



COLORADO STATE BOARD OF LAND COMMISSIONERS

1127 Sherman Street, Room 300, Denver, Colorado 80203, (303) 866-3454

**RIGHT-OF-WAY PERFORMANCE/RECLAMATION BOND
FOR USE WITH CORPORATE SURETY**

Bond No. _____

Right-Of-Way Contract: No. _____

KNOW ALL BY THESE PRESENTS, That _____ of the County of _____ in the State of _____ (hereinafter called Grantee) and _____ of the County of _____ in the State of _____ a corporation organized and existing under the laws of the State of _____ and duly authorized to transact a bonding and surety business in the State of Colorado (hereinafter called the Surety), as Surety, are held hereby and firmly bound unto the State of Colorado, acting by and through the State Board of Land Commissioners (hereinafter called the "Board") in the sum of _____ Dollar (a _____) for the payment of which sum, well and truly to be made, we hereby bind ourselves and our personal representatives, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Grantee has entered into the above mentioned Contract of State Trust Lands, dated _____ to install said facility on certain lands in _____ County(s), Colorado which Contract is hereby referred to and made a part hereof as fully and to the same extent as if copied at length herein,

WHEREAS, Grantee has agreed with the Board as per the aforementioned right-of-way contract to restore said lands to as near as practicable to its original condition.

NOW THEREFORE, the conditions of this obligation are such that, if the above-bonded Grantee shall, in conducting operations, faithfully perform the restoration requirements of the Contract, as amended from time to time, and comply with the conditions of the contract and with all applicable laws and regulations of the State, and if the Board shall make a finding that the lands upon which such operations have been conducted have been satisfactorily reclaimed, then the Board shall, upon receipt of a request for bond release on such lands or a request for partial release as to any portion thereof, release the Grantee and the surety to the extent that it determines such reclamation to have been accomplished.

ADDITIONAL PROVISIONS

- (1) The amount of this bond is based upon estimates as to the cost of reclamation, and does not operate to liquidate, limit, enlarge, or restrict the Grantee's obligations to complete the reclamation plan and to comply in all respects with the Contract and with applicable laws and regulations governing reclamation, even though the actual cost thereof may substantially exceed the amount of this bond.
- (2) The surety shall not be liable under this bond for an amount greater than the sum designated in the first paragraph hereof, unless increased by a later amendment to the bond. This bond shall be reviewed by the Board from time to time, and the Board may require an increase in the principal sum of this bond (and a corresponding increase in the surety amount) to cover increases in the estimated costs of reclamation, but no such increase shall bind the surety unless and until it shall have consented thereto in writing by the issuance of an additional surety bond or by an endorsement to this bond.
- (3) Surety reserves the right to cancel this bond, effective only upon an anniversary date, and only by giving written notice to that effect, mailed by certified mail, at least ninety (90) days prior to such anniversary date, addressed to both the Grantee, at its address herein stated, and to the Board at 1127 Sherman Street, Room

300, Denver, Colorado 80203. In the event of such cancellation, this bond shall nevertheless remain in full force and effect as respects the reclamation of all areas disturbed prior to the effective date of such cancellation, unless and until the Grantee shall file a substitute bond which: (1) assumes liability for all reclamation obligations which shall have arisen at any time while this bond is in force, and (2) is accepted in writing by the Board.

(4) In the event of such cancellation, if the bond is not fully released, the amount of the continuing bond available for the reclamation of areas disturbed and unreclaimed at the date of cancellation, shall be fixed by the Board at the amount it determines necessary to complete such reclamation (which amount may not exceed the sum designated in the first paragraph hereof) and the Board or shall concurrently identify such areas in writing, and notify the Grantee and the surety thereof. Thereafter, the obligation of the surety shall be limited to reclamation of the areas so identified.

(5) The consideration for Surety's execution of this agreement is the promise of the Grantee to pay the premiums, but failure by the Grantee to pay such premiums shall not invalidate or diminish Surety's obligation hereunder.

(6) The description of lands herein set forth is for convenience of reference only, and no error in such description, nor any revision of the contracted operations area, nor the disturbance by the Grantee of lands outside of the contracted operations area shall alter or diminish the obligation of the Grantee or the Surety hereunder, which shall extend to the reclamation of all such lands disturbed.

(7) The obligation of this bond shall continue (unless cancelled pursuant to paragraph (3) hereof) until released in writing by the Board. The parties understand that periods of years may necessarily be required before determination can be made that reclamation work has been satisfactorily completed. No revision, extension, or renewal of the Grantee's Contract, or of the time allowed the Grantee to complete reclamation shall diminish Surety's obligation hereunder. No misrepresentation by the Grantee which may have induced the Surety to execute this bond shall be any defense to demand by the Board under this agreement.

(8) The Surety will give prompt written notice, mailed by certified mail, to the Grantee, at its address herein stated, and to the Board at 1127 Sherman Street, Room 300, Denver, Colorado 80203, of any notice received or action filed alleging the insolvency or bankruptcy of the Surety, or alleging any violations of regulatory requirements which could result in suspension or revocation of the Surety's license to do business.

(9) In the event the Surety becomes unable to fulfill its obligations under the bond for any reason, written notice shall be mailed immediately, by certified mail, to the Grantee and the Board.

(10) The Board may make demand upon the surety for payment hereunder if the Board determines that reclamation which ought to have been performed pursuant to the Contract by the Grantee, or its successors or assigns, remains unperformed, and if surety forfeiture procedures required by law have been initiated. No other condition precedent need be fulfilled to entitle the Board to receive the amount so demanded. However, if, upon completion of reclamation, the amounts expended for reclamation shall be less than the amount received from the Surety, the excess shall be promptly refunded to the Surety.

(11) If demand is made upon the Surety for payment of an amount due to the Board hereunder, and if the Surety fails to make payment of such amount within ninety (90) days after the date of receipt of such demand by the Surety, and if it should thereafter be determined, by agreement of the Surety or by final judgment of court, that the amount demanded was properly payable, Surety agrees to pay to the Board, in addition to the amount demanded, interest at the prime rate in effect from time to time at The First National Bank of Denver for the period commencing at the end of such ninety-day period and ending on the date of actual payment.

(12) If the Board shall notify the Surety that the Grantee is in default and if the Board shall initiate any bond forfeiture procedures, the Surety may, in lieu of making payment to the Board of the amount due hereunder, cause the reclamation to be timely performed in accordance with the Contract. In such event, when and if the reclamation has been timely performed to the satisfaction of the Board this bond shall be released. If the

reclamation shall not be so performed to the satisfaction of the Board, this bond shall remain in full force and effect.

(14) This agreement may be executed in multiple copies, each of which shall be treated as an original, but together they constitute only one agreement, the validity and interpretation of which shall be governed by the laws of Colorado.

(15) The Provisions hereof shall bind and inure to the benefit of the parties hereto and their successors and assigns. As used herein, words in any gender shall include the other genders, the singular shall include the plural and vice-versa.

SIGNED, SEALED AND DATED, this _____ day of _____, _____.

Grantee: _____
Signature Printed Name
_____ of _____
Title Entity

Surety: _____
Signature Printed Name
_____ of _____
Title Surety Company

(Seal)

(STATE LAND BOARD USE ONLY)

Received by The Board: _____
Right-of-Way Manager Date

BOND TERMINATION INFORMATION

Recommended By:

Approved By:

District Manager

Right-of-Way Manager

Effective Date _____