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 15, 2019, 12:00 p.m.
Location: Idaho Department of Lands Eastern Supervisory Area
          3563 Ririe Highway,
          Idaho Falls, Idaho

REPORTED BY:

JANET FRENCH, CSR NO. 946

Notary Public
MR. WILSON: So good afternoon. My name is Eric Wilson. I'm the bureau chief for resource protection assistance, and we are here today to talk about our rule making process.

So we've gone through the introduction. We are going to talk about the history of placer mining regulation in Idaho, for the Department of Lands anyway, what is required by IDL through statutes and rules, why this rule making is being conducted, and then we will take any testimony that you have.

So placer mining is the extraction and concentration of heavy minerals or metals from a placer deposit, often using running water.

Gold historically is our most important target for placer mining in Idaho. Monazite and other radioactive minerals have also been extracted in the past up in Bear Valley area, central Idaho. Garnet is currently the -- has the most production -- industrial garnets up in northern Idaho, the Fernwood area, and a few places where they also placer mine for the star garnet, which is our state gem.

There is some pretty deep historic roots for placer mining in Idaho. It helped settle the Idaho
Territory. It was first discovered in Orofino Creek by Elias Pierce in 1860, and then in the Salmon River Boise Basin, Owyhee County, and finally Loon Creek and Yankee Fork.

Placer mining started out with some pretty simple tools, panning and sluicing. It spread all across the state. People got excited when they found a lot of gold, and as they got more investment, then they got bigger equipment and more expensive operations going — Pioneerville and Rocky Bar, both in Boise Basin.

And in addition, they had bucket line dredges in several places across the state. If you've never been up to Yankee Fork, you should really go there in the summertime. They give tours of the dredge with some volunteers. It's pretty fantastic. But they had a lot of these bucket line dredges in many places, and this is what they left behind. This is also in Yankee Fork. There is miles of this where the river used to be: Grimes Creek, again, in the Boise Basin; the middle fork of the Boise, and a lot of other places across the state.

So a lot of that large scale dredge and placer mining took place until the 1950s. Several hundred miles of streams were impacted. Sportsmen
grew tired of all these sediment filled streams. Salmon and trout fishing was very big in the state of Idaho throughout the early 1900s, guiding services and that sort of thing. So in 1954, by initiative vote -- this is a vote of people -- they passed the Idaho Dredge and Placer Mining Protection Act, Idaho Code 47-13.

It required plans, bonding, maintaining water quality standards and reclamation when the mining was completed. It's been a very active program throughout the 1990s, but it has tapered off. Again, garnet mining is currently the largest volume that we see.

Here is all the permits we have statewide by our area offices. Cataldo is way up north in the Silver Valley. St. Joe -- that is where most of the garnet occurs, and then on down into Southern Idaho. Not a lot going on in Southern Idaho for the permits that the Department of Lands administers.

So when do we require a permit? When the disturbance exceeds a half acre of cumulative disturbance, then a permit is required. Operators are not allowed to work a half acre and then reclaim it and then work another half acre on the same property, et cetera, without a permit; so it is a half acre
cumulative disturbance. Anything less than a half acre we consider that exploration.

We get a lot of questions about suction dredging. Our statute only applies to suction dredges larger than 8 inches in diameter. We have not received any of those applications in the last 20 years.

Idaho Department of Water Resources, they are the ones who handle the regulatory requirements for suction dredges 8 inches and smaller through their recreational suction dredge permitting or they have an individual permit for that 5- to 8-inch diameter range. So we don't regulate recreational suction dredging at the Idaho Department of Lands as a regulatory program.

So what types of activities do we regulate for dredge and placer mining? Usually it's activities that occur outside of stream channels and usually those areas adjacent to the streams. Traditional excavating equipment, backhoes, excavators, that sort of thing feed to wash plant where then those gravels are washed and processed and the minerals extracted. There is often settling ponds. Backfilling and reclamation, of course, is required after mining.

Operations may mine through the stream
channels, but it's entirely permissible. Some of the garnet operations have been able to do that and make it worth their while, but we haven't seen any gold operators with those kinds of operations because they are just not finding deposits that have enough gold to justify that level of activity.

So let's talk a little bit about our rulemaking process. Rules are governed by the Administrative Procedures Act, Idaho Code 67-52. All rules expire on July 1 of each year, unless the legislature, during the session, extends those rules for another year.

In this last session, 2019, the legislature failed to extend the rules. It's not just our rules. It's all rules for all agencies in the state of Idaho. So then all the state agencies had to initiate temporary and proposed rulemakings to fill in that regulatory gap.

We adopted temporary rules that were effective on June 30, 2019. And all we did was -- the rules that were in effect at the end of legislative session, we adopted those as a temporary rule until we can get this proposed rulemaking completed. And, again, we didn't propose any changes from what was in effect at the end of the last legislative session.
So where do rules fit in the grand scheme of things in the state of Idaho? Well, the ultimate authority in the state, for state government anyway, is the Idaho constitution, of course.

Underneath that are statutes. That's the Idaho code. That's what the legislature passes when they are in session.

And then underneath that, agencies have administrative rules that they construct and go out for public comment and public involvement, and then those agency rules actually go to the next legislative session for approval or disapproval. The legislature can either give them the thumbs up or the thumbs down. The cannot edit the rules. They can only approve or deny.

So currently we are in the proposed rulemaking stage. Normally, if you are going to have substantive changes in one of these administrative rules, you go through the negotiated rulemaking process so that you can get some feedback from the affected parties and other interested people and talk about the changes and work through them and come up with a set of rules that everyone is comfortable with.

Because of the timelines with the legislature not approving the rules and the agencies
not being able to start until after the legislature adjourned, we did not have time to go through negotiated rulemaking. We have to start that process back in March or April and -- but, again, we are not proposing any changes to what was in effect at the end of the legislative session; so we are not really trying to negotiate any changes. We are just trying to have the existing rules carried forward.

So there is a public comment period during proposed rulemaking, and we had a number of petitions that we received during that comment period, and if we have enough petitions received, then we have to have hearings and so we scheduled, based on the petitions that we received, three hearings. We were in Coeur d'Alene last night. Today we are in Idaho Falls. Tomorrow we will have one in Boise. And then we are accepting written public comments also through tomorrow.

So if there are any changes to be made to a proposed rule, you can only make those changes based on written comments received or oral testimony given.

So our comments on the rule and any possible changes that we want to make based on those comments we are going to take those to the September land board meeting. And then at the October land board meeting,
we have to submit the final pending rule to the land
board for their approval. Because by October 16, we
have to give the pending rule and the notice to the
office of administrative rules. That is a cannot miss
deadline on October 16. If you miss that deadline,
then you don't have rules that go to the next
legislative session so that's -- that's kind of why we
are locked into this tight time frame. And then those
rules will be reviewed by the legislature.

So the hearing format is prescribed by that
Administrative Procedures Act. And, again, since this
isn't negotiated rulemaking, there is really no
discussion. We can have some Q & A before we get into
the testimony, but once we get into the testimony,
then we just receive the testimony until folks are
done and then the hearing is over. So that is the
format that is prescribed by the Administrative
Procedures Act for the proposed rulemaking.

We don't have a lot of people signed up; so
we will take as much testimony as folks want to give.
And, again, written comments are also accepted; so if
you want to bounce some written comments later today,
tomorrow, just get those into us before the end of
tomorrow.

Do you have any questions?
MR. ERLANSON: I got a couple.

MR. WILSON: Okay. Go for it.

MR. ERLANSON: Number one, since this is --

THE COURT REPORTER: What is your name?

MR. ERLANSON: Dave Erlanson, Senior, Swan Valley, Idaho.

THE COURT REPORTER: How do you spell your last name?

MR. ERLANSON: E-R-L-A-N-S-O-N.

THE COURT REPORTER: Thank you.

MR. ERLANSON: Since this is dealing with mining, even though you've proposed no new changes, why weren't the mining districts in the state of Idaho notified of these meetings?

MR. WILSON: So for the proposed rulemaking, we advertised in the administrative bulletin as we are required to do under the administrative procedures, and we notified those folks -- our permittees that we thought might be interested.

Mining districts are not an official designation. They are kind of an informal thing.

MR. ERLANSON: Do you realize that according to the Congress of the United States mining districts are on the same part as the BLM and the U.S. Forest Service?
MR. WILSON: That may be, but under State of Idaho regulations, there is no recognition in mining districts. And in any part of state government, there is no recognition of mining districts.

MR. ERLANSON: I would have to contest that because in the Idaho constitution it actually states about mining districts.

MR. WILSON: And our regulations apply to all state, private and federal lands, regardless of if there is a mining district or not. So there is no recognition in our rules or statutes for mining districts.

MR. ERLANSON: Okay. Do you receive your authority from the constitution or from a legislative action?

MR. WILSON: We receive our authority from the legislature because they pass and administer laws, and through that voter initiative in 1954, that's when they enacted our --

MR. ERLANSON: Right. That is that 47-13 that you had up there?

MR. WILSON: Exactly. Yep. And under that, we have then rulemaking authority.

MR. ERLANSON: Okay.

MR. WILSON: To further flesh out that statute,
give definitions where definitions are needed so that everybody can agree on what is the terminology, what is the permitting process. It provides more fleshed out framework than the statute.

If we just tried to implement the statute as it was, we would probably be in court a lot arguing about what terms mean and how the statute should be interpreted. So the rules fill in that gap, just to try to --

MR. ERLANSON: Oh, I understand completely. I don't have a problem with that.

Do you have any type of written paper that I can -- could take with me on what you've presented?

MR. WILSON: No. But we are going to be posting this and the sign-in sheets on our website. And, again, we have had all this information on our website.

MR. ERLANSON: Okay. That's good. So you just go to Idaho Department of Lands and then what do you have to do to get this information?

MR. WILSON: I can actually show you. Let's see. I think we are -- because we have some -- this is where all our area offices are.

MR. ERLANSON: Sure.

MR. WILSON: Let me click out of here.
MR. ERLANSON: Yeah, because I'm not a computer genius; so take it easy on me.

MR. WILSON: Let's see. I don't want Omni join. That's weird. Okay. So Department of Lands. So here is our home page.

MR. ERLANSON: Okay.

MR. WILSON: On the right near the top, there is a place for rulemaking.

MR. ERLANSON: Wait a minute. Where were you?

MR. WILSON: So this is our home page. If you Google Idaho Department of Lands, this is where it will take you.

MR. ERLANSON: I got you. Where did you go to the rulemaking?

MR. WILSON: Down here on the bottom right.

MR. ERLANSON: Oh, okay. On "Popular Pages"?

MR. WILSON: Yep. Go to "Popular Pages," and we are in the "Omnibus Rulemaking."

MR. ERLANSON: I got you.

MR. WILSON: And let's see. Todd, do we have a separate --

MR. DRAGE: No. Over to the right it says "Submit Public Comment." There is an email there, or you can actually fill it out through IDL web. If you go up one to where it says "here," Eric.
MR. WILSON: Uh-huh.

MR. DRAGE: That quick link will take you right to comments.

MR. WILSON: Okay. To leave comments?

MR. DRAGE: Yeah.

MR. WILSON: So we are going to post our other stuff --

MR. ERLANSON: Well, how do you get the posting of the presentation that you just went through some?

MR. WILSON: It's not up here because we are still giving these presentations. It will probably be -- let's see. Here is our hearings for forest practice -- dredge and placer. It will be down here. So towards the bottom of this omnibus rulemaking page will have the information on the dredge and placer mining in here.

MR. ERLANSON: Okay. So after -- are you telling me that after Friday -- tomorrow, the deal that you are going to have in Boise, then you'll have this presentation up on this website?

MR. WILSON: Yep.


Thank you on that.

MR. WILSON: You bet. And here is -- we have copies of all the petitions from the hearing posted so
you can look through all that.

MR. ERLANSON: Oh, that's interesting.

MR. WILSON: And here's written comments we've
gotten on things up to this point.

MR. ERLANSON: Those written comments, does it --
what does that say? Mike Gibbs or something up there?

MR. WILSON: Mike Hibbs.

MR. ERLANSON: Okay. Does it state he's a member
of something or other?

MR. WILSON: I have no idea. I haven't looked at
these, actually.

MR. ERLANSON: That's a pretty good comment.

MR. WILSON: That is, yeah. It's -- there it is.

We are on a slow Internet connection here; so...

MR. ERLANSON: You think it's slow here. You
ought to see where I live.

MR. WILSON: Yeah. And this was on the dredge
and placer mining, yeah. "Recreational placer mining
should continue to be allowed."

And, again, we don't regulate the
recreational suction dredging. Water Resources does.
I just want to make sure that's clear.

MR. ERLANSON: Oh, yeah. That's one of the
reasons I came today because when I -- I just found
about this a couple hours ago through an email that I
got and I says, "What is this all about?" So since
I'm a retired old guy, I decided to come and snoop,
you know.

MR. WILSON: That's fine. You are welcome to
snoop. You can snoop on our website until you fall
asleep if you want.

MR. ERLANSON: Well, I'm happy I came.

Now, the other thing is that you mentioned
something about the legislature, and you mentioned --
you gave some time frames there. And the one thing I
thought about the Idaho legislature was that if a rule
wasn't acted upon in -- a proposed rule in 60 days,
that it actually became a rule. Now, that -- I wonder
about that.

The other thing that I was surprised at.
You say under this 47-13 that operations may go
through an existing stream channel.

MR. WILSON: Yep.

MR. ERLANSON: I mean, I'm a miner, but I am an
environmentalist too, but I would like to -- I mean,
I've never heard of that before. I mean, that --

MR. WILSON: Yeah, it's entirely possible.

So when we receive an application -- and our
rules have all the requirements. So if you check all
the boxes in the application and submit all the maps
and plans, we take that application, and we send it to the Idaho Department of Water Resources, DEQ, and Idaho Fish and Game for review and comment.

MR. ERLANSON: Okay. Now the Department of Lands, i.e., Lands -- do you assert any jurisdiction over the waters in the state of Idaho?

MR. WILSON: So you are talking water rights?

MR. ERLANSON: No, I'm not. I'm talking use of water, basically.

MR. WILSON: Use of water is water rights in most cases.

MR. ERLANSON: Well, there is appropriated for beneficial uses, okay, which mining in the Idaho constitution is stated, then there is unappropriated. And I just wondered if the Idaho Department of Lands has any jurisdictional clout, whatever, on -- you know, on appropriated waters -- beneficial waters?

MR. WILSON: We have water rights associated with some of our endowment lands that we manage, but that has nothing to do with this regulatory program. Because we also manage the state endowment lands that generates money for schools and other public institutions. So on some of our endowment lands, we have water rights.

MR. ERLANSON: Okay. Why are you -- if there is
a dredge -- didn't you say something about 8 inches
and up or something on dredge?

MR. WILSON: Yeah. That's when our regulations
become effective.

MR. ERLANSON: Okay. But you are still dealing
with the water; right?

MR. WILSON: No.

MR. ERLANSON: In a suction dredge. An 8-inch
suction dredge you said you get -- you haven't got any
applications.

MR. WILSON: Right.

MR. ERLANSON: And I'm wondering why, because I
actually did apply twice to the IDWR. I did the 3804
B permit.

MR. WILSON: Was that up on the Red River area?

MR. ERLANSON: No. It was on McCoy Creek,
actually.

MR. WILSON: Okay. I don't know where that is.

MR. ERLANSON: Bonneville County. And they never
even looked at it. And also I wanted an extended
season on the South Fork Clearwater River, and Aaron
wouldn't even look at it. So we went through a
hearing process. It was all cut and dry, you know.
Well, I don't have to get into that.

But anyway, I was wondering why you were
never notified that we applied -- the three of us?
Why wouldn't you have been notified, is my question.

MR. WILSON: So if there is -- we don't get
notified for the recreational dredging applications,
which goes from -- zero up to, I think, 5 inches is
Water Resources recreational --

MR. ERLANSON: Yeah. Because EPA basically
states that anything 5 inches and down is not a source
of -- and the Army Corps verifies that.

MR. WILSON: Yeah. And so then from 5 to 8
inches you have to get the individual permit from
Water Resources for stream channel alteration.

MR. ERLANSON: Well, individual under NPDES in
the state of Idaho.

MR. WILSON: Yeah, and we don't get involved with
the NPDES. But we do get copies of those individual
permits that go to --

MR. ERLANSON: You are talking 3804 B permit?

MR. WILSON: The Water Resources permit -- stream
channel operation. Yeah, we get copies of all the
individual permit applications.

If we don't have a dog in the fight, we may
not offer a comment. It depends on what water body it
is in.

If it's on a state owned navigable river, we
may offer some comments.

MR. ERLANSON: Okay. Now, you know -- I'm sure you are aware of -- what is your name? Mr. Wilson?

MR. WILSON: Yeah.

MR. ERLANSON: Mr. Wilson, I'm sure you are aware that there is a big jurisdictional problem with the -- overreaching the EPA on what is and what is not a navigable river.

MR. WILSON: With the EPA or with the Corps or with the Coast Guard or BLM? There is --

MR. ERLANSON: There is a lot of difference.

MR. WILSON: Yeah.

MR. ERLANSON: The EPA got greedy and said that -- in their 502s, which is the definitions and stuff. They said that any water that flows into another water that flows into another water and ends up in the contingency zones that run the 48 states and Alaska or the territories is a navigable water.

Now, Trump has been trying to do away with that since 2015. He's been -- it's completely -- you know, he makes it. A judge says, "No, you can't do it." And then he makes another and the judge says, "No, you can't do it."

MR. WILSON: There is a difference between what is considered waters of the U.S. under the Clean Water
Act and what is considered a navigable stream.

MR. ERLANSON: Well, a navigable stream in Idaho is supposed to be an 8 foot log, 6 inches around.

MR. WILSON: Exactly. That's what we are talking about.

MR. ERLANSON: In high-water, it is supposed to be able to go down the stream.

MR. WILSON: Yeah. And so on our website -- on our Department of Lands website, we have a list of what we consider to be the state recognized navigable rivers and lakes. Now, that list is not exhausted. We can add to it or subtract in the future, but at the current time that is what we believe are the navigable streams and rivers in Idaho.

You can go and download that on our website at any time.

MR. ERLANSON: That's on your website?

MR. WILSON: Yeah.

MR. ERLANSON: Department of Lands. That's interesting.

Now, as far as the Idaho legislature is concerned, they recognize that is the only navigable rivers in the state of Idaho?

MR. WILSON: Well, the legislature really doesn't have a thing to say about it. It's up to the state
land board. Because the state land board has been
entrusted by the legislature to manage those navigable
waters. And the state land board has the authority to
determine what is navigable and what's not.

MR. ERLANSON: Okay. You are going faster than
me. But now let's go with the state land board.

And you are saying that the state land board
has the authority -- legislative authority -- this is
informative. I'm glad I came -- the state land board
has the legislative authority to administer the
navigable waters.

Now, would you put down as proposed by the
Department of Lands?

MR. WILSON: It's -- we don't know --

MR. ERLANSON: As listed by --

MR. WILSON: No one has challenged our list.

That list has been around for longer than I've been
around.

MR. ERLANSON: Okay. Good. I'm just asking you
how I'm supposed to write this down.

So what would you put? As proposed or as
listed?

MR. WILSON: I would say as listed.

MR. ERLANSON: Okay. As listed.

MR. WILSON: Now, keep in mind, the courts have
determined that they are actually the final
arbitrators of what's navigable and what is not.

So the land board weighs in on it,
ultimately, though, it could be up to the judge.

MR. ERLANSON: Well, under the 1955 Submerged
Land Act that was just adjudicated March 29 of this
year, Sturgeon v. Frost, an Alaska case, the lands
under all navigable waters are, in fact, properties of
the state.


MR. ERLANSON: So that was a big ruling. So
that's why I'm asking you about your list of navigable
waters, because your list of navigable waters, I'm
sure, does not include all the waters in the United
States.

MR. WILSON: No, it does not. Again, those are
two completely different things.

MR. ERLANSON: That's right. So that's what I'm
interested in.

So there is a conflict, let's say.

MR. WILSON: I would not say there is a conflict.
They are different definitions, different terms for
different purposes.

MR. ERLANSON: Oh, I'll grant you that. I'll
grant you that. Yeah, that's interesting.
Okay. That state board has legislative authority, what is -- are you familiar with that law?


MR. ERLANSON: Did you say 58?

MR. WILSON: Yeah.

MR. ERLANSON: Okay. Go ahead.

MR. WILSON: Dash 109. And then I can't remember the rest of it.

MR. ERLANSON: That's fine. You are good. I appreciate that.

Okay. That's good. That's good to know.

MR. WILSON: Or is it 104, sub 9? Maybe it is 104, sub 9.

MR. DRAGE: What are you looking for?

MR. WILSON: You know, I might be able to find it.

It is 104. I'm sorry.

MR. ERLANSON: 104.

MR. WILSON: 104 and sub 9.

MR. ERLANSON: Can you just hold it there a second?

MR. WILSON: Uh-huh.

MR. ERLANSON: February 18 -- uh-huh. I've been studying the Idaho stuff. I've really never looked at this one. This is interesting. I like it.
MR. WILSON: When the state came into the union, we came in under the equal footing doctrine; so any new state that was added to the union, and we came in in 1891. They entered the union on an equal footing with other states. The other states got title to the beds of their navigable waters; so did Idaho.

MR. ERLANSON: Yeah. A lot of that had to do with the territorial deal too with geographic boundaries.

MR. WILSON: Well, yeah. It goes back to -- a lot of our laws are based on English common laws, and that was actually derived from Justinian Codes and Emperor Justinian and the Holy Roman Empire.

MR. ERLANSON: Yeah, you are looking -- that's a little far for me.

MR. WILSON: It has some deep roots.

MR. ERLANSON: But I do know about the articles of confederacy, and I do know that people in the state of Idaho don't have any idea that the BLM property, the national forest property, they are not -- they are not part of the state of Idaho. They are still territorial properties of the United States, and as such, aren't covered under the constitution, but they are supposed to be under Downes v. Bidwell in 1901.

MR. WILSON: We have a Supreme Court ruling from
Northern Idaho that --

MR. ERLANSON: Oh, I might be interested in this. Keep talking.

MR. WILSON: It was I think Click v. Andrus, and it established that our -- and it was for placer mining, actually -- our placer mining regulations do apply to federal lands --

MR. ERLANSON: Wow.

MR. WILSON: -- in the state of Idaho.

So when we get an application --

MR. ERLANSON: Are you kidding me?

MR. WILSON: No. I'm dead serious.

MR. ERLANSON: You know what? I could buy you a beer.

MR. WILSON: I would love a beer, unfortunately, I'm on the clock.

MR. ERLANSON: Well, I know that. Holy smokes. I can't believe it. Now, wait a minute. Hold on. Don't say nothing. Tell me the case.

MR. WILSON: Click v. Andrus.

MR. ERLANSON: Click, meaning C-L-I-C-K?

MR. WILSON: Yes, exactly.

MR. ERLANSON: Click v. Andrus.

A-N-D-R-U-S?

MR. WILSON: Andrus, as in Cecil.
MR. ERLANSON: When was this?

MR. WILSON: It was in the '70s. I can't give you an exact date.

MR. ERLANSON: Okay. But it is a Supreme Court case. It's not a circuit case?

MR. WILSON: Idaho Supreme Court.

MR. ERLANSON: Oh, Idaho Supreme Court. That's different. Okay. Idaho Supreme Court case, Click v. Andrus.

In the '70s?

MR. WILSON: I think it was, yeah.

MR. ERLANSON: Yeah, I know Idaho has the privacy over the water, because they are one of the 11 western states that allocate water.

MR. WILSON: For water rights, yeah.

MR. ERLANSON: That's right. They are west of the 98th meridian; so I understand that fact.

So this -- but this surprises me here.

MR. WILSON: So when we get an application for a project on federal lands, we send it to those state agencies I mentioned earlier. We also send it to that federal agency, BLM or Forest Service. We want an operator to come up with one plan to satisfy everybody's requirements.

MR. ERLANSON: Well, that's the way it should be.
This BS that is going on today with the placer miners in the state of Idaho -- I mean, we are fighting tooth and nail now. Because I've been in litigation with the EPA for five years.

MR. WILSON: That will stop in a couple years because the State of Idaho is getting permitting primacy over point source discharges.

MR. ERLANSON: I know. I understand that. But by the same token, they are adopting illegal actions to satisfy the EPA.

MR. WILSON: I have no comment on that.

MR. ERLANSON: And I'm not going to get into that. But there is a depravation of use here. And I'm glad you mentioned the Administrative Procedures Act because that's another thing that the water resource board ignores. But we will get into that some other day.

But I'm really glad that you mentioned about this case.

MR. WILSON: Yeah, it's an important case.

MR. ERLANSON: That's a real important case.

MR. WILSON: We rely on that a lot in our other -- in our mining regulatory program as well; so...

MR. ERLANSON: Yeah. I'm surprised that you say
this case says -- and it hasn't -- the Forest Service
and the BLM, as far as you know, haven't tried to
overturn this ruling?

MR. WILSON: No. We have a pretty good
cooperative relationship as far as reviewing plans and
permitting.

MR. ERLANSON: I'm going to have to get a retired
job working for you people.

MR. WILSON: Recognizing -- so when you post a
bond with one agency, if it satisfies the requirements
of both agencies, we recognize that.

MR. ERLANSON: Yeah, I've been involved with the
Forest Services for years. Okay. Well, that's -- I
never knew about this. This was worth the whole trip.

MR. WILSON: Okay, good. I'm glad we made it
worth your while.

MR. ERLANSON: No. I'm serious. I really
appreciate that. That's very important.

And that's on federal ground?

MR. WILSON: Yeah, it was on Forest Service land.
The guy was doing a bunch of placer mining without
getting any permits at all -- the -- I think this was
maybe before the Forest Service had forest service
management regulations; so...

MR. ERLANSON: Yeah, that's interesting. Now,
the only last question I have -- because I don't have
to testify. I've been opening my big mouth enough,
but the last question I have for you is: According to
the state water plan, no federal or state agency has
jurisdiction over the water except the water resource
board.

    MR. WILSON: For water rights.

    MR. ERLANSON: Well, it doesn't just say water
rights. Unfortunately it doesn't just say water
rights.

    So I'm wondering if 47-13 doesn't conflict
with -- I think it's 17-34 or 17-43 or something like
that.

    MR. WILSON: I don't think it does. So part
of --

    MR. ERLANSON: You know, I'm trying to --

    MR. WILSON: Right. So part of our dredge and
placer act, 47-13, down toward the end of it, it has
some withdrawn river segments, and then the land board
has added to those withdrawn river segments, as they
have authority to, and a lot of those withdrawals are
from recommendations from the water resource board.
In their water planning efforts through the last 30
years, they have said, "You know what? This stream is
such an important fishery and has all these other
uses, we think it should be closed to mineral entry," and the land board has said, "Okay."

And we have that list on our website as well, all the mineral withdrawals that are in forests across the state; so...

MR. ERLANSON: That's interesting.

MR. WILSON: And, again, we have a pretty cooperative with the stream channel protection folks, Aaron and others.

MR. ERLANSON: You can bet that I'm going to get on your site. Because I'll tell you the truth, I've never looked at it. The Department of Lands -- what does it say? Lands; so I have never given it a thought about water.

And then when I -- here a couple hours ago when I saw dredging and placer, I thought, "I better get my ass up there and see what is going on."

But I appreciate your help. I learned a lot and that's good.

MR. WILSON: Okay. Do you have any other questions?

MR. ERLANSON: No. I'm good.

MR. WILSON: Okay. Did you want to provide any testimony?

MR. ERLANSON: My testimony is I just appreciate
you coming around.

I do wish more miners would have been aware of these meetings. I will say that. You know, and so I --

MR. WILSON: The folks who submitted the petitions, we notified them, and we, again, had it advertised on our website, and the administrative bulletin.

MR. ERLANSON: Yeah. Well, it's just like putting something in the federal register.

MR. WILSON: Kind of.

MR. ERLANSON: Yeah. You know, I mean, how many times do you look at the federal register? There is 40,000 things in there; you got to pick out the one thing. And if you blink when you are going down through them, you miss them.

MR. WILSON: Just like when we drove across Raft River this morning, I think Todd blinked, and he missed it.

MR. ERLANSON: Oh, yeah, that's quite possible. Well, I appreciate you taking the time to come up here and, I guess, tell me and some employees about it.

MR. WILSON: These are all my fellow conspirators.
MR. ERLANSON: Well, there you go. There is nothing wrong with that.

MR. WILSON: Yeah. We have a lot of good information on our website. And we are going to be sending out some email notifications; so if you have an email address --

MR. ERLANSON: I threw it on there.

MR. WILSON: Okay. We will keep you updated as this goes forward.

MR. ERLANSON: Yeah. Because I got three mining districts that I called this morning. I said, "Do you know anything about this?" Nobody knew anything about it. I said, "Well, I'm going."

MR. WILSON: Most of the activity is recreation mining, which we don't regulate.

MR. ERLANSON: Yeah. That's why I wondered what was going on here. So, I mean, it's -- I'm glad I came.

MR. DRAGE: These are the points of contact for mining in this area right here, Gary and Connor.

MR. ERLANSON: I never saw either one of you guys.

MR. BILLMAN: I saw your applications.

MR. ERLANSON: Well, a couple years ago.

MR. BILLMAN: Oh, you didn't do it recently?
MR. ERLANSON: No. I just withdrew my bond up there on the Forest Service. But anyway, yeah, I finally got my bond back after seven years. That's pretty good. You know what? I was thinking about charging them 19 percent interest. But the government, you know what they would have said.

MR. WILSON: That's a little above prime.

MR. ERLANSON: Yeah.

MR. WILSON: Okay. Well, great then. I think we are done.

(The hearing concluded at 12:45 p.m.)
REPORTER'S CERTIFICATE

I, JANET L. FRENCH, CSR No. 946, Certified Shorthand Reporter, certify:

That the foregoing proceedings were taken before me at the time and place therein set forth, at which time the witness was put under oath by me;

That the testimony and all objections made were recorded stenographically by me and transcribed by me or under my direction;

That the foregoing is a true and correct record of all testimony given, to the best of my ability;

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

IN WITNESS WHEREOF, I set my hand and seal this 28th day of August, 2019.

______________________________
JANET L. FRENCH, CSR, RPR

Notary Public

P.O. Box 2636
Boise, Idaho 83701-2636

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