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Financial Assurance for Hardrock Mine Reclamation

on behalf of
Great Basin Mine Watch
Reno, NV

by

James R. Kuipers. P.E.
Center for Science in Public Participation

Before Assembly Committee on Natural Resources, Agriculture and Mining
Carson City, NV
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James R. Kuipers
Professional Qualifications

- Over 25 years experience in hardrock metal mining.
- Experienced underground miner and millwright.
- 1983 graduate of Montana School of Mines, BS Mineral Process Engineering.
- Mine Manager, Project Manager and Sr. Engineer.
- Registered Professional Engineer in Montana and Colorado.
- Have worked on behalf of public interest groups, state, federal and tribal governments for the past eight years.

James R. Kuipers - Professional Qualifications

Reclamation and closure planning and financial assurance experience

- Canyonlands 21st Century, UT (1985)
- Jarbidge, NV (1985)
- Austin Gold Venture, NV (1986-1988)
- Northumberland, NV (1992)
- Golden Sunlight, MT (1996 – present)
- Butte Silver Bow/Clark Fork River Superfund (1997 – present)
- Zortman and Landusky, MT (1998 – present)
- Castle Mountain, CA (1999)
- Questa, NM (2000 – present)
- East Boulder, MT (2001 – present)

Authored *Hardrock Mining Reclamation and Bonding Practices in the Western United States* and have additional publications and presentations and have provided workshops to industry and regulatory professionals on reclamation planning and financial assurance.

What is financial assurance?

Financial assurance is designed to ensure money will be available for a governing authority to conduct legally required mine reclamation and closure, in case the responsible company declares bankruptcy or otherwise fails to complete post-mining activities.

The amount of financial assurance required is determined or approved by the agency and an appropriate form of financial assurance is usually required prior to mining, and adjusted at regular intervals (one to five years).

- Financial assurance is a prerequisite of responsible business practice.
- Financial assurance ensures the polluter pays.
- Financial assurance is a reasonable cost of doing business.

What are the forms of financial assurance?

1. Forms of Cash or Equivalent
    - irrevocable letter of credit (bank guarantees)
    - certificates of deposit
    - government bonds
    - trust funds

- Cash or its equivalent is the preferred form of financial assurance
    - most secure
    - readily available

- Cash financial assurance, together with an accurate assessment of reclamation requirements and costs, is the best protection for taxpayers.

- Where closure costs are long-term (i.e. water treatment) forms of cash such as trust funds are the only practical form of financial assurance.

What are the forms of financial assurance?

2. Surety Bonds and Insurance

Surety bonds and insurance are guarantees from an insurance company or its equivalent for the performance of reclamation and closure work.

- Surety bonds and insurance are intended for low-risk circumstances where the provider can hire another contractor to perform the work.

- Surety bonds and insurance can be cancelled.

- Payout may be reduced by 10 to 20 percent in negotiations.

- Payments from bonds and insurance occur as work occurs, not up front.

- Surety companies are also subject to bankruptcy problems.

What are the forms of financial assurance?

3. Self-guarantees
   - parent company guarantees
   - corporate guarantees

A parent company or corporate guarantee is a pledge made by a mining company or its parent company.

- Self-guarantees may be accompanied by financial tests
  - may not provide meaningful assessment
  - replacing self-guarantees is problematic

- No hard assets, cash or cash equivalents stand behind a corporate self-guarantee
  - subject as unsecured creditor in bankruptcy court
  - payout is commonly 10% or less and in many cases no payout is provided

What do other states and the federal government accept as financial assurance?

- States and federal agencies that do not allow or accept corporate guarantees as financial assurance for hardrock reclamation:

  Alaska
  California
  Idaho
  Montana
  Oregon,
  South Dakota
  Washington
  US Forest Service
  Bureau of Land Management (Nevada excluded)

- New Mexico does not allow self-guarantees, but does allow third party guarantees. Some parent corporations are allowed to provide third party guarantees.

What do other states and the federal government accept as financial assurance?

- Arizona, Colorado, Nevada and Utah presently accept corporate guarantees.

- Arizona provides corporate guarantees for the state's numerous copper mines with a combined liability of at least $74 million.
  - The majority of Arizona's mines are entering their end and the state and federal taxpayers could be responsible for billions in cleanup costs.

- Colorado and Utah allow corporate guarantees, but it is rarely used.

Nevada has over $240 million in corporate guarantees, more than all other states combined.
  - Nevada's liabilities rest on the price of gold, and the uncertain future of three major mining companies.

Financial assurance case studies

- Summitville, CO 1993 $4.5M surety and property bond
  - $180M total cost, $32M from Galactic Resources
- Pegasus Gold, 1998 $75M total surety bonds in MT
  - Zortman and Landusky $100M (+$33M)
  - Beal Mountain $12M (+$6M)
  - Basin Creek $2M
- Brohm Mine, SD 1999 $16M surety bond and letter of credit
  - $30-$50M estimated cost (+$14-$34M)
- **ASARCO, USA** **$100M settlement with EPA**
  - $200M to $1B estimated liability to states and other federal agencies

Financial assurance case studies

- Nevada bankruptcies

  Alta Gold
  Arimetco
  Atlas Gold
  Aurora Partnership
  Homestead
  Jumbo Mining
  McNamara Buick-Pontiac
  Mineral Ridge Resources
  Mountain Mines
  Preutt Ranches
  REA (Mt Hamilton)

Financial assurance - Conclusions

- Assembly Bill (AB) 321 will encourage corporate responsibility and fiscal accountability for mining operations in Nevada.

- AB 321 will ensure that taxpayer liability is significantly reduced for mine reclamation and closure in Nevada.

- AB 321 is fair and reasonable in that it allows for a phase-out of existing corporate guarantees in Nevada.

- AB 321 is in the best interest of the state and its citizens, and would encourage a sustainable mining based economy.

- Reclamation and closure should be a cost of doing business, and AB 321 ensures that it is.