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# United States Department of the Interior

OFFICE OF SURFACE MINING  
RECLAMATION AND ENFORCEMENT  
WASHINGTON, D.C. 20240



Blazon Mine file Act/1007/021  
D.R.N. B P.01  
L.P.B.  
T. Mitchell

SEP 30 1992

Fof rec @ DOGM  
9/30/92 LPA

## Memorandum

To: Director, Albuquerque Field Office  
From: *Alan Klein*  
Assistant Director, Field Operations  
Subject: Blazon Mine Bond Forfeiture

This is in response to your memorandum of September 9, 1992, in which you requested guidance concerning a proposal by the State of Utah to enter into an agreement with the affected landowner. It is my understanding that, under the proposed agreement, the State would reclaim a portion of the mine site, after which the State would give the landowner the balance of any forfeited bond. The landowner would then use the bond money to implement the industrial/commercial postmining land use provided for in the approved mining and reclamation plan.

The general rule is that in the event of forfeiture, the regulatory authority must collect the forfeited amount and use the funds collected to complete the reclamation plan. The operator is liable for any remaining costs if the forfeited amount is insufficient to pay for the full cost of reclamation. The regulatory authority may complete, or authorize completion of, reclamation of the bonded area and may recover from the operator all costs of reclamation in excess of the amount forfeited. See 30 CFR 800.50. Unless otherwise provided by the Utah program, it would seem that the State has the authority to achieve reclamation in any reasonable way, provided that the forfeited funds are used only to complete the reclamation plan or for the administrative costs of contracting. The State must adhere to its established contracting procedures.

In applying the general rule to this specific case, the State Regulatory Authority would have to develop a proposed agreement that would satisfy program requirements for reclamation and reclaim the site to the approved postmining land use. This agreement would also have to address the impact on final bond release obligations, the effect on liability of individual corporate officials, and whether the action complies with alternative enforcement provisions of the State program. Unfortunately, in this case we simply do not have enough details with which to make an informed judgement. If the State of Utah wishes to have further OSM guidance on this matter, please obtain a copy of the proposed agreement from the State, along with the additional information outlined above, and we will be happy to help you evaluate the situation.