

STATE OF COLORADO

DIVISION OF RECLAMATION, MINING AND SAFETY

Department of Natural Resources

1313 Sherman St., Room 215

Denver, Colorado 80203

Phone: (303) 866-3567

FAX: (303) 832-8106



TRANSFER OF MINERAL RECLAMATION PERMIT

AND

SUCCESION OF OPERATORS

APPLICATION PACKAGE

Applicability

This document applies to mining operations where the current permitted mine operator wishes to transfer the Reclamation Permit and permitted reclamation responsibilities to a Successor Operator (a new operator). Please follow the instructions provided in this package for filing an application; Mineral Rules and Regulations and Construction Material Rules and Regulations Number 1.12 (Permit Transfer application requirements) should also be reviewed prior to completing this form.

Filing Requirements

To apply for a transfer please submit the following to the Division of Reclamation, Mining and Safety (the Division):

- 1) A "Transfer of Permit and Succession of Operator" application form, signed and notarized by an authorized representative of BOTH the current permittee and successor operator;
- 2) The Application Fee of **\$115.00** for Hard Rock operations and **\$144.00** for Construction Materials operations;
- 3) A Performance Warranty Form bearing an original notarized signature of an authorized representative of the successor operator; and,
- 4) Financial Warranty:
 - A) You have the option to WAIVE YOUR RIGHT to a thirty (30) day processing time to allow the Division time to recalculate the required financial warranty; or,
 - B) You may choose NOT TO WAIVE YOUR RIGHT to a thirty (30) day processing time. In such case, the Division will recalculate the required financial warranty within sixty (60) days from the decision date (the date the permit is transferred to the Successor Operator). The required RECLAMATION BOND COULD BE SUBSTANTIALLY INCREASED at that time. If the financial warranty is increased, you will then be required to post the additional financial warranty.

This application package contains the "Transfer of Permit and Succession of Operator" application form, and a Performance Warranty form for your use. Rule 4.3 of the Mineral Rules and Regulations and Rule 4.3 of the Construction Material Rules and Regulations describes the various acceptable Financial Warranty types. Please contact the Division to obtain the appropriate Financial Warranty form.

Upon submittal of this application, the application fee, and the replacement performance and financial warranties the Division will transfer the permit to the Successor Operator. After the transfer is complete the Division will then review the reclamation costs of the permitted operation. The Successor Operator will be notified, if additional reclamation bond is required, within 60 days of approval if you do not wave your right to a decision within 30 days. The Division will notify both operators upon completion of the permit transfer.

Application Review Procedures

The Division must act upon your application within thirty (30) days of receipt.

The Division will grant your request for a permit transfer if it finds that the successor operator is capable of assuming all responsibility for the conditions included under the original permit by virtue of acceptable performance and financial warranties. Your request is automatically approved if it has not been denied by the Division within thirty (30) days of filing.

If the Permit Transfer application is denied, you will be notified within ten (10) days of the decision deadline. You may appeal the Division decision to the Mined Land Reclamation Board by submitting a written Request for Administrative Appeal to the Board within sixty (60) days of the date of the decision (please refer to C.R.S. 34-32-107 (Hard Rock Statutes), and C.R.S. 34-32.5-107 (Construction Material Rules and Regulations) and C.R.S. 4-4-104(9)).

Notice of Permit Transfer is acknowledged in the monthly activity report attached to the monthly Board Agenda.

Once the Permit Transfer document is approved, the originally submitted Performance and Financial Warranties will be returned to the previous operator, as the previous operator is no longer responsible for the reclamation of the transferred operation.

NOTICE TO SUCCESSOR OPERATOR:

- 1) Once the Permit Transfer is approved, you will be responsible for maintaining the mining and reclamation operations in compliance with the Mined Land Reclamation Act and the Mineral Rules and Regulations for Hard Rock, Metal and Designated Mining Operations or the Colorado Land Reclamation Act for the Extraction of Construction Materials and the Construction Material Rules and Regulations.
- 2) All of the application materials, as amended and supplemented, are an integral part of the permit. They have been incorporated into the permit by reference. We suggest you keep a copy of the permit, the permit application, and a copy of the regulations at the mining operation as a reference. If you are unable to secure a copy of the permit application from the original operator, you may purchase a copy from the Division.
- 3) Changes in the mining and reclamation operations that differ from those described in the permit may require a revision to the permit. We suggest consulting the Mineral Rules and Regulations or the Construction Material Rules and Regulations and/or contacting us to determine if a revision to the permit is necessary. Rule 1.8 and 1.10 pertains to Amendments, Rule 1.9 to Technical Revisions, and Rule 1.11 to Conversions.
- 4) On your permit anniversary date each year, you **MUST** submit an annual fee and report to the Division. Please consult C.R.S. 34-32-127(2) for Hard Rock and Metal Mines or C.R.S. 34-32.5-125 for all construction materials operations for the applicable annual fee requirements for your operation.

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TRANSFER OF PERMIT AND SUCCESSION OF OPERATORS APPLICATION FORM

The application for a Transfer of Permit and Succession of Operators must contain four (4) major parts: 1) an Application Form; 2) an Application Fee; 3) a Performance Warranty (attached as part of the Application Package) bearing the original notarized signature of the Successor Operator; and, 4) a replacement Financial Warranty provided by the Successor Operator, bearing an original notarized signature. To expedite processing, please provide the information in the format and order described below.

FINANCIAL WARRANTY INFORMATION (Choose **ONE** Option):

1. **Option A:** _____
(Initial & Date)

I wish to WAIVE MY RIGHT to a 30-day processing time to allow the Division of Reclamation, Mining and Safety to recalculate the Financial Warranty requirements. If you choose Option A you should **not** submit a Financial Warranty and Performance Warranty until the Division notifies you of the correct amount of your warranty requirements.*

2. **Option B:** _____
(Initial & Date)

I DO NOT WISH TO WAIVE MY RIGHT to a 30-day processing time. I hereby submit a replacement Financial Warranty for the same dollar amount as the Financial Warranty maintained by the current operator. I understand that the Division of Reclamation, Mining and Safety will recalculate the required reclamation bond within 60-days from the date that the transfer is completed and the required FINANCIAL WARRANTY COULD BE SUBSTANTIALLY INCREASED at that time. As the new operator, I agree to be responsible for posting any required increase to the financial warranty for good cause shown, in a form acceptable to the Board, within 60-days of such notice.

II. **ADMINISTRATIVE INFORMATION:**

1. Permit Number: _____

2. Operation Name: _____

3. **Current Permitted Operator:**

Contact Person: _____

Company Name: _____

Street: _____

City: _____

State: _____ Zip Code: _____

Area Code: _____ Telephone: _____

4. **Successor Operator:**

Contact Person: _____

Company Name: _____

Street: _____

City: _____

State: _____ Zip Code: _____

Area Code: _____ Telephone: _____

IRS Tax ID No. or Social Security No.: _____

5. **Application Fee:** **\$115.00** for Hard Rock operations; **\$144.00** for Construction Materials operations

Make check payable to the Division of Reclamation, Mining and Safety

- III. 1. Yes: _____ As the successor operator do you have a complete copy, as is available,
No: _____ of the approved reclamation application to include any permit modifications?

A copy of the approved application and any modifications to the permit may be purchased through the Division. Unless you specify which portions of the permit file you want copied the entire file will be copied. The Division will send the entire file, or portions you specify, to an outside vendor and you will be billed accordingly.

2. Yes: _____ Have you verified that the permit area you are assuming reclamation
No: _____ responsibility for is the area described in the approved permit application?

3. Yes: _____ Have you verified that you have legal right of entry to conduct mining
No: _____ and reclamation?

IV. **RECITALS**

1. On _____, _____ Permit Number _____ was granted to _____ (existing operator) ("Permittee"), pursuant to which Permittee has been conducting a mining operation in the County of _____, State of Colorado.
2. Permittee wishes to assign the permit to _____ (new operator), as Successor Operator ("Successor") and Successor wishes to become Successor Permittee under the permit.
3. Successor understands that the reclamation plan (the "Plan") required by the permit and by applicable State laws and regulations has not been completed and is willing to assume full responsibility for the completion of the Plan.

V. **AGREEMENTS**

Permittee and Successor hereby agree, for their own benefit and for the benefit of the State, such agreements to be effective ipso facto upon the approval by the State of the transfer of the Permit from Permittee to Successor, as follows:

1. Successor has inspected the mining and reclamation operations to its entire satisfaction and is fully aware of the conditions thereof. Successor understands and accepts all of the conditions of the Permit.
2. Successor will complete the reclamation plan, and hereby assumes liability for completing such plan as to all areas heretofore disturbed, as well as to all areas hereafter disturbed. Successor will perform all of the obligations of the Permittee under the Permit which have not heretofore been performed by Permittee.
3. Successor hereby tenders to the State its attached Performance and Financial Warranties*, which are to be substituted for the Performance and Financial Warranties heretofore filed by the Permittee, effective upon the release of the latter Warranties.
4. Successor represents to the State that, to the best of its knowledge, information and belief, it is not in violation of any of the provisions of the Colorado Mined Land reclamation Act with respect to any other operation conducted by it in the State of Colorado.

Permittee and Successor hereby request the State to consent to the assignment of the Permit, to recognize Successor as Successor Operator under the Permit, and to accept the tendered substitute Performance and Financial Warranties in place of the Warranties presently on file with the State.

PERMITTEE

SUCCESSOR OPERATOR

Name of Permittee

Name of Successor

By _____
Signature of Officer

By _____
Signature of Officer

Title of Officer

Title of Officer

NOTARY FOR PERMITTEE

State of _____)
)
County of _____)

The foregoing instrument was acknowledged before me this _____ day of _____, _____, by
_____ as _____ of
_____.

Notary Public _____
My Commission Expires _____

NOTARY FOR SUCCESSOR

State of _____)
)
County of _____)

The foregoing instrument was acknowledged before me this _____ day of _____, _____, by
_____ as _____ of
_____.

Notary Public _____
My Commission Expires _____

CONSENT OF STATE

- (a) Consent is hereby granted to the transfer of the Permit referred to from _____ to _____.
- (b) _____ is hereby recognized as Successor Operator under such Permit.
- (c) The Performance and Financial Warranty substitution above proposed is hereby accepted and approved.

STATE OF COLORADO
DEPARTMENT OF NATURAL RESOURCES
MINED LAND RECLAMATION BOARD
DIVISION OF RECLAMATION, MINING AND SAFETY

By _____
Division Director

Date Executed _____

STATE OF COLORADO

DIVISION OF RECLAMATION, MINING AND SAFETY

Department of Natural Resources

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PERFORMANCE WARRANTY

Bill Ritter, Jr.
Governor

Harris D. Sherman
Executive Director

Ronald W. Cattany
Division Director
Natural Resource Trustee

Operator: _____

Operation: _____

Permit No: _____

This form has been approved by the Mined Land Reclamation Board pursuant to sections 34-32-117, C.R.S., of the Mined Land Reclamation Act and 34-32.5-117, C.R.S., of the Colorado Land Reclamation Act for the Extraction of Construction Materials. Any alteration or modification of this form, without approval by the Board shall result in the financial warranty being invalid and result in the voiding of any permit issued in conjunction with such invalid financial warranty and subject the operator to cease and desist orders and civil penalties for operating without a permit pursuant to sections 34-32-123, C.R.S., of the Mined Land Reclamation Act and 34-32.5-123, C.R.S., of the Colorado Land Reclamation Act for the Extraction of Construction Materials.

KNOW ALL MEN BY THESE PRESENTS, THAT:

WHEREAS, the Colorado Mined Land Reclamation Act, C.R.S. 34-32-101 et seq. (the "Act"), as amended, and the Colorado Land Reclamation Act for the Extraction of Construction Materials, C.R.S. 34-32.5-101 et seq. (the "Act"), as amended, provides that no permit may be issued under the Act until the Mined Land Reclamation Board (the "Board") receives a performance warranty (or warranties) that is a written promise to comply with all applicable requirements of the Act.

WHEREAS, _____ (the "Operator"), has applied for a permit to conduct a mining operation known as _____ (the "Operation") on certain lands in _____ County, Colorado. These lands are described in the permit application, as amended and supplemented, and are referred to herein as the "Affected Lands".

WHEREAS, in its application for the permit, the Operator has agreed to be bound by all requirements of the Act and all applicable rules and regulations of the Board, as amended from time to time.

WHEREAS, the Board has determined, in accordance with the Act, that the estimated costs of reclamation with regard to those affected lands in _____ County which are now or may become subject to the permit are those amounts for the stated periods of time as set forth in the financial warranty, which may be amended from time to time to reflect revised estimates of said costs of reclamation.

WHEREAS, the Operator hereby gives the Board a performance warranty pursuant to Section 34-32-117(2) or Section 34-32.5-117(2) of the Act, and herein promises the Board that it will comply with all applicable requirements of the Act with regard to those Affected Lands.

NOW, THEREFORE, the Operator hereby promises the Board that it will comply with all applicable requirements of the Act and rules and regulations of the Board with respect to the Affected Lands.

FURTHER, the Operator hereby promises the Board that it will comply with all of the terms of the application for a permit, as amended and supplemented, as well as any conditions attached to the permit by the Board.

FURTHER, the Operator promises the Board, pursuant to 34-32-112(2)(d) or 34-32.5-112(1)(c)(iv) of the Act, that it has the lawful authority to enter upon the Affected Lands to conduct mining operations, including, but not limited to, reclamation. The Operator further recognizes the right of the Board to enter to reclaim lands affected by the operation.

The description of lands herein is for convenience of reference only, and no error in such description, nor any revision of the permitted mining area, nor the disturbance by the Warrantor of lands outside of the permitted mining area shall alter or diminish the Operator's obligation hereunder, which shall extend to the reclamation of all such lands disturbed.

The obligation of the Operator hereunder is such that, if the Operator shall successfully comply with the requirements of the Act, applicable rules and regulations, and the permit, then the Board, upon a finding that the Operator has so complied, shall release this performance warranty, and the Operator from its obligation hereunder, to the extent that the Board determines that such compliance has been accomplished. The obligation of the Operator hereunder shall continue until released in whole or in part by the Board in accordance with applicable law.

In further satisfaction of the requirements of the Act, the Operator promises to be responsible for the cost of reclamation up to the amount established by the Board and has attached hereto its financial warranty, which may be amended from time to time. The Operator agrees that it will maintain a financial warranty (or warranties) for the estimated costs of reclamation in good standing for the entire life of the permit. Please note that under the provisions of the Colorado Mined Land Reclamation Act and the Colorado Land Reclamation Act for the Extraction of Construction Materials, any Applicant or Operator that submits proof, acceptable to the Board or Division of Reclamation, Mining and Safety, that an Applicant or Operator is a unit of County or Municipal government, or is a department or division of State government, the Applicant or Operator is not required to submit or post any other instrument of financial responsibility but hereby promises to be responsible for the cost of reclamation up to the amount specified by the Board.

If the Board determines that the Operator is in default under this performance warranty and has failed to cure such default, although written notice of such default and ample time to cure such default have been given, the Operator's financial warranty shall be subject to forfeiture.

This performance warranty 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 the State of Colorado.

