Rule 40 Bonding

040. Bonding.

An active surety bond or other means of acceptable monetary surety shall be secured by the owner of a mine tailings impoundment structure payable to the Director of the Department of Water Resources and shall be on file with the Director throughout the active life of the tailings disposal site. The purpose of this bond is to provide financial means by which the tailings impoundment can be placed in a safe maintenance-free condition in the event said facility is improperly abandoned or otherwise closed by the owner without conforming to a reclamation plan approved by the Director.

01. Filing of Bond. The bond shall be filed prior to any issuance by the Director of a Certificate of Approval for use of the mine tailings impoundment structure to impound mine tailings slurry and shall be valid for the approved period authorized on the Certificate of Approval.

02. Provisions of Bond. Bond provisions shall provide that the surety may be held liable for a period of up to five (5) years following notice of default on the bond.

03. Amount of Bond. The value of bond will be set by the Director and is subject to revision each time it is renewed. The owner must obtain approval for both the duration and the amount of surety prior to each renewal of the bond.

04. Cost Estimate Submitted by Engineer. To provide a basis for setting the bond amount, the owner's engineer shall submit a cost estimate acceptable to the Director, together with conceptual details deemed necessary for proper abandonment of the facility at each proposed stage of its construction. Conceptual designs, while necessary to establish a monetary basis for the value of the bond, do not constitute approval by the Director to commence closure activities of the mine tailings impoundment or the tailings disposal site.

05. Current Costs for Abandonment. The value of bond will be based on current cost estimates for proper abandonment of the facility based on the present construction condition or the next approved design stage of construction, whichever represents the larger bond amount.

06. Determination of Bond Amount. If the final closure of the mine tailings facility is determined to be the most costly condition, the owner may elect to use this as a basis for bonding throughout the life of the project. The Director may, however, revise the required bond amount to reflect updated costs for materials, equipment, fuel and labor necessary to place the mine tailings facility in a safe, maintenance free condition.

07. Filing Initial Bond. The initial bond shall be filed prior to completion of the first stage or level of construction, and before the required Certificate of Approval is issued to allow storage of mine tailings slurry or waste in the impoundment. No Certificate of Approval shall be either issued or renewed prior to filing by the owner of a bond in an amount approved by the Director.