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IN REPLY REFER TO:

United States Department of the Interior

OFFICE OF SURFACE MINING
Reclamation and Enforcement
P.O. Box 46667
Denver, Colorado 80201-6667

FILL IN: INCOMING
GENERAL CORRESPONDENCE

CC DAEON
JIM
JOL

Q

861 359 3940

1/21/09

TO: JOE HELTRICH / OGM

FR: HENRY AUSTRIO / OSM

Hey JOE:

See attached bond release guidance documents we have been discussing:

- ① OSM / WR / Generic Federal Lands Guidance
- ② 1997 / CO - DRMS (CO-DMG 114 1997) Federal Lands Bond Release Agreement with OSM & BLM.

Best wishes JOE!

Henry

- 10 PAGES TO FOLLOW -



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Permanent Program Federal Lands

Bond Release Guidance

Office of Surface Mining
Western Region
Approved 2/6/01

Federal Lands Bond Release Guidance

The Western Region of the Office of Surface Mining Reclamation and Enforcement (OSM), has prepared this guidance document to clarify OSM's role in the release of reclamation performance bonds on coal mines involving Federal Lands where a Co-operative Agreement exists between a State and the U.S. Department of the Interior. This guidance document is not intended to replace nor supplement the regulations.

Discussion

Bond release on Federal Lands where a Cooperative Agreement with a State exists may occur at the completion of the phases of reclamation defined by the appropriate State Regulations and upon receipt and approval by the State of an application for release under the State Program. However, under 30 CFR 740.15(d)(3) OSM is required to concur in State's performance bond releases where there is an approved mining plan.

The Federal Lands rule change in 1983 eliminated the need for dual permitting on Federal lands, delegated to the States (under Cooperative Agreements) the SMCRA responsibilities, and defined the respective roles of Federal Agencies for Federal Lands, including Secretarial approval of a Mining Plan submitted as part of a Mining Plan Decision Document where leased Federal coal is involved.

The revised rule authorized States with Cooperative Agreements to assume the entire responsibility for the SMCRA permitting on Federal Lands. This delegation of SMCRA responsibilities included bonding and bond release. OSM's concurrence in bond release where there is an approved mining plan is complimentary to and not duplicative of the State bond release activity and focuses on documenting that reclamation is consistent with the approved mining plan for non-SMCRA issues.

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Procedure

Since the United States Office of Surface Mining is a co-payee on bonds covering Federal lands, OSM must administratively release the bond in cooperation with the State Regulatory Authority. OSM must also concur in the release where there is an approved mining plan.

Upon notification by the State Regulatory Authority that a bond release application is being processed on Federal Lands covered by an approved mining plan, the Field Office will schedule an inspection and review of the parcel subject to the release application. This may include a site visit but does not necessarily require one.

Procedures for a bond release inspection will conform with the requirements of the State-specific Cooperative Agreement. OSM's Bond Release concurrence will be achieved by the applicable Field Office documenting the results of the inspection/review after determining whether the reclamation is consistent with the approved mining plan for all known Federal non-SMCRA issues.

The Field Office Director shall provide the RA with a letter concurring in the bond release or explaining the reasons why OSM's concurrence may not be given.

Depending upon the kind of bond being released [i.e., surety bond, certificate of deposit, etc.], the Bond Approving Officials of the respective agencies may need to coordinate the endorsement of instruments, release of deeds of trust, if applicable, or joint letters of release to banks that issued letters of credit, or joint letters to surety companies, as necessary.

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STATE OF COLORADO

WESTERN SUPPORT CENTER
 DIVISION OF MINERALS AND GEOLOGY
 Department of Natural Resources
 1313 Sherman St., Room 215
 Denver, Colorado 80202
 Phone: (303) 866-1507
 FAX: (303) 832-8106



DEPARTMENT OF
 NATURAL
 RESOURCES

Roy Romer
 Governor

James S. Lochhead
 Executive Director

Michael B. Long
 Division Director

December 12, 1996

RE: BOND RELEASE APPLICATIONS

Dear Interested Party:

This letter is to assist you in directing bond release applications to the appropriate parties for expedient review, and to inform you of the review process for them. When applying for a bond release on any permitted coal mine, three copies of the application need to be sent to DMG. For the purposes of this letter, a federal mine is one that extracts federally owned coal, or includes federally owned land in the permit area.

Federal Mines

The Office of Surface Mining (OSM) is the joint principal on the performance bond for federal mines, and so must concur with any decision by the Division of Minerals and Geology (DMG) to release bond on a federal mine. Accordingly, a copy of all bond release applications for federal mines must be sent to Mr. Mitchell Rollins, Office of Surface Mining - Denver Field Division, 1999 Broadway, Suite 3320, Denver, Colorado 80202-5733. The application should be sent to OSM at the time it is submitted to DMG.

Non-Federal Mines

Bond release applications for non-federal mines do not need to be sent to OSM. Should OSM conduct oversight on DMG's bond release application review and site inspection, any material needed will be obtained from DMG.

Should you have questions or need additional information, please contact Susan Burgmaier or me at the address and telephone number above.

Sincerely,

Susan J. McCannon
 Coal Program Supervisor

c: Coal Program Staff
 ✓ Mitchell Rollings, OSM

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United States Department of the Interior

OFFICE OF SURFACE MINING

Reclamation and Enforcement
1999 Broadway, Suite 3320
Denver, Colorado 80202-5733

**COPY FOR YOUR
INFORMATION**

July 8, 1997

United States Department of the Interior
Bureau of Land Management
Attn: Mr. Jim Edwards, Resource Supervisor
2850 Youngfield Street
Lakewood, CO 80215

RE: PERFORMANCE BOND RELEASE ON FEDERAL LANDS COAL MINES

Dear Mr. Edwards:

Thank you for taking the time on May 21 to meet with Henry Austin of my staff and provide Bureau of Land Management (BLM) input concerning coordination between the Office of Surface Mining (OSM); Colorado Department of Natural Resources, Division of Minerals and Geology (DMG); and BLM to clarify the procedures necessary for performance bond release on federal lands coal mining operations in Colorado.

Both OSM and DMG recognize BLM's concurrence role in the release of these performance bonds and we felt it would benefit all agencies to establish an agreed upon document which defines the required actions and responsibilities of our respective agencies. The intent of the document is to enhance and expedite the coordination necessary between our agencies during the bond release process.

OSM feels the enclosed document establishes appropriate milestones and guidance in the bond release process from receipt of the application, through the required bond release inspection, and agency concurrence with DMG's proposed decision to release bond.

OSM acknowledges your concern regarding BLM participation in the bond release process for federal mines to the extent that individual release applications may not involve either BLM surface or federal coal ownership, yet require BLM concurrence to conclude the release. OSM remains ready to review and modify this process if necessary based on BLM recommendations.

OSM wishes to acknowledge the contributions of the DMG staff who reviewed, provided comments, and enabled completion of the enclosed procedures document. OSM understands you will distribute the procedures document as necessary to the BLM Resource Area Offices in Colorado.

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Thank you and your staff again for your involvement. Please address any questions regarding implementation of these procedures to Henry Austin at (303) 844-1466 or E-mail to haustin@osmre.gov.

Sincerely,



James F. Fulton, Chief
Denver Field Division

Enclosure

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May 21, 1997

**USDI COOPERATIVE REQUIREMENTS FOR RELEASE OF PERFORMANCE BONDS
ON FEDERAL LANDS COAL MINES**

REFERENCES

- PL 95-87 Release of performance bonds or deposits, Sec. 519 (f)
- 30 CFR 740.15 Bonds on Federal Lands
- 30 CFR 800.40 Requirement to release performance bonds
- 30 CFR 906.30 CO/State-Federal cooperative agreement (Article IX, Bonds/Section 24)
- October, 1979 MOU between BLM / OSM / GS, pg.40 VI d., Release of Bonds

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PROCEDURES FOR COOPERATING STATE AND FEDERAL
REGULATORY AGENCIES TO PROVIDE MUTUAL CONCURRENCE
ON THE RELEASE OF PERFORMANCE BONDS FROM
FEDERAL LANDS COAL MINING OPERATIONS

JUNE 30, 1997

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT
WESTERN REGIONAL COORDINATING CENTER
DENVER FIELD DIVISION

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This bond release procedures document applies to federal lands coal mining operations (both surface and underground coal mines) which are regulated under a cooperative agreement through the Surface Mining Control and Reclamation Act (SMCRA) and individually approved State Regulatory Programs. The Office of Surface Mining Reclamation and Enforcement (OSM) through the Code of Federal Regulations at 30 CFR is responsible for providing bond release concurrence to State Regulatory Authorities (SRA) where the SRA is responsible for implementing a coal mining regulatory program approved by the Secretary of the Interior. These performance bonds for federal lands mines are jointly payable to The United States of America and the respective SRA.

SRA's operating under primacy (designated by the Secretary of the Interior as the primary agency responsible for implementation of a coal mining regulatory program in that state) assume the lead roll whenever their regulatory program actions require coordination and/or formal written concurrence from other state or federal agencies. This document is intended to clarify the process for initiation, follow-up, and completion of various stages in the bond release process.

The Colorado Department of Natural Resources, Division of Minerals and Geology (DMG) located in Denver, CO, has primacy for regulation of coal mining operations in Colorado. OSM's Western Regional Coordinating Center (WRCC) also located in Denver, CO, has federal oversight responsibility for the DMG regulatory program. The United States Department of the Interior, Bureau of Land Management (BLM), authorizes federal coal leases on all federal lands. BLM along with other state and federal land management agencies are also responsible for authorizing leases or permits for disturbance of surface lands under their jurisdiction which will be affected by coal mining operations. Federal coal lease bonds and state or federal bonds for leasing or permitting surface lands are in addition to the performance bond required by the SRA and not the subject of this bond release procedures document.

The Denver Field Division (DFD) of OSM's Western Regional Coordinating Center in cooperation with DMG and BLM in the State of Colorado is proposing the following bond release procedures in an effort to both clarify and expedite the mutual concurrence process required for partial or full release of performance bonds on federal lands coal mining operations.

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PROCEDURES FOR PROCESSING BOND RELEASE
APPLICATIONS ON FEDERAL COAL MINES
IN COLORADO

1. Partial or full performance bond release application for a federal coal mine is submitted by the permittee simultaneously to DMG, BLM, and OSM/DFD.
 - Three copies of the application submitted to DMG
 - One copy of the application submitted to OSM
 - One copy of the application submitted to BLM / Resource Area Office
2. DMG and/or DFD acknowledges receipt of the application through the DMG/OSM Oversight Team (Team) via telecommunication (telephone or E-mail).
3. DFD confirms application receipt with the BLM / Resource Area Office (BLM) via telecommunication and specifies both the nature of the bond release and pending notification of the bond release inspection date.
4. DMG notifies DFD via telecommunication of the scheduled bond release inspection date. DFD notifies BLM via telecommunication of the scheduled inspection date upon notification from DMG. BLM notifies DFD via telecommunication prior to the scheduled inspection date and indicates whether BLM will participate in the inspection.
5. DFD notifies DMG via telecommunication prior to the inspection date and indicates if DFD and/or BLM will participate in the inspection. The Team agrees on logistics for the inspection and DFD notifies BLM via telecommunication of logistical agreement (time, meeting place, transportation, equipment needs, etc.).
6. The bond release inspection is conducted. DMG assumes the lead during the inspection and inspection participants follow DMG's direction. DMG determines when the inspection is completed after consulting with inspection participants. DMG provides an on site inspection close out meeting with all inspection participants and requests preliminary questions/comments concerning the inspection. As the lead agency DMG assumes control over the length/depth of the close out meeting. If OSM is unable to attend a scheduled DMG bond release inspection and schedules a separate inspection, OSM will provide both DMG and BLM with advance notification of the inspection and an opportunity to attend.

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Bond Release, pg.2

7. OSM provides one copy of the Mine-Site Evaluation Inspection Report for the bond release inspection to DMG, BLM, and the permittee. DFD and BLM acknowledge that technical review issues and /or any other problems identified with the bond release application or inspection will be provided to DMG as soon as they are identified with the intention being to provide DMG this information prior to DMG's proposed decision.
8. DMG simultaneously provides one copy of the Proposed Decision and Findings of Compliance for the bond release application and inspection to DFD, BLM, and the permittee. DFD acknowledges receipt of the proposed decision via telecommunication to DMG and BLM. If no issues were identified by DFD and/or BLM, or issues noted have been resolved, DFD and BLM will provide concurrence on the proposed decision. BLM will provide a concurrence letter to DFD and notify DFD via telecommunication of when to expect the letter. DFD will provide a concurrence letter to DMG and include a copy of the BLM concurrence. DFD will copy its concurrence to BLM and the permittee. Both BLM and DFD will provide their concurrence within the 30 day period beginning with DMG's first newspaper publication of the proposed decision.
9. If technical review issues and/or other problems identified remain unresolved at the time DMG distributes its Proposed Decision, DFD and/or BLM will submit to DMG a current written assessment of those issues including timelines for both additional review and resolution of the issues. Either DMG or DFD, through the current Team, may implement the issue resolution methods found at Part V. of the February 6, 1996, Oversight Agreement in order to expedite resolution of issues. If necessary, the Team will request BLM participate in the issue resolution meetings.

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