

Aggregate Mined Land Reclamation plan Release of Financial Assurance Mechanism

(In Accordance with Title 27, Chapter 6, the Act)

The Act and our policy require that the *owner/operator* of the site (including all parties involved in the ownership and operation), the *landowner*, and the *Arizona State Mine Inspector* (ASMI) receive notification and certain other documents to “*close or transfer*” an approved Reclamation plan when requesting a financial assurance mechanism release.

The following should assist the owner/operator as to what is considered a “Complete Application” in accordance with Arizona Revised Statute (A.R.S) §27-1296(B).

The notification should include a statement that you are seeking a release of the Financial Assurance Mechanism of the Aggregate Mined Land Reclamation plan, and the reasons.

ASMI will give the landowner or any other operating entity a first option to transfer the plan in accordance with A.R.S. § 27-1228. Upon receiving the acceptance of the plan, and liabilities of the site by the new party (transferee), and an approved financial assurance mechanism from the transferee, the inspector shall release the financial assurance mechanism from the transferor.

ASMI also requires that the Owner /Operator of the site, and the Landowner, as well as the Arizona State Mine Inspector (ASMI) receive the materials listed in A.R.S. § 27-1296 via certified mail.

Arizona Revised Statute (A.R.S.) § 27-1296 reads as follows:

*A. An owner or operator may **apply** to the state mine inspector (ASMI) to release all or part of the financial assurance provided under this article. The application shall:*

- 1. Describe the reclamation measures that have been performed.*
- 2. Describe any surface disturbances proposed in the reclamation plan that have not been disturbed.*
- 3. Contain an estimate of the costs of reclamation measures that have not been performed.*

*B. Within sixty days after receiving a **complete application**, the inspector shall release all or part of the financial assurance except for any amount that is necessary to perform the reclamation measures identified in the reclamation plan.*

If the mine site has an *approved Reclamation Plan* in accordance to the Act, and ***all activities have been performed as stated in the plan***, the remaining financial assurance will be released, except ten per cent shall be retained for the costs of care, monitoring and

one reseeded (if necessary) for areas that have been revegetated per the plan (*or which should have been stabilized in a condition consistent with good engineering practices*).

Furthermore, the inspector will release the retained monies after a period of not more than three growing seasons after the supplemental management or other man-induced inputs have been finally removed, or as otherwise provided in A.R.S. § 27-1292 (C).

ASMI will release the owner or operator from the requirements of A.R.S. § 27-1297, within 60 days after receiving certifications from the owner or operator, and a “qualified” third party individual such as professional engineering company, that final closure has been completed in accordance with the approved closure plan.

The plan *must be very specific* in what reclamation has occurred at the site (and the associated costs) prior to any ASMI review to release, transfer and/or closure of a site, ***especially, if the site closure is different than the actual plan***, such as maps showing the actual disturbed areas and slopes, profile maps for elevations of the current or final reclamation areas, processes and equipment removed or remaining, and any engineering stability and/or needed planting or seeding operations, if needed.

This must be specific and is necessary because the statute allows for either the Mine Inspector or a consultant performing work for ASMI (in accordance with ARS 27-1234) to review and conduct a review of the plan and/or a site inspection. This inspection and review costs would have to be passed onto the owner/operator though a closure plan review or transfer application fee, and/or as substantial changes to the approved plan.

Currently, ASMI allows the owner to submit the reclamation or closure/transfer plan and application with in-house capabilities (if they exist), and requires a third party provide verification. ARS 27-1292, also governs the financial assurance and release guidelines be followed, as established per 40CFR 264.143(f), and if any modifications have occurred in the final land use, or cost. The final slopes and or contour maps, for the final closure or transfer, and these costs would have been adjusted as necessary during the transfer, or at final closure of a mining site.

Finally, the State Mine Inspector will notify the owner or operator in writing within 60 days of receiving a ***complete application***, that the company is no longer required by this section to maintain financial assurance for final closure of the facility unless the State Mine Inspector has reason to believe that final closure has not been in accordance with the approved closure plan. If the State Mine Inspector believes that the closure has not been in accordance with the approved closure plan, the ASMI will provide the owner or operator with a detailed written statement of his reasons.

Sincerely,

Joe Hart
State Mine Inspector