

FACT SHEET ALASKA RECLAMATION BONDING PROGRAM

Reclamation Bonding Defined

A reclamation bond is a cache of money that mining companies are required to post before mining. It is meant to serve as a form of insurance to protect the public against the cost of mine cleanup should a company declare bankruptcy or refuse to complete reclamation according to its permit. Reclamation bonds for major mines are generally provided through a surety company. Similar to health or car insurance, the mining company pays a premium to the surety company, which in turn, provides a financial guarantee to the agency for the bond amount.

The Threat Facing Alaska

Communities through the west have been left with polluted water, devastated fisheries, and increased health risks due to mining bankruptcies. For example, at Summitville Mine, located on state lands in Colorado, the mining company walked away after severely polluting 18 miles of the Alamosa river, leaving taxpayers to pay \$120-150 million to clean the site up. This example is typical; when the companies don't adequately clean up mine sites, taxpayers are left holding the bag. Alaska is one of several states with weak reclamation bonding standards in need of reform.

Economic Opportunities

Stronger reclamation bonding standards can generate vast economic benefits for Alaska's mining communities. Environmental remediation activities create skilled, well paying jobs, ranging from project planners, engineers, biologists, hydrologists and ecologists to heavy equipment operators and laborers. (Kuipers 2001) These jobs can play a valuable role in stabilizing mining related employment, since the positions required are similar to those employed in mine development and operation. Thus, instead of repeating the cycles of layoffs, unemployment, and associated social stress every time minerals markets soften, companies can use reclamation as a bridge to promote greater economic stability.

Alaska Mining Statutes

In 1963 Alaska was the first western state to establish a Reclamation Act, but reclamation bonding was not required in a substantive form until 1991, when the Alaska Reclamation Act was codified.

Lead Agencies

- The Division of Mining, Land and Water of the Department of Natural Resources is the lead state agency responsible for administering the Alaska Reclamation Act.
- The Alaska Department of Environmental Conservation (ADEC) is responsible for permitting and bonding tailings ponds and heap leach facilities.
- Either the US Forest Service or Bureau of Land Management, along with the ADEC and the Division of Mining and Water Management, administers mining regulations on federal lands.

Mine and Bond Facts

- Six major hardrock mining operations are currently permitted in Alaska. There are four gold mines (Fort Knox, True North, Illinois Creek and Nixon Fork) and two base metal mines (Greens Creek and Red Dog).
- Of these mines, Illinois Creek and Nixon Fork went bankrupt after less than two years of operation. The \$1,618,209 bond for Illinois Creek, located on state land, was insufficient to cover full reclamation costs. The State was required to contract a mining company to "mine to reclaim" the property in order to generate revenue to pay for the full reclamation of the heap leach operation. Full reclamation and closure has not occurred yet at Nixon Fork – which was bonded at the statutory limit of \$750/acre, for a total bond amount of \$250,000.

Taxpayer Liability

The weaknesses in the current state program could result in a gap between the estimated costs of reclaiming the existing mines and the available bonds of 150 to 500 percent, leaving taxpayers with a potentially unfunded liability of \$7.2 million to \$57.6 million. Taxpayers will be burdened with this liability in the event that the mining companies fail to meet their reclamation obligations.

Strengths of the State Reclamation Bonding Program

- Alaska only allows for participation in the statewide bonding pool surety bonds, or personal bonds accompanied by a letter of credit, certificate of deposit or by a deposit of cash or gold.
- Alaska can conduct mine inspections as necessary to determine compliance with the statutes. Alaska's regulatory history, however, does not indicate that compliance inspections have been routinely conducted with the intent of determining regulatory compliance.

Weaknesses of the Alaska Reclamation Bonding Program

- Alaska is the only state, outside of Idaho, that places a "per acre" limit on the reclamation bond. Rather than requiring that the reclamation bond cover the full cost of reclamation, Alaska law limits the amount of performance bond to \$750 for each acre of mined area. An operator may provide a bond for more than the amount required, and many hardrock mines do. However, even in cases where the company volunteers a higher bond amount, the \$750 per acre limit essentially compels the Division to accept the original cost estimate of the company, regardless of the real cost of reclamation. As a result, many mines are not sufficiently bonded.
- The Alaska Reclamation Act lacks substance in terms of comprehensive and specific performance standards and other requirements. Reclamation planning in the State fails to adequately address water quality and fails to consider wildlife habitat and aesthetic considerations. The limitations on topsoil, revegetation and public safety seriously compromise the statutes as well. For example, ...
- Alaska is the only state, with the exception of Arizona, that permits reclamation and closure costs to be calculated on the basis of costs to the company, without regard for the indirect costs that would be necessary if the agencies were to perform reclamation. These costs can often add 30% to the total cost of reclamation.
- A separate administration for different aspects of reclamation and closure (both among state agencies and between the state and federal agencies) presents a difficult regulatory scheme with the potential for shortcomings on water quality issues.
- Despite a large area of tribal lands owned by Alaska Native and Village Corporations, the State has no formal relationship with various tribal organizations with respect to mining and reclamation issues.
- The Alaska Reclamation Act exempts operations of 5 acres or less from requirements. This exemption essentially allows small mining operations in the state to be conducted without regard for reclamation and closure issues.
- Alaska's Department of Environmental Conservation does not require additional financial assurance for mining operations that employ cyanide leaching or other toxic chemicals.
- Alaska's bond pools allow operators that would otherwise be unable to obtain standard bonds for various reasons, including financial difficulties, to obtain necessary bonding.
- No specific provisions for public participation are provided in the Alaska Reclamation Act. (Alaska does allow for proposed bonding to be included in the public review process for new permits.)
- The State does not require bonding on federal lands if the responsible federal agency has an approved reclamation plan and bonding mechanism consistent with state statutes. This provision limits the State's authority to require bonding on federal lands.

Excerpted from the February 2000 study by the National Wildlife Federation, author Jim Kuipers ("Hardrock Reclamation Bonding Practices in the Western United States")