

RULEMAKING PUBLIC MEETING REGARDING IDAPA
37.03.05 – MINE TAILINGS IMPOUNDMENT STRUCTURE &
IDAPA 37.03.06 – SAFETY OF DAMS

Unofficial Public Meeting Transcript

Friday, 5/27/2022 at 9:30 AM

Mathew Weaver 00:00

Water Resources, for those of you online and in the room, we're gonna take five more minutes before we get going. We're still trying to get our technology all in order. So, hang in there with us, we're about to start the negotiations.

[Distant Conversation 00:12]

Mathew Weaver 04:56

Alright, good morning everyone. I think we'll get going, uh, with the negotiation meeting today. Again, for those of you online and those of you in the room, my name is Matt Weaver. I'm the Deputy Director for the Department of Water Resources. I'm also the rules coordination officer for the Department. And we're gonna get into the agenda here in a few minutes, but I just wanted to go through some introductory items. If you're participating online, please mute your phone. And then just be prepared to unmute if you hear your name called during the roll call, or when you're ready to testify. And if we do hear background noise, it's pretty difficult for other people that are testifying for the people presenting the meeting. So if it comes down to it, we will mute you online and, and ultimately kick you off if we can't get it resolved at that point. So it's a big group that we're trying to coordinate online and in the room, and we'll do our best. The meeting is scheduled to start at 9:30 this morning, and go until we don't have any more test, testimony today. Hopefully, that'll be well before 4 p.m. But if not, we probably will wrap it up at 4 p.m. And then we can decide as a group how we want to handle lunch. Sometimes these first negotiations go pretty quickly. But sometimes they can, they can drag on as well. And we do want to make sure that everyone who wishes to testify both online and in the room today gets an opportunity to testify. And then there will also be an opportunity to submit written comment and we can coordinate and discuss that piece of it at the end of the oral testimony today.

Mathew Weaver 06:40

So with that, I will introduce or I'll have staff here in the room introduce themselves. Then we'll introduce the folks in the room, we'll ask you to just announce who you are and who you're representing. And then I'm going to go through the people that pre-signed in online. If you hear your name called if you're online, please affirm that you are participating. When we get through everyone that we have on

our roll who was going to participate virtually well then ask who we've missed and pick everyone else up. So starting on my left.

Sarah Tschohl 07:16

Hi, I'm Sarah Tschohl. I'm a legal assistant at water resources. And I did want to quickly mention for those of you who have called in and not selected the WebEx link, if you hit *6, that should be what allows you to mute yourself.

John Falk 07:32

My name is John Falk. I'm the Dam Safety Program Manager

Corey Skinner 07:40

Corey Skinner I'm the IDWR Southern Region Manager out of Twin Falls. I served as the Southern Region Dam Safety Engineer for about 20 years.

Mathew Weaver 07:50

On my left, your right.

Mike Spiker 07:57

Mike Spiker, and I'm representing Integra DeLamar.

Ryan Foy 08:02

Ryan Foy also with Integra DeLamar.

Niko Lostra 08:05

Niko Lostra with Bilbao and Company.

Mathew Weaver 08:09

Right.

Kaycee Royer 08:10

Kaycee Royer with Perkins Coie.

Ryan Davis 08:14

Ryan Davis with Crane Creek Reservoir.

Jack Homes 08:16

Jack homes with the Crane Creek Reservoir.

Lloyd Roberts 08:19

Lloyd Roberts, Crane Creek Reservoir. Washington County.

Mathew Weaver 08:26

Alright, thank you. That's everyone here in the room. Now I'm going to read through the list that I have of people who gave us notice that they wanted to participate online. When you hear your name, uh, please affirm that you are online. I'll give you a couple seconds to do that. So we're going to start with Environmental Defense Institute, Tami Thatcher.

Tami Thatcher 08:53

Can you hear me?

Mathew Weaver 08:55

We can hear you Tami. Also with the Environmental Defense Institute, Chuck Broschious. Okay, I'm going to assume Chuck's not here. Moving on, Rod Gonsales with Pitchfork Ranch, LLC. Again, if you're online let me know. Okay, moving on, City of Bonners Ferry Engineer, Mike Klaus.

Mike Klaus 09:38

Yes, I'm online.

Mathew Weaver 09:41

Thank you sir. Hecla Limited, Melissa Arnold.

Melissa Arnold 09:48

I'm here, thank you.

Mathew Weaver 09:52

Hecla Limited, Clay Thompson, or Thomas. I'm sorry, Clay Thomas. Okay moving on, J.R. Simplot Company, Adam Wadsworth.

Adam Wadsworth 10:08

Yes, present.

Mathew Weaver 10:11

Thank you. Sun Valley Resort, James South.

James South 10:19

Yes.

Mathew Weaver 10:20

Thank you. Itafos, Carlyle Miller.

Carlyle Miller 10:29

Yes, I'm here.

Mathew Weaver 10:31

Thank you. DeLamar Mining Company, Ryan Foy. In the room. Mike Spiker, Robert Mullener.

Robert Mullener 10:53

Um, I'm online.

Mathew Weaver 10:55

Thank you. Lamb Weston, Mark Lynn.

Mark Lynn 11:03

Yeah, I'm here.

Mathew Weaver 11:06

Jenkins Creek Ranch, John Hoff. Mr. Hoff? Okay moving on, Big Lost River Irrigation District, Lucas Yockey. Lucas are you online? Alright, moving on, Meadowlark Ranches, Brent Hoffner. Okay, moving on to Idaho Power Company, Alex Brekke.

Alex Brekke 11:54

Yes, I'm here.

Mathew Weaver 11:58

Paul Walz.

Paul Walz 12:01

Yes, present.

Mathew Weaver 12:04

And Chris Edwards. All right, moving on to Montpelier Irrigation Company, Mark Ipsen. Mark, are you on the line? All right, moving on, Integra Resources, Timothy Arnold.

Timothy Arnold 12:40

I'm here.

Mathew Weaver 12:44

Thank you, sir. And then with Perpetua Resources, Mckinsey Lyon.

Gene Bosley 12:52

McKinsey will not make it today.

Mathew Weaver 12:55

Thanks.

Gene Bosley 12:55

She had to go up to site.

Mathew Weaver 12:59

How about Gene Bosley, with Perpetua.

Gene Bosley 13:01

Yep, Gene Bosley here.

Mathew Weaver 13:04

And Jordan Nielson.

Jordan Nielson 13:06

Yep, Jordan Nielson is present.

Mathew Weaver 13:09

And Alan Haslam.

Jordan Nielson 13:15

I don't think he'll be attending.

Mathew Weaver 13:19

SPS Associates LLC, I've got Suzanne Budge.

Suzanne Budge 13:24

Yes, I'm here on behalf of Thompson Creek Mine.

Mathew Weaver 13:31

Thank you, and then with Mine Idaho, I have, Mr. Benjamin Davenport.

Benjamin Davenport 13:39

Yeah, Ben Davenport, Idaho Mining Association.

Mathew Weaver 13:52

With Westerberg and Associates, we heard you I'm sorry. I was taking...

Benjamin Davenport 13:56

Okay

Mathew Weaver 13:56

...notes. I was correcting the entity there, so you're with the Idaho, are you the the Idaho Mining Association?

Benjamin Davenport 14:01

Yeah, Idaho Mining Associates.

Mathew Weaver 14:03

Perfect.

Benjamin Davenport 14:05

Thanks.

Mathew Weaver 14:08

And then Westerberg and Associates, Will Smith. Moving on, Arrowhead Water District Gary Losinger. Perhaps it's Lezinger? I'm told it's Leuzinger, there's no I in there. Alright, moving on, Nez Perce Tribe Department of Fisheries Resource Management, Robyn Armstrong.

Robyn Armstrong 14:49

Yes, I'm here.

Mathew Weaver 14:51

Alright, thank you for joining us. So that's everyone in the room and everyone that got signed up in advance. Who have I missed online, and please state your name and who you're affiliated with.

Lorna Jorgensen 15:09

Lorna Jorgensen, Ada County.

Mathew Weaver 15:15

Thank you Lorna.

Martin Bilbao 15:19

Martin Bilbao, Bilbao and a, Bilbao and Company.

Mathew Weaver 15:27

Can you say that one more time?

Martin Bilbao 15:31

Martin Bilbao.

Mathew Weaver 15:39

And who were you with Mr. Bilbao?

Martin Bilbao 15:43

Bilbao and Company.

Mathew Weaver 15:45

Okay, thank you.

Lance Boylan 15:49

Lance Boylan, Hecla Limited.

Mathew Weaver 16:00

Alright, thank you, Mr. Boylan. Anyone else we've missed?

Erika Malmen 16:11

Yes good morning, this is Erika Malmen with Perkins Coie, representing Thompson Creek Mine.

Mathew Weaver 16:22

Thank you Miss Malmen, that lets me know that at least my email made it out to somebody.

Michael Lopez 16:31

Good morning, this is Michael Lopez, Nez Perce Tribe, Office of Legal Counsel.

Mathew Weaver 16:39

Michael Lopez?

Michael Lopez 16:42

Yes, Nez Perce Tribe, Office of Legal Counsel. Thank you.

Mathew Weaver 16:46

Thank you for joining us.

Michael Lopez 16:48

Thank you.

Mathew Weaver 16:56

Anyone else? Alright. At this point, I think we've got our attendance completed. If we turn to the agenda, which I think is on the, should be on everyone's screen, we've made it through introductions, I'm going to go through what's hopefully a pretty short PowerPoint just talking about this rulemaking process what we can and can't do with this rulemaking and the reason that we're doing this rulemaking. Then I'm gonna turn it over to the Dam Safety Program Manager. And he's just going to talk a little bit about the substantive changes, between the, the two chapters that existed prior to this rulemaking, which we are of course combining into a single chapter. And we put that strawman out on Monday of this week. I do apologize for not getting that out sooner. We do like to try and have that out at least two weeks before we meet. And I understand that, you know, we might need to have additional meetings depending on how today goes. And certainly that's something that that we're up to, as necessary. So with that, I think I'll just get into the kind of introductory comments that I have regarding the rulemaking.

Mathew Weaver 18:20

Alright, so I'll share, one second. And how do I share? There we go. Just for some confirmation, Erika Malmen online, can you see that?

Erika Malmen 19:37

Yes, sorry, took me a moment to unmute. Thank you. Yes, I can see it.

Mathew Weaver 19:41

Alright, we'll go ahead and get, get going then. Yeah, yeah, throughout my presentation here I've got a number of pictures of dams, let's see if you can guess which ones are regulated and which ones are unregulated. This one, of course, is regulated.

Mathew Weaver 19:55

So we're, we're here today for the negotiated rulemaking of IDAPA 37.03.04 [sic]. That's the mine tailings impoundment structures rules. And then IDAPA 37.03.06, that's the safety of dams rules. Just a little bit about rulemaking. This is the hierarchy of state documents and controlling authorities for the executive agencies of which the Idaho Department of Water Resources is one. And the Idaho Water Resource Board is another, we of course, have the Idaho Constitution on top. Then we have Idaho code, which makes up the statutory body. And then below that, we have the state agency rules, which is the Administrative Code. Administrative Rules do have the full force and effect of law. And they are a way of filling in the details and the missing information and statutes. So it's, it's the executive agencies like the Department of Water Resources, creating law that puts enough meat on the bone that we can carry out a program, and, and have it be effective in meeting the mission and objectives that are put forth in the statutes. So typically, it's more detailed. But if there's ever a conflict between the statutes and the rule, then it's the statutes that prevail. And part of what we're doing through this rulemaking effort is cleaning them up to kind of remove some of those inconsistencies, or conflicts that have developed

through the years. As you know, statutes get modified fairly regularly, every year the legislative body is making new law, rules get updated much less frequently than that. Certainly, at the Department of Water Resources much less frequently than that. If you go in and look at the two previous rule chapters, you'll see that the the date stamp on a lot of those rules is 1993. So what that tells you is that these rules weren't touched between 1993 and now, if you see that stamp. It doesn't necessarily mean that those rules were enacted in '93, something occurred in '93 where everything turned over and so everything that was before that just got a date stamp of 1993. So below that, and not having the full force and effect of law, we have policies and procedures, and then the guidelines and written interpretations that we that we use at the department to carry out the program. So in the case of the rulemaking today, we're promulgating these rules under the authorities that are set forth in Idaho Code Section 42-1714. And that statute authorizes the Idaho Water Resource Board to promulgate rules in the language is actually says that the Idaho Water Resource Board shall promulgate rules to carry out safety of dams and mine tailings programs.

Mathew Weaver 22:50

So these are the regulations that we have in place. We've got Idaho, Idaho Code Title 42, Chapter 17, and it's not that entire chapter: it starts at 42-1710, that's the intent of the safety of dams legislation; 42-1711 is definitions; 42-1712 construction, enlargement, alteration or repair of dams, in the submission of plans and documents and specs; 42-1713 addresses fees; 14 is the authorization of the rules that I referenced; 15 is inspections; 16 is notice of completion, filing of supplemental materials; Idaho Code 42-1717 is jurisdiction over inspections; 18 is remedial means of protection of life and property; 19 is certificates of approval to store water in the reservoir; 20 is violations of chapter and penalties associated with those violations; and, 21 addresses initial construction. So that's what's in statute and the intent of these rules that we're making is to fill in the missing information with those underlying statutes. And then as you know, we've got the two rules.

Mathew Weaver 24:06

So why are we undertaking this rulemaking? And why are we doing it now? And this is in response to executive order 2020-01, that's the zero-based regulation, it was signed by Governor Little in January of 2020. And since then, he's sent out, you know, fairly consistent reminders that agencies should be conforming with this executive directive. And then he's also sent out guidance and processes to carry out the zero-based regulation effort. It does require all agencies to undertake a zero-based regulation, which I think theoretically means you repeal the rule as it exists now and you start from a zero-base and workup and reconstruct a new rule. And you know, it's akin I guess, to zero-based, zero-based budgeting, but in my mind, it's a little bit more challenging than that, because It's hard to completely ignore the existing rules that are there and that have worked effectively for decades. But we've done our best as an agency to undertake this zero-base approach. 2021 was the first year of a five-year review schedule. So the Idaho Department of Water Resources and the Idaho Water Resource Board have about 12 individual rule chapters in IDAPA 37. We're going through all 12 of those over a five-year period, we're in year two, and we're addressing these rules this year. Some more language out of that executive

order. You will find the retrospective and prospective analysis on our webpage, along with some other documentation that we've used in preparing the strawman rule. So covering a little bit about what negotiated rulemaking means and why we're doing it, it's outlined under Idaho Code 67-5220. And you can read the language there, I don't, I don't want to just parrot it, this will be available on our webpage. But really, the gist of negotiated rulemaking is that we work with the stakeholders affected by the rulemaking to develop a rule, rather than the agency just dictating what the rule will be, publishing it, enacting it, and moving forward. Now, we do put a strawman out there because we find that it's productive for negotiated rulemaking to have something for people to respond to initially. But, it is a document that you are to react to and comment to and that will get developed and modified based on the discussions that we have. We published the Notice of Intent for this rulemaking in an Idaho Administrative Bulletin 224, that was on April 6th. I apologize, there was an error in that bulletin about response times, we, I think we asked you to respond if you were going to participate at a date prior to the publication. I'll take ownership of that mistake since I had the final review. But we haven't precluded anyone from participating. And in the letters that we sent out to every damn owner that we have in our contact database, we did identify the right date there. And just so everyone knows, we did send out a mailing of around 300 letters to all of the individual dam owners both regulated and unregulated dam owners in the state is that right John?

John Falk 27:32

Regulated dam owners, which was our focus.

Mathew Weaver 27:34

Okay, only regulated dam owners.

Mathew Weaver 27:42

Just some more information here on negotiated rulemaking this, the governor's office under the Office of the Rules coordinator does have a document out there referred to as the Rule Writers Manual, it's very comprehensive. We as an agency have to follow all of the processes and procedures and writing styles that are dictated in that manual. If you really want to get in the weeds with rulemaking, you can read yourself to sleep every night, with that document. So this is the five-year rulemaking schedule for the Department of Water Resources and the Idaho water resource Boards. We're there, in year two. This year we're doing water supply bank rules, well driller licensing rules, geothermal resource rules, and then the mine tailings impoundment structure rules. And you'll note last year, we were supposed to do the safety of dam rules. And we initiated that but we quickly decided that there was some efficiencies to be gained by combining the dam safety rules and the mine tailings impoundment structure rules. And John will speak a little bit to that here in a few minutes. But basically, we're viewing or we view the mine tailings impoundment structures as just a type of dam, a special type of dam. And so rather than having a standalone chapter that had a lot of redundant language and requirements in it, we've moved it over as a subset of dam, in the safety of dam rules. And that's what's represented in the strawman. So I know some of you are probably wondering, "why did we go from two rules to one?", and that's the

reason for it. One of the outcomes I think, that the governor is looking for in this zero-based rulemaking effort, is a reduction in the amount of regulation and rules in Idaho. And so we're eliminating one rule chapter through this process. Then this is looking forward to year four and five. This is the timeline for this year's rulemaking. We are in that negotiated rulemaking phase. Our hope is to have negotiations wrapped up in time that we can submit a proposed rule for publication in the October bulletin. So proposed rule will take the strawman, plus all of the changes that come to that strawman through the negotiation process, we published a proposed rule, there's then a 14- or 21-day period to comment on that proposed rule depending on whether you want to comment orally or in writing. We will then review the comments that come at that proposed rule stage. And we'll publish what's called a pending rule. And we hope to have the pending rule published in December. There's no opportunity to comment on the pending rule, that goes to the legislature. And then that rule only becomes final and effective if the legislature takes affirmative action to adopt that rule during next year's legislative session. And they do have to take affirmative action with these rules because they are fee rules, there's fees incorporated into these rules. And so these only become effective at sine die of next year's legislative session if the legislature adopts them.

Mathew Weaver 30:59

Just some screen captures here of our webpage. If you go to our main web page, look under the current topics down at the bottom, you'll see the IDWR rulemaking link. It's in the red oval there. That'll take you to this page. And over on the left, we've got our rulemaking pulldown menu. We're doing the 2022/2023 rulemaking, but you can look and see at the previous year's rulemaking efforts by the Department. And then over on the right-hand side at Idaho Administrative Code, that's a link to IDAPA 37. So from this webpage, you can get to the rules that we're doing this year, and you can get to the rules that exist now. And if you click on that 2022/23 link, it takes you to this page, the safety of dam link is at the bottom of this list. You can check in on any of the other rules if you're interested with those other links. And then that takes you to this page. And this is where we're posting timeline and calendar information it's where we're posting all of the documents, that we've prepared for this rulemaking. And then following this meeting, we are also going to post all of your comments. And we'll post the recording from this meeting. So we'll capture your oral comments. And then if you submit subsequent written comments, we'll publish those to the web page so that everyone can see them. And then we will work to prepare a response document, to that, where the agency will respond to each of those comments, and address how we treated that comment, if it resulted in changes to the strawman or not. And then we will publish, if needed, a second strawman rule for everyone to review. And I think at that point, we'll need to take stock of where we're at and decide if we're good to go to the proposal stage or if we need to continue to have negotiation meetings.

Mathew Weaver 32:57

So just the process for today, be polite and respectful. As I mentioned, we're recording today's proceedings. And then I do think it's important to talk a little bit about what the agency's goals are for today and this rulemaking process, and then also what we can't accomplish through this rulemaking

process. So we hope to build consensus in the rule. Obviously, we want to share information and communicate perspectives. And to do that respectfully. We want to enhance public, public awareness and involvement of these rules in this rulemaking. This is kind of a reality check, for those people affected by the rules and for the Department and the agencies, of, of where we're and what we can achieve with these rules. We want to increase understanding of the rules. We hope to save time and money for everyone involved by agreeing to these rules in this process, and not having to litigate those or go to the legislature and litigate it in the court of public opinion. We hope to increase the regulatory certainty for those that operate under the rule. We hope that, obviously that the rules get improved in their technical nature. And then what, what aren't we here to do today and through this rulemaking process? We can't change Idaho Code; we can't change state law through this process. So that's off the table. If we want to do that, then that's a separate process, we've got to work through the legislative branch for that. We're not here to debate the merits of federal rules or policies or law. We're focused here on Idaho State Administrative Rules. We're not here to debate issues of personal freedom. I know that that comes up often in, in our rulemaking. And we can't delegate the rulemaking authority, the rulemaking authority is vested with the Idaho Water Resource Board and the Department of Water Resources, and that's where it stays. So ultimately, the decisions of the rule that gets presented to the legislature is a decision made by the executive agencies. But hopefully if we've done our job well, it's, it's a rule that everyone can support. We're not setting aside any legal or political rights as a condition of participation. This process isn't a settlement negotiation, it is cooperative, it's consensus building. And IDWR has the ultimate responsibility to make decisions and move forward. And then you have whatever choices you have available to you after that. And again, the process is voluntary for anyone and everyone who wants to participate.

Mathew Weaver 35:47

So I put out as a target, that following today's meeting, maybe we can have June 17 as a deadline to submit written comments, but we can revisit that at the end of today's meeting. Again, if you'll submit comments to the rulesinfo@idwr.idaho.gov webpage, that's the best way to ensure that we get it, we have multiple people that monitor that account. And it's more effective to email that account than any individual person up here, although you can do that too, if you need to. And then as I said, our ultimate goal is to publish a proposed rule in October. So I'll turn it over to John, unless we have any questions about the process. And first, in the room, are there any questions about the material that I've gone over? Doesn't look like it, and online, is there anyone with any questions? Alright, hearing none, John.

John Falk 36:57

Thank you, Matt. The reason, as Matt briefly alluded, for the change is twofold. In 2016, the legislature revised statute for dams, water storage dams, and mine tailings dams. So, in the years since, the rules have been out of sync with Idaho Code. So that's one of the reasons, the other reason is to fulfill the executive order the Governor's Executive Order for rule revisions. So we're trying to address these twofold. And, hopefully, this will result in better rules, not necessarily more onerous, but less confusing, and to some degree, less imposing. None of the fees have changed. None of the bonding requirements.

The intent of these rules is not to change bonding requirements for mine tailings impoundment structures. If anything, the intent is to put more of the burden on the design engineer, and less burden for actual design on the Water Resources Department.

John Falk 38:30

I think it's important to review the definitions. I noted that one of the words used in this process is strawman. And at first, I didn't know if that meant scarecrow, or maybe if it meant something else. I looked it up. It's a weak or imaginary opposition set up only to be easily confused. And I hope you don't literally interpret the word, it's preliminary draft rules. So given that, we'll go ahead and get started here. Any questions either in the room or from those online? I don't see any questions in the room. And hearing none online, I'm gonna go ahead and mute my microphone.

Mathew Weaver 39:35

So to the folks in the room, by show of hands, how many people are gonna testify today? That's zero hands in the room. How many in the room, plan to submit written comment? That's a few folks. Alright.

Mathew Weaver 40:05

Like I said, sometimes the first meeting goes fast. We'll go through the list of participants that I have online. I'll call your name, and then you can respond and the floor will be yours to provide any comment on the rules that you have. And then also, let us know if you plan to submit written comment. And I think the first person that I had on my list who, who's participating is Tami Thatcher with Environmental Defense Institute. Mr. Thatcher, the floor is yours. Miss Thatcher, even if you don't wish to testify today, if you'd just let me know if you plan to submit written comment, I'd appreciate that.

Mathew Weaver 41:07

How do you unmute yourself? Yeah.

Sarah Tschohl 41:14

So if you've dialed, it doesn't look like very many people dialed in, but if they did, it should be the *6 pathway. Otherwise, there's just a straightforward unmute button, that's a little speakerphone.

Mathew Weaver 41:29

Okay, well, we'll move on, the next person who we had participating was Mr. Mike Klaus with Cin, City, I'm sorry, City of Bonner's Ferry.

Mike Klaus 41:40

Yes, thank you. not planning to testify today but would likely provide written comment.

Mathew Weaver 41:46

Alright, thank you, sir. Is Melissa Arnold still with us, with Hecla Limited?

Melissa Arnold 41:57

I'm still here. I don't have any comments to add today, and I am unsure if we will put forward a written comment yet.

Mathew Weaver 42:08

Alright, thank you. How about Mr. Adam Wadsworth with J.R. Simplot Company?

Adam Wadsworth 42:18

No comment and I, at the present time we're not planning on submitting anything.

Mathew Weaver 42:25

Thank you. Mr. James South with Sun Valley Resort. Mr. South, are you still on with us? Alright, how about Mr. Carlyle Miller with Itafos?

Carlyle Miller 43:01

Yeah, this is Carl. No comments today and probably no written comments, but possibly.

Mathew Weaver 43:11

Alright, thank you. How about Mr. Ryan Foy with DeLamar Mining Company? Written comment? Okay, thank you. Speaking for both you?

Ryan Foy 43:24

Yep.

Mathew Weaver 43:26

How about Mr. Mark Lynn with Lamb Weston?

Mark Lynn 43:33

No comments.

Mathew Weaver 43:39

And then Mr. Alex Brekke with Idaho Power.

Alex Brekke 43:46

Yes, I have no comment today. We might submit a written comment, but I'm not sure.

Mathew Weaver 43:52

Thank you. Does that go for Mr. Paul Walz as well?

Paul Walz 44:03

Yes, it does. Thank you.

Mathew Weaver 44:06

Alright, Mr. Tim Arnold with Integra Resources. Alright, moving on, Mr. Gene Bosley with Perpetua.

Gene Bosley 44:25

No testimony, probably written comments.

Mathew Weaver 44:31

Thank you. I assume that goes for Mr. Jordan Nielsen as well.

Jordan Nielson 44:38

Yes, that's correct.

Mathew Weaver 44:46

We are getting a little bit of feedback here, so just remember to mute if you're not speaking. And then Mr. Benjamin Davenport, Ben Davenport with Idaho Mining Association. Then moving on, Robyn Armstrong with Nez Perce Tribe.

Robyn Armstrong 45:18

No comment, thank you for the opportunity.

Mathew Weaver 45:26

This Lorna Jorgensen with Ada County?

Lorna Jorgensen 45:34

Sorry, it took me a minute. I'll definitely be submitting written comments.

Mathew Weaver 45:41

Alright, thank you. Mr. Mark Bilbao with Bilbao and Company. Mr. Lance Boylan with Hecla.

Lance Boylan 46:02

No comments as of this time.

Mathew Weaver 46:06

Alright, thanks. Ms. Erika Malmen with Thompson Creek? Miss Malmen did you want to testify today? Alright, and then the last person I have is Mr. Michael Lopez with the Nez Perce Tribe.

Michael Lopez 46:41

No comments today, but the tribe may submit written comments. Thank you.

Mathew Weaver 46:52

So, it, it sounds like some people have joined since we got going at the beginning and did introductions. If I haven't recognized your name, will you, introduce yourself, and then let me know if you'd like to testify today?

Tami Thatcher 47:09

Can you hear me?

Mathew Weaver 47:11

We can.

Tami Thatcher 47:14

I'm not sure why, this is Tami Thatcher. I'm not sure why my unmute *6 wasn't working earlier. I did take a look at the strawman, and I noted a number of errors. There are a number of just mistakes. But there are a number of problems, with excluding the bonding requirement for mining tailings, and it may just be an error on the last page of the rule. I noted that the rule in general is reducing the safety design requirements pretty extensively without providing any documentation to support those reductions in the safety requirements. And so I will be submitting written comments. And I guess I don't feel that the other people in the room actually reviewed this law or they're just so sure that they're gonna love it. And they're confident that IWDR, Department of Water Resources is looking out for the mining interest pocketbooks, that they don't need to even bother themselves to look at it. I don't know, I'm, I'm fairly troubled by, by the lack of, the lack of description to adequately characterize the nature of the, the changes that are in the strawman. And I think that combining the two laws has actually created confusion in the laws, you have places where it'll say "an impoundment structure must do this", and it becomes unclear, is that dams and mine tailing impoundments? Or is it only the mine tailing impoundments? There's actually many opportunities where you scratch your head and go is this applying to dams or to mining entailments? Or both? It's confusing. And as I said, there are errors in the in the strawman, and so people ought to be taking a look at it. And so I'll be submitting written comments. Thank you.

Mathew Weaver 49:32

Right. Thank you, Miss Thatcher. I do agree with your last sentiment that people should review the rule. It, it will become law, it will affect those people that own dams and those people that want to build dams. So, so I do encourage you if you're interested to spend some time with the rule. If there are errors in it, please include those in your comments. We of course want it to be an error free document when it goes to publication. And then if you have concerns with structurally how the rules been laid out and components of the rules, those are legitimate comments as well for you to submit. And actually submitting your comments in writing is very helpful to the agency, because it's much easier to respond

to someone's concise written statement than to oral testimony. So, Miss Thatcher, we look forward to receiving your comments and anyone else who wishes to submit comment.

Tami Thatcher 50:22

Thank you.

Mathew Weaver 50:23

So maybe moving on, is there anyone else that I've missed who wishes to testify?

Lorna Jorgensen 50:30

So this is Lorna Jorgensen from Ada County, I just want to clarify that June 17 is the deadline for submitting written comments, correct?

Mathew Weaver 50:41

Well that's where, Miss Jorgensen, that's where I was gonna go next, is that, does three weeks, that's three weeks from today, does that seem like a reasonable amount of time? I'll ask you the question first, to get written comments submitted to the department?

Lorna Jorgensen 50:55

Yes, I think that's a reasonable amount of time for me, but I can't speak for others.

Mathew Weaver 51:01

Sure, of course, and if you were to submit written comments and the Department were to respond to those comments, would it be useful to have a second negotiated rulemaking meeting in person or online?

Lorna Jorgensen 51:11

I think it would be useful to then have an, inner, to have an exchange, because sometimes in writing, pe...there is misinterpretation both ways and that would be an opportunity to clarify.

Mathew Weaver 51:27

Yeah, thank you. I appreciate those comments. So at least one person is comfortable with the June 17 deadline. Maybe I'll ask, is there anyone in the room first, who thinks, or would like to propose an alternative deadline for written comment? Yeah, no, nobody in the room here, how about online? Well, let's go ahead and, and go with the June 17 deadline. That's three weeks, that keeps us on target to meeting my objective of getting the proposed rule published in October. We will send out a follow up communication with everyone who has either submitted their information to us and wants to be included as a stakeholder, and then anyone that we have in our contact list for dam owners of regulated dams. And we'll talk about that deadline, and some other details in that communication. And hopefully we can get that out middle of next week.

Mathew Weaver 52:35

Is there anyone else who either hasn't had a chance to introduce themselves online or who wishes to testify? Right, well, we're, we're very efficient. So yeah. John, go ahead.

John Falk 53:01

Question, Mat. After we've received the written comments, what kind of turnaround can people expect to see all of those comments?

Mathew Weaver 53:16

It's a good question. So the Department's practice is, when we receive those comments, we publish them to our webpage, you know, within a day or two so that everyone else can see the comments. We will wait till that deadline comes and then we will coordinate all of those written comments into a single document with IDWR responses to those comments. That takes some effort, you know depending on how many comments we receive. So I think tied into that question is when we would want to have our next meeting. Corey before we get to that last step, did you have anything you wanted to add? No. So I've pulled up my calendar, we've targeted June 17th, and so I'm wondering if it would be possible that week after July 4th, to have our next meeting, maybe, the 7th or the 8th of July? And I guess what I would propose is Thursday, July 7th, start again at the same time we did today, same procedure as today. And that would be the second meeting, and that will not get published in the administrative bulletin. But we will send out notice, as I said next week, with these details. But just for Department staff who are supporting this rulemaking, is there any conflict with July 7th? How 'bout the 8th, the same? What if we went without your Corey? That'd be okay? I'm just hesitant to push it further into the month.

Mathew Weaver 55:20

Alright. So with that, just to recap, in conclusion here, we're gonna try to get all the written comments in by June 17th. Please get those in in a timely manner, don't force us to, to weigh whether it was timely or untimely. And then we will have another meeting similar to this one where people can come in again, provide oral testimony, have that discussion that Miss Jorgensen mentioned, on July 7th, that's a Thursday. And then the department will get communication out, Tuesday or Wednesday of next week, summarizing this information.

Mathew Weaver 55:58

And just one more opportunity, anyone in the room any last thoughts? Or words? Doesn't look like it. Anyone online with any closing thoughts before we conclude our meeting? Alright, well, with that, we'll go ahead and adjourn. Thank you, everyone for your interest in the rulemaking and your participation. Have a good day.