

# **BLM Nevada 3809 Reclamation Bonding Guidelines**

Prepared by

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Bureau of Land Management  
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Nevada BLM Bonding Guidelines for Notices and Plans of Operations  
Authorized Under 43 CFR 3809

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# Nevada BLM Bonding Guidelines for Notices and Plans of Operations Authorized Under 43 CFR 3809

## A. General

1. **Notices and Plans of Operations.** 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 Bureau of Land Management (BLM) prior to January 20, 2001, and includes mining and/or processing activities, that notice may continue as proposed, provided the notice has not been modified and it was bonded by January 20, 2003. In order to avoid termination, all notices submitted prior to January 20, 2001 needed to be bonded by January 20, 2003. After January 20, 2003, notices without bonds expired and operations, except reclamation activities, were no longer authorized. Notices 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. **Reclamation Cost Estimate.** 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. **For all bond determinations, the required bond amount will be shown in a whole dollar amount (no cents). For plans of operations, the bond determination is to be rounded up to the next \$100.**

3. **BLM Field Office Review.** 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, NV-923) in Reno for adjudication and acceptance. The bonds are held and maintained by the BLM Nevada State Office.

4. **Periodic Review.** The BLM must provide a periodic review of reclamation cost estimates and financial guarantees for ongoing operations (see Instruction Memorandum No. WO-2003-082, Change1 (dated March 1, 2004)). The following establishes the maximum time period the BLM may allow to elapse between reviews. **The BLM has the authority to require a more frequent review** of the reclamation cost

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estimate and financial guarantee at the discretion of the authorized officer.

- **Notice Operations:** Reclamation cost estimates and financial guarantees for Notice operations must be reviewed **at time of extension (every two years)** under 43 CFR 3809.333.
- **Plans of Operations:** Reclamation cost estimates and financial guarantees for Plans of Operations must be reviewed **at least every three years**.
- **Under State Agreement (or MOU):** Where the BLM has an agreement under 43 CFR 3809.200 with the State that requires a review more frequent than every two years for Notices or every three years for Plans of Operations, reviews must be conducted **in conformance with that agreement**. In Nevada, BLM and the U.S. Forest Service have entered (July 15, 2002) into a Memorandum of Understanding (MOU) with the Nevada Division of Environmental Protection (NDEP) for the administration of jointly held bonds and reclamation of lands disturbed by exploration projects and mining operations for locatable minerals under Federal and State rules. The above review time frames are consistent with current State requirements.
- **Plan or Notice Modification:** Where a Notice or Plan of Operations is modified, a review must be conducted **at the time of modification**. The reclamation cost estimate and financial guarantee review must be for the entire operation, not just the modification (See 43 CFR 3809.580 for bond increases and filing a request for bond decrease; also see Instruction Memorandum No. WO-2003-082, Change 1 (March 1, 2004)).
- **Part of the Operations:** Where the financial guarantee is for part or phase of each operation, as provided under 43 CFR 3809.553, BLM must review the amount and terms of the financial guarantee **annually** (For Phased Bonding guidelines, see section E. of this document).

Where the BLM identifies any deficiency in the amount of the required financial guarantee, the Field Office must immediately issue a decision requiring the operator provide the BLM with the revised amount.

5. **Bond Forms.** Form 3809-1 (Attachment 1), is the required form for a bond which is underwritten by a surety company. Form 3809-2 (Attachment 2) is the required form for a bond which is pledged by a guaranteed remittance, a time deposit, a letter of credit, or a U.S. Treasury security. Form 3809-4 (Attachment 6) is required when the bond is supplied by an entity other than the operator.

6. **State Requirements.** 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 BLM in Nevada has a cooperative agreement

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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. Bond updates are required every three years. For phased bonds, annual updates are required.

### **B. 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 drill 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.

### **C. Financial Guarantee Instructions**

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

1. **Surety Bond.** From a surety company authorized to do business with the United States, as certified 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 3809-1)* is the required bond form for a surety bond. Begin to find a surety company by contacting your insurance agent or by looking in the telephone book yellow pages under "bonds."

2. **Personal Bond.** Must be secured by one of the financial instruments listed in "a" through "d" below. *Attachment 3 (Form 3809-2)* is the personal bond form, which is required in addition to the financial instrument.

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a. Guaranteed Remittance (“Cash bond”) (Cashier’s check, certified check, or official bank draft, cash, US postal money order, wire transfer) – Drawn on a U.S. bank 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 U.S. Treasury by the BLM. Checks bearing a 9-digit American Banking Association (ABA) routing number will timely pass through BLM’s regular depository. However, if the remittance is drawn on a **foreign bank** (i.e., no 9-digit ABA routing number), or if it is a **personal check** (which includes a company check), or otherwise not guaranteed funds, there will be a delay in processing the bond by as much as 30-45 days. This time period is required for the BLM to be notified by its bank that the personal or foreign check has been returned as not payable. The BLM is required to send checks without a 9-digit ABA routing number to Citibank, Wilmington, DE, for processing, which may take 45 days or more. The bond cannot be adjudicated, nor can a refund be authorized, before the check processing occurs.

If the BLM receives another instrument which is in accordance with the requirements for a “cash bond,” a refund of the original payment will be authorized by the BLM after the processing time (30-45 days), as long as, the original payment was not returned as not payable by the U.S. Treasury. The BLM can authorize a refund of a foreign/personal check only after 30-45 days.

b. Irrevocable Letter of Credit – Obtained through a bank or financial institution located in the United States. See *Attachment 4* for further information.

c. Certificates of Deposit (Time Deposits) - Obtained from 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, which is currently \$100,000. The time deposit must be pledged to the BLM. See *Attachment 4* for further information.

d. Negotiable Securities of the United States (U.S. Treasury bill, note, or bond) – Having a par value at the time of purchase of not less than the dollar amount required for bonding. See *Attachment 5* for further information.

e. 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.

f. 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.

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**3. State of Nevada Reclamation Performance Bond Pool Coverage** - when issued in accordance with Nevada Administrative Code (NAC) 519A.510 and approved by the State of Nevada, Division of Minerals.

The BLM in Nevada will accept a personal or surety bond from a third party, that is, a party other than the operator, with the use of the appropriate bond and rider (*Form 3809-2 and 3809-4*). *Attachment 6* is Form 3809-4, which is to be used for a third-party bond. The BLM in Nevada will also accept a personal bond from the operator which is secured by a time deposit, letter of credit, or U.S. Treasury security from a third party with the use of a Personal Bond Rider, Form 3809-4a, *Attachment 7*. Other changes to a personal bond, such as an increase or decrease of the amount, a change to the bond coverage (individual, statewide, nationwide), the addition of a coprincipal(s) under the bond, etc. may be made also using *Form 3809-4a* (see *Attachment 7*).

The BLM in Nevada no longer accepts 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.

### **D. 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 a statewide or 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 (NV-923) 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 maintenance office of that nationwide bond for the BLM.

### **E. Phased or Incremental Bonding**

Upon request by the operator, the BLM in Nevada may allow phased or incremental bonding for plans of operations. Some plans may be designed so that operations will occur in discrete "blocks" or operational phases. Bond coverage will be established to cover each phase of an operation as it progresses. In all cases, bond coverage will be required prior to disturbance.

Likewise, reclamation may 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

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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 with approval by the appropriate BLM field office.

### **F. 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:

1. **Up to 60%** 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 (see 43 CFR 3809.591(b)). 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.

2. **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, applicable effluent limitations and water quality standards for at least one full year (see 43 CFR 3809.591(c)).

For operations where a portion of the surface disturbance has been fully reclaimed, meeting both the 60 and 40 percent criteria above, the operator may request and may receive credit for 100 percent reduction of the financial guarantee for that portion of the operation.

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. [See 43 CFR 3809.552(c)].

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

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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 (*Attachment 8*), 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.

**3. Bond Reductions Involving a Corporate Guarantee(s):** When an operator requests a reduction in his/her financial guarantee according to 43 CFR 3809.590(a), the reduction in the financial guarantee will be made proportionally from the applied financial guarantee instrument(s) and the proportion of the financial guarantee that was covered by a corporate guarantee on January 20, 2001 (see Instruction Memorandum No. WO-2005-123). For example, if the financial guarantee coverage is to be reduced by \$100,000 and the financial guarantee coverage applied on January 20, 2001 was 65 percent corporate guarantee and 35 percent acceptable financial instrument(s), then the corporate guarantee would be reduced by \$65,000 and the financial instrument(s) would be reduced by \$35,000.

### **G. 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 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, *Form 3809-5 (Attachment 9)* may be submitted to the appropriate BLM field office.

## ATTACHMENT 1

Reclamation Cost Estimation Summary Sheet  
And  
Reclamation Cost Checklist

# Reclamation Cost Estimation Summary Sheet

This cost estimation summary sheet is provided to assist the operator and BLM in calculating and reviewing the reclamation cost estimate. The summary sheet is designed to accompany the Reclamation Cost Checklist. The summary sheet is not all inclusive nor is it required.

Notice [ ]                      Plan of Operations [ ]                      BLM Case-File No.: NVN-\_\_\_\_\_

Project Name: \_\_\_\_\_

Enter those values in the cost estimate that are appropriate to this project. All reclamation costs are to be calculated as third party contracts. This summary sheet is to be accompanied by a worksheet describing how each itemized cost was calculated.

**A. Earthwork/Recontouring**

<u>Item</u>	<u>Labor<sup>1</sup></u>	<u>Equipment</u>	<u>Materials</u>	<u>Total</u>
1. Roads	\$ _____	\$ _____	\$ _____	\$ _____
2. Drill Site(s)	\$ _____	\$ _____	\$ _____	\$ _____
3. Drill Hole Abandonment <sup>2</sup>	\$ _____	\$ _____	\$ _____	\$ _____
4. Pits/Adits/Trenches	\$ _____	\$ _____	\$ _____	\$ _____
5. Process Ponds	\$ _____	\$ _____	\$ _____	\$ _____
6. Heaps	\$ _____	\$ _____	\$ _____	\$ _____
7. Dumps (Waste & Landfill)	\$ _____	\$ _____	\$ _____	\$ _____
8. Tailings	\$ _____	\$ _____	\$ _____	\$ _____
9. Structure & Building Areas	\$ _____	\$ _____	\$ _____	\$ _____
10. Storage & Equipment Areas	\$ _____	\$ _____	\$ _____	\$ _____
11. Drainage Control	\$ _____	\$ _____	\$ _____	\$ _____
12. Mobilization/Demobilization	\$ _____	\$ _____	\$ _____	\$ _____
13. Miscellaneous <sup>3</sup>	\$ _____	\$ _____	\$ _____	\$ _____
Subtotal "A"	\$ _____	\$ _____	\$ _____	\$ _____

**B. Revegetation/Stabilization**

<u>Item</u>	<u>Labor</u>	<u>Equipment</u>	<u>Materials</u>	<u>Total</u>
1. Roads	\$ _____	\$ _____	\$ _____	\$ _____
2. Drill Site(s)	\$ _____	\$ _____	\$ _____	\$ _____
3. Pits/Adits/Trenches	\$ _____	\$ _____	\$ _____	\$ _____
4. Process Ponds	\$ _____	\$ _____	\$ _____	\$ _____
5. Heaps	\$ _____	\$ _____	\$ _____	\$ _____
6. Dumps (Waste & Landfill)	\$ _____	\$ _____	\$ _____	\$ _____
7. Tailings	\$ _____	\$ _____	\$ _____	\$ _____
8. Structure & Building Areas	\$ _____	\$ _____	\$ _____	\$ _____
9. Storage & Equipment Areas	\$ _____	\$ _____	\$ _____	\$ _____
10. Drainage Control	\$ _____	\$ _____	\$ _____	\$ _____
11. Monitoring	\$ _____	\$ _____	\$ _____	\$ _____
12. Mobilization/Demobilization	\$ _____	\$ _____	\$ _____	\$ _____
13. Miscellaneous	\$ _____	\$ _____	\$ _____	\$ _____
Subtotal "B"	\$ _____	\$ _____	\$ _____	\$ _____

# Reclamation Cost Estimation Summary Sheet

**C. Detoxification/Water Treatment/Disposal of Wastes**

<u>Item</u>	<u>Labor</u>	<u>Equipment</u>	<u>Materials</u>	<u>Total</u>
1. Process Ponds/Sludge	\$ _____	\$ _____	\$ _____	\$ _____
2. Heaps	\$ _____	\$ _____	\$ _____	\$ _____
3. Dumps (Waste & Landfill)	\$ _____	\$ _____	\$ _____	\$ _____
4. Tailings	\$ _____	\$ _____	\$ _____	\$ _____
5. Surplus Water Disposal	\$ _____	\$ _____	\$ _____	\$ _____
6. Fluid Management <sup>4</sup>	\$ _____	\$ _____	\$ _____	\$ _____
7. Monitoring	\$ _____	\$ _____	\$ _____	\$ _____
8. Mobilization/Demobilization	\$ _____	\$ _____	\$ _____	\$ _____
9. Miscellaneous	\$ _____	\$ _____	\$ _____	\$ _____
10. Hazardous Materials and Chemicals/Other Reagents <sup>5</sup>	\$ _____	\$ _____	\$ _____	\$ _____
Subtotal "C"	\$ _____	\$ _____	\$ _____	\$ _____

<b>D. Structure, Equipment And Facility Removal</b>	<u>Labor</u>	<u>Equipment</u>	<u>Materials</u>	<u>Total</u>
	\$ _____	\$ _____	\$ _____	\$ _____

**E. Operational & Maintenance (O&M) Costs**

Subtotal A through D	\$ _____	\$ _____	\$ _____	\$ _____
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**F. Administrative Costs**

1. Engineering, Design and Construction (ED&C) Plan <sup>6</sup>	\$ _____
2. Contingency <sup>7</sup>	\$ _____
3. Insurance <sup>8</sup> (On Site Liability)	\$ _____
4. Bond <sup>9</sup> (Performance and Payment)	\$ _____
5. Contractor Profit <sup>10</sup>	\$ _____
6. BLM Contract Administration <sup>11</sup>	\$ _____
7. BLM Indirect Cost <sup>12</sup>	\$ _____
Subtotal "F"	\$ _____

<b>G. GRAND TOTAL (E and F)</b>	\$ _____
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Attach sources/information used in cost estimate (examples: Caterpillar Performance Handbook, contractor's estimate, BLM state office procurement analyst, etc.).

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# Reclamation Cost Estimation Summary Sheet

## Reclamation Cost Estimation Summary Sheet Endnotes

<sup>1</sup> Federal construction contracts require Davis-Bacon wage rates for contracts over \$2,000. Wage rate estimates may include base pay, Federal Insurance Corporation of America (FICA) and other required workforce coverage and benefits, overhead and profit. To avoid double counting of any of the identified administrative costs the operator must itemize the components of their labor cost estimates or provide BLM with a signed statement, under penalty of USC 1001, that identifies what specific administrative costs are included in the quoted hourly rate.

<sup>2</sup> These are the requirements consistent with NAC 534 and NAC 519A.125. Drill holes that will be plugged as per NAC 534 with onsite drilling equipment do not have to be considered for bonding. Drill holes that are to be left open at any time during the life of the project must have a third party reclamation cost estimate and be bonded. To avoid bonding, operators must state in their notice/plan of operations that drill holes will not be left open at any time during the life of the project. The cost of plugging, capping and segregation of the hole from the ground water system is to be considered when appropriate. Drill holes that will be “mined through” within six months of drilling completion by the proposed operation do not have to be considered for bonding.

<sup>3</sup> Miscellaneous items should be itemized on accompanying worksheets.

<sup>4</sup> **For Mineral Processing Projects Only.** Fluid management represents the costs of maintaining proper fluid management to prevent overflow of solution ponds through premature cessation or abandonment of operations. Calculate a minimum six month direct cost estimate which includes power, supplies, equipment, labor and maintenance.

<sup>5</sup> Handling of hazardous materials and chemicals/other reagents includes the cost of decontaminating, neutralizing, disposing, treating and/or isolating all hazardous materials/chemicals/reagents used, produced, or stored on the site.

<sup>6</sup> **For Mining and Processing Projects Only.** Engineering, design and construction (ED&C) plans are often necessary to provide details on the reclamation needed to contract for the required work. To estimate the cost to develop an ED&C plan use 4-8% of the O&M cost (Line E). Calculate the ED&C cost as a percentage of the O&M cost as follows: up to and including \$1 million, use 8%; over \$1 million to \$25 million, use 6%; and over \$25 million, use 4%.

<sup>7</sup> A contingency cost is included in the reclamation cost estimation to cover unforeseen cost elements. Calculate the contingency cost as a percentage of the O&M cost (Line E) as follows: up to and including \$500,000, use 10%; over \$500,000 to \$5 million, use 8%; over \$5 million to \$50 million, use 6%; and greater than \$50 million, use 4%. As with the ED&C cost, inclusion of a contingency cost may not be necessary for small operations, such as notice-level exploration.

<sup>8</sup> Insurance premiums are calculated at 1.5% of the total labor costs. Enter the premium amount if liability insurance is not included in the itemized unit costs.

<sup>9</sup> Federal construction contracts exceeding \$100,000 require both a performance and a payment bond (Miller Act, 40 USC 270 *et seq.*). Calculate the total performance bond and the payment bond premiums at 3% of the O&M cost (Line E). Each bond premium is figured at 1.5% of the O&M cost.

<sup>10</sup> For Federal construction contracts, use 10% of estimated O&M cost (Line E) for the contractor’s profit.

<sup>11</sup> Calculate the contract administration cost as a percentage of the O&M cost as follows: up to and including \$1 million, use 10%; over \$1 million to \$25 million, use 8%; and greater than \$25 million use 6%.

<sup>12</sup> BLM’s indirect cost rate is 21% of the contract administration costs (Line F6). This cost requirement is not applicable to operations that are proposed on property that is 100% privately own.

## Reclamation Cost Estimation Summary Sheet

### Reclamation Check List

This checklist is provided to assist the operator and BLM in calculating the engineering and environmental costs required to properly stabilize and reclaim the area disturbed by mineral exploration and/or mining operations. The checklist is designed to accompany the Reclamation Cost Estimation Summary Sheet. It is not all inclusive nor is it required, but is intended to serve as a reminder of issues that should be considered.

#### **Access Roads and Drill Pads**

1. Mobilization and demobilization.
2. Recontouring or regrading to approximate the original topography as closely as possible.
3. Removal of culverts.
4. Ripping or scarifying the surface.
5. Water diversion construction.
6. Restoration or stabilization of drainage areas or stream beds.
7. Revegetation.

#### **Drill Hole and Well Abandonment**

1. Mobilization and demobilization.
2. Drill hole and well (water, monitoring and piezometer) abandonment must meet all applicable Federal and State standards. In Nevada, drill holes that will be plugged as per NAC 534 with onsite drilling equipment do not have to be considered for bonding. Drill holes that are to be left open at any time during the life of the project must have a third party reclamation cost estimate and be bonded. To avoid bonding, operators must state in their notice/plan of operations that drill holes will not be left open at any time during the life of the project. The cost of plugging, capping and segregation of the hole from the ground water system is to be considered when appropriate.
3. Drill holes that will be "mined through" within six months of drilling completion by the proposed mining operation do not have to be considered for bonding.

#### **Trenches, Pits, Shafts, and Adits**

1. Mobilization and demobilization.
2. Recontouring or regrading to approximate the original topography as closely as possible.
3. Revegetation.
4. Securing portals from public entry.

#### **Waste Rock Dumps, Overburden, and Interburden Storage Areas**

1. Encapsulation, mixing or other engineered placement method in controlling acid rock drainage (ARD) migration.

## Reclamation Cost Estimation Summary Sheet

### Reclamation Check List

2. Recontouring and regrading to approximate the surrounding topography as closely as possible to enhance stability, reduce susceptibility to erosion, and facilitate efforts to establish vegetation.
3. Diversion of run-on.
4. Covering with rock, clay, topsoil, other growth medium or other cover material.
5. Revegetation.

#### **Dams for Tailings Ponds**

1. Covering with rock, clay, topsoil, other growth medium or other cover material.
2. Revegetation.
3. Rendering the dam incapable of storing any mobile fluid in a quantity which could pose a threat to the stability of the dam, or to public safety.
4. Construction of temporary containment basins and water treatment facilities for leakage or outflow of effluent.

#### **Impoundment for Tailings**

1. Regrading to promote run-off and reduce infiltration.
2. Covering with waste rock, clay, topsoil, other growth medium or other cover material.
3. Revegetation.
4. Diversion of run-on.
5. Temporary containment basins and water treatment facilities for leakage or outflow of effluent.

#### **Heaps from Leaching**

1. Cost of maintaining proper fluid management to prevent overflow of solution ponds through premature cessation or abandonment of the operation (six month direct cost estimate for recirculating process fluids). Include the cost of a Process Fluid Inventory, which typically runs from \$15,000 to \$35,000, depending on site complexity.
2. Rinsing, detoxification and neutralization procedures as approved in the notice.
3. Containment and treatment of outflows of residual chemicals or fluids from the heaps, including any disposal of surplus or drain down water. Include all engineering, development and reclamation costs.
4. Diversion of run-on and run-off.
5. Regrading to enhance structural stability, promote run-off, reduce infiltration, and control erosion.
6. Covering with waste rock, clay, topsoil, other growth medium or other cover material.
7. Stabilization and revegetation.

## Reclamation Cost Estimation Summary Sheet

### Reclamation Check List

#### **Solution Ponds, Settling Ponds, and Other Non-Tailings Impoundments**

1. Analytical costs for sludge identification.
2. Backfilling and grading as approved in the notice or plan of operations.
3. Restoration of the pre-disturbance surface water regime, if appropriate.
4. Proper disposal of process pond sludge.

#### **Building Foundations, Facilities, Structures and Other Equipment**

1. Demolition and burial costs of the demolition debris on site, in conformance with applicable solid waste and hazmat disposal requirements.
2. Off-site disposal costs of "1" above, in conformance with applicable solid waste disposal and hazmat requirements.
3. Equipment, miscellaneous facility (pipelines, power lines, etc.), trash and scrap removal.
4. Costs of continued use in a manner that is consistent with the proposed post mining land use.
5. No provision for salvage value or credit is to be considered.

#### **Open Pit Mines**

1. Providing for the public safety.
2. Stabilization of pit walls or rock faces where required for public safety.
3. Stabilization of exposed sulfides in pit walls and floors to preclude formation of acid rock drainage.
4. Construction and maintenance of berms, fences, or other means of restricting public access.
5. Costs associated with the creation and maintenance of a lake for recreation, wildlife enhancement, or other beneficial use.
6. Revegetation.

#### **Underground Mines**

1. Sealing shafts, adits, portals, and tunnels to prevent access.
2. Construction and maintenance of berms, fences, or other means of restricting access.

#### **Revegetation**

1. Mobilization/demobilization of equipment.
2. Application of top soil or other growth medium.
3. Seed bed preparation.
4. Selection of appropriate species of seeds or plants (consult BLM staff specialist).
5. Addition of soil amendments such as fertilizers, mulches, or other compounds to assist in plant growth.

## Reclamation Cost Estimation Summary Sheet

### Reclamation Check List

6. Planting or seeding (equipment, personnel, cost of seeds/plants).

#### **Site Maintenance, Monitoring, and Evaluation**

1. Any site monitoring costs as required by the BLM.
2. Monitoring well costs for heaps, leach fields, bioreactors and tailings ponds as required by the [insert the requirements mandated by your state's mining and/or environmental regulatory agency].
3. Evaluation to determine whether the revegetation and slope stability meet the criteria established for bond release or project closeout if work is done by BLM contractor

ATTACHMENT 2

Form 3809-1, Surface Management Surety Bond

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT

FORM APPROVED  
OMB NO. 1004-0194  
Expires: January 31, 2007

**SURFACE MANAGEMENT SURETY BOND**

*Act of May 10, 1872, as amended (30 U.S.C. 22-54)*  
*Act of December 29, 1916, as amended (39 Stat. 862)*  
*Act of October 21, 1976, as amended (43 U.S.C. 1732-35, 1782)*  
*Act of September, 13, 1982 (31 U.S.C. 9301 et seq.)*  
*Act of September 27, 1988 (102 Stat. 1776)*  
*Act of April 16, 1993 (43 U.S.C. 299)*

Surety Bond Number \_\_\_\_\_

Individual \_\_\_\_\_ ; or Statewide \_\_\_\_\_ ; or Nationwide \_\_\_\_\_  
(Enter BLM Serial No.) (Enter Name of State, if applicable) (Enter "Yes," if applicable)

KNOW ALL BY THESE PRESENTS, THAT: \_\_\_\_\_  
(name)

of \_\_\_\_\_  
(address)

as principal; and \_\_\_\_\_ of \_\_\_\_\_  
(name) (address)

\_\_\_\_\_ as surety; are held firmly bound unto the United States of America in the  
sum of \_\_\_\_\_

\_\_\_\_\_ U.S. dollars (\$ \_\_\_\_\_),

lawful money of the United States, which may be increased or decreased by a rider hereto executed in the same manner as this bond, for the payment of which sum the principal and surety bind themselves successors, and assigns, jointly and severally, by these presents.

The principal/surety will apply this bond for the faithful performance of any and all of the conditions and stipulations as set forth in this bond, the plan of operations/notice cited above, and the regulations cited at CFR 3802 and 43 CFR 3809. In the case of any default in the performance of the conditions and stipulations of such undertaking, it is agreed that the surety/principal will apply the bond or any portion thereof, to the satisfaction of any damages, reclamation, assessments, penalties, or deficiencies arising by reason of such default.

**BOND CONDITIONS**

1. WHEREAS, the principal has an interest in a mining claim(s), mill site(s), or tunnel site(s) and/or responsibility for operations on those mining claim(s), mill site(s), tunnel site(s) or public lands under the Acts cited in this bond; and
2. WHEREAS, the principal has filed an acceptable notice with the United States Department of the Interior, Bureau of Land Management (BLM) and/or received approval from the BLM of the plan of operations cited above, and said plan of operations/notice contains certain stipulations and conditions; and
3. WHEREAS, the principal has promised to deliver to the United States a bond substantially in the form hereof upon the approval and/or acceptance of the above referenced plan of operations and/or notice by the BLM to secure the performance of the terms and conditions contained in said plan of operations/notice and/or associated reclamation plan.
4. WHEREAS, the principal and surety agree that, with notice to the surety, the coverage of this bond, in addition to the present holdings of and/or authorization(s) granted to the principal, shall extend to and include:
  - a. Any transfer of operating rights under the plan of operations and/or notice hereafter entered into or acquired by the principal affecting mining claim(s), mill site(s), tunnel site(s), or public lands; and
  - b. Any activity subsequent hereto of the principal as operator under a plan of operations and/or notice issued pursuant to the Acts cited in this bond;

Provided, that for Statewide and Nationwide bonds only, the surety may elect to terminate the additional coverage authorized under this paragraph. Such termination will become effective 30 days after the BLM receives notice of the election to terminate. After the termination becomes effective, the additional interests identified in this paragraph will not be covered by this bond; and
5. WHEREAS, the principal and surety agree that with notice to the surety this bond shall remain in full force and effect notwithstanding: Any assignment(s) of an undivided interest in any part or all of the mining claim(s) mill site(s), tunnel site(s), or public lands covered by the plan of operations/notice in which event the assignee(s) shall be considered to be coprincipal(s) on this bond as fully and to the same extent as though their duly authenticated signatures appeared thereon; and
6. WHEREAS, the principal/surety hereby waives any right to notice of, and agrees that this bond will remain in full force and effect notwithstanding:
  - a. Any transfer(s) in whole or in part, of any or all of the land covered by the plan of operations and/or notice and further agrees to remain bound under this bond as to the interests in the plan of operations and/or notice retained by the principal; and
  - b. Any modification of the plan of operations/notice or obligations thereunder as provided in paragraph 4 herein; and
7. WHEREAS, the principal and surety hereby agree that notwithstanding the nullity, relinquishment, abandonment or forfeiture of any mining claim(s), mill site(s), or tunnel site(s) covered by this plan of operations and/or notice, whether by operation of law or otherwise, the bond will remain in full force and effect as to the terms and conditions of the plan of operations and/or notice and obligations covered by this bond; and

Title 18 U.S.C. Section 1001 and Title 43 U.S.C. Section 1212 make it a crime for any person knowingly and willfully to make to any department or agency of the United States any false fictitious, or fraudulent statements or representations as to any matter within its jurisdiction.

**BOND CONDITIONS (Continued)**

8. WHEREAS, should the surety elect to cancel this bond, the surety agrees to give the principal and the BLM 90 days written notice by certified mail, return receipt requested, at their respective addresses as stated herein. The address for service to BLM concerning this bond

is the BLM \_\_\_\_\_ State Office located at \_\_\_\_\_

The surety further agrees that in the event of such cancellation this bond will remain in full force and effect as to all areas within the plan of operations/notice disturbed prior to the effective date of such cancellation, unless and until the principal should file a substitute bond or other acceptable instrument to protect the interests of the BLM and such bond or instrument is accepted by the BLM; and

- 9. WHEREAS, the principal and surety agree that in the event of any default under the plan of operations and/or notice, the bond may be forfeited and, the United States, through the BLM, may commence and prosecute any claim, suit, or other proceeding against the surety and principal, or either of them, without the necessity of joining the owner(s) of the mining claim(s), mill site(s), or tunnel site(s) covered by the plan of operations and/or notice; and
- 10. WHEREAS, if the principal fails to comply with the provisions of 43 CFR 3802 and 43 CFR 3809, the principal will be subject to the applicable provisions and penalties of Sections 303 and 305 of the Federal Land Policy and Management Act of 1976, *as amended*, (43 U.S.C. 1733 and 1735). This provision should not be construed to prevent the exercise by the United States of any other legal and equitable remedy, including waiver of the default; and
- 11. WHEREAS, on the faith of the foregoing promises, representations, and appointments and in consideration of this bond, the United States has received a notice or approved the plan of operations referenced herein.
- 12. NOW, THEREFORE, the condition of this obligation is that if said principal, heirs, executors, administrators, successors, or assignees will, in all respects, faithfully comply with all of the provisions of the plan of operations and/or notice, and any amendments thereto, and the regulations at 43 CFR 3802 and 43 CFR 3809, then this obligation will be null and void; otherwise it will remain in full force and effect.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_:

Principal \_\_\_\_\_

Surety \_\_\_\_\_

By \_\_\_\_\_  
(Print Name)

Attorney-in-Fact \_\_\_\_\_  
(Print name)

Title \_\_\_\_\_

Signature \_\_\_\_\_

Business Address \_\_\_\_\_

Business Address \_\_\_\_\_

(TIN or SSN, if applicable)

(TIN)

**This bond must bear the seal of the surety company. If this bond is signed by a corporation, it should bear the seal of the corporation, if applicable.**

**NOTICE**

The Privacy Act of 1974 and the regulation in 43 CFR 2.48(d) provide that you be furnished the following information in connection with information required by this application.

AUTHORITY: 30 U.S.C. 22 et seq.; 43 U.S.C. 1732[b] and 1782[c]; 31 U.S.C. 9301 et seq.; 43 CFR 3802 and 43 CFR 3809.

PRINCIPAL PURPOSE: Information is being used to establish financial responsibility for surface disturbance on public lands.

ROUTINE USES: BLM will only disclose the information according to the regulations at 43 CFR 2.56(d).

EFFECT OF NOT PROVIDING INFORMATION: Disclosure of the information is necessary to receive a benefit. Failure to disclose this information may result in BLM's rejection of your application.

The Paperwork Reduction Act of 1995 requires us to inform you that:

BLM collects this information to grant the right to conduct exploration and mining activities on public lands.

Response to this request is required to obtain a benefit.

BLM would like you to know that you do not have to respond to this or any other Federal agency-sponsored information collection unless it displays a currently valid OMB control number.

**BURDEN HOURS STATEMENT**

Public reporting burden for this form is estimated to average 8 minutes per response, including the time for reviewing instructions, gathering and maintaining data, and completing and reviewing the form. Direct comments regarding the burden estimate or any other aspect of this form to U.S. Department of the Interior, Bureau of Land Management (1004-0194), Bureau Information Collection Clearance Officer (WO-630), 1849 C Street, N.W., Washington, D.C. 20240.

## ATTACHMENT 3

Form 3809-2, Surface Management Personal Bond

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT

**SURFACE MANAGEMENT PERSONAL BOND**

*Act of May 10, 1872, as amended (30 U.S.C. 22-54)*  
*Act of December 29, 1916, as amended (39 Stat. 862)*  
*Act of October 21, 1976, as amended (43 U.S.C. 1732-35, 1782)*  
*Act of September, 13, 1982 (31 U.S.C. 9301 et seq.)*  
*Act of September 27, 1988 (102 Stat. 1776)*  
*Act of April 16, 1993 (43 U.S.C. 299)*

FORM APPROVED  
OMB NO. 1004-0194  
Expires: January 31, 2007

Individual \_\_\_\_\_ ; or Statewide \_\_\_\_\_ ; or Nationwide \_\_\_\_\_  
(Enter BLM Serial No.) (Enter Name of State, if applicable) ("Yes," if applicable)

KNOW ALL MEN BY THESE PRESENTS, THAT \_\_\_\_\_  
(name)

of \_\_\_\_\_  
(address)

as principal; is held firmly bound unto the United States of America in the sum of \_\_\_\_\_  
\_\_\_\_\_ U. S. dollars (\$ \_\_\_\_\_ ).

lawful money of the United States, which may be increased or decreased by a rider hereto executed in the same manner as this bond.

The principal, pursuant to the authority conferred by Section 1 of the Act of September 13, 1982 (31 U.S.C. 9303), does hereby constitute and appoint the Secretary of the Interior to act as his attorney-in-fact for the purpose of negotiating the cash, letters of credit, savings accounts, certificates of deposit, or securities. The interest accruing on the United States securities, cash, or other instruments given above, in the absence of any default in the performance of any of the conditions, or stipulations set forth in this bond, the plan of operations/notice, must be paid to the principal. The principal hereby, for any heirs, executors, administrators, successors, and assignees, jointly and severally, ratifies and confirms whatever the Secretary will do by virtue of these presents.

The Secretary will transfer this deposit for the faithful performance of any and all of the conditions and stipulations as set forth in this bond, the plan of operations/notice cited above, and the regulations at 43 CFR 3802 and 43 CFR 3809. In the case of any default in the performance of the conditions and stipulations of such undertaking, it is agreed that the Secretary will have full power to assign, appropriate, apply, or transfer the deposit, or any portion thereof, to the satisfaction of any damages, reclamation, assessments, penalties, or deficiencies arising by reason of such default.

**BOND CONDITIONS**

1. WHEREAS, the principal has an interest in a mining claim(s), mill site(s), or tunnel site(s) and/or responsibility for operations and/or reclamation on the mining claim(s), mill site(s), tunnel site(s) or public lands under the Acts cited in this bond; and
2. WHEREAS, the principal has filed an acceptable notice with the United States Department of the Interior, Bureau of Land Management (BLM) and/or received approval from the BLM of the plan of operations cited above and said plan of operations/notice contains certain stipulations and conditions; and
3. WHEREAS, the principal hereby waives any right to notice of, and agrees that this bond will remain in full force and effect notwithstanding:
  - a. Any transfer(s) in whole or in part, of any or all of the land covered by the plan of operations/notice further agrees to remain bound under this bond as to the interests in the plan of operations/notice retained by the principal; and
  - b. Any modification of the plan of operations/notice or obligations thereunder; and
4. WHEREAS, the principal hereby agrees that notwithstanding the cancellation or relinquishment of any mining claim(s), mill site(s), or tunnel site(s) covered by this plan of operations/notice, whether by operation of law or otherwise, the bond will remain in full force and effect as to the terms and conditions of the plan of operations/notice, and obligations covered by this bond; and
5. WHEREAS, the principal agrees that in the event of any default under the plan of operations/notice and/or reclamation plan the bond may be forfeited and, the United States, through the BLM, may commence and prosecute any claim, suit, or other proceeding against the principal without the necessity of joining the owner(s) of the mining claim(s), mill site(s), or tunnel site(s) covered by the plan of operations/notice; and
6. WHEREAS, if the principal fails to comply with the provisions of 43 CFR 3802 and 43 CFR 3809, the principal will also be subject to the applicable provisions and penalties of Sections 303 and 305 of the Federal Land Policy and Management Act of 1976, *as amended* (43 U.S.C. 1733 and 1735). This provision will not be construed to prevent the exercise by the United States of any other legal and equitable remedy, including waiver of the default; and

Title 18 U.S.C. Section 1001 and Title 43 U.S.C. Section 1212 make it a crime for any person knowingly and willfully to make to any department or agency of the United States any false fictitious, or fraudulent statements or representations as to any matter within its jurisdiction.

**BOND CONDITIONS (Continued)**

7. WHEREAS, on the faith of the foregoing promises, representations, and appointments, and in consideration of this bond, the United States has accepted the notice or approved the plan of operations referenced herein.

8. NOW, THEREFORE, the condition of this obligation is such that if said principal(s), heirs, executors, administrators, successors, or assignees will, in all respects, faithfully comply with all of the provisions of the plan of operations/notice referenced herein, any amendments thereto, and the regulations at 43 CFR 3802 or 43 CFR 3809, then this obligation will be null and void; otherwise it will remain in full force and effect.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_:

State of \_\_\_\_\_

Principal \_\_\_\_\_

County of \_\_\_\_\_

By \_\_\_\_\_  
(Print name)

Subscribed and sworn to before me this \_\_\_\_\_ day

Signature \_\_\_\_\_

of \_\_\_\_\_, 20 \_\_\_\_.

Title \_\_\_\_\_

Business Address \_\_\_\_\_

\_\_\_\_\_  
(Notary Public)

\_\_\_\_\_  
(Date Commission Expires)

\_\_\_\_\_  
(TIN or SSN No., if applicable)

**If this bond is executed by a corporation, it should bear the seal of the corporation, if applicable.**

**NOTICE**

The Privacy Act of 1974 and the regulation in 43 CFR 2.48(d) provide that you be furnished the following information in connection with information required by this application.

**AUTHORITY:** 30 U.S.C. 22 et seq.; 43 U.S.C. 1732[b] and 1782[c]; 31 U.S.C. 9301 et seq.; 43 CFR 3802 and 43 CFR 3809.

**PRINCIPAL PURPOSE:** Information is being used to establish financial responsibility for surface disturbance on public lands.

**ROUTINE USES:** BLM will only disclose the information according to the regulations at 43 CFR 2.56(d).

**EFFECT OF NOT PROVIDING INFORMATION:** Disclosure of the information is necessary to receive a benefit. Failure to disclose this information may result in BLM's rejection of your application.

The Paperwork Reduction Act of 1995 requires us to inform you that:

BLM collects this information to grant the right to conduct exploration and mining activities on public lands.

Response to this request is required to obtain a benefit.

BLM would like you to know that you do not have to respond to this or any other Federal agency-sponsored information collection unless it displays a currently valid OMB control number.

**BURDEN HOURS STATEMENT**

Public reporting burden for this form is estimated to average 8 minutes per response, including the time for reviewing instructions, gathering and maintaining data, and completing and reviewing the form. Direct comments regarding the burden estimate or any other aspect of this form to U.S. Department of the Interior, Bureau of Land Management (1004-0194), Bureau Information Collection Clearance Officer (WO-630), 1849 C Street, N.W., Washington, D.C. 20240.

## ATTACHMENT 4

Information on Time Deposits and Letters of Credit for  
Reclamation Bonding of Notices and Plans of Operations

U.S. Department of the Interior  
Bureau of Land Management  
Nevada State Office

**Information on Time Deposits and Letters of Credit  
For Reclamation Bonding of Plans of Operations**

The following information is provided to assist an entity in obtaining a Time Deposit or an Irrevocable Letter of Credit to be used as security for Bureau of Land Management (BLM) surface reclamation bond (Form 3809-2, Attachment 3). It is suggested that you take these guidelines with you to the bank when you go to inquire about obtaining a time deposit or letter of credit. If you, or the financial institution, have questions, please call the BLM Nevada State Office at 775-861-6400, Branch of Minerals Adjudication.

**Certificates of Deposit and other Time Deposit Instruments**

The Certificate of Deposit or other time deposit (TD) must be issued by a financial institution, the deposits of which are federally insured, explicitly granting the Secretary of the Interior full authority to demand immediate payment in case of default in the performance of the terms and conditions of the 3809 notice or plan or operations. The TD shall explicitly indicate on its face that Secretarial approval is required prior to redemption of the TD by any party.

If the bond is secured by a certificate of deposit or other fixed time deposit, the TD must be presented to the BLM Nevada State Office with the following conditions:

1. The financial institution issuing the TD must be insured by the Federal Deposit Insurance Corporation (FDIC), the Federal Savings and Loan Insurance Corporation (FSLIC), the National Credit Union Association (NCUA), or otherwise federally insured.
2. A TD cannot exceed the insured amount from any one financial institution for any one depositor.
3. The BLM must hold sole right to redeem the TD. Bank records must be provided showing that only the BLM may collect the amount of the TD. The TD should be made in the name of the U.S. Department of the Interior - BLM. If the TD is not directly issued in the name of the Department of the Interior - BLM, then the TD must explicitly state on its face that **"The Secretary of the Interior must approve the redemption of the TD by any party."** Any earned interest will be paid to the obligor, not to BLM.
4. The TD should be provided in the amount required for surface reclamation and include an additional amount sufficient to cover any penalties for early withdrawal. If the TD is submitted for only the amount determined for surface reclamation, any penalties for early redemption will be paid from the obligor's interest earned and not from the principal amount of the TD.

## **Irrevocable Letters of Credit**

An irrevocable letter of credit must be issued by a financial institution organized or authorized to do business in the United States and identify the Department of the Interior, Bureau of Land Management as the sole payee with full authority to demand immediate payment in the case of default in the performance of the terms the notice and/or plan of operations or of default with replacement when required.

A Letter of Credit (LC) must be presented to the BLM Nevada State Office as follows:

1. The LC must be payable to the Department of the Interior - BLM.
2. The initial expiration date must not be less than one year from the effective date of the LC. The LC must contain a provision for automatic renewal for periods of not less than one-year in the absence of notice from the bank to the BLM Nevada State Office at least 90 days prior to the originally stated or any extended expiration date of bank's election not to renew.
3. The LC must contain provisions allowing collection by BLM for failure of the obligor to replace the bond when 90-day notice is given by the bank that the LC will not be renewed and the LC is not replaced by other suitable bond or LC at least 30 days before its expiration date.
4. The LC shall be payable to the BLM upon demand, in part or in full, upon receipt from the authorized officer (BLM Nevada State Office) of a notice of attachment stating the basis therefor, e.g., default in compliance with the notice or plan of operations or the failure to file a replacement for an expiring LC as described in Item 3 above.
5. The LC must be subject to the Uniform Customs and Practice for Documentary Credits. The current version is the 1993 revision, ICC Publication No. 500.

The following page is sample language to be used when securing an Irrevocable Letter of Credit.

Irrevocable Letter of Credit No.: \_\_\_\_\_

Date Issued: \_\_\_\_\_

Beneficiary:

DOI, Bureau of Land Management  
Nevada State Office  
1340 Financial Blvd.  
P.O. Box 12000  
Reno, NV 89520-0006

Ladies and Gentlemen:

On behalf of (operator or other entity) \_\_\_\_\_ of \_\_\_\_\_ (address) \_\_\_\_\_, as obligor, we (bank) of \_\_\_\_\_ (address) \_\_\_\_\_ hereby establish an Irrevocable Letter of Credit in favor of the U.S. Department of Interior, Bureau of Land Management (BLM) and agree to pay upon demand by BLM, up to an aggregate amount of U.S.\$ \_\_\_\_\_ upon receipt of your sight draft(s) on us and your written notification signed by a purported authorized officer of the BLM to the effect the obligor has been determined to be in default and the amount drawn represents the reasonable amount, as determined by the BLM, of such default.

This Letter of Credit is available with \_\_\_\_\_ (bank or financial institution) at \_\_\_\_\_ (address) by sight payment. Partial drawings are permitted.

This Letter of Credit is effective \_\_\_\_\_ (date) \_\_\_\_\_, and will expire at our offices in \_\_\_\_\_ (address) \_\_\_\_\_ on (minimum of 1 year from effective date), and shall thereafter be automatically renewed for a one year period upon such date and upon each anniversary of such date, unless at least ninety (90) days prior to the then current expiration date we notify you at the above address by courier service, that we elect not to renew this letter of credit for such additional period.

Upon receipt by the BLM of such a notice from us not to renew this Letter, the BLM may draw on us at sight for up to the amount of the Letter of Credit, prior to the expiration thereof, provided that such a draft is accompanied by a statement signed by a purported authorized officer of the BLM that no satisfactory replacement bond has been provided by the obligor prior to 30 days before this Letter of Credit expires.

It shall not be required for the BLM, in order to draw on this Letter of Credit, to furnish the original Letter; however, it is understood, as a condition of any payment thereunder, that the face amount of the Letter shall automatically be reduced by any payment made by the bank and that the BLM will promptly surrender the original Letter of Credit when and if the bank shall tender to the BLM the full amount of funds represented by this Letter; such surrender to occur as soon as reasonably practical after full payment is made. The original Letter of Credit shall also be surrendered promptly following its expiration.

We promise that the amount of credit herein established will not be reduced for any reason during the effectiveness of this Letter of Credit without the prior written approval of the BLM.  
*Optional: We are informed that this Letter of Credit is issued per the requirements of Title 43 Code of Federal Regulations, Subpart 3809.*

This credit is subject to the Uniform Customs and Practice for Documentary Credits, 1993 revision, ICC Publication No. 500.

## ATTACHMENT 5

### Information on Negotiable Securities of the United States

U.S. Department of the Interior  
Bureau of Land Management  
Nevada State Office

**INFORMATION ON NEGOTIABLE SECURITIES  
OF THE UNITED STATES**

General information on pledging U.S. Treasury securities as collateral to the U.S. Government is found at 31 U.S.C. 9303 *et seq.* and U.S. Treasury Circular 154, which was incorporated into the Code of Federal Regulations at 31 CFR 225 (Acceptance of Bonds, Notes, or Other Obligations Issued or Guaranteed by the United States as Security in Lieu of Surety or Sureties on Penal Bonds).

The following is to assist the applicant in obtaining a U.S. Treasury Bill, Note, or Bond to be used as security for bond coverage required by the Bureau of Land Management (BLM), the Department of the Interior. Instead of being transferred to BLM's book-entry account through the Federal Reserve Bank (FRB) as in the past, securities are now held in a Circular 154, U.S. Government Account Number 11, under the depository financial institution's American Bankers Association (ABA) number with the FRB. Once a security is transferred into Circular 154 Account Number 11, neither the obligor nor the bank will be able to access the security without the BLM providing authorization to the FRB to do so.

Therefore, when you contact your bank to purchase a negotiable U.S. Treasury security, you need to send the following to the BLM Nevada State Office as soon as possible:

1. Your name and mailing address. (If this is not the operator according to the plan or notice filed with the BLM, include the operator's name and address.)
2. The BLM serial number of the operations being bonded or a statement that the security is being pledged for a statewide or nationwide bond.
3. The type of Treasury security purchased (bill, bond, or note).
4. The par amount of the security, the interest rate, and the maturity date of the security.
5. The Committee on Uniform Securities Identification Procedures (CUSIP) number of the security.
6. The name and mailing address of your bank, along with the name and telephone number of a contact person at your bank.
7. The bank's nine-digit American Bankers Association number.
8. The name of the FRB or FRB Branch servicing the depository financial institution.
9. A copy of your written authorization to the bank to establish a Treasury security.

Upon receipt of the above information, the BLM will telefax a copy of that information to the BLM Business Center, Accounting Operations Division, Negotiable Securities Manager. The Negotiable Securities Manager will then contact the FRB and the obligor's bank to authorize the transfer of the Treasury security to the Circular 154, Account Number 11.

THE OBLIGOR'S BANK MUST NOT TRANSFER THE SECURITY TO THE CIRCULAR 154, ACCOUNT NUMBER 11 UNTIL AUTHORIZATION IS GIVEN BY THE BLM NEGOTIABLE SECURITIES MANAGER.

When the security is transferred to the Circular 154, Account Number 11, the bank must include the following information in the electronic transfer message: "Security pledged to DOI- BLM Nevada State Office by [name of obligor] for [BLM bond number \_\_\_\_\_ ]." The following is an example of an acceptable transfer message: "Security pledged to DOI- BLM, Nevada State Office by (Zephyr Mining Company) for BLM Bond Number NVB003489.

The obligor is to provide the following to the BLM office as soon as possible:

1. A fully-completed BLM personal bond form (Form 3809-2). See Attachment 3.
2. A transaction document from your bank to verify the amount that you paid for the security, excluding any commission fee and accrued interest, equals or exceeds the bond amount required by BLM. A discounted value less than the full amount is NOT acceptable. If a Treasury security, purchased at a discount, is submitted for less than the required bond amount, the bonded party must make up the difference (certified check, etc.) otherwise the bond will be returned unaccepted.

Once the security is transferred to the Circular 154, Account Number 11, the FRB will send the Negotiable Securities Manager a confirmation of the transfer, including the date of transfer, titled, "Acknowledgment of Book Entry Deposit, Release of Account Transfer" and/or "Statement of Pledged Activity." The BLM National Business Center will send a copy of the Statement or Acknowledgment will be sent to the BLM office to document the transfer.

Upon receipt of the items from the obligor and the Negotiable Securities Manager, the BLM office will notify the entity by written decision that the personal bond has been accepted, the BLM Bond Number assigned to the bond, and the date bond coverage is effective. A copy of the bond acceptance decision is sent to the Negotiable Securities Manager. The BLM will notify the obligor in its decision that (1) the personal bond has been accepted, (2) the BLM bond number assigned to the bond, and (3) the date the bond coverage is effective.

The BLM Negotiable Securities Manager will notify BLM about a maturing Treasury security about 90 days before the maturity date, and the BLM in turn will notify the obligor by letter that the security is maturing.

If bonding continues to be required and a satisfactory replacement financial instrument has not been accepted by BLM **before** the maturity date of the security, the security will be reinvested automatically upon maturity.

If a satisfactory replacement financial instrument has been accepted by BLM or a determination has been made by the appropriate BLM office(s) that bonding is no longer required, **after** the maturity date of the security, the BLM adjudication will send a memorandum requesting the Business Center to direct the FRB to transfer the security from the Circular 154, Account Number 11 to the obligor's bank.

If the entity is in default with the terms and conditions of the plan of operations or notice for which bonding was required, and collection under the bond is warranted, the BLM office will send the Negotiable Securities Manager a memorandum requesting that at maturity, the cash proceeds be transferred to BLM.

If your bank has any questions about the information provided, a bank representative should contact the servicing FRB. Any questions regarding BLM's procedures may be directed to the BLM National Business Center, Accounting Operations Division, Collections and Billings Branch at P.O. Box 25047, Denver, CO 80225-0047 (telephone number 303-236-6321). For information regarding BLM bond requirements in general, the entity may contact the BLM Nevada State Office at 775-861-6500.

## ATTACHMENT 6

Form 3809-4, Bond Rider Extending Coverage of Bond to Assume Liabilities for Operations Conducted by Parties Other Than the Principal (Third-Party Rider)

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT

**Form for Bond Rider Extending Coverage of Bond to Assume Liabilities for  
Operations Conducted by Parties Other Than the Principal  
(Consent of Surety)  
RIDER**

BLM Bond Number

Surety Bond Number, if applicable

The principal and surety (or principal/obligor, if a personal bond) hereby agree to extend the coverage of the bond referenced above to include liabilities for operations conducted by \_\_\_\_\_ on \_\_\_\_\_

(Name of Mine/Operation)

plan/notice serial number \_\_\_\_\_ in which the principal holds interest or in the State of \_\_\_\_\_ (Statewide bond) or Nationwide (Nationwide bond).

Coverage includes the faithful performance of all plan of operations or notice level operations, both past and future, including the responsibility for all surface reclamation, as filed or approved by the Bureau of Land Management (BLM).

This coverage of plan of operations or notice level operations, will continue whether or not the plan(s) and/or notice(s) subsequently expire, terminate, are abandoned, suspended or revoked; provided however, that this rider will not act to increase the actual cumulative or potential liability for the surety above the face amount of the bond (penal sum).

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

Principal \_\_\_\_\_

Surety \_\_\_\_\_

By \_\_\_\_\_  
(Print Name)

By \_\_\_\_\_

Signature \_\_\_\_\_

Attorney-in-Fact \_\_\_\_\_  
(Print Name)

Title \_\_\_\_\_

Business Address \_\_\_\_\_

Business Address \_\_\_\_\_

(TIN or SSN, if applicable)

(TIN or SSN)

**This bond must bear the seal of the surety company, if a surety bond. If this bond is signed by a corporation, it should bear the seal of the corporation, if applicable.**

**NOTICE**

The Privacy Act of 1974 and the regulation in 43 CFR 2.48(d) provide that you be furnished the following information in connection with information required by this application.

AUTHORITY: 30 U.S.C. 22 et seq.; 43 U.S.C. 1732[b] and 1782[c]; 31 U.S.C. 9301 et seq.; 43 CFR 3802 and 43 CFR 3809.

PRINCIPAL PURPOSE: Information is being used to establish financial responsibility for surface disturbance on public lands.

ROUTINE USES: BLM will only disclose the information according to the regulations at 43 CFR 2.56(d).

EFFECT OF NOT PROVIDING INFORMATION: Disclosure of the information is necessary to receive a benefit. Failure to disclose this information may result in BLM's rejection of your application.

The Paperwork Reduction Act of 1995 requires us to inform you that:

BLM collects this information to grant the right to conduct exploration and mining activities on public lands.

Response to this request is required to obtain a benefit.

BLM would like you to know that you do not have to respond to this or any other Federal agency-sponsored information collection unless it displays a currently valid OMB Control Number.

**BURDEN HOURS STATEMENT**

Public reporting burden for this form is estimated to average 8 minutes per response, including the time for reviewing instructions, gathering and maintaining data, and completing and reviewing the form. Direct comments regarding the burden estimate or any other aspect of this form to U.S. Department of the Interior, Bureau of Land Management (1004-0194), Bureau Information Collection Clearance Officer (WO-630), 1849 C Street, N.W., Washington, D.C. 20240

Title 18 U.S.C. Section 1001 and Title 43 U.S.C. Section 1212 make it a crime for any person knowingly and willfully to make to any department or agency of the United States any false fictitious, or fraudulent statements or representations as to any matter within its jurisdiction.

## ATTACHMENT 7

Form 3809-4a, Surface Management Personal Bond  
Rider Form

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
**SURFACE MANAGEMENT PERSONAL BOND RIDER**

OMB APPROVED  
OMB No. 1004-0194  
Expires: January 31, 2007

In consideration for this rider and the acceptance of this rider by the Bureau of Land Management on behalf of the United States of America, this rider attaches to and is part of Surface Management Bond No. \_\_\_\_\_ issued on behalf of \_\_\_\_\_  
(BLM Bond No.)

principal, in favor of the United States. The bond provides coverage as shown below:

Individual \_\_\_\_\_ ; or Statewide \_\_\_\_\_ ; or Nationwide \_\_\_\_\_  
(Enter BLM Serial No.) (Enter Name of State, if applicable) (Enter "Yes," if applicable)

**INCREASE/DECREASE IN DOLLAR AMOUNT OF BOND COVERAGE**

It is understood and agreed that \_\_\_\_\_, principal, is increasing/decreasing the coverage of this bond to the amount shown below; however, this rider shall not act to increase/decrease the actual cumulative or potential liability above the face amount of the bond, to wit: \_\_\_\_\_  
\_\_\_\_\_ U.S. dollars (\$ \_\_\_\_\_).

**STATEWIDE/NATIONWIDE BOND**

The principal hereby agrees to and extends bond coverage to include any and all operations under 43 CFR 3802 and 43 CFR 3809.

Include name of State if coverage is Statewide \_\_\_\_\_.

**BOND COVERAGE EXTENDED**

The principal hereby agrees to and extends bond coverage to include notice-level operations pursuant to regulations at 43 CFR 3809.

**THIRD PARTY POSTING OF THE FINANCIAL INSTRUMENT FOR THE BOND**

It is understood and agreed that \_\_\_\_\_, is pledging the financial instrument to secure the attached bond on behalf of, \_\_\_\_\_ operator and principal on the bond.

**COPRINCIPAL**

It is understood and agreed that \_\_\_\_\_, principal, is extending the coverage of the bond referenced above to include liabilities for operations conducted by \_\_\_\_\_ on notice/plan of operations serialized \_\_\_\_\_.

(Continued on page 2)

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**NOTE**

This coverage of obligations shall continue whether or not a notice/plan of operations has subsequently been suspended or terminated. This rider shall not act to increase the actual cumulative or potential liability of the principal or bond above the face amount of the bond. Nothing herein contained shall vary, alter, or extend any provision or condition of this bond except as herein expressly stated.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_ :

\_\_\_\_\_  
(Principal)

\_\_\_\_\_  
(TIN or SSN, if applicable)

\_\_\_\_\_  
(By)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Business Address)

State of \_\_\_\_\_ County of \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_

by \_\_\_\_\_

\_\_\_\_\_  
(Notary Public)

\_\_\_\_\_  
(My Commission Expires)

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**NOTICE**

The Privacy Act of 1974 and the regulation in 43 CFR 2.48(d) provide that you be furnished the following information in connection with information required by this application.

**AUTHORITY:** 30 U.S.C. 22 et seq.; 43 U.S.C. 1732[b] and 1782[c]; 31 U.S.C. 9301 et seq.; 43 CFR 3802 and 43 CFR 3809.

**PRINCIPAL PURPOSE:** Information is being used to establish financial responsibility for surface disturbance on public lands.

**ROUTINE USES:** BLM will only disclose the information according to the regulations at 43 CFR 2.56(d).

**EFFECT OF NOT PROVIDING INFORMATION:** Disclosure of the information is necessary to receive a benefit. Failure to disclose this information may result in BLM's rejection of your application.

The Paperwork Reduction Act of 1995 requires us to inform you that:

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Department of the Interior, Bureau of Land Management (1004-0194), Bureau Information Collection Clearance Officer (WO-630), 1849 C Street, N.W., Washington, D.C. 20240.

## ATTACHMENT 8

Attachment "A" of the NDEP Reclamation Permit

# Attachment "A" of the NDEP Reclamation Permit

An operator may request surety release in accordance with applicable State and Federal regulations. The following documentation must be submitted simultaneously to NDEP and the Federal land management agency prior to the agencies conducting a site inspection.

## MINING OPERATIONS

1. Map(s) clearly identifying the area, noting specific treatments and sampling locations (as applicable).

2. Description of the following activities:

A. Earthwork:

1. The number of acres regraded and/or ripped.
2. Final slope angles left after regrading.
3. Methodology used to check final slope angles (e.g., clinometer, transit, etc.)
4. The number of acres that received topsoil/growth medium.
5. Depth and source of topsoil/growth medium and application method.
6. Dates of initiation and completion of activities.

B. Revegetation Activities:

1. The number of acres that were seeded and/or planted.
2. Seed bed preparation methods utilized.
3. Seeding/planting methods used (e.g., broadcast seeding, etc.).
4. Provide information on how seed was covered.
5. Seed mix and seeding rate; document by maintaining seed tags and any testing results (PLS, germination, noxious weeds, etc.)
6. The number of acres that received fertilization, mulch or amendments.
7. Fertilizer (N-P-K, type, application rate, application method).
8. Mulches and soil amendments (type, application rate, and application method).
9. Date of initiation and completion of activities (such as seeding, seed bed prep, irrigation).

C. Final Revegetation Sampling:

1. Adjacent representation type or range site description (baseline data).
2. Sampling method (e.g., line intercept).
3. Number of samples taken (disturbed and adjacent representative sites).
4. Statement of methodology demonstrating sample size, adequacy, and how the locations of sampling sites were determined.
5. Results of sampling (copy of sampling worksheet) for disturbed and representative areas. Indicate all perennial species located.
6. Dates of sampling.

D. Other Reclamation Activities:

Other reclamation activities, such as; structure and debris removals, safety feature installation, erosion control treatment, equipment removal or other permit requirements.

# Attachment "A" of the NDEP Reclamation Permit

3. Detailed calculation of the surety amount proposed for release if applicable.
4. Prior to release, a field inspection is required to verify that reclamation has been performed in accordance with the approved reclamation plan and permit.

## EXPLORATION PROJECTS

1. Map(s) clearly identifying the area, noting specific treatments and sampling locations (as applicable).

2. Description of the following activities:

A. Earthwork:

1. The number of acres regraded.
2. Dates of initiation and completion of activities.

B. Revegetation Activities:

1. The number of acres that were seeded and/or planted.
2. Seed bed preparation methods utilized.
3. Seeding/planting methods used (e.g., broadcast seeding, etc.).
4. Provide information on how seed was covered.
5. Seed mix and seeding rate; document by maintaining seed tags and any testing results (PLS, germination, noxious weeds, etc.).
6. The number of acres that received fertilization, mulch or amendments.
7. Fertilizer (N-P-K, type, application rate, application method).
8. Mulches and soil amendments (type, application rate, and application method).
9. Date of initiation and completion of activities.

C. Other Reclamation Activities: Other reclamation activities such as drill hole plugging, structure and removal, safety feature installation, erosion control treatment, equipment removal or other permit requirements.

3. Detailed calculation of the surety amount proposed for release if applicable.
4. Prior to release, a field inspection is required to verify that reclamation has been performed in accordance with the approved reclamation plan and permit.

## ATTACHMENT 9

Form 3809-5, Notification of Change of Operator and  
Assumption of Past Liability

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT

FORM APPROVED  
OMB No. 1004-0194  
Expires: January 31, 2007

**NOTIFICATION OF CHANGE OF OPERATOR AND ASSUMPTION OF PAST LIABILITY**

The mining law surface management regulations at 43 CFR 3809 require that obligations accrued or conditions created under an operation remain with that operator until (1) BLM accepts a satisfactory replacement financial guarantee adequate to cover the previously accrued obligations **and** (2) BLM receives documentation that a transferee accepts responsibility for the transferor's previously accrued obligations. Therefore, the undersigned transferee hereby assumes all liabilities that may be outstanding on the plan of operations or notice shown below, including, but not limited to, the obligation to properly reclaim and restore the land disturbed on said plan or notice within the approved reclamation plan or notice filed with the BLM; provided that the obligation shall not act to increase the potential or cumulative liability above the face amount of the replacement bond to which this notification attaches in the amount stated below as required from the transferee.

1. BLM Notice or Plan of Operations Number(s): \_\_\_\_\_

2. Date BLM Accepted Notice or Approved the Plan of Operations: \_\_\_\_\_

3. Change of operator on the Notice(s) or Plan(s) shown is proposed on \_\_\_\_\_ as follows:  
(Date)

FROM: Current Operator (Transferor) \_\_\_\_\_

Address \_\_\_\_\_

Address \_\_\_\_\_

By \_\_\_\_\_  
(Print Name)

Signature \_\_\_\_\_

Title \_\_\_\_\_

Surface Reclamation Bonding Amount Currently Obligated: Sum of \_\_\_\_\_  
\_\_\_\_\_ U.S. dollars (\$ \_\_\_\_\_).

TO: Proposed Operator (Transferee) \_\_\_\_\_

Address \_\_\_\_\_

Address \_\_\_\_\_

By \_\_\_\_\_  
(Print Name)

Signature \_\_\_\_\_

Title \_\_\_\_\_

Surface Reclamation Bond: Sum of \_\_\_\_\_  
\_\_\_\_\_ U.S. dollars (\$ \_\_\_\_\_).

\_\_\_\_\_  
(TIN or SSN)

Change of Operator Approved Pending Acceptance of Satisfactory Bond:

\_\_\_\_\_  
(Field Manager)

\_\_\_\_\_  
(Date)

cc: State Office  
Surety, if applicable

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**NOTICE**

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**AUTHORITY:** 30 U.S.C. 22 et seq.; 43 U.S.C. 1732[b] and 1782[c]; 31 U.S.C. 9301 et seq.; 43 CFR 3802 and 43 CFR 3809.

**PRINCIPAL PURPOSE:** Information is being used to establish financial responsibility for surface disturbance on public lands.

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