



## **GUIDELINES FOR MINERAL LEASING UNDER SLO RULE 5**

### **SECTION I - INTRODUCTION AND PURPOSE**

We are pleased to provide you these guidelines to assist you in understanding mineral leasing under State Land Office Rule 19.2.5 NMAC (which is available for review at: <http://164.64.110.134/parts/title19/19.002.0005.html>) and as an aid in your preparation of lease application documentation. A Table of Contents is provided on page 2 for your use and we have included a Glossary of Terms on page 9. We hope the guidelines answer most of your questions, but should you still have further questions, please contact us. We also welcome your comments on how the guidelines can be improved to better serve you.

### **SECTION II - GUIDELINES APPLICABILITY**

These guidelines apply to:

- Any individual or corporate entity wishing to obtain a new lease to mine borrow dirt, caliche, clay, gypsum, perlite, sand and gravel, stone, shale, humate and volcanic deposits on New Mexico State Trust Land.
- Mineral leases that involve 1 acre or more of total land disturbance.
- Typically only material mined on the lease site may be processed on the lease site. However, some processing activities may require binders, additives or asphalt recycle materials which can be approved if identified and addressed appropriately in the Mining Operation and Reclamation Plans. Processing of other materials brought from off-site will require a State Land Office Business Lease. Please call 505-827-5724 for Business Lease information.

**NOTE:** If the proposed mining operation is less than 1 acre, please contact us before preparing any documentation.

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## **SECTION III. GENERAL INFORMATION ABOUT 19.2.5 NMAC LEASING**

### **Tract Availability**

Before you prepare a new lease application, please contact the Minerals program of the State Land Office (SLO) at 505-827-5743 and request information concerning:

- ◆ ownership of both the mineral and surface estate of the tract desired for lease,
- ◆ whether the tract is open for leasing, and
- ◆ the correct legal description of the desired tract.

Land status can also be checked via the web at: <http://octane.nmt.edu> or <http://www.nmstatelands.org/> (click the GIS button for land details).

### **Split Estate**

When the State Trust does not own both the Mineral Estate and the Surface Estate, the location is referred to as a “split estate.” Please contact the Oil, Gas, and Minerals Division at 505-827-5743 before you prepare a lease application package for a split estate.

### **Lease Renewal**

If you wish to continue leasing the tract of land after the existing lease term is over, you will need to submit a new application package 60 days prior to the expiration of the current lease. Instructions for lease renewal applications are provided in Section IV. Obtaining a Lease – Lease Renewal Applications. A lease may be renewed with different terms and conditions than the existing lease.

### **Size of Operation**

The requirements for the Mine Operation and Reclamation Plans vary based on the size of the mining operation.

- ◆ Applications for leases that will involve less than 1 acre of disturbance do not require Mine Operation and Reclamation Plans as part of the lease application package.
- ◆ Applications for leases that will involve between 1 and 10 acres of total disturbance do need to include Mine Operation and Reclamation Plans. (Rule 19.2.5.9.B. (2) NMAC)
- ◆ Applications for leases that will involve more than 10 acres of total disturbance need a Reclamation Plan, and a Mine Operation Plan that is prepared, signed and sealed by a registered professional engineer. (Rule 19.2.5.9.B. (2) NMAC)

### **Permits and Clearances**

It is the responsibility of the applicant to obtain all necessary permits and clearances for the mining operation and to comply with all applicable federal, state, and local laws, rules, regulations, and ordinances. Prior to any land disturbance on new mine sites (sites which have not been mined in the past), the lessee must obtain clearance from the State Land Office Cultural Resources Specialist. On Renewals or sites which have been previously leased or mined, a cultural survey may be required depending upon whether new, unsurveyed area(s) will be disturbed. The State Land Office Cultural Resources Specialist can assist with determining this need.

### **Arroyos and other Watercourses**

The Land Office does not issue leases for mining in the active channels of watercourses, including arroyos.

## **Special Use Agreement for Exploration**

Prior to obtaining a new lease, a Special Use Agreement (SUA) for a period of up to 15 days may be obtained for exploration of a tract of State Trust land. By obtaining an SUA, the applicant can access State Trust land at a requested location and conduct limited sampling activities to satisfy themselves about the character and nature of the mineral resources located there. SUA's can typically be issued in several business days and can help a potential lessee determine whether or not to proceed further through the full lease application process. The application form for an SUA is available at: [http://www.nmstatelands.org/Minerals\\_Forms.aspx](http://www.nmstatelands.org/Minerals_Forms.aspx). Anyone conducting mineral sampling on State Trust land without a valid lease or SUA is in trespass. The Land Office encourages any company bidding on a job that will require industrial mineral resources to use the SUA process to investigate a location on State Trust land BEFORE applying for a mineral lease.

## **SECTION IV. OBTAINING A 19.2.5 NMAC MINERAL LEASE**

### **A. Lease Application Requirements**

The State Land Office (SLO) needs specific information for a Rule 19.2.5 NMAC mineral lease application package. This information is described below.

The first section, **All Applications**, lists items that are needed for both new and renewal applications.

The second section, **Lease Renewal Applications**, provides information about the MOP and RP that are needed for a lease renewal application.

**Incomplete lease application packages will be returned to the applicant for correction.**

If the tract requested for leasing is shown in the SLO tract books as not open for leasing, the application will be returned without action to the applicant.

#### **1. All Applications**

A complete application package includes:

- bonding approved for performance and surface improvement damage,
- a properly signed and notarized application form with a correct legal description of the tract,
- the required fees and payments,
- a proposed Mine Operation Plan,
- a proposed Reclamation Plan,
- a signed Mineral Lease Environmental Questionnaire,
- a plat, drawn to scale, showing the location of the pit or the area to be mined.

Each element of the application package is listed below in bold type and is to be included to ensure a complete application.

**Bonds and Sureties**

Rule 19.2.5.12.B NMAC, Surety for Leases, Community Caliche Pits, and Other Mineral Permits, specifies minimum bonding requirements:

- ◆ A performance bond in the amount set by the Commissioner, normally \$2,000.00, **and**
- ◆ A surface improvement damage bond for a minimum of \$5,000.00, to be filed at the time of the execution of the permit or lease, **or**
- ◆ A \$25,000.00 megabond that will cover surety under one or more state leases or permits.
- ◆ Original bonding documents must be submitted to the State Land Office and will remain on file permanently.

The required bonds must be kept in force until the Land Office has provided formal notice to the lessee that the bonds may be released. If you wish to change bonding companies during the term of the lease, please contact the Minerals program at 505-827-5750 or 505-827-5743.

If you choose to post a cash bond or an assignment of cash collateral, please call the Minerals program at 505-827-5743. The Minerals Program does not accept any type of bond or surety that specifies an expiration date.

 **Application Form** – Form available at: [http://www.nmstatelands.org/Minerals\\_Forms.aspx](http://www.nmstatelands.org/Minerals_Forms.aspx).

The application form, provided with these guidelines, should contain all the information requested, including the correct legal description of the lands desired for lease, and be signed in the presence of a notary public, by either the individual applying for the lease or a company official authorized to sign for the company applying for the lease.

 **Fees and Payments**

The lease application should be accompanied by a check or money order made payable to the Commissioner of Public Lands covering the following:

- ◆ non-refundable application fee of \$250.00, and
- ◆ first year's rental payment of \$1.00 per acre, or fraction thereof (\$40.00 minimum).

If the lease is not issued, the rental payment will be refunded. Details concerning the advance minimum royalty payment are found in C. Lease Issuance, on page 6 and in Section V, Operating the Lease, Payment of Royalties, on page 7.

 **Proposed Mine Operation Plan**

The Mine Operation Plan (MOP) provides a detailed plan for the orderly development of the mineral reserves and describes in detail the plans for carrying out the mining operation, including where and how the mining will be done. The MOP, developed in coordination with SLO technical staff and approved by the Commissioner of Public Lands, will become part of the lease and will be enforceable in the same manner as any other term of the lease. Please feel free to include photographs as part of the MOP; however, they are not required. An example MOP template is available for your reference at: [http://www.nmstatelands.org/Minerals\\_Forms.aspx](http://www.nmstatelands.org/Minerals_Forms.aspx) **REMINDER: If the total area of disturbance is 10 or more acres, the MOP is to be prepared, signed and stamped by a registered professional engineer.**

**Reclamation Plan**

Information for preparing a Reclamation Plan (RP) is a necessary part of the lease application package. The RP itself is developed in coordination with the applicant and Land Office technical staff. An example Reclamation Plan template is available for your reference at:

[http://www.nmstatelands.org/Minerals\\_Forms.aspx](http://www.nmstatelands.org/Minerals_Forms.aspx). **The Land Office requires all surface area that is disturbed as part of a mining operation on State Trust land be reclaimed. Reclamation is to be integrated with mining activities and carried out concurrently with mining.**

The purpose of reclaiming a mine site is to protect Trust resources by controlling erosion, minimizing impacts to adjacent lands, protecting the remaining mineral reserves, limiting the introduction and spread of noxious weeds, revegetating all disturbed areas, and assuring viable post-mining land use.

 **Mineral Lease Environmental Questionnaire -- Form available at:**

[http://www.nmstatelands.org/Minerals\\_Forms.aspx](http://www.nmstatelands.org/Minerals_Forms.aspx).

A completed, signed and dated Mineral Lease Environmental Questionnaire is a necessary part of the lease application package.

This Questionnaire asks for information regarding potentially hazardous materials that may be used as part of the mining and processing operation, and information regarding possible previous contamination of the site.

 **A Plan View Map or Plat (drawn to scale) of the Lease Site**

Show location of pit, access, mine area features and direction and all other relevant information.

**2. Lease Renewal Applications – Specific Requirements**

A lease renewal application package should refer to the previous lease, with updated information about the current status of the mining operation and the mining plans for the new lease term. Include the non-refundable filing fee and rental payment, and the following:

***Updated Mine Operation Plan (MOP) – Renewal Applications***

The *updated* MOP submitted with a lease renewal application package should include a revised Mine Operations Plan, including maps and plats showing actual conditions at the lease site. All information included in the previous MOP should be made current

***Updated Reclamation Plan (RP) – Renewal Applications***

The *updated* RP submitted with an application package to renew an existing lease should refer to the previous approved RP, and include updated information about the current status of site reclamation and reclamation plans for the new lease term.

**B. Technical Review of Application**

The Minerals program staff will evaluate the Mine Operation and Reclamation Plans. The area to be considered for mining will be inspected by SLO staff for inclusion of any specific stipulations for lease.

**C. Lease Issuance**

When the Commissioner approves the lease application package for issuance, three originals of the lease and Reclamation Plan will be sent to the applicant for signature and notarization.

By signing the lease and Reclamation Plan, the applicant signifies acceptance of the lease terms, and conditions in the Mine Operation and Reclamation Plans.

When the signed and notarized leases and RPs are returned to the State Land Office, they are submitted to the Commissioner for his signature. Upon signature by the Commissioner, one original of the lease and one Reclamation Plan are sent to the applicant, who is now a lessee.

Prior to any land disturbance on new mine sites (sites which have not been mined in the past), the lessee must obtain clearance from the State Historical Preservation Office through the State Land Office Cultural Resources Specialist.

## **SECTION V. OPERATING THE LEASE**

### **Payment of Royalties**

Royalties for material mined and removed from the lease site are to be paid by the 20th of the month following production. Royalty reporting forms are to be submitted monthly regardless of production. A royalty reporting form for the lease term will be provided to the lessee when the lease is issued.

*Interest on delinquent royalty payments will be assessed at the rate of one percent (1%) per month, or fraction of a month, accruing from the date said payment becomes due.*

### **Audits**

Financial Audits and Lease Terms and Conditions Conformance Audits may be performed by Land Office staff at any time during the operation of the lease.

### **Improvements**

The 19.2.5 NMAC Mineral Lease allows only improvements listed in the approved MOP to be installed on the lease site for the purposes of exploring for, mining, or processing the minerals. If you plan to process materials on the lease site that were not mined on the lease site, additional fees will be incurred based on the type and scale of activity involved (Cement Plant, Asphalt Plant, etc.).

### **Weigh Scales**

The Land Office may require that a scale certified by the New Mexico Department of Agriculture be installed on the lease site and used for measuring production quantities.

### **Changes to Mine Operation and Reclamation Plans**

If the lessee proposes changes to the approved Mine Operation Plan or Reclamation Plan, please contact the Minerals program at 505-827-5750. Significant changes to the MOP or RP will require an amendment to the lease.

### **Storage and Disposal of Materials**

No waste materials of any type, including Environmental Protection Agency (EPA) classified “clean-fill” materials, may be disposed of on the lease site.

### **Surface Trash, Junk, and Debris**

The lease site must be kept clear of trash, junk, and debris at all times.

## **SECTION VI. ENDING THE LEASE**

### **Final Audit**

At the end of the lease term, the Minerals program staff may complete a final audit report. The Minerals auditor may request you provide the following information:

- a project summary report of the production for the lease term, from the contracting agency
- a royalty report for each month of the lease term

**Final Inspection**

A Final Inspection may be scheduled by Land Office technical staff to assess the condition of the lease site and determine what, if any, further reclamation work is necessary.

**Lease Expiration**

Once the lease has expired, you will no longer have legal right of entry onto the property nor to mine any further material, remove or sell any improvements or previously mined material (whether processed or unprocessed). Upon lease expiration, all rights to improvements and unsold material revert to the State Land Trust.

**Bond Release**

A lessee may request bond release after final inspection. Bonds are only released after determination by the Minerals program that all lease and reclamation obligations have been met.

**SECTION VII. OIL, GAS, AND MINERALS DIVISION STAFF**

The staff in the Oil, Gas, and Minerals Division of the State Land Office are glad to answer any questions you may have about lease application requirements and the leasing process. Please don't hesitate to call for information or to schedule an appointment. Our offices are located in the State Land Office Building, 310 Old Santa Fe Trail, Santa Fe, NM. Our mailing address is: P.O. Box 1148 Santa Fe, NM 87504-1148.

**Our Website is:** <http://www.nmstatelands.org>

All Rule 5 Application Forms are located at: [http://www.nmstatelands.org/Minerals\\_Forms.aspx](http://www.nmstatelands.org/Minerals_Forms.aspx)

Vacant Assistant Commissioner, Mineral Resources		Allison Marks Division Director	505-827-5745
Jack Yates Minerals Manager Email: <a href="mailto:jyates@slo.state.nm.us">jyates@slo.state.nm.us</a>	505-827-5750	Jason Smith Minerals Specialist Email: <a href="mailto:jsmith@slo.state.nm.us">jsmith@slo.state.nm.us</a>	505-827-5743
Chris Gonzales Minerals Analyst Email: <a href="mailto:cgonzales@slo.state.nm.us">cgonzales@slo.state.nm.us</a>	505-827-5783	Fax number	505-827-4739

**Other SLO Telephone Numbers:**

<u>Field Operations</u>	505-827-5851	<u>Hobbs Field Office</u>	575-392-8736
<u>Business Leasing</u>	505-827-5724	<u>Records Management</u>	505-827-5716
<u>Rights-of-Way</u>	505-827-5842		

**SECTION VIII. CONTACT INFO FOR OTHER AGENCIES**

Other State Agencies can be found on-line at: <http://www.state.nm.us>



## **SECTION IX. GLOSSARY OF TERMS**

### **Concurrent Mining and Reclamation:**

Sloping, contouring, seed bed preparation and re-seeding of the previously mined five acres during the same time period as mining the current five acres.

### **Performance Bond:**

A bond for a minimum of \$2,000, which is provided by the lessee to ensure compliance with the terms of the lease, with particular reference to the payment of royalties (See Instruction Sheet for Filing a Mineral Lease Surety).

### **Split Estate:**

When the State Trust does not own both the Mineral Estate and the Surface Estate, the location is referred to as a “split estate”.

### **Surety:**

Either bonds issued by a bonding company acceptable to the Commissioner or letters of credit or other surety acceptable to the Commissioner, or Cash Collateral from a New Mexico financial institution. The Minerals Program does not accept any type of bond or surety that specifies an expiration date (See Instruction Sheet for Filing a Mineral Lease Surety).

### **Surface Improvement Damage Bond:**

A bond for a minimum of \$5,000 which is provided by the lessee against damage to surface improvements of a surface lessee or contract purchaser, as required by 19.2.5.12 B.(1) NMAC (See Instruction Sheet for Filing a Mineral Lease Surety).