

FINANCIAL ASSURANCE FOR LARGE MINE PROJECTS IN ALASKA

Rick S. Fredericksen

Alaska Department of Natural Resources

A financial assurance package, commonly referred to as a “bond”, must be in place for all mining projects in Alaska to ensure that reclamation and closure of the operation can be completed, even if the operator goes bankrupt or is otherwise unable to complete those obligations. The dollar cost of the estimate for reclamation, closure, post closure monitoring and any required water treatment is tied directly to the mine’s approved Reclamation and Closure Plan. These plans are typically updated every five years, usually upon completion of an environmental audit that is conducted on a similar schedule. However, the financial assurance amount can be recalculated or updated anytime that it appears to be inadequate – for instance, when fuel prices change rapidly. It can also be reduced for the same reasons.

Department of Natural Resources (DNR) reclamation standards apply to all state, federal, municipal, and private lands and waters that are subject to mining. The Department of Environmental Conservation (DEC) also has financial assurance requirements that are typically included with DNR’s into a single package. The DNR and DEC also will work in concert with federal agencies to establish a joint bond that satisfies all of the agency requirements eliminating the need for the miner to seek a plethora of bond packages.

The procedure used to calculate the bond amount is free form and can thus accommodate a wide range of operations and locations. By statute (AS 27.19.040), the bond amount shall be determined by the Commissioner, and is not to exceed an amount reasonably necessary to ensure performance of the reclamation and closure plan. In practice, the operator commonly submits a detailed calculation that is reviewed by the agencies and after several rounds of discussions, the amount is revised to be acceptable to the agencies. The costs must reflect the substantial inefficiencies that will result from the State having to step into a situation where the mining equipment is not available for use, logistics may be difficult, and contractors must be hired to complete the reclamation and closure.

The state requires quotes for equipment rentals, fuel, major consumables, and is typically required to use ‘Little Davis Bacon’ wages. Bond amounts vary due to the size, nature, and location of the operation. Several types of assurance are allowed including cash, gold bullion, surety bonds, reclamation trust funds or irrevocable letters of credit. Surety bonds have become extremely difficult for operators to secure and most companies currently provide an irrevocable letter of credit.

In July 2009, EPA issued a notice identifying hardrock mining as the first class of facilities for which EPA will Develop CERCLA financial assurance requirements. This is just the first step in the rulemaking process. Additional research, outreach to stakeholders, proposed regulations, review of public comments, and finalization of those regulations are needed before hardrock mining facilities are subject to CERCLA financial responsibility requirements. We hope the EPA will recognize the State’s leadership on bonding and allow us some form of primacy.