



State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

Norman H. Bangert
Governor
Dee C. Hansen
Executive Director
Dianne R. Nielson, Ph.D.
Division Director

355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203
801-538-5340

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DRAFT POLICY FOR BOND RELEASE INFORMATION

The objective of this policy is to provide information on the general requirements for bond release in accordance with rules and regulations pertaining to surface and underground coal mining activities in the state of Utah.

PRIOR TO BOND RELEASE REQUEST

In accordance with Section UMC/SMC 800.40 of the regulations [R614-301-880], the operator must submit appropriate reclamation evaluations prior to application for bond release. Additionally, weather conditions must allow for site inspection and evaluation of the work accomplished on the site.

In order to comply with the requirements for bond release, the Operator shall be required to:

1. Address all outstanding stipulations for the permit as required.
2. Submit as-built plans, including designs, reports and drawings of the reclamation work accomplished. Any modifications, amendments, or changes to the reclamation plan as a result of the reclamation work must be approved by the Division and incorporated into the Mining and Reclamation Plan prior to request for bond release.
3. Submit a detailed cost estimate for the remaining reclamation work to be accomplished in the plan. The cost estimate shall include but not be limited to cost for remaining reclamation treatments; revegetation; vegetative, water, and other monitoring requirements; surveys or studies to determine reclamation success; maintenance costs; and, engineering and contingency costs.
4. Submit a copy of the proposed newspaper advertisement for requesting bond release. (see part B below)

REQUEST FOR BOND RELEASE

- A. GENERAL REQUIREMENTS - Bond release information submitted by the operator must contain or reference the following information:
1. Notice Letters shall at a minimum contain the same information as submitted in the Newspaper Advertisement (see part B below). Copies of all Notice Letters shall be submitted to the Division. Notice Letters shall be sent to all parties who have a valid interest in release of the bond notifying them of intention to seek release, and shall include but not be limited to:
 - a. Surface Owners
 - b. Subsurface Owners
 - c. Adjoining Property Owners
 - d. State Historical Society
 - e. State Department of Water Resources
 - f. State Department of Health
 - g. State Department of Wildlife Resources
 - h. Federal Agencies (BLM, Forest Service, Soil Conservation Service, etc. as may be involved with FEDERAL mines)
 - i. County Commissioners
 - i. Mayors
 - j. Local Planning Agencies
 - k. Municipality Authorities
 - l. Others _____
 2. A legal description of the release area.
 3. Maps of a scale of 1"=500' or larger illustrating the boundaries of lands for which bond release is being requested. The maps shall include the entire disturbed area boundaries and delineate areas of prior bond release and include the date and the acreage for the PHASE(S) of reclamation which bond has currently been released.
 4. References to the appropriate portions of the approved mining and reclamation plan and revisions for postmining topography, drainage control, vegetation, intended land use, etc. siting the specific reclamation treatments, areas, and work which was accomplished in consideration for bond release.
 5. A summary of the current bond amount, total disturbed area acreages, and the acreages, locations, dates and amounts of bond released for PHASE I, PHASE II, and PHASE III reclamation.

- B. **NEWSPAPER ADVERTISEMENT** - Newspaper Advertisements shall be approved by the Division PRIOR to publication. A copy of a newspaper advertisement which is published at least once a week for four consecutive weeks in a newspaper of the locality of the mining operation shall be submitted to the Division within 30 days from the date of bond release application. The advertisement shall contain the following items:
1. The permit number, name of the permittee, and the permit approval date.
 2. Accurate legal description of the land under consideration for release.
 3. Number of acres to be considered for release.
 4. Current amount and type of bond.
 5. The amount of bond being sought for release.
 6. A description of the type of reclamation work performed and the dates when the work was performed and completed.
 7. A statement that written comments, objections and requests for public hearing or informal conference may be submitted to the Division of Oil, Gas and Mining.
 8. The address of the Division of Oil, Gas and Mining, where requests, comments and objections may be submitted.
 9. The closing date for submission of such comments, etc. (At least 30 days AFTER the last publication date.)
- C. **INSPECTION BY DIVISION** - Upon receipt of the bond release application and acceptance of the information presented in the application, the Division shall within 30 days, or as soon thereafter as weather conditions permit, conduct an inspection and evaluation of the reclamation work involved. In conjunction with the inspection, the following shall be accomplished:
1. The surface owner, agent or lessee shall be given notice of the inspection by the Division and may participate with the Division in making the bond release inspection. The Division may also arrange with the Operator to permit other persons with an interest in bond release access to the site for the purpose of gathering information relevant to bond release proceedings.
 2. Notification to the Office of Surface Mining shall be made two-weeks prior to the scheduled bond release inspection in accordance with OSMRE Directive REG-26 for concurrence with bond release on FEDERAL LANDS.

3. A field report regarding the inspection will be prepared by the Division. The report shall include any concerns raised by other persons present at the time of the inspection. The field report will be used in conjunction with the information presented by the operator in evaluation for bond release.
- D. PUBLIC HEARINGS AND WRITTEN OBJECTIONS - Written objections and requests for public hearings or informal conferences may be made by any person with a valid legal interest which might be adversely affected by release of the bond, or by any federal, state or local governmental agency which has jurisdiction by law, special expertise, or enforcement regarding any impact involved in the operation.
1. The Division shall notify the operator, surety and persons who either filed objections in writing or who were party to the hearing proceeding, if any, of its decision to release or not release all or part of the performance bond. If no public hearing is held, the notification shall occur within 60 days from the filing of the bond release application, or, if a public hearing is held, within 30 days after the hearing has been held.
 2. The Division may hold an informal conference as provided in UCA 40-10--13(a) of the Act to resolve written objections. The Division shall make a record of the informal conference unless waived by all parties, which shall be made accessible to all parties. The Division shall also furnish all parties of the informal conference with a written finding of the Division based on the informal conference and the reasons for said finding.

PHASE I BOND RELEASE

Bond release for PHASE I may be considered only after the Division is satisfied that all the reclamation requirements for PHASE I have been met. The requirements for PHASE I reclamation are:

1. Completion of backfilling and regrading (which may include the replacement of topsoil); and,
2. Completion of drainage control in accordance with the requirements of the approved reclamation plan.

A request for PHASE I bond release shall require that the general information for bond release be provided, and, include but not be limited to the following:

1. A map illustrating the "as-built" topography if different than the most recently approved plan.

2. Pre and Postmining Contour Topographic Maps (no smaller than 1"=500') showing:
 - a. Permit Area
 - b. Areas Previously Released
 - c. Areas Proposed for Release
 - d. Postmining Topography
 - e. Postmining Hydrologic Features, including drainage, ponds, and monitoring sites
 - f. Cross-sections, including but not limited to, Approximate Original Contour (AOC), drainage systems, ponds, roads, etc.
 - g. Date of Backfilling and Grading Activities
 - h. Dates of Topsoil Replacement
 - i. Topsoil Replacement Depths
3. Results of overburden chemical analysis with discussion on how overburden will not adversely affect plant growth or water quality.
4. Evaluation of topsoil or substitute soil including analyses and replacement depths.
5. Evaluation of subsoil including analyses and replacement depths.
6. Any field designs, modifications or changes to the mining and reclamation plan which occurred in conjunction with the reclamation activities.
7. A brief history of mining and reclamation activities indicating when mining operations began and ended, when earthwork and topsoil distribution began and ended.

BOND RELEASE PHASE II

Bond release for PHASE II may be considered only after the Division is satisfied that all the reclamation requirements for PHASE II have been met. The requirements for PHASE II reclamation are:

1. Completion of PHASE I reclamation;
2. Revegetation has been established in accordance with the requirements of the approved reclamation plan; and,
3. No part of the land considered for bond release is contributing suspended solids to streamflow or runoff outside the permit area in excess of the requirements set by UCA 40-10-17(j) of the Act and by Subchapter K [R614-301-200(Part 823)] of the regulations, or, where a permanent impoundment is to remain as a siltation structure under provisions made with and approved by the Division; and,

4. In the event that the area under consideration includes prime farmlands, that soil productivity has returned to the equivalent levels of yield as non-mined land of the same soil type in the surrounding area under equivalent management practices as determined from the soil survey performed pursuant to UCA 40-10-11(4) of the Act and Part 823 [R614-301-200(Part 823)] of the regulations.

A request for PHASE II bond release shall require that the general information for bond release be provided, and, include but not be limited to the following:

1. A brief history of mining and reclamation activities indicating when mining operations began and ended, when earthwork and topsoil distribution began and ended, and when specific revegetation treatments were applied in accordance with the approved plan, and when, if any, additional revegetation treatments or supplements were applied.
2. Detailed vegetation information including sampling data on productivity and cover, species composition, and sampling methodology in accordance with the approved reclamation plan and as required by state regulation and policy.
3. Any field designs, modifications or changes to the mining and reclamation plan which occurred in conjunction with the reclamation activities.

BOND RELEASE PHASE III

Bond release for PHASE III may be considered only after the Division is satisfied that all the reclamation requirements for PHASE III have been met. The requirements for PHASE III reclamation are:

1. Completion of PHASE I reclamation;
2. Completion of PHASE II reclamation; and,
3. The period specified for Operator responsibility in Section UMC/SMC 817.116 of the regulations [R614-301-356] has been met.

A request for PHASE III bond release shall require that the general information for bond release be provided, and, include but not be limited to the following:

1. A brief history of mining and reclamation activities indicating when mining operations began and ended, when earthwork and topsoil distribution began and ended, and when specific revegetation treatments were applied in accordance with the approved plan, and when, if any, additional revegetation treatments or supplements were applied.
2. Water quality data and analysis indicating successful erosion protection and ground and surface water quality.
3. Detailed vegetation information including sampling data on productivity and cover, species composition, and sampling methodology in accordance with the approved reclamation plan and as required by state regulation and policy.

BOND RELEASE, DETERMINATION OF AMOUNT

The Division shall review, revise and approve the recalculated bond amount as necessary in order to determine the amount of bond to be retained and the amount of bond to be released. If it is determined that the current bond amount is inadequate and the remaining costs exceed what is currently held by the Division, the Division may require an increase to the bonding sum rather than a partial reduction of the dollar value of the bond. It may be possible to release partial liability on lands reclaimed without actually reducing the dollar sum.

PHASE I bond release shall in no case exceed 60% of the bond for the applicable area.

PHASE II bond release shall require that the Division retain that amount of bond for the revegetated area which would be sufficient to cover the cost reestablishing revegetation if completed by a third party and for the period specified for operator responsibility in UCA 40-10-17(t) of the Act for reestablishing revegetation.

PHASE III or final bond release shall not be made until such time as the period specified for Operator responsibility in Section UMC/SMC 817.116 of the regulations [R614-301-356] has been met, or, PHASE II reclamation requirements have been met, whichever is greater.