

IRREVOCABLE STANDBY LETTER OF CREDIT

LETTER OF CREDIT NO.: _____

EFFECTIVE DATE: _____

AMOUNT: _____

ISSUING INSTITUTION:

Name

Address

City

State

Zip Code

County

BENEFICIARY:

State of North Carolina
Department of Environmental Quality
1612 Mail Service Center
Raleigh, North Carolina 27699-1612

APPLICANT/OPERATOR:

Name

Address

City

State

Zip Code

County

Dear Sir or Madam:

(1) The APPLICANT/OPERATOR desires to engage in mining operations within the State of North Carolina, under the provisions of the Mining Act of 1971, N.C. General Statute 74-46, et seq., and the administrative rules promulgated there under.

(2) N.C. General Statute §74-50 requires that operators engaged in mining shall first obtain an operating permit from the N. C. Department of Environmental Quality ("DEQ") which covers the affected land and which has not terminated, been revoked, been suspended for the period in question, or otherwise become invalid. N.C. General Statute §74-54 requires that each applicant for an operating permit, or for the renewal thereof, shall file with DEQ, and shall thereafter maintain in force, a bond in favor of the State of North Carolina in an amount as prescribed by Title 15A N.C. Administrative Code Subchapter 5B. 0003. N.C. General Statute §74-54 further provides that in lieu of the surety bond, an applicant or operator may file with DEQ a cash deposit, negotiable securities, or an assignment of a savings account in a North Carolina bank.

(3) Thus, this IRREVOCABLE STANDBY LETTER OF CREDIT is issued to DEQ, in lieu of the surety bond required to be filed by the APPLICANT/OPERATOR, as provided by N.C. General Statute 74-54.

(4) The undersigned hereby establishes its IRREVOCABLE STANDBY LETTER OF CREDIT in favor of DEQ, for the account of:

(APPLICANT/OPERATOR)

for the amount of _____ dollars and no
100's (\$_____), available by DEQ's draft(s) drawn on sight.

(5) This IRREVOCABLE STANDBY LETTER OF CREDIT shall expire
on _____
(date at least one (1) year from effective date)

The expiration date shall be extended automatically for a period
of _____ on _____ and
(one year or more) (expiration date)

on each successive expiration date, unless, at least sixty (60) days prior to the expiration date, the undersigned notifies DEQ and the OPERATOR by certified mail, return receipt requested that the undersigned will not extend this letter of credit beyond the current expiration date. If the undersigned

notifies DEQ that this letter of credit will not be extended, any unused portion of the credit shall be available upon presentation of DEQ's sight draft within sixty (60) days after DEQ's or the OPERATOR'S receipt of such notification, whichever is later.

(6) This IRREVOCABLE STANDBY LETTER OF CREDIT is non-transferable.

(7) Draft(s) shall be marked "Drawn Under _____

_____ Credit No. _____"
(Issuing Institution)

and shall include the following documentation:

- (a) A signed certificate by DEQ, referring to the effective date and Number of this IRREVOCABLE STANDBY LETTER OF CREDIT, and stating that:

"In accordance with N. C. Gen. Stat. §74-59, we have received a notice of forfeiture of part or all of the Bond Amount. The amount of our drawing does not exceed the amount of the forfeiture as set forth in such notice.";

-or-

- (b) A signed certificate by DEQ, referring to the effective date and Number of this IRREVOCABLE STANDBY LETTER OF CREDIT, and stating that:

"We have received from _____ (Issuing Institution) written notice stating (1) that this IRREVOCABLE STANDBY LETTER OF CREDIT has not been renewed; and, (2) that the amount of our drawing does not exceed the Bond Amount, less any previous forfeitures thereunder, pursuant to notices received in accordance with N.C. General Statute §74-59.";

-or-

- (c) A signed certificate by DEQ, referring to the effective date and Number of this IRREVOCABLE STANDBY LETTER OF CREDIT, and stating that:

"We have received from _____ (Issuing Institution)

written notice stating (1) that there exists an Event of Default under the Credit Agreement (as defined in the IRREVOCABLE STANDBY LETTER OF CREDIT); (2) that a drawing should be made under this IRREVOCABLE STANDBY LETTER OF CREDIT; and, (3) that the amount of the drawing does not exceed the bond amount,

less any previous forfeitures there under, pursuant to notices received in accordance with N.C. General Statute §74-59."

(8) This IRREVOCABLE STANDBY LETTER OF CREDIT is subject to the Uniform Customs and Practice for Documentary Credits (2007 Revision), International Chamber of Commerce Publication No. 600 and the laws of the State of North Carolina. In the event of any conflict, the laws of the State of North Carolina will control.

(9) _____ hereby agrees
(Issuing Institution)

with the drawers, endorsers, and bona fide holders that all drafts drawn under and in compliance with the terms of this IRREVOCABLE STANDBY LETTER OF CREDIT will be duly honored upon presentation to this bank/issuing institution.

Very truly yours,

_____(Issuing Institution)

BY: _____

TITLE: _____

DATE: _____

Sworn and subscribed to before me this

the _____ day of _____, 20__.

Notary Public

My Commission Expires: _____
Date

(Seal)

****PLEASE MAIL THIS FORM TO:
LAND QUALITY SECTION, 1612 Mail Service Center, Raleigh, NC 27699-1612**