DEQ'S RESPONSE TO COMMENTS/PROPOSED RULE
IDAPA 58.01.13 – RULES FOR ORE PROCESSING BY CYANIDATION
DOCKET NO. 58-0113-2502

1. Perpetua
2. DEQ (Comments and responses below)

Cmt #	Rule Section/ Subject Matter	Commenter	Comment Summary	Response
1.	Section 200.03 Wording Change	1. Perpetua	Thank you for the opportunity to comment on the negotiated rule making for the cyanidation rules in IDAPA Docket 58-0113-2502. Perpetua Resources' suggested revision is provided below. 200.03 – Suggested wording is to delete the added text at the beginning of the section and begin with "Ponds, tailings impoundments, or ditches must be designed to maintain a minimum two (2) foot freeboard during storage or conveyance of the design climatic events plus the maximum expected normal operating volume." The new wording at the beginning adds confusion suggesting tanks and vats should be sized to account for freeboard and stormwater run-on. The rule title and the content added later address the suggested deleted wording.	DEQ agrees that the language "exposed to atmosphere" may be interpreted to apply to tanks or other fully sealed containment structures that are placed outside cyanidation facility buildings, requiring unnecessary internal volume for stormwater or freeboard. This language could also be interpreted to require two (2) foot of freeboard for all containment. However, when drafting this language during negotiated rulemaking, the first part of this sentence incorporated the minimum storage requirements from later in this section, which stated: "At a minimum, a cyanidation facility must be designed to contain the maximum expected normal operating water balance and the volume of run-on and run-off water associated with a climatic event that has a one percent (1%) annual exceedance probability." This sentence is deleted in the proposed rule.

				Therefore, the suggested revision would remove any storage requirements for outside containment that isn't a pond, impoundment, or ditch (e.g. secondary containment for a tank outside cyanidation facility buildings). Therefore, DEQ split this sentence to clarify minimum storage requirements for containment receiving precipitation or stormwater and that freeboard is only required for ponds, impoundments, and ditches.
2.	200.03	2. DEQ	The definition for "maximum expected operating volume" is generic to the cyanidation facility and not any specific component. Operating volume may vary by component (e.g. process pond vs. tailings storage facility).	The definition for "maximum expected operating volume" was updated to specify "cyanidation facility component."
3.	200.03	2. DEQ	The definition for "design climatic event" does not mention precipitation which may fall directly into a component.	The definition for "design climatic event" was updated to include precipitation.
4.	200.03	2. DEQ	The proposed rule publication of the Idaho Administrative Bulletin incorrectly stated the last sentence of Section 200.03: Each structure that impounds process cyanidation pollutant water or ~~process~~ cyanidation pollutant contaminated water must include a means of passing excess water unless otherwise approved by the Department. "Cyanidation pollutant" is not required between "process water."	The sentence has been revised to correctly state: Each structure that impounds process water or cyanidation pollutant contaminated water must include a means of passing excess water unless otherwise approved by the Department.