DEPARTMENT of AGRICULTURE and NATURAL RESOURCES
Minerals, Mining, & Superfund Program
JOE FOSS BUILDING
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INSTRUCTIONS FOR SUBMITTAL OF SURETY BOND AS FINANCIAL ASSURANCE DEPARTMENT OF AGRICULTURE AND NATURAL RESOURCES MINERALS, MINING, AND SUPERFUND PROGRAM

A surety bond is one of the forms of reclamation financial assurance accepted by the Board of Minerals and Environment. The surety bond 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 licenses, mine permits, exploration notices of intent, or uranium exploration permits in compliance with the requirements of SDCL 45-6, 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 surety bond as financial assurance:

1. A power of attorney and a notarized attorney-in-fact acknowledgement must be attached to the surety bond.

2. A balance sheet certified by a certified public accountant for the most recent annual reporting period must be attached to the surety bond.

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

STATE OF SOUTH DAKOTA
DEPARTMENT OF AGRICULTURE AND NATURAL RESOURCES
SURETY BOND - SDCL 45-6, 45-6B, 45-6C, and 45-6D

Operator: ____

Address: ____

Mine License No. _______ Mine Permit No. _______ Exploration Notice of Intent No. _______

Uranium Exploration Permit No. _______

Surety Company: ____

Address: ____

Surety Company Attorney-In-Fact: ____

Surety Bond Number: ___________________________________

Surety Bond Amount: ____________________________________

Date Issued: ____________________________________

KNOW ALL MEN BY THESE PRESENTS, That we (I) ____

as Principal, and ____

a corporation organized and existing under the laws of the state of ________________________________ and duly licensed and certified by the South Dakota Division of Insurance under SDCL chapter 58-21 as Surety, are held and firmly bound unto the state of South Dakota, acting through the

South Dakota Board of Minerals and Environment ("Board"), in the sum of ____

$________________________________ dollars, we bind ourselves, and each of our legal representatives, heirs, executors, administrators, successors and assigns, jointly and severally, unto the Board firmly by these presents.

WHEREAS, the Principal has received a Mine License, Mine Permit, Exploration Notice of Intent, or Uranium Exploration Permit from the Board or the Department of Agriculture and Natural Resources (Department) to conduct activities on the following described premises:

Statewide Mining under Mine License ____________

Statewide Exploration under Exploration Notice of Intent ______________

See attachment listing legal description for Mine Permit, non-statewide Mineral Exploration or Mining under a Mine License, or Uranium Exploration Permit ______________

NOW, THEREFORE, The conditions of this obligation are such that if the above bound Principal, in conducting the above described operations and has satisfactorily reclaimed the disturbed lands in compliance with the requirements of the mine license, mine permit, exploration notice of intent, or uranium exploration permit and associated reclamation plan, operating plan, post closure plan, SDCL Chapter 45-6, 45-6B, 45-6C, and 45-6D relating to mining, exploration, and uranium exploration, as applicable, and the Rules and Regulations adopted pursuant thereto, then this obligation shall be exonerated and discharged and become null and void; otherwise it will remain in full force and effect. This bond is not cancelable by the Surety for any reason including, but not limited to, non-payment of premiums or bankruptcy of the Principal.

The surety company is licensed to do business in the state of South Dakota and is listed in the United States Department of the Treasury Circular 570 as revised. The surety company must be in good financial standing and condition as evidenced by the surety company's A- or better rating from AM Best or its equivalent from a similar organization. In the event the Surety becomes unable to fulfill its obligations under the bond for any reason, including, but not limited to, any action alleging bankruptcy, insolvency of the surety company, or violation that would result in suspension or revocation of the license of the surety company, or upon failure to maintain the Circular 570 rating and/or the AM Best or other equivalent rating, notice shall be promptly given by the surety company to the Principal and to the Department of Agriculture and Natural Resources, Minerals, Mining, and Superfund Program.

The surety bond may only be cancelled after approval by the Board. The surety company must give proper written notification, mailed by certified return receipt requested, to the Board and Principal at least one hundred fifty (150) days prior to cancellation. In the event of cancellation, the surety bond remains in full force and effect and the Surety is not relieved of its liability to cover all reclamation and postclosure liabilities and obligations accrued prior to the date of cancellation unless the Principal submits replacement financial assurance that is accepted by the Board. If replacement financial assurance is not submitted by the Principal and accepted by the Board within ninety (90) days aft her notice of cancellation is received by the Principal, the Board may proceed with surety bond forfeiture. The surety company is liable for payment of the forfeited surety bond.

PROVIDED, However, the Surety shall not be liable under this bond for an amount greater in the aggregate than the sum designated above and provided by SDCL 56-2-12.

The surety bond is payable to the Department in full upon demand and receipt from the Board of a notice that the Principal has failed to comply with the provisions of SDCL Chapter 45-6, 45-6B, 45-6C, or 45-6D, the rules adopted thereunder, or the mine license, mine permit, exploration notice of intent, or uranium exploration permit.

The Principal and Surety under this agreement hereby acknowledge that under the provisions of SDCL 34A-10-2.2 and 34A-10-2.3, all right and title in any bond or other security shall be in the state of South Dakota until such time as the Board, by order releases the security. Such bond or other security 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. This bond or security 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 reclamation and environmental cleanup or remediation.

I declare and affirm under 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.

______________________________	______________________________
Principal's signature	Principal's mailing address
______________________________	______________________________
Title	Date
______________________________	______________________________
Surety company	Surety’s mailing address
______________________________	______________________________
Executed by	Signed and sealed this date

(SURETY'S SEAL)

ACCEPTANCE

The South Dakota Board of Minerals and Environment accepts this surety bond in the amount of $______________________________

______________________________	______________________________
Chair, South Dakota Board of Minerals and Environment, or Authorized Department Representative for Mine License Surety Bonds Only	Date

Notarized Attorney-in-Fact Acknowledgement

State of ______________________)

County of _____________________)

On ___________________________, before me, a Notary Public is and for said County and State, residing therein, duly commissioned and sworn, personally appeared ____ known to me to be the Attorney-in-Fact of____, a corporation, the corporation described in and that executed the within and foregoing instrument as surety, and known to me to be the person who executed the said instrument in behalf of the said corporation, and duly acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year stated in the certificate above.

My Commission Expires ___________________________ ____

Notary Public