

TO: Matt Weaver
Tim Luke
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22 June 2021

FROM: Gary Bowling

SUBJECT: 37.03.07 Rule 61 Rewrite

1. The changes in rule 25.05 defer to additional information in rule 61. In my opinion it should be stated what paragraphs in rule 61 apply, ie paragraph 5. So I would comment that in rewrite of 25.05 after the statement "except as otherwise described in Rule 61." I would add: Rule 61.05. Another option would be to combine 25.05 and 61.05 so that 25.05 would read:
Mining Operations Using
Non-Powered Equipment. No permit is required for mining activities using non-powered equipment to move less than $\frac{1}{4}$ cubic yard per hour below the mean high water mark, EXCEPT when more than 5 people are mining the same area and when the disturbed area at the mining location exceeds thirty three (33) percent of the width of the wetted stream channel.
2. I find the addition of paragraph 61.01 very concerning. It gives veto power to one person to completely shut down small scale mining if he or she desires. It takes the legislative process totally out of the equation. And while I don't see a problem with the current IDWR leadership, anything and anyone could take over and because of this statement totally shutdown small scale mining in Idaho. My comment would be to delete 61.01 as written.
3. Further, 61.01 states "A powered suction dredge or power sluice shall only be operated in accordance with the conditions of the Small Scale Mining Permit and all applicable rules". I have a real problem with these Small Scale Mining Rules, I HAVE NO PROBLEM OPERATING WITHIN RULES, but I have a huge problem with NO input into what rules I will operate under, ESPECIALLY when the individuals making the rules have no direct knowledge of how the process works. As 61.01 is written IDWR could impose any rule they desire to my operation they could say, I can only use one hand and I can only operate from 8am to 10am and I have no choice but to oblige and I'm forced to sign a paper agreeing to all the rules I had no input in making.
4. 61.02 seems to beat around the bush, why not just say... Small Scale Mining/Suction Dredging Operations are defined as: operations with a maximum nozzle size of 5" and a maximum of 15 HP motor or less. This applies to all operations below the mean high water mark. Delete the rest, we have already established in 25.05 non powered operations are OK, except for greater than 5 people and 33%. What kind of non powdered operations are you talking about in this addition?
5. Add a paragraph stating for operations not covered in Rule 61, Other mining operations are covered on a case by case basis under a 3804B permit.

Thanks for taking my comments.

Gary Bowling