

DEPARTMENT OF INTERIOR  
BUREAU OF LAND MANAGEMENT  
ARIZONA STATE OFFICE



**Operator Information for Casual Use, Notice, Plan  
Level Operations, Providing a Financial Guarantee  
as Required by 43 CFR 3809 and Occupancy as  
Required by 43 CFR 3715**

## **Operator Information for Casual Use, Notice, Plan Level Operations Providing a Financial Guarantee as Required by 43 CFR 3809 and Occupancy as Required by 43 CFR 3715**

This document provides guidance for Operators/Claimants to submit Notices and Plans of Operation under 43 CFR 3809 for mining activities on lands administered by the Bureau of Land Management (BLM) in Arizona.

### **TYPES OF MINING ACTIVITIES ON PUBLIC LANDS**

The §3809 regulations provide for three types of activities on public lands: Casual Use, Notice level, and Plan of Operation level operations.

Casual Use means activities ordinarily resulting in no or negligible disturbance of the public lands or resources. Casual Use does not include the use of mechanized earth moving equipment; truck mounted drilling equipment or motorized vehicles in areas closed to “off-road vehicles,” explosives, chemicals, or use and occupancy as defined by 43 CFR 3715. Operators conducting operations at the Casual Use level are not required to post a financial guarantee for their operations.

Casual Use operations involve simple prospecting with hand tools such a picks, shovels, metal detectors, and camping for less than 14 days in a 90-day period. This prospecting does not involve any type of explosives, chemical usage or mechanized earth moving equipment. Small scale mining devices such as dry washers having engines with less than 10 horsepower are allowed, provided they are fed using only hand tools.

Notice level operations include only exploration activities in which five or less acres of disturbance are proposed. All operators conducting operations at the Notice level must post an appropriate financial guarantee for their operation.

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. All operators conducting operations at the Plan of Operations level must post a financial guarantee for their operation.

### **PROCESSING CASUAL USE ACTIVITIES**

The BLM does not process applications for Casual Use activities under 43 CFR 3809, and you are not required to contact the BLM before beginning Casual Use activities. You are, however, required to have a working knowledge of all applicable laws and regulations pertaining to mining in Arizona before you begin your Casual Use activities. A simple example of a Casual Use activity common in Arizona is the operation of prospecting or rock collecting using a metal detector and/or other hand tools while camping on public lands. You cannot engage in suction dredging at a Casual Use level on BLM-administered lands in Arizona. Suction dredging can only be done pursuant to a Notice or Plan, filed under 43CFR 3809. Any camping must be in

compliance with all camping regulations and you must not occupy the public lands for more than 14 days in any 90-day period within a radius of 25 miles of your initially occupied site.

### **PROCESSING NOTICE LEVEL OPERATIONS**

When submitting a Notice, your Notice must contain all of the information listed under 43 CFR 3809.301. If you propose use and occupancy, as defined by 43 CFR 3715, your Notice must also include the information required under §3715.3-2. Exhibit 1 is a sample Notice format. Exhibit 2 is an example of a hypothetical use and occupancy filing.

Processing Notice level operations involves at least an initial 15-day time frame (See 43 CFR 3809.311). During this time frame, the Bureau of Land Management (BLM) Field Office (FO) must analyze the Notice to:

1. Determine if the Notice is complete and contains all of the information required under 43 CFR 3809.301;
2. Determine if the operations proposed will not cause Unnecessary or Undue degradation; and
3. Establish the amount of the financial guarantee required pursuant to 43 CFR 3809.500.

Note that the collection and adjudication of the financial guarantee amount falls outside of the 15-day time frame and further processing of the Notice is dependent upon you furnishing the appropriate financial guarantee. Pursuant to 43 CFR 3809.312(c), you cannot begin operations until the BLM notifies you that you have provided an acceptable financial guarantee to the BLM.

When your Notice is filed with a FO, the FO must respond to you within 15 days. Within that time frame, the office will formally acknowledge the Notice and state the amount of the financial guarantee you must provide before you begin operations if the Notice is complete. Or, the FO may require additional review time as provided for pursuant to 43 CFR 3809.313(a).

If you do not supply a financial guarantee within 60 days from your receipt of the acknowledgement of the Notice and you have not maintained **written** contact with the FO during that period, the FO will consider the Notice withdrawn. This may require you to re-submit your Notice.

### **PROCESSING PLAN LEVEL OPERATIONS**

Processing Plan level operations involves a review under the National Environmental Policy Act (NEPA). When this review is completed, the Plan will be approved, modified or disapproved. When the Plan is approved or modified, the BLM will give you a decision stating the amount of the financial guarantee required. If you propose occupancy, as defined by 43 CFR 3715, your Plan must also include the information required under §3715.3-2.

## USE AND OCCUPANCY CONCURRENCE

Processing proposed Occupancy also involves a review under NEPA. At the conclusion of the review, the BLM will make a written determination of concurrence or non-concurrence, and will send it to you. For operations conducted under a plan of operations, the BLM will include this written determination in the decision that approves, modifies, or rejects the plan. If you have not received concurrence from the BLM, you must not begin occupancy.

*Occupancy* means full or part-time residence on the public lands. It also means activities that involve residence; the construction, presence, or maintenance of temporary or permanent structures that may be used for such purposes; or the use of a watchman or caretaker for the purpose of monitoring activities. Residence or structures include, but are not limited to, barriers to access, fences, tents, motor homes, trailers, cabins, houses, buildings, and storage of equipment or supplies.

## FINANCIAL GUARANTEES

Operators must submit a Reclamation Cost Estimate (RCE) when submitting their Notice or Plan of Operations to the appropriate FO (See §3809.301(4) or §3809.401(2)(d)). Reclamation Cost Estimates for both Notices and Plans of Operations must be sufficient to cover all aspects of the operation that are planned by the operator. All reclamation costs are to be calculated as if third party contractors were performing the reclamation if the site has been abandoned by the operator. A Notice is not considered complete, as defined pursuant to 43 CFR 3809.301, until an acceptable RCE has been provided to and approved by the BLM.

The FO reviews the RCE and verifies the amount of the financial guarantee needed for each submitted Notice or Plan. The Authorized Officer (AO) notifies the operator of the needed amount. Financial guarantees submitted to the BLM Arizona FOs are to be accompanied by the proper bond forms (Form 3809-1 found at:

<https://www.blm.gov/sites/blm.gov/files/3809-001.pdf> or Form 3809-2 found at: <https://www.blm.gov/sites/blm.gov/files/3809-002.pdf>).

The FOs will then forward the financial guarantees and bond forms, along with a transmittal memo, to the BLM Arizona State Office (AZ9200) for adjudication and acceptance.

Financial guarantees must cover all aspects of the operation that are planned by the operator but do not necessarily cover any pre-existing disturbance (i.e. surface disturbances created by a previous operator and left abandoned and un-reclaimed). An operator's responsibility for pre-existing disturbance is tied directly to his use or exploitation of that disturbance. For example, if an excavation is on a mining claim and it predates the current operator, that operator is not responsible for the remediation or reclamation of the excavation if the excavation is not used **in any way** by the operator. If however, the operator uses the excavation or would object to the BLM reclaiming or remediating the excavation, then the cost for reclamation or remediation

must be included in the financial guarantee. You are encouraged to conduct a thorough inventory of the claim or claims to determine the full extent of any existing disturbance and to meet with FO personnel at the site before developing a RCE to establish clearly what must be included in the cost estimate. Generally, when an operator involves pre-existing disturbance in his/her present operation, BLM Arizona would consider the reclamation of pre-existing disturbance to consist of those steps that would be required if the operator had created that disturbance.

Any increase or decrease to a bond will require that a rider be submitted from the operator. A personal bond rider will be on BLM form 3809-4a. A surety bond rider is written by the surety company. These must be submitted to the SO (AZ9200) with a transmittal memo, to be adjudicated and accepted by a decision letter issued by AZ9200. When processing increases to bond amounts, no rider need be submitted for adjustments that do not exceed \$100.

If in the course of duties, BLM field personnel determine that a mine working/hazard/feature poses an imminent threat to public health and the environment, and if the mining claimant protests or takes other action to prevent the BLM's proposed mitigation actions with respect to the abandoned mine hazard, the mining claimant will become responsible for maintaining that mine opening or other hazard/working/feature in a safe and secure condition. After a mining claimant has asserted opposition to the BLM mitigation, the BLM will initiate efforts for the mining claimant to accept financial responsibility for site maintenance, including protection of public health and the environment. The BLM will regulate these sites as "activities exceeding casual use," and the mining claimants will be required to comply with surface management regulations at 43 CFR 3809.10.

When a mining claimant has protested or attempted to prevent proposed mitigation efforts, the mining claimant will be required to submit an approved financial guarantee in accordance with the requirements of 43 CFR 3809.500 to 3809.599 to cover the mitigation needs of the working mine. The claimant will be responsible for any hazards at the site in compliance with the surface management regulations.

The reclamation of mining claim access also presents another example of pre-existing disturbance that may or may not be included in the financial guarantee. If the access clearly predates the existence of the operation and the operator does not or would not object to the BLM blocking, removing or reclaiming the access, then the operator would not be responsible for reclaiming the access and it should not be included in the determination of the financial guarantee. If the operator constructs access to the operation, and the BLM determines that this access is important to maintain, the BLM may elect to retain this access after the mining operation ends. In this case, the reclamation of the access would not be included in the financial guarantee, but the decision to retain the road by the BLM would have to be documented and must be consistent with the approved resource management plan. If an operator constructs access or uses existing access for an operation and would object to the BLM blocking, removing or reclaiming that access, then the operator must post a financial guarantee that covers the reclamation of the access.

Operators are encouraged to conduct a thorough inventory of the proposed operations area to determine the full extent of any pre-existing disturbance. This could include pictures taken “before” and “after” the operation, demonstrating the level and nature of any pre-existing disturbance.

### **RECLAMATION COST MODEL**

The surface management regulations at 43 CFR 3809.401(d) require operators to submit a RCE. The financial guarantee must be sufficient to cover 100 percent of the cost to stabilize and reclaim the site as if the BLM were to contract with a third party to do the work. This includes 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. An operator’s cost for reclamation cannot be used to develop a RCE. Instead, the work must be estimated as if an independent contractor was hired to do this work, using equipment that the contractor provides and paying wages in accordance with the Davis-Bacon Act.

The BLM Arizona has developed an automated financial guarantee estimator, which is available for download at the BLM website at:

#### **Reclamation Bond Calculation Spreadsheet 2018 (.xlsx)**

The financial guarantee estimator is also available at any BLM Arizona office, to assist in preparing a RCE. This estimator may be used for notices or plans of operation that will result in less than 20 acres surface disturbance and do not require an Aquifer Protection Permit (APP) from the Arizona Department of Environmental Quality (ADEQ). If an operator should elect to use this estimator to prepare a RCE, BLM Arizona will generally accept the calculated result, unless the BLM determines that the area or operation requires some special reclamation measures. If an operator elects not to use the estimator, the operator must demonstrate to the BLM’s satisfaction that his/her estimate meets the requirements of 43 CFR 3809.552. If an APP is required, then the financial guarantee must be based on the reclamation bond estimate required in the APP application.

Exhibit 3 contains information on the use of the reclamation estimator, an example of the RCE Summary Worksheet and a RCE Checklist.

### **FINANCIAL GUARANTEE INSTRUMENTS**

The BLM Arizona accepts the following instruments as financial guarantees for reclamation bonds, as defined by 43 CFR 3809.555 and 3809.556:

**Surety bonds** – issued by a surety company authorized to do business with the United States. A current list of authorized companies is available by calling 202-874-6850 or through the Internet at:

[https://www.fiscal.treasury.gov/fsreports/ref/suretyBnd/c570\\_a-z.htm](https://www.fiscal.treasury.gov/fsreports/ref/suretyBnd/c570_a-z.htm)

Surface Management Surety Bond Form No. 3809-1 must accompany this type of financial guarantee:

<https://www.blm.gov/sites/blm.gov/files/3809-001.pdf>

**The following financial guarantees must be accompanied by Surface Management Personal Bond Form No. 3809-2 (<https://www.blm.gov/sites/blm.gov/files/3809-002.pdf>).**

1. **Cash, Certified Check, or Bank Draft (Guaranteed Remittance):** 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 United States Treasury by the BLM payable to the Department of the Interior, Bureau of Land Management. Personal and foreign checks are not accepted.
2. **Irrevocable Letter of Credit:** From a bank or financial institution located in the United States. (See Exhibit 4 for further information)
3. **Certificates of Deposit:** When placed through 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 (See Exhibit 4 for further information).
4. **Negotiable Securities of the United States:** Having a market value at the time of deposit of no less than the dollar amount required for bonding (See Exhibit 5 for further information).
5. **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.
6. **Insurance:** When the form and function of the insurance 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.

The BLM Arizona accepts any of the bonding instruments listed in numbers 1 through 5 above from a third party with the use of appropriate bond and rider forms.

### **SOURCES THAT CAN PROVIDE FINANCIAL GUARANTEES**

While the BLM will work directly with an operator and/or a financial institution of their choosing to insure that the form of the financial guarantee provided meets the requirements of §3809.555, the BLM will not intervene on behalf of any operator to secure a financial guarantee or advise an operator concerning the availability of sources that can provide financial guarantees. The availability of sources that can provide financial guarantees varies with the credit rating and financial status of the operator.

## **STATEWIDE AND NATIONWIDE BONDS**

The surface management regulations at 43 CFR 3809 provide for statewide and nationwide bonds (Blanket Financial Guarantee, see 43 CFR 3809.560). These bonds can be used to cover all of an operator's Notices and Plans in one state or in all states in which the BLM administers lands that are open to the General Mining Laws. When Notices and Plans are to be covered by the same statewide or nationwide bond, an operator must submit the bond and financial instrument to the BLM for processing and acceptance. In Arizona, the BLM FO will receive blanket financial guarantees. The FO will forward the blanket financial guarantee to the BLM Arizona State Office where the bond will be adjudicated and maintained. The BLM State Office to which a nationwide bond is originally submitted will be the management office for operations conducted in other states.

## **BONDS HELD BY THE STATE OF ARIZONA OR OTHER FEDERAL AGENCIES**

The 43 CFR §3809.570 allows the BLM to accept bonds held by a State agency. In order to accept such financial guarantees, they must provide at least the same amount of financial guarantee as required by 43 CFR 3809 and must be redeemable by the Secretary of the Interior (See §3809.570(a)(c)). Currently, bonds presently held by the State of Arizona or other Federal agencies working with BLM Arizona **do not** meet these requirements and as such are not acceptable as substitutes for the financial guarantees required by 43 CFR 3809. This means that aspects of operations regulated by such things as an Aquifer Protection Permit may require a separate financial guarantee under §3809.500, in addition to any bond posted with the ADEQ.

## **PHASED OR INCREMENTAL FINANCIAL GUARANTEES**

The 43 CFR §3809.553 provides for the phased or incremental establishment of a financial guarantee. At any time however, the financial guarantee must be sufficient to cover 100 percent of the cost to completely reclaim the surface disturbance that has actually occurred. Generally, BLM Arizona will allow the operator to post bonds in not less than yearly increments, that is, at the start of each operating year, the bond may be phased to cover 100 percent of the current disturbance, plus 100 percent of the projected disturbance for the upcoming year.

A financial guarantee may be adjusted up or down during the course of phased or incremental bonding based on actions taken by the operator on the ground. Operators are encouraged to develop Notices and Plans with specific schedules for reclamation that may allow them to manage their total outlay for a financial guarantee for their operation.

## **FINANCIAL GUARANTEE REDUCTION AND RELEASE**

The release of financial guarantees is regulated by 43 CFR 3809.590. The following guidelines provide for the reduction and final release of financial guarantees held for Plan of Operations and Notice level activities:

- Up to 60 percent of the financial guarantee for a project area may be released when the BLM determines that the operator has successfully completed backfilling, re-grading, establishment of drainage control, and stabilization and detoxification of leaching solutions, heaps, tailings, and similar facilities on that portion of the project area (43 CFR 3809.591(b)).
- The remaining 40 percent of the bond will be released by BLM Arizona when those areas of the reclaimed lands slated for revegetation are meeting or making significant progress toward meeting the Standards for Rangeland Health and the reclaimed operation conforms with the requirements of 43 CFR 3809.591(c). To successfully make this determination, this portion of the financial guarantee may be held for one or more growing seasons until sufficient data is collected to make this determination. The already established procedures for establishing rangeland health will be employed for cases involving mining reclamation. Consult the BLM FO for more information. The Standards for Rangeland Health are available at:

<https://www.blm.gov/sites/blm.gov/files/Arizona%20State%20guidelines.pdf>

For Plans of Operations, final release of a financial guarantee cannot be completed until the BLM posts the final release proposal in the appropriate BLM FO or publishes a notification of the final financial guarantee release in a local newspaper of general circulation and accepts comments for 30 calendar days. (43 CFR 3809.590(c)). Office AZ9200 will also be notified in writing by the FO. The FO will forward a memorandum to AZ9200 stating that reclamation has been satisfactorily completed and recommending release of the bond. Office AZ9200 will issue a decision letter terminating the Liability of the bond, and will also initiate the refund process for cash bonds.

## **TRANSFER OR CHANGE OF OPERATOR**

Any change of operator must be reported to the appropriate BLM FO within 30 days (See 43 CFR 3809.301(d) and 43 CFR 3809.401(b)(1)). The BLM will not transfer reclamation responsibility to the new operator until (1) the BLM receives documentation that a transferee accepts responsibility for the transferor's previously accrued obligations, and (2) the BLM accepts a replacement financial guarantee adequate to cover such previously accrued obligations and the transferee's new obligations (43 CFR 3809.116 and 3809.593). To expedite approval of operator transfer or change, Form 3809-5 (Notification of Change of Operator and Assumption of Past Liability) found at: (<https://www.blm.gov/sites/blm.gov/files/3809-005.pdf>)

may be submitted to the appropriate BLM FO. The FO will then submit the change of operator form to AZ9200 for approval. A company name change should also be forwarded to AZ9200 for distribution of an official acceptance letter.

**EXHIBITS**

1. Notice format
2. Occupancy filing example and claimant instructions
3. Reclamation Cost Estimation Summary Sheet and Reclamation Cost Checklist
4. Information on Time Deposits and Letters of Credit
5. Information on Negotiable Securities of the United States

# Exhibit 1

## NOTICE FORMAT

### Arizona Notice Outline

#### Exploration Activity under the Surface Management Regulations at 43 CFR 3809

---

You may submit a Notice for surface disturbing activity greater than casual use instead of a Plan of Operations. To qualify for a Notice the activity must: 1) constitute only exploration, 2) not involve bulk sampling of more than 1,000 tons of presumed ore,\* 3) must not exceed 5 acres of surface disturbance, and 4) must not occur in one of the special category lands listed in 43 CFR 3809.11(c). The regulations at 43 CFR 3809.301(b) describe the information that you, the operator, are required to provide in order for the Notice to be complete. The Notice is to be filed in the BLM FO with jurisdiction over the land involved.

The Notice does not need to be on a particular form, but must contain the information required by 43 CFR 3809.301(b), as outlined below.

Any information that can not fit within the space provided below should be provided on a separate sheet and attached to this document.

---

\* For placer gold deposits, BLM Arizona will assume that all placer material processed will count towards the 1,000 ton limit allowed under a Notice. Processing beyond 1,000 tons will require a Plan of Operations. The BLM Arizona assumes that 1,000 tons will not exceed 600 bank cubic yards of processed material.

#### Part 1 - Operator Information 3809.301(b)(1)

You must identify the operator responsible for conducting the proposed activity. If the operator is a corporation, then a corporate point of contact must be identified. You must notify the BLM in writing within 30 days of any change of operator or corporate point of contact or in the mailing address of either.

Operator Name(s):	Point of Contact ( <i>if operator is a corporation</i> ):
Mailing Address:	Mailing Address:
Office Phone Number: Cell Number: Fax Number (optional):	Office Phone Number: Cell Number: Fax Number (optional):

Email address ( <i>optional</i> ):	Email address ( <i>optional</i> ):
------------------------------------	------------------------------------

Include claimant information (address, phone number, etc.) if different than operator information.

As of January 20, 2001, according to 43 CFR 3809.301(b)(1) and 3809.401(b)(1), in order for a Notice to be complete, the operator(s) must provide a Taxpayer Identification Number (TIN). A TIN is a nine-digit Employer Identification Number (EIN) or Social Security Number (SSN) as defined in Section 6109 of the Internal Revenue Code of 1986 (26 U.S.C. 6109).

The taxpayer identification number can also be submitted on IRS Form W-9, Request for Taxpayer Identification Number and Certification, instead of as part of this submission.

Taxpayer Identification Number:

Unpatented Mining Claims (*list the name and BLM serial number(s) of any unpatented mining claim(s) where disturbance would occur, attach additional sheets if necessary*):

Mining Claim Name	Mining Claim Serial #.

**Part 2 – Activity Description, Map, and Schedule of Activities 3809.301(b)(2)**

- A. You must provide a complete description of all equipment, devices, or practices you propose to use during operations with a level of detail appropriate to the type, size, and location of the activity. The type of information required is listed below. You only need to address those items applicable to your operations. You should include sufficient detailed information so the BLM will be able to assess the proposed action for undue or unnecessary degradation of the public lands.

Activity Description: Include in your Notice filing the type of action/operation, method or techniques you are proposing to use.

*Examples: Drilling - number of holes, hole location, size of drill pads, drill hole depth and diameter, sumps, etc. Number of holes left open at any one time. Hole plugging (See Reclamation below).*

*Bulk sampling - number of samples, dimensions, location of excavations, etc. Provide length, width and depth.*

*Trenches - Average length, widths and depth of cuts.*

*Cleared areas - location, length and width.*

*Ancillary facilities: Include all proposed facilities such as, but not limited to, structures (e.g. temporary, mobile, storage containers/tanks), utility needs (e.g. power, propane, generators, sanitation needs, fencing, diversion ditches, sediment control structures, signs, stockpiles, trash disposal, lay down areas, etc.*

- B. Provide a map showing the location of the project area in sufficient detail for the BLM to be able to find your project area and the location of access routes the operator intends to use, improve, or construct (See access below).

*A map of your operations should include the following elements:*

*A north arrow, legend, scale, access routes, all proposed disturbances...*

- C. You must include the measures that you will take to prevent unnecessary or undue degradation during operations (3809.301(b)(2)(i)). This means that your operation must meet all applicable performance standards found in 3809.420 (See 3809.320).

**The applicable standards include but may not be limited to the following:**

3809.420(a)(2)-*Sequence of operations.* You must avoid unnecessary impacts and facilitate reclamation by following a reasonable and customary mineral exploration and reclamation sequence. You must use equipment, devices, and practices that will meet the performance standards of the surface management regulations.

*For example, in re-contouring a road constructed across an extremely steep slope, an excavator or backhoe would be considered appropriate equipment to meet the performance standard for road reclamation. A bulldozer cannot operate on side slopes or push uphill when the grade is steeper than about 50 percent and as such would generally not be appropriate equipment for such steep slopes.*

**Provide a description in your Notice submittal of the type of equipment you intend to use (3809.301(b)(2)(iii). Provide make and model of all equipment if possible.**

3809.420(a)(6)-*Compliance with other laws.* You must conduct all operations in a manner that complies with all pertinent Federal and State laws.

See: <https://www.blm.gov/sites/blm.gov/files/documents/files/az-mine-permit-guide.pdf>

**List any permits or licenses you have either applied for or have been issued, for your proposed operation(s).**

3809.420(b)(1)-*Access routes.* Access routes may only be the minimum width needed for operations and should follow natural contours, where practicable, to minimize cut and fill. The minimum width is determined by the type of equipment that will be utilized on the road, which in turn is tied to the particular stage in exploration development. Designed roads are different than ways or “two tracks” used for customary access. These customary routes across public lands are generally usable for early-phase operations such as exploration. These routes may need upgrades to be useful when crossing drainages or relocation to avoid on-the-ground impacts.

*The importance of using, upgrading, or constructing all forms of roads on or as close to the contour as possible cannot be overemphasized. Grades that cut across contour at greater than 12 percent are difficult to maintain and protect from erosion without extensive erosion control measures (e.g., water bars, cutouts).*

*Constructing roads in flatter terrain is generally preferred since the steeper the side-slope, the greater the cut and fill involved and the greater the surface disturbance. Roads constructed across steep slopes (greater than 33 percent) can be extremely difficult to reclaim. Even where the route is somewhat longer, if the terrain is flatter, it may be less expensive to construct and reclaim, and have less environmental impact, than a more direct route.*

**Include a map at an appropriate scale, showing your proposed access to your exploration activities. Include information such as, but not limited to, the type of vehicle use, maintenance, upgrades of existing roads, duration of use, reclamation (see reclamation below), etc. Include if applicable:**

*Roads: Average lengths and widths*

*Road cuts: Average length, width and depth of cut at high wall(s)*

*Culverts: Average lengths, diameter and depth of burial.*

3809.420(b)(3)-Reclamation: You must provide a description of how you will complete reclamation. Your reclamation plan should be specific to the operations you are proposing: (Reference the Solid Mineral Reclamation Handbook H-3042-1 found at:

[https://www.blm.gov/sites/blm.gov/files/documents/files/DOI\\_BLM%20Solid%20Minerals%20Reclamation%20Handbook%20H-3042-1.pdf](https://www.blm.gov/sites/blm.gov/files/documents/files/DOI_BLM%20Solid%20Minerals%20Reclamation%20Handbook%20H-3042-1.pdf)

(3) *Reclamation.* (i) At the earliest feasible time, the operator shall reclaim the area disturbed, except to the extent necessary to preserve evidence of mineralization, by taking reasonable measures to prevent or control on-site and off-site damage to the Federal lands.

(ii) Reclamation shall include, but shall not be limited to:

Saving of topsoil for final application after reshaping of disturbed areas have been completed:

*Sample verbiage might include but is not limited to:*

*Topsoil, or growth medium, will be salvaged wherever feasible as directed by the BLM, in advance of surface disturbing activities and placed in a location where it will be preserved for future use; soils and subsoils that have been highly compacted will be ripped.*

Measures to control erosion, landslides and water runoff:

Reshaping the area disturbed, application of the topsoil, and revegetation of disturbed areas, where reasonably practicable

*See the Solid Mineral Reclamation Handbook H-3042-1*

*Chapter 4: Reclamation of Site Access, section C-Exploration Access*

*Chapter 5: Reclamation of Drilling Operations*

*Chapter 6: Other Exploration Related Reclamation*

*Chapter 7: Drainage and Hydrology*

*Section C: Erosion Prevention and Control for information on Erosion Control*

*Section D: Shaping and Grading*

*Section E: Revegetation*

*See the Solid Minerals Reclamation Handbook at:*

[https://www.blm.gov/sites/blm.gov/files/documents/files/DOI\\_BLM%20Solid%20Minerals%20Reclamation%20Handbook%20H-3042-1.pdf](https://www.blm.gov/sites/blm.gov/files/documents/files/DOI_BLM%20Solid%20Minerals%20Reclamation%20Handbook%20H-3042-1.pdf)

Drill Holes:

*All holes drilled for the purpose of mineral exploration on BLM lands shall be plugged in accordance with the Arizona Department of Water Resources' Well Abandonment Handbook (Arizona Administrative Code Title 12, Chapter 15: R12-15-817). Drill holes are properly abandoned when (1) all aquifers are adequately cemented or otherwise isolated to prevent the migration of liquids or gases, (2) the surface hole is properly plugged to prevent injury to the public, livestock and wildlife, and (3) the surface is properly cleaned up and reclaimed according to the approved reclamation plan.*

**If your Notice includes drilling, include the following statement in your notice submittal. Exploration drill holes will be abandoned in accordance with Arizona Administrative Code Title 12, Chapter 15: R12-14-817.**

**3809.420(b)(4) *Air Quality.*** All operators shall comply with applicable Federal and state air quality standards, including the Clean Air Act (42 U.S.C. 1857 *et seq.*).

**To submit a complete notice, either provide a copy of your air quality permit(s) or include in your Notice submittal a statement such as: Occupancy will not commence until I have obtained any and all required air quality or regulatory permits.**

**3809.420(b)(5) *Water Quality.*** All operators shall comply with applicable Federal and State water quality standards, including the Federal Water Pollution Control Act, as amended (30 U.S.C. 1151 *et seq.*).

**To submit a complete Notice, include in your Notice submittal a statement that you will obtain all required permits before beginning operations.**

**An individual or area-wide APP, issued by the ADEQ may be needed if your proposed operations involve surface impoundments including holding, storage settling, treatment or disposal pits, ponds and lagoons.**

**If an APP is required by ADEQ, you must furnish the BLM a copy of the APP before operations begin.**

**3809.420(b)(8) *Cultural and Paleontological Resources***

**To submit a complete Notice include in your Notice submittal a statement that you will not knowingly disturb, alter, injure, or destroy any scientifically important paleontological remains or any historical or archaeological site, structure, building, or object on BLM-administered lands.**

The BLM may require an on-site inspection to evaluate the potential for archaeological resources before operations may begin (43 CFR 3809.313(d)).

**3809.420(b)(9) *Protection of Survey Monuments***

**To submit a complete Notice, include in you Notice submittal a statement that you will protect all survey monuments, witness corners, reference monuments, bearing trees and line trees against un unnecessary or undue destruction, obliteration or damage and should if injury occurs, you will immediately notify the BLM.**

**3809.420(b)(10) *Fire.*** The operator shall comply with all applicable Federal and State fire laws and regulations, and shall take all reasonable measures to prevent and suppress fires during operations and reclamation.

Pertinent Federal regulations are found at 43 CFR 9212.0. Applicable Arizona State Law would be found at A.R.S 36-1601 and pertain to sale, possession and use of fireworks.

When conducting operations under a Notice you may be required to comply with all fire restrictions that apply to other public land users (43 CFR 9212.2). This includes restrictions on off-road travel, smoking, operating hours, open flames, spark arrester requirements for equipment, and requirements to carry fire suppression equipment.

**To have a complete Notice you must show that you will comply with 43 CFR 9212.1. Include in your Notice submittal a statement that you will not (a) Cause a fire, other than a campfire, to be ignited by any source; (b) Fire a tracer or incendiary device; (c) Burn, timber, trees, slash, brush, tundra or grass except as used in campfires; (d) Leave a fire without extinguishing it, except to report it if it has spread beyond control; (e) Build, attend, maintain or use a campfire without removing all flammable material from around the campfire adequate to prevent its escape; (f) Resist or interfere with the efforts of firefighter(s) to extinguish a fire; (g) Enter an area which is closed by a fire prevention order, or (h) perform any act restricted by a fire prevention order during operations and reclamation.**

You should also include what measures you will otherwise take to prevent and suppress fires.

*Examples might include:*

*If wood burning campfires are used, all flammable material will be removed from around the campfire in a manner and to the extent the fire will be prevented from spreading, e.g., vegetation will be cleared for a minimum distance of: 30 feet from all structures; at least a five foot radius around the fire; 15 feet from any site where welding, grinding, or any other spark producing operation will be performed.*

*Sufficient water will be available for dousing a fire and a shovel(s) will be available for throwing dirt on a fire if it should get out of control.*

*Vehicles will not be parked where vegetation is touching the underside of the vehicle.*

*Fire extinguisher(s) will be available on site at all times.*

*Spark arresters will be used on spark-creating machines.*

*Schedule of Activities (provide a schedule with the date you expect to begin operations and the date you expect to complete reclamation. Notices expire in 2 years, after which, only reclamation may be conducted. A Notice may be extended beyond 2 years by following procedures in 43 CFR 3809.333.)*

### **Part 3 – Reclamation Cost Estimate**

A RCE is required for your Notice to be complete. The following are general RCE requirements. Although not required, BLM Arizona has developed a spread sheet to help you estimate your RCE. The estimator is available at:

<https://www.blm.gov/documents/arizona/eforms/data/reclamation-bond-calculation-spreadsheet-2017-bond-estimator-excel>

<p>Reclamation Cost Estimate Elements <i>(Account for each of these cost elements)</i></p>	<p>The RCE must cover the Reclamation Plan at any point in the project life.</p> <p>Calculate the RCE based on the BLM's cost to contract for a third-party to complete the reclamation.</p> <p>Include all equipment use, supplies, labor, and power in direct costs.</p> <p>Allow for a contingency cost (10 percent of direct costs).</p> <p>Allow for contractor profit (10 percent of direct costs).</p> <p>Include contractor liability insurance (1.5 percent of total labor cost).</p> <p>For direct costs over \$100,000 add 3 percent for payment &amp; performance bonds.</p> <p>Add 12 percent of direct costs for BLM contract administration and indirect costs.</p>
<p>Reclamation Cost Estimate <i>(Attach additional sheets/maps where needed)</i></p>	

The Notice is submitted this date by:

\_\_\_\_\_ Date

(Signature of operator or agent)

\_\_\_\_\_ Date

(Signature of co-operator or agent)

### **Additional Processing Information**

Within 15 calendar days of receiving your Notice, the BLM will review the Notice material and notify you of one of the following:

- 1) Your Notice is complete and the amount of the financial guarantee that must be provided before operations may begin.
- 2) Your Notice is not complete, specifying what information is missing or incomplete.
- 3) Your Notice is complete, but the BLM requires additional time for consultation, field visits, or review before it can evaluate the Notice.
- 4) Your Notice must be modified in order to prevent unnecessary or undue degradation.
- 5) Your operations do not qualify for a Notice.

Once a complete Notice is received, and the BLM determines that it will not cause unnecessary or undue degradation, the BLM will notify you that your Notice has been accepted and issue a decision on the amount of the financial guarantee. However, you must not begin surface disturbing activity until you have provided a financial guarantee in the approved amount to the BLM Arizona State Office, and received a decision from that office that the financial guarantee instrument has been accepted.

All Notices expire 2 years from the date of the decision establishing the financial guarantee amount. If you wish to conduct operations for an additional 2 years after the expiration date of your Notice, you must notify the BLM in writing on or before the expiration date and meet the financial guarantee requirements. You may extend your Notice more than once.

It should be noted that acceptance of a Notice by the BLM does not constitute a determination regarding the validity or ownership of any unpatented mining claim involved in the operation. In addition, you are responsible for obtaining any use rights or local, State, or Federal permits, licenses, or reviews that may be required before beginning your operation.

A Notice proposing use and occupancy of the public lands, such as full- or part-time residence or the construction, presence, or maintenance of temporary or permanent structures, must also obtain concurrence under the regulations at 43 CFR 3715 that the use or occupancy is reasonably incident to the prospecting or exploration activity.

## Exhibit 2

### SAMPLE 3715 FILING AND CLAIMANT INSTRUCTIONS

#### **Instructions for a 3715 Filing in Arizona**

Regulations found at 43 CFR 3715, require mining claimants or mining claim operators to get the BLM's permission before living on their claims or placing or keeping on their claims permanent or temporary structures, trailers, fences, enclosures, or signs that limit public access. There are no "grandfather" provisions in these regulations. They apply to everyone. To get the BLM's permission, you must submit information about the structures, fences, or signs you want on your claim. This information is known as a 3715 filing.

A 3715 filing has two parts. The first part can be a Notice or Plan of Operations sent to the Field Manager of the BLM FO where your mining claim is located. The second part of the filing is a map, not necessarily drawn to scale, showing the locations of all structures, trailers, roads, fences, gates and signs you plan to place on your claim. This map may be part of a Notice or Plan of Operations. A sample letter and map follow these instructions in this attachment.

**To begin a 3715 filing, please read the regulations, particularly 3715.3-2, and then provide the BLM, in the format required by 43 CFR 3715.3 (See Table 2), the following information:**

- 1.** The name and number of the mining claim, the claimant's and operator's name, and the approximate legal description of the mining claim.
- 2.** The work you will be doing on the claim and why you need to build or place buildings and fences on public land. Describe all of the buildings or trailers that you have or will place on the claim. Explain if the buildings or trailers are being or will be used for storage, shop facilities, mill buildings, or other purposes. Show that what you are planning to do is reasonably incident to prospecting, mining, or processing minerals. For mill and process facilities give BLM Arizona a diagram of the mill or process circuit, a list of any chemicals to be used in the process, and an estimate of the amount of these chemicals to be used each day or week.
- 3.** Tell why you need to exclude the public from your claim by installing fences, gates, or signs. Be specific. If you need a fence to protect your equipment, list the equipment. If you need a fence to protect the public from hazards, list the hazards and give instances where people might be placed at risk. If you are required to build a fence, by the Mine Safety and Health Administration, the Occupational Safety and Health Administration, or the State Mine Inspector, forward a copy of the written requirement or order. You are trying to show that to protect yourself from theft or loss or the public from injury you need to limit access to your claim. Also explain how the public can gain access to public lands around your mining claim.
- 4.** If you plan to live on your mining claim, give the exact number of structures that will be lived in and the approximate number of people that will be living on the claim at any time. Show the BLM that people must live on the mining claim either to protect your equipment from theft or

loss or to protect the public from injury. In isolated and remote areas workers can live on mining claims in order to work an 8-hour shift. In such a case tell the BLM the time and transportation mode needed to reach the claim.

The BLM will review your 3715 filing, and at the end of this review will give you a written determination of concurrence (allowing your proposal) or non-concurrence (not allowing your proposal). If your proposal is not approved, then the BLM will tell you why it does not meet the conditions of the regulations. You will then be allowed to change your proposal or appeal the decision. The BLM will review your revised proposal within 30 business days, unless it concludes that the determination cannot be made until:

(A) 30 business days after the BLM prepares the needed environmental documents, and

(B) 30 business days after the BLM has complied with Section 106 of the National Historic Preservation Act, Section 7 of the Endangered Species Act, or other laws.

The BLM Arizona has already completed much of the environmental documentation and analysis for processing your 3715 filing if associated with a notice. To take advantage of this documentation you must agree to adopt the performance measures as found in this attachment. You do not have to adopt these measures if you decide that some or all of them do not apply to your claim. In such a case, the BLM Arizona will prepare a site-specific environmental analysis of your proposal. But by adopting these measures you can greatly speed up the processing of your application. Contact the BLM Arizona for a copy of the standard mining claim use and occupancy stipulations.

The prepared environmental analysis and documentation require that BLM Arizona conduct a wildlife biology investigation and a cultural resources survey for your proposal. The BLM Arizona will conduct these surveys before the review of your proposal is complete and will use them to decide if the prepared environmental analysis applies to your operation. The prepared analysis does not apply to wilderness areas, wilderness study areas, Indian Trust lands, or areas of critical environmental concern.

Before the BLM will concur with your occupancy, you must do the following:

1. If you are required to post a financial guarantee (a reclamation bond) under 43 CFR 3809, you must submit this guarantee before you begin operations. If you have a mine under a notice and you have or plan to have someone living on your mining claim or if you have leaching operations, then you must prove that you have a financial guarantee, as well as file a financial certification before anyone can begin to live on your claim.

2. Show the permits required by the Environmental Protection Agency (EPA) under the National Pollution Discharge Elimination System (NPDES) have been issued or are not needed for your proposed occupancy.

An NPDES permit is needed for the following facilities: Any point-source discharge associated with industrial activity.

***Generally an NPDES permit is needed for:***

- Process-related discharges.
- Discharges of mine drainage as described in 40 CFR 440.
- Storm water runoff not meeting the definition of mine drainage which contacts any overburden, raw material, intermediate products, finished products, byproducts or waste product at a site.
- Storm water runoff from construction sites disturbing 5 or more acres.

The EPA regulations at 40 CFR 440 set effluent limitations (numeric values that cannot be exceeded) for process related discharges and mine drainage. Facilities subject to these effluent limitations are permitted on an individual basis.

Storm water discharges may be covered under a general NPDES permit. The general permit requires the submittal of a Notice of Intent and the implementation of a storm water pollution prevention plan to control pollutants in the discharges.

Construction activities under five acres are exempt from the NPDES process, but mining activities are not exempt. Runoff from construction activity disturbing five or more acres is permitted under a separate general permit specifically for construction projects. In Arizona, the BLM will require any claimant/operator, before beginning operations, to contact the EPA for either an NPDES permit, a general permit for construction projects or an affirmation from the EPA, in writing, that no permit is needed if the operation will:

- Engage in activities involving mining, milling, any kind of mineral processing and/or facility construction or maintenance.
- Engage in exploration activities that involve bulk sampling techniques and/or the construction or maintenance of permanent structures or facilities.
- Engage in exploration activities involving occupancy that do not involve the construction of permanent structures or facilities but have 5 acres (or more in the case of plans of operation) of un-reclaimed disturbance (including access roads).

It is always the claimant/operators responsibility to obtain all necessary NPDES permits. However, BLM Arizona ***will not*** require a claimant/operator to show these permits have been issued before beginning operations when:

The operations are purely exploration, the operations do not involve the construction or maintenance of permanent structures or bulk sampling, and the operations involve less than five acres of surface disturbance, including access. Further information regarding NPDES permits and contacts can be found at:

<https://www3.epa.gov/region9/water/contactus.html>

3. Contact the ADEQ, APP section if you submit to the BLM a 3715 filing that includes one or more of the following operations or facilities:

- Surface impoundments, including holding, storage settling, treatment, or disposal pits, ponds, and lagoons.
- Solid waste disposal facilities.
- Injection wells.
- Land treatment facilities.
- Facilities that add a pollutant to a salt dome or salt bed formation, dry well, cave, or underground cave or mine.
- Mine tailing piles and ponds.
- Mine leaching operations.
- Septic tank systems with a capacity exceeding 2,000 gallons per day.
- Point source discharges to navigable waters.

The APP permits section will inform you if you need to complete an APP ‘determination of applicability’ form or submit an APP application for your operation. You will need to give the BLM one of the following:

- a. A copy of your completed APP application.
- b. A copy of your APP ‘determination of applicability’ form after review by the Arizona Department of Environmental Quality, or
- c. A letter stating when you contacted the ADEQ, your ADEQ contact, the facilities discussed, and a statement that no APP permit is needed for your operation.

If you need an APP permit for your operation, the BLM will have to receive a copy of your APP application. The BLM will discuss the APP application’s closure requirements with the Arizona Department of Environmental Quality to ensure that the APP permit addresses BLM requirements for reclamation and land use after the mine closes. Further information can be found at: <http://www.azdeq.gov/node/457>

4. Contact both the Arizona State Mine Inspector (ASMI) and the Mine Safety and Health Administration. As required by Titles 18 and 27 of the Arizona Administrative Code, the claimant or operator must submit a “Notice of Start-up, Move, or Stop for Portable Equipment and Mine Operations” whenever operations begin, move, or are suspended. The operator must forward to the BLM a copy of the written notification from the ASMI Inspector that this form was received. Copies of this form can be found at:

[https://asmi.az.gov/sites/default/files/documents/files/ASMI%20Notice%20of%20Start-Up%20Revised%20form%2010%203%202013%20%28a%29\\_0.pdf](https://asmi.az.gov/sites/default/files/documents/files/ASMI%20Notice%20of%20Start-Up%20Revised%20form%2010%203%202013%20%28a%29_0.pdf)

You can contact the ASMI at:

Arizona State Mine Inspector  
1700 W. Washington, Suite 400  
Phoenix, AZ 85007  
Phone: 602-542-5971

In addition, if filing a Plan of Operations, operators must submit to the Mine Safety and Health Administration (MSHA) form 2000-7. This form establishes, for agency purposes, the legal identity of the operator. The operator/claimant must also file a “start-up notice” with MSHA. This is an informal letter that is filed with MSHA to notify the agency that operations will begin. After operations start, operators must have on-site, at all times, a copy of their 2000-7 form together with their 7 digit MSHA number and copies of the quarterly report, form 7000-2.

Form 2000-7 can be found at:

<https://www.msha.gov/support-resources/forms-online-filing/2015/04/15/legal-identification-report>

Form 7000-2 can be found at:

<https://www.msha.gov/support-resources/forms-online-filing/2015/04/15/quarterly-mine-employment-and-coal-production>

The MSHA generally does not require an operator/claimant to establish a legal identity (submit form 2000-7) or submit a start-up notice when:

- Operation involves only exploration activities in abandoned or inactive mines, such as geologic mapping, chip or channel sampling and long-hole drilling. If it is necessary to begin the rehabilitation of mine workings, such as roads, mine structures or timbering, to perform exploration activities, then the submission of form 2000-7 and a start-up notice is required. In these cases, contact MSHA for further guidance.
- Operations are primarily recreational such as prospecting clubs or other organizations that derive their profits and/or revenues from dues and fees that are largely independent of the extraction, processing or sale of mineral commodities.

If an operator or claimant stops an operation, moves an operation, or permanently closes it, the operator or claimant must notify MSHA and ASMI of the intent to close or move the operation, and ADEQ if the operation is regulated under the APP program.

Your operation may also require a permit from the Army Corps of Engineers (Corps). The Corps evaluates potential effects of materials placed into or removed from jurisdictional wetlands or waters of the United States. The Corps may conduct a jurisdictional delineation to

decide if the proposed mining claim use and occupancy are affected by guidelines to determine compliance with Section 404 of the Clean Water Act. Mining under the subject regulations must comply with the Clean Water Act. For information on Section 404 permits contact:

U.S. Army Corp of Engineers  
Regulatory Section  
3636 N. Central Avenue, Suite 760  
Phoenix, AZ. 85012-1936  
Phone: 602-230-6900

The following pages are a sample 3715 filing that you may use as a pattern for your filing. If you have any questions concerning the proper format for your filing, or the information you will need to supply for your specific case, please contact the BLM.

## SAMPLE LETTER

Bureau of Land Management  
Attention: Field Manager  
(ADDRESS)

Dear Field Manager:

I'm sending this letter to you for my 3715 filing on the Lost Frenchman mining claim number AMC 000001. This claim is located north of Phoenix in T6N, R1W in the south half of section 5. The mining that we are doing on the claim is covered by a notice that we filed with your office in August 2017.

We plan to have three buildings on the mining claim. One is a powder magazine to store explosives, one is for storing chemicals, and one is a processing building. The process I plan to use is vat leaching using sodium cyanide. The chemical storage building will hold the cyanide and a few other chemicals. I included in this letter a complete list of all the chemicals that will be on the claim, and I'm also giving you the Material Safety Data Sheets for those chemicals. I have also enclosed in this letter a drawing showing the process circuit I plan to set up in the process building and about how much of the chemicals I'll need on a daily basis.

We want to put up a fence around all three of these building and a gate on the road leading to the mine. The fences will keep people from getting into or around the powder or chemical storage areas, and I'll also keep some mobile equipment stored in the area. Since my claim is near a couple of county roads, I usually find a lot of people on my claim, and a lot of my equipment has been vandalized. Some small items have been stolen, and I've had the sheriff out a couple of times since I filed my notice. Enclosed are pictures of the vandalism and copies of the police reports that were filed.

I also want to put a trailer on my mining claim. I plan to live in this trailer to further protect my equipment from vandalism. Someone will be on the claim at all times. When I'm not there, one of my miners will be living in the trailer because we need to have someone out there 24 hours a day, 365 days a year.

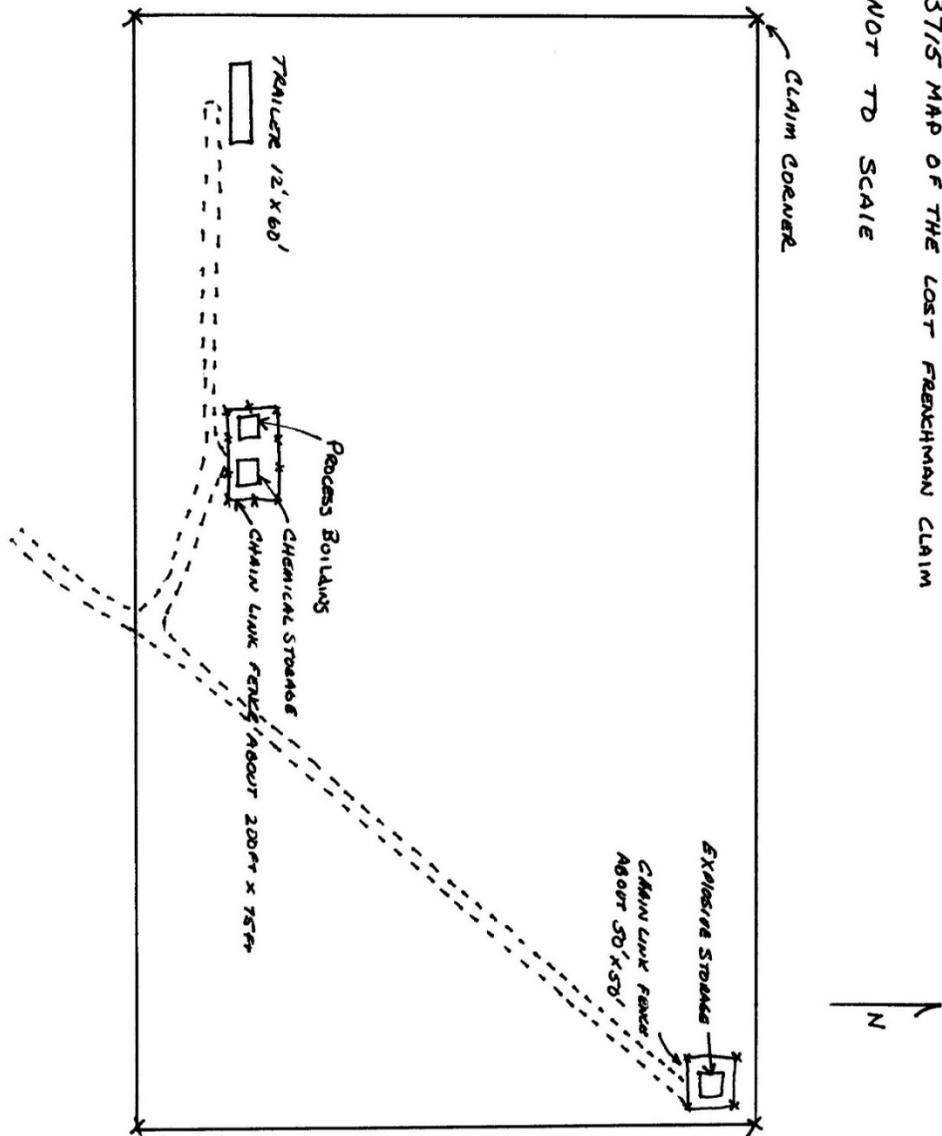
We plan to mine starting in late October of 2018 and we will end mining and begin reclamation in October of 2019. Reclamation will begin at that time and take approximately 6 months. All occupancy will end at that time. A reclamation schedule was included with our notice and you already have our certification of financial guarantee for the reclamation.

The land is clear and open around the claim, and people can reach the public lands north of the claim simply by going around the fenced area. The gate on the road will keep people from driving into the operation. Since the road stops at the mine, a gate just keeps people from driving into the mine workings.

We contacted the ADEQ APP permits section on January 10, 2018, and spoke with APP unit supervisor Mr./Ms. - - -. After discussing our operations, Mr./Ms. - - - said that no APP permit was needed for our operation.

We will be happy to answer any questions and give any more information as needed.

37/5 MAP OF THE LOST FRENCHMAN CLAIM  
NOT TO SCALE



## Performance Measures

**1. Facilities and Equipment:** All facilities and equipment on a mining claim or millsite must be appropriate and reasonably incident to prospecting, mining, or processing operations. All equipment and facilities must be presently operable, subject to the need for reasonable assembly, maintenance, repair, or fabrication of replacement parts. Facilities, methods and equipment must be appropriate to the terrain, mineral deposit, and stage of mineral development. The BLM will utilize the Compliance Assessment - Safety, Health, and the Environment Protocol Manual for the Bureau of Land Management and/or the Safety and Health Management BLM Manual Handbook (H1112-1) for guidelines for the inspection of facilities (excluding residential facilities) on a mining claim.

All structures used and/or occupied by a mining claimant or operator must be noted in the 3715 filing. Any structures that existed before the subject regulations, not claimed on a 3715 filing may become, at the discretion of management, the property of the United States. If an operator/claimant claims the right to possess and use a pre-existing building on his/her claim, and if this structure is determined by the BLM to be historically significant, the BLM may require the operator/claimant to restore the structure to its condition prior to the use or occupancy.

If at any time, reasonably incident activities cease, and inspections by BLM personnel reveal that observable on-the-ground activities have stopped, the BLM may terminate the concurrence and order all or part of the use and occupancy to stop and be removed from the public lands.

Single structures for the storage of compatible chemicals and housing of equipment or supplies will be encouraged over the use of several small outlying structures when practical. Temporary structures such as tents, campers, or trailer homes will be encouraged over the use of permanent structures such as buildings, homes or cabins. When practical, you must use flat lying areas, with low erosion potential, as the preferred site for all facilities. All operations must have at least one (1) ABC type fire extinguisher on site at all times.

The BLM's written concurrence for the occupancy must be kept on the mine property and presented to any BLM personnel requesting to see it.

All operations must be kept neat, clean and free of debris. The facilities must present a safe work environment for the employees and facilities must be constructed to meet all applicable electrical, mechanical, safety and public health codes and/or regulations. All operations must be conducted in strict accordance with all applicable Occupational Safety and Health Administration (OSHA) and MSHA regulations and the Arizona Mining Code administered by the ASMI.

**2. Vehicles:** All automobiles and motor homes on mining claims or millsites must have current registration. All off-highway motor vehicles (any motorized vehicle when operated off of highways on either land, water, snow, or ice) must have current registration if used on roads outside of the mining claim. The BLM off-highway-vehicle designations must be followed outside of the mining claim. In addition, the claimant or operator will allow no vehicle or piece of equipment to be parked or positioned in a way that impedes the normal flow of traffic.

**3. Structure Condition:** The exterior of all buildings (including roofs) and trailers on public lands and other related outdoor structures must be in good physical condition, well maintained, well painted or otherwise treated to protect against deterioration and kept clean and in good repair. The BLM may specify paint colors to limit visual impacts. The operator is responsible to insure that all structures meet State, county, or local electrical, mechanical, safety and public health codes.

**4. Chemical Storage:** All chemicals must be stored, according to Department of Transportation standards, in approved containers with proper labeling. Rusted, dented, leaking or otherwise damaged containers must be removed from the public lands. All buildings used for the storage of chemicals must be placarded and storage of process reagents in quantities exceeding a 30 day supply will not be allowed without additional NEPA analysis. When the claimant/operator requests a process chemical inventory that does not exceed a 30-day supply the claimant/operator must demonstrate the need for the inventory requested in the 43 CFR 3715 filing. This restriction does not apply to household chemicals or chemicals stored in quantities less than the Comprehensive Environmental Response, Compensation and Liability Act reportable quantity (40 CFR 302). Chemical and fuel storage facilities on public lands must be used to store only those chemicals and fuels essential for mining, milling, and processing operations occurring on the public lands. Incompatible chemicals must be protected from each other and stored in a manner that does not present a hazard. All operations must be conducted in strict accordance with all applicable OSHA and MSHA regulations and the Arizona Mining Code administered by the ASMI. Operators must submit a complete list of all the chemicals they plan to store on their claims or millsites with Material Safety Data Sheets. The BLM, through its inspection program, will monitor operations to see that only essential chemicals, in appropriate quantities, are stored on site.

**5. Fuel and Petroleum Product Storage:** All petroleum product storage tanks and barrels, placed above ground, must be in a bermed area. The bermed area must be lined with an impervious lining. The bermed area must be able to contain 110 percent of the capacity of the tank(s) and/or barrels. Facilities that store 1320 gallons of oil or more or 660 gallons in a single tank must have a Spill Prevention Control and Countermeasures Plan (SPCC) 40 CFR 112.20 (a). These plans must be developed and then approved by a registered professional engineer. The SPCC plan must determine if the facility can cause “substantial harm to the environment.” If it does, then a Facility Response Plan is also required.

**6. Mobile Homes:** No permanent foundations will be erected for mobile homes. No mobile home will have an enclosed deck or add-on room. Porches may be installed, but any porch will be easily removable from the mobile home. Porches will not be enclosed with any material, except for screening. Roll-up sunshades are also permitted. Mobile homes must have at least 10 feet between them.

**7. Authorized Number, Types and Uses:** The mine operator will not exceed the number or type of structures specified in the approved 3715 filing. All structures must be removed within the time frames stated in the 3715 filing. The operator/claimant must furnish the BLM a copy of the APP before operations begin, whenever an APP is required.

The BLM will coordinate with the claimant or operator to ensure that the number of people required to reside on a mining claim or millsite will be sufficient to perform the tasks of mining

and/or milling and to provide for site security. The BLM will also work with the claimant or operator to insure that only the number of people required for operations and site security will be in residence (making a home) on the claim at any time. Based on this consultation and the subsequent environmental analysis, the BLM will specify the maximum number of people, including family members that can reside on the claim for more than 14 days in any 90 day period.

**8. Beginning operations:** As required by Titles 18 and 27 of the Arizona Administrative Code, the claimant or operator must submit a “Notice of Start-up, Move, or Stop for Portable Equipment and Mine Operations” whenever operations begin, move or are suspended. It is the operator’s responsibility to send the BLM a copy of the written notification from the ASMI that this form was received.

**9. Tanks:** Liquid Petroleum Gas storage, used for household purposes, will not exceed one hundred and twenty five (125) gallons at each mobile home, cabin, or house. Each tank will be installed, mounted, and maintained in a way that meets all applicable safety code provisions. At a minimum this means chained to the structure.

**10. Appliances and Yard Furniture:** Except water softeners, evaporative coolers and air conditioners, no household appliances of any kind will be installed or stored outside of a structure. Only furniture designed and constructed for exterior use is permitted outdoors. Tables, grills, and fire-containing devices will be repaired as necessary to assure proper function, rigidity, support and appearance.

**11. Fire Prevention:** Consistent with all applicable laws and subject to reclamation, vegetation must be cleared for a minimum distance of:

- At least 30 feet from all structures.
- At least 15 feet from any site on which a fire will be built and flammable ground litter must be cleared for at least a 5 foot radius around the fire.
- At least 15 feet from any site where welding, grinding, or any other spark producing operation will be performed.

Spark arrestors must be used on chainsaws, quad-runners and motorcycles.

**12. Grounds:** Grounds will be well maintained, safe, uncluttered, and free of litter and debris. All operations will provide a clean, and maintained view for the public from any roadways or thoroughfares by which the public may approach or pass mining operations on the BLM lands.

**13. Pets:** Nonessential animals and/or free-roaming pets or animals are not allowed.

**14. Waste and Sewage Handling and Removal:** The term "waste" as used herein means all discarded matter including, but not limited to human waste, trash, garbage, refuse, petroleum products, ashes and equipment. Refuse will be stored in receptacles that have covers and lids, are painted, undented, waterproof, and both vermin and raven proof. Wastes will be disposed of in accordance with local laws. This should be an ongoing effort and unused equipment, trash, refuse, and litter should be removed periodically to maintain the highest aesthetic standards achievable during mining operations. The mine operator will provide an effective system for the collection and disposal of garbage and trash. This will be done by contracting with a trash removal firm, or with appropriate public entities, or through self-efforts of the operator or any

combination of these methods as directed by the Field Manager. Wastes shall be disposed of in a sanitary landfill unless otherwise approved by the Field Manager.

All sewage treatment facilities will be constructed and operated in accordance with all necessary permits utilizing accepted engineering practice and procedures. The operator/claimant must have a septic permit from the county in which the septic system is located before the system can be operated.

**15. Public Signs:** Public signs for which the operator is responsible must be appropriately located, accurate, attractive and well maintained. Permanent signs will be prepared in a professional manner, consistent with BLM standards and must be approved by the BLM before installation.

**16. Mine Wastes:** If mined materials are removed from the public lands for processing, it will be the responsibility of the claimant or operator to insure that wastes generated in processing these materials are not hazardous materials or toxic wastes, if such wastes are to be returned to the public lands for disposal. The BLM, at the discretion of the Field Manager, may require sampling of the wastes and subsequent analytic procedures to verify that such wastes are not hazardous materials or toxic wastes. The claimant or operator will pay the costs of sampling and analytic procedures.

**17. Explosive Storage:** All explosive storage, regardless of the class of explosive or the amount stored inside the magazine, shall meet the requirements of the Arizona Revised Statutes Title 27.

**18. Fences:** The BLM will attempt to keep the public lands open to public entry at all times. But, where public health and safety is a primary concern or it is essential that access be limited to protect valuable mining equipment or supplies from theft or loss, the BLM will authorize the placing on public lands of fences, gates, and signs to limit public access. Where public safety is a paramount concern, the BLM may, at the discretion of the Field Manager, use administrative procedures to formally close the lands to public entry using the procedures specified by 43 CFR 8364.

Where fences, gates, and signs must be built and maintained for site security or for public safety, the BLM will determine, through a site inspection that such enclosures are reasonable. Should the claimant or operator be ordered to build and maintain fenced enclosures or post signs by either MSHA, OSHA or the State Mine Inspector, the claimant must provide written proof of such an order to the BLM before authorization is given and actual construction can begin. All fences and gates will be constructed to protect livestock and wildlife in the area. Exact specifications for fences and gates will be developed on a site specific basis using information obtained in the biological assessment performed by the BLM. Minimum requirements for fences are in the BLM Manual Handbook H-1741-1, Fencing.

Whenever fences, gates, or signs are placed on the public lands, the BLM will require the claimant or operator to post public directions on the fence or gate showing routes to public lands around or behind the fenced enclosure. The exact nature of the posting to be used will be decided on a case by case basis by the Field Manager. Whenever locked gates are used, the BLM will require the claimant or operator to give the BLM a key or use a system of double locks.

**19. Reclamation:** Regulations at 43 CFR 3809.1-1 require that all operations will be reclaimed. Occupancy site reclamation will include, but is not limited to, complete removal of all structures, regrading, replacement of topsoil or growth medium and establishing native vegetation to establish a diverse, effective, and permanent vegetative cover to reflect the post mining land use. All reclamation operations will be conducted in accordance with the BLM Solid Mineral Reclamation Handbook (H-3042-1).

#### **Actions and Activities Not Allowed**

The cultivation of crops and establishment of garden plots.

Activities including animal maintenance or pasturage. This includes the construction of corrals, chicken coups, kennels and stables.

The development of small trade or manufacturing concerns, hobby and curio shops, cafes, tourist stands, and hunting and fishing camps.

The storage, treatment, processing, or disposal of non-mineral, hazardous or toxic waste that are generated elsewhere and brought onto the public lands.

Any activities involving recycling or reprocessing of manufactured material such as scrap electronic parts, appliances, photographic film, and chemicals.

Searching for buried treasure, treasure trove or archeological specimens is strictly prohibited by the subject regulations.

Blocking access to the public lands through the placement of berms, wire cables, stones, vegetative debris or other materials placed on roads constructed on public lands.

Living in abandoned buses, truck trailers, other abandoned vehicles, adits, tunnels or caves.

## Exhibit 3

### **RECLAMATION FINANCIAL GUARANTEE ESTIMATOR**

#### **GENERAL**

The use of the Reclamation Financial Guarantee Estimator (estimator) is optional. You are not required to use this estimator. Should you elect to use the estimator, pending review and verification of your input data, the BLM will accept this RCE for your proposed operations. The estimator can be used for all Notice and Plan of Operations level activities that will not create more than 20 acres of surface disturbance and do not require an APP from the ADEQ. The estimator is offered by BLM Arizona and its use is restricted to operations conducted under 43 CFR 3809 in Arizona or on lands in New Mexico and California managed under the authority of BLM Arizona.

The BLM Arizona generally accepts the results of the reclamation financial guarantee estimator without further documentation or support from operators upon verification of inputs. Site-specific requirements, such as habitat restoration, or unique aspects of your operation may necessitate that the BLM FO preclude the use of the estimator for your notice or plan of operations. If you do not elect to use this estimator or cannot apply the estimator to your situation, you must present to the BLM a detailed RCE meeting the requirements of 43 CFR 3809.552. Your RCE will be reviewed by the BLM, and you may be asked to provide additional information during the review process.

You will need access to a personal computer running Microsoft Excel or other compatible worksheet to use the estimator. If you do not have access to the required equipment, contact your local BLM office.

#### **OBTAINING A COPY OF THE ESTIMATOR**

The estimator is available at:

<https://www.blm.gov/documents/arizona/eforms/data/reclamation-bond-calculation-spreadsheet-2017-bond-estimator-excel>

#### **USING THE ESTIMATOR: INPUTS AND THE FINANCIAL GUARANTEE TOTAL**

The spreadsheet requires you to enter certain physical parameters for your mining operations. These parameters are referred to in column A or the first column of the spreadsheet as “User Inputs.” User input values are entered in the cells in the spreadsheet highlighted in yellow. The units of measure of each user input are given on the spreadsheet as well. Make certain that the correct units are used in order to obtain a valid estimate. Note that some of the user inputs may not apply to your operation. Leave these fields blank. Row headings highlighted in blue must have values entered for all operations.

To enter a user input, select the cell in which you wish to enter information and type in the number, and then press enter. To remove a value, select the cell and then press delete. Only cells highlighted in yellow can be accessed.

**When estimating, the following definitions will assist you:**

Trailers: Structures or equipment mounted on wheels, roadworthy and readily transportable.

Structures and non-mobile equipment: Structures and equipment that are not mounted on wheels or have wheels but are not roadworthy.

Debris: Demolished structures, non-functioning or disassembled equipment and trash or debris

**Mandatory Values:**

Distance to public landfill: This value is the distance in miles to the nearest public landfill.

Distance to equipment rental: This value is the distance in miles to the nearest community where construction equipment can be rented.

Once all of the user inputs for your operations are entered, the total reclamation cost is shown in the green cell at the bottom of the sheet. This value includes contractor overhead, profit, administrative costs, bond, insurance, contingency costs and the BLM management fee. This amount represents the total amount of your financial guarantee due to the BLM if you have chosen the estimator as the method for calculations your financial guarantee. Present a copy of this page to the applicable BLM FO for review. This page becomes your RCE as required by §3809.301(b)(4) or §3809.401(d).

**WHAT TO SUBMIT WHEN USING THE RECLAMATION COST MODEL**

To fulfill your requirement to provide a RCE, please submit a printed copy of the input page from the reclamation cost model. This printout should show clearly all of your inputs and the final amount of the financial guarantee. **DO NOT** provide the BLM with disks or other portable media containing this information. For security purposes, the BLM cannot load software, read files or load disks that you bring in or send via e-mail.

**ESTIMATOR DATA**

The data which the estimator uses to develop a financial guarantee is located on the second sheet of the workbook. The following is a summary of that data:

Scope of Work: A description of the work on which the estimate is based. The scope generally follows the BLM Solid Mineral Reclamation Handbook H-3042-1, where applicable.

Equipment Rental Rates: The equipment selected for inclusion in this table includes equipment commonly available in most parts of the State. This equipment is adequate for most jobs, although it may not be the optimum size for the job in question. The size of the job and local availability of equipment may dictate the use of other equipment types or models.

Equipment rental rates are based on various sources as listed as is the date of data acquisition. Daily, weekly and monthly rates are included to permit the spreadsheet to use the appropriate rate in calculating rental cost. Quoted rates are given in columns D, E, and F. Columns G, H, and I are total costs including taxes, equipment protection plan, tire wear and environmental fee, as appropriate. Columns G, H and I are used to calculate equipment rental costs.

Equipment Operating Costs: Operating costs are estimated from the Caterpillar Performance Handbook, Edition 43, where applicable. Costs for other equipment (crane, man lift, compressor & pneumatic hammer, etc.) were estimated from manufacturer's, renter's or user's data.

The fuel cost was obtained from U.S. Energy Information Administration for product delivered within a 50-mile radius of their depot. Lube, filter and tire wear costs (where applicable) are based on fuel cost.

Changes should be made only to the fuel cost column, column E (light yellow cells). Changing the fuel cost in the uppermost cell will change the fuel cost in all cells in the column.

Davis-Bacon Rates and Fringes: The crafts and trades included are appropriate for the equipment and jobs, but do not include all crafts and trades. Column E is used to calculate labor costs. While the information used in the model was developed for Maricopa County, it should be used for all counties in Arizona.

Miscellaneous Input Factors: This table includes cost factors obtained from contractors or estimated based on past experience.

Operating Hours, Costs and Fees: This table uses information from Sheet 1 (User Input) and the Sheet 2 input tables above, along with production factors from the Production Factors Sheets (separate from the spreadsheet), to calculate total operating hours, labor costs, materials costs and fees for reclamation of each facility/feature indicated on Sheet 1.

Total Cost Calculations: This sheet gathers and totals production cost information from the Production Factors, etc. table above. It then applies various overhead factors to the totals to arrive at the Total Reclamation Cost, which is also posted on Sheet 1.

## **PREPARING A RECLAMATION COST ESTIMATE WITHOUT THE ESTIMATOR**

If you elect not to use the estimator, a reclamation cost checklist and cost form are provided below in this attachment, to assist you. These forms are only provided for your assistance and may not represent all of the costs associated with a specific operation. Remember, these forms are for use when the estimator is not used.

### **Reclamation Cost Estimate Checklist**

This checklist is provided to assist the operator 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 RCE Summary Sheet (see last page of this section). It is not all-inclusive, but is intended to serve as a reminder of issues that should be considered.

#### Access roads and drill pads

- Mobilization and demobilization
- Re-contouring or regrading to approximate the original topography as closely as possible
- Removing culverts
- Ripping or scarifying the surface
- Water diversion construction
- Restoring or stabilizing drainage areas or streambeds
- Revegetation

#### Drill hole abandonment

- The cost of plugging, capping, and segregation of the hole from the ground water system is to be considered. Specifically care needs to be taken in determining plugging costs based upon whether the hole encounters water, water under artesian pressure, or is dry
- Drill holes that will be immediately plugged, before drilling equipment is moved off-site, may not need to be covered by a financial guarantee
- Drill holes that will not be immediately plugged must base the RCE as if the site were abandoned
- Drill holes that will be “mined through” within six months of drilling completion by the proposed operation do not have to be covered by a financial guarantee, if the location is already covered by a financial assurance for reclamation of the mining activity

#### Trenches, pits, and adits

- Mobilization and demobilization
- Re-contouring or regrading to approximate the original topography as closely as possible
- Revegetation
- Securing portals from public entry

Waste rock dumps, overburden, and interburden storage areas.

- Encapsulating, mixing, or other engineered placement method in controlling acid rock drainage migration
- Re-contouring and regrading to approximate the surrounding topography as closely as possible to enhance stability, reduce susceptibility to erosion, and facilitate efforts to establish vegetation
- Diverting run-on
- Covering with rock, clay, topsoil, other growth medium or other cover material
- Revegetation

Dams for tailings ponds.

- Covering with rock, clay, topsoil, other growth medium or other cover material
- Revegetation
- Rendering the dam incapable of storing any mobile fluid in a quantity that could pose a threat to the stability of the dam, or to the public safety.
- Containment basins and water treatment facilities for leakage or outflow of effluent

Impoundment for tailings

- Regrading to promote run-off and reduce infiltration
- Covering with waste rock, clay, topsoil, other growth medium or other cover material
- Revegetation
- Diverting run-off
- Containment basins and water treatment facilities for leakage or outflow of effluent

Heaps from leaching

- Cost of maintaining proper fluid management to prevent overflow of solution ponds through premature cessation or abandonment of the operation, including the cost of a Process Fluid Inventory
- Rinsing, detoxification and neutralization procedures as approved in the Plan of Operations
- 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
- Diverting run-off
- Regrading to enhance structural stability, promote run-off, reduce infiltration, and control erosion
- Covering with waste rock, clay, topsoil, other growth medium or other cover material
- Stabilization and revegetation

Solution ponds, settling ponds, and other non-tailings impoundments

- Backfilling and grading as approved in the Plan of Operations
- Restoring the pre-disturbance surface water regime, if appropriate
- Properly dispose of process pond sludge

#### Building foundations, facilities, structures and other equipment

- Demolishing costs to the level of the foundation and burying costs of the demolished items on site, in conformance with applicable solid waste and HazMat disposal requirements
- Salvaging and sale costs. No provision for salvage value or credit is permitted
- Off-site disposal costs of “1” above, in conformance with applicable solid waste disposal and HazMat requirements
- Costs of continued use in a manner that is consistent with the proposed post mining land use

#### Open pit mines

- Providing for the public safety
- Stabilizing pit walls or rock faces where required for public safety
- Constructing and maintaining berm, fences, or other means of restricting public access.
- Backfilling, if required or being considered as a requirement
- Costs of creating and maintaining a lake for recreational, wildlife enhancement, or other beneficial use
- Revegetation

#### Underground mines

- Sealing shafts, adits, portals, and tunnels to prevent access.
- Constructing and maintaining berms, fences, or other means of restricting access

#### Revegetation

- Application of topsoil or other growth medium
- Seed bed preparation
- Selection of appropriate species of seeds or plants (consult the BLM staff specialist).
- Soil amendments such as fertilizers, mulches, or other compounds to assist in plant growth
- Planting or seeding (equipment, personnel, cost of seeds/plants)

#### Site Maintenance and Site Monitoring

- Any site monitoring costs as required by the BLM.
- Monitoring well costs for heaps, leach fields, bioreactors and tailings pond.

**Reclamation Cost Estimate Summary Sheet (1 of 2)**

Earthwork/Recontouring	Labor	Equipment	Material	Total
Roads				
Drill Site(s)				
Drill Hole Abandonment				
Pits/Adits/Trenches				
Process Ponds				
Heaps				
Dumps (Waste & Landfill)				
Tailings				
Structure & Building Areas				
Storage & Equipment Areas				
Drainage Control				
Mobilization/Demobilization				
Miscellaneous				
Revegetation/Stabilization	Labor	Equipment	Material	Total
Roads				
Drill Site(s)				
Pits/Adits/Trenches				
Process Ponds				
Heaps				
Dumps (Waste & Landfill)				
Tailings				
Structure & Building Areas				
Storage & Equipment Areas				
Drainage Control				
Monitoring				
Miscellaneous				

Detoxification/Water Treatment/Waste Disposal	Labor	Equipment	Material	Total
Process Ponds/Sludge				
Heaps				
Dumps (Waste & Landfill)				
Tailings				
Surplus Water Disposal				
Fluid Management				
Monitoring				
Miscellaneous				
Structure, Equipment & Facility Removal				
Hazardous Materials				
Mitigation				
Operation & Maintenance TOTAL				
Administrative Costs				Total
ED&C Plan				
Contingency				
Contractor Profit				
Liability Insurance				
Performance & Payment Bond				
BLM Contract Administration				
BLM Indirect Cost				
Administrative TOTAL				
GRAND TOTAL				

## Reclamation Cost Estimate Summary Sheet (2 of 2)

This summary sheet was developed to aid the operator in developing and the BLM review of the reclamation cost estimation.

1. Wage rate estimates may include base pay, payroll loading, overhead and profit. To avoid double counting of any of the identified administrative costs, the operator must itemize the components of the labor cost estimates or provide the BLM with a signed statement, under penalty of perjury as provided in 18 U.S.C. 1001, which identifies what specific administrative costs are included in the quoted hourly rate.
2. Where costs are included in one of the summary sheet's *Miscellaneous* categories, each item should be documented on accompanying worksheets.
3. *Fluid Management* may only be used when mineral processing activities are involved. Costs provided under this category represent the costs of maintaining proper fluid management to prevent overflow of solution ponds during premature cessation or abandonment of the operations. These are direct costs, including power, supplies, equipment, labor, and maintenance, to manage the fluids while third-party contracts are developed and executed.
4. Handling of hazardous materials includes the cost of decontaminating, neutralizing, disposing, treating, and/or isolating all hazardous materials used, produced, or stored on the site.
5. The cost of any deferred compensatory mitigation the BLM is requiring the operator to perform must be included in the RCE. Mitigation may include measures to avoid, minimize, rectify and reduce or eliminate the impact, or compensate for the impact.
6. 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 percent of the operation and maintenance (O&M) cost. Calculate the ED&C cost as a percentage of the O&M cost as follows: up to and including \$1 million, use 8 percent; over \$1 million to \$25 million, use 6 percent; and over \$25 million, use 4 percent. Inclusion of a line item for the development of an ED&C plan may not be necessary for small operations, such as notice-level exploration. With small, uncomplicated reclamation efforts contracting may be able to proceed without developing an ED&C plan.
7. 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 as follows: Up to and including \$500,000, use 10 percent; over \$500,000 to \$5 million, use 8 percent; over \$5 million to \$50 million, use 6 percent; and greater than \$50 million, use 4 percent. Inclusion of a contingency cost may not be necessary for small, uncomplicated reclamation.
8. For construction contracts, use 10 percent of estimated O&M cost for the contractor's profit; exclude those O&M costs from the calculation where contractor profit is already covered in the itemized unit costs.
9. Insurance premiums are calculated at 1.5 percent of the total labor costs. Enter the premium amount if liability insurance is not included in the itemized unit costs.

10. Federal construction contracts exceeding \$100,000 require both a performance and a payment bond (Miller Act, 40 USC 270 et seq.). Each bond premium is figured at 1.5 percent of the estimated contract cost.

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

12. The BLM's indirect cost rate is a fixed 21 percent of the BLM's contract administration costs (this calculates out to be 1.26 to 2.1 of the O&M cost).

## Operator Reclamation Cost Estimate Checklist

The categories included in this checklist should be used to aid the operator in developing and the BLM's review of the cost estimate. Documentation supporting the calculations should be included. Resources that may be helpful for calculating the reclamation liability include contractors estimates, quotes from equipment rental agencies, rental rate bluebooks for heavy equipment, heavy equipment cost data manuals, and heavy equipment performance handbooks.

- 1 Access roads and drill pads
  - a. Mobilization and demobilization.
  - b. Recontouring or regrading to approximate the original topography as closely as possible.
  - c. Removing culverts.
  - d. Ripping or scarifying the surface.
  - e. Water diversion construction.
  - f. Restoring or stabilizing drainage areas or streambeds.
  - g. Revegetation.
- 2 Drill hole and well abandonment
  - a. Mobilization and demobilization.
  - b. The cost of plugging, capping, and segregation of the hole from the ground water system is to be considered. Specifically, care needs to be taken in determining plugging costs based upon whether the hole encounters water, water under artesian pressure, or is dry.
  - c. The plugging cost for all holes that will be drilled before an inspection can verify proper plugging, in addition to any drill holes that are to be left open, must be covered.
  - d. Plugging costs must be based on the cost as if the site were abandoned.
  - e. Drill holes that will be "mined through" within 6 months of drilling completion by the proposed operation do not have to be covered by a financial guarantee, if the location is already covered by a financial assurance for reclamation of the mining activity.
  - f. Water wells, monitoring wells, and piezometers are abandoned in accordance with State regulations and are part of the RCE and financial guarantee process
- 3 Trenches, pits, and adits
  - a. Mobilization and demobilization.
  - b. Recontouring or regrading to approximate the original topography as closely as possible.
  - c. Revegetation.
  - d. Securing portals from public entry.

- 4 Waste rock dumps, overburden, and interburden storage areas
  - a. Encapsulating, mixing, or other engineered placement method in controlling acid rock drainage migration.
  - b. 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.
  - c. Diverting run-on.
  - d. Covering with rock, clay, topsoil, other growth medium or other cover material.
  - e. Revegetation.
- 5 Dams for tailings ponds
  - a. Covering with rock, clay, topsoil, other growth medium or other cover material.
  - b. Revegetation.
  - c. Rendering the dam incapable of storing any mobile fluid in a quantity that could pose a threat to the stability of the dam, or to the public safety.
  - d. Containment basins and water treatment facilities for leakage or outflow of effluent.
- 6 Impoundment for tailings
  - a. Regrading to promote run-off and reduce infiltration.
  - b. Covering with waste rock, clay, topsoil, other growth medium or other cover material.
  - c. Revegetation.
  - d. Diverting run-off.
  - e. Containment basins and water treatment facilities for leakage or outflow of effluent.
- 7 Heaps from leaching
  - a. Cost of maintaining proper fluid management to prevent overflow of solution ponds through premature cessation or abandonment of the operation, including the cost of a Process Fluid Inventory.
  - b. Rinsing, detoxification, and neutralization procedures as approved in the plan of operations.
  - c. 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.
  - d. Diverting run-off.
  - e. Regrading to enhance structural stability, promote run-off, reduce infiltration, and control erosion.
  - f. Covering with waste rock, clay, topsoil, other growth medium or other cover material.
  - g. Stabilization and revegetation.
- 8 Solution ponds, settling ponds, and other non-tailings impoundments
  - a. Backfilling and grading as approved in the plan of operations.
  - b. Restoring the pre-disturbance surface water regime, if appropriate.
  - c. Properly dispose of process pond sludge.

- 9 Building foundations, facilities, structures and other equipment
  - a. Demolishing costs to the level of the foundation and burying costs of the demolished items on site, in conformance with applicable solid waste and HazMat disposal requirements. Concrete foundations for most structures will need to be broken up before on site burial.
  - b. Salvaging and sale costs. No provision for salvage value or credit is permitted.
  - c. Offsite disposal costs of "1" above, in conformance with applicable solid waste disposal and HazMat requirements.
  - d. Costs of continued use in a manner that is consistent with the proposed post mining land use.
  
- 10 Open pit mines
  - a. Providing for the public safety.
  - b. Stabilizing pit walls or rock faces where required for public safety.
  - c. Constructing and maintaining berm, fences, or other means of restricting public access.
  - d. Backfilling, if required or being considered as a requirement.
  - e. Costs of creating and maintaining a lake for recreational, wildlife enhancement, or other beneficial use.
  - f. Revegetation.
  - g. Treatment or mitigation of discharge waters.
  
- 11 Underground mines
  - a. Sealing shafts, adits, portals, and tunnels to prevent access.
  - b. Constructing and maintaining berms, fences, or other means of restricting access.
  - c. Treatment or mitigation of discharge waters.
  
- 12 Revegetation
  - a. Application of topsoil or other growth medium.
  - b. Seed bed preparation.
  - c. Selection of appropriate species of seeds or plants (consult BLM staff specialist).
  - d. Soil amendments such as fertilizers, mulches, or other compounds to assist in plant growth.
  - e. Planting or seeding (equipment, personnel, and cost of seeds/plants).
  
- 13 Site Maintenance and Site Monitoring
  - a. Any site monitoring costs as required by the BLM.
  - b. Monitoring well costs for heaps, leach fields, bioreactors, and tailings pond.

## Exhibit 4

### FOR RECLAMATION BONDING OF PLANS OF OPERATIONS

### INFORMATION ON TIME DEPOSITS AND LETTERS OF CREDIT FOR RECLAMATION BONDING OF PLANS OF OPERATIONS

The following information is provided to assist the operator, claimant, principal, or obligor in obtaining an Irrevocable Letter or a Credit Certificate of Deposit to be used as security for the BLM Surface Reclamation Bonds.

#### **IRREVOCABLE LETTERS OF CREDIT**

An irrevocable Letter of Credit (LOC) must be presented to the local BLM Arizona FO as follows:

1. The LOC must be payable to the U.S. Department of the Interior, Bureau of Land Management.
2. The initial expiration date must not be less than 1 year from the effective date and must contain an automatic renewal provision in at least 1-year increments.
3. The LOC must contain provisions allowing collection by the BLM for failure of the obligor to replace the bond if 90-day Notice is given by the bank that the LOC will not be renewed.
4. The LOC must be available by demand payment(s). The LOC should allow partial drafts by the BLM.

**The letter below provides sample language to be used when securing a CD.**

#### **SAMPLE**

Irrevocable Letter of Credit No. \_\_\_\_\_ Date Issued \_\_\_\_\_

Beneficiary: U.S. Department of the Interior, Bureau of Land Management,  
Arizona State Office, One North Central Avenue, Suite 800, Phoenix, AZ 85004-4427.

On behalf of *(operator, claimant, other entity)* of *(address)*, as obligor, we *(bank, financial institution)* of *(address)* hereby establish an Irrevocable Letter of Credit in favor of the U.S. Department of the Interior, Bureau of Land Management (BLM), and agree to pay upon demand by the BLM, up to an aggregate amount of U.S. \$ \_\_\_\_\_ upon receipt of your draft(s) at sight 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 *(city and state)* 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 certified mail, return receipt requested, that we elect not to renew this Letter of Credit for such additional period.

Upon receipt by the of such a Notice from us not to renew this Letter of Credit, 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, pursuant to 43 CFR 3809.

It shall not be required for the BLM, in order to draw on this Letter of Credit, to furnish the original Letter of Credit; however, it is understood, as a condition of any payment thereunder, that the face amount of the Letter of Credit 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 of Credit; 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. We are informed that this Letter of Credit is issued per the requirements of 43 CFR 3809 for the case file serialized as (serial number of Plan of Operations case).

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

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

\_\_\_\_\_  
(Bank Name)

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

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(City, State, Zip)

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

\_\_\_\_\_  
(Phone Number)

## **Certificate of Deposits**

A Certificate of Deposit (CD) must be presented to the BLM Arizona FO in accordance with the following items:

1. The financial institution issuing the CD must be insured by the Federal Government (FDIC) or the bank must be a Federal Reserve Branch Bank.
2. A CD cannot exceed \$100,000 from any one financial institution.
3. The BLM must hold sole right to redeem the CD. Bank records must reflect that only the BLM may collect the amount of the CD. The CD should be made in the name of the U.S. Department of the Interior, Bureau of Land Management. If the CD is not directly issued in the name of the Department of the Interior, then the CD must explicitly state on its face that “the Secretary of the Interior must approve the redemption of the CD by any party.” Any earned interest will be paid to the obligor, not to the BLM.
4. The CD 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 CD is submitted for only the amount determined for surface reclamation, the obligor must also submit a statement that any penalties for early redemption will be paid from the obligor’s interest earned and not from the principal amount of the CD.

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

**On Letterhead of Financial Institution**

United States Department of the Interior  
Bureau of Land Management  
Arizona State Office  
One North Central Ave., Suite 800  
Phoenix, AZ 85004-4427

RE: (Name of Account Holder)

Whereas, the Bank shown above is presently the depository bank for Certificate of Deposit number \_\_\_\_\_ (the "CD"), the principal amount of \$ \_\_\_\_\_, titled \_\_\_\_\_.

Whereas, the Bank acknowledges that the purpose of the CD is to secure a performance bond to fulfill requirements with the Bureau of Land Management (the "BLM") in accordance with the regulations at Title 43 CFR 3809.

Now, therefore, the Bank agrees that the Bank will not use the CD to exercise any set-off rights, which the Bank may now have or acquire in the future against the account holder or the BLM or any other agency of the Federal government.

The Bank further agrees not to take or accept the CD as collateral or security for any loan, credit or other obligation by the account holder, the BLM or any other agency of the Federal government.

In the event of early withdrawal, any penalty required by the bank must be paid from the interest earned and not from the principal amount of the CD unless the CD was obtained in an amount sufficient to pay any early withdrawal penalty.

The Secretary of the Department of the Interior or his duly authorized representative, through the BLM Arizona State Office, is granted full authority to demand immediate payment in the case of default by the account holder. Approval by the Secretary of the U.S. Department of the Interior or his duly authorized representative, through the BLM Arizona State Office, is required prior to the redemption of the CD by any party.

This agreement shall expire when the CD is withdrawn or any of the terms of the CD, including the titling of the CD, are changed, amended or modified. The agreement shall renew whenever the CD renews, so long as ownership, titling and all terms of the CD remain the same.

Signed this \_\_\_\_ day of \_\_\_\_\_, 2018

Financial Institution

By: \_\_\_\_\_

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

Title: \_\_\_\_\_

## Exhibit 5

### 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 in U.S. Treasury Circular 154, which was incorporated in the Code of Federal Regulations at 31 CFR 225 (Acceptance of Bonds Secured by Government Obligations in Lieu of Bonds with Sureties).

The following information is provided to assist the operator, claimant, principal, or obligor (hereafter referred to as the “entity”) in obtaining a U.S. Treasury bill, bond, or note to be pledged to BLM for bonding purposes. The Treasury security must be in book-entry (electronic) form. Any security in definitive (certificate) form must be converted to book-entry form. Treasury securities pledged to the BLM are held in a Circular 154 account through a commercial bank. In most Federal Reserve Bank (FRB) districts, this is the number 11 securities account. Securities are moved between various accounts and financial institutions through electronic transfers involving the Federal Reserve Banks or Branches. A security cannot be transferred to or from a Circular 154 account by the entity’s commercial bank without authorization being granted to the FRB by the BLM through the Negotiable Securities Custodian located in the BLM National Business Center, Accounting Operations Division (Denver, Colorado).

The following steps should be followed when obtaining a Treasury bond or note as a pledge for a surface management bond in accordance with the regulations at 43 CFR 3809:

1. The entity contacts a financial institution to purchase a Treasury security in the name of the entity providing the bond coverage. If the financial institution is unable or unwilling to set up a Circular 154 account, the security must be transferred to a commercial bank (the correspondent bank) able and willing to set up a Circular 154 account on behalf of the entity. Many financial institutions such as investment firms and smaller banks use a correspondent bank for handling their securities. Before a commercial bank can set up a Circular 154 account, certain paperwork must be completed by the commercial bank and sent to the FRB. The Negotiable Securities custodian may be contacted at the number listed below for information on banks currently using Circular 154 accounts.
2. The entity provides written authorization to the commercial bank to transfer the security to the Circular 154 account.
3. The entity or entity’s bank confirms the purchase of the Treasury security by submitting the following information to the BLM office:
  - a. The entity’s name and mailing address.
  - b. The BLM serial number of the Plan of Operations or Notice for which the security is being pledged or a statement that the security is being pledged for a statewide or nationwide bond. If the security is being pledged for a statewide or nationwide bond, identify the state(s) it covers.
  - c. The type of Treasury security purchased (bill, bond, or note).
  - d. The par amount of the security.

- e. The stated interest rate (NOT the imputed interest rate) of the bond or note. There is no stated interest rate on Treasury bills.
  - f. The maturity date of the security.
  - g. The Committee on Uniform Securities Identification Procedures (CUSIP) number of the security.
  - h. Name and mailing address of the depository financial institution (bank).
  - i. The bank's nine-digit American Banking Association (ABA) number.
  - j. The name of a contact person at the entity's bank.
  - k. The telephone and FAX number (including area code) of contact person.
  - l. The name of the FRB or FRB Branch servicing the commercial bank.
  - m. If the entity's financial institution uses a correspondent bank, the information requested in items "h" through "l" must also be provided for the correspondent bank.
4. The BLM State Office will forward this information to the Negotiable Securities Custodian, National Business Center, Accounting Operations Division by email. For securities pledged for a statewide or nationwide bond, the BLM office will provide the Negotiable Securities Custodian with the BLM assigned bond number.
  5. The Negotiable Securities custodian will contact the appropriate FRB and the entity's bank or correspondent bank to authorize the transfer of the security to the Circular 154 account. When the bank transfers the security to the circular 154 account, the bank must include the following information in the electronic transfer message: "Security pledged to DOI-Bureau of Land Management, Arizona State Office by [name of entity] for [Plan of Operations or Notice case file number; statewide/nationwide bond]. The following is an example of an acceptable transfer message: "Security pledged to DOI-Bureau of Land Management, Arizona State Office by Zephyr Cove Corporation for Plan of Operations N00-00-000P."

**THE BANK SHOULD NOT ATTEMPT TO TRANSFER THE SECURITY TO THE CIRCULAR 154 ACCOUNT PRIOR TO CONTACT FROM THE NEGOTIABLE SECURITIES CUSTODIAN. MOST FEDERAL RESERVE BANKS AND BRANCHES WILL NOT ALLOW A TRANSFER OF A SECURITY TO THE CIRCULAR 154 ACCOUNT PRIOR TO RECEIVING THE AUTHORIZATION FOR THE TRANSFER FROM THE NEGOTIABLE SECURITIES CUSTODIAN.**

Once the security is transferred to the Circular 154 account, the FRB will send the Negotiable Securities Custodian a confirmation of the transfer, usually in the form of an "Acknowledgment of Book Entry Deposit, Release of Account Transfer" and/or "Statement of Pledged Activity." A copy of confirmation will be sent to the BLM Arizona State Office to document the transfer. A copy of confirmation is also sent by the FRB to the entity's bank.

6. The entity should send the following to the BLM FO as soon as possible:
  - a. Properly completed Surface Management Personal Bond Form No. 3809-2.
  - b. A transaction document from the entity's financial institution to verify the amount the entity paid for the security.

THE AMOUNT PAID FOR THE SECURITY, EXCLUDING ANY SERVICE FEES AND ACCRUED INTEREST, MUST EQUAL OR EXCEED THE REQUIRED BONDING AMOUNT. ATTENTION MUST BE GIVEN TO TREASURY BILLS SINCE THEY ARE SOLD AT A DISCOUNT (LESS THAN THE PAR AMOUNT). THE PAR AMOUNT ON TREASURY BILLS MUST ALWAYS BE GREATER THAN THE REQUIRED BOND AMOUNT.

7. The BLM Arizona State 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 Custodian.

The following is additional information concerning Treasury securities, which should be considered when deciding to use Treasury securities for bonding purposes:

- a. A fee is charged by the FRB for transferring securities between financial institutions and/or accounts. The fee may be passed on to the entity by the financial institution. To reduce the cost from fees, it would be advisable to purchase a security with a maturity date approximately equal to the expected required bonding period, although this will need to be weighed against the possibility of rising interest rates on Treasury securities.
- b. Semi-annual interest payments on Treasury bonds and notes are made by electronic transfer from the FRB to the entity's bank, which will transfer the interest to the entity in accordance with the agreement between the bank and entity (e.g., deposit the interest to a checking or savings account, etc.). The entity's bank will send a Form 1099-INT to the entity in January for interest paid the previous calendar year. A copy of the 1099-INT is sent to the Internal Revenue Service.
- c. If a security is no longer required prior to the maturity date, the BLM will notify the National Business (NBC) by memorandum. The NBC will contact the FRB and the entity's bank to transfer the security from the Circular 154 account. The entity will need to inform the bank to retain the security in an investment account, to be sold in the secondary (commercial) market, etc.
- d. If continued bond coverage is required after the maturity date, the BLM Arizona State Office will, in turn, notify the entity by letter that the security is maturing and that continued bond coverage is required. A copy of the letter is sent to the Negotiable Securities Manager.

There are two methods used for the handling of cash proceeds from the matured security. The method used depends upon the FRB involved. In the first method, the FRB holds the cash proceeds from the matured security in their Circular 154 suspense account. In the second method, approximately two weeks after the maturity date, the FRB transfers the cash proceeds to the BLM, who then deposits the money to the BLM office's suspense account.

Should the cash proceeds not be required for bonding purposes, the BLM Arizona State Office will send a memorandum to the Negotiable Securities Manager requesting the release of the cash proceeds from the FRB to the entity's bank, which will give the cash proceeds to the entity; or have a Treasury check issued to refund the cash proceeds to the entity. If the cash proceeds are required for bonding purposes, the cash proceeds will be retained either by the FRB or the BLM until replacement coverage is provided.

The entity must understand the following concerning a matured security:

- 1) The cash proceeds or the security prior to maturity will not be released to be reinvested into a new security.
  - 2) The cash proceeds or security, prior to maturity will not be released until a replacement bond instrument has been accepted.
- e. To ensure the timely release of the cash proceeds from the matured security, the entity should provide replacement coverage as early as possible, preferably at least two weeks before the original security matures.

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 necessary, the BLM Arizona State Office will send the Negotiable Securities Custodian a memorandum concerning the situation. If the security has matured or is about to mature, the cash proceeds will be transferred to the BLM from the FRB or the entity's bank. No interest is earned from the proceeds kept in the BLM office's suspense account.

If the entity's bank has any questions concerning the information provided, a bank representative may contact the servicing FRB. Any questions regarding the BLM's procedures may be directed to the BLM NBC, Accounting Operations Division, and at telephone number 303-236-6332. The current Negotiable Securities Manager is Esther Velasquez. The mailing address is as follows:

Bureau of Land Management  
National Operations Center  
PO Box 25047  
Denver, CO 80225-0047

For information regarding BLM bond requirements in general, the entity may contact the BLM Arizona State Office, Lands and Minerals, at telephone number 602-417-9334. The mailing address is as follows:

Bureau of Land Management  
Arizona State Office (AZ9200)  
One North Central Avenue, Suite 800  
Phoenix, AZ 85004-4427