## Logo, company name Description automatically generated

**Air, Energy, & Mining Division**

**PROPERTY BOND GUIDE**

INSTRUCTIONS:

* Fill out this form in its entirety (except for the DEQ and County sections)
* DO NOT fill out any of the **Official Use Only** areas on the form
* All Opencut bond forms are designed to be completed in Microsoft Word.
* Ensure that all blanks in the OPERATOR sections are consistent with the information provided in the *Opencut Mining Plan of Operation and Application*.
* When submitting bonds, DO NOT include the guide/instruction page.

PROPERTY REQUIREMENTS:

* An Operator may use real estate (property and buildings), having legal access, for a Property Bond. The property may be a surveyed tract or a portion of a tract defined by legal description. The property shall not be any part of the proposed permitted site. Due to various costs that may be incurred by the Department in the event of property bond forfeiture, the appraised value of the real estate and **the total bond commitment must be at least** **35 percent greater** **than the required bond amount**. Contact the Opencut Section to verify the total bond commitment before beginning the following process to complete a property bond.

WHAT TO SUBMIT TO OPENCUT:

* A Signed original of the Property Bond for Opencut Mining Permit form with the OPERATOR SECTION completed.
* A limited market data appraisal communicated by a restricted report and done by a state licensed or certified appraiser where the Department of Environmental Quality is the client and the appraiser is selected and paid by the operator.
* A plat, certificate of survey, or land ownership map showing the location and boundaries of the property.
* A Title Insurance Policy (not a Lot Book Guarantee) where the policy is made for the amount of the bond, the "State of Montana acting through the Department of Environmental Quality" is the insured party, and the title company is selected and paid by the operator. The Department will accept the bond if the property has a clear title and no encumbrances, or, if encumbrances are shown, a subordination agreement can be obtained from each lien holder putting the Department in first position.

OPERATOR SECTION:

* Ensure that the OPERATOR NAME is consistent with the information provided in the *Opencut Mining Plan of Operation and Application.*
* Note that the bond amount must be written out and in a numerical format.

MAILING BONDS:

* All signed, original bonds must be mailed to the Helena office ONLY. The mailing address is **DEQ Opencut Mining Section, PO Box 200901, Helena, MT 59620.**
* For those wishing to deliver the bonds in-person, the physical address is 1520 E. 6th Avenue, Helena, MT 59601.

AFTER OPENCUT SIGNS THE BOND:

* The bond form will be returned to the Operator who must then:
  + Take the original and a copy of the signed bond form to the Clerk and Recorder in the county where the property is located, have the bond recorded, and obtain a "conformed copy" (documentation of registration and recordation with the Clerk and Recorder).
  + Send the conformed copy to the Department. The bond must be returned to DEQ within 30 days of receipt of the bond.
* Upon the Department’s receipt of the conformed copy, the bond is considered approved.

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DEQ# \_\_\_\_\_\_\_\_\_\_\_\_ - OC

Permit # \_\_\_\_\_\_\_\_\_\_\_\_

**Official Use Only**

**Air, Energy, & Mining Division**

**PROPERTY BOND FOR OPENCUT MINING PERMIT**

**INSTRUCTIONS**

1. Ensure the operator’s name, site name, and number of acres being covered by the bond are consistent with the information provided in the *Opencut Mining Plan of Operation and Application*. All fields must be completed.
2. The **signed original** must be mailed to the Helena office:

**Physical address**: 1520 #. 6th Ave, Helena MT 59601

**Mailing address**: DEQ Opencut Mining Section, PO box 200901, Helena MT 59620

1. CLERK AND RECORDER SECTION: when the bond is returned to the operator to have this section finished, the bond must be returned to DEQ within 30 days of receipt of the bond.

**OPERATOR SECTION**

In consideration for the issuance of reclamation permit for:

* Operator: **Operator Name**
* The site known as **Site Name**,
* Covering **# of acres** bonded acres.

The undersigned promise(s) to comply fully with all requirements of said reclamation permit, the Act, and rules adopted there under, and hereby assign(s), transfer(s), and set(s) over to the State of Montana, Department of Environmental Quality (the State) the following real property as security for such performance.

The Operator hereby certifies that:

* **Name** is in possession of and owns legal title to real property situated in this state with unencumbered equity not exempt with the value of **$****0.00**, **amount written out**.
* Described as **# of acres** acres located in **N/S** **1/4 or 1/2** **E/W** **1/4 or 1/2**, Section **Section**, Township **Township** **N/S**, Range **Range** **E/W**, **County** County, Montana;

Pursuant to Section 82-4-432(2)(a), MCA, Section and ARM 17.24.203:

* The total bond is **$0.00, amount written out** which includes:
  + **$0.00**, **amount written out** to cover the cost of reclaiming the land affected by mining operations pursuant to the act (this amount must match the reclamation bond spreadsheet); and
  + **$0.00**, **amount written out,** to reimburse the State for costs incurred in the event of bond forfeiture (take the amount of the second bullet point and add 35% of its total).
* **The total bond amount should equal the sum of the second and third bullet points.**

This obligation is executed pursuant to Section 82-4-432(2)(a), MCA, Section, and ARM 17.24.203 and is intended to comply with the requirements thereof. If and when the undersigned comply(ies) with all the requirements of the reclamation permit, the Act, and rules adopted thereunder, and their obligation pursuant to Section 82-4-433(5), MCA, then this obligation shall be null and void; otherwise, it shall remain in full force and effect.

The State may at any time after the undersigned fail(s) to fully comply with all requirements of the reclamation permit, the Act, and rules adopted thereunder, and after giving written notice to the undersigned, sell the same at public or private sale with or without the consent of the undersigned, and shall return to the undersigned any money obtained at that sale in excess of the amount of bond due and owing.

The amount stated in bullet 3 that covers the cost of reclaiming the land affected by the mining operations is a penal sum and shall be forfeited in its entirety regardless of the actual damage caused by the failure of the undersigned to fully comply with all requirements of the reclamation permit, the Act, and rules adopted thereunder. In the event forfeiture proceedings are necessary, the legal expenses of the state will be deducted from the amount of the bond stated in paragraph 2 to reimburse the costs of bond forfeiture. These costs include, but are not limited to, attorneys' fees and the cost of legal services provided by employees of the state at their regular salary rates.

**OPERATOR SIGNATURE SECTION**

Dated this day of **,**  .

OPERATOR Signature Title

**OPERATOR ACKNOWLEDGEMENT**

STATE OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

County of

This instrument was signed or acknowledged before me on day of **,**  **,**

by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Operator Name**

Notary Signature\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Notary Seal) Notary Public for the State of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Residing at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

My Commission expires \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**DEPARTMENT OF ENVIRONMENTAL QUALITY SECTION**

Approved by: State of Montana Department of Environmental Quality

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**DEQ Legal Counsel Signature Title Date**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Mining Bureau Signature Title Date**

**For Official Use Only**

Operator Name: **Operator Name**

Site Name: **Site Name**

**CLERK AND RECORDER SECTION**

Filed for record this \_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_, at \_\_\_\_\_\_\_\_\_ o'clock **AM / PM**

County of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, State of Montana.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Clerk and Recorder

by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**OR**

**INSERT STAMP/SCAN BELOW**

**For Official Use Only**

Operator: **Operator Name**

Site Name: **Site Name**