

**Air, Energy, & Mining Division**

**IRREVOCABLE LETTER OF CREDIT GUIDE**

INSTRUCTIONS:

* Fill out this form in its entirety (except for the DEQ 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. It is recommended that the operator complete the OPERATOR sections and then email the form, in Word format, to the surety company for completion of the SURETY sections.
* Ensure that all blanks in the OPERATOR sections are consistent with the information provided in the *Opencut Mining Plan of Operation and Application*.
* **NOTE: for Letters of Credit in excess of $100,000 USD, attach a Bank Authorization letter (section 10). Be sure to include the Letter of Credit number on the authorization letter as well as the details of the individual issuing the Letter of Credit.**

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.

BANK SECTION – PAGE 1 - 2:

* Ensure that the OPERATOR NAME is consistent with the information provided in the *Opencut Mining Plan of Operation and Application.*
* The Bank Representative must fill out the signature section below section 10.
	+ Be sure to put the bank mailing address and bank representative email on their respective lines.

BANK ACKNOWLEDGEMENT – PAGE 2:

* Note that the “By” line is for the name of the Bank Representative.

DEPARTMENT OF ENVIRONMENTAL QUALITY SECTION – PAGE 3:

* DO NOT fill out any fields on this page.



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

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

 **Official Use Only**

**Air, Energy, & Mining Division**

**IRREVOCABLE LETTER OF CREDIT FOR OPENCUT MINING PERMIT**

**INSTRUCTIONS**

1. This form cannot be reproduced on company letterhead.
2. All fields must be completed.
3. The **signed original** must be mailed to the Helena office:

**Physical address**: 1520 E 6th Avenue, Helena MT 59601

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

**BANK SECTION**

To: Montana Department of Environmental Quality (the State) at the request of **Operator Name** (Operator), we hereby establish the instrument described below to meet the requirements of Title 82, Chapter 4, Part 4, the Opencut Mining Act, Section 82-4-432(2)(a) MCA, Section 82-4-433 MCA, ARM 17.24.203:

* Irrevocable Letter of Credit Number: **LOC #**
* For the site known as **Site Name**,
* Covering **# of acres** bonded acres,
* In your favor and authorize you to draw on us from time to time in whole or in part, up to the aggregate amount of

 **$****0.00** USD, **amount written out** and

* We engage with you that all drafts drawn under and in compliance with the terms of this credit will be fully honored by us if presented at the Bank office on a business day on or before **Month** **Day**, **Year**, or any extended date (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 at the mailing address 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 Opencut Mining Act (Title 82, Chapter 4, Part 4, Montana Code Annotated (MCA)) and/or administrative rules promulgated under the Opencut Mining Act, the failure of which authorizes the Department of Environmental Quality to forfeit the bond, in part or in total; or
2. The State has 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.
3. The State is 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.
6. 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.
7. The **Bank Name**  (Bank Name) is a member of the **Federal Reserve System**. The bank’s FDIC number is **FDIC#**.

 **OR**

 The **Credit Union Name** (Credit Union) is a member of the **National Credit Union Administration**. The credit unions NCUA Certificate number is **NCUA #**.

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. This Irrevocable Letter of Credit may be released only by execution of all the release provided below by the Department of Environmental Quality.
2. **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.**

Dated this  day of  **,** .

**Bank Representative Signature Title**

Bank Name: Telephone Number:

Full Mailing Address:

Bank Representative Email: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**BANK ACKNOWLEDGEMENT**

STATE OF MONTANA

County of

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

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

 **Bank Representative**

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

 Notary Public for the State of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 (Notary Seal) Residing at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

**For Official Use Only**

LOC#: **LOC #**

**DEPARTMENT OF ENVIRONMENTAL QUALITY SECTION**

**DEQ’S ACCEPTANCE**

Approved by: State of Montana Department of Environmental Quality

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Mining Bureau Signature Title Date

**AUTHORIZATION FOR RELEASE OF IRREVOCABLE LETTER OF CREDIT**

The above Irrevocable Letter of Credit is hereby released. The authorized signature below shall witness the termination of the State's interest in the LOC.

Authorized by: State of Montana Department of Environmental Quality

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Mining Bureau Signature Title Date

**For Official Use Only**

LOC#: **LOC #**