DEPARTMENT of AGRICULTURE and NATURAL RESOURCES
Minerals, Mining, & Superfund Program
JOE FOSS BUILDING
523 E CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

INSTRUCTIONS FOR SUBMITTAL OF CERTFICATE OF DEPOSIT AS FINANCIAL ASSURANCE DEPARTMENT OF AGRICULTURE AND NATURAL RESOURCES MINERALS, MINING, AND SUPERFUND PROGRAM

A certificate of deposit (CD) is one of the forms of reclamation financial assurance accepted by the Board of Minerals and Environment. The CD provides reclamation funds to the Department of Agriculture and Natural Resources in the event the operator is unable or unwilling to complete reclamation of areas disturbed under mine permits, exploration notices of intent, or uranium exploration permits in compliance with the requirements of SDCL 45-6B and ARSD 74:29, SDCL 45-6C, and SDCL 45-6D. The following requirements must be met before the Board will accept the CD as financial assurance:

1. The CD must be made payable to or assigned to the South Dakota Board of Minerals and Environment/Department of Agriculture and Natural Resources, both in writing and in the records of the bank issuing the CD.

2. The original CD and the completed Certificate of Deposit form signed by the operator (assignor) and bank representative must be submitted to the South Dakota Department of Agriculture and Natural Resources, Joe Foss Building, 523 East Capitol Avenue, Pierre, SD 57501. The Department will hold the CD until it is released by the South Dakota Board of Minerals and Environment.

3. The CD must be automatically renewable, which must be stated on the CD and in bank records.

4. The operator or assignor is entitled to any earnings or interest on the CD.

5. The operator must demonstrate that the bank issuing the CD is in good financial standing and condition, as evidenced by the bank's rating by an appropriate ratings system.

If you have any questions regarding the issuance of the CD, please contact the Minerals, Mining, and Superfund Program at (605) 773-4201.

STATE OF SOUTH DAKOTA
DEPARTMENT OF AGRICULTURE AND NATURAL RESOURCES
CERTIFICATE OF DEPOSIT - SDCL 45-6B and ARSD 74:29:12, SDCL 45-6C, and SDCL 45-6D

Operator: ____

Address: ____

Tax ID No. if certificate of deposit is in a business name: ____________________________________

Social Security No. if certificate of deposit is in an individual name: ______________________________

Issuing Bank: ____

Address: ____

Bank Representative: ____

Certificate of Deposit Number: ___________________________________

Certificate of Deposit Amount: ___________________________________

Date Issued: ____________________________________

This Agreement and Assignment is entered into by the South Dakota Board of Minerals and Environment, hereinafter referred to as "State", and Operator ______________________________________, hereinafter referred to as "Assignor", following procurement of Mine Permit No.______, Exploration Notice of Intent No. _____, Statewide Mineral Exploration _______ or Uranium Exploration Permit No. _____ .

For value received, ____, Assignor, does hereby assign, transfer, and set over to the State, in lieu of posting a surety bond, the sum of $_______________________ in cash hereafter listed. The Assignor makes this assignment pursuant to the requirements of SDCL Chapters 45-6B and ARSD 74:29:12, 45-6C, and 45-6D, as applicable.

This document describes the mutually agreed upon instructions of the below signed parties to _______________________________ Bank ("Bank") regarding the ownership and release of the above-described certificate of deposit ("CD") which is being used as a surety to guarantee the availability of reclamation funds for the assignor listed above. It is the intention of the parties that the CD be used as surety to guarantee that $________________ in reclamation funds will be available to the SD Department of Agriculture & Natural Resources ("Department") upon demand in the event the assignor is unable or unwilling to complete reclamation of the area disturbed under the Mine Permit, Exploration Notice of Intent, or Uranium Exploration Permit in compliance with the requirements of SDCL Chapter 45-6B and ARSD 74:29, SDCL Chapters 45-6C, or SDCL Chapter 45-6D.

Ownership and Renewal

The CD is made payable to or assigned to the South Dakota Board of Minerals and Environment/Department of Agriculture and Natural Resources, both in writing and in the written and electronic records of the bank issuing the CD. The bank waives all rights of setoff or liens against the CD. The original CD must be submitted to the Department and held by the Department during the terms of this assignment until released by the Board of Minerals and Environment. Joint ownership of the CD is retained by the Assignor and Department. The Bank shall be liable to Department for any losses to the principal amount of the CD caused in any manner whatsoever during the terms of this agreement. The CD shall automatically renew indefinitely until redeemed or released by the Department. The Department may request information pertaining to the CD on an occasional basis. This document grants approval by the Assignor for the Bank to provide information to Department any time an inquiry is made via telephone, email, or letter.

The Assignor, under this agreement, hereby acknowledges that under the provisions of SDCL 34A-10-2.2 and 34A-10-2.3, all rights and title to any CD shall be held by the State until such time as the Board, by order releases the CD. Such CD does not constitute an asset of the person required to provide it, and may not be canceled, assigned, revoked, disbursed, replaced or allowed to terminate without Board approval. The CD may not be assigned for the benefit of creditors, attached, garnished, levied or executed on, or subject to process issued from any court except for the purpose of enabling the State to effectuate environmental cleanup or remediation.

Accrued Interest

The Assignor is entitled to any earnings or interest upon the CD while the State holds and after the State has surrendered the CD. Any accrued interest may be deposited into the Assignor's individual account and is free of encumbrance by financial assurance liability until such time as the Assignor may instruct the Bank where to transfer such interest. In no event shall the Bank transfer any amount from the CD which would cause the redemption amount of the CD to be less than the initial amount. The Assignor may roll any accrued interest back into the CD principal to cover any increases in the face value due to any financial assurance increases. In the event the Assignor has pledged the interest to the Department, the interest shall accrue and not be paid to the Assignor. All tax liabilities for accrued interest remain the responsibility of the Assignor.

Release

The State may at any time after Assignor fails to fully comply with all the requirements of the permit, reclamation plan, operating plan, SDCL 45-6B, 45-6C, and 45-6D, as applicable, and the Rules and Regulations adopted thereunder, and after giving written notice to the Assignor, surrender the CD to the Bank in exchange for money, or proceed against the CD. In the event of forfeiture of the CD, the face value of the CD plus any accrued interest pledged by the assignor to the Department is subject to bond liability and expenditures in the performance of reclamation.

The CD may be released by the State when Assignor's obligations under the permit, reclamation plan, operating plan, SDCL 45-6B, 45-6C, and 45-6D, as applicable, and the Rules and Regulations adopted thereunder are fully performed, or when Assignor is succeeded by another operator who has a mine permit, exploration notice of intent, or uranium exploration permit, and bond involving the same affected land covered by Assignor's mine permit, exploration notice of intent, or uranium exploration permit. The Bank shall release the CD only upon notification from the Department. Upon notification of release by the Department, the terms of this agreement are no longer in effect. If the Assignor has met the reclamation requirements under the Mine Permit, Exploration Notice of Intent, or Uranium Exploration Permit, the CD will be returned to the Assignor. If the Assignor does not complete reclamation requirements, the CD shall be forfeited to the Department. In the event of a forfeiture of the reclamation funds, the CD will be paid to Department, less interest, unless the interest has been pledged by Operator to Department.

I declare and affirm under the penalties of perjury that this claim (petition, application, information) has been examined by me, and to the best of my knowledge and belief, is in all things true and correct.

Assignor's Authorized Officer's Name and Title: ______________________________
(please print)

______________________________ Date: ______________________
Authorized Officer's Signature

Bank's Authorized Officer's Name and Title: ______________________________
(please print)

______________________________ Date: ______________________
Bank's Authorized Officer's Signature

STATE ACCEPTANCE

The South Dakota Board of Minerals and Environment accepts this cash deposit in the amount of $____________________.

______________________________ ______________________________
Chair, SD Board of Minerals & Environment Date