Idaho Department of Lands
Agency Guidance Document
Navigable Waterways Program
Boise Staff Office
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Navigable Waterway Riverbed Mineral Leasing Procedures

Updated: February 2026

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

Agency Contact

Navigable Waterways Program Manager, Boise Staff Office

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Documents Referenced in Procedures

RML-001 Navigable Waterways Mineral Lease Application

RML-002 Navigable Waterway Mineral Lease Set Up Sheet

RML-003 List of Navigable Waterways

RML-004 Sections of Navigable Rivers Withdrawn From Mineral Entry

RML-005 Sample Letter Incomplete Lease Application

RML-006 Sample Legal Ad for Application

RML-007 Sample Legal Ad for Hearing

RML-008 Land Board Memo Template for Mineral Lease

RML-009 Notice of Noncompliance

RML-010 Application for Assignment

RML-011 Land Board Memo Mineral Royalty Schedule

RML-012 Exploration Location Certificate

RML-013 Exploration Location Assessment Affidavit

RML-014 Exploration Location Assessment Description

RML-015 Riverbed Mineral Lease Production and Royalty Report

RML-016 Land Use Permit Template

Section 5: Legal Authorities

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1. Authorities and Statutes

- Idaho Admissions Act of July 3, 1890
- Idaho Constitution, Article 9, Sections 7 and 8
- Title 58, Chapter 13, Idaho Code, Navigational Encroachments
- Title 47, Chapter 7, Idaho Code, Mineral Rights in State Lands
- Title 67, Chapter 43, Idaho Code, Sections 67-4301 through 67-4806, Preservation of Certain Lakes
- Title 42, Chapter 38, Idaho Code, Stream Channel Protection Act
- Title 58, Chapter 12, Idaho Code, Public Trust Doctrine
- Title 73, Chapter 1, Idaho Code, Section 73-116, Common Law in Force
- Title 58, Chapter 1, Idaho Code, Section 58-104, Idaho Land Board - Powers and Duties
- Title 58, Chapter 1, Idaho Code, Section 58-132, Extension and Declaration of Powers and Duties of State Board of Land Commissioners
- Title 58, Chapter 6, Idaho Code, Section 58-601, Rights of Way for Ditches and Reservoirs
- Title 36, Chapter 16, Idaho Code, Section 36-1601, Public Waters – Highways for Recreation
- Title 55, Chapter 27, Idaho Code, Floating Homes Residency Act
- IDAPA 20.03.04, Rules for the Regulation of Beds, Waters, and Airspace Over Navigable Lakes in the State of Idaho
- IDAPA 20.03.05. Navigable Waterway Mineral Leasing in Idaho
- IDAPA 20.03.17, Rules Governing Leases on State-Owned Navigable Waterways
- IDAPA 20.03.09, Rules for Easements on State-Owned Navigable Waterways

2. Land Board Policies

To see the original Land Board policy, please see the **Land Board Policy: Mineral Royalty Policy** document.

November 23, 1998	Modification of royalty schedule for metalliferous and non-metalliferous minerals

Section 10: Navigable Waterway Mineral Leasing Administration & Definitions

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1. Area Responsibilities

A. Processing

Areas will process all navigable waterway lease applications within the Area boundaries (**Navigable Waterways Mineral Lease Application, RML-001**). Bureau staff, including the Navigable Waterways Program Manager, Minerals Program Manager, and Minerals Leasing Program Manager will assist, as requested. Areas will also draft tract lists in response to applications that require a public lease offering.

B. Administration

Areas will answer questions from potential and existing lessees concerning lease administration and compliance. Bureau staff will assist as requested.

C. Land Use Permits

Areas are responsible for writing, executing, and administering land use permits. Area staff will submit legal descriptions for approval by lands records staff, and are responsible for writing internal memos, and mailing any approval letters to the applicants.

D. Signatures

Area Managers, or their designee, will sign all lease set up sheets and Land Use Permits (**Navigable Waterway Mineral Lease Set Up Sheet, RML-002**).

E. Inspections

Area staff will perform:

1. Site visits
2. Compliance inspections.

All inspections must be documented in writing following Section 30 – Mineral Lease Inspection and Enforcement of these Procedures. Bureau or other IDL personnel will assist with inspections, as requested.

F. File Retention

Areas will submit complete files for all Exploration Locations and Mineral Leases to the Records office in Boise. Additionally, Areas will retain hard, and electronic files. All files are subject to Public Records Requests.

G. Policy Changes

Area personnel will submit comments concerning recommendations for policy and procedure changes to the applicable Program Manager.

2. Bureau Responsibilities

A. Support to Areas

The Bureau will provide information and guidance to the Areas to ensure consistency and completeness. This may include assistance in processing lease applications, determining riverbed ownership, and reviewing documents, letters, and other materials. The Bureau Technical Records Specialist can assist with billing-related inquiries.

B. Office of Record

The Bureau will receive and maintain exploration location and lease information sent to the Bureau from the Areas at the Boise office, with complete files being retained at the Area offices.

C. Procedures

The Bureau will review procedures on an ongoing basis and make adjustments when necessary. The Bureau will solicit input from Area staff, Executive staff, and Legal staff on all policy and procedure changes. At the discretion of the Bureau, input will also be solicited from other agencies (local, state and federal), industry representatives, and the public.

3. Definitions

See the Minerals Regulatory Program Procedures for definitions of additional mining terms.

Aliquot Part – A portion of a Section described in terms of ½ or ¼ of a Section or a portion of a Section.

Base Metals – Iron, lead, zinc, copper, antimony, nickel, aluminum, molybdenum, tin, tungsten, cobalt, titanium, etc.

Exploration – The activity performed to locate mineral bodies and to determine their mineability and merchantability (Idaho Code § 47-1503(8)).

Exploration Location – An instrument used to give the grantee an exclusive right to prospect for minerals on a specific parcel of land for two years.

Government Lot – A portion of a Section that is larger or smaller than the typical ¼-¼ aliquot part of 40 acres due to irregular Township or Section boundaries, navigable waters, mining claims, reservation boundaries, or other surveying irregularities.

Grantee or Lessee – The person leasing land or minerals from the land's owner.

Grantor or Lessor – The land or mineral owner granting a lease on their land to another person. For the purposes of these procedures, the state of Idaho is the Lessor.

Lease – An exclusive right for a specific use of a state parcel over a specific time frame.

Mineral – All coal, oil, oil shale, gas, phosphate, sodium, asbestos, gold, silver, lead, zinc, copper, antimony, geothermal resources, salable minerals, and all other mineral lands, minerals or deposits of minerals of whatsoever kind or character (Idaho Code § 47-701). Fossils are also considered to be part of the mineral estate.

Land Use Permit – An authorization for a specific activity on state lands. These are temporary permits issued for periods of no greater than six months. They are non-assignable and revocable at the will of the state. These permits are for no or low impact uses and have a minimum charge of $250.

Precious Metals – Gold, silver, platinum, and platinum group metals.

Withdrawal or Withdrawn – State mineral lands that are not available for mineral entry or exploration due to action by the Land Board under Idaho Code § 47-702.

Section 20: Navigable Waterway Mineral Leasing

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1. Navigable Waterway Lease Application

A. Application Processing

Lease applications must follow the Navigable Waterway Mineral Leasing Rules, IDAPA 20.03.05. Contact the Navigable Waterways Program Manager if questions arise.

IDL maintains the List of Navigable Waterways that identifies rivers that are currently designated as navigable (**List of Navigable Waterways, RML-003**). Sections of rivers where the state has title and which have not been located, leased, or withdrawn from mineral entry may be open to mineral entry or exploration. IDL maintains the list of sections of navigable rivers withdrawn from mineral entry (**Sections of Navigable Rivers Withdrawn From Mineral Entry, RML-004**). Withdrawals are also noted on the digital land records and in the Small Scale Mining Program Instructions prepared by the Idaho Department of Water Resources (IDWR) https://idwr.idaho.gov/streams/recreational-mining-permits/forms/

Applications on rivers or sections of rivers that have been withdrawn from mineral entry or exploration will be immediately denied with no refund of the application fees.

B. Application Package

Complete applications **(RML-001)** for navigable waterway mineral leases must contain the following:

1. Application for Use. Applicant must specify in the "Project Description" section near the bottom of the form that mineral exploration and production are proposed. The specific commodities to be leased must also be included.
2. Map of the proposed lease area.
3. A copy of the Applicant's IDWR approved Stream Channel Alteration Permit (Small Scale Mining Permit is acceptable).
4. Plan of operations for exploration or mining activities. A copy of their IDWR approved Stream Channel Alteration or Small Scale Mining Permit is acceptable.
5. A copy of their IPDES General Permit for suction dredging from IDEQ, if applicable.
6. $425.00 non-refundable application fee (IDAPA 20.03.05.045.01).
7. $75.00 non-refundable advertising fee (IDAPA 20.03.05.045.02).

C. Lease Size

On rivers, navigable waterway mineral leases are limited to either one (1) mile in length, or the entire length of the river contained in one Section. If the application crosses through more than one Section, then the one (1) mile limit should be imposed by measuring down the approximate center of the river (IDAPA 20.03.05.031.01).

D. Legal Description

Riverbeds create a unique dilemma because the Department has to describe the lands that were left out of the original surveys. The adjacent Government Lots, or aliquot parts if the river has moved away from the original meander lines, should be used to describe exploration locations and lease areas on navigable rivers. The parcels on both sides of the river should be used for the description. For example, an exploration location for a ½ mile of river could consist of "the Salmon River adjacent to Government Lots 2, 3, 5, and 6, Section 3, T27N, R1E".

2. Navigable Waterway Lease Application Review

A. Area Review

Area review of the application should be completed within thirty (30) days of receipt of the application. This includes depositing the fees and assigning an instrument number to the application.

B. Incomplete Applications

Applications that do not contain the information in Section I.B are incomplete. The Area must send a letter to the Applicant stating why the application is incomplete, and give them at least 30 days to submit the additional information (**Sample Letter Incomplete Lease Application, RML-005**). If the information is not received by the date given, then the application will be denied and a new application and fee will be required. Application processing should not proceed until IDL has a complete application that describes the proposed operation and has sufficient information for other agencies and the general public to offer comments.

The IDWR approved Stream Channel Alteration Permit or Small Scale Mining Permit is a key part of the lease application. These documents act as the operating and reclamation plans for the leases.

C. State Agency Review

After a complete application package is received, the Area will forward the complete application packet to the Idaho Department of Environmental Quality (IDEQ), the Idaho Department of Fish and Game (IDFG), and IDWR. Applications on the Main Salmon River between Long Tom Bar and Hammer Creek should also be sent to the Cottonwood office of the Bureau of Land Management for review and comment. County officials may also be notified of lease applications.

Agencies shall be given thirty (30) days to provide comments, and arrangements should be made for an on-site review if requested.

D. Legal Notice

Concurrent with notification to other agencies, a legal notice of the application must also be prepared by the Area and published once a week for two consecutive weeks in a newspaper of general circulation in the county or counties where the waterway under application is located (IDAPA 20.03.05.25.01).

Comments regarding the application will be accepted for thirty (30) days following the date of the last publication of the legal notice (**Sample Legal Ad Application, RML-006**). Comments will be sent to the

navigablewaterways@idl.idaho.gov inbox to be collected as part of the lease file. Comments will be compiled from the inbox by the Workflow Coordinator and sent to the area staff, Program Manager, and any other staff that may need to be aware of the comments.

3. Public Hearing

A. By Director Order

The Director may order a public hearing on an application if a hearing is in the best interest of the public (IDAPA 20.03.05.025.02). The Area office may recommend this hearing to the Director through the Operations Chief and inform the Navigable Waterways Program Manager.

B. By Petition

A public hearing will be held on the application if requested by ten (10) or more people whose right to use the waters applied for may be injured by the Applicant's activities. An association presenting a petition with signatures of ten (10) or more aggrieved parties may also cause a public hearing to be held (IDAPA 20.03.05.025.03). Electronic requests or petitions will be accepted.

C. Public Hearing Format

The public hearing shall be in a format similar to that used for encroachment applications. See Section 20 of the Encroachment Permit Procedures for more information. A Hearing Officer shall be chosen by the Idaho Office of Administrative Hearings.

After a Hearing Officer is assigned, the Hearing Officer will pick a place of sufficient size to hold the hearing, and determine a time and date that the Applicant, the hearing venue, and the Area staff are available. A Notice of Hearing will be published once a week for two consecutive weeks prior to the hearing (**Sample Legal Ad Hearing, RML-007**). Any objectors who called for the hearing will also be notified two weeks prior to the hearing. Written testimony will be accepted up to and including the public hearing.

The hearing must be recorded and a verbatim transcript may be prepared at the discretion of the Hearing Officer. A signup sheet will be used to document the attendees and their desire to offer oral testimony.

D. Hearing Recommendation

The Hearing Officer shall consider fully all written and oral submissions respecting the application (IDAPA 20.03.05.025.03). The Hearing Officer shall develop and submit a Recommended Order to the Director.

The hearing record usually consists of:

1. IDL Application and map
2. IDWR applications and permits
3. Agency notifications
4. Public Notice and proof of publication
5. Agency comments
6. Public comments
7. Notice of Hearing
8. Hearing transcript and all materials presented or collected at the hearing (including any PowerPoint files or other visual aids)
9. Signed Recommendation

Based on the Recommended Order, the Director will issue a draft Final Order for Land Board approval.

4. Navigable Waterway Lease Approval

A. Approval With No Hearing

If a hearing is not held and the Area recommends approval of the lease, then the Area office will complete and submit a lease set up sheet **(RML-002)** to the Bureau.

B. Approval Following a Hearing

Following completion of the signed Recommendation and Final Order, the Program Manager will prepare a Land Board Memo as a Regular Agenda item and schedule the presentation for the next available Land Board meeting (**Land Board Memo Template, RML-008**). The Recommendation should contain most of the information needed to prepare the Board Memo. Attachments should include the map showing the location of the proposed lease area, the signed Recommendation, and the Final Order.

Following Board approval, the Area office will complete and submit a lease set up sheet to the Bureau to draft the lease.

5. Navigable Waterway Lease Denial

A. Area Recommended Denial

If the Area recommends denial of the lease, then a hearing should be held to allow the Applicant an opportunity to present their evidence supporting the approval of the navigable waterways mineral lease. The Area office will also testify at the hearing to present their recommendation. The hearing process should otherwise commence as described in Subsection 3 of this procedure.

B. Denial Following a Hearing

The same process as that for Land Board approval in Subsection 3 of this Procedure should be followed.

6. Royalty Rates

See Section 55 of these procedures for details on royalty rates.

7. Lease Bond

Navigable Waterway mineral leases require a $5,000 bond for commercial operations and a $1,000 bond for all other operations (IDAPA 20.03.05.040.01). Operators eligible for participation in the Bond Assurance Fund are required to provide bonding through that program.

8. Lease Expiration and Renewal

The Area will provide the lessee with an Application for Use one year prior to the lease expiration. The same process is needed for a lease renewal as that for a new lease, with advertising and possibly a hearing. A public offering (multiple applicants, auction, etc.) is not required since these are not endowment lands, and therefore not subject to the Idaho Supreme Court's decision in *Wasden v. Idaho State Board of Land Commissioners*.

Section 30: Mineral Lease Inspection & Enforcement

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1. Mineral Lease Inspections

A. Inspection Frequency

Leases should be inspected by Area Staff in accordance with the following schedule:

1. Inactive leases should be inspected at least once every three years.
2. Active leases should be inspected yearly if there is minimal activity, and at least quarterly if fully operational and continuously producing.

If a lease is inactive for three (3) years, please follow the procedures for lease cancellation as outlined in Section 40 – Mineral Lease Cancellation of these procedures.

B. Inspection Criteria

Review the lease and any applicable plans or permits and ensure the operations on site are being conducted in accordance with lease terms and any applicable:

1. Land Use Permit for Motorized Exploration
2. Dredge and Placer Mining Permit.

C. Lessee Attendance

The lessee should be contacted prior to an inspection so they can be present if they choose. Their attendance is not mandatory to inspect state-owned lands, especially if the inspection is in response to a complaint or an emergency.

D. Inspection Topics

The following questions and issues should be addressed during the inspection:

1. Is production occurring?
2. Are royalty payments accurate and timely?
3. What is the approximate volume of stockpiles on site (if any)?
4. If no active mining is occurring, has material been removed from stockpiles recently?
5. Is the operation in compliance with the lease terms and reclamation plan or dredge and placer permit?
6. Is the lease area adequately bonded through the approved Plan of Operation, Reclamation Plan, and permit?
7. Is reclamation being conducted in a timely manner?

E. Inspection Documentation

Inspections should be documented on the Navigable Waterways Inspection Report Form. The following information is crucial to a good report:

1. Date of inspection
2. Photos with captions (MS PowerPoint is a great tool for doing this)
3. Current summary of operations, including observable changes since last inspection
4. Non-compliance issues with any recommended solutions

F. Distribution of Inspection Reports

A copy of the inspection report and any photos shall be forwarded to the Navigable Waterways Program Manager.

A copy of the inspection report will be mailed to the Lessee.

2. Lease Noncompliance

A. Permit Noncompliance

If a lessee is in noncompliance with any provisions of a stream channel alteration or dredge and placer permit required by the lease, they are also in non-compliance with the terms of the mineral or riverbed lease itself.

B. Discussion During Inspection

If the lessee is present during the inspection, all noncompliance issues should be discussed with them at that time. Recommendations and expectations for resolving the noncompliance should be clearly communicated to the lessee.

C. Post-Inspection Action Needed

If follow up action is required by the lessee after an inspection, then a Notice of Noncompliance outlining the corrective actions must accompany the inspection report (**Notice of Noncompliance, RML-009**). The notice should:

1. Describe the noncompliance issue
2. Cite the relevant lease term, statute, or other authority
3. Recommend general solutions or require the lessee to develop a solution
4. Give a deadline for completing the follow up work. Thirty (30) days is usually a reasonable time period.
5. Outline consequences for not resolving the compliance issue

D. Failure of Lessee To Comply

If the lessee does not complete the desired actions as outlined in the letter, then they may either send a follow up letter or refer the matter to legal counsel. When the lessee completes some of the desired tasks, but not all, then a second letter may be justified. If the lessee completely disregards the letter, however, then legal action is probably required to resolve the issue.

3. Legal Action To Resolve Lease Noncompliance

A. Area Decision

In most cases, the decision to initiate legal action should be coordinated with the Program Manager and the Operations Chief. This will ensure that the Department's legal resources are appropriately used.

If legal action is approved by the Operations Chief, then they will request assignment of an IDL legal counsel to the issue. After legal counsel is assigned, the Operations Chief will inform the Area and the Program Manager of the assignment.

B. Lessee Notification

A final letter should be sent to the lessee informing them of the decision to refer the noncompliance to legal counsel. The letter should state that the Department may seek civil penalties to cover any costs incurred by the

Department to resolve the non-compliance, as allowed by Idaho Code § 47-718(3). Additionally, the Department may seek to cash the Reclamation Bond to remedy the reclamation.

C. Judicial Referral Checklist

The Area office shall prepare a judicial referral checklist (Attachment 52 in the Minerals Regulatory Procedures) and any supporting documents for review by the Program Manager. The Program Manager shall submit the checklist and supporting documents to the legal counsel.

The Program Manager will coordinate any clarifications needed from legal counsel. No further actions should be taken unless instructed to by the IDL legal counsel.

Section 40: Mineral Lease Cancellation

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1. Lease Cancellation Process

A. Mineral Lease Reclamation

If the lease has produced minerals, then some reclamation of the state land may be required. Reclamation must be completed or approved to be completed prior to the Department approving a lessee's request to cancel a lease. IDL may still cancel a lease and the reclamation plan holder is still responsible for the reclamation. Only after reclamation is complete can the bond be released. Once a lease is cancelled and the Department has released bonding, the lessee's obligations are fulfilled. The Department will not be able to require additional work from the former lessee at that point.

If no production has been reported on the lease, an inspection should still be conducted by Area staff to determine if any activity occurred that the Department was not aware of. A lessee's request for lease cancellation should not be approved until the Department has documented that all reclamation has been completed. Please see the Minerals Regulatory Program Procedures (https://www.idl.idaho.gov/agency-guidance-documents/) for more information about reclamation plan completion.

B. Forced Mineral Lease Cancellation

If the lease is cancelled by the Department due to a missed lease payment, lapsed bonding, unpaid royalties, or other breach of the lease as allowed by Idaho Code § 47-707, then liability is held against the bond until one of the following happens:

1. Area staff verify that no reclamation is needed and the Reclamation bond may be released.
2. Replacement bonding is provided by new lessee, and new lessee signs a statement taking responsibility for all reclamation associated with the lease.

3. Former lessee reclaims the lease area, and reclamation is inspected by the Area staff.

If lessee does not reclaim within one (1) year of the lease cancellation, then the bond should be forfeited and cashed by IDL so reclamation work can be contracted out.

2. Why Mineral Leases Are Cancelled

A. Request by Lessee

A lessee may request to cancel their mineral lease at any time (See reference document MNR-047 in the Minerals Regulatory Procedures, Documentation of Completed Reclamation Work Request For Financial Assurance Release). The request will be forwarded to the respective Area office. The following issues must be addressed prior to cancellation being approved:

1. Past due payments. Contact Fiscal for total amount due. Part of the bond may be forfeited if outstanding payments are due and lessee refuses to pay.
2. Reclamation. The Department should never agree to a lessee's request for lease cancellation until all reclamation is completed and/or the lessee has submitted an application for reclamation plan retirement.
3. Dredge/Placer Permit retirement. If this instrument is associated with the mineral lease, they must be retired at the same time.

B. Failure to Pay Rent or Royalty

If payment is not received following the second billing, the Bureau will send the file to the IDL legal counsel for processing and notify the area staff about the missed payments.

C. Failure to Maintain Bonding

Area staff will communicate with the lessee about inadequate bonding, and a time frame for compliance. If the lessee is not responsive, a cease and desist letter will follow, written with the assistance of IDL legal counsel. The Bureau will pursue canceling a mineral lease if bonding lapses and lessee does not respond in a timely manner. This also applies to a missed payment for the Bond Assurance Fund. The payment constitutes bonding, so a lack of timely payment is equivalent to a lapse in bond coverage.

D. Substantive Breach of Lease Terms

Any substantive breach of the lease terms is grounds for lease cancellation.

This includes, but is not limited to, the following:

1. Conducting drilling or other motorized exploration without first obtaining a Land Use Permit.
2. Starting mining operations without first obtaining a dredge and placer permit when required.
3. Violations of Idaho Code 47-13 (Dredge and Placer Mining Protection Act).
4. Failure to maintain adequate bonding for approved dredge and placer permits.
5. Unauthorized operations extending outside the leased area.
6. Conducting unauthorized activities on the lease area that are not directly related to production from the lease area.

If adequate notice to lessee has been given, and no action to remedy has been taken, the area should take steps in accordance with Section 30 of these procedures to rectify any non-compliance issues prior to notifying the Lessee and LMR Admin Support in writing the lease has been cancelled.

Section 45: Mineral Lease Assignment

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1. Mineral Lease Assignment Process

A. Fee

The assignment fee is $200 per lease (IDAPA 20.03.05.045.02.b).

B. Dredge/Placer Permit, or Stream Channel Alteration Permit

An **Application for Assignment (RML-010)** of mineral leases must also include submittal of a separate Instrument Assignment Form and fee for the dredge and placer permit, if present or a copy of its IDWR stream channel alteration permit.

C. Assignee With Outstanding BAF Charges

If the assignee has outstanding Bond Assurance Fund (BAF) charges, then the Department cannot approve the assignment (Idaho Code § 47-1805).

D. Assignment Process

The applicant will submit the Instrument Assignment Form to the Area office, along with the assignment fee. The fee is deposited, and the form should be dropped into the LMR Doc Exchange for the Bureau to process. The Bureau will update the record in IMS to the Assignee's name, and will confirm the assignment is complete with the Area staff.

Section 50: Mineral Trespass

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Mineral trespass is a serious issue. As trustees of state lands, IDL must recover lost royalties and damages if the trespasser is identified. Legal counsel and the Program Manager will assist with resolving a trespass, but the Area offices will generally need to conduct inspections and identify the trespasser.

1. Defining Mineral Trespass

A. What Is Trespass?

Trespass occurs when one of the following occurs:

1. Minerals are removed from a state-owned waterbody without first obtaining a mineral lease, land use permit, or other authorization from IDL.
2. Motorized exploration occurs on a state-owned waterbody without a mineral lease or other IDL authorization.

2. Identifying Mineral Trespass

A. Unpermitted Mining Operations

If an unpermitted mining operation is either reported to the Area Office or observed while doing other field work, the waterway ownership should be checked as soon as possible after returning to the office.

Mining operations may be as obvious as a front-end loader and several trucks making a large hole and hauling away material. It may also appear to be just a few pallets stacked on a gravel bar.

Recent aerial photos may also reveal mining activities on waterways. Be sure to take screenshots and note locations, approximate distances, and dates. When observed, a site inspection should be conducted as soon as possible to verify the trespass.

If Area Staff see evidence that mining activity has occurred, staff should begin collecting evidence by taking photographs, noting locations, types of equipment or material in the area, approximately how much land has been disturbed, and noting anyone on or near the site. More information about confrontation can be found below in Section 3.C.

3. Resolving Mineral Trespass

A. Request Settlement Agreement Number from LMR Admin Support

Once the trespass has been verified, obtain a Settlement Agreement number from the Bureau. This is needed for several reasons:

1. Allows time to be coded to that project number. This makes expense tracking and cost recovery much easier.
2. If damages are collected, this allows Fiscal to deposit the money correctly.
3. Communications are improved because the number can be used in e-mails and other correspondence.
4. LMR Admin can file all documents associated with the trespass into the correct Settlement Agreement folder.

B. Request Legal Staff

The Area Manager will need to request legal assistance from the IDL legal team. An attorney will be assigned to review the trespass and associated documentation.

C. Identify the Trespasser

If someone is present at the site during the inspection, a polite inquiry may result in a name and a phone number. Write down any license plate numbers and descriptions of equipment being used. Photograph vehicles and activity if possible. If a polite inquiry seems unlikely, take precaution and note the trespass from a safe distance. See Section 30 of these procedures for more tips on inspections. The local sheriff's office may be contacted if the trespasser appears hostile or uncooperative, and an inspection can be scheduled with an escort from the law enforcement authorities.
If no one is present, complete the inspection with any plate numbers or equipment descriptions as described above.

D. Verbal and Written Notification

The trespasser should be notified verbally as soon as possible that:

1. They are removing minerals owned by the state.
2. Operations must immediately cease and desist until a method of royalty payment to the state can be arranged (Land Use Permit or Mineral Lease) if desired by the state, and a bond to cover reclamation liability is in place.
3. Triple damages will be assessed for all materials removed to date. Additional civil or criminal penalties may apply depending on the specific circumstances and the perpetrator's response.
4. A placer permit may also be needed, depending on the activity being conducted.
5. A letter restating the trespass issue and actions required to resolve it will be forthcoming.
6. If the trespass activities show cause for concerns outside of IDL jurisdiction, other agencies should be notified of the trespass activities.

A letter repeating the above should be sent both regular and certified mail, with a 30-day deadline to submit a mineral lease application, if the Department wishes to issue a lease. See Subsection 4 below for a discussion of damages.

E. Follow Up Demand for Damages

Once the amount of damages has been calculated (see Subsection 4 below), the Area shall send a second letter to the trespasser. This letter shall detail how the damages were calculated and demand payment within 30 days. The trespasser will also be required to sign a Settlement Agreement (drafted by legal staff) that requires the payment of damages and reclamation of the state lands. This is particularly needed when the mined area will not be leased.

Depending on the situation, some negotiation may be called for regarding the amount of damages and the timeframe for reclamation. Fall is the best time for seeding, but early spring can also work.

F. Settlement Agreement

If an agreement can be reached with the trespasser, notify legal staff to draft a Settlement Agreement. The agreement should be sent with a cover letter that requests signature and return of the agreement within 15 days.

4. Calculating Damages

A. Identify Commodity and Use

The specific commodity being removed, and the usage for it, must be identified. Sand used for general fill, for example, will be worth less than sand suitable for use in golf courses or in industrial applications.

B. Determine Royalty Rate

Determine a royalty rate for the minerals removed with the guidance in Subsection 25D of these Procedures. Every effort should be made to establish a defensible royalty rate. This will shift any arguments with the trespasser to the issue of volume removed.

The royalty rate used for trespass actions should be tripled, as allowed by Idaho Code § 6-211 and 47-717.

C. Estimate Volume Removed

The volume of material removed must be determined. Try to be accurate, and assumptions should err on the side of overestimation instead of underestimation. The trespasser has the option of supplying weigh tickets, sale invoices, and other information to refute our estimation. Volume estimation can be done one of several ways:

1. If a hole has been dug or material removed from the surface, then a bank cubic yard volume can be calculated. This may need to be converted to loose cubic yards in order to apply the correct royalty rate. Use swell or expansion factors found in the CAT Handbook or other publication. Contact the Program Manager if the swell factor cannot be found.
2. Scattered decorative stone, scree slopes, or similar mined areas do not allow an easy volume calculation. Examine adjacent, unmined areas to aid in the estimation of material removed. Stockpiles of the removed material in the trespasser's possession or place of business can also be estimated.
3. Information supplied by the trespasser. This is more likely to happen if they would like to pursue a mineral lease for additional mining activity.

D. Administrative Costs

All Department staff who work on a trespass case should keep track of the time they spend on the trespass. All expenditures related to the trespass should also be noted. Time and expenditures should be noted on an excel spreadsheet including travel time, time spent drafting documents, time in any meetings related to the trespass, and any additional materials needed to

regulate the trespassed area. All these expenses may be recovered from the trespasser as civil penalties under Idaho Code § 47-718(3). These penalties are usually only sought if the trespasser refuses to cooperate and legal action is required. Unique circumstances may also dictate cost recovery.

E. Reclamation Costs

If the trespasser refuses to reclaim all areas disturbed by their actions, then they are also liable for reclamation costs (Idaho Code § 47-718(1)(b), 47-718(2)(a)).

5. Formal Legal Action

A. Legal Action Required

If the trespasser does not respond to any written requests, or a reasonable agreement cannot be reached, then the matter should be turned over to legal staff. The Area must complete a Judicial Referral Checklist (Attachment 39 of Surface Mining Procedures) complete with timelines, contact information, and inspection reports. Photos, both aerial photos and site photos, are key pieces of evidence needed to obtain temporary restraining orders and prove the Department's claims. Labeled GIS maps on an air photo base are also effective evidence.

B. Injunctive Relief

If the trespasser refuses to comply with the Department's verbal and written demands to cease operations, then the Area Manager or Operations Chief should immediately ask legal staff to obtain injunctive relief as allowed by Idaho Code § 47-718(1)(a).

C. Maximum Penalties Imposed

The Department should seek the maximum amount of calculated damages described in Subsection 4.

D. Regulatory Coordination

The Department should coordinate mineral trespass actions with regulatory enforcement, including penalties and injunctive relief under the Dredge and Placer Mining Protection Act (Idaho Code § 47-13).

Section 55: Royalty

Updated: February 2026

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2. Mineral Royalty as a Percentage of Sale Price 27
3. Other Mineral Royalty Rates 28
4. Prepaid Royalty on Riverbed Mineral Leases 29

1. Common Royalty Language In Leases

A. Adjustment of Royalty

All mineral leases must include a term that allows royalty rates to be adjusted during the term of the lease. This is needed to ensure that the Department can keep royalty rates comparable with market conditions.

2. Mineral Royalty as a Percentage of Sale Price

A. Minimum Percentage in Statute

The minimum percentage in Idaho Code § 47-704(1) is 2.5%. This is the minimum amount that mineral leases must return to the state and should be based on a gross value or price received by lessee.

B. Percentage Set by Land Board

The Land Board set a royalty rate of 5% for base metals, precious metals, and many industrial minerals not in Idaho Code § 47-701A **(LB Memo-Mineral Royalty Schedule – RML-011)**. The following commodities are EXCLUDED from this royalty rate:

- Oil and gas and other hydrocarbons
- Uranium and other fissionable minerals
- Coal
- Sand and gravel
- Basalt and other aggregate materials
- Limestone and dolomite

- Marble
- Slate, dimension stone, and similar building materials
- Scoria and cinders
- Pumice and similar volcanic rock materials
- Perlite
- Clay and associated minerals
- Lava, sandstone, and other decorative stones

C. Asset Management Target

IDL targets a royalty rate of 5% to 10% of retail value. Mining is a high cost industry, so this modest royalty value is commonly used in other states and by other lessors.

3. Other Mineral Royalty Rates

A. Aggregates and Stone

The Area should establish a royalty rate based on local market conditions for common commodities such as:

- Sand and Gravel
- Cobble

The Area office can determine local market conditions by:

- Consulting with the district offices of the U S Forest Service (USFS) and the Bureau of Land Management (BLM) regarding the prices they charge on community pits and commercial operations. The BLM conducts mineral appraisals and will gladly share this information with IDL.
- Asking nearby private landowners and material suppliers what they charge for their materials.
- Looking at royalty rates for other state leases in the vicinity of the new lease, especially if they have a royalty rate determined in the last five (5) years.
- Contact the nearest district office of the Idaho Department of Transportation or the local highway district. They purchase a lot of material, and may be able to share that information. The cost or royalty for pit run gravel should be obtained, as crushed or screened material is more expensive due to the value added by processing.

B. Statewide Specific Royalty Rates

Royalty rates for the following specific commodities have been established by the Department and are applicable statewide:

- Rare earths
- Uranium and fissionable minerals
- Garnets (industrial)
- Gemstones
- Mineral specimens

C. Royalty Schedule

A royalty schedule for each commodity leased must be attached and made a part of the mineral lease (IDAPA 20.03.05.030.02).

4. Prepaid Royalty on Riverbed Mineral Leases

A. Minimum Prepaid Royalties

There are no minimum prepaid royalties, as the minimum annual rental is five hundred dollars ($500) per year (IDAPA 20.03.05.030.01).

B. Cost Recovery

The above minimum amounts typically do not cover the cost of processing the lease application, annual inspections, billings, and lease administration. This is especially true if a hearing is held.

The costs for approving and administering a lease through the five (5) year term should be tracked on an excel spreadsheet and added up and averaged to determine a per-year cost. This would include time and expenditures that went into managing the lease. Consultation with the Program Manager will be required to assess all the costs. This should then be added to the above minimum annual rental.

C. Late Payments

Rental or royalty not paid by the due date is considered late and will result in the following monthly charges:

- A late charge of twenty-five dollars ($25) or one percent (1%) of the unpaid principal obligation, whichever is greater; and
- An interest charge of one percent (1%) on the unpaid principal obligation.

If there are late charges, the Department will send monthly statements with the outstanding balance that will remain on the account and will continue to

accrue late charges and interest each month, or any portion of a month, until the balance is paid in full. All payments will be applied first to accrued interest and late charges, and then to principal (IDAPA 20.03.05.030.04). Bureau staff will send out these statements and requests for payment.

Section 60: Exploration Locations

Updated: February 2026

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5. Exploration Location Issuance and Reporting 33
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Exploration locations on state owned riverbeds are analogous to mining claims located on federal land. The administration of state lands, however, has a different mission than federal lands. The Department also needs to distinguish between state and federal lands and policies. As a result, the name exploration location is used for state lands.

1. Lands Available

All state lands or navigable waters are open to exploration locations unless they are (Idaho Code § 47-703(1)):

1. Covered by a mineral lease or a pending lease application.
2. Under a valid Exploration Location.
3. Have been specifically withdrawn from mineral entry or exploration.

2. Exploration Location Restrictions

A. Locatable Commodities

Exploration Locations are issued for all commodities except saleable minerals as defined in Idaho Code § 47-701A (Idaho Code § 47-703(1)).

B. Size

Exploration Locations on navigable rivers must not exceed one-half (½) mile in length (Idaho Code 47-703 (2)) as measured down the middle of the channel. If a river does not travel straight through a Section, then care must be taken to not exceed the ½ mile limitation.

C. Term

Exploration Locations are valid for 2 years from the date of issuance (Idaho Code 47-703 (4)). After that time, the person must either apply for a mineral lease or allow someone else an opportunity to explore or lease that parcel. Successive exploration locations by the same person on the same parcel are not allowed. Exploration locations are meant to be used for exploration. If someone wishes to conduct recreational mining for more than 2 years, then they must apply for a mineral lease.

D. Non-Assignable

Exploration locations are personal to the locator and are not assignable. This is due to the *Wasden v. Idaho State Board of Land Commissioners* ruling. An existing exploration location will have to be released or withdrawn by the current locator, and the new locator will have to file a new exploration location.

3. Exploration Location Filing

A. Forms From the Area Office

Exploration Location Certificate RML-012 forms are available on the Department's internet site. Someone who wants to explore for minerals on state lands should contact the applicable Area office and discuss their plans with Area staff. This should prevent application on rivers or parcels already leased or located, or those withdrawn from mineral entry and exploration. Applicants must complete the forms. Area staff can assist as needed with legal descriptions, but should never complete the forms for the applicants.

B. Fee Payment

The fee is due when the exploration location is filed. Without the required fee, the location is not valid. The fee is five hundred $500 for riverbed exploration locations on navigable rivers (IDAPA 20.03.05.045.03).

C. Number Assignment

The Bureau will provide an instrument number for an exploration location upon request by the Area.

New exploration location numbers will begin with the Area number ([L][Area number][four digit location number], e.g. L430007), so please make sure the correct Area, where the exploration location is located, is identified for LMR admin support.

D. Received by the Bureau

If an exploration location is first received by the Bureau, the original will be retained at the Bureau and a copy will be forwarded to the applicable Area office with an exploration location number.

E. Time Stamp

The exploration location must be time stamped on the front the day IDL receives it. Date stamping on the front ensures that the stamp will be retained on photocopies.

4. Exploration Location Review

Each section of the form should be fully completed before being accepted by the Department.

A. Correct Form Use

Applicants must use the current Exploration Location form.

B. Applicant Information

A complete mailing address is required so the Department can send notifications and forms. Email and telephone numbers are also required so the Department can contact the locator in case of emergency.

C. Legal Descriptions

Exploration Locations on riverbeds must be described by legal subdivision (Idaho Code 47-703(2)).

5. Exploration Location Issuance and Reporting

A. Program Manager Review

The Program Manager will review the exploration location and discuss potential legal description issues with GIS staff. If a problem is found, the Program Manager will contact the Area office and the locator. If the exploration location is complete and meets the requirements, then the Program Manager will enter the expiration date at the bottom of the cover page and return to the Technical Records Specialist for mailing.

B. Bureau Processing

After the Bureau assigns a number, they will direct GIS staff to enter the exploration location into the digital land records. The location information will

then be entered into IMS and the location will be forwarded to the Program Manager.

C. Mailing

The Technical Records Specialist will draft an approval letter for the Program Manager's signature. The following documents will be sent to the locator:

1. Approved Exploration Location
2. Affidavit of Assessment Work
3. Description of Assessment Work
4. Royalty Report

A copy of the letter will be forwarded to the Area.

D. Assessment Work Forms

The Bureau will send an **Affidavit of Assessment Work (RML-013) and a Description of Assessment Work (RML-014)** form to the locator for completion one month prior to the first and second anniversary date of the exploration location, with a return date of 30 days from date of service. The Area staff will also be copied on these forms. The location will be cancelled by the Bureau if these reports are not returned by the specified due date (Idaho Code § 47-703(6)).

E. Royal Payments Required

If minerals are removed from the Exploration Location, then royalties must be paid. Royalty rate is 5% for all Exploration Locations (IDAPA 20.03.05.016.03).

6. Inspections

A. Once a Year

The Area should inspect exploration locations at least once a year. An inspection should also be completed just prior to expiration of the location to make sure no cleanup or reclamation work is needed.

B. Inspection Reports

Written inspection reports should be completed and filed after every inspection. Section 30 of these procedures has information on inspections that also apply to Exploration Locations. Follow up work should also follow this procedure.

Section 65: Exploration on State Lands

Updated: February 2026

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3. Motorized Exploration 36

1. Casual Exploration

All beds of navigable waterways which have not been located, leased or withdrawn from entry (Sections of Navigable Waters Withdrawn From Entry-RML-004) are free and open to casual exploration (IDAPA 20.03.05.015.01). Equipment is limited to suction dredges with a five inch (5”) intake or less, and powered equipment rated at fifteen (15) HP or less, or non-powered sluice equipment(IDAPA 20.03.05.015.02).

No written approval or Exploration Location is required from the Department for casual exploration (IDAPA 20.03.05.015.03). However, casual exploration does require a valid Stream Channel Alteration Permit from the Idaho Department of Water Resources. All suction dredging requires a valid general or individual permit issued under the Idaho Pollutant Discharge Elimination System as administered by the Idaho Department of Environmental Quality (IDAPA 20.03.05.015.06).

2. Recreational Mining

All beds of navigable rivers which have not been located, leased or withdrawn are free and open to recreational mining (IDAPA 20.03.05.015.01). Equipment is limited to suction dredges with an intake diameter of five inches (5”) or less with attendant power sources rated at fifteen (15) horse power or less, and any equipment listed above under Casual Exploration (IDAPA 20.03.05.015.02).

Possession of a valid Stream Protection Act Permit issued by the Idaho Department of Water Resources (IDWR) and a Recreational Mining Permit issued by the Idaho Department of Lands shall constitute the Board’s waiver of bond, waiver of royalty, and written approval to engage in recreational mining (IDAPA

20.03.05.015.05). Attachment D of the IDWR permit constitutes a permit from IDL for these activities, and bonding is waived.

If anyone wishes to conduct any mineral exploration in a navigable lake, an encroachment permit pursuant to Title 58, Chapter 13, Idaho Code is required prior to any activity taking place (IDAPA 20.03.05.015.05.

3. Motorized Exploration

Exploration with motorized equipment such as excavators, bulldozers, or other earth moving machines will require a Land Use Permit with a bond. See Section 70 of these procedures for more details. An approved stream channel alteration permit from IDWR will also be required. This should be issued prior to the IDL Land Use Permit. Royalty must be paid on all materials removed.

Use of a suction dredge with an intake diameter in excess of five inches (5”) is only allowed under a riverbed mineral lease (IDAPA 20.03.05.020.01).

Section 70: Land Use Permits

Updated: February 2026

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3. Land Use Permits For Mining on State Lands 39
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Land Use Permits are personal to the permittee and cannot be assigned.

1. Land Use Permits For Exploration

Land Use Permits will be issued for Motorized Exploration. This exploration may take place before or after issuance of an exploration location or a mineral lease. See Section 65 of these procedures for more information on exploration before attempting to write a Land Use Permit for this purpose.

A. Definition of Motorized Exploration

Motorized exploration includes:

1. Drilling, trenching, blasting.
2. A backhoe attachment for an ATV.
3. Any other exploration activities which utilizes motorized earth moving equipment.
4. Seismic exploration with explosives.
5. Vibroseis trucks for seismic surveys.
6. Using a suction dredge of any size in an intermittent stream (Idaho Code § 47-703A(4) (b)).
7. Use of a suction dredge that has a nozzle intake diameter in excess of two (2) inches in a perennial stream (Idaho Code § 47-703A(4) (b)), or use of a suction dredge with an intake diameter in excess of five inches (5”) in a navigable waterway (IDAPA 20.03.05.020.01).

B. Casual Exploration Exemption

Casual exploration (non-motorized) does not require a Land Use Permit. Casual exploration includes (Idaho Code § 47-703A(4)(a)):

1. Panning.
2. Geochemical and geophysical exploration.
3. Sampling with hand tools.
4. Use of a suction dredge that has a nozzle intake diameter of two (2) inches or less in a perennial stream, or five (5) inches or less in a navigable river (IDAPA 20.03.05.020.01).
5. Other activities which do not appreciably disturb the land.

2. Other Exploration Requirements for Permittees

A. Bonding

The operator will be required to submit a bond of up to seven hundred fifty dollars ($750.00) per affected acre (Idaho Code § 47-703(A)). The bond should cover the estimated cost of reclamation.

B. Exploration Data

The Land Use Permit must require the Permittee to provide the Department copies of all survey data, assays, reports, and other data from the exploration. Area staff will ensure all exploration data is collected and saved with the exploration location file.

Geologic information from exploration is not subject to public records requests and may be kept confidential (Idaho Code § 74-108(2)).

C. Dredge and Placer Permit Requirement

An approved dredge and placer mining permit is required for dredge and placer exploration that causes a cumulative surface disturbance exceeding one-half (1/2) acre of land (Idaho Code § 47- 1314(b)). If the operator reports a disturbance of more than ½ acre of land, they must notify the Department and submit an application for the dredge and placer permit. See the Minerals Regulatory Procedures for more information about these permits.

D. IDWR Permit

A Stream Channel Alteration Permit from IDWR is required for all work in navigable rivers. A Recreational Mining Letter Permit will satisfy this

requirement for most recreational mining and suction dredging (IDAPA 20.03.05.015.04).

E. IDEQ Permit

Suction dredging requires a valid general or individual permit from the Idaho Department of Environmental Quality issued under the Idaho Pollutant Discharge Elimination System (IDAPA 20.03.05.015.06).

3. Land Use Permits For Mining on State Lands

A. When Used

Land Use Permits may be issued for short term mineral extraction from navigable waterways. Usually these permits are for saleable minerals as defined in Idaho Code § 47-701A. This activity may require a Conditional Use Permit issued by the U.S. Army Corps of Engineers.

B. Limited Area

The permit should be issued for the smallest possible area required for the extraction. A map provided by the applicant should clearly delineate where the mineral extraction will be conducted, and what roads and access points will be used. It is imperative to also define at what times the minerals may be extracted (typically during low water).

C. Production Reporting

Terms should be included in the Land Use Permit to require the tracking of material removed under the permit. This can be done with weigh tickets or a tally sheet of loads hauled and truck capacity. Reporting should be done with the **Production and Royalty Report RML-015** monthly as with mineral leases.

D. Small Volume Royalties

Royalties for small production units (volumes or weights), up to 10,000 cubic yards, must be paid before the permit is signed and issued.

E. Large Volume Royalties

Royalties for large production units should be paid with an initial amount that covers the minimum amount of material to be removed the first month. End of month reports and payments should then be submitted by the permittee by the end of the month following the month of production. The initial payment will act as a prepaid royalty and production will be credited against it.

F. Bonding and Reclamation

Bonding and reclamation requirements should be included in the permit where applicable. For Department rock pits, bonding or reclamation may not be needed depending on the circumstances. At a minimum, however, the permit should give some operational sideboards to make sure the source will be left in good condition.

The amount of bond required should be based on an estimate of actual reclamation costs. Consultation with the Bureau Mineral staff to determine bond amounts is suggested.

Reclamation specifications should be included in the permit as needed based on the level of disturbance.

4. Permit Termination

A. Inspections

Inspections shall be conducted as needed depending upon the level of activity or duration of the permit. Upon completion of exploration or mining, the site must be inspected to ensure reclamation is completed prior to bond release. Inspection fees may be charged to the applicant.

B. Bond Release

The Area will notify Bureau LMR Admin Support, in writing, to retire the permit and release the bond as per the Bond Assurance Fund Retirement Procedures.

C. Noncompliance

If the Area wishes to terminate the permit due to noncompliance, the process in Subsection 30, part 2 of these procedures should generally be followed. If permittee has been repeatedly notified my phone, email, and mail of noncompliance and fails to remedy the issue within a time frame defined by area staff, permit termination is appropriate.

Section 80: Water Diversion & Flood Control in Navigable Waters

Updated: February 2026

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4. Riprap and Erosion Control Projects 44

Area offices that receive an Application for Stream Channel Alteration being processed by the Idaho Department of Water Resources (IDWR) should determine if the proposed work is on a navigable river and involves water diversions or flood control work. If so, then this procedure will apply. The Area office shall notify IDWR whether or not the applicant for a stream channel alteration permit will also need a Land Use Permit from IDL. Some projects may also require a Conditional Use Permit issued by the U.S. Army Corps of Engineers.

1. Water Diversion Activity

A. Water Delivery

A permit is not required to clean, maintain, construct in, or repair any stream channel, diversion structure, canal, ditch, drain or lateral if the work is conducted by a water user or their agent (Idaho Code § 42-3806).

Removal of material from the channel is not required for this work. The water users generally just push the material around in the riverbed to make sure water delivery is maintained. Gravel berms to guide river water into a canal are often constructed with excavators or bulldozers using the river gravels. High water will often take out these berms, and they may need to be reconstructed every year.

B. Stream Channel Obstruction

A permit is also not required for a water user or his agent to remove any obstruction from a stream channel if it interferes with the delivery or use of water under a valid water right or water right permit (Idaho Code § 42-3806). This is usually in reference to trees and flood debris.

C. Exception To No Permit

If gravel or other mineral materials are removed from the state-owned riverbed, then the water user has exceeded the activity authorized by Idaho Code § 42-3806 and a Land Use Permit is required.

2. Removal by a Flood Control District

The removal of aggregate from navigable waters by flood control districts is governed by Idaho Code § 42-3119. This procedure only applies to material removal by a bona fide flood control district, as defined in Idaho Code § 42-31. If anyone else proposes to remove materials from a navigable river for flood control purposes, this Section of the procedures does not apply and they must seek a Land Use Permit as described in Section 70 of these procedures or a riverbed mineral lease as described in Section 20 of these procedures.

3. Land Use Permits

A. When a Permit Is Required

If minerals will be removed from below the ordinary high water mark of navigable lakes, rivers or streams without a navigable waterway mineral lease, then a Land Use Permit will be required.

B. Use Basic Template

The **Land Use Permit Template RML-016** can be used. Other terms may be needed, as described below.

C. When Royalties Are Not Charged

If minerals are removed by a flood control district, royalties will not be charged if one of the following occurs:

1. The material is donated to a highway district or other public agency (Idaho Code § 42-3119).
2. The material is used for a flood control project, such as construction or reconstruction of dikes, levees, and related access facilities (Idaho Code § 42-3119).
3. The material is too fine grained to have any real value (e.g. silt), and it simply needs to be disposed of. This is a very rare occurrence, and must be discussed with the Program Manager.

D. When Royalties Are Charged

If minerals are removed by a flood control district, royalty must be paid if one of the following occurs:

1. The material is sold (Idaho Code § 42-3119) or used for barter.
2. The material is used for non-flood control related improvements on private land (Idaho Code § 42-3119). Examples include, but are not limited to:
    i. Fill to raise the private land above a certain flood elevation.
    ii. Filling in low spots that may have standing water during spring runoff.
    iii. Non-engineered berms to deflect high water.
    iv. Landscaping berms.
    v. Constructing or surfacing a private road.

E. Royalty Amounts

See Section 55 of these procedures.

F. Royalty Payments

See Subsection 70C of these procedures.

G. Special Terms for Land Use Permits

The following terms from the IDWR Stream Channel Alteration Rules should be used for in-stream material removal:

1. Sand and gravel must not be removed below the water surface existing at the time of the work. Where work involves clearing a new channel for flow, removal of material below water level will be permitted to allow this flow to occur; however, this must not be done until all other work in the new channel has been completed (IDAPA 37.03.07.063.02).
2. A buffer zone of undisturbed streambed material at least five (5) feet in width shall be maintained between the work area and the existing stream. Exceptions to this buffer must be described in the IDWR Stream Channel Alteration Permit. The applicant shall exercise reasonable precautions to ensure that turbidity is kept to a minimum and does not exceed state water quality standards (IDAPA 37.03.07.063.03).
3. Equipment may cross the existing stream in one (1) location only, but shall not push or pull material along the streambed while crossing the existing stream (IDAPA 37.03.07.063.04).
4. Work must be done in a manner that will least disturb the natural contour, topsoil, and vegetation of the area. Sand and gravel shall be removed in a manner that will not leave pits or other completely

unnatural features at the conclusion of the project (IDAPA 37.03.07.063.05).

5. Work may need to be done at annual low water, or low river flow.

H. Term

These Land Use Permits should not exceed one year.

I. Bonding

Bonding is not required for bona fide flood control districts. Other entities or private companies may require bonding. These operations are not eligible for participation in the Bond Assurance Fund. Minimum bonding amount should be $5,000.

4. Riprap and Erosion Control Projects

These types of projects typically do not involve the removal of materials from the bed of navigable waters. If no materials will be removed from the river bed, then no permit will be required by IDL. Please note this only applies to those sections of rivers where IDWR administers the Stream Channel Protection Act. Rivers that contain slack water from lakes or private reservoirs are governed by the Lake Protection Act and an IDL encroachment permit will probably be required for the proposed action.

Idaho Department of Lands

Application for Use Navigable Waterway Mineral Lease

Instructions: This form is used by persons seeking to lease state owned mineral rights on navigable waterways pursuant to IDAPA 20.03.05. Please complete this form and submit it, along with the non-refundable filing fee of **$425** and required attachments to your local Idaho Department of Lands Supervisory Area Office.

This form is three (3) pages, please read and complete all sections.

Note: All application fees are non-refundable.

Section 1: Applicant Information

Individual Name: _____

Business Name: _____

Mailing Address: _____ City: _____ State: _____ Zip: _____

Phone Number: _____ Email Address: _____

Section 2: Lease Location & Description

Waterbody: _____ ¼ of: _____ Gov. Lot: __ Section: ___ Township: _____ Range: ____

Length & river miles (if applicable): _____

Type of lessee:

☐ Commercial

- removal of construction materials
- use of suction dredges with intake diameters larger than five inches and/or with attendant power sources rated at greater than 15 horsepower
- use of other motorized equipment

☐ Government

☐ Private (non-commercial)

☐ Other:_____

Section 3: Project Description

Please describe the minerals expected to be extracted from the navigable waterbody:

Description of project work: ☐ Check here and attach additional pages as needed.
(Please include the time of year that work will start/finish, where the water will be entered, and the type of equipment that will be used.)

Suction Dredging:

Intake diameter of suction dredge: _____

Rating of attendant power source: _____

Best Practices to be followed:

Along with this application, please submit the following:

- ☐ Non-refundable processing fee
- ☐ Detailed vicinity map
- ☐ Record of survey (hard copy and .pdf copy)
- ☐ Legal description (metes and bounds or centerline description preferably tied to two PLSS corners)
- ☐ Idaho Department of Environmental Quality IPDES General Permit (If applicable)
- ☐ Idaho Department of Water Resources Stream Channel Alteration Permit or Small Scale Mining Permit

Other Authorizations

Certain mining activities may require prior authorization forms. Please ensure that any other permits required by other agencies may also be completed.

- Idaho Department of Water Resources
- Idaho Department of Environmental Quality
- United States Army Corps of Engineers
- United States Environmental Protection Agency

Please continue to Section 4 on page 3.

Section 4: Affirmation

1. I certify that to the best of my knowledge and belief, the information provided in this application is true, complete, and accurate.
2. I certify that I am authorized to grant, and do in fact grant permission to representatives of state agencies to enter on the aforementioned lands in connection with evaluating information related to this permit application and follow-up monitoring of the project.
3. I understand that this application, and corresponding documents, are subject to Idaho public records requests and public information requests and may be disclosed to third parties.
4. I understand that acceptance of this application in no way implies that Idaho Department of Lands has or will grant an easement.
5. I understand that any easement issued in response to this application will allow only the development described in the application.
6. I also certify that I have the authority to carry out the proposed activities, and I agree to start work only after I have received all necessary permits.
7. If a permit is granted, I will fully comply with Title 58, Chapter 13 Idaho Code, related regulations, and conditions of the permit.

Signature:_____ Date:_____

Idaho Department of Lands

Mineral Lease Set up Sheet

Instructions

This form is used by the Technical Records Specialist (TRS) for each Mineral Lease.

This form is two (2) pages, please read and complete all sections.

Lease Name: _____ Lease Number: _____

Lease Start Date: _____ Lease Expiration Date: _____

Have you verified that the name on the Application for Use is the most current and correct lessee name? (The name on the application for use will be used on the lease document)

☐ No ☐ Yes

Is the applicant a current lessee? ☐ No ☐ Yes

In a Riverbed? ☐No ☐ Yes Name: _____

Lessee registered with the Secretary of State (if required)? ☐ No ☐ Yes

Combined Lease? ☐ No ☐ Yes If yes, indicate lease number(s): _____

Annual Base Rent $500.00 _____

Commodity:_____ Royalty $_____ per ☐ ton ☐ yard ☐ ounce ☐ pound (check one)

Commodity:_____ Royalty $_____ per ☐ ton ☐ yard ☐ ounce ☐ pound (check one)

Commodity:_____ Royalty $_____ per ☐ ton ☐ yard ☐ ounce ☐ pound (check one)

OR

Commodity:_____ Royalty $_____ % Gross Value _____

Commodity:_____ Royalty $_____ % Gross Value _____

☐ Monthly Production and Royalty Report Commodity(ies): _____

☐ Production and Royalty Report for Saleable Minerals Commodity(ies): _____

Bonding: ☐ No ☐ Yes If yes, bond type (Letter of Credit, CD, Cash, Surety, etc.): _____

Amount: $_____Purpose of the bond (example: construction, site reclamation, etc.): _____

Bond Assurance Fund (BAF) Participant? ☐ No ☐ Yes

Note: Annual BAF Fee is based on the number of disturbed acres for eligible mineral Leases. Area must obtain a signed BAF Acknowledgement from eligible applicant.

☐ Mineral Leases: attach production exhibits for each commodity in .pdf format.

Special Terms and Conditions (Attachment A of lease):

☐ Not Applicable

☐ Attached in MS Word format; except for maps, site plans, etc., attached in .jpg format.

Additional Information: _____

_____

Packet Documents: Check box to indicate documents are included in packet or actions (if required) have been completed.

- ☐ Signed and approved application for use, including
- ☐ Bond documents (pdf to DocX, mail all required attachments (.pdf) originals to BOI RPA)
- ☐ Lease Setup Sheet – with Area Manager approval.
- ☐ Insurance Certificates
- ☐ Legal description has been approved by Land Records
- ☐ SOS Business entity printout (.pdf)
- ☐ Electronic file of map(s) (.jpg)
- ☐ Production Exhibits (.pdf)
- ☐ Special Terms and Conditions (.doc)

Note REGARDING BONDS: Area Staff will collect all required documents from applicant, scan and drop copies of all completed bond documents to the document exchange, original to RPA TRS, via US postal mail. Area Staff will retain a paper or digital copy of all bond documents.

Preparer: _____ Date: _____

☐ Area Manager has approved these lease provisions. Date: _____

List of Navigable Lakes and Rivers

Lakes Considered Navigable For State Title Purposes

NO.	NAME	COUNTY	AUTHORITY FOR DESIGNATION
1.	Alturas Lake	Blaine	State
2.	Anderson Lake	Kootenai	State
3.	Bear Lake	Bear Lake	State, Coast Guard
4.	Beaver Lake	Bonner	State
5.	Bell's Lake	Benewah	State
6.	Benewah Lake	Benewah	State
7.	Black Lake	Kootenai	State
8.	Blue Lake	Bonner	State
9.	Blue Lake	Kootenai	State
10.	Bonner Lake	Boundary	State
11.	Boulder Lake	Valley	State
12.	Box Lake	Valley	State
13.	Brush Lake	Boundary	State
14.	Cave Lake	Kootenai	State
15.	Chase Lake	Bonner	State
16.	Chatcolet Lake	Benewah	State, Coast Guard
17.	Cocolalla Lake	Bonner	State
18.	Coeur d'Alene Lake	Kootenai	State, Coast Guard
19.	Fernan Lake	Kootenai	State, Coast Guard
20.	Fish Lake	Clearwater	State
21.	Glidden Lake	Shoshone	State
22.	Granite Lake	Bonner	State
23.	Granite Lake	Valley	State
24.	Hauser Lake	Kootenai	State
25.	Hayden Lake	Kootenai	State
26.	Henry's Lake	Fremont	State
27.	Herman Lake	Boundary	State
28.	Hidden Lake	Kootenai	State, Coast Guard
29.	Kelso Lake	Bonner	State
30.	Killarney Lake	Kootenai	State

NO.	NAME	COUNTY	AUTHORITY FOR DESIGNATION
31.	Louie Lake	Valley	State
32.	Medicine Lake	Kootenai	State
33.	Mirror Lake	Bonner	State
34.	Mud Lake	Jefferson	State
35.	Payette Lake	Valley	State
36.	Payette Lake, Little	Valley	State
37.	Payette Lake, Upper	Valley	State
38.	Pend Oreille Lake	Bonner	State, Coast Guard, Federal Court (194 Fed. Rep. 643, 600 F. Supp. 802), State Court (54 Idaho 700)
39.	Perkins Lake	Blaine	State
40.	Perkins Lake	Boundary	State
41.	Priest Lake	Bonner	State
42.	Priest Lake, Upper	Bonner	State
43.	Redfish Lake	Custer	State
44.	Redfish Lake, Little	Custer	State
45.	Riordan Lake	Valley	State
46.	Robinson Lake	Boundary	State
47.	Rose Lake	Kootenai	State
48.	Round Lake	Benewah	State
49.	Round Lake	Bonner	State
50.	Samuels Lake	Bonner	State
51.	Sheppard Lake	Bonner	State
52.	Spirit Lake	Kootenai	State
53.	Stanley Lake	Custer	State
54.	Stevens Lake, Upper	Shoshone	State
55.	Stevens Lake, Lower	Shoshone	State
56.	Swan Lake	Kootenai	State
57.	Thompson Lake	Kootenai	State
58.	Turtle Lake	Benewah	State
59.	Twin Lake, Lower	Kootenai	State
60.	Twin Lake, Upper	Kootenai	State
61.	Warm Lake	Valley	State
62.	Williams Lake	Lemhi	State

Rivers Considered Navigable

NO.	NAME	TYPE OF NAVIGABILITY	SECTION (B.M.)	AUTHORITY
1.	Blackfoot	Title	E boundary T3S, R38E	State
2.	Boise	Title	All	State, State Court (94 Idaho 121)
3.	Boise, Middle Fork	Title	Through T5N, R8E	State
4.	Boise, North Fork	Title	Through T5N, R7E	State
5.	Boise, South Fork	Title	Through T3N, R11E	State
6.	Buffalo	Title	Through S21,T13N,R44E	State
7.	Clark Fork	Title	All	State, Coast Guard (to a entrance into point 4 miles above Pend Oreille Lake)
8.	Clearwater	Title	All	State, Coast Guard, State Court (29 Idaho 401, 438)
9.	Clearwater, Middle Fork	Title	All	State
10.	Clearwater, North Fork	Title	Through T40N, R7E	State, Coast Guard (upstream to Beaver Creek)
11.	Coeur d'Alene	Title, R/W	Through T51N, R3E	State, State Court (12 Idaho 723)
12.	Eagle Creek	Right-of-Way		State Court (20 Idaho 695)
13.	Kootenai	Title	All	State, Coast Guard (from Canadian border to Bonners Ferry)
14.	Lochsa	Title	Through T33N, R7E	State
15.	Moyie	Title	All	State, Federal Court (157 Supp. 931)
16.	Pack	Title	Downstream from NPRR bridge to its mouth	Coast Guard

NO.	NAME	TYPE OF NAVIGABILITY	SECTION (B.M.)	AUTHORITY
17.	Payette	Title	All	State
18.	Payette, N Fork	Title	To Payette Lake	State
19.	Payette, S Fork	Title	Through T9N, R9E	State
20.	Pend Oreille	Title	All	State, Coast Guard
21.	Priest	Title	All	State
22.	Pritchard Creek	Right-of-Way		State Court (20 Idaho 695)
23.	St. Joe	Title	Through T45N, R7E (mouth to hwy. bridge 3/4 mile east of St. Joe City)	State, Coast Guard
24.	St. Maries	Title	Through S9, T45N, R2W	State
25.	Salmon	Title	Through T10N, R13E	State, State Court (26 Idaho 745, 99 Idaho 793)
26.	Salmon, Middle Fork	Title	Through S12, T14N, R9E	State
27.	Salmon, South Fork	Title	Through T20N, R6E	State
28.	Selway	Title	Through T32N, R7E	State
29.	Silver Creek	Right-of-Way		State Court (96 Idaho 360)
30.	Snake	Title, R/W	All	State, Coast Guard (Idaho- Washington border to Guffy Dam Site), Federal Court (227 US 229), State Court (29 Idaho 438)
31.	Snake, Henry's Fork	Title	All	State
32.	Spokane	Title	Cd'A Lake to Post Falls Dam	State, Federal Court (775 F.2d 305)

Idaho Department of Lands

Sections of Navigable Rivers Withdrawn from Mineral Entry

Under the authorities of Idaho Code § 47-702(2), 47-1323, and 58-104(9) the following segments of navigable rivers have been withdrawn from mineral entry and exploration:

- **The bed of the Boise River** from Lucky Peak Dam in Township 2 North, Range 3 East, B.M., downstream to Star Road in Township 4 North, Range 1 West, B.M. Withdrawal does not include excavation for flood control purposes (October 11, 1988 Land Board).
- **The bed of the South Fork of the Boise River** from Anderson Ranch Dam in Township 1 South, Range 8 East, B.M., downstream to Neal Bridge in Section 34, Township 3 North, Range 6 East, B.M. (August 9, 1988 Land Board).
- **The bed of the Middle Fork of the Boise River** from the east boundary of Township 5 North, Range 8 East, B.M., downstream to the west boundary of Section 1, Township 3 North, Range 5 East, B.M. (July 13, 1982 Land Board).
- **The bed of the North Fork of the Payette River** from Cabarton Bridge in Section 31, Township 13 North, Range 4 East, B.M. to Banks in Section 32, Township 9 North, Range 3 East, B.M. (August 9, 1988 Land Board).
- **The bed of the South Fork of the Payette River** from the Sawtooth Wilderness boundary in Section 12, Township 9 North, Range 9 East, B.M. to Banks in Section 32, Township 9 North, Range 3 East, B.M. (August 9, 1988 Land Board). This river segment is open for recreational suction dredging, but no exploration location or lease applications will be accepted by the Idaho Department of Lands for this river section (April 10, 1990 Land Board).
- **The bed of the Main Payette River** from Banks in Section 32, Township 9 North, Range 3 East, B.M. to Black Canyon Dam in Section 22, Township 7 North, Range 1 West, B.M. (August 9, 1988 Land Board).
- **The bed of the Upper Priest River** from the Canadian Border in Section 12, Township 65 North, Range 5 West, B.M. to the confluence with Priest Lake in Section 19, Township 63 North, Range 4 West, B.M. (August 9, 1988 Land Board).
- **The bed of the Middle Fork of the Clearwater River** from the town of Lowell downstream to the town of Kooskia (Idaho Code § 47-1323(1)). Dredge mining in any form is prohibited.
- **The bed of the Lochsa River** from the Powell Ranger Station downstream to its junction with the Selway River at Lowell forming the Middle Fork (Idaho Code § 47-1323(1)). Dredge mining in any form is prohibited.
- **The bed of the Selway River** from its origin downstream to the town of Lowell (Idaho Code § 47-1323(1)). Dredge mining in any form is prohibited.

- **The bed of the Salmon River** from the mouth of the North Fork of the Salmon River in Township 24 North, Range 21 East, B.M., downstream to Long Tom Bar (July 14, 1981 Land Board).
- **The bed of the Salmon River** from Hammer Creek in Township 28 North, Range 1 East, B.M. downstream to the mouth in Township 29 North, Range 4 West, B.M. (October 13, 1987 Land Board).
- **The bed of the Middle Fork of the Salmon River** from its origin downstream to its confluence with the Main Salmon River (Idaho Code § 47-1323(2)). Dredge mining in any form is prohibited.
- **The bed of the South Fork of the Salmon River** from the south boundary of Township 20 North, Range 6 East, B.M. downstream to the mouth (April 21, 1992 Land Board).
- **The bed of the St. Joe River**, including tributaries, from its origin downstream to its confluence with Coeur d'Alene Lake, except for the St. Maries River and its tributaries (Idaho Code § 47-1323(3)). Dredge mining in any form is prohibited.
- **The bed of the Henry's Fork of the Snake River** from its point of origin at Henry's Lake in Section 21, Township 15 North, Range 43 East, B.M. downstream to its point of confluence with the backwaters of Ashton Reservoir, Section 13, Township 9 North, Range 42 East, B.M. (August 9, 1988 Land Board).
- **The bed of the Snake River** from Section 5, Township 11 South, Range 20 East, B.M., to King Hill (August 9, 1988 Land Board). This river segment is open for recreational suction dredging, but no exploration location or lease applications will be accepted by the Idaho Department of Lands for this river section (April 10, 1990 Land Board). Producing leases may be renewed.
- **The bed of the Snake River** from the east boundary of Township 6 South, Range 8 East, B.M., to the west boundary of Township 1 South, Range 2 West, B.M., encompassing the Birds of Prey Area (December 13, 1988 Land Board).
- **The Idaho bed of the Snake River** consisting of the east ordinary high water mark to the center of the main channel (State of Idaho ownership in the Hell's Canyon National Recreation Area), from the north boundary of Township 20 North, Range 4 West, B.M., downstream to the south boundary of Township 31 North, Range 5 West, B.M. (December 13, 1988 Land Board).

Sample Letter for Incomplete Navigable Waterway Mineral Lease Application

Please copy and paste the template below into the respective Area letterhead.

Date

Applicant's Name
Address

SUBJECT: Incomplete Navigable Waterway Mineral Lease Application, Lease number

Dear Applicant,

The Department has reviewed your lease application for a Navigable Waterway Mineral Lease. The application is incomplete as submitted and cannot be processed for approval. Subsection 020.02 of IDAPA 20.03.05 (Rules Governing the Navigable Waterway Mineral Leasing in Idaho) states that incomplete applications may not be accepted for filing. The following information is needed before the application can be considered complete:

List of All Deficiencies in Application.

Please provide the above information within 30 days of receiving this letter. If the information is not received within this 30 day period, then your application may be denied due to a lack of the information required by Section 020 of IDAPA 20.03.05. A new application, and application fee, will then be required to restart the leasing process.

If you have any questions, please call me at Phone Number.

Sincerely,

Name
Title

Enc.\2 Indicate the number of attachments referenced in the letter. Optional—not all letters will list enclosures.

cc: John Doe, Title (list all copy recipients/titles) ec: John Doe, Title, johndoe@idl.idaho.gov (list all electronic copy recipients/titles, email address)

Sent Certified Mail – Return Receipt Requested – Enter Certified Number (Optional—not all letters will be sent certified)

Please copy and paste the template below into the respective Area letterhead.

Date

Newspaper Name
Street Address
City, State Zip

Re: Legal Notice of Application L-XX-X-XXXX – Name of Applicant

Enclosed is a notice of application. Please publish this as a legal advertisement for two consecutive weeks on **Date** and **Date**, or as soon as possible.

Upon completion, please provide a tear sheet for the Last date above publication, an affidavit of publication, and statement of cost.

Thank you. Your help in this matter is greatly appreciated.

Sincerely,

_____

Name and Title

Enclosures

NOTICE OF APPLICATION

Pursuant to Section 47-704(7), 58-104(9) and 58-1301, et seq., Idaho Code and rules of the State Board of Land Commissioners, notice is hereby given that Applicant of Address made application to lease description. Located on Lake or River, Idaho adjacent to: Section XX, Township XX North or South, Range XX West or East; B.M., in ? County.

Written objections to or requests for hearing in this matter must be on file with the Idaho Department of Lands, Address within thirty (30) days after the first appearance of this notice. Specific information regarding this application may be obtained from Name and title at the above address or by calling (208) Number.

/S/
Name, Area Supervisor
Idaho Department of Lands

Please copy and paste the template below into the respective Area letterhead.

Date

Newspaper Name
Street Address
City, State Zip

Re: Legal Notice of Public Hearing Lease Application – Applicant Name

Enclosed is a notice of application. Please publish this as a legal advertisement for two consecutive weeks on **Date** and **Date**.

Upon completion, please provide a tear sheet for the Second date publication, an affidavit of publication, and statement of cost.

Thank you. Your help in this matter is greatly appreciated.

Sincerely,

_____

Name and Title

Enclosures

NOTICE OF PUBLIC HEARING

Pursuant to Section 47-704(7), 58-104(g) and 58-1301, et seq., Idaho Code and rules of the State Board of Land Commissioners, notice is hereby given that Applicant's name of Address made application to Lease Description. Located on Lake or River, Idaho adjacent to: Section XX, Township XX North or South, Range XX West or East; B.M., in ? County.

This announcement will serve as **Notice of Public Hearing** for this project. The Public Hearing will be held Date, at the Location at Time, Physical Address – Town, Idaho. This Public Hearing will be conducted by the Idaho Department of Lands to take testimony regarding the proposed project.

Written objections to or requests for hearing in this matter must be on file with the Idaho Department of Lands, Local Address within thirty (30) days after the first appearance of this notice. Specific information regarding this application may be obtained from Name and Title at the above address or by calling (208) Number.

/S/
Name, Area Supervisor
Idaho Department of Lands

STATE BOARD OF LAND COMMISSIONERS

Meeting date Click to enter meeting date

Consent Agenda

Subject

EXXXXXX, Application for Navigable Waterways Mineral Lease for the bed of the Payette River, Payette County, Idaho.

Question Presented

Shall the Land Board approve the navigable waterways mineral lease EXXXXXX?

Background

Idaho holds title to the beds and banks of navigable waterways below the ordinary high water mark (OHWM). The State Board of Land Commissioners (Land Board) is the statutorily designated trustee of these lands. Per Idaho Code 47-704, the Land Board may lease tracts of land situated between the high water marks of navigable rivers of the state for prospecting, exploration, and mining of mineral deposits.

Discussion

John Doe has applied for a navigable waterways mineral lease for one parcel located within the OHWM of the Payette River in Government Lot 1 of Section 33, Township 9 North, Range 5 West (Attachment 1-Map).

After the applicant paid the $425 application fee, the Department sent a notification to state and local agencies to provide comments. The Department also published a legal notice of the application in the newspaper in Gem County for public comment.

Based on public comment, the Department ordered a public hearing which took place on DATE. The Hearing Officer issued a Recommended Order (Attachment 2) on DATE. The Director issued a Final Order (Attachment 3) on DATE.

Recommendation

Direct the Department to issue a Navigable Waterways Mineral Lease for the Payette River, to John Doe for a term of 5 years based on the draft Final Order from the Director.

Board Action

Attachments

1. Map
2. Recommended Order
3. Draft Final Order

Anatomy of a Notice of Noncompliance

[Insert Area Office Letterhead]

Date

Name
Mailing Address

Subject block includes the type of notice, pertinent instrument numbers, and the physical address or legal description of the location of the noncompliance

SUBJECT: Notice of Noncompliance – Mineral Lease
Lease No.:
Physical location of noncompliance

Dear XXX:

Introduction paragraph describes why the letter is being sent.

This Notice of Noncompliance is being sent as a result of the inspection of your lease area conducted on **July 24, 2024**. The noncompliance is as follows:

Cite the applicable statute, rule, and/or instrument provision.

Section 47, Chapter 7.718 Idaho Code - Violations. This section states, "" During the course of the inspection, Mr. George Frederick, Resource Specialist, documented that your [way in which lease is in violation].

Describe the facts upon which the notification is based

For your convenience, I have enclosed a copy of the rules for your reference. In order to bring the lease into compliance and avoid lease revocation and other penalties outlined in Idaho Code §§ 47-718(3) and IDAPA 20.03.05 of *The Navigable Waterways Mineral Leasing in Idaho*, please complete the following within **30 days from receipt of this notice**:

Identify corrective actions and deadline.

A. Submit a plan to modify your lease .

If you have any comments or questions regarding this matter, feel free to contact me at (208) ###-#### or at name@idl.idaho.gov.

Sincerely,
Signature
Resource Supervisor's or Area Manager's printed name
Title

Initials of signatory (upper case) and person who drafted letter (lower case)

AMI/rsi

Enc.\2 Indicate the number of attachments referenced in the letter. Optional—not all letters will list enclosures.

cc: John Doe, Title (list all copy recipients/titles) ec: John Doe, Title, johndoe@idl.idaho.gov (list all electronic copy recipients/titles, email address)

Sent Certified Mail – Return Receipt Requested – Enter Certified Number (Optional—not all letters will be sent certified)

Idaho Department of Lands

Assignment Application
Riverbed Mineral Lease

For Area Office Use Only

_____
Area Manager Signature & Date

Instructions

This form is used by persons seeking to assign a riverbed mineral lease pursuant to IDAPA 20.03.05. Please complete this form and submit it, along with the non-refundable filing fee and required attachments, to your local Idaho Department of Lands Supervisory Area Office.

This form is two (2) pages, please read and complete all sections.

Section 1: Assignor (Current lessee) Information

Riverbed Mineral lease number to be assigned:_____

Sale price paid for the instrument: _____

Full legal name of assignor: _____

For and in consideration of the sale price identified above, I/We hereby sell, assign and transfer, all of my/our rights, title and interest in the instrument identified above unto the assignee identified below.

_____	_____	_____
Assignor Signature	Assignor Name and Title	Date

Subscribed and sworn to before me this _____ day of _____, in the year 20_____.

State of _____)
) ss.
County of _____)

Notary Public:_____

My Commission Expires: _____

Seal

Section 2: Assignee (Future lessee) Information

Full legal name of assignee: _____

Legal status:

☐ Individual

☐ State government

☐ City, County, or Federal government

☐ Trust or non-profit (attach Affidavit of Existence)

☐ Business (attach Secretary of State Certificate of Existence)

☐ Other: _____

Name of primary contact: _____

Mailing address: _____

City: _____ State: _____ Zip: _____

Contact phone number:_____☐ Work ☐ Home ☐ Cell

Email address: _____

The undersigned, as Assignee(s) above-named, hereby swear and affirm that the consideration stated herein is true. I/we assume and accept the obligations and conditions of the above-described State of Idaho Instrument and separately covenant with the State of Idaho that I/we will abide thereby during the term of said Instrument.

State of _____) *Seal*

) ss. Notary Public:_____

County of _____) My Commission Expires: _____

Section 3: Attachments from Assignor

- ☐ Original lease or Affidavit of loss
- ☐ $200 lease assignment application fee
- ☐ Release of mortgage/deed of trust recorded with IDL (if applicable)

Section 4: Attachments from Assignee

- ☐ Encroachment or Stream Channel Alteration Permit
- ☐ Secretary of State Certificate of Existence (Businesses only)
- ☐ Affidavit of Existence (Trusts or non-profits only)

STATE BOARD OF LAND COMMISSIONERS
November 4, 1998

SUBJECT

Modification of royalty schedule for metalliferous and non-metalliferous minerals.

OVERVIEW

On September 13, 1978, the board approved a royalty schedule for metalliferous and non-metalliferous minerals. The schedule has been in effect since that time. The ore value per ton in the schedule was based on the average 1978 gold price, which was $193.23 per ounce. The schedule did not take into account the market prices for other commodities such as silver, lead, zinc and copper, which are, and historically have been, considerably less than the market price of gold.

In 1997 the Department of Lands received a metalliferous mineral lease application from Silver Butte Mining Co. Prior to issuance of the lease it became apparent that the existing royalty rates could be economically cost prohibitive. The bureau's mineral leasing specialist reviewed other western states' royalty rates, along with current and long-term metal prices. Based on this review, the mineral lease was issued with a royalty rate of five (5%) percent of gross receipts. Seven additional mineral leases have been issued under this revised royalty rate.

The average selling price for gold on the world market between 1978 and 1997 was $380.97 per ounce. This average is almost double the 1978 market price therefore, the existing royalty schedule does not accurately reflect market conditions for any metalliferous or non-metalliferous mineral.

The schedule is very cumbersome to apply, as the royalty rate changes with every $10 fluctuation in the per ton ore value. The per ton ore value will vary depending on the type of ore produced, beneficiation techniques, processing and transportation costs. The schedule does not work well for placer gold, which is uniformly sold by the ounce, not the ton. It also does not work well for gold processed by heap leaching because the end product at the mine mouth is dore, not ore. The only feasible application of this schedule is for a mine with high grade ore that does not process the material on site.

If this schedule were to remain in effect the royalty rate for gold would always be 10% of the ore value per ton, because the highest figure for the ore value per ton is less than the current price of gold. The royalty for all other metalliferous and non-metalliferous minerals, with the possible exception of silver, would be $0.25 per ton, because their value would not normally exceed $10.00 per ton. The schedule was not designed to work this way when approved in 1978.

It is difficult to accurately determine if a 5% royalty on gross receipts would return more money to the endowment than the existing schedule, because the ore value per ton is mine site specific, and there are no producing metalliferous or non-metalliferous leases.

At the current gold price of $293.35 per ounce a royalty rate of 5% of gross receipts would return $14.67 to the endowment for every ounce sold. It would take ore with a metal content of at least one-half ounce per ton to match this figure without taking into account deductions for processing and transportation costs. With these costs included the metal value in the ore would have to be higher to return the same amount of money to the endowment. Most primary gold deposits mined today do not have ore values even close to one-half ounce per ton.

Six western states which lease minerals on endowment lands assess royalties on metalliferous and non-metalliferous minerals as a percentage of the gross selling price of the mineral sold. The percentage ranges from 3% in Alaska to 5% in Washington, Montana and Arizona. Wyoming and Colorado base the royalty on a sliding scale depending on the ore value per ton which allows for deductions for processing and transportation costs. The maximum percentage in Colorado is 7%, and in Wyoming 10%. The proposed 5% rate is within the range applied by other western states.

On September 21, 1998, the bureau sent a letter to our metalliferous mineral lessees explaining the proposed royalty modification and requesting comments. No objections to the royalty schedule change were received by the Department.

RECOMMENDATION

Approve the proposed and attached royalty schedule for new metalliferous and nonmetalliferous minerals leases, and for eight existing mineral leases issued under royalty rate during 1997 and 1998.

BOARD ACTION

APPROVED NOV 2 3 1998

ATTACHMENTS

1) Existing Royalty Schedule
2) Proposed Royalty Schedule

SAM/SHN

EXHIBIT "A"

ROYALTY SCHEDULE

METALLIFEROUS AND NON-METALLIFEROUS MINERALS (with exceptions as noted)

This schedule applies to ores of all mineral commodities, from any type of deposit or method of extraction and/or processing, except as follows:

> Oil, gas, other hydrocarbons; uranium and other fissionable minerals; coal, sand, gravel, basalt and other common variety minerals mined for highway construction and maintenance and other general construction purposes; limestone, dolomite, marble, slate, and similar mineral materials used for dimension stone or other building materials; scoria, perlite, pumice, and forms of volcanic rocks used in the manufacture of building blocks; clay and associated minerals; lava and other decorative stone; and other mineral commodities that may be excluded at the discretion of the State Board of Land Commissioners.

Lessor reserves, and Lessee agrees to pay to Lessor, a production royalty per the following schedule:

> Five (5%) Percent of the gross receipts, including all bonuses and allowances paid, earned or received at the point of sale of the first marketable minerals. Reasonable transportation costs to the closest feasible point of sale, and/or smelting charges, deductions and other treatment costs may be deducted from the gross sales receipts for material that requires additional processing to obtain marketable minerals after being mined and removed from the leased land.

GENERAL

> Lessee will furnish evidence to the satisfaction of the Lessor that the price received for ores sold are reasonable and fair.
>
> The above listed royalty rate will be reviewed on a yearly basis, and if market conditions so warrant, the above listed minimum royalty may be increased upon a sixty (60) day notification to the lessee.

Idaho Department of Lands

Navigable Waterways Exploration Location Certificate

Certificate Number: _____

This form is three (3) pages, please read and complete all sections.

Instructions For Exploration Locators

1. Obtain from the Idaho Department of Lands copies of the Idaho Code § 47-703 and 47-703A, and Idaho Dredge and Placer Mining Rules. Portions of these rules may apply to prospecting activities in navigable waters.
2. Return to the Idaho Department of Lands the following:
   a. Completed exploration location certificate.
   b. A filing fee of $500.00 per ½ river mile, payable to the Idaho Department of Lands.

Exploration Location Information

Notice is hereby given that *(printed name)*_____

Of *(address)*_____

*(city, state, zip code)*_____

*(phone number)*_____

the undersigned citizen of the United States of America, conforming to the mining laws of the State of Idaho, and in particular Idaho Code § 47-703, and the local rules, regulations and customs of miners, have located one-half (½) river mile, described as follows:

The bed of the _____ River, between the ordinary high water marks, in:

SECTION _____ TOWNSHIP _____ RANGE _____, B.M.

Legal Subdivision or Gov't. Lot: _____

in the COUNTY OF _____ STATE OF IDAHO.

Discovered on the _____ day of _____, 20_____.

_____
Locator's Signature

This Notice is to be filed with:

Idaho Department of Lands
Resource Protection and Assistance Bureau
300 N. 6th Street, Suite 103
PO Box 83720
Boise, Idaho 83720-0050

Filing Fees: $500.00 Per Location Notice

Recorded with the Idaho Department of Lands on the _____ day of _____, 20___.

Expiration date (2 years from date of discovery): The _____ day of _____, 20___.

See below for Exploration Conditions and Required Notary Statement

Conditions For Exploration Locators

1. Prior to commencing motorized exploration, the locator must submit to the Department of Lands an exploration and reclamation plan including the following:
   a. Name and address of the operator.
   b. Location and description of the operation, plus the starting and estimated completion dates. Maps are to include location of access, streams, test or drill sites, stockpiles and any other pertinent information.
   c. Anticipated size or extent of the operation, and the general method of operation.
2. "Motorized exploration" means exploration which may appreciably disturb or damage the land or resources thereon. This exploration includes, without limitation, drilling, trenching, dredging, or other techniques which employ the use of earth moving or other motorized equipment, seismic operation using explosives, and sampling with suction dredges having an intake size of greater than five inches (5").
3. Locator must receive written approval prior to commencing motorized exploration and submit a minimum bond in the amount determined by the department to be the estimated reasonable costs to perform the reclamation activities described in the exploration and reclamation plan depending on the size and scope of the operation.
4. All exploratory activities are to be coordinated with the appropriate Idaho Department of Lands Supervisory Area Office, the Idaho Department of Water Resources, and the Idaho Department of Environmental Quality.
5. All locators shall abide by the provisions of Title 42, Chapter 38, Idaho Code (Stream Channel Protection Act), where applicable and shall maintain stream water quality.
6. All locators shall abide by the provisions of Title 39, Chapter 1, Idaho Code (Environmental Protection and Health Act), and shall maintain stream water quality.
7. All locators shall abide by the provisions of the Rules Governing Navigable Waterways Mineral Leasing in Idaho (IDAPA 20.03.05).

Notary Statement

I,_____ do solemnly swear that I am a citizen of the United States of America (or have declared my intention to become such) and that I am acquainted with the mining ground described in this certificate of exploration location; that the ground therein described or any part thereof has not, to the best of my knowledge and belief, been located according to the laws of this state, and if so located that the same has been abandoned or forfeited by reason of the failure of such former locators to comply in respect thereto with the requirements of said laws, and that I have posted in a conspicuous place on said location a notice of discovery of mineral and of my intention to prospect for mineral, in compliance with Idaho Code § 47-703 and the conditions stated herein.

Subscribed and sworn to before me this _____ day of _____, in the year 20_____.

State of _____)

) ss. *Seal* Notary Public:_____

County of _____) My Commission Expires: _____

Sample Letter for Exploration Location First Year Report

Please copy and paste the template below into the respective Area letterhead.

August 2, 2024

John Doe
Address
Boise ID 83705

SUBJECT: Exploration Location No(s). L03833

The first year of your two-year exploration location ended May 1, 2024. You are required to submit the enclosed Affidavit of Assessment work and Description of Assessment Work. Also, note that you are to report the amount of gold or other minerals that you recovered in this past year's activities. Failure to submit the completed forms by September 2, 2024 will invalidate your exploration location certificate.

You must have performed $250.00 worth of work during the past year for each twenty-acre tract. If you hold two or more locations, then, provided the locations are adjoining, all of the assessment work can be performed on any one of the adjoining locations.

Should you have any questions, you may contact me at the above address or telephone (208) 334-0200.

[Name]
Resource Specialist

Enc.\2 Indicate the number of attachments referenced in the letter. Optional—not all letters will list enclosures.

cc: John Doe, Title (list all copy recipients/titles) ec: John Doe, Title, johndoe@idl.idaho.gov (list all electronic copy recipients/titles, email address)

Sent Certified Mail – Return Receipt Requested – Enter Certified Number (Optional—not all letters will be sent certified)

Sample Letter for Exploration Location Second Year Expiration

Please copy and paste the template below into the respective Area letterhead.

August 2, 2024

John Doe
Address
Boise ID 83705

SUBJECT: Exploration Location L03830

Your term on the subject exploration location expired on August 1, 2024. If you have a continuing interest in the area you will need to apply for a mineral lease. If you elect not to apply for a mineral lease, please be advised these lands will be opened for application on a first-come, first-served basis on September 2, 2024. To obtain a mineral lease application, please contact the St. Joe area office at (208) 245-4551.

Affidavit of Assessment Work and Description of Assessment Work forms are enclosed and must be completed and returned to my attention by September 2, 2024, regardless of whether or not you wish to apply for a mineral lease.

Should you have any questions, you may contact me at the above address or telephone (208) 334-0200.

[Name]
Resource Specialist

Enc.\2 Indicate the number of attachments referenced in the letter. Optional—not all letters will list enclosures.

cc: John Doe, Title (list all copy recipients/titles) ec: John Doe, Title, johndoe@idl.idaho.gov (list all electronic copy recipients/titles, email address)

Sent Certified Mail – Return Receipt Requested – Enter Certified Number (Optional—not all letters will be sent certified)

Idaho Department of Lands

Navigable Waterways Exploration Location Assessment and Acknowledgement

Affidavit Of Assessment Work

Before me, the subscribed, personally appeared _____, who, being first duly sworn, says that at least _____ DOLLARS ($_____) worth of improvements were performed for the benefit or made upon Exploration Location Nos._____ _____, and that such expenditure was made by, for, or at the expense of _____ _____, owner(s) of said location(s), for the year ending this ____ _____ day of_____, 20_____ for the purpose of holding said location(s); and boundaries of said location(s) are marked as required by 47-602 and 47-703, Idaho Code.

_____
Signature of Locator

Acknowledgement Of Locator

State of_____)
)ss
County of_____)

On this _____day of _____, in the year 20_____, before me, a Notary Public, personally appeared _____ known to me to be the _____ _____ the corporation that executed the instrument, or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same, or the individual who executed the instrument on their own behalf.

In Witness Whereof, I have hereunto set my hand and affixed my official seal of day and year first above written.

Notary Public for: _____
My Commission expires: _____

Idaho Department of Lands

Navigable Waterways Exploration Location Description

Description of Assessment Work Location

Notice Number(s):_____

1. On the following lines give a narrative description of the type of assessment work performed. Be sure to address such items as:
   - **a.** Type of work: excavation, tunnels, shafts, trenches, pits, drill holes, geochemical or geophysical exploration, etc.
   - **b.** For any type of excavation, give the dimensions in length, width and depth.
   - **c.** Type of equipment used: drilling equipment, washing plants, earth moving equipment, pans, rockers, etc.

_____

_____

_____

_____

_____

_____

_____

_____

_____

2. Did you use water in your operation? ☐ YES ☐ NO

   If so, from what source? _____

3. Did you place any improvements on the located property? ☐ YES ☐ NO

   If so, what type? _____

4. Please report any minerals recovered on the enclosed Production Royalty Report and mail the completed forms with all payment due to the corresponding area office.

Idaho Department of Lands

Riverbed Mineral Lease Production and Royalty Report

Lease number: _____ Lease holder: _____

Reporting period: _____ Commodity: _____

Instructions:

Pursuant to IDAPA 20.03.05 Riverbed Mineral Leasing in Idaho and Term d(d) of your Lease, please complete the following form and submit, along with any royalty due, to Idaho Department of Lands, PO Box 83720, Boise, ID 83720, by April 1, _____. This form must be submitted whether or not royalty is due. Please make checks payable to Idaho Department of Lands.

This form is three (3) pages, please read and complete all sections.

1. Production

Complete the table below for each date operated on state land. Attach additional sheets if necessary.

Operation date	Area mined (sq ft)	Quantity of mineral produced (oz)

Total Area Mined (sq ft):_____

Total Quantity of Mineral Produced: _____

2. Site Condition

Describe the condition of the riverbed prior to first entry of the year and after the last entry. Please attach photos and other supporting documents as applicable.

3. Royalty

Complete the table below regarding all minerals produced from state lands:

Line Number	Description	Amount
1	Total quantity of mineral sold (oz)	
2	Total price received from mineral sold ($)	
3	Total quantity of mineral not sold (oz)	
4	COMEX mineral value ($/oz)	
5	Date of COMEX value	
6	Value of mineral not sold. Multiply line 3 by line 4.	
7	Total value of mineral produced. Add lines 2 and 6.	
8	Royalty rate	
9	Royalty. Multiply line 7 by line 8.	
10	Paid Annual Rent	
11	Prepaid Royalties	
12	Transportation costs to the closest feasible point of sale*	
13	Smelting charges*	
14	Deductions and other treatment costs*	
15	Total Deductions. Add lines 10 through 14.	
16	Royalty Due. Subtract line 15 from line 9. If less than 0, enter 0.	

*If any amounts are entered into lines 12, 13, or 14, please provide justification:

4. Affidavit

I swear the statements on this report are true and correct and can be verified by records in possession of the Lessee(s).

_____	_____	_____
Date	Signature	Name

State of_____)
):ss
County of_____)

Subscribed and sworn to me on the date shown immediately above.

(SEAL)

_____
Notary Signature
My Commission Expires: _____

Replace with Agency Header

LAND USE PERMIT NO. LUXXXXXX

Permission is hereby granted to **[Individual/Company]** ("Permittee") to **[temporary activity]** for a period of one (1) year.

This permit is subject to the following terms and conditions:

1. This authorization is effective upon signature by the Idaho Department of Lands ("Permittor") and upon payment of the required fee by the Permittee.
2. This Permit allows the Permittee to **[temporary activity]**.
3. Failure to obtain an official **[permit/lease/easement]** by **[date]** will result in the termination of this Permit and any materials/activities will need to be removed.
4. The Permittee shall indemnify and hold harmless the State of Idaho and its representatives against and from any and all demands, claims or liabilities of every nature whatsoever, arising directly or indirectly from or in any way connected with the use authorized under this permit.
5. This permit may be cancelled after written notice to the Permittee of noncompliance with the terms herein and failure of the Permittee to correct noted noncompliance.
6. This permit does not convey the State's title to, or jurisdiction or management of, lands lying below the natural or ordinary high-water mark.
7. This permit is non-exclusive to the Permittee, except that other uses will not be designed to restrict the Permittee in the exercise of this permit.
8. The Permittee will comply with all federal, state, and local laws and with all rules and regulations of the State Board of Land Commissioners pertaining to forest and watershed protection, and with the Stream Channel Protection Act as designated in Chapter 38, Title 42 of the Idaho Code as administered by the Department of Water Resources.
9. PERMITTOR may terminate this Permit upon thirty (30) days' written notice to PERMITTEE. PERMITTEE may terminate this Permit upon thirty (30) days' written notice to PERMITTOR.

10. **[Any additional specific terms]**

This permit is effective **[date].**
This permit shall expire on **[date].**

X _____

IDL Approver & Date

[Resource Specialist Name and Title]

X _____

Permittee
[Permittee's name and title, if applicable]