

STATE BOARD OF LAND COMMISSIONERS

September 19, 2023

Resource Protection and Assistance Bureau Biannual Report

The Resource Protection and Assistance (RPA) Bureau houses the non-endowment regulatory functions within the Division of Minerals, Navigable Waterways, and Oil and Gas. The Navigable Waterways Program administers encroachment permits and submerged lands leases, and the Minerals Program administers the surface mining reclamation plans, dredge and placer permits, and abandoned mine land projects. The Navigable Waterways Program is self-supported through a dedicated account, and the Minerals Program is supported through a mixture of general fund and dedicated fund sources.

Navigable Waterways Program

INSTRUMENT ACTIVITY - Instruments issued FY2016 through FY2023:

Table 1: Navigable Waterways Historical Instrument Numbers								
Instrument Type	2016	2017	2018	2019	2020	2021	2022	2023
Encroachment Permits Issued	327	289	338	412	383	542	425	384
Active Submerged Land Leases	185	192	180	172	179	176	153	196
New Submerged Land Leases	11	8	36	48	24	17	6	39
Active Riverbed Mineral Leases	2	2	2	2	3	1	1	1
New Riverbed Mineral Leases	1	0	0	0	0	0	0	0
Active Exploration Locations	2	3	4	2	3	5	2	2
New Exploration Locations	0	1	2	4	0	0	1	0
New Submerged Land Easements	27	6	2	3	2	3	6	4
New Disclaimers of Interest	2	1	3	0	1	2	2	5

PAST 6-MONTH HIGHLIGHTS

- **Active Leases.** The Department has been working through new and renewed leases, and as a result active leases have increased from 153 in FY2022 to 196 in FY2023.
- **Administrative Hearings.** In April the Department entered into a Memorandum of Agreement with the Office of Administrative Hearings to provide Hearing Officer services. Between January 1, 2023 and June 30, 2023, the Department ordered two public hearings and three contested case hearings on encroachment permit applications. Two resulted in approval, one was dismissed, and three have not been held yet.

- **Negotiated Rulemaking.** In compliance with Executive Order 2020-01, negotiated rulemaking occurred for the administrative rule "Riverbed Mineral Leasing in Idaho," IDAPA 20.03.05.

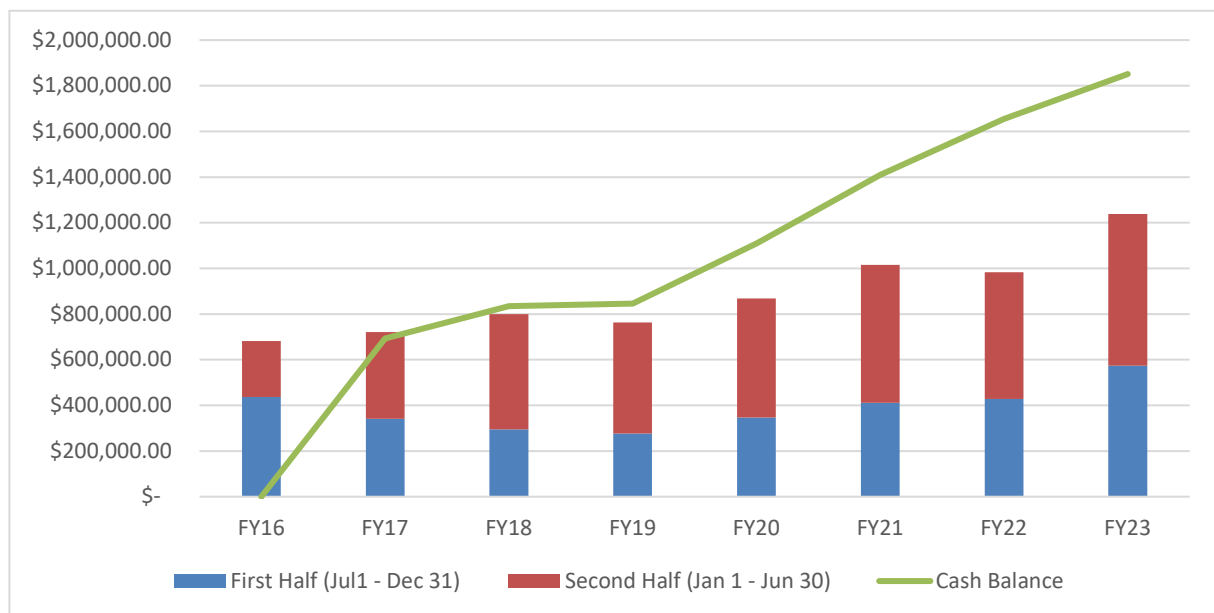
NEXT 6 MONTHS

- **Proposed and Pending Rulemaking.** The Proposed Rule for "Riverbed Mineral Leasing in Idaho," IDAPA 20.03.05, will be published in the September Administrative Bulletin and a Pending Rule will be prepared for review at the October Land Board.

FINANCIAL UPDATE

- The Department generated \$664,938 from navigable waterways in the second half of FY23. Total revenue for FY23 was over \$1.2 million. Income continues to keep pace with the workload in our navigable waterways program, ensuring we continue to be a self-funded program with no demand on the general fund.

Figure 1: Navigable Waterways Program Revenue and Cash Balance



Regulatory Minerals Program

PAST 6-MONTH HIGHLIGHTS

- **Negotiated Rulemaking.** In compliance with Executive Order 2020-01, negotiated rulemakings occurred for the administrative rules "Rules Governing Dredge and Placer Mining Operations in Idaho," IDAPA 20.03.01, and "Rules Governing Administration of the Reclamation Fund," IDAPA 20.03.03.

- **Large Mine Reviews.** The Department is reviewing the Preliminary Final Supplemental EIS prepared for Perpetua Resources' Stibnite Gold Project and is working with DEQ to review the supporting documents for the cyanidation permit and permanent closure plan. Integra's DeLamar Mine expansion continues to evolve, and the Department is reviewing related documents with other agencies.

LOOKING FORWARD

- **Proposed and Pending Rulemaking.** The Proposed Rules for "Rules Governing Dredge and Placer Mining Operations in Idaho," IDAPA 20.03.01, and "Rules Governing Administration of the Reclamation Fund," IDAPA 20.03.03, will be published in the September Administrative Bulletin and Pending Rules will be prepared for review at the October Land Board.
- **Cyanide Permanent Closure Plan.** The Department anticipates that Perpetua will submit a revised Permanent Closure Plan and Ore Processing by Cyanidation Application to the Department and DEQ for review.

TOTAL PERMITS AND BONDING

The Department currently administers 1,571 mine sites covered by reclamation plans and 28 covered by dredge and placer permits. The mines are presented in Table 2 by category, and Table 3 has historical plan numbers.

Table 2: Current Mine Permit Categories			
Sand and Gravel Mines (IDAPA 20.03.02.069)	Hardrock, Phosphate & Complex Industrial (IDAPA 20.03.02.070)	Cyanidation Mines (IDAPA 20.03.02.071)	Dredge and Placer Permits (IDAPA 20.03.01)
1539	32	-	28

Table 3: Regulatory Minerals Historical Instrument Numbers										
Instrument Type	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Mined Land Reclamation										
New Reclamation Plans	20	25	36	24	18	28	17	10	10	29
Retirements	17	14	36	15	22	9	13	7	14	20
Total Reclamation Plans	1,537	1,528	1,530	1,542	1,540	1,561	1,580	1574	1545	1571
Dredge and Placer										
New/Amended Permits	0	1	3	3	1	2	0	1	2	0
Retirements	-	-	-	2	0	1	0	0	0	3
Total Permits	25	25	25	26	27	28	28	29	31	28

Mine operators are eligible to provide bonding through traditional methods or the Bond Assurance Fund (BAF). Tables 4 and 5 list the acres and bond amounts currently in place for different types of mining operations. Created in 2006, the BAF provides another reclamation bonding option for small operators on private and state lands. This is a dedicated account with revenue from annual fees of approximately \$146,000 per year. This revenue provides a bonding source for the state to use in the event of a closure or reclamation need. Billings are mailed in September with a November 1 due date. Table 6 has revenue from FY2023. Figure 2 illustrates the revenue, expenditures, and balance for this fund.

Table 4: Bonding for Sand and Gravel, Light Industrial, and Placer Permits								
	Reclamation Plans (IDAPA 20.03.02.069)				Dredge and Placer Permits (IDAPA 20.03.01)			
	Plans	Permitted Acres	Total Bond	Bond/Acre	Permits	Affected Acres	Total Bond	Bond/Acre
Traditional Bond ¹	302	22,866	\$21 Million	\$918	22	97.5	\$255K	\$2,618
Bond Assurance Fund	618	31,988	n/a	n/a	6	32	n/a	n/a

¹ Surety Bond, Letter of Credit, Certificate of Deposit, or Cash

Table 5: Bonding for Hardrock, Phosphate & Complex Industrial				
	Reclamation Plans (IDAPA 20.03.02.070)			
	Permits	Permitted Acres	Total Bond	Bond/Acre
Traditional Bond ¹	32	22,029	\$224 Million	\$10,159

¹ Surety Bond, Letter of Credit, Certificate of Deposit, or Cash

Table 6: Bond Assurance Fund Billing (For FY 2023)			
Disturbance (ACRES)	Annual Fee Schedule (\$)	Total Permits Distribution	Total Annual Fees Due (\$)
2 acres or less	\$100	158	\$15,700
> 2 acres ≤ 5 acres	\$200	151	\$29,600
> 5 acres ≤ 10 acres	\$250	140	\$34,250
> 10 acres ≤ 15 acres	\$300	53	\$15,900
> 15 acres ≤ 20 acres	\$350	39	\$13,650
> 20 acres ≤ 25 acres	\$400	27	\$9,600
> 25 acres ≤ 30 acres	\$450	24	\$10,800
> 30 acres ≤ 35 acres	\$500	7	\$4,000
> 35 acres ≤ 40 acres	\$550	19	\$9,400
TOTAL		618	\$146,150.00

Figure 2: Bond Assurance Fund - Revenue, Expenses, and Fund Balance Through May



ABANDONED MINE LANDS

The abandoned mine lands (AML) program is funded through 34% of Idaho's Mine License Tax, a 1% net tax of Idaho's mining industry (excluding sand and gravel as described in Idaho Code § 47-1205). The Department's share of income for FY23 was \$14,622. Table 7 lists the projects worked on in the second half of FY2023. Figure 3 illustrates the revenue, expenditures, and balance for this fund.

Project Name	Project Description
Triumph Mine	Sampling, ground water modeling, site drainage, NPDES permitting.
Idaho Geological Survey	AML information compilation and digitization.
Project Planning	Inspected several sites across the state for closures.

Figure 3: AML Fund - Revenue, Expenditures, and Fund Balance Through May

