



LEGISLATURE OF THE STATE OF IDAHO



Sixty-seventh Legislature

First Regular Session - 2023

IN THE _____

BILL NO. _____

BY _____

AN ACT

RELATING TO MINING; AMENDING SECTION 47-1315, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 47-1317, IDAHO CODE, TO REVISE PROVISIONS REGARDING APPLICATION FEES, PERMITS, AND BONDS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 47-1319, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE USE OF MONEYS DEPOSITED IN THE DREDGE AND PLACER MINING ACCOUNT AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 47-1324, IDAHO CODE, TO PROVIDE FOR THE STATE DEPARTMENT OF ENVIRONMENTAL QUALITY AND TO MAKE TECHNICAL CORRECTIONS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 47-1315, Idaho Code, be, and the same is hereby amended to read as follows:

47-1315. WATER CLARIFICATION. Where any person conducts a placer or dredge mining operation where the water used in such mining process flows in, or into a natural watercourse, such person 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 rules of the state department of environmental quality regarding water quality as authorized under chapter 36, title 39, Idaho Code, before such water is discharged into the natural watercourse.

SECTION 2. That Section 47-1317, Idaho Code, be, and the same is hereby amended to read as follows:

47-1317. APPLICATION, PERMIT, AND BOND REQUIRED. (a) Before any person may conduct a placer or dredge mining operation on lands or natural watercourses in the state of Idaho, such person shall file with the director an application for a permit upon a form provided by the director, and shall pay an application fee of ~~fifty dollars (\$50.00),~~ five hundred dollars (\$500) for each ten (10) acres or fraction thereof above involved in such application, provided that no application fee shall exceed ~~one thousand dollars (\$1,000)~~ two thousand dollars (\$2,000). Application fees shall be deposited in the dredge and placer mining account.

(b) The permit to issue in any such case shall be in a form provided and approved by the board. No such permit shall be issued to any applicant until the applicant files with the director an initial bond in an amount necessary to pay the estimated reasonable costs of reclamation required under the permit for each acre of land to be disturbed during the first season of operation plus ~~ten percent (10%).~~ The amount of the bond shall not exceed one thousand eight hundred dollars (\$1,800) per acre of disturbed land indirect costs. At the beginning of each calendar year or before operations begin, the opera-

1 tor shall notify the director of any increase or decrease in the acreage of
2 disturbed lands ~~which that~~ will result from planned placer mining activity
3 within the next operating season. A correlated increase or decrease in the
4 bond shall be required by the director for a change in disturbed acreage. In
5 the event of failure by the permittee to reclaim disturbed lands in the per-
6 mit area, the cost charged to the permittee shall be the estimated reasonable
7 costs of reclamation plus ~~ten percent (10%); provided that in no event shall~~
8 ~~any bond submitted pursuant to this section exceed one thousand eight hun-~~
9 ~~dred dollars (\$1,800) for any given acre of disturbed land~~ indirect costs.
10 The determination by the board of reclamation costs shall constitute a final
11 decision subject to judicial review as set forth in ~~subsection (d) of section~~
12 ~~47-1320, Idaho Code.~~ The bond may be submitted in the form of a surety, cash,
13 certificate of deposit, or other bond acceptable to the director, provided
14 that any bond shall be in the applicable amount set forth ~~above~~ in this sec-
15 tion.

16 (c) It shall be unlawful for any person to conduct placer or dredge
17 mining operations in this state without first having obtained a permit and
18 bond as herein provided. The board shall determine whether a permit applica-
19 tion and bond submitted by an applicant ~~satisfies~~ satisfy the requirements
20 of this act and regulations promulgated thereto. Upon such determination,
21 the board shall notify the applicant in writing of approval or denial of the
22 permit application and bond. Any notice of rejection shall state the reasons
23 for such rejection. An applicant may submit an amended permit application
24 and bond.

25 (d) It shall be the duty of the board in its administration of this act
26 to cause periodic inspections to be made of the operations under such per-
27 mits to determine compliance with this law and to make rules and regulations
28 with respect thereto ~~and the~~. The cost and expense of making such inspec-
29 tions shall be borne by the permittee, which such costs and expenses shall
30 constitute a lien upon equipment, personal property, or real property of the
31 permittee and upon minerals produced from the permit area, and the failure.
32 Failure to pay the amount thereof on demand by the board shall be cause for
33 termination of the permit. All inspection fees shall be deposited in the
34 dredge and placer mining account.

35 (e) The board may release an applicant from the requirement that the
36 applicant submit a bond if the director determines that the applicant has
37 ~~insured~~ ensured faithful performance of the requirements of this act and
38 regulations promulgated thereto pertinent to land and watercourse restora-
39 tion by submitting and having on file a current and valid bond with the United
40 States government, which bond equals or exceeds the amount set forth above,
41 provided that such release by the director shall not release an applicant
42 from bonding under this act, should the permittee fail to continuously main-
43 tain a valid bond with the United States government or from compliance with
44 any other requirement of this act or regulations promulgated thereto.

45 (f) Upon determination by the director that restoration has been satis-
46 factorily completed on a portion of a permit area in accordance with the ap-
47 plicable approved permit and with subsection (a) of section 47-1314, Idaho
48 Code, the board may reduce the bond amount to reflect the completed restora-
49 tion.

1 (g) ~~That if~~ If any applicant for such dredge or other placer mining op-
2 erations as contemplated by this act ~~be is~~ not the owner of the lands de-
3 scribed in the application or any part thereof, the owner of such lands shall
4 ~~indorse~~ endorse his approval of the application, and no permit shall be is-
5 sued in the absence of such approval by the owner of lands described in the
6 application not owned by the applicant.

7 (h) No permit shall be issued proposing to alter or occupy the bed of a
8 navigable stream or to dredge any stream or watercourse without notification
9 to the department of water resources of the pending application. The de-
10 partment of water resources shall respond to said notification within twenty
11 (20) days, and the response shall be included in any permit granted hereunder
12 by a showing ~~whether that~~ the permit constitutes a permit from the department
13 of water resources or ~~whether that~~ an additional permit from the department
14 of water resources shall be required.

15 (i) No permit shall ~~issue be issued~~ be issued hereunder to dredge ~~nor or~~ otherwise
16 placer mine any lands owned by the state of Idaho, including the beds of nav-
17 igrable streams, and including the mineral reservations in lands sold by the
18 state, unless a mineral lease shall be made of such terms and at such royalty
19 to the state as its board of state land commissioners shall prescribe and de-
20 termine.

21 (j) The Idaho state board of land commissioners shall have the power to
22 deny any application for a permit on any state land, stream, or river beds, or
23 on any unpatented mining claims, upon its determination that a dredge mining
24 operation on the land proposed would not be in the public interest, giving
25 consideration to economic factors, recreational use for such lands, fish and
26 wildlife habitat, and other factors ~~which that~~ in the judgment of the state
27 land board may be pertinent, and may deny an application upon notification by
28 the department of water resources that the grant of such permit would result
29 in permanent damage to a stream channel.

30 (k) Upon default, in the event that the amount of the bond is insuffi-
31 cient to reclaim the land in compliance with the act and the approved plan,
32 the attorney general is empowered to commence legal action against the oper-
33 ator in the name of the board to recover the amount in excess of the bond nec-
34 essary to reclaim the land in compliance with the act and the approved plan.

35 SECTION 3. That Section 47-1319, Idaho Code, be, and the same is hereby
36 amended to read as follows:

37 47-1319. BOND FORFEITURE ON DEFAULT. (a) The surety bond required by
38 this act to be given by a permittee for dredge or other placer mining purposes
39 under permit shall be exonerated and discharged upon the completion or ter-
40 mination of such mining operation as specified in the permit granted there-
41 for and upon full compliance with the requirements of this act and the rules
42 and regulations of said board of land commissioners made for the administra-
43 tion thereof.

44 (b) ~~That in~~ In the event the holder of any permit issued under this act
45 fails to comply with the requirements of this act and the rules and regula-
46 tions of the Idaho board of land commissioners for the administration ~~hereof~~
47 thereof, then the applicable bond of such permittee shall be forfeited to
48 the state of Idaho in such amount and to such extent as the state board of
49 land commissioners shall estimate and determine will be necessary to pay



1 all costs and expenses of restoring the lands and beds of streams damaged by
2 dredge or other placer mining of said defaulting permittee and covered by
3 such bond and remaining unrestored, ~~and such~~. Such forfeited funds are to be
4 deposited in the dredge and placer mining account, which is hereby created in
5 the dedicated fund of the state treasury. All moneys deposited in the dredge
6 and placer mining account pursuant to this section or other provisions of
7 this chapter shall be utilized by the state board of land commissioners for
8 the restoration of lands and watercourses damaged by placer or dredge mining
9 operations and to administer the provisions of this chapter.

10 (c) No forfeiture of bond of a permittee shall be made until after
11 procedures have been followed as provided in sections 47-1318 and 47-1320,
12 Idaho Code, and the complaint is issued and findings of facts and rulings of
13 law in support of the order of forfeiture, if any, have been made and the time
14 for appeal has expired.

15 SECTION 4. That Section 47-1324, Idaho Code, be, and the same is hereby
16 amended to read as follows:

17 47-1324. ENFORCEMENT AND PENALTIES FOR VIOLATION. (a) The board may
18 maintain an action in the name of the state of Idaho to enjoin any person
19 from operating or maintaining a placer or dredge mining operation without
20 holding a valid permit or bond as provided in this act or regulations pro-
21 mulgated thereto. The court, or a judge thereof at chambers, if satisfied
22 from a complaint or by affidavits that the alleged acts have been or are
23 being committed, may issue a temporary restraining order, without notice or
24 bond, enjoining the defendant, his agents, and his employees, ~~from operating~~
25 or maintaining such placer or dredge mining operation without obtaining a
26 permit and bond as provided in this act or regulations promulgated thereto.
27 No showing of injury shall be required other than showing that this act is
28 being violated by the operation or maintenance of a placer or dredge mining
29 operation without the approved permit and bond. Upon a showing of good cause
30 therefor, the court may require the defendant to undertake mitigation or
31 restoration of the disturbed area in conformity with section 47-1314, Idaho
32 Code, pending final disposition of the action. The action shall proceed as
33 in other cases for injunctions. If at the trial the operation and mainte-
34 nance of a placer or dredge mining operation without a permit or bond ~~be is~~
35 established, ~~and~~ the court further finds that it is probable that the defen-
36 dant will continue therein or in similar violations, the court shall enter a
37 decree perpetually enjoining said defendant, his agents, and his employees
38 from thereafter committing said or similar actions in violation of this act.

39 (b) The board may maintain an action in the name of the state of Idaho
40 to enjoin any person from operating or maintaining a placer or dredge mining
41 operation when, under an existing approved permit and bond, a permittee vio-
42 lates or exceeds the terms of the permit or violates a provision of this act, ~~and~~
43 the bond, if forfeited, would not be sufficient to adequately restore the
44 land.

45 (c) In addition to the injunctive provisions above, the board may main-
46 tain a civil action against any person who violates any provision of this act
47 to collect civil damages in an amount sufficient to pay for all the damages
48 to the state caused by such violation, including but not limited to, ~~costs of~~

1 restoration in accordance with section 47-1314, Idaho Code, where a person
2 is conducting placer or dredge mining without an approved permit or bond.

3 (d) Notwithstanding any other provisions of this act, any person
4 who violates any of the provisions of this act or regulations promulgated
5 thereto, or who violates any determination or order promulgated pursuant to
6 the provisions of this act, shall be liable for a civil penalty of not less
7 than five hundred dollars (\$500) ~~not~~ or more than two thousand five hundred
8 dollars (\$2,500) for each day during which such violation continues. Such
9 penalty shall be recoverable in an action brought in the name of the state
10 of Idaho by the attorney general. All sums recovered shall be placed in the
11 state treasury and credited to the dredge and placer mining account, to be
12 administered by the board for the restoration of lands and watercourses dam-
13 aged by placer or dredge mining operations.

14 (e) No administrative action or decision by the director or board
15 shall be required prior to enforcement of any of the ~~above~~ remedies provided
16 in this section, provided that no permit shall be terminated and no bond
17 shall be forfeited without administrative action as provided under sections
18 47-1318 and 47-1319, Idaho Code. No administrative action or decision by the
19 ~~Idaho board of health and welfare~~ state department of environmental quality
20 shall be required prior to enforcement of any of the ~~above~~ remedies provided
21 in this section by the state of Idaho against any person violating section
22 47-1315, Idaho Code.

23 (f) Any person who ~~wilfully~~ willfully or knowingly falsifies any
24 records, plans, specifications, or other information required by the board
25 or ~~wilfully~~ willfully fails, neglects, or refuses to comply with any provi-
26 sions of this act shall be guilty of a misdemeanor punishable by a fine of
27 not less than one thousand dollars (\$1,000) and not more than five thousand
28 dollars (\$5,000) or imprisonment not to exceed one (1) year, or both.

29 (g) All civil actions provided for in this section shall be filed in the
30 district court of this state for the county wherein the violation, or some
31 part thereof, occurs, or in the district court for the county wherein the
32 defendant resides or has a principal place of business, or in the district
33 court for the county of Ada if the defendant resides out-of-state, or in the
34 appropriate court of the United States where the rules and statutes govern-
35 ing such courts permit.