

NEVADA BLM BONDING PROCESS FOR NOTICES AND PLANS OF OPERATIONS AUTHORIZED BY 43 CFR 3809

GENERAL

1. In accordance with the 43 CFR 3809 regulations, reclamation bonds are required for both plans of operations and notices. Notice level operations include only exploration activities in which five or less acres of disturbance are proposed. However, if a notice was submitted to the BLM prior to January 20, 2001, and includes mining activities, that notice may continue as proposed provided the notice has not been modified and it is bonded by January 20, 2003. In order to avoid termination, all notices submitted prior to January 20, 2001 will need to be bonded by January 20, 2003. After January 20, 2003, notices without bonds will expire and operations, except reclamation activities, are no longer authorized. Notices bonded by January 20, 2003, may be extended for a two year period and may be further extended on two year intervals.

Plans of operations include all mining and processing activities (regardless of the size of proposed disturbance), plus all other activities exceeding five acres of proposed public land disturbance. A plan of operations is also needed for any bulk sampling in which 1,000 tons or more of presumed ore for testing is proposed for removal.

2. Operators must submit a Reclamation Cost Estimate when submitting their notice or plan of operations with the appropriate BLM Field Office. Reclamation cost estimates for both notices and plans of operations must be sufficient to cover 100% of the cost of reclaiming the proposed disturbance. All reclamation costs are to be calculated as if third party contractors were performing the reclamation after the site has been vacated by the operator. It is recommended that the Reclamation Cost Estimation Summary Sheet be used to show how proposed reclamation costs were calculated - see Attachment 1. The summary sheet also lists the administrative costs that would occur should a third party contract be issued to reclaim a site. The administrative cost calculations must be included when estimating total reclamation costs.

3. The BLM Field Manager reviews the Reclamation Cost Estimate and determines the bond amount needed for each submitted notice or plan. The Field Manager notifies the operator of the needed bond amount. For Nevada, bond instruments along with the appropriate bond form are submitted to the Nevada State Office (Division of Minerals Management) in Reno for adjudication and acceptance. The bond instruments are held and maintained by the BLM Nevada State Office.

4. Financial guarantee (bond) instruments submitted to the BLM Nevada State Office are to be accompanied by the proper Nevada 3809 bond contract forms and power of attorney (Nevada forms NV 3809-1 and NV 3809-2 - see Attachments 2 and 3). The language of these bond contract forms has been approved by the BLM's Regional Solicitor. Alternate language from an operator requires Regional Solicitor approval and will result in delays in bond acceptance by the BLM Nevada State Office.

5. With the exception of sand and aggregate operations, all plan level operators must also acquire a permit from the State of Nevada, Division of Environmental Protection (NDEP). The Bureau of Land Management (BLM) in Nevada has a cooperative agreement with the NDEP concerning financial guarantees for plan level operations. Upon mutual agreement, the BLM in Nevada and the NDEP will allow for joint reclamation cost determinations and the submittal of one bond by an operator to satisfy the reclamation bond requirement of both agencies.

RECLAMATION COST MODEL FOR NOTICE LEVEL OPERATIONS

As a result of the revised 43 CFR 3809 surface management regulations on January 20, 2001, bonding of notices became a BLM requirement. New workloads were placed on operators, as well as the BLM, in the development and review of reclamation cost estimates for bonding purposes. In many cases, the type of exploration activity proposed by notice level operations would not justify the time and expense involved in completing detailed cost estimates for the proposed operations. The BLM in Nevada has developed an automated reclamation cost model that can be utilized by an operator in estimating reclamation costs. Each Field Office can assist operators in entering the necessary information and obtaining a reclamation cost estimate for their notice level activities.

The model is a simple Excel© spreadsheet and cost estimates include mobilization and demobilization costs, labor and equipment costs for earthwork, revegetation and hole plugging (when appropriate), and administrative costs. To calculate an estimated reclamation cost, an operator need only to enter some easily obtained information about the proposed exploration activities. Use of the model is not

required nor is it always appropriate to use. The use of the automated reclamation cost model is entirely optional by notice level operators. It is provided as a tool to simplify the reclamation cost calculation requirement. A detailed or engineered cost analysis is always acceptable.

FINANCIAL GUARANTEE INSTRUMENTS

The BLM in Nevada accepts the following instruments as financial guarantees for reclamation bonds:

- 1. Surety bonds - when the surety company is authorized to do business with the United States as approved by the U.S. Treasury Department. A current list of authorized companies is available by calling 202-874-6850 or through the Internet at <http://www.fms.treas.gov/c570/c570.html>. Attachment 2 (form NV 3809-1) contains the surety bond form which must accompany this type of financial guarantee.**
- 2. Cash, certified check, or bank draft (Guaranteed Remittance) - in an amount equal to the required dollar amount of the financial guarantee, to be deposited and maintained in a Federal depository account of the United States Treasury by the BLM. Personal and foreign checks are not accepted.**
- 3. Irrevocable letters of credit - from a bank or financial institution located in the United States. See Attachment 4 for further information.**
- 4. Certificates of Deposit (Time Deposits) - when placed through a bank whose deposits are insured by the Federal Deposit Insurance Corporation (FDIC), or a bank that is a Federal Reserve Branch Bank, and the deposit is not in excess of the maximum insurable amount. See Attachment 4 for further information.**
- 5. Negotiable securities of the United States - having a market value at the time of deposit of not less than the dollar amount required for bonding. See Attachment 5 for further information.**
- 6. Investment-grade rated securities - having a Standard and Poor's rating of AAA or AA or an equivalent rating from a nationally recognized securities rating service.**
- 7. Insurance - when its form and function is such that the funding or enforceable pledges of funding are used to guarantee performance of regulatory obligations in the event of default on such obligations. Insurance must have an A.M. Best rating**

of “superior” or an equivalent rating from a nationally recognized insurance rating service.

8. State of Nevada Reclamation Bond Pool coverage - when issued under Nevada Administrative Code (NAC) 519A.510 and approved by the State of Nevada, Division of Minerals.

The BLM in Nevada accepts any of the bonding instruments listed in numbers 1 through 5 above from a third party with the use of the appropriate bond and rider forms. Attachment 3 (form NV 3809-2) is the personal bond form which must be accompanied by one of the financial guarantees described in numbers 2 through 5 above.

The BLM in Nevada will no longer accept new corporate guarantees that have been approved by the State of Nevada. The corporate guarantees that were in effect on January 20, 2001, will remain in effect, however they cannot be increased. Also, the existing approved corporate guarantees cannot be transferred to another operator or operation.

STATEWIDE AND NATIONWIDE BONDS

The surface management regulations at 43 CFR 3809 provide for statewide and nationwide bonds. These bonds can be used to cover all of an operator's notices and plans of operations in one state (statewide bond) or in all states in which the BLM administers lands that are open to the General Mining Laws (nationwide bond).

When notices and plans of operations are to be covered by the same statewide/nationwide bond, an operator must submit the surety bond or personal bond and financial instrument to the BLM for processing and acceptance. In Nevada, the BLM Nevada State Office will receive, adjudicate and maintain statewide bonds as well as nationwide bonds it receives. The BLM State Office to which a nationwide bond is submitted will be the management office for BLM.

PHASED OR INCREMENTAL BONDING

Upon request by the operator, BLM in Nevada may allow phased or incremental bonding for plans of operations. Some plans can be designed so that operations will occur in discrete "blocks" or operational phases. Bond coverage will be

adjusted to cover each phase of an operation as it progresses. In all cases, bond coverage will be required prior to disturbance.

Likewise, reclamation can be designed to occur in discrete blocks or phases. An entire site may be reclaimed in phases or an operation may be designed so that reclamation is completed in one area while new disturbance is beginning elsewhere in the same operation. In the latter case, a fixed amount of bond coverage may be "rolled over" from one part of the operation to another.

FINANCIAL GUARANTEE REDUCTION AND RELEASE

The 43 CFR 3809 regulations require that all plans and notices submitted after January 20, 2001, be covered by a financial guarantee before conducting operations. The financial guarantee must be sufficient to cover 100% of the cost to stabilize and reclaim the site, including the cost of any action needed to prevent unnecessary or undue degradation of the Federal lands should premature cessation or abandonment of the operation occur. The following guidelines provide for the reduction and final release of financial guarantees held for plan of operations and notice level activities:

Up to 60%¹ of the total financial guarantee for an operational area within a designated project area, or an entire project area, may be released when all dirtwork has been completed and the area has been prepared to receive seed. Requirements include: drill hole plugging; backfilling; recontouring; grading; completion of acid rock drainage (ARD) control; establishment of surface and subsurface drainage controls; stabilization and neutralization of leach heaps, process ponds, leach-bearing tailings, and similar facilities.

The remaining portion (at least 40%) of the financial guarantee may be released when all structures and other facilities have been removed and the area has been revegetated to establish a diverse, effective and permanent vegetative cover, all monitoring and maintenance requirements have been met, and when discharged effluent has met, without violations and without the necessity for additional treatment,

¹An exception to the 60% release may be granted by the appropriate BLM field manager upon request of the operator. For exploration operations and certain mining operations that do not involve processing activities or require ARD controls, up to 85% of the total financial guarantee may be released upon completion of all drill hole plugging, dirt work, structural removal and revegetation. The remaining 15% may be released upon completion of any final reclamation requirements, such as revegetation

applicable effluent limitations and water quality standards for at least one full year.

For those operations that may require long-term (more than five years) post-closure monitoring and maintenance activities, operators may choose to acquire separate financial instruments to address and cover those identified long-term post-closure obligations. This would allow for release of the original financial guarantee upon completion of all reclamation and closure activities.

The determination of successful revegetation of mining disturbances is defined in *NEVADA GUIDELINES FOR SUCCESSFUL REVEGETATION FOR THE NEVADA DIVISION OF ENVIRONMENTAL PROTECTION, THE BUREAU OF LAND MANAGEMENT AND THE U.S.D.A. FOREST SERVICE (FINALIZED 09/03/98)*. In addition, Attachment A, *Documentation of Reclamation Activities for Surety Release*, of the Reclamation Permit issued by the Nevada Division of Environmental Protection (NDEP) details documentation required for final release of the financial guarantee (see Attachment 8).

Each notice and plan of operations must include a section addressing site-specific financial guarantee release criteria, which includes requirements in Attachment A of the NDEP reclamation permit, revegetation goals, and the technical method to be used to estimate vegetative cover.

Requests for a reduction or final release of a financial guarantee covering operations on public lands must be made in writing to the appropriate BLM field manager. For plans of operations, the request is coordinated by the BLM and the NDEP with a decision jointly made between the two agencies. Also for plans of operations, final release of a financial guarantee can not be completed until BLM posts the final release proposal in the appropriate BLM field office or publishes a notice of the proposed final release in a local newspaper of general circulation and accepts public comments for 30 calendar days. Such a notification is not required for the final release of a financial guarantee held for notice level operations.

TRANSFER OR CHANGE OF OPERATOR

Any change of operator must be promptly reported to the appropriate BLM field office. In the event of a change of operator involving an existing notice or approved plan of operations, the BLM will not transfer reclamation responsibility

monitoring, signing, fence removal, etc.

to the new operator until it is assured that the new operator or the subject operation has satisfied the requirements of the 43 CFR 3809 regulations as they relate to bonding. Reclamation responsibility remains with the existing bond until satisfactory replacement bonding is accepted for the operation. To expedite approval of operator transfer or change, the form contained in Attachment 9 may be submitted to the appropriate BLM field office.

ATTACHMENTS:

- 1. Reclamation Cost Estimation Summary Sheet and Reclamation Cost Checklist (5 pp)**
- 2. Contract Form for Surety Bond (4 pp)**
- 3. Contract Form for Personal Bond (3 pp)**
- 4. Information on Time Deposits and Letters of Credit (2pp)**
- 5. Information on Negotiable Securities of the United States (3pp)**
- 6. Personal Bond Rider Form (2pp)**
- 7. Attachment A of the NDEP Reclamation Permit (2pp)**
- 8. Notification of Change of Operator (1p)**

ATTACHMENT 1

**RECLAMATION COST ESTIMATION SUMMARY SHEET
and
RECLAMATION COST CHECKLIST**

ATTACHMENT 2

CONTRACT FORM FOR SURETY BOND

ATTACHMENT 3

CONTRACT FORM FOR PERSONAL BOND

ATTACHMENT 4

INFORMATION ON TIME DEPOSITS AND LETTERS OF CREDIT FOR
RECLAMATION BONDING OF PLANS OF OPERATIONS

ATTACHMENT 5

INFORMATION ON NEGOTIABLE SECURITIES
OF THE UNITED STATES

ATTACHMENT 6

PERSONAL BOND RIDER FORM

ATTACHMENT 7

ATTACHMENT "A" OF THE NDEP RECLAMATION PERMIT

ATTACHMENT 8

NOTIFICATION OF CHANGE OF OPERATOR