

**Idaho State Board of Land Commissioners
Open Meeting Checklist**

Meeting Date: August 19, 2025

Regular Meetings

Date	Action
7/31/2025	Meeting Notice posted in Idaho Department of Lands (IDL) Boise Director's office five (5) or more calendar days before meeting.
7/31/2025	Meeting Notice posted in IDL Coeur d'Alene staff office five (5) or more calendar days before meeting.
7/31/2025	Meeting Notice posted at meeting location five (5) or more calendar days before meeting.
7/31/2025	Meeting Notice posted electronically on IDL website (https://www.idl.idaho.gov) five (5) or more calendar days before meeting.
7/31/2025	Meeting Notice published on Townhall Idaho website (https://townhall.idaho.gov) five (5) or more calendar days before meeting.
8/14/2025	Agenda posted in IDL Boise Director's office forty-eight (48) hours before meeting.
8/14/2025	Agenda posted in IDL Coeur d'Alene staff office forty-eight (48) hours before meeting.
8/14/2025	Agenda posted at meeting location forty-eight (48) hours before meeting.
8/14/2025	Agenda posted electronically on IDL website (https://www.idl.idaho.gov) forty-eight (48) hours before meeting.
8/14/2025	Agenda published on Townhall Idaho website (https://townhall.idaho.gov) forty-eight (48) hours before meeting.
2/27/2025	Revised Land Board annual meeting schedule posted—Boise Director's office, Coeur d'Alene staff office, and IDL website (https://www.idl.idaho.gov).

Certification

/s/ Renée Jacobsen

Recording Secretary

August 14, 2025

Date



Idaho State Board of Land Commissioners

Brad Little, Governor and President of the Board

Phil McGrane, Secretary of State

Raúl R. Labrador, Attorney General

Brandon D Woolf, State Controller

Debbie Critchfield, Superintendent of Public Instruction

Dustin T. Miller, Secretary to the Board

NOTICE OF PUBLIC MEETING AUGUST 2025

The Idaho State Board of Land Commissioners will hold a Regular Meeting on Tuesday, August 19, 2025 in the **State Capitol, Lincoln Auditorium (WW02)**, Lower Level, West Wing, 700 W. Jefferson St., Boise. The meeting is scheduled to begin at 9:00 AM (MT).

Please note meeting location.

The State Board of Land Commissioners will conduct this meeting in person and by virtual means. This meeting is open to the public. No public comment will be taken.

[Live streaming via IPTV](https://www.idahoptv.org/shows/idahoinsession/ww02) <https://www.idahoptv.org/shows/idahoinsession/ww02>

[Register to attend the Zoom webinar](https://idl.zoom.us/webinar/register/WN_RIS-3YsRT4aSV6gy0FhbPw)
https://idl.zoom.us/webinar/register/WN_RIS-3YsRT4aSV6gy0FhbPw

Notice Posted: 7/31/2025 Boise; 7/31/2025 Coeur d'Alene

This notice is published pursuant to Idaho Code § 74-204. For additional information regarding Idaho's Open Meeting Law, please see Idaho Code §§ 74-201 through 74-208.

Idaho Department of Lands, 300 N 6th Street, Suite 103, Boise ID 83702, 208.334.0200



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Final Agenda

State Board of Land Commissioners Regular Meeting
August 19, 2025–9:00 AM (MT)
State Capitol, Lincoln Auditorium (WW02), Lower Level, West Wing,
700 W. Jefferson St., Boise, Idaho

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The State Board of Land Commissioners will conduct this meeting in person and by virtual means. This meeting is open to the public. No public comment will be taken.

[Meeting will be streamed live via IPTV:](https://www.idahoptv.org/shows/idahoinsession/ww02)

<https://www.idahoptv.org/shows/idahoinsession/ww02>

[Register to attend the Zoom webinar:](https://idl.zoom.us/webinar/register/WN_RIS-3YsRT4aSV6gy0FhbPw)

https://idl.zoom.us/webinar/register/WN_RIS-3YsRT4aSV6gy0FhbPw

Reports

1. Department Reports—presented by Dustin Miller, Director
 - A. Timber Sales Revenue—July 2025
 - B. Leases/Permits Transactions and Revenue—July 2025
 - C. Fire Season Update
 - D. Land Revenue Forecast
 - E. Resource Protection and Assistance Report

Consent—Action Item(s)

2. July 2, 2025 Live Auction, Mineral Lease E600126—presented by Jason Laney, Section Manager-Leasing
3. Updated Strategic Plan FY2026-FY2029—presented by Dustin Miller, Director
4. Approval of Draft Minutes—July 15, 2025 Regular Meeting

Regular—Action Item(s)

5. Endowment Fund Investment Board—presented by Chris Anton, EFIB Manager of Investments
 - A. Manager's Report
 - B. Investment Report
 - C. FY2027 Beneficiary Distributions and Transfers

6. FY2027 Department of Lands Budget Enhancements—presented by Dustin Miller, Director

Information

7. Proposed Rule IDAPA 20.03.02, Rules Governing Mined Land Reclamation—presented by Andy Mork, Program Manager-Minerals Regulatory

Executive Session

None

This agenda is published pursuant to Idaho Code § 74-204. The agenda is subject to change by the Land Board. To arrange auxiliary aides or services for persons with disabilities, please contact Idaho Department of Lands at (208) 334-0200. Accommodation requests for auxiliary aides or services must be made no less than five working days in advance of the meeting. Agenda materials are available on [IDL's website](https://www.idl.idaho.gov) at <https://www.idl.idaho.gov/land-board/>.



Idaho Statutes

Idaho Statutes are updated to the website July 1 following the legislative session.

TITLE 74
TRANSPARENT AND ETHICAL GOVERNMENT
CHAPTER 2
OPEN MEETINGS LAW

74-206. EXECUTIVE SESSIONS – WHEN AUTHORIZED. (1) An executive session at which members of the public are excluded may be held, but only for the purposes and only in the manner set forth in this section. The motion to go into executive session shall identify the specific subsections of this section that authorize the executive session. There shall be a roll call vote on the motion and the vote shall be recorded in the minutes. An executive session shall be authorized by a two-thirds (2/3) vote of the governing body. An executive session may be held:

(a) To consider hiring a public officer, employee, staff member or individual agent, wherein the respective qualities of individuals are to be evaluated in order to fill a particular vacancy or need. This paragraph does not apply to filling a vacancy in an elective office or deliberations about staffing needs in general;

(b) To consider the evaluation, dismissal or disciplining of, or to hear complaints or charges brought against, a public officer, employee, staff member or individual agent, or public school student;

(c) To acquire an interest in real property not owned by a public agency;

(d) To consider records that are exempt from disclosure as provided in chapter 1, title 74, Idaho Code;

(e) To consider preliminary negotiations involving matters of trade or commerce in which the governing body is in competition with governing bodies in other states or nations;

(f) To communicate with legal counsel for the public agency to discuss the legal ramifications of and legal options for pending litigation, or controversies not yet being litigated but imminently likely to be litigated. The mere presence of legal counsel at an executive session does not satisfy this requirement;

(g) By the commission of pardons and parole, as provided by law;

(h) By the custody review board of the Idaho department of juvenile corrections, as provided by law;

(i) To engage in communications with a representative of the public agency's risk manager or insurance provider to discuss the adjustment of a pending claim or prevention of a claim imminently likely to be filed. The mere presence of a representative of the public agency's risk manager or insurance provider at an executive session does not satisfy this requirement; or

(j) To consider labor contract matters authorized under section 74-206A (1)(a) and (b), Idaho Code.

(2) The exceptions to the general policy in favor of open meetings stated in this section shall be narrowly construed. It shall be a violation of this chapter to change the subject within the executive session to one not identified within the motion to enter the executive session or to any topic for which an executive session is not provided.

(3) No executive session may be held for the purpose of taking any final action or making any final decision.

(4) If the governing board of a public school district, charter district, or public charter school has vacancies such that fewer than two-thirds (2/3) of board members have been seated, then the board may enter into executive session on a simple roll call majority vote.

History:

[74-206, added 2015, ch. 140, sec. 5, p. 371; am. 2015, ch. 271, sec. 1, p. 1125; am. 2018, ch. 169, sec. 25, p. 377; am. 2019, ch. 114, sec. 1, p. 439.]

STATE BOARD OF LAND COMMISSIONERS

August 19, 2025
Trust Land Revenue

Timber Sales

During July 2025, the Idaho Department of Lands (IDL) sold six endowment timber sales at auction. All endowment sales had competitive bidding. The net sale value represents a 35% increase over the appraised price. Two endowment timber sales did not sell at auction.

TIMBER SALE AUCTIONS

Sale Name	Area	Sawlog MBF	Cedar Prod MBF	Pulp MBF	Appraised Net Value	Sale Net Value	Net \$/MBF	Purchaser
Rising Sun Cedar	SJ	2,370			\$ 723,800.00	\$ 1,267,680.10	\$534.89	PotlatchDeltic
Deer Haven	SJ	7,780			\$1,514,580.50	\$ 2,879,665.00	\$370.14	PotlatchDeltic
Fangorn Forest Cedar	MC	5,275			\$2,443,745.50	\$ 2,738,750.00	\$519.19	Clearwater Paper
Southern Leonia Cedar	POL	4,290			\$2,238,757.00	\$ 2,454,209.00	\$572.08	Alta Forest Products
U2 Cedar	PL	2,930			\$ 762,236.50	\$ 1,088,567.50	\$371.52	IFG Timber LLC
Burnt Grouse Salvage Ton	PAY	4,140			\$ 337,314.16	\$ 397,207.15	\$95.94	Tamarack Mill, LLC
Endowment		26,785	0	0	\$8,020,433.66	\$10,826,078.75	\$404.18	

PROPOSED TIMBER SALES FOR AUCTION

Sale Name	Volume MBF	Advertised Net Value	Area	Scheduled Auction Date
North Operations				
Stick It	7,200	\$1,257,096.50	SJ	8/5/2025
Upper Thomas	6,495	\$1,446,468.50	MICA/CAT	8/12/2025
Not For Long	10,300	\$1,336,134.50	SJ	8/19/2025
Pizza Delivered Products	2,265	\$1,913,025.00	SJ	8/19/2025
Aldridge Cedar	7,570	\$2,278,152.00	POND	8/27/2025
Totals	33,830	\$8,230,876.50		
South Operations				
Benton Corner Cedar Salvage	2,230	\$724,038.50	CLWR	8/6/2025
Donner Ton	9,170	\$861,809.96	PAY	8/7/2025
Mirkwood	3,815	\$709,402.00	MC	8/18/2025
Thompson Creek Ton	8,570	\$276,016.80	EI	8/20/2025
Bannock Pine Ton	7,010	\$418,757.92	SWI	8/28/2025
Totals	30,795	\$2,990,025.18		

VOLUME UNDER CONTRACT as of JULY 31, 2025

	Public School	Pooled	Total	3 Year Avg.
Active Contracts			175	175
Total Residual MBF Equivalent	312,099	161,858	473,957	542,719
Estimated residual value	\$92,859,644	\$52,594,289	\$145,453,933	\$155,881,702
Residual Value (\$/MBF)	\$297.53	\$324.94	\$306.89	\$287.22

TIMBER HARVEST RECEIPTS

	JULY		FY TO DATE	AUGUST PROJECTED	
	Stumpage	Interest	Harvest Receipts	Stumpage	Interest
Public School	\$5,067,493.94	\$622,620.16	\$5,690,114.10	\$7,282,169.69	\$802,965.46
Pooled	\$2,723,639.95	\$285,294.16	\$3,008,934.11	\$5,308,463.52	\$421,150.21
General Fund	\$ -	\$ -	\$ -	\$ -	\$ -
TOTALS	\$7,791,133.89	\$907,914.32	\$8,699,048.21	\$12,590,633.21	\$1,224,115.67

STATUS OF FY2025 TIMBER SALE PROGRAM

	MBF Sawlog			Number Poles		
	Public School	Pooled	All Endowments	Public School	Pooled	All Endowments
Sold as of July 31, 2025	150,506	128,788	279,294	16,317	12,838	29,155
Currently Advertised	31,765	10,140	41,905	118	2,382	2,500
In Review	9	2,326	2,335	0	0	0
Did Not Sell*	4,775	0	4,775	0	0	0
TOTALS	187,055	141,254	328,309	16,435	15,220	31,655
FY2025 Sales Plan			328,000			20,000
Percent to Date			100%			158%

* After three attempts at auction.

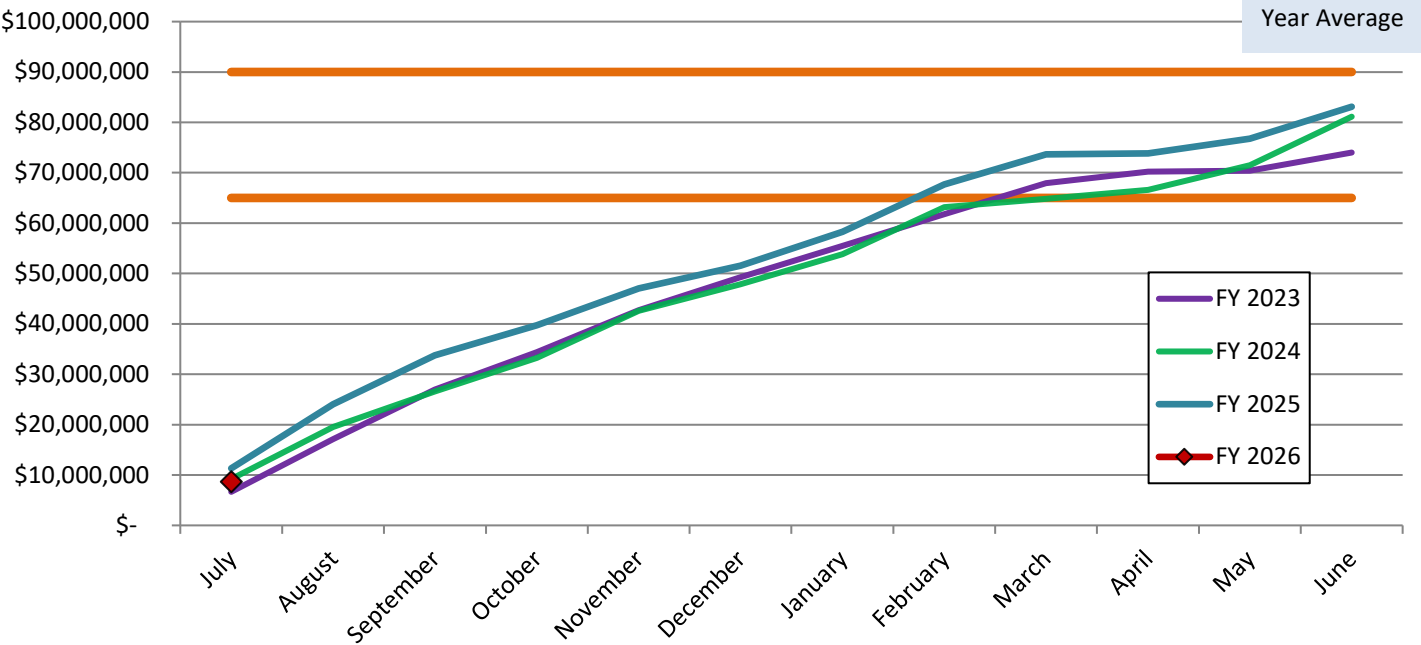
STATUS OF FY2026 TIMBER SALE PROGRAM

	MBF Sawlog			Number Poles		
	Public School	Pooled	All Endowments	Public School	Pooled	All Endowments
Sold as of July 31, 2025	611	5,964	6,575	108	492	600
Currently Advertised	10,417	12,818	23,235	3,110	70	3,180
In Review	40,394	4,281	44,675	8,771	0	8,771
Did Not Sell*	0	0	0	0	0	0
TOTALS	51,422	23,063	74,485	11,989	562	12,551
FY2026 Sales Plan			333,000			20,000
Percent to Date			22%			63%

* After three attempts at auction.

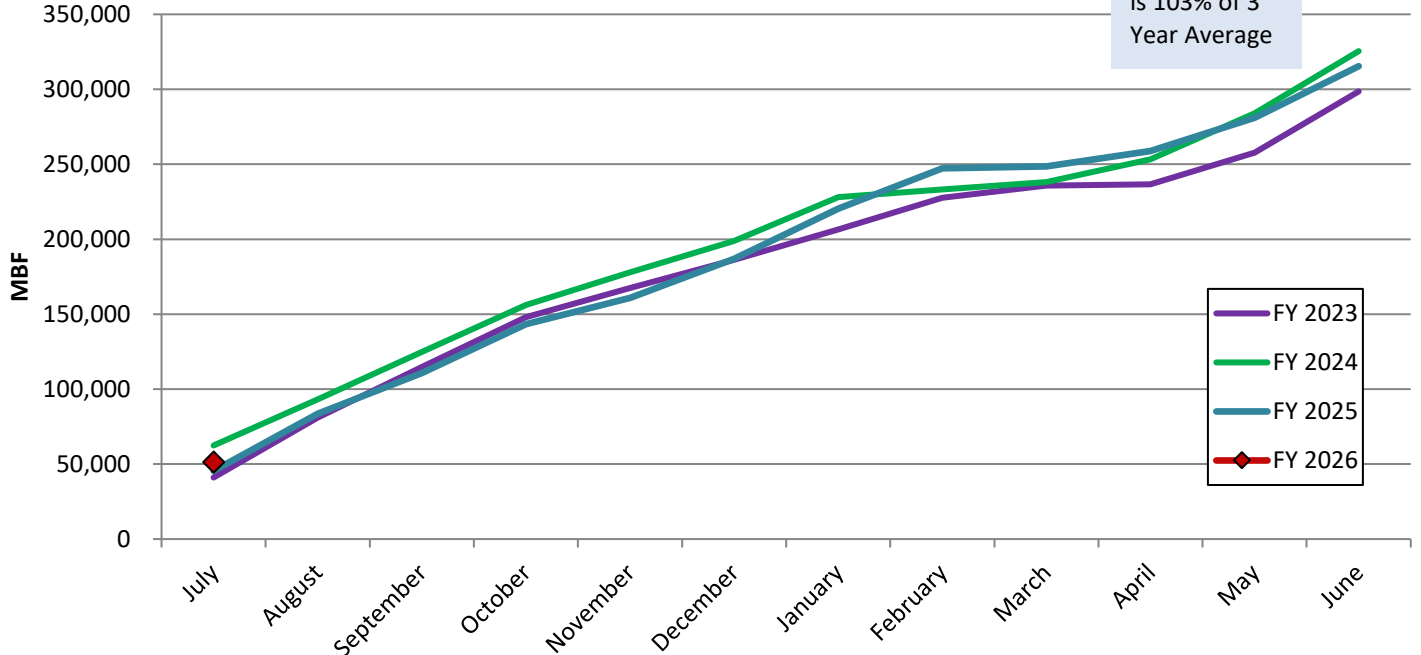
Cumulative Harvest Receipts

Current FYTD
is 96% of 3
Year Average

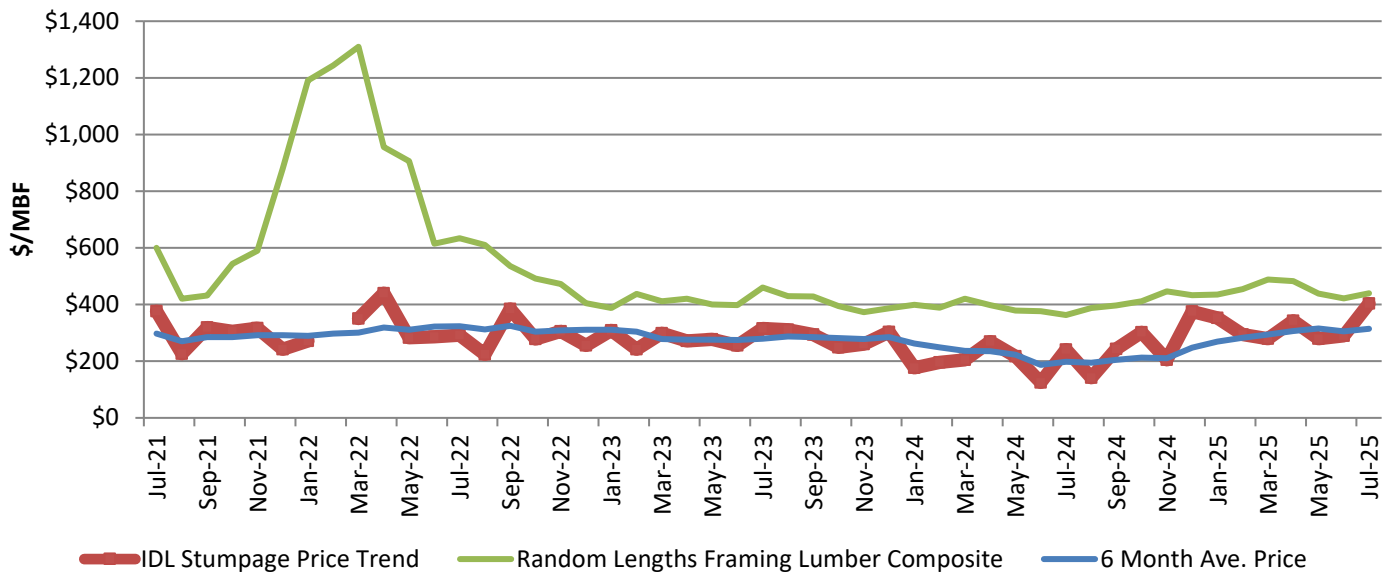


Cumulative Harvest Volume

Current FYTD
is 103% of 3
Year Average



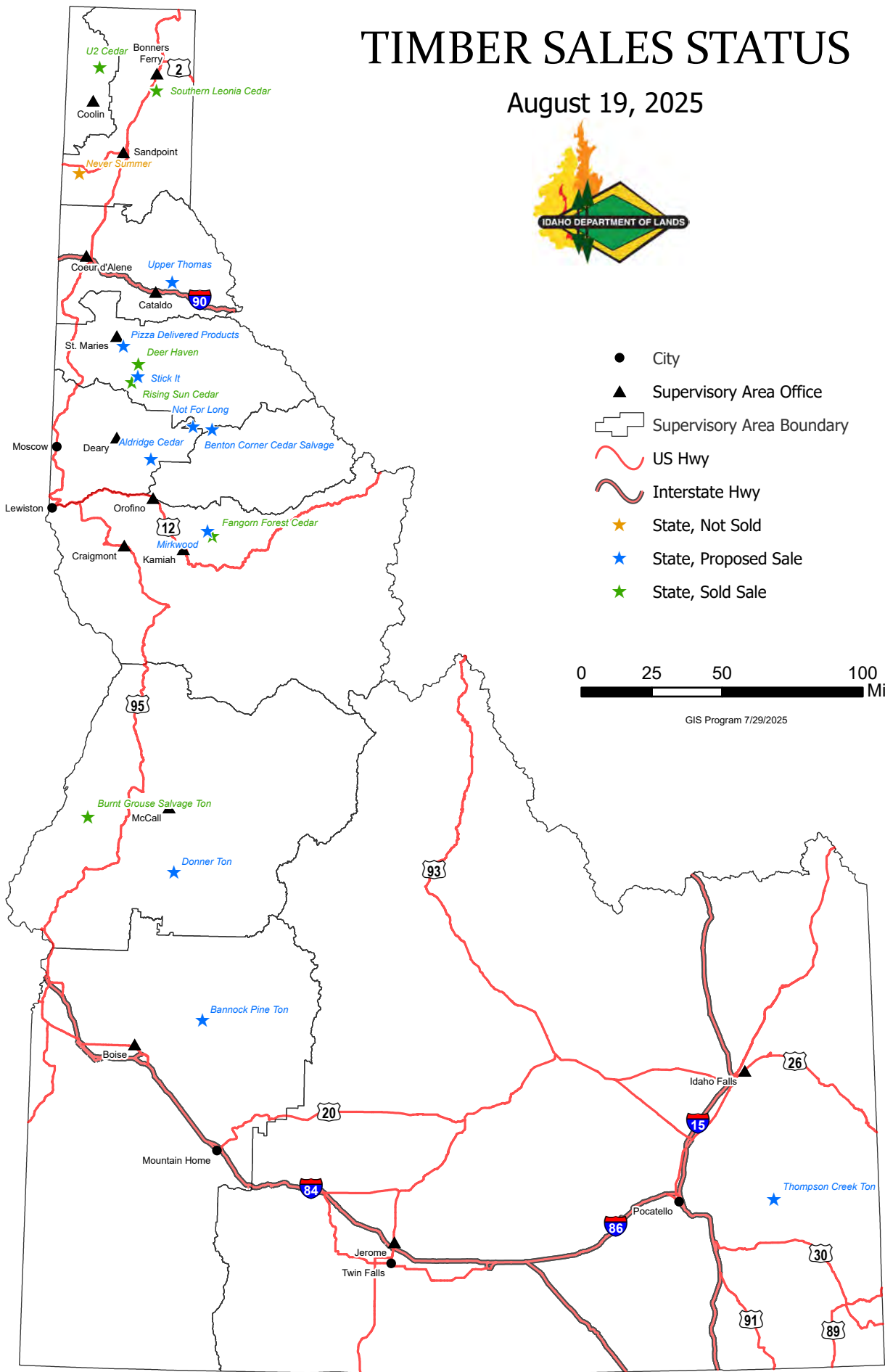
Monthly Lumber and Stumpage Prices and Six-Month Average Price Trends



July 2025 6-month average price is \$314.83.
July 2024 6-month average price was \$198.53.

TIMBER SALES STATUS

August 19, 2025



GIS Program 7/29/2025

STATE BOARD OF LAND COMMISSIONERS

August 19, 2025

Endowment Transactions

Leases and Permits

FISCAL YEAR 2026 – LEASING & PERMITTING TRANSACTIONS BY MONTH through July 31, 2025													
ACTIVITY	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	FYTD
SURFACE													
Agriculture	1	-	-	-	-	-	-	-	-	-	-	-	1
<i>Assignments</i>	-	-	-	-	-	-	-	-	-	-	-	-	0
Communication Sites	-	-	-	-	-	-	-	-	-	-	-	-	0
<i>Assignments</i>	-	-	-	-	-	-	-	-	-	-	-	-	0
Grazing	6	-	-	-	-	-	-	-	-	-	-	-	6
<i>Assignments</i>	1	-	-	-	-	-	-	-	-	-	-	-	1
Residential	-	-	-	-	-	-	-	-	-	-	-	-	0
<i>Assignments</i>	-	-	-	-	-	-	-	-	-	-	-	-	0
COMMERCIAL													
Alternative Energy	-	-	-	-	-	-	-	-	-	-	-	-	0
Industrial	1	-	-	-	-	-	-	-	-	-	-	-	1
Military	-	-	-	-	-	-	-	-	-	-	-	-	0
Office/Retail	-	-	-	-	-	-	-	-	-	-	-	-	0
Recreation	2	-	-	-	-	-	-	-	-	-	-	-	2
<i>Assignments</i>	-	-	-	-	-	-	-	-	-	-	-	-	0
OTHER													
Conservation	-	-	-	-	-	-	-	-	-	-	-	-	0
Geothermal	-	-	-	-	-	-	-	-	-	-	-	-	0
Minerals	2	-	-	-	-	-	-	-	-	-	-	-	2
<i>Assignments</i>	-	-	-	-	-	-	-	-	-	-	-	-	0
Non-Comm Recreation	-	-	-	-	-	-	-	-	-	-	-	-	0
Oil & Gas	-	-	-	-	-	-	-	-	-	-	-	-	0
PERMITS													
Land Use Permits	3	-	-	-	-	-	-	-	-	-	-	-	3
TOTAL INSTRUMENTS	16	0	0	0	0	0	0	0	0	0	0	0	16

Real Estate

FISCAL YEAR 2026– REAL ESTATE TRANSACTIONS BY MONTH through July 31, 2025													
ACTIVITY	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	FYTD
Deeds Acquired	-	-	-	-	-	-	-	-	-	-	-	-	0
Deeds Granted	-	-	-	-	-	-	-	-	-	-	-	-	0
Deeds Granted–Surplus	-	-	-	-	-	-	-	-	-	-	-	-	0
Easements Granted	1	-	-	-	-	-	-	-	-	-	-	-	1
Easements Acquired	1	-	-	-	-	-	-	-	-	-	-	-	1
Easements Assigned	1	-	-	-	-	-	-	-	-	-	-	-	1
Notes : –AE200107-Easement Acquired from Stimson Lumber Company as a reciprocal easement to ES200106 for fee of \$3,630.00. Road Use through Pend Oreille. –ES200106-Easement Granted to Stimson Lumber Company as a reciprocal easement to AE200107 for a fee of \$3,450.00. Road use through Pend Oreille. –ES6425-Assigned Easement from Robert Reinek to Pat Gwendoly Shell.													

TRUST LAND MANAGEMENT DIVISION
FY2026 GROSS REVENUE (non-timber) - ACTUAL AND FORECASTED
through July 31, 2025

	REVENUE YTD AS OF 07.31.2025	REVENUE EXPECTED BY 07.31.2025*	REVENUE EXPECTED BY 06.30.2026
SURFACE			
AGRICULTURE	\$ 97,598	\$ -	\$ 498,309
COMMUNICATION SITES	\$ 7,269	\$ -	\$ 1,150,000
GRAZING	\$ 13,869	\$ 12,526	\$ 2,344,734
RESIDENTIAL LEASES	\$ 38,765	\$ -	\$ 1,293,052
COMMERCIAL			
COMMERCIAL ENERGY RESOURCES	\$ -	\$ -	\$ 421,000
COMMERCIAL INDUSTRIAL	\$ -	\$ -	\$ 160,000
COMMERCIAL MILITARY FACILITIES	\$ -	\$ -	\$ 125,000
COMMERCIAL OFFICE/RETAIL LEASES	\$ 74,946	\$ 25,000	\$ 1,050,000
COMMERCIAL RECREATION	\$ 16,986	\$ 15,000	\$ 1,250,000
OTHER			
CONSERVATION LEASES	\$ 250	\$ -	\$ 105,741
GEOTHERMAL	\$ -	\$ -	\$ 5,072
MINERAL LEASES	\$ 1,520	\$ -	\$ 295,573
OIL AND GAS LEASES	\$ 60	\$ -	\$ 4,148
Sub Total	\$ 251,264	\$ 52,526	\$ 8,702,628
REAL ESTATE SERVICES (ER)	\$ -	**	
Grand Total - Earnings Reserve	\$ 251,264		

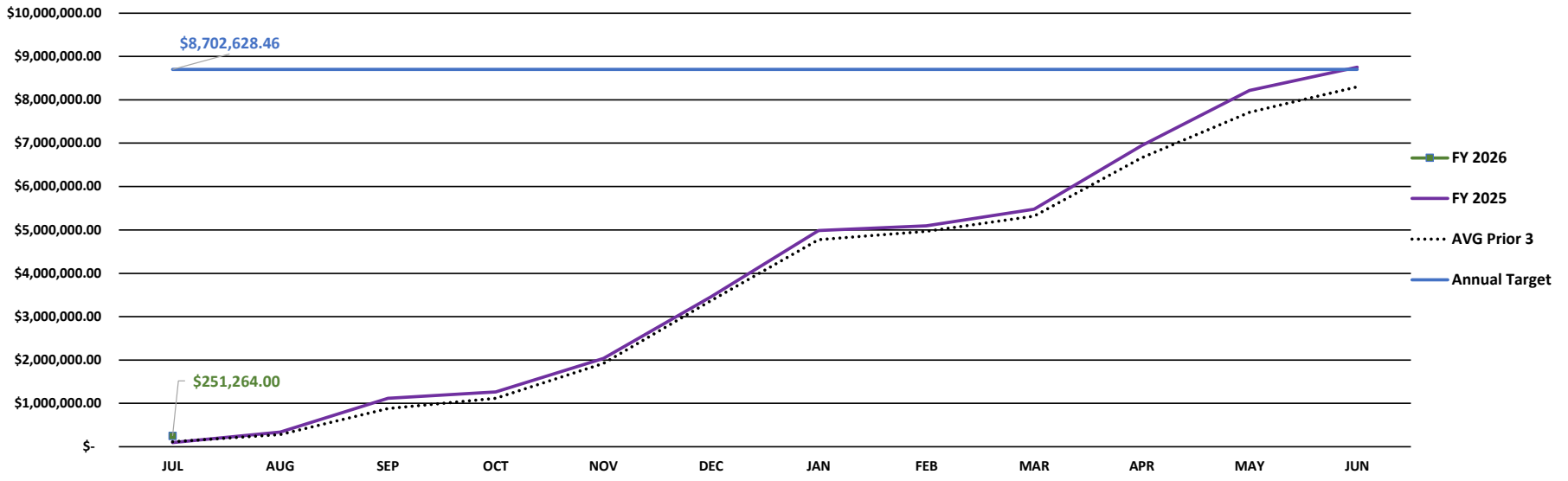
PERMANENT FUND REVENUE	
MINERALS (PF)	\$ 301,947 ***

*These figures are based on historic timing of revenue/billing as well as estimates of upcoming lease and permit revenue.

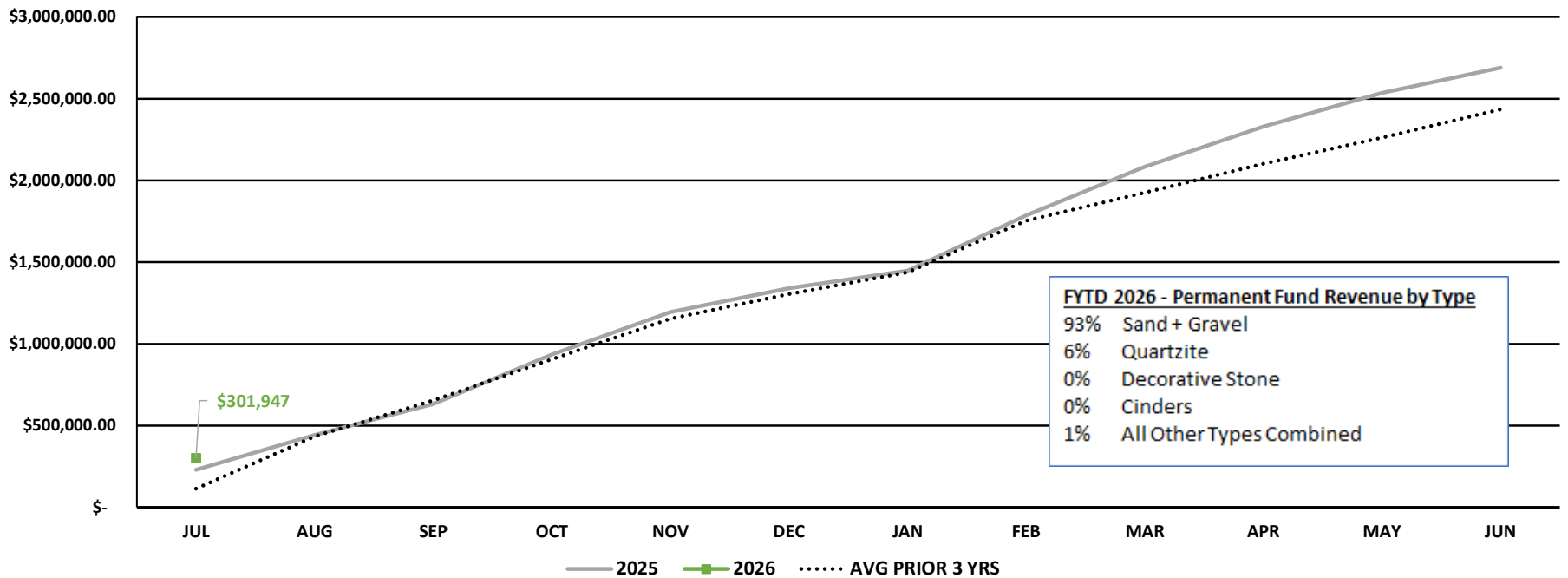
** This category is not included in the annual forecast.

***This category is not included in the annual forecast and represents minerals revenue to the permanent fund.

Cumulative Trust Land Program Receipts
Earnings Reserve - All Programs Excluding Timber
FYTD 2026



Trust Land Permanent Fund Revenue & Royalties (Excluding Land Bank and Timber Program) FYTD 2026



STATE BOARD OF LAND COMMISSIONERS

August 19, 2025
Department Report

Subject

Fire Season Update

Background

As of August 12, Emergency Fire Suppression expenditures are estimated to be \$18,604,500. The suppression account will recover an estimated \$4,714,000 of reimbursable costs, for a net obligation of \$13,890,500. The total obligation includes the 2025 contracted aircraft costs and prepositioned contract engines to assist with a lack of qualified engine bosses. These engines will be assigned across the state to boost initial attack resources.

Fire Season Comparison to Date

Number and Size of Fires (Year to Date)

Year	Human	Lightning	Total	Acres
2021	173	109	282	115,970
2022	75	27	102	421
2023*	152	46	198	1,969
2024*	149	94	243	23,572
2025*	196	82	278	1,382
20-Yr. Average (2002-2022)			166	18,434

*2024 and 2025 fires are calculated using the protection boundaries of the new Idaho Master Agreement which has increased the area in which IDL is the protecting agency. Therefore, there is an inconsistency between earlier numbers and 20-year averages.

During July, there was below normal precipitation for the northern half of Idaho with Southern Idaho receiving above average precipitation. Precipitation was spotty as different bands of storms moved across the state. July saw a significant increase in fire quantity, however, due to periodic rainfall, fire sizes were kept in check. As August progresses, short duration benefits from rainfall will be lost and more seasonal fire behavior is expected.

Stage 1 restrictions are in place for portions of south-central and east Idaho.

Significant Idaho Fires Outside of IDL Protection

Lightning Creek Fire

Agency/Management: Idaho Panhandle (USFS)

General Location: 20 miles east of Sandpoint, ID

Acres Burned: 2,461 acres, 0 percent containment

Big Bear Fire

Agency/Management: Payette National Forest (USFS)

General Location: 60 miles northeast of McCall, ID

Acres Burned: 14,935 acres, 70 percent complete

Rush Fire

Agency/Management: Payette National Forest (USFS)

General Location: 45 miles east of Salmon, ID

Acres Burned: 7,392 acres, 90 percent containment

Total Acres Burned by Ownership as of 8/12/2025

Surface Owner	Acres
Bureau of Land Management	68,143
U.S. Forest Service	26,805
Other Federal	8,023
Tribal	1,236
Private	10,621
State Endowment	6,268
Other State	208
Total Acres	121,304

Only fires with perimeters in the Fire Enterprise Geospatial Portal have been included in the analysis.

Fire Deficiency Warrant Spending—2025 Fire Season YTD

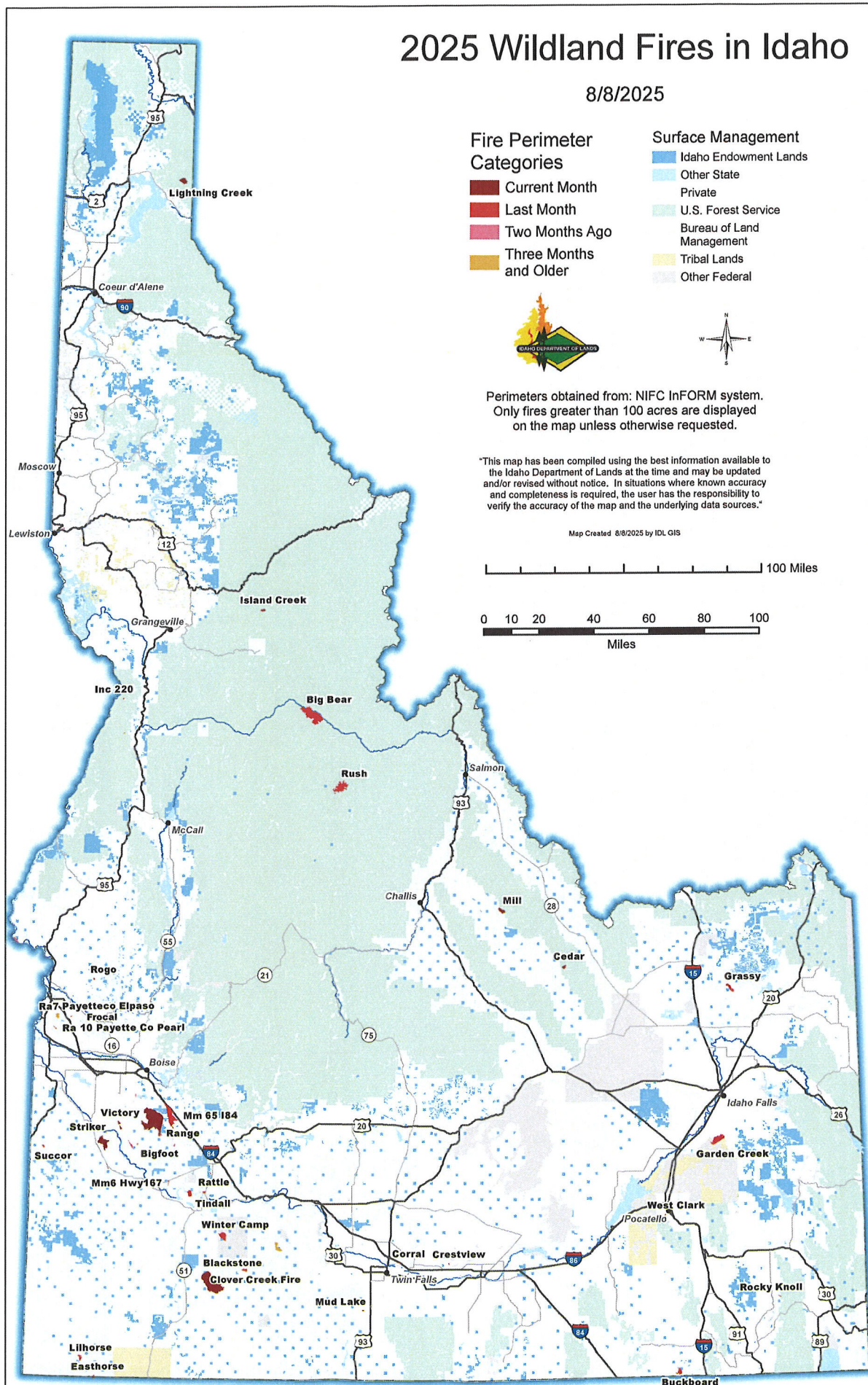
Category	Estimated Costs	Notes
Aviation Resources	\$3,500,000	4 SEATS, 4 Single Engine Water Scooper (Fire Boss), 1 Type 1 UH-60 Blackhawk
Prepositioned Engines	\$1,012,500	5 Type 6 Exclusive Use Contract Engines July 14-Sept. 15 (45 days guaranteed)
IDL Non-Team Fires	\$4,316,000	IDL/Assn fires including pre-positioning. Based on estimates and actuals.
IDL Team Fires	\$4,350,000	Nettleton Gulch (T3@MIS); Cherry (T3@PDS)
Other Suppression/Non-reimbursable	\$712,000	Coeur d'Alene Cache: incoming and outgoing supplies not yet billed; Dispatch/Bureau cost when supporting multiple incidents.
Other Suppression/Reimbursable	\$4,714,000	Reimbursable—IDL and Fire Department resources supporting non-IDL fires.
Total Estimate YTD	\$18,604,500	Does not include Cost Share Fires which will be reported in October.

Attachments

1. Map—Wildland Fires
2. Map—Fire Restrictions

2025 Wildland Fires in Idaho

8/8/2025



Idaho Fire Restrictions

8/8/2025

Restriction Stage

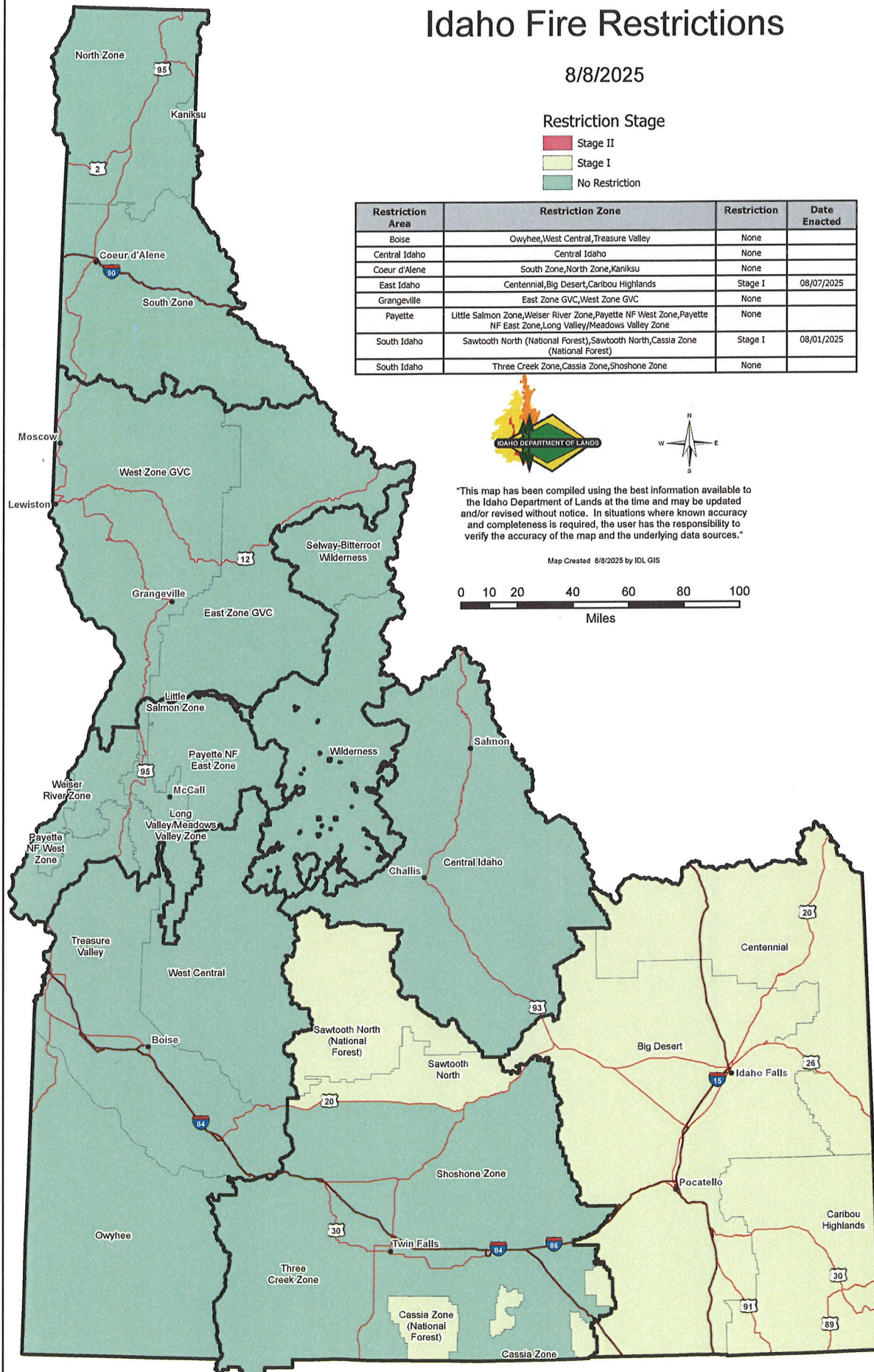
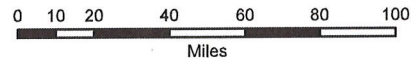
- Stage II
- Stage I
- No Restriction

Restriction Area	Restriction Zone	Restriction	Date Enacted
Boise	Owyhee, West Central, Treasure Valley	None	
Central Idaho	Central Idaho	None	
Coeur d'Alene	South Zone, North Zone, Kaniksu	None	
East Idaho	Centennial, Big Desert, Caribou Highlands	Stage I	08/07/2025
Grangeville	East Zone GVC, West Zone GVC	None	
Payette	Little Salmon Zone, Weiser River Zone, Payette NF West Zone, Payette NF East Zone, Long Valley/Meadows Valley Zone	None	
South Idaho	Sawtooth North (National Forest), Sawtooth North, Cassia Zone (National Forest)	Stage I	08/01/2025
South Idaho	Three Creek Zone, Cassia Zone, Shoshone Zone	None	



"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."

Map Created 8/8/2025 by IDL GIS



STATE BOARD OF LAND COMMISSIONERS

August 19, 2025
Department Report

Subject

Land Revenue Forecast

Background

The Idaho Department of Lands (Department) provides a revenue forecast showing a range of expected revenue by endowment over the next four fiscal years based on predicted levels of operations, prices of existing timber sales under contract, changes in lease income, and agency expenditures every year. The four-year net income forecast table is provided as Attachment 1.

The income range shown is chiefly due to variability in timber markets and the duration of timber sale contracts. Leasing returns are relatively stable from year to year; however, leasing revenue has declined in recent years due to the sale of residential and commercial real estate. Predicting premium bids for advertised or conflicted leases has not been modeled as they are not as prevalent as timber sale auctions and cover a wide variety of activities. Potential exists within and beyond this forecast period to see increases in revenue from commercial ground leases due to development of State Board of Land Commissioners' (Land Board) policies for these activities.

Discussion

The Department's gross land management revenue for FY2025 was \$91.77 million, approximately \$1.7 million more than FY2024 and \$11.48 million more than the 10-year average. Gross revenue forecasts compared to actual returns are provided as Attachment 2.

The Department's net land management income was over \$62.62 million in FY2025, approximately \$3.52 million more than FY2024 and \$10.03 million above than the 10-year average. Net income forecasts compared to actual returns are provided as Attachment 3.

The timberland asset class accounted for approximately 92.25% of the total gross land management revenue and about 96.03% of the total net income from land management in FY2025. Monte Carlo simulation is used to predict timber revenue based on the past ten-year stumpage price and harvest level volatility around the Forest Asset Management Plan volume of 328 MMBF reached in FY2024.

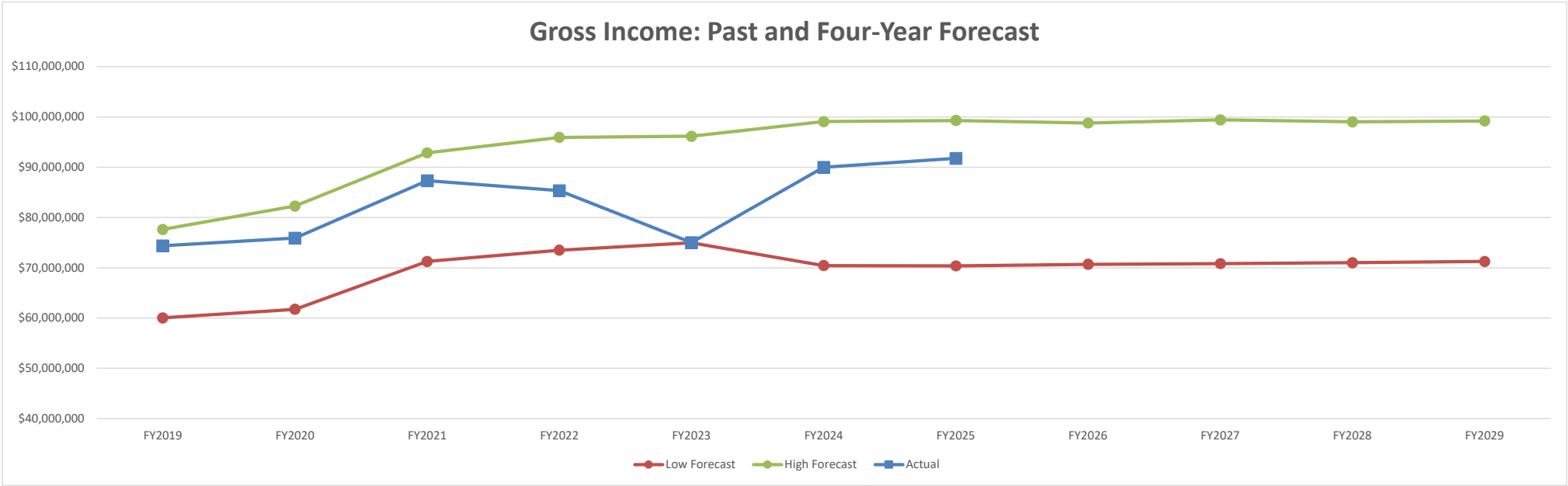
Attachments

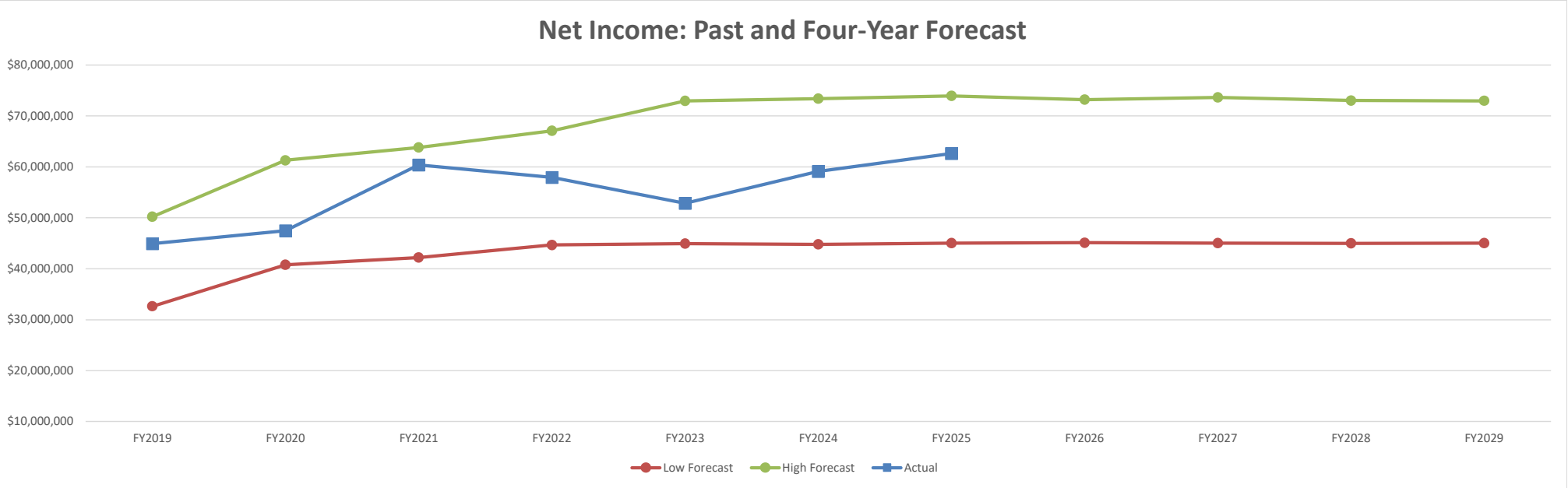
1. Four-Year Net Income Forecast Table (by Endowment)
2. Gross Revenue: Past and Four-Year Forecast Graph
3. Net Income: Past and Four-Year Forecast Graph

Four-Year Net Income Forecast

Fiscal Year	Net Income	Public School	Ag College	Charitable Institutions	Normal School	Penitentiary	School of Science	State Hospital South	University	Capitol*	Total
2026	Low	\$ 32,462,763	\$ 666,269	\$ 2,766,047	\$ 1,972,576	\$ 1,188,150	\$ 2,786,151	\$ 1,412,163	\$ 1,866,736	\$ -	\$ 45,120,855
	High	\$ 52,680,664	\$ 1,081,223	\$ 4,488,749	\$ 3,201,103	\$ 1,928,133	\$ 4,521,374	\$ 2,291,662	\$ 3,029,344	\$ -	\$ 73,222,251
2027	Low	\$ 32,403,685	\$ 665,056	\$ 2,761,013	\$ 1,968,987	\$ 1,185,988	\$ 2,781,081	\$ 1,409,593	\$ 1,863,338	\$ -	\$ 45,038,741
	High	\$ 52,980,229	\$ 1,087,371	\$ 4,514,274	\$ 3,219,305	\$ 1,939,097	\$ 4,547,084	\$ 2,304,694	\$ 3,046,570	\$ -	\$ 73,638,624
2028	Low	\$ 32,376,221	\$ 664,493	\$ 2,758,673	\$ 1,967,318	\$ 1,184,982	\$ 2,778,723	\$ 1,408,399	\$ 1,861,759	\$ -	\$ 45,000,568
	High	\$ 52,534,916	\$ 1,078,232	\$ 4,476,330	\$ 3,192,246	\$ 1,922,799	\$ 4,508,865	\$ 2,285,322	\$ 3,020,963	\$ -	\$ 73,019,672
2029	Low	\$ 32,395,024.50	\$ 664,879	\$ 2,760,275	\$ 1,968,460	\$ 1,185,671	\$ 2,780,337	\$ 1,409,216	\$ 1,862,840	\$ -	\$ 45,026,703
	High	\$ 52,506,211	\$ 1,077,642.70	\$ 4,473,884	\$ 3,190,502.04	\$ 1,921,748	\$ 4,506,401	\$ 2,284,074	\$ 3,019,312	\$ -	\$ 72,979,774

*Capitol revenue accrues to the permanent fund rather than the reserve.





STATE BOARD OF LAND COMMISSIONERS

August 19, 2025

Resource Protection and Assistance Bureau Biannual Report

The Resource Protection and Assistance (RPA) Bureau houses the non-endowment regulatory functions within the Division of Minerals, Navigable Waterways, and Oil and Gas.

Navigable Waterways Program

The Navigable Waterways Program administers encroachment permits, submerged lands leases, easements, and disclaimers of interest. The Navigable Waterways Program is self-supported through a dedicated account.

INSTRUMENT ACTIVITY - Instruments issued FY17 through FY25:

Table 1: Navigable Waterways Historical Instrument Numbers									
Instrument Type	2017	2018	2019	2020	2021	2022	2023	2024	2025
Encroachment Permits Issued	289	338	412	383	542	425	384	297	430
Active Submerged Land Leases	192	180	172	179	176	153	196	194	181
New Submerged Land Leases	8	36	48	24	17	6	39	14	5
Active Riverbed Mineral Leases	2	2	2	3	1	1	1	1	1
New Riverbed Mineral Leases	0	0	0	0	0	0	0	0	0
Active Exploration Locations	3	4	2	3	5	2	2	0	0
New Exploration Locations	1	2	4	0	0	1	0	0	0
New Submerged Land Easements	6	2	3	2	3	6	4	12	4
New Disclaimers of Interest	1	3	0	1	2	2	5	10	10

PAST 6-MONTH HIGHLIGHTS

- **Negotiated Rulemaking.** IDL finished negotiated rulemaking for IDAPA 20.03.04. IDL held eight public meetings in total and generated 42 written comments on the draft rule. IDL incorporated minor changes to the rule based on comments and eliminated 1,369 words from the existing rule.
- **Administrative Hearings.** Between January 1, 2025, and June 30, 2025, IDL ordered two public hearings and one contested case hearing on encroachment permit applications. One public hearing application was withdrawn, and no hearing was held. The other public hearing resulted in approval of the application. For the contested case application, the objector withdrew their objection, and the application was approved by IDL.

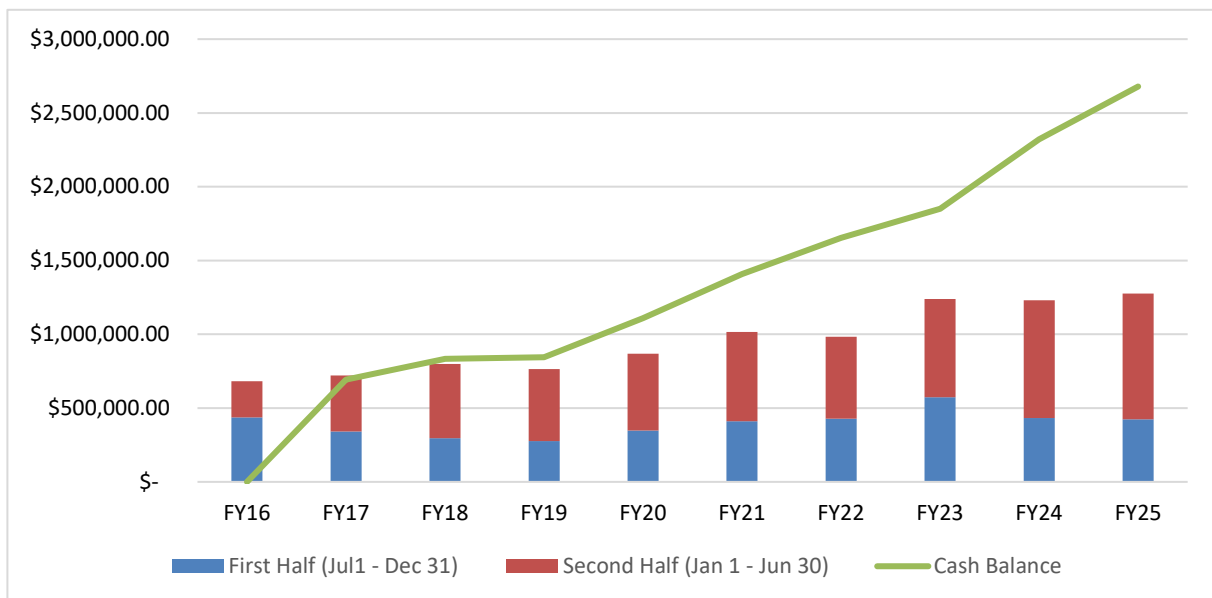
NEXT 6 MONTHS

- **Proposed Rulemaking.** IDL will publish a proposed rule for IDAPA 20.03.04 in the Idaho Administrative Bulletin on September 3, 2025. This will initiate a 21-day comment period. The pending rule is scheduled to go before the Land Board in October 2025.

FINANCIAL UPDATE

- IDL generated \$1,275,680 from navigable waterways in FY25. The dedicated fund for this program exceeded \$2.6 million as shown in Figure 1.

Figure 1: Navigable Waterways Program Revenue and Cash Balance



Regulatory Minerals Program

The Regulatory Minerals Program administers surface mining reclamation plans, dredge and placer permits and abandoned mine land projects. The Regulatory Minerals Program is supported through a mix of general and dedicated fund sources.

PAST 6-MONTH HIGHLIGHTS

- **Negotiated Rulemaking** IDL completed negotiated rulemaking for IDAPA 20.03.02. IDL held eleven public meetings that generated 66 written comments on the draft rule. IDL incorporated minor changes to the rule based on comments, decreased the word count by 394 words, and eliminated 63 restrictive words.

- **Large Metallic Mine Review**

- Perpetua Resources– IDL completed review of the Reclamation Plan and Cyanidation Facility Permanent Closure Plan applications in April 2025. Both applications were approved with conditions. One outstanding condition is IDL approval of the construction phase reclamation bond amount. The initial three-year construction phase is the only phase approved at this time. No mining or milling will be performed, and no cyanide product is permitted onsite in any form during the construction phase. Constructing startup is scheduled for Q3 2025.
- Centerra Gold - Thompson Creek Molybdenum Mine, Custer County: IDL approved the revised Phase 8 Reclamation Plan in December 2024. Thompson Creek is currently performing pit dewatering in advance of mining; pre-stripping activities to expose the Phase 8 orebody; mine fleet overhaul; and mill refurbishing. Mine and mill startup is anticipated for Q2 2026.
- Integra Resources - DeLamar Mine, Owyhee County: NEPA permitting continues for this mine. Issuance of the Final Environmental Impact Statement (FEIS) and Record of Decision is anticipated in 2027. A Mine Plan of Operations was issued on July 21, 2025. Comments on this submittal will be issued upon completion of a Memorandum of Understanding with BLM.
- Liberty Gold - Black Pine Mine, Cassia County: Liberty enters the preliminary stages of mine planning and is proactive in coordinating with state and federal agencies. A Memo of Understanding (MOU) was recently signed by IDL, along with cooperators USFS, BLM, IDEQ, and OEMR The Mine Plan of Operations is expected in Q4 2025.

- **Phosphate Mine Review**

- Caldwell Canyon Mine, P4/Bayer Corp. Caribou County: Ore production from the Caldwell Canyon Mine is on hold while Bayer prepares a revised FEIS reflecting additional sage grouse habitat analysis. Bayer anticipates startup in 2028.
- North Rassmussen Mine, Itafos, Caribou County: Mining on Endowment land is complete and follow-on reclamation is in the monitoring phase on the mine panel that was mined and reclaimed. IDL has completed negotiation with Itafos for subsequent reclamation efforts.

In September 2024, IDL and Itafos staff performed a site inspection of the Endowment land parcel to observe the status of reclaimed ground. As a result of the inspection, Itafos and IDL negotiated a supplemental reclamation bond for future work in the amount of \$1,127,806. IDL received the Surety note in January 2025.

LOOKING FORWARD

- **Proposed Rulemaking.** The proposed rule will be published in the Idaho Administrative Bulletin on October 1st. A public hearing will be conducted on October 7th to capture written and verbal comments. The pending rule will go before the Land Board on November 18th 2025 and then forwarded to the Office of Administrative Rules Coordinator in January 7th 2026 for consideration by the 2026 Legislature.
- IDL will continue to coordinate with Integra for the DeLamar Mine and Liberty Gold on the Black Pine Mine as these properties continue through the NEPA process. Anticipated tasks include review of draft Mine Plan of Operations and selected resource reports included in the Draft Environmental Impact Statement. Formal IDL engagement will commence upon receipt of Reclamation Plans and Cyanidation Facility Permanent Closure Plans from the two proposed mines.

TOTAL PERMITS AND BONDING

IDL currently administers 1,579 mine sites covered by reclamation plans and 28 covered by dredge and placer permits. The mines are presented in Table 2 by category, and Table 3 illustrates historical plan numbers.

Table 2: Current Mine Permit Categories			
Sand and Gravel Mines (IDAPA 20.03.02.069)	Hardrock, Phosphate & Complex Industrial (IDAPA 20.03.02.070)	Cyanidation Mines (IDAPA 20.03.02.071)	Dredge and Placer Permits (IDAPA 20.03.01)
1548	31	1	28

Table 3: Regulatory Minerals Historical Instrument Numbers										
Instrument Type	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
Mined Land Reclamation										
New Reclamation Plans	36	24	18	28	17	10	10	29	33	31
Retirements	36	15	22	9	13	7	14	20	43	35
Total Reclamation Plans	1,530	1,542	1,540	1,561	1,580	1,574	1,545	1,571	1,571	1579
Dredge and Placer										
New/Amended Permits	3	3	1	2	0	1	2	0	0	0
Retirements	-	2	0	1	0	0	0	3	1	1
Total Permits	25	26	27	28	28	29	31	28	27	28

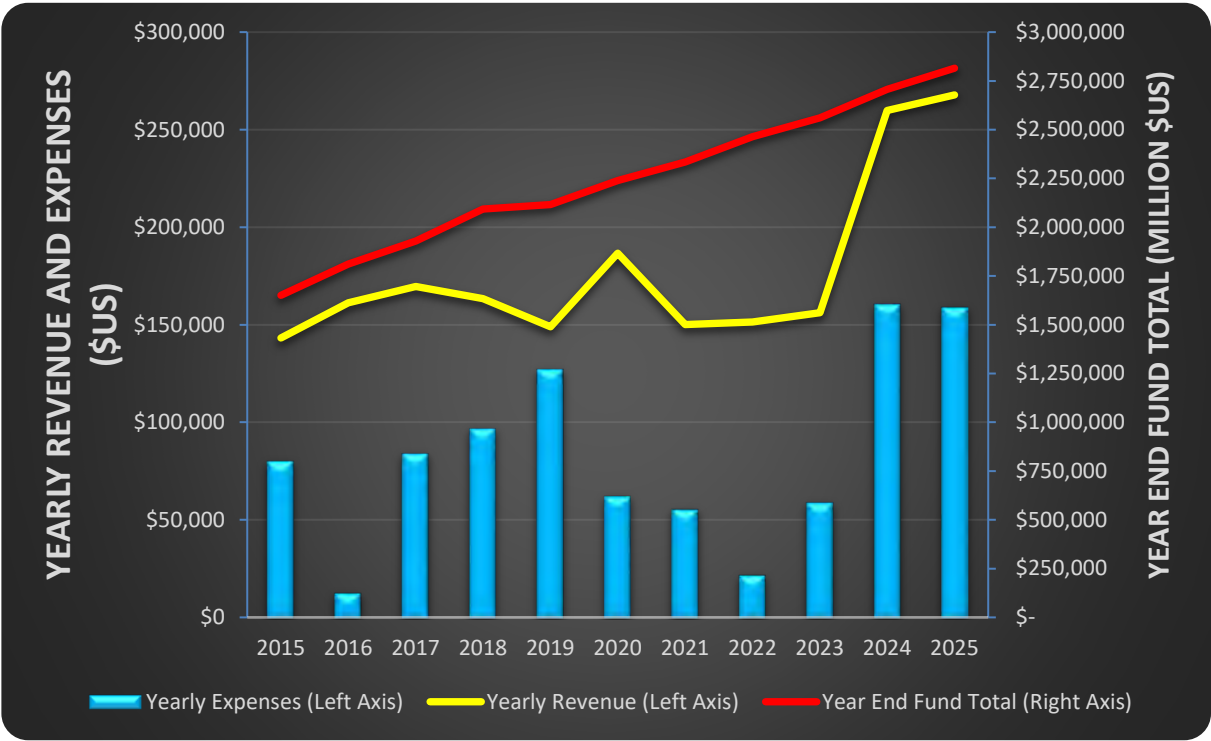
Mine operators are eligible to provide bonding through traditional methods or the Bond Assurance Fund (BAF). Tables 4 and 5 list the acres and bond amounts currently in place for different types of mining operations. Created in 2006, the BAF provides a reclamation bonding option for small operators on private and state lands. Table 6 has details from the FY25 BAF billing. Figure 2 illustrates the revenue, expenditure, and balance for this fund.

Table 4: Bonding for Sand and Gravel, Simple Industrial Minerals, and Placer Permits								
	Reclamation Plans (IDAPA 20.03.02.069)				Dredge and Placer Permits (IDAPA 20.03.01)			
	Plans	Permitted Acres	Total Bond	Bond/Acre	Permits	Affected Acres	Total Bond	Bond/Acre
Traditional Bond ¹	338	45,701	\$21 Million	\$460	28	1213	\$232K	\$191
Bond Assurance Fund	612	27,472	n/a	n/a	5	166	n/a	n/a
¹ Surety Bond, Letter of Credit, Certificate of Deposit, or Cash								

Table 5: Bonding for Hardrock, Phosphate & Complex Industrial Minerals				
	Reclamation Plans (IDAPA 20.03.02.070)			
	Permits	Permitted Acres	Total Bond	Bond/Acre
Traditional Bond ¹	31	22,029	\$224 Million	\$10,168
¹ Surety Bond, Letter of Credit, Certificate of Deposit, or Cash				

Table 6: Bond Assurance Fund Billing (FY25)			
Disturbance (ACRES)	Annual Fee Schedule (\$)	Total Permits Distribution	Total Annual Fees Due (\$)
2 acres or less	\$100	149	\$14,900
> 2 acres ≤ 5 acres	\$200	150	\$30,400
> 5 acres ≤ 10 acres	\$250	140	\$35,000
> 10 acres ≤ 15 acres	\$300	56	\$16,800
> 15 acres ≤ 20 acres	\$350	41	\$14,350
> 20 acres ≤ 25 acres	\$400	28	\$11,200
> 25 acres ≤ 30 acres	\$450	23	\$10,350
> 30 acres ≤ 35 acres	\$500	6	\$3,000
> 35 acres ≤ 40 acres	\$550	18	\$9,900
40 Acres	\$600	1	\$600
TOTAL		612	\$146,500

Figure 2: Bond Assurance Fund - Revenue, Expenditure, and Fund Balance; Aug 2025

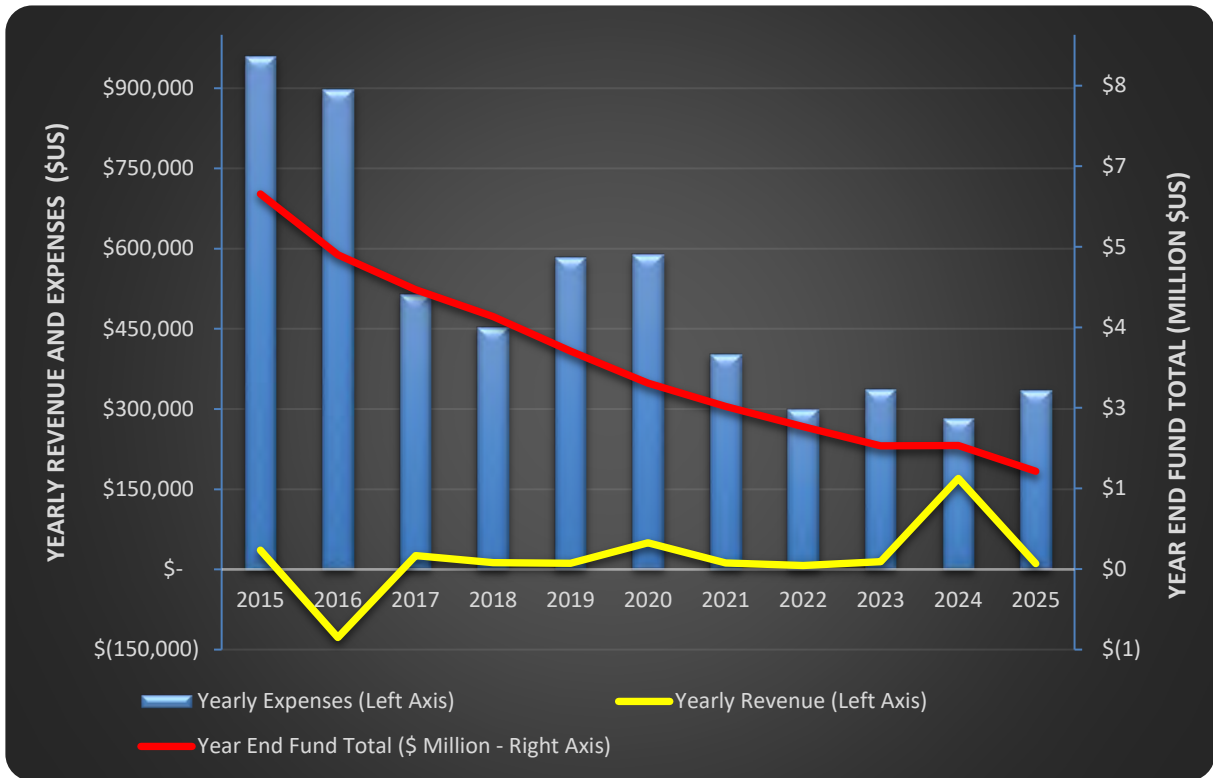


ABANDONED MINE LANDS

The abandoned mine lands (AML) program is funded by receiving 50% of Idaho's Mine License Tax, a 1% net tax of Idaho's mining industry (excluding sand and gravel as described in Idaho Code § 47-1205). IDL's share of income for FY25 was \$10,977.34. Table 7 lists the projects worked on in FY25. Figure 3 illustrates the revenue, expenditure, and balance for this fund.

Table 7: Abandoned Mine Lands Projects FY25	
Project Name	Project Description
Triumph Mine	Ground- and surface water sampling, ground water modeling, mine water infiltration bed design
Idaho Geological Survey	AML information compilation and digitization.

Figure 3: AML Fund - Revenue, Expenditure, and Fund Balance; Aug 2025



STATE BOARD OF LAND COMMISSIONERS

August 19, 2025

Consent Agenda

Subject

Mineral Lease Live Auction—July 2, 2025

Question Presented

Shall the Land Board direct the Department to award a mineral lease to the high bidder at the live auction?

Background

The Idaho Department of Lands (Department) received an application for a sand and gravel mineral lease on a 120-acre parcel of School of Science endowment land located approximately 5 miles northeast of Emmett, Idaho in Gem County. Site maps are included as Attachment 1.

Pursuant to Idaho statute and Department procedure, the public auction was advertised and held to determine the high bidder for the lease. Auction participants were required to register for the live auction one week prior to the auction date. Department staff conducted the live auction.

Discussion

For the purpose of securing a single lessee for the mineral lease, a live auction was held on July 2, 2025, at the Department's Southwest Area office in Boise. Desert View, LLC submitted the successful premium bid of \$1,000 for mineral lease E600126. Haw Creek Ranch, Inc. also registered for the auction. The lease includes a 10-year term for the extraction of sand and gravel, including annual rent of \$320.00 (\$3.00 per acre); a minimum annual royalty payment of \$2,500.00; and a royalty rate of \$1.05/short ton. Attachment 2 summarizes the results of the live auction.

Idaho Code § 58-310(4) provides that the State Board of Land Commissioners (Land Board) has the right to reject any bid made at a live auction where fraud or collusion are present, or for any reason, all within the sole discretion of the Land Board. The Department completed the lease auction process in accordance with existing statute and procedures and did not observe any indication of fraud or collusion related to this process.

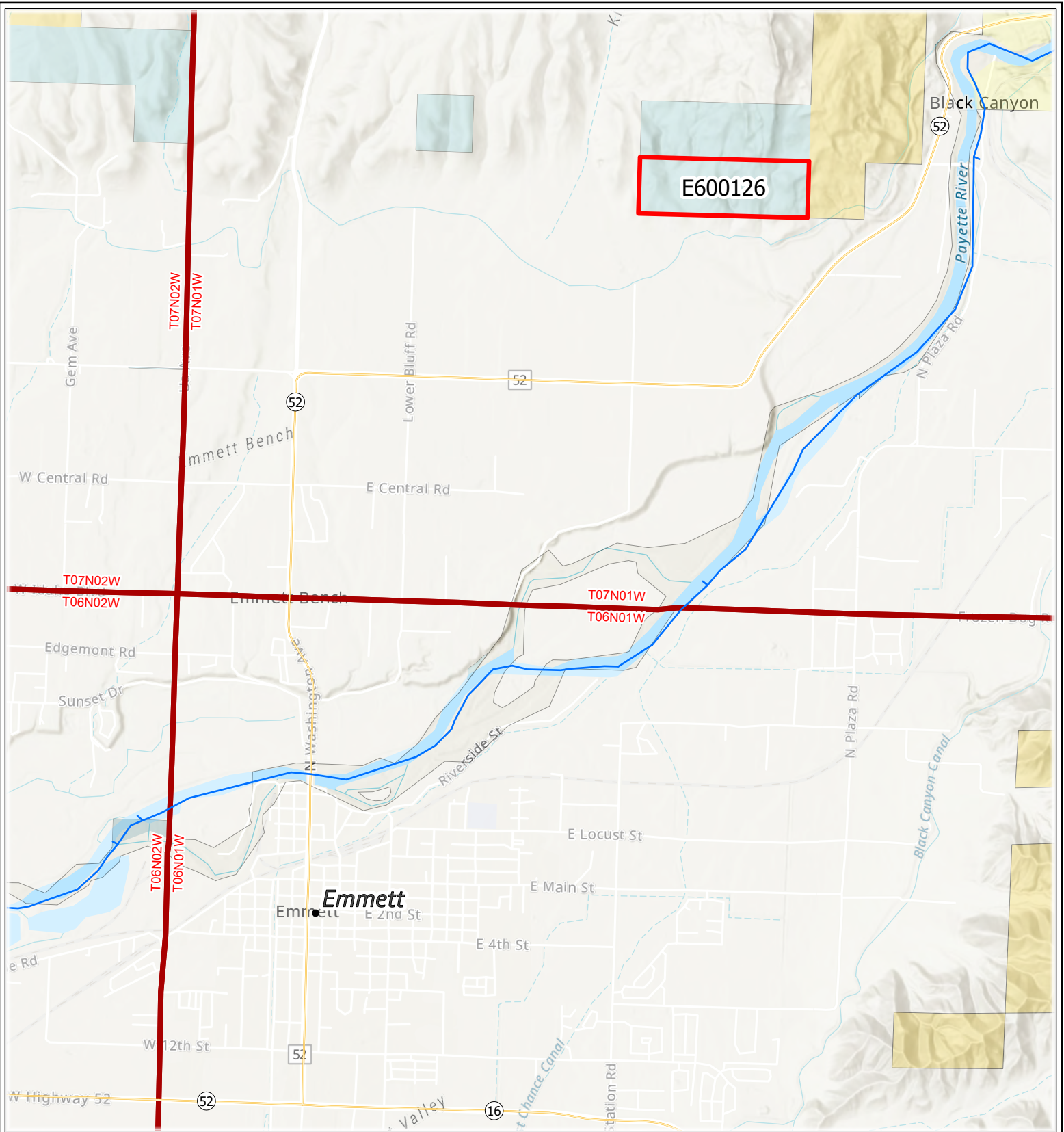
Recommendation

Direct the Department to award mineral lease E600126 to Desert View, LLC, the high bidder at the auction.

Board Action

Attachments

1. Site Maps
2. Summary of Auction Results



E600126 - Vicinity
T07N - R01W - Sec 28
Gem County, Idaho

4/1/2025

Map Notes

Projection: Idaho Transverse Mercator, NAD 83

Map Notes and Data Sources

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.

Vicinity Map

Legend

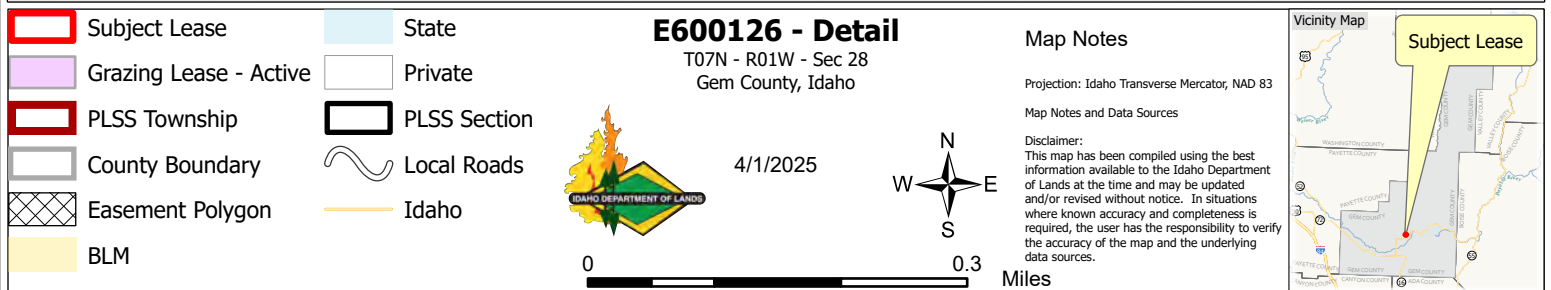
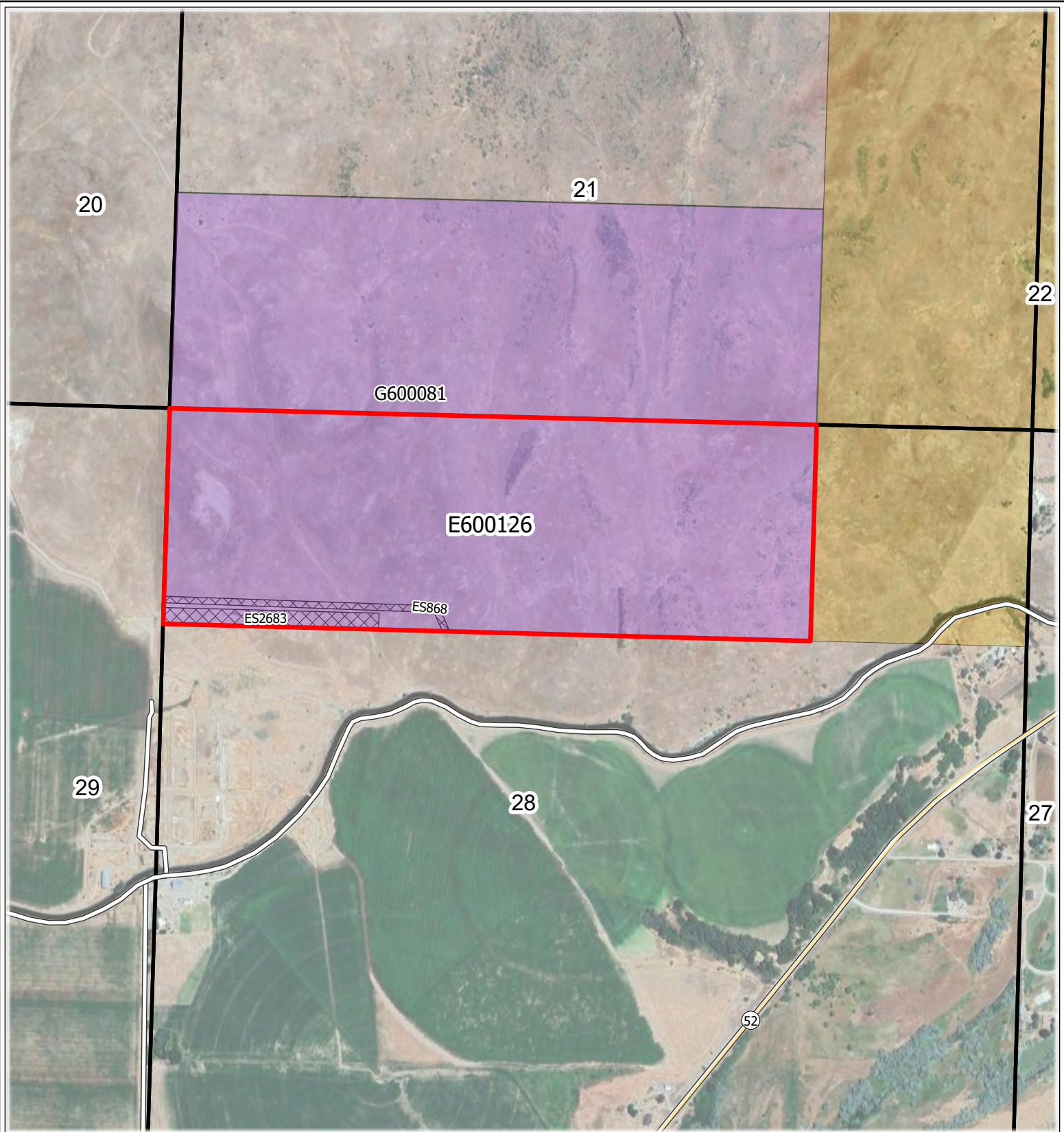
- Subject Lease
- City
- Idaho
- County Boundary
- PLSS Township
- BLM
- Bureau of Reclamation
- State
- Other State
- Private

Scale

0 1.05 Miles

North Arrow

N
W E
S



Summary of July 2, 2025 Mineral Lease Live Auction

Supervisory Area	Lease Number	Endowment	Lease Term (Years)	Acres	Commodity	# of Participants	# of Bids	High Bid Amount	High Bidder
Southwest Area Boise	E600126	SS	10	120	sand & gravel	2	3	\$1,000	Desert View, LLC

STATE BOARD OF LAND COMMISSIONERS

August 19, 2025

Consent Agenda

Subject

Updated Strategic Plan FY2026–FY2029

Question Presented

Shall the Land Board direct the Department to submit its FY2026-FY2029 Strategic Plan as updated to the Division of Financial Management by August 29, 2025?

Background

Each year the Division of Financial Management (DFM) collects agency strategic plans in accordance with Idaho Code §§ 67-1901–1904. The deadline for submittal is August 29, 2025.

Discussion

In 2016, leaders in the Idaho Department of Lands (Department) defined the four foundational goals that are at the heart of the Department's strategic plan.

These four goals continue to represent the Department's core responsibilities and guide staff's daily activities.

The four foundational goals are:

1. **Financial Stewardship:** Fulfill the State Board of Land Commissioners' (Land Board) fiduciary duties by maximizing long-term financial returns from the endowment lands and through prudent management of state funds and resources.
2. **Customer Focused:** Deliver programs with professionalism and integrity, providing exemplary service to external and internal customers.
3. **People:** Develop a well-trained, high-performing workforce focused on carrying out the Department's mission.
4. **Process:** Implement policies and procedures using integrated systems that support effective and informed decision-making.

In addition to the important foundational goals, the Department's leadership team developed a set of six future-proofing goals aimed at preparing the Department for challenges yet to come. Leadership and staff evaluate the goals annually to ensure the goals provide sound direction for the Department's mission.

The Department will continue to incorporate tasks and objectives that align with strategic plan goals into employee performance plans. Specific tasks have been identified for each of the goals to help provide staff with clear direction. This

alignment between employee performance measurement and the strategic plan ensures that effort is focused on the most important goals and that each employee can more clearly see how his or her role directly links to the goals of the Department.

The strategic plan has been updated, based on feedback received at the June 2025 Land Board meeting, to include a strategic focus on implementation of the Make Forests Healthy Again Act, Executive Order No. 2025-04. The proposed strategic plan structure, which includes the Department's mission, vision, goals, and strategies is provided as Attachment 1.

The Department's final strategic plan submission on or before August 29, 2025 will meet all the required elements as outlined by DFM.

Recommendation

Direct the Department to submit its FY2026-FY2029 Strategic Plan as updated to the Division of Financial Management by August 29, 2025.

Board Action

Attachments

1. Updated Strategic Plan FY2026-FY2029



Strategic Plan FY2026–FY2029

Vision

Prepared for tomorrow's natural resource challenges.

Mission

To professionally and prudently manage Idaho's endowment assets to maximize long-term financial returns to the public schools and other trust beneficiaries and to provide professional assistance to the citizens of Idaho to use, protect, and sustain their natural resources.

Guiding Tenets

By focusing on our staff, customers, processes, and finances, IDL will remain a healthy, proactive and effective organization. To that end, departmental decisions should consider the following:

- Fiduciary Duty – Does this decision maximize long term financial returns from endowment lands and provide for prudent management of state funds and resources?
- IDL Staff – Is this decision consistent with the development and retention of a high performing workforce that is cohesive and accountable?
- Customers – With this decision, are we providing exemplary service to our customers?
- Processes – Is the decision informed by data and consistent with our policies and procedures?
- Forward-looking – Is this decision preparing us for success in the future?

IDL Programs Make Idaho Better!

We are committed to meeting our mission by executing our core programs and delivering results with professionalism and appreciation of Idaho's natural resources.

In the **Timber** program we manage over 1 million acres of productive timberland to produce sustainable revenue for the endowment beneficiaries. Timberland is managed intensively while focusing on long term health and productivity. The Timberland asset class currently provides about 25-30% of timber utilized by Idaho's vibrant \$2.5 billion forest products industry while producing impressive returns on endowment lands. The department uses high quality data and modeling to develop our sustainable timber harvest plans.

The **Fire** program is responsible for fire suppression on over 9 million acres of endowment, private, and federal lands in Idaho and provides cooperative fire suppression throughout the state. Our fire suppression operations are conducted safely and aggressively with the goal of suppressing at least 95% of fires at 10 acres or less.

The **Real Estate and Endowment Leasing** programs lease land assets including rangeland, farmland, and residential and commercial real estate and lease mineral assets. These asset classes make up approximately 1.4 million acres of land in Idaho. As the department has implemented Land Board direction to divest of large portions of the residential and commercial real estate asset classes over time, the Real Estate Services Bureau continues to explore new ways to generate revenue for the beneficiaries such as commercial and energy leasing. Real Estate Services also manages land acquisitions, land disposals, exchanges and easements which are used to block up and improve access to endowment lands, add desirable land to the portfolio, and address underperforming assets.

The **Minerals, Navigable Waterways, and Oil & Gas** programs provide statewide regulatory oversight of active and legacy extraction operations while protecting the public's use of navigable lakes and rivers. We regularly partner with local, state, and federal agencies to ensure Idaho's land and resources are utilized, protected and restored.

The **Forestry Assistance, Shared Stewardship and Good Neighbor (GNA)** programs work with federal, state, county, and private partners to help manage and protect forests and rangelands throughout the state. Since wildfire, insects and disease do not recognize ownership boundaries, it is vital that all owners of Idaho lands collaborate to actively manage their forests and implement fuel reduction treatments. Healthy and actively managed forests are more resistant to negative impacts from fire, insect, and disease threats.

Strategic Focus

While IDL has successfully worked for years to implement Shared Stewardship and GNA to increase active management of federal lands and reduce wildfire risk across all land ownerships, the four years of this plan present a unique opportunity for progress. By working with our partners, IDL can achieve the objectives in Executive Order No. 2025-04, the Make Forests Healthy Again Act (Act).

IDL expects to take various actions intended to improve forest health and reduce wildfire risk in Idaho:

- Develop a new Shared Stewardship agreement that enables vegetation and fuels management practices consistent with the objectives in the Act and establishes clear objectives and partnership commitments.
- Work with Forest Service leadership – local, regional, and national – to increase the use of GNA as the mechanism to achieve the objectives in the Act and in related federal direction.
- Increase timber volume output from GNA projects up to 100 million board feet annually within five years.
- Utilize all appropriate federal authorities to increase federal forest restoration.
- Evaluate the need for a higher output objective over time.
- Adjust staffing and resources as needed to meet the GNA output goal.
- Adjust staffing and resources as needed to meet Shared Stewardship objectives as described in the Shared Stewardship agreement.

Continue developing the strategic plan for managing wildland fire, engage with stakeholders, customers, and Idaho leaders, and work to obtain the resources necessary to meet fire management objectives in a changing Idaho.

External Factors Affecting Future Performance

We believe by focusing on our core competencies while simultaneously preparing for what a changing and growing Idaho may hold, we will continue to successfully meet expectations. Some external factors that we will need to monitor, acknowledge, and respond to are:

- Population Growth
 - An increase in residents building homes in the Wildland-Urban Interface (WUI) creating greater risk of property and lives lost in wildland fires
 - Changing customer expectations for the work we do and services we provide
 - More residents, more landowners, and more neighbors creates an increased need for education and information sharing regarding management requirements on endowment and public lands

- Competition for Skilled Labor
 - Private sector and other public employers compete with IDL for employees
 - Increased cost of living and housing costs make talent recruitment and retention difficult
 - Natural resource careers may be less appealing to today's evolving workforce
 - Additional shortages of contractors including those that work for our timber purchasers such as log truck drivers
- New initiatives, programs or mandates that increase our workload and create gaps in our expertise
- Changing public priorities that can lead to significant policy shifts in a short time
- World events that create economic challenges such as continuing inflation, economic stagnation, or periods of recession

Our Foundational Goals: 2026–2029

Under the direction of the Land Board, IDL is primarily focused on meeting the Land Board's constitutional mandate to manage state endowment trust lands "in such a manner as will secure the maximum long-term financial return" to the beneficiary institutions. Further, IDL (1) administers Idaho's public trust lands – the lands beneath the beds of Idaho's navigable lakes and rivers for the benefit of all Idahoans, (2) contributes to protection of water quality and other resources by overseeing forest and mining practices, (3) remediates abandoned mine lands, and (4) provides service and assistance to Idahoans through forestry and fire management programs. The following foundational goals place these obligations front and center:

Foundational Goal 1—Financial Stewardship

Maximize long term financial returns from the endowment lands and prudently manage state funds and resources.

- Task 1 – Proactively monitor and take actions to improve our return on investment (ROI) on state endowment land in line with Land Board direction.
- Task 2 – Meet our sustainable timber sales objectives as directed by the Land Board.
- Task 3 – Manage our spending through a conservative approach and regular communications, reporting and analysis.
- Task 4 – Explore, analyze and (where appropriate) introduce new income streams to the leasing programs.
- Task 5 – Establish Key Performance Indicators for endowment programs to track and improve financial performance.
- Task 6 – Ensure all financial audits are passed successfully.
- Task 7 – Contain 95% of wildfires to 10 acres or less.

Foundational Goal 2—Customer Focus:

Act with professionalism and integrity, providing exemplary service to external and internal customers.

- Task 1 – Using the variety of tools available today, produce educational and informational materials to help Idaho citizens legally and safely utilize the lands we manage and protect.
- Task 2 – Proudly reaffirm the endowment mission and continue to support the beneficiaries.
- Task 3 – Where appropriate, engage with the potentially affected customers to ensure quality and transparency of our actions.

Foundational Goal 3—People:

Develop a well-trained, high performing workforce focused on carrying out the Department's mission.

- Task 1 – Prioritize and support staff development from employee onboarding to growth of professional expertise.
- Task 2 – Develop leaders and reinforce our culture of career long learning and advancement.
- Task 3 – Encourage and expect leadership from staff at all levels of the organization.
- Task 4 – Ensure that the executive leadership team continues to grow professionally, thereby improving the ability to develop other Department staff.

Foundational Goal 4—Process:

Implement policies and procedures using integrated systems that support effective and informed decision making.

- Task 1 – Integrate and improve business processes with secure technology systems and infrastructure.
- Task 2 – Provide staff with tools and systems that are simple, functional and efficient.
- Task 3 – Establish and maintain governance, policies, and procedures to direct agency operations.
- Task 4 – During policy and procedure development and review, focus on empowering decision-making at the lowest level possible.

Our Stretch Goals: 2026–2029

Idaho remains a rapidly growing state, and we anticipate that the state will continue to evolve in both predictable and unpredictable ways. More people, more parcels, and more homes lead to growth in the wildland-urban interface (WUI), changing expectations around land management and regulatory programs and a general increase in the demand for our services. The same issues pose a threat to endowment land management and our ability to stay true to the endowment mandate. The Department recognizes that it must remain diligent and true to our strengths but ready to pivot and evolve as needs change.

In addition to our core foundational goals, IDL leadership will continue to focus on several ongoing goals during the next 4 years that we believe will help prepare us for success in the future. The goals may evolve over time but will remain focused on preparing for the future. The goals are:

Future-Proofing Goal 1—Classification & Compensation:

Intentionally monitor our pay and benefits structure to ensure we are utilizing our personnel cost (PC) appropriation to hire, develop and retain the right people in the right positions most effectively.

- Task 1 – Continue to address classification and compensation issues such as hiring rates, pay inequities, employee classification, salary compression, and change in employee compensation (CEC) implementation.
- Task 2 – At the Division level, analyze staffing for each area/bureau/program to identify opportunities to right size to meet specific needs.
- Task 3 – Implement reasonable telework and flexible scheduling where appropriate, effective, and consistent with IDL and state policies.
- Task 4 – Use micro-learning webinars or other means to communicate with staff regarding compensation issues and the value of the generous employee benefit package to improve employee retention.

Future-Proofing Goal 2—Office Facilities:

Proactively plan for maintenance, improvements, and replacement of our offices throughout the state.

- Task 1 – Through the executive team and facilities and fleet manager, plan and implement office facility upgrades and replacements including structure replacements, major expansion/remodel projects, safety/security upgrades, and office relocations.
- Task 2 – Define the space needs and aesthetic expectations for future structures to provide uniformity and to be financially responsible.
- Task 3 – Investigate alternative means of funding necessary facility upgrades (dedicated funds/Idaho Building Authority/etc.)
- Task 4 – Present facilities needs and potential solutions to the Land Board for information/consideration.

Future-Proofing Goal 3—Seasonal Housing Facilities:

Address the housing needs of temporary staff who are critical to achieving our mission and must have available and affordable housing options.

- Task 1 – Through the executive team and facilities and fleet manager, plan for seasonal housing including a prioritized list of needs from most to least urgent and document the best potential solution for each area.
- Task 2 – Continue working with other agencies with similar needs to identify solutions, increase efficiency, and share expense and effort.

- Task 3 – Explore options for new structure types and acquisition of existing structures while considering feasibility for each site including cost, benefits, lifespan, build time, etc.
- Task 4 – Present the seasonal housing issues and potential solutions to the Land Board for information/consideration.

Future-Proofing Goal 4—Fire:

Monitor, understand and respond to changes that are happening in wildland fire organizations across the country due to longer & hotter seasons, fewer firefighters entering the career field, lagging wages and more citizens residing in the wildland-urban interface (WUI).

- Task 1 – Continue implementation and monitoring of the new master agreement and identify potential future adjustments.
- Task 2 – Continue progress on a comprehensive strategic plan within the IDL fire program to include a vision, mission, goals, factual current status data and future-state scenarios that must be met to ensure capacity to protect Idaho's natural resources.
- Task 3 – Continue to expand the Department's ability to compete for and employ professional firefighters through pay, benefits, housing, and developmental opportunities.
- Task 4 – Cooperate with efforts outside of IDL aimed at increasing the pool of available firefighters over time.
- Task 5 – Develop and execute the Leader's Intent for each fire season.

Future-Proofing Goals 5—Fund Integrity:

Ensure that dedicated funds are utilized by the programs for which they are intended and that overhead activities are funded proportionately with the correct programmatic mix.

- Task 1 – Continue data analysis and identify specific changes needed to ensure funds are used appropriately and in the proper proportions (fund integrity) to meet Department needs.
- Task 2 – Analyze and modify employee funding sources to align work with funding as closely as possible.
- Task 3 – Identify and execute specific changes that will result in measurable progress towards improved fund integrity.

Future-Proofing Goal 6—Policy & Procedure:

Update and organize the many policies and procedures that inform our daily work while ensuring governance is clearly established and authority is delegated where appropriate.

- Task 1 – Ensure that IDL policy and procedure aligns with statutes, rules, and Land Board policies.

- Task 2 – Continue to revise or move existing directives, currently in multiple formats (e.g., Land Board memos, minutes, governance delineations), into an existing or new policy.
- Task 3 – Follow the schedule for policy review and hold staff accountable to update policy as needed.
- Task 4 – Develop IDL Style Guide policy that includes standardized formatting, design elements, and accessibility criteria for all Department policies and procedures.

Appendix A – Benchmarks and Performance Measures

Note: The performance measures are typically longstanding measures that the Department believes are reasonable measures of performance. They are reported annually and tied to the strategic plan, as shown, but may not exactly align with the tasks within the foundational and stretch goals. A strategic plan may evolve from year to year while performance measures typically remain consistent over time.

Goal (Type)	Objective	Benchmark	Performance Measure
Financial Stewardship (Foundational)	Manage endowment timberland consistent with our fiduciary duty	Timber sale volume offered is consistent with Land Board direction	Offer 331 million board feet (mmbf) of timber for sale for future harvest
Financial Stewardship (Foundational)	Management endowment timberland consistent with our fiduciary duty	Achieve appropriate return on investment	Net return on timberland of at least 3.5%
Financial Stewardship (Foundational)	Protect endowment land consistent with our fiduciary duty	Initial attack effectiveness	At least 95% of wildfires contained at less than 10 acres
Financial Stewardship (Foundational)	Protect endowment lands consistent with our fiduciary duty	Fire suppression resource preparation	Fire readiness reviews completed on at least half of fire districts
Customer Focus (Foundational)	Provide exemplary service to forest landowners and operators	Forest practice compliances inspected	Inspect at least 50% of forest practice compliances issued
Customer Focus (Foundational)	Provide exemplary service to endowment lessees	Percentage of lease instruments fully executed by the expiration date	At least 90% fully executed
Customer Focus (Foundational)	Provide exemplary service to landowners and the forest products industry	Check scales conducted by the Idaho Board of Scaling Practices	At least 150 check scales conducted
Office Facilities (Future Proofing)	Replace facilities as needed	Develop a plan for replacement of office facilities as needed	Plan is developed for potential presentation to the Land Board

Goal (Type)	Objective	Benchmark	Performance Measure
Classification and Compensation (Future Proofing)	Maintain appropriate staffing levels	Analyze the use of temporary and permanent staff across programs	Analysis is completed and guidelines are developed and implemented
Seasonal Housing Facilities (Future Proofing)	Address the need for seasonal housing	Develop a plan to meet seasonal housing needs	Plan is developed for potential presentation to the Land Board
Fire (Future Proofing)	Safe and effective fire suppression	Master agreement implementation	Monitor successes and shortcomings for future adjustments to the agreement
Fund Integrity (Future Proofing)	Ensure programs are funded from appropriate funding sources	Data collection and analysis	Collect data and develop an understanding of the situation
Policy & Procedure (Future Proofing)	Review, update, and organize policies and procedures	Schedule ongoing policy review	Recurring schedule is established, and staff are accountable
Fire (Future Proofing)	Safe and effective fire suppression/employee qualifications	Percentage of engines staffed with fully qualified crew	At least 75%
Fire (Future Proofing)	Safe and effective fire suppression/employee retention	Percentage of seasonal firefighters returning to IDL	At least 50%



Idaho State Board of Land Commissioners

Brad Little, Governor and President of the Board

Phil McGrane, Secretary of State

Raúl R. Labrador, Attorney General

Brandon D Woolf, State Controller

Debbie Critchfield, Superintendent of Public Instruction

Dustin T. Miller, Secretary to the Board

Be it remembered that the following proceedings were had and done by the State Board of Land Commissioners of the State of Idaho, created by Section Seven (7) of Article Nine (IX) of the Constitution.

Draft Minutes

State Board of Land Commissioners Regular Meeting

July 15, 2025

The regular meeting of the Idaho State Board of Land Commissioners was held on Tuesday, July 15, 2025 at the State Capitol, Lincoln Auditorium (WW02), Lower Level, West Wing, 700 W. Jefferson St., Boise, Idaho, and via webinar. The meeting began at 8:59 a.m. The Honorable Governor Brad Little presided. The following members were in attendance:

Honorable Governor Brad Little

Honorable Secretary of State Phil McGrane

Honorable Attorney General Raúl Labrador

Honorable State Controller Brandon Woolf

Honorable Superintendent of Public Instruction Debbie Critchfield

Four Land Board members were present at the physical location; Attorney General Labrador joined via Zoom webinar. Deputy Director Bill Haagenson acted as Secretary to the Board on behalf of Director Dustin Miller.

Reports

1. Department Reports—presented by Bill Haagenson, Deputy Director-Resource Management
 - A. Timber Sales Revenue—June 2025
 - B. Leases/Permits Transactions and Revenue—June 2025

Discussion: Controller Woolf asked about the agriculture revenue shortfall of approximately \$200,000 compared to projections in the Trust Land Management report. Deputy Director Haagenson communicated that the shortfall was largely due to a lease that was in default, amounting to about \$90,000. He mentioned that the default issue has since been resolved but the payment had not yet been reflected in the report. Additionally, a payment from the University of Idaho for the lease at the CAFE center is expected soon, which will bring revenue closer to projections.

- C. Fire Season Update
- D. Land Bank Aging Report

Discussion: Superintendent Critchfield asked for clarification on the nearly \$2 million in reimbursable costs cited in the Background section of the materials. Deputy Director Haagenson explained that these reimbursable costs arise primarily early in the fire season when Idaho sends resources to assist other states or the federal government where fire activity is higher. The initial costs are covered by the General Fund but are later reimbursed to the state once the other entities repay those expenses.

- 2. Endowment Fund Investment Board—presented by Chris Anton, EFIB Manager of Investments
 - A. Manager's Report
 - B. Investment Report

Discussion: Mr. Anton reported that the Endowment Fund ended the fiscal year with an 11.7% return, despite flat performance year-to-date (up approximately 2%). Financial markets closed the month strong, with the Dow Jones, S&P, and NASDAQ reaching record highs. He attributed this in part to a federal budget bill, developments on tariffs, and U.S. military action in Iran. Treasury yields declined slightly due to lower-than-expected inflation in May (2.4%) and softening consumer spending, although tariff-related inflationary pressures were beginning to show (June inflation at 2.7%).

Mr. Anton shared that despite strong performance, the fund trailed its benchmark by 0.6%. The primary reasons were domestic equity allocation and manager underperformance. The Endowment Fund is overweight in mid- and small-cap stocks compared to the Russell 3000 index. As large-cap stocks (especially the "Magnificent 7") have grown disproportionately, this mismatch in allocation led to relative underperformance when mid- and small-cap stocks lagged. Active managers in mid- and small-cap categories—specifically Times Square, Sycamore, and Barrow Hanley—underperformed their benchmarks. These managers favored high-quality companies with strong fundamentals and avoided more speculative stocks (e.g., MicroStrategy and Palantir), which posted outsized gains despite weaker earnings profiles. He added that global equity managers also underperformed, partly due to their cautious stance on large-cap tech valuations, which they viewed as excessive. Despite short-term underperformance, Mr. Anton expressed confidence that a quality-driven, valuation-conscious approach will prove beneficial in the long run. He highlighted strong 3-year performance (average annual return of 11.6%) as a key contributor to growth in the Endowment and beneficiary distributions, with further distribution increases likely in August. Governor Little asked whether the Investment Board and its consultant were tolerant of short-term underperformance in exchange for a more conservative, secure portfolio. Mr. Anton said that was a fair assessment.

Consent—Action Item(s)

- 3. Approval of Draft Minutes—June 17, 2025 Regular Meeting

Consent Agenda Board Action: A motion was made by Controller Woolf that the Land Board approve and adopt the Consent Agenda. Secretary of State McGrane seconded the motion. The motion carried on a vote of 5-0.

Regular—Action Item(s)

4. Proposed Legislation 2026 Session—presented by Bill Haagenson, Deputy Director-Resource Management

Recommendation: Approve the Department's 2026 legislative proposals with the potential for further revisions and withdrawals.

Discussion on Proposal 1: Governor Little sought clarification on statutory language in the proposed code change, noting that the final paragraph referenced a charge "to \$100" rather than "up to \$100." Deputy Director Haagenson affirmed the revised language correctly uses "up to \$100" and acknowledged the inconsistency. Governor Little questioned the terminology used to describe the 67,282 parcels referenced—whether they are "improved lots" or "residential parcels." He cited code language from 38-111, raising concerns about how parcels with zoning changes are treated under the surcharge. He asked how many parcels fall within timber protective districts or are double counted with rural fire districts. Deputy Director Haagenson clarified that the 67,000+ parcels are those with residential improvements that receive the \$40 surcharge, not unimproved timberland. He noted some parcels fall within timber protective associations (Southern Idaho Timber Protective Association, Clearwater-Potlatch Timber Protection Association), but generally, parcels already covered by a municipal or rural fire district are not assessed the state surcharge. Governor Little asked how response costs are handled when fires occur in areas with overlapping jurisdiction. He questioned whether the state gets reimbursed when aiding rural districts and whether landowners are assessed by both the Department and local fire entities. He pointed to specific areas like Robie Creek as examples of potential liability without appropriate compensation. Deputy Director Haagenson responded that reimbursement depends on protection responsibility—the Department is not reimbursed for lands it directly protects. Parcels in another taxing district would not be double-assessed. He confirmed the General Fund covers suppression costs when they arise in overlapping areas, regardless of property ownership. Governor Little asked how the proposed legislation relates to the General Fund. Deputy Director Haagenson explained that funds from the surcharge are directed by statute to a dedicated preparedness fund, while suppression costs are covered by the General Fund. The dedicated fund and General Fund jointly support preparedness. The General Fund is used for suppression; the dedicated fund is not.

Controller Woolf asked whether the Department plans to increase the per-acre fee from \$0.60 to \$0.65 and raise the residential improvement surcharge up to \$100 in future fiscal years. Deputy Director Haagenson answered that there are currently no discussions about increasing the per-acre fee. The Department's focus is on funding preparedness for the Wildland Urban Interface. He communicated that raising the residential surcharge to \$100 could yield over \$4 million annually for preparedness and mentioned that such an increase could be phased in gradually. Secretary of State McGrane asked whether all 67,000 parcels would be subject to the higher surcharge or if the actual yield would be lower due to exemptions for properties already covered

by local fire districts. Deputy Director Haagenson explained that the \$4 million estimate is based on the 67,000 parcels currently paying the \$40 fee. Properties already exempt from the surcharge are not included in that number.

Discussion on Proposal 2: Attorney General Labrador requested additional justification for extending commercial leases on endowment land from 49 to 99 years. While not objecting to the proposal, he advised the Department to seek input beyond interested parties—such as commercial real estate professionals—to be better prepared for legislative enquiry. Deputy Director Haagenson explained that some commercial entities, including those interested in parcels like the Deinhard site in McCall, have expressed concerns that the 49-year lease term is insufficient for financing purposes. These parties have requested terms of 50 years or more, prompting the Department to propose allowing leases of up to 99 years. He acknowledged the Attorney General's recommendation and committed to gathering broader industry feedback. Superintendent Critchfield asked how lease transfers would be handled over long durations, observing that original lessees are unlikely to hold a lease for 99 years. She also inquired about oversight procedures to ensure lease compliance over such a long term. Deputy Director Haagenson described that leases can be assigned or terminated and that the Department already manages lease transitions under shorter terms. All leases are tracked in an electronic system, which ensures continuity despite staff turnover.

Governor Little questioned whether more flexible approaches—such as renewable 49-year leases or rolling 5- or 10-year renewals—could be considered to avoid locking the state into overly long arrangements. He cited the possibility of unforeseen future value (e.g., rare earth minerals) that may not be adequately captured under a 99-year contract. He agreed with the Attorney General that feedback should be sought from stakeholders both for and against the proposed change. Superintendent Critchfield echoed concerns about binding future generations to long-term agreements. She supported lease term extensions in principle but favored incremental approaches. Deputy Director Haagenson noted that renewing leases is legally complex under endowment rules, as any new lease is considered a disposition and would require public advertisement, making rolling renewals difficult to administer. However, he pointed out that the Department's recommendation includes flexibility for revisions or withdrawals before the legislative session, particularly if similar legislation emerges elsewhere. Superintendent Critchfield voiced support for extending lease terms but reiterated interest in exploring alternatives to a fixed 99-year structure. She recognized that the current motion allows flexibility for adjustments as feedback is received. Controller Woolf suggested that the Department return with an updated proposal later in the fall.

Discussion on Proposal 3: Governor Little cautioned that invoking deficiency warrants could be met with resistance from the legislature, which may interpret the term as authorization to spend unappropriated funds. He advised the Department to anticipate scrutiny when presenting this proposal. Deputy Director Haagenson acknowledged the Governor's concern. Secretary of State McGrane interpreted the proposal as intending to cover unpredictable emergencies—such as rockslides—where the Department's Type 3 Team could assist. He asked whether that was the intended use case. Deputy Director Haagenson stated the focus was on enabling rapid response to unforeseen

incidents, including those in neighboring areas, while ensuring personnel are compensated without delay. He expounded that deficiency warrants would allow rapid response to emergencies and timely compensation of responders, with reimbursement directed to the deficiency fund when it is received later.

Governor Little raised concern about the inclusion of fuels reduction in a deficiency warrant statute, questioning whether such activities—which can be planned—should be classified as emergencies. He drew a distinction between proactive fuel management and urgent suppression actions like setting backfires. Deputy Director Haagenson clarified that the reference was to proactive fuels reduction through prescribed burns, not emergency suppression actions. Secretary of State McGrane agreed with the Governor's concern, stating that while fuels reduction is widely supported, it may not belong in a deficiency warrant context and may necessitate a different funding and policy approach. Governor Little emphasized that the legislature would likely object to granting a "blank check" for fuels reduction under the guise of emergency authority. Secretary of State McGrane recommended removing the fuels reduction item from the current legislative proposal and revisiting it with a different approach.

Superintendent Critchfield sought clarification on how this proposal differs from the current approach to fire suppression, which already involves sending personnel and later seeking legislative reimbursement. She inquired if the distinction was substantive or same idea, different terminology. Deputy Director Haagenson clarified that while deficiency warrants are currently used for wildfire suppression, the proposed change would broaden applicability to other types of emergencies, such as floods or other non-fire events.

Board Action: A motion was made by Controller Woolf that the Land Board approve the Department's 2026 legislative proposals with the potential for further revisions and withdrawals. Superintendent Critchfield seconded the motion. The motion carried on a vote of 5-0.

5. Endowment Land Exchange: Benewah County—presented by Zane Lathim, Section Manager-Real Estate

Recommendation: Approve the exchange and direct the Department to complete and close the as-proposed Benewah County land exchange, including using Earnings Reserve funds to offset the difference in values.

Discussion: Governor Little asked if there was any opposition to the proposed exchange. Mr. Lathim conveyed that no opposition had been noted. Controller Woolf inquired about the extended timeline, which dated back to 2022, asking whether any bureaucratic or procedural delays contributed to the duration. Mr. Lathim replied that the extension resulted from the need to balance the exchange after the county requested more land. This required procurement of additional land, completion of surveys, and a reappraisal, all of which extended the timeline. Controller Woolf also sought confirmation on the financial benefit, that timberland would yield a higher return than the current leases, despite sizeable revenue from the sand and gravel lease. Mr. Lathim disclosed that the current leases only generate approximately \$1,000–\$1,200 annually and are relatively minimal.

Attorney General Labrador asked about the "boot" (cash paid in excess of the land value) in this 1031 exchange, which at 14.2% appeared higher than the typical safe harbor threshold of 10%. Mr. Lathim deferred to John Richards, legal counsel, who explained that while the boot was above 10%, the structuring was necessary due to valuation discrepancies and the limits on additional land that could be added to the exchange. He further explained that the 1031 tax provisions should not pose a problem since both parties—Department of Lands and the county—are tax-exempt and performing essential governmental functions. Therefore, the higher boot does not present a legal barrier to the transaction. Attorney General Labrador asked whether the opportunity cost of spending \$91,000 on this transaction, rather than on other endowment investments, had been analyzed. Deputy Director Haagenenson noted that the acquired parcels contain a significant volume of mature timber, enabling a near-term harvest and return to beneficiaries, which supports the \$91,000 expenditure as a sound investment. Controller Woolf asked for confirmation that Land Bank funds were not used because the properties involved are owned by endowments that do not have Land Bank funds. Mr. Lathim confirmed that the exchange involves School of Science and Capital Permanent Fund properties, which are not part of the Land Bank.

Board Action: A motion was made by Controller Woolf that the Land Board approve the exchange and direct the Department to complete and close the as-proposed Benewah County land exchange including using Earnings Reserve funds to offset the difference in values. Superintendent Critchfield seconded the motion. The motion carried on a vote of 5-0.

6. Disposition of Driggs 160 Endowment Parcel—presented by Roger Hall, Bureau Chief-Real Estate

Recommendation: Approve the disposition of the 160-acre endowment parcel near Driggs (Driggs 160) through public auction.

Discussion: Controller Woolf asked if the current grazing lessee had been notified of the proposed changes to the lease. Mr. Hall said that the lessee had not yet been contacted; the Department wanted to obtain Land Board approval first and would inform the lessee if the project moves forward. Controller Woolf also inquired whether the property had been appraised. Mr. Hall confirmed that an appraisal had been completed. The Department is working with Bottles Real Estate Auction and a real estate advisor to determine an appropriate starting bid price in order to maximize beneficiary returns. Controller Woolf asked whether, given the grazing status, there were any legal limitations on reclassifying the land. Mr. Hall stated that the land could be reclassified and that there were no legal barriers. Governor Little asked how many adjacent landowners border the section. Mr. Hall did not have an exact count but estimated 10-20 developments to the west, confirming there are multiple neighboring property owners. Governor Little noted the importance of having more than one potential buyer. Mr. Hall agreed and added that the property would be advertised broadly.

Board Action: A motion was made by Controller Woolf that the Land Board approve the disposition of the 160-acre endowment parcel near Driggs, the Driggs 160, through public auction. Secretary of State McGrane seconded the motion. The motion carried on a vote of 5-0.

Information

7. Proposed Rule IDAPA 20.03.04, Rules for the Regulation of Beds, Water, and Airspace Over Navigable Lakes in Idaho—presented by Marde Mensinger, Program Manager-Navigable Waters

Discussion: Governor Little commented that the issue appeared straightforward. Superintendent Critchfield referenced the written public comments, noting recurring themes, particularly concerns about vague terminology and the need for clearer definitions. She asked how those comments were addressed. Ms. Mensinger responded that the Department acknowledged those concerns and clarified key terms by explicitly defining what constitutes navigational versus non-navigational encroachments. The Department standardized terminology around encroachments (e.g., "structure" or "materials") to uniformly refer to them as encroachments requiring permits. She added that all comments were reviewed. Many were irrelevant to the rule; the Department addressed those that were relevant to the rulemaking.

Executive Session

None

There being no further business before the Land Board, at 10:01 a.m. a motion to adjourn was made by Controller Woolf. Superintendent Critchfield seconded the motion. The motion carried on a vote of 5-0.



Thomas J. Wilford :: Chairman
Jerry F. Aldape Irving Littman
David Dean James Petzke
Robert M. Donaldson Mary Pat Thompson
Joseph Forney Jim Woodward
Chris J. Anton :: Manager of Investments

Monthly Report to the Board of Land Commissioners

Investment performance through July 31, 2025

Month: 0.3% Fiscal year: 0.3%

Financial markets were up modestly during July fueled by strong earnings reports and optimism around U.S. trade policy. Technology stocks, especially chipmakers, continued to lead the market rally for the third consecutive month, driven by the ongoing boom in artificial intelligence and cloud computing. Progress was made on the trade front as the U.S. reached agreements with the EU, UK and Japan and the U.S.-China trade truce was extended. The July employment report revealed large downward revisions and slowing payroll growth. Nonfarm payrolls increased just 73,000 in July and prior months were revised down by 258,000. The unemployment rate ticked up slightly to 4.2%. The Fed maintained interest rates, exercising caution amidst mixed inflation and jobs data.

Status of endowment fund reserves

Distributions for FY2026 and FY2027 are well secured.

Significant actions of the Endowment Fund Investment Board

None.

Compliance/legal issues, areas of concern

Material deviations from Investment Policy: None.

Material legal issues: None.

Changes in board membership or agency staffing:

None.

Upcoming issues/events

Board Meeting – August 18, 2025

Preliminary Report (Land Grant Fund)

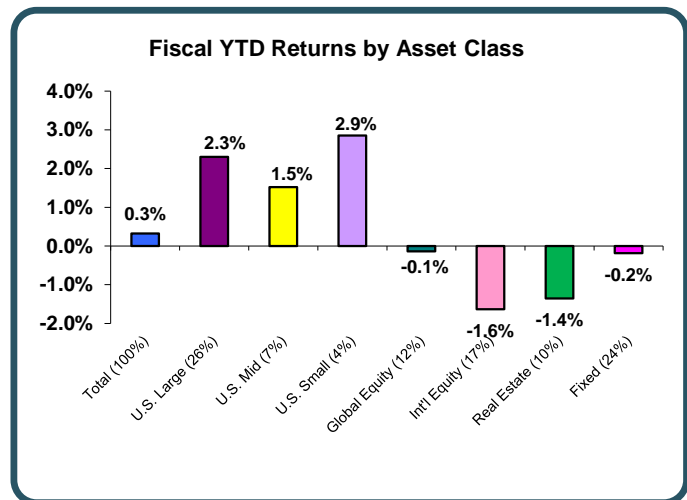
July 31, 2025

	<u>Month</u>	<u>FYTD</u>
Beginning Value of Fund	3,588,670,608	\$ 3,588,670,608
Distributions to Beneficiaries	9,447,600	9,447,600
Land Revenue net of IDL Expenses	-	-
Change in Market Value net of Investment Mgt. Expenses	62,325,812	62,325,812
Current Value of Fund	\$ 3,660,444,020	\$ 3,660,444,020

<u>Gross Returns</u>	<u>Current Month</u>	<u>Calendar Y-T-D</u>	<u>Fiscal Y-T-D</u>	<u>One Year</u>	<u>Three Year</u>	<u>Five Year</u>	<u>Ten Year</u>
Total Fund	0.3%	8.6%	0.3%	10.1%	9.5%	8.6%	8.1%
<i>Total Fund Benchmark*</i>	0.9%	8.5%	0.9%	11.2%	10.0%	8.6%	7.9%
Total Fixed	-0.2%	4.0%	-0.2%	3.9%	2.1%	-0.3%	1.9%
<i>BBG U.S. Agg. (Ag)</i>	-0.3%	3.7%	-0.3%	3.4%	1.6%	-0.7%	1.8%
Total Equity	0.8%	11.7%	0.8%	14.1%	14.7%	13.2%	11.0%
<i>56% R3 25.8% Ax 18.2% AC</i>	1.4%	11.2%	1.4%	15.6%	15.3%	13.2%	10.7%
Domestic Equity	2.2%	7.2%	2.2%	11.9%	14.9%	14.2%	12.3%
<i>Russell 3000 (R3)</i>	2.2%	8.1%	2.2%	15.7%	16.4%	15.2%	13.0%
Global Equity	-0.1%	9.6%	-0.1%	10.7%	13.6%	11.3%	9.9%
<i>MSCI ACWI (AC)</i>	1.4%	11.5%	1.4%	15.9%	15.3%	12.8%	10.0%
Int'l. Equity	-1.6%	23.3%	-1.6%	20.7%	15.1%	11.8%	8.8%
<i>MSCI ACWI ex-US (Ax)</i>	-0.3%	17.6%	-0.3%	14.7%	12.6%	9.1%	6.1%
Real Estate	-1.4%	0.2%	-1.4%	-0.1%	-6.1%	1.8%	
<i>NCREIF ODCE Index</i>		0.2%	0.0%	2.0%	-4.3%	2.9%	

* Benchmark: 37% Russell 3000 17% ACWI ex-US 12% AC 24% BB Agg. 10% OD

	<u>Mkt Value</u>	<u>Allocation</u>
Domestic Equity	\$ 1,353.5	37.0%
Large Cap	961.0	26.3%
Mid Cap	253.2	6.9%
Small Cap	139.3	3.8%
Global Equity	443.9	12.1%
Int'l Equity	632.4	17.3%
Fixed Income	858.4	23.5%
Real Estate	354.5	9.7%
Cash	16.0	0.4%
Total Fund	\$ 3,660.4	100.0%



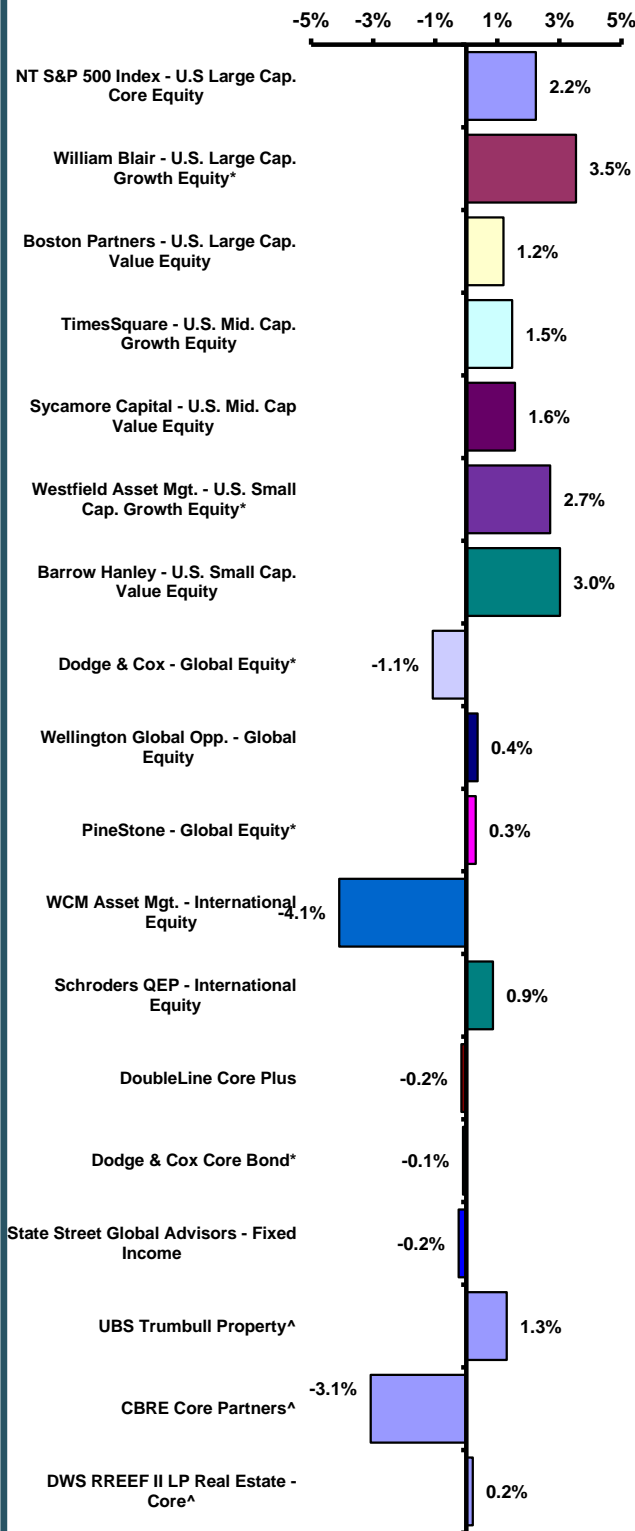
Endowment Fund Staff Comments:

Financial markets were up modestly during July fueled by strong earnings reports and optimism around U.S. trade policy. Technology stocks, especially chipmakers, continued to lead the market rally for the third consecutive month, driven by the ongoing boom in artificial intelligence and cloud computing. Progress was made on the trade front as the U.S. reached agreements with the EU, UK and Japan and the U.S.-China trade truce was extended. The July employment report revealed large downward revisions and slowing payroll growth. Nonfarm payrolls increased just 73,000 in July and prior months were revised down by 258,000. The unemployment rate ticked up slightly to 4.2%. The Fed maintained interest rates, exercising caution amidst mixed inflation and jobs data.

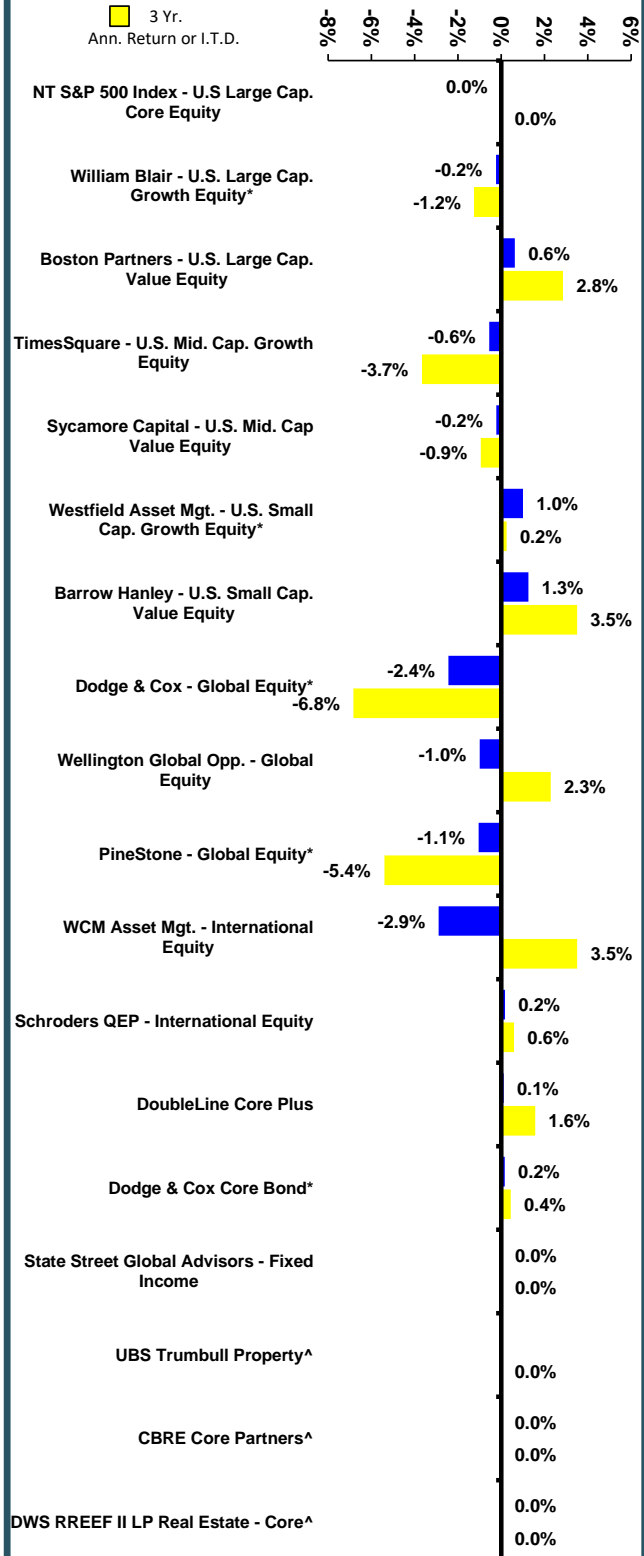
July 31, 2025

INVESTMENT REPORT

FYTD Manager Returns*



Manager Relative Returns Fiscal YTD and 3-Yr Ave*



^ Most recent valuation. * I-T-D if no FYTD or 3-yr. history

STATE BOARD OF LAND COMMISSIONERS

August 19, 2025

Regular Agenda

Subject

Fiscal Year 2027 Beneficiary Distributions and Transfers

Question Presented

Shall the Land Board approve FY2027 beneficiary distributions of \$117,278,400 and transfers to the Permanent Fund of \$206,370,000?

Discussion

The Endowment Fund generated investment returns of 11.7% during fiscal year 2025. Idaho Department of Lands generated \$61.6 million in net revenue in fiscal year 2025 and \$142 million of timber was presold as of June 30, 2025. Earnings Reserves exceed target levels as of June 30, 2025.

Recommendation

The Endowment Fund Investment Board recommends that the State Board of Land Commissioners (Land Board) approve FY2027 beneficiary distributions of \$117,278,400 and transfers to the Permanent Fund of \$206,370,000. The transfers to the Permanent Fund will not be included in the Gain Benchmark.

Board Action

Attachments

1. Proposed FY2027 Distributions and Transfers

Proposed Fiscal Year 2027 Distributions and Transfers

Land Board Meeting
August 19, 2025



Current Situation

- The Endowment Fund generated investment returns of 11.7% and 12.0% in FY 2025 and FY 2024 representing net investment gains of \$362.6 million and \$344.5 million, respectively.
- IDL generated net revenue of \$61.6 million and \$60.8 million in FY 2025 and FY 2024, respectively. \$142 million of timber was presold as of June 30, 2025.
- Earnings reserve levels exceed target levels as of June 30, 2025.

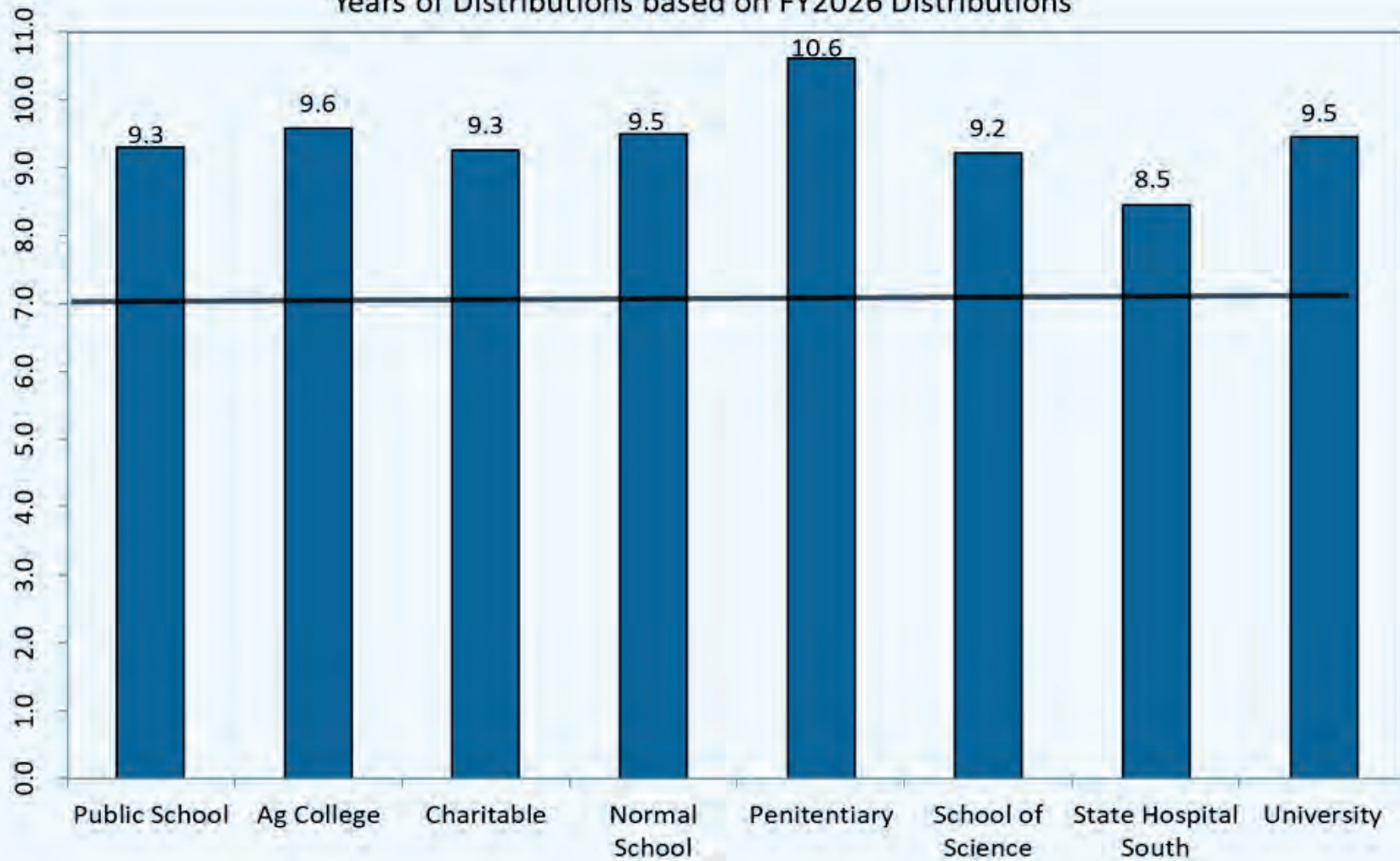
Distribution Policy Summary

The Land Board has adopted the following principles:

- Distribute 5% of the 3-year average value of each Permanent Fund annually
 - Adjusted for reserves, transfers and any other relevant factors
- Maintain Earnings Reserves at target levels based on years of beneficiary distributions
- Consider transferring any excess Earnings Reserves back to the Permanent Fund

Source: Land Board Investment Policy

Coverage Ratio June 30, 2025
Years of Distributions based on FY2026 Distributions



RECOMMENDED ENDOWMENT DISTRIBUTIONS - FY 2027

(Based On June 30, 2025 Balances - \$ Millions)

	Total	Public School	Ag College	Charitable	Normal Schools	Penitentiary	School of Science	State Hospital South	University
FY 2021 Distribution	\$ 84.5	\$ 52.6	\$ 1.6	\$ 6.0	\$ 5.3	\$ 2.5	\$ 5.4	\$ 6.4	\$ 4.8
FY 2022 Distribution	\$ 88.1	\$ 54.8	\$ 1.7	\$ 6.2	\$ 5.5	\$ 2.7	\$ 5.7	\$ 6.4	\$ 5.1
FY 2023 Distribution	\$ 100.3	\$ 61.5	\$ 1.9	\$ 7.0	\$ 6.6	\$ 3.1	\$ 6.7	\$ 7.6	\$ 5.9
FY 2024 Distribution	\$ 100.3	\$ 61.5	\$ 1.9	\$ 7.0	\$ 6.6	\$ 3.1	\$ 6.7	\$ 7.6	\$ 5.9
FY 2025 Distribution	\$ 103.2	\$ 63.0	\$ 2.0	\$ 7.1	\$ 7.3	\$ 3.2	\$ 6.7	\$ 7.8	\$ 6.1
FY 2026 Distribution	\$ 110.4	\$ 68.2	\$ 2.1	\$ 7.5	\$ 7.8	\$ 3.3	\$ 7.1	\$ 7.8	\$ 6.6
FY 2027 Distribution	\$ 117.3	\$ 72.4	\$ 2.2	\$ 8.1	\$ 8.5	\$ 3.6	\$ 7.5	\$ 7.8	\$ 7.3
% Change: 2027 vs. 2026 Distribution	6.3%	6.1%	5.7%	8.1%	9.1%	7.9%	5.4%	0.0%	10.3%

Earnings Reserves status (as of 6/30/25)

Earnings Reserve Policy Target (in years)	7.0	7.0	7.0	7.0	7.0	7.0	7.0	7.0	7.0
Years of reserves, before transfer	8.8	8.8	9.1	8.6	8.7	9.8	8.8	8.5	8.6
Years of reserves, after transfer	7.0	7.0	7.0	7.0	7.0	7.0	7.0	7.0	7.0

Earnings Reserve Balance (6/30/25)	\$ 1,027.3	\$ 635.3	\$ 20.2	\$ 69.5	\$ 73.8	\$ 35.3	\$ 65.4	\$ 65.7	\$ 62.2
Recommended Transfer to Perm Fund	\$ 206.4	\$ 128.7	\$ 4.6	\$ 12.7	\$ 14.4	\$ 10.2	\$ 13.1	\$ 11.3	\$ 11.4
Earnings Reserve Balance After Transfer	\$ 820.9	\$ 506.6	\$ 15.6	\$ 56.8	\$ 59.5	\$ 25.1	\$ 40.2	\$ 54.4	\$ 50.8

Land Board Recommendation

- Approve FY2027 beneficiary distributions of \$117,278,400 and transfers to the Permanent Fund of \$206,370,000. The transfers to the Permanent Fund will not be included in the Gain Benchmark.

	<i>Distributions To Beneficiaries</i>				<i>Transfer To Permanent Fund*</i>
	<i><u>Approved FY2026</u></i>	<i><u>Proposed FY2027</u></i>	<i><u>% Change</u></i>	<i><u>\$ Change</u></i>	
Public School	68,224,800	72,366,000	6.1%	4,141,200	128,700,000
Ag College	2,102,400	2,222,400	5.7%	120,000	4,608,000
Charitable Institution	7,502,400	8,113,200	8.1%	610,800	12,694,000
Normal School	7,783,200	8,494,800	9.1%	711,600	14,362,000
Penitentiary	3,322,800	3,585,600	7.9%	262,800	10,176,000
School of Science	7,084,800	7,465,200	5.4%	380,400	13,148,000
State Hosp. South	7,776,000	7,776,000	0.0%	-	11,282,000
University	6,574,800	7,255,200	10.3%	680,400	11,400,000
	<u>110,371,200</u>	<u>117,278,400</u>	<u>6.3%</u>	<u>6,907,200</u>	<u>206,370,000</u>

* Amount of Earnings Reserve in excess of what is deemed adequate relative to the 2027 distribution. The adequate reserve level for all endowments is set at seven years.

** The Transfer is not to be added to the Gain Benchmark.

All calculations subject to adjustment pending final audit of fiscal year 2025 results.

STATE BOARD OF LAND COMMISSIONERS

August 19, 2025

Regular Agenda

Subject

Fiscal Year 2027 Department of Lands Budget Enhancements

Question Presented

Shall the Land Board direct the Department to include the enhancement requests as outlined in Attachment 1 in the Fiscal Year 2027 budget proposal due on August 29, 2025?

Background

The Idaho Department of Lands (Department) is requesting concurrence on the proposed FY2027 Enhancement Decision Units. Pursuant to Idaho Code § 67-3502, agencies must submit their budget request to the Division of Financial Management (DFM) and the Legislative Services Office by August 29, 2025. The State Board of Land Commissioners' (Land Board) briefing and meeting schedules prevent the Department from having the budget request ready for the August meeting. The complete budget will be presented for Land Board approval at its September meeting.

Discussion

Prior to meeting with DFM, the Department's proposed budget included enhancements of \$1.9 million in general funds. These included 3 FTP and \$1.25 million for fire radio equipment. After discussing these proposed enhancements with DFM, the Department revised the budget and removed all proposed general fund decision units.

The Department is asking for consideration of the attached decision units. The proposed decision units align with the strategic goals that are detailed in the Department's strategic plan document. The strategic plan is organized around four foundational Department-wide goals: (1) Financial Stewardship—Maximize returns through prudent management of resources and funds, (2) Customer Focus—Exemplary professional service to all customers, (3) People—A well-trained high performing workforce, and (4) Process—Effective policies, procedures, and systems to drive informed decision making. Additionally, the Department has outlined six future-proofing goals to include: (1) Classification & Compensation, (2) Office Facilities, (3) Seasonal Housing Facilities, (4) Fire Program Modernization, (5) Fund Integrity, and (6) Policy & Procedures.

The Department is developing a budget submission for FY2027 that will advance efforts to meet these Department goals. In Attachment 1, the Department's proposed enhancements are listed in order of priority.

The enhancements in the Department's budget request reflect the following increases over the FY2026 ongoing appropriation:

Increase from FY2026 Base Budget

Fund Type	All Ongoing <u>and</u> One-Time Requests Total	All Ongoing Requests Total
General Fund	\$16,600 (.14%)	\$16,600 (.14%)
Earnings Reserve Fund	\$71,700 (.19%)	\$-147,500 (-.40%)
Lands Dedicated Fund	\$372,500 (2.35%)	\$147,500 (.93%)
Federal Funds	\$0 (0%)	\$0 (0%)

The Department worked with the DFM Administrator and Governor's office contact in developing its budget request as outlined in the May 29, 2025, FY2027 Budget Framework memo from DFM. As the Department moves through the rest of the budgeting submission process, staff will continue to follow DFM guidelines.

Recommendation

Direct the Department to include the enhancement requests as outlined in Attachment 1 in the Fiscal Year 2027 budget proposal due on August 29, 2025.

Board Action

Attachments

1. FY2027 Enhancement Decision Unit Requests

IDL DRAFT ENHANCEMENT BUDGET REQUESTS - FY2027

No.	Budget Unit	Enhancement Description	Amount	Object Ongoing or One-Time	Funding Source (%) GF/DED/ER/FED	FTP Requested
1	LAAD Fire	Fire Radio Equipment	\$225,000 TOTAL			
		Cache Radio Replacement	\$125,000	CO - One Time	100% DED	0.00
		Interoperability and Base Station Radio Upgrades	\$100,000	CO - One Time		
2	LAAO	Personnel Fund Shift from AML to Navigable Waterways	\$0 TOTAL			
		Reduce Abandoned Mine Dedicated Authority Due to HB226	-\$160,000	PC - Ongoing	100% DED	0.00
		Increase Navigable Waterways Dedicated Authority	\$160,000	PC - Ongoing	100% DED	
3	LAAC Ops	Covered Vehicle Storage Facility - Priest Lake	\$195,000 TOTAL			
		Covered Vehicle Storage Shed 30'x100'x12' (one end includes 12' enclosed bay with garage door)	\$195,000	CO - One Time	100% ER	0.00
4	LAAC Ops	UTV for Mica	\$24,200 TOTAL			
		Utility vehicle with 3-passenger ability and tracks for snow removal	\$24,200	CO - One Time	100% ER	0.00
5	LAAA	Legal Counsel Fund Shift	\$0 TOTAL			
		25% Reduction in Earnings Reserve Authority	-\$147,500	PC - Ongoing	100% ER	0.00
		25% Increase in Navigable Waterways Dedicated Authority	\$147,500	PC - Ongoing	100% DED	
6	LAAD Fire	Timber Protective Association Adjustments	\$16,600 TOTAL			
		CPTPA - 1% CEC and Inflation	\$9,600	T&B - Ongoing	100% GF	0.00
		SITPA - 1% CEC and Inflation	\$7,000			
SUMMARY DATA						
\$0 One Time GF Requested						
\$16,600 Ongoing GF Requested						
\$444,200 One Time "Other" Funds Requested						
\$0 Ongoing "Other" Funds Requested						
\$460,800 Total Requested						
0.00 New FTPs						

STATE BOARD OF LAND COMMISSIONERS

August 19, 2025
Information Agenda

Subject

Proposed Rule for IDAPA 20.03.02, Rules Governing Mined Land Reclamation

Background

The Idaho Department of Lands (Department) administers these rules under the authority of the Idaho Mined Land Reclamation Act (Title 47, Chapter 15, Idaho Code). These rules establish the notification requirements for exploration and the application, operation, and reclamation requirements for mined lands. In addition, they establish the application and closure requirements for cyanidation facilities. Lastly, these rules contain the financial assurance requirements for mining and cyanidation facilities.

Negotiated rulemaking for these rules was approved by the State Board of Land Commissioners (Land Board) on February 20, 2024 (Attachment 1). Following Executive Order 2020-01, Zero-Based Regulation, this rule chapter is scheduled for a comprehensive review in 2025. The Department began negotiations in spring of 2024.

Discussion

The Department's outreach for negotiated rulemaking included the following:

- Posting in the Idaho Administrative Bulletin in 2024 and 2025.
- Sending postcards to all reclamation plan holders, state agencies, statewide in 2024 and 2025.
- Sending emails to all reclamation plan holders, as well as state and local agencies.
- Hosting public meetings, each with a video-conferencing option.

Negotiated rulemaking meetings were held on:

- April 24, 2024 in Sandpoint, Idaho
- April 25, 2024 in Coeur d'Alene, Idaho
- April 30, 2024 in Boise, Idaho
- May 1, 2024 in McCall, Idaho
- May 6, 2024 in Jerome, Idaho
- May 7, 2024 in Pocatello, Idaho
- April 15, 2025 in Sandpoint, Idaho
- April 16, 2025 in Coeur d'Alene, Idaho
- April 23, 2025 in Boise, Idaho
- April 30, 2025 in Jerome, Idaho
- May 1, 2025 in Pocatello, Idaho

In the 11 meetings held over 2024 and 2025, a total of 22 non-Department members attended the meetings in person, and a total of 53 attended the meetings virtually.

With no proposed fee increases, the discussion in the meetings centered around simplifying the rules for increased clarity and ease of use.

Attachment 2 is a summary of negotiated rulemaking. The Department incorporated revisions to the rule based on these comments.

The draft rule text will be submitted for publication in the Administrative Bulletin as a proposed rule and will be posted on the Department's rulemaking webpage (Attachment 3). The rule is written in track changes format to allow the reader to easily identify changes.

The proposed rule reduces the overall regulatory burden by reducing the total word count and the number of restrictive words. Most of the changes are a result of eliminating redundancies, reorganizing, and ensuring that the rule accurately reflects today's regulatory environment. The proposed rule includes the following changes:

- 2 percent reduction in word count, 26 percent reduction in restrictive words.
- Omitted duplicative definitions and added definitions including coarse and durable rock armor, act and authorized land.
- Replaced the words director with department and changed disturbed to affected.

The proposed rule will be open for public comment upon publication in the October 1, 2025 Administrative Bulletin. The draft Notice of Proposed Rule is found in Attachment 4.

Attachments

1. February 20, 2024 Approved Memo
2. Negotiated Rulemaking Summary
3. Proposed Rule Text
4. Draft Notice of Proposed Rule

STATE BOARD OF LAND COMMISSIONERS

February 20, 2024

Regular Agenda

Subject

Negotiated rulemaking for IDAPA 20.03.04 *Rules for the Regulation of Beds, Waters, and Airspace Over Navigable Lakes in the State of Idaho*

Question Presented

Shall the Land Board authorize the Department to initiate negotiated rulemaking for IDAPA 20.03.04 *Rules for the Regulation of Beds, Waters, and Airspace Over Navigable Lakes in the State of Idaho*?

Background

The Idaho Department of Lands (Department) manages encroachments on navigable lakes in Idaho pursuant to Title 58, Chapters 1 and 13, Idaho Code, and IDAPA 20.03.04. This rule protects the state's navigable lakes by setting standards for encroachments. By regulating encroachments, this rule protects property, navigation, fish and wildlife habitat, aquatic life, recreation, aesthetic beauty, and water quality.

Encroachments include docks, marinas, piers, buoys, pilings, breakwaters, boat ramps, and other facilities used to support water craft, as well as landfills, bridges, utility lines, float homes, boat garages, and other structures constructed on, in, or above the beds or waters of a navigable lake.

Following Executive Order 2020-01, Zero-Based Regulation, this rule chapter is scheduled for a comprehensive review in 2025 with the goal of simplifying the rules for increased clarity and ease of use. The Department anticipates a high level of public interest in this rulemaking and recommends starting negotiations in the spring of 2024 in order to finish negotiations by the summer of 2025.

Discussion

The Department anticipates reducing the overall regulatory burden by reducing both total word count and the number of restrictive words in the new rule chapter. The Department will review the rule with stakeholders to ensure that it is right-sized.

A proposed timeline for the rulemaking process is provided in Attachment 1.

Recommendation

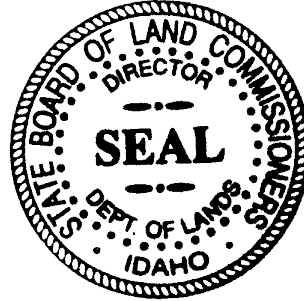
Authorize the Department to initiate negotiated rulemaking for IDAPA 20.03.04 *Rules for the Regulation of Beds, Waters, and Airspace Over Navigable Lakes in the State of Idaho*.

Board Action

A motion was made by Secretary of State McGrane that the Land Board authorize the Department to initiate negotiated rulemaking for IDAPA 20.03.04 Rules for the Regulation of Beds, Waters, and Airspace Over Navigable Lakes in the State of Idaho. Controller Woolf seconded the motion. The motion carried on a vote of 4-0.

Attachments

1. Draft rulemaking timeline





Negotiated Rulemaking Summary
IDAPA 20.03.02—Rules Governing Mined Land Reclamation
Docket No. 20-0302-2401

Members of the public participated in the Department’s negotiated rulemaking process by attending the meetings and submitting written comments. Key information considered by the Department included applicable statute and information provided by the public and the Department’s legal counsel during the negotiation process.

Key documents from the rulemaking record, which includes rule drafts, written public comments and documents distributed during the negotiated rulemaking process, are available at <https://www.idl.idaho.gov/rulemaking/docket-20-0302-2401/>. The entire rulemaking record is available for review upon request to the Department. At the conclusion of the negotiated rulemaking process, the Department formatted the final rule draft for publication as a proposed rule in the Idaho Administrative Bulletin.

In developing the draft rule, the Department considered all comments received during the negotiated rulemaking process. The following is a summary of all comments and the Department’s response to the comments:

Date	Comment	Response
4-24-2024	Question: What about the deletion of subsection 060.08? This subsection allows the operator and IDL to agree to additional reclamation of an exploration project beyond the requirements in the rules.	Response: No operator has requested this over the last 20 years or more, and nothing would prevent an operator from doing additional reclamation. The exploration reclamation requirements in the rules provide a minimum standard, and additional work would not be opposed.
4-24-2024	Question: Asked about the new sentence in Subsection 120.01 regarding the amount of the initial financial assurance, and if that was related to a statutory requirement.	Response: IDL confirmed that it was from a statutory requirement.
4-24-2024	Request: Made for specifically outlining what changes from 2019 do or do not apply when discussing the draft revisions to Section 200.	Response: A plan is subject to the rules in place at the time of approval, and the new rules would only apply to new amendments for plans that were already approved in 2019. No confusion has been reported from the operators. Some clarification in the guidance documents may be more appropriate than further clarification in the rules.

Date	Comment	Response
4-30-2024	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 regard to financial assurance.
4-30-2024	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.
4-30-2024	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.
4-30-2024	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.
4-30-2024	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.
4-30-2024	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 clearer.
5-1-2024	Question: Do the rules need a definition of "board" as used in Section 000?	Response: Board is defined in Title 47, Chapter 15, Idaho Code. The definitions in Section 010 of the rules start with this statement: "In addition to the definitions set forth in the Act, the following definitions apply to these rules:". In order to fully understand the rules, the statute must also be examined. All definitions in statute also apply to the rules.
5-1-2024	Comment: The maps need a reference to where cross sections are located. Sometimes representative cross sections appear to be missing.	Response: IDL stated that Section 069 does have a requirement in Section 03.b.vii to show where the cross section is on the map. If representative cross sections are not submitted, then IDL may need to determine that the application is incomplete.

Date	Comment	Response
5-1-2024	Comment: More specificity could be required for drainage control prior, during, and after mining.	Response: IDL's focus is on where water goes during and after the operation. IDL is also only concerned with site drainage up to the point that the plan is retired and the bond is released. The site is in reclamation up until that time.
5-1-2024	Question: Is IDWR involved with the water drainage after reclamation?	Response: This question is outside the scope of this rulemaking and IDL's expertise.
5-1-2024	Question: What are the enforcement methods for the rules?	Response: Enforcement is mentioned in Section 160, but the specifics of compliance enforcement are in the statute, 47-1513.
5-6-2024	Question: How do IDL reclamation plan reviews compare to BLM, and if an operator is permitted through BLM does that take care of permitting with IDL?	Response: An approved reclamation plan is still needed for those operations approved by BLM. IDL reviews are often done with the BLM, or USFS, and with other state agencies. If a NEPA review is required, then IDL and other state agencies may have already reviewed the plan, but a reclamation plan approved by IDL is still needed.
5-6-2024	Comment: The longest part of the BLM review may be the archeological clearances.	Response: IDL does not require archeological clearances for reclamation plans.
5-7-2024	Question: Will an operator be notified if their reclamation plan was complete?	Response: Yes, the reclamation plans would be reviewed for completeness as soon as possible within the 60 day review period.
5-7-2024	Question: Would the definition of "coarse and durable rock armor" apply to riprap material placed in a channel? Sometimes smaller riprap is used, and it is unclear if the definition of coarse and durable rock armor would apply to this type of use.	Response: IDL stated that the only place coarse and durable rock armor is mentioned in the rule is in paragraph 070.04.e. It is possible that this would apply to riprap, and IDL would look into this more. Participants were encouraged to share their opinion on this in some written comments.

Date	Comment	Response
6-5-2024 1	<p>Question: Re: 010.05 Coarse and Durable Rock Armor: This is a one-size-fits-all specification to meet a specific predetermined yet unknown performance criteria instead of requiring that a specified performance criteria lead to a specified material construction specification.</p> <p>"Free of fines"? 100.00%? 99.8%? 50%, by weight or volume?</p> <p>What is the specification for "fines"? "Fines" are relative to the desired particle size and their relevance to the specification depends on the performance goals for armoring.</p> <p>Not all armoring jobs are in need of angular rock. Once again, rock and types must meet an engineering performance specification that is appropriate to the application's needs. As written, this makes river rock that lines every river in Idaho illegal for use if removed and put back by the Operator when re-armoring a stream channel.</p>	<p>Response: The definition has been modified in the proposed rules.</p>
6-5-2024	<p>Question: Re 010.08: What is the definition of "affected land"?</p>	<p>Response: The term "disturbed acres" has been replaced with "affected land" in the proposed rule. Affected land is defined in 47-1503(5), Idaho Code.</p>
6-5-2024	<p>Question: Re 060.04(a): What about regrading a previously disturbed area in a manner that better protects from "non-point sources"? This may conflict with direction elsewhere such as language revised in Section 04.e.</p>	<p>Response: Comment acknowledged. IDL appreciates grading performed to minimize soil erosion based on field knowledge.</p>

Date	Comment	Response
6-5-2024	Question: Re 060.04(e): This language adds potentially unlimited obligations for what may be disproportionate or even unrelated to the actual exploration activity or its disturbance. "Control" to what extent? Who and what criteria determines what is controlled and what is not?	Response: Comment acknowledged. The intent of the rule is to minimize sediment mobilization and transport to a water course.
6-5-2024	Question: Section 060.01.08: What's wrong with this? Does it give the operator too much [any] discretion in agreeing to what is "additional"?	Response: Comment acknowledged. Section 60.01.08 retained in proposed rule.
6-5-2024	Question: Re 070.04(c): These regulations for water compliance are more appropriate and should remain the case with 060.04(e).	Response: Comment acknowledged.
6-5-2024	Question: Re 070.05: Operating Plan Requirements. This should include language clearly recognizing that an Operating Plan approval is not required if the plan is approved by a federal agency per Idaho Code 47-1506.	Response: Comment acknowledged. Operating Plan tiering is addressed in the descriptions in 010.16 and in 070.02(c) of these rules.
6-5-2024	Question: Re 071.04(a): By the Operator?	Response: This section has been modified in the proposed rules.
6-5-2024	Question: Re 080.01: The IDL wants to have an indefinite period before reviewing reclamation plans for completeness? Unacceptable.	Response: Section 47-1507(c), Idaho Code defines review periods for both reclamation and permanent closure plans. They are not repeated here in order to comply with Executive Order 2020-01
6-5-2024	Question: Re: 080.02(a): IDEQ	Response: Comment acknowledged. "DEQ" is the acronym used by DEQ in DEQ rules.

Date	Comment	Response
6-5-2024	Question: Re: 080.02(a): The Idaho Public Records Act should not apply to the Director? Or should it be less clear in this statute that this is the case?	Response: This section has been modified in the proposed rules.
6-5-2024	Question: Re 080.03(a): It appears that IDL alone will be able to set the schedule for the inspection. Unacceptable. This should state that the inspection shall/will/must be scheduled at a time mutually agreed to by IDL and the applicant or owner.	Response: This section has been modified in the proposed rules.
4-15-2025	Question: What are the review periods for the draft rules?	Response: The current negotiated rulemaking comment period for Draft #2 ended on June 13, 2025. A review period for the proposed rule will occur from October 1 to October 21, 2025.
4-16-2025	Question: What are IDL's reclamation standards	Response: See IDAPA 20.03.02.140.11(b).
4-16-2025	Question: When are updates required?	Response: Reclamation plans <u>may</u> be updated every five years at the discretion of the operator (155.03(a)). Reclamation plans <u>must</u> be updated when material changes to the operation occur (010.09). The Cyanidation Facility Permanent Closure Plan cost estimates must be updated at a minimum of every three years (120.19(a)).
4-16-2025	Question: Frequency of inspections	Response: Inspections accompany: (a) material changes in the reclamation plan; or (b) change in permanent closure plan cost estimates. Inspection frequency at other mines is performed periodically based on a priority and resource availability basis (155.03)
4-21-2025	Question: Mine inspection frequency.	Response: Mine inspection frequency is governed by 47-1508(e), Idaho Code, and 155.03 of the rules. Refer to the response to the previous question.

Date	Comment	Response
4-21-2025	Question: Provide an analysis on the benefits and costs of current subsection 150.03(a).	Response: The request is not within the negotiated rulemaking scope.
4-21-2025	Question: Use of the "tailings facility" term.	Response: The term "tailings facility" has been changed to either "tailings ponds" or "tailings infrastructure" throughout the proposed rules.
4-21-2025	Question: Preparation of Zero-Based Prospective Analysis	Response: The Zero-Based Prospective Analysis for this rule was posted on February 2, 2024. This analysis will be posted on the rulemaking webpage when updated.
4-21-2025	Question: Re 155.03(a): Reclamation plan review frequency.	Response: This section has been modified in the proposed rules.
4-23-2025	Question: Prefers retaining "affected acres" in rules.	Response: This section has been modified in the proposed rules.
4-23-2025	Question: What are the objectives of Zero-Based Rulemaking?	Response: Comment acknowledged. Not within the scope of negotiated rulemaking process.
4-23-2025	Question: Rules applicability with respect to upcoming application submittals.	Response: Use the rules on the IDL website: https://adminrules.idaho.gov/rules/current/20/200302.pdf . Changes to these rules would not take effect until July 1, 2026.
4-23-2025	Question: No acronym for Fish & Game?	Response: The term "Fish & Game" is only used twice in the rules. No need for an acronym.
4-23-2025	Question: When will the applicant learn of the required number of maps?	Response: The applicant should recognize the number of required maps during preparation of the application. Draft #2 requires at least two maps. Creating more than two maps is based on discretion of the applicant and the need for clarity for interpretation by the IDL reviewer.
4-23-2025	Question: Are the cross-section requirements new?	Response: No, the cross-section requirement is stated in the current rule. What is new is the requirement for at least two cross-sections.

Date	Comment	Response
4-23-2025	Question: What is the definition of financial assurance phases?	Response: Applicants should develop discrete phase segments in a way that suits the applicant's Operations Plan. The phases should pair work tasks with financial assurance units.
4-23-2025	Question: Why not duplicate language in statute when composing the rules? Paging from rules to statute and back again is tedious.	Response: Executive Order 2020-01 and guidance provided by the Division of Financial Management requires avoidance of duplicative words and sections.
4-23-2025	Question: Re 110.01, sections 069, 070 and 071 should be replaced by section 080.	Response: Comment acknowledged. Section 080.02 refers to interagency notification requirements. Section 110.01 refers to Public Hearing requirements. Usage is different in sections 080 and 110. Draft #2 language is retained.
4-23-2025	Question: Re section 120.01, financial assurance should be changed to " . . . must cover one year . . .".	Response: Comment accepted. This section has been modified in the proposed rules.
4-23-2025	Question: Are Minerals Program policies and procedures available to the public?	Response: Yes. They can be found at this link: https://www.idl.idaho.gov/wp-content/uploads/sites/2/2023/01/agency-guidance-minerals-regulatory-procedures.pdf
4-23-2025	Question: Status of negotiated rulemaking?	Response: Negotiated rulemaking will conclude at the conclusion of the public comment period that ends on June 13, 2025.
6-13-2025	Question: Eliminate redundant section 120.08	Response: Comment acknowledged.
6-13-2025	Question: Reconsider volume of "cyanide" and "cyanidation" references throughout the rules.	Response: Comment acknowledged.
6-13-2025	Question: Re 155.01:Support for use of federal submittals for five year updates.	Response: This section has been modified in the proposed rules.

Date	Comment	Response
6-13-2025	Question: Re 010: Add "Affected Land" in definitions section.	Response: "Affected land" is defined in statute and is not duplicated in these rules as per Executive Order 2020-01 and guidance from the Division of Financial Management.
6-13-2025	Question: Re 010.04: Add " . . . and state groundwater management plan and regulations . . ."	Response: Comment acknowledged. IDL is only authorized to regulate suspended solids in surface water.
6-13-2025	Question: Re 010.04: Add ". . . and groundwater . . ."	Response: Refer to response to previous question.
6-13-2025	Question: Re 010.08: Add financial assurance definition in section 010.	Response: Financial assurance is defined in statute. Financial assurance definition is not duplicated in these rules as per Executive Order 2020-01 and guidance from the Division of Financial Management.
6-13-2025	Question: Re 010.14: Add "surface and ground "waters of the state"	Response: Comment acknowledged. IDL is only authorized to regulate suspended solids in surface water.
6-13-2025	Question: Re 010.08 Delete "permitted acres" in section 010. definition.	Response: Comment accepted. Permitted acres struck from the proposed rules.
6-13-2025	Question: Re 120.14. Strike "that also meets . . . of these rules."	Response: Comment acknowledged. The Department's reclamation cost estimation calculation rules may differ from other state and federal agencies. The Department retains the right to use Department rules for cost estimation calculations.
6-13-2025	Question: Re 120.15(a) Insert "Such a determination initial financial amount."	Response: Comment acknowledged. The review period is not specified in 47-15, Idaho Code. Section 120.15(a) retained without insertion of recommend language.
6-13-2025	Question: Re new clause in 120.16: Insert "Financial assurance associated . . . of such activities " in section 120.	Response: Comment acknowledged. Financial assurance release requirements are specified in section 120.16.
6-13-2025	Question: Re 140.01(a): Add " . . . surface and ground" water . . .	Response: Comment acknowledged. IDL is only authorized to regulate suspended solids in surface water.

Date	Comment	Response
6-13-2025	Question: Re 140.04(d): Insert "Where appropriate slope angles allow . . ."	Response: This section has been modified in the proposed rules
6-13-2025	Question: Re 155.01: Insert "A mine plan update . . . meet the requirement."	Response: This section has been modified in the proposed rules

20.03.02 – RULES GOVERNING MINED LAND RECLAMATION

000. LEGAL AUTHORITY.

~~This rule is adopted under the legal authorities of~~ 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 verify the accuracy of cost estimates for reclamation plans and permanent closure plans~~ Title 58, Chapter 1, Idaho Code, Sections 58-104(6) and 58-105; and Title 67, Chapter 52, Idaho Code. The Board has delegated to the ~~director~~ Director of the Department the duties and powers under the ~~chapter~~ Act and these rules; however, the Board retains responsibility for administrative review.

(3-18-22)()

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.~~ (3-18-22)

~~0201.~~ **Scope.** These rules establish the notification requirements for exploration and the application, operation, and reclamation requirements for mined lands. In addition, they establish the application and closure requirements for cyanidation facilities. These rules also establish the reclamation and financial assurance requirements for all these activities, and describe the processes used to administer the rules in an orderly and predictable manner. (3-18-22)

~~0302.~~ **Other Laws.** Operators engaged in exploration, mine operation, and operation of a cyanidation facility, ~~shall~~ must comply with all applicable laws and rules of the state of Idaho including, but not limited to the following: (3-18-22)()

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). (3-18-22)

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. (3-18-22)

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.” (3-18-22)

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.” (3-18-22)

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~~ IDWR. (3-18-22)()

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~~ IDWR. (3-18-22)()

~~0403.~~ **Applicability.** These rules are to be read and applied in conjunction with the ~~chapter~~ Act. These rules apply to all exploration, mining operations, and permanent closure of cyanidation facilities on all lands in the state, regardless of ownership. (3-18-22)()

a. These rules apply to mining operations or exploration operations commenced after January 1, 1997. These rules in no way affect, alter, or modify the terms or conditions of any approved reclamation plan, reclamation plan amendment, or financial assurance for reclamation obtained prior to January 1, 1997. If a material change arises and is regulated in accordance with Subsection 090.01, then the operator ~~shall~~must submit a reclamation plan amendment. (3-18-22)()

b. These rules do not apply to: (3-18-22)

i. Any surface mining operations performed prior to May 31, 1972. An operator will not be required to perform reclamation activities on any pit or overburden pile as it existed prior to May 31, 1972. (3-18-22)

ii. Mining operations for which the Idaho Dredge and Placer Mining Protection Act requires a permit, or which are otherwise regulated by that act. (3-18-22)

iii. Extraction of minerals from 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. (3-18-22)

iv. Underground mines that existed prior to July 1, 2019, and have not expanded their surface disturbance by 50% or more after that date. (3-18-22)

c. Sand and gravel mining operations in state-owned beds of navigable lakes, rivers or streams ~~shall~~will constitute an approved mining plan for the purpose of these rules if the operator has all of the following: (3-18-22)()

i. A valid riverbed mineral lease granted by the Board in accordance with IDAPA 20.03.05, "Rules Governing Riverbed Mineral Leasing", with a valid mineral lease bond; (3-18-22)

ii. An approved plan of operations for the riverbed mineral lease; and (3-18-22)

iii. A valid stream channel alteration permit issued by ~~the Idaho Department of Water Resources~~ IDWR. (3-18-22)()

d. Surface mining operations, conducted by a public or governmental agency for maintenance, repair, or construction of a public highway, which: (3-18-22)

i. Disturb more than two (2) acres will comply with the provisions of Section 069; or (3-18-22)

ii. Disturb less than two (2) acres will comply with Subsections 060.06.a. through 060.06.e. (3-18-22)

e. A cyanidation facility with a permit approved by the DEQ prior to July 1, 2005, is subject to the applicable laws and rules for ore processing by cyanidation in effect on June 30, 2005; however, if there is a material modification or material expansion to a cyanidation facility after July 1, 2005, these rules ~~shall~~will apply to the modification or expansion. (3-18-22)()

002. -- 009. (RESERVED)

010. DEFINITIONS.

In addition to the definitions set forth in the ~~chapter~~Act, the following definitions apply to these rules:

(3-18-22)()

01. Act. The Mined Land Reclamation Act, Title 47, Chapter 15, Idaho Code. ()

~~**012.**~~ **Adit.** A nearly horizontal passage from the surface into an underground mine. (3-18-22)

~~**023.**~~ **Approximate Previous Contour.** A contour that is reasonably comparable to that contour

existing prior to disturbance, or that blends with the adjacent topography. (3-18-22)

04. Authorized Land. The area of land specified in an application that may become affected lands at a mine or cyanidation facility. ()

035. Best Management Practices (BMP). Practices, techniques or measures developed or identified by the designated agency and identified in the state water quality management plan 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. (3-18-22)

~~04. Chapter. The Mined Land Reclamation Act, Title 47, Chapter 15, Idaho Code. (3-18-22)~~

056. Coarse and Durable Rock Armor. A layer of rock placed on a slope to protect it from erosion. The rock must be sufficiently sound, dense, durable, angular, resistant to weathering, and substantially free of fines. The thickness must be at least equal to the dimension of the largest rock used, or eighteen (18) inches, whichever is greater. ()

057. Department. The Idaho Department of Lands. (3-18-22)

068. 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. (3-18-22)

0709. Ground Water. Any water of the state that occurs beneath the surface of the earth in a saturated geological formation of rock or soil. (3-18-22)

0810. Land Application. A process or activity involving application of liquids or slurries potentially containing cyanide from the cyanidation facility to the land surface for the purpose of treatment, neutralization, disposal, or groundwater recharge. (3-18-22)

0911. Material Change. A change that deviates from the approved reclamation plan or permanent closure plan and causes one (1) or more of the following to occur: (3-18-22)

a. Results in a substantial adverse effect to the geotechnical stability of overburden disposal areas, topsoil, stockpiles, roads, embankments, tailings facilities infrastructure, cyanidation facilities or pit walls; (3-18-22) ()

b. Substantially modifies surface water management or a water management plan, not to include routine implementation and maintenance of BMPs; (3-18-22)

c. Exceeds the permitted-authorized acreage; or (3-18-22) ()

d. Increases overall estimated reclamation costs by more than fifteen percent (15%). (3-18-22)

1012. Material Modification or Material Expansion. With regard to cyanidation facilities: (3-18-22)

a. Any change to a permitted-an approved cyanidation facility, except as provided in Subsection 010.1012.b, that the Department determines will: (3-18-22) ()

i. Cause or increase the potential to cause degradation of waters, such as a new cyanidation process or cyanidation facility component; or (3-18-22)

ii. Change the capacity, location, or process of an existing cyanidation facility component; or (3-18-22)

iii. Change the site condition in a manner that is not adequately described in the original permit application. (3-18-22)

b. Reclamation and closure related activities at a cyanidation facility with an existing permit that did

not actively add cyanide after January 1, 2005 are not material modifications or material expansions of the cyanidation facility. (3-18-22)

1413. Material Stabilization. Managing or treating spent ore, tailings, other solids and/or sludges resulting from the cyanidation process to minimize waters or all other applied solutions from migrating through the material and transporting pollutants associated with the cyanidation facility to ensure that all discharges comply with all applicable standards and criteria. (3-18-22)

1414. Motorized Earth-Moving Equipment. Backhoes, bulldozers, front-loaders, trenchers, core drills, and other similar equipment. (3-18-22)

1415. Neutralization. Treatment of process waters such that discharge or final disposal of those waters does not, or will not, violate any applicable standards and criteria. (3-18-22)

1416. Operating Plan. A plan that describes how a mining operation will be constructed and operated to avoid or minimize surface disturbance and potential impacts to waters of the state, and to prepare for final reclamation. (3-18-22)

1417. Permanent Closure. Those activities that result in neutralization, material stabilization, and decontamination of cyanidation facilities or the facilities' final reclamation. (3-18-22)

1418. Permit. When used without qualification, any written authorization, license, or equivalent control document issued by the DEQ. This includes authorizations issued pursuant to the application, public participation, and appeal procedures in IDAPA 58.01.13, "Rules for Ore Processing by Cyanidation," and those issued pursuant to the application, public participation, and appeal procedures in IDAPA 58.01.25. (3-18-22)

1419. Pollutant. Chemicals, chemical waste, process water, biological materials, radioactive materials, or other materials that, when discharged, cause or contribute adverse effects to any beneficial use or for any other reason may impact waters of the state. (3-18-22)

1420. Process Waters. Any liquids 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. (3-18-22)

1421. Real Property. Land and appurtenances as defined in Section 55-101, Idaho Code. (3-18-22)

1422. Reclamation. The process of restoring an area affected by a mining operation or cyanidation facility to its original or another beneficial use, considering previous 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. (3-18-22)

1423. Reclamation Plan. A plan using a combination of maps, drawings, and descriptions that describes how a mine is constructed and how reclamation of a mine's affected land is accomplished. (3-18-22)

1424. Revegetation. The establishment of the premining vegetation or a comparable vegetative cover on the land ~~disturbed~~-affected by mining operations. (3-18-22) ()

1425. Shaft. A vertical or inclined passage from the surface into an underground mine. (3-18-22)

1426. Surface Waters. The surface waters of the state of Idaho. (3-18-22)

1427. Treatment. Any method, technique or process, including neutralization, that changes the physical, chemical, or biological character or composition of a waste for the purpose of disposal, or the end result of such action. (3-18-22)

1428. 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.

(3-18-22)

2729. 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.

(3-18-22)

2830. Waters of the State. All the accumulations of water, surface and underground, natural and artificial, public or private, or parts thereof that are wholly or partially within, flow through or border upon the state of Idaho. These waters ~~shall~~will 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.

(3-18-22)()

011. ABBREVIATIONS.

01. BMP. Best Management Practices.

(3-18-22)()

02. DEQ. Idaho Department of Environmental Quality.

(3-18-22)()

03. IDWR. Idaho Department of Water Resources

()

~~03~~04. IPDES. Idaho Pollutant Discharge Elimination System.

(3-18-22)

~~04~~05. SWPPP. Storm Water Pollution Prevention Plan.

(3-18-22)

~~05~~06. U.S.C. United States Code.

(3-18-22)

012. -- ~~049~~059. (RESERVED)

~~050. ADMINISTRATION.~~

~~The Department will administer these rules under the direction of the director.~~

(3-18-22)

~~051. -- 059. (RESERVED)~~

060. EXPLORATION OPERATIONS AND ~~REQUIRED~~ RECLAMATION.

01. **Diligence.** All reclamation activities ~~required to be~~ conducted on exploration sites must be performed in a good, workmanlike manner with all reasonable diligence, and as to a given exploration drill hole, road, or trench, within one (1) year after abandonment thereof.

(3-18-22)()

02. **When Exploration Is Mining.** Exploration operations may under some circumstances constitute mining operations as described in Section 47-1503(7), Idaho Code.

(3-18-22)

03. **Notification.** Any operator desiring to conduct exploration using motorized earth-moving equipment to locate minerals for immediate or ultimate sale ~~shall~~must notify the Department prior to or within seven (7) days after beginning exploration operations. The notification must include the information listed in Section 47-1506(e), Idaho Code. No application fee or financial assurance is required for exploration that is not a mining operation.

(3-18-22)()

~~04. Contents of Notification. The notification shall include:~~

(3-18-22)

~~a. The name and address of the operator;~~

(3-18-22)

~~b. The legal description of the exploration and its starting and estimated completion date; and~~

(3-18-22)

~~c. The anticipated size of the exploration and the general method of operation. (3-18-22)~~

~~05. Confidentiality. Any such notification is treated as confidential in accord with Section 180. (3-18-22)~~

0604. Exploration Reclamation (Less Than Two Acres). Every operator who conducts exploration affecting less than two (2) acres ~~shall~~must: (3-18-22)()

a. ~~Wherever possible, contour~~Regrade the affected lands to their approximate previous contour ~~where possible; and~~ (3-18-22)()

b. Conduct revegetation activities in accordance with Subsection 140.11. Unless otherwise required by a federal agency, one (1) pit or trench on a federal mining claim showing discovery, may be left open pending verification by federal mining examiners. (3-18-22)

c. ~~E~~Plug exploration drill holes ~~must be plugged~~ within thirty (30) days of drilling the holes. Upon request, the ~~director~~Department may allow the holes to be temporarily left unplugged for up to a year, but until they are plugged the holes must be left so as to eliminate hazards to humans and animals. (3-18-22)()

d. ~~P~~Reclaim pits or trenches on mining claims ~~showing discovery may be within one (1) year of verification if left open pending federal verification by federal mining examiners but shall. The pits and trenches must not create a hazard to humans or animals. Such abandoned pits and trenches must be reclaimed within one (1) year of verification, prior to reclamation; and~~ (3-18-22)()

e. ~~If water runoff from exploration causes siltation of surface waters in amounts more than normally results from runoff, the operator shall reclaim affected lands and adjoining lands under his control as is necessary to meet state water quality standards. Control nonpoint source pollution by reclaiming affected lands and adjoining lands and implementing appropriate BMPs.~~ (3-18-22)()

0705. Exploration Reclamation (More Than Two Acres). Reclamation of lands where exploration has affected more than two (2) acres must be completed as set forth in Subsection 060.06 and all the following additional requirements: (3-18-22)()

a. Abandoned exploration roads must be cross-ditched as necessary to minimize erosion. The ~~director~~Department 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. If the ~~director~~Department approves the petition, the operator cannot thereafter be required to conduct reclamation activities with respect to that given road or road segment. (3-18-22)()

b. Ridges of overburden must be leveled ~~so as~~ to have a minimum width of ten (10) feet at the top. (3-18-22)()

c. Peaks of overburden must be leveled ~~so as~~ to have a minimum width of fifteen (15) feet at the top. (3-18-22)()

d. Overburden piles must be reasonably prepared to control erosion. (3-18-22)

e. Abandoned lands affected by exploration must be top-dressed to the extent that such overburden is reasonably available from any pit or other excavation created by the exploration, with that type of overburden that ~~is conducive to the control of~~ minimizes erosion ~~or the and promotes~~ growth of vegetation that the operator elects to plant thereon. (3-18-22)()

f. Any water containment structure created in connection with exploration, must be reasonably prepared so as not to constitute a hazard to humans or animals. (3-18-22)

086. Additional Reclamation. The operator and the director may agree, in writing, to complete

additional reclamation beyond the requirements established in the chapter and these rules.

(3-18-22)

061. -- 067. (RESERVED)

068. APPLICATION FEES

01. Base Application Fees. The following base fee schedule will be used for all reclamation plans and permanent closure plans and amendments to those plans. For plans processed under Section 069 of these rules, this base fee covers up to twenty (20) hours of staff time for review and processing. For plans processed under Section 070 of these rules, the applicant may instead enter an agreement with the Department as described in Subsection 068.03 of these rules. The applicable acreage is based on the proposed reclamation plan area identified in the application:

Type of Plan	Fee (Dollars)
Section 069 of these rules, Reclamation Plan 0 to 5 acres	Five hundred (\$500)
Section 069 of these rules, Reclamation Plan >5 to 40 acres	Six hundred (\$600)
Section 069 of these rules, Reclamation Plan over 40 acres	Seven hundred fifty (\$750)
Section 070 of these rules, Reclamation Plan 0 to 100 acres	One thousand (\$1,000)
Section 070 of these rules, Reclamation Plan >100 to 1,000 acres	One thousand five hundred (\$1,500)
Section 070 of these rules, Reclamation Plan >over1,000 acres	Two thousand (\$2,000)
Section 071 of these rules, Permanent Closure Plan	Five thousand (\$5,000)

(3-18-22)()

02. Additional Fees for Applications Submitted Under Section 069. Plans processed under Section 069 of these rules that require more than twenty (20) hours of staff time due to an incomplete application will result in additional fees being charged. After a revised application has been received and determined to be complete with the exception of the fee, IDL will send an invoice to the operator at a rate of forty dollars per hour (\$40/hour) for the additional review time over the initial twenty (20) hours. If this additional fee is not paid prior to the sixty (60) day approval deadline, the application will be denied. If the additional fee is paid within 30 days of the denial, the application will be considered complete and the time requirements of Subsection 080.03 will apply. (3-18-22)

03. Alternative Fee Agreement for Applications Submitted Under Section 070. In lieu of paying a fee at the time the application is submitted, an applicant under Section 070 of these rules may enter into an agreement with the Department for actual costs incurred to process an application, verify a reclamation cost estimate submitted under Idaho Code § 47-1512(c), and issue a final decision. The applicant ~~shall~~**must** not commence operations until the terms of the agreement have been met, including that the Department has been reimbursed for all actual costs incurred for the permitting process. (3-18-22)()

069. APPLICATION PROCEDURE AND REQUIREMENTS FOR QUARRIES, DECORATIVE STONE, BUILDING STONE, AND AGGREGATE MATERIALS INCLUDING SAND, GRAVEL AND CRUSHED ROCK.

01. Approval Required. ~~No operator may conduct mining operations on any lands in the state until the reclamation plan has been approved by the director~~Department, and the operator has filed the required financial assurance. 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. (3-18-22)()

~~**02. No Operator Shall Conduct Mining Operations.** No operator shall conduct mining operations on any lands in the state until the reclamation plan has been approved by the director, and the operator has filed financial assurance that meets the requirements of the chapter and these rules. (3-18-22)~~

0302. Application Package. The operator must submit a complete application package, for each separate mine or mine panel, before the reclamation plan will be approved. Separate mines are individual, physically

disconnected operations. A complete application package consists of:

(3-18-22)

- a. An application provided by the ~~director~~ Department; (3-18-22)()
- b. A map or maps of the proposed mining operation which includes the information required under Subsection 069.04~~3~~; (3-18-22)()
- c. A reclamation plan, in map and narrative form, which includes the information required under Subsection 069.05~~4~~; and (3-18-22)()
- d. An out-of-state operator ~~shall~~ will designate an in-state agent authorized to act on behalf of the operator. In case of an emergency that requires an action or actions to prevent environmental damage, both the operator and the authorized agent will be notified; and (3-18-22)()
- e. The correct fee listed in Section 068 of these rules. (3-18-22)

0403. Map Requirements. ~~A vicinity map must be prepared on standard United States Geological Survey ("USGS") seven and one half (7.5) minute quadrangle maps or equivalent. A map of the proposed mining operation site must be of sufficient scale to show: A minimum of two maps will be required. Based on individual site complexity, more than two maps may be submitted to clearly identify map items listed in this Section. Additional maps may be necessary to meet the requirements of Subsection 069.04.~~ (3-18-22)()

a. A vicinity map must be prepared on standard United States Geological Survey seven and one-half (7.5) minute quadrangle maps or equivalent. The map must show the proposed location with respect to roads and other readily identifiable local landmarks, and the approximate location and names, if known, of drainages, streams, creeks, or water bodies within one thousand (1,000) feet of the mining operation. ()

b. A site detail map must be prepared to illustrate the proposed mining operation features. The site detail map must be of sufficient scale to show the following items: ()

a.i. The location of existing and new access roads; ~~access~~; and main haul roads to be constructed or reconstructed in conjunction with the mining operation ~~and the approximate dates for construction, reconstruction, and abandonment~~; (3-18-22)()

~~b. The approximate location and names, if known, of drainages, streams, creeks, or water bodies within one thousand (1,000) feet of the mining operation;~~ (3-18-22)

e.ii. The approximate boundaries of ~~the~~ lands designated for ~~to be utilized in the~~ mining operations, including a legal description to the quarter-quarter section; (3-18-22)()

d.iii. The approximate boundaries and acreage of the lands that will become affected land as a result of the ~~due to~~ mining operation ~~activity~~ during the first year of operations; (3-18-22)()

e.iv. The currently planned storage locations of fuel, equipment maintenance products, wastes, and chemicals ~~that will be utilized in the mining operation~~; (3-18-22)()

f.v. The currently planned location and configuration of pits, overburden piles, crusher reject materials, mineral stockpiles, topsoil storage, wash plant ponds and sediment ponds ~~that will be utilized~~; (3-18-22)()

vi. A surface ~~and mineral control or~~ ownership map of appropriate scale for boundary identification; and (3-18-22)()

g.vii. At least two Sscaled cross-sections by length and height showing surface profiles prior to mining; ~~and~~, at the end of mining, and after reclamation is complete. All three profiles may be represented in one cross section. (3-18-22)()

~~h.~~ A surface and mineral control or ownership map of appropriate scale for boundary identification;
(3-18-22)

0504. Reclamation Plan Requirements. Reclamation plans must be submitted in map and narrative form and include the following: (3-18-22)

a. Where waters of the state are likely to be impacted or when requested by the ~~director~~ Department, documents identifying and assessing foreseeable, site-specific sources of water quality impacts from mining operations and proposed management activities, such as BMPs or other measures and practices, to comply with water quality requirements; (3-18-22)

~~b.~~ Scaled cross sections by length and height, showing planned surface profiles and slopes after reclamation; (3-18-22)

~~eb.~~ Roads to be reclaimed; (3-18-22)

~~dc.~~ A plan description of activities 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; (3-18-22)()

~~ed.~~ The planned reclamation of wash plant or sediment ponds; (3-18-22)

~~fe.~~ A drainage control map which identifies showing surface water drainage patterns and the location of BMPs that will be implemented to control erosion and water quality impacts during mining and reclamation activities; (3-18-22)()

~~gf.~~ The location of any current 100-year floodplain in relation to the mining facilities if the floodplain is within one hundred (100) feet of the facilities, and the BMPs to be implemented that will keep surface waters from entering any pits and potentially changing the stream course. (3-18-22)()

~~hg.~~ 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. See Section 120 of these rules for guidance on how to calculation of e these third-party reclamation costs. (3-18-22)()

~~ih.~~ If construction, mining, or reclamation will be completed in phases, a description of the tasks to be completed in each phase, an estimated schedule, and proposed adjustments of financial assurance related to each phase. (3-18-22)

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

01. Reclamation Plan 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. No operator shall may conduct mining operations on any lands in the state until the reclamation plan has been approved by the ~~director~~ Department, and the operator has filed the required financial assurance. (3-18-22)()

02. Application Package. The operator must submit a complete application package for each separate mine or mine panel before the reclamation plan will be approved. Separate mines are individual, physically disconnected operations. A complete application package consists of: (3-18-22)

a. All items and information required or allowed under Section 069 of these rules; (3-18-22)

b. Any additional information required by Subsection 070.04; and (3-18-22)

c. An operating plan, if required by Section 47-1506(b), Idaho Code, prepared in accordance with Subsection 070.05 of these rules. (3-18-22)

03. Map Requirements. Maps must be prepared in accordance with Subsection 069.04~~3~~ of these rules with the addition of any tailings ~~facilities~~ infrastructure or process fluid ponds. (3-18-22)()

04. Reclamation Plan Requirements. Reclamation plans must include all of the information required under Subsection 069.05~~4~~, including but not limited to phases as described in Subsection 069.04~~5~~.i, and the following additional information: (3-18-22)()

a. A description of the planned reclamation of overburden disposal areas, tailings ~~facilities~~ infrastructure, and sediment ponds; and (3-18-22)()

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. See Section 120 of these rules for guidance on how to calculate calculation of these third-party reclamation costs.~~ (3-18-22)()

c. To assist in meeting the requirements of ~~paragraph~~ Section 069.05~~4~~.a in these rules, a summary of requirements from a SWPPP, IPDES permit, ground water ~~p~~ Point of e Compliance, and other permits or approvals or BMPs related to foreseeable water quality impacts on the affected land. (3-18-22)()

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. (3-18-22)

e. Additional information regarding coarse and durable rock armor if any is proposed ~~to be used for mine facility~~ reclamation of mine facilities. The ~~director~~ Department may, after considering the type, size, and potential environmental impact of the facility, require the operator to include additional information in the reclamation plan. Such information may include, but is not limited to, one (1) or more of the following: (3-18-22)()

i. A description of the quantities, size, geologic characteristics, and durability of the materials to be used for final reclamation and armoring. (3-18-22)

ii. 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. (3-18-22)

f. The ~~director~~ Department may, after considering the type, size, and potential environmental impact of the facility, require the operator to provide 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~~ must show that the following features, if present, are designed in a manner that is consistent with industry standards to minimize the potential for failure ~~of~~: (3-18-22)()

i. ~~Any w~~ Waste rock or overburden stockpiles; (3-18-22)()

ii. ~~Any p~~ Pit walls proposed to be more than one hundred (100) feet high; and (3-18-22)()

iii. ~~Any p~~ Pit walls where geologic conditions could lead to failure of the wall regardless of the height. (3-18-22)()

g. Underground mines must provide the following additional information: (3-18-22)

i. Location and dimensions of all underground mine openings at the ground surface, including but not limited to vents, shafts, and adits; and (3-18-22)

ii. A description of how each mine opening in subparagraph 070.04.g.i of these rules will be secured during reclamation to eliminate hazards to human health and safety. (3-18-22)

h. A description of post-closure activities that includes the proposed length of the post-closure period and the following: (3-18-22)

i. A summary of procedures and methods for water management including any likely IPDES permit, stormwater permit, and monitoring required for any ground water ~~p~~Point of ~~e~~Compliance, along with sufficient information to support a cost estimate for such water management activities. (3-18-22)()

ii. Care and maintenance for facilities after mining has ceased. (3-18-22)

i. Other pertinent information the Department has determined is necessary to ensure that the operator will comply with the requirements of the ~~chapter~~Act. (3-18-22)()

05. Operating Plan Requirements. A complete operating plan ~~shall~~must consist of: (3-18-22)()

a. Ore, tailings, and waste rock handling flow sheets and diagrams. (3-18-22)

b. Waste rock management plan. (3-18-22)

c. Water quality monitoring locations. (3-18-22)

d. Anticipated concurrent reclamation prior to the cessation of mining. (3-18-22)

e. Estimated throughput and timeline for mining and ore processing. (3-18-22)()

f. Types of ore processing and beneficiation. (3-18-22)

g. Process fluid pond volumes and anticipated contents, if applicable. (3-18-22)

06. Monitoring Data. The Department will, as needed and through consultation with DEQ, obtain the operator's baseline data on ground water or surface water gathered during the planning and permitting process for the operation, and may require the operator to furnish additional monitoring data during ~~the life of~~ the project duration. This will not require any additional monitoring data where such data is already provided under an IPDES permit, SWPPP, ground water ~~p~~Point of ~~e~~Compliance, or other federal or state requirements for collecting surface or ground water data. (3-18-22)()

071. APPLICATION PROCEDURE AND REQUIREMENTS FOR PERMANENT CLOSURE OF CYANIDATION FACILITIES.

01. Permanent Closure Plan Approval Required. No operator ~~shall~~may operate a new cyanidation facility or materially modify or materially expand an existing cyanidation facility prior to obtaining a permit, approval from the ~~director~~Department and before the operator has filed financial assurance, as required by these rules. (3-18-22)()

02. Permanent Closure Plan Requirements. A permanent closure plan ~~shall~~must: (3-18-22)()

a. 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; (3-18-22)

b. Include a timeline showing: (3-18-22)

i. The schedule to complete permanent closure activities, including neutralization of process waters and material stabilization, and the time period for which the operator is responsible for post-closure activities; and (3-18-22)

ii. If the operator plans to complete construction, operation, and/or permanent closure of the cyanidation facility in phases, the schedule to begin each phase of construction, operation, and/or permanent closure activities and any associated post-closure activities. (3-18-22)

c. Provide the objectives, methods, and procedures that will achieve neutralization of process waters and material stabilization during the closure period and through post-closure; (3-18-22)

d. Provide a water management plan from the time the cyanidation facility is in permanent closure through the defined post-closure period. The plan must 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. (3-18-22)

e. Include the schematic drawings for all BMPs that will be used during the closure period, through the defined post-closure period, and a description of how the BMPs support the water management plan, and an explanation of the water conveyance systems that are planned for the cyanidation facility. (3-18-22)

f. 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 ground waters with wastes containing pollutants that are likely to be mobilized and discharged to waters of the state. Prior to approval of a permanent closure plan, engineering designs and specifications for caps and covers must bear the imprint of an Idaho licensed professional engineer that is both signed and dated by the engineer; (3-18-22)

g. Include monitoring plans for surface and ground water during closure and post-closure periods, adequate to demonstrate water quality trends and to ensure compliance with the stated permanent closure objectives and the requirements of the ~~chapter~~ Act; (3-18-22)()

h. 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. (3-18-22)

i. Provide information on how the operator will comply with the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq.; Idaho Hazardous Waste Management Act, Chapter 44, Title 39, Idaho Code; Idaho Solid Waste Management Act, Chapter 74, Title 39, Idaho Code; and appropriate state rules, during operation and permanent closure; (3-18-22)

j. Provide sufficient detail to allow the operator to prepare an estimate of the reasonable costs to implement the permanent closure plan; (3-18-22)

k. 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. The estimate ~~shall~~ must; (3-18-22)()

i. Identify the incremental costs of attaining critical phases of the permanent closure plan and a proposed financial assurance release schedule; (3-18-22)

ii. Assume that permanent closure activities will be completed by a third party whose services are contracted for by the Board as a result of a financial assurance forfeiture under Section 47-1513, Idaho Code. (3-18-22)

l. ~~If the proposal is to complete cyanidation facility~~ Describe any phases proposed for construction, operation, and/or permanent closure activities in phases of the cyanidation facility including: (3-18-22)()

i. ~~Describe how~~ 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; and (3-18-22)()

ii. ~~Describe how~~ How any required post-closure activities will be addressed during and after each

subsequent phase has begun.

(3-18-22)()

m. 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~~Act. (3-18-22)()

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. (3-18-22)

04. Application Package for Permanent Closure. An application and its contents submitted to the Department will be used to determine whether an applicant can complete all permanent closure activities in conformance with all applicable state laws. An application must provide information in sufficient detail to allow the ~~director~~Department to make necessary application review decisions regarding cyanidation facility closure and protection of public health, safety, and welfare, in accordance with the ~~chapter~~Act. A complete application package must be submitted to the Department. ~~A complete application package for an operator proposing to use cyanidation shall and will~~ consist of: (3-18-22)()

a. A Department application form, ~~completed, signed, and dated by the applicant. This form shall contain the following information:~~ (3-18-22)()

~~i. Name, location, and mailing address of the cyanidation facility;~~ (3-18-22)

~~ii. Name, mailing address, and phone number of the operator. An out of state operator shall designate an in-state agent authorized to act on his behalf. In case of an emergency that requires actions to prevent environmental damage, both the operator and his agent will be notified;~~ (3-18-22)

~~iii. Land ownership status (federal, state, private or public);~~ (3-18-22)

~~iv. The legal description to the quarter quarter section of the location of the proposed cyanidation facility; and~~ (3-18-22)

~~v. The legal structure (corporation, partnership, etc.) and primary place of business of the operator.~~ (3-18-22)

b. Evidence that the applicant is authorized by the Secretary of State to conduct business in the state of Idaho; (3-18-22)

c. A permanent closure plan as prescribed in Subsection 071.02; (3-18-22)

d. The DEQ application and supporting materials; ~~and~~ (3-18-22)()

e. The fee as defined in Subsection 071.05.a. (3-18-22)

05. Application Fee. The application fee ~~shall~~will consist of two (2) parts: (3-18-22)()

a. Processing and review fee. (3-18-22)

i. The applicant ~~shall~~must pay a nonrefundable five thousand dollar (\$5,000) fee upon submission of an application. Within thirty (30) days of receiving an application and this fee, the ~~director~~Department ~~shall~~will provide a detailed cost estimate to the operator which includes a description of the scope of the Department's review; the assumptions on which the Department's estimate is based; and an itemized accounting of the anticipated number of labor hours, hourly labor rates, travel expenses and any other direct expenses the Department expects to incur, and indirect expenses equal to ten percent (10%) of the Department's estimated direct costs, as required to satisfy its statutory obligation pursuant to the ~~chapter~~Act. (3-18-22)()

ii. If the Department's estimate is greater than five thousand dollars (\$5,000), the applicant may agree to pay a fee equal to the difference between five thousand dollars (\$5,000) and the Department's estimate, or may commence negotiations with the Department to establish a reasonable fee. (3-18-22)

iii. If, within twenty (20) days from issuance of the Department's estimate, the Department and applicant cannot agree on a reasonable application processing and review fee, the applicant may appeal to the Board. The Board ~~shall~~will: (3-18-22)()

(1) Review the Department's estimate; (3-18-22)

(2) Conduct a hearing where the applicant is allowed to give testimony to the Board concerning the Department's estimate; and (3-18-22)

(3) Establish the amount of the application review and processing fee. (3-18-22)

iv. If the fee is more than five thousand dollars (\$5,000), the applicant ~~shall~~must pay the balance of the fee within fifteen (15) days of the Board's decision or withdraw the application. (3-18-22)()

v. Nothing in this section ~~shall~~will extend the time in which the Board must act on a plan submitted. (3-18-22)()

b. Permanent closure cost estimate verification fee. (3-18-22)

i. Pursuant to Sections 47-1506(g) and 47-1508(f), Idaho Code, 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. (3-18-22)

ii. The applicant is solely responsible for paying the Department's cost to employ a qualified independent party to verify the accuracy of the permanent closure cost estimate. The applicant may participate in the Department's processes for identifying qualified parties and selecting a party to perform this work. (3-18-22)

iii. If a federal agency has responsibility to establish the financial assurance amount for permanent closure of a cyanidation facility on federal land, the Department may employ the firm retained by the federal agency to verify the accuracy of the permanent closure cost estimate. If the ~~director~~Department chooses not to employ the firm retained by the federal agency, ~~he shall~~it will provide a written justification explaining why the firm was not employed. (3-18-22)()

072. -- 079. (RESERVED)

080. PROCEDURES FOR REVIEW AND DECISION UPON AN APPLICATION FOR A RECLAMATION PLAN OR PERMANENT CLOSURE PLAN.

01. **Return of Application.** ~~Within thirty (30) days after receipt of a reclamation plan or permanent closure plan by the Department, an~~ An application may be returned for correction and resubmission if either the reclamation plan or permanent closure plan are incomplete. Permanent closure plans must be returned within thirty (30) days of submittal if they are incomplete. Return of an application by the ~~director shall~~ Department will constitute a rejection in accordance with Section 47-1507(b), Idaho Code. (3-18-22)()

02. **Agency Notification and Comments.** (3-18-22)

a. Nonconfidential materials submitted under Sections 069, 070, and 071 will be forwarded by the ~~director~~Department to ~~the Idaho Departments of Water Resources IDWR, Environmental Quality DEQ, and Department of~~ Fish and Game for review and comment. The ~~director~~Department may decide not to circulate applications submitted under Section 069 if the ~~director~~Department determines the impacts of the proposed activities are minor and do not involve surface or ground waters. The ~~director~~Department may provide public notice on

receipt of a reclamation plan or permanent closure plan. In addition, nonconfidential contents of an application will be provided to individuals who request the information in writing, ~~as required by the Idaho Public Records Act, (3-18-22)~~ ()

b. Upon receipt of a complete application for a reclamation plan or a permanent closure plan, the ~~director shall~~ Department will provide notice to the cities and counties where the mining or cyanidation facility operation is proposed, in accordance with Section 47-1505(7), Idaho Code. ~~The notice shall include the name and address of the operator, the procedure and schedule for the Department's review, and an invitation to review nonconfidential portions of the application, if requested in writing. Such notice will be provided upon receipt of a reclamation plan, a permanent closure plan, or any amended plan for an existing operation, or an amended cost estimate to complete permanent closure of a cyanidation facility, if required under the chapter and these rules. (3-18-22)~~ ()

03. Inspection. The Department may determine that an inspection of the proposed mining site or cyanidation facility location is necessary if the inspection will provide additional information or otherwise aid in processing the application. ()

a. If an inspection is determined necessary, the applicant will be contacted and asked that they or an authorized employee or agent be present at a mutually agreeable time. The Department may proceed with an inspection if the applicant or their designated employee or agent does not appear. ()

b. If weather conditions preclude an inspection, the Department will provide written notice to the applicant that review of the application has been suspended until weather conditions permit an inspection, and that the schedule for a decision will be extended up to thirty (30) days after weather conditions permit such inspection in accordance with Section 47-1507(c), Idaho Code. ()

04. Public Hearing. The Department may call a public hearing to determine whether a proposed application complies with the Act and these rules. A hearing will be conducted in accordance with Section 110 of these rules. ()

05. Referral to Board. The Department may refer the decision concerning an application to the Board. This action will not extend the time period for a decision to approve or deny an application. ()

0306. Decision on Reclamation Plans. The ~~director~~ Department shall review a new reclamation plan or an amended reclamation plan pursuant to Sections 47-1507 and 47-1508, Idaho Code. (3-18-22) ()

a. Approval. (3-18-22)

i. Within sixty (60) days of receipt of an application that complies with Subsections 069 and 070 of these rules, the Department shall provide written notice to the applicant that the reclamation plan or any amendment(s) to an approved reclamation plan is approved or denied and, if approved, the ~~amount of the~~ financial assurance amount required; or (3-18-22) ()

ii. If the ~~director~~ Department does not take action within sixty (60) days, a reclamation plan or any amendments thereof is deemed to comply with the ~~chapter~~ Act, unless the sixty (60) day ~~time~~ period is extended pursuant to Section 47-1507(c), Idaho Code. (3-18-22) ()

~~iii. The operator and director may agree, in writing, to implement additional actions with respect to reclamation that extend beyond the requirements set forth in these rules. (3-18-22)~~

~~b. Inspections. The director may determine that an inspection of the proposed mining site location is necessary if the inspection will provide additional information or otherwise aid in processing of the application. (3-18-22)~~

~~i. If the director decides to perform an inspection, the applicant will be contacted and asked that he or an authorized employee or agent be present. This rule shall not prevent the Department from making an inspection of the site if the applicant does not appear. (3-18-22)~~

~~ii. If weather conditions preclude an inspection of a proposed mining operation, the director shall~~

~~provide written notice to the applicant that review of the reclamation plan or an amended reclamation plan has been suspended until weather conditions permit an inspection, and that the schedule for a decision will be extended for up to thirty (30) days after weather conditions permit such inspection in accordance with Section 47-1507(c), Idaho Code.~~ (3-18-22)

0407. Decision on Cyanidation Facility Permanent Closure Plans. Pursuant to Sections 47-1507 and 47-1508, Idaho Code, following review of a complete application, the ~~director shall~~ Department will; (3-18-22) ()

a. Coordination with DEQ. Initiate a coordinated interagency review of the application by providing a notice in writing to the DEQ ~~director~~ Director that the Department has received an application for permanent closure of a cyanidation facility; (3-18-22) ()

b. Approval. (3-18-22)

i. Within one-hundred eighty (180) days of receipt of an application that complies with Subsection 071.04 of these rules, the Department shall provide written notice to the applicant that the permanent closure plan is approved or denied and, if approved, the ~~amount of the~~ permanent closure financial assurance amount required; or (3-18-22)

ii. If the ~~director~~ Department does not take action within one-hundred eighty (180) days, a permanent closure plan, or any amendments thereof, is deemed to comply with the provisions of the ~~chapter~~ Act, unless the one hundred eighty (180) day ~~time~~ period is extended in accordance with Section 47-1507(c), Idaho Code. (3-18-22) ()

~~c. Inspections. The director may determine that it is necessary to inspect the proposed cyanidation facility location if the inspection will provide additional information or otherwise aid in processing of the application.~~ (3-18-22)

~~i. If the director determines to inspect the site, the applicant will be contacted and asked that he or an authorized employee or agent be present. The Department may proceed with an inspection if the applicant or his designated employee or agent does not appear.~~ (3-18-22)

~~ii. If weather conditions preclude an inspection of the proposed cyanidation facility, the director shall provide written notice to the applicant that processing of the application has been suspended until weather conditions permit an inspection, and that the schedule for a decision is extended for up to thirty (30) days after weather conditions permit such inspection in accordance with Section 47-1507(c), Idaho Code.~~ (3-18-22)

0508. Permanent Closure Plan Approval. (3-18-22)

a. The Department may condition its approval on issuance of a permit by the DEQ for the cyanidation facility. (3-18-22)

b. Except for the concurrent and additional permanent closure requirements that may be established in a permit issued by the DEQ pursuant to Section 39-118A, Idaho Code and IDAPA 58.01.13, "Rules for Ore Processing by Cyanidation," an approved permanent closure plan shall define the nature and extent of the operator's obligation under the ~~chapter~~ Act. (3-18-22) ()

c. The permanent closure plan, as approved by the Department in coordination with the DEQ, will be incorporated by reference into the cyanidation facility permit issued by DEQ as a permit condition and will be enforceable as such. The operator shall ensure that closure complies with the approved permanent closure plan and any additional permanent closure requirements as outlined in the permit issued by DEQ. (3-18-22)

d. No sooner than one hundred and twenty (120) days after an application for a permanent closure plan has been submitted to the Department, the applicant may submit a reclamation plan as required by Section 070 of these rules. The Department will review and approve the reclamation plan in accordance with Subsection 080 of these rules. (3-18-22)

e. Approval of a permanent closure plan by the Department is required even if approval of such plan has been or will be obtained from an appropriate federal agency. (3-18-22)

0609. Denial of an Application. If the ~~director~~Department rejects an application, ~~the director shall it will~~ deliver in writing to the applicant a statement of 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~~Act and these rules. The applicant may submit an amended application in accordance with Sections 069, 070 or 071 of these rules for review and, if appropriate, approval by the Department. The ~~director~~Department shall deny a reclamation plan, permanent closure plan, or any amendments thereof if: (3-18-22)()

a. The application is inaccurate or incomplete; (3-18-22)

b. 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 Section 39-118A, Idaho Code and IDAPA 58.01.13, "Rules for Ore Processing by Cyanidation" and other DEQ rules cited therein. (3-18-22)

~~07. Public Hearing. The director may call a public hearing to determine whether a proposed application complies with the chapter and these rules. A hearing will be conducted in accordance with Section 110 of these rules. (3-18-22)~~

~~08. Referral to Board. The director may refer the decision concerning an application to the Board. This action will not extend the time period for a decision to approve or deny an application. (3-18-22)~~

0910. Appeal of Final Order. Any final order of the Board regarding an application for a mining reclamation plan or for permanent closure of a cyanidation facility may be appealed as set forth in Section 47-1514, Idaho Code. (3-18-22)

081. -- 089. (RESERVED)

090. AMENDING AN APPROVED RECLAMATION PLAN.

01. Cause for Reclamation Plan Amendment. In the event circumstances arise that necessitate amendments to an approved reclamation plan, the operator ~~shall~~must submit an application to amend the plan and state the reasons the amendment is necessary. Either the operator or the ~~director~~Department may initiate a process to amend an approved reclamation plan. If the ~~director~~Department identifies a material change ~~he-it~~ believes requires a change in the reclamation plan, ~~the director must it will~~ deliver in writing to the operator a detailed statement identifying the material change and the action(s) necessary to address the material changes. Plan amendments have the same requirements as described in Section 069 and 070 of these rules. (3-18-22)()

02. Review of Amendment. The ~~director~~Department will process an application to amend a plan in accordance with Sections 080 and 110 of these rules, provided, however, that no land or aspect or provision of an approved reclamation plan that would not be affected by the proposed amendment, is subject to the amendment, review or reapproval in connection with processing the application. Approval of an amendment ~~shall-will~~ 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. (3-18-22)()

03. Adjustments. Adjustments to an approved reclamation plan may be made by agreement between the ~~director~~Department and the operator; if the adjustment is consistent with the overall objectives of the approved reclamation plan and so long as applicable surface and ground water quality standards will be met. Adjustments are due to changes that are smaller than material changes. (3-18-22)()

091. AMENDING AN APPROVED PERMANENT CLOSURE PLAN.

01. Cause for Permanent Closure Plan Amendment. In the event circumstances arise that necessitate amendments to an approved permanent closure plan, the operator ~~shall~~must submit an application to amend the permanent closure plan and state the reasons the amendment is necessary. Either the operator or the

~~director~~Department may initiate a process to amend an approved permanent closure plan. Circumstances that could require a permanent closure plan to be amended include: (3-18-22)()

a. A material modification or material expansion in the cyanidation facility design or operation for which the approved permanent closure plan is no longer adequate; (3-18-22)

b. Conditions substantially different from those anticipated in the original permit for which the approved permanent closure plan is no longer adequate; or (3-18-22)

c. A material change as defined in Subsection 010.0910 of these rules. (3-18-22)()

02. Modifications at an Operator's Request. Requests from an operator to modify a permanent closure plan must be submitted to the Department in writing. The ~~director~~shall-Department will process an application for amendment in accordance with Section 080 of these rules. An application to amend a permanent closure plan shallmust include: (3-18-22)()

a. A written description of the circumstances that necessitate the amendment; (3-18-22)

b. Data supporting the request; (3-18-22)

c. The proposed amendment; (3-18-22)

d. A description of how the amendment will impact the estimated cost to complete permanent closure pursuant to the ~~chapter~~Act; (3-18-22)()

e. A cost estimate to implement the amended permanent closure plan, prepared in accordance with Subsection 071.02 of these rules; and (3-18-22)

f. Payment of a reasonable fee as may be determined by the ~~director~~Department in accordance with Section 47-1508, Idaho Code. (3-18-22)()

03. Modification at Request of ~~Director~~Department. If, following consultation with the DEQ, the ~~director~~Department determines that cause exists to amend the permanent closure plan the ~~director~~shall-it will notify the operator in writing of his determination and explain the circumstances that have arisen which require the permanent closure plan to be amended. Within thirty (30) days or as agreed by the operator and the Department, the operator shallmust submit an application to amend the permanent closure plan in accordance with Subsection 091.02. (3-18-22)()

04. Adjustment. Adjustments to an approved permanent closure plan may be made by agreement between the ~~director~~Department and the operator; if the adjustment is consistent with the overall objectives of the approved permanent closure plan and so long as applicable surface and ground water quality standards will be met. (3-18-22)()

092. -- 099. (RESERVED)

100. DEVIATION FROM AN APPROVED RECLAMATION PLAN.

01. Unforeseen Events. If a mining operator finds that unforeseen events or unexpected conditions require immediate change from an approved plan, the operator may continue mining in accordance with the procedures dictated by the changed conditions, pending submission and approval of an amended plan, even though operations do not comply with the approved reclamation plan on file with the Department. This shallwill not excuse the operator from complying with the requirements of Sections 140 and 120 of these rules. (3-18-22)()

02. Notification. The operator shallmust notify the ~~director~~Department, in writing, within ten (10) days of the discovery of conditions that require deviation from the approved plan. A proposed amendment to the reclamation plan must be submitted by the operator within thirty (30) days of the discovery of those conditions. (3-18-22)()

101. -- 109. (RESERVED)

110. PUBLIC HEARING.

01. Call for a Hearing. A public hearing called by the ~~director~~Department following receipt of a complete application submitted in accordance with Sections 069, 070, or 071 of these rules is conducted in accordance with Section 47-1507(d), Idaho Code. The ~~director~~Department may call for a hearing following ~~his-the~~ preliminary review of an application for a new operation or an amendment application for an existing operation when one (1) or more of the following circumstances arises: ~~(3-18-22)~~()

a. Public Concern. The public, potentially affected landowners, any governmental entity, or any other interested parties who may be affected by the operations proposed under the ~~chapter~~Act have registered, in writing, a concern with the ~~director~~Department regarding the proposed operations or cyanidation facility. The purpose of the public hearing is to gather written and oral comments as to whether the proposed reclamation plan or permanent closure plan meets the requirements of the ~~chapter~~Act and these rules. ~~(3-18-22)~~()

b. Agency Concern. The ~~director~~Department determines, after consultation with ~~the Department of Water Resources~~ IDWR, 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. The purpose of a public hearing held under this subsection will be to receive written and oral comments on the measures the operator is proposing to use to protect surface and/or ground water quality from nonpoint source pollution. ~~(3-18-22)~~()

02. Consolidation. If the ~~director~~Department determines that a hearing should be held, ~~he shall it will~~ order that such proceedings be consolidated. The applicant and the public ~~must will~~ be advised of the specific subjects to be discussed at the hearing at least twenty (20) days prior to the hearing. The Department will coordinate with the DEQ, as appropriate, for any hearings relating to permanent closure of a cyanidation facility to streamline application processing. ~~(3-18-22)~~()

03. Location. A hearing will be held in the locality of the proposed mine or a proposed cyanidation facility at a reasonably convenient time and place for public participation. The ~~director~~Department may call for more than one hearing when conditions warrant. (3-18-22)

04. Notice of Hearing. The ~~director shall~~ Department will provide at least twenty (20) days' advance notice of the date, time, and place of the hearing to: federal, state, and local governmental agencies, Indian tribes who may have an interest in the decision as shown on the application, and the public; to all persons who petitioned for a hearing; and to any person identified by the applicant under Subsection 070.02 as a legal owner of the land that will likely be affected by the proposed operations. Notice to the applicant ~~must will~~ be sent by certified mail and postmarked not less than twenty (20) days before the scheduled public hearing date. ~~(3-18-22)~~()

05. Publication of Notice. The ~~director shall~~ Department will provide at least twenty (20) days advance notice to the general public of the date, time, and place of the hearing. A newspaper advertisement will be placed once a week, for two (2) consecutive weeks, in the locale of the area covered by the application. ~~(3-18-22)~~()

a. In the event a hearing is ordered under Section 110, the notice ~~shall will~~ describe: ~~(3-18-22)~~()

i. The potentially significant surface water quality impacts from the proposed mining operation and the operator's description of the measures that will be used to prevent degradation of adjacent surface and ground waters from sources of pollution; or (3-18-22)

ii. The objectives of a permanent closure plan that have been submitted for review. (3-18-22)

b. A copy of the application will be placed for review in a public place in the local area of the proposed mining operation or cyanidation facility, in the closest Department area office, and the Department's administrative office in Boise. (3-18-22)

06. Hearing Officer. The hearing will be conducted by the ~~director~~Department or ~~his-its~~ designated representative. Both oral and written testimony will be accepted. Proceedings of the hearing will be recorded ~~on~~

~~audio tape~~ and a verbatim transcript will be prepared.

(3-18-22)()

07. Consideration of Hearing Record. The Department will consider the hearing record when reviewing reclamation plans or permanent closure plans for final approval or rejection. (3-18-22)

111. COMPLETION OF PERMANENT CLOSURE.

01. Implementation of a Permanent Closure Plan. Unless otherwise specified in the approved permanent closure plan, an operator must begin implementation of the approved permanent closure plan as follows: (3-18-22)

- a. Within two (2) years of the final addition of new cyanide to the ore process circuit; or (3-18-22)
- b. If the product recovery phase of the cyanidation facility has been suspended for a period of more than two (2) years. (3-18-22)

02. Submittal of a Permanent Closure Report. The operator must submit a permanent closure report to the Department for review and approval. A permanent closure report must be of sufficient detail for the directors of the Department and DEQ to issue a determination that permanent closure, as defined by Subsection 010.451617 of these rules, has been achieved. The permanent closure report ~~shall~~must address: (3-18-22)()

- a. The effectiveness of material stabilization; (3-18-22)
- b. The effectiveness of the water management plan and the adequacy of the monitoring plan; (3-18-22)
- c. The final configuration of the cyanidation facility and its operational/closure status; (3-18-22)
- d. The post-closure operation, maintenance, and monitoring requirements, and the estimated reasonable cost to complete those activities; (3-18-22)
- e. The operational/closure status of any land application site of the cyanidation facilities; (3-18-22)
- f. Source control systems that have been constructed or implemented to eliminate, mitigate, or contain short- and long-term discharge of pollutants from the cyanidation facility, unless otherwise ~~permitted~~approved; (3-18-22)()
- g. 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; (3-18-22)
- h. Ownership and responsibility for the site upon permanent closure during the defined post-closure period; (3-18-22)
- i. The future beneficial uses of the land, surface and ground waters in and adjacent to the closed cyanidation facilities; and (3-18-22)
- j. 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. (3-18-22)

03. Review of a Permanent Closure Report. The Department will immediately forward a copy of the permanent closure report to DEQ for their review and comment. (3-18-22)

112. DECISION TO APPROVE OR DISAPPROVE OF A PERMANENT CLOSURE REPORT.

01. Receipt of a Permanent Closure Report. Within sixty (60) days of receipt of a permanent

closure report, the ~~director shall~~ Department will issue to the operator a ~~director's~~ determination of approval or disapproval of the permanent closure report. (3-18-22)()

02. Permanent Closure Report Is Disapproved. The ~~director~~ Department's determination to approve or disapprove a permanent closure report will be based on the permanent closure report's demonstration that permanent closure has resulted in long-term neutralization of process waters and material stabilization. If a permanent closure report is disapproved, the ~~director shall~~ Department will provide in writing identification of: (3-18-22)()

- a. Errors or inaccuracies in the permanent closure report; (3-18-22)
- b. Issues or details that require additional clarification; (3-18-22)
- c. Failures to fully implement the approved permanent closure plans; (3-18-22)
- d. Failures to ensure protection for public health, safety, and welfare or to prevent degradation of waters of the state; (3-18-22)
- e. Outstanding violations or other noncompliance issues; and (3-18-22)
- f. Other issues supporting the Department's disagreement with the contents, final conclusions or recommendations of the permanent closure report. (3-18-22)

113. -- 119. (RESERVED)

120. FINANCIAL ASSURANCE REQUIREMENTS.

01. Submittal of Financial Assurance Before Mining. Prior to beginning any mining on a mine panel covered by a reclamation plan, an operator ~~shall will~~ submit to the ~~director~~ Department, on a Department form, financial assurance meeting the requirements of this rule. The initial financial assurance amount must at a minimum cover the anticipated affected acres over the first year of operations. (3-18-22)()

02. Submittal of Financial Assurance Before Operating a Cyanidation Facility. Prior to beginning operation of a cyanidation facility an operator will submit to the ~~director~~ Department, on a Department form, financial assurance meeting the requirements of Section 47-1512(a)(2), Idaho Code. The financial assurance will be in an amount equal to the total costs estimated under paragraph 071.02.k. and Section 120 of these rules. (3-18-22)()

03. Timely Financial Assurance Submittal. Financial assurance must be received by the Department within twenty-four (24) months of reclamation or permanent closure plan approval or the Department will cancel the respective plan without prejudice. If financial assurance is not received within eighteen (18) months of a plan approval, the Department will notify the operator that financial assurance is required prior to the twenty-four (24) month deadline. Extensions will be granted by the ~~director~~ Department for reasonable cause given if a written request is received prior to the deadline. If financial assurance or an extension request is not received by the deadline, the plan will be canceled. The operator must then submit a new plan application and application fee to restart the approval process. (3-18-22)()

04. Phased Financial Assurance. If the Department approves a reclamation plan or permanent closure plan with phased financial assurance, then financial assurance may increase or decrease incrementally commensurate with the additional reclamation or permanent closure liability. After construction and operation of the initial phase has commenced and after filing by an operator of the initial financial assurance, an operator will not construct any component of a subsequent phase or phases of the subject mine or cyanidation facility before filing the additional financial assurance amount that is required by the Board. If phased financial assurance is not authorized, the operator is required to file the financial assurance amount required to complete reclamation or permanent closure of all ~~planned phases prior to any construction of the mine or operation of the cyanidation facility~~ lands affected over the next calendar year. (3-18-22)()

05. Financial Assurance for Mines with Five (5) or Less ~~Disturbed~~ Acres of Authorized Land.

Financial assurance will be a minimum of five thousand dollars (\$5,000) per acre unless the operator or the Department determine that the estimated reasonable costs of reclamation require a different amount. No financial assurance may exceed fifteen thousand dollars (\$15,000) for a given acre of affected land unless the condition in Subsection 120.07 of these rules have been met. (3-18-22)()

06. Financial Assurance for Cyanidation Facility Affecting with Five (5) or Less Disturbed Acres of Authorized Land. The Board may require financial assurance in excess of five million dollars (\$5,000,000) if the conditions in Subsection 120.07 of these rules have been met. (3-18-22)()

07. Process for Requiring Higher Financial Assurance. Financial assurance in excess of the amounts in Subsections 120.05 and 06 of this rule may only be obtained if: (3-18-22)

a. The Board has determined that such financial assurance is necessary to meet the requirements of the ~~chapter~~ Act; and (3-18-22)()

b. The Board has delivered to the operator, in writing, a notice setting forth the reasons it believes such financial assurance is necessary; and (3-18-22)

c. The Board has conducted a hearing where the operator is allowed to give testimony to the Board concerning the amount of the proposed financial assurance, as provided by Section 47-1512, Idaho Code. This requirement for a hearing may be waived, in writing, by the operator. (3-18-22)

08. Financial Assurance for Mine or Cyanidation Facility with More than Five (5) Disturbed Acres of Authorized Land. The amount of financial assurance ~~must~~ will be the amount necessary for the Board to pay the estimated reasonable costs of reclamation required under the reclamation plan or permanent closure plan, including indirect costs in Section 120 of these rules. (3-18-22)()

09. Mobilization Costs are Direct Costs. Mobilization and demobilization costs will be included in financial assurance calculations as a direct cost. Costs will be calculated to the mine from the nearest community that has at least two (2) contractors able to perform the reclamation. (3-18-22)

10. Indirect Costs for Reclamation Cost Calculations. Reclamation and permanent closure cost calculations ~~shall~~ will include the following indirect costs and should fall within the percentages given. If a different percentage is used, then a justification must be given. Alternatively, an operator may propose the use of an industry recognized standardized reclamation cost estimation tool for use in reclamation and/or permanent closure cost estimates and the use of the tool's associated indirect costs which are established using the project direct costs as identified: (3-18-22)()

a. Contractor profit at six percent to ten percent (6% to 10%) of direct costs; (3-18-22)

b. Contractor overhead at four percent to eight percent (4% to 8%) of direct costs; (3-18-22)

c. Contractor insurance at one and a half percent (1.5%) of labor costs; (3-18-22)

d. Contractor bonding at two and a half percent to three and a half percent (2.5% to 3.5%) of direct costs; (3-18-22)

e. Contract administration at five percent to nine percent (5% to 9%) of direct costs; (3-18-22)

f. Re-engineering for mines or cyanidation facilities with direct reclamation costs over five hundred thousand dollars (\$500,000). Re-engineering will be three percent to seven percent (3% to 7%) of direct costs; (3-18-22)

g. Scope contingency at six percent to eleven percent (6% to 11%) of direct costs; (3-18-22)

h. Bid contingency at six percent to eleven percent (6% to 11%) of direct costs; and (3-18-22)

i. Other site specific costs as appropriate. (3-18-22)

11. Salvage Value Not Allowed. Reclamation or permanent closure costs will not be reduced by assigning a salvage value to structures or fixtures to be removed during reclamation. (3-18-22)

12. Mining Operation Conducted by Public or Government. Notwithstanding any other provision of law to the contrary, the financial assurance provisions of the ~~chapter~~Act and these rules do not apply to any surface mining operations conducted by a public or governmental agency for maintenance, repair, or construction of a public highway. (3-18-22)()

13. Annual Financial Assurance Review for Reclamation Plans. At the beginning of each calendar year, the operator ~~shall~~must notify the ~~director~~Department of any increase in the acreage of affected land beyond that covered by the existing financial assurance which will result from planned mining activity within the next twelve (12) months. A commensurate increase in the financial assurance will be required for an increase in affected acreage. Any additional financial assurance required must be submitted on the appropriate form within ninety (90) days of operator's receipt of notice from the Department that an additional amount is required. In no event will mining operations be conducted that would affect additional acreage until the appropriate form and financial assurance has been submitted to the Department. Acreage on which reclamation is complete will be reported in accordance with Subsection 120.16 of these rules and after release of this acreage from the reclamation plan by the ~~director~~Department, the financial assurance will be reduced by the amount appropriate to reflect the completed reclamation. (3-18-22)()

14. Financial Assurance Provided to the Federal Government. Any financial assurance provided to the federal government that also meets the requirements of Section 120 of these rules will 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). (3-18-22)

15. Financial Assurance Reduction for Mines. (3-18-22)

a. An operator may petition the ~~director~~Department for a change in the initial financial assurance amount. The ~~director~~Department will review the petition and if satisfied with the information presented a revised financial assurance amount will be determined. The revised amount will be based upon the estimated cost that the ~~director~~Department would incur should a forfeiture of financial assurance occur and it became necessary for the ~~director~~Department, through contracting with a third party, to complete reclamation to the standards established in the plan. (3-18-22)()

b. Upon finding that any land covered by financial assurance will not be affected by mining, the operator will notify the ~~director~~Department. The amount of the financial assurance will be reduced by the amount being held to reclaim those lands. (3-18-22)()

c. Any request for financial assurance reduction will be answered by the ~~director~~Department within thirty (30) days of receiving such request unless weather conditions prevent inspection. (3-18-22)()

16. Financial Assurance Release Following Mine Reclamation. Upon completion of all or a portion of the reclamation or post-closure activity specified in the plan, the operator may notify the ~~director~~Department of ~~his-its~~ desire to secure release from financial assurance. When the ~~director~~Department has verified that the requirements of the reclamation plan have been substantially met as stated in the plan, the financial assurance will be released. (3-18-22)()

a. Any request for financial assurance release will be answered by the ~~director~~Department within thirty (30) days of receiving such request unless weather conditions prevent inspection. (3-18-22)()

b. If the ~~director~~Department finds that a specific portion of the reclamation or post-closure has been substantially completed, the financial assurance may be reduced to the amount required to complete the remaining reclamation or post-closure. The following schedule will be used to complete these financial assurance reductions unless the ~~director~~Department determines in a specific case that this schedule is not appropriate and specifies a

different schedule, or the approved reclamation plan has a different schedule based on site-specific conditions. ~~(3-18-22)~~ ()

i. Sixty percent (60%) of the financial assurance may be released when the operator completes the required backfilling, regrading, topsoil replacement, and drainage control of a specific area in accordance with the approved reclamation plan; and (3-18-22)

ii. After revegetation activities have been performed by the operator on the regraded lands, according to the approved reclamation plan, the Department may release an additional twenty-five percent (25%) of the financial assurance. (3-18-22)

c. The remaining financial assurance ~~shall~~ will not be released: ~~(3-18-22)~~ ()

i. As long as the affected lands are contributing suspended solids to surface waters outside the affected area in excess of state water quality standards and in greater quantities than existed prior to the commencement of mining operations; (3-18-22)

ii. Until final removal of equipment and structures related to the mining activity or until any remaining equipment and structures are brought under an approved reclamation plan and financial assurance by a new operator; and (3-18-22)

iii. Until all temporary sediment or erosion control structures have been removed and reclaimed or until such structures are brought under an approved reclamation plan and financial assurance by a new operator. (3-18-22)

17. Corporate Guarantee Released First. If an operator provides part of their financial assurance through a corporate guarantee, then the corporate guarantee will be released prior to any other type of financial assurance being released. Other types of financial assurance will only be released after the corporate guarantee has been completely released. (3-18-22)

18. Cooperative Agreements. The ~~director~~ Department may through private conference, conciliation, and persuasion reach a cooperative agreement with the operator to correct deficiencies in complying with the reclamation plan and thereby postpone action to forfeit the financial assurance and cancel the reclamation plan if all deficiencies are satisfactorily corrected within the time specified by the cooperative agreement. ~~(3-18-22)~~ ()

19. Permanent Closure Financial Assurance Review. The Department will periodically review all financial assurances filed for permanent closure to determine their sufficiency to complete the work required by an approved permanent closure plan. For reviews conducted under paragraphs a and b the ~~director~~ Department may employ a qualified independent party to verify the accuracy of the revised permanent closure cost estimate as described in paragraph 071.05.b. of these rules. ~~(3-18-22)~~ ()

a. Once every three (3) years, the operator must submit an updated permanent closure cost estimate to the Department for review. The ~~director~~ Department will review the updated estimate to determine whether the existing financial assurance amount is adequate to implement the permanent closure plan, as approved by the Department. Any resulting change in the financial assurance amount does not in and of itself require an amendment to the permanent closure plan as may be required by Section 091 of these rules. The ~~director~~ Department will review the estimate to determine whether the existing financial assurance amount is adequate to complete permanent closure of the cyanidation facility. ~~(3-18-22)~~ ()

b. When the ~~director~~ Department determines that there has been a material change in the estimated reasonable costs to complete permanent closure: ~~(3-18-22)~~ ()

i. The ~~director~~ Department will notify the operator in writing of ~~his-its~~ intent to reevaluate the financial assurance amount. Within a reasonable time period determined by the Department, the operator will provide to the Department a revised cost estimate to complete permanent closure as approved by the Department. ~~(3-18-22)~~ ()

ii. ~~Within~~ The ~~director~~ Department will then notify the operator in writing within thirty (30) days of receipt of the revised cost estimate, ~~the director will notify the operator in writing of his determination of financial~~

~~assurance adequacy~~ if the estimate is complete; and (3-18-22)()

iii. Within ninety (90) days of notification of the ~~director's~~ Department's assessment, the operator will make the appropriate adjustment to the financial assurance or the ~~director~~ Department will reduce the financial assurance as appropriate. (3-18-22)()

c. The Department may conduct an internal review of the amount of each financial assurance annually to determine whether it is adequate to complete permanent closure. (3-18-22)

20. Permanent Closure Financial Assurance Release. (3-18-22)

a. A financial assurance filed for permanent closure of a cyanidation facility will be released according to the schedule in the permanent closure plan. The schedule will include provisions for the release of the post-closure monitoring and maintenance portions of the financial assurance. The schedule may be adjusted to reflect the operator's performance of permanent closure activities and their demonstrated effectiveness. (3-18-22)

b. Upon completion of an activity required by an approved permanent closure plan, the operator may request in writing a financial assurance reduction for that activity. The Department will notify the operator within thirty (30) days whether or not the activity meets the requirements of the permanent closure plan. When the ~~director~~ Department, in consultation with DEQ, has verified that the activity meets the requirements of the permanent closure plan, the financial assurance will be reduced by an amount to reflect the activity completed. (3-18-22)()

c. Upon the ~~director's~~ Department's determination that all activities specified in the permanent closure plan have been successfully completed, the Department will, in accordance with Section 47-1512(i), Idaho Code, release the balance remaining after partial financial assurance releases. (3-18-22)()

21. Liabilities for Reclamation Costs Not Covered by Financial Assurance. An operator who is not required to furnish financial assurance by these rules but fails to reclaim may be subject to a civil penalty under Section 47-1513(c), Idaho Code. The amount of the civil penalty will be the estimated cost of reasonable reclamation of affected lands as determined by the ~~director~~ Department. Reasonable reclamation of the site will be presumed to be in accordance with the standards established in the approved reclamation plan. The amount of the civil penalty is in addition to those described in Section 47-1513(f), Idaho Code. (3-18-22)()

22. Appeal Process for Financial Assurance Decisions. All decisions regarding financial assurance extension requests, plan cancellation, financial assurance reduction, or financial assurance release as described in Section 120 of these rules are subject to appeal as described in Section 58-104, Idaho Code, and Section 47-1514, Idaho Code. (3-18-22)

121. (RESERVED)

122. FORM OF FINANCIAL ASSURANCE.

01. Corporate Surety Bond. (3-18-22)

a. A corporate surety bond is an indemnity agreement executed for the operator and a corporate surety licensed to do business in the state of Idaho, filed on the appropriate Department form. The bond must be payable to the state of Idaho and conditioned to require the operator to faithfully perform all requirements of the ~~chapter~~ Act, and the rules in effect on the date that a reclamation plan or a permanent closure plan was approved by the Department. (3-18-22)()

b. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties in Circular 570 of the U.S. Department of the Treasury. (3-18-22)

c. When replacement financial assurance is submitted, the following rider must be filed with the Department as part of the replacement 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~~ affected in connection with reclamation plan or permanent closure plan

[number], both prior to and subsequent to the date of this rider.”

(3-18-22)()

02. Collateral Bond. A collateral bond is an indemnity agreement executed by or for the operator, payable to the state of Idaho, pledging cash deposits, government securities, real property, time deposit receipts, or certificates of deposit of any financial institution authorized to do business in the state. Collateral bonds are subject to the following conditions. (3-18-22)

a. The ~~director shall~~ Department will obtain possession of cash or other negotiable collateral bonds, and, upon receipt, deposit them with the state treasurer to hold them in trust for the purpose of bonding reclamation or permanent closure performance. (3-18-22)()

b. The ~~director shall~~ Department will value the collateral at its current market value minus any penalty for early withdrawal, not its face value. (3-18-22)()

c. Certificates of deposit or time deposit receipts are issued or assigned, in writing, to the state of Idaho and upon the books of the financial institution issuing such certificates. Interest will be allowed to accrue and may be paid by the bank, upon demand and after written release by the Department, to the operator or another person who posted the collateral bond. (3-18-22)

d. Amount of an individual certificate of deposit or time deposit receipt may not exceed the maximum amount insured by the Federal Deposit Insurance Corporation or Federal Savings and Loan Insurance Corporation or their successors. (3-18-22)

e. Financial institutions issuing certificates of deposit or time deposit receipts will waive all rights of set-off or liens which it has or might have against such certificates, and will place holds on those funds that prevent the operator from withdrawing funds until the Department sends a written release to the bank. (3-18-22)

f. Certificates of deposit and time deposit receipts must be automatically renewable. (3-18-22)

03. Letters of Credit. A letter of credit is an instrument executed by a bank doing business in Idaho, made at the request of a customer. A letter of credit states that the issuing bank will honor drafts for payment upon compliance with the terms of the credit. Letters of credit are subject to the following conditions. (3-18-22)

a. All credits must be irrevocable and prepared in a format prescribed by the ~~director~~ Department. (3-18-22)()

b. All credits must be issued by an institution authorized to do business in the state of Idaho or through a correspondent bank authorized to do business in the state of Idaho. (3-18-22)

c. The account party on all credits must be identical to the entity identified in the reclamation plan or in the permanent closure plan and on the cyanidation facility permit as the party obligated to complete reclamation or permanent closure. (3-18-22)

04. 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, which meets the requirements of these rules using a deed of trust form acceptable to the Department for all lands forty (40) acres or less, or a mortgage form approved by the Department for all lands over forty (40) acres. (3-18-22)

a. The following information must be submitted for real property collateral: (3-18-22)

i. The value of the real property. The property will be valued at the difference between the fair market value and any reasonable expense anticipated by the Department in selling the property. The fair market value will be determined by an appraisal conducted by a licensed appraiser. The appraiser will be selected by the Department and the Department will provide appraisal instructions; however, the operator may propose an appraiser to the Department. The appraisal will be performed in a timely manner, and a copy sent to the Department and the operator. The expense of the appraisal will be borne by the operator. The real property will be reappraised every three (3) years; (3-18-22)

ii. A description of the property and a site improvement survey plat to verify legal descriptions of the property and to identify the existence of recorded easements; (3-18-22)

iii. Proof of ownership and title to the real property; (3-18-22)

iv. A current title binder which provides evidence of clear title containing no exceptions, or containing only exceptions acceptable to the ~~director~~Department; and ~~(3-18-22)~~()

v. Phase I environmental assessment. (3-18-22)

b. Real property will not include any lands in the process of being mined, reclaimed, or planned to be mined under an approved reclamation plan. The operator may offer any lands within a reclamation plan that have received full release of financial assurances. In addition, any land used as a security will not be mined or otherwise ~~disturbed-affected~~ while it is a security. The acceptance of real property within the permit boundary will be at the discretion of the ~~director~~Department. ~~(3-18-22)~~()

05. Trusts. Trusts are subject to the requirements of Sections 47-1512(1) and 68-101 et seq. Idaho Code. The proposed trustee, range of investments, initial funding, schedule of payments, trustee fees, and expected rate of return are subject to review and approval by the Department through a memorandum of agreement with the operator. The trustee will invest the principal and income of the fund in accordance with general investment practices. Investments can include equities, bonds, and government securities and be well diversified in accordance with the following conditions: (3-18-22)

a. The joint party on the trust must be identical to the entity identified in the reclamation plan or in the permanent closure plan as the party obligated to complete reclamation or permanent closure. (3-18-22)

b. The trustee must be an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency. (3-18-22)

c. Equities may include stock funds, stock index funds, or individual stocks, but an individual stock may not exceed five percent (5%) of the total value of the trust. Direct investments in the operator's company or parent company are not allowed. Corporate equities must not exceed seventy percent (70%) of the total value of the trust fund. (3-18-22)

d. Bonds or money market funds must be investment-grade rated securities from a nationally recognized securities rating service. Individual corporate bonds may not exceed five percent (5%) of the total value of the trust. (3-18-22)

e. Payments into the trust will be made as follows: (3-18-22)

i. When used to cover reclamation or permanent closure costs, the trust fund will be initially funded in an amount needed to cover any surface disturbance in the first year of the trust fund. Annual payments into the trust will occur as needed prior to the disturbance of additional affected land at the mine or cyanidation facility. (3-18-22)

ii. When used to cover a portion of reclamation or permanent closure costs in combination with other types of financial assurance, the initial and annual payments will be the pro-rata amount of the reclamation or permanent closure costs as described in subparagraph 122.05.e.i of these rules. (3-18-22)

iii. When used to cover the anticipated post-closure costs, a payment schedule will be created in the memorandum of agreement. The trust fund, together with the anticipated earnings, must be enough at the expected start of the post-closure period to cover the costs of the post-closure period. (3-18-22)

f. Disbursements from the trust will only occur upon written authorization of the Department. Disbursements include payments to the trustee or any other payment of funds not related to financial assurance release and not specifically mentioned in the memorandum of agreement. (3-18-22)

g. Trusts will be irrevocable. (3-18-22)

h. Income accrued on trust funds will be retained in the trust, except as otherwise agreed by the ~~director~~ Department under the terms of an agreement governing the trust. (3-18-22)

06. Corporate Guarantees. (3-18-22)

a. Up to fifty percent (50%) of required financial assurance for reclamation costs may be provided by a corporate guarantee. Post-closure costs for reclamation plans and permanent closure plans cannot be covered by a corporate guarantee. (3-18-22)

b. Only operators who submit plans under Sections 070 or 071 of these rules may provide a corporate guarantee. (3-18-22)

c. Operators who want to provide financial assurance through a corporate guarantee must provide an audited financial statement from a third-party certified public accountant that meets the requirements of IDAPA 24.30.01, the Idaho Accountancy Rule. The audited financial statement must show the operator meets two (2) of the following three (3) criteria and the criteria in paragraph d of this section: (3-18-22)

i. Ratio of total liabilities to stockholder's equity is less than two (2) to one (1); (3-18-22)

ii. Ratio of sum of net income plus depreciation, depletion, and amortization to total liabilities greater than ten one-hundredths (0.1) to one (1); or (3-18-22)

iii. Ratio of current assets to current liabilities greater than one and fifty one-hundredths (1.5) to one (1). (3-18-22)

d. The following financial criteria must also be met for a corporate guarantee: (3-18-22)

i. Net working capital and tangible net worth are each equal to or greater than the total reclamation or permanent closure cost estimate; (3-18-22)

ii. Tangible net worth of at least ten million dollars (\$10,000,000); and (3-18-22)

iii. At least ninety percent (90%) of the corporation's total assets are in the United States, or the total assets in the United States are at least six (6) times greater than total reclamation or permanent closure cost estimate. (3-18-22)

e. A corporate guarantee can be provided by a parent company guarantor if that guarantor meets the conditions of paragraphs (c) and (d) in this section as if it were the operator. The terms of this corporate guarantee will provide for the following: (3-18-22)

i. The operator and the parent company will submit to the Department an indemnity agreement signed by corporate officers from both companies who are authorized to bind their corporations. The operator or parent company must also provide an affidavit certifying that such an agreement is valid under all applicable federal and state laws. The indemnity agreement will bind each party jointly and severally; (3-18-22)

ii. If the operator fails to complete reclamation or permanent closure, the parent company guarantor will do so or the guarantor will be liable under the indemnity agreement to provide funds to the Department sufficient to complete reclamation or permanent closure as per the plan, but not to exceed the financial assurance amount; (3-18-22)

iii. The corporate guarantee will remain in force unless the parent company guarantor sends notice of cancellation by certified mail to the operator and to the Department at least ninety (90) days in advance of the cancellation date, and the Department accepts the cancellation; ~~and~~ (3-18-22)

iv. The cancellation will be accepted by the Department only if the operator obtains replacement financial assurance before the cancellation date or if the lands for which the corporate guarantee, or portion thereof,

was accepted have not been ~~disturbed~~affected; and (3-18-22)()

v. If the operator is a partnership or joint venture, the indemnity agreement will bind each partner or member who has a beneficial interest, directly or indirectly, in the operator. (3-18-22)

f. The operator, or parent company guarantor, is required to either complete the approved reclamation or permanent closure plan for the lands in default, or pay to the Department an amount necessary to complete the approved reclamation, not to exceed the amount established in Section 120 of these rules. (3-18-22)

g. The operator or parent company guarantor will submit an annual update of the information required under paragraphs (c) and (d) of this section by April 1 following the issuance of the corporate guarantee. (3-18-22)

h. If the operator or parent company guarantor's financial fitness falls below the eligibility for providing a corporate guarantee they will immediately notify the Department, and the Department will require the operator to submit replacement financial assurance within ninety (90) days of being notified. (3-18-22)

i. The Department may require the operator or parent company guarantor to provide an update of the information in paragraphs (c) and (d) in this section at any time. The update must be provided within thirty (30) days of being requested. The requirements of paragraph (h) in this Section will then apply. (3-18-22)

07. Blanket Financial Assurance. Where an operator is involved in more than one (1) reclamation plan or permanent closure plan ~~permitted~~approved by the Department, the ~~director~~Department may accept a blanket financial assurance in lieu of separate reclamation or permanent closure financial assurances under the approved plans. The amount of such financial assurance must be equal to the total of the requirements of the separate financial assurances being combined into a single financial assurance, as determined pursuant to Section 47-1512, Idaho Code, and in accordance with Section 120 of these rules. The principal is liable for an amount no more than the financial assurance filed for completion of reclamation activities or permanent closure activities if the Department takes action against the financial assurance pursuant to Section 47-1513, Idaho Code and Section 123 of these rules. () (3-18-22)

08. Reclamation Fund. Reclamation plans processed under Section 069 of these rules may provide financial assurance through the Reclamation Fund established by Section 47-18, Idaho Code, and IDAPA 20.03.03. If financial assurance is provided through the Reclamation Fund, no other type of financial assurance may be combined with it on an individual mine site. (3-18-22)

09. Multiple Forms of Financial Assurance Accepted. An operator may combine more than one type of financial assurance, within the limitations of each type of financial assurance, to reach the full amount of the required financial assurance for a reclamation plan or permanent closure plan. (3-18-22)

123. FORFEITURE OF FINANCIAL ASSURANCE.

A financial assurance may be forfeited in accordance with Section 47-1513, Idaho Code, when the operator has not conducted the reclamation or has not conducted permanent closure in accord with an approved plan and the applicable requirements of these rules. (3-18-22)

124. -- 129. (RESERVED)

130. ~~TRANSFER~~ASSIGNMENT OF APPROVED PLANS.

01. Reclamation Plans. A reclamation plan may be ~~transferred~~assigned from one (1) operator to another only after the Department's approval. To complete ~~a transfer~~ an assignment, the new applicant must file a notarized ~~assumption of reclamation plan form as prescribed by the~~ Department form and provide replacement financial assurance. The new operator is responsible for the past operator's obligations under the ~~chapter~~Act, these rules, and the reclamation plan. (3-18-22)()

02. Permanent Closure Plans. An approved permanent closure plan permit may be ~~transferred~~assigned to a new operator if ~~he~~they provides written notice to the ~~director~~Department that includes a

specific date for ~~transfer~~assignment of permanent closure responsibility, coverage, and liability between the old and new operators no later than ten (10) days after the date of closure. An operator is required to provide such notice at the same time ~~he-they~~ provides notice to the DEQ as required IDAPA 58.01.13, "Rules for Ore Processing by Cyanidation." To complete ~~a-transfer~~an assignment, the new applicant must: (3-18-22)()

a. File a notarized ~~assumption of permanent closure plan form as prescribed by the~~ Department form; and (3-18-22)()

b. File a replacement permanent closure plan financial assurance ~~on a form approved by the~~ Department. (3-18-22)()

131. -- 139. (RESERVED)

140. BEST MANAGEMENT PRACTICES AND RECLAMATION FOR MINING OPERATION AND PERMANENT CLOSURE OF CYANIDATION FACILITIES.

These are the minimum standards expected for all activities covered by these rules. Specific standards for individual mines may be appropriate based on site specific circumstances, and must be described in the plan. (3-18-22)

01. Nonpoint Source Control. (3-18-22)

a. Appropriate BMPs for nonpoint source controls will be designed, constructed, and maintained with respect to site-specific mining operations or permanent closure activities. Operators ~~shall~~must utilize BMPs designed to achieve state water quality standards and to protect existing beneficial uses of adjacent waters of the state. State water quality standards, as administered by DEQ, is the standard that must be achieved by BMPs. (3-18-22)()

b. If the BMPs utilized by the operator do not result in compliance with Subsection 140.01.a., the ~~director shall~~ Department will require the operator to modify or improve such BMPs to meet the controlling, water quality standards as set forth in current laws, rules, and regulations. (3-18-22)()

02. Sediment Control. In addition to proper mining techniques and reclamation measures, the operator ~~shall~~must take necessary steps at the close of each operating season to assure that sediment movement associated with surface runoff over the area is minimized in order to achieve water quality standards, or to preserve the condition of water runoff from the mined area prior to commencement of the subject mining or exploration operations, whichever is the more appropriate standard. Sediment control measures refer to best management practices carried out within and, if necessary, adjacent to the ~~disturbed-affected~~ area and consist of utilization of proper mining and reclamation measures, as well as specific necessary sediment control methods, separately or in combination. Specific sediment control methods may include, but are not limited to: (3-18-22)()

a. Keeping the ~~disturbed-affected area-land~~ to a minimum at any given time through progressive reclamation; (3-18-22)()

b. Shaping waste to help reduce the rate and volume of water runoff by increasing infiltration; (3-18-22)

c. Retaining sediment within the ~~disturbed-affected area~~land; () (3-18-22)

d. Diverting surface runoff around the ~~disturbed-affected area~~land; () (3-18-22)

e. Routing runoff through the ~~disturbed-affected area-land~~ using protected channels or pipes so as not to increase sediment load; () (3-18-22)

f. Use of riprap, straw dikes, check dams, mulches, temporary vegetation, or other measures to reduce overland flow velocities, reduce runoff volume, or retain sediment; and (3-18-22)

g. Use of adequate sediment ponds, with or without chemical treatment. (3-18-22)

03. Clearing and Grubbing. Clearing and grubbing of land in preparation for mining exposes mineral soil to the erosive effects of moving water. Operators are cautioned to keep such areas as small as possible (preferably no more than one (1) year's mining activity) as the operator is required to meet the applicable surface water quality standards on all such areas. Where practicable, trees and slash should be stockpiled for use in seedbed protection and erosion control. (3-18-22)

04. Overburden/Topsoil. To aid in the revegetation of affected lands where mining operations result in the removal of substantial amounts of overburden including any topsoil, the operator should remove the available topsoil or other growth medium as a separate operation for such area. Unless there are previously affected lands which are graded and immediately available for placement of the newly removed topsoil or other growth medium, the topsoil or other growth medium will be stockpiled and protected from erosion and contamination until such areas become available. (3-18-22)

a. Overburden/Topsoil Removal. (3-18-22)

i. Any overburden/topsoil to be removed should be removed prior to any other mining activity to prevent loss or contamination; (3-18-22)

ii. Where overburden/topsoil removal exposes land area to potential erosion, the ~~director~~ Department, under the reclamation plan, may require BMPs necessary to prevent violation of water quality standards; and () (3-18-22)

iii. Where the operator can show that an overburden material other than topsoil is conducive to plant growth, or where overburden other than topsoil is the only material reasonably available, such overburden may be allowed as a substitute for or a supplement to the available topsoil. (3-18-22)

b. Topsoil Storage. Topsoil stockpiles will be placed to minimize rehandling and exposure to excessive wind and water erosion. Topsoil stockpiles will be protected as necessary from erosion by use of temporary vegetation or by other methods which will control erosion, including, but not limited to, silt fences, chemical binders, seeding, and mulching. (3-18-22)

c. Overburden Storage. Stockpiled ridges of overburden will be leveled in such a manner as to have a minimum width of ten (10) feet at the top. Peaks of overburden will be leveled in such a manner as to have a minimum width of fifteen (15) feet at the top. The overburden piles will be reasonably prepared to control erosion using best management practices; such activities may include terracing, silt fences, chemical binders, seeding, mulching or slope reduction. (3-18-22)

d. Topsoil Placement. Where appropriate slope angle allows, ~~Abandoned~~ affected lands must be covered with topsoil or other type of overburden that is conducive to plant growth, to the extent such materials are readily available, in order to achieve a stable uniform thickness. Excessive compaction of overburden and topsoil is to be avoided. Topsoil redistribution will be timed so that seeding, or other protective measures, can be readily applied to prevent compaction and erosion.

e. Fill. Backfill and fill materials should be compacted in a manner to ensure stability. (3-18-22)

05. Roads. (3-18-22)

a. Roads must be constructed to minimize soil erosion, which may require restrictions on the length and grade of the roadbed, surfacing of roads with durable non-toxic material, stabilization of cut and fill slopes, and other techniques designed to control erosion. (3-18-22)

b. All access and haul roads must be adequately drained. Drainage structures may include, but are not limited to, properly installed ditches, water-bars, cross drains, culverts, and sediment traps. (3-18-22)

c. Culverts that are to be maintained for more than one (1) year must be designed to pass peak flows from not less than a twenty (20) year, twenty-four (24) hour precipitation event and have a minimum diameter of eighteen (18) inches. (3-18-22)

d. Roads and water control structures will be maintained at periodic intervals as needed. Water control structures serving to drain roads must not be blocked or restricted in any manner to impede drainage or significantly alter the intended purpose of the structure. (3-18-22)

e. Roads that will not be recontoured to approximate original contours upon abandonment will be cross-ditched and revegetated, as necessary, to control erosion. (3-18-22)

f. Roads that are not abandoned and continue to be used under the jurisdiction of a governmental or private landowner, will comply with the nonpoint source sediment control provisions of Subsection 140.02 until the successor assumes control. (3-18-22)

06. Backfilling and Grading. (3-18-22)

a. Every operator who conducts mining or cyanidation facility operations which disturb less than two (2) acres ~~shall will~~, where possible, contour the ~~disturbed-affected~~ land to its approximate previous contour. These lands must be revegetated in accordance with Subsection 140.11. (3-18-22)()

b. An operator who conducts mining or cyanidation facility operations which disturb two (2) acres or more ~~shall will~~ reduce all waste piles and depressions to the lowest practicable grade. This grade ~~shall must~~ not exceed the angle of repose or maximum slope of natural stability for such waste or generate erosion in which sediment enters waters of the state. (3-18-22)()

c. Backfill and fill materials should be compacted in a manner to ensure mass and surface stability. (3-18-22)

d. After the ~~disturbed-affected~~ area has been graded, slopes will be measured for consistency with the approved reclamation plan or the permanent closure plan. () (3-18-22)

07. Disposal of Waste in Areas Other Than Mine Excavation. Waste material not used to backfill mined areas will be transported and placed in a manner designed to stabilize the waste piles and control erosion. (3-18-22)

a. The available disposal area should be on a moderately sloped, naturally stable area. The site should be near the head of a drainage to reduce the area of watershed above the fill. (3-18-22)

b. All surface water flows within the disposal area must be diverted and drained using accepted engineering practices such as a system of French drains, to keep water from entering the waste pile. These measures must be implemented in accordance with standards prescribed by the Idaho Stream Channel Protection Act, Title 42, Chapter 38, Idaho Code, and the Idaho Dam Safety Act, Sections 42-1710 through 42-1721, Idaho Code, if applicable. (3-18-22)

c. The waste material not used in backfilling mined areas should be compacted, where practical, and should be covered and graded to allow surface drainage and ensure long-term stability. (3-18-22)

d. The operator may, if appropriate, use terraces or slope reduction to stabilize the face of any fill. Slopes of the fill material should not exceed angle of repose or generate erosion in which sediment enters waters of the state. (3-18-22)

e. Unless adequate drainage is provided through a fill area, all surface water above the fill must be diverted away from the fill area into protected channels, and drainage ~~shall will~~ not be directed over the unprotected face of the fill. (3-18-22)()

f. The operator will conduct revegetation activities with respect to such waste piles in accordance with Subsection 140.11 of these rules. (3-18-22)

08. Settling Ponds; Minimum Criteria. (3-18-22)

a. Sediment Storage Volume. Settling ponds will provide adequate sediment storage capacity to achieve compliance with applicable water quality standards and protect existing beneficial uses, and may require periodic cleaning and proper disposal of sediment. (3-18-22)

b. Water Detention Time. Settling ponds ~~shall~~will have an adequate theoretical detention time for water inflow and runoff entering the pond, but theoretical detention time may be reduced by improvements in pond design, chemical treatment, or other methods. (3-18-22)()

c. Emergency Spillway. In addition to the sediment storage volume and water detention time, settling ponds must be designed to withstand and release storm flows as required by the Idaho Dam Safety Act, Section 42-1710 through 42-1721, Idaho Code, and Safety of Dams Rules, where applicable. (3-18-22)

09. Tailings ~~Facilities~~Ponds. All tailings ponds, dams, or other types of tailings ~~facilities~~infrastructure must be designed, constructed, operated, and decommissioned so that upon their abandonment, the dam and impoundment area will meet applicable surface and ground water quality standards and not otherwise constitute a hazard to human or animal life. () (3-18-22)

a. Design criteria, construction techniques, and decommission techniques for tailings dams and impoundments ~~shall~~must comply with the Idaho Dam Safety Act, Sections 42-1710 through 42-1721, Idaho Code, and applicable rules and regulations. (3-18-22)()

b. Topsoil will be removed from the area to be affected by the impounding structure, tailings pond, or other tailings ~~facilities~~infrastructure in accordance with Subsection 140.04 of these rules. (3-18-22)()

c. Abandonment and Decommissioning of Tailings Impoundments. (3-18-22)

i. Dewatering. Tailings ponds will be dewatered to the extent necessary to provide an adequate foundation for the approved post-mining use. (3-18-22)

ii. Control of surface waters. Surface waters ~~shall~~will either be channeled around the reservoir and impoundment structure or through the reservoir and breached structure. Permanent civil structures must be designed and constructed to implement either method of channeling. The structure ~~shall~~must provide for erosion-free passage of waters and adequate energy dissipation prior to entry into the natural drainage below the impounding structure. (3-18-22)()

iii. Detoxification. Hazardous chemical residues within the tailings pond must be detoxified or covered with an adequate thickness of non-toxic material, to the extent necessary to achieve water quality standards in waters of the state. (3-18-22)

iv. Reclamation. After implementing the required dewatering, detoxification, and surface drainage control measures, the reservoir and impounding structure will be covered with topsoil or other material conducive to plant growth, in accordance with Subsection 140.04 of these rules. Where such soils are limited in quantity or not available, and upon approval by the Department, physical or chemical methods for erosion control may be used. All such areas are to be revegetated in accordance with Subsection 140.11 of these rules, unless specified otherwise. (3-18-22)

d. When the operator requests termination of its reclamation or permanent closure plan, pursuant to Section 150 of these rules, impoundment structures and any reservoirs retained as fresh water reservoirs after final reclamation or permanent closure are required to conform with the Idaho Dam Safety Act, Sections 42-1710 through 42-1721, Idaho Code, if applicable. (3-18-22)

10. Permanent Cessation and Time Limits for Planting. (3-18-22)

a. Seeding and planting of affected lands or a permanently closed cyanidation facility should be conducted during the first normal period for favorable planting conditions after final seedbed preparation. (3-18-22)

b. Reclamation activities, where possible, are encouraged to be concurrent with the mining operation

and may be included in the approved reclamation plan. Final reclamation must begin within one (1) year after the mining operations have permanently ceased on a mine panel. If the operator permanently ceases disposing of overburden on a waste area or permanently ceases removing minerals from a pit or permanently ceases using a road or other affected land, the reclamation activity on each given area must start within one (1) year of such cessation, despite the fact that all operations as to the mine panel, which included such pit, road, overburden pile, or other affected land, has not permanently ceased. (3-18-22)

c. An operator is presumed to have permanently ceased mining operations on a given portion of affected land when no substantial amount of mineral or overburden material has been removed or overburden placed on an overburden dump, or no significant use has been made of a road during the prior three (3) years. If an operator does not plan to use an affected area for three (3) or more years but intends thereafter to use the affected area for mining operations and desires to defer final reclamation until after its subsequent use, the operator must submit a notice of intent and request for deferral of reclamation to the ~~director~~Department, in writing. If the ~~director~~Department determines that the operator plans to continue the operation within a reasonable period of time, ~~the director shall~~it will notify the operator and may require actions to be taken to reduce degradation of surface resources until operations resume. If the ~~director~~Department determines that use of the affected land for mining operations will not be continued within a reasonable period of time, ~~the director~~it may proceed as though the mining operation has been abandoned, but the operator will be notified of such decision at least thirty (30) days before taking any formal administrative action. (3-18-22)()

11. Revegetation Activities. (3-18-22)

a. The operator ~~shall~~must select and establish plant species that can be expected to result in vegetation comparable to that growing on the affected lands or on a closed cyanidation facility prior to mining or cyanidation facility operations, respectively. Certified weed free seed should be used in revegetation. The operator may use available technical data and results of field tests for selecting seeding practices and soil amendments which will result in viable revegetation. These practices of selection may be included in an approved reclamation plan or permanent closure. (3-18-22)()

b. Unless otherwise specified in the approved reclamation or permanent closure plan, the success of revegetation efforts is measured against the existing vegetation on site prior to the mining or cyanidation facility operation, or against an adjacent reference area supporting similar types of vegetation. (3-18-22)

i. The ground cover of living plants on the revegetated area should be comparable to the ground cover of living plants on the adjacent reference area for two (2) full growing seasons after cessation of soil amendment or irrigation. (3-18-22)

ii. For purposes of this rule, ground cover is considered comparable if it has, on the area actually planted at least seventy percent (70%) of the premining ground cover for the mined area or adjacent reference area; (3-18-22)

iii. For locations with an average annual precipitation of more than twenty-six (26) inches, the ~~director~~Department, in approving a reclamation or permanent closure plan, may set a minimum standard for success of revegetation as follows: Vegetative cover of seventy percent (70%) for two (2) full growing seasons in areas planted to herbaceous species only; or fifty percent (50%) vegetative cover for two (2) full growing seasons and six hundred (600) woody plants per acre in areas planted to a mixture of herbaceous and woody species. () (3-18-22)

iv. As used in this section, “herbaceous species” means grasses, legumes, and other forbs; “woody plants” means woody shrubs, trees, and vines; and “ground cover” means the area of the ground surface covered by the combined aerial parts of vegetation and the litter that is produced naturally on-site, expressed as a percentage of the total area measured. Rock surface areas will be excluded from this calculation. (3-18-22)

v. For previously mined areas that were not reclaimed to the standards required by Section 140, and which are affected by the mining or cyanidation facility operations, vegetation should be established to the extent necessary to control erosion, but ~~shall~~will not be less than that which existed before redisturbance; and (3-18-22)()

- vi. Vegetative cover ~~shall~~will not be less than that required to control erosion. (3-18-22)()
- c. Introduced species may be planted if they are known to be comparable to previous vegetation, or if known to be of equal or superior use for the approved post-mining use of the affected land, or, if necessary, to achieve a quick, temporary cover for soil stabilization purposes. Species classified as poisonous or noxious weed species ~~shall~~will not be used in revegetation. (3-18-22)()
- d. By mutual agreement of the ~~director~~Department, the landowner, and the operator, a site may be converted to a different, more desirable or more economically suitable habitat. ()(3-18-22)
- e. Planting of grasses and forbs should be done in a manner which promotes rapid stabilization of the soil surface. Wherever terrain permits, grasses and forbs should be drilled or compacted into the ground using agricultural grass planting equipment or other seeders specifically designed for mine revegetation applications. Broadcast and hydroseeding may be used on areas where other methods are impractical or unavailable. (3-18-22)
- f. The operator should plant shrubs or shrub seed, as required, where shrub communities existed prior to mining. Shrub seed may be planted as a portion of a grass seed mix or planted as bare-root transplants after grass seeding. Where the landowner desires a specific land use such as grazing or cropland, shrubs will not be required in the revegetation species mix. Shrub lands undergoing revegetation with shrubs will be protected from erosion by vegetation, chemical, or other acceptable means during establishment of the shrubs. (3-18-22)
- g. Reforestation. Tree stocking of forestlands should meet the following criteria: (3-18-22)
- i. Trees that are adapted to the site should be planted on the area to be revegetated in a density which can be expected over time to yield a timber stand comparable to premining timber stands; (3-18-22)
- ii. Trees will be established for two (2) full growing seasons after cessation of any soil amendments and irrigation before they are considered to be established; and (3-18-22)
- iii. Forestlands undergoing revegetation with trees should be protected from erosion by vegetation, chemical binders, or other acceptable means during seedling establishment. (3-18-22)
- h. Revegetation is not required on the following areas: (3-18-22)
- i. Affected lands, or portions thereof, where planting is not practicable or reasonable because the soil is composed of excessive amounts of sand, gravel, shale, stone, or other material to such an extent to prohibit plant growth; (3-18-22)
- ii. Any mined area or overburden stockpiles proposed to be used in the mining operations for haulage roads, so long as those roads are not abandoned; (3-18-22)
- iii. Any mined area or overburden stockpile, where lakes are formed by rainfall or drainage runoff from adjoining lands; (3-18-22)
- iv. Any mineral stockpile; (3-18-22)
- v. Any exploration trench which will become a part of a pit or an overburden disposal area; and (3-18-22)
- vi. Any road which is to be used in mining operations, so long as the road is not abandoned. (3-18-22)
- i. Mulching. Mulch should be used on severe sites and may be required by the reclamation or permanent closure plan where slopes are steeper than three to one (3:1) or the mean annual rainfall is less than twelve (12) inches. When used, straw or hay mulch should be obtained from certified weed free sources. "Mulch" means vegetation residues or other suitable materials to aid in the stabilization of soil and soil moisture conservation which will provide a micro-climate more suitable for germination and growth on severe sites. Annual grains such as rye, oats, and wheat may be used as a substitute for mulch where they will provide adequate protection and will be

replaced by permanent species within a reasonable length of time.

(3-18-22)

12. Petroleum-Based Products and Chemicals. All refuse, chemical and petroleum products and equipment should be stored and maintained in a designated location away from surface water and disposed of in such a manner as to prevent their entry into a waterway.

(3-18-22)

141. -- 149. (RESERVED)

150. TERMINATION OF A PLAN.

01. Terminate upon Request of the Operator. A reclamation plan ~~shall~~will terminate upon request of the operator, upon inspection by the ~~director~~Department, and a determination that all reclamation activity has been completed to the standards specified in the plan, and following final approval by the ~~director~~Department. Upon termination, the ~~director~~Department will release the remaining financial assurance, notify the operator, and any authority to conduct any mining operations under the subject plan ~~shall~~will terminate. ~~(3-18-22)~~()

02. Terminate a Permanent Closure Plan. The ~~director shall~~Department will 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 determined by the ~~director~~Department under Sections 111 and 112 of these rules. 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 ~~director~~Department will notify the operator that any authority to continue cyanidation operations ~~shall~~will cease and ~~he it~~ will release the balance of the financial assurance in accordance with Subsection 120.20. ~~(3-18-22)~~()

151. -- 154. (RESERVED)

155. FIVE (5) YEAR UPDATES AND PERIODIC INSPECTIONS.

01. Five (5) Year Updates. The Department may require operators to submit an update on their mining operation at least every five (5) years. The update will be on a Department form, and will be used to assist the Department in determining whether or not adjustments are needed for financial assurance or if a plan amendment is required due to a material change. Failure by an operator to complete the form and return it to the Department, or an operator providing false statements on the form, may result in the penalties in Section 47-1513(g), Idaho Code. A mine plan update provided to the federal government for mines subject to financial assurance requirements may be considered to meet the requirement.

~~(3-18-22)~~()

02. Right of Inspection. Authorized representatives of the Department have the right to enter upon lands affected or proposed to be affected by exploration, mining operations, or cyanidation facilities to determine compliance with the reclamation or permanent closure plans and these rules. Inspections will be conducted at reasonable times in the presence of the operator or his authorized representative. The operator ~~shall~~will make such a person available for the purpose of inspection. This rule does not prevent the Department from making an inspection of the site if the operator fails to make a representative available on request. ~~(3-18-22)~~()

03. Frequency of Inspection.

(3-18-22)

a. Mining operations with an approved reclamation plan will be inspected ~~at least once every five (5) years~~periodically based on priority and resource availability to determine compliance with the approved plan and adequacy of the financial assurance. Timing of inspections is governed by Section 45-1508(e), Idaho Code. Inspections may need to be more frequent for mines permitted under Sections 070 and 071 of these rules due to the large size, rapid pace of mining, complexity of an operation, or high financial assurance. ~~()~~(3-18-22)

b. Cyanidation facilities with an approved permanent closure plan will be inspected as often as is needed, but at least once a year. (3-18-22)

156. -- 159. (RESERVED)

160. ENFORCEMENT AND FAILURE TO COMPLY.

01. Financial Assurance Forfeiture. Upon request by the ~~director~~Department, ~~the attorney general~~ may be instituted proceedings may be instituted to have the financial assurance for reclamation or permanent closure forfeited for violation of an order entered pursuant to Section 47-1513, Idaho Code and these rules. (3-18-22)()

02. Civil Penalty. An operator with no financial assurance, or an operator who violates these rules by performing an act which is not included in an approved reclamation plan or an approved permanent closure plan that is not subsequently approved by the Department, will be subject to a civil penalty as authorized by Section 47-1513(c), Idaho Code. (3-18-22)

03. Injunctive Procedures. The ~~director~~Department may seek injunctive relief and proceed with legal action, if necessary, to enjoin a mine operator or cyanidation facility operator who violates the provisions of the ~~chapter~~Act, these rules, or the terms of an existing approved reclamation or permanent closure plan. Any such action will follow the procedures established in Section 47-1513, Idaho Code. (3-18-22)()

04. Appeal of Final Order. An operator dissatisfied with a final order of the Board may within sixty (60) days after receiving the order, file an appeal in accordance with Section 47-1514, Idaho Code. (3-18-22)

161. -- 169. (RESERVED)

170. COMPUTATION OF TIME.

Computation of time will be based on calendar days. In computing any period of time prescribed by the ~~chapter~~Act, the day on which the designated period of time begins is excluded. The last day of the period is included unless it is a Saturday, Sunday or legal holiday when the Department is not open for business. In such a case, the ~~time~~ period runs until the end of the next day which is not a Saturday, Sunday or legal holiday. Intermediate Saturdays, Sundays or legal holidays are excluded from the computation when the period of prescribed time is seven (7) days or less. (3-18-22)()

171. -- 179. (RESERVED)

180. PUBLIC AND CONFIDENTIAL INFORMATION.

01. Information Subject to Disclosure. Information obtained by the Department pursuant to the ~~chapter~~Act and these rules is subject to disclosure under Title 74, Chapter 1, Idaho Code ("Public Records Act"). (3-18-22)()

02. Use by Board. Any plans, documents, or materials submitted as confidential and held as such ~~shall will~~ not prohibit the Board, ~~director~~Director, or Department from using the information in an administrative hearing or judicial proceeding initiated pursuant to Section 47-1514, Idaho Code. (3-18-22)()

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. (3-18-22)

181. -- ~~189~~199. (RESERVED)

~~190. DEPOSIT OF FORFEITURES AND DAMAGES.~~

~~All fees, penalties, forfeitures, and civil damages collected pursuant to the chapter, will be deposited with the state treasurer in the following accounts as appropriate: (3-18-22)~~

~~**01. Mine Reclamation Fund.** The mine reclamation fund to be used by the director for mined land reclamation purposes and to administer the reclamation provisions of the chapter and these rules. (3-18-22)~~

~~**02. Cyanidation Facility Closure Fund.** The cyanidation facility closure fund to be used by the director to complete permanent closure activities and to administer the permanent closure provisions of the chapter~~

and these rules. ~~(3-18-22)~~

~~191. -- 199. (RESERVED)~~

200. COMPLIANCE OF EXISTING RECLAMATION PLANS.

~~01. Plans Approved Prior to 2019.~~ Reclamation plans approved prior to July 1, 2019, or reclamation plans that have permanently ceased operations prior to July 1, 2019, are not subject to the 2019 legislative amendments to the ~~chapter~~Act regarding financial assurance and post-closure. New reclamation plans or plan amendments received after July 1, 2019, will be subject to the 2019 legislative amendments to the ~~chapter~~Act.
~~(3-18-22)~~()

~~02. Plans Submitted in 2019.~~ Reclamation plan applications submitted prior to July 1, 2019, but not yet approved, have until July 1, 2020 to submit post closure plans and financial assurances as described in the 2019 legislative amendments to the chapter. ~~(3-18-22)~~

201. -- 999. (RESERVED)

IDAPA 20 – IDAHO DEPARTMENT OF LANDS

IDAPA 20.03.02 - RULES GOVERNING MINED LAND RECLAMATION

DOCKET NO. 20-0302-2401 NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 58-104(6) and 58-105, Idaho Code, and Title 47, Chapter 15, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be held as follows:

Tuesday, October 7, 2025

2:00pm MT

Idaho Department of Lands

Boise Bureau Office

Garnet Meeting Room

300 N. 6th Street, Suite 103

Boise, ID 83720

To attend any meeting via Microsoft Teams:

Meeting Link: [Join the meeting now](#)

Meeting ID: 282 279 897 290 9

Passcode: By3pT9aC

All meetings will be available for video teleconference via a link posted on Idaho Department of Lands website at [Rulemaking for IDAPA 20.03.02 - Department of Lands](#)

To attend by telephone call: +1 469-998-7393

Phone conference ID: 612 566 364#

The meeting sites will be accessible to persons with disabilities, if needed. Requests for accommodation must be made not later than five (5) days prior to the meeting by contacting the department at the address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Following [Executive Order 2020-01: Zero-Based Regulation](#), this rule chapter is scheduled to be repealed and replaced in 2025 for review during the 2026 legislative session. The department anticipates reducing the overall regulatory burden by reducing both total word count and the number of restrictive words in the new rule chapter. The department reviewed the rule with stakeholders to solicit comments on the draft rules. The department seeks to modify language for consistency within the rule, with statutes, and with other state rules.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking:

- This rule will have no fiscal impact on the state general fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the April 2, 2025 [Idaho Administrative Bulletin, Vol. 25-4, pages 33-35](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief

synopsis of why the materials cited are being incorporated by reference into this rule:
Title 47, Chapter 15, Idaho Code Section 47-15 is the Authorizing Statute for these Rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Andy Mork, PG, Minerals Program Manager at (208) 334-0247 or amork@idl.idaho.gov

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2025.

DATED this August 19th 2025.

Andy Mork, PG, Minerals Program Manager
Idaho Department of Lands
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