

Work Plan for a Program Management Evaluation of Bonding for the Non-Energy Leasable Permits, Licenses and Leases

Solid Minerals Group, WO-320
Program Evaluation Lead

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Program/Activity: All persons holding permits, licenses or leases for non-energy leasable minerals are required to file bonds with the BLM. BLM issues these permits, licenses or leases under authorities found in 43 CFR 3500. The BLM sets the amount of the bond for each permit or lease on a case-by-case basis. The bonding program is required by regulations at 43 CFR 3504 and is funded through subactivity 1330. The administrative states of Arizona, California, Colorado, Eastern States, Idaho, Montana, Nevada, New Mexico, Utah and Wyoming have permits, licenses or leases in this program. Case information for this program is managed by the Assistant Director, Minerals, Realty and Resource Protection, but bond information is managed by individual State Offices.

Issue: The BLM considers the cost of complying with all of the terms and conditions of the permit or lease, including royalty and reclamation provisions, when it sets the bond amount (43 CFR 3504.50). BLM can increase or decrease the bond amount when it determines a change in the bond amount is appropriate (43 CFR 3504.60).

Unless bonds are periodically reviewed there is a risk, because of changes in costs and other conditions, that a bond amount would be insufficient to cover all outstanding liabilities on the default of an operator. Bond amounts need to be reviewed as mine plans are approved or modified. Bonds also need to be reviewed as time passes, because the economic assumptions used to estimate the amount of royalty that will be paid or the cost of reclamation change over time. Bond requirements may also decline with time as concurrent reclamation proceeds. It is poor customer service for the BLM to maintain a bond in excess of the amount needed.

The Washington Office has received anecdotal evidence that the bonds on file for the non-energy leasable minerals program do not meet current policy and, in some cases, bond amounts are substantially less than what would be needed to cover reclamation costs should permittees or lessees default on their obligations. The data standards for the program have not been revised since 1995 and specific bonding policies are not clearly documented.

Bonds are required by many different BLM programs. There are some potential benefits to establishing uniform bonding policies for all programs in the BLM. If discussions of a unified bonding policy progresses, then information gathered from this evaluation can be used to support the design of such a policy.

Objective: The objective of this evaluation is to document the number of bonds held by BLM in the non-energy leasable program, the size of these bonds, the average time between bond reviews on a BLM-wide basis and the estimated outstanding liability in the non-energy leasable program. The outstanding liability would include both an estimate of monthly royalty income and the cost of reclamation. We also intend to estimate our organizational capability to correct any inadequacies identified in the review.

The information developed in this evaluation will help us in several ways. We published new regulations for this program in October of 1999 (64 FR 53512). We need to prepare a new manual to more fully implement these regulations. The information collected during this evaluation will help us develop the policies that may be placed in a new manual. We will identify if the data standards in the LR2000 system are appropriate. Are we collecting the right kind of information in our LR2000 system? The bond system runs separately from the LR2000 system. Is there any redundancy between the two systems? Can they be more closely linked? We will also document if the performance bonds in this program are sufficient to protect the public from liabilities associated with mineral leasing. If we identify States with particularly effective bond management processes we will document those processes and share them with the other BLM State Offices.

Data Gathering and Analysis Methods: The States having non-energy mineral permits and leases will be provided a list of the serial numbers of permits and leases within their jurisdictions. This list will be generated from information in LR2000. The search of LR2000 will be made by looking in the case recordation system through the case action information tables. We will look at casetypes beginning with 35 by administrative State for action codes 909 (bond accepted), 340 (mine plan received), 342 (plan modification received), 041 (compliance exam), 414 (PV accepted) and 415 (PV not accepted). Illustration 1 is an example of the report returned from LR2000 using these search criteria. We will also provide States with information from the bond tracking computer system.

We will request that the States provide data, in tabular format, that links the permit or lease to an exploration or mine plan and the associated bond. Illustration 2 is an example of the table format. We will also request the date any exploration or mine plan amendments and the dates of the bond reviews. We will ask the States to describe the adequacy of the bond in four categories. Each State will identify the number of bonds that are 25% or less of the recommended amount, between 25% and 50% of recommended amount, between 50% and 75% of the recommended amount and 75% or more of the recommend amount. If a State indicates that some bonds are inadequate (less than 75% of the recommended amount), we will request the State to estimate the number of work hours and budget dollars that would be required to revise the bonds so that the bonds would be adequate.

The States will be invited to provide a narrative description of their bond review processes. If States identify problems with their bonding program, then they should also identify any changes to BLM policies or regulations that would lead to a solution to these problems.

The Washington Office will review the responses from the States and identify common problems identified in the program. The Washington Office will identify possible solutions to these common problems. State descriptions of effective bonding processes will be posted on the Solids Forum for rapid distribution. The Washington Office will prepare a report describing:

- the status of the current bond review processes,

- common problems with bonds in the non-energy leasable minerals program,
- suggested solutions to common problems,
- proposed policy changes needed in the solid minerals bonding program,
- suggested regulatory changes needed in the solid minerals bonding program, and
- the additional resources needed to implement an effective bond review process BLM-wide.

Scope: This evaluation would involve all BLM offices that maintain cases in the non-energy leasing program. This included nine State Offices and about the same number of Field Offices. Only issues related to bonding will be addressed. The evaluation will be conducted by using existing BLM data management systems and will require staff time to complete the tables and extract the reclamation cost estimate from the case files. The data on royalty payments needed to complete the tables will be obtained from MMS reports. No travel will be needed and no independent review of the data collection process will be conducted.

Tentative Schedule: June 11, 2001 - Draft Table and Instruction Memorandum for the evaluation available for review.

June 18, 2001 - Data will be extracted from LR2000 and the Bonding system

June 26, 2001 - Final Table and Instruction Memorandum available for surnaming

July 15, 2001 - Final Table and Instruction Memorandum sent to the State and Field Offices

August 30, 2001 - Responses to the Instruction Memorandum arrive from State and Field Offices

September 16, 2001 - Draft evaluation report available for review and posted to the Solid Minerals Forum

October 30, 2001 - Final evaluation report available.

Responsible Official: Pete Culp, the Assistant Director for Minerals, Realty and Resource Protection will be responsible for this evaluation. The staff work will be lead through the Solid Minerals Group, Brenda Aird, Group Manager. The Headquarters staff work will be primarily conducted by Phil Allard, Geologist.

Illustration 2

AZ

Lease or Permit Serial Number	Producing Status (Yes or No)	Bond Amount	Annual Rental and Estimate of 3 Months Royalty Due	Estimated Reclamation Cost	Bond Rating (% of Need)

CA

Lease or Permit Serial Number	Producing Status (Yes or No)	Bond Amount	Annual Rental and Estimate of 3 Months Royalty Due	Estimated Reclamation Cost	Bond Rating (% of Need)

CO

Lease or Permit Serial Number	Producing Status (Yes or No)	Bond Amount	Annual Rental and Estimate of 3 Months Royalty Due	Estimated Reclamation Cost	Bond Rating (% of Need)

ESO

Lease or Permit Serial Number	Producing Status (Yes or No)	Bond Amount	Annual Rental and Estimate of 3 Months Royalty Due	Estimated Reclamation Cost	Bond Rating (% of Need)

ID

Lease or Permit Serial Number	Producing Status (Yes or No)	Bond Amount	Annual Rental and Estimate of 3 Months Royalty Due	Estimated Reclamation Cost	Bond Rating (% of Need)

MT

Lease or Permit Serial Number	Producing Status (Yes or No)	Bond Amount	Annual Rental and Estimate of 3 Months Royalty Due	Estimated Reclamation Cost	Bond Rating (% of Need)

NM

Lease or Permit Serial Number	Producing Status (Yes or No)	Bond Amount	Annual Rental and Estimate of 3 Months Royalty Due	Estimated Reclamation Cost	Bond Rating (% of Need)

NV

Lease or Permit Serial Number	Producing Status (Yes or No)	Bond Amount	Annual Rental and Estimate of 3 Months Royalty Due	Estimated Reclamation Cost	Bond Rating (% of Need)

UT

Lease or Permit Serial Number	Producing Status (Yes or No)	Bond Amount	Annual Rental and Estimate of 3 Months Royalty Due	Estimated Reclamation Cost	Bond Rating (% of Need)

WY

Lease or Permit Serial Number	Producing Status (Yes or No)	Bond Amount	Annual Rental and Estimate of 3 Months Royalty Due	Estimated Reclamation Cost	Bond Rating (% of Need)