

Midas Gold, ICL disagree whether bill would ensure reclamation

A bill backed by Midas Gold that would change reclamation bonding for mining companies in Idaho only needs Gov. Brad Little's approval before it is signed into law.

Representatives of the mining industry called the bill an assurance mined area would be restored, but an Idaho Conservation League spokesperson said its provisions could backfire.

The bill, known as House Bill 141, would give mining companies more flexibility for bonding reclamation costs by allowing the use of corporate guarantees, trust funds, letters of credit and certificates of deposit.

The bill passed the Idaho House of Representatives by vote of 59-11 on Feb. 28 and passed the Senate on a vote of 29-3 on March 19.

Among the bill's sponsors was Rep. Dorothy Moon, R-Stanley. Moon represents District 8, which includes Valley County, where Midas Gold has proposed the Stibnite Gold Project near Yellow Pine.

The bill would eliminate an existing cap of \$15,000 per acre that can be levied for mining reclamation costs.

Instead, bond amounts would be determined based on actual estimated reclamation costs, including long-term water quality management.

The actual-cost calculation would include the cost of government oversight, the possible use of third-party contractors, equipment operating costs and a contingency fund, said McKinsey Lyon, vice president of external affairs for Midas Gold Idaho.

"It is the most responsible and robust form of financial assurance calculation and we are proud to see the industry in Idaho moving in this direction," Lyon said.

The bill would update the Idaho Surface Mining Act of 1971, further tying Midas Gold to its promise to use real-cost calculations for reclamation estimates on the Stibnite Gold Project near Yellow Pine, she said.

Lyon serves on the board for the Idaho Mining Association, which researched and drafted the bill in consultation with several agencies, including the federal Environmental Protection Agency, the Idaho Department of Environmental Quality and the Idaho Department of Lands.

The bill could backfire if a mining company were to go bankrupt, said Jonathan Oppenheimer, government relations director for the Idaho Conservation League.

The bill allows corporate guarantees, which means a mining company could promise money for reclamation out of its own assets, Oppenheimer said.

“The problem is that when companies go bankrupt and end up leaving toxic sites, the company is worth less than the paper it (the corporate guarantee) is printed on,” he said.

The reclamation bond amount and methods would be reviewed and adjusted as needed at least every five years by the state land board to help prevent the burden from falling to taxpayers, under the bill’s provisions.

“Five years is great, every five minutes would be even better,” Oppenheimer said, noting the volatility of metals markets that can cause a company’s value to plummet overnight.

Strict rules governing companies eligible for a corporate guarantee would protect taxpayers, said Benjamin Davenport, executive vice president of the Idaho Mining Association.

“Regulatory agencies have created significant financial hurdles on what it takes for a company to qualify for a corporate guarantee,” Davenport said.

Other western states that allow corporate guarantees use criteria like the amount of cash available, an accredited investment risk rating and total assets, he said.

The bill would also allow the land board to deny any part of a reclamation bond package proposed by a mining company.

The estimated reclamation cost would be based on a mine’s final approved plan, with the Forest Service and lands department giving final approval over the bond amount.

If signed into law, the lands department, which would enforce the bill, would specify rules and limitations on corporate guarantees before Aug. 1, according to lands department officials.