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For Official Use Only

DEQ #

Permit #

Air, Energy & Mining Division

# IRREVOCABLE LETTER OF CREDIT

**TRIBAL LANDS**

**Irrevocable Letter of Credit No.:**

**Date:**

**Amount:** **USD**

**Commencing:**

**Initial Term Ending Date:**

**To: Department of Environmental Quality Office of Surface Mining Reclamation & Enforcement**

**Mining Bureau – Coal Section Casper Field Office**

**P.O. Box 200901 100 East B Street Room 2128**

**Helena, MT 59620-0901 Casper, WY 82601-1918**

**Phone: (406) 444-4970 Phone: (307) 261-6550**

At the request of       (the Permittee), the permittee under Department of Environmental QualityCoal Mining Operating Permit No.       and a Notice reviewed by the Office of Surface Mining Reclamation and Enforcement on      ,      , we hereby establish our Irrevocable Letter of Credit in your favor. We authorize you to draw on us from time to time, in whole or in part, up to the aggregate amount of       ($      USD). All drafts drawn under and in compliance with the terms of this Irrevocable Letter of Credit will be fully honored if presented on or before      ,      , (Expiration Date) or any extension of the Expiration Date, provided:

1. This Irrevocable Letter of Credit shall be automatically extended without amendment for additional periods of one year unless we have provided written notice not less than ninety (90) days before the Expiration Date or any automatic extension of the Expiration Date of our election not to renew this Irrevocable Letter of Credit. The notice shall be sent by certified or registered mail to the Department of Environmental Quality and the Office of Surface Mining Reclamation and Enforcement at the addresses set forth above.

2. Any draft drawn under this Irrevocable Letter of Credit shall be accompanied by a certification that one of the following conditions exists:

1. The Permittee has failed to comply with provisions of the Montana Strip and Underground Mine Reclamation Act, Title 82, Chapter 4, part 2, MCA and the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 et seq.; 30 C.F.R. Chapter VII, and the State/Federal Cooperative Agreement as provided in 30 C.F.R. 926.30 (Article IX, Bonds); and/or administrative rules promulgated under the Montana Strip and Underground Mine Reclamation Act; or the federal statutes and regulations administered by the Office of Surface Mining Reclamation and Enforcement, the failure of which authorizes the Department of Environmental Quality or the Office of Surface Mining Reclamation and Enforcement to forfeit the bond, in part or in total; or
2. The Department of Environmental Quality and the Office of Surface Mining Reclamation and Enforcementhave received our notice of election not to renew and the Permittee has not provided a replacement bond, Irrevocable Letter of Credit, undertaking, agreement of indemnity, or other instrument, satisfactory to the Department of Environmental Quality and the Office of Surface Mining Reclamation and Enforcement.
3. The Department of Environmental Quality and Office of Surface Mining Reclamation and Enforcement are not required to have commenced or completed reclamation or given the Permittee or us such opportunity before drawing on this Irrevocable Letter of Credit and we are not authorized to inquire whether such violation or failure has occurred.

4. If we have not received from you on or before the Expiration Date or any automatic extension of the Expiration Date a certificate indicating that the Permittee has provided acceptable substitute bond or that substitute bond is not needed, we shall immediately pay the full amount of this Irrevocable Letter of Credit less any previous drafts. Failure to provide the certificate required by this paragraph shall be deemed a documentary draft or a documentary demand for payment.

5. This Irrevocable Letter of Credit is subject to the Uniform Customs and Practice for Documentary Credits (1993 Rev.), ICC Publication No. 500 and the Uniform Commercial Code of Montana, unless such customs and practice are altered herein.

1. We hereby represent and affirm that the execution of this Irrevocable Letter of Credit will not constitute a violation of any law or regulation which may limit the amount of credit which can be extended by this bank to any single borrower or customer.
2. The       is a member of the Federal Reserve System. The banks FDIC number is       or NCUA Certificate number is      .

8. Your acceptance of this Irrevocable Letter of Credit will constitute your agreement that we shall not be liable under this Irrevocable Letter of Credit for an amount, in the aggregate, greater than the sum designated in the first paragraph hereof, and shall not be liable as respects any obligation related to mining and/or milling operations performed after the Expiration Date or any automatic extension of the Expiration Date.

1. Drafts under this Irrevocable Letter of Credit may be made jointly or severally by the Department of Environmental Quality and the Office of Surface Mining Reclamation and Enforcement. All payments, whether made pursuant to drafts made by one or more than one agency or made pursuant to section 2 or section 4 above, shall be made to the Department of Environmental Quality and the Office of Surface Mining Reclamation and Enforcement jointly.
2. This Irrevocable Letter of Credit may be released only by execution of all the releases provided below by the Department of Environmental Quality and the Office of Surface Mining Reclamation and Enforcement.

Very truly yours,

(Authorized Bank Signature) (Bank Name)

     

Title (Address)

(City/State/Zip)

(Phone Number)

**BANK ACKNOWLEDGMENT**

STATE OF      )

ss.

County of      )

On this       day of      , in the year      , before me,      , notary public for the State of      , personally appeared       known to me to be the       of the corporation that executed the within instrument and acknowledged to me that such corporation executed the same.

Notary Public for the State of       (SEAL) Residing at

My Commission Expires

**For Irrevocable Letters of Credit in excess of $100,000 USD please attach authorization of Bank under its corporate seal for officer signing this Irrevocable Letter of Credit to issue same.**

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**DEQ'S ACCEPTANCE**

The State of Montana, Department of Environmental Quality, hereby accepts the foregoing Irrevocable Letter of Credit Number       of the       Bank, in the amount of $      USD this       day of      ,      .

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

Dan Walsh, Mining Bureau Chief Date

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**OSMRE’S ACCEPTANCE**

The USDI Bureau of Land Management, hereby accepts the foregoing Irrevocable Letter of Credit Number       of the       Bank, in the amount of $      USD this       day of      ,      .

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Casper Field Office Director Date

Office of Surface Mining Reclamation and Enforcement

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**DEQ’S RELEASE**

The foregoing Irrevocable Letter of Credit Number       of the       Bank, in the amount of $      USD is hereby released this       day of     ,      . The authorized signature below shall witness the termination of the State's interest in the Irrevocable Letter of Credit.

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Dan Walsh, Mining Bureau Chief Date

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**OSMRE’S RELEASE**

The foregoing Irrevocable Letter of Credit Number       of the       Bank, in the amount of $      USD is hereby released this       day of     ,      . The authorized signature below shall witness the termination of the BLM’s interest in the Irrevocable Letter of Credit.

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Casper Field Office Director Date

Office of Surface Mining Reclamation and Enforcement

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Proof of Agency for Permittee must be attached.