

IDAHO DEPARTMENT OF LANDS

In Re:)
IDAPA 20.03.01, Rules) Docket No. 20-0000-1900F
Governing Dredge and Placer)
Mining Operations in Idaho)
_____)

PUBLIC HEARING ON PROPOSED RULE

FACILITATED BY:

ERIC WILSON

Date: August 14, 2019 - 1:00 p.m.

Location: Idaho Department of Lands
3284 W. Industrial Loop
Coeur d'Alene, Idaho

TRANSCRIBED BY:

KAMRA TOALSON, CSR No. 756

Notary Public

1 (Unintelligible dialogue.)

2 MR. WILSON: Well, good afternoon.

3 Let's go ahead and get started.

4 If you haven't signed up yet, please make sure
5 you do. There's more sign-in sheets up at the front.

6 We just want to make sure that we can contact people if
7 we need to, keep folks informed as this process goes
8 forward.

9 We will be recording testimony. We'll have a
10 transcript. Again, we'll have that posted probably on
11 our website, along with this presentation. So that
12 little black box on top of the podium is the actual
13 microphone.

14 So, please, when you're talking -- we only
15 have about four people signed up to testify. So I'm
16 going to go through a small presentation, let you know
17 what it is we're doing and why we're doing it, and then
18 we'll have people testify.

19 With only four people signed up, we have until
20 3:00, so people can testify as much as they want, so...

21 UNIDENTIFIED SPEAKER: You have to be signed
22 up, though?

23 MR. WILSON: Yeah. And we would like
24 everybody to sign up, again, just so we can keep people
25 informed as the process moves forward.

1 UNIDENTIFIED SPEAKER: Yeah.

2 MR. WILSON: Okay. So my name is Eric Wilson.
3 I'm the bureau chief for Resource Protection Assistance
4 out of our Boise office. And I've been involved with
5 directing placer mining regulation for about 25 years
6 now, so I have a little bit of experience in this.

7 So this is kind of what we're going to talk
8 about; the history of placer mining regulation, what's
9 required by IDL through statute and rule, why is this
10 rulemaking being conducted, and then we'll take
11 testimony.

12 So what is placer mining? So, for us, it's
13 when you're extracting and concentrating heavy minerals
14 from placer deposit often using running water.

15 Gold, historically, that's our most important
16 commodity for placer mining in Idaho. It helped settle
17 the territory.

18 Monazite and other radioactive minerals have
19 also been extracted through placer mining in the past,
20 most notably down in the Bear Valley area.

21 Currently, garnet has the most production of
22 any placer mining in Idaho. That's industrial garnet
23 for abrasives. There are also some placer operations
24 for gemstone garnet, star garnet being, of course, our
25 state gemstone.

1 So history is pretty deep in Idaho for mining,
2 first discovered in Orofino Creek in 1860 and through
3 the 1860s all the way -- 1869, placer gold was found in
4 Central Idaho in Loon Creek and Yankee Fork. So that's
5 one of the reasons why Idaho became a territory,
6 certainly hoped to get this state settled.

7 That early activity for placer mining, mostly
8 handwork. Some panning, some sluicing. Pretty low
9 tech. As they found more, they got more investors, so
10 they got larger operations going with hydraulic giants.

11 Pioneerville is down in Boise County. So is
12 Rocky Bar. Actually, Rocky Bar may tip over and run to
13 Elmore County. But down in the Boise Basin.

14 And then you finally got to the largest
15 industrial scale placer and dredge mining, which is the
16 bucket-line dredge. There were several of these around
17 across the state. This one's in Yankee Fork. They run
18 tours with volunteers in the summertime. If you've
19 never been to Yankee Fork and taken the tour, I highly
20 recommend you go do that. It's fascinating.

21 But it was operational in the 1950s, and it
22 has impacts. This is an aerial photo of just a portion
23 of the Yankee Fork, and that's what's left behind, are
24 these miles and miles of these dredge spoils.

25 This is Grimes Creek, again in Boise Basin,

1 Middle Fork of the Boise, and lots of other streams
2 across the state.

3 So all of that large-scale placer mining
4 continued until about 1952. Several hundred miles of
5 streams were impacted. And the sportsmen in Idaho --
6 fishing was a pretty important thing at that time. They
7 didn't like all the sediment-filled streams. It
8 impacted fishers.

9 So they passed, by initiative vote -- this is
10 a vote of the people -- in 1954 the Idaho Dredge and
11 Placer Mining Protection Act. So it requires plans,
12 bonding, and maintenance of water quality standards with
13 reclamation at the end of the operation. It's been a
14 very active program through the 1990s, but activity has
15 tapered off as far as the activities that we regulate.

16 So here are the drudge and placer permits we
17 currently have that are active in Idaho by area office.
18 So we have several; our Cataldo area, most of our garnet
19 activity, of course, in the Saint Joe area, and then as
20 you go further south, activity gets a little less and
21 less, again, for the activities that we regulate.

22 UNIDENTIFIED SPEAKER: (Unintelligible.)

23 MR. WILSON: That's our Saint Joe area office,
24 so it covers all that area around greater Fernwood where
25 they have the industrial garnets and some of the

1 gemstone garnets, so maybe not the actual river itself,
2 but it's our administrative area.

3 So when is a permit required for the Idaho
4 Department of Lands? When your disturbance exceeds a
5 half-acre of cumulative disturbance, you have to have a
6 dredge and placer mining permit and a bond. This does
7 not allow you to work a half-acre, reclaim it, and then
8 mine another half-acre. It's a cumulative disturbance.

9 Anything less than half an acre is just
10 exploration, and we just need a notification if you're
11 using mechanized equipment.

12 UNIDENTIFIED SPEAKER: And the roads count as
13 part of the half-acre?

14 MR. WILSON: That is a good question. I don't
15 think it is, actually. I'd have to look at the rules to
16 make sure, but I don't think the roads are counted in
17 that half-acre.

18 UNIDENTIFIED SPEAKER: I think it's stated in
19 the rules that the road was part of the half-acre.

20 MR. WILSON: Okay. And, yeah, I --

21 (Unintelligible.)

22 UNIDENTIFIED SPEAKER: So, I mean, if it was
23 600 feet of road or something like that to get into
24 where you want to dig a half-acre or like a tenth of an
25 acre or something, I think it does.

1 MR. WILSON: That is possible.

2 UNIDENTIFIED SPEAKER: And what concentrates
3 (sic) the road? Because I'm going to be both re-bonded,
4 because I'm going to have a road to get my ATV and wagon
5 and excavator into this site, which is like maybe 200
6 feet. But it's -- once I cut out a little bit of brush
7 and some walls that are laying on the ground, I don't
8 have to cut any trees. I don't have to do anything at
9 all.

10 MR. WILSON: Are you disturbing any dirt?

11 UNIDENTIFIED SPEAKER: No.

12 MR. WILSON: Then I don't think it matters.
13 Yeah, we're talking about actual road construction where
14 you're stripping off the soil, blazing a road with a
15 bulldozer, most likely.

16 UNIDENTIFIED SPEAKER: Yeah.

17 MR. WILSON: And then that will be reclaimed.
18 If you're just cutting brush, brush grows
19 back. It's a renewable resource.

20 UNIDENTIFIED SPEAKER: And your claims are BLM
21 lands.

22 UNIDENTIFIED SPEAKER: Yes, they are.

23 UNIDENTIFIED SPEAKER: So I get all of the
24 whole ball game.

25 UNIDENTIFIED SPEAKER: Not necessarily,

1 because a lot of the statements in this paperwork or
2 this rule change involves Forest Service, BLM, and the
3 State of Idaho.

4 MR. WILSON: We have a court ruling in the
5 1970s or 1980s. I don't remember exactly when. And it
6 was about that very issue. And the Supreme Court ruled
7 that the State of Idaho can have regulatory authority on
8 federal lands.

9 UNIDENTIFIED SPEAKER: Wow. That's huge. I
10 mean...

11 MR. WILSON: But it's always been that way.
12 So what we do, though, is we coordinate our
13 reviews with those other agencies, be it state or
14 federal.

15 UNIDENTIFIED SPEAKER: Right.

16 MR. WILSON: So an operator comes up with one
17 plan, satisfies everybody's requirements.

18 UNIDENTIFIED SPEAKER: Okay. Yeah.

19 MR. WILSON: And we've been doing that for
20 decades.

21 UNIDENTIFIED SPEAKER: That's the way we do
22 it, yeah.

23 MR. WILSON: Yeah. Works really well.

24 So what about suction dredging?

25 So Idaho Code 47-13, the Dredge and Placer

1 Mining Protection Act, only applies to suction dredges
2 larger than 8-inch diameter. That's what's defined as
3 mechanized or moving equipment in our statute. We
4 haven't received any of those applications in the last
5 20 years.

6 Water Resources, IDWR, they handle regulatory
7 requirements for suction dredges with a diameter
8 8 inches or less. That's your recreational suction
9 dredging permit. We don't administer those permits.
10 The Department of Water Resources does.

11 So what types of activities do we regulate
12 under our statute?

13 So, generally speaking, it's outside of stream
14 channels. It doesn't have to be. It's just -- those
15 are the operations we've seen most recently.

16 Traditional excavating equipment feed the wash
17 plant where the gravels are processed. There's usually
18 settling ponds, backfilling, and reclamation after
19 mining is completed. You can mine through those stream
20 channels with proper permitting and reclamation.

21 You'll probably need to tie in Water Resources
22 for a stream channel alteration permit, and they'll
23 review, again, the same plan. If it's on Forest Service
24 or BLM, they'll review that same plan. DEQ will also
25 review that plan.

1 In the recent past, only garnet operations
2 have been able to get permits to mine through stream
3 channels and then rebuild those stream channels.

4 So let's talk a little bit about the
5 rulemaking process. We are governed by the
6 Administrative Procedures Act, Idaho Code 67-52. All
7 rules expire on July 1 of every year, unless they're
8 extended for another year by the state legislature.

9 In 2019, this last session, the legislature
10 failed to extend all the rules across the state for
11 every single agency. So without action by any of the
12 state agencies, as of July 1 there would have been no
13 hunting and fishing licenses or regulations regarding
14 them. There would be no speed limits. There would also
15 be no rules for dredge and placer mining.

16 So all state agencies then issued a temporary
17 and proposed rulemaking to fill in those gaps. So we
18 already have a temporary rule in place. We took the
19 existing rule that was in place at the end of the
20 legislative session, and we passed a temporary rule
21 through the State Land Board.

22 And what we're doing now is we're saying,
23 okay, that temporary rule, that rule that existed at the
24 end of the legislative session, we're taking that as a
25 proposed rule to the next legislative session, and

1 hopefully they will approve it at that time.

2 UNIDENTIFIED SPEAKER: (Unintelligible.)

3 MR. WILSON: So the rules are not created by
4 the legislature. Statutes and laws -- same thing -- are
5 created by the legislature. Rulemaking is an
6 administrative process by the state agencies. Those
7 rules then go before the legislature, and they give them
8 the Roman numeral thumbs up or thumbs down, the Roman
9 Colosseum.

10 UNIDENTIFIED SPEAKER: (Unintelligible.)

11 I'm just curious. I'm not criticizing.

12 MR. WILSON: So, yeah, under --

13 UNIDENTIFIED SPEAKER: (Unintelligible.)

14 MR. WILSON: Under the Administrative
15 Procedures Act, there are provisions for temporary
16 rules. And this being an extraordinary circumstance,
17 the Governor's Office got ahold of every single state
18 agency and governing body that had rules, and we're all
19 going through this temporary rulemaking process, because
20 those rules had to be in place before July 1, so...

21 UNIDENTIFIED SPEAKER: (Unintelligible.)

22 MR. WILSON: The legislature got into some
23 points of disagreement amongst themselves, and the rules
24 were a sacrificial lamb, if you will.

25 If you have any further questions, I suggest

1 you contact your legislator.

2 UNIDENTIFIED SPEAKER: When they make these
3 rules, doesn't the public have a say before they go
4 through the legislature, or do they just --

5 MR. WILSON: They do, through the normal
6 rulemaking process. Yes, they will.

7 The normal rulemaking process is, somewhere
8 around March or April an agency goes to its governing
9 board, and they start the negotiated rulemaking process.
10 Those negotiations conclude in July or August. And then
11 they go into a proposed rulemaking process. And we'll
12 go through this a little bit in a minute.

13 We're in the proposed rulemaking process. We
14 are not proposing any changes to the rules that existed
15 at the end of the last legislative session. To
16 contemplate having any changes to the rules, the agency
17 would have had to go through the negotiated rulemaking
18 process.

19 We are required by the Administrative
20 Procedures Act, if we're going to change a rule
21 substantively, we have to go through negotiated
22 rulemaking. But the negotiated rulemaking process has
23 certain deadlines that we could not meet because of the
24 time frames. And we're not proposing any changes.

25 UNIDENTIFIED SPEAKER: I have a question.

1 (Unintelligible.)

2 But I want to make sure somebody does. We
3 need to be -- mining districts need to be informed of
4 when you're making these decisions on the rules
5 throughout the whole state, because I gather by law that
6 we're supposed to be consulted.

7 MR. WILSON: So, again, when we go through a
8 negotiated rulemaking process, we do reach out. There's
9 public outreach and advertisements. Official notice is
10 given for that negotiated rulemaking process.

11 UNIDENTIFIED SPEAKER: We would like to be
12 included on the list, if somebody would e-mail us --

13 MR. WILSON: That's great, and we encourage
14 that. But, again, we did not go through a negotiated
15 rulemaking for these rules we're talking about --

16 UNIDENTIFIED SPEAKER: Yes.

17 MR. WILSON: -- because we're just trying to
18 fill in that gap that the legislature left.

19 UNIDENTIFIED SPEAKER: Yes, I understand.

20 MR. WILSON: So, we are not proposing any
21 changes. And we'll talk more about changes here in just
22 a second.

23 UNIDENTIFIED SPEAKER: (Unintelligible.)

24 MR. WILSON: I think we covered all that.

25 So where are we in the hierarchy of state

1 documents? Of course, in the top is the State
2 Constitution. Everything has to obey the State
3 Constitution. Below that are the statutes that the
4 legislature passes. Below that even are where we're at
5 today, administrative rules.

6 So all administrative rules have to be rooted
7 in some kind of a statute. And, again, rulemaking is an
8 agency process. But then it goes to a final review by
9 the legislature, and there is an expectation for
10 negotiated rulemaking to occur and to have input from
11 stakeholders during negotiated rulemaking.

12 But we're in proposed rulemaking right now.
13 So, again, we're not proposing any changes. There is a
14 public comment period for proposed rulemaking.

15 We received a bunch of petitions to have
16 public hearings, which we're having today. We're having
17 another one tomorrow in Idaho Falls. We're having
18 another one in Friday in Boise. And we'll accept public
19 comments all the way through August 16th.

20 UNIDENTIFIED SPEAKER: So if we want to have a
21 change that we see or something, we contact you? Or who
22 do we contact?

23 MR. WILSON: You can send an e-mail. We have
24 an e-mail contact on our website. So if you don't have
25 something prepared today, if you can get it in by

1 Friday, send it in by e-mail to our e-mail address.

2 UNIDENTIFIED SPEAKER: Okay.

3 UNIDENTIFIED SPEAKER: Now, is that on the
4 same web page as where these are posted?

5 (Unintelligible.)

6 MR. WILSON: I believe so, or it's on our main
7 page when you first go to the Idaho Department of Lands.
8 There should be a comment page there.

9 UNIDENTIFIED SPEAKER: Okay.

10 MR. WILSON: So changes to the proposed rule
11 can only be made at this point based on testimony
12 received at the three hearings or written comments that
13 we receive. We'll then present those comments and
14 possible changes at the September Land Board meeting.
15 That's always in Boise.

16 The pending rule will then be presented at the
17 October 15 Land Board meeting. And the pending rule and
18 notice then has to go to the Office of Administrative
19 Rules by October 16th. We don't have any control over
20 the October 16th deadline. That is the last deadline to
21 get something into the administrative bulletin to be
22 before next year's legislature, and then they'll review
23 them at the 2020 session. So that's the time frame
24 we're up against.

25 UNIDENTIFIED SPEAKER: (Unintelligible.)

1 MR. WILSON: Well, we have some other
2 rulemakings going on that are a little more substantive.
3 We actually are proposing some changes in response to
4 some legislation. We weren't given any budget or
5 additional resources for their social work, so other
6 things don't get done while we stand here and educate
7 folks about what we're actually trying to do --

8 UNIDENTIFIED SPEAKER: Yeah.

9 MR. WILSON: -- which is we're just actually
10 trying to keep the rules we have in place in effect for
11 the next year. So actually before I get to this, let me
12 touch on something else.

13 If you do want changes to that existing rule,
14 that's great. We're kind of in a no-win situation. The
15 Administrative Procedures Act requires an agency to go
16 through negotiated rulemaking if there's any substantive
17 changes to a rule. We just don't have time for that
18 this year.

19 So if you give us suggestions for substantive
20 changes and we haven't gone through the negotiated
21 rulemaking process, then the legislature can tell us,
22 "Well, you guys didn't go through negotiated
23 rulemaking," and they can reject our rule.

24 But if we don't listen to the comments that we
25 give you, then they can say, "Well, you didn't listen to

1 the public. We're going to reject your rule."

2 So we don't know how this is going to turn
3 out. We only had one other set of rules that's going
4 through this whole process that is also having hearings,
5 and that's tomorrow.

6 UNIDENTIFIED SPEAKER: On the forest industry?

7 MR. WILSON: On the forest -- yeah, the Forest
8 Practices Act. I think the Shade Rule is what they're
9 focusing on.

10 UNIDENTIFIED SPEAKER: Some of their stuff in
11 there contradicts, especially on the roads.

12 MR. WILSON: Yeah, I don't know anything about
13 the Forest Practices Rules. That's somebody else's.

14 UNIDENTIFIED SPEAKER: Right. But how do you
15 guys -- how do you guys deal with that if you've got one
16 agency going against the rules? They're supposed to be
17 on all lands, according to what this is saying. It's
18 supposed to apply to all of Idaho.

19 MR. WILSON: Yep.

20 UNIDENTIFIED SPEAKER: (Unintelligible.)

21 Policies are changing that. How can you
22 guys --

23 MR. WILSON: So this is regulating dredging or
24 placer mining. The Forest Practices Act is regulating
25 timber harvesting. Two different things.

1 UNIDENTIFIED SPEAKER: Well, that also --
2 (Speakers talking over each other.)
3 (Unintelligible.)

4 UNIDENTIFIED SPEAKER: Forestry has been
5 interfering with this.

6 MR. WILSON: Yeah. I'm not aware of that. If
7 there are some potential conflicts, let's talk about
8 that more with our forest practices folks and try to get
9 that sorted out, but...

10 UNIDENTIFIED SPEAKER: (Unintelligible.)

11 MR. WILSON: Yeah. But, traditionally, we
12 don't -- we don't have any conflicts, because if
13 somebody is clearing land to make way for a mine -- and
14 we have this happen all across the state, especially in
15 our Mining Reclamation Act, which is for -- it used to
16 be surface mining. Now it's all types of mining, except
17 dredge and placer.

18 UNIDENTIFIED SPEAKER: (Unintelligible.)

19 MR. WILSON: But they will often go in and
20 clear-cut an area, say for a phosphate mine, because
21 that's what you have to do to get to the ore.

22 UNIDENTIFIED SPEAKER: Right.

23 MR. WILSON: So the Forest Practices Act, if
24 you're going in and clear-cutting for a mine, it's a
25 different thing. You're not practicing forestry, you're

1 doing mining.

2 UNIDENTIFIED SPEAKER: Where I'm referencing
3 is, there's already established roads, hundreds, to
4 people's claims, and they're shutting them down and
5 ripping them up.

6 MR. WILSON: Are you sure that's not the
7 Forest Service?

8 UNIDENTIFIED SPEAKER: It is the Forest
9 Service.

10 UNIDENTIFIED SPEAKER: (Unintelligible) all
11 Idaho lands.

12 MR. WILSON: Well, but if that's the Forest
13 Service, that's not a state agency. We do cooperate
14 with them, but we don't --

15 UNIDENTIFIED SPEAKER: But that's --

16 MR. WILSON: We don't do the surface
17 management that the Forest Service does. We just
18 regulate the mining.

19 UNIDENTIFIED SPEAKER: Right. But they're --
20 they're closing off the roads that have been there since
21 (unintelligible).

22 It's contradicting what you guys have put on
23 here, because this is supposed to apply to all lands,
24 including federal lands, and yet they are ignoring your
25 rules on this.

1 MR. WILSON: The Forest Service and the BLM
2 have their own surface management rules, and there is --

3 UNIDENTIFIED SPEAKER: (Unintelligible.)

4 MR. WILSON: Let me finish. There is nothing
5 you can do at a state legislative level to change the
6 federal land management rules. Absolutely nothing.

7 UNIDENTIFIED SPEAKER: Then why is there
8 wording that says it covers all land?

9 MR. WILSON: When we get a plan that's
10 proposing activities on federal lands, that plan gets
11 reviewed by all the state and federal agencies at the
12 same time. Again, we coordinate those reviews, and we
13 have for 30 years or more.

14 UNIDENTIFIED SPEAKER: Well, then, that's
15 still contradicting what the actual statement of the
16 wording and verbiage is. The rules apply to all land,
17 federal and not.

18 MR. WILSON: Uh-huh. But that has nothing to
19 do with closing roads.

20 UNIDENTIFIED SPEAKER: Well, if somebody needs
21 a road to get into their claim and it's off federal land
22 (unintelligible).

23 MR. WILSON: But that doesn't have anything to
24 do with our rules. Those agencies have their own
25 surface management rules and regulations in place. It

1 has nothing to do with what we regulate.

2 So the format for proposed rulemaking hearings
3 is fairly prescriptive. All we do is take testimony,
4 and that's it. There is no discussion, interaction back
5 and forth. After I'm done with this presentation, all
6 we do is record the testimony and get a transcript made,
7 and that's it.

8 Again, if there was going to be a lot of
9 meaningful interaction and discussion, that takes place
10 during negotiated rulemaking, not during the proposed
11 rulemaking.

12 UNIDENTIFIED SPEAKER: Which you said isn't
13 going to happen.

14 MR. WILSON: Because we don't have time.

15 UNIDENTIFIED SPEAKER: So I'm just going to
16 waste my time? We're going to stand up. We're going to
17 propose rules. You're going to take the information,
18 submit it, but you're not going to go through the
19 negotiated rule process, which (unintelligible)?

20 MR. WILSON: So...

21 UNIDENTIFIED SPEAKER: (Unintelligible.)

22 MR. WILSON: I don't know. I would love to
23 know why there were petitions signed when we're not
24 proposing any changes to the rule.

25 If somebody wants to change the rule, hey,

1 that's great. Let's have that discussion.

2 UNIDENTIFIED SPEAKER: Yeah, but you're saying
3 that's all going to fall on deaf ears today.

4 MR. WILSON: Today, yes, because we're in the
5 proposed rulemaking process.

6 Anybody can petition the Land Board to change
7 the rules at any time, and we're more than happy to go
8 through that process, but the legislature did not give
9 us time this year to go through the negotiated
10 rulemaking process.

11 UNIDENTIFIED SPEAKER: I don't understand
12 that. I mean, you can understand how frustrating it is.
13 We're going to get up here, and we're going to talk
14 about things we want to see changed, you're going to
15 write it down, and it's going to get kicked out. So we
16 just do it all again next year?

17 MR. WILSON: And we may get directed by the
18 Land Board to actually enter into negotiated rulemaking,
19 and we can start that before the end of the year, but
20 then it will have to go through next year and then go to
21 the 2021 legislature before they can approve it.

22 Yes, ma'am?

23 UNIDENTIFIED SPEAKER: So the testimony given
24 today, (unintelligible), is it possible for our
25 testimony to be brought forward to the next --

1 UNIDENTIFIED SPEAKER: (Unintelligible.)

2 UNIDENTIFIED SPEAKER: Will our testimony be
3 going to that?

4 MR. WILSON: Let me be clear. Your testimony
5 will not fall on deaf ears --

6 UNIDENTIFIED SPEAKER: So --

7 MR. WILSON: But --

8 UNIDENTIFIED SPEAKER: Will --

9 (Speakers talking over each other.)

10 (Unintelligible.)

11 MR. WILSON: But the Administrative Procedures
12 Act requires an agency --

13 UNIDENTIFIED SPEAKER: Yeah.

14 MR. WILSON: -- to go through negotiated
15 rulemaking for any substantive changes.

16 UNIDENTIFIED SPEAKER: Yeah. No, I understand
17 that.

18 What I'm saying is, the testimony given today,
19 when you guys do enter that negotiated rulemaking
20 process, will that testimony be heard at that time?

21 UNIDENTIFIED SPEAKER: In 2020.

22 (Speakers talking over each other.)

23 (Unintelligible.)

24 MR. WILSON: We can use the testimony today to
25 guide if and when and how and to what extent we go

1 through a negotiated rulemaking.

2 UNIDENTIFIED SPEAKER: Okay.

3 MR. WILSON: Absolutely.

4 UNIDENTIFIED SPEAKER: Okay.

5 MR. WILSON: Yeah. So we will use the
6 information today. It's not wasted.

7 UNIDENTIFIED SPEAKER: Regardless of whether
8 it happens today or in 2020, the things that are going
9 in today will be applicable?

10 MR. WILSON: Yeah.

11 UNIDENTIFIED SPEAKER: Oh.

12 MR. WILSON: Yeah, absolutely. Yeah.

13 Again, we're not proposing to change anything.
14 We're going forward with the same rules that were in
15 place when the legislature adjourned. We went through
16 rulemaking last year. The only changes we made in
17 rulemaking last year, really, was to allow people to
18 submit documents electronically so that you didn't have
19 to come in with five hard copies and all that.

20 We're trying to get to a point where we're in
21 the 21st century now and people can submit applications
22 electronically, so that's the only change we had,
23 really, at the last legislative session that was
24 approved, but then they never approved that rule to be
25 effective after July 1.

1 So all we're doing is taking that rule that
2 existed at the end of the last legislative session and
3 saying we want that to continue through July of next
4 year, or the end of the legislative session, so that
5 there's no gap.

6 Now if there are other changes that people
7 want to see, yeah, let's have the discussion, but that
8 discussion is going to have to go over the next year and
9 a half. That's all I'm saying.

10 Yes, sir?

11 UNIDENTIFIED SPEAKER: (Unintelligible.)

12 MR. WILSON: Again, I encourage you to contact
13 your local legislative --

14 UNIDENTIFIED SPEAKER: (Unintelligible.)

15 MR. WILSON: There was --

16 UNIDENTIFIED SPEAKER: (Unintelligible.)

17 (Speakers talking over each other.)

18 (Unintelligible.)

19 MR. WILSON: There was a huge fight between
20 the House and the Senate on several different topics.
21 There was a fight over who has the veto authority on
22 rules. There was a fight over kicking the state
23 treasurer out of the Capitol and getting her office
24 space somewhere else.

25 UNIDENTIFIED SPEAKER: (Unintelligible.)

1 MR. WILSON: Exactly. They did not do their
2 job. They have several things to do every year. They
3 have to set budgets, and they need to approve rules.

4 UNIDENTIFIED SPEAKER: So we need to suffer
5 for that?

6 MR. WILSON: I've been suffering. Our agency
7 has been suffering for the last four months. Every
8 other agency in the state has been suffering and doing
9 these --

10 UNIDENTIFIED SPEAKER: (Unintelligible.)

11 MR. WILSON: Well...

12 UNIDENTIFIED SPEAKER: (Unintelligible.)

13 (Speakers talking over each other.)

14 (Unintelligible.)

15 UNIDENTIFIED SPEAKER: Then how easy would it
16 be just to carry the rules?

17 (Speakers talking over each other.)

18 (Unintelligible.)

19 MR. WILSON: So we're just trying to fill in
20 that gap.

21 UNIDENTIFIED SPEAKER: But they'd give us an
22 opportunity to have our voice heard, yeah.

23 MR. WILSON: And we -- you know, we had a
24 rulemaking that started in March or April to have this
25 electronic notification. We advertised it. We noticed.

1 We didn't have anybody show up to our hearings for that.

2 We didn't have any written comments received.

3 UNIDENTIFIED SPEAKER: Yeah.

4 MR. WILSON: So we didn't think there were any
5 issues out there --

6 UNIDENTIFIED SPEAKER: Right.

7 MR. WILSON: -- that people wanted to talk
8 about. If we're wrong, great.

9 UNIDENTIFIED SPEAKER: (Unintelligible.)

10 MR. WILSON: That's --

11 UNIDENTIFIED SPEAKER: (Unintelligible.)

12 MR. WILSON: So let's hear what issues you
13 have.

14 UNIDENTIFIED SPEAKER: Right.

15 MR. WILSON: If they're within our
16 authority --

17 UNIDENTIFIED SPEAKER: Right.

18 MR. WILSON: -- we can address them.

19 UNIDENTIFIED SPEAKER: Right.

20 MR. WILSON: But, again, there's nothing we
21 can do at the state level to change federal rules,
22 regulations, or statutes.

23 UNIDENTIFIED SPEAKER: I've got one sidetrack.

24 When these petitions were going out, I live
25 over in Washington State, but we've got claims that we

1 pay taxes on.

2 MR. WILSON: Sure.

3 UNIDENTIFIED SPEAKER: So even though it asked
4 us for our mailing address and residential address on
5 that form --

6 MR. WILSON: Uh-huh.

7 UNIDENTIFIED SPEAKER: -- it was not accepted
8 because we were out of a different state, even though we
9 have property that we're paying taxes on.

10 UNIDENTIFIED SPEAKER: (Unintelligible.)

11 MR. WILSON: I have no --

12 UNIDENTIFIED SPEAKER: (Unintelligible.)

13 MR. WILSON: I have no idea what you're
14 talking about.

15 UNIDENTIFIED SPEAKER: Well, for the
16 petitions, they didn't actually take it (unintelligible)
17 in Washington State, and that's where we actually have
18 our home residence.

19 MR. WILSON: Uh-huh.

20 UNIDENTIFIED SPEAKER: But we're paying taxes
21 on property in Idaho.

22 MR. WILSON: So --

23 UNIDENTIFIED SPEAKER: (Unintelligible.)

24 MR. WILSON: -- when you say "they," who do
25 you mean?

1 UNIDENTIFIED SPEAKER: The Forest Service.

2 UNIDENTIFIED SPEAKER: No, for the --

3 UNIDENTIFIED SPEAKER: (Unintelligible.)

4 (Speakers talking over each other.)

5 (Unintelligible.)

6 UNIDENTIFIED SPEAKER: Oh, yeah.

7 UNIDENTIFIED SPEAKER: And they wouldn't take
8 it signing up on your guys' website for photocopies.
9 (Unintelligible) from Idaho. I was just wondering if
10 you knew anything about that.

11 MR. WILSON: I don't know anything about that.
12 We posted everything that we received.

13 UNIDENTIFIED SPEAKER: (Unintelligible.)

14 MR. WILSON: Yeah. I don't know who was
15 gathering petitions or anything. I don't know anything
16 about that.

17 UNIDENTIFIED SPEAKER: So is there -- do we
18 still write to you if we have a problem with that while
19 we're doing that?

20 MR. WILSON: We don't discriminate when we go
21 through the negotiated rulemaking process. We'll take
22 comments from anybody. I don't care if you live in the
23 state or not.

24 You're right. If you own private lands or
25 mining claims in the state of Idaho, you have an

1 interest in how those rules are written. Absolutely.

2 UNIDENTIFIED SPEAKER: Thank you.

3 MR. WILSON: Even if you're just recreational
4 mining, you're just passing through and you want to go
5 out and suction dredge in the Salmon River, you know,
6 that's great. I'm sure Water Resources would love to
7 hear from you.

8 UNIDENTIFIED SPEAKER: Okay.

9 MR. WILSON: Okay. Any other questions before
10 we start taking testimony?

11 UNIDENTIFIED SPEAKER: (Unintelligible.)

12 MR. WILSON: Yes, sir?

13 UNIDENTIFIED SPEAKER: (Unintelligible.)

14 MR. WILSON: Uh-huh.

15 UNIDENTIFIED SPEAKER: (Unintelligible.)

16 MR. WILSON: There were a couple little
17 tweaks. I think there were like some missing words or
18 something in the prior rule, and so we filled in those
19 gaps. The only substantive change was again aligned
20 with that electronic submission so we didn't have to
21 rely on certified mailings for some things and hard
22 copies of the applications.

23 UNIDENTIFIED SPEAKER: I've got a
24 brother-in-law who's (unintelligible). It doesn't
25 translate per the statute when I read it.

1 MR. WILSON: Yeah. And --

2 UNIDENTIFIED SPEAKER: (Unintelligible.)

3 It's not -- that's the same thing as having
4 somebody that (unintelligible) signs along the highway.
5 Now it's assigned to trucking permits for truckers
6 passing through the state.

7 MR. WILSON: Uh-huh.

8 UNIDENTIFIED SPEAKER: That's a different
9 policing action, a different agency.

10 MR. WILSON: Yeah. And --

11 UNIDENTIFIED SPEAKER: That was my question.
12 It seems like it's a bit of (unintelligible).

13 MR. WILSON: We try to dovetail as much as we
14 can with those other agencies, and since the water
15 pollution discharge permits are now transferring from
16 EPA to DEQ, some of that's already happened, some of it
17 hasn't happened yet. That will be continuing over the
18 next two years.

19 I think the part that has not happened yet is
20 their multi-sector general permits, which is how they're
21 doing -- the EPA is doing the recreational suction
22 dredging.

23 I don't think DEQ gets that until next year or
24 the year after. So then it will be DEQ folks doing the
25 multi-sector general permits. But, again, that's a year

1 or two out.

2 Yes, sir?

3 UNIDENTIFIED SPEAKER: You are supposed to be
4 coordinating with the federal agency. As far as I know,
5 you have never been coordinated with by the BLM on my
6 mining claim. So on my mining claim, the plan of
7 operation is (unintelligible).

8 MR. WILSON: Uh-huh.

9 UNIDENTIFIED SPEAKER: And as far as I know,
10 you have never received the permit, the plan, nothing,
11 as far as I know.

12 MR. WILSON: Uh-huh.

13 UNIDENTIFIED SPEAKER: Okay. So I never
14 applied for the permit. Where are you folks, okay?

15 MR. WILSON: Okay.

16 UNIDENTIFIED SPEAKER: I didn't know that even
17 such a thing existed. I'm thinking, oh, all right.
18 (Unintelligible) --

19 MR. WILSON: Are you disturbing --

20 UNIDENTIFIED SPEAKER: -- a few days ago.

21 MR. WILSON: Are you disturbing more than a
22 half-acre?

23 UNIDENTIFIED SPEAKER: (Unintelligible.)

24 UNIDENTIFIED SPEAKER: Probably, but not
25 individual. In other words, I dig a hole, say 25, 20,

1 reclaim it, and BLM comes in and inspects it, and then I
2 go on to the next one, which is already approved.

3 MR. WILSON: Uh-huh.

4 UNIDENTIFIED SPEAKER: So I put in for six
5 holes. Now I can dig on the next one. And the process
6 takes usually less than two months. Okay. Sometimes
7 less than that, less than a month.

8 MR. WILSON: Uh-huh.

9 UNIDENTIFIED SPEAKER: Sometimes the approval
10 is given verbal over the phone.

11 Okay. Anyway, my point is that if we have to
12 go get approval through five agencies minimum, okay,
13 then this process could take five to seven years, in my
14 opinion. Right now the Forest Service is taking two and
15 a half years to approve a placer mining permit --

16 MR. WILSON: Uh-huh.

17 UNIDENTIFIED SPEAKER: -- where there's no
18 water.

19 MR. WILSON: Yeah. Well, ideally, we find
20 about these -- find out about these projects before the
21 federal agencies go forward.

22 We don't have eyes and ears everywhere. We
23 just don't. We have less offices statewide than the
24 Forest Service does.

25 UNIDENTIFIED SPEAKER: Okay. So --

1 MR. WILSON: So I encourage you to stop by
2 whichever area office is closest to you and just maybe
3 have a chat with them and describe to them what you're
4 doing, and we'll try to dovetail in with whatever
5 permitting process is already ongoing.

6 UNIDENTIFIED SPEAKER: Yeah.

7 MR. WILSON: And usually we're pretty fast
8 about turning things around. And, you know, if it's
9 just an oversight, then we'll work with you. We're not
10 going to come in with --

11 UNIDENTIFIED SPEAKER: We found that the IDL
12 was very helpful for us, because when we were just going
13 through the Forest Service, every time that we were
14 setting up for a half-acre dig, that would take two
15 years.

16 UNIDENTIFIED SPEAKER: Yes, that's what I was
17 saying.

18 UNIDENTIFIED SPEAKER: Okay. So when we -- we
19 found out about the process, is to go through IDL, and
20 they approve a 10-acre of your 20 acres for -- and
21 they'll run it through all of the state agencies and all
22 the 12 different agencies that take so much time for the
23 Forest Service to put their plan of operations together.

24 So IDL went through all of the agencies for a
25 10-acre maximum dig on a 20-acre-plot claim, and it

1 speeds the process up immensely, to within one year at a
2 time.

3 UNIDENTIFIED SPEAKER: Yeah.

4 MR. WILSON: Because we don't want to be in
5 your business every year. We want to know what you're
6 going to do --

7 UNIDENTIFIED SPEAKER: Yeah.

8 MR. WILSON: -- get it reviewed, get it
9 approved, and let you go on about your work.

10 UNIDENTIFIED SPEAKER: But, see, the Forest
11 Service doesn't contact us or let us know about your
12 guys' end of this whole deal.

13 UNIDENTIFIED SPEAKER: (Unintelligible.)

14 MR. WILSON: Yeah.

15 UNIDENTIFIED SPEAKER: We're dealing
16 (unintelligible).

17 MR. WILSON: We've had a lot of staff
18 turnover. They've had a lot of staff turnover.

19 UNIDENTIFIED SPEAKER: Right. Yeah. Yeah.

20 MR. WILSON: Yeah.

21 UNIDENTIFIED SPEAKER: So, anyway, that's the
22 way you want to do it, go through the IDL first.

23 UNIDENTIFIED SPEAKER: So that speeds
24 everything up for a plan of operation.

25 MR. WILSON: Yeah.

1 UNIDENTIFIED SPEAKER: You're coordinating
2 with (unintelligible).

3 MR. WILSON: Well, we don't have any formal
4 agreements with the EPA. We've tried in the past, and
5 they've always told us, "Yeah, we're not going to sign,"
6 so...

7 UNIDENTIFIED SPEAKER: So, in other words, to
8 be legal suction dredging (unintelligible) --

9 MR. WILSON: We don't regulate suction
10 dredging.

11 UNIDENTIFIED SPEAKER: -- any suction
12 dredging.

13 MR. WILSON: Idaho Department of Water
14 Resources administers the state suction dredging --

15 UNIDENTIFIED SPEAKER: And they will approve
16 it. And then they say you've got to go get with the EPA
17 if you want it approved.

18 MR. WILSON: Yeah, that's a discussion to have
19 with EPA. Our agency can do nothing to the EPA process.
20 It is what it is.

21 UNIDENTIFIED SPEAKER: Yeah. So if we're
22 going to suction dredge and we're going to be illegal,
23 you might as well forget (unintelligible).

24 MR. WILSON: Well, in two years that
25 permitting authority will be in DEQ's lap, and then you

1 can contact DEQ about it.

2 Okay. Any other questions?

3 UNIDENTIFIED SPEAKER: You're doing good.
4 You're holding up good.

5 MR. WILSON: About five times as many people
6 as I expected.

7 Okay. Well...

8 Oh, yes, sir? I'm sorry.

9 UNIDENTIFIED SPEAKER: (Unintelligible.)

10 MR. WILSON: Which other agencies?

11 UNIDENTIFIED SPEAKER: Federal.

12 UNIDENTIFIED SPEAKER: Federal, state.

13 MR. WILSON: Well, I believe we do.

14 UNIDENTIFIED SPEAKER: You have the Forestry
15 (unintelligible) which regulates (unintelligible). But
16 why is there no continuity between the agencies?

17 I mean, we all have questions. And you're
18 saying, Well, I encourage you to go up to so and so.

19 (Unintelligible.)

20 I understand that, because you don't know.

21 UNIDENTIFIED SPEAKER: Right.

22 UNIDENTIFIED SPEAKER: Right. But why is
23 there no continuity? How come, you know -- I mean, you
24 have the Forestry regulating rules.

25 UNIDENTIFIED SPEAKER: (Unintelligible.)

1 UNIDENTIFIED SPEAKER: Different agencies. I
2 mean, there's no continuity at all, so we can't get a
3 straight answer.

4 I mean, you're doing your best to give us a
5 straight answer, but you can't give us one, because you
6 don't know, so we have to go to these other agencies to
7 fill in the gap, and in the end we really don't get a
8 straight answer. So why is there no continuity?

9 UNIDENTIFIED SPEAKER: Why can't one agency
10 pass it all the way across the board?

11 MR. WILSON: So the authority that's given to
12 the Idaho Department of Lands comes from the state
13 legislature and from that initiative that was passed in
14 1954, so we only have authority over what the statutes
15 and rules give us authority over. We cannot assume
16 another agency's authority.

17 Our attorney general's office has told us in
18 no uncertain terms --

19 UNIDENTIFIED SPEAKER: Yeah, but you can
20 coordinate --

21 MR. WILSON: And we do coordinate. When we
22 receive a plan --

23 UNIDENTIFIED SPEAKER: (Unintelligible.)

24 MR. WILSON: When we receive an application,
25 we review it for completeness, make sure it's dotted,

1 all the I's and crossed all the T's. We send it to
2 Water Resources. We send it to DEQ. We send it to
3 Idaho Fish and Game. If it's on BLM and Forest Service
4 land, we make sure they're tied in with that review, as
5 well.

6 UNIDENTIFIED SPEAKER: (Unintelligible.)

7 MR. WILSON: Yeah, Forest Service or BLM. Or
8 both sometimes.

9 UNIDENTIFIED SPEAKER: Right.

10 MR. WILSON: For the larger mines, like
11 phosphate, open pit mines --

12 UNIDENTIFIED SPEAKER: Yeah.

13 MR. WILSON: -- often times both are involved.

14 And all those agencies will review that and
15 send their comments back to us. And to the best we can,
16 we incorporate their comments into our approval.

17 Now if they're giving us comments over
18 something that's not under our authority, like say
19 somebody gives us a comment about air quality, there is
20 nothing in the Dredge and Placer or our Mine Land
21 Reclamation Act that addresses air quality. So there is
22 nothing we can do with a comment regarding air quality.

23 If we're reviewing a federal project and
24 somebody is concerned about an endangered species, well,
25 that's great, but we have no legislative authority over

1 endangered species.

2 So we coordinate to the best of our ability,
3 but we can't answer all the questions or take into
4 account all of the other agencies' requirements. We can
5 only look at the requirements that the legislature has
6 given to us.

7 So there's -- there's opportunities, and we do
8 interact with those other agencies. But if they're
9 telling us things or there's issues about
10 surface-management activities on those federal lands --

11 UNIDENTIFIED SPEAKER: Well, it's not just
12 federal lands. Whether you're going into the federal
13 lands or not, if they claim that that's an access road
14 into their lands, they're closing them. And, I mean,
15 they're tearing them up.

16 MR. WILSON: Yep.

17 UNIDENTIFIED SPEAKER: Not only are they
18 tearing them up, but where you guys should be concerned
19 with, their so-called reclamation, which they're
20 taking -- they're spitting on here what you guys have
21 got down for rules. They completely ignore it.

22 MR. WILSON: They're not doing mining, so...

23 UNIDENTIFIED SPEAKER: (Unintelligible.)

24 That was an established road in 1940.

25 MR. WILSON: And, again, that's -- under their

1 surface management --

2 UNIDENTIFIED SPEAKER: Yeah. Okay.

3 MR. WILSON: -- you know, that's --

4 UNIDENTIFIED SPEAKER: Yeah. Yeah.

5 MR. WILSON: That's their deal, because it's
6 their real estate.

7 UNIDENTIFIED SPEAKER: Yeah.

8 (Unintelligible.)

9 UNIDENTIFIED SPEAKER: I've got a question on
10 wild scenic rivers in there.

11 (Unintelligible.)

12 Do you guys have any say-so over the
13 regulation of the wild scenic rivers?

14 See, I know --

15 UNIDENTIFIED SPEAKER: For suction dredging?

16 UNIDENTIFIED SPEAKER: Where I grew up in
17 Alaska, you could claim if a 40-mile river is all wild
18 scenic, and you could get a state dredging permit on the
19 wild scenic rivers in Alaska.

20 (Unintelligible.)

21 What I was wondering, especially the Salmon
22 River area, which is wild scenic and they're trying to
23 get dredges out there in the Clearwater, I'm just
24 wondering if you guys have any effect on that.

25 MR. WILSON: There is some direction in our

1 statute that specifically withdraws, I think, four
2 over-segments from any activity, and there have been
3 other Land Board actions through the years, and we have
4 all of these enumerated on our website. And all of
5 those state-owned rivers that have been withdrawn from
6 (unintelligible) are listed on our website, and that is
7 through statutes through Land Board action, and some of
8 it has come at the recommendation of the Idaho Water
9 Resource Board over the last 30, 40 years.

10 UNIDENTIFIED SPEAKER: (Unintelligible.)

11 MR. WILSON: So the State owns the bed and
12 banks of all navigable rivers and lakes in Idaho.

13 UNIDENTIFIED SPEAKER: Yeah. Yeah.

14 MR. WILSON: But it's -- it's usually just a
15 portion of those streams. It's not the entire stream.

16 So like the Salmon River, it's just the stuff
17 in the wilderness that's withdrawn and the stuff from
18 like Hammer Creek down to the mouth.

19 But that stretch from, I want to say Long Tom
20 Bar at the end of the wild and scenic to Hammer Creek,
21 under our regulations with Water Resources, is open.

22 Now EPA has not issued a multi-sector general
23 permit for that stretch, so that's a different issue.
24 If somebody wants to go through consultation with
25 National Fisheries for that permit, then there's an

1 opportunity to have that permit get issued.

2 UNIDENTIFIED SPEAKER: (Unintelligible.)

3 MR. WILSON: Those --

4 UNIDENTIFIED SPEAKER: (Unintelligible.)

5 MR. WILSON: If somebody wants to rescind a
6 withdrawal, then they would have to push the Land Board
7 to do that. We haven't had anybody try that in 15 years
8 or so.

9 UNIDENTIFIED SPEAKER: (Unintelligible.)

10 (Speakers talking over each other.)

11 (Unintelligible.)

12 MR. WILSON: You could petition the Land Board
13 to do that, yeah. But, again, we're probably going to
14 interact with the Idaho Water Resource Board, because a
15 lot of those withdrawals were based on their
16 recommendations for what is that stream being used,
17 what's its highest and best use. And if it was for
18 fisheries management, then I think that's why a lot of
19 those withdrawals happened.

20 UNIDENTIFIED SPEAKER: (Unintelligible.)

21 We can't even gold-pan on the river.

22 MR. WILSON: That's correct.

23 UNIDENTIFIED SPEAKER: And I don't see how
24 that would -- that would actually be helpful for
25 recreation people. I don't know about it disturbing the

1 water, if at all.

2 What I'm trying to get at is I would like the
3 petition, that it be allowed for hand-mining only.

4 MR. WILSON: Then you would have to petition
5 the Land Board --

6 UNIDENTIFIED SPEAKER: Okay.

7 MR. WILSON: -- to do that.

8 UNIDENTIFIED SPEAKER: And that it's allowed
9 above deep and high water level or something like that.

10 MR. WILSON: Ordinary high water mark is our
11 official designation.

12 UNIDENTIFIED SPEAKER: Okay.

13 MR. WILSON: That's where the state ownership
14 starts. So from the ordinary high water mark down is
15 state-owned.

16 UNIDENTIFIED SPEAKER: So you can -- so you
17 can mine above that point?

18 MR. WILSON: Yes. If you -- if you're going
19 to go over a half-acre disturbance, then you're going to
20 need a permit.

21 UNIDENTIFIED SPEAKER: Right.

22 MR. WILSON: If you're going to be under that,
23 then it's just exploration.

24 UNIDENTIFIED SPEAKER: Yes. That's what I
25 wanted to know.

1 MR. WILSON: Yeah.

2 Yes, sir?

3 UNIDENTIFIED SPEAKER: I have one last
4 question.

5 How do you guys -- I know it's a lengthy
6 process. How do you guys feel or work with the federal
7 laws (unintelligible)? How do you guys work with that
8 to not break (unintelligible)? Because you said early
9 on that you guys propose these rules after a lot of
10 consultation to make sure that things are fitting in
11 with other departments and all that.

12 How do you guys double-check to make sure you
13 didn't break any federal laws? Or how do you actually
14 work with them or around them when you're making these
15 rules?

16 MR. WILSON: So the 1872 Mining Act really
17 doesn't impact anything that we do, because all that
18 covers is the staking of claims and that sort of thing.

19 UNIDENTIFIED SPEAKER: Actually that covers
20 more than that.

21 MR. WILSON: Well, whatever it covers, it
22 doesn't cover the Forest Service 228 rules or the BLM
23 3809 rules. Usually that's where our permitting
24 processes intersect with those federal agencies, because
25 those are the surface-management rules they use to

1 review and approve those plans of operation.

2 So that's where we usually interact with those
3 other agencies, is reviewing somebody's application. We
4 review it to make sure it ties in with our rules, and
5 they review it to make sure it ties in with their 228 or
6 3809s and also their forest plan or their, you know,
7 regional plan or whatever.

8 So but the 1872 mining law, it's just not
9 something we really worry about. It doesn't really
10 intersect our authority.

11 UNIDENTIFIED SPEAKER: But yet you guys are
12 controlling what happens (unintelligible).

13 MR. WILSON: It's the surface disturbance and
14 the reclamation of that surface disturbance, yeah, so we
15 don't end up with more Yankee Forks with nonfunctional
16 streams and miles of unreclaimed channels.

17 UNIDENTIFIED SPEAKER: Who do we talk to for
18 like a historical road?

19 MR. WILSON: Whoever is --

20 UNIDENTIFIED SPEAKER: (Unintelligible.)

21 MR. WILSON: Whoever is the landowner.
22 Whoever is the landowner is going to control what
23 happens with that road.

24 UNIDENTIFIED SPEAKER: The roads that we're
25 talking about are sort of like -- it would be the same

1 as having the Oregon Trail and having the guys working
2 off the Oregon Trail.

3 MR. WILSON: Uh-huh.

4 UNIDENTIFIED SPEAKER: (Unintelligible.)

5 MR. WILSON: So if it's on Forest Service
6 land, you talk with the Forest Service. If it's on BLM,
7 you talk with them. If it's on private land, then talk
8 with the private landowner.

9 UNIDENTIFIED SPEAKER: In other words, we'd
10 have to contact our legislator or legislation to be able
11 to (unintelligible) the Forest Service if they're doing
12 that, right?

13 (Unintelligible.)

14 MR. WILSON: So let me -- let me say this
15 again. There is nothing the State can do to regulate
16 what the Forest Service is going to do with the Forest
17 Service land. You can't pass state laws that require
18 the Forest Service to do something or not do something.

19 Now you can contact your legislature to put
20 political pressure on the BLM or Forest Service. You're
21 more than welcome to do that. But you can't regulate
22 how the Forest Service keeps or doesn't keep roads up.

23 UNIDENTIFIED SPEAKER: Well, your one rule
24 there said on all lands in Idaho.

25 MR. WILSON: For mining activities.

1 UNIDENTIFIED SPEAKER: But that's a
2 contradiction, though, right?

3 (Speakers talking over each other.)

4 (Unintelligible.)

5 MR. WILSON: No, I don't think so. Because
6 what you're talking about is tearing out roads that --

7 UNIDENTIFIED SPEAKER: (Unintelligible) --

8 (Speakers talking over each other.)

9 (Unintelligible.)

10 UNIDENTIFIED SPEAKER: -- around what you guys
11 have proposed for a rule, right?

12 MR. WILSON: The Forest Service is not
13 engaging in mining, so we don't regulate the Forest
14 Service.

15 UNIDENTIFIED SPEAKER: Like he said, you're
16 saying (unintelligible).

17 MR. WILSON: That's not what I'm saying.

18 UNIDENTIFIED SPEAKER: But that's what it
19 sounds like. That's what we're getting at.

20 MR. WILSON: What I'm --

21 (Speakers talking over each other.)

22 (Unintelligible.)

23 UNIDENTIFIED SPEAKER: That's fine. I
24 understand that. But what we're saying is, you're
25 saying, Oh, it's surface disturbance, it's surface

1 disturbance. What we're hearing is, Yeah, the Forest
2 Service can tell (unintelligible) if they want. That
3 doesn't make a difference. That doesn't interfere with
4 mining.

5 That's what we're hearing, whereas the real
6 truth of the matter is, they're tearing up these roads
7 on each of these mining claims so that no one can get to
8 these claims, or they're closing down roads that no one
9 can use to get to their claims without (unintelligible).

10 MR. WILSON: And there's nothing in our
11 statute or our rules that address how the Forest Service
12 does surface management.

13 UNIDENTIFIED SPEAKER: That's what we're
14 saying, surface management, yes.

15 You're saying it doesn't affect the mining.

16 (Unintelligible.)

17 MR. WILSON: It may affect your access. It
18 absolutely does affect your access. But is it something
19 that we can address through our statute and rules?

20 UNIDENTIFIED SPEAKER: That's what he's
21 asking.

22 MR. WILSON: I don't think --

23 UNIDENTIFIED SPEAKER: Why is that not
24 possible (unintelligible)?

25 MR. WILSON: Because it's Forest Service land,

1 and you have to reclaim your mining disturbance on
2 Forest Service land.

3 UNIDENTIFIED SPEAKER: (Unintelligible.)

4 MR. WILSON: And that's their prerogative,
5 because it's their land.

6 UNIDENTIFIED SPEAKER: (Unintelligible.)

7 (Speakers talking over each other.)

8 (Unintelligible.)

9 MR. WILSON: Well, it does belong -- they
10 manage it. You're right.

11 UNIDENTIFIED SPEAKER: They do a lousy job.

12 MR. WILSON: Well...

13 UNIDENTIFIED SPEAKER: Yeah.

14 (Speakers talking over each other.)

15 (Unintelligible.)

16 MR. WILSON: They do the best they can with
17 the funding they have.

18 UNIDENTIFIED SPEAKER: (Unintelligible.)

19 MR. WILSON: We're not going to solve that
20 issue here. But if you have problems with the Forest
21 Service tearing out roads, then, you know, I can't help
22 you with that.

23 UNIDENTIFIED SPEAKER: My question was, if
24 they go around what your rules are and they do cause a
25 disturbance, whether it's mining or not, how do you guys

1 deal with them on that?

2 MR. WILSON: Our rules are specific to dredge
3 and placer mining. If they're not engaging in dredge or
4 placer mining, then this doesn't affect them.

5 UNIDENTIFIED SPEAKER: Okay. Did you guys
6 (unintelligible) that cleanup that they had up there on
7 Eagle Creek?

8 MR. WILSON: I have no idea what you're
9 talking about.

10 UNIDENTIFIED SPEAKER: That just answered my
11 question.

12 MR. WILSON: Our area folks may know. We have
13 some folks in Cataldo, and we have an office here. We
14 have an office in Saint Joe. They may know more about
15 that, but...

16 Okay.

17 UNIDENTIFIED SPEAKER: (Unintelligible.)

18 MR. WILSON: For recreational dredging?

19 UNIDENTIFIED SPEAKER: (Unintelligible.)

20 MR. WILSON: The Department of Water Resources
21 issues those permits. And they have done consultation
22 for 30 years with DEQ, Fish and Game, and us, and also
23 the federal agencies over the timing and the stream
24 reaches and when will that recreational dredging be
25 least impactful to the fishers.

1 That's why their permitting guidance for those
2 recreational permits is so long, because they've looked
3 at it in some depth for a lot of years. And I know it's
4 a bit daunting to look at their 30 or 40-page guidance,
5 but it's the product of a lot of person hours.

6 UNIDENTIFIED SPEAKER: And when they go and
7 shut down a river for a season, dredging, they have to
8 have (unintelligible)?

9 MR. WILSON: That's a question for Water
10 Resources, because recreational dredging is their deal.

11 UNIDENTIFIED SPEAKER: (Unintelligible.)

12 MR. WILSON: Again, we don't regulate
13 recreational dredging. We leave that --

14 UNIDENTIFIED SPEAKER: But it's dredging,
15 period. It's not just recreational dredging that they
16 shut this river down for. That's what I'm asking.

17 Can I (unintelligible) and get a permit for
18 that said river with an 8-inch dredge, and they don't
19 have any say in it? Is that what you're saying?

20 MR. WILSON: If it's over 8 inches, you'll
21 need a permit from us.

22 UNIDENTIFIED SPEAKER: That's what I just
23 asked.

24 MR. WILSON: Yeah. If it's over 8 inches,
25 you'll need a permit from us. We'll take that

1 application. We'll review it. We'll send it to DEQ,
2 Water Resources, and Fish and Game.

3 UNIDENTIFIED SPEAKER: Forest Service?

4 MR. WILSON: If it's on their land, yeah.

5 For Department of Water Resources, you're
6 going to need an individual stream channel alteration
7 permit in addition to our permit.

8 UNIDENTIFIED SPEAKER: Okay.

9 MR. WILSON: I don't know what the other
10 agencies are going to want. Like, I do know for a fact
11 you'll need a stream channel alteration permit.

12 UNIDENTIFIED SPEAKER: Right.

13 UNIDENTIFIED SPEAKER: At the same time, any
14 of those other agencies can (unintelligible).

15 MR. WILSON: They can deny their own permit.
16 Somebody can send recommendations to our agency about
17 does the application meet our requirements or do they
18 have some stipulations that would be of benefit in our
19 approval process, things like that. But they --

20 UNIDENTIFIED SPEAKER: (Unintelligible.)

21 MR. WILSON: That other agency can't deny our
22 permit. They can recommend that we deny it. But if
23 they recommend that we deny it based on things that are
24 outside of our authority, we're probably not going to be
25 able to do much with that, because if we went to a judge

1 and we made a decision that is outside of our authority,
2 then the judge is going to say that's a really bad
3 decision, and it's overturned.

4 UNIDENTIFIED SPEAKER: (Unintelligible.)

5 UNIDENTIFIED SPEAKER: (Unintelligible.)

6 Some of your wording actually applies, but
7 what my question was, was I was -- under the reading of
8 the wording, it was implying that you guys, even on
9 Forest Service land or BLM land, your rules apply to it
10 first before you negotiate with them or talk to them on
11 our behalf. It doesn't matter.

12 The wording is confusing, because it's
13 actually stating "all." "All of Idaho lands."

14 MR. WILSON: Uh-huh.

15 UNIDENTIFIED SPEAKER: That means all. It
16 doesn't matter if it's on Forest Service, BLM.

17 But when some of our questions are brought up,
18 you're saying that's part of a department or you guys
19 don't have control over that. That's where my question
20 was trying to derive from, was your wording on there is
21 actually stating more ability than what you actually
22 have, right?

23 MR. WILSON: We regulate the actual mining
24 process, okay, and the reclamation, and --

25 UNIDENTIFIED SPEAKER: You understand what my

1 questions were now, right?

2 MR. WILSON: Sort of. Not entirely.

3 UNIDENTIFIED SPEAKER: Well, you used the word
4 "all."

5 MR. WILSON: Uh-huh.

6 UNIDENTIFIED SPEAKER: That means all of the
7 state.

8 MR. WILSON: Except private lands.

9 UNIDENTIFIED SPEAKER: Right.

10 UNIDENTIFIED SPEAKER: Whether it's
11 (unintelligible).

12 MR. WILSON: Right. But we regulate certain
13 types of activities. And when it comes to suction
14 dredging, the definition of "motorized earth-moving
15 equipment" in our statute is pretty specific. It says
16 8 inches -- or, excuse me, over 8 inches.

17 UNIDENTIFIED SPEAKER: Over 8 inches.

18 MR. WILSON: If you're in that range all the
19 way up to 8 inches, that's going to be regulated by
20 Water Resources, and that's how the statute and rules
21 have been constructed.

22 Now if you talk to the Idaho Conservation
23 League, they're not going to agree with that statement.
24 But I --

25 UNIDENTIFIED SPEAKER: (Unintelligible.)

1 (Speakers talking over each other.)

2 (Unintelligible.)

3 MR. WILSON: Yeah, exactly. Exactly. And
4 we've had that discussion with them over the last 15
5 years.

6 UNIDENTIFIED SPEAKER: (Unintelligible.)

7 MR. WILSON: I don't know which one you're
8 talking about.

9 (Speakers talking over each other.)

10 (Unintelligible.)

11 MR. WILSON: Again --

12 UNIDENTIFIED SPEAKER: (Unintelligible.)

13 MR. WILSON: -- we -- there's nothing the
14 State can do to change the Federal Clean Water Act.

15 UNIDENTIFIED SPEAKER: That's contradicting.

16 (Unintelligible), because it takes from that
17 river or that streambed and puts it right back in the
18 same streambed. Therefore, it is the same. It is not a
19 (unintelligible).

20 MR. WILSON: All I know is that if you're
21 dredging in Idaho --

22 (Speakers talking over each other.)

23 (Unintelligible.)

24 MR. WILSON: -- you need to get a permit from
25 Water Resources.

1 UNIDENTIFIED SPEAKER: I get that.

2 MR. WILSON: And apparently you also need a
3 permit from the EPA. And if you don't like the fact you
4 need a permit from the EPA, you need to talk to the EPA
5 about that.

6 UNIDENTIFIED SPEAKER: Oh, that's right.

7 MR. WILSON: Okay. There's nothing our agency
8 can do.

9 UNIDENTIFIED SPEAKER: They won't even answer
10 my phone calls.

11 MR. WILSON: Okay.

12 UNIDENTIFIED SPEAKER: You were talking
13 earlier about written comments.

14 MR. WILSON: Yeah.

15 UNIDENTIFIED SPEAKER: If you go to our
16 website, www.idl.idaho.gov --

17 UNIDENTIFIED SPEAKER: Yeah, I know.

18 UNIDENTIFIED SPEAKER: -- under our Info
19 section there's a Rulemaking tab.

20 (Speakers talking over each other.)

21 (Unintelligible.)

22 UNIDENTIFIED SPEAKER: But it's on our main
23 site.

24 UNIDENTIFIED SPEAKER: Okay.

25 UNIDENTIFIED SPEAKER: Our main website, the

1 News and Info and then Rulemaking.

2 UNIDENTIFIED SPEAKER: Okay.

3 UNIDENTIFIED SPEAKER: And you click on that.

4 And then this is an omnibus rulemaking.

5 UNIDENTIFIED SPEAKER: Okay. Because I'm --

6 (Speakers talking over each other.)

7 (Unintelligible.)

8 UNIDENTIFIED SPEAKER: Yeah, that's how you do

9 it. So on the main page, News and Info --

10 (Speakers talking over each other.)

11 (Unintelligible.)

12 UNIDENTIFIED SPEAKER: Will there be

13 testimony?

14 MR. WILSON: If we're done with questions,

15 yeah.

16 UNIDENTIFIED SPEAKER: Yeah.

17 MR. WILSON: So I have four people signed up.

18 Mark Cook, I believe, is the first.

19 Is Mark still with us?

20 MR. COOK: I'm right here.

21 MR. WILSON: There he is. Okay.

22 MR. COOK: Thank you.

23 So my name is Mark Cook, and I'm with the

24 Northwest Gold Prospectors Association. I'm also a

25 placer miner.

1 I just wanted to thank you, Eric, for the
2 opportunity for public comment today.

3 Our organization was one of the petitioners to
4 have this, so thank you for coming up from Boise. We
5 realize these hearings can be a bit of a distraction
6 from day to day, so it's very much appreciated.

7 But at any time there's discussion proposed or
8 pending mining legislation, it's extremely important for
9 our organization -- I think I speak for everyone else
10 out here, too -- to have a chance to review and
11 hopefully comment on any such legislation.

12 As you probably know, mining, in particular
13 placer mining, seems to be under constant attack for us.
14 So being aware and having the opportunity to review and
15 comment is really very important.

16 A 30-second brief on our organization. The
17 Northwest Gold Prospectors have been around for around
18 23 years. I am a company officer in that organization.
19 We are an organization principally for small-scale and
20 recreational miners.

21 We have 16 club claims in the North Idaho
22 area, Prichard and Murray area, essentially, and these
23 are all bona fide mining claims. And we do have a
24 membership of approximately 300 members. Some of those
25 members are here today.

1 Most of our members are active in some form of
2 placer simple mining -- simple placer mining, basically
3 anything from panning to dredging.

4 Our organization does meet once a month. We
5 discuss typical club business, exchange ideas and mining
6 reports. And very important, we always have a
7 legislative action. So we do make an attempt to stay up
8 on pending legislation, whether it be federal or in our
9 surrounding states.

10 I wanted put on the record as saying I have
11 reviewed the section of the administrative code 20.03.01
12 regarding placer mining and dredging.

13 I have noted, as to be discussed today, that
14 almost all sections and subsections were established in
15 April of '91, and they've been in place with only, I
16 counted, seven entries into this document version, which
17 I received, that were what I would characterize as
18 administrative or definition updates.

19 So it's essentially -- as I think we've
20 discussed, it's the same document. I didn't see any
21 critical defunction changes for a typical miner that
22 were made. They were more administrative.

23 I have concluded, myself, that I am not going
24 to speak on any other members of the club, but I wanted
25 to let you know that our mining activities are typically

1 smaller than a half an acre. And it's pretty much
2 handwork. Any dredging that I'm aware of -- and I don't
3 know all the members of our club -- is typically less
4 than 8 inches, and I realize that 20.03.01 is really not
5 directly applicable to our typical activities.

6 We may have some members that have operations
7 I don't know about, and I don't want to speak on their
8 behalf, that might fall into having the administrative
9 code 20.03.01 apply to them.

10 That's not to say that our activities, less
11 than half an acre, don't have controls and governing
12 equipment, mining season permits. We typically work and
13 know the people at IDWR, BLM, and the Forest Service,
14 and we're aware of those rules and regulations for our
15 mining activities. And those requirements are
16 consistently reviewed in our meetings.

17 I will, however, be circulating this
18 particular administrative code to our members that
19 aren't aware of it. I was not aware of it. And so I
20 thank you for providing the document and the information
21 that we have -- and we had an opportunity to review it
22 ahead of time.

23 So, in summary, I have no specific sections or
24 subsections to comment on. Many of my colleagues and
25 fellow miners probably do, and I'm not going to speak on

1 their behalf by any means, because I know some of them
2 have larger operations and more experience than myself
3 with those larger operations.

4 So thank you for having the hearing today. On
5 behalf of the Northwest Gold Prospectors, we'd like to
6 stay informed of any proposed or pending legislation.
7 We certainly want to be involved. And the NWGPA can
8 definitely, as well as a lot of people out here, provide
9 professional experience prospective on placer mining.
10 There's a lot of experience in this room.

11 I think my takeaway from today is to stay in
12 tune with the negotiated ruling period. I think that's
13 the key to us keeping up on any pending legislation, and
14 an opportunity for public comments, so thanks for
15 sharing that. And thanks again.

16 MR. WILSON: Thank you.

17 Steve Wright?

18 (Unintelligible.)

19 MR. WRIGHT: I'm Steve Wright. I'm chairman
20 of the Coeur d'Alene Mining District.

21 Basically I want to thank you for putting this
22 hearing on. And there's only one rule here on the
23 half-acre limit that I would like to see changed or
24 modified, and that would be taking out the including
25 roads.

1 The Coeur d'Alene Mining District would like
2 to be notified when the proposed rules come up so we can
3 have a voice in that.

4 Again, I want to thank you for your time.

5 MR. WILSON: All right. Thank you.

6 MR. WRIGHT: Thank you.

7 MR. WILSON: Marin Erickson?

8 Is Marin still here?

9 (No verbal response.)

10 MR. WILSON: No? Or is it "Maria"?

11 UNIDENTIFIED SPEAKER: "Maria."

12 Maria. Is Maria out there?

13 MR. WILSON: I think the pen was running a
14 little low on ink.

15 UNIDENTIFIED SPEAKER: (Unintelligible.)

16 MR. WILSON: Okay. We can go to the next.

17 Richard Servatius?

18 MR. SERVATIUS: Servatius, yeah.

19 MR. WILSON: How do you pronounce that?

20 UNIDENTIFIED SPEAKER: Servatius.

21 MR. WILSON: Servatius.

22 MR. SERVATIUS: First of all, even though I'm
23 a member of the Coeur D'Alene Mining District, I am just
24 representing myself.

25 In the rules, this starts off with definition.

1 There is no definition concerning a placer
2 exploration operation as mentioned in 012 number 28.

3 However, in 013 number 2B, it has a short
4 definition, but there's nothing concerning using suction
5 devices that are hand-operated, hand-dug, electric or
6 motor-driven pump suction on dry land and beaches.

7 In other words, if you want -- if you dig a
8 hole and it starts to rain and you're down in bedrock,
9 you might want to suction out the bottom of the hole
10 where the gold is.

11 All right. Next. Reclamation required.

12 This is kind of an example with a question.

13 East Fork of Eagle Creek Road claim is one
14 mile above the closed road. The road is open for placer
15 or suction dredging and the operation finishes. The
16 road --

17 MR. WILSON: Okay.

18 MR. SERVATIUS: Okay. The road must be
19 restored and put into this rule to, quote, conditions
20 reasonably comparable to conditions existing prior to
21 the placer or dredge operation, exploration operations,
22 quote.

23 So what if it is restored to its original
24 road, which was started out in what? About 18 --

25 UNIDENTIFIED SPEAKER: '83.

1 MR. SERVATIUS: '83. That would be its
2 original road, not just before the Forest Service
3 approved the road changes and closed the road.

4 So that's a question. That's all.

5 Next. Application procedure for placer or
6 dredge mining permit.

7 Approved reclamation plan required. No
8 permittee shall conduct placer or dredge mining
9 operations, as defined in these rules, on any lands in
10 the state of Idaho until placer mining permit has been
11 approved by the Board, the Department has received a
12 bond meeting the requirements, and the permit has been
13 signed by the director and the permittee.

14 Okay. We've already found out that the 1954
15 law change allowed this state to make these adjustments.

16 What about existing active mining operations?

17 Okay. So are they grandfathered?

18 On federal lands, they're already approved.

19 Okay. So I've got -- myself, I have a
20 BLM-approved mining claim plan of operation and paid a
21 bond. I want to know whether or not I have to reapply
22 with IDL.

23 If the applicant is not the owner of the lands
24 described in the application or any part thereof, the
25 landowner shall endorse his approval of the application

1 prior to the issuance of a permit. The federal
2 government, as a property owner, will be notified of the
3 application and asked to endorse the application as the
4 property owner.

5 So you guys are going to ask the appropriate
6 federal agencies, you know, send down the permit to
7 them. But on federal land, in my opinion, the State
8 should have no say in the matter.

9 Okay. Requirements for permits to prospect
10 explore should not be required unless the operation
11 involves stream changes or pollution above what
12 naturally occurs and has occurred in the past.

13 An example, a stream currently has a
14 determined amount of mercury flowing in the stream. A
15 suction dredge operator cleans up anywhere from 20 to 95
16 percent of the mercury in the process of mining. This
17 happened in California. Thus, the stream is cleaner
18 than when the mining started. The mining operation
19 should not be required to clean up 100 percent of the
20 mercury.

21 They required it in California and denied the
22 permit.

23 So who does the inspections? Do you do the
24 inspections, the IDL? Does the Forest Service do them?
25 Does the BLM do them?

1 Right now I'm being inspected by the BLM, and
2 they are not charging me any money, okay, as far as I
3 know.

4 In these rules, the inspection costs \$250,
5 except if they're in the Forest Service, then they cost
6 \$100. BLM is not mentioned at all.

7 Okay. So if these inspections costs money,
8 then I haven't seen it yet. In fact, I have seen the
9 Forest Service come along and do an inspection for a
10 friend of mine. They praised him on how good a job he
11 did on reclaiming his mine, and they were so impressed
12 with it they brought a whole bunch of bigwigs from all
13 over the northwest to come and see his reclamation and
14 suggested that all reclamations be done in the method he
15 used.

16 The very next thing they did was after he
17 applied for another project on the same plain was tell
18 him, Oh, that will be two and a half years before we get
19 around to it, and then required a \$24,000 bond.

20 My bond is \$2200. And it's about the same
21 size. It's within a half-acre, I think.

22 Okay. All these applications get forwarded to
23 the Department of Water Resources, DEQ, Fish and Game,
24 EPA, Forest Service, BLM, if appropriate. That's about
25 at least five different agencies.

1 So if the direct -- yeah, if a miner turns in
2 a permit to you and it goes through five agencies for
3 approval and the Forest Service alone wants two and a
4 half years and the miner is only allowed to work for say
5 two years, okay, on a project, he finishes it, it gets
6 done, and the reclamation is approved, now he has to
7 wait another two and a half years to five years in order
8 to get -- to work on his next project. That's
9 ridiculous. How can he stay working when he can't work
10 between projects?

11 Instead, what if the miner fills out 20 or
12 more forms for different spots to prospect in order to
13 keep working? The start and finish times would depend
14 on how long it takes to complete testing at each
15 project.

16 If start and finish times could be changed so
17 that the start of the first hole is listed and the start
18 of succeeding holes are listed in order instead of by
19 date, then this would make more sense.

20 By the way, can you imagine the workload of
21 each department when a miner submits 20 plans of
22 operation and each one is listed for one to two years or
23 more?

24 Later in the rules, an application is
25 terminated if not acted upon within one year. And with

1 special permission from the director, he can go for two
2 years.

3 So if a miner submits two applications for two
4 years, then the second application is terminated
5 automatically before he even begins.

6 In other words, again, the miner has to wait
7 two and a half to five years just to, you know, keep
8 working.

9 Water clarification.

10 No permit shall be issued until the director
11 is satisfied that the methods of water clarification
12 that are proposed by the applicant are of sound
13 engineering design and capable of meeting the water
14 quality standards listed under all these listings; water
15 quality standards, ground water quality rule.

16 My comment: Is the water quality going to be
17 tested at high water or low water? High water is
18 usually muddy in non-dammed streams. How far away from
19 the mining is the water tested?

20 And in the reclamation section, it looks like
21 you folks tried to hide the requirement for filtering
22 the output of a suction dredge, which is impossible,
23 except possibly for huge dredges. I don't know how they
24 work.

25 So, for example, an ordinary suction dredge

1 has a sluice box, and the water -- you know, and
2 material come up into the sluice box, go out of it and
3 drop maybe a couple of inches back into the water. How
4 can you filter it?

5 There is no method commercially made for
6 filtering that I know of.

7 Okay. Permit offering.

8 Upon approval by the Board, the applicant may
9 be notified of the action and the amount of bond
10 required.

11 Okay. So if the director is going to make the
12 determination of the bond required, what about the
13 Forest Service? What about the BLM?

14 You know, I'm paying a bond for the BLM. And
15 is there going to be two bonds paid or not? And that's
16 kind of on the ridiculous side. So who's going to -- if
17 it's only one, who's going to set the bond?

18 Permit would be sent to application for
19 signature. If the bond and permit signed by the
20 applicant are not received within 12 months of board
21 action, the approval shall be automatically rescinded.

22 Now, to me, that means that I can't put in for
23 two permits or three permits, because -- and before I
24 can start the second project, it will be terminated.
25 Automatically rescinded.

1 Okay. The director shall notify the applicant
2 of his decision in writing for the next use on that.

3 Let's see.

4 Okay. What I'm suggesting is that the
5 approval for permits be kept on file with the number of
6 the projects, you know, in order being done. So when
7 you get the first project done, finished, and inspected
8 and approved for the reclamation, you can immediately
9 start on the second project, and all project permit
10 applications can be kept on file so the miner can
11 continuously work.

12 If the miner does a good job of reclamation on
13 the first project, the bond can remain for succeeding
14 projects and no paperwork need be done until a major
15 operation needs to be permitted, such as greater than a
16 half-acre, stream changes, etcetera. Bonding is already
17 required by the Forest Service and the BLM.

18 So okay. Deviation from an approved permit.

19 I've got a drawing that explains this. I want
20 to show it to everybody.

21 Here's a dig test area, exploration operation,
22 and with GPS coordinates and whatever.

23 Okay. This is a ramp down if you need to --
24 if you need to drive down your excavator in order to get
25 -- keeping up the bedrock.

1 Okay. Around it -- sorry. Around it is an
2 area where you plan on putting your overburden.

3 Suppose you dig down here on your dig test
4 hole and you decide that all the gold seems to be going
5 towards this hole, but that hole is boundary by your
6 plan of operation, and you want to dig down 2 feet this
7 way, okay, just in this area. You want to dig down
8 2 feet. That's not allowed. That's illegal.

9 Now what about amendments? Well, if we want
10 an amendment, we have to go through IDL who's going to
11 go through all these five agencies just to dig 2 feet
12 that way.

13 I'm suggesting that the field inspector,
14 whoever that is, be allowed the authority to say, Well,
15 that's not going to hurt anything, go ahead and dig it,
16 put it in writing that he made this judge (sic), and you
17 can go ahead and dig it.

18 And if there's a problem he doesn't like, you
19 have to cut down a tree that's going to infringe on a
20 stream in that area, something of that nature, then he
21 can deny it, and then he'd have to go through it.

22 But if you can't do that, then what happens?
23 You need to redig, right? So you have to submit a new
24 plan of operation at midnight. It has to be approved.
25 You have to fill in and reclaim this whole area.

1 Okay. After you've reclaimed it and you get
2 the new project approved, which could be two and a half
3 to five years, now you get to dig it again. And guess
4 what? The reclamation area that you already did, now
5 destroyed.

6 And after you get done doing that little dig,
7 you say, Huh, well, now I've got to reclaim it again,
8 all over again.

9 So that's why I'm suggesting that a field
10 inspector has the authority. He may have the authority
11 to make this judgment in writing.

12 All right. Bonding comment.

13 I think miners with a record of at least five
14 approved reclamations should be given preference for
15 reclamation projects; i.e., a bad miner doesn't do the
16 reclamation job and is fined. A list of good miners is
17 mailed out to that region to see if they want the
18 reclamation job before other contractors are notified.
19 This might help miners stay in business while they are
20 waiting for permit approvals. They also have a
21 reputation of doing a good job on reclamation.

22 So it would make sense. They're in the area.
23 They know how to do it. They've done it before.
24 They've been approved before. Why not give them the
25 job, if they want it?

1 Termination of a permit.

2 You know, in the application for the permit,
3 you have to tell them when you're going to finish the
4 permit. For a suction dredging operation, for example,
5 you have a mining claim on a section of stream. Say
6 it's half a mile long and you want to suction dredge it.
7 That means you have to turn in the time you're going to
8 quit dredging, except that gold keeps coming down the
9 stream. You want to suction dredge that creek forever.

10 Why should there have to be -- it should be an
11 indefinite time period for some projects, is what I'm
12 saying. In other words, you don't have to finish it.

13 Okay. Permit inspections.

14 Currently I am being inspected once or twice a
15 year. That's just one mine claim. There are thousands
16 of mining claims in Idaho. You'll have to have at least
17 500 inspectors, in my opinion. I suggest that you have
18 the mining districts inspect their own mines with your
19 training.

20 Okay. What about private landowners that mine
21 without permits? They don't even know that there's
22 permits that are necessary. They probably won't even
23 know that they have to get them or which permits are
24 necessary.

25 There are thousands of active mining plants in

1 North Idaho. There are lots more inactive mines. The
2 inspections have to be done at the start and end of the
3 project at a minimum, plus a couple years later to check
4 for weeds, etcetera. That means at least three
5 inspections per active claim, unless it's dredging, and
6 then who knows. I don't know what it would need.

7 At \$45,000 per year times 500 inspectors
8 equals \$20 million in wages, plus travel expenses,
9 overtime. I hope you have that much money in the
10 budget.

11 Of course you'll have to provide a
12 four-wheel-drive vehicle with good tires and ATV/UTV to
13 get around the mining claim. Chains would be necessary
14 in the winter and/or tracks for the ATV/UTV, plus
15 vehicle insurance and licensing. Training will have to
16 be given to all mine inspectors to ensure we all inspect
17 the same.

18 At about \$500 per inspector for the training,
19 that's 25,000. The training would take at least two
20 days, and that means per diem, travel expenses, and a
21 delay before they can work. Temporary rules being put
22 into place from a week to two weeks and setting up the
23 training and places to do the training take at least a
24 month.

25 Inactive mines will have to be found,

1 inspected, and ownership determined, if not reclaimed
2 properly, reclaiming the mine contracts put out and
3 inspected, and notices to owners by certified mail. The
4 federal agencies are going to have to be notified.
5 Permission to be on private property will have to be
6 obtained, or a search warrant. All this stuff has to be
7 done by mine inspectors.

8 So a common person buys a patented mine to
9 build a house on, plant trees, do landscaping, drills a
10 well, digs a basement. According to what I've heard,
11 the new owner is responsible for all the toxic waste,
12 etcetera, that was previously done to the land stream
13 and may not even know about it. He further might have
14 to have a mining permit to dig that basement or drill a
15 well.

16 Old digs.

17 While hunting I found an old shaft, 15 foot in
18 diameter and depth also with vertical walls that either
19 humans or animals could be trapped in. I contacted the
20 Forest Service with location since they administer the
21 land. They informed me that they would fill in the hole
22 using foam. No mention of using topsoil on top or
23 planting. They apparently contract this work to
24 companies on a list, their own list.

25 Why can't miners fill in these old holes using

1 reclamation methods and get paid for it? I was informed
2 that the Coeur D'Alene National Forest only uses
3 companies on their list.

4 Now I come to the date of enforcement, which I
5 saw one of them was 6-19, five days or so from now. The
6 other one is 6-30-19, which is this month, and the
7 meeting is today. That gives the State about five days
8 wherein there's a weekend in order to go through
9 comments, make changes, and publish the rules.

10 Okay. Reclamation requirements.

11 This is the last subject, by the way.

12 For the requirements, you need to have a
13 seven-and-a-half-minute map, which, you know, to put in
14 your reclamation. They are no longer sold in this area
15 since the U.S. Geological Survey Office closed in
16 Spokane.

17 If ore processing is to be done on private
18 property, then do all of these requirements still apply?

19 For suction dredging, there should be no
20 reclamation required unless the stream channel is
21 changed.

22 That's my opinion. Thank you.

23 MR. WILSON: Thank you.

24 Did we get Maria back?

25 UNIDENTIFIED SPEAKER: (Unintelligible.)

1 MS. ERICKSON: Hi, my name is Maria. I'm from
2 Coeur D'Alene Mining District. I'm a secretary for the
3 district. I am actually a dredger. I do a small-scale
4 -- we do a small-scale operation (unintelligible), which
5 I understand the IDL does not regulate as much.

6 My main concern is with the -- working with
7 the federal offices and state offices, if there was a
8 way that guys could streamline the process for the
9 permittees to get their bonds and everything approved
10 since they have to go through five different offices, or
11 even if they submit to you, if you may be able to put a
12 time limit on the Forest Service or on the BLM to get
13 their responses.

14 Bonding. Again, you may have one bond, the
15 Forest Service may have another bond, different amounts,
16 and if it would be possible to do one single bond for
17 all of these. Different agencies say, Oh, well, you owe
18 us this, you owe this one that, you owe that one that.

19 I would like to use (unintelligible) and, you
20 know, if you guys would be able to streamline the
21 process for that, that would be amazing.

22 And that's it. Thank you.

23 MR. WILSON: Thank you.

24 That's all we had signed up. But if anybody
25 else wants to provide some testimony, then you're more

1 than welcome to.

2 UNIDENTIFIED SPEAKER: Could you clarify the
3 fact that Idaho is raising the riverbed, the gravel, and
4 the banks? You mentioned that earlier.

5 MR. WILSON: Yes, I did.

6 UNIDENTIFIED SPEAKER: (Unintelligible.)

7 MR. WILSON: What we need to do is, I can
8 answer your question after we're done taking testimony,
9 but...

10 UNIDENTIFIED SPEAKER: I would like to know
11 that.

12 MR. WILSON: Yeah, but we need to close out
13 the testimony first, and then I can answer your
14 question.

15 UNIDENTIFIED SPEAKER: Sure.

16 MR. WILSON: Is there anybody else who wants
17 to provide testimony?

18 (No verbal response.)

19 MR. WILSON: Okay, great. Then we will stop
20 the recordings and stop taking testimony, and then I can
21 answer your question, talk to you -- you got it?

22 Okay. Thanks.

23 (End of audio.)

24

25

1 REPORTER'S CERTIFICATE

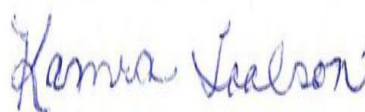
2
3 I, KAMRA TOALSON, CSR No. 756, Certified
4 Shorthand Reporter, certify:

5 That the audio recording of the proceedings were
6 transcribed by me or under my direction.

7 That the foregoing is a true and correct
8 transcription of all testimony given, to the best of my
9 ability.

10 I further certify that I am not a relative or
11 employee of any attorney or party, nor am I financially
12 interested in the action.

13 In witness whereof, I set my hand and seal this
14 4th day of September, 2019.

15
16
17 
18

19 KAMRA TOALSON, CSR NO. 756

20 Notary Public

21 Post Office Box 2636

22 Boise, Idaho 83701-2636

23 My commission expires May 23, 2024
24
25

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