.

Purpose

This policy establishes bonding requirements for state mineral leases.

Agency Contact

Minerals Leasing Program Manager

Policy

I. Mineral Lease Bond and Statewide Bond

The State of Idaho requires a five thousand dollar (\$5,000) surety bond to cover a state mineral lease with a provision for a bond increase prior to initiation of operations using motorized earth-moving equipment.

Each lease should contain a bond increase provision as follows: "Prior to initiation of operations using motorized earth-moving equipment, lessee shall increase the five thousand dollar (\$5,000) surety bond in the amount of seven hundred fifty dollars (\$750) per acre for each acre to be affected during the succeeding twelve (12) month period providing the operation is not bonded under Idaho Code Title 47, Chapter 13, Idaho Dredge and Placer Mining Protection Act or Chapter 15, Idaho Mined Land Reclamation Act. The aforementioned bond covers without limitation surface effects of underground mining operations."

The lessee may submit a Statewide bond in the amount of fifty thousand dollars (\$50,000) and has a limit of not more than fifteen (15) leases per Statewide bond. Upon the lessee obtaining additional leases in excess of fifteen (15), they can provide a five thousand dollar (\$5,000) bond for each lease until such time that a second blanket bond is more economical.

(Attachment 1, June 25, 1980)

II. Recreational Uses

The minimum bond rate is one thousand dollars (\$1,000) for state mineral leases that are recreational in scope and have minimal impact (hand tools and equipment), and the state retains the prerogative to increase that bond depending upon the plan of operation.

(Attachment 2, April 10, 1990)

III. Private Landowners

The minimum bond rate is two thousand five hundred dollars (\$2,500) for private landowners leasing state minerals under their surface estate. (Attachment 2, April 10, 1990)

Revision History (Board Action)

06/25/1980 Mineral Lease Bond and Statewide Bond

04/10/1990 Bond for Recreational Uses and Private Landowners

MEMO TO THE STATE LAND BOARD

SUBJECT: Mineral Lease Bonding

REMARKS: Currently the State of Idaho requires a five thousand dollar (\$5,000.00) surety bond to cover a State Mineral Lease with a provision for a bond increase prior to initiation of operations using motorized earth-moving equipment. However, in lieu of these bonds the lessee may submit a "Statewide" bond that covers all the lessee's leases and operations carried on under all State of Idaho mineral leases. The amount of this "Statewide" bond is currently set at ten thousand dollars (\$10,000.00).

Several problems arise from this bonding arrangement.

First, should the original bond need to be increased to cover surface damage caused by say an underground mining operation, which is not now covered by any regulatory act, the "Statewide" bond would negate any increase provision.

Second, say a lessee had ten (10) leases and proposed mining each lease (underground) and mill the ore on one of the leased sites, with the "Statewide" bonding clause the lessee would only be required to have the ten thousand dollar bond (\$10,000.00). This amount would be woefully inadequate should the lessee default and have outstanding royalties due plus large areas in need of reclamation

Third, there is no limit to the number of leases that may be placed under the "Statewide" bond. For example, a lessee could have twenty (20) leases under one "Statewide" bond effectively reducing the bond amount on each lease to five hundred dollars (\$500.00).

PROPOSAL: Each lease should contain a bond increase provision as follows:

"Prior to initiation of operations using motorized earth-moving equipment, lessee shall increase the five thousand dollar (\$5,000.00) surety bond in the amount of seven-hundred-fifty dollars (\$750.00) per acre for each acre to be affected during the succeeding twelve (12) month period providing the operation is not bonded under the Idaho Code -- Title 47, Chapter 13 - "Idaho Dredge and Placer Mining Protection Act" or Chapter 15 - "Idaho Surface Mining Act." The aforementioned bond covers without limitation surface affects of underground mining operations."

The "Statewide" bond amount should be increased to fifty-thousand dollars (\$50,000.00) and have a limit of not more than fifteen leases per "Statewide" bond. Upon the lessee obtaining additional leases in excess of fifteen (15) he can provide a five thousand dollar (\$5,000.00) bond for each lease until such time that a second blanket bond is more economical.

RECOMMENDATION:

Approve proposals. ✓

JUN 25 1980

RECOMMENDATION APPROVED:

RECOMMENDATION DENIED:

OTHER ACTION:

LLJ:sjb

6/11/80

ATTACHMENT 1

P

301
6/25/1980

feels this application should be exempt since they have already posted their bond. Mark Riddoch explained that under the rules the permit is not applicable until it is in-hand, therefore there would be no legal impediment to the motion as drafted. The Board has the power to set the effective date in a reasonable time, which they have done. Motion to approve this application was passed unanimously, effective date of July 2, 1980.

Deletion of Parcel from Lease - Placer and Gold Mining - Robert D. Mendenhall, et al

Jack Gillette told the Board that due to platting and actual on-the-ground location of leases, two leases were found to be overlapped. One lessee, Mr. Mendenhall, has agreed to delete the 18.9 acres from his lease, No. 7348. The Department will give him credit for that from 1977. Pete Cenarrusa moved to accept the Department recommendation. Joe Williams seconded. The motion passed unanimously.

C & O Mining Co. Mineral Lease Application Withdrawn

This was included on the agenda for information of the Board members. Bill Scribner said that since this application was withdrawn, on Friday afternoon at closing time, the Department had received 46 mining claim filings on the same stretch of river.

Mineral Lease Bonding

Jack Gillette said this is an attempt to protect the State and still not make bonding requirements too objectionable to the individuals or corporations that are bonded. At the present time, the statewide bond is \$10,000 which could be insufficient to cover a number of operations. The Department is suggesting that the statewide bond be increased to \$50,000 which would be optional, and not to have more than 15 leases on a statewide bond. Should the lessee obtain additional leases, he could take the individual leases at \$5,000 per each lease and when it became economically feasible for him, obtain the \$50,000 blanket bond. This is an attempt to prevent a \$10,000 blanket bond from covering too many operations in case there is some defect the State may be required to correct. Mr. Gillette said that basically, this is an increase in blanket bonding. Jerry Evans moved to approve the Department recommendation. The motion was seconded by Joe Williams and passed unanimously.

Riverbed Lease Applications

Bill Scribner was asked to address the Board on these applications. In answer to a question on Application Q-1, Mr. Scribner stated that the applicant proposed to use a 4" suction dredge, which under the emergency rules adopted by the Board, could be assumed to move two cubic yards of earth material per hour. However, the applicant would also use a small hand-operated sluice which would not fall within the purview. The suction dredge would have to be measured on the stream to determine if, in fact, it fell within the purview of the adopted rules. He said this would be the case with all of the applications before the Board today.

Jack Gillette pointed out that once a lease is issued, the individual still must comply with all state rules and regulations and with the requirements of the lease as the lease is only the first step to operate on State land.

Jerry Evans asked if these applications were denied, then would the next step be the filing of claims? Bill Scribner said he would presume so. Governor Evans asked for clarification as to what the Board's position would be at that point. Mr. Scribner explained the State law provides that State land is open for exploration and prospecting; the location or filing of a mineral location notice with the State Land Board gives that individual the exclusive right for a 20-acre segment of the river for exploration and prospecting. He would be required to acquire a stream alteration permit and that would be only if he was going to use motorized equipment. Beyond that, there are no regulations as far as the Land Board is concerned. Mark Riddoch added that the Dredge Mining Act is applicable equally to a lease or a claim. Dave Leroy said he had two items for preliminary discussion: (1) he would like to see, in view of the dredge mining rules, in subsequent meetings, the certification of what kind of equipment will be used, its size, and how that will relate to removal of material; (2) if the applicants come back with mineral location notices in the case of being denied a lease, and the location size is limited to 20 acres maximum, the Board might contemplate a contiguity limit requiring the claims to be more compact. Using the first application as an example, Bill Scribner said that the 160 acres would be about two river miles, and using claims to cover the area would require eight contiguous claims. He also said there is no provision in the law for royalties to accrue to the State under the mineral location notice since the activity is intended for exploration and to identify possible lease sites. There is concern that the State has not received royalties in the past from riverbed leases, particularly those related to precious metals since the old leases allowed the subtraction of beneficiation costs (costs of refinements). This worked to totally eliminate any opportunities for royalties. New leases provide for 5% of the gross value of materials removed.

Governor Evans said he is concerned that before a lease is granted, permits and clearance should be obtained from other agencies before they seek the Board's approval. He would not like to approve here not knowing what the Department of Water Resources is going to do in relation to these requests, since the Board would be working without their recommendation. Jerry Evans commented that he also wonders how this applies to the rules and regulations for dredge and placer mining. He said it seems the permit from Water Resources should be obtained before the lease is approved. Jack Gillette suggested the Department could simultaneously bring before the Board both the lease and the permit. Governor Evans said what is needed is to have all the agencies have a one-stop permit system. Pete Cenarrusa commented he could see no harm being done by initiating this lease and letting the operator know he has a starting place. Bill Scribner said that some of the applicants do already have a stream channel alteration permit, and one of them, Mr. Gossett who has an application on the Salmon River, is here today. Jerry Evans expressed concern that both a dredge mining permit and approval of riverbed leases are handled by the same Board and cannot understand why they should be handled

STATE BOARD OF LAND COMMISSIONERS

April 10, 1990

SUBJECT

Modification of Bonding Requirement Policy for State Mineral Lease to Allow for Reduced Bond Rate

AUTHORITY

Idaho Code section 47-708

BACKGROUND

The present mineral lease document was revised and adopted August 13, 1985. The minimum bonding requirement per section 24 of this document was set at \$5000 per lease.

DISCUSSION

Over the past several months the Department has received requests to reduce the \$5000 bond rate. These requests have been received from (1) lessees who limit their operations to recreational mining activities; or (2) lessees who lease state minerals under their surface ownership.

The "recreational miners" generally conduct small scale operations using hand tools with minimal surface impact. Following the same guideline as has been established for recreational riverbed mineral lessees, a bond rate of not less than \$1000 with the actual bond rate to be established in relation to the scope of the mining operation should be appropriate. This bond amount can be increased at any time it is determined the bond is insufficient to assure compliance with the terms of the lease agreement, including mitigation of the surface values impacted by mining, and to adequately guarantee payment of production royalties. Moreover, any required reclamation bond is in addition to the mineral lease bond.

The exact amount of the bond can be managed by the department staff through review and approval of the plan of operation and corresponding reclamation plan prior to allowing the lessee to commence mining operations.

Landowners leasing state minerals under their surface ownership believe the surface impacts resulting from their mining operations is a loss to them for which they do not need to be bonded. However, IDL staff believe a bond should be of sufficient amount to assure compliance with the lease terms and payment of the royalties generated from production. The recommended minimum amount of bonding in this instance is \$2500.

RECOMMENDATION

- 1) Approve a minimum bond rate of not less than \$1000 for leases that are recreational in scope and have minimal impact.
- 2) Approve a minimum bond rate of \$2500 for landowners leasing state minerals under their surface estate.

BOARD ACTION

Approved (4-1)

APR 10 1990

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