Laws Governing the Staking and Filing of Mining Claims in Idaho

Earl H. Bennett
LAWS GOVERNING THE STAKING AND FILING OF MINING CLAIMS IN IDAHO

Compiled by
Earl H. Bennett

Idaho Bureau of Mines and Geology
Department of Lands
Moscow, Idaho 83843
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OF MINING CLAIMS IN IDAHO

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INTRODUCTION

This open-file report brings together the legal requirements for
locating mining claims on federal land and obtaining state mineral
leases in Idaho.

This report covers (1) staking claims on federal land, (2) locating
claims and obtaining mineral leases on state land, (3) complying with
the Idaho Dredge and Placer Mining Protection Act, and (4) complying
with the Idaho Surface Mining Act. Several appendices include information
that may be useful to prospectors and small mining companies. All parts
of the report should be read because some state regulations apply to
federal lands as well as state lands.

Prospectors should check with the local U. S. Forest Service or U. S.
Bureau of Land Management offices to find out which areas of federal
land are open to mineral entry. The district forest ranger must be
notified if significant surface disturbance will result from the prospecting
venture or if mechanized earth moving equipment will be used or if
timber is cut (36 CFR 252, reprinted in Appendix C). Similar guidelines
must be followed for BLM administered lands (43 CFR 3800, reprinted in
Appendix D). These federal agencies can also provide information about
access and general road conditions and can usually supply up-to-date
maps of the area. Addresses of the federal stations in Idaho are given
in Appendix B.

The procedures for filing a mining claim in Idaho are relatively
simple; however, mining law (both federal and state) can be quite complex.
Competent legal advice should be obtained if an interpretation of the

1Idaho Bureau of Mines and Geology, Moscow, Idaho 83843.
federal or state statutes is needed. More detailed information about the mining laws can be found in references such as, T. S. Maley's *Handbook of Mineral Law*, 1979, 2nd edition, (MMRC Publications, P. O. Box 1186, Boise, Idaho 83702), and O. P. Matthews' *Legal Pitfalls, Land Status, and the Acquisition of Mineral Rights*, 1981, (College of Mines and Earth Resources, University of Idaho, Moscow, Idaho 83843).

The prospector must be thorough in finding out who owns the surface and mineral rights to the land he is interested in. Whereas the surface rights may be owned privately or by the state, the federal government may own the mineral rights, or the state may own both the mineral rights and the surface rights. Most BLM offices have public land title and status records showing which federal land is open to mineral entry under the mining laws and who owns the mineral and surface rights. Similar information for state lands can be obtained from the Department of Lands, State Capitol Building, Boise, Idaho.

Recently there has been a great deal of interest in recreational prospecting and dredge mining in Idaho. Operators of small suction dredges may have to comply with the state's Dredge Mining Act (see page 37). *All suction dredge operators must obtain a Stream Channel Alteration Permit (required by the Stream Channel Protection Act Chapter 38, Title 42, Idaho Code)* from the Idaho Department of Water Resources, State Capitol Building, Boise, Idaho 83720, before operating their dredge anywhere in the state. This permit must be obtained no matter what the size or capacity of the dredge. Attached to the permit application (for a dredge processing less than 2 cubic yards of gravel per hour) is a list of all rivers considered navigable (and therefore under state jurisdiction with all minerals leasable) and a list of streams closed to dredge mining by the state. A copy of the permit application, the list of navigable rivers, and the list of closed streams are in Appendix E.

After a claim has been properly staked, recorded, and the appropriate permits acquired, the miner may start his operation. The various federal and state laws and regulations that may apply to specific mining activities are noted in Table 1. Miners are advised to contact the various state and federal agencies to ensure that they and their operations are in
compliance with state and federal laws and regulations and that they have obtained the proper permits.

NOTE ON TYPOGRAPHY

The user of this report will be reading extensively quoted matter as well as original text. To aid the reader, different type faces have been employed for original text and quoted passages, as illustrated here:

Original text and annotations will be in this type face.

Quoted passages will be mainly in italic font, with roman font for emphasis.
Table 1. State and federal permits that may be required for exploration or mining in Idaho. (See addresses for state and federal agencies in Appendix B.)

**STATE PERMITS**

**DEPARTMENT OF HEALTH AND WELFARE**

Air Quality Permit  
Water Quality Permit  
Environmental Protection and Health Act  
Contact: Division of Environment  
(208) 384-2215

**DEPARTMENT OF LANDS**

Dredge Mining Permit  
Surface Mining Permit  
Oil and Gas Drilling Permit  
State Oil and Gas Leasing  
State Mineral Leasing  
State Geothermal Resources Leasing  
Contact: Bureau of Minerals  
(208) 334-3569

**DEPARTMENT OF WATER RESOURCES**

Geothermal Resources Drilling Permit  
Stream Channel Alteration Permit  
Water Rights  
Dam Safety Law  
Contact: Department of Water Resources  
(208) 334-2215

**FEDERAL PERMITS**

U. S. Forest Service Notice of Intention to Operate: contact local USFS office for more information.

Bureau of Land Management Notice of Intention to Operate: contact local BLM office for more information.

Federal Mine Safety and Health Act (MSHA): All mine operations in Idaho must register with the Mine Safety and Health Administration, Boise Field Office, 1315 West Idaho St., Boise, Idaho 83702 (30 CFR 41). Quarterly mine employment report must be filed with MSHA, Health and Safety Analysis Center, P. O. Box 25367, Federal Center, Denver, Colorado 80225.

National Pollution and Discharge Elimination Permit

Water Pollution Control Act (Clean Water Act): administered by Environmental Protection Agency in cooperation with Idaho Division of Health and Welfare. Contact any of the Idaho Department of Health and Welfare regional offices for information.
LOCATING A MINING CLAIM ON FEDERAL LAND IN IDAHO

The following is a reprint of a booklet entitled, Staking a Mining Claim on Federal Lands, by the U. S. Department of the Interior, Bureau of Land Management. The booklet gives general information about claim location on federal land. Out-dated information has been deleted or changed to reflect new regulations. Annotations are enclosed in brackets in the following narrative.

STAKING A MINING CLAIM ON FEDERAL LANDS

The Federal Land Policy and Management Act of 1976 launched a new era for public land management in America's Third Century. The Act provides that the public lands remain under the stewardship of the Federal Government, unless disposal is in the national interest, and that their resources be managed under a multiple-use concept that will best meet present and future needs of the American people. This information booklet concerns a facet of one of these multiple uses: Mining.

WHAT IS A MINING CLAIM?

The words "claim" and "mining claim" have a definite meaning when used in connection with United States mining laws. These words refer to a particular piece of land, valuable for specific mineral deposits, to which an individual has asserted a right of possession for the purpose of developing and extracting a discovered mineral deposit. This right is granted the claimant if he meets the requirements of the General Mining Law of 1872, as amended, which applies to all locatable minerals. The mining law guarantees the claimant protection for all lawful uses of his claim for mining purposes, and sets the limits of his rights. If the requirements of the mining law are not met, no rights against the Federal Government exist.

WHERE MAY I PROSPECT?

There are still areas where you may prospect, and if a discovery of a valuable, locatable mineral is made, you may stake a claim. These areas are mainly in Alaska, Arizona, Arkansas, California, Colorado, Florida, Idaho, Louisiana, Mississippi, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming. Such areas are mainly unreserved, unappropriated Federal public lands administered by the Bureau of Land Management (BLM) of the U. S. Department of the Interior and in national forests administered by the Forest Service of the U. S. Department of Agriculture.

Public land records in the proper BLM State Office will show you which lands are closed to mineral entry under the mining laws. These offices keep up-to-date land status plats that are available to the public for inspection. [A list of offices in Idaho is included in Appendix B].
BLM is publishing a series of surface and mineral ownership maps that depict the general ownership pattern of public lands. These maps may be purchased at most BLM offices. For a specific tract of land, it is advisable to check the official land records at the proper BLM State Office.

WHICH FEDERAL LANDS ARE CLOSED TO MINING?

National parks and most national monuments are closed to mining as are Indian reservations, most reclamation projects, military reservations, scientific testing areas, some wildlife protection areas such as Federal wildlife refuges, and lands segregated under the Classification and Multiple Use Act. Lands withdrawn for power development are subject to mining location and entry under certain conditions.

Certain lands reserved from the public domain under the jurisdiction of the Forest Service and the Bureau of Land Management are also off limits to mineral exploration and development under the General Mining Law, by Acts of Congress, or by public land orders. No mining claims can be located on such lands as long as such a directive is in effect.

These closed areas are said to be "withdrawn" from mineral entry and location. As mentioned earlier, the public land records in the proper BLM office will show you which public lands are withdrawn. It is important that you do not attempt to locate and remove minerals from these withdrawn lands. Not only would your work be wasted, but such activities would be a trespass against the Federal Government and subject to penalties. [See page 12 for other special regulations.]

WHAT DO I DO IF THE SURFACE OR MINERALS ARE PRIVATELY OWNED?

If the mineral estate on which you wish to prospect is privately owned, the mineral rights must be obtained from the owner through purchase or lease.

The surface estate on some lands (i.e., those that were available under the Stockraising Homestead Act) has been patented to private individuals or agencies with a reservation of some or all of the mineral rights to the Federal Government. Unless these lands are withdrawn, they are open to mineral entry and location, subject to certain restrictions or requirements.

WHAT TYPES OF MINERALS MAY BE CLAIMED?

For purposes of mining laws, minerals are classified as locatable, leasable or salable. Only locatable mineral deposits may be staked and claimed under the General Mining Law of 1872, as amended. Locatable minerals include both metallic (gold, silver, lead, etc.) and nonmetallic (fluorspar, asbestos, mica, etc.) minerals.

Salable mineral materials may not be located under the mining laws but may be purchased under the Materials Act of 1947, as amended. These include the common varieties of sand, gravel, stone, pumice, pumicite, cinders and clay. These materials may be purchased at fair market value, either at competitive or negotiated sales. A free-use permit may be issued to any Federal or State agency, unit or subdivision, without limitation as to the number of permits or as to the value of the materials.
to be extracted, provided the applicant makes a satisfactory showing to
the authorized officer that such materials will be used for public
purposes. A free-use permit also may be issued to a non-profit organization.
Petroleum wood is not subject to location under the mining laws.
Small amounts may be removed free of charge by hobbyists for noncommercial
use. Larger amounts may be purchased.

There are other minerals and fuels that may be leased from the
Federal Government and may not be claimed under the mining laws. These
leaseable minerals are oil and gas, oil shale, geothermal resources,
potash, sodium, native asphalt, solid and semi-solid bitumen, bituminous
rock, phosphate, coal, and in Louisiana and New Mexico, sulphur. All
minerals on certain lands, such as acquired lands and areas offshore,
are subject to special leasing laws and regulation, including those
minerals that would be locatable if found on public domain lands.

WHEN MAY I LOCATE A MINING CLAIM?

Anyone who is a United States citizen or has declared an intention
to become a citizen and any corporation organized under State law may
locate a mining claim. A mining claim may be located only after a
valuable mineral deposit has been discovered. The courts have established
and the Federal Government follows the prudent man and marketability
test to determine what is a discovery of a valuable mineral deposit.
Requirements of the test have been met where minerals have been found
and the evidence is of such a character that a person of ordinary prudence
would be justified in further expenditure of his labor and means, with a
reasonable prospect of success in developing a valuable mine, and the
minerals can be extracted, removed and marketed at a profit.

Although there is no limit to the number of claims you may hold,
there must be an actual physical discovery of a valuable mineral deposit
on each and every mining claim. Traces, minor indications, geological
inference, or hope of a future discovery are not sufficient to satisfy
the prudent man and marketability rule. Making mining improvements,
posting a notice or performing annual assessment work will not create or
perpetuate a "right" or interest in the land if there are no valuable
mineral deposits within the claim.

WHAT TYPES OF MINING CLAIMS ARE THERE?

There are four types of mining entries:

1. Lode Claims. Deposits subject to lode claims include classic
   veins or lodes having well-defined boundaries. They also include other
   rock in-place bearing valuable minerals and may be broad zones of
   mineralized rock. Examples include quartz or other veins bearing gold
   and other metallic minerals and low grade disseminated copper deposits.
   [These are sometimes referred to as quartz claims.]

2. Placer Claims. Deposits subject to placer claims are all those
   not subject to lode claims. These include the "true" placer deposits of
   sand and gravel containing free gold (such as has accumulated in the
   unconsolidated sediment of a stream bed) and also include many nonmetallic
   bedded deposits.

3. Mill Sites. A mill site is a plot of unappropriated public
   domain land of a non-mineral character, suitable for the erection of a
mill, or reduction works. Mill sites may be located under either of the following circumstances:

a. when used or occupied distinctly and explicitly for mining and milling purposes in connection with the lode or placer location with which it is associated.

b. for a quartz mill or reduction works unconnected with a mineral location.

4. Tunnel Sites. A tunnel site is located on a plot of land where a tunnel is run to develop a vein or lode, or to discover a vein or lode. Tunnel sites cannot be patented.

Additional information on types of mining claims may be obtained by consulting the regulations in the Code of Federal Regulations, Title 43, Part 3800 (43 CFR 3800).

WHAT IS THE SHAPE AND SIZE OF EACH TYPE OF MINING CLAIM?

1. Lode claims are usually parallelograms with the longer side lines parallel to the vein or lode. They are located by metes and bounds (giving length and direction of each boundary line). [Examples of location notices are shown in Appendix A; see also Figure 1.] They are limited by statute to a maximum of 1,500 feet in length along the vein or lode and 300 feet on either side of the lode.

2. Placer claims, where practicable, are located by legal subdivision (a legal subdivision is a part of a section, for example the SE 1/4 Section 10, Township 10 South, Range 20 East, Willamette Meridian). They are limited to 20 acres per claim per locator [See Figure 2]. However, an association of two locators may locate 40 acres, and three may locate 60 acres, etc. The maximum area is 160 acres for eight persons. Each locator should have a bonafide interest in the claim; otherwise he might be considered a "dummy" locator and lose his rights. Corporations are limited to 20-acre claims. On unsurveyed land and in certain other instances, placer claims may be located by metes and bounds.

3. Mill sites are located by metes and bounds or by legal subdivision, and are limited in size to 5 acres per claim.

4. Tunnel sites are located by placing two stakes 3,000 feet apart on the line of the proposed tunnel. The miner may locate lode claims to cover any or all veins intersected by the tunnel. This in essence gives the miner the right to prospect in an area 3,000 feet by 3,000 feet.

SHOULD I TAKE ANY PRECAUTIONS IN LOCATING A MINING CLAIM?

It is essential that you use caution when examining potential mining claim sites and when entering old abandoned tunnels and shafts. Many of the public lands contain old mine workings that can be hazardous. BLM personnel are making an effort to identify and eliminate these hazards but the task is an immense one and far from being completed. Therefore, it is important that prospectors be aware of these potential dangers and exercise care in their activities.

In addition, when working your claim and locating structures and improvements on the land, remember that the natural and scenic beauty of Federal lands are enjoyed and appreciated by all citizens. Try to
consider these aesthetic values and to exercise good manners in the
operation, maintenance, and reclamation of your claim site.

HOW DO I STAKE A MINING CLAIM?

Federal law specifies only that claim boundaries be distinctly and
clearly marked so as to be readily identifiable. Each State, though,
has statutes and regulations supplementing the General Mining Law and
detailing requirements for staking and recording mining claims. It is
advisable that you check with appropriate State agencies (i.e., State
geological surveys or mineral resource departments) before attempting to
locate your claim. [See section on state requirements, page 20.]
Failure to comply with Federal and/or State regulations may invalidate
your claim and subject you to civil or criminal penalties.

As a general rule, staking a mining claim includes erecting corner
posts or monuments, plus posting notice of location on a post or monument
in a conspicuous place—usually the point of discovery.

HOW DO I RECORD A MINING CLAIM?

Recordation of mining claims usually involves filing an exact copy
of the location notice in the County Recorder's office in the county in
which the claim is located. [County Courthouse addresses in Idaho are
in Appendix B.] Location notices generally contain the following information:
date, name of locator(s), name of claim(s), whether the mining claim is
a lode or placer, mineral(s) claimed, the acreage claimed, and either
the legal descriptions by parts of the section, township and range or a
connection by distance and direction as accurately as practicable from
the discovery point to some well-known, permanent natural object such as
an established survey monument, a hill, bridge, fork of a stream or road
intersection.

Some States require recordation of a "certificate" of location
instead of a "notice" of location. These location "notice" and "certificate"
forms may generally be purchased at a local printing company. [Sample
forms are shown in Appendix A.]

All owners of unpatented mining claims or sites on Federal lands,
including lands where the U. S. Government owns only the minerals, must
also record their holdings with the Federal Government. Claims and
sites on all public lands must be recorded with the BLM State Office
having jurisdiction over the area in which the claim is located. New
claims or sites must be recorded within 90 days. Those claims located
on or before Oct. 21, 1976, must be recorded on or before Oct. 22, 1979.
[For more details see the reprint of BLM Fact Sheet No. 7 that follows
this section.]

To properly record a claim or site with BLM, an owner must file a
copy of the official record of the notice or certificate of location
filed under State law, including any amendments which alter the location
of the claim or site. Maps and other documents filed under State law
must accompany the copy of the official record. If State law does not
require recordation, the owner must file with BLM a certificate of
location and other documents and information specified in the Federal
regulations, 43 CFR 3833. There is a $5 filing fee for each claim or
site.
Boundaries and claim corners/angles clearly marked before recording in county courthouse. Must record with both county and BLM within 90 days of location date.

Corner #4
Corner post or monument at least 4' high and 4" square or diameter

Corner #1
Post "Notice of Location" at one corner of the claim

Corner #2
Corner #3
Corner #4

1500' x 600' is the maximum size for a lode claim. End lines must be parallel.

Discovery Monument

Gold Claim #1
Corner #1 west to
1500' north to
Corner #2

Gold Claim #2
Corner #1 north to
1500' south to
Corner #2

Referred by Idaho Code Chap. 6
Section 47-602

"Notice of Location"

1. Name of Locator(s)
2. Name of claim
3. Location date
4. Claim directions & distances
5. Direction and distance from corner to describe claim
6. Legal description to the quarter section (required for BLM recordation)

Each post/monument marked with name of claim, position or number of corner (or angle) and direction of boundary lines.

*Claim #1 is in the SW¼ of Sec. 11, T.50N., R.5E.
Claim #2 is in the SW¼ and NW¼.

Figure 1. Lode Mining Claim [Reproduced from BLM Information Bulletin No. 13, 1980.]
Boundaries and claim corners clearly marked before recording in county courthouse. Must record with both county and BLM within 90 days of location date.

Northwest Corner

Corner post or monument at least 4' high & 4" square or diameter

Kingshead #1
Placer claim
northeast corner of
W:\:\:\:\:\:\:\:\:\:\\SEA
Section 11,
T.50N., R.5E.
(20 acres)

Northeast Corner

Post "Notice of Location" at one corner of the claim.

"Notice of Location"

1. Name of Locator(s)
2. Name of Claim
3. Location Date
   Mining District
   County
4. Legal Description
5. Direction and distance from corner to describe claim

Discovery Monument
(Recommended)

Southwest Corner

Kingshead #1
Placer claim
southeast corner of
W:\:\:\:\:\:\:\:\:\:\\SEA
Section 11,
T.50N., R.5E.
(20 acres)

Southeast Corner

Sample section map showing the two possible orientations for a 20 acre placer claim.

#1) Oriented lengthwise
   North-South

#2) Oriented lengthwise
   East-West

Examples of typical placer claims:

Figure 2. Placer Mining Claim [Reproduced from BLM Information Bulletin No. 13, 1980.]
Failure to record a claim or site with BLM within the prescribed time periods constitutes abandonment and voids the claim or site. Anyone who has applied to BLM for a mineral patent for a claim or mill site before the date he is required to record it with BLM does not need to file a notice or certificate of location.

HOW DO I MAINTAIN A MINING CLAIM?

Once a valid unpatented mining claim is established, an owner must perform labor or make improvements worth $100 each year to verify active interest in the claim. The assessment year commences at 12 Noon on the 1st of September and ends at 12 Noon on the 1st of September of the following year. Under the Federal Land Policy and Management Act of 1976, an affidavit that the assessment work has been done must be filed with both the local county office where such records are kept and with the proper BLM State Office. [Sample form is shown in Appendix A.]

Certain types of surveys qualify as assessment work. If these are used as evidence, a detailed report, including basic findings, must be filed with the county and BLM State offices. Under some circumstances that prevent labor or improvements, the owner needs to file only a notice that he intends to hold the claim.

Owners of mill or tunnel sites are not required to file evidence of assessment work; however, they must file a notice of intention to hold the site. This notice must also be filed with the local recorder's office and the State BLM office.

Owners of claims or sites located on or before Oct. 21, 1976, have until Oct. 22, 1979, to file evidence of assessment work performed the preceding year or to file a notice of intent to hold the claim or site. Once a claim or site is recorded with BLM, these documents must be filed before December 31 of each subsequent year. This regulation and filing deadline also applies to claims and sites on National Park Service land. The Federal Government's copy of the evidence or notice must be filed with the national park superintendent.

Owners of claims or sites located after October 21, 1976, must file evidence of assessment work or a notice of intent before December 31 of each year after the year in which the claim or site was located.

As with the failure to record a mining claim or site, failure to file evidence of assessment work or a notice of intent constitutes abandonment.

When a final certificate has been issued in connection with an application for a mineral patent, the owner need not file evidence of assessment work or a notice of intent to hold a claim or site.

ARE THERE OTHER SPECIAL REGULATIONS PERTAINING TO MINING ON NATIONAL FOREST LANDS AND WILDERNESS AREAS?

Mining on national forest lands is subject to the provisions of the law and regulations of the Secretary of Agriculture as set forth in the Code of Federal Regulations, Title 36, Part 252 (36 CFR 252). These regulations require that anyone whose proposed operation could cause "significant disturbance of surface resources," must submit an operating plan. The operating plan should describe the nature of the proposed
disturbance and the steps that will be taken to protect surface resources. Miners wishing to prospect or locate claims in national forests are encouraged to contact the local district ranger concerning any questions about operating plans.

[The Bureau of Land Management has a similar set of rules and regulations (43 CFR 3800) for surface management on BLM administered lands. Both sets of regulations are enclosed in Appendices C and D.]

The Wilderness Act of 1964 designated certain areas of national forest lands as parts of the National Wilderness Preservation System. Prospecting and mining activities compatible with the preservation of the wilderness environment will be permitted in these areas until the end of 1983.

WHAT RIGHTS DO I OBTAIN FROM MY MINING CLAIM?

If you perform and record the annual assessment work and meet all other requirements of Federal and State mining laws, you establish a possessory right to the mining claim for purposes of developing and extracting minerals.

ARE THERE ANY RESTRICTIONS ON MINING ACTIVITY ONCE A CLAIM HAS BEEN LOCATED?

[See Table 1]

On unpatented mining claims, a mining claimant may use only as much of the surface and surface resources as are reasonably necessary to carry out mining operations and may not build any structures unless they are reasonably related to mining activities. Intermittent or casual mineral development is not sufficient to warrant placing a dwelling on an unpatented mining claim. The Federal Government maintains the right to manage the surface and surface resources, including use of the area for recreational purposes that do not interfere with mining activity.

The mining laws give locators and owners of mining claims the right of entry and exit across public lands as a necessary incident to their mining activity for purposes of removing minerals and maintaining their claims. This privilege does not mean that the miner has a right to cause unreasonable damage to public lands under the guise of gaining access to his claim. The miner would be liable in damages if he unnecessarily caused loss or injury to United States' property. For these reasons, vehicles used for mining purposes are not permitted in areas that are temporarily or permanently closed. Off-road vehicles in areas designated as restricted must conform to all terms and conditions of restrictions limiting the number and type of vehicles and times of use. Designations of restricted and closed areas are made by the authorized officer, identified by public notice in newspapers, and posted in the proper BLM office.

MAY TRESPASS NOTICES BE ISSUED FOR VIOLATIONS OF THE 1872 MINING LAW, AS AMENDED?

Yes, there are several situations in which trespass may occur. These include:

*Occupancy trespass. The sites of unpatented mining claims cannot
be used for a homesite, place of business, or for other purposes not reasonably related to mining or milling activities.

*Mineral material trespass. Unpatented mining claims cannot be located for mineral materials such as common varieties of sand, gravel, building stone, decorative stone and clay. Any removal of these types of mineral material without a permit may constitute a trespass.

*Withdrawn land trespass. Mining claims located on lands subsequent to a mineral entry withdrawal are null and void. Any mineral extraction from these lands may constitute a trespass.

MAY I BUY A MINING CLAIM?

A valid mining claim may be bought or sold, willed or inherited. However, if a mining claim is invalid (i.e., no discovery of a valuable mineral deposit has been made, using the prudent man and marketability test) or is otherwise defective, the claim is not made valid or valuable by being transferred.

A great deal of unwise speculation has resulted from activities of unethical or misinformed "promoters" who, for a fee, purport to stake mining claims and do annual assessment work for others. Most of these claims are located in areas of rapid expansion and changing land values. More often than not, these claims have absolutely no value for minerals and are invalid. These promoters are not a part of the mining industry and should not be confused with the legitimate miners or prospectors who are diligently prospecting for minerals and who may occasionally wish to sell a valid claim to others for development.

TO PATENT OR NOT TO PATENT?

A patented mining claim is one for which the Federal Government has given a deed or passed its title to the claimant. A valid unpatented mining claim is one for which the claimant has obtained the right to extract and remove minerals from the land due to the discovery of a valuable mineral deposit under the mining laws, but to which the claimant has not acquired full title.

It is not necessary to have a patent to mine and remove minerals from a valid mining claim, but a patent will give you exclusive title to the locatable minerals and, in most cases, to use of the surface and all other resources. Since the claimant does not hold full title to an unpatented mining claim, the Government may, at any time, question or challenge its validity. If the Government's challenge is successful, your claim will be cancelled and you will forfeit all rights to the claim.

As with any mining claim, patenting requires a discovery of a valuable mineral deposit such as satisfies the prudent man and marketability test. In addition, the applicant needs to have the claim surveyed by a mineral surveyor selected from a roster maintained by the BLM, post and publish a notice of intention to apply for a patent for a 60-day period, and pay a non-refundable $25 filing fee. Evidence of a right of possession to the claim and the basis of the right to patent, including discovery of a valuable mineral deposit and proof that not less than $500 has been expended for the development of each claim, will also need to be shown. Finally, if all these requirements have been satisfied, the applicant
must also pay a purchase price of $5 per acre for lode claims and $2.50 per acre for placer claims, and he will receive full title to the land and its minerals.

Requirements for patenting a mining claim are outlined and explained in a circular available from the BLM.

WHERE CAN I GET MORE INFORMATION?

The Bureau of Land Management, Department of the Interior, has the primary responsibility for administering the laws and regulations regarding the disposal of minerals from public lands. Statutory authority is derived from the Mining Law of 1872, which together with the regulations and court decisions that have interpreted it, are called the General Mining Law. The regulations are available in circular form from the Bureau of Land Management (Circular No. 2289; Title 43, Code of Federal Regulations, Section 3800). The Law itself (Title 30, United States Code, Sections 21-54) is not available in circular form but may be examined in most Bureau of Land Management offices or in your public library. For information concerning regulations and location of public lands open to mining in specific areas, we suggest you contact the proper Bureau of Land Management State office. BLM State offices and their area of jurisdiction, are listed at the end of this bulletin. [Appendix B] For information regarding national forest lands, you should contact the appropriate Forest Service regional office. These are also listed at the end of this bulletin. [Appendix B]

The Interior Department's U. S. Geological Survey publishes many topographic and geologic maps and reports. The central source of information about these maps and related materials is the National Cartographic Information Center, U. S. Geological Survey, National Center, Reston, Virginia 22092. For areas east of the Mississippi River, maps may be purchased from the Branch of Distribution, U. S. Geological Survey, 1200 South Eads Street, Arlington, Virginia 22202, and for areas west of the Mississippi River, from the Branch of Distribution, U. S. Geological Survey, Federal Center, Denver, Colorado 80225. [The USGS topographic maps for Idaho may be purchased from the Idaho Bureau of Mines and Geology, Morrill Hall, Room 332, University of Idaho, Moscow, Idaho 83843, from the U. S. Geological Survey, Public Inquiries Office, West 920 Riverside, Spokane, Washington 99201, or from other approved vendors in Idaho. A list of authorized distributors is included in Appendix F.]

A layman's introduction to methods of assaying precious metal ores, concentrates, and bullion is given in a report published by the Interior Department's Bureau of Mines. The report describes analytical services provided by some Federal agencies, discusses analytical techniques applicable to the precious metals, and carries a listing of Bureau of Mines Offices and commercial assay laboratories. A single free copy of the Bureau of Mines Information Circular 8714r, "Assaying Ores, Concentrates, and Bullion," can be obtained from the Branch of Publications Distribution, Bureau of Mines, 4800 Forbes Ave., Pittsburgh, Pennsylvania 15213. Requests should specify both the title and number of the report.

Information concerning State mining laws and regulations which supplement the General Mining Law, plus information concerning the geology of specific areas in a State, can be obtained through State geological surveys or mineral divisions. [Idaho Department of Lands, Bureau of Minerals, State Capitol Building, Boise, Idaho 83720.]
RECORDING OF MINING CLAIMS

The following is a reprint of Bureau of Land Management Fact Sheet No. 7, Recording of Mining Claims, explaining in more detail the necessary requirements for recording a claim (lode or placer), mill site, or tunnel site with the U. S. Bureau of Land Management under the Federal Land Policy and Management Act of 1976. The addresses and telephone numbers of the BLM offices in Idaho are given in Appendix B.

RECORDING OF MINING CLAIMS

Section 314 of the Federal Land Policy and Management Act of 1976 provides for recording of unpatented mining claims (lode and placer), mill sites and tunnel sites and for filing of Evidence of Annual Assessment Work or Notice of Intent to Hold mining claims or sites. This law applies to both existing and new mining claims filed on public lands and National Forests.

Exact legible reproductions of the original Location Notice, and the most recent amendment, if any, of all unpatented mining claims in Idaho are to be filed with the Idaho State Office, Bureau of Land Management, Box 042, Federal Building, 550 W. Fort Street, Boise, Idaho 83724. Reproductions of Location Notices do not need to be certified.

Failure to file a copy of the Location Notice, Evidence of Annual Assessment Work or Notice of Intent to Hold for each claim within the time period specified is deemed conclusive proof that the claim has been abandoned and it shall be void.

PROCEDURES

A. Recordation of Location Notices

1. Persons owning unpatented lode, placer, mill site or tunnel site claims, located prior to October 21, 1976, must record their claims with the Bureau of Land Management (BLM), no later than October 22, 1979. Proof of Labor for assessment year 1979 must also be received by October 22, 1979.

2. Persons owning mining, mill site or tunnel site claims located after October 21, 1976, must record their claims with the BLM within 90 days of the date of location shown on the location Notice.

3. A one-time service fee of $5.00 for each claim or site is required.

4. Owners of existing mining or mill site claims located on or before October 21, 1976, who have a patent application on file or who file a patent application on a claim prior to October 22, 1979, are exempt from the recordation requirements. Patent applicants are required to file Evidence of Annual Assessment Work or Notice of Intent to Hold unless final certificate has been issued.

B. Required Information for Recordation

1. Reproduction of the original Location Notice and the most recent amendment (if any) which has been recorded with the county, which includes the information below. (If this information is not on the original Location Notice, your written statement providing
the missing information must accompany the Location Notice.)

a. The name or number of the claim or site, or both, if the claim has both. (Example Appex, Appex #1, Appex #50.)

b. The name and current mailing address of the owner or owners of the claim.

c. The type of claim or site. (Lode, placer, mill or tunnel.)

d. The date of location.

e. For all claims or sites located on surveyed or unsurveyed land, a description shall be furnished. This description shall recite the approximate location of the claim or site within a 160 acre quadrant (quarter section) of the sections involved. In addition, there must be furnished the Township, Range, State, and Meridian obtained from an official survey plat or other U. S. Government map showing either the surveyed or protracted U. S. Government grid, whichever is applicable.

2. For all claims or sites located on surveyed or unsurveyed land, there must be furnished either:

a. A topographic map published by the U. S. Geological Survey, or;

b. A narrative or sketch describing the claim or site with reference by appropriate tie to some topographic, hydrographic or man-made feature. Such map, narrative description, or sketch shall set forth the boundaries and positions of the individual claim(s) or site(s) in a manner that will enable a person to identify and locate the claim on the ground. More than one claim or site may be shown on a single map or described in a single narrative or sketch if they are located in the same general area, so long as the individual claims or sites are clearly identified.

3. In place of the requirements above, an approved mineral survey may be supplied.

NOTE: Nothing in the requirements for a map and description found in this section shall require the owner of a claim or site to employ a professional surveyor or engineer.

C. Recordation of Evidence of Annual Assessment Work

1. One of the following three documents must be filed with the Idaho State Office of the Bureau of Land Management in the form of an exact legible reproduction or duplicate that has been, or will be, filed with the appropriate county office. Also include the Bureau of Land Management IMC number.

a. A reproduction of the Evidence of Annual Assessment Work performed, which has been, or will be, recorded with the county.


c. A Notice of Intent to Hold a claim.

NOTE: A Notice of Intent to Hold is a letter signed by an owner, owners or an agent (see 43 CFR 3833.2-3). This document is filed by a claimant when he cannot file one of the other documents set forth in the Act.

2. Evidence of Assessment Work performed will be for work performed
during the preceding assessment year.

3. Evidence of Annual Assessment Work or a Notice of Intent to Hold a claim or site, must be filed in the State Office on or before December 30 of each calendar year, except as stated in 4 below.


4. Owners of mining claims located on or before October 21, 1976, shall file Evidence of Assessment Work or a Notice of Intent to Hold with the BLM by October 22, 1979, and file before December 30, of each calendar year.

NOTE: To comply with the Act, a mining claimant must file both his Location Notice for recordation and Evidence of Assessment Work performed (or a Notice of Intent to Hold) by October 22, 1979.

5. Owners of mill sites and tunnel sites must file a Notice of Intent to Hold with the BLM within the same time frame required for assessment work; however, county recordation is not required.

6. These documents need not be filed on claims under application for patent on which a final certificate has been issued.

7. No fees are required to file Evidence of Annual Assessment.

8. Documents are considered filed even though defective under other laws or if filed only for some of the owners.

9. Filing of these documents neither waives the necessity of performing assessment work nor provides evidence of work actually performed.

D. Recodernation of Transfers of Interest

1. Whenever an interest in an unpatented lode, placer, mill site or tunnel site claim is transferred, whether by purchase, gift or inheritance, a notice of the transfer shall be filed with the BLM within 60 days of the date of transfer. (See 43 CFR 3833.3 for required information.)

2. No service fee is required for filing transfers of interest.

PROCEDURES FOR LOCATING A CLAIM ON FEDERAL LAND IN IDAHO

The procedures for establishing a lode or placer claim on federal land in Idaho are noted below. Appropriate sections of the state and federal codes are cited where relevant. Examples of claim location notices and a form for providing Proof of Labor (Affidavit of Assessment) are included in Appendix A. These forms may be purchased at stationery stores or printing companies.

Who May Locate a Lode or Placer Claim on Federal Land in Idaho?

All citizens of the United States and those who have declared their intention to become citizens may locate mining claims on government
land. They may occupy the land for the purpose of exploration and development and may eventually secure patent for the land. The right to minerals on the land is initiated by prospecting thereon and, upon discovery of a mineral, by completing a proper location of the mineral claims. A location is made by staking the corners of the claim, posting a notice of location thereon, and complying with the state laws regarding the recordation of the notice in the office of the county recorder of the county where the lands are located. After this location work has been completed, the claim must also be filed with the U. S. Bureau of Land Management as required by the Federal Land Policy and Management Act of 1976.

Corporations are allowed to locate and hold mining claims in the same manner as individuals. It is not necessary to be a resident of the state. A prospector may locate a claim for a nonresident and receive a deed from him.

Which Federal Lands in Idaho Are Subject to a Mining Claim Location?

Unoccupied, unappropriated, vacant public lands of the United States, surveyed or unsurveyed, are open to prospecting and claim location. These lands include national forest reserves (forest regulations must be observed) and lands entered or patented under the stock-raising homestead law (title to minerals only can be acquired). Mining claims may also be located within grazing districts under the Taylor Grazing Act. Mining claims cannot be located on patented lands, except as noted above, or on lands for which mineral rights have been reserved, or withdrawn from mineral entry by the U. S. government. Except for the homestead acts already mentioned, mining claims cannot be located on patented homesteads or other homestead entries.

Mining Claim Locations Are Authorized by Idaho Code 47-601.

47-601. Mining claim locations authorized.--Persons are authorized to locate mining claims upon that public domain in the state of Idaho which is open to location under the mining laws of the United States. The location of a mining claim shall be made by posting notice of location and by marking the boundaries as provided in section 47-602 of this chapter. [I.C., Sec. 47-601, as added by 1970, ch. 92, Sec. 2, p. 227.]
Method of Locating a Mining Claim

Dimensions of claims. Lode locations for minerals in lodes or veins may not exceed in length 1,500 feet along the vein and in width 300 feet on each side of the vein for a total width of 600 feet. The end lines of the location must be parallel to each other. The law does not require center end stakes. While the end lines must be parallel and straight, this is not true of the side lines; if angles are contained in the side lines they must be staked at each angle in the side lines.

Form of placer claims. Placer locations are provided for under federal statutes. A location cannot include more than 20 acres per each individual claimant, and no location shall exceed 160 acres for an association of persons.

An association of persons may locate a tract as a placer claim which shall embrace as many individual claims of 20 acres each as there are individuals in the association not exceeding 160 acres in all. If the location is on surveyed land, the location as near as practicable must conform to the public land survey system.

The same persons qualified to locate lode claims may locate placers. Corners must be marked as required of lode claims, and a location notice must be posted as required by law.

The state code describes the method of locating a mining claim as follows: 47-602. Method of locating a mining claim.—The locator of a mining claim must at the time of making his location designate his claim by posting at one (1) corner of the claim his notice of location in writing in which there shall be stated:
1. The name of the locator or locators.
2. The name of the claim and whether located as a lode mining claim or as a placer mining claim.
3. The date of the location and the mining district, if any, and the county in which the claim is located.
4. The directions and distances which describe the claim.
5. The direction and distance from the corner where notice is posted to such natural object or permanent monument, if any such there be, as will fix and describe in the notice itself the site of the claim.

Before recording his notice of location, the locator must mark the boundaries of his mining claim by placing at each corner of angle of the claim a substantial monument or a post at least four (4) feet in height and four (4) inches square or in diameter. Each post and monument shall be marked with the name of the claim, the position or number of the corner or angle and the direction of the boundary lines. The locator shall mark the boundary lines so that they can be readily traced. Where
it is impracticable to place a monument or post in its true position, a
witness monument shall be erected and marked to indicate the true position
of the corner or angle. [I.C., Sec. 47-602, as added by 1970, ch. 92,
Sec. 4, p. 227.]

Each claim location notice must claim only one location: 47-608. Notice
must claim only one location.--No location notice shall claim more than one
location, whether the location is made by one or several locators, and
if it purport to claim more than one location it is absolutely void.
[1895, p. 25, Sec. 8; reen. 1899, p. 237, Sec. 8; reen. R.C. & C.L.,
Sec. 3213; C.S., Sec. 5527; I.C.A., Sec. 46-608.]

Abandoned claims can be located in the same way as new claims:
47-607. Location of abandoned claim.--The location of abandoned claims
shall be done in the same manner as if the location were of a new claim
including the erection of new posts or monuments. [1895, p. 25, Sec. 7;
reen. 1899, p. 237, Sec. 7; reen. R.C., Sec. 3212; C.S., Sec. 5526;
I.C.A., Sec. 46-6-7; am. 1970, ch. 92, Sec. 9, p. 227.]

Recording the Claim

Within 90 days of marking the claims and posting a discovery notice,
the claim must be recorded with the county recorder of the county (see
I.C. 47-604 and I.C. 47-612 below) in which the claim is situated [addresses
of county courthouses are provided in Appendix B]. The claim must also
be recorded with the U. S. Bureau of Land Management [addresses of BLM
offices included in Appendix B] within 90 days of marking the claim and
posting a discovery notice. This is required by the Federal Land
Policy and Management Act of 1976.

46-604. Notice must be recorded.--Within ninety (90) days after
the location of the claim the locator or his assigns must file for
record in the office of the county recorder of the county in which the
claim is situated, a copy of his notice of location. Failure to file
notice of location for record within ninety (90) days after location of
the claim shall constitute an abandonment of the claim. [1895, p. 25,
Sec. 4; reen. 1899, p. 237, Sec. 4; reen. R.C., Sec. 3209; C.L.,
Sec. 3209; C.S., Sec. 5523; I.C.A., Sec. 46-604; am. 1970, ch. 92,
Sec. 7, p. 92.]

47-612. Manner of recording notices.--The location notice herein
required to be recorded must be recorded in the office of the county
recorder of the county in which the claim is located (when the legal fee
therefor is tendered), in a book kept for that purpose. Said book must
be indexed, with the names of all the locators arranged in alphabetical
order, according to the family or surname of each. [1881, p. 262, Sec.
6; R.S., Sec. 3105; am. 1895, p. 25, Sec. 14; reen. 1899, p. 237, Sec.
14; reen. R.C. & C.L., Sec. 3217; C.S., Sec. 5531; am. 1931, ch. 114,
Sec. 2, p. 195; I.C.A., Sec. 46-612; am. 1937, ch. 7, Sec. 1, p. 18; am.
1957, ch. 170, Sec. 1, p. 305; am. 1970, ch. 92, Sec. 12, p. 227; am.
1976, ch. 281, Sec. 5, p. 965.]
Affidavit of Citizenship

At or before the time of registering a claim at the county courthouse the locator(s) must file an affidavit of citizenship as required in I.C. 47-611.

47-611. Affidavit of locators.—At or before the time of presenting a location notice for record, whether it be for a quartz lode or placer claim, one (1) of the locators named in the same must make and subscribe an affidavit, in writing on or attached to the notice, substantially in the following form, to wit:

State of Idaho, County of ______________________, ss.

I, ______________________, do solemnly swear that I am a citizen of the United States of America (or have declared my intentions to become such), and that I am acquainted with the mining ground described in this notice of location, and herewith called the ______________________ lode or placer claim; that the ground and claim therein described or any part thereof has not, to the best of my knowledge and belief, been previously located according to the laws of the United States and this state, or if so located, that the same has been abandoned or forfeited by reason of the failure of such former locators to comply in respect thereto with the requirements of said laws.

(Signature)

19__

[Signature]

Subscribed and sworn to before me this ___ day of ___,

[1881, p. 262, Sec. 5; R.S., Sec. 3104; am. 1895, p. 25, Sec. 13; reen. 1899, p. 237, Sec. 13; reen. R.C., Sec. 3216; C.L., Sec. 3216; C.S., Sec. 5530; I.C.A., Sec. 46-611; am. 1970, ch. 92, Sec. 11, p. 227.]

Annual Assessment Work

The locator of a mining claim must do $100 worth of work annually in order to hold his claim. The annual period commences at 12:00 noon on the first day of September following the date of location of the claim.

The following is a reprint of pages 42-45 of the Idaho Department of Labor and Industrial Services pamphlet, Laws Governing the Staking and Filing of Claims in the State of Idaho, that is updated by this open-file report.

Annual Labor. The locator of a mining claim must do $100.00 worth of work annually in order to hold his claim. The annual period commences at 12 o'clock meridian (noon) on the 1st day of September following the date of location of the claim.

It has been held that where one was in possession on the day the annual assessment work should have been completed and was performing work the claims were not subject to relocation and work performed thereafter
could apply as assessment work for the year. Also that the law does not contemplate that when work is resumed on a mining claim it should be prosecuted every hour in the day, or that a full shift shall be done every day, but that it requires it be prosecuted with reasonable diligence, in order to prevent forfeiture or a relocation by others. Such annual labor may be performed on any one of a group of claims if they are adjoining and the work will tend to develop the entire group.

Character of annual labor. The law requires not less than $100.00 worth of labor performed or improvements made during each year. It has been held that the term improvements is comprehensive enough to include the terms, work and labor, also structures put in place or erected for the purpose of developing the property and extracting minerals contained therein. The statute does not specify the kind of labor and it has been held that extracting ore from a claim is within the requirements, and where labor is performed outside the boundaries of a claim it must tend to develop or improve the claim or it will not be counted as annual labor. Assessment work may be done either on the surface or underground or on a lode having an apex outside the boundaries of the claim.

Also where the labor or improvements are for the purpose of working, prospecting or developing the ground or facilitating the extraction or removal of ore.

The value of powder, fuse, candles, etc. will be estimated to determine worth of work done. A survey for patent may be credited as annual labor or improvements if affidavit of surveyor is filed showing cost of survey.

**WHAT COUNTS AS ANNUAL LABOR**

Apex outside. Annual labor may be done on a lode having its apex outside of the surface lines of the location.

Board. Board received by laborers in addition to their wages.

Construction of a flume. The turning of a stream or the construction of a flume.

Extracting ore. Labor expended in extracting ore from the claim.

On or below the surface. Work either on the surface or below it.

Road building. Constructing a road to a mine.

On one of a group. Annual labor can be performed on one claim of a group of claims if the work tends to the development of the entire group.

Services of horses. Reasonable compensation for the services of horses used in development work.

Surveying for patent. An official patent survey of a lode or placer mining claim or claims by a United States mineral surveyor may be credited.

Wages for watchman. If a mine is idle, the time and labor of a watchman or custodian may be treated as annual labor.

Outside of boundaries. Annual labor can be performed outside of the boundaries of the claim if it tends to the development of the claim.

Annual labor not allowed. The following illustrations will show character of labor or improvements which will not count as annual assessment work: Work done to withdraw water from a mine so as to examine workings. Expenditures for work, labor and repairs on a stamp mill. Personal expenses and time in endeavoring to procure water to operate mill. Where
there was no machinery or fixtures which made it necessary to employ
watchman. Picking rock from walls, side and outcroppings in small
quantities, making tests for sampling, breaking and examining, crushing,
and assaying, does not constitute assessment work. Building must be for
benefit of claim. Building of house off the claim cannot be considered.
Mere prospecting cannot be considered. Price paid for tools not considered.
Purchase of horses will not apply except as to value of services.
Labor and improvements are deemed valid, when performed or made for
its development in such manner as to facilitate the extraction of the
metals, though such labor and improvements may not be on the location
itself.

WHAT WILL NOT COUNT AS ANNUAL LABOR

Building a cabin. Building a house off the claim for the use of
miners while working the claims will not count.
Purchase of horses. The purchase of horses to be used in developing
a mine will not count as annual labor.
Tests. Picking rock from the walls of a shaft, making tests and
carrying it away and making assays of it, do not add to the value of the
claim and will not count as annual labor.
Transportation of supplies. Transportation is not a proper charge.
Unused material. Material taken to the claim but not used cannot be
reckoned as an improvement.
Surface ore. The gathering of surface ore is not development work.
Outside of boundaries. Annual labor cannot be performed outside of
the boundaries of the claim unless it tends to the development of the
claim.
Proof of annual labor. Affidavit of performance of annual labor is
provided herein. If this affidavit is filed as required by law within
60 days after period allowed for performance of labor, it is prima facie
evidence that such labor has been done. [Sample form in Appendix A]

However, if a contest arises as to the performance of same, proof may be
offered to contradict such proof, and when such prima facie evidence is
met and overcome by positive evidence that labor has not been performed,
it then devolves upon the affiant or respondent to show by evidence of a
positive and affirmative nature other than his affidavit that work had
actually been performed. Filing the affidavit puts the locator in a
more favorable position. [Remember that the affidavit must be filed at
the County Courthouse and with the Bureau of Land Management for claims
on federal land in Idaho.]

Geologic surveys may be counted as assessment work as noted in I.C.
47-613 and 47-614.

47-613. Certain surveys may qualify as annual labor.--Annual
assessment work or labor upon a mining claim as required by the United
States mining laws shall be defined to include, without being limited
to, geological, geochemical and geophysical surveys conducted by qualified
experts and verified by a detailed report filed for record in the office
of the county recorder of the county in which the claim is located which
sets forth fully (1) the location of the work performed in relation to
the boundaries of the claim, (2) the nature, extent, and costs thereof,
(3) the basic findings therefrom, and (4) the name, address, and professional background of the person or persons conducting the work. Surveys of this kind, however, may not be applied as labor for more than two (2) consecutive years or for more than a total of five (5) years on any one mining claim, and each of these surveys shall be nonrepetitive of any previous survey on the same claim. [I.C., Sec. 47-613, as added by 1970, ch. 92, Sec 18, p. 227.]

47-614. Definitions.--As used in section 47-613:
(1) The term "geological surveys" means surveys on the ground for mineral deposits by the proper application of the principles and techniques of the science of geology as they relate to the search for and discovery of mineral deposits;
(2) The term "geochemical surveys" means surveys on the ground for mineral deposits by the proper application of the principles and techniques of the science of chemistry as they relate to the search for and discovery of mineral deposits;
(3) The term "geophysical surveys" means surveys on the ground for mineral deposits through the employment of generally recognized equipment and methods measuring physical differences between rock types or discontinuities in geological formations;
(4) The term "qualified expert" means an individual qualified by education or experience to conduct geological, geochemical, or geophysical surveys. [I.C., Sec. 47-614, as added by 1970, ch. 92, Sec. 19, p. 227.]

Official patent surveys may be counted as assessment work as noted in I.C. 47-618 and I.C. 47-619.

47-618. Lode and placer claims--Official patent survey as labor on improvement.--It is hereby declared that an official patent survey of a lode or placer mining claim or claims by a United States mineral surveyor constitutes and is labor performed upon an improvement made upon or for the benefit of an unpatented lode or placer mining claim or claims. [C.S., Sec. 5536-A, as added by 1929, ch. 194, Sec. 1, p. 361; I.C.A., Sec. 46-618.]

47-619. Lode and placer claims--Official patent survey as credit on annual assessment work.--An official patent survey of a lode or placer mining claim or claims by a United States mineral surveyor may be credited to annual assessment work or labor, but in no case shall the credit for such survey and its attendant expense exceed the required assessment for one year on the claim or claims surveyed. When credit is sought for such work or improvement, the claimant must file in the recorder's office in the county in which such claim is situated the affidavit of such United States mineral surveyor, showing the cost of such survey, and when so filed the actual cost of such survey shall be deemed and considered as labor and improvements done and performed upon said claim or claims. [C.S., Sec. 5536-B, as added by 1929, ch. 194, Sec. 2, p. 361; I.C.A., Sec. 46-619.]

Affidavit of Performance of Annual Labor

Within 60 days after every September 1, an affidavit of annual performance of labor [example of the form shown in Appendix A] must be
filed with the county recorder (I.C. 47-606). Evidence of assessment work done during the preceding year must also be filed with the U.S. Bureau of Land Management prior to December 31 of each year (Federal Land Policy and Management Act, 1976).

47-606. Affidavit of performance of labor—Notice of acceptance of waiver, suspension or extension—Fees—Effect as evidence.—Within sixty (60) days after any time set or period allowed for the performance of labor, or making improvements upon any lode or placer claim, the person in whose behalf such work or improvement is performed or some person for him, must make and record an affidavit in substance as follows:

State of Idaho, County of ______________, ss.

Before me, the subscriber, personally appeared ____________,
who being first duly sworn says, that at least ___________ dollars
worth of work or improvements were performed or made upon ____________ claim, situated in ____________ mining district, County of ____________, State of Idaho:

That such expenditure was made by, for, or at the expense of ____________, owner of said claim, for the purpose of holding said claim; all stakes, monuments or trees marking boundaries of said claim are in proper place and position.

Subscribed and sworn to before me this ______ day of __________, 19___.

The fee for administering the oath and recording the foregoing affidavit, when taken before any county recorder, shall be two dollars and fifty cents ($2.50); provided, however, that up to ten (10) claims in the same mining district, belonging to the same person or persons, association or corporation, may be included in one (1) affidavit without additional charge, but a fee of twenty cents ($0.20) per claim shall be charged for all claims in excess of ten (10) included in the one (1) affidavit. The fee for recording the same when the oath is taken before any other officer authorized to administer oaths shall be two dollars ($2.00), plus the additional charge of twenty cents ($0.20) for each claim in excess of ten (10) included in the affidavit.

Such affidavit, or a certified copy thereof in case the original is lost, shall be prima facie evidence of the performance of such labor. The failure to file such affidavit shall be considered prima facie evidence that such labor has not been done.

When the performance of annual labor upon any lode or placer claim is suspended, extended or waived by act of congress of the United States, and provision is therein made for filing or recording a notice, affidavit or statement by the claimant or other person for him, accepting the provisions of said act, then the same shall be filed as herein provided for affidavit of performance of annual labor, and the same fees shall be charged therefor and the same effect shall be given thereto, and the same presumptions shall arise therefrom as provided herein for said affidavit of performance of annual labor. [R.S., Sec. 3101; am. 1899, p. 237, Sec. 6; am. 1899, p. 440, Sec. 2; reen. R.C., Sec. 3211; am. 1913, ch. 72, Sec. 1, p. 308; reen. C.L., Sec. 3211; C.S., Sec. 5525; I.C.A., Sec. 46-606; am. 1945, ch. 114, Sec. 1, p. 176; am. 1951,
47-605. Record of additional certificate.--If at any time the locator of any mining claim heretofore or hereafter located, or his assigns, shall apprehend that his original certificate was defective, erroneous, or that the requirements of the law had not been complied with before filing, or shall be desirous of changing the surface boundaries, or taking any part of an overlapping claim which has been abandoned, or in case the original certificate was made prior to the passage of this law, and he shall be desirous of securing the benefits of this chapter, such locator or his assigns may file an additional certificate subject to the conditions of this chapter, and to contain all that this chapter requires an original certificate to contain; provided, that such amended location does not interfere with the existing rights of others at the time when such amendment is made. [1895, p. 25, Sec. 5; reen. 1899, p. 237, Sec. 5; reen. R.C. & C.L., Sec. 3210; C.S., Sec. 5524; I.C.A., Sec. 46-605.]

This completes the procedure for filing a placer or lode claim and claiming annual assessment work on federal land in Idaho.
LOCATING A MINING CLAIM ON STATE LAND IN IDAHO

A major difference exists between mineral rights on state and federal land in Idaho. Idaho law (I.C. 47-701) reserves all mineral deposits located on state land for the state. Minerals are locatable but must then be leased from the state and royalties paid on the minerals extracted. The state provides special forms for filing a claim location and for doing annual assessment work [Appendix A]. The appropriate sections of the Idaho code that describe how to locate mining claims and acquire mineral leases on state land follow. More information on how to obtain a mineral lease can be obtained from the Department of Lands, Bureau of Minerals, State Capitol Building, Boise, Idaho 83720, telephone: (208) 334-3569.

MINERAL RIGHTS IN STATE LANDS
TITLE 47 - CHAPTER 7

47-701. Reservation of mineral deposits to state--Terms defined.--The terms "mineral lands," "mineral," "mineral deposits," "deposit," and "mineral rights," as used in this chapter, and amendments thereto shall be construed to mean and include all coal, oil, oil shale, gas, phosphate, sodium, asbestos, gold, silver, lead, zinc, copper, antimony, geothermal resources, and all other mineral lands, minerals or deposits of minerals of whatsoever kind or character. Such deposits in lands belonging to the state are hereby reserved to the state and are reserved from sale except upon a rental and royalty basis as herein provided, and the purchaser of any land belonging to the state shall acquire no right, title or interest in or to such deposits, and the right of such purchaser shall be subject to the reservation of all mineral deposits and to the conditions and limitations prescribed by law providing for the state and persons authorized by it to prospect for, mine, and remove such deposits and to occupy and use so much of the surface of said land as may be required for all purposes reasonably incident to the mining and removal of such deposits therefrom.

47-702. Right of exploration.--All lands belonging to the state of Idaho in which the mineral deposits, excepting oil and gas and geothermal resources, are owned by the state, and which have not been located or leased in accordance with the terms of this chapter, are hereby declared to be free and open to casual exploration; provided, that the board of land commissioners is authorized in its discretion to withdraw from entry and exploration specifically described tracts of state lands under the control and jurisdiction of state agencies. Within thirty (30) days of the decision for such withdrawal the board of land commissioners shall publish a notice in a newspaper of general circulation in the county or counties in which such lands are situated providing the legal description of the lands withdrawn. Concerned citizens shall have thirty (30) days from the date of publication to request an appeal of such withdrawal to the board of land commissioners.
47-703. Mining locations on state lands.--Location of mineral claims, either lode or placer depending upon the type of deposit discovered by the locator, may be made upon lands belonging to the state of Idaho in which the mineral rights are reserved or belong to the state, including the beds of all navigable rivers in the state of Idaho and all portions of said navigable rivers between high water marks, providing that no mining location may be made on any lands for which a mineral lease application has been made and is pending as provided in section 47-704, Idaho Code. Such locations when made upon surveyed lands shall conform to legal subdivisions. When made upon unsurveyed land or in or on the beds of navigable rivers they shall be marked and described as set forth in section 47-602 or 47-617, Idaho Code.

47-602. Method of locating mining claim.--The locator of a mining claim must at the time of making his location designate his claim by posting at one (1) corner of the claim his notice of location in writing in which there shall be stated:

1. The name of the locator or locators.
2. The name of the claim and whether located as a lode mining claim or as a placer mining claim.
3. The date of the location and the mining district, if any, and the county in which the claim is located.
4. The directions and distances which describe the claim.
5. The direction and distance from the corner where notice is posted to such natural object or permanent monument, if any such there be, as will fix and describe in the notice itself the site of the claim.

Before recording his notice of location, the locator must mark the boundaries of his mining claim by placing at each corner or angle of the claim a substantial monument or a post at least four (4) feet in height and four (4) inches square or in diameter. Each post and monument shall be marked with the name of the claim, the position or number of the corner or angle and the direction of the boundary lines. The locator shall mark the boundary lines so that they can be readily traced. Where it is impracticable to place a monument or post in its true position, a witness monument shall be erected and marked to indicate the true position of the corner or angle.

When made upon unsurveyed land they shall in no case exceed twenty (20) acres in extent, and when made on surveyed land shall not exceed twenty (20) acres except that when made upon surveyed land designated as a lot, may equal one-half (½) of said lot. Descriptions of claims located on the beds of navigable rivers, the boundaries of which shall have been meandered, shall be described and staked in conformity as near as may be with the lotting of the fractional subdivisions bordering upon the navigable rivers, and the description of the claim shall be so accurately drawn and tied to the government corners that the ground may be accurately located and so described that the claim may be accurately platted upon the books of the state board of land commissioners. The discoverer of a mineral deposit, or a person desiring to prospect for mineral shall immediately post conspicuously on each twenty (20) acre tract or claim or fraction of either, that he desires to locate, a notice declaring
that he had made such discovery, or and declaring that he desires to
prospect for mineral, together with the date of such discovery or declaration.
The locator shall be allowed twenty (20) days from such date to file a
certificate of location with the state board of land commissioners.
Said certificate shall designate the legal subdivisions claimed, if on
surveyed land, or describe said claim if upon unsurveyed land, as provided
for herein, and shall be recorded in the office of said board as of
the date of filing, and an entry of such location shall be made upon the
plat and tract books. The locator shall be entitled to hold said claim
for a period of two (2) years from the first of July next succeeding its
location by performing one hundred dollars ($100) worth of work
during each year for each twenty (20) acre tract or fraction thereof.
Work, within the meaning of this section shall consist of tunnels,
shafts, or other mining excavations or development, and shall not include
roads, trails, buildings, machinery, or other surface improvement. All
such work may be done at one (1) place on the claim, or at as many
places as the locator may desire, and in case two (2) or more claims are
under the same ownership, then said work may be performed on any one or
more claims. Work so performed as annual assessment on either lode or
placer claims, where performed for the benefit of a group contiguous and
under common ownership, shall be such that it shall be of material
benefit to each and every claim forming the contiguous group, and in the
case of placer claims drilling by the conventional method and pits or
shafts sunk to determine the value of the gravels shall be considered
good assessment and valid improvement. If the claim is located within
the ninety (90) days next preceding July first of any year, development
work must be begun before that July first, but the locator may have till
the succeeding July first to complete one hundred dollars ($100) worth
of work for each twenty (20) acre tract or fraction thereof. Written
proof that such work has been done shall be filed with the state board
of land commissioners, on such forms and in such manner as they shall
prescribe. Such procedure shall empower the locator to retain possession
of and prospect said claim for a period of two (2) years, at the end of
which time he shall be required to take a lease upon such terms as may
be agreed upon by the state board of land commissioners. Provided,
that the right granted under this section to prospect for mineral and to make
locations shall not extend to lands in the possession of a purchaser
under contract of sale from the state.

47-703A. Exploration prior to lease—Bond.—(1) Prior to any entry
or exploration with heavy motorized equipment on state lands, an operator
shall first submit to the director of the department of lands a bond in
such form as prescribed by the board not to exceed seven hundred and fifty
dollars ($750) per affected acre conditioned on the payment of all damages
to the land and resources thereon caused by the entry and/or exploration,
with heavy equipment; provided, that where applicable, an operator shall
also comply with the dredge and placer mining act, chapter 13, title 47,
Idaho Code.

(2) The operator shall reclaim the surface damaged by the entry
and/or exploration with heavy equipment to the approximate previous contour
and condition insofar as is reasonably possible.

(3) The following definitions shall apply to this chapter:
(a) "Casual exploration" means without the use of heavy motorized
equipment.
(b) "Heavy motorized equipment" means that which may appreciably disturb or damage the land or resources thereon including without limitation backhoes, cats, dozers, road graders, draglines and motorized shovels.

47-704. Leases of mineral rights in state lands.—(1) The state board of land commissioners may lease in tracts not exceeding six hundred forty (640) acres for prospecting and mining purposes and mineral deposits, except for leases for oil, gas and other hydrocarbons, that may be contained in any portion of the unsold lands of the state or that may be contained in state lands sold with a reservation of mineral deposits or belong to the state of Idaho by reason of being situate between the high water marks of navigable rivers of the state, for such annual rental, not less than twenty-five cents (25¢) per acre per annum, and for such royalty upon the product as the board may deem fair and in the interest of the state, except in the case of state oil and gas leases wherein the royalty to the state shall be not less than twelve and one-half percent (12½%), and provided that the minimum royalty shall not be less than two and one-half percent (2½%). The rental paid for any year shall be deducted from the royalties as they accrue for that year.

(2) All mineral leases, except leases for oil, gas, and other hydrocarbons, and geothermal resources of state school lands and for lands belonging to the state of Idaho, other than school lands, shall be for a term of ten (10) years, and so long thereafter as precious metals, minerals, and ores, or any of them, are produced in paying quantities, or as much longer thereafter as the lessee in good faith shall conduct mining operations thereon, together with the right to use and occupy so much of the surface of said land as may be required for all purposes reasonably incident to the prospecting for, exploration for, development of, production, refining, processing and marketing of said precious metals, minerals and ores produced from said lands, including the right to construct and maintain thereon all works, buildings, plants, waterways, roads, communication lines, reservoirs, tanks or other structures necessary to the full enjoyment thereon for the purpose of the lease.

(3) Provided, that the leaseholder of any mineral lease except leases for oil, gas, and other hydrocarbons, and geothermal resources heretofore or hereafter issued, upon the exploration of the initial lease and all renewals thereof, shall be given the preferential right to renew such lease or renewal leases under such readjustment of the terms and conditions as the board may determine to be necessary in the interest of the state.

(4) All applications received, whether by mail or by personal delivery over the counter, shall be immediately stamped with the date and hour of filing. Simultaneous filings will be resolved by a drawing within thirty (30) days thereafter. In the absence of a simultaneous filing, and except for lands and resources which may be designated for competitive bidding, right of priority to a mineral lease shall be determined by the first qualified applicant who shall file a completed, signed application on the form of the department of lands or exact copy thereof between the hours of eight and five during any business day, together with the application fee set by the board.

(5) Applications for mineral leases shall be made under oath in
such form as the board may prescribe, and the applicant shall describe
the land, indicate the annual rental and royalty offered by him, specify
the particular mineral or minerals, and give such additional information
as may be required by the rules and regulations of the board. If the
applicant for a lease has previously filed a certificate of location, as
provided in section 47-703, Idaho Code, upon any part of the land desired
to be leased, such application shall be given a preferential right to
the land covered by his location; that no lands upon which a mineral
location has been duly made and recorded as provided in section 47-703,
Idaho Code, shall be leased for mining purposes during the two-
(2) year
periods to any applicant except the person having made such location;
provided, however, that no locations may be made for oil and gas deposits
or lands, or geothermal resources.

(6) Any exploration with heavy motorized equipment as defined in
section 47-703, Idaho Code, on the lands between the ordinary high
watermarks of any navigable river of the state shall be prohibited
except after award of a lease by the board and submission of a bond to
the department in the form and amount set by the board; and if applicable,
an operator shall also comply with the dredge and placer mining act,
chapter 13, title 47, Idaho Code; provided, that in all instances an
operator shall comply with the stream channel alteration act, and all
other applicable laws and rules of the state.

(7) Upon receipt by the state board of land commissioners of an
application to lease any lands which may belong to the state of Idaho by
reason of being situate between the high water marks of navigable rivers
of the state, the board shall cause at the expense of the applicant, a
notice of such application to be published once a week for two (2)
issues in a newspaper of general circulation in the county or counties
in which said lands described in said application are situated. The
board or its authorized representative shall hold a public hearing on
the application, if requested in writing no later than thirty (30) days
after the last published notice by ten (10) persons whose lawful rights
to use the waters applied for may be injured thereby, or by an association
presenting a petition with signatures of not less than ten (10) such
agrieved parties; provided that the board may order a public hearing in
the first instance. The board shall consider fully all written and oral
submissions respecting the application.

(8) Provided, however, that the state board of land commissioners
shall send notice of any such application for leasing the bed of navigable
rivers to the director of the department of water resources, who, if he
thinks advisable, shall at the expense of the applicant make an investigation.
If said investigation shows that the rights of interested parties may be
jeopardized by the issuance of the proposed lease, he shall give notice
of such applications to parties affected thereby. If it shall appear to
the state board of land commissioners that the leasing of any lands
between the high water marks of any navigable river will be injurious to
the rights of any person or persons having the right to the use of the
waters thereof for irrigation, power, or any other lawful purpose, the
state board of land commissioners shall deny such application.

47-705. Appraisal of improvements--Term construed.--Should anyone
apply to lease for prospecting and mining purposes the mineral deposits
belonging to the state upon which improvements have been made, before
the lease shall issue, to other than the owner of the improvements thereon, the applicant shall pay to the owner thereof the value of said improvements and shall file in the office of the state board of land commissioners a receipt showing that the price of said improvements, as agreed upon by the parties or fixed by appraisement under authority of the said board, has been paid to the owner thereof in full, or shall make satisfactory proof that he has tendered to such owner the price of said improvements so agreed upon or fixed by appraisement. The word "improvements" within the meaning of this section and of section 47-706 shall be construed to mean work performed in the development of the property, the estimated value of all known or probable mineral contained in the land that has been discovered or developed through mining excavations made by lessee, and all buildings, dwellings, mill machinery, mine machinery, trails, roads, and all equipment used, constructed and necessary for the operation of the mine, mill or plant.

47-706. Forfeiture of improvements.—If any mineral lease has been cancelled for a period of one year and a new lease has not been issued the improvements upon the property shall revert to and become the property of the state.

47-707. Forfeiture of leases.—All leases of mineral deposits shall be conditional upon payment of the rental in advance annually, and upon the payment of the royalty provided for in the lease, and such other provisions as may be provided by the board, and upon the violation of any of the conditions of the lease, the board may at its option, after thirty (30) days' notice by registered mail, cancel the lease. Upon failure or refusal of the lessee to accept the readjustment of terms and conditions determined by the board at the end of any lease period, such failure or refusal shall work a forfeiture of the preferential right of the lessee. A forfeiture of such lease, and all rights of the lessee thereunder, may be declared by the state board of land commissioners for a violation of any of the terms or conditions of said lease or of any rule or regulation of said board with respect thereto or of any of the provisions of this chapter.

47-708. Rights and liabilities of lessees.—A lessee of valuable mineral deposits shall have the right at all times to enter upon the lands described in his lease for prospecting and mining, provided he shall not injure, damage, or destroy the improvements of the surface owner; and the lessee shall be liable to and shall compensate such owner for all damages to the surface of said land and improvements thereon.

Any such lessee may occupy so much of the surface of said land as may be required for all purposes reasonably incident to the mining and removal of the mineral deposits: first, upon securing the written consent or waiver of the surface owner; or, second, upon payment of the damages to the surface of said land and improvements thereon to the owner thereof where agreement may be had as to the amount thereof; or, third, in lieu of either of the foregoing provisions, upon the execution of a good and sufficient bond, or undertaking, to the state of Idaho, for the use and benefit of the owner of the land to secure the payment of such damages, as may be determined and fixed in an action brought upon the bond or undertaking in a court of competent jurisdiction against the principal and sureties thereon, such bond or undertaking to be in
the form prescribed by and in accordance with the rules and regulations of the board and to be filed with and approved by the board.

Lessees of mineral lands shall fully protect the rights of all agricultural and grazing leases which have been heretofore, or may be hereafter granted, by erecting and keeping closed gates in all fences which may be opened, and inclosing or keeping covered all shafts, holes or open cuts.

47-709. Mines operated under lease--Inspection by the board.--The state board of land commissioners shall cause inspection to be made by a competent person or persons of all mines or works operated under leases for the production of minerals as often as the board shall deem necessary in the interest of the state, and the board shall have the right at all times to inspect said mines or works.

47-710. Forms, rentals, royalties and fees.--The board shall by rules and regulations prescribe the form of application, the form of lease, the amount of filing and recording fees, the annual rental, the amount of royalty, the basis upon which the royalty shall be computed, and such other details as it may deem necessary in the interest of the state, except as otherwise provided in this chapter.

47-711. Sale of state lands containing mineral deposits.--Lands in which minerals are contained and the surface of which has a value for other purposes may be sold under the provisions of chapter 3 of title 58 of the Idaho Code relating to the sale of state lands, provided that in the sale of such lands there shall be reserved to the state all such deposits and that the right of the purchaser shall be subject to the conditions and limitations prescribed by law providing for the state or persons authorized by it to prospect for, mine and remove such deposits and to occupy and use so much of the surface of such land as may be required for all purposes reasonably incident to the mining and removal of such deposits therefrom.

47-712. Applications to purchase--Certificates of purchase.--All applications to purchase state lands approved subsequent to the passage of this chapter shall be subject to a reservation to the state of all mineral deposits in said land and of the right of the state or persons authorized by it to prospect for, mine and remove the same as provided by law; and all certificates of purchase issued by the state shall contain such reservation.

47-713. Effect of partial invalidity of chapter.--If any clause, sentence, paragraph, or part of this chapter shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid, such judgement shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgement shall have been rendered.

47-714. Leases of navigable river beds authorized.--The board of land commissioners of the state of Idaho is hereby specifically authorized to lease for mining purposes the beds of navigable rivers of the state of Idaho between the high water marks thereof, said leases to be given under the terms and provisions of this chapter and the rules and regulations heretofore or hereafter adopted by said board.
47-715. Collection of royalties by board of land commissioners.--
The board of land commissioners of the state of Idaho is hereby authorized
to collect royalties and other payments to the state of Idaho under
mineral leases provided for by this chapter.

47-716. Applicable only to deposits in natural state.--The provisions
of this chapter authorizing the leasing of the beds of the navigable
rivers in the state of Idaho shall apply only to deposits in their
natural state and shall not apply to dumps and tailings.

47-717. Removal of commercial quantities without lease unlawful.--
It shall be unlawful for any person, association, firm or corporation to
remove in commercial quantities any ores, minerals, or deposits from
state lands before securing a lease for said lands from the state board
of land commissioners.

47-718. Violations--remedies--penalties.--(1) In addition to any
other penalties and remedies of this chapter and at law, any person, firm,
or corporation who violates any provisions of this chapter or regulations
adopted pursuant thereto, or who fails to perform the duties imposed thereby,
or who violates any determination or order thereunder or any violation of
a lease granted under this chapter, the director of the department of lands
may:

(a) Proceed by legal action in the name of the state of Idaho to
enjoin the violation, by temporary restraining order, preliminary
injunction and/or permanent injunction.

1. The court, or a judge thereof at chambers, if satisfied
from a verified complaint or by affidavit that the alleged
violation has been or is being committed, may issue a temporary
restraining order, without notice or bond, enjoining the
defendant, his agents, employees, contractors and assigns from
further violation, or from conducting exploration or mining
on the state lands affected by the violation.

2. The verified complaint or affidavit that the alleged
violation has been or is being committed shall constitute
prima facie evidence of great or irreparable injury and/or
great waste sufficient to support the temporary restraining
order.

3. The action shall thereafter proceed as in other cases for
injunctions. If at the trial the violation is established, the
court shall enter a decree perpetually enjoining said defendant,
his agents, employees, contractors and assigns from therefrom
committing said or similar violations.

(b) Proceed by legal action in the name of the state of Idaho to
obtain an order requiring the operator to promptly repair the damage
and reclaim the state lands in accordance with the requirements of
section 47-703(2), Idaho Code, and regulations adopted pursuant
thereto. If thereafter the court finds that the operator is not
promptly complying with such order, the court shall order the operator
to immediately pay an amount determined by the department to be the
anticipated cost of reasonable repair and reclamation in accordance
with section 47-703(2), Idaho Code, and regulations adopted pursuant
thereto.
(c) Proceed to forfeit the operator's bond required by sections 47-703(1), 47-704(6) or 47-708, Idaho Code, after reasonable notice to the operator and an administrative hearing. The director of the department of lands is empowered to issue subpoenas. The hearing shall be conducted in accordance with sections 67-5209 through 67-5213, Idaho Code. The hearing officer shall enter an order in accordance with section 67-5212, Idaho Code. Appeal to a district court shall be in accordance with section 67-5215, Idaho Code.

(d) Cancel the lease in accordance with section 47-707, Idaho Code.

(2) In addition to the injunctive remedies of subsection (1)(a) of this section,

(a) Proceed in the first instance by legal action in the name of the state of Idaho to recover from an operator who without bond has conducted or is conducting exploration with heavy equipment on state lands, including lands between the ordinary high watermarks of navigable rivers, the cost of repairing damage to and reclaiming the affected state lands in accordance with section 47-703(2), Idaho Code, and regulations adopted pursuant thereto; or if the bond on file with the department of lands is not sufficient to adequately reclaim the affected state lands, to recover the cost in excess of the bond to reclaim the affected state lands in accordance with section 47-703(2), Idaho Code, and regulations adopted pursuant thereto.

(b) Proceed by legal action in the name of the state of Idaho to recover from an operator who has removed minerals in commercial quantities from state lands, including lands between the ordinary high watermarks of navigable rivers, in violation of the provisions of section 47-717, Idaho Code, damages in the amount of the prevailing royalty rate set by the board of land commissioners for the particular mineral removed plus interest from the date of removal at the average annual interest rate of the investment board from the date of removal to judgment.

(3) In addition to any other penalties or injunctive remedies of this chapter, any person, firm, or corporation who violates any of the provisions of this chapter or regulations adopted pursuant thereto, or who fails to perform the duties imposed by these provisions, or who violates any determination or order promulgated pursuant to the provisions of this chapter, shall be liable to a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each day during which any provision of this chapter, regulation or order has been or is being violated. All sums recovered shall be credited to the general fund.

(4) An appeal from a final judgment of the district court shall be taken in the manner provided by law for appeals in civil cases.
SPECIFIC LAWS GOVERNING DREDGE AND PLACER MINING IN IDAHO

All dredge mining on waterways within the state must follow the law as stipulated in Idaho Code, Title 47, Chapter 13 called the Idaho Dredge and Placer Mining Protection Act. A major point of this act is that all dredge or placer operations that move more than two cubic yards of earth per hour must obtain an application, permit, and bond from the Idaho State Board of Land Commissioners (contact Department of Lands, Bureau of Minerals, State Capitol Building, Boise, Idaho, 83720, telephone (208) 334-3569, for more information).

Operators of small suction dredges (eight-inch diameter or less) should ensure that the output of their machines is less than "two cubic yards per hour" before operating without a permit and bond. All suction dredge operators must obtain a Stream Channel Alteration Permit (required by the Stream Channel Protection Act 42-3801) from the Idaho Department of Water Resources, State Capitol Building, Boise, Idaho 83720, before operating their dredge anywhere in the state (see page 2). Appropriate sections of the code follow (47-1312 to 47-1324).

DREDGE AND PLACER MINING
TITLE 47 - CHAPTER 13

47-1301 - 1311.-Repealed.

47-1312. Policy.--It is hereby declared to be the policy of the state of Idaho to protect the lands, streams and watercourses within the state, from destruction by dredge mining and by placer mining, and to preserve the same for the enjoyment, use and benefit of all of the people, and that clean water in the streams of Idaho is in the public interest.

47-1313. Definitions.--For the purposes of this act dredge or other placer mining means any dredge or other placer mining operations to recover minerals with the use of a dredge boat or sluice washing plant whether fed by bucket line as a part of such dredge or by separate dragline or other method capable of moving more than two cubic yards of earth material per hour.

47-1314. Lands dredged or placered to be smoothed and watercourses replaced.--Where any person, firm, or corporation conducts a dredge or other placer mining operation on lands and beds of streams in the state of Idaho, it is hereby required that the ground disturbed thereby shall be by such operator leveled and smoothed over reasonably comparable with the natural contour of the ground prior to such disturbance, and to a condition conducive to the growth of verdure, and any watercourse disturbed by such dredging shall be by such operator replaced on meander lines with pool structure conducive to good fish and wildlife habitat and recreational use. Whenever a dredging or other placer operation results
in the substantial removal of topsoil, as determined by the state land board, the operator shall be required to restore the land to its original condition, by the addition of topsoil and the planting of grass, trees, and other vegetation, insofar as is reasonably possible after the conclusion of the dredging operation.

47-1315. Water clarification.--Where any person, firm or corporation conducts a dredge or other placer mining operation where the water used in such mining process flows in, or into a stream in the state of Idaho, it is hereby required that such operator shall construct and use settling ponds of sufficient capacity and character and/or install and use filtration processes fully adequate to clarify the water used in the mining process to conform to the standards and regulations of the state board of health for water quality control as authorized by section 39-112, Idaho Code, before such water is discharged into the stream.

47-1316. Administrative agency.--The Idaho state board of land commissioners is hereby designated the administrative agency of this act and shall have the power and duty to adopt rules and regulations for its administration in accordance with the intent and purposes thereof, and to employ personnel necessary to effectually carry out this law. Such board may make such inquiries and investigations and conduct such hearings as the board shall deem advisable or necessary.

47-1317. Application permit and bond required.--
A. Before any person, firm or corporation may conduct a dredge or other placer mining operation on lands and beds of streams in the state of Idaho, such person, firm or corporation shall file with the director of the department of lands an application for a permit upon a form provided by said director and shall pay an application fee of fifty dollars ($50.00), for each ten (10) acres or fraction thereof above involved in such application.

B. The permit to issue in any such case shall be in a form provided and approved by the Idaho state board of land commissioners. No such permit shall be issued to any applicant to conduct dredge or other placer mining operations, until such applicant files with said director an initial surety bond in the sum of ten thousand dollars ($10,000) for a specified and particularly-described ten (10) acre tract of the area covered by the permit or for all of the land covered by the permit if the permit covers an area less than ten (10) acres, with sureties acceptable to said director conditioned for the faithful performance by the applicant of all of the requirements of this act, relative to land and watercourse restoration. In lieu of such surety bond, cash may be deposited with said director in the sum computed in the same manner as hereinabove set forth, to be retained as security for the faithful performance by the applicant of said requirements of this act.

It shall be unlawful for any person, firm or corporation to conduct dredge or other placer mining operations in this state on any of the permit area not covered by the initial or subsequent bond until and unless a similar bond has been filed with the director for at least ten (10) additional specified acres of the permit area upon which the operations are being conducted or for all of the remaining area covered by the permit in cases where it totals less than ten (10) acres, which bond shall be in the sum of the number of acres to be covered by the bond
times one thousand dollars ($1,000). Provided, however, that no bond
filed after the initial bond shall be in a sum of less than ten thousand
dollars ($10,000). Provided, further, that such subsequent bonds may be
in the form of cash.

C. It shall be unlawful for any person, firm or corporation to
conduct dredge or other placer mining operations in this state without
first having obtained a permit as herein provided. Such application
shall be on form supplied by the director and shall include an accurate
description of the land proposed to be dredged or otherwise placer
mined, by legal subdivisions and specify the number of acres involved.
The permit issued in each such case shall in like manner describe the
land and acres involved as shown by the related application. Each
permit to conduct dredge or other placer mining operations pursuant to
the provisions of this act shall be valid, unless terminated for cause
as hereinafter provided, for continuous operations upon the lands described,
commencing with the date of said permit.

D. It shall be the duty of the Idaho state board of land commissioners
in its administration of this act to cause periodic inspections to be
made of the operations under such permits to determine compliance with
this law and to make rules and regulations with respect thereto and the
cost and expense of making such inspections shall be borne by the permittee,
which such costs and expenses shall constitute a lien upon the lands
specified in the permit and the minerals produced therefrom, and the
failure to pay the amount thereof on demand by the board shall be cause
for termination of permit.

E. That if any applicant for such dredge or other placer mining
operations as contemplated by this act be not the owner of the lands
described in the application or any part thereof, the owner of such
lands shall endorse his approval of the application and no permit shall
be issued in the absence of such approval by the owner of lands described
in the application not owned by the applicant.

F. Permits issued hereunder are not transferable, and persons to
whom such permits are issued shall not transfer nor attempt to transfer
them to another.

G. No permit shall issue hereunder to dredge nor otherwise placer
mine any lands owned by the state of Idaho, including the beds of navigable
streams, and including the mineral reservations in lands sold by the
state, unless a mineral lease shall be made of such terms and at such
royalty to the state as its board of state land commissioners shall
prescribe and determine.

H. The Idaho state board of land commissioners shall have the
power to deny any application for a permit on state land, stream or
river beds, or on any unpatented mining claims, upon its determination
that a dredge mining operation of the land proposed would not be in the
public interest, giving consideration to economic factors, recreational
use for such lands, fish and wildlife habitat and other factors which in
the judgment of the state land board may be pertinent.

47-1318. Termination of permits--Hearing.--Without in any manner
affecting the penal and injunctive provisions of this act the Idaho
state board of land commissioners is empowered to terminate any permit
to conduct dredge or other placer mining operations issued hereunder for
any violation of the terms of this act, after hearing duly held on the
matter of violation of the person to whom the permit was issued. Such hearings shall be held after not less than twenty days written notice to the permittee, which notice shall state the violation claimed, and the date, time and place of such hearing. Such notice may be served by registered mail, and registry return receipt signed by the permittee or his agent shall constitute service and time thereof of such notice. The board shall make findings of fact and rulings of law in support of any order terminating a permit or forfeiting a bond, and assess the costs of such hearing against the defaulting permittee. The said board of land commissioners may designate one of its members, or a hearing officer or officers to conduct any hearings and make findings of fact, rulings of law, and orders on issues involving the administration of this act.

47-1319. Bond forfeiture on default.--
A. The surety bond required by this act to be given by a permittee for dredge or other placer mining purposes under permit shall be exonerated and discharged upon the completion or termination of such mining operation as specified in the permit granted thereof and upon full compliance with the requirements of this act and the rules and regulations of said board of land commissioners made for the administration thereof.
B. That in event the holder of any permit issued under this act fails to comply with the requirements of this act and the rules and regulations of the Idaho board of land commissioners for the administration hereof, then the applicable bond of such operator shall be forfeited to the state of Idaho in such amount and to such extent as the state board of land commissioners shall estimate and determine will be necessary to pay all cost and expense of restoring the lands and beds of streams damaged by dredge or other placer mining of said defaulting permittee and covered by such bond and remaining unrestored, and such forfeited funds are to be administered through a special fund by said board of land commissioners to restore the lands and beds of streams damaged by dredge or other placer mining of such defaulting permittee, and all funds from all bonds forfeited are hereby perpetually appropriated to a special fund to be administered by the said board of land commissioners for the restoration of such lands and watercourses damaged in dredge or other placer mining operations.
C. No forfeiture of bond of a permittee shall be made until after hearing duly noticed and held as provided in sections 47-1318 and 47-1320 hereof and the findings of facts and rulings of law in support of the order of forfeiture have been made and the time for appeal has expired.

47-1320. Hearing procedures and appeals.--Process and procedure under this act shall be as summary and simple as reasonably may be and as far as possible in accordance with the rules of equity. The board, or any member thereof, or the hearing officer designated by such board, shall have power to subpoena witnesses and administer oaths. The district court shall have power to enforce by proper proceedings the attendance and testimony of witnesses, and the production for examination of books, papers and records. A stenographic report of the testimony at any hearing shall be made. Witnesses subpoenaed by the board or a member thereof or the hearing officer shall be allowed such fees and traveling expenses as are allowed in civil actions in the district court, to be
paid for by the party in whose interest such witnesses are subpoenaed. The board, or any member thereof, or the hearing officer, shall make such inquiries and investigations as shall be deemed relevant.

Each hearing shall be held at the county seat in any county where the dredge or other placer mining is being conducted or where any of the lands involved in the hearing are situate, or in the county of Ada, as the board may designate.

If the hearing involves a permit or application for a permit, the decision of the board, or the decision of the member to whom the matter may have been assigned, or the decision of the hearing officer, together with the transcript of the evidence, findings of fact, and any other matter pertinent to the questions arising during any hearing shall be filed in the office of the state land commissioner. A copy of such findings of fact and decision shall be immediately sent to the applicant or holder of the permit involved in such hearing by United States mail. If the matter has been assigned for hearing by a member of the board or a hearing officer and a claim for review is not filed by any such party in the proceedings within thirty days after his decision is filed, such decision may be adopted as the decision of the board, and notice thereof shall be immediately sent to the applicant or permit holder involved in such hearing by United States mail.

If a claim for review is filed, the board shall hear arguments and may hear the evidence in regard to any or all matters pertinent to the matter, and may revise the decision in whole or in part, or may refer the matter back to the member or hearing officer for further findings of fact and shall file its decision with the records of the proceedings and notify the parties thereof.

Any applicant or permit holder aggrieved may appeal from a decision or order of the board to the district court for the county where the dredge mining is being conducted or where any of the lands involved are situate or the county of Ada, by filing with the board and the clerk of the district court a notice of appeal and serving a similar notice on all other parties to the proceedings. Such notice shall be filed within thirty days after notice of the final decision of the board has been mailed to the party appealing and such notice of appeal shall briefly describe the decision and state the intention of the party to appeal therefrom. Within sixty days after service of such notice upon the board, the secretary of the board shall certify three copies of its records, proceedings and transcript of the stenographic report of the testimony introduced in the hearing, if a hearing was had, or three copies of a transcript of the agreement or stipulation of the parties if such decision be based thereon in whole or in part, and shall file one with the clerk of said court, and shall serve one on the Attorney General of the state of Idaho, and the case thereafter shall be tried by the court.

An appeal may be taken by any party from any decision of the district court, to the supreme court of the state of Idaho as in other civil cases.

This section does not limit the use of or the scope of judicial review available under any other means of review, redress or relief provided by law.

47-1321. Penalties and administrative remedies.--Any person, firm or corporation to whom dredge mining permit has been issued that fails
to comply with any of the requirements of this act or with any of the requirements of the rules and regulations of the board of land commissioners, within sixty days after the disturbance of the ground by dredging or other placer mining has occurred, or such longer and reasonable period of time, not to exceed two years, as may be granted by the state land commissioner in any particular case, to meet land and watercourse restoration requirements, is guilty of a misdemeanor, and each subsequent day of failure to so comply constitutes a separate offense, and in addition to said penal provisions any person, municipality, irrigation district, or canal company, or the Idaho fish and game department when such operation is rendering the water supply of such stream unfit for fish and wildlife and the proper management and harvest thereof, may apply to the Idaho state board of land commissioners protesting a violation of this act and seeking the administrative remedies as herein provided. The said administrative remedies are additional and cumulative to all rights of action at law or equity that may exist in any person, municipality, state or governmental agency to enjoin wrongful dredge mining operations or recover damages resulting therefrom.

47-1322. Title.—This act may be cited as the "Idaho Dredge and Placer Mining Protection Act."

47-1323. Dredge mining of water bodies making up the national wild and scenic rivers system prohibited.—Dredge mining in any form shall be prohibited on:

1. The middle fork of the Clearwater river, from the town of Kooskia upstream to the town of Lowell; the Lochsa river from its junction with the Selway at Lowell forming the middle fork, upstream to the Powell ranger station; and the Selway river from Lowell upstream to its origin;

2. The middle fork of the Salmon river, from its origin to its confluence with the main Salmon river;

[3. The St. Joe river, including tributaries, from its origin to its confluence with Coeur d'Alene lake, except for the St. Maries river and its tributaries.]

47-1324. Dredge or placer mining without permit—Injunction—Procedure.—The state board of land commissioners may maintain an action in the name of the state of Idaho to enjoin any person, firm or corporation from operating or maintaining a dredge or placer mine without holding a valid permit therefor as provided in this act. Such action shall be brought in the district court of this state in the county in which such mining is alleged to have been conducted by filing a verified complaint setting forth the alleged violation; or in the appropriate courts of the United States where the rules and statutes governing such courts permit. The court or a judge thereof at chambers, if satisfied from such complaint or by affidavits that the alleged acts have been or are being committed, may issue a temporary restraining order, without notice or bond, enjoining the defendant, his agents and employees, from operating or maintaining such dredge or placer mine without obtaining a permit as provided in this act and without complying with other provisions of this act. Upon a showing of good cause therefor, the temporary restraining order may require the defendant to make restoration of the mined area in conformity with section 47-1314, Idaho Code, pending final disposition of the
action. The action shall proceed as in other cases for injunctions. If
at the trial the operation and maintenance of dredge or placer mine
without a permit be established, and the court further finds that it is
probable that the defendant will continue therein or in similar violations,
the court shall enter a decree perpetually enjoining said defendant, his
agents and employees from thereafter committing said or similar actions
in violation of this act.

RULES AND REGULATIONS GOVERNING DREDGE AND
PLACER MINING OPERATIONS IN IDAHO

The following is a reprint of the Department of Lands' Idaho Administrative
Procedures Act 20.08.

Department of Lands
November 12, 1980
Idaho Administrative Procedures Act 20.08

RULES AND REGULATIONS GOVERNING DREDGE AND
PLACER MINING OPERATIONS IN IDAHO

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RULE 1 AUTHORITY
These rules are promulgated by the Idaho State Board of Land Commissioners pursuant to Idaho Code, Section 47-1312 through 47-1324. The State Board of Land Commissioners is delegated discretionary power in the regulation of dredge and placer mining operations. The Board has delegated to the Director of the Department of Lands the duties and powers under the Act and in these rules, provided that the Board shall retain responsibility for approval of permits and appellate review.

RULE 2 POLICY AND PURPOSE
2.a It is the policy of the State of Idaho to protect the lands, streams and watercourses within the State, from destruction by dredge mining and by placer mining, and to preserve the same for the enjoyment, use and benefit of all the people, and that clean water in the streams
of Idaho is in the public interest. Idaho Code, Section 47-1312.

These rules are intended to implement the standards for operation and reclamation of dredge and placer mining consistent with the policy and intent of the Legislature. Compliance with these rules will allow removal of minerals while preserving water quality and insuring rehabilitation for beneficial use of the land following mining. Dredge and placer mining is expressly prohibited upon certain waterways renown for their scenic and wild characteristics.

2.b In general, these rules provide for:
  2.b.i Securing a dredge and placer mining permit.
  2.b.ii Posting of a performance bond as a condition of such permit to insure the completion of rehabilitation operations.
  2.b.iii Initial and periodic inspection of dredge and placer mining operations to insure compliance with these rules.
  2.b.iv Prohibiting dredge mining on designated watercourses.

See Rule 17.

  2.b.v Prohibiting dredge mining on certain lands when not in the public interest.

RULE 3 APPLICABILITY

3.a These rules apply to all lands within the State, including Federal lands, which are disturbed by dredge or placer mining conducted subsequent to November 24, 1954.

3.b Only dredge and placer mining operations as defined under Rule 4.h are required to conduct operations in conformance with these rules.

3.c Dredge or placer mining operations to which these rules apply includes:

  3.c.i The extraction of minerals from a placer deposit, including the removal of vegetation, topsoil, overburden, and minerals, construction and operation of on-site processing equipment, disposal of overburden and waste materials, design and operation of siltation and other water quality control facilities, and other operations contiguous to the mining site affecting land and water quality made necessary by the mining operation.

  3.c.ii All exploration activities conducted upon a potential placer deposit using dredge or placer mining equipment with a capacity as defined under Rule 4.h. Such exploration activities will be considered as if they were one and the same as a dredge or placer mining operation, with the permitting, bonding, operating, reclamation and other standards of these rules to fully apply. All other types of exploration methods using motorized earth-moving equipment will comply with the requirements of the Idaho Surface Mining Act and the rules promulgated thereunder.

3.d These rules do not apply to mining operations regulated by the Idaho Surface Mining Act. Neither do they apply to surface disturbance caused by the underground mining of a placer deposit, unless the deposit is continuous to the surface and the operation will result in the probable subsidence of the land surface.

3.e These rules in no way exempt the operator from obtaining a stream channel alteration permit if required by the Idaho Department of Water Resources.

RULE 4 DEFINITIONS

4.a "Abandoned lands" means those affected lands where land and water-course restoration requirements have not been met, within sixty
(60) days after the disturbance of the ground by dredging or other placer mining, or such longer and reasonable period of time, not to exceed two (2) years, as may be granted by the Director.

4.b "Affected lands" means the land area disturbed by activity associated with mining, including, but not limited to, overburden disposal areas, mined areas, mineral stockpiles, roads, settling ponds and other areas disturbed at the mining operation site.

4.c "Approximate previous contour" means that surface configuration achieved by backfilling and grading of the mined area so that it resembles the surface configuration of the land prior to mining and blends into and compliments the drainage pattern of the surrounding terrain.

4.d "Board" means the State Board of Land Commissioners or its authorized representative, or where appropriate, the State of Idaho.

4.e "Capable" means the total volume of on-site earth material moved in cubic yards within one hour at maximum operating power.

4.f "Department" means the Idaho Department of Lands. Business address is STATEHOUSE, Room 121, Boise, Idaho 83720.

4.g "Director" means the Director of the Department of Lands or his authorized representative.

4.h "Dredge and placer mining" means dredge and placer mining operations to recover minerals with the use of a dredge boat or sluice washing plant. These rules apply to all dredge and placer mining operations where the method of excavating the placer deposit is capable of moving more than two (2) cubic yards of earth material per hour, with the following exceptions:

4.h.i Dredging operations conducted for the sole purpose of establishing and maintaining a channel for navigation are not under the purview of these rules;

4.h.ii Dredging operations in streams or riverbeds using suction dredges with an intake diameter of eight (8) inches or less will not be required to comply with these Rules and Regulations unless the Department determines by on-site inspection that the dredge is capable of moving more than two (2) cubic yards of earth material per hour. However, dredging operations in streams or riverbeds using a suction dredge with an intake diameter exceeding eight (8) inches shall be presumed capable of moving more than two (2) cubic yards per hour unless the operator can demonstrate that under specific site conditions the dredge is incapable of moving two (2) cubic yards of earth material per hour.

4.i "Exploration activities" means operations performed on the surface of lands to locate placer deposits and to determine their mineability and merchantability. It includes roads constructed for access within the boundary of the exploration site.

4.j "Final order of the Board" means a written notice of rejection or any other order of the Board where additional administrative remedies are not available.

4.k "Mine or mining" means the dredge or placer mine, or the dredge or placer mining activity.

4.l "Mine panel" means that area designated by the operator in the reclamation plan to include all lands to be affected by mining during a given time period set by the operator (this may be 12 months, 24 months or the life of the mine). A mine panel may include an entire pit, a portion of a pit or portions of several pits.
4.m "Mined area" means surface of land from which overburden or minerals have been removed by mining.
4.n "Mineral" means gold, platinum, garnet, rare earths, and other valuable solid materials contained within a placer deposit. It also includes sand and gravel mined for commercial sale from a stream, river, marsh, or lakebed using dredge mining equipment.
4.o "Mineral stockpile" means mineral extracted during mining operations and retained at the mine for future rather than immediate use.
4.p "Motorized earth-moving equipment" means equipment such as back-hoes, bulldozers, front-loaders, trenchers, drills, suction dredges, draglines and other similar equipment.
4.q "Operator" means any person or persons, any partnership, corporation, or any association of persons, either natural or artificial, engaged in dredge or placer mining operations, whether individually, jointly or through subsidiaries, agents, employees or contractors and shall mean every governmental agency owning or controlling the use of any dredge or placer mining operation when the mineral extracted is to be used for the benefit of such agency with the exception of all State and Federal agencies. It shall not include any such person or governmental agency with respect to those mining operations to which it grants mineral leases or prospecting permits or similar contracts, but nothing herein shall relieve the operator acting pursuant to a mineral lease, prospecting permit or similar contract from the terms of these rules.
4.r "Overburden" means material extracted by an operator which is not a part of the material ultimately removed from a surface mine and marketed by an operator, exclusive of mineral stockpiles. Overburden is comprised of topsoil and waste.
4.s "Overburden disposal area" means land surface upon which overburden is piled or planned to be piled.
4.t "Peak" means a projecting point of overburden.
4.u "Permit" means the dredge or placer mining permit.
4.v "Permittee" means the operator as defined herein, or the owner of the property to be mined, in whose name the permit is issued and hence the operator or person to be held responsible for compliance with the conditions of the permit by the Department.
4.w "Person" means an individual or a partnership, association, or corporation qualified to do business in the State of Idaho.
4.x "Pit" means an excavation created by the extraction of minerals or overburden during mining operations.
4.y "Reclamation" means the process of restoring an area affected by a mining operation to its original or another beneficial use, in so far as reasonably possible, considering past and possible future uses of the area and the surrounding topography. The basic objective is to re-establish, where reasonable, a diverse self-perpetuating plant community and other natural conditions consistent with the anticipated subsequent use of the affected lands.
4.z "Revegetation" means the re-establishment of the pre-mining vegetation or a more beneficial vegetative cover on the land disturbed by mining operations, including desirable volunteer vegetation.
4.a "Ridge" means a raised strip of overburden.
4.bb "Road" means a way constructed on a mine for the passage of vehicles, including the bed, slopes and shoulders thereof.
4.cc "Sediment pond" means an area on a mine enclosed by a man-
made or natural impoundment structure onto which has been discharged the
waste material resulting from the primary concentration of minerals in
ore excavated from the mine.

4.dd "Topsoil" means the unconsolidated mineral and organic matter
naturally present on the surface of the earth that is necessary for the
growth and regeneration of vegetation.

4.ee "Waste" means the barren rock of a mine or that part of the
ore deposit that is too low in grade to be of economic value at the
time.

RULE 5 ADMINISTRATION

The Department of Lands shall administer these rules under the
direction of the Director or his authorized representative.

RULE 6 NOTICE OF EXPLORATION OPERATIONS

Any operator desiring to conduct mineral exploration within the
State of Idaho using motorized earth-moving equipment should be aware of
Title 47, Chapter 15, Idaho Code, which requires the operator to notify
the Department by certified mail within seven (7) days after beginning
exploration operations. The letter shall include the name and address
of the operator, the location of the operation, starting date, estimated
completion date, anticipated size and general method of operation. All
exploration operations using equipment described in Rule 3.c.ii are
considered as a dredge and placer mining operation under these rules and
shall comply with these rules in lieu of notification as an exploration
operation.

RULE 7 APPLICATION PROCEDURE FOR APPROVAL OF INITIAL DREDGE OR PLACER
MINING PERMIT

7.a The following conditions shall be satisfied before issuance of
a dredge or placer mining permit:

7.a.i An application shall be submitted on the Department
form or exact copy thereof for each separate mining operation. For the
purpose of this rule, separate mining operations are those which are
individual, physically disconnected operations. The operator shall
submit five (5) copies of a map of the proposed mining operations as
described in Rule 7.b and five (5) copies of a reclamation plan for the
proposed mining operation as described in Rule 7.c.

7.a.ii An application fee of $50.00 for each ten (10) acres
or fraction thereof of land included in an application for a new mining
permit, or of land to be affected or added in an amended or supplemental
application to an existing mining permit, must be included with the
application.

7.a.iii An application for a mining permit may be returned
for correction and re-submission if the information provided on the
application form or associated mine map(s) or reclamation plan is incomplete.
The Department shall not proceed on the application until the incomplete
information is submitted.

7.a.iv If the applicant of the dredge or placer mining permit
is not the owner of the lands described in the application, or any part
thereof, the land owner shall endorse his approval of the application
prior to issuance of a permit. The Federal Government, as a property
owner, will be notified of the application, but need not endorse its
approval.
For mining operations proposed upon land under a mining or
mineral lease, either the signature of the lessor shall be affixed to
the application or a copy of the complete lease attached to the application.

7.a.v If the Department determines that an inspection is
necessary, the operator will be contacted and asked that he or his duly
authorized employee or representative be present for inspection at a
reasonable time. Such inspection if deemed necessary by the Department,
shall be a prerequisite to issuance of the permit. The operator shall
make such persons available for the purpose of inspection. See Rule
16.a.

7.b Requirements of Maps--A mine layout map for the proposed
mining operation shall be submitted (five copies) with the application
and include the following:

7.b.i The location of existing roads and anticipated access
and main haulage roads planned to be constructed in conducting the
mining operation.

7.b.ii The approximate location and the names of any streams,
creeks, springs, wells or bodies of water within 500 feet of where
mining operations shall take place.

7.b.iii The approximate boundaries to be utilized in the
process of mining, including legal description, to the quarter-quarter
section.

7.b.iv The planned locations of future mine panels within the
mining property, to the extent known.

7.b.v The planned location of all settling ponds and other
ancillary structures which will be utilized in the mining operation.

7.b.vi The proposed location and configuration of pits,
mineral stockpiles, topsoil stockpiles and waste dumps within the mining
property.

7.b.vii Cross-sections of length and width representative of
the dredge or placer mining operation showing the surface contour prior
to mining and the expected surface contour after reclamation activities
have been completed.

7.b.viii Show on the mine map the location of required settling
ponds, and describe by drawing and narrative their design adequacy to
meet both operating discharge requirements and protection from erosion
and flooding that may historically be anticipated in the area. Where a
dredge is operating a stream, describe by drawing and narrative the
operation of the filtration equipment to be used to clarify the water
prior to discharge.

7.c Requirements for the Reclamation Plan--A reclamation plan for
the proposed mining operation shall be submitted (five copies) with the
mining permit application which includes the following reclamation
details (this plan may be shown both on the mine map(s) and in narrative
form, as appropriate):

7.c.i Show how watercourses disturbed by the mining operation
shall be replaced on meander lines with a pool structure conducive to
good fish and wildlife habitat and recreational use. Show how and where
riprap or other methods of bank stabilization will be used to insure
that following abandonment the stream erosion will not exceed the rate
normally experienced in the area. If necessary, show how the replaced
watercourse will not contribute to degradation of ground water supplies.
7.c.ii Contour of the proposed mine site after final backfilling and/or grading, with grades listed for slopes to be left after mining.
7.c.iii Methods to be incorporated into the mining plan to minimize erosion of overburden piles.
7.c.iv Where surface waters draining from affected lands may result in stream or lake siltation in excess of that which is normal from runoff, the applicant shall show plan details which will be used if necessary to meet the standards established under Idaho Code, Section 39-107, or the conditions of the runoff water existing prior to mining, whichever is the lesser standard.
7.c.v Show roads to be reclaimed upon completion of mining.
7.c.vi Show location of stockpiles of topsoil and/or overburden which is conducive to plant growth.
7.c.vii Show plan of revegetation activities including seed rates, species, time of planting, method of planting and, if necessary, fertilizer and mulching, to establish vegetation for mined areas, overburden piles and abandoned roads.
7.c.viii Proposed post-mining land use.

RULE 8 PROCEDURES FOR REVIEW AND DECISION UPON AN APPLICATION

8.a Following Department review of an application for a new permit or to amend or supplement an existing permit, the Board shall approve or disapprove the application and shall notify the applicant of its decision by mail. Such notice will contain any reservations conditioned with the approval, or the information required to be given under Rule 8.c if disapproved. If approved, a permit will be issued after the bonding requirements of Rule 12 are met. No mining shall be allowed until the permit is bonded and applicant notified by mail or telephone.

8.b If it is determined that an application fails to fulfill the requirements of these rules, the Board may approve the application with the reservation that certain stipulations be included to bring the application in compliance with these rules. The applicant may then either accept or refuse the permit issued which will include these stipulations. Refusal to comply with the stipulations of the Board by the applicant will be considered as if the application was denied in Rule 8.c.

8.c If the Board disapproves the application, the applicant will be informed of the rules that have not been complied with, the manner in which they have not been complied with and the requirements necessary to rectify the deficiencies cited. The applicant may then submit an amended application, which will be processed as described in Rule 8.a.

8.d For the purpose of determining whether a proposed application complies with these rules, the Director may call for a public hearing, per Rule 11.

8.e If weather conditions prevent the Department from inspecting the proposed mining site to acquire the information required to evaluate the application, the application may be placed in suspense pending improved weather conditions. The applicant will be notified in writing of this action.

8.f Upon approval of the Board and receipt of the required bond, a permit will be issued and shall govern and determine the nature and extent of the reclamation obligations of the operator.

8.g No permit shall be issued proposing to alter or occupy or to
dredge any stream or watercourse without notification to the Department of Water Resources of the pending application. The Department of Water Resources shall respond to said notification within twenty (20) days, and the response shall be included in any permit granted hereunder by a showing whether the Stream Channel Alteration from the Department of Water Resources shall be required.

8.h No permit shall be issued until the Department is satisfied that the methods of water clarification proposed by the operator are of sound engineering design and capable of meeting the discharge standards established under Idaho Code, Section 39-107.

8.i The Board shall have the power to deny any application for a permit on State land, stream or riverbeds, or on any unpatented mining claims, upon its determination that a dredge or placer mining operation on the land proposed would not be in the public interest, giving consideration to economic factors, recreational use for such lands, fish and wildlife habitat and other factors which in the judgment of the Board may be pertinent, and may deny an application upon notification by the Department of Water Resources that the grant of such permit would result in permanent damage to a stream channel.

RULE 9 AMENDING OR SUPPLEMENTING AN APPROVED PERMIT

9.a If circumstances arise which require a significant change in the reclamation plan or other detail associated with an approved permit, the permittee shall submit an application on a Department form or exact copy thereof, to amend or supplement the permit. An "amendment" refers to changes which will not involve additional acreage in the permitted area; a "supplement" involves the addition of acreage to a permitted area. A permit shall be amended or supplemented as dictated by changes in the operation and associated reclamation plan from that most recently approved. Application fees shall be submitted with amended or supplemental applications per Rule 7.a.ii.

9.b An application to amend or supplement a permit will be processed in accord with Rule 8.

RULE 10 DEVIATION FROM AN APPROVED PERMIT

10.a If an operator finds that unforeseen events or unexpected conditions require immediate deviation from an approved permit the operator may continue mining in accord with the procedures dictated by the changed conditions, pending submission and approval of an amended or supplemental permit, even though such operations do not comply with the current approved permit. Nothing herein stated shall be construed to excuse the operator from complying with the reclamation requirements of Rule 14.

10.b Notification of such unforeseen events shall be given to the Department within forty-eight hours after discovery thereof, and an application to amend or supplement the permit shall be submitted within 30 days.

RULE 11 PUBLIC HEARING FOR PERMIT APPLICATION

11.a During any stage of the application process the Director may call for a public hearing.

11.b This action will be based upon the preliminary review of the application and upon any concern registered with the Department by the public, affected land owners, Federal agencies having surface management of the affected lands or other interested entities.
11.c The hearing shall be held, with a verbatim record, in the locality of the affected area or in Ada County, at a reasonably convenient time and place.

11.d The Department shall give notice of the date, time and place of hearing to the applicant, local, State and Federal agencies which it reasonably determines may have an interest in its decision, all persons petitioning for such hearing, and any person with a recorded ownership interest in the specific acreage to be affected by a permit issued from the application. Such notice shall be sent by certified mail and postmarked not less than 30 days before the scheduled date of the public hearing.

11.e The Department shall notify the general public of the date, time and place of the hearing. It shall place a newspaper advertisement once a week for two consecutive weeks in the locale of the area covered by the application. The two consecutive weekly advertisements shall begin between 7 and 20 days prior to the scheduled date of the hearing.

A copy of the application shall be placed for review in a conspicuous place in the local area of the proposed mining operations, in the respective Department's Area Office and the Department's administrative office in Boise.

11.f The hearing shall be conducted by the Director or his designated representative. Both oral and written testimony will be accepted.

RULE 12 PERFORMANCE BOND REQUIREMENTS

12.a Prior to issuance of a dredge or placer mining permit, an applicant shall submit to the Department on a dredge or placer mining bond form a performance bond meeting the requirements of this rule.

12.a.i The amount of the initial bond shall be $15,000.00 for a specified and particularly described 10 acre tract within the area included in the application, or shall be $15,000.00 for all of the area included within the application if the application is for an area less than 10 acres.

12.a.ii The amount of bonds shall be $15,000.00 for each additional specified and particularly described 10 acre tract within the permitted area.

12.a.iii If the area remaining that requires bonding is less than 10 acres, the bond amount will be $1,000.00 times the number of specified and particularly described acres. However, no combination of bonds, initial or subsequent, for a specified 10 acres or less shall be in an amount less than $15,000.00.

12.b Acreage on which reclamation is completed shall be reported in accord with Rule 12.g. After release of this acreage from the permit by the Department, the bond may be reduced by the amount appropriate to reflect the completed reclamation. However, no single bond for specified and particularly described acreage will be allowed to be decreased below $15,000.00 until the entire area covered by the bond is eligible for full release.

12.c Form of Performance Bond

12.c.i Corporate Surety Bond means an indemnity agreement executed by or for the permittee and a corporate surety licensed to do business in the State of Idaho, submitted on a dredge and placer mining bond form, Department form or exact copy thereof. The bond is to be conditioned upon the permittee's faithful compliance with these rules, payable to the State of Idaho.
12.c.ii Collateral Bond means an indemnity agreement executed by or for the permittee and payable to the State of Idaho, pledging cash deposits, negotiable bonds of the United States, State of Idaho, or municipalities within Idaho, or negotiable certificates of deposit of any bank doing business in the United States. Collateral bonds shall be subject to the following conditions:

(a) The Department shall obtain possession, and upon receipt of such collateral bonds deposit such cash or securities with the State Treasurer to hold in trust for the purpose of bonding reclamation performance.

(b) The Department shall value collateral at its current market value, not face value.

(c) Certificates of Deposit shall be assigned to name of permittee or State of Idaho, in writing and upon the books of the bank issuing such certificates. Interest may be allowed to accrue and received upon release of bond, or will be paid to the permittee, or other person which posted the collateral bond, no more often than semi-annually.

(d) Amount of an individual certificate shall not exceed the maximum amount insured by the Federal Deposit Insurance Corporation or Federal Savings and Loan Insurance Corporation or their successors.

(e) Banks issuing such certificates shall waive all rights of set-off or liens which it has or might have against such certificates.

(f) Any such certificate shall be automatically renewable.

(g) The certificate of deposit shall be of sufficient amount to insure that the Department would be able to liquidate such certificates prior to maturity, upon forfeiture, for the amount of the required bonding including any penalty for early withdrawal.

12.d Any surety company cancelling a bond shall give the Department and its bonded principal at lease 30 days notice prior to cancellation. The Department shall not release a surety from liability under existing bonds until the permittee has submitted to the Department an acceptable replacement bond. Such replacement bond shall cover any liability accrued against the bonded principal on the mined area covered by the previous bond.

12.e If the license to do business in Idaho of any surety shall be suspended or revoked, the permittee shall, within 30 days after notice by the Department, find a substitute surety. The substitute surety must be licensed to do business in Idaho. If the permittee fails to secure such substitute surety, the Department shall have the right to enjoin the permittee from conducting mining operations on land covered by such bond until a suitable substitution is made.

12.f Upon finding that any land bonded under a dredge or placer mining permit will not be affected, the permittee shall notify the Department. The amount of the bond may be reduced by the permittee by the amount which was being held as surety for reclamation of said lands, but not less than $15,000.00 for a minimum 10 acre tract.

12.g Bond Requirement—Upon completion of the reclamation specified in the permit, the permittee shall notify the Department of his desire to secure release from bonding. When the Department has verified that the requirements of the reclamation plan have been met as stated in the permit, the bond in effect as to such lands shall be released.
12.g.i Any request for bond retirement shall be answered by the Department within thirty (30) days of receiving such request.

12.g.ii If the Department finds that a specific portion of the reclamation for a given acreage has been satisfactorily completed, the bond may be proportionately reduced to the amount still required to bond the remaining reclamation.

12.g.iii The remaining bond shall not be released:
   (a) As long as the lands are contributing suspended solids to stream flow and runoff outside the affected area in excess of standards established under Idaho Code, Section 39-107.
   (b) Until vegetation productivity is returned to levels of yields at least comparable to productivity which the affected area supported prior to the permitted mining, except as stated in Rule 14.d.vi.
   (c) Until final completion of removal of equipment and structures related to the mining activity.
   (d) Until final removal of any silt or erosion control structures and reclamation of the site.

12.h Criteria for Forfeiture--A bond shall be forfeited if the Department determines after administrative hearing (Rule 16.b) that:

12.h.i The permittee has not conducted the dredge and placer mining and reclamation in accord with the approved permit and these rules, or,

12.h.ii The permittee has become insolvent, filed a petition in bankruptcy or for a receiver, or had a petition in bankruptcy or for a receiver filed against it in any court, or,

12.h.iii The permittee cannot demonstrate that it will be able to continue to operate in compliance with these rules.

12.i The forfeiture of bond shall fully satisfy all obligations of the operator to reclaim affected lands covered by such bond, unless the bond amount is insufficient to reclaim the land in compliance with the approved reclamation plan. In such case the Attorney General is empowered to commence legal action to recover the amount in excess of the bond necessary to reclaim the land in compliance with the approved reclamation plan.

12.j The Department may through cooperative agreement with the permittee devise a schedule to correct deficiencies in complying with the reclamation plan and thereby postpone action to recover the bond if all deficiencies are satisfactorily corrected. Such corrective action shall be taken within sixty (60) days after occurrence of the deficiency or such longer and reasonable time, not to exceed two (2) years, as required by the Director.

RULE 13 PERMITTEE'S INTEREST NONTRANSFERABLE

Dredge and Placer mining permits are not transferable. Permittee shall not transfer or attempt to transfer them to another person. If a permittee should assign his interest in a mining operation to another person, the permittee may, under existing permit continue to operate the mine as an agent for the new owner, with permittee retaining full responsibility for the performance of these rules. If the permittee is no longer to be directly responsible for the operation, the new owner would be required to obtain a new permit for the mining operation. The former permit is terminated upon issuance of a new permit. The new permittee then shall be responsible for the past permittee's obligations concerning these rules.
RULE 14 RECLAMATION

14.a Backfilling and Grading--The operator shall shape and smooth the ground disturbed to a grade reasonably comparable with the natural contour of the ground prior to such disturbance, and to a condition conducive to the growth of vegetation. After the disturbed area has been graded, slopes will be measured for compliance to those required in the reclamation plan. Backfill materials shall be compacted in a sound engineering manner to insure stability of the fill.

14.b Topsoil--Where a mining operation results in the substantial removal of topsoil, the permittee shall remove the topsoil as a separate operation from such areas. Where previously affected lands exist which are graded and immediately available, the topsoil shall be redistributed; if no such area is available, it shall be stockpiled and protected from erosion and contamination until such areas become available. For the purpose of this rule, "substantial removal of topsoil" means the removal of topsoil from one acre or greater.

14.b.i Topsoil Removal:

(a) Topsoil from any area to be worked shall be removed prior to mining to prevent loss or contamination.

(b) Where topsoil removal exposes land area to potential erosion, the Department may limit the size of any one area having topsoil removed at any one time.

(c) Where the permittee can show that an overburden material rather than the topsoil is more conducive to plant growth by chemical and physical characteristics of such overburden, the overburden may be allowed as a substitute or supplement to available topsoil.

14.b.ii Topsoil Storage--Topsoils shall be placed such that they will not be rehandled or exposed to an excess of wind and water erosion. If the stockpile is to be stored in excess of 60 days, it shall be protected from erosion by use of temporary vegetation or by other methods which will provide such protection such as snow fences, chemical binders, and mulching.

14.b.iii Topsoil Redistribution--Topsoil shall be spread so as to achieve a uniform thickness over the regraded area. Excessive compaction of overburden and topsoil is to be avoided. Topsoil redistribution shall be timed so that seeding or other protective measures can be readily applied to prevent erosion. Final grading shall be along the contour unless such grading will expose equipment operators to hazardous operating conditions, in which case the best alternative method available shall be used in grading.

14.b.iv Nutrients and soil amendments shall be applied to the topsoil in the amounts necessary to successfully achieve the revegetation requirements of the reclamation plan.

14.c Disposal of Waste in Areas Other than Mine Excavations--Waste material not used in backfilling mined areas may be transported and placed in a sound engineering manner. The waste shall be placed, compacted, covered and graded to allow surface drainage to be compatible with the natural surrounding drainage and insure long-term stability, and be revegetated as outlined in the reclamation plan.

14.d Revegetation

14.d.i The permittee shall select and establish on affected lands a diverse, effective and permanent vegetation cover which can be
expected to result in vegetation at least comparable to the vegetation which was growing on the affected areas prior to mining activities, or other species that will support the approved post-mining use of the affected lands.

14.d.ii Revegetation shall be carried out in a manner which encourages rapid stabilization of the soil surface with respect to erosion and recovery of productivity levels comparable to which the land supported prior to mining.

14.d.iii Introduced species may be used if they are known to be of equal or superior use for the approved post-mining use or if necessary to achieve a quick, temporary cover for soil stabilization purposes. Species shall not be allowed which may be classified as poisonous or noxious weeds in the area where its use is proposed.

14.d.iv Areas to be excluded from planting include:

(a) Affected lands, or portions thereof, where planting is not practicable or reasonable because the soil is composed of excessive amounts of sand, gravel, shale, stone, or other material to such an extent to prohibit plant growth.

(b) Mined areas or overburden proposed to be used in the mining operations for haulage roads, so long as such roads are not abandoned.

(c) Any mined area or overburden pile where lakes are formed by rainfall or drainage run-off from adjoining lands.

(d) Any mineral stockpiles.

(e) Any exploration trench which will become a part of any overburden disposal or mined area.

(f) Any road which is to be used in mining operations, so long as the road is not abandoned.

14.d.v Mulching--Use of mulch and mulching is encouraged on severe sites and may be required where necessary to establish vegetation and control erosion as predetermined in the approved reclamation plan. Mulch means vegetation residues or other suitable materials to aid in the stabilization of soil and soil moisture conservation, and which will then provide a microclimate more suitable for germination and growth on severe sites. Annual grains such as rye, oats and wheat may be used as a substitute for mulch where they will provide adequate protection and will be replaced by permanent species within a reasonable length of time.

14.d.vi Standards for Success of Revegetation--Vegetation success shall be measured against the existing vegetation on site prior to mining.

(a) The permittee shall establish reference areas of similar nature to those areas to be mined which, upon approval of the reclamation plan, will be the criteria for measuring revegetation success. The reference area shall be subject to comparable management to that which is required for the post-mining land use.

(b) The ground cover of living plants on the revegetated area shall be comparable to the ground cover of living plants on the approved reference area for a minimum of two full growing seasons.

(c) For purposes of this Rule, ground cover shall be considered comparable if it is at least 90 percent of the ground cover of the pre-mined or reference area.
(d) For locations with an average annual precipitation of more than 26 inches the Department may, in lieu of reference areas, set a minimum standard for success of revegetation as follows:

(i) Vegetation cover of 70 percent for two full growing seasons in areas planted to herbaceous species only.

(ii) Vegetation cover of 50 percent for two full growing seasons and 600 woody plants per acre in areas planted to a mixture of herbaceous and woody species.

(e) As referred to in this section, herbaceous species means grasses, legumes, and non-leguminous forbs; woody plants means woody shrubs, trees and vines; and ground cover means the area of the ground surface covered by the combined aerial parts of vegetation and the litter that is produced naturally on site, expressed as a percentage of the total area measurement.

(f) For previously mined lands that were not reclaimed to the standards required by Rule 14, which are affected by the permittee, vegetation shall be established to the extent necessary to control erosion and in no case less than that existing before re-disturbance.

(g) For areas to be developed immediately for industrial or residential use, vegetative cover shall not be less than that required to control erosion. As used in this Rule, immediately means less than two years.

(h) For areas previously used as cropland, crop production from the mined area shall be at least 90 percent of the pre-mining crop production for a minimum of two growing seasons.

14.d.vii Standards of Success of Reforestation--Tree stocking for forest lands shall meet the following criteria:

(a) A pre-mining and post-revegetation estimate of the trees and shrubs shall be conducted on the proposed mining site to gain information as to species by size class, volume, stand condition and appropriate forest land utilization consideration.

(b) Appropriate trees and shrubs physiologically suited to the site shall be planted on the affected area, at a density which can reasonably be expected over time to yield a timber stand comparable to or better than the pre-mining timber stands. This in no way is to exclude the conversion of sites to a different, more desirable or more economically suited species.

(c) The trees and shrubs shall be in place for two full growing seasons before considered established.

(d) Forest lands undergoing revegetation with trees shall be protected from erosion by vegetative or chemical means during seedling establishment.

14.e Water Quality

14.e.i Appropriate sediment control measures shall be designed, constructed and maintained to prevent stream or lake siltation in excess of that which results normally from the undisturbed site, using the best technology currently used by industry to meet the standards authorized under Title 39, Chapter 1, Idaho Code. Sediment control measures refer to practices carried out within and adjacent to the disturbed area. Sediment storage capacity in and below the mining operation shall reflect the degree to which successful mining and reclamation techniques are applied to reduce erosion. Sediment control measures consists of utilization
of proper mining and reclamation methods as well as specific sediment control methods, singly or in combination. Specific sediment control methods may include, but are not limited to:

(a) Keeping the disturbed area to a minimum at any given time through progressive reclamation.

(b) Shaping wastes to help reduce the rate and volume of water runoff by increasing infiltration.

(c) Retaining sediment within the disturbed area.

(d) Diverting surface runoff to limit water coming into the disturbed area.

(e) Conducting runoff through the disturbed area using protected channels or pipes so as not to increase sediment load.

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

14.e.ii Sediment Ponds--If the sediment control measures of 14.e.i do not result in full compliance with Title 39, Chapter 1, Idaho Code, the permittee shall construct and use settling ponds which meet the following criteria:

(a) Sediment Storage Volume--Settling ponds must provide a minimum sediment storage capacity of 0.1 acre feet for each acre disturbed in the upstream drainage area. The Department may approve a sediment storage capacity of not less than .035 acre feet for each acre disturbed if other sediment control measures can be shown to equal the reduction in sediment storage volume.

(b) Water Detention Time--Settling ponds shall have a 24 hour theoretical detention time for water inflow and runoff entering the pond from a ten-year 24-hour precipitation event. Theoretical detention time may be reduced to a minimum of ten hours by use of pond design improvements, chemical treatment, or other methods as long as water quality is within State standards.

(c) Dewatering--The water storage resulting from inflow shall be removed by an adequate dewatering device or spillway. Discharge rate shall maintain the theoretical detention time and not be located lower than the maximum elevation of design sediment storage volume.

(d) If the Department determines necessary, an emergency spillway, in combination with the principal dewatering device, shall provide for safe discharge of a 25-year, 24-hour precipitation event.

(e) If a settling pond has an embankment more than ten feet in height, as measured from the downstream toe of the embankment to the maximum water storage elevation, it shall comply with the requirements of the Idaho Dam Safety Act.

14.f Time Limits for Reclamation:

14.f.i Seeding and planting of affected lands shall be conducted during the first normal period for favorable planting conditions after final seedbed preparation, wherever possible, but in no way later than one year after final grading. If permanent vegetation is delayed or slow in establishment, a temporary cover of small grains, grasses or legumes to control erosion until adequate permanent cover is established is acceptable.

14.f.ii The reclamation activity where possible shall be concurrent with the mining operation. Final reclamation shall begin within 60 days after the disturbance of the ground by dredging or other
placer mining or such longer and reasonable period of time, not to exceed two years, as may be granted by the Director, to meet land and watercourse restoration requirements. If the permittee permanently 1) stops disposing of overburden on a waste area, 2) stops using a road or other affected lands, or 3) stops removing minerals from a given mine panel, the reclamation activity on each given area shall be coordinated with the next favorable season for such reclamation activities.

14.f.iii A permittee shall be deemed to have permanently ceased mining operations on a given portion of affected land when no substantial amount of mineral or overburden materials have been removed or overburden placed on overburden dumps during the prior two years. If the permittee does not plan to use an affected area for two or more years, and hence desires to defer final reclamation until after subsequent use, he shall submit a request for deferral of reclamation to the Department in writing. If the Department determines that the permittee plans to continue the operation within a reasonable period of time, it shall notify the permittee of approval of the request for deferral and will include recommended action to be taken to reduce degradation of surface resources until operations resume. If the Department determines that the operation will not be continued within a reasonable period of time, the Department will proceed as though the mining operation has been abandoned.

RULE 15 TERMINATION OF A PERMIT

15.a A dredge or placer mining permit shall expire upon completion of all reclamation activity to the standards specified in the permit and final inspection and approval has been granted by the Department. Upon expiration, the Department will release the remaining portion of the bond filed as a condition of the permit.

15.b Should a bond filed as a condition of a dredge or placer mining permit be forfeited, the permit will automatically be cancelled effective the date the Board authorized the action against the bond. Upon cancellation of a bond, any authority to operate under the permit shall be null and void.

15.c For continuous operation the bonded permit shall remain valid. Action may be taken to invalidate a dredge and placer mining permit if:

15.c.i The permit is not bonded; or
15.c.ii The dredge and placer mining operations are not commenced within three years of the date of Board approval; or
15.c.iii The dredge and placer mining operations are terminated for a period of three years.

RULE 16 ENFORCEMENT AND FAILURE TO COMPLY

16.a Inspection--Authorized representatives of the Department shall make periodic inspections of operations under permit to determine compliance with these rules. The cost and expense of such inspections shall be borne by the permittee, and such costs and expenses shall constitute a lien upon the lands specified in the permit and the minerals produced therefrom. The failure to pay the amount thereof on demand by the Department shall be cause for termination of the permit. The cost of inspection for a single permit shall not exceed $500.00 annually with a $200.00 maximum per inspection for a single permit. Such costs will be assessed during the month of July each year, and be due and payable
within 30 days of receipt of an inspection cost statement. Where possible, inspections will be scheduled by area with costs (travel and per diem) prorated among the number of operations inspections.

16.b Department Remedies--Without affecting the penal and injunctive provisions of these rules, the Department may pursue the following remedies:

16.b.i When the Department determines that a permittee has not complied with these Rules, the Department shall notify the permittee in writing and set forth the violations claimed and the corrective actions needed to comply with these rules.

16.b.ii If the permittee fails to comply fully with these Rules within a specified number of days, set by the Department, which in no case shall be greater than 60 days after the violation is discovered (30 day maximum on Federal lands), the Department may terminate the permit and forfeit the bond after hearing upon not less than twenty (20) days written notice to the permittee.

16.b.iii Such notice shall be served by certified mail. A certified return receipt signed by the permittee or his agent shall constitute service and time thereof of such notice.

16.b.iv The hearing officer shall enter findings of fact, conclusions of law and decision.

16.b.v The cost of such hearing shall be assessed against the defaulting permittee. The Board shall designate a hearing officer to conduct any hearings and make findings of fact, conclusions of law and decision on issues involving the administration of these Rules.

16.b.vi The bond required by these Rules to be given by a permittee for dredge or other placer mining purposes under permit shall be released upon the completion or termination of such mining operation as specified in the permit and upon full compliance with these Rules.

16.b.vii If a permittee fails to comply with these Rules, the applicable bond of such operator shall be forfeited to the State of Idaho in such amount and to such extent as the Director shall determine will be necessary to pay all costs and expense of restoring the lands and beds of streams damaged by dredge or other placer mining which remain unrestored.

16.b.viii No forfeiture of bond of a permittee shall be made until after a hearing duly noticed and held pursuant to these Rules.

16.c Injunctive Procedures

16.c.i The Department may file an action for injunction against any operator who is conducting dredge or placer mining operations without holding a valid permit as provided for in these Rules.

16.c.ii The Department may enjoin a dredge mining operation if the permittee violates the terms of an existing approved permit or at any time affects lands outside the permitted area.

16.c.iii Reclamation activities and other work intended to protect public health, safety and environment shall continue during the period of any injunction unless otherwise provided in the order.

16.c.iv Such action shall be brought in the district court of the State in the county in which such mining is alleged to have been conducted by filing a verified complaint setting forth the alleged violation or in the appropriate courts of the United States where the rules and statutes governing such courts permit. The courts, or a judge
thereof at chambers, if satisfied from such complaint or by affidavits that the alleged acts have been or are being committed may issue a temporary restraining order without notice or bond, enjoining the defendant, his agents and employees, from operating or maintaining such dredge or placer mine without obtaining a permit as provided in these Rules and without complying with other provisions of these Rules.

Upon a showing of good cause the temporary restraining order may require the defendant to make restoration of the mined area in conformity with these rules, pending final disposition of the action. The action shall proceed as in other cases for injunctions.

If at the trial the operation and maintenance of dredge or placer mine without a permit is established and the court further finds that it is probable that the defendant will continue therein or in similar violations, the court shall enter a decree perpetually enjoining a defendant, his agents and employees, from thereafter committing said or similar actions in violation of this Act.

16.c.v The Director shall cause to be terminated any injunction where he determines that all conditions, practices or violations listed in the order have been abated. Termination shall not affect the right of the Department to pursue penalties for these violations per Rule 16.d.

16.d Penalties

16.d.i Following the efforts of the Department to notify an operator of non-compliance in accord with Rule 16.d, and in addition to any administrative penalties, forfeitures, or other procedures permitted by these Rules, any operator who violates any of the provisions of these Rules, or who fails to perform duties imposed by these provisions, or who violates any order pursuant to the provisions of these Rules is guilty of a misdemeanor, and each subsequent day of failure to so comply constitutes a separate offense.

16.d.ii Any person, municipality, irrigation district or canal company, or the Idaho Fish and Game Department when such operation is rendering the water supply of a stream unfit for fish and wildlife and the proper management and harvest of the same, may apply to the Department protesting a violation of this Act and seeking the administrative remedies as provided in the Rules. The said remedies are additional and cumulative to all rights of action at law or equity that may exist in any person, municipality, State or governmental agency to enjoin wrongful dredge mining operations or recover resulting damages.

16.d.iii Action to recover such penalties shall be brought in the name of the State of Idaho by the Attorney General in the district court where the violation occurs, or the district court where the defendant resides. All sums recovered shall be deposited in accord with Rule 19.a.

16.e Procedure for Compliance Hearings and Appeals

16.e.i Procedures under these Rules shall be as simple as may be possible in accordance with the rules of equity. The Director or the hearing officer designated by the Department shall have the power to subpoena witnesses and administer oaths. The District Court shall have power to enforce by proper proceedings the attendance and testimony of witnesses and the production for examination of books, papers and records. A stenographic report of the testimony at any hearing shall be made.
Witnesses subpoenaed by the Director or the hearing officer shall be allowed such fees and traveling expenses as are allowed in civil actions in the District Court, to be paid by the party in whose interest such witnesses are subpoenaed. The Director or the hearing officer shall make such inquiries and investigations as shall be deemed relevant.

16.e.ii Each hearing shall be held at the county seat in the county where the dredge or other placer mining is being conducted or where any of the lands involved in the hearing are located, or in the County of Ada, as the Director may designate.

16.e.iii If the hearing involves a permit or application for a permit, the decision of the Board or the decision of a member to whom the matter has been assigned or the decision of the hearing officer, together with the transcript of the evidence, findings of fact and any other matter pertinent to the questions arising during any hearing shall be filed in the office of the Director. A copy of the findings of fact and decision shall be immediately sent to the applicant or holder of the permit involved in such hearing, by mail. If the matter has been assigned for hearing and a claim for review is not filed by any such party in the proceedings within thirty (30) days after his decision is filed, such decision may be adopted as the decision of the Board. Notice thereof shall be immediately sent to the applicant or permit holder involved in such hearing by mail.

16.e.iv If a claim for review is filed, the Board shall hear arguments and may hear the evidence in regard to any and all matters pertinent to the matter, and may revise the decision in whole or in part. Furthermore, they may refer the matter back to the hearing officer for further findings of fact and shall file its decision with the records of the proceedings and notify the parties involved.

Any applicant or permit holder aggrieved may appeal from a final decision or final order of the Board to the district court of the county where the dredge mining is being conducted or where any of the lands involved are located or the County of Ada, by filing with the Department and the clerk of the district court, a notice of appeal and serving a similar notice on all other parties to the proceedings. Such notice shall be filed within thirty (30) days after notice of the final decision of the Board has been mailed to the party appealing and such notice of appeal shall briefly describe the decision and state the reason for appeal. Within sixty (60) days of the service of such notice upon the Department, the Director shall certify three copies of records, proceedings and transcript of the stenographic report of the testimony introduced in the hearing, if a hearing was held, or three (3) copies of a transcript of the agreement or stipulation of the parties if that is the basis of part or all of the decision, and shall file one with the clerk of the said court and shall serve one on the Attorney General of the State of Idaho, and the case thereafter shall be tried by the court.

Any appeal may be taken by any party from any decision of the district court, to the State Supreme Court as in other civil cases.

This rule does not limit the use or the scope of judicial review available under any other means of review, redress, or relief provided by law.

16.f Computation of Time--Computation of time for these rules will be based upon calendar days. In computing any period of prescribed time, the day on which the designated period of time begins is not
included. The last day of the period is included unless it is a Saturday, Sunday or legal holiday on which the Department is not open for business. In such a case, the period runs until the end of the next day which is not a Saturday, Sunday or legal holiday. Intermediate Saturdays, Sundays or legal holidays are excluded from the computation where the period of prescribed time is seven (7) days or less.

RULE 17 DREDGE MINING OF CERTAIN WATERBODIES PROHIBITED

17.a Dredge mining in any form within the mean high water marks shall be prohibited on:

17.a.i The Middle Fork of the Clearwater River, from the town of Kooskia upstream to the town of Lowell; the Lochsa River from its junction with the Selway at Lowell forming the Middle Fork upstream to the Powell Ranger Station; and the Selway River from Lowell upstream to its origin;

17.a.ii The Middle Fork of the Salmon River, from its origin to its confluence with the main Salmon River.

17.a.iii The St. Joe River, including tributaries, from its origin to its confluence with Coeur d'Alene Lake, except for the St. Maries River and its tributaries.

RULE 18 CONFIDENTIALITY OF INFORMATION

18.a Any information supplied by an operator to the Board, the Director or Department concerning any specific reclamation or operating plans associated with a dredge mining permit will be open to public review, except for private land when designated confidential.

18.b Information concerning exploration activities submitted pursuant to Rule 6 will be considered confidential and will not be disclosed by the Board, Director or employees of the Department without the written consent of the operator supplying such information. The same shall hold true for reclamation or operating plans on private lands which have been designated by the operator as confidential.

18.c Any plans, documents or materials submitted as confidential and held so shall not be construed to prohibit the Board, Director or Department from using all information available to it in any administrative hearing or judicial proceedings brought under these Rules.

RULE 19 DEPOSIT OF MONIES, FORFEITURES AND DAMAGES

19.a All monies, forfeitures and penalties collected under the provisions of these Rules shall be deposited with the State Treasurer in a special dredge and placer mine reclamation fund to be used by the Department for dredge and placer mine reclamation purposes; provided that any portion of a forfeited bond not expended within three (3) years from forfeiture for reclamation in accord with the reclamation plan shall be returned to the person from which the bond was obtained.

19.b Dredge and placer mine reclamation fund monies from forfeited bonds shall be first used for reclamation of the affected lands involved in the action that provided the monies to the fund. Upon approval of the Board, remaining monies in the fund shall be used to reclaim abandoned land for which the forfeited bond was insufficient to reclaim in accord with these Rules, or for dredge or placer mine sites for which the bond has been released and which have resulted in subsequent or latent damage. Monies received from inspection fees are to be kept separate and used
for the direct costs incurred by the Department in conducting such inspections.

RULE 20  COMPLIANCE OF EXISTING PERMITS

These Rules, upon their adoption, shall apply to all existing dredge and placer mining permits, where such Rules are not in direct conflict with existing approved operations and reclamation plans.
SPECIFIC LAWS GOVERNING SURFACE MINING IN IDAHO

Specific laws governing surface mining in Idaho are given in the Idaho Surface Mining Act (Title 47, Chapter 15, Idaho Code). These laws were enacted to protect the public and ensure reclamation of all lands in the state that are disturbed by mining or exploration. For more information contact the Department of Lands, Bureau of Minerals, State Capitol Building, Boise, Idaho 83720, telephone (208) 334-3569. The entire act follows:

SURFACE MINING

47-1501. Purpose of chapter.—It is the purpose of this act to provide for the protection of the public health, safety and welfare, through measures to reclaim the surface of all the lands within the state disturbed by exploration and surface mining operations and thereby conserve natural resources, aid in the protection of wildlife, domestic animals, aquatic resources, and reduce soil erosion. [1971, ch. 206, Sec. 1, p. 898; am. 1973, ch. 180, Sec. 1, p. 415.]

47-1502. Short title.—This act may be known and cited as "the Idaho surface mining act." This act shall not apply to surface mining operations regulated by the Idaho Dredge and Placer Mining Protection Act. [1972, ch. 206, Sec. 2, p. 898.]

47-1503. Definitions.—Wherever used or referred to in this act, unless a different meaning clearly appears from the context:
1. "Board" means the state board of land commissioners or such department, commission, or agency as may lawfully succeed to the powers and duties of such board.
2. "Director" means the head of the department of lands or such officer as may lawfully succeed to the powers and duties of said director.
3. "Affected land" means the land area included in overburden disposal areas, mined areas, mineral stockpiles, roads, tailings ponds and other areas disturbed at the surface mining operation site.
4. "Mineral" shall mean coal, clay, stone, sand, gravel, metalliferous and nonmetalliferous type of ores, and any other similar solid material or substance of commercial value to be excavated from natural deposit on or in the earth.
5. "Surface mining operations" means the activities performed on a surface mine in the extraction of minerals from the ground, including the excavating of pits, removal of minerals, disposal of overburden, and the construction of haulage roads, exclusive of exploration operations, except that any exploration operations which, exclusive of exploration roads, (1) result during a period of twelve (12) consecutive months in more than five (5) contiguous acres of newly affected land, or (2) which, exclusive of exploration roads, result during a period of twelve (12)
consecutive months in newly affected land consisting of more
than ten (10) noncontiguous acres, if such affected land constitutes
more than fifteen per cent (15%) of the total area of any
circular tract which includes such affected land, shall be
deemed to be a surface mining operation for the purposes of
this act.
6. "Exploration operations" means activities performed on the
surface of lands to locate mineral bodies and to determine the
mineability and merchantability thereof.
7. "Surface mine" means an area where minerals are extracted by
removing the overburden lying above and adjacent to natural
deposits thereof and mining directly from the natural deposits
thereby exposed.
8. "Mined area" means surface of land from which overburden or
minerals have been removed other than by drilling of exploration
drill holes.
9. "Overburden" means material extracted by an operator which is
not a part of the material ultimately removed from a surface
mine and marketed by an operator, exclusive of mineral stockpiles.
10. "Overburden disposal area" means land surface upon which overburden
is piled or planned to be piled.
11. "Exploration drill holes" means holes drilled from the surface to
locate mineral bodies and to determine the mineability and
merchantability thereof.
12. "Exploration roads" means roads constructed to locate mineral
bodies and to determine the mineability and merchantability thereof.
13. "Exploration trenches" means trenches constructed to locate mineral
bodies and to determine the mineability and merchantability thereof.
14. "Peak" means a projecting point of overburden.
15. "Mine panel" means that portion of a mine designated by an
operator as a panel of a surface mine on the map submitted
pursuant to section 47-1506, Idaho Code.
16. "Mineral stockpile" means minerals extracted during surface
mining operations and retained at the surface mine for future
rather than immediate use.
17. "Pit" means an excavation created by the extraction of minerals
or overburden during surface mining operations.
18. "Ridge" means a lengthened elevation of overburden.
19. "Road" means a way constructed on a surface mine for the passage
of vehicles, including the bed, slopes and shoulders thereof.
20. "Operator" means any person or persons, any partnership, limited
partnership, or corporation, or any association of persons, either
natural or artificial, including but not limited to every public
or governmental agency engaged in surface mining or exploration
operations, whether individually, jointly, or through subsidiaries,
agents, employees, or contractors and shall mean every governmental
agency owning or controlling the use of any surface mine when the
mineral extracted is to be used by or for the benefit of such
agency. It shall not include any such governmental agency with
respect to those surface mining or exploration operations as to
which it grants mineral leases or prospecting permits or similar
contracts, but nothing herein shall relieve the operator acting
pursuant to a mineral lease, prospecting permit or similar contract
from the terms of this act.
21. "Hearing officer" means that person selected by the board to hear proceedings under section 47-1513, Idaho Code.

22. "Final order of the board" means a written notice of rejection, the order of a hearing officer at the conclusion of a hearing, or any other order of the board where additional administrative remedies are not available.

23. "Tailings pond" means an area on a surface mine inclosed by a man-made or natural dam into which has been discharged the waste material resulting from the primary concentration of minerals in ore excavated from a surface mine. [1971, ch. 206, Sec. 3, p. 898; am. 1973, ch. 180, Sec. 2, p. 415; am. 1974, ch. 17, Sec. 35, p. 308.]

47-1504. Board of land commissioners--Responsibility.--The state board of land commissioners is charged with the responsibility of administering this act in accordance with the purpose of the act and the intent of the legislature. The director of the department of lands shall, upon authorization of the board, exercise the powers and discharge the duties vested in the board by this act. [1971, ch. 206, Sec. 4, p. 898; am. 1974, ch. 17, Sec. 36, p. 308.]

47-1505. Duties and powers of board.--(a) In addition to the other duties and powers of the board prescribed by law, the board is granted and shall be entitled to exercise the following authority and powers and perform the following duties:

1. To administer and enforce the provisions of this act and the rules and regulations and orders promulgated thereunder as provided in this act.

2. To conduct and promote the coordination and acceleration of research, studies, surveys, experiments, demonstrations and training in carrying out the provisions of this act. In carrying out the activities authorized by this section, the board may enter into contracts with and make grants to institutions, agencies, organizations and individuals, and shall collect and make available any information obtained therefrom.

3. To adopt and promulgate reasonable rules and regulations respecting the administration of this act and such rules and regulations as may be necessary to carry out the intent and purposes of this act, provided that no regulations shall be adopted which require reclamation activities in addition to those set forth in this act. All such rules and regulations shall be adopted in accordance with and subject to the provisions of sections 67-5201 through 67-5207, Idaho Code.

4. To enter upon affected lands at all reasonable times, for the purpose of inspection, to determine whether the provisions of this act have been complied with. Such inspections shall be conducted in the presence of the operator or his duly authorized employees or representatives, and the operator shall make such persons available for the purpose of inspections.

5. To reclaim affected land with respect to which a bond has been forfeited, and, in the board's discretion, with the permission of the land-owner, to reclaim such other land which becomes affected land prior to or after the effective date of this act. [1971, ch. 206, Sec. 5, p. 898.]
47-1506. Operator—Duties prior to operation—Submission of maps and plans.—(a) Any operator desiring to conduct surface mining operations within the state of Idaho for the purpose of immediate or ultimate sale of the minerals in either the natural or processed state, shall submit to the board prior to commencing such surface mining operations the following:

(1) A map of the mine panel on which said operator desires to conduct surface mining operations, which sets forth with respect to said panel the following:
   (i) The location of existing roads and anticipated access and main haulage roads planned to be constructed in conducting the surface mining operations.
   (ii) The approximate boundaries of the lands to be utilized in the process of surface mining operations.
   (iii) The approximate location and, if known, the names of all streams, creeks, or bodies of water within the area where surface mining operations shall take place.
   (iv) The name and address of the person to whom notices, orders, and other information required to be given to the operator pursuant to this act may be sent.
   (v) The drainage adjacent to the area where the surface is being utilized by surface mining operations.
   (vi) The approximate boundaries of the lands that will become affected lands as a result of surface mining operations during the year immediately following the date that a reclamation plan is approved as to said panel, together with the number of acres included within said boundaries.

(2) Diagrams showing the planned location of pits, mineral stockpiles, overburden piles and tailings ponds on said panel.

(3) A reclamation plan setting forth the action which said operator intends to take to comply with the provisions of this act as to the surface mining operations conducted on such mine panel.

(b) No operator shall commence surface mining operations on any mine panel without first having a reclamation plan approved by the state board of land commissioners.

(c) Any operator desiring to conduct exploration operations within the state of Idaho using motorized earth-moving equipment in order to locate minerals for immediate or ultimate sale in either the natural or the processed state shall notify the board by certified mail as soon after beginning exploration operations as possible and in any event within seven (7) days after beginning exploration operations. The letter shall include the following:

   (1) The name and address of the operator;
   (2) The location of the operation and the starting date and estimated completion date;
   (3) The anticipated size of the operation, and the general method of operation.

The letter shall be treated as confidential and disclosure may only be made under section 47-1515, Idaho Code. [1971, ch. 206, Sec. 6, p. 898; am. 1973, ch. 180, Sec, p. 415.]

47-1507. Reclamation plan—Approval or rejection by board—Hearing.—(a) Upon determination by the board that a reclamation plan
or any amended plan submitted by an operator meets the requirements of this act, the board shall deliver to the operator, in writing, a notice of approval of such reclamation plan, and thereafter said plan shall govern and determine the nature and extent of the reclamation obligations of the operator for compliance with this act, with respect to the mine panel for which the plan was submitted.

(b) If the board determines that a reclamation plan or amended plan fails to fulfill the requirements of this act, it shall deliver to the operator, in writing, a notice of rejection of the reclamation plan and shall set forth in said notice of rejection the reasons for such rejection, the factual findings upon which such rejection is based, the manner in which the plan fails to fulfill said requirements, and the requirements necessary to comply with this act. Upon receipt of said notice of rejection, said operator may submit amended plans. Upon further determination by the board that the amended plan still does not fulfill the requirements of said section, it shall deliver to the operator, in writing, a notice of rejection of the amended reclamation plan in the same form as set out above.

(c) Weather permitting, the board shall deliver to the operator within sixty (60) days after the receipt of any reclamation plan or amended reclamation plan, the notice of rejection or notice of approval of said plan, as the case may be, provided, however, that if the board fails to deliver a notice of approval or notice of rejection within said time period, the plan submitted shall be deemed to comply with this act, and the operator may commence and conduct his surface mining operations on the mine panel covered by such plan as if a notice of approval of said plan had been received from the board; provided, however, that if weather conditions prevent the board from inspecting the mine panel to obtain information needed to approve or reject a submitted plan, it may, in writing to the operator, extend the time not to exceed thirty (30) days after weather conditions permit such inspection.

(d) For the purpose of determining whether a proposed reclamation plan or amended or supplemental reclamation plan complies with the requirements of this act, the board may, in its discretion, call for a public hearing. The hearing shall be held under such rules and regulations as promulgated by the board. Any interested person may appear at the hearing and give testimony. At the discretion of the board, the commissioner may conduct the hearing and transmit a summary thereof to the board. Any hearing held shall not extend the period of time limit in which the board must act on a plan submitted. [1971, ch. 206, Sec. 7, p. 898.]

47-1508. Amended reclamation plan--Supplemental plan--Submission.--

(a) In the event that circumstances arise which the operator believes require a change in an approved reclamation plan, including any amended reclamation plan, then the operator may submit to the board a supplemental plan setting forth the proposed changes and stating the reasons therefor. Upon determination by the board that a supplemental reclamation or any amended supplemental plan submitted by the operator meets the requirements of this act, it shall deliver to the operator, in writing, a notice of approval of said supplemental plan, and thereafter said supplemental plan shall govern and determine the nature and extent of the reclamation obligations of the operator for compliance with respect to the mine panel for which the plan was submitted.
(b) If the board determines that a supplemental reclamation plan fails to fulfill the requirements of this act, it shall deliver to the operator, in writing, a notice of rejection of the supplemental reclamation plan and shall set forth in said notice of rejection the manner in which said plan fails to fulfill said requirements and shall stipulate the corrective requirements necessary to comply with said sections. Upon receipt of said notice of rejection, the operator may submit amended supplemental plans. Upon further determination by the board that an amended supplemental plan does not fulfill the requirements of said sections, it shall deliver to the operator, in writing, a notice of rejection of amended supplemental plan, and shall set forth in said notice of rejection the manner in which such amended supplemental plan fails to fulfill said requirements, and shall stipulate the requirements necessary to comply with said sections.

(c) The board shall, weather permitting, deliver to the operator within sixty (60) days after the receipt of any supplemental reclamation plan or amended supplemental reclamation plan, the notice of rejection, setting forth in detail the reasons for such rejection and the factual findings upon which such rejection is based, or notice of approval of said plan as the case may be, provided, however, that if the board fails to deliver a notice of approval or notice of rejection within said time period, the plan submitted shall be deemed to comply with this act and the operator may commence and conduct or continue, as the case may be, his surface mining operations as if a notice of approval of said plan had been received from the board. If weather conditions prevent the board from inspecting the mine panel to obtain information needed to approve or reject a submitted plan, it may, in writing to the operator, extend the time not to exceed thirty (30) days after weather conditions permit such inspection.

(d) If an operator determines that unforeseen events or unexpected conditions require immediate changes in or additions to an approved plan, the operator may continue surface mining operations in accordance with the procedures dictated by the changed conditions, pending submission and approval of a supplemental plan, even though such operations do not comply with the approved plan; provided, however, that nothing herein stated shall be construed to excuse the operator from complying with the reclamation requirements of sections 47-1509 and 47-1510 of this act. Notice of such unforeseen events or unexpected conditions shall be given to the board within ten (10) days after discovery thereof, and a proposed supplemental plan shall be submitted within thirty (30) days after discovery thereof. [1971, ch. 206, Sec. 8, p. 898.]

47-1509. Procedures in reclamation.--(a) Except as otherwise provided in this act, every operator who conducts exploration or surface mining operations which disturb two (2) or more acres within the state of Idaho shall perform the following reclamation activities:
(1) Ridges of overburden shall be leveled in such manner as to have a minimum width of ten (10) feet at the top.
(2) Peaks of overburden shall be leveled in such a manner as to have a minimum width of fifteen (15) feet at the top.
(3) Overburden piles shall be reasonably prepared to control erosion.
(4) Where water run-off from affected lands results in stream or lake siltation in excess of that which normally results from run-off,
the operator shall prepare affected lands and adjacent premises under the control of the operator as necessary to meet the requirements authorized under chapter 1, title 39, Idaho Code, or the conditions of the water run-off prior to commencing surface mining or exploration operations, whichever is the lesser standard.

(5) Roads which are abandoned shall be cross-ditched insofar as necessary to avoid erosion gullies.

(6) Exploration drill holes shall be plugged or otherwise left so as to eliminate hazards to humans or animals.

(7) Abandoned affected lands shall be topped to the extent that such overburden is reasonably available from the pit, with that type of overburden which is conducive to the control of erosion or the growth of the vegetation which the operator elects to plant thereon.

(8) The operator shall conduct revegetation activities on the mined areas, overburden piles, and abandoned roads in accordance with the provisions of this act.

(9) Tailings ponds shall be reasonably prepared in such a condition that they will not constitute a hazard to human or animal life.

(b) The board may request, in writing, that a given road or portion thereof not be cross-ditched or revegetated, and upon such request, the operator shall be excused from performing such activities as to such road or portion thereof.

(c) Every operator who conducts exploration or surface mining operations which disturb less than two (2) acres within the state of Idaho shall, wherever possible, contour the lands so disturbed to approximate the previous contour of the lands.

(d) The operator and board may agree, in writing, to do any act with respect to reclamation above and beyond the requirements herein set forth. [1971, ch. 206, Sec. 9, p. 898; am. 1973, ch. 180, Sec. 4, p. 415.]

47-1510. Vegetation planting.--(a) Except as otherwise provided in this act, an operator shall plant, on affected lands, vegetation species which can be expected to result in vegetation comparable to the vegetation which was growing on the area occupied by the affected lands prior to the exploration and surface mining operations.

(b) No planting shall be required on any affected lands, or portions thereof, where planting would not be practicable or reasonable because the soil is composed of sand, gravel, shale, stone or other material to such an extent as to prohibit plant growth.

(c) No planting shall be required to be made with respect to any of the following:

(1) On any mined area or overburden or overburden pile proposed to be used in the mining operations for haulage roads, so long as such roads are not abandoned.

(2) On any mined area or overburden pile where lakes are formed by rainfall or drainage run-off from the adjoining lands.

(3) On any mineral stockpile.

(4) On any exploration trench which will become a part of any pit or overburden disposal area.

(5) On any road which the operator intends to use in his mining operations, so long as said road has not been abandoned. [1971, ch. 206, Sec. 10, p. 898.]
47-1511. Reclamation activities--Time limitations.--(a) All reclamation activities required to be conducted under this act shall be performed in a good and workmanlike manner, with all reasonable diligence, and as to a given exploration drill hole, road or trench, within one (1) year after abandonment thereof.

(b) The reclamation activity as to a given mine panel shall be commenced within one (1) year after surface mining operations have permanently ceased as to such mine panel, provided, however, that in the event that during the course of surface mining operations on a given mine panel, the operator permanently ceases disposing of overburden on a given overburden pile, or permanently ceases removing minerals from a given pit, or permanently ceases using a given road or other affected land, then the reclamation activities to be conducted hereunder as to such pit, road, overburden pile, or other affected land, shall be commenced within one (1) year after such termination, despite the fact that all operations as to the mine panel, which includes such pit, road, overburden pile, or other affected land, have not permanently ceased. It shall be presumed that the operator has permanently ceased surface mining operations as to a given affected land if no substantial amount of overburden has been placed on the overburden pile in question or if no minerals have been removed from the pit in question, as the case may be, for a period of three (3) years.

This presumption may be rebutted by evidencing, in writing, to the board what surface mining operations the operator has planned on the pit, road, overburden pile, or other affected land not used within a three (3) year period. Should the board determine that the operator, in good faith, intends to continue the surface mining operation within a reasonable period of time, it shall, in writing, so notify the operator. Should the board determine that the operation will not be continued within a reasonable period of time, the board shall proceed as though the surface mining operation has been abandoned. [1971, ch. 206, Sec. 11, p. 896.]

47-1512. Performance bond--Requisites.--(a) Prior to conducting any surface mining operations on a mine panel covered by an approved reclamation plan, an operator shall submit to the board a bond meeting the requirements of this section. The penalty of the initial bond filed prior to conducting any surface mining operations on a mine panel shall be in the amount necessary to insure the performance of the duties of the operator under this act as to the acreage of affected land designated by the operator pursuant to section 47-1506(a)(1)(vi) of this act, but in no event shall any bond submitted pursuant to this act exceed five hundred dollars ($500.00) for any given acre of such affected land. In lieu of any bond required hereunder, the operator may deposit cash and governmental securities with the board, in an amount equal to that of the required bond, on the conditions as prescribed in this section.

(b) Prior to the time that lands designated to become affected lands on a mine panel, in addition to those designated pursuant to section 47-1506(a)(1)(vi) of this act, become affected land, the operator shall submit to the board a bond as to such lands meeting the requirements of section 47-1512(c) of this act, and the penalty of such bond shall be in the amount necessary to insure the performance of the duties of the operator under this act as to such affected lands, but in no event shall
such amount exceed five hundred dollars ($500.00) for any given acre of such affected land.

(c) Any bond required under this act to be filed with the board shall be in such form as the board prescribes, payable to the state of Idaho, conditioned that the operator shall faithfully perform all requirements of this act and comply with all rules and regulations of the board in effect as of the date of approval of the reclamation plan approved for said lands made in accordance with the provisions of this act. Such bond shall be signed by the operator as principal, and by a good and sufficient corporate surety authorized to do business in the state of Idaho as a surety. An operator may at any time file a single bond in lieu of separate bonds filed or to be filed pursuant to this act, provided that the penalty of such single bond shall be equal to the total of the penalties of the separate bonds being combined into a single bond.

(d) A bond filed as above prescribed shall not be canceled by the surety, except after not less than ninety (90) days notice to the board.

(e) If the license to do business in this state of any surety, upon a bond filed with the board pursuant to this act, shall be suspended or revoked, the operator, within thirty (30) days after receiving notice thereof from the board, shall substitute for such surety a good and sufficient corporate surety licensed to do business in this state. Upon failure of the operator to make substitution of surety, the board shall have the right to enjoin the operator from conducting operations upon the lands covered by such bond until such substitution has been made.

(f) When an operator shall have completed all requirements under the provisions of this act as to any affected land, he shall notify the board. Within thirty (30) days after the receipt of such notice, the board shall notify the operator as to whether or not the reclamation performed meets the requirements of the reclamation plan pertaining to the land in question. Upon the determination by the board that the requirements of the reclamation plan in question have been met as to said lands, the amount of bond in effect as to such lands shall be reduced by an amount designated by the board to reflect the reclamation done.

(g) An operator may withdraw any land previously designated as affected land within a mine panel, provided that it is not already affected land, and in such event, he shall notify the board and the amount of the bond in effect as to the lands in that mine panel shall be reduced by an amount designated by the board as the amount which would have been necessary to reclaim such lands. [1971, ch. 206, Sec. 12, p. 898.]

47-1513. Operator's failure to comply--Forfeiture of bond--Penalties--Reclamation fund.--(a) Whenever the board determines that an operator has not complied with the provisions of this act, the board shall notify the operator of such noncompliance, and shall by private conference, conciliation, and persuasion, endeavor to remedy such violation. In the event of the failure of any conference, conciliation and persuasion to remedy any alleged violation, the board shall cause to have issued and served upon the operator alleged to be committing such violation, a formal complaint which shall specify the provisions of this act which the operator allegedly is violating, and a statement of the manner in and the extent to which said operator is alleged to be violating this act, and shall require the operator so complained against to answer the
charges of such formal complaint at a hearing before a hearing officer appointed by the board at a time not less than thirty (30) days after the date the operator receives notice of the complaint. The board shall issue subpoenas at the request of the director of the department of lands and at the request of the charged operator, and the matter shall be otherwise handled and conducted in accordance with sections 67-5209 through 67-5213, Idaho Code. The hearing officer shall, pursuant to said hearing, enter an order in accordance with section 67-5212, Idaho Code, which, if adverse to the operator, shall designate a time period within which corrective action should be taken. The time period designated shall be long enough to allow the operator, in the exercise of reasonable diligence, to rectify any failure to comply designated in said order. In the event that the operator takes such action as is necessary to comply with the order within the time period designated in said order, no further action shall be taken by the board to compel performance under the act.

(b) Upon request of the board, the attorney general shall institute proceedings to have the bond of an operator forfeited for the violation by the operator of an order entered pursuant to this section.

(c) The forfeiture of such bond shall fully satisfy all obligations of the operator to reclaim the affected land under the provisions of this act. If the violation involves an operator that has not furnished a bond required by this act, or an operator that is not required to furnish a bond pursuant to this act, or an operator who violates this act by performing an act not included in the original approved reclamation plan, and such departure from the plan is not subsequently approved, such operator shall be subject to a civil penalty for his failure to comply with such order in the amount determined by the board to be the anticipated cost of reasonable reclamation of affected lands.

(d) Notwithstanding any other provisions of this act, the board may, by injunctive procedures, without bond or undertaking, proceed against any operator who is conducting surface mining or exploration pursuant to this act, and may further proceed by legal action to recover from an operator who is conducting surface mining or exploration operations without first obtaining any bond required of such operator pursuant to this act, and may further proceed by legal action to recover from an operator who is conducting surface mining or exploration operations, the cost of performing the reclamation activities required by sections 47-1509 and 47-1510, Idaho Code, from any such operator who has not filed a bond to cover the cost of the reclamation required.

(e) Additionally, injunctive relief to enjoin a surface mining operation shall be available to the board when, under an existing approved reclamation plan covered by a required bond, an operator violates the terms of the plan and the bond will not be sufficient to adequately reclaim the land if forfeited.

(f) In addition to the requirement in subsection (a) of this section that the board notify an operator of noncompliance, and in addition to the civil penalty provided in subsection (c) of this section, any operator who violates any of the provisions of this act or regulations adopted pursuant thereto, or who fails to perform the duties imposed by these provisions, or who violates any determination or order promulgated pursuant to the provisions of this act, shall be liable to a civil
penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each day during which such violation continues, and in addition may be enjoined from continuing such violation. Such penalties shall be recoverable in an action brought in the name of the state of Idaho by the attorney general in the district court for the county where the violation, or some part thereof, occurs, or in the district court for the county wherein the defendant resides. All sums recovered shall be placed in the state treasury and credited to the surface mining reclamation fund, which is hereby created, to be used to reclaim affected lands and to administer this act.

(g) Any person who wilfully and knowingly falsifies any records, information, plans, specifications, or other data required by the board or wilfully fails, neglects, or refuses to comply with any of the provisions of this act shall be guilty of a misdemeanor and shall be punished by a fine of not less than one thousand dollars ($1,000) and not more than five thousand dollars ($5,000) or imprisonment not to exceed one (1) year or both. [1971, ch. 206, Sec. 13, p. 898; am. 1973, ch. 180, Sec. 5, p. 415; am. 1974, ch. 17, Sec. 37, p. 308.]

47-1514. Appeal from final order—Procedure. (a) Any operator dissatisfied with any final order of the board made pursuant to this act may, within sixty (60) days after notice of such order, obtain judicial review thereof by appealing to the district court of the state of Idaho for the county wherein the operator resides or has a place of business, or to the district court for the county in which the land or any portions thereof affected by the order is located. Such appeal shall be perfected by filing with the clerk of such court, in duplicate, a notice of appeal, together with a complaint against the board, in duplicate, which shall recite the prior proceedings before the board or hearing officer, and shall state the grounds upon which the petitioner claims he is entitled to relief. A copy of the summons and complaint shall be delivered to the board or such person or persons as the board may designate to receive service of process. The clerk of the court shall immediately forward a copy of the notice of appeal and complaint to the board, which shall forthwith prepare, certify and file in said court, a true copy of any decision, findings of fact, conclusions or order, together with any pleadings upon which the case was heard and submitted to the board or hearing officer, and shall, upon order of the court, provide transcripts of any record, including all exhibits and testimony of any proceedings in said matter before the board or any of its subordinates. Such suit in the district court shall be a trial de novo and shall proceed in all respects like other civil suits, including, but not limited to, the rights of appeal to the Supreme Court of the state of Idaho.

(b) When the board finds that justice so requires, it may postpone the effective date of a final order made, pending judicial review. The reviewing court, including the court to which a case may be taken on appeal, may issue all necessary and appropriate orders to postpone the effective date of any final order pending conclusion of the review proceedings.

(c) Notwithstanding any other provision of this act concerning administrative or judicial proceedings, whenever the board determines that an operator has not complied with the provisions of this act, the board may file a civil action in the district court for the county
wherein the violation, or some part thereof, occurs, or in the district
court for the county wherein the defendant resides. The board may
request the court to issue an appropriate order to remedy the violation.
The right of appeal to the Supreme Court of the state of Idaho shall be
available. [1971, ch. 206, Sec. 14, p. 898; am. 1973, ch. 180, Sec. 6,
p. 415.]

47-1515. Information confidential.--Any information supplied by an
operator to the board, the director, or the department of lands, and
designated by such operator as confidential, shall not be disclosed by
the board, the director or department employees to any person other than
the board, director or and employees of the department without the
express written permission of the operator supplying such information;
provided, however, that this shall not be construed to prohibit the
board from using all information available to it in any administrative
hearing or judicial proceedings brought under this act. [1971, ch. 206,
Sec. 15, p. 898; am. 1974, ch. 17, Sec. 38, p. 308.]

47-1516. Deposit of forfeitures and damages.--All forfeitures and
civil damages collected under the provisions of this act shall be deposited
with the state treasurer in a special fund to be used by the board for
surface mined land reclamation purposes. [1971, ch. 206, Sec. 16, p.
898.]

47-1517. Conduct of explorations.--An operator shall conduct all
exploration and mining operations in accordance with all applicable
statutes and regulations pertaining to water use and mining safety
applicable to exploration and surface mining operations. [1971, ch.
206, Sec. 17, p. 898.]

47-1518. Effective date--Application of act.--This act shall be in
full force and effect on and after May 31, 1971. An operator shall not
be required to perform the reclamation activities referred to in this
act as to any surface mining operations performed prior to May 31, 1972,
and further, shall not be required to perform such reclamation activities
as to any pit or overburden pile as it exists prior to May 31, 1972.
[1971, ch. 206, Sec. 19, p. 898.]
APPENDIX A: MINING FORMS

Examples of forms for locating mining claims and filing annual assessment work.
Lode Mining Location Notice\(^1\)
Placer Mining Location Notice\(^1\)
Affidavit of Assessment Work\(^1\)
State of Idaho Mining Claim Location Certificate\(^2\)
State of Idaho Affidavit of Assessment Work\(^2\)
State of Idaho Application for Dredge and Placer Mining Permit\(^2\)
State of Idaho Dredge and Placer Mining Bond\(^2\)

\(^1\)The sample forms shown are reproduced with the permission of Syms-York Company, P.O. Box 7158, Boise, Idaho 83707. These or similar forms may be purchased in most stationary stores or printing shops.

\(^2\)These forms are available from the Idaho Department of Lands, Statehouse, Boise, Idaho 83720.
LODE MINING LOCATION NOTICE

NOTICE IS HEREBY GIVEN, that the undersigned locator __________ and claimant __________ ha discovered a lode deposit of mineral or minerals, or other valuable deposits, and that the same is hereby located and claimed under the provisions of the laws of the United States and the State of Idaho.

Name of locator or locators: ____________________________

The name of this claim is ____________________________ lode mining claim and is situated in the Mining District of ___________, County of ___________, State of Idaho, and covers the area particularly described as follows, to wit:

Commencing at this monument, which is the __________________ corner of the claim, said monument being corner No. 1, upon which this notice is posted; thence in a __________________ direction __________________ foot to corner monument No. 2, the __________________ corner of the claim; thence in a __________________ direction __________________ foot to corner monument No. 3, the __________________ corner of the claim; thence in a __________________ direction __________________ foot to corner monument No. 4, the __________________ corner monument of the claim; thence in a __________________ direction __________________ foot to corner No. 1, the place of beginning.

The said corner monument No. 1, upon which this notice is posted, is situated about __________________ feet in a __________________ direction from _____________________________.

The adjoining claims are ____________________________

The corner monuments Nos. 1, 2, 3, and 4 aforesaid are marked with the name of the claim and the corner which such said monument represents, and the direction of the boundary lines extending therefrom, and all of said monuments are at least four inches in diameter and at least four feet high above ground.

Such mining claim was located on the __________ day of ____________________________, 19__________

__________________________________________
Locators and Claimants

STATE OF IDAHO  

1. ____________________________
County of ____________________________

I, ____________________________, do solemnly swear that I am a citizen of the United States of America (or have declared my intention to become such) and that I am acquainted with the mining ground described in this notice of location and herewith called the ____________________________ lode mining claim; that the ground and claim therein described, or any part thereof, has not to the best of my knowledge and belief been located according to the laws of the United States and of this State, or if so located that the same has been abandoned or forfeited by reason of the failure of such former locator to comply in respect thereto with the requirements of said laws.

Subscribed and sworn to before me this __________ day of ____________________________, A.D., 19__________

SEAL

County Recorder  
Notary Public
By ____________________________ Deputy

No. ____________________________

STATE OF IDAHO  

1. ____________________________
County of ____________________________

I hereby certify that this instrument was filed for record at the request of ____________________________ at __________ minutes past __________ o'clock __________, this __________ day of ____________________________, A.D. 19__________, in my office, and duly filed and indexed in __________ County records

Ex-Officio Recorder  
By ____________________________ Deputy

Fee $ ____________________________
PLACER MINING LOCATION NOTICE

NOTICE IS HEREBY GIVEN, That the undersigned locator____ and claimant____ ha____ discovered a placer deposit of minerals or other valuable deposits, and that the same is hereby located and claimed under the provisions of the laws of the United States and the State of Idaho:

Name of locator or locators:

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

That the name of this claim is: ________________________________ placer mining claim and is situate in the:

Mining District, County of __________, State of Idaho,

and covers the area particularly described as follows, to-wit:

The corner monument upon which this notice is posted is situated about _______ feet in a ______________________ direction from ______________________

________________________________________________________________________

The adjoining claims are ______________________

________________________________________________________________________

Each corner monument is marked with the name of the claim and the corner which each said monument represents, and the direction of the boundary lines extending therefrom, and all of said monuments are at least four inches in diameter and at least four feet high above ground.

Such mining claim was located on the _______ day of __________, 19_____.

________________________________________________________________________

Locators and Claimants

________________________________________________________________________
STATE OF IDAHO,

County of __________________________) ss.

I do solemnly swear that I am a citizen of the United States of America (or have declared my intention to become such) and that I am acquainted with the mining ground described in this notice of location and herewith called the __________________________ placer claim; that the ground and claim therein described or any part thereof has not, to the best of my knowledge and belief, been previously located according to the laws of the United States and of this State, or if so located, that the same has been abandoned or forfeited by reason of the failure of such former locators to comply in respect thereto with the requirements of said laws.

Subscribed and sworn to before me this ______ day of __________, A. D. 19_____.

[Signature]

Placer Mining Location Notice

No. __________________________

STATE OF IDAHO,

County of __________________________

I hereby certify that this instrument was filed for record at the request of __________________________ at __________ o'clock __________ minutes past __________ M. this day of __________, A. D. 19_____. It was recorded in my office and duly recorded in Book __________ of Mining Claims, at page __________.

Ex-Officio Recorder.

__________________________
County, Idaho.

By __________________________
Deputy.
STATE OF IDAHO,

County of ......................................................... } 

Before me, the subscribed, personally appeared ................................................................., who, being first duly sworn, says that at least 

DOLLARS worth of work or improvements were performed for the benefit or made upon ........................................

Claim, situate in .................................................................

Mining District, County of ................................................................., State of Idaho; that such expenditure was made by, for, or at the expense of .................................................................

owner of said claim, for the year ending Sept. 1, 19 ........, for the purpose of holding said claim; and all stakes, monuments or trees marking boundaries of said claim are in proper place and position.

Subscribed and sworn to before me this ................................................................. day of ................................................................., 19 ........

STATE OF IDAHO,

County of ......................................................... } 

I hereby certify, that this instrument was filed for record at the request of .................................................................

at ........ minute past ........ o'clock M., this ........ day of ................................................................., 19 ........ in my office, and duly recorded in Book ........ of ................................................................. at page ...............

Ex-Officio Recorder.

Fees, $ ...........

By ................................................................., Deputy
STATE OF IDAHO
Department of Lands

AFFIDAVIT OF ASSESSMENT WORK

STATE OF ______________, ss
County of ______________

Before me, the subscribed, personally appeared ________________________, who, being first duly sworn, says that at least ________________ dollars were performed for the benefit or made upon ________________ Claim, situate in Section ______, Township _______, Range ______, County of ________, State of Idaho, more particularly described as follows:

that such expenditure was made by, for, or at the expense of ________________________

owner of said claim, for the year ending July 1, 19____, for the purpose of holding said claim; and boundaries of said claim are marked as required by 47-602 and 47-703, Idaho Code.

Subscribed and sworn to before me this ________ day of ________, 19____.

__________________________

__________________________

IDL 6/79
INSTRUCTIONS FOR MINING CLAIM LOCATORS

(For Lands Owned by the State of Idaho)

1. Obtain from the Department of Lands, Bureau of Minerals, Statehouse, Boise, Idaho, 83720, copies of the Idaho Code - Title 47, Chapter 6 (Federal Standards), Chapter 7 (Idaho State Standards), Chapter 13 (Dredge Mining) and Chapter 15 (Surface Mining Act). Portions of any or all of these laws may apply to prospecting activities in the State.

2. Obtain Mining Claim Location Certificate from the Department of Lands.

3. Return to the Department of Lands the following:
   a. Completed Mining Claim Location Certificate.
   b. A filing fee of $5.00 per 20 acre claim in cash, check or bank draft, payable to the Department of Lands, State of Idaho.

4. Prior to the use of any motorized earth-moving equipment, the Department of Lands must be notified by certified mail. The letter of intent must include the following (47-1506(c)):
   a. Name and address of the operator.
   b. Legal location of the operation and the starting date and estimated completion date.
   c. Anticipated size or extent of the operation, and the general method of operation.

5. The siting of roads and drill locations are to be coordinated with the appropriate State Supervisory Area Office.

6. All laws pertaining to timber removal and the State of Idaho Fire Laws are to be followed under directives from the appropriate State Supervisory Area Office.

7. All locators shall abide by the provisions of Title 42, Chapter 38, Idaho Code, (Alteration of Channels of Streams) where applicable.
State of Idaho
Department of Lands

APPLICATION FOR DREDGE AND PLACER MINING PERMIT NO.___

NOTE: If information requested on this application is presented in attached documents please so note in appropriate blank. Incomplete applications will delay review.

(Print in ink or type)

DREDGE AND PLACER MINING APPLICATION

OWNER, OPERATOR AND AGENT:

1. Applicant:
   Name:
   P.O. Box or Street __________________________
   City, State, Zip Code _______________________
   Telephone No. ____________________________
   (Area Code & Number)

2. Name (if any) of mineral property:
   Previous permit number(s) (if any)

3. Owners of surface rights (list all owners):
   Name:
   P.O. Box or Street __________________________
   City, State, Zip Code _______________________
   Telephone No. ____________________________
   (Area Code & Number)

4. Owners of mineral rights (list all owners):
   Name:
   P.O. Box or Street __________________________
   City, State, Zip Code _______________________
   Telephone No. ____________________________
   (Area Code & Number)

5. Lessee:
   Name:
   P.O. Box or Street __________________________
   City, State, Zip Code _______________________
   Telephone No. ____________________________
   (Area Code & Number)

6. Operator:
   Name:
   P.O. Box or Street __________________________
   City, State, Zip Code _______________________
   Telephone No. ____________________________
   (Area Code & Number)

7. Agent of Process (person designated by operator as his agent for the Department to contact for any questions concerning the reclamation plan portion of the application).
   Name:
   P.O. Box or Street __________________________
   City, State, Zip Code _______________________
   Telephone No. ____________________________
   (Area Code & Number)

8. The owner(s), by his signature below, endorses his approval of this application. (For U.S. Forest Service or Bureau of Land Management administered lands, signature acknowledges only that the agency has been notified of this application.)
   Surface Owner: ____________________________
   Mineral Owner: ____________________________
LOCATION:

9. Brief description, including legal, of the extent of the mined lands (to be) involved by this operation, including total acreage.

   Township ___________________________ Range _______________ Sec. __________________
   County _________________________________ B.M. _______________________

10. Attach location and vicinity map.

11. Geologic description, including brief general geologic setting, more detailed geologic description of the mineral deposit (to be) mined, and principal minerals or rock types present:

   ________________________________________________________________
   ________________________________________________________________
   ________________________________________________________________

12. Brief description of environmental setting of the site and the surrounding areas. Describe existing area land use, soil, vegetation, ground water elevation and surface water characteristics, average annual rainfall and/or other factors pertaining to environmental impacts and their mitigation and reclamation:

   ________________________________________________________________
   ________________________________________________________________
   ________________________________________________________________

PROPOSED (EXISTING) DREDGE & PLACER MINING OPERATION:

13. Proposed starting date of operation: ____________________________

    Estimated life or operation _____________________________

    No. of yards per hour _____________________________

    Operation will be (is): Continuous __________________ Seasonal _________

    Intermittent _________________________________

14. Describe the mining method to be used. Include the basic description of the techniques and equipment to be used in land clearing, topsoil salvage and stockpiling, overburden removal, rock breakage, material loading, hauling and reclamation:

   ________________________________________________________________
   ________________________________________________________________
   ________________________________________________________________

15. (a) If mineral processing is planned to be conducted at or adjacent to the site, briefly describe the nature of the processing and explain disposal method of the tailings or waste:

   ________________________________________________________________
   ________________________________________________________________
   ________________________________________________________________

   (b) Estimate quantity (gallons per day) and quality of water required by the proposed operation, specifying proposed sources of this water, of method of its conveyance to this property and the quantity and quality and method of disposal of used and/or surplus water:

   ________________________________________________________________
   ________________________________________________________________
   ________________________________________________________________
16. If the nature of the deposit and the mining method used will permit, describe and show the steps or phases of the mining operation that allow concurrent reclamation, and include a proposed time schedule for such concurrent activities.

17. Attach a map showing the mined lands and/or stream to be altered or suitable aerial photograph:
(a) Location of existing roads and anticipated access and haul roads.
(b) Location and, if known, the names of all streams, creeks or bodies of water within 500 feet of the mining site.
(c) Boundaries of the lands to be utilized in the mining operation and topographic details of the site.
(d) Separate phases of mining (by use of symbol or color) if applicable (see Item 16).
(e) Location of areas (to be) mined, waste dumps and tailing ponds, mineral and topsoil stockpiles.
(f) Cross-sections of length and width representative of the mining operation showing surface contours prior to mining and expected contours after reclamation.
(g) The source of the base map, orientation (North arrow) and map scale (e.g., 1" = 100'or comparable).

RECLAMATION PLAN:

18. Indicate on an overlay of the map supplied in Item 17, or by color or symbol on the map, those areas to be covered by reclamation plan.

19. Describe the ultimate physical condition of the site and specify proposed (uses), or potential uses, of the mined lands as reclaimed:

20. Describe soil conditions and proposed soil salvage plan:

21. Describe the methods, their sequence and timing, to be used in bringing the reclamation of the land to its end state, indicate on the map (Item 17) or on other diagrams as necessary. Include discussion of the pertinent items listed below:
(a) Backfilling and grading.
(b) Stabilization of slopes.
(c) Stabilization of permanent waste dumps, tailings, etc.
(d) Rehabilitation of pre-mining drainage.
(e) Removal, disposal, or utilization of residual equipment, structures, refuse, etc.
(f) Control of Contaminants, especially with regard to surface runoff.
(g) Treatment of streambeds and streambanks to control erosion and sedimentation.
(h) Removal or minimization of residual hazards.
(i) Revegetation with evidence that selected plants can survive given the site's topography, soil and climate.

22. If applicant has selected a short term phasing of his reclamation, describe in detail the specific reclamation to be accomplished during first phase:
23. Describe how reclamation of this site in this manner may affect future mining at this site and in the surrounding area:


SIGNATORY:

The above information correctly represents the mining that I intend to do and is true and correct to the best of my knowledge. I certify that I am the applicant or that I have authority to act on behalf of the above listed applicant and to bind said applicant to observe the conditions of approval of any permit issued pursuant to this application.

DATE

APPLICANT'S SIGNATURE

TITLE
State of Idaho  
DEPARTMENT OF LANDS  
DREDGE AND PLACER MINING BOND

KNOW ALL MEN BY THESE PRESENTS, That we, _____________________________
as principal and _____________________________ a corporation organized under the laws of the State of ________________
and having its principal place of business in the State of Idaho in the City of _____________________________
as surety, are held and firmly bound unto the State of Idaho, in the sum of ________________ dollars

(____________________) lawful money of the United States. For such payment, well and truly to be made, we
bind ourselves, our and each of our heirs, executors, administrators, successors and assignees, as the case may be,
jointly and severally, firmly by these presents.

THE CONDITION of the foregoing obligation is such that:

WHEREAS, an application was filed with the Director
of the Idaho Department of Lands for a permit to conduct
dredge or placer mining operations on the premises
described in the application, in accord with the require-
ments of Title 47, Chapter 13, Idaho Code, and known as
the Idaho Dredge and Placer Mining Protection Act; and

WHEREAS, a permit bearing the above number was
issued as a result of the application, wherein the per-
mittee entered into certain covenants and agreements
set forth in the permit under which operations are to be
conducted, or portions of such premises, to wit:

___________________________

WHEREAS, the said principal in consideration of being
permitted, in lieu of the Permittee, to furnish this bond
agrees and by these presents does hereby bond himself
to fulfill on behalf of the permittee, all of the obligations
of the said permit and in the same manner and to the
same extent as though he were the permittee.

Signed on this ________________________ day of ________________________, 19 ____________ , in the presence of:

 _____________________________  
(Signature of Principal)

 _____________________________  
(Signature of Resident Agent)

 _____________________________  
(Address of Resident Agent)

 _____________________________  
(Signature of Surety)

 _____________________________  
(Business Address)

ACKNOWLEDGEMENT OF SURETY

State of _____________________________  
County of _____________________________  

On this ________________________ day of ________________________, in the year of 19 ____________ , before me, _____________________________ , a Notary Public in and for the State of _____________________________ , personally appeared _____________________________ , known to me to be the _____________________________ of the corporation that executed the instrument, or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

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

 _____________________________  
Notary Public For _____________________________  

My Commission expires ________________________ 19 ____________ Residing at _____________________________
APPENDIX B: FEDERAL, STATE, AND COUNTY AGENCIES

The federal, state, and county agencies listed below may be helpful in filing mining claims in Idaho.

U. S. BUREAU OF LAND MANAGEMENT
OFFICES IN IDAHO

Idaho State Office
Federal Building
550 W. Fort Street
Box 042
Boise, Idaho 83724
(208) 334-1401

Boise District Office
230 Collins Road
Boise, Idaho 83702
(208) 334-1582

Burley District Office
200 S. Oakley Ave.
Box 489
Burley, Idaho 83318
(208) 678-5514

Coeur d'Alene District Office
1808 Third Street
Box 1839
Coeur d'Alene, Idaho 83814
(208) 667-2561 ext. 356

Cottonwood Resource Area
Headquarters
Cottonwood, Idaho 83522
(208) 962-3245

Idaho Falls District Office
940 Lincoln Road
Idaho Falls, Idaho 83401
(208) 529-1020

Salmon District Office
Box 430
Salmon, Idaho 83467
(208) 756-2201

Shoshone District Office
400 West F. Street
Box 2-B
Shoshone, Idaho 83352
(208) 886-2206

Soda Springs Resource Area
Headquarters
Box 855
Soda Springs, Idaho 83276
(208) 547-2161
U. S. FOREST SERVICE OFFICES FOR IDAHO

The National Forest System in Idaho is administered through two regional offices. Region I administers the northern national forests and Region IV the southern forests. The addresses and telephone numbers for the regional offices, individual forest officers, and ranger districts in each forest in Idaho follow.

U. S. Forest Service Region I

U. S. Forest Service
Region I (Northern Region)
Federal Building
Missoula, Montana 59807
(406) 329-3011

Clearwater National Forest

Kenneth P. Norman
Rt. 4
Orofino, Idaho 83544
(208) 476-4541

Ranger District Offices:

Canyon--Charles W. Mosier
Kelly Creek--Robert Ewing
Lochsa--Jon D. Bledsoe
Palouse--Richard Hodge
Pierce--Thomas C. Blunn
Powell--Richard Farrar

Idaho Panhandle National Forest

Ralph D. Kizer
Box 310
Coeur d'Alene, Idaho 83814
(208) 667-2561

Ranger District Offices:

Wallace--Paul A. Decelle
Avery--Dennis Hart
Fernan--Lawrence R. Cron
St. Maries--Harold E. Wadley
Sandpoint--Jim Gladen
Bonners Ferry--Gerald Stern
Priest Lake--Ralph Wheeler
Red Ives--Robert C. Lehman
Coeur d'Alene Nursery--Darrell A. Benson
Nez Perce National Forest

Donald L. Biddison
319 E. Main Street
Grangeville, Idaho 83530
(208) 983-1950

Ranger District Offices:

Clearwater--Joseph C. Bednorz
Elk City--Dick Owenby
Moose Creek--William B. Hicks
Red River--Richard H. Inman
Salmon River/Slate Creek--Robert S. Abbott
Selway--John R. Righter

U. S. Forest Service Region IV

U. S. Forest Service
Region IV (Intermountain Region)
Federal Building
Ogden, Utah 84401
(801) 625-5353

Boise National Forest

John J. Lavin
1075 Park Blvd.
Boise, Idaho 83706
(208) 334-1516

Ranger District Offices:

Boise--Ervin C. Burrows
Cascade--G. Val Simpson
Emmett--Richard D. Estes
Idaho City--S. Duane Butler
Lowman--C. Eugene Brock
Mountain Home--Lewis A. Munson

Caribou National Forest

Charles J. Hendricks
250 S. 4th Ave.
Pocatello, Idaho 83201
(208) 236-6700

Ranger District Offices:

Malad--Frank Gunnell
Montpelier--Wendell J. Johnson
Pocatello--Richard P. Kline
Soda Springs--Vaughn E. Francis
Challis National Forest
Jack K. Bills
P.O. Box 404
Challis, Idaho 83226
(208) 879-2285

Ranger District Offices:
Challis--Nick Zufelt
Lost River--Jim McKibben
Middle Fork--Mac Thompson
Yankee Fork--Barry Davis

Payette National Forest
Kenneth D. Weyers
FS Bldg.
Box 1026
McCall, Idaho 83638
(208) 634-2255

Ranger District Offices:
Big Creek--Earle F. Dodds
Council--Rodman Barker
Krassel--Earl Kimball
McCall--Jon F. Hooper
New Meadows--Peter J. Walker
Weiser--Harold E. Laird

Salmon National Forest
Richard T. Hauff
FS Bldg.
Salmon, Idaho 83467
(208) 756-2215

Ranger District Offices:
Cobalt--James C. Lancaster
Leadore--Clark B. Tucker
North Fork--Richard M. Bacon
Salmon--Carlton P. Guillette

Sawtooth National Forest
Paul F. Barker
1525 Addison Ave. East
Twin Falls, Idaho 83301
(208) 733-3698

Ranger District Offices:
Burley--Douglas Reid
Fairfield--John A. Madden
Ketchum--Jerry A. Davis
Sawtooth NRA--Allan W. Ashton
Twin Falls--Joe L. Frazier
Targhee National Forest
John E. Burns
420 N. Bridge Street
St. Anthony, Idaho 82445
(208) 624-3151

Ranger District Offices:
Ashton--Dan Schindler
Dubois--Donis Owen
Island Park--Bob Hammond
Palisades--Norman Huntsman
Teton Basin--Wayne G. Foltz

OTHER FEDERAL AGENCIES
U. S. Geological Survey
Conservation Division
Suite 172, Federal Bldg.
Pocatello, ID 83201
(208) 236-6860

U. S. Geological Survey
W. 920 Riverside Ave.
Spokane, WA 99201
Geologic Division: (509) 456-4677
Map Sales: (509) 456-2524

U. S. Bureau of Mines
E. 360 Third Ave.
Spokane, WA 99202
(509) 456-5350

OSHA
1315 W. Idaho
Boise, ID 83707
(208) 334-1867

MSHA (Northern Idaho)
205 North Fourth Street, Rm. 103
Coeur d'Alene, ID 83814
(208) 667-7911

MSHA (Southern Idaho)
1315 W. Idaho
Boise, ID 83702
(208) 334-1714

Environmental Protection Agency
422 W. Washington Street
Boise, ID 83702
(208) 334-1450

National Park Service
Western Regional Mining and
Minerals Office
P.O. Box 36063
San Francisco, CA 94102
(415) 556-8237

U. S. Fish and Wildlife Service
Regional Office
Suite 1692, Lloyd 500 Bldg.
Portland, OR 97232
(503) 231-6828

Bureau of Reclamation
Pacific Northwest Region
Federal Building
550 West Fort Street
P.O. Box 043
Boise, ID 83724
(208) 334-1905

Department of Energy
Seattle Office
915 Second Ave.
Seattle, WA 98174
(206) 442-7285
OTHER STATE AGENCIES

Department of Lands
Room 121, State Capitol Building
Boise, ID 83720
(208) 334-3280

Bureau of Mines and Geology
Department of Lands
Room 332, Morrill Hall
University of Idaho
Moscow, ID 83843
(208) 885-7991

Bureau of Navigable Waters
Department of Lands
State Capitol Building
Boise, ID 83720
(208) 334-3567

Department of Lands Regional Offices

Clearwater Supervisory Area Office
Orofino, ID 83544
(208) 476-4587

Priest Lake Supervisory Area Office
Rt. 1, Box 284
Coolin, ID 83821
(208) 443-2516

Eastern Idaho Supervisory Area Office
Rt. 1, Box 400
Beeches Corner
Idaho Falls, ID 83401
(208) 523-5398

St. Joe Supervisory Area Office
1806 Main Ave.
St. Maries, ID 83861
(208) 245-4551

Payette Lakes Supervisory Area Office
P.O. Box 951
Pine Street
McCall, ID 83638
(208) 634-7125

Southcentral Idaho Supervisory Area Office
P.O. Box 149
Gooding, ID 83330
(208) 934-5606

Pend Oreille Lake Supervisory Area Office
P.O. Box 909
Hwy. 200 at Westwood
Sandpoint, ID 83864
(208) 263-5104

Department of Water Resources

Department of Water Resources
373 Franklin Street
Boise, ID 83720
(208) 334-2215
Department of Water Resources Regional Offices

Western District Office
92 S. Cole Road
Boise, ID 83720
(208) 334-2190

Northern District
Rt. 5, Box 203
Coeur d'Alene, ID 83814
(208) 667-6484

Eastern District
1515 Lincoln Road
Idaho Falls, ID 83401
(208) 523-7186

Southern District
1041 Blue Lakes Blvd., North
Twin Falls, ID 83301
(208) 734-3578

Other Agencies

Office of the Attorney General
Room 210, Statehouse
Boise, ID 83720
(208) 334-2400

Bureau of Water Quality
Department of Health and Welfare
700 W. State Street
Boise, ID 83720
(208) 334-2433

Department of Fish and Game
600 South Walnut Street
Boise, ID 83706
(208) 334-3700

Bureau of Air Quality
Department of Health and Welfare
700 W. State Street
Boise, ID 83720
(208) 334-2903

Department of Commerce and
Development
Division of Tourism and
Industrial Development
Room 108, Statehouse
Boise, ID 83720
(208) 334-2470

Department of Labor and Industrial
Services
317 Main Street
Boise, ID 83720
(208) 334-2327

Bureau of Environmental Health
Department of Health and Welfare
700 W. State Street
Boise, ID 83720
(208) 334-2287

Bureau of State Planning and
Community Affairs
Room 122, Statehouse
Boise, ID 83720
(208) 334-3900

Board of Professional Geologists
4090 W. State Street
Boise, ID 83703
(208) 334-2268
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APPENDIX C: REPRINT OF U. S. FOREST SERVICE RULES (36 CFR 252)

The following is a reprint from the Federal Register of the U. S. Forest Service's rules (36 CFR 252) on prospecting, exploration, and mining procedures.

FEDERAL REGISTER
Volume 39, Number 168
Wednesday, August 28, 1974

NATIONAL FOREST MINERAL RESOURCES
USDA rules on prospecting, exploration and mining procedures; effective 9-1-74

Title 36--Parks, Forests, and Public Property
CHAPTER II--FOREST SERVICE, DEPARTMENT OF AGRICULTURE

NATIONAL FORESTS SURFACE USE UNDER U.S. MINING LAWS

Regulations are hereby adopted concerning the use of the surface of National Forest System lands by persons operating under the United States mining laws of 1872, as amended. Parts 251 and 293 are amended and a new Part 252 is added.

The public was afforded an opportunity to comment on proposed rulemaking published on December 19, 1973 (38 FR 34817) and on July 16, 1974 (39 FR 26038). Respondents included Government agencies (National, State, and local), conservation organizations, mining associations, United States Senators and Congressmen, and individuals directly or indirectly concerned with mineral operations. The proposed regulations were also the subject of oversight hearings by the Public Lands Subcommittee of the Committee on Interior and Insular Affairs of the House of Representatives.

Comments ranged from total opposition to unqualified support of the proposals. Critical comments were in the majority. Many persons suggested changes or improvements in both wording and substance.

Although many respondents objected to the operating plan requirement, the essence of adequate regulation is development of operating plans which reflect both the necessities for environmental protection and for the use of surface resources in connection with mineral operations. A provision for operating plans is part of the regulations.

A major concern expressed by the mining industry, and noted by the Public Lands Subcommittee of the House Committee on Interior and Insular Affairs, is the possibility of unreasonable enforcement of the regulations, with resulting cost increases that could make otherwise viable mineral operations prohibitively expensive. The Forest Service recognizes that prospectors and miners have a statutory right, not mere privilege, under the 1872 mining law and the Act of June 4, 1897, to go upon and use the open public domain lands of the National Forest System for the purposes of mineral exploration, development and production. Exercise of that right may not be unreasonably restricted. Specific provision has been made in the operating plan approval section of the regulations charging Forest Service administrators with the responsibility to consider the
economics of operations, along with the other factors, in determining the reasonableness of the requirements for surface resource protection.

Many comments objected to the time provided for Forest Service response to proposed operating plans. No change has been made in these provisions since the time allowances are reasonable as outside limits. Even so, Forest Service administrators are expected to process operating plans promptly with the objective of responding, on the average, in half of the time allowed.

The requirement for a minimum bond of $2,000 for any activities subject to operating plans was the provision most heavily criticized. Many respondents pointed to the discriminatory effect and negative impact on small miners and prospectors having relatively limited means. The bond provision has been changed to reduce discriminatory effects and to be more specific as to coverage, but remain responsive to the need to maintain the responsibilities of operators for reclamation and mitigation of the effects of surface disturbing operations.

Some respondents felt that all information and data submitted on proposed operations should be subject to full public disclosure. The rule of reasonableness is particularly applicable since proprietary data and competitive rights are involved. The section on availability of information to the public recognizes these factors.

Language has been modified to make more clear that the intent of these regulations is protection of the surface resources on National Forest System lands.

A number of comments noted the lack of a provision for a "notice of intent to operate." Such a provision has been included in the regulations.

The provision concerning data to be furnished in an operating plan has been simplified and is clarified to state that the Forest Service, rather than the operator, has the responsibility for analyzing the environmental impacts that may be expected from proposed operations.

Many respondents criticized the language about environmental impact statements and appeals procedures. Those sections have been clarified. The number of levels of appeal provided is small in order to allow aggrieved parties quick access to the courts to seek redress.

Seasonal factors in most of the western mountains preclude prospecting and exploration during winter and early spring. A 120-day grace period is provided within which to file required operating plans in the case of operations underway on the effective date of the regulations. Under the circumstances, the regulations should not have significant effect on ongoing operations during the remainder of this operating season.

A Final Environmental Statement, prepared in accordance with section 102(2)(c) of the National Environmental Policy Act of January 1, 1970 (42 U.S.C. 4332(2)(C)), was filed with the Council on Environmental Quality on July 16, 1974. The statement discussed the environmental impact of issuing the regulations as proposed.

The regulations will be effective September 1, 1974.

The amendment of Chapter II follows:

PART 251--LAND USES

§251.12 (Revoked)

1. Part 251 is amended by revoking §251.12.
PART 252--MINERALS

2. A new Part 252 is added to read as follows:

Sec.
252.1 Purpose.
252.2 Scope.
252.3 Definitions.
252.4 Plan of operations--notice of intent--requirements.
252.5 Plan of operations--approval.
252.6 Availability of information to the public.
252.7 Inspection, noncompliance.
252.8 Requirements for environmental protection.
252.9 Maintenance during operations, public safety.
252.10 Cessation of operations, removal of structures and equipment.
252.11 Prevention and control of fire.
252.12 Access.
252.13 Bonds.
252.14 Appeals.
252.15 Operations within National Forest Wilderness.

AUTHORITY: 30 Stat. 35 and 36, as amended (16 U.S.C. 478, 551), unless otherwise noted.

§252.1 Purpose.

It is the purpose of these regulations to set forth rules and procedures through which use of the surface of National Forest System lands in connection with operations authorized by the United States mining laws (30 U.S.C. 21-54), which confer a statutory right to enter upon the public lands to search for minerals, shall be conducted so as to minimize adverse environmental impacts on National Forest System surface resources. It is not the purpose of these regulations to provide for the management of mineral resources; the responsibility for managing such resources is in the Secretary of the Interior.

§252.2 Scope.

These regulations apply to operations hereafter conducted under the United States mining laws of May 10, 1872, as amended (30 U.S.C. 22 et seq.), as they affect surface resources on all National Forest System lands under the jurisdiction of the Secretary of Agriculture to which such laws are applicable. Provided, however; That any area of National Forest lands covered by a special Act of Congress (16 U.S.C. 482a-482g) is subject to the provisions of this part and the provisions of the special act, and in the case of conflict the provisions of the special act shall apply.

§252.3 Definitions.

For the purposes of this part the following terms, respectively, shall mean

(a) Operations. All functions, work and activities in connection with prospecting, exploration, development, mining or processing of mineral resources and all uses reasonably incident thereto, including roads and other means of access on lands subject to the regulations in this part, regardless of whether said operations take place on or off mining claims.

(b) Operator. A person conducting or proposing to conduct operations.

(c) Person. Any individual, partnership, corporation, association, or other legal entity.
(d) Mining claim. Any unpatented mining claim or unpatented millsite authorized by the United States mining laws of May 10, 1872, as amended (30 U.S.C. 22 et seq.).

(e) Authorized officer. The Forest Service officer to whom authority to review and approve operating plans has been delegated.

§252.4 Plan of Operations--Notice of Intent--Requirements.

(a) Except as provided in paragraph (2) of this section, a notice of intention to operate is required from any person proposing to conduct operations which might cause disturbance of surface resources. Such notice of intention shall be submitted to the District Ranger having jurisdiction over the area in which the operations will be conducted. If the District Ranger determines that such operations will likely cause significant disturbance of surface resources, the operator shall submit a proposed plan of operations to the District Ranger.

(1) The requirements to submit a plan of operations shall not apply to operations which will be limited to the use of vehicles on existing public roads or roads used and maintained for National Forest purposes, to individuals desiring to search for and occasionally remove small mineral samples or specimens, to prospecting and sampling which will not cause significant surface resource disturbance and will not involve removal of more than a reasonable amount of mineral deposit for analysis and study, to marking and monumenting a mining claim and to subsurface operations which will not cause significant surface resource disturbance.

(2) A notice of intent need not be filed where a plan of operations is submitted for approval in lieu thereof, for operations excepted in paragraph (1) of this section from the requirement to file a plan of operations, for operations which will not involve the use of mechanized earthmoving equipment such as bulldozers or backhoes and will not involve the cutting of trees. Each notice of intent to operate shall provide information sufficient to identify the area involved, the nature of the proposed operations, the route of access to the area of operations and the method of transport. If a notice of intent is filed the District Ranger will, within 15 days of receipt thereof, notify the operator whether a plan of operations is required.

(b) Any person conducting operations on the effective date of these regulations, who would have been required to submit a plan of operations under §252.4 (a), may continue operations but shall within 120 days thereafter submit a plan of operations to the District Ranger having jurisdiction over the area within which operations are being conducted. Provided, however, That upon a showing of good cause the authorized officer will grant an extension of time for submission of a plan of operations, not to exceed an additional 6 months. Operations may continue according to the submitted plan during its review, unless the authorized officer determines that the operations are unnecessarily or unreasonably causing irreparable damage to surface resources and advises the operator of those measures needed to avoid such damage. Upon approval of a plan of operations, operations shall be conducted in accordance with the approved plan. The requirement to submit a plan of operations shall not apply to operations excepted in §252.4(a) or (2) to operations concluded prior to the effective date of the regulations in this part.

(c) The plan of operations shall include:
(1) The name and legal mailing address of the operators (and claimants if they are not the operators) and their lessees, assigns, or designees.

(2) A map or sketch showing information sufficient to locate the proposed area of operations on the ground, existing and/or proposed roads or access routes to be used in connection with the operations as set forth in §252.12 and the approximate location and size of areas where surface resources will be disturbed.

(3) Information sufficient to describe or identify the type of operations proposed and how they would be conducted, the type and standard of existing and proposed roads or access routes, the means of transportation used or to be used as set forth in §252.12, the period during which the proposed activity will take place, and measures to be taken to meet the requirements for environmental protection in §252.8.

(d) The plan of operations shall cover the requirements set forth in paragraph (c) of this section, as foreseen for the entire operation for the full estimated period of activity. Provided, however, That if the development of a plan for an entire operation is not possible at the time of preparation of a plan, the operator shall file an initial plan setting forth his proposed operation to the degree reasonably foreseeable at that time, and shall thereafter file a supplemental plan or plans whenever it is proposed to undertake any significant surface disturbance not covered by the initial plan.

(e) At any time during operations under an approved plan of operations, the authorized officer may ask the operator to furnish a proposed modification of the plan detailing the means of minimizing unforeseen significant disturbance of surface resources. If the operator does not furnish a proposed modification within a time deemed reasonable by the authorized officer, the authorized officer may recommend to his immediate superior that the operator be required to submit a proposed modification of the plan. The recommendation of the authorized officer shall be accompanied by a statement setting forth in detail the supporting facts and reasons for his recommendations. In acting upon such recommendation, the immediate superior of the authorized officer shall determine (1) whether all reasonable measures were taken by the authorized officer to predict the environmental impacts of the proposed operations prior to approving the operating plan, (2) whether the disturbance is or probably will become of such significance as to require modification of the operating plan in order to meet the requirements for environmental protection specified in §252.8 and (3) whether the disturbance can be minimized using reasonable means. Lacking such determination that unforeseen significant disturbance of surface resources is occurring or probable and that the disturbance can be minimized using reasonable means, no operator shall be required to submit a proposed modification of an approved plan of operations. Operations may continue in accordance with the approved plan until a modified plan is approved, unless the immediate superior of the authorized officer determines that the operations are unnecessarily or unreasonably causing irreparable injury, loss or damage to surface resources and advises the operator of those measures needed to avoid such damage.

(f) Upon completion of an environmental analysis in connection with each proposed operating plan, the authorized officer will determine whether an environmental statement is required. Not every plan of operations, supplemental plan or modification will involve the preparation
of an environmental statement. Environmental impacts will vary substantially depending on whether the nature of operations is prospecting, exploration, development, or processing, and on the scope of operations (such as size of operations, construction required, length of operations and equipment required), resulting in varying degrees of disturbance to vegetative resources, soil, water, air, or wildlife. The Forest Service will prepare any environmental statements that may be required.

§252.5 Plan of Operations--Approval.
(a) Operations shall be conducted in accordance with an approved plan of operations, except as provided in section (b) of this section and in §252.4(a), (b), and (e). A proposed plan of operation shall be submitted to the District Ranger, who shall promptly acknowledge receipt thereof to the operator. The authorized officer shall, within thirty (30) days of such receipt, analyze the proposal, considering the economics of the operation along with the other factors in determining the reasonableness of the requirements for surface resource protection, and;
(1) Notify the operator that he has approved the plan of operations, or
(2) Notify the operator that the proposed operations are such as not to require an operating plan; or
(3) Notify the operator of any changes in, or additions to, the plan of operations deemed necessary to meet the purpose of the regulations in this part; or
(4) Notify the operator that the plan is being reviewed, but that more time, not to exceed an additional sixty (60) days, is necessary to complete such review, setting forth the reasons why additional time is needed: Provided, however, That days during which the area of operations is inaccessible for inspection shall not be included when computing the sixty (60) day period; or
(5) Notify the operator that the plan cannot be approved until a final environmental statement has been prepared and filed with the Council on Environmental Quality as provided in §252.4(f).
(b) Pending final approval of the plan of operations, the authorized officer will approve such operations as may be necessary for timely compliance with the requirements of Federal and State laws, so long as such operations are conducted so as to minimize environmental impacts as prescribed by the authorized officer in accordance with the standards contained in §252.8.
(c) A supplemental plan or plans of operations provided for in §252.4(d) and a modification of an approved operating plan as provided for in §252.4(e) shall be subject to approval by the authorized officer in the same manner as the initial plan of operations: Provided, however, That a modification of an approved plan of operations under §252.4(e) shall be subject to approval by the immediate superior of the authorized officer in cases where it has been determined that a modification is required.
(d) In the provisions for review of operating plans, the Forest Service will arrange for consultation with appropriate agencies of the Department of the Interior with respect to significant technical questions concerning the character of unique geologic conditions and special exploration and development systems, techniques, and equipment, and with respect to mineral values, mineral resources, and mineral reserves.
Further, the operator may request the Forest Service to arrange for similar consultations with appropriate agencies of the U.S. Department of the Interior for a review of operating plans.

§252.6 Availability of information to the public.
Except as provided herein, all information and data submitted by an operator pursuant to the regulations in this part shall be available for examination by the public at the Office of the District Ranger in accordance with the provisions of 7 CFR 1.1-1.6 and 36 CFR 200.5-200.10. Specifically identified information and data submitted by the operator as confidential concerning trade secrets or privileged commercial or financial information will not be available for public examination. Information and data to be withheld from public examination may include, but is not limited to, known or estimated outline of the mineral deposits and their location, attitude, extent, outcrops, and content, and the known or planned location of exploration pits, drill holes, excavations pertaining to location and entry pursuant to the United States mining laws, and other commercial information which relates to competitive rights of the operator.

§252.7 Inspection, noncompliance.
(a) Forest Officers shall periodically inspect operations to determine if the operator is complying with the regulations in this part and an approved plan of operations.
(b) If an operator fails to comply with the regulations or his approved plan of operations and the noncompliance is unnecessarily or unreasonably causing injury, loss or damage to surface resources the authorized officer shall serve a notice of noncompliance upon the operator or his agent in person or by certified mail. Such notice shall describe the noncompliance and shall specify the action to comply and the time within which such action is to be completed, generally not to exceed thirty (30) days. Provided, however, that days during which the area of operations is inaccessible shall not be included when computing the number of days allowed for compliance.

§252.8 Requirements for Environmental Protection.
All operations shall be conducted so as, where feasible, to minimize adverse environmental impacts on National Forest surface resources, including the following requirements:
(a) Air Quality. Operator shall comply with applicable Federal and State air quality standards, including the requirements of the Clean Air Act, as amended (42 U.S.C. 1857 et seg.).
(b) Water Quality. Operator shall comply with applicable Federal and State water quality standards, including regulations issued pursuant to the Federal Water Pollution Control Act, as amended (33 U.S.C. 1151 et seq.).
(c) Solid Wastes. Operator shall comply with applicable Federal and State standards for the disposal and treatment of solid wastes. All garbage, refuse, or waste, shall either be removed from National Forest lands or disposed of or treated so as to minimize, so far as is practicable, its impact on the environment and the forest surface resources. All tailings, dumpage, deleterious materials or substances and other waste produced by operations shall be deployed, arranged, disposed of or treated so as to minimize adverse impact upon the environment and forest surface resources.
(d) Scenic Values. Operator shall, to the extent practicable, harmonize operations with scenic values through such measures as the design and location of operating facilities, including roads and other means of access, vegetative screening of operations, and construction of structures and improvements which blend with the landscape.

(e) Fisheries and Wildlife Habitat. In addition to compliance with water quality and solid waste disposal standards required by this section, operator shall take all practicable measures to maintain and protect fisheries and wildlife habitat which may be affected by the operations.

(f) Roads. Operator shall construct and maintain all roads so as to assure adequate drainage and to minimize or, where practicable, eliminate damage to soil, water, and other resource values. Unless otherwise approved by the authorized officer, roads no longer needed for operations (1) shall be closed to normal vehicular traffic, (2) bridges and culverts shall be removed, (3) cross drains, dips, or water bars shall be constructed, and (4) the road surface shall be shaped to as near a natural contour as practicable and be stabilized.

(g) Reclamation. Upon exhaustion of the mineral deposit or at the earliest practicable time during operations, or within 1 year of the conclusion of operations, unless a longer time is allowed by the authorized officer, operator shall, where practicable, reclaim the surface disturbed in operations by taking such measures as will prevent or control on-site and off-site damage to the environment and forest surface resources including:

(1) Control of erosion and landslides;
(2) Control of water runoff;
(3) Isolation, removal or control of toxic materials;
(4) Reshaping and revegetation of disturbed areas, where reasonably practicable; and
(5) Rehabilitation of fisheries and wildlife habitat.

(h) Certification or other approval issued by State agencies or other Federal agencies of compliance with laws and regulations relating to mining operations will be accepted as compliance with similar or parallel requirements of these regulations.

§252.9 Maintenance during operations, public safety.
During all operations operator shall maintain his structures, equipment, and other facilities in a safe, neat and workmanlike manner. Hazardous sites or conditions resulting from operations shall be marked by signs, fenced or otherwise identified to protect the public in accordance with Federal and State laws and regulations.

§252.10 Cessation of operations, removal of structures and equipment.
Unless otherwise agreed to by the authorized officer, operator shall remove within a reasonable time following cessation of operations all structures, equipment and other facilities and clean up the site of operations. Other than seasonally, where operations have ceased temporarily, an operator shall file a statement with the District Ranger which includes (1) verification of intent to maintain the structures, equipment and other facilities, (2) the expected reopening date, and (3) an estimate of extended duration of operations. A statement shall be filed every year in the event operations are not reactivated. Operator shall maintain the operating site, structures, equipment and other facilities in a neat and safe condition during nonoperating periods.
§252.11 Prevention and control of fire.
Operator shall comply with all applicable Federal and State fire laws and regulations and shall take all reasonable measures to prevent and suppress fires on the area of operations and shall require his employees, contractors and subcontractors to do likewise.

§252.12 Access.
An operator is entitled to access in connection with operations, but no road, trail, bridge, landing area for aircraft, or the like, shall be constructed or improved, nor shall any other means of access, including but not limited to off-road vehicles, be used until the operator has received approval of an operating plan in writing from the authorized officer when required by §252.4(a). Proposals for construction, improvement or use of such access as part of a plan of operations shall include a description of the type and standard of the proposed means of access, a map showing the proposed route of access, and a description of the means of transportation to be used. Approval of the means of such access as part of a plan of operations shall specify the location of the access route, design standards, means of transportation, and other conditions reasonably necessary to protect the environment and forest surface resources, including measures to protect scenic values and to insure against erosion and water or air pollution.

§252.13 Bonds.
(a) Any operator required to file a plan of operations shall, when required by the authorized officer, furnish a bond conditioned upon compliance with §252.8(g), prior to approval of such plan of operations. In lieu of a bond, the operator may deposit into a Federal depository, as directed by the Forest Service, and maintain therein, cash in an amount equal to the required dollar amount of the bond or negotiable securities of the United States having market value at the time of deposit of not less than the required dollar amount of the bond. A blanket bond covering nationwide or statewide operations may be furnished if the terms and conditions thereof are sufficient to comply with the regulations in this part.

(b) In determining the amount of the bond, consideration will be given to the estimated cost of stabilizing, rehabilitating, and reclaiming the area of operations.

(c) In the event that an approved plan of operations is modified in accordance with §252.4 (a) and (e) of this part, the authorized officer will review the initial bond for adequacy and, if necessary, will adjust the bond to conform to the operations plan as modified.

(d) When reclamation has been completed in accordance with §252.8(g), the authorized officer will notify the operator that performance under the bond has been completed: Provided, however, That when the Forest Service has accepted as completed any portion of the reclamation, the authorized officer shall notify the operator of such acceptance and reduce proportionally the amount of bond thereafter to be required with respect to the remaining reclamation.

§252.14 Appeals.
(a) Any operator aggrieved by a decision of the authorized officer in connection with the regulations in this part may file with the authorized officer a written statement setting forth in detail the respects in
which the decision complained of is contrary to, or in conflict with, the facts, the law, or the regulations of the Secretary, or is otherwise in error. No such appeal will be considered unless it is filed with the authorized officer within thirty (30) days after the date of notification to the operator of the action or decision complained of. Upon receipt of appellant's statement, the authorized officer shall promptly prepare his own statement explaining his decision and the reasons therefor and forward the statements and record to his immediate superior for review and decision. The decision of the Regional Forester shall be the final administrative appeal decision.

(b) At the time appellant files his written statement of appeal he may request and shall be afforded an opportunity to present his views orally to the reviewing Forest Service officer.

(c) If the reviewing Forest Service officer considers the record inadequate to support a decision on the appeal, he may provide for the production of such additional evidence or information as may be appropriate or may remand the case with appropriate instructions for further action.

(d) The official files of the Forest Service relating to these appeals and any testimony and documents submitted by the parties on which the decision of the authorized officer was based constitute the record in the appeal. The authorized officer shall maintain the record under separate cover and shall certify that it is the record on which his decision was based at the time it is forwarded to his immediate superior for review. The Forest Service shall make the record available to the appellant upon request.

(e) On or before the expiration of forty-five (45) days after his receipt of the record the reviewing officer shall make his decision: Provided, however, That if more than forty-five (45) days are required for a decision after the record is received, the reviewing officer shall notify the parties to the appeal and specify the reason for delay. The decisions of reviewing officers shall include (1) a statement of facts, (2) conclusions, and (3) reasons upon which the conclusions are based.

(f) A decision of the authorized officer from which an appeal is taken shall not be automatically stayed by the filing of a statement of appeal. A request for a stay may accompany the statement of appeal or may be directed to the reviewing officer. The reviewing officer shall promptly rule on requests for stays. The decision of the Regional Forester on requests for stays shall constitute the final administrative appeal decision.

§252.15 Operations within national forest wilderness.

(a) The United States mining laws shall extend to each National Forest Wilderness for the period specified in the Wilderness Act and subsequent establishing legislation to the same extent they were applicable prior to the date the Wilderness was designated by Congress as a part of the National Wilderness Preservation System. Subject to valid existing rights, no person shall have any right or interest in or to any mineral deposits which may be discovered through prospecting or other information-gathering activity after the legal date on which the United States mining laws cease to apply to the specific Wilderness.

(b) Holders of unpatented mining claims validly established on any National Forest Wilderness prior to inclusion of such unit in the National Wilderness Preservation System shall be accorded the rights provided by
the United States mining laws as then applicable to the National Forest
land involved. Persons locating mining claims in any National Forest
Wilderness on or after the date on which said Wilderness was included in
the National Wilderness Preservation System shall be accorded the rights
provided by the United States mining laws as applicable to the National
Forest land involved and subject to provisions specified in the establishing
legislation. Persons conducting operations as defined in §252.3 in
National Forest Wilderness shall comply with the regulations in this
part. Operations shall be conducted so as to protect National Forest
surface resources in accordance with the general purposes of maintaining
the National Wilderness Preservation System unimpaired for future use
and enjoyment as wilderness and to preserve its wilderness character,
consistent with the use of the land for mineral location, exploration,
development, drilling, and production and for transmission lines, water
lines, telephone lines, and processing operations, including, where
essential, the use of mechanized transport, aircraft or motorized equipment.

(c) Persons with valid mining claims wholly within National Forest
Wilderness shall be permitted access to such surrounded claims by means
consistent with the preservation of National Forest Wilderness which
have been or are being customarily used with respect to other such
claims surrounded by National Forest Wilderness. No operator shall
construct roads across National Forest Wilderness unless authorized in
writing by the Forest Supervisor in accordance with §252.12.

(d) On all mining claims validly established on lands within the
National Wilderness Preservation System, the operator shall take all
reasonable measures to remove any structures, equipment and other facilities
no longer needed for mining purposes in accordance with the provisions
in §252.10 and restore the surface in accordance with the requirements
in §252.8(g).

(e) The title to timber on patented claims validly established
after the land was included within the National Wilderness Preservation
System remains in the United States, subject to a right to cut and use
timber for mining purposes. So much of the mature timber may be cut and
used as is needed in the extraction, removal, and beneficiation of the
mineral deposits, if needed timber is not otherwise reasonably available.
The cutting shall comply with the requirements for sound principles of
forest management as defined by the National Forest rules and regulations
and set forth in stipulations to be included in the plan of operations,
which as a minimum incorporate the following basic principles of forest
management:

(1) Harvesting operations shall be so conducted as to minimize soil
movement and damage from water runoff; and

(2) Slash shall be disposed of and other precautions shall be taken
to minimize damage from forest insects, disease, and fire.

(f) The Chief, Forest Service, shall allow any activity, including
prospecting for the purpose of gathering information about minerals in
National Forest Wilderness except that any such activity for gathering
information shall be carried on in a manner compatible with the preservation
of the wilderness environment as specified in the plan of operations.
PART 293--WILDERNESS-PRIMITIVE AREAS

3. The regulations of Part 293 were transferred from Part 251 on March 5, 1973 (38 FR 5851). The new Part 293 is further amended by revising §§293.13, 293.14 and 293.15. Regulations applicable to activities under the 1872 mining law in National Forest Wilderness now appear in Part 252 rather than Part 293.

Sections 293.13-293.15 are revised to read as follows:

§293.13 Access to valid occupancies.

Persons with valid occupancies wholly within National Forest Wilderness shall be permitted access to such surrounded occupancies by means consistent with the preservation of National Forest Wilderness which have been or are being customarily used with respect to other such occupancies surrounded by National Forest Wilderness. The Forest Service will, when appropriate, issue permits which shall prescribe the routes of travel to and from the surrounded occupancies, the mode of travel, and other conditions reasonably necessary to preserve the National Forest Wilderness.

§293.14 Mineral leases and mineral permits.

(a) All laws pertaining to mineral leasing shall extend to each National Forest Wilderness for the period specified in the Wilderness Act or subsequent establishing legislation to the same extent they were applicable prior to the date the Wilderness was designated by Congress as a part of the National Wilderness Preservation System. No person shall have any right or interest in or to any mineral deposits which may be discovered through prospecting or other information-gathering activity after the legal date on which the laws pertaining to mineral leasing cease to apply to the specific Wilderness, nor shall any person after such date have any preference in applying for a mineral lease, license, or permit.

(b) Mineral leases, permits, and licenses covering lands within National Forest Wilderness will contain reasonable stipulations for the protection of the wilderness character of the land consistent with the use of the land for purposes for which they are leased, permitted, or licensed. The Chief, Forest Service, shall specify the conditions to be included in such stipulations.


§293.15 Gathering Information about Resources other than Minerals.

(a) The Chief, Forest Service, shall allow any activity, for the purpose of gathering information about resources, other than minerals, in National Forest Wilderness, except that any such activity for gathering information shall be carried on in a manner compatible with the preservation of the wilderness environment. Prospecting for minerals or any activity for the purpose of gathering information about minerals in National Forest Wilderness is subject to the regulations in Part 252 of this title.

(b) No overland motor vehicle or other form of mechanical overland transport may be used in connection with any activity for the purpose of gathering information about resources, other than minerals, except as authorized by the Chief, Forest Service.
(c) Any person desiring to use motorized equipment, to land aircraft, or to make substantial excavations for the purpose of gathering information about resources, other than minerals, shall apply in writing to the Office of the Forest Supervisor or District Ranger having jurisdiction over the land involved. Excavations shall be considered "substantial" which singularly or collectively exceed 200 cubic feet within any area which can be bounded by a rectangle containing 20 surface acres. Such use or excavation may be authorized by a permit issued by the Forest Service. Such permits may provide for the protection of National Forest resources, including wilderness values, protection of the public, and restoration of disturbed areas, including the posting of performance bonds.

(d) Prospecting for water resources and the establishment of new reservoirs, water-conservation works, power projects, transmission lines, and other facilities needed in the public interest and the subsequent maintenance of such facilities, all pursuant to section (4)(d) (4)(1) of the Wilderness Act, will be permitted when and as authorized by the President.


Paul A. Vander Myde,
Deputy Assistant Secretary for Conservation,
Research and Education.

August 23, 1974
(FR Doc. 74-19865 Filed 8-27-74; 8:45 am)
APPENDIX D: REPRINT OF U. S. BUREAU OF LAND MANAGEMENT RULES (43 CFR 3800)

The following is a reprint from the Federal Register of the U. S. Bureau of Land Management's rules (43 CFR 3800) on prospecting, exploration, and mining procedures.

FEDERAL REGISTER--Part II
Volume 45, No. 230
Wednesday, November 26, 1980
Rules and Regulations

Department of the Interior
Bureau of Land Management
43 CFR Part 3800
(Circular No. 2480)

Surface Management of Public Lands
Under U.S. Mining Laws

SUMMARY: The Federal Land Policy and Management Act of October 21, 1976, amended the mining laws by directing the Secretary of the Interior, by regulation or otherwise, to take any action necessary to prevent unnecessary or undue degradation of the lands. This final rulemaking implements that requirement and among other things requires mining claimants to complete reasonable reclamation on Federal lands administered by the Bureau of Land Management during and upon termination of exploration and mining activities under the mining laws. This rulemaking pertains to locatable minerals such as gold, lead, silver, uranium, etc. It does not pertain to coal, oil, gas, phosphate or other leasable minerals or salable minerals such as sand and gravel.

EFFECTIVE DATE: January 1, 1981.

ADDRESS: Send suggestions or inquiries to: Director (520), Bureau of Land Management, 1800 C Street, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Eugene Carlat (202) 343-8537 or Robert M. Anderson (202) 343-8537.

SUPPLEMENTARY INFORMATION: Proposed rulemaking was published on December 6, 1976, in the Federal Register (41 FR 53428). As a result of changes made in response to the more than 5,000 comments received on the initial publication, a second proposed rulemaking was published in the Federal Register on March 3, 1980 (45 FR 13959). A total comment period of 135 days was allowed in connection with the second proposed rulemaking, and public meetings were held in Denver, Colorado and Reno, Nevada. This public exposure resulted in more than 366 written comments. The written comments came from various sources, with 83 coming from companies with mining interests, 173 from individuals, 10 from environmental groups, 33 from mining groups and associations, 29 from State and local governments, 7 from attorneys acting in their own behalf, and 31 from Federal agencies. Also received were five petitions, with some 1,131 signatures, that commented on various aspects of the rulemaking. Public comments were also obtained at meetings with interest groups and an oversight hearing before the Subcommittee on Mines and Mining of the House Committee on
Interior and Insular Affairs. All of the comments have been given careful consideration and the final rulemaking reflects many of the changes suggested by the comments.

The objective of the decisionmaking process on the final rulemaking was to enable the Bureau of Land Management to ensure that the Federal lands are protected from unnecessary and undue degradation and to ensure that reasonable reclamation will be completed on areas disturbed during the search for and extraction of mineral resources. Another objective was the obtaining of information that would allow the Bureau of Land Management to know where mining operations are occurring on Federal lands and some knowledge of the extent of those operations. The knowledge of where mining operations under the mining laws are being conducted and their extent will also be used in making long term planning decisions and multiple use trade offs for all resource values and to ensure that areas that, in fact, have potential for mineral values are not indiscretely precluded from mineral development.

The final rulemaking incorporates three distinct levels of limitations dependent upon the level of mining activity that the operator proposes to conduct on his/her area of operations. For example, at the lowest level of activity, prospectors or part-time miners who cause only negligible surface disturbance will not need to contact the Bureau of Land Management. Except when he/she is conducting mining operations on special category lands, an operator who exceeds this negligible surface disturbance, but keeps his/her disturbance to an area of five acres or less per year, will be required to file only a notice. Notices will not require approval or bonding.

Operators proposing mining operations causing surface disturbance to more than five acres in one year are required to file a plan of operations which sets out the details of those operations. It is our opinion that a large portion of the mining operations on Federal lands will fall under the first two categories and will proceed with minimal contact with the Bureau.

The goal of this final rulemaking is to afford adequate protection to Federal lands from unnecessary and undue degradation at the least possible burden to the mining industry and to the United States. It has been in this spirit that the Bureau has worked with all segments of the public in an effort to develop a rulemaking that will meet its goal. This effort of working with the public will continue in the future in an attempt to obtain the cooperation of the mining industry and the rest of the public in meeting the goals and objectives of the final rulemaking.

General Comments

General comments on the proposed rulemaking ranged from questioning the authority for issuing the proposed rulemaking to supporting the action and recommending that the rulemaking be strengthened. Many general comments objected to the issuance of a rulemaking that changed the way mining activity has been carried on for over a hundred years under the 1872 Mining Law. A large number of comments strongly objected to combining the regulations on "Exploration and Mining, Wilderness Review Program" (43 CFR 3802) with this rulemaking. The attempt to consolidate the two regulations was confusing to the public because of the difficulty in distinguishing between the requirements for lands not under wilderness review and those for lands under wilderness review. To eliminate this confusion, all references to lands under wilderness
review have been deleted from this rulemaking. The interim final rulemaking,
43 CFR 3802, that covers mining on lands involved in the wilderness
review program and was published in the Federal Register on March 3,
1980 (45 FR 13974), will continue in effect after this rulemaking becomes
final. It will not be deleted, as was stated in the preamble to the
proposed rulemaking.

Numerous comments questioned the ability of the Bureau of Land
Management to respond within the times specified to the large number of
plans of operations that would have been generated by the proposed
rulemaking. This concern has been met in large measure by changes in
the final rulemaking. The changes are discussed later in the preamble
and will reduce significantly the number of plans of operations that
will be filed.

Another general concern of the comments was the adverse impact of
the rulemaking on the small operator. Many of the comments suggested
that the proposed rulemaking would limit activities on the Federal lands
by the smaller operators and would result in their being put out of
business. This final rulemaking relieves the small operator of many of
the requirements that were contained in the proposed rulemaking. This
will be discussed in more detail later in the preamble.

Finally, many of the comments expressed the view that the final
rulemaking for the Bureau of Land Management should be similar to the
regulations on this subject published by the U.S. Forest Service. The
final rulemaking follows as closely as possible the provisions of the
existing U.S. Forest Service regulations, with the major difference
being the threshold concept that has been included in the notice provision
of this final rulemaking.

Several comments requested that the Bureau of Land Management study
the "Institutional Approach" that was described on page 263 of the
report "Surface Mining of Non-Coal Minerals" prepared by the National
Academy of Sciences in 1979. That report suggests that strict regulatory
mechanisms are not necessary to achieve an end result. The final rulemaking
is an effort to reduce the regulatory burden for both the regulated
public and those responsible for carrying out the rulemaking.

Before discussion of the specific comments, a summary of the significant
revisions made in this final rulemaking may be helpful. Basically, the
final rulemaking changes the threshold and will require the submittal of
plans of operations on special category lands or if surface disturbance
resulting from mining operations exceeds five acres. For operations
disturbing five acres or less, a notice will be required of the operator.
Operators submitting notices will not be subject to bonding nor will
approval of the notice be required. Reasonable reclamation is required,
as failure to reclaim may constitute unnecessary or undue degradation of
the public lands.

The implementation of this final rulemaking will involve monitoring
and a cooperative effort by the Bureau of Land Management, the mining
industry and the public to ensure that there is no unnecessary or undue
degradation of the Federal lands. Close cooperation between the Bureau
and the mining industry will reduce the possibility of friction and
create a working relationship that will lead to greater mutual understanding.
If, at the end of two years, the Bureau determines that this final
rulemaking is neither working nor meeting the Secretary's responsibility
to prevent unnecessary or undue degradation of the public lands, the
regulations will be reassessed and amended as necessary.
Specific Comments

Purpose--Nearly all of the comments made reference to the "impairment of wilderness suitability" phrase in the proposed rulemaking and the fact that it should not be used with respect to the public lands that do not have wilderness characteristics or are not within an area under wilderness review. All references to "impairment" have been deleted. This section has been rewritten to conform with the authority and responsibility set forth in section 302(b) of the Federal Land Policy and Management Act of 1976.

Objectives--Several comments suggested substituting the word "provide" for the word "allow," thus indicating that miners have a right and not a mere privilege to mineral entry on Federal lands. This suggested change has been made. Also, all references to "impairment" of wilderness values have been deleted. One comment expressed the view that the phrase "scenic and scientific" is not appropriate and exceeds the responsibility of the Secretary of the Interior under sections 302(b) and 603(c) of the Federal Land Policy and Management Act. Although this may be true as to those sections, this rulemaking also implements section 601(f) of the Act relating to the California Desert Conservation Area. Therefore, the wording has not been changed.

One comment was of the view that the Bureau of Land Management should have a team of knowledgeable persons traveling to every office to explain the rulemaking. One of the keys to the successful implementation of this rulemaking is consistent application and understanding of the rulemaking by the Bureau's field personnel. Every effort will be made to accomplish this end, including regional workshops for Bureau employees and the preparation of manual sections for field guidance.

Authority--Several comments indicated that the 1872 Mining Law should not be used as authority for the rulemaking. This authority will remain because it gives the Secretary of the Interior authority to issue regulations relating to activities authorized under the mining laws. Furthermore, since part of the authority the States have to regulate mining activity is delegated by Congress in the mining law, that delegated authority serves as one basis for possible State/Federal agreements for the uniform implementation of their respective surface protection regulation.

Additional authorities have been added to this section, some in response to suggestions in comments.

Section 9(a) of the Wild and Scenic Rivers Act has also been added because it authorizes the Secretary of the Interior to, among other things, promulgate regulations to "provide safeguards against pollution***and unnecessary impairment of the scenery within***" wild and scenic river areas.

Definitions--Several comments were confused over the use of the term "mining operations." In response to these comments, the term has been changed to "operations" in the final rulemaking rather than "mining operations" as it appeared in the proposed rulemaking, and the definition has been changed. As suggested in one comment, the definition of the term "operations" now includes assessment work.

The definition "mining claims" has been changed to include filings under the "mining laws" rather than the 1872 Mining Law specifically. The definition has been expanded to include those mining claims and mill sites in the California Desert Conservation Area which have been or will be patented subsequent to the enactment of the Federal Land Policy and Management Act.
Reference to the "mining laws" rather than the 1872 Mining Law clears up the comment that placer mining claims are not covered under the 1872 Mining Law. One comment observed that the definition of the term "mining operations" was unclear as to "whether the operations take place on or off the claim" and indicated that no significant activities should take place off the mining claim unless authorized by some other law. This is not technically correct. One does not need a mining claim to prospect for or even mine on unappropriated Federal lands. The definition was designed to include those operations on a mining claim and uses incidental thereto on Federal lands, and does not inhibit "the miner's right to conduct initial prospecting prior to discovery" as one comment suggested, or prior to location.

Many comments addressed the definition of the term "reclamation" in the proposed rulemaking. In response to those comments, the term "reclamation" has been redefined to include the requirement to return disturbed lands to an appropriate contour and to revegetate with a diverse vegetative cover, if feasible and reasonable.

The term "unnecessary or undue degradation" has been redefined since a number of comments found the definition in the proposed rulemaking too confusing. Several comments said that the Federal Land Policy and Management Act does not require reclamation. An explanation of the Department of the Interior's position on that matter is found under bonding in this preamble.

Many comments made the point that the definition of the term "unnecessary and undue degradation" goes beyond a reasonable interpretation of the law. One comment stated that it was a "familiar evasive tactic of making reference to non-meaningful standards." The definition has been revised in the final rulemaking to delete the parts that caused the objections. Reclamation requirements and the need to consider other resource values and uses of the Federal lands have been added. A clause to cover other statutory authority has also been added.

Several comments suggested that the definition of the term "environment" has little meaning for the purposes of the rulemaking. The final rulemaking eliminates the need to define the term "environment" and it has been deleted.

Because the term "Federal lands" appears several times in the rulemaking and its meaning is not clear, that term has been defined. This new definition should clarify the scope of the rulemaking. Further, the terms "road," "wilderness," "wilderness study area," "wilderness inventory," "impairment of suitability," "substantially unnoticeable" and "valid existing rights" have been deleted from the final rulemaking because they are no longer needed. They continue to be applicable to the regulations for lands under wilderness review (43 CFR Part 3802) implemented on April 2, 1980.

Several comments expressed fear that the authorized officer could be an unqualified person with little knowledge of mining and minerals problems and concerns. Some of the comments also made the point that the authorized officer could abuse his/her discretionary authority. The definition has not been changed. It is intended that the district manager will be the authorized officer for approval of plans of operations and any appeals. District managers have personnel on their staff who are knowledgeable of mining and mineral problems and their advice will be available to the district manager as part of the decisionmaking process. Guidance will be provided to the field that will ensure consistency
and fairness in the implementation of the final rulemaking, thus reducing the possibility of abuse of discretionary authority. Any associated problems will be handled on a case-by-case basis. The final actions of the authorized officer are subject to the administrative review process provided in this rulemaking and 43 CFR Part 4.

A new term, "casual use," has been added to the definition section. This new term is needed to specify those activities that may be engaged in without any contact with the Bureau of Land Management. "Casual use" is part of the new threshold concept that has been included in the final rulemaking.

Policy--Several comments addressed the confusion caused by combining provisions of the "wilderness review" regulations with this rulemaking. Again, references to impairment have been removed. The section has been revised to clarify the position of the Department of the Interior in meeting its responsibilities under section 302(b) of the Federal Land Policy and Management Act.

Section 2 of the Mining and Minerals Policy Act of 1970 has been added because that section provides for, among other things, the development of economically sound and stable domestic mining, minerals, metal and mineral reclamation industries and the reclamation of mined lands. Section 102(a)(12) of the Federal Land Policy and Management Act, which makes it a policy of the United States to implement the Mining and Minerals Policy of 1970, has been added.

Scope--Numerous comments suggested that it was improper for the Bureau of Land Management to regulate mining activities on lands patented under the stockraising homestead laws where the minerals are reserved to the United States. Mining operations on these lands are adequately covered by existing laws (43 U.S.C. 299 and 30 U.S.C. 54) and regulations (43 CFR Part 3814) and the deletion of this section removes them from this rulemaking.

One comment stated that the rulemaking should be clarified to apply to "spillover impacts" on Federal lands from mining operations on patented lands. "Spillover impacts," such as dust and water pollution, will be monitored in accordance with applicable Federal and State law. In addition, all "spillovers" will be monitored by the Bureau of Land Management to ensure that unnecessary or undue degradation is not occurring.

The scope section in the final rulemaking has been deleted because the definition of the term "Federal lands" now includes all of the exclusions that were listed in the scope section of the proposed rulemaking. This deletion and change in the definition clarifies the final rulemaking by setting out in one section what lands are covered by the final rulemaking.

Plan of Operations--As a result of the numerous comments on this section, the level of activity requiring a plan of operations to be filed with the Bureau of Land Management has been changed. On lands other than special category lands, the new threshold allows mining activities, including access, to take place without filing a plan of operations if five acres or less of Federal lands are disturbed by those operations, subject to the requirement that the operator file a notice. The notice requires the operator to furnish sufficient information to allow the Bureau to get a good fix on the type of operations that will be occurring, and if necessary, make a determination as to whether unnecessary and undue degradation is occurring. The notice is not
subject to approval nor is bonding required for the activities covered by the notice. Reclamation is required for all operations. The new five-acre threshold will allow most exploration activities and some extraction activities to take place without a plan of operations having to be filed and processed, provided that lands that are disturbed are reclaimed by the operator. Additionally, the prospector who causes only negligible damage to Federal lands will be covered under the "casual use" provision and will not be required to make any contact with the Bureau of Land Management.

Retained as part of the final rulemaking is the procedure for a plan of operations for those operations that cause surface disturbance in excess of five acres and for mining activities located on certain categories of Federal lands.

The plan of operations section of the proposed rulemaking drew several comments suggesting that the authorized officer should not be responsible for developing mitigating measures or reclamation plans for the mining industry. This section of the rulemaking was designed to assist the small operator who often lacks the technical resources to develop reclamation measures in the preparation of his/her plan of operations and to make it optional for the industry as a whole to submit reclamation measures. The section had been amended in the final rulemaking to require the operator to submit reclamation measures unless the operator can show that he/she does not have the resources to comply, in which case the authorized officer will assist the operator in preparing such measures.

Many of the comments expressed the view that the authorized officer was given too much time to approve a plan of operations and that unnecessary time delays would result that would be costly to the mining industry and might jeopardize exploration projects. Additional comments on this section of the proposed rulemaking discussed the mining industry's reluctance to commence operations if the authorized officer does not take action on a plan of operations in a timely manner. The comments indicated that it was too risky to conduct an expensive exploration operation under an unapproved plan of operations which the Bureau of Land Management could subsequently reject. The final rulemaking has been changed to virtually eliminate these problems. The revised threshold will allow most exploration operations to commence without delay after the filing of a notice with the Bureau 15 days in advance of commencing operations. Unless the activities exceed the threshold or take place on special category lands, no approval or bonding is required. The approval process for a plan of operations, including the time sequence, remains unchanged in the final rulemaking. However, like the regulations of the U.S. Forest Service (36 CFR Part 252) where a plan of operations is required, the final rulemaking contains no provision allowing an operation to begin without the explicit approval of the plan.

Many comments suggested that the authorized officer has too much power and could be dictatorial. The changes in the final rulemaking should reduce this possibility significantly. In addition, the field offices will be monitored to ensure that the rulemaking is consistently applied and that fair and reasonable decisions are made to meet the Secretary of the Interior's responsibility under section 302(b) of the Federal Land Policy and Management Act and the Mining and Minerals Policy Act of 1970.
Several comments made the point that cultural and endangered species inventories and compliance with laws relating to these matters may be reason to stop or significantly delay a mining operation. Under the final rulemaking, these inventories will be required only when a plan of operations is submitted. Because of the new threshold level that is provided in the final rulemaking, this should cause delay in only a few instances. If there is an unavoidable conflict with an endangered species habitat, a plan could be rejected based not on section 302(b) of the Federal Land Policy and Management Act, but on section 7 of the Endangered Species Act. If, upon compliance with the National Historic Preservation Act, the cultural resources cannot be salvaged or damage to them mitigated, the plan must be approved. Essentially, as the comments suggested, these laws may slow the plan approval process; one law may stop a project while the other may only delay it.

The language of the final rulemaking has been clarified as to the party who has the responsibility to pay for cultural inventories and salvage. Further, the applicant is now given the option to proceed with the inventory or mitigation at his/her expense in order to expedite the approval process.

One comment alleged that the Bureau of Land Management lacked the authority to protect cultural resources under section 106 of the National Historic Preservation Act, stating that section 106 applies only where there is an expenditure of Federal funds or Federal licensing. The regulations implementing the National Historic Preservation Act define the phrase "Federal license" as those activities "carried out pursuant to a Federal lease, permit, license, certificate, approval, or other forms of entitlement or permission" (36 CFR 3800.2(c)(3)). Thus, the approval of a plan of operations, where required, constitutes a Federal undertaking within the purview of the licensing authority of section 106 and, where necessary, requires compliance with the procedures of the National Historic Preservation Act.

One comment stated that the Bureau of Land Management did not have to complete an environmental impact statement on a plan of operations since the Secretary of the Interior has no authority to disapprove any plan which does not result in unnecessary or undue degradation of the Federal lands. Hence, the Secretary's action in approving such a plan is not a discretionary act. The purpose of an environmental assessment or environmental impact statement is to inform the authorized officer of the environmental consequences of his/her actions. There may exist several alternative ways to achieve a particular result which are reasonable and prudent from a business standpoint. However, an environmental assessment or environmental impact statement may show the authorized officer that the first alternative would have significant detrimental environmental impacts not associated with the second alternative. Since both alternatives are reasonable and practical, it would either be necessary to adopt the second, or the authorized officer would attach conditions to his approval of the plan of operations on implementation of the first alternative so that the detrimental impacts would not occur. Similar reasoning applies with respect to determining whether a proposal will cause unnecessary or undue degradation. Furthermore, the issue of whether an act is discretionary or nondiscretionary does not preclude the Secretary from employing National Environmental Policy Act
procedures in determining whether a proposed activity exceeds the statutory prohibition against unnecessary or undue degradation.

Several comments expressed concern for timely compliance with requirements of Federal and State laws such as assessment work, discovery work, staking of locations, etc. One comment suggested that a mining claim operator has an unrestricted right to conduct discovery and other activities in accordance with State laws. Although this may have been the fact at one time, it is no longer true. Section 302(b) of the Federal Land Policy and Management Act expressly amends the 1872 Mining Law to provide constraints on mining operations in order to prevent unnecessary or undue degradation. Since the mining laws are the source of a State's authority to regulate acquisition of Federal minerals and possessory rights on Federal lands, any amendment to the Federal mining laws requires an adjustment in laws and regulations flowing therefrom—whether they are State law or the custom of the local mining district. Section 302(b) of the Act does not eliminate the need to comply with State laws, nor does this final rulemaking preempt State law. However, activities done in compliance with State law must likewise satisfy the requirements of section 302(b) of the Act.

The final rulemaking contains a new section that provides guidance on the filing of a notice in connection with those mining activities that come within the new threshold established in the rulemaking. The new section sets out the conditions under which the notice is to be filed, the place where it is to be filed and the information that is required. Special emphasis is placed on the location and type of access route or routes that may be required. This emphasis reflects the importance of routes of access and the impacts they can have on the Federal lands. In many instances, the route of access has the potential to cause more unnecessary and undue degradation than those activities directly related to the mining operations.

The notice is to be filed 15 days prior to the commencement of any operations covered by the notice. This 15-day period will give the authorized officer and his/her staff an opportunity to evaluate the proposed operations to determine whether a particular location contains some special resource value that could be avoided by the operation. If special values are discovered, the authorized officer could bring that to the attention of the operator and discuss possible alternatives with the aim of avoiding resource use conflicts. This is an area where cooperation between the Bureau of Land Management and the mining industry will lead to protection of Federal lands from those mining operations that might otherwise inadvertently cause damage to those lands. The location of a route of access is an example of the type of matters that might be discussed during the 15-day period. The authorized officer might have information as to special resource values in an area the route of access is to cross. If a slight change in the route of access would preserve the special value, the authorized officer and the mining operator could reach an agreement to make such a change.

Environmental Assessment—Many of the comments supported the need for environmental protection but were fearful that the strict environmental standards which apply to those lands under wilderness review would also apply to the lands not under wilderness review. As stated earlier, all reference to lands under wilderness review and to the regulations on
Exploration and Mining, Wilderness Review Program (43 CFR Part 3802) has been deleted from the final rulemaking.

A number of comments expressed concern about the additional time granted for public involvement in a plan of operations and environmental assessment where substantial public interest exists. Since the threshold has been changed, so that a majority of operations can be carried out without an approved plan of operations, there will be a minimum of delay or interference in approval of plans of operations because of public involvement. Further, it is the Bureau of Land Management's intention to closely monitor the timeframes established in this final rulemaking for review of a plan of operations to assure that, wherever possible, delays beyond the 30-day review period are the exception rather than the rule. Indefinite delays beyond the 90-day approval period may occur when an environmental impact statement is required for a project or when compliance with section 106 of the National Historic Preservation Act or section 7 of the Endangered Species Act is required.

A number of editorial changes have been made for clarification of the section in response to comments received.

Other Requirements for Environmental Protection--The deletion of all reference to lands under wilderness review in this section of the final rulemaking will alleviate many of the concerns expressed in the comments. Some comments made the point that all of the requirements set forth in this section were required by other laws and regulations and repeating them in this rulemaking was not necessary. Many of the provisions have been kept in the final rulemaking to emphasize that the operator's activities are subject to other applicable Federal and State laws. Serious conflicts are not expected to arise because other agencies are involved with different aspects of environmental protection.

Several comments correctly observed that mining operations in areas of critical environmental concern cannot be precluded because of potential irreparable damage. Section 302(b) of the Federal Land Policy and Management Act amended the 1872 Mining Law not to prevent irreparable damage, but to prevent unnecessary or undue degradation. Limitations placed on mine operators in the California Desert Conservation Area by 601(f) of the Act or in areas under wilderness review of section 603(c) are not applicable to areas of critical environmental concern. However, all activities within an area of critical environmental concern will require the submission and approval of a plan of operations.

One comment suggested that the Bureau of Land Management require harmony with visual resources. The Bureau agrees that this should be done, but only to the extent practicable. However, the provision covering visual resources has been deleted from this section of the final rulemaking because it is covered under the section relating to prevention of unnecessary or undue degradation.

Numerous comments were made on endangered species and cultural or paleontological resources. Discussion of how these resources are handled appears in the discussion of the section on plan approval set out above.

Several comments suggested developing guidelines for defining significant paleontological resources. The Bureau of Land Management is in the process of doing just that in another rulemaking that will be published in proposed form sometime in the next several months.

Another comment asked if the Bureau of Land Management would be
adequately funded to investigate and salvage cultural resources. The Bureau will mitigate to the extent possible, but significantly increased funding for this program is not expected in the near future. Another comment suggested alternative wording for the time period in which the authorized officer is required to respond to a cultural or paleontological discovery made by an operator. As a result of this comment, the wording of the section has been changed.

The comment was made that there is no authority to protect survey monuments such as section corners whether they are rock or brass-cap. Existing law (18 U.S.C. 1858) provides a $250 fine for the destruction or removal of any U.S. Government survey monument. The Secretary of the Interior has incorporated this provision in the final rulemaking as part of the exercise of his authority to protect the lands.

Another comment expressed the view that the authorized officer should require the operator to maintain records on the quality and quantity of water. This does not fall within the authority expressly granted by the Federal Land Policy and Management Act, but if a problem exists, other Federal agencies will be responsible for monitoring and enforcement.

A comment was made that the rulemaking should not apply to areas disturbed before its effective date. The final rulemaking does not apply to those areas that were disturbed prior to the effective date of this final rulemaking unless operations continue or begin again in the same project area, a term defined in this rulemaking. In that event, the provisions of this rulemaking will apply.

Numerous comments suggested that this rulemaking should be consistent with the regulations of the U.S. Forest Service on this subject so as to bring "some kind of uniformity to government regulations." Numerous other comments indicated that the Forest Service regulations were unworkable and that many small operators shy away from Forest Service lands because of the need to comply with their regulations. An effort has been made to be as consistent as possible with the Forest Service regulations; however, a major difference is that the threshold level on Federal lands for operations, where a plan of operations is not required, has been raised in this final rulemaking to permit disturbance of up to five acres without the filing of a plan of operations. The Forest Service regulations do not incorporate the concept of a threshold level. Thus, most exploration activities may start by filing a notice with the Bureau of Land Management which will not require approval. It is estimated that there are two or three times the number of mining claims on Bureau administered lands than on lands under the jurisdiction of the U.S. Forest Service. Whether the Bureau has budget and staff or the capability to administer the rulemaking as it was proposed in March 1980 is questionable, but the Bureau should be able to administer the program established by this final rulemaking. In addition, the rulemaking should not prove to be a great burden on the mining industry, yet it will allow the Secretary of the Interior to meet his/her responsibilities under the Federal Land Policy and Management Act.

Several comments suggested a threshold similar to the one that has been adopted in this final rulemaking. One comment suggested that the threshold level be set at 10 acres and that no plan of operations be required until that level had been reached, but also suggested that reclamation be required on all activities on the public lands. These
concepts, with modifications, have been incorporated into the final rulemaking.

Many of the comments expressed views concerning valid existing rights, grandfathered rights and impairment as they pertain to lands under wilderness review. Since all references to lands under wilderness review and the associated terms have been deleted from this final rulemaking, the comments are no longer applicable. However, the regulations on Exploration and Mining, Wilderness Review Program that became effective on April 2, 1980, do incorporate these concepts and remain in effect.

One comment observed the dilemma of the assessment work requirement on lands under wilderness review by stating "(I)t would tend to cause some individuals to break one law (impairment rules) to meet the requirements of another (assessment work)." Because of the possibility of these conflicts, consideration is being given to requesting legislation that would grant the Secretary of the Interior some flexibility in granting deferrals and, further, in allowing suspension of annual assessment work.

Modification of Plan—Numerous comments were made concerning the additional time delays that could be inherent in the modification of a plan of operations. Also, the need to be flexible in an exploration project to permit adjustment to meet specific geologic and topographic conditions was identified in some of the comments. Comments were of the opinion that it was unnecessary to modify a plan to cover such incidental changes. The language in this section of the final rulemaking has been changed to more accurately reflect the Bureau of Land Management's responsibilities under the unnecessary and undue degradation concept. Only significant modifications will now require an approval. The basic procedure remains unchanged. Because the threshold level has been revised to the five acre limit, fewer conflicts are expected to result from plan modifications.

Existing Operations—Most of the comments on this section of the proposed rulemaking dealt with activities associated with lands under wilderness review. Again, all references to activities on lands under wilderness review have been deleted from this final rulemaking. The section has been revised to accommodate a concern that the Bureau of Land Management was too strict in using such words as "immediately" instead of "reasonably." The intent is not to shut down existing operations or in any way take away rights granted under the mining laws. One comment pointed out that operations existing prior to October 21, 1976, may have valid existing rights under section 701(h) of the Federal Land Policy and Management Act and should not be regulated at all. The existence of a valid existing right or lack thereof, however, is immaterial to the exercise of the Secretary of the Interior's regulatory authority. This rulemaking does not extinguish any possessory rights that an individual may have under the mining laws. Those rights, however, are subject to the reasonable regulations mandated by the Federal Land Policy and Management Act.

Bond Requirements—Except for the plan approval section of the proposed rulemaking, this section drew the most comments. Perhaps it is the most controversial because of the difficulty by most operators, especially small operators, believe they will have in obtaining a bond. Several comments stated that the Conference Committee which was appointed
to resolve differences between the Senate and House-passed versions of the bills that became the Federal Land Policy and Management Act "identified no basis for a definitive recommendation," on requirements for reclamation and bonding. The Senate version had a provision directing the Secretary of the Interior to require appropriate land reclamation as a condition of uses likely to entail significant disturbance to or alteration of the public lands. The conferees did not adopt this provision. One comment went on to state "of course, with no requirement for reclamation, there is no need for a performance bond." The policy reflected in this final rulemaking is that there is no mandatory bonding; rather, it is discretionary. With the new threshold level contained in the final rulemaking, most exploration and some extraction activities would not be bonded. If a proposed activity exceeds the threshold and requires a plan of operations, bonding is then discretionary with the authorized officer. Essentially, the Congress did not see the immediate need for mandatory bonding in all cases, but neither did Congress deny that option to the Secretary of the Interior. Rather, it left open the discretion to impose standards for bonding.

The problems of bonding, especially for the small operator, are recognized. As a result, guidance will be given the Bureau of Land Management's field offices that bonding will be imposed only when necessary to protect the public lands from unnecessary or undue degradation and when imposed, it will be handled in a fair manner. Other comments on this section concerned duplication of bonding when other regulatory agencies are involved. The intent is to avoid duplicative enforcement and bonding in the administration of the regulations. The Director of the Bureau stated to the Subcommittee on Mines and Mining of the House Committee on Interior and Insular Affairs during its oversight hearings that it would be the Bureau's policy not to require duplicate bonding when State bonding requirements provided adequate protection, and the final rulemaking so provides.

The wording of the bonding section has been revised in the final rulemaking to make it more understandable and to clarify the applicability of nationwide and statewide bonding.

As mentioned earlier, numerous comments stated that authority to require reclamation, like bonding, was taken out of the Federal Land Policy and Management Act by the Conference Committee and, therefore, should not be required by this rulemaking. Reclamation is an integral part of any effort to prevent unnecessary or undue degradation of the lands. Failure to require the reclamation of disturbed areas may lead to scars on the lands that may remain for years. Likewise, failure to revegetate the surface of the lands may cause increased erosion of watersheds and lead to siltation and pollution of streams and other water resources. The failure to use reasonable means to reclaim the lands and eliminate these disturbances may constitute unnecessary or undue degradation and, thus, constitute a direct violation of section 302(b) of the Federal Land Policy and Management Act. In addition, the Bureau of Land Management is also responsible for implementing the Mining and Minerals Policy Act which requires reclamation of mined areas.

Operations Within Bureau of Land Management Wilderness Areas--There was considerable confusion among those who commented on this section of
the proposed rulemaking as to whether "wilderness areas" meant the lands administered by the Bureau of Land Management that are under wilderness review or wilderness areas that have been officially designated by Congress as part of the National Wilderness Preservation System. In accordance with section 603(c) of the Federal Land Policy and Management Act, once an area is designated by Congress as part of the National Wilderness Preservation System, the provisions of the Wilderness Act of 1964 apply. That Act states that reasonable regulations to govern ingress and egress may be prescribed consistent with the use of the lands for mineral operations and "restoration as near as practicable of the surface." The Wilderness Act also provides that the mining laws shall apply to designated wilderness areas until midnight December 31, 1983. To avoid further confusion, this section has been deleted from the final rulemaking. However, the final rulemaking makes it clear that any mining operations, other than casual use, proposed for a designated wilderness area will require an approved plan of operations before operations can commence.

Applicability of State Law--Generally, the comments on this section were favorable because the language of the proposed rulemaking attempted to avoid duplication of effort, principally in areas of bonding and enforcement. Several comments expressed concern as to whether or not the States had jurisdiction on Federal lands, as defined in this rulemaking. It has been the view of the Department of the Interior that under section 3 of the 1872 Mining Law (30 U.S.C. 26), the States may assert jurisdiction over mining activities on Federal lands in connection with their own State laws. This may be done as long as the laws of the State are not in conflict or inconsistent with Federal law. The adoption and implementation of this final rulemaking is not intended to pre-empt the continued application and enforcement of State law and regulations governing the conduct of activities pursuant to the United States mining laws.

The language of this section has been changed to allow more flexibility for the Director, Bureau of Land Management, and the respective States in entering into working agreements concerning the administration of their respective laws and regulations.

One comment questioned whether the United States could allocate monies to States which have signed agreements to administer the Bureau of Land Management's regulations. This question is being studied in recognition of the fact that it is in the best interest of all concerned to avoid, to the extent possible, excessive burdens created by duplication of effort.

Noncompliance--Numerous comments stated that the 30 days provided in the proposed rulemaking for completing corrective action in cases of noncompliance is too short. In the light of these comments, this section has been changed to require that action to correct must be started within 30 days. Several comments said that the noncompliance section should include provisions for cease and desist orders and for fines. The Bureau of Land Management will cooperate with an operator to the extent possible in rectifying situations that are causing unnecessary or undue degradation. In extreme cases, where an operator will not cooperate, injunctive procedures can be initiated and a restraining order requested. Failure to comply with an injunction will make an operator subject to such penalty as a court may impose. An important provision added to
this section is that all operations fall under the provisions of the noncompliance section whether the operations are (1) casual use, not requiring any notice, (2) below the threshold level, or (3) under plans of operations because in each case they must not cause unnecessary or undue degradation. One comment feared that there would be no "benchmark" for measuring noncompliance and that such determinations may be arbitrary and capricious. For all practical purposes, the "benchmark" will be whether there is unnecessary or undue degradation of Federal lands. All phases of the final rulemaking will be monitored to ensure that all operations are treated equitably.

Access—Comments on this section centered around concerns that the authorized officer had too much discretion in specifying when and where access would be allowed. In response to these comments, the threshold in the final rulemaking has been increased. The changes made in this final rulemaking should alleviate the concerns. The authorized officer's discretion, when a plan of operations is submitted, is limited to determining whether or not unnecessary or undue degradation will be caused. One comment said that ingress and egress are rights under the mining law and cannot be interfered with. Although basically true, section 302(b) of the Federal Land Policy and Management Act amended the mining law by requiring that all mining activities, including access, must be carried out in a manner that prevents unnecessary or undue degradation.

Another comment raised the issue of "non-exclusive" access and the fact that degradation may be caused by recreation vehicles, or perhaps a competitor. The word "non-exclusive" has been deleted from the section in the final rulemaking. However, case law has established that the public can use Federal lands, including the surface or unpatented mining claims, as long as their presence does not materially interfere with mining operations. On the question of degradation caused by recreation vehicles, section 302(b) of the Act applies to all users of Federal lands. Therefore, every user must take the necessary precautions to prevent unnecessary or undue degradation of Federal lands.

Another comment was concerned whether rights-of-way for access to mining claims would require approval under Title V of the Federal Land Policy and Management Act. Access for all purposes of ingress and egress to unpatented mining claims will not be regulated under the provisions of Title V. One comment suggested stronger controls over access including maintenance fees and use of existing roads. When non-exclusive access is involved, the Bureau of Land Management may not charge a fee for access. This relates back to the mineral laws themselves which state that Federal lands shall be "free and open." Use of existing access will be encouraged to the greatest extent possible. Failure to use existing access may result in building an unnecessary road and, thus, creating unnecessary or undue degradation. In accordance with the provisions of the final rulemaking, all roads constructed, whether under a notice or a plan of operations, are required to be reclaimed by the operators. In addition, the Bureau will work as closely as possible with operators to assist them in road location or other facets of their operations, with the overall goal of preventing unnecessary or undue degradation to Federal lands. Maximum interchange between Bureau field offices and the mining industry will be encouraged so that each will appreciate and understand the objectives of the other.
Multiple Use Conflicts--The comments on this section indicated that it was confusing. After careful study, it was determined that the section was not needed and it has been deleted from the final rulemaking.

Fire Prevention and Control--The comments on this section were of a general and supportive nature and suggested no change. Therefore, the section remains unchanged in the final rulemaking.

Maintenance and Public Safety--Several comments suggested that the proposed rulemaking might conflict with regulations of the Mine Safety and Health Administration. After studying this possibility, it was decided that no conflict exists and this section of the final rulemaking is unchanged.

Inspection--The comments objected to this section of the proposed rulemaking on the basis that the inspection might come at an inconvenient time and interfere with operations. The section remains in the final rulemaking in order to put operators on notice that the authorized officer can inspect their operations to be certain that no activity causing unnecessary or undue degradation is taking place. Inspection will normally occur during regular business hours.

Notice of Suspension of Operations and Cessation of Operations--Numerous comments suggested that it is difficult for operators to determine, with certainty, when operations will cease due to fluctuations in price of the mineral in the marketplace. Therefore, they may want to maintain their equipment at the site. The section on notice of suspension of operations has been deleted from the final rulemaking because the recordation requirements imposed by section 314 of the Federal Land Policy and Management Act provide adequate coverage of the miner's intent to maintain the claim. The section on cessation of operations has been revised to allow more flexibility as to the removal of structures and equipment. One comment said that the Bureau of Land Management should require a "detailed outline of how the operation will be dismantled at the end of activities." Another comment asked "what happens if the operator fails to comply with this paragraph?" A detailed outline of "dismantling" is not necessary since failure to remove any structures and to reclaim the site may create unnecessary or undue degradation of Federal lands. The noncompliance section discusses the consequences of noncompliance.

Appeals--Numerous comments said that third parties should not be allowed to appeal a decision issued under this rulemaking. In accordance with those comments, the final rulemaking has been amended to provide one type of administrative review process for operators, but preserves the rights of affected parties under Part 4 of Title 43 of the Code of Federal Regulations through a paragraph that has been added to this section in the final rulemaking. One comment suggested that the final rulemaking conform to the U.S. Forest Service regulations concerning the time within which to file an appeal and "request for stay." This change has been made in the final rulemaking. An intermediate administrative review step has been added to the final rulemaking whereby an operator may appeal to the State Director. This new procedure is designed to resolve questions early in the administrative review process and thereby shorten it, if possible, before those questions become an issue on appeal.

Public Availability of Information--A large number of comments expressed a fear that the authorized officer may not be qualified to
make a determination as to what information may or may not be confidential. This section of the final rulemaking has been amended to give the operator the right to designate which of the submitted information he or she regards as confidential, with any requests from the public for confidential material being made and handled under the provisions of the Freedom of Information Act procedures.

Special Provisions Relating to the California Desert Conservation Area—Several comments were received that suggested the promulgation of a separate rulemaking for the California Desert Conservation Area. The final rulemaking includes provisions that will afford the area adequate protection. Separate regulations are not warranted. The final rulemaking requires the filing of a plan of operations for any activity in the California Desert Conservation Area beyond that covered by casual use. The plan would be evaluated to ensure protection against "undue impairment" and against pollution of the streams and waters within the Area. A few comments made the point that it was not clear whether this final rulemaking supersedes the mining regulations now in effect for the King Range National Conservation Area. It does not. There have been no major changes in this section of the final rulemaking.

Editorial changes and corrections have been made as necessary.

The principal authors of this final rulemaking are Eugene Carlat and Robert M. Anderson of the Division of Mineral Resources, assisted by Eleanor R. Schwartz, Chief, Office of Legislation and Regulatory Management, all of the Bureau of Land Management; and Kenneth Lee, Office of the Solicitor, Department of the Interior.

A regulatory analysis and final environmental impact statement were prepared in conjunction with this final rulemaking. Copies of these decision documents may be obtained from the Director (520), Bureau of Land Management, 1800 C Street, NW., Washington, D.C. 20240, or by calling 202-343-8537. The final environmental impact statement is available at all State Offices of the Bureau of Land Management.


PART 3800--MINING CLAIMS UNDER THE GENERAL MINING LAWS

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General
Subpart 3809--Surface Management
§3809.0-1 Purpose.
   The purpose of this subpart is to establish procedures to prevent
   unnecessary or undue degradation of federal lands which may result from
   operations authorized by the mining laws.

§3809.0-2 Objectives.
   The objectives of this regulation are to:
   (a) Provide for mineral entry, exploration, location, operations,
   and purchase pursuant to the mining laws in a manner that will not
   unduly hinder such activities but will assure that these activities are
   conducted in a manner that will prevent unnecessary or undue degradation
   and provide protection of nonmineral resources of the federal lands;
   (b) Provide for reclamation of disturbed areas; and
   (c) Coordinate, to the greatest extent possible, with appropriate
   State agencies, procedures for prevention of unnecessary or undue degradation
   with respect to mineral operations.

§3809.0-3 Authority.
   (a) Section 2319 of the Revised Statutes (30 U.S.C. 22 et seq.)
   provides that exploration, location and purchase of valuable mineral
   deposits, under the mining laws, on federal lands shall be "under regulations
   prescribed by law," and section 2478 of the Revised Statutes, as amended
   (43 U.S.C. 1201), provides that those regulations shall be issued by the
   Secretary.
   (b) Sections 302, 303, 601, and 603 of the Federal [L]and Policy
   and Management Act of 1976 (43 U.S.C. 1701 et seq.) require the Secretary
   to take any action, by regulation or otherwise, to prevent unnecessary
   or undue degradation of the federal lands, provide for enforcement of
   those regulations, and direct the Secretary to manage the California
   Desert Conservation Area under reasonable regulations which will protect
   the scenic, scientific, and environmental values against undue impairment,
   and to assure against pollution of streams and waters.
(c) The Act of July 23, 1955 (30 U.S.C. 612), provides that rights under mining claims located after July 23, 1955, shall prior to issuance of patent therefor, be subject to the right of the United States to manage and dispose of the vegetative surface resources and to manage other surface resources. The Act also provides that "Any mining claim hereafter located under the mining laws of the United States shall not be used, prior to issuance to patent therefor, for any purposes other than prospecting, mining or processing operations and uses reasonably incident thereto."

(d) Section 9 of the Wild and Scenic Rivers Act (16 U.S.C. 1280) provides that regulations issued shall, among other things, provide safeguards against pollution of the rivers involved and unnecessary impairment of the scenery within the area designated for potential addition to, or an actual component of the national wild and scenic rivers system.

§3809.0-5 Definitions.

As used in this subpart, the term:

(a) "Authorized officer" means any employee of the Bureau of Land Management to whom authority has been delegated to perform the duties described in this part.

(b) "Casual use" means activities ordinarily resulting in only negligible disturbance of the federal lands and resources. For example, activities are generally considered "casual use" if they do not involve the use of mechanized earth moving equipment or explosives or do not involve the use of motorized vehicles in areas designated as closed or limited to off-road vehicles as defined in subpart 3840 of this title.

(c) "Federal lands" means lands subject to the mining laws including, but not limited to, the certain "public lands" defined in section 103 of the Federal Land Policy and Management Act of 1976. Federal lands does not include lands in the National Park System, National Forest System, and the National Wildlife Refuge System, nor does it include acquired lands, Stockraising Homestead lands or lands where only the mineral interest is reserved to the United States or lands under Wilderness Review and administered by the Bureau of Land Management (these lands are subject to the 43 CFR Part 3802 regulations).

(d) "Mining claim" means any unpatented mining claim, millsite, or tunnel site located under the mining laws and those patented mining claims and millsites located in the California Desert Conservation Area which have been patented subsequent to the enactment of the Federal Land Policy and Management Act of October 21, 1976.

(e) "Mining laws" means the Lode Law of July 26, 1866, as amended (14 Stat. 251); the Placer Law of July 9, 1870, as amended (16 Stat. 217); and the Mining Law of May 10, 1872, as amended (17 Stat. 91); and all laws supplementing and amending those laws, including among others the Building Stone Act of August 4, 1892, as amended (27 Stat. 348); and the Saline Placer Act of January 31, 1901 (31 Stat. 745).

(f) "Operations" means all functions, work, facilities, and activities in connection with prospecting, discovery and assessment work, development, extraction, and processing of mineral deposits locatable under the mining laws and all other uses reasonably incident thereto, whether on a mining claim or not, including but not limited to the construction of roads, transmission lines, pipelines, and other means of access for
support facilities across federal lands subject to these regulations.

(g) "Operator" means a person conducting or proposing to conduct operations.

(h) "Person" means any citizen of the United States or person who has declared the intention to become such and includes any individual, partnership, corporation, association, or other legal entity.

(i) "Project area" means a single tract of land upon which an operator is, or will be, conducting operations. It may include one mining claim or a group of mining claims under one ownership on which operations are or will be conducted, as well as federal lands on which an operator is exploring or prospecting prior to locating a mining claim.

(j) "Reclamation" means taking such reasonable measures as will prevent unnecessary or undue degradation of the federal lands, including reshaping land disturbed by operations to an appropriate contour and, where necessary, revegetating disturbed areas so as to provide a diverse vegetative cover. Reclamation may not be required where the retention of a stable highwall or other mine workings is needed to preserve evidence of mineralization.

(k) "Unnecessary or undue degradation" means surface disturbance greater than what would normally result when an activity is being accomplished by a prudent operator in usual, customary, and proficient operations of similar character and taking into consideration the effects of operations on other resources and land uses, including those resources and uses outside the area of operations. Failure to initiate and complete reasonable mitigation measures, including reclamation of disturbed areas or creation of a nuisance may constitute unnecessary or undue degradation. Failure to comply with applicable environmental protection statutes and regulations thereunder will constitute unnecessary or undue degradation. Where specific statutory authority requires the attainment of a stated level of protection or reclamation, such as in the California Desert Conservation Area, Wild and Scenic Rivers, and other such areas, that level of protection shall be met.

§3809.0-6 Policy.

Consistent with section 2 of the Mining and Mineral Policy Act of 1970 and section 102(a)(7), (8), and (12) of the Federal Land Policy and Management Act, it is the policy of the Department of the Interior to encourage the development of federal mineral resources and reclamation of disturbed lands. Under the mining laws a person has a statutory right, consistent with Departmental regulations, to go upon the open (unappropriated and unreserved) federal lands for the purpose of mineral prospecting, exploration, development, extraction and other uses reasonably incident thereto. This statutory right carries with it the responsibility to assure that operations include adequate and responsible measures to prevent unnecessary or undue degradation of the federal lands and to provide for reasonable reclamation.

§3809.1 Operations.

§3809.1-1 Reclamation.

All operations, whether casual, under a notice, or by a plan of operations, shall be reclaimed as required in this title.

§3809.1-2 Casual use--negligible disturbance.

No notification to or approval by the authorized officer is required
for casual use operations. However, casual use operations are subject to monitoring by the authorized officer to ensure that unnecessary or undue degradation of federal lands will not occur.

§3809.1-3 Notice--disturbance of 5 acres or less.

(a) All operators on project areas whose operations, including access across federal lands to the project area, cause a cumulative surface disturbance of 5 acres or less during any calendar year shall notify the authorized officer in the District office of the Bureau of Land Management having jurisdiction over the land in which the claim(s) or project area is located. Prior to conducting additional operations under a subsequent notice, the operator shall have completed reclamation of operations which were conducted under any previous notice. Notification of such activities, by the operator, shall be made at least 15 calendar days before commencing operations under this subpart by a written notice or letter.

(b) Approval of a notice, by the authorized officer, is not required. Consultation with the authorized officer may be required under §3809.1-3(c)(3) of this section when the construction of access routes are involved.

(c) The notice or letter shall include:

(1) Name and mailing address of the mining claimant and operator, if other than the claimant. Any change of operator or in the mailing address of the mining claimant or operator shall be reported promptly to the authorized officer;

(2) When applicable, the name of the mining claim(s), and serial number(s) assigned to the mining claim(s) recorded pursuant to subpart 3833 of this title on which disturbance will likely take place as a result of the operations;

(3) A statement describing the activities proposed and their location in sufficient detail to locate the activities on the ground, and giving the approximate date when operations will start. The statement shall include a description and location of access routes to be constructed and the type of equipment to be used in their construction. Access routes shall be planned for only the minimum width needed for operations and shall follow natural contours, where practicable, to minimize cut and fill. When the construction of access routes involves slopes which require cuts on the inside edge in excess of 3 feet, the operator may be required to consult with the authorized officer concerning the most appropriate location of the access route prior to commencing operations;

(4) A statement that reclamation of all areas disturbed will be completed to the standard described in §3809.1-3(d) of this section and that reasonable measures will be taken to prevent unnecessary or undue degradation of the federal lands during operations.

(d) The following standards govern activities conducted under a notice:

(1) Access routes shall be planned for only the minimum width needed for operations and shall follow natural contours, where practicable to minimize cut and fill.

(2) All tailings, dumps, deleterious materials or substances, and other waste produced by the operations shall be disposed of so as to prevent unnecessary or undue degradation and in accordance with applicable Federal and State Laws.

(3) At the earliest feasible time, the operator shall reclaim the
area disturbed, except to the extent necessary to preserve evidence of mineralization, by taking reasonable measures to prevent or control on-site and off-site damage of the federal lands.

(4) Reclamation shall include, but shall not be limited to:
(i) Saving of topsoil for final application after reshaping of disturbed areas have been completed;
(ii) Measures to control erosion, landslides, and water runoff;
(iii) Measures to isolate, remove, or control toxic materials;
(iv) Reshaping the area disturbed, application of the topsoil, and revegetation of disturbed areas, where reasonably practicable; and
(v) Rehabilitation of fisheries and wildlife habitat.

(5) When reclamation of the disturbed area has been completed, except to the extent necessary to preserve evidence of mineralization, the authorized officer shall be notified so that an inspection of the area can be made.

(e) Operations conducted pursuant to this subpart are subject to monitoring by the authorized officer to ensure that operators are conducting operations in a manner which will not cause unnecessary or undue degradation.

(f) Failure of the operator to complete reclamation to the standards described in this subpart may cause the operator to be subject to a notice of noncompliance as described in §3809.3-2 of this Part.

§3809.1-4 Plan of operations—when required.
An approved plan of operations is required prior to commencing:

(a) Operations which exceed the disturbance level (5 acres) described in §3809.1-3 of this Part.

(b) Any operation, except casual use, in the following designated areas:

(1) California Desert Conservation Area;
(2) Areas designated for potential addition to, or an actual component of the national wild and scenic rivers system;
(3) Designated Areas of Critical Environmental Concern;
(4) Areas designated as part of the National Wilderness Preservation System and administered by the Bureau of Land Management;
(5) Areas withdrawn from operation of the mining laws in which valid existing rights are being exercised; and
(6) Areas designated as "closed" or "limited" to off-road vehicle use as defined in subpart 8340 of this title.

§3809.1-5 Filing and contents of plan of operations.

(a) A plan of operations must be filed in the District Office of the Bureau of Land Management having jurisdiction over the federal lands in which the claim(s) or project area is located.

(b) No special form is required for filing a plan.

(c) The plan shall include:

(1) The name and mailing address of the operator (and claimant if not the operator). Any change of operator or change in the mailing address shall be promptly reported to the authorized officer;

(2) A map, preferably a topographic map, or sketch showing existing and/or proposed routes of access, aircraft landing areas, or other means of access, and size of each area where surface disturbance will occur;

(3) When applicable, the name of the mining claim(s) and mining claim serial numbers assigned to the mining claim(s) recorded pursuant
to subpart 3833 of this title.

(4) Information sufficient to describe or identify the type of operations proposed, how they will be conducted and the period during which the proposed activity will take place;

(5) Measures to be taken to prevent unnecessary or undue degradation and measures to reclaim disturbed areas resulting from the proposed operations, including the standards listed in §3809.1-3(d) of this Part. Where an operator advises the authorized officer that he/she does not have the necessary technical resources to develop such measures the authorized officer will assist the operator in developing such measures. If an operator submits reclamation measures, the authorized officer will ensure that the operator's plan is sufficient to prevent unnecessary or undue degradation. All reclamation measures developed by the operator, or by the authorized officer in conjunction with the operator, shall become a part of the plan of operations;

(6) Measures to be taken during extended periods of nonoperation to maintain the area in a safe and clean manner and to reclaim the land to avoid erosion and other adverse impacts. If not filed at the time of plan submittal, this information shall be filed with the authorized officer whenever the operator anticipates a period of nonoperation.

§3809.1-6 Plan approval.

(a) A proposed plan of operations shall be submitted to the authorized officer, who shall promptly acknowledge receipt thereof to the operator. The authorized officer shall, within 30 days of such receipt, analyze the proposal in the context of the requirement to prevent unnecessary or undue degradation and provide for reasonable reclamation, and shall notify the operator:

(1) That the plan is approved; or
(2) Of any changes in or additions to the plan necessary to meet the requirements of these regulations; or
(3) That the plan is being reviewed, but that a specified amount of time, not to exceed an additional 60 days, is necessary to complete the review, setting forth the circumstances which justify additional time for review. However, days during which the area of operations is inaccessible for inspection shall not be counted when computing the 60 day period; or
(4) That the plan cannot be approved until 30 days after a final environmental statement has been prepared and filed with the Environmental Protection Agency; or
(5) That the plan cannot be approved until the authorized officer has complied with section 106 of the National Historic Preservation Act or section 7 of the Endangered Species Act.

(b) The authorized officer shall consult with the appropriate official of the bureau or agency having surface management responsibilities where such responsibility is not exercised by the Bureau of Land Management. Prior to plan approval the authorized officer shall obtain the concurrence of such appropriate official to the terms and conditions that may be needed to prevent unnecessary and undue degradation.

(c) The authorized officer shall undertake an appropriate level of cultural resource inventory of the area to be disturbed. The inventory shall be completed within the time allowed by these regulations for approval of the plan (30 days). The operator is not required to do the inventory but may hire an archaeologist approved by the Bureau of Land
Management in order to complete the inventory more expeditiously. The responsibility for and cost of salvage of cultural resources discovered during the inventory shall be the Federal Government's. The responsibility of avoiding adverse impacts on those cultural resources discovered during the inventory shall be the operator's.

(d) Pending final approval of the plan, the authorized officer shall approve any operations that may be necessary for timely compliance with requirements of Federal and State laws, subject to any terms and conditions that may be needed to prevent unnecessary or undue degradation.

(e) In the event of a change of operators involving an approved plan of operations, the new operator shall satisfy the requirements of §3809.1-9 of this Part as it relates to bonding.

§3809.1-7 Modification of plan.

(a) At any time during operations under an approved plan, the operator on his/her own initiative may modify the plan or the authorized officer may request the operator to do so.

(b) A significant modification of an approved plan must be reviewed and approved by the authorized officer in the same manner as the initial plan.

(c)(1) If, when requested to do so by the authorized officer, the operator does not furnish a proposed modification within a reasonable time, usually 30 days, the authorized officer may recommend to the State Director that the operator be required to submit a proposed modification of the plan. The recommendation of the authorized officer shall be accompanied by a statement setting forth the facts and the reasons for the recommendations.

(2) In acting upon such recommendations the State Director shall determine, within 30 days, whether:

(i) All reasonable measures were taken by the authorized officer at the time the plan was approved to ensure that the proposed operations would not cause unnecessary or undue degradation of the federal land;

(ii) The disturbance from the operations of the plan as approved or from unforeseen circumstances is or may become of such significance that modification of the plan is essential in order to prevent unnecessary or undue degradation; and

(iii) The disturbance can be minimized using reasonable means.

(3) Once the matter has been sent to the State Director, an operator is not required to submit a proposed modification of an approved plan until a determination is made by the State Director. Where the State Director determines that a plan shall be modified, the operator shall timely submit a modified plan to the authorized officer for review and approval.

(4) Operations may continue in accordance with the approved plan until a modified plan is approved, unless the State Director determines that the operations are causing unnecessary or undue degradation to the land. The State Director shall advise the operator of those reasonable measures needed to avoid such degradation and the operator shall immediately take all necessary steps to implement those measures within a reasonable period established by the State Director.

§3809.1-8 Existing operations.

(a) Persons conducting operations on the effective date of these regulations, who would be required to submit a notice under §3809.1-3 or
a plan of operations under §3809.1-4 of this Part may continue operations but shall, within:

(1) 30 days submit a notice with required information outlined in §3809.1-3 of this Part for operations where 5 acres or less will be disturbed during a calendar year; or

(2) 120 days submit a plan in those areas identified in §3809.1-4 of this Part. Upon a showing of good cause, the authorized officer may grant an extension of time, not to exceed an additional 180 days, to submit a plan.

(b) Operations may continue according to the submitted plan during its review. If the authorized officer determines that operations are causing unnecessary or undue degradation of the federal lands involved, the authorized officer shall advise the operator of those reasonable measures needed to avoid such degradation, and the operator shall take all necessary steps to implement those measures within a reasonable time recommended by the authorized officer. During the period of an appeal, if any, operations may continue without change, subject to other applicable Federal and State laws.

(c) Upon approval of a plan by the authorized officer, operations shall be conducted in accordance with the approval plan.

§3809.1-9 Bonding requirements.

(a) No bond shall be required for operations that constitute casual use (§3809.1-2) or that are conducted under a notice (§3809.1-3 of this Part).

(b) Any operator who conducts operations under an approved plan of operations as described in §3809.1-5 of this Part may, at the discretion of the authorized officer, be required to furnish a bond in an amount specified by the authorized officer. The authorized officer may determine not to require a bond in circumstances where operations would cause only minimal disturbance to the land. In determining the amount of the bond, the authorized officer shall consider the estimated cost of reasonable stabilization and reclamation of areas disturbed. In lieu of the submission of a separate bond, the authorized officer may accept evidence of an existing bond pursuant to State law or regulations for the same area covered by the plan of operations, upon a determination that the coverage would be equivalent to that provided in this section.

(c) In lieu of a bond, the operator may deposit and maintain in a Federal depository account of the United States Treasury, as directed by the authorized officer, cash in an amount equal to the required dollar amount of the bond or negotiable securities of the United States having a market value at the time of deposit of not less than the required dollar amount of the bond.

(d) In place of the individual bond on each separate operation, a blanket bond covering statewide or nationwide operations may be furnished at the option of the operator, if the terms and conditions, as determined by the authorized officer, are sufficient to comply with these regulations.

(e) In the event that an approved plan is modified in accordance with §3809.1-7 of this Part, the authorized officer shall review the initial bond for adequacy and, if necessary, adjust the amount of the bond to conform to the plan as modified.

(f) When all or any portion of the reclamation has been completed in accordance with the approved plan, the operator may notify the authorized
officer that such reclamation has occurred and that she/he seeks a reduction in bond or Bureau approval of the adequacy of the reclamation, or both. Upon any such notification, the authorized officer shall promptly inspect the reclaimed area with the operator. The authorized officer shall then notify the operator, in writing, whether the reclamation is acceptable. When the authorized officer has accepted as completed any portion of the reclamation, the authorized officer shall authorize that the bond be reduced proportionally to cover the remaining reclamation to be accomplished.

(g) When a mining claim is patented, the authorized officer shall release the operator from that portion of the performance bond which applies to operations within the boundaries of the patented land. The authorized officer shall release the operator from the remainder of the performance bond, including the portion covering approved means of access outside the boundaries of the mining claim, when the operator has completed acceptable reclamation. However, existing access to patented mining claims, if across Federal lands shall continue to be regulated under the approved plan. The provisions of this subsection do not apply to patents issued on mining claims within the boundaries of the California Desert Conservation Area (See §3809.6 of this Part).

§3809.2 Prevention of unnecessary or undue degradation.

§3809.2-1 Environmental assessment.

(a) When an operator files a plan of operations or a significant modification which encompasses land not previously covered by an approved plan, the authorized officer shall make an environmental assessment or a supplement thereto to identify the impacts of the proposed operations on the lands and to determine whether an environmental impact statement is required.

(b) In conjunction with the operator, the authorized officer shall use the environmental assessment to determine the adequacy of mitigating measures and reclamation procedures included in the plan to insure the prevention of unnecessary or undue degradation of the land. If an operator advises the authorized officer that he/she is unable to prepare mitigating measures, the authorized officer, in conjunction with the operator, shall use the environmental assessment as a basis for assisting the operator in developing such measures.

(c) If, as a result of the environmental assessment, the authorized officer determines that there is "substantial public interest" in the plan, the authorized officer shall notify the operator, in writing, that an additional period of time, not to exceed the additional 60 days provided for approval of a plan in §3809.1-6(a) of this part, is required to consider public comments on the environmental assessment.

§3809.2-2 Other requirements for environmental protection.

All operations, including casual use and operations under either a notice (§3809.1-3) or a plan of operations (§3809.1-4 of this Part), shall be conducted to prevent unnecessary or undue degradation of the federal lands and shall comply with all pertinent Federal and State laws, including but not limited to the following:

(a) Air Quality. All operators shall comply with applicable Federal and State air quality standards, including the Clean Air Act (42 U.S.C. 1857 et seq.).
(b) Water Quality. All operators shall comply with applicable Federal and State water quality standards, including the Federal Water Pollution Control Act, as amended (30 U.S.C. 1151 et seq.).

(c) Solid Wastes. All operators shall comply with applicable Federal and State standards for the disposal and treatment of solid wastes, including regulations issued pursuant to the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.). All garbage, refuse or waste shall neither be removed from the affected lands or disposed of or treated to minimize, so far as is practicable, its impact on the lands.

(d) Fisheries, Wildlife and Plant Habitat. The operator shall take such action as may be needed to prevent adverse impacts to threatened or endangered species, and their habitat which may be affected by operations.

(e) Cultural and Paleontological Resources. (1) Operators shall not knowingly disturb, alter, injure, or destroy any scientifically important paleontological remains or any historical or archaeological site, structure, building or object on federal lands.

(2) Operators shall immediately bring to the attention of the authorized officer any cultural and/or paleontological resources that might be altered or destroyed on federal lands by his/her operations, and shall leave such discovery intact until told to proceed by the authorized officer. The authorized officer shall evaluate the discoveries brought to his/her attention, take action to protect or remove the resource, and allow operations to proceed within 10 working days.

(3) The Federal Government shall have the responsibility and bear the cost of investigations and salvage of cultural and paleontology values discovered after a plan of operations has been approved, or where a plan is not involved.

(f) Protection of survey monuments. To the extent practicable, all operators shall protect all survey monuments, witness corners, reference monuments, bearing trees and line trees against unnecessary or undue destruction, obliteration or damage. If, in the course of operations, any monuments, corners, or accessories are destroyed, obliterated or damaged by such operations, the operator shall immediately report the matter to the authorized officer. The authorized officer shall prescribe, in writing, the requirements for the restoration or reestablishment of monuments, corners, bearing and line trees.

§3809.3 General provisions.
§3809.3-1 Applicability of State law.

(a) Nothing in this part shall be construed to effect a preemption of State laws and regulations relating to the conduct of operations or reclamation on federal lands under the mining laws.

(b) After the publication date of these regulations the Director, Bureau of Land Management, shall conduct a review of State laws and regulations in effect or due to come into effect, relating to unnecessary or undue degradation of lands disturbed by exploration for, or mining of, minerals locatable under the mining laws.

(c) The Director may consult with appropriate representatives of each State to formulate and enter into agreements to provide for a joint Federal-State program for administration and enforcement. The purpose of such agreements is to prevent unnecessary or undue degradation of the federal lands from operations which are conducted under the mining laws,
to prevent unnecessary administrative delay and to avoid duplication of administration and enforcement of laws. Such agreements may, whenever possible, provide for State administration and enforcement of such programs.

§3809.3-2 Noncompliance.
(a) Failure of an operator to file a notice under §3809.1-3 of this Part or a plan of operations under §3809.1-4 of this Part will subject the operator, at the discretion of the authorized officer, to being served a notice of non-compliance or enjoined from the continuation of such operations by a court order until such time as a notice or plan is filed with the authorized officer. The operator shall also be responsible to reclaim operations conducted without an approved plan of operations or prior to the filing of a required notice.
(b) Failure to reclaim areas disturbed by operations under §3809.1-3 of this Part is a violation of these regulations.
   (1) Where an operator is conducting operations covered by 3809.1-3 (notice) of this title and fails to comply with the provisions of that section or properly conduct reclamation according to standards set forth in 3809.1-3(d) of this title, a notice of noncompliance shall be served by delivery in person to the operator or his/her authorized agent, or by certified mail addressed to his/her address of record.
   (2) Operators conducting operations under an approved plan of operations who [fail] to follow the approved plan of operations may be subject to a notice of noncompliance. A notice of noncompliance shall be served in the same manner as described in §3809.3-2(b)(1) above.
(c) All operators who conduct operations under a notice pursuant to §3809.1-3 and a plan pursuant to §3809.1-4 of this Part on federal lands without taking the actions specified in a notice of noncompliance within the time specified therein may be enjoined by an appropriate court order from continuing such operations and be liable for damages for such unlawful acts.
(d) A notice of noncompliance shall specify in what respects the operator is failing or has failed to comply with the requirements of applicable regulations, and shall specify the actions which are in violation of the regulations and the actions which shall be taken to correct the noncompliance and the time, not to exceed 30 days, within which corrective action shall be started.
(e) Failure of an operator to take necessary actions on a notice of noncompliance, may constitute justification for requiring the submission of a plan of operations under §3809.1-5 of this Part, and mandatory bonding for subsequent operations which would otherwise be conducted pursuant to a notice under §3809.1-3 of this Part.

§3809.3-3 Access.
(a) An operator is entitled to access to his operations consistent with provisions of the mining laws.
(b) Where a notice or a plan of operations is required, it shall specify the location of access routes for operations and other conditions necessary to prevent unnecessary or undue degradation. The authorized officer may require the operator to use existing roads to minimize the number of access routes, and, if practicable, to construct access roads within a designated transportation or utility corridor. When commercial hauling is involved and the use of an existing road is required, the
authorized officer may require the operator to make appropriate arrangements for use and maintenance.

§3809.3-4 Fire prevention and control.

The operator shall comply with all applicable Federal and State fire laws and regulations, and shall take all reasonable measures to prevent and suppress fires in the area of operations.

§3809.3-5 Maintenance and public safety.

During all operations, the operator shall maintain his structures, equipment, and other facilities in a safe and orderly manner. Hazardous sites or conditions resulting from operations shall be marked by signs, fenced, or otherwise identified to alert the public in accordance with applicable Federal and State laws and regulations.

§3809.3-6 Inspection.

The authorized officer may periodically inspect operations to determine if the operator is complying with these regulations. The operator shall permit the authorized officer access for this purpose.

§3809.3-7 Periods of non-operation.

All operators shall maintain the site, structures and other facilities of the operations in a safe and clean condition during any non-operating periods. All operators may be required, after an extended period of non-operation for other than seasonal operations, to remove all structures, equipment and other facilities and reclaim the site of operations, unless he/she receives permission, in writing, from the authorized officer to do otherwise.

§3809.4 Appeals.

(a) Any operator adversely affected by a decision of the authorized officer made pursuant to the provisions of this subpart shall have a right of appeal to the State Director, and thereafter to the Board of Land Appeals, Office of Hearings and Appeals, pursuant to Part 4 of this title, if the State Director's decision is adverse to the appellant.

(b) No appeal shall be considered unless it is filed, in writing, in the office of the authorized officer who made the decision from which an appeal is being taken, within 30 days after the date of the decision. A decision of the authorized officer from which an appeal is taken to the State Director shall be effective during the pendency of an appeal. A request for a stay may accompany the appeal.

(c) The appeal to the State Director shall contain:

(1) The name and mailing address of the appellant.

(2) When applicable, the name of the mining claim(s) and serial number(s) assigned to the mining claims recorded pursuant to subpart 3833 of this title which are subject to the appeal.

(3) A statement of the reasons for the appeal and any arguments the appellant wishes to present which would justify reversal or modification of the decision.

(d) The State Director shall promptly render a decision on the appeal. The decision shall be in writing and shall set forth the reasons for the decision. The decision shall be sent to the appellant by certified mail, return receipt requested.

(e) The decision of the State Director, when adverse to the appellant, may be appealed to the Board of Land Appeals, Office of Hearings and
Appeals, pursuant to Part 4 of this title.

(f) Any party, other than the operator, aggrieved by a decision of the authorized officer shall utilize the appeals procedures in Part 4 of this title. The filing of such an appeal shall not stop the authorized officer's decision from being effective.

(g) Neither the decision of the authorized officer nor the State Director shall be construed as final agency action for the purpose of judicial review of that decision.

§3809.5 Public availability of information.

(a) Information and data submitted and specifically identified by the operator as containing trade secrets or confidential or privileged commercial or financial information shall not be available for public examination. Other information and data submitted by the operator shall be available for examination by the public at the office of the authorized officer in accordance with the provisions of the Freedom of Information Act.

(b) The determination concerning specific information which may be withheld from public examination shall be made in accordance with the rules in 43 CFR Part 2.

§3809.6 Special provisions relating to mining claims patented within the boundaries of the California Desert Conservation Area.

In accordance with section 601(f) of the Federal Land Policy and Management Act of October 21, 1976, all patents issued on mining claims located within the boundaries of the California Desert Conservation Area after the enactment of the Federal Land Policy and Management Act shall be subject to the regulations in this part, including the continuation of a plan of operations and of bonding with respect to the land covered by the patent.

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APPENDIX E: INFORMATION AND FORMS ON STREAM ALTERATION

Application For a Permit to Alter a Stream Channel, Form 3804, [Required for placer operations with dredges moving more than 2 cubic yards/hour and suction dredges larger than 8 inches in diameter.]

Application For a Permit to Alter a Stream Channel, Form 3804-A, [Required for all suction dredge operations (8 inches or less in diameter) moving less than 2 cubic yards/hour.]

Attachments to Application For a Permit to Alter a Stream Channel.

Dredge and Sluice Operator Information [Questionnaire that accompanies suction dredge permit.]
STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR A PERMIT TO ALTER
A STREAM CHANNEL

(Vacuum or Suction Dredges and Power Sluice Equipment)

Application for minimum standards permit to operate a suction or vacuum dredge or power sluice equipment in a stream channel for the calendar year.

1. Applicant Name(s)

Address
Telephone ______ Area Code - Number

2. Description of Equipment (nozzle size, horsepower, make & model):
   (Equipment not listed cannot be used under this permit.)

I hereby certify that I have read section 42-3001, Idaho Code, and Rules and Regulations and Minimum Standards for Stream Channel Alterations pertaining to dredge mining on back of form; that I understand and agree to be governed by all the conditions set forth in the permit issued pursuant to the above-mentioned Idaho Code, Rules and Regulations and Minimum Standards for Stream Channel Alterations as provided by the Department of Water Resources. The Departments of Water Resources, Lands, Fish and Game and Health and Welfare and other authorities with jurisdiction over mining operations are hereby granted permission to come upon and inspect my mining operation. I also hereby certify that I have received and have in my possession current Attachments A, B & C for the calendar year in which this permit is issued.

DATE

SIGNATURE

DO NOT WRITE IN SPACE BELOW

Action: Disapproved ________ Approved ________

Valid Until ______

CONDITIONS:
The applicant is hereby authorized to dredge mine in accordance with the conditions as set forth on this permit and in the Rules and Regulations and Minimum Standards for Stream Channel Alterations within the State of Idaho and in conformance with the attached list of streams which may be dredged under this permit. The attachment(s) labeled A, B and C are hereby made a part of this permit.

GENERAL CONDITIONS:
1. This permit is not transferable to any party not listed above as applicant. At least one applicant must be at the work site at all times work is being done.
2. This permit does not constitute any of the following:
   a. An easement or right-of-way to trespass across or work upon property or mining claims belonging to others.
   b. Other approval that may be required by local, State or Federal Government unless specifically stated below.
   c. Responsibility of the Department of Water Resources for damage to adjacent properties.
3. Dredging shall be conducted in a manner such that the return water from the dredge does not significantly increase the turbidity of the stream below the dredging operation, or have adverse impacts upon the stream channel. Violation of this or any other condition of this permit may result in cancellation of this permit without further notice in accordance with Rule 7.2, Stream Channel Alteration Rules and Regulations.
4. If the equipment is capable of moving more than two cubic yards of streambed material per hour, this permit is invalid and other requirements must be met.
   a. The Department of Lands requires that a separate dredge mining permit be obtained.
   b. The Department of Health and Welfare must approve plans and specifications for water clarification facilities prior to construction.
5. Removal of gold or other valuable mineral for sale or exhibit requires a lease from the Department of Lands for streams listed as navigable. (See Attachment A)
6. Use of equipment other than described in Item 2 above or nozzle sizes in excess of the size allowed for the stream (see Attachment C and appropriate stream list) is a violation of this permit.
7. All refuse, including chemical and petroleum products shall be stored and maintained away from the stream and disposed of in such a manner as to prevent their entry into a waterway. Refueling shall not take place with the equipment in the water.
8. The permit holder must have a copy of this permit at the dredging site and available for inspection at all times.
9. This permit specifically prohibits the disturbance of vegetated and undercut streambed areas and further prohibits hydraulic mining operations in which the discharge affects the stream channel.
10. No dredging shall be conducted within 150 feet of a developed campground or State park.
11. Permit issued upon completion of the attached information sheet (Form 3004-04).

SPECIAL CONDITIONS:

Issued this ______ day of ________ 19 ______ Signed ______

Title ______

Issue Date: 2/81
Section 42-3801. Legislative intent - Stream channels - Alteration. - The legislature of the State of Idaho hereby declares that the public health, safety and welfare requires that the stream channels of the state and their environments be protected against alteration for the protection of fish and wildlife habitat, aquatic life, recreation, aesthetic beauty, and water quality. No alteration of any stream channel shall hereafter be made unless approval therefor has been given as provided in this act.

DEPARTMENT OF WATER RESOURCES RULES AND REGULATIONS AND MINIMUM STANDARDS FOR STREAM CHANNEL ALTERATIONS:

Rule 9.9 Suction Dredges. The following standards shall apply only to use of suction dredges capable of moving two cubic yards of material per hour or less.

9.9.1 A permit for the operation of a suction dredge may authorize the use of the dredge within a drainage basin or a large portion of a drainage basin except as otherwise determined by the Director.

9.9.2 There shall be no use of mechanized equipment below the mean high water mark except for the dredge itself, and any life support system necessary to operate the dredge.

9.9.3 The operation of the dredge shall be done in a manner so as to prevent the undercutting of streambanks.

* CAUTION *

This permit addresses only the environmental considerations of recreational suction dredging. This permit grants absolutely no authority for trespass upon any land whether privately owned, state owned or federally owned and does not in any way supersede requirements for the filling and operation of a mining claim.

APPEALS:

If the applicant objects to the decision or to the conditions regarding this permit, the applicant may apply for a stream channel alteration permit using Form 3004 or may request, in writing and within 15 days of the decision on this permit, a hearing to appeal the decision or conditions regarding this permit.

<table>
<thead>
<tr>
<th>INSPECTION RECORD</th>
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</thead>
<tbody>
<tr>
<td><strong>Date</strong></td>
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</tbody>
</table>
1. Name of applicant ______________________________ Phone No. __________________
   Post Office address ________________________________________________________

2. Name of stream channel to be altered: _________________________________
   tributary to _____________________________________________________________

3. Describe the section of the stream to be altered by reference to a section corner, section line, or other
   permanent reference point:
   in _____ (1/16 section of lot no.) of Section _____, Township ______, Range ______ B.M.
   in ______ County.

4. Length of channel or area involved in alteration: _______________ feet.

5. Average gradient of existing channel: ___________________________ feet per thousand feet.

6. Describe the nature and purpose of the alteration: _______________________
   ________________________________________________________________
   ________________________________________________________________

7. Describe how and with what equipment you intend to complete the alteration: _______________
   ________________________________________________________________
   ________________________________________________________________

8. When do you plan to start and how long will the alteration take: _______________
   ________________________________________________________________
   ________________________________________________________________

9. Do you intend to do work below the water surface? ________ If so, describe how you intend to control
   turbidity or pollution resulting from the work: _________________________
   ________________________________________________________________
   ________________________________________________________________

10. Will water be diverted around the area to be altered? ________ If so, describe how you intend to accomplish
    the diversion: ___________________________________________________
    ______________________________________________________________
    ______________________________________________________________
11. Attach 2 copies of a vicinity map and plans for the alteration (see instructions for specifications). When a drawing is larger than this application form, one copy must be on tracing paper or some other transparency material. Clearly show typical cross sections, areas of cut or fill, bed profile, plans of footings or structures that will be constructed below the high water mark, elevations of dominant features (actual or assumed), inlet and outlet detail of culverts or restrictive channels, and other items that you feel will assist in explaining the proposed alteration and its purpose. Large scale aerial photos may be helpful and are usually available from your local ASCS office or other government offices.

The above information correctly represents the alteration that I intend to make and is true and correct to the best of my knowledge. I certify that I am the applicant or that I have authority to act in behalf of the above listed applicant and to bind said applicant to observe the conditions of approval of any permit issued pursuant to this application. The Department of Water Resources is hereby granted the right to come upon applicant’s land to inspect proposed or completed work at the above described site.

Date

Applicant’s signature

Title

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Permit to Alter a Stream Channel pursuant to Title 42, Chapter 38, Idaho Code, and said application and the procedure outlined for completing work is hereby

Any approval of said application and procedure is subject to the following limitations and conditions.

General Conditions:

1. This permit does not constitute any of the following:
   a. An easement or right-of-way to trespass across or work upon property belonging to others;
   b. Other approval that may be required by State or Federal Government, unless specifically stated below;
   c. Responsibility of the Department of Water Resources for damage to adjacent properties due to work done.

2. The permit holder or operator must have a copy of this permit at the alteration site and available for inspection at all times.

3. The Department of Water Resources may cancel this permit any time that it determines such action is necessary to minimize adverse impact on the stream channel.

Special Conditions:

Witness my hand this _____ day of ____________________________, 19_____.


STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Instructions for Filing an Application for a Permit to Alter a Stream Channel

Title 42, Chapter 38 of the Idaho Code provides protection for the channels of the continuously flowing streams of the State from unnecessary alteration. The Code provides that anyone proposing to alter a stream channel must first obtain authority to do so from the Department of Water Resources. The Act exempts from the permit requirement activities within port districts and alterations by water users to obtain and divert water. Applications should be filed with the nearest region office 60 days prior to the time the alteration is to take place. If you need assistance or have questions regarding the law or information required by the form, please feel free to contact any of the following department offices:

Western Region: 92 South Cole Road, Boise, ID 83706 (Phone 334-2190)
Northern Region: Route No. 9, Box 203, Coeur d'Alene, ID 83814 (Phone 667-6484)
Eastern Region: 150 Shawp, Idaho Falls, ID 83401 (Phone 525-7641)
Southern Region: 1041 Base Lake Blvd. No., Twin Falls, ID 83301 (Phone 734-3578)
State Office: Stanhouse, Boise, ID 83720 (Phone 334-4440)

1. Give the legal name and official post office address of the applicant. Give telephone number and, if the applicant is not available at that number during normal working hours, indicate when the applicant can be reached at that number.

2. Give the common name applied to the stream to be altered. If it does not have a common name, mark as an unnamed stream. Note the stream to which the channel to be altered is immediately tributary.

3. Describe the section of stream to be altered by describing the point of beginning and the end point with respect to a section corner, section line, meander corner, or other common permanent reference point.

4. Give the length of the channel or area to be altered in linear feet or square feet.

5. If alteration involves substantial length of channel, give average gradient of the existing channel prior to any modification. Calculate this by dividing the difference in elevation along the channel by the length in feet of that portion of existing channel.

6. Describe the nature and purpose of the alteration with a short statement stating why you wish to make the alteration, the general shape of the new channel, the type of materials with which the channel will be constructed, the quantity or volume of material to be moved in cubic yards, and other information necessary to fully describe the alteration.

7. Describe the manner in which you propose to complete the alteration by specifying the type of equipment and method of work you intend to use. Copies of the Department's minimum standards for stream alterations detail many common work situations and are available upon request.

8. Give your proposed date for start of construction and estimate how many days the alteration will take.

9. If the answer to this question is yes, describe the method and structures to be used to control turbidity or downstream pollution.

10. If the answer to this question is yes, describe how you intend to accomplish the diversion.

11. Include maps and plans showing the location, extent, and character of the proposed alteration. These are an essential part of this application for a permit. Such drawings are to be attached to and form a part of the application, and must be prepared carefully.

- Two copies of all drawings are required; and if they are of a size larger than the application form, one copy must be on tracing linen, vellum, heavy tracing paper, or some other transparency material.

- Vicinity maps and plans giving plan and typical cross-sections on 8½" x 11" sheets, measured from edge to edge with a margin of 1 inch, are required in addition to detailed plans and specifications.

- Detailed plans should not exceed a sheet size of 24" x 36".

over
• All drawings must be drawn to scale and all maps must have north arrows.

• On all maps of rivers, or plans showing river areas, the direction of flow must be shown.

• All buried or covered utility crossings within the project area must be located and identified on the map.

• All soundings and elevations must be shown in feet and referred to the established government datum plane at the locality, or given with respect to a commonly used local datum. Additional information, including the location and description of any gage or bench marks that may be available, may be secured from the Department.

• Each drawing shall have a simple title, in the lower right-hand corner to identify the work.

The signature of the applicant must be that of the person responsible for the alteration. If a company or other entity, the signature must be that of a corporate official, elected official; or if a government agency, an official authorized to sign in behalf of that agency.
ATTACHMENTS TO
APPLICATION FOR A PERMIT TO ALTER
A STREAM CHANNEL

ATTACHMENT A
Rivers Considered Navigable by
State of Idaho
Department of Lands

ATTACHMENT B
List of Streams Open or Closed
Under this Permit

ATTACHMENT C
Stream Classification

Idaho Department of Water Resources
Statehouse
Boise, Idaho 83720

Revised
February 1981

Effective Calendar Year 1981
Moyie River
Kootenai River
Clark Fork River
Priest River
Pend Oreille River
Spokane River
Coeur d'Alene River
St. Joe River
St. Maries River

Clearwater River
North Fork of the Clearwater River
Middle Fork of the Clearwater River
Lochsa River
Selway River
Snake River
Henry's Fork of the Snake River
Buffalo River

Salmon River
Middle Fork of the Salmon River

South Fork of the Salmon River
Payette River
North Fork of the Payette River
South Fork of the Payette River
Boise River
North Fork of the Boise River
Middle Fork of the Boise River
South Fork of the Boise River

All of that portion in Idaho
All of that portion in Idaho
All of that portion in Idaho
All of that portion in Idaho
All of that portion in Idaho
All of that portion in Idaho
From mouth through T-51N, R-3E B.M.
From mouth through T-45N, R-7E B.M.
From mouth through Sec. 9, T-45N,
R-2W B.M.
All of that portion in Idaho
From mouth through T-38N, R-7E B.M.
All of that portion in Idaho
From mouth through T-33N, R-7E B.M.
From mouth through T-32N, R-7E B.M.
All of that portion in Idaho
All of that portion in Idaho
From mouth through Sec. 21, T-13N,
R-44E B.M.
From mouth through T-10, R-13E B.M.
From mouth through Sec. 12, T-14N,
R-9E B.M.
From mouth through T-20N, R-6E B.M.
All of that portion in Idaho
From mouth to Payette Lake
From mouth through T-9N, R-9E B.M.
All of that portion in Idaho
From mouth through T-5N, R-7E B.M.
From mouth through T-5N, R-6E B.M.
From mouth through T-3N, R-11E B.M.
LIST OF STREAMS OPEN OR CLOSED UNDER THIS PERMIT

The following list (Attachment "C") depicts streams and/or stream segments in which suction or vacuum dredging or powered sluice operation is permitted, pursuant to the conditions of the attached permit. ACTIVITIES IN STREAM AND/OR STREAM SEGMENTS SHOWN AS NOT OPEN UNDER THIS PERMIT WILL BE REVIEWED ON AN INDIVIDUAL BASIS THROUGH REGULAR PERMIT PROCESSING.

This listing of waters open to dredging DOES NOT guarantee public access. The permittee shall at all times be held responsible for any federal, state, and local statutes and ordinances pertaining to dredging to include BLM or state mining claim requirements and filing of a notice of intent with the USFS. The Sawtooth National Recreation Area has specifically been withdrawn from mineral entry. Therefore, the only mining or prospecting allowed within the SNRA is on valid existing mining claims after an operating plan has been submitted to the Sawtooth NRA and approved.

1. Streams not listed are considered open year around.

2. Applications may be filed on any streams shown as closed in conjunction with operation of valid mining claims or prospecting. Such applications will be considered on a case-by-case basis.

3. The attached list of streams is subject to annual revision.

4. Streams in the Wild & Scenic River System are closed to dredging under this permit.

GENERAL INFORMATION

Questions should be directed to the appropriate Regional Office of the Department of Water Resources having jurisdiction over any basin in question.

1. Northern Region 667-6484
   Department of Water Resources
   4055 Government Way
   Coeur d'Alene, ID 83814

2. Western Region 334-2190
   Department of Water Resources
   92 South Cole Road
   Boise, ID 83705

Southern Region 734-3578
   Department of Water Resources
   1041 Blue Lakes Blvd. North
   Twin Falls, ID 83301

3. Eastern Region 525-7162
   Department of Water Resources
   150 Shoup Avenue
   Idaho Falls, ID 83401

2. Most commercial dredges are rated in loose packed gravels. The nozzle size and horsepower of the dredge are not the main factors in determining quantities of material moved per hour. The method of operation and material size are more important. For this reason, many operations may move less material than the rated capacity of the dredge.
3. For information related to lease requirements on navigable streams or
related to dredge mining permits (more than 2 cubic yards per hour),
contact:

Idaho Department of Lands
Statehouse
Boise, ID 83720

Phone: 208-334-3567
ATTACHMENT C
STREAM CLASSIFICATION

NOZZLE SIZES BASED UPON STREAM CLASSIFICATION

<table>
<thead>
<tr>
<th>Stream Classification</th>
<th>Max. Allowable Nozzle Size</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>0 - 3&quot;</td>
</tr>
<tr>
<td>B</td>
<td>0 - 5&quot;</td>
</tr>
<tr>
<td>C</td>
<td>0 - 8&quot;</td>
</tr>
</tbody>
</table>
## NORTHERN REGION

<table>
<thead>
<tr>
<th>PANHANDLE BASIN</th>
<th>OPEN UNDER THIS PERMIT</th>
<th>CLOSED UNDER THIS PERMIT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kootenai River Drainage (C)</td>
<td>July 15-Aug. 30</td>
<td></td>
</tr>
<tr>
<td>Priest Lake drainage (incl. trib. to Priest Lake and upper Priest Lake) (B)</td>
<td>July 15-Aug. 30</td>
<td>Entire Year</td>
</tr>
<tr>
<td>Upper Priest River and tributaries</td>
<td>July 15-Aug. 30</td>
<td>Entire Year</td>
</tr>
<tr>
<td>Priest River (below dam) (C)</td>
<td>July 15-Aug. 30</td>
<td>Entire Year</td>
</tr>
<tr>
<td>Pack River Drainage (B)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>EXCEPT Grouse Creek and tributaries</td>
<td></td>
<td></td>
</tr>
<tr>
<td>EXCEPT Rapid Lightning Creek</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Clark Fork Drainage (C)</td>
<td>July 15-Aug. 30</td>
<td>Entire Year</td>
</tr>
<tr>
<td>EXCEPT Lightning Creek and tributaries</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pend Oreille Lake Drainage (and trib.) (A)</td>
<td>July 15-Aug. 30</td>
<td>Entire Year</td>
</tr>
<tr>
<td>Spokane River Drainage (C)</td>
<td></td>
<td></td>
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<tr>
<td>St. Maries River</td>
<td></td>
<td></td>
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<tr>
<td>EXCEPT St. Joe River and tributaries</td>
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<td></td>
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<tr>
<td>EXCEPT Coeur d'Alene River and tributaries (above Yellow Dog Creek)</td>
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<tr>
<td>EXCEPT North Fork Coeur d'Alene River and tributaries (above Lavern Creek)</td>
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<td></td>
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<tr>
<td>EXCEPT Hayden Creek and tributaries</td>
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<td></td>
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<tr>
<td>EXCEPT Wolf Lodge Creek</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>CLEARWATER BASIN</th>
<th>OPEN UNDER THIS PERMIT</th>
<th>CLOSED UNDER THIS PERMIT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Main Clearwater River (C)</td>
<td>Entire Year</td>
<td></td>
</tr>
<tr>
<td>North Fork Clearwater Rr. and tributaries to Kelly Cr. (B) (above Dworshak Res.)</td>
<td>July 1-Sep. 30</td>
<td></td>
</tr>
<tr>
<td>North Fork Clearwater River and tributaries above Kelly Cr.</td>
<td>July 1-Sep.30</td>
<td>Entire Year</td>
</tr>
<tr>
<td>Kelly Creek and tributaries</td>
<td></td>
<td></td>
</tr>
<tr>
<td>except Moose Cr. (A) tributaries</td>
<td>July 1-Sep. 30</td>
<td>Entire Year</td>
</tr>
<tr>
<td>Lolo Creek (B) and tributaries (A) to Musselshell Cr.</td>
<td></td>
<td></td>
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<tr>
<td>Lolo Creek upstream from Musselshell Creek (A)</td>
<td>July 1-Aug. 15</td>
<td></td>
</tr>
<tr>
<td>South Fork Clearwater Drainage (C)</td>
<td>Entire Year</td>
<td></td>
</tr>
<tr>
<td>South Fk. Clearwater River (C)</td>
<td></td>
<td></td>
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<tr>
<td>Johns Creek and tributaries</td>
<td></td>
<td></td>
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<tr>
<td>Ten Mile Creek and tributaries</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Newsome Creek (B) and tributaries (A)</td>
<td>July 1-Aug. 15</td>
<td></td>
</tr>
<tr>
<td>Crooked River (B) and tributaries (A)</td>
<td>July 1-Aug. 15</td>
<td></td>
</tr>
<tr>
<td>American River (B) tributaries (A)</td>
<td>July 1-Aug. 15</td>
<td></td>
</tr>
<tr>
<td>Red River and tributaries</td>
<td>July 1-Aug. 15</td>
<td></td>
</tr>
<tr>
<td>Middle Fork Clearwater and tributaries</td>
<td></td>
<td></td>
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<tr>
<td>EXCEPT Clear Creek (B) and trib. (A)</td>
<td>July 1-Aug. 15</td>
<td></td>
</tr>
</tbody>
</table>

Stream classification letter appears in appropriate location in stream description as shown on Attachment C, page 4.
### Western Region

<table>
<thead>
<tr>
<th>Tributary</th>
<th>OPEN UNDER THIS PERMIT</th>
<th>CLOSED UNDER THIS PERMIT</th>
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</thead>
<tbody>
<tr>
<td><strong>Salmon River Basin</strong></td>
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<tr>
<td>Main Salmon (C)</td>
<td></td>
<td></td>
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<tr>
<td>(mouth to Middle Fork)</td>
<td>Entire Year</td>
<td></td>
</tr>
<tr>
<td>Tributaries not listed (B)</td>
<td>July 1-Oct. 31</td>
<td>Apr. 1-July 31</td>
</tr>
<tr>
<td>(mouth to French Cr.)</td>
<td></td>
<td></td>
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<tr>
<td>Tributaries not listed (A)</td>
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<td></td>
</tr>
<tr>
<td>(French Cr. to Middle Fork)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>China Creek (A)</td>
<td>July 1-Oct. 31</td>
<td>Apr. 1-July 15</td>
</tr>
<tr>
<td>Eagle Creek (A)</td>
<td>July 1-Oct. 31</td>
<td>Apr. 1-July 15</td>
</tr>
<tr>
<td>Deer Creek (A)</td>
<td>July 1-Oct. 31</td>
<td>Apr. 1-July 15</td>
</tr>
<tr>
<td>John Day Creek (A)</td>
<td>July 1-Oct. 31</td>
<td>Apr. 1-July 15</td>
</tr>
<tr>
<td>Sheep Creek (A)</td>
<td>July 1-Oct. 31</td>
<td>Apr. 1-July 15</td>
</tr>
<tr>
<td>Crooked Creek (A)</td>
<td>July 1-Oct. 31</td>
<td>Apr. 1-July 15</td>
</tr>
<tr>
<td>Big Mallard Creek (A)</td>
<td>July 1-Oct. 31</td>
<td>Apr. 1-July 15</td>
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<tr>
<td>White Bird Creek</td>
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<td></td>
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<tr>
<td>Slate creek</td>
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<tr>
<td>Bargamin Creek</td>
<td></td>
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<tr>
<td>Sabe Creek</td>
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<td></td>
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<tr>
<td>French Creek</td>
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<tr>
<td>California Creek</td>
<td></td>
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<tr>
<td>Warren Creek</td>
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<td></td>
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<tr>
<td>Fivemile Creek</td>
<td></td>
<td></td>
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<tr>
<td>Chamberlin Creek</td>
<td></td>
<td></td>
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<tr>
<td>Disappointment Creek</td>
<td></td>
<td></td>
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<tr>
<td>Cottonwood Creek</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Horse Creek and tributaries</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Kitchen Creek (A)</td>
<td>July 1-Aug. 15</td>
<td></td>
</tr>
<tr>
<td><strong>Little Salmon River (B)</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Little Salmon River mouth to Pollock</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Little Salmon River, Pollock</td>
<td>Entire Year</td>
<td></td>
</tr>
<tr>
<td>Upstream (B) and tributaries (A)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Boulder Creek and tributaries</td>
<td>Entire Year</td>
<td></td>
</tr>
<tr>
<td>Hazzard Creek and tributaries</td>
<td>Entire Year</td>
<td></td>
</tr>
<tr>
<td>Hard Creek and tributaries</td>
<td>Entire Year</td>
<td></td>
</tr>
<tr>
<td>Rapid River Drainage</td>
<td>Entire Year</td>
<td></td>
</tr>
<tr>
<td>All other tributaries to Little</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Salmon River (A)</td>
<td>Entire Year</td>
<td></td>
</tr>
<tr>
<td><strong>South Fork Salmon River &amp; tributaries</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>South Fork (C) &amp; tributaries (mouth to Secesh River) (A) except as listed below</td>
<td>Entire Year</td>
<td></td>
</tr>
<tr>
<td>South Fork &amp; tributaries</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(above Secesh River)</td>
<td>Entire Year</td>
<td></td>
</tr>
<tr>
<td>Elk River and tributary</td>
<td>Entire Year</td>
<td></td>
</tr>
<tr>
<td>Porphyry Cr. &amp; tributaries</td>
<td>Entire Year</td>
<td></td>
</tr>
<tr>
<td>Bear Creek and tributaries</td>
<td>Entire Year</td>
<td></td>
</tr>
<tr>
<td>Sheep Creek and tributaries</td>
<td>Entire Year</td>
<td></td>
</tr>
<tr>
<td>Location</td>
<td>Open Permit</td>
<td>Closed Permit</td>
</tr>
<tr>
<td>-------------------------------------------------------------------------</td>
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<tr>
<td><strong>WESTERN REGION (continued)</strong></td>
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<tr>
<td><strong>SALMON RIVER BASIN (continued)</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Secesh River Drainage</td>
<td>Entire Year</td>
<td></td>
</tr>
<tr>
<td>East Fork of South Fork Salmon River (mouth to Johnson Creek) (B)</td>
<td>Entire Year</td>
<td>July 1-Sep. 30</td>
</tr>
<tr>
<td>(above Johnson Creek to Sugar Creek) (A)</td>
<td></td>
<td>Apr. 1-July 31</td>
</tr>
<tr>
<td>Johnson Creek and tributaries</td>
<td>Entire Year</td>
<td>Apr. 1-July 31</td>
</tr>
<tr>
<td>(mouth to Burnt Log) (upstream from Burnt Log) (A)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Middle Fork Salmon River and tributaries in their entirety</td>
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## WESTERN REGION (continued)

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### SOUTHERN REGION

#### SNAKE RIVER BASIN

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<td>Hansen Bridge to Twin Falls</td>
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<td>Box Canyon Creek</td>
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<td>Unnamed Springs #1 (3 3/4 mi. SE of Bliss)</td>
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<tr>
<td>Unnamed Springs #2 (at Snake River Pottery)</td>
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<td>Unnamed Springs #3 (2 3/4 mi. S. of Bliss)</td>
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<td>Crystal Springs - all</td>
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<td>Niagara Springs - all</td>
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<td>Briggs Springs - all</td>
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<td>King Hill Creek and tributaries (mouth upstream for 4 mi.) (B)</td>
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<td>(4 mi. upstream to headwaters)</td>
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<td>Dry Creek (2 mi. above Murtaugh Lake to headwaters)</td>
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<td>L. Q. Drain</td>
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<td>Little Wood River</td>
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<td>Fish Creek (3 mi. below Fish Cr. Res. to headwaters)</td>
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<td>Three Mile Creek (Baseline Road to headwaters)</td>
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<td>Muldoon Creek (from mouth to mouth of Copper Cr.)</td>
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## RAFT RIVER BASIN

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<td>Indian Creek</td>
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<td>North Fork Salmon River</td>
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<td>Fourth of July Creek (A)</td>
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<td>Carmen Creek (A)</td>
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<td>Freeman Creek (A)</td>
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<td>Lemhi River and tributaries</td>
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<td>Iron Creek (A)</td>
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<td>Hat Creek (A)</td>
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<td><strong>SNAKE RIVER BASIN</strong></td>
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<tr>
<td>Snake River (upstream from Walcott to Bingham/Bonneville Co. line) (C)</td>
<td>June 15-Nov. 30</td>
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<tr>
<td>South Fork Snake River Bonneville Co. (B)</td>
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<tr>
<td>Henrys Fork (Fritz Bridge to Macks Inn Bridge) (A)</td>
<td>Jan. 1-Mar. 31</td>
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<tr>
<td>Macks Inn Bridge to Big Springs (A)</td>
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<tr>
<td>West Thurman Creek (A)</td>
<td></td>
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<tr>
<td>Moose Creek (tributaries of Upper Henrys) (A)</td>
<td>Aug. 1-Aug. 31</td>
</tr>
<tr>
<td>Henrys Lake and tributaries (A)</td>
<td>Aug. 1-Sep. 30</td>
</tr>
<tr>
<td>Burns Creek (A)</td>
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<tr>
<td>Birch Creek (A)</td>
<td></td>
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<tr>
<td>(above Lone Pine)</td>
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<tr>
<td>Summit Creek (trib. of Little Lost River) (A)</td>
<td>Aug. 1-Sep. 30</td>
</tr>
<tr>
<td>East Fork Big Lost River (A)</td>
<td>Aug. 1-Sep. 30</td>
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<tr>
<td>Summit Creek (tributaries of Big Lost River) (A)</td>
<td>Aug. 1-Sep. 30</td>
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<tr>
<td>All other streams and tributaries</td>
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<tr>
<td><strong>BLACKFOOT RIVER BASIN</strong></td>
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<tr>
<td>Blackfoot River (B)</td>
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<tr>
<td>Trail Cr. Bridge to Blackfoot Dam</td>
<td>July 1-Nov. 30</td>
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</tbody>
</table>
### EASTERN REGION (continued)

<table>
<thead>
<tr>
<th>BLACKFOOT RIVER BASIN (continued)</th>
<th>OPEN UNDER THIS PERMIT</th>
<th>CLOSED UNDER THIS PERMIT</th>
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<tbody>
<tr>
<td>Upstream from Blackfoot Reservoir and tributaries</td>
<td>Entire Year</td>
<td>Entire Year</td>
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<tr>
<td>All other streams and tributaries (A)</td>
<td>Entire Year</td>
<td>Entire Year</td>
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</tbody>
</table>

### BEAR RIVER BASIN

| Bear River (B) and tributaries not listed (A) | Entire Year |
| Montpelier Creek (A) | July 1-Nov. 30 |
| Georgetown Creek (A) | July 1-Nov. 30 |
| Eight Mile Creek (A) | July 1-Nov. 30 |
| Cottonwood Creek (A) | July 1-Nov. 30 |
| Mink Creek (A) | July 1-Nov. 30 |
| Cub Creek (A) | July 1-Nov. 30 |
| St. Charles Creek and tributaries | Entire Year |

### MALAD RIVER BASIN

| All streams (A) | Entire Year |
EFFECTS OF RECREATIONAL SUCTION DREDGES ON FISH

Suction dredges, when improperly used, can cause severe damage to game fish populations. Trout and salmon spawn in gravel areas in Idaho streams. The eggs and fry remain in the gravel for several months before the fry become free swimming. During the time that eggs and fry are in the gravel, suction dredges can reduce their survival in two ways.

The most obvious way that dredging affects trout and salmon spawning is when the spawning gravels themselves are disturbed and the eggs and fry are either crushed or exposed to predators. The second way that dredging destroys fish eggs and fry is by disturbing the fine sand and silt in the stream which is carried downstream and blankets the spawning areas suffocating eggs and fry.

Because of the damage which dredges can do to fish, streams with important spawning populations of salmon, steelhead and trout are closed to dredging during the periods when fish eggs and fry are in the gravel. Because the different species of fish spawn at different times, some streams have fish eggs or fry in the gravel during every month of the year.

The following suggestions are offered for operating recreational suction dredges in a manner least damaging to fish.

1. Avoid operating in the gravel bar areas at the tails of pools. This is the area preferred by trout and salmon for spawning.

2. Avoid operating in such a way that fine sediment from the dredge discharge blankets gravel bars.

3. Avoid changing the stream channel in such a way that the current is directed into the bank causing erosion or destruction of the natural form of the channel.

The best areas for locating gold are around boulders near the upstream end of pools where the current first starts to slow, in seams and pockets in exposed bedrock and around midstream boulders or on the inside of a riverbend at or near the head of a gravel bar where the larger materials have accumulated. These are also the areas which cause least damage to fish and other aquatic animals and create the least instability in the stream channel.
RECOGNIZE AND AVOID SPAWNING AREAS

Trout construct spawning nests (redds) in clean gravel from 1/2 to 1-1/2 inch in diameter. The preferred site is gravel bars at the tail or side of pools covered by 6 to 12 inches of smoothly flowing water. Redds may be recognized as round or oval depressions in the gravel which appear cleaner or brighter than the surrounding gravel.

Salmon and steelhead spawn in similar areas in gravel and cobblestones up to 3-4 inches in diameter.

Steelhead, rainbow and cutthroat trout spawn primarily in the months of April and May and their eggs and fry remain in the gravel until mid-summer.

Chinook salmon spawn in August and September and their eggs and fry remain in the gravel until the following spring.

Brook trout, brown trout, Dolly Varden, kokanee and mountain whitefish spawn from September into December and their eggs and fry also remain in the gravel during winter.

![Diagram of stream sections: Tail, Pool, Run, Riffle with Ideal nest area labeled](Image)

The Natural Nest Areas that most spawning salmonoids use. (Stream section diagram)
APPENDIX F: DEALERS FOR TOPOGRAPHIC MAPS

Topographic maps published by the U. S. Geological Survey of the state of Idaho are stocked and sold by the dealers listed below:

ENTIRE STATE

Idaho Bureau of Mines and Geology
Room 332, Morrill Hall
University of Idaho
Moscow, Idaho 83843

U. S. Geological Survey
678 U. S. Court House
West 920 Riverside Avenue
Spokane, Washington 99201

SELECTED MAPS

Boise:
Jensen-Graves Co., 210 North Eighth Street
Sawtooth Mountaineering, Inc., 401 South Eighth Street,
   Eighth Street Marketplace
   The Bootworks, Inc., 515 Main Street

Coeur d'Alene:
The Bookseller, 423 Sherman Avenue
Wilderness Mountaineering, 204 N. 4th Street

Driggs:
Elk Billiards & Sportshop, 76 North Main
Mountaineering Outfitters, 62 North Main

Idaho Falls:
Conant's Landing, 202 1st Street
Holladay's Incorporated, 250 E Street
Solitude Sports, Inc., 475 "A" Street

Ketchum:
Backwood's Mountain Sports, 117 North Main
Dick Alfs Fly Shop, 507 N. Main
Snug Mountaineering, 220 Leadville Avenue, North
Sturtevant Of Sun Valley, 314 North Main Street
   The Elephant's Perch, 220 North East Avenue

McCall:
May Hardware, Inc., 309 Lake Street
Medley Sports, Inc., 809 Third Street

Moscow:
Northwestern Mountain Sports, 410 West Third

Palisades:
Snowball's 26 Incorporated

Pocatello:
Mountain Folk Wilderness Equipment, 132 S. Main
Sunset Sports Center, 625 Yellowstone Avenue
Western Auto Assoc. Store, 358 Yellowstone
Priest River:
   Priest River Times

Rexburg:
   Mountain Works, Inc., 12 College Avenue
   Porter's Book Store, 21 College Avenue

Sandpoint:
   Vanderfords, 201 Cedar

St. Maries:
   St. Maries Gazette Record, 127 South Seventh

Stanley:
   Redfish Lake Lodge, Inc., Redfish Lake Lodge
   Stanley General Store, On "Ace of Diamonds"

Sun Valley:
   Snug Mountaineering

Twin Falls:
   Blue Lakes Sporting Goods, 1236 Blue Lakes North
   Newton's Sports Center, 1188 Blue Lakes Boulevard
STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

DREDGE AND SLUICE OPERATOR INFORMATION

1. Operator Name

2. Proposed work area - stream(s) and reach(es)
AFFIDAVIT OF ANNUAL ASSESSMENT WORK

The undersigned, as the agent for the owner or the owner of the mining claims listed on the reverse side of this instrument, who being first duly sworn certifies, that:

At least _______ dollars worth of work or improvements were performed or made upon each mining claim listed on the reverse of this document. The mining claims/sites are situated in _________ mining district, County of ___________, State of Idaho.

Such expenditure was made by, for, or at the expense of __________________________

owner of said claims, for the purpose of holding said claims. All stakes, monuments or trees marking boundaries of said claims are in proper place and position.

This annual assessment work was performed for the assessment year ending at 12 o'clock noon on September 1, 19__. 

Witness my hand and seal this _______ day of ____________, 19__.

__________________________  
Signature:

__________________________  
Address:

__________________________  

State of Idaho  )  Subscribed and sworn to before me
County of _________________  )  this _______ day of ____________, 19__

(seal)

Notary Public

My commission expires:

+++------------------------------------------+++
FOR COUNTY RECORDER'S USE ONLY FOR BUREAU OF LAND MANAGEMENT USE ONLY
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<tr>
<th>SERIAL</th>
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Money enclosed: ___________________________ \( \times \$5.00 = \$ \) __________.

(Total number of claims)

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