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February 18th, 2020

Paula Wilson
Idaho Department of Environmental Quality
1410 N. Hilton
Boise, ID 83706

Submitted via email to: paula.wilson@deq.idaho.gov

RE: February 6th, 2020 Negotiated Rulemaking – Ore Processing by Cyanidation; Docket No. 58-0113-1901

Dear Ms. Wilson:

Thank you for the opportunity to submit comments following IDEQ's February 6th, 2020, negotiated rulemaking for ore processing by cyanidation.

Since 1973, the Idaho Conservation League ("ICL") has been Idaho's leading voice for clean water, clean air, and wilderness – values that are the foundation for Idaho's extraordinary quality of life. As a 501(c)(3) nonprofit organization, ICL works to protect these values through public education, outreach, advocacy, and policy development. ICL is Idaho's largest state-based conservation organization and represents over 30,000 supporters, many of whom have a deep personal interest in protecting Idaho's water quality, aquatic species, and human health.

Our comments are provided following this letter. We appreciate the opportunity to provide comments on this matter and share our perspective. Please contact me at (208) 345-6933 x23 or awalkins@idahoconservation.org if you have any questions regarding our comments or if we can provide you with any additional information on this matter. Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Austin Walkins".

Austin Walkins
Climate Campaign Coordinator

200.04.b.ii – Subbase Layers or Performance Based Equivalent

We continue to support requirements for subbase layers that are protective of the environment and supported by the best available science. Per the discussion at the most recent rulemaking and relevant references provided by DEQ, a subbase layer (or “layer” or “soil layer”) that is between 24” and 36” is necessary to ensure the containment liner performs as needed.

During the rulemaking DEQ appeared to suggest that a single reference supporting a subbase thickness of 12” would allow DEQ to include this as the standard. We find the notion that a single reference could override the overwhelming evidence that a subbase layer must be 24”-36” to be unacceptable and inconsistent with the requirement to set rules and regulations based upon the best available science. Idaho Code 39-107(D).

Further, proponents of a thinner subbase layer point to the Nevada standard of 12 inches. DEQ staff pointed out the flaw in directly comparing Nevada’s standard with what is being proposed based on, 1) DEQ was unable to find literature supporting Nevada’s 12” standard, and 2) Nevada’s standard is coupled with a cyanide WAD limit that is orders of magnitude more stringent than Idaho’s proposal.

200.08.e – Response Plans and Trigger Values

We appreciate DEQ’s inclusion of our comments. During the rulemaking there was discussion about how this new subsection differs from the already required monitoring requirements. We wish to address this point and provide suggestions for additional language.

The intent of our original comment was requesting “trigger” values that would require action in order to avoid ever reaching the 50 mg/L WAD concentration. For example, 45 mg/L could be a trigger value that requires the operator to take action. We think it’s important that these trigger values are clearly and explicitly defined as part of a monitoring and response plan.

While 200.09.f requires the operator to define “monitoring points” for early detection, they do not require the operator to set pollutant concentrations at which they will take corrective action. We wish to see monitoring points within the cyanidation process (i.e. - prior to discharge) and a concentration trigger value associated with the selected monitoring point (e.g. - 45 mg/L) that initiates requirements for an operator to take corrective action.

We suggest keeping the current language in 200.08.e, but modifying the following language in section 200.09.f:

200.09.f - Specify monitoring points **and threshold concentrations** that will provide for early detection of discharges of pollutants