

**SUPPLEMENT TO  
MEMORANDUM OF UNDERSTANDING NO. WY 19**

**BETWEEN THE**

**UNITED STATES DEPARTMENT OF THE INTERIOR**

**BUREAU OF LAND MANAGEMENT**

**WYOMING STATE OFFICE**

**AND THE**

**STATE OF WYOMING**

**DEPARTMENT OF ENVIRONMENTAL QUALITY**

**LAND QUALITY DIVISION**

**FOR**

**MANAGEMENT OF SURFACE MINING AND EXPLORATION FOR**

**MINERAL MATERIALS (Salable Minerals)**

**ON PUBLIC LANDS**

This is a Supplemental Memorandum to the general statewide Memorandum of Understanding (MOU WY 19) dated October 28, 1975, between the Governor of Wyoming and the United States by and through the State Director, Bureau of Land Management, Wyoming, United States, Department of the Interior. This MOU (BLM MOU WY-920-1301) replaces MOU WY-93, signed by Governor Ed Herschler on August 8 1984, and signed by Bureau of Land Management State Director Hillary A. Oden on August 9, 1984.

- 1. Background and Authority.** The Wyoming Department of Environmental Quality (WDEQ), Land Quality Division (LQD) and the Department of the Interior, Wyoming State Office, Bureau of Land Management (BLM) desire to work cooperatively to efficiently and effectively manage mineral material exploration and mining on BLM lands, including split estate lands. Split estate lands are lands where the surface and mineral owners are different. The typical case is where the surface ownership is private and the mineral ownership is BLM. For the purposes of this MOU, public lands under the administration of BLM will be termed BLM lands to differentiate from other public lands. The previous mineral materials MOU WY-93 between the BLM and LQD was signed in August of 1984. That MOU's purpose was to reduce duplication and foster coordination on bonding requirements for negotiated, competitive, and community pit mineral material sales on BLM surface. Since then, several bonding issues have arisen which require clarification, our respective regulations have changed, and permitting and inspection issues require coordination in a more comprehensive manner.

In Wyoming, mineral materials may include, but not be limited to, common varieties of sand, gravel, scoria (clinker), building stone, decorative stone, ballast, fill material, limestone, dolomite, clay, as well as petrified wood, leonardite, and other minerals not covered under the Mining Law of 1872 or Mineral Leasing Act of 1920. Common varieties may be disposed of under the Materials Act (Act) of July 31, 1947 (61 Stat. 681) as amended on July 23, 1955 (69 Stat. 367). Petrified wood is disposed of under the Act of September 28, 1962 (76 Stat. 652). These materials are also called saleable minerals and their use is authorized under 43 CFR 3600 through sales and free use permits. The regulations in 43 CFR 3814 govern coordination with the surface owner in split estate situations where the minerals are reserved to the United States but the surface is patented under the Stock Raising Homestead Act of 1916.

This MOU does not cover uncommon varieties of these minerals, which are administered under the 43 CFR 3800 Mining Law Regulations and the Supplement to MOU WY-19 between BLM and LQD for locatable minerals, signed November 19, 2003.

The State's participation in this MOU is authorized by W.S. § 9-2-121, 35-11-102, and §35-11-109(a)(ii), which recognize the policy of securing cooperation between agencies of the State and the Federal government in carrying out cooperative programs which are consistent with the constitution and laws of the State.

2. **Purpose.** The purpose of this MOU Supplement, hereafter referred to as MOU, is to:
  - A. Clarify procedures for cooperation between BLM and LQD in permitting, bonding, inspection, enforcement, and sharing of information for mineral material exploration, mining, and reclamation on BLM lands in Wyoming.
  - B. Foster Federal-State coordination of procedures to prevent unnecessary or undue degradation as defined in Section 302 of the Federal Lands Policy and Management Act of 1976 (Public Law 94-579) with respect to mineral materials operations on BLM lands and to foster responsible land use with respect to mineral materials operations on BLM lands under existing laws and regulations;
  - C. Prevent unnecessary administrative delay;
  - D. Prevent, to the degree allowed by law, duplication of administration and enforcement of reclamation regulations governing the exploration for, or mining of, mineral materials under the Federal regulations in 43 CFR 3600 and the State Noncoal Rules and Regulations; and
  - E. Minimize impacts to and ensure proper reclamation of those lands affected by exploration and/or mining, and assure that proper bonding is maintained.
3. **Scope.** This MOU covers use of mineral materials from BLM lands including split estate lands in Wyoming except Title 23 authorizations issued to the Wyoming Department of Transportation for road-building materials from BLM lands on Federally-funded highway projects. Those are covered by a separate MOU (WY920-08-07-192) among BLM, the Wyoming Department of Transportation, and the Federal Highway Administration, signed in August, 2007.
4. **Area of Cooperation.** The BLM and LQD jointly agree that:
  - A. The BLM and LQD shall exercise appropriate responsibility and jurisdiction for the review and approval of all exploration and mining activity for mineral materials on BLM surface and split estate lands. Each agency shall coordinate separate authorizations and exchange information to the degree necessary to prevent inconsistent action.
  - B. The BLM and LQD shall assume responsibility for coordinating with the other agency for the review and approval of applications for all exploration and mining operations on BLM lands.
  - C. LQD will coordinate with BLM to verify surface and mineral ownership for all proposed mineral material mining activities and notify BLM of all actions involving BLM and split estate lands.

- D. BLM will issue the free use permit, mineral material sale contract or letter of authorization for exploration. BLM will provide LQD with surface owner consent where BLM manages the surface.
- E. LQD will issue Licenses to Explore by Dozing, Drilling Notifications, Limited Mining Operations (LMOs), Small and Regular Mine Permits.
- F. The BLM will have lead responsibility for analyzing archeological and paleontological resources, noxious weed issues, National Environmental Policy Act (NEPA) requirements, and compliance with the Threatened and Endangered Species Act, the Migratory Bird Treaty Act, and the Bald and Golden Eagle Protection Act on BLM lands.
- G. The operator is responsible for submitting appropriate and complete forms and applications to BLM and LQD. To the extent possible, the application shall contain information to satisfy all the requirements of the BLM and LQD in one document.
- H. The review of any proposed exploration, mining, and reclamation plans, or applications for permits, contracts, or letters of authorization shall be in accordance with the schedules and processes set in the attached BLM and LQD “Wyoming Operating Guidelines: Management of Surface Mining & Exploration for Mineral Materials (Saleable Minerals) on BLM Lands”. Each agency shall notify the other agency of its review schedule, and inform the other agency when additional time is needed. Lack of response will be interpreted as no comments, and the agency requesting the review will proceed with the permitting action.
- I. BLM and LQD will coordinate with one another prior to final approval of an authorization. LQD may conditionally approve an application that contains some private surface and minerals to allow mining on the private portion of the permit area, pending authorization from BLM for disturbance of BLM lands. LQD may also approve applications without BLM authorization to avoid compromising statutory deadlines. BLM stipulations and mitigation measures may be incorporated into the LQD permit, provided they are consistent with LQD statutes and rules. The LQD may not declare an application for a small or regular mine permit technically complete until BLM has supplied mineral owner consent, unless statutory deadlines will be compromised. This may be in the form of a separate consent, or the approved contract where BLM bond concurrence is not necessary.
- J. BLM will not approve a contract, Free Use Permit, or Letter of Authorization until the operator posts an approved reclamation bond with LQD, where bond concurrence is required. Because LQD approval of the bond instrument occurs when the permit is approved, the BLM will provide a separate surface owner consent to LQD.
- K. A committee consisting of representatives from BLM and LQD shall be established to review and/or modify operating guidelines established in this MOU as requested by either agency. The committee shall also be responsible for exchanging contact lists, unless such lists are maintained on agency web pages.

L. The BLM and LQD shall require any exclusive use access routes on BLM lands to be part of the acreage included in the mine area and included in the financial guarantee.

5. **Bonding (Financial Guarantee)**. The LQD shall establish the reclamation bond amount on BLM surface and split estate lands, where required by 43 CFR 3601.30(d), 3602.14, or 3604.25, and W.S. 35-11-417. BLM bond concurrence is only required when the BLM is the surface owner. The BLM shall review for bond adequacy and respond to LQD within 45 days. The bond will be redeemable by the Secretary of Interior **and** the State of Wyoming, Department of Environmental Quality, Land Quality Division. BLM may impose additional reclamation bonds for Limited Mining Operations where LQD is restricted by statute to a specified bond amount per acre. In this case, LQD will hold the entire bond. When possible, BLM and LQD will conduct joint inspections to verify reclamation adequacy. LQD shall hold all reclamation bonds until release is authorized **in writing** by both agencies. For split estate, the bond is payable solely to LQD.

**LQD Annual Reports:** The operator shall be responsible for providing updated reclamation bond estimates concurrently to both agencies when BLM surface is involved, on an annual basis. Both BLM and LQD shall review for bond adequacy. BLM will notify LQD within forty-five (45) days of receipt of the bonding information if the bond should be increased. If no response is received from BLM, LQD will proceed with the bond evaluation. LQD will copy BLM on the bond approval letter.

In the event of a bond forfeiture, LQD will administer the reclamation contract. Development of the reclamation plan will be coordinated between BLM and LQD where BLM is the surface owner.

BLM may impose additional performance bonds for payment of sale contracts or for damages to private surface owners on Stock Raising Homestead Act lands independent of this MOU (43 CFR 3814).

6. **Inspection and Enforcement.**

- A. Both agencies shall conduct inspections as needed to meet their individual regulatory requirements. Inspections should be conducted jointly when possible.
- B. All inspection reports and pertinent correspondence produced by one agency shall be promptly exchanged with the other as soon as they are complete. Inspection reports may be exchanged electronically, preferably with digital photos, GPS, and GIS data included.
- C. The BLM is responsible for production verification on BLM lands where a contract or free use permit has been issued.
- D. Each agency shall promptly notify the other of all violations of applicable laws, regulations, permits, and/or permit requirements, along with the enforcement actions proposed or taken with respect to such violations.

## **7. Administrative and Legal Provisions.**

- A. Nothing in this MOU will be construed as limiting or affecting in any way the authority or responsibility of the LQD or BLM or as binding on either party to perform beyond their respective authority or to require either party to assume or expend any monies in excess of appropriations available.
- B. This MOU shall become effective as soon as signed by both parties and shall continue in force until formally terminated by either party. The termination shall follow a sixty (60) day notice in writing to the other agency regarding their desire to terminate the MOU. The MOU must be reviewed for adequacy and effectiveness as needed.
- C. Amendments to this MOU may be proposed by either party and shall become effective upon approval in writing by both parties.
- D. Any problems which cannot be resolved by the committee shall be referred to the next higher level of authority for resolution (LQD Administrator and BLM Deputy State Director of Minerals and Lands).
- E. Officials Not to Benefit: No member of, or delegate to, Congress or resident commissioner shall be admitted to any share or part of this MOU or to any benefit that may arise there from.
- F. Entirety of Agreement: This MOU consists of seven (7) pages and attached "Operating Guidelines for Management of Surface Minerals & Exploration for Mineral Materials (Saleable Minerals) on BLM Lands" consisting of a total of thirty two (32) pages. This is a Supplemental Memorandum to the general statewide Memorandum of Understanding (MOU NO. WY 19) dated October 28, 1975, between the Governor of Wyoming and the United States by and through the State Director, Bureau of Land Management, Wyoming, United States, Department of the Interior. This MOU (BLM MOU WY-920-1301) replaces MOU WY-93, signed by Governor Ed Herschler on August 8 1984, and signed by Bureau of Land Management State Director Hillary A. Oden on August 9, 1984.

All of the foregoing represent the entire and integrated agreement between the parties and supersede all prior negotiations, representations and agreements, whether written or oral.

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8. **Signatures.** The parties to this MOU, through their duly authorized representatives, have executed this MOU on the dates set out below, and certify that they have read, understood, and agreed to the terms and conditions of this MOU as set forth herein.

The effective date of this MOU is the date of the signature last affixed to this page.

STATE OF WYOMING, by and through:



Matthew H. Mead  
Governor

9/11/13  
Date

U.S. DEPARTMENT OF INTERIOR, BUREAU OF LAND MANAGEMENT, by and through:



State Director, Bureau of Land Management

8/29/13  
Date

ATTORNEY GENERAL'S OFFICE: APPROVAL AS TO FORM



Marion Yoder  
Senior Assistant Attorney General

Aug. 23 2013  
Date

Attachment: Wyoming Operating Guidelines: Management of Surface Mining & Exploration for Mineral Materials (Saleable Minerals) on BLM Lands

**WYOMING  
OPERATING GUIDELINES**

**MANAGEMENT OF SURFACE MINING & EXPLORATION**

**FOR MINERAL MATERIALS (Saleable Minerals)**

**ON BLM LANDS**

Attachment to the Mineral Materials Supplement to Memorandum of Understanding (MOU) No. 19  
Between the United States Department of the Interior, Bureau of Land Management (BLM) and the  
Wyoming Department of Environmental Quality/ Land Quality Division (LQD).

# WYOMING OPERATING GUIDELINES

## Management of Surface Mining & Exploration for Mineral Materials on BLM Lands

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## **I. OVERVIEW**

These Operating Guidelines describe the regulatory procedures followed by the Bureau of Land Management (BLM) and the Wyoming Department of Environmental Quality (WDEQ), Land Quality Division (LQD), to manage surface mining and exploration for mineral materials on public lands. For the purposes of these guidelines, public lands under BLM administration will be termed BLM lands to differentiate from other public lands. The guidelines also apply to lands with private surface ownership and reserved Federal minerals (split estate lands).

The operator or permittee is responsible for preventing unnecessary or undue degradation on BLM lands under Section 302(b) of the Federal Lands Policy and Management Act (FLPMA), and to provide for reclamation pursuant to W.S. §35-11-102, W.S. §35-11-402, and W.S. §35-11-415.

Lands currently under review for inclusion in the wilderness system (Wilderness Study Areas or WSAs) must be managed according to the BLM Wilderness Interim Management Policy.

Mineral materials are defined in 43 CFR 3601.5 as follows: “*Mineral materials* means, but is not limited to, petrified wood and common varieties of sand, stone, gravel, pumice, pumicite, cinders, and clay.”

Mineral Materials can also apply to common varieties of decorative stone (building stone, flagstone, moss rock), ballast, clinker (scoria), fill dirt, leonardite, limestone, dolomite, and other construction materials found on public lands. These “common variety” mineral materials are sold/disposed of from the public lands under the Materials Act of 1947 and the Surface Resources Act of 1955, 30 USC 601-615, either through sale or free use. Also included is sale or disposal of petrified wood under the Petrified Wood Act of 1962.

## **II. REVIEW AND AUTHORIZATION RESPONSIBILITIES**

### **A. RECLAMATION BONDING (FINANCIAL GUARANTEE)**

The Mineral Materials Supplement to Memorandum of Understanding No. WY 19 (MOU) provides that LQD shall establish the required reclamation bond amount for the permit or project area based on site conditions, with the BLM's concurrence where BLM surface is affected. The BLM will notify LQD within forty-five (45) days of the review request regarding bond adequacy for LQD permits. In the case of exploration activities, the BLM will notify LQD within twenty (20) days of the review request. If there is no response, LQD will proceed with bond approval. Where BLM surface is disturbed, bond instruments will be made payable to WDEQ/LQD and the U.S. Secretary of the Interior, and will be held by LQD. Bonds shall be sufficient to reclaim all affected lands using a third party contractor and including administrative costs. Acceptable bonding instruments on BLM lands are corporate surety, certificate of deposit, cash bond, irrevocable letter of credit, and a negotiable treasury bond (43 CFR 3602.14(c)). For mineral materials, the BLM will not accept self-bonds. LQD will hold the bond until reclamation has been approved by both agencies.

The BLM may require additional reclamation bonds for Limited Mining Operations (LMOs) where LQD is restricted by statute to a specified bond amount per acre. LQD will hold the additional bond.

Reclamation bonds will be payable solely to LQD for permits or project areas with private surface/BLM mineral estate.

Prior to reclamation bond release or bond reduction on BLM surface, LQD shall notify the BLM, and when possible, schedule a joint inspection. This inspection shall determine if all or portions of the reclamation work have been completed, and that requirements have been met as described in the appropriate authorization. Bonds will not be released without written concurrence from the BLM.

In the event of a bond forfeiture, LQD will administer the reclamation contract.

## **B. CULTURAL AND PALEONTOLOGICAL RESOURCES (BLM)**

Cultural clearance is required for any Federal action, and therefore applies to both BLM surface and split estate lands before the BLM can approve mineral material sales, contracts, Free Use Permits (FUPs), or authorizations to test and sample. These clearances must be approved by the BLM, however, either the BLM or the operator may conduct the cultural resource study. Cultural resource investigations shall be conducted by the BLM if cultural resources are discovered after a sale or FUP has been approved. All cultural resource investigations/reports will be kept confidential and shall not be part of the permit documents available for public review. The BLM cultural resource clearance must be complete before the LQD issues any authorization or permit on BLM lands. The BLM will provide the applicant with the survey results or summary information sufficient to satisfy LQD requirements for permit information and for the applicant to complete a mine and reclamation plan.

The BLM may require a paleontological inventory to be conducted prior to approval of an action, where there is a high potential for significant paleontological resources on BLM lands. Paleontological resource investigations shall be conducted by a qualified consultant if significant paleontological resources are discovered after a sale or FUP has been approved.

All cultural and paleontological resource inventory reports will be kept confidential and shall not be part of the permit documents available for public review.

## **C. THREATENED, ENDANGERED, AND OTHER WILDLIFE SPECIES (BLM)**

Clearances for Threatened and Endangered (T&E) Species, the Migratory Bird Treaty Act, and the Bald and Golden Eagle Protection Act are required prior to the approval of any Federal action (e.g., mineral material sales, FUPs, authorizations to test and sample, etc.) and applies to both BLM surface and split estate lands. The BLM will include any required mitigation resulting from T&E consultation as part of the mineral material sales contract or other applicable approval document. LQD can presume from BLM's issuance of a mineral materials sale contract, that T&E consultation has been completed. The BLM will take the lead in carrying out consultation and conference responsibilities under Section 7(a)(2), on the

proposed action unless the surface estate is administered by another Federal agency that elects to serve as the lead for consultation.

Potential impacts to BLM sensitive species and other wildlife species as a result of extraction operations are evaluated during the NEPA review conducted prior to the BLM approving any mineral material application (43 CFR 3600). As a result of this analysis, the BLM may require the applicant to follow seasonal and/or time-of-day restrictions on mining operations. The BLM may also require the applicant to avoid certain areas, such as sage and sharp-tailed grouse leks and nesting habitats, raptor nesting sites, or wetland and riparian habitats.

#### **D. PERMIT AREA, AFFECTED LAND, OPERATION**

The LQD and the BLM will ensure that all BLM lands to be disturbed by the operation are included in the LQD permit, license, or authorization, including exclusive use access roads. LQD definitions are as follows:

“Permit area” means the area of land and water within the boundaries of the approved permit or permits during the entire life of the operation and includes all affected lands and water (LQD Noncoal Rules and Regulations Ch.1 Sec.2(ao)).

“Operation” means all of the activities, equipment, premises, facilities, structures, roads, rights-of-way, waste and refuse areas... storage and processing areas, and shipping areas used in the process of excavating or removing overburden and minerals from the affected land or for removing overburden for the purpose of determining the location, quality or quantity of a natural mineral deposit or for the reclamation of affected lands (W.S. §35-11-103 (e)(viii)).

“Affected land” means the area of land from which overburden is removed, or upon which overburden, development waste rock or refuse is deposited, or both, including access roads, haul roads, mineral stockpiles, mill tailings, impoundment basins, and all other lands whose natural state has been or will be disturbed as a result of the operations (From W.S. §35-11-103 (e)(xvi), excluding language specific to uranium mining).

#### **E. RECLAMATION**

"Reclamation" as defined by LQD is the process of reclaiming “land affected by mining to use for grazing, agricultural, recreation, wildlife purposes, or any other purpose of equal or greater value” of the land before it was mined. “The process may require contouring, terracing, grading, resoiling, revegetation, compaction and stabilization, settling ponds, water impoundments, diversion ditches, and other water treatment facilities” to prevent water pollution, soil erosion, flooding problems, and achieve successful reclamation on lands affected by, or adjoining exploration or mining (W.S. § 35-11-103 (e)(i)).

Reclamation activities are required following disturbance of BLM lands by exploration or mining and are specified in the terms and conditions of the authorization. Operators are responsible for controlling noxious and invasive weeds according to a pesticide use permit (PUP) or other plan approved by the BLM, where the BLM is the surface owner.

Adequacy of reclamation on BLM surface will be determined by a joint BLM and LQD inspection, when possible.

### III. PROCESSING CATEGORIES AND PROCEDURES

Processing of LQD permits, licenses, exploration activities; and BLM sales and FUPs are described in the text and illustrations later in this guideline. BLM and LQD authorizations are summarized below.

#### A. LQD AUTHORIZATION ACTIONS:

**Exploration by Drilling (DN):** Exploratory drilling for mineral materials pursuant to W.S. §35-11-404 and LQD Noncoal Rules and Regulations, Chapter 8. A notification form is submitted to LQD showing intent to explore for noncoal minerals by drilling and accompanies the bond as required by Chapter 8 Section 4. The corresponding BLM action is a Letter of Authorization for Exploration.

**License to Explore by Dozing (LE):** Exploration work done by mechanical earth moving equipment pursuant to W.S. §35-11-414 and Noncoal Rules and Regulations, Chapter 5. Exploration by dozing is limited to areas that will not substantially affect 40 or more acres in any four contiguous sixteenth sections. Only material which shall be used for assay and testing purposes may be removed from the area. No commercial sale of material is allowed. The corresponding BLM action is a Letter of Authorization for Exploration.

**Limited Mining Operations (LMO or ET):** A mining disturbance of 10 acres or less for the life of the mine. The disturbance area includes any exclusive use roads. A limited mining operation can only be obtained for limestone, feldspar, sand, gravel, scoria, ballast, dolomite, or shale pursuant to W.S. §35-11-401 (e)(vi) and Noncoal Rules and Regulations, Chapter 10. The bond is set by statute to \$1,000/acre with the possibility of increasing the bond by \$100/acre. Corresponding BLM actions include mineral materials contracts (most likely negotiated/noncompetitive) including sales of more than \$2000 from Community Pits, and occasionally FUPs.

**Small Mining Permit:** Under this permit, the operator may not remove more than 10,000 cubic yards of overburden, subsoil, and topsoil combined, and affect more than 10 acres in any one year pursuant to W.S. §35-11-401(j) and Noncoal Rules and Regulations, Chapter 9. Total life-of-mine acreage may be quite large, and there are no restrictions on the type of mineral mined. The process for small mine permitting also includes amendments of new lands to the permit area. Corresponding BLM actions include mineral materials contracts (negotiated or competitive), including sales of more than \$2000 from Community Pits, and occasionally FUPs.

**Regular Mining Permit:** All larger mining operations are covered under W. S. §35-11-406 and Noncoal Rules and Regulations, Chapter 2. There are no size, quantity, or mineral type restrictions for this type of permit. The process for regular mine permitting also includes amendments of new lands to the permit area. Corresponding BLM actions include mineral materials contracts (negotiated or competitive) and occasionally FUPs.

**Governmental Authorizations, such as County Permits:** “Excavations other than for the extraction of coal by an agency of federal, state, or local government or its authorized contractors” may be exempt from permitting provided reclamation requirements are “consistent with all provisions of this act or regulations promulgated thereunder” (W. S. §35-11-401(e)(ii)). LQD interprets this to mean any governmental agency that demonstrates to LQD their reclamation requirements are as stringent as LQD may be exempt from a permit. LQD documents status for exemption by entering into an MOU/MOA. LQD currently has an MOU with the Wyoming Department of Transportation (WYDOT), Wyoming Game & Fish, and some individual counties and cities. Chapter 1, Section 3(b) of the Noncoal Rules and Regulations specifies development of county MOUs, which are tracked using permit numbers. The corresponding BLM action is a FUP. The BLM will provide LQD with any terms and conditions governing reclamation of that FUP.

**Permit revisions:** These apply to small and regular mine permits and address changes to the content of the permit. Revisions are described in Chapter 7 of the Noncoal Rules and Regulations, Instruction Memorandum No. 26. LQD will review submissions for completeness and determine public notice requirements within a 90 day review period pursuant to LQD Noncoal Rules and Regulations, Chapter 7 Section 2(a). The corresponding BLM action is a modification of a mining and reclamation plan under 43 CFR 3601.44.

**Non-Significant Revisions (NSR's)** are small changes to the permit such as changes in the monitoring program, changes in the seed mix, new road construction, new or relocated hydrologic structures. No public notice is required.

**Minor Revisions** are small changes requiring the submittal of a permit revision form. Examples include changes to postmining topography, changes to affected acres, and small changes to the mining sequence. No public notice is required.

**Incidental Boundary Revisions (IBR's)** involves the addition of previously unpermitted small parcels of land to the permit area. The major criterion (to distinguish from an amendment) is the proposed change must be incidental to the operation. No public notice is required.

**Major Revisions** – Decision criteria for major revisions are listed in Noncoal Rules and Regulations Chapter 7, Section 2(b), and requirements for public notice are described in Chapter 7, Section 3. Criteria include:

1. > 20 percent increase in affected land since the last public notice, or
2. a change in the postmining land use, or
3. a change in method for handling acid-forming, toxic, radioactive or other materials that are a fire, health or safety issue, or
4. a change which would adversely affect the quality, quantity or distribution of water in surface or groundwater systems, or
5. any changes which propose significant alterations in the approved mining or reclamation operation.

**Amendments** add land to an existing permit area, and require submission of an amendment form. An amendment must go through a public notice and comment period

if it constitutes a 20 percent or greater increase in the permit area since the last public notice adding lands.

## **B. BLM AUTHORIZATION ACTIONS:**

**Casual Use** - Activities ordinarily resulting in no or negligible disturbance of the public lands or resources. Casual use generally includes the collection of rock and/or mineral samples for noncommercial purposes, using only hand tools. Operators may use motorized vehicles for casual use activities provided the use is consistent with the regulations governing such use (43 CFR 8340), off-road vehicle use designations contained in BLM land-use plans, and the terms of temporary closures ordered by the BLM. Casual use does not include use of mechanized earth-moving equipment, truck-mounted drilling equipment, motorized vehicles in areas when designated as closed to “off-road vehicles” as defined in 43 CFR 8340.0–5, chemicals, or explosives. Although casual use is not defined in the Mineral Materials Regulations, these operating guidelines define BLM policy in Wyoming, and limit casual use to removal for personal use of one cubic yard or less of mineral materials per year. Persons may collect petrified wood for noncommercial purposes under the regulations in 43 CFR 3622 for casual use. There is no corresponding LQD action for casual use.

**Letter of Authorization for Exploration** – A letter issued by the BLM authorizing exploration for mineral materials, generally sand and gravel, using trenching, dozing, or drilling techniques. As per 43 CFR 3601.30(a), exploration must be authorized by the BLM in writing to sample and test mineral materials. The authorization letter expires after 90 days, but the BLM may extend it for an additional 90 days if it is shown that an extension is necessary. The BLM may authorize these activities before issuing a sales contract, FUP or Title 23 Authorization. Sampling and testing findings must be submitted to the BLM. All information submitted is subject to 43 CFR Part 2, which sets forth rules of the Department of the Interior relating to public availability of information contained in Departmental records. (See 43 CFR 3601.8.) A letter from the BLM authorizing sampling and testing for mineral materials does not give a preference right to a sales contract, FUP, or Title 23 Authorization. The BLM may impose bonding and reclamation requirements on sampling and testing conducted under an authorization letter. The corresponding LQD actions are License to Explore by Dozing or Drilling Notification if bonding is required. There is no corresponding LQD action where no bond is required. LQD is not involved in Title 23 Authorizations.

**Free Use Permit** - Any Federal, State, or territorial agency, unit, or subdivision, including municipalities, or any non-profit organization, may apply for a FUP to extract and use mineral materials as per 43 CFR 3604.12:

- a) BLM may issue free use permits to a government entity without limitation as to the number of permits or as to the value of the mineral materials to be extracted or removed, provided that the government entity shows that it will not use these materials for commercial or industrial purposes.
- b) BLM may issue free use permits to a non-profit organization for not more than 5,000 cubic yards (or weight equivalent) in any period of 12 consecutive months, provided that the organization shows that it will not use these materials for commercial or industrial purposes.

For further restrictions see 43 CFR 3604.22 (a).

The corresponding LQD actions are Governmental Permits, Limited Mining Operations, or Small Mine Permits, as appropriate. If a FUP is issued to WYDOT, LQD is not involved in the authorization.

**Community Pit** - A relatively small area, defined by legal description, from which the BLM can make disposals of mineral materials to many entities, including individuals, contractors and agencies (43 CFR 3603). The surface disturbance is usually extensive in the confined area. The site is noted on the land use plats and is segregated from location of mining claims. Corresponding LQD actions may be Limited Mine Operations or Small Mine Permits.

**Common Use Area** - A generally broad geographic area, defined by legal description, from which the BLM can make disposals of mineral materials to many persons, with only negligible surface disturbance (43 CFR 3603). The use is dispersed throughout the area. This designation is most commonly used for collection of small amounts of rock on the surface, such as moss rock. There is no corresponding LQD action because the State does not regulate small scale surface collection of rock.

**Mineral material contract (negotiated, noncompetitive)** – Under 43 CFR 3602.30-34, the BLM may sell, at not less than fair market value, and without advertising or calling for bids, mineral materials not greater than 200,000 cubic yards (or weight equivalent) in any individual sale, when the BLM determines it to be: (1) In the public interest; and (2) Impracticable to obtain competition. The BLM may sell mineral materials not exceeding 400,000 cubic yards (or weight equivalent), at not less than fair market value, without advertising or calling for bids if: (a) the BLM determines the sale to be in the public interest; and (b) the materials will be used in connection with an urgent public works improvement program on behalf of a Federal, State, or local governmental agency, and time does not permit advertising for a competitive sale. The BLM will not approve multiple non-competitive sales that exceed a total of 300,000 cubic yards made in any one state for the benefit of any one purchaser in any period of 12 consecutive months. Corresponding LQD actions may be Limited Mine Operations, Small Mine Permits, or Regular Mine Permits.

**Mineral material contract (competitive)** - Under 43 CFR 3602.40-49, BLM must sell mineral materials competitively when above noncompetitive volume limits or when there is competitive interest. When offering mineral materials for sale by competitive bidding, BLM: (1) Will advertise the sale by publishing a sale notice in a newspaper of general circulation in the area where the material is located, on the same day once a week for 2 consecutive weeks; and (2) Will post a sale notice in a conspicuous place in the office where bids are submitted. Corresponding LQD actions may be Limited Mine Operations, Small Mine Permits, or Regular Mine Permits.

### **Steps to Obtain Mineral Materials from BLM Lands in Wyoming**

The flow chart below shows the steps that individuals, companies, or public organizations follow to use mineral materials from BLM lands (public domain or split estate) in Wyoming. The BLM issues sales or FUPs for the materials, while the LQD issues the permit to mine. Separate steps are followed for exploration, requiring a letter of authorization from the BLM

and a permit and bond from LQD. Mining is split out by the amount of material requested. No permits or sales are required for casual use of one cubic yard or less per year of material, using only non-mechanized hand tools. Private parties must obtain sale contracts for amounts above casual use. Sales of large amounts of material require a BLM 3600-9 contract form. Small sales under \$2000 are authorized with a 5450-5 form. Public agencies and nonprofit groups can obtain a BLM FUP (Form 5510-1). On Federally-funded highways, WYDOT can obtain a Title 23 authorization from BLM, and the LQD is not involved.

The type of LQD permit depends on the size of the operation. Mining a total area of 10 acres or less can be authorized under a Limited Mining Operation (ten-acre exemption). Mining an area of ten acres or less per year requires a Small Mining Permit. Mining an area of more than ten acres per year requires a Regular Mining Permit.

The horizontal green bar in the flowchart highlights the BLM actions, while the pink bar highlights the LQD actions. At the bottom of the flowchart are the bond requirements for the BLM and LQD actions directly above. Exclusive (negotiated and competitive) sales over \$2000 and FUPs require a reclamation bond from LQD and occasionally from the BLM, while small sales in community pits may be able to pay a reclamation fee to the BLM instead of a bond. A reclamation fee or bond is discretionary for small sales involving surface collection of rock from common use areas.

The following matrix shows the types of corresponding LQD actions that may be required for different types of BLM actions:

<b>LQD Action</b>	RMP		X	X				
	SMP		X	X	X		X	
	LMO		X	X	X		X	
	GP				X			
	LE					X		
	DN					X		
		Small Sale	Negotiated Sale	Competitive Sale	Free Use Permit	LOA for exploration	Community Pit Sale	Common Use Area Sale
<b>BLM Action</b>								

RMP = Regular Mining Permit, SMP = Small Mining Permit, LMO = Limited Mining Operation,

LE = License to Explore, DN = Drilling Notification, GP = Governmental Permit

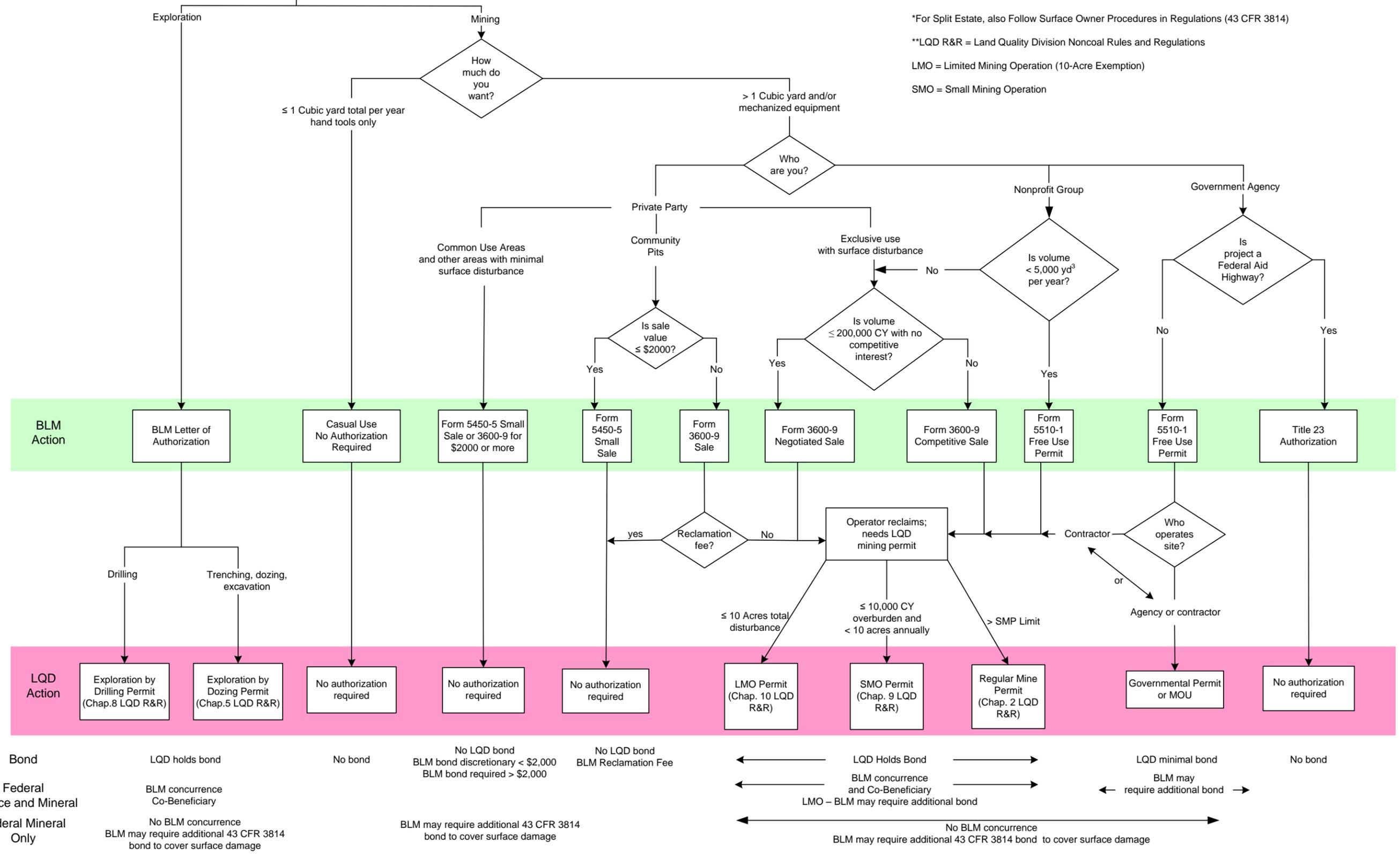
# Steps to Obtain Mineral Materials from BLM Lands\* in Wyoming

\*For Split Estate, also Follow Surface Owner Procedures in Regulations (43 CFR 3814)

\*\*LQD R&R = Land Quality Division Noncoal Rules and Regulations

LMO = Limited Mining Operation (10-Acre Exemption)

SMO = Small Mining Operation



## **Exploration by Drilling, Dozing or Trenching / BLM Letter of Authorization**

The operator will contact the BLM and LQD with an exploration proposal. Based on the type of the proposed operation, LQD may require a Drilling Notification (DN) or License to Explore (LE) form to be submitted. LEs are the most common type of exploratory permit for mineral materials, while DNs are uncommon. A copy of the LQD Form, with supporting documents including a reclamation bond estimate, will be submitted to the BLM by the operator. Information provided by the operator on the DN Form includes number, depth and location of drill holes. Information provided by the operator on the LE Form includes location of trenching and/or dozing and type of equipment. LQD is required to inform the applicant of the bond amount within 30 days of receiving a complete LE application.

LQD will contact the BLM field office upon receipt of an exploration proposal for mineral materials. BLM will verify surface and mineral ownership and respond to LQD. BLM and LQD must review and concur on both the exploration proposal, and the estimate of bond (if the BLM is the surface owner).

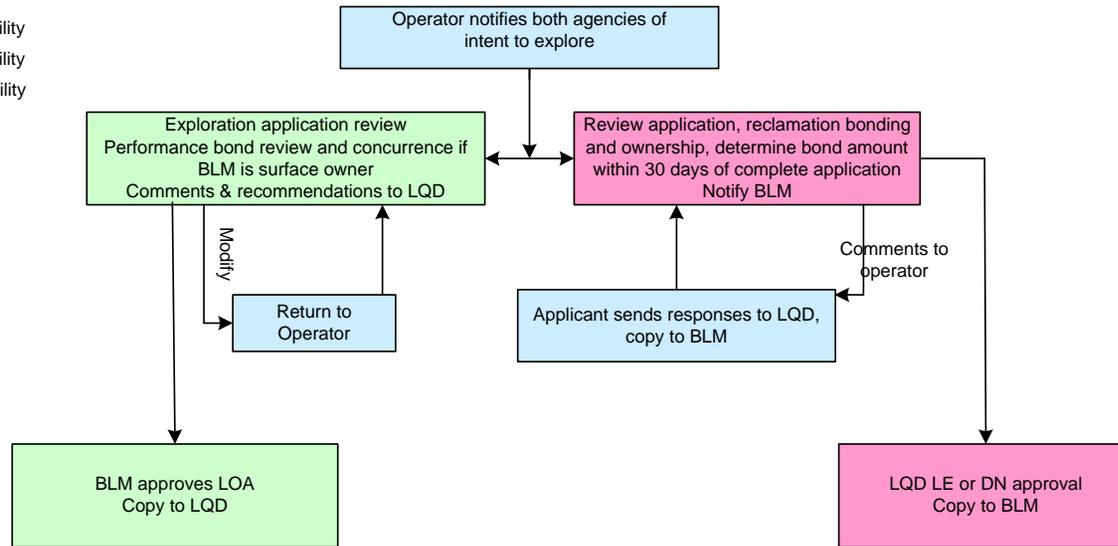
LQD approves the DN or LE for the project, notifies the operator and sends a copy to the BLM. The BLM prepares the Letter of Authorization for Exploration for the operator, including specified seed mixes for reclamation, and sends a copy to LQD. The BLM will conduct National Environmental Policy Act (NEPA) analysis in most cases as a categorical exclusion and ensure any needed wildlife and cultural clearances are completed. BLM LOAs expire after 90 days but the BLM may extend it an additional 90 days if the operator demonstrates an extension is necessary. The BLM will notify LQD of any LOA extensions.

Note that developmental drilling or dozing/trenching operations may be conducted within an approved mine permit area, without the need for a separate DN or LE, provided that the permit and reclamation bond are revised to cover said drilling activities.

The operator cannot sell any mineral material obtained under any of these exploration authorizations. The only material which may be removed will be that necessary for testing purposes. The operator must provide the BLM with the results of drilling and testing.

In those cases where an operator is proposing to conduct exploration by dozing and drilling, drilling may be conducted under an LE, eliminating the need for both an LE and DN.

## EXPLORATION BY DRILLING (Drilling Notification (DN)) and LICENSE TO EXPLORE BY DOZING (LE) BLM Letter of Authorization



BLM Letter of Authorization for Exploration

Location and Project Area  
 Time Frame  
 CX (Categorical exclusion) -T&E/Cultural clearances  
 Access  
 Unnecessary & Undue Degradation (bond determination discretionary depending on amount of disturbance and number and size of holes or trenches)  
 Reclamation (seed mixture)  
 Reporting of Testing to BLM Field Office  
 Bond estimate

LQD Exploration by Drilling

DN Form  
 Operator Information  
 Reclamation bond estimate  
 Surface/Mineral Ownership  
 Number and Location of Holes  
 Proposed Depth of Holes  
 Maps  
 Land Use and Resources

LQD Exploration by Dozing

LE Form  
 Operator Information  
 Reclamation bond estimate  
 Surface/mineral Ownership  
 Lands Involved Location  
 Land Use and Resources  
 Map(s)  
 Proposed Activities – Equipment and Disturbance

## **Limited Mining Operations**

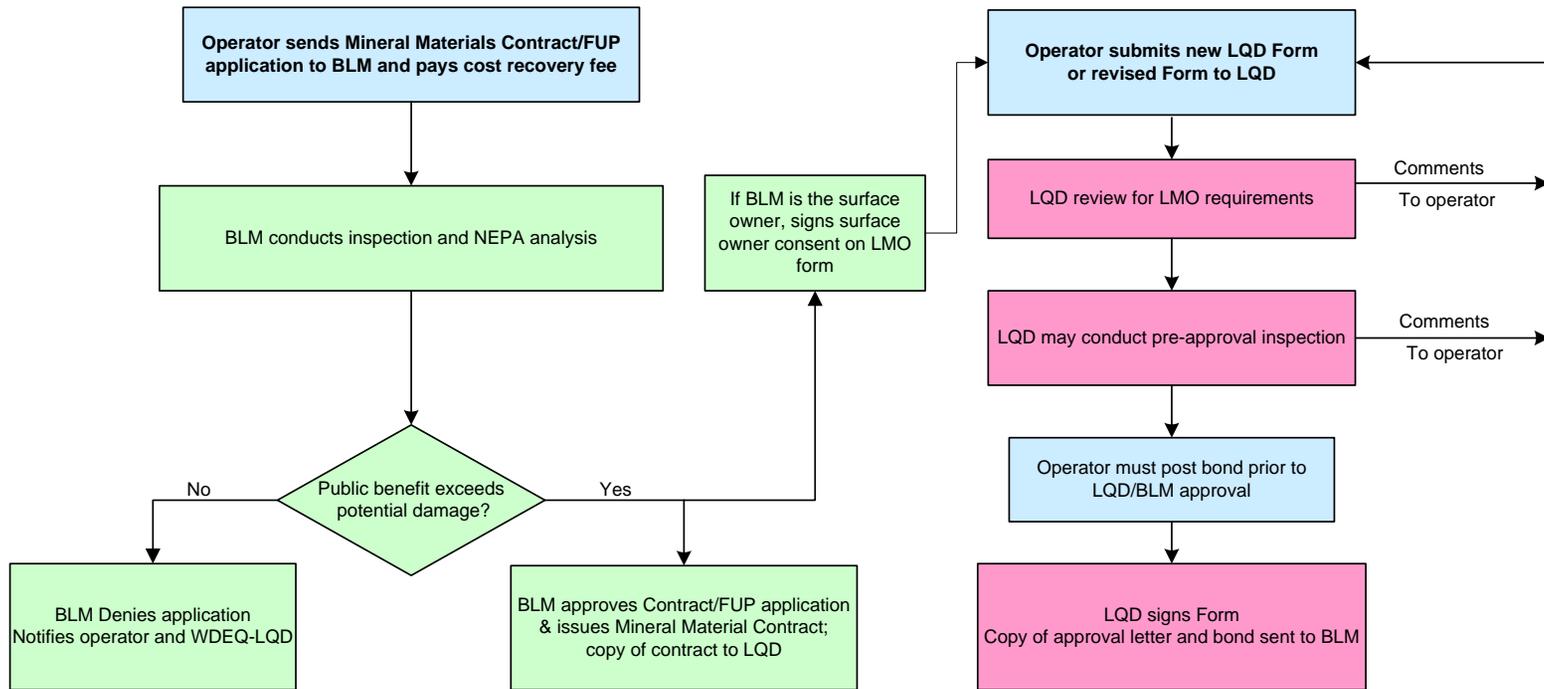
As per W.S. 35-11-401(e)(iv), Limited Mining Operations (LMOs, also known as ten-acre exemptions) are surface mining operations for the removal of sand, gravel, scoria, limestone, dolomite, shale, ballast or feldspar from a total area of ten (10) acres or less of affected land for the life of the mine. The ten acres includes any exclusive use access road. The operator is responsible for obtaining consent from the surface and mineral owners, as well as access to the site. Only those minerals listed in W.S. §35-11-401 (e)(vi) may be mined under a LMO. The operator must also obtain a storm water discharge permit from the WDEQ Water Quality Division, and clearance or a permit from the WDEQ Air Quality Division.

On BLM lands (Federal surface/Federal minerals), the applicant/operator submits a completed BLM form to the BLM for either a Mineral Material Contract (Form 3600-9), or if the applicant is a Government agency or non-profit group, a FUP (Form 5510-1). After the BLM receives an application/contract form from the operator, the BLM determines the appropriate cost recovery fees and sends a bill or letter to the operator requesting payment. Once fees are paid, processing of the application can continue. The BLM may require a Mining and Reclamation Plan also be submitted with the application. The BLM then conducts a field inspection of the area, and completes the required NEPA analysis, and wildlife and cultural clearances for the project. The BLM must also sign the Surface Owner Consent portion on the LQD Form. The operator then sends the completed application, a bond as determined by LQD, and any other required information to LQD. Signature on the LQD Form by the BLM as surface owner *does not convey the right to mine*, but is necessary in order for LQD to continue to process the LMO application for the operator. If the LMO is located on private surface/Federal minerals, the operator must obtain the signature of the private surface owner before the BLM will continue to process the sale application. The BLM approves the contract or FUP, including any needed stipulations for monitoring and mitigation.

The application for a Limited Mining Operation must be submitted to LQD, including a map on a U.S. Geological Service topographic base showing the location of the proposed mining operation. LQD reviews the application and determines bond adequacy. LQD does not require baseline data, mine, or reclamation plans for a Limited Mining Operation; however, the BLM may require a Mining and Reclamation Plan for this type of mine. Reclamation standards are set by LQD for all LMOs. As part of the application and before commencing any mining operations, the operator must submit a bond in the amount of \$1000 per affected acre. LQD may request an additional \$100 per affected acre by State statute. If the BLM requires additional bond coverage at any time during the mine operation, BLM will inform the applicant in writing, copy to LQD, to submit the additional bond amount to LQD. LQD will hold the additional bond.

Prior to approving the application, LQD and/or the BLM may inspect the proposed mining operation to verify its location and any previous mining activities in its vicinity. LQD will send a copy of its approval letter and the bond to the BLM, and the BLM will send copies of the approved Mineral Material Contract or FUP to the operator and LQD. An annual report must be submitted by the operator to both the BLM and LQD on or before the anniversary of the LQD LMO approval date. Compliance inspections will be conducted jointly by LQD and the BLM, when possible.

**LQD LIMITED MINING OPERATIONS (LMO)  
 Ten acres or less total disturbance  
 BLM FUPs, Negotiated Sale, or Competitive Sale**



**Regular and Small Mining Operations**  
**(BLM Negotiated or Competitive Sales, occasionally Free Use Permits)**

The operator must submit the small or regular mine application in duplicate to LQD, and send a copy of the application to the BLM.

**BLM's PROCESSING PROCEDURES:** This discussion applies to larger (>10 acres) mineral material contracts in exclusive sites. After the BLM receives an application/contract form from the operator, the BLM determines the appropriate cost recovery fees and sends a bill or letter to the operator requesting payment. Once fees are paid, processing of the application can continue.

The BLM then reviews the application for completeness and determines whether the sale will be negotiated (non-competitive) or competitive. The BLM verifies the Federal mineral interest, reviews the location of the contract area, reviews mine and reclamation plans, and conducts or reviews T&E and cultural clearances. The operator is generally required to pay for the Class III cultural resources inventory. Access issues are also reviewed, and the appropriate level of NEPA analysis is conducted, wherein stipulations, mitigation, and monitoring measures are determined. Processing of the application will move forward, unless the damage associated with the application will exceed the public benefit. If necessary, the BLM may conduct a site-specific appraisal. If the surface is privately owned, surface owner consent must be obtained by the operator. When the surface owner does not consent to mining, the operator must post a surface damages bond with the BLM as outlined in the 43 CFR 3814 regulations.

The BLM and LQD must concur on the amount of reclamation bond required, where the BLM is the surface owner. Once the BLM and LQD are in agreement that the application is administratively and technically complete, a sufficient bond is or will be posted, and the NEPA analysis has been completed, the BLM will request the operator to pay for the mineral material either all in advance, or in installments. Once payment for the material has been made, the BLM can issue the mineral material contract, sending a copy of the executed contract to LQD.

If the BLM determines that a competitive sale is necessary, the BLM will also publish a sale notice once per week for two consecutive weeks in a paper of local circulation, as well as post the notice in the BLM field office where the sale is to be held.

**LQD PROCESSING PROCEDURES:**

**Completeness Review:** LQD initiates review of the application for completeness, which is a (60) sixty day review cycle that continues until all necessary information is submitted for LQD to begin a technical evaluation. Completeness requires BLM consent if the BLM is the surface owner. Note that if the surface owner does not provide consent, the applicant has the option of filing a complaint with the Environmental Quality Council, and ultimately, the court system. The permit cannot be approved until this is resolved.

Once the application is deemed complete, the operator is required to publish the first public notice once per week for two consecutive weeks in a paper of local circulation.

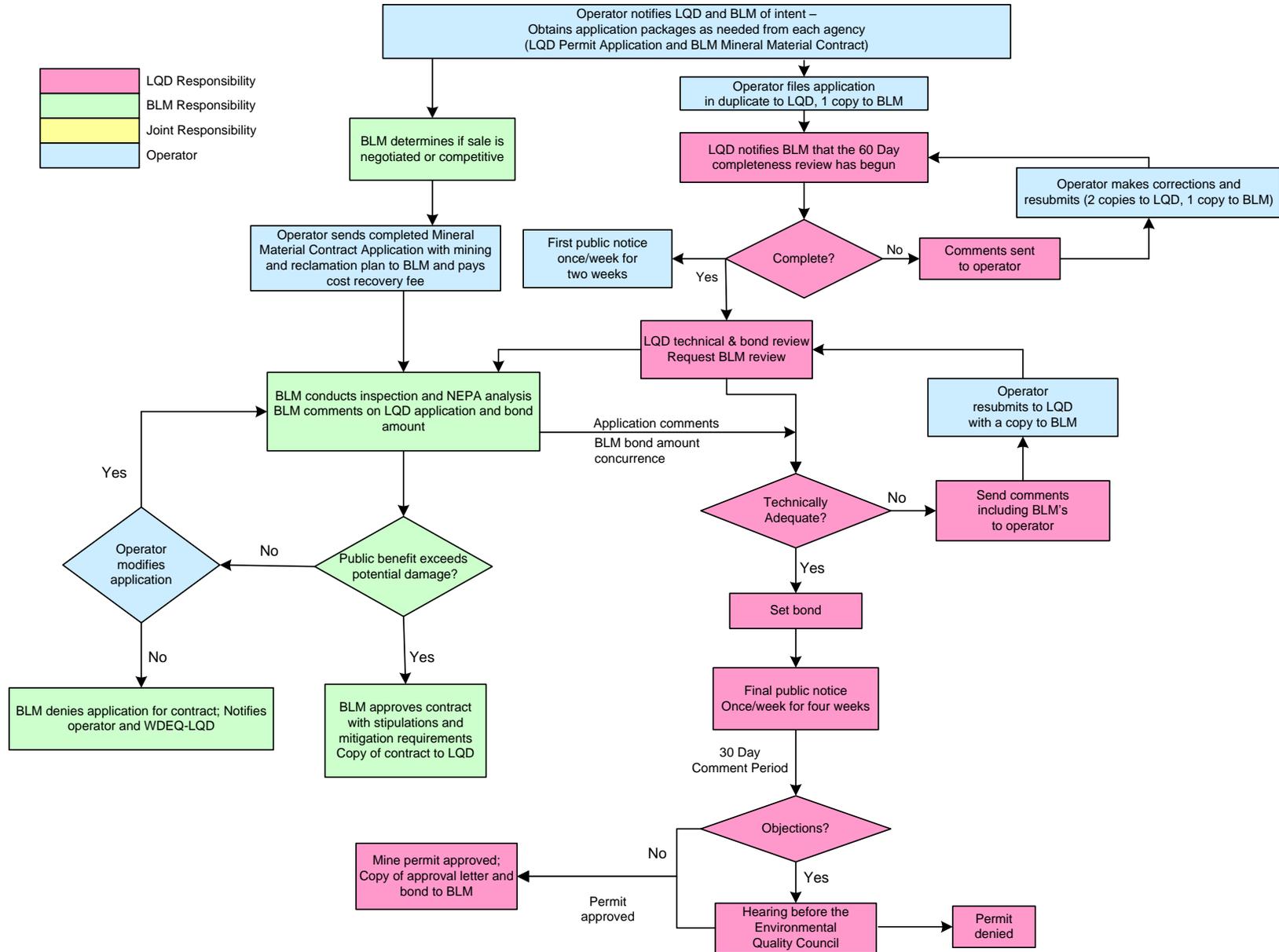
Technical Review: LQD will notify the BLM the application is complete and initiate technical review of the application and bond. The BLM will evaluate the bond estimate for adequacy and provide responses to the LQD within 45 days if the BLM is a surface owner. No response will be interpreted as concurrence with the bond amount. The LQD requires the initial bond amount to cover any disturbances during the first year of operations. The bond coverage is re-evaluated with each annual report and inspection.

Small mine permits are issued to operations which will disturb 10 acres or less per year, and remove 10,000 cubic yards or less of topsoil, subsoil and overburden per year. Operations exceeding these limits must obtain a Regular mine permit.

LQD's technical review may have several rounds of review after the application is deemed complete. After the initial 150 days of technical review have passed, LQD must respond to the applicant's responses within 30 days, and no new technical issues may be raised unless the applicant submits new information. The applicant will supply copies of revised pages and maps during both the completeness and technical reviews to both LQD and the BLM, so the application can be updated. The BLM will be notified of any changes to review timetables.

Once the application is deemed technically adequate and the bond amount set, the operator is required to file a copy of the application with the appropriate County Clerk's office, send copies of the public notice to all land owners adjacent to the permit boundary, and publish the final public notice. The notice must be published once per week for four consecutive weeks in a paper of local circulation. The public comment period lasts 30 days following the last published notice. If any objections to the application are received during the public comment period, a hearing before the Environmental Quality Council must be scheduled less than 20 days from the end of the comment period. The Environmental Quality Council will issue a finding regarding approval or disapproval of the permit. Concerns may be worked out between the applicant and protestant before the hearing, and the hearing canceled if all objections have been withdrawn in writing. LQD will copy the BLM on the permit and bond approval letters.

## REGULAR & SMALL MINING PERMITS BLM Mineral Material Sales Contracts



## **BLM Free Use Permits**

FUPs are issued to any Federal, State, or territorial agency, unit, or subdivision, including municipalities and counties, or any non-profit organization for the disposal of mineral materials without charge. There is no limit on volume for government agencies. Non-profit organizations are limited to 5,000 cubic yards per 12-month period. The BLM does not charge cost recovery fees for processing FUPs.

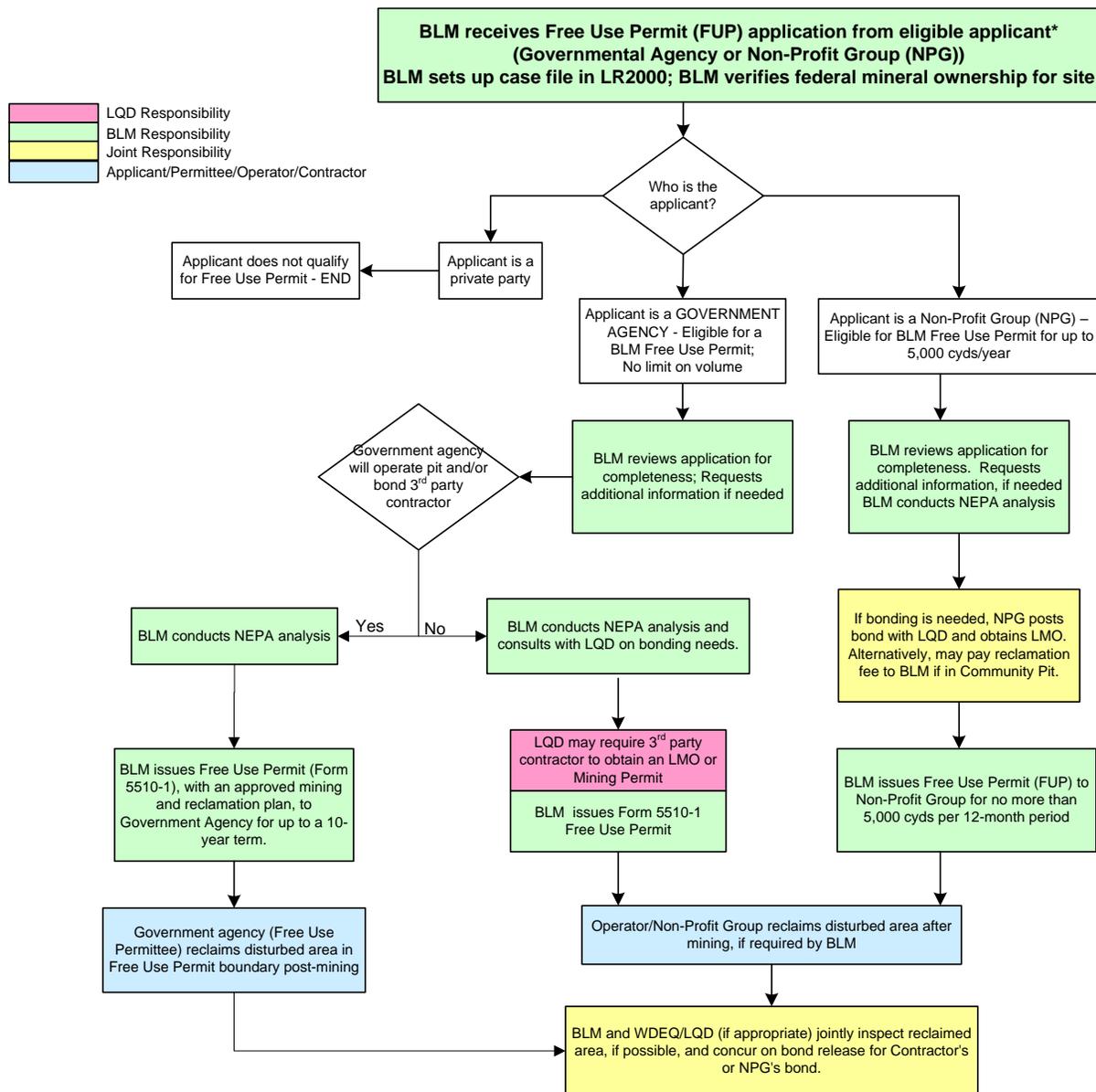
Once the BLM receives a FUP application, master title plats are reviewed to verify that the United States reserved "All Minerals", determine surface ownership, and ensure access is available. If the United States doesn't maintain any interest in the parcel, the FUP application is returned to the applicant.

If the BLM has an interest, the application is reviewed for completeness. The applicant submits a mine and reclamation plan to the BLM, and a surface land owner agreement if the land is split estate with the United States reserving the mineral.

The BLM will notify LQD of any FUPs for any non-profit group or any government agency. LQD will determine if a LQD permit is required. If a permit is required, the operator will post a reclamation bond through LQD and acquire the appropriate permit. If a permit is not required, the operator may post a bond or pay a reclamation fee to the BLM.

The processing includes completing a cultural review, wildlife review and other reviews if needed, based on the mine and reclamation plan. After all of this information is reviewed and considered adequate, it is incorporated in the NEPA document whether it is a categorical exclusion or an environmental assessment. Any special restrictions or mitigation and monitoring requirements determined through the NEPA review will be included as special stipulations in the FUP. The FUP is approved after the NEPA document has been completed. A copy of the FUP and special stipulations attached to the permit will be provided to LQD.

## BLM FREE USE PERMITS LQD No action, LMO, or Mine Permit



## Community Pits

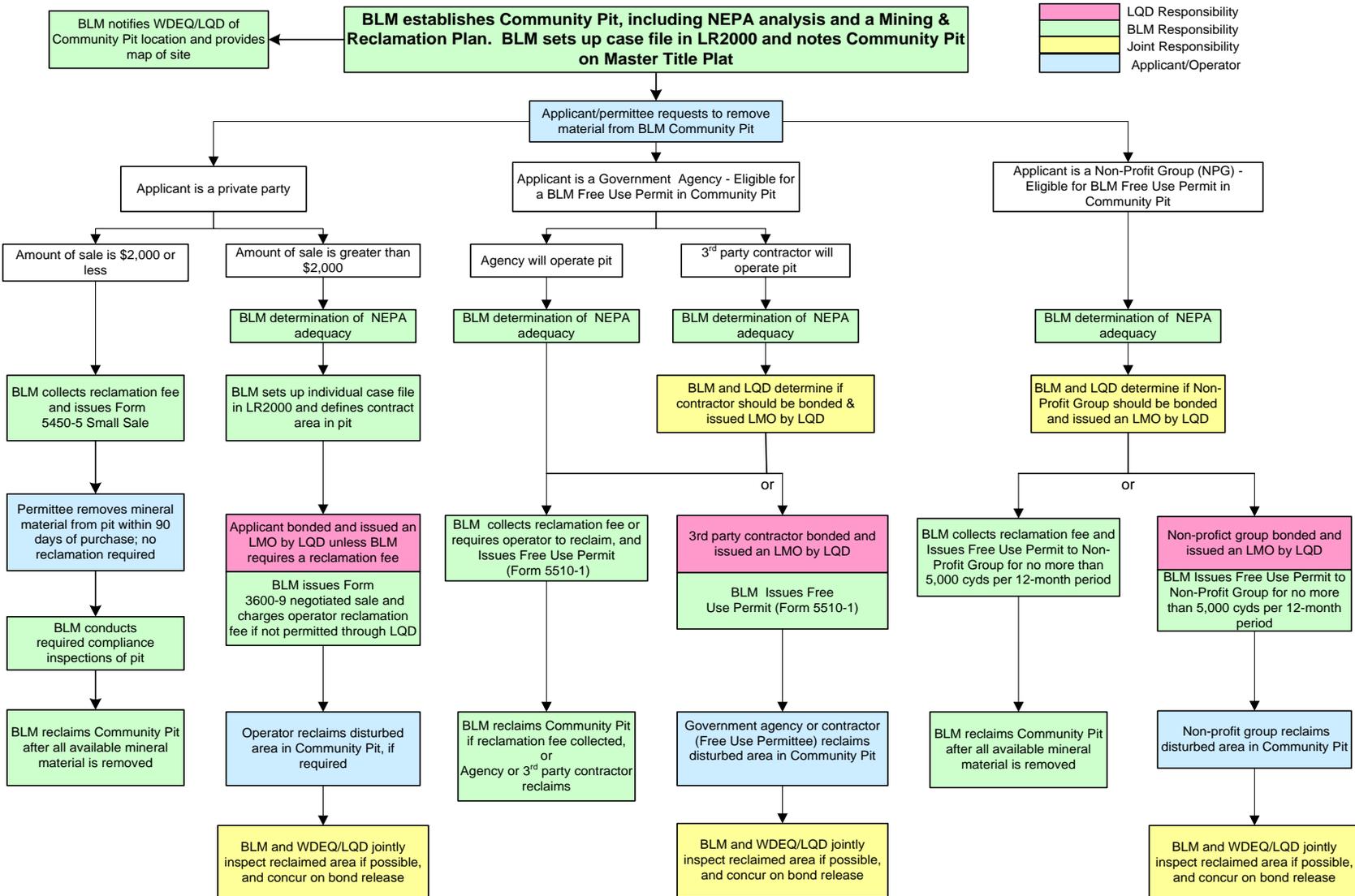
Community Pits are designated where the BLM wants to confine the disturbance from mineral material sales and FUPs to a specific area, rather than allow pits to be scattered across the landscape. The BLM sets up a case file in LR2000. Community Pit boundaries are delineated on the ground, and noted on the master title plat by legal subdivision. Notation on the plat segregates the area from future mining claims. The field office conducts NEPA analysis and cultural clearances, ensures public access to the site, determines the amount of mineral available, prepares a mining and reclamation plan, and develops a reclamation fee per cubic yard removed, based on the estimated costs of authorizing the pit and reclaiming the total disturbance. The BLM does not charge cost recovery fees for processing sales in Community Pits.

Most use of community pits comes from small sales under \$2000, authorized under the 5450-5 form, which provides that the BLM collect a reclamation fee rather than require the operator to reclaim the disturbance. The BLM reclaims the disturbance using the monies collected from the reclamation fees. No LQD permit or bond is required for these small 5450-5 sales.

However, the BLM can authorize larger negotiated sales under the 3600-9 form, and/or FUPs, within community pits. For larger sales (over \$2000) using the 3600-9 form, the BLM may require the operator to reclaim the disturbance. If a contract area has been defined by the BLM so that an operator has exclusive use, LQD may require a permit, most commonly an LMO, but occasionally a Small Mine Permit may be necessary. The BLM has the discretion to allow the operator to pay a reclamation fee instead of reclaim, which may be useful in cases where the BLM wants to leave a highwall for a subsequent contract. In those cases, LQD may not require a bond or permit. The purpose of a community pit is for many users, not just one operator, and the reclamation fee needs to be regularly updated to ensure the fee adequately covers reclamation cost. Large operators usually need to have exclusive sale and permit areas delineated within the Community Pit. In the case of FUPs where a nonprofit is the operator, or where a contractor is subcontracting with a government entity, LQD may require a permit or MOU.

The BLM will provide LQD with a list of all community pits by location within each field office on an annual basis. Maps shall be provided to show the boundaries of any new or enlarged community pits. LQD and the BLM will, when feasible, coordinate and conduct a joint inspection of each community pit on an annual basis.

# BLM COMMUNITY PITS



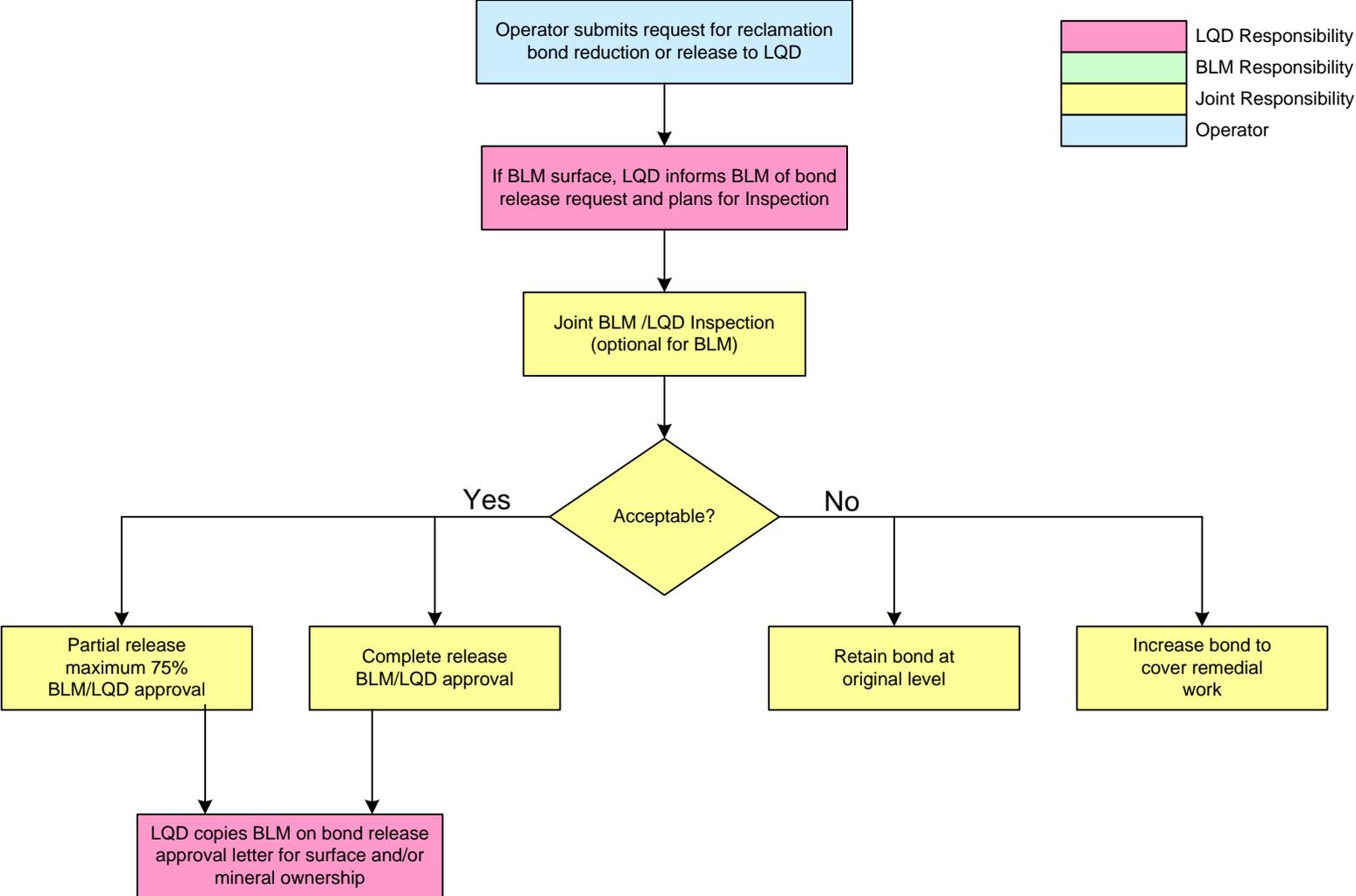
## **Release of Financial Guarantee**

Full Bond release: Where the BLM is the surface owner, the BLM and LQD shall jointly release the reclamation bond of a permit or exploration activity if the operator has successfully completed all reclamation of the operation pursuant to W.S. §35-11-423(c). The operator shall notify the LQD that reclamation has occurred and request release of the bond. LQD will notify the BLM of the bond release request. The BLM and LQD will jointly inspect the reclaimed area, if possible, and make a joint determination whether to release any portion of the bond. The BLM and LQD may release 100 percent of the operator's bond for a particular project area when both agencies determine successful reclamation has been completed.

Reduction in bond: The operator may request a reduction in the bond amount if the reclamation plan has been completed (W.S. §35-11-417(e)). The bond amount retained must be sufficient to cover the remaining reclamation liability using a third party contractor, plus contingency. The BLM and LQD may release up to 75 percent of an operator's bond for any portion of a particular project area that has met the criterion above. Bond reductions do not apply to LMOs.

For both BLM surface and split estate, LQD will copy the BLM on bond release letters.

# Release of Financial Guarantee



	LQD Responsibility
	BLM Responsibility
	Joint Responsibility
	Operator

## **Inspections, Compliance, and Enforcement**

Both the BLM and LQD shall periodically inspect all operations and surface disturbance for compliance with the approved permits, licenses, or contracts. The BLM and LQD shall, whenever possible, participate in a joint annual inspection of mining activities operating under mining and reclamation plans, exploration permits, or LMOs.

When compliance issues are discovered during an inspection, the BLM and/or LQD will determine if an enforcement action is appropriate. If the compliance action does not warrant an enforcement action, the issue will be discussed in the inspection report including mitigation requirements and time frames for completion. LQD will be copied on all BLM inspection reports, and the BLM will be copied on all LQD inspection reports where there is a BLM interest (surface and/or mineral ownership).

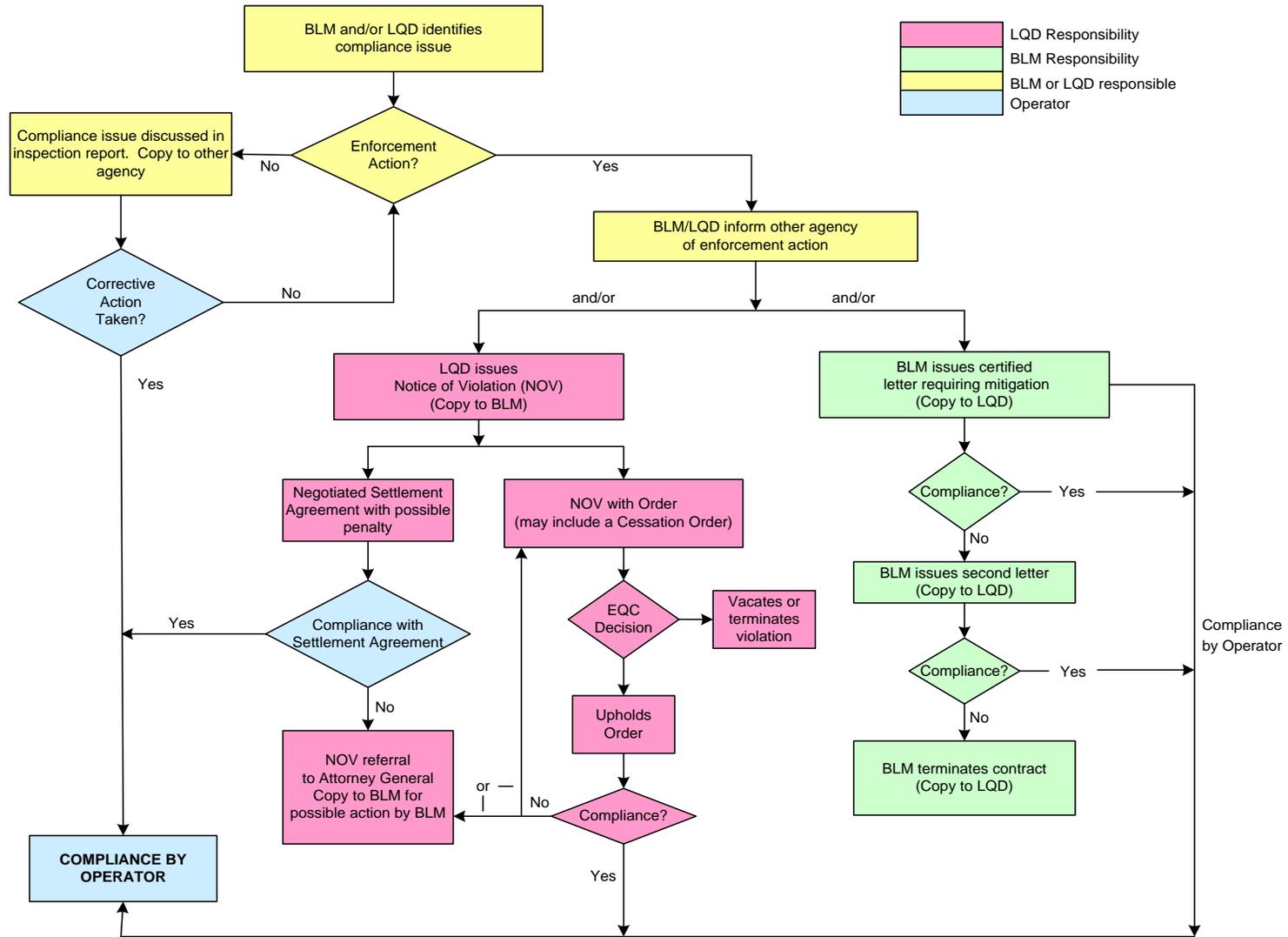
A violation of one agency's rules does not necessarily mean that the other agency's rules have been violated. If an enforcement action is taken, BLM/LQD will copy the other agency. There are two possible actions: LQD may issue a Notice of Violation (NOV), and/or the BLM may issue a certified letter requiring mitigation. If BLM compliance issues are not corrected within the specified timeframe, the BLM may terminate a contract and copy LQD.

After LQD issues an NOV, the operator and LQD sign a Settlement Agreement where the operator agrees to mitigate the violation and possibly pay a penalty. Failure to respond to the NOV or come to agreement results in referral of the violation to the Attorney General's office.

It is the intent of this MOU not to duplicate actions by both agencies. Open communication between the BLM and LQD is necessary so there is full support from each agency on the enforcement action taken. In most cases, one notice will be issued by either the BLM or LQD, possibly with a letter of support from the other agency for the file.

Compliance with BLM's production verification requirements is outside the scope of this MOU.

# INSPECTIONS, COMPLIANCE, AND ENFORCEMENT



### **Surface Collection of Mineral Materials (BLM only)**

All surface removal of stone, i.e., flagstone, moss rock, decorative stone, glacial boulders, or other mineral materials, *above the casual use level*, requires a BLM contract or FUP. Casual use by individuals of less than one cubic yard of material per year for personal use does not require an authorization from either the BLM or LQD. The individual must use only non-mechanized hand tools to remove the rock and stack it in a vehicle. Vehicles must stay on existing roads and trails. Casual use is only allowed in areas where the BLM owns the surface and minerals, and the area is not otherwise restricted (such as in wilderness study areas or other special management areas closed to mineral material disposal in land use plans).

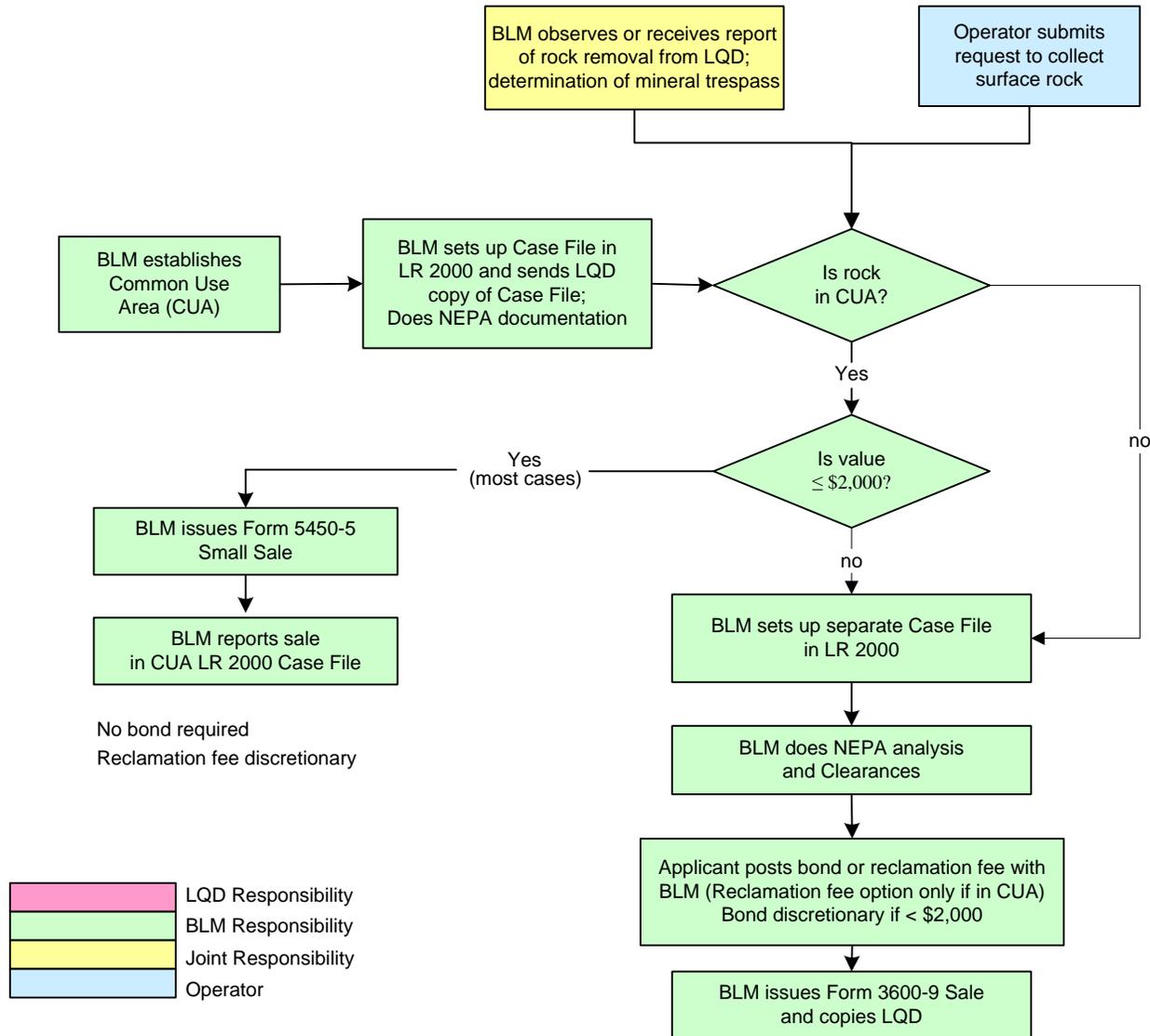
The BLM may establish a common use area and case file to confine this type of disturbance to a specific area. Within the common use area, the BLM may establish a reclamation fee if necessary for small sales. If the value of the material removed exceeds \$2,000, the BLM requires a bond and a separate case file for each contract.

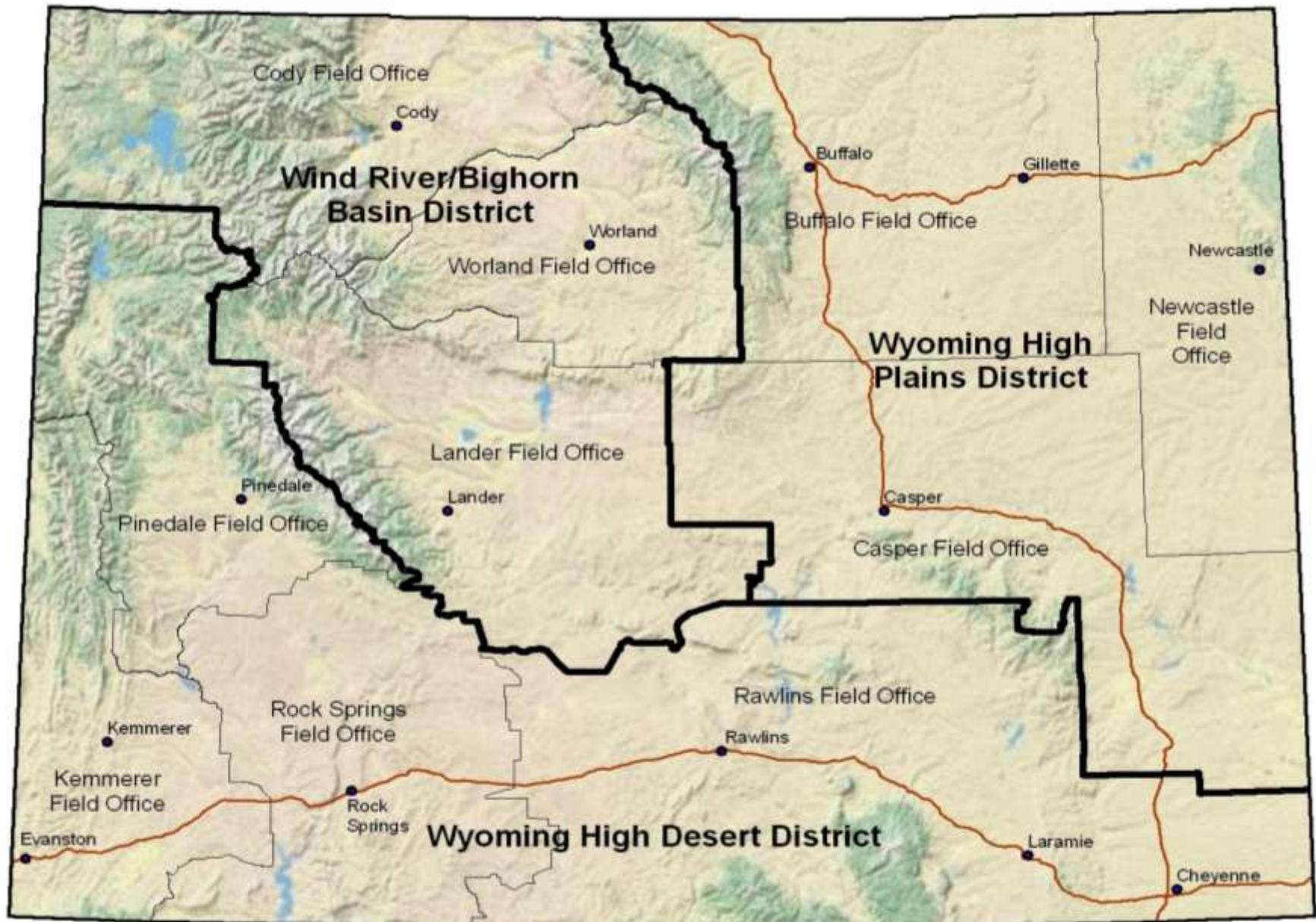
Procedures for authorizing collection of mineral materials exposed on the surface of BLM lands are not as well defined as for pits and quarries in established locations. The temporary nature of these operations may make it difficult to know where to monitor for compliance, if the operator moves from one place to another every few days. The potential for trespass is also higher for these types of activities.

LQD does not generally require a permit or bond for removal of surface rock. However, LQD should notify the BLM if they observe trucks removing surface/moss rock from BLM lands, to help the BLM ensure these types of operations are properly authorized.

These types of BLM sales assume minor and infrequent disturbance of the surface, with no road construction. LQD and the BLM may pursue a more formal permitting and bonding system in cases where large amounts of stone are being removed. Close coordination and notification between agencies regarding such activities or operations is important. The BLM should send LQD locations of designated Common Use Areas, and copies of contracts for surface collection sales outside Common Use Areas.

# SURFACE COLLECTION OF MINERAL MATERIALS (MOSS ROCK, ETC.) BLM Common Use Areas, FUPs, Small Sales, Negotiated Sales





# Directory – BLM Offices in Wyoming

June 2008

Current addresses, phone numbers, e-mail addresses and Field Managers for BLM offices in Wyoming can also be found at the following website: <http://www.blm.gov/wy/st/en/info/directory.html>

## High Desert District

280 Highway 191 North  
Rock Springs, WY 82901-3447  
Phone: 307-352-0256  
Fax: 307-352-0329

## High Plains District

2987 Prospector Drive  
Casper, WY 82604-2968  
Phone: 307-261-7600  
Fax: 307-261-7587

## Wind River/Bighorn Basin District

101 South 23rd Street  
PO Box 119  
Worland, WY 82401-0119  
Phone: 307-347-5100  
Fax: 307-347-5228

## Kemmerer Field Office

312 Highway 189 North  
Kemmerer, WY 83101-9711  
Phone: 307-828-4500  
Fax: 307-828-4539  
E-mail: [kemmerer\\_wymail@blm.gov](mailto:kemmerer_wymail@blm.gov)

## Buffalo Field Office

1425 Fort Street  
Buffalo, WY 82834-2436  
Phone: 307-684-1100  
Fax: 307-684-1122  
E-mail: [buffalo\\_wymail@blm.gov](mailto:buffalo_wymail@blm.gov)

## Cody Field Office

1002 Blackburn  
PO Box 518  
Cody, WY 82414-0518  
Phone: 307-578-5900  
Fax: 307-578-5939  
E-mail: [cody\\_wymail@blm.gov](mailto:cody_wymail@blm.gov)

## Pinedale Field Office

1625 West Pine St.  
P.O. Box 768  
Pinedale, WY 82941-0768  
Phone: 307-367-5300  
Fax: 307-367-5329  
E-mail: [pinedale\\_wymail@blm.gov](mailto:pinedale_wymail@blm.gov)

## Casper Field Office

2987 Prospector Drive  
Casper, WY 82604-2968  
Phone: 307-261-7600  
Fax: 307-261-7587  
E-mail: [casper\\_wymail@blm.gov](mailto:casper_wymail@blm.gov)

## Lander Field Office

1335 Main Street  
PO Box 589  
Lander, WY 82520-0589  
Phone: 307-332-8400  
Fax: 307-332-8444  
E-mail: [lander\\_wymail@blm.gov](mailto:lander_wymail@blm.gov)

## Rawlins Field Office

1300 North Third  
PO Box 2407  
Rawlins, WY 82301-2407  
Phone: 307-328-4200 or 4256  
Fax: 307-328-4224  
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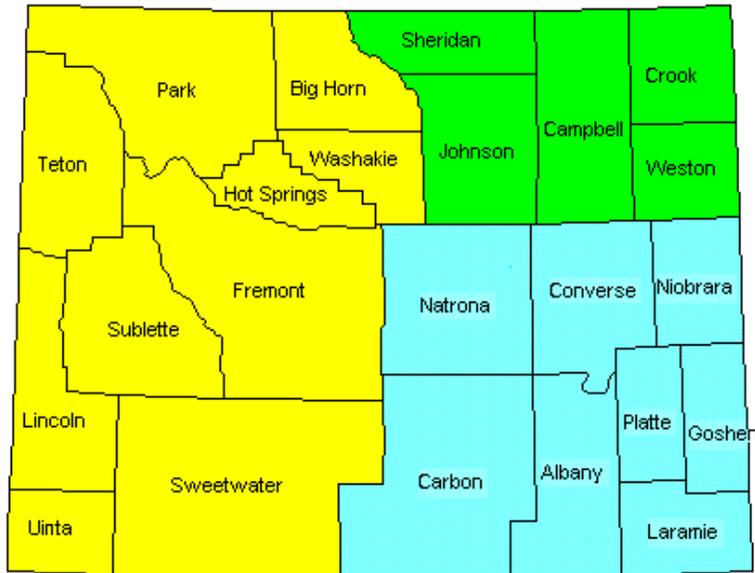
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## Words/Acronyms for “3600 BLM-WDEQ/LQD MOU” Glossary

### ACRONYMS

#### General:

ESA	Endangered Species Act
FHA	Federal Highway Administration
GIS	Geographic Information System
GPS	Global Positioning System
MOU	Memorandum of Understanding
WYDOT	Wyoming Department of Transportation

#### Bureau of Land Management:

CFR	Code of Federal Regulations
FLPMA	Federal Land Policy and Management Act of 1976
NEPA	National Environmental Policy Act of 1969
SRHA	Stock Raising Homestead Act of 1916
USBLM	United States Bureau of Land Management
43 CFR 3600	BLM’s federal regulations regarding mineral materials disposal
43 CFR 3620	BLM’s federal regulations regarding free use of petrified wood

#### LQD:

LQD	Wyoming Department of Environmental Quality – Land Quality Division
ET or LMO	Ten-acre exemption/Limited Mining Operation

### LQD terms

Minerals (as defined by the State of Wyoming) - Coal, clay, stone, sand, gravel, bentonite, scoria, rock, pumice, limestone, ballast rock, uranium, gypsum, feldspar, copper ore, iron ore, oil shale, trona, and any other material removed from the earth for reuse or further processing.

Reclamation - The process of reclaiming an area of land affected by mining to use for grazing, agricultural, recreational, wildlife purposes, or any other purpose of equal or greater value. The process may require contouring, terracing, grading, re-soiling, revegetation, compaction and stabilization, settling ponds, water impoundments, diversion ditches, and other water treatment facilities in order to eliminate water diminution to the extent that existing water sources are adversely affected, pollution, soil and wind erosion, or flooding resulting from mining or any other activity, to accomplish the reclamation of the land affected to a useful purpose.

## **BLM terms**

Mineral materials (as defined by the BLM) - *Mineral materials* means, but is not limited to, petrified wood and common varieties of sand, stone, gravel, pumice, pumicite, cinders, and clay. The term can also apply to common varieties of decorative stone, building stone, flagstone, “moss rock”, ballast, clinker (scoria), fill dirt, limestone, dolomite, and other construction materials found on the public lands. These “common variety” mineral materials are disposed of/sold from the public lands under the Materials Act of 1947 and the Surface Resources Act of 1955, either through sale or free use. This MOU is applicable only to those mineral materials considered by the BLM to be “saleable” mineral materials.

Saleable minerals – Another term for mineral materials.

Locatable minerals -- Minerals that are subject to location by mining claims under the Mining Law of 1872 as amended, including metallic minerals, some industrial minerals such as gypsum and bentonite, and other nonmetallic minerals that have a unique property which gives them a distinct and special value (such as high quality limestone). This MOU does NOT apply to locatable minerals.

Leasable minerals – Those minerals administered through the Mineral Leasing Act of 1920 as amended, which applies to deposits of coal, phosphate, sodium (including trona), potassium, oil, oil shale, gilsonite (including all vein-type solid hydrocarbons), or gas on Federal lands, as well as geothermal resources under the Geothermal Steam Act of 1970. This MOU does NOT apply to leasable minerals.

Unnecessary and Undue Degradation – Impacts greater than those that would normally be expected from an activity being accomplished in compliance with current standards and regulations and based on sound practices, including use of the best reasonably available technology. This term was first used in Section 302(b) of the Federal Lands Policy and Management Act of 1976 (P.L. 94-579) and subsequently clarified in the performance standards for locatable minerals in 43 CFR 3809.415 and .420. Although not specifically defined in the 43 CFR 3600 regulations, the standards are similar for saleable minerals. These are conditions, activities or practices that: (1) Fail to comply with one or more of the following - the performance standards in 43 CFR 3809.420, or W.S. 35-11-402; the terms and conditions of any approved permit or license; and other Federal and State laws related to environmental protection and protection of cultural resources; (2) are not reasonably incident to prospecting, mining or processing operations as defined in 43 CFR 3715.05; or (3) fail to attain a stated level of protection or reclamation required by specific laws in areas such as Wild and Scenic Rivers, BLM-administered portions of the National Wilderness System, and BLM-administered National Monuments and National Conservation Areas.

Public lands – (43 U.S.C. 1702) Any lands and interest in lands owned by the United States within the several States and administered by the Secretary of the Interior through the BLM without regard to how the United States acquired ownership, except (1) lands located on the Outer Continental Shelf; and (2) lands held for the benefit of Indians, Aleuts, and Eskimos, within the United States. Public lands include lands where BLM owns both the surface and minerals as well as split estate lands.

Split estate - Lands where ownership of the surface estate is held by one or more different entities than ownership of the mineral estate or fractions thereof. Several general types of split estate exist:

<u>Surface Estate ownership</u>	<u>Mineral Estate ownership</u>
(1) <b>Private</b>	<b>Federal*</b> (the most common type of split estate)
(2) <b>Private</b>	<b>State</b>
(3) <b>Private</b>	<b>Private</b> (different owner from surface estate)
(4) <b>State</b>	<b>Private</b>
(5) <b>State</b>	<b>Federal</b>
(6) <b>Federal</b>	<b>State</b>
(7) <b>Federal</b>	<b>Private</b> (rare)
(8) <b>Federal</b>	<b>Federal</b> (different agency)

\*On lands where the surface was conveyed to private ownership under the Stock Raising Homestead Act of 1916, the Federal government reserved the entire mineral estate in the patent, including the mineral materials (saleable minerals). Therefore, common variety mineral materials administered under the 43 CFR 3600 regulations, such as sand and gravel, flagstone or moss rock, are considered to be part of the Federal mineral estate on such lands, even if the surface is in private ownership. This type of split estate, with private surface/Federal minerals, is the most common type of split estate in Wyoming.

Unauthorized Use – An individual/entity must not extract or remove mineral materials from public lands under the jurisdiction of the Department of the Interior, unless authorized through sale or permit with the BLM or another Federal agency with jurisdiction (43 CFR 3601.70-.72). Violation of this prohibition constitutes unauthorized use. Unauthorized users are liable for damages to the United States, and are subject to prosecution for trespass, which can be innocent or willful.

Unpatented Mining Claim – A mining claim that has been located on the public lands and recorded with the county and the BLM that has NOT gone through the patenting process. This land is still within the public domain; however, the presence of the claim does affect whether or not mineral materials can be disposed of from the claim surface. Under 43 CFR 3601.14:

“(a) BLM may dispose of mineral materials from unpatented mining claims if disposal does not endanger or materially interfere with prospecting, mining, or processing operations, or uses reasonably incident thereto.

(b) BLM will ask a mining claimant for a waiver before disposing of mineral materials from a claim. If the mining claimant refuses to sign a waiver, BLM will make sure that disposal of the mineral materials will not be detrimental to the public interest.”