*Attachment 7 – Example Template (Wyoming) - ROW Bond Processing Steps*

*Personal Bonds:*

A. Processing and Acceptance of a Personal bond

| ResponsibleOfficial | Step | Action |
| --- | --- | --- |
| FO Mail room | 1 | Receive bond and date/time stamp. Forward payment (i.e. cash, cashiers or certified check) to accounts. |
| Accounts | 2 | Validate remittance and prepare CBS receipt to reflect remittance, placing the funds in the appropriate CBS suspense account (XXXL6500BC). Forward CBS receipt and correspondence to FO Lands and Realty |
| FO Lands/Realty | 3 | Is the bond filed in the proper office? If not, forward to the proper office and notify accounts |
|  | 4 | Enter bond abstract into the Bond and Surety System and into LR2000 Case Recordation. See Appendix 1 of the lands data standards <http://teamspace/sites-wo/wo300/LR2000TeamSite/Consolidated%20LR2000%20Data%20Standards/Forms/AllItems.aspx>  |
|  | 5 | Review the bond for the following: |
|  |  | a.) Do the materials submitted make it clear which right(s)-of-way the bond is intended to cover? BLM Form 2800-17 (see attachment 2) is required for personal bonds; |
|  |  | b.) Is the bond properly executed by the principal? If the principal does not personally execute the bond or affix the appropriate corporate seal, the relationship between the principal and the party executing the bond must be clearly disclosed on the bond or accompanying material; |
|  |  | c.) Check that the appropriate amount requested for the bond has been submitted; |
|  |  | d.) If the serial number is missing or incorrect on the bond form, fill in or correct it. Furnish a copy of the corrected bond to the principal with the decision of acceptance of the bond with any corrections made to the bond noted in the decision; |
|  |  | e.) Check that the bond amount is properly indicated on the form. The dollar amount must be spelled out, i.e., Fifty Thousand and no/100 Dollars. A bond with only figures indicated ($50,000) must be returned for correction, but a bond with the figures missing may be accepted if the correct amount is spelled out clearly; |
|  |  | f.) Check that the execution date on the bond is completed and precedes the date of the filing of the bond. If the date of execution is not completed, bond must be returned to the principal for correction; |
|  |  | **NOTE**: Parties will sometimes attempt to file a bond to be effective at some future date. Post-dated bonds are to be rejected and parties advised that the bond may be executed with a provision that it will become effective at some certain later date, but that the execution date must precede the date of filing. |
|  | 6 | If the bond is determined to be unacceptable for any reason(s) described in the previous steps, return the bond to the principal by decision indicating the defects (see Illustration 2). The letter is to indicate that the defects must be corrected before the bond can be accepted. If an agent of the principal is readily available, the bond may be picked up by such agent and the defects informally pointed out; |
|  | 7 | Enter bond abstract into the Bond and Surety System and into LR2000 Case Recordation. See Appendix 1 of the lands data standards. |
|  |  | **NOTE**: Since the bond is not considered effective until accepted by the United States, imposing time limits for correction of defects is not appropriate. Failure to timely file a bond may be the basis for other adverse actions, such as not issuing a right-of-way grant, assignment, etc. |
|  | 8 | If bond is in order, prepare acceptance decision (see Illustration 1), effective as of the date the bond was filed in the proper BLM office;  |
|  | 9 | Enter bond abstract into the Bond and Surety System and into LR2000 Case Recordation. See Appendix 1 of the lands data standards. |
|  |  | **NOTE**: The dates of all entries in the Bond and Surety System when accepting a bond should be the actual date the document is accepted, not the date of the decision of acceptance. |

B. Processing and Accepting Book Entry Deposits.

| ResponsibleOfficial | Step | Action |
| --- | --- | --- |
| FO Lands/Realty | 1 | Receive verbal or written inquiry from the holder regarding the filing of a personal bond backed by a book entry deposit. Such a bond has the benefit of allowing the holder to collect interest from the Department of the Treasury as long as the authorized officer does not have to collect on the bond. Provide information on book-entry deposit procedures to the holder (Illustration 3) |
| FO Mailroom | 2 | Receive and date/time stamp all documents and forward to FO Lands & Realty |
| FO Lands & Realty | 3 | Enter bond abstract into the Bond and Surety System and into LR2000 Case Recordation. See Appendix 1 of the lands data standards. |
|  | 4 | Review the bond form submitted to ensure that all appropriate blanks are properly completed, the dollar amount is sufficient and properly spelled out, and that the relationship of the party signing for the obligor is clear. Contact obligor to furnish any missing or additional information needed. |
|  | 5 | Prepare a confirmation memorandum to the Negotiable Securities Custodian (LLOC621000) with a copy of the bond form (see Illustration 4). |
|  | 6 | After receiving oral or written notification from the Negotiable Securities Custodian (LLOC621000) that the Federal Reserve Bank has confirmed the receipt of the book-entry deposit, accept the bond by decision (see Illustration 5). The date the Treasury note or bond is deposited with the Federal Reserve Bank or when the bond is filed with the proper BLM office, whichever is later, is the date the bond is accepted. |
|  | 7 | Distribute original of decision to obligor by **certified mail**, with a copy to the Negotiable Securities Custodian (LLOC621000), and a copy to the case file. |
|  | 8 | Enter bond abstract into the Bond and Surety System and into LR2000 Case Recordation. See Appendix 1 of the lands data standards. |
|  | 9 | If an appropriate replacement bond has been accepted close to the maturity date of any negotiable security, advise Negotiable Securities Custodian (LLOC621000) by memorandum to notify the Federal Reserve Bank to mail the proceeds directly to the obligor upon maturity (see Replacement Bonds). The memorandum must be received by the Negotiable Securities Custodian (LLOC621000) at least five working days before the maturity date of the security to allow sufficient time for the Federal Reserve Bank to change its records. |
|  |  | **NOTE**: If the funds are transferred to BLM’s suspense fund, no interest will be earned. Also, it will take approximately 4-6 weeks before the monies can be refunded. |
|  | 10 | If the security has not yet matured and an acceptable replacement bond has been furnished, the Federal Reserve Bank may electronically transfer the funds by book-entry deposit to the obligor’s bank. To do this, obtain the following information from the obligor, if not already received. Furnish the information by memorandum to the Negotiable Securities Custodian (LLOC621000) (see Illustration 6 or 6a): |
|  |  | a.) Name and address of obligor; |
|  |  | b.) Amount and type of security; |
|  |  | c.) Maturity date of security; |
|  |  | d.) Name and address of financial institution to which the security will be transferred; |
|  |  | e.) Name and phone number of contact person at the financial institution; |
|  |  | f.) The nine-digit ABA identifying number of the financial institution for transfer of the security; |
|  |  | NOTE: Complete the ABA number only if the financial institution has a direct access to the Federal Reserve Communication System. |
|  |  | g.) The account number of the obligor at the financial institution; and |
|  |  | h.) Name and address of the corresponding financial institution through which the obligor’s financial institution received electronic wire transfers if the obligor’s financial institution does not have direct access to the Federal Reserve Communications System. Also, provide the name and telephone number of the contact person, and the bank’s ABA number. |
|  | 11 | Upon maturity of the Treasury security, the Department of the Interior will be provided the par (face) value of the security and funds will be transferred into the BLM Field Office unearned account. The Negotiable Securities Custodian (LLOC621000) will provide documentation to the authorized officer that cash from the matured security was received and deposited to the FO suspense account. If the bond is no longer needed, the funds are to be remitted to the obligor after all terms and conditions have been met. |
|  |  | NOTE: Approximately 90 days prior to the maturity date of a security, the Negotiable Securities Custodian (LLOC621000) will notify the appropriate FO that the negotiable Treasury security will be maturing. Upon this notification, a determination needs to be made on whether or not the bond is still needed, and if so, notify the obligor to provide a replacement security. |
|  | 12 | Prepare appropriate documents to authorize the Treasury Department to refund cash to obligor. Upon receipt of proof of the distribution of the refund, file such evidence in the case file. |
|  |  | NOTE: If a bond secured by negotiable Treasury securities is in default prior to the maturity date of the note/bond, notify the Negotiable Securities Custodian (LLOC621000), by memorandum (Illustration 21), of the nature of the default and request that the security be sold to raise funds to cover the default. The Negotiable Securities Custodian (LLOC621000) will withdraw the security from BLM’s book-entry account and transfer it to the book-entry account of a financial institution, which will sell the security in the secondary market. The proceeds of the sale, less the brokerage fees assessed by the financial institution, will be deposited into the BLM FO’s unearned account for disbursement. If a security is sold when the current interest rate is lower than the stated interest rate of the security, the security will normally be with more than the par (face) amount. |

*Surety Bonds:*

1. Processing and Acceptance of a Surety bond

| ResponsibleOfficial | Step | Action |
| --- | --- | --- |
| FO Mail room | 1 | Receive bond and date/time stamp. Forward to FO Lands/Realty |
| FO Lands/Realty | 2 | Is the bond filed in the proper office? If not, forward to the proper office. |
|  | 3 | Enter bond abstract into the Bond and Surety System and into LR2000 Case Recordation. See Appendix 1 of the lands data standards. |
|  | 4 | Review the bond for the following: |
|  |  | a.) Do the materials submitted make it clear which right(s)-of-way the bond is intended to cover? BLM Form 2800-16 (see attachment 3) is required for surety bonds; |
|  |  | b.) Is the bond executed properly by the surety? The seal of the corporate surety must be affixed to the bond form. Signatures for the corporate surety must be accompanied by proof of the authority of the person signing the bond to execute such a document on the date the person executed it, such as a power of attorney (see Illustration 7); |
|  |  | **NOTE:** Examine the power of attorney or other documents showing that the person signing for the surety had authority to do so on the date the bond was executed. With the normal power of attorney, the document will recite that the surety company had appointed the individual (and others) as its attorney-in-fact on a certain date. This date must be the same as or earlier than the date the bond was executed. |
|  |  | c.) Ensure that the execution date on the bond is completed and precedes the date of the filing of the bond. If the date of execution is not completed, the bond must be returned to the principal for correction; |
|  |  | **NOTE**: Often parties will attempt to file a bond to be effective at some future date. Post-dated bonds are to be rejected and parties advised that the bond may be executed with a provision that it will become effective at some certain later date, but that the execution date must precede the date of filing. |
|  |  | At the end of the power of attorney, there should be a completed certification indicating that the power of attorney is still valid on a certain date (see Illustration 7). This certification must be dated the same date that the bond is executed or within a few days thereafter. |
|  |  | d.) If the power of attorney indicates that special conditions must exist for the bond to be considered valid, such as a particular colored margin around the power of attorney or a limitation as to the dollar amount or type of bond that the attorney-in-fact or surety officer may sign, the power of attorney and bond must be examined carefully to ensure that the conditions exist. Unless the power of attorney was executed before the bond was executed and also was still valid on the date the bond was executed, the bond should be returned to the holder by certified mail for correction. |
|  |  | e.) Is the portion of the bond form calling for a bond number completed? If no number has been filled in, the bond may be referred to as an “Unnumbered Bond.” If the bond number has been filled in, all correspondence regarding the bond should refer to that number as well as the BLM bond file number; |
|  |  | f.) If the serial number is missing or incorrect on the bond form, fill in or correct it. Furnish a copy of the corrected bond to the surety and the principal with the acceptance of the bond with any corrections made to the bond noted in the decision; |
|  |  | g.) Ensure that the bond amount is properly indicated on the form. The dollar amount must be spelled out, i.e., Fifty Thousand and no/100 Dollars. A bond with only figures indicated ($50,000) must be returned for correction, but a bond with the figures missing may be accepted if the correct amount is spelled out clearly; |
|  |  | h.) Ensure that the surety is on the current list of approved sureties, Department of the Treasury Circular 570 <https://www.fiscal.treasury.gov/fsreports/ref/suretyBnd/c570.htm>, published annually on or about July in the Federal Register;  |
|  |  | **NOTE**: Field offices can identify sureties on the approved Treasury list by querying the Bond and Surety System. Instructions on how to obtain this data is provided in the draft “USERS GUIDE FOR THE AUTOMATED BOND AND SURETY SYSTEM” dated May 12, 1988. A bond from a corporate surety not on the approved Treasury list can’t be accepted. Also, attention should be paid to the material contained in the Treasury list footnotes with respect to license information as to whether a surety is licensed in any particular State. **The authorized officer will ensure that statewide/nationwide oil and gas bonds are not used for right-of-way administration**; |
|  | 5 | If the bond is determined to be unacceptable for any reasons described in the previous steps, return the bond to the holder by decision indicating the defects (see Illustration 8). The letter is to indicate that the defects must be corrected before the bond can be accepted. If an agent of the holder is readily available, the bond may be picked up by such agent and the defects informally pointed out. |
|  | 6 | Enter bond abstract into the Bond and Surety System and into LR2000 Case Recordation. See Appendix 1 of the lands data standards; |
|  |  | **NOTE**: Since the bond is not considered effective until accepted by the United States, imposing time limits for correction of defects is not appropriate. Failure to timely file a bond may be the basis for other adverse actions, such as not issuing a right-of-way grant, assignment, etc. |
|  | 7 | If the bond is in order, prepare the acceptance decision (see Illustration 9), effective as of the latest of the following dates: 1. The date the bond was filed in the office accepting the bond; 2. The effective date indicated on the bond; this would normally occur only with a replacement bond where the principal and surety want the acceptance to coincide with a bond premium date. See Step #1 above; 3. The effective date of the right-of-way grant. If the bond is required before approving an assignment, the effective date of both the assignment and the bond should be the same;  |
|  | 8 | Enter bond abstract into the Bond and Surety System and into LR2000 Case Recordation. See Appendix 1 of the lands data standards. |
|  |  | **NOTE**: The dates of all entries in the Bond and Surety System when accepting a bond should be the actual date the document is accepted, not the date of the decision of acceptance. |
|  | 9 | Distribute copies of the decision letter to: 1. Original to the holder by certified mail; 2. Surety (c/o attorney-in-fact); 3. Case file. |

Replacement of Bond

Principals often request to replace existing bonds because:

1. They desire to move all their insurance business to a new or different company or agency that may underwrite bonds/insurance for several corporate sureties, which often are also large insurance companies; or
2. They no longer wish to pay premiums to the surety.

Replacement of bonds must be handled carefully because of the danger of unintentionally leaving some obligations without any coverage.

The most difficult aspect of replacing a bond is that a new bond which is not specifically conditioned to replace completely the old bond may not cover all the obligations that were covered by the old bond. In replacing bonds, check that the new bond is conditioned to assume any outstanding liability on the ROW covered by the prior bond (the new bond does **not** automatically cover prior liabilities incurred on behalf of the principal by the former surety), unless it is determined there is no need for the assumption.

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If there is an un-reclaimed access road on the ROW covered under a bond that is being replaced by a new bond, the period of liability of the previous bond should definitely **not** be terminated until a rider has been accepted which assumes past liabilities for the un-reclaimed access road. Such a rider is needed since the new bond does **not** automatically cover prior liabilities incurred on behalf of the principal by the former surety.

The existence of an un-reclaimed access road on a ROW that has been terminated or expired indicates that the holder has not fully complied with the terms and conditions of the grant. Therefore, the bond covering such ROW must remain in full force and effect until the reclamation of the access road has been accomplished by either an arrangement made by the surety or through BLM contracting for the work. If, however, the period of liability of the prior bond has been terminated, a concerted effort should be made to collect on that bond. Since several years may have passed, the surety will be reluctant to pay if the period of liability has been terminated. However, the surety is still deemed liable since the principal is liable for the damages it has caused in failing to comply with the ROW obligations. To avoid such a situation from occurring, either obtain a replacement bond with an attached rider that assumes any previous liabilities existing under the prior bond, or do not release the prior bond until all the liabilities covered by the bond have been corrected.

In the event of a default and the surety makes a payment to the U.S. for an obligation (debt) incurred under a ROW, the face amount of the bond is reduced by the amount of such required payment. After default, the principal on the bond must either post a new bond or replenish the existing bond to its original amount or an increased amount.

The principal is allowed to file separate or substitute bonds in lieu of either posting a new bond or increasing the existing bond. In cases where the obligation and payment are less than the bond face amount, and a new bond is filed or the existing bond is replenished to the full required amount, adequate bonding is in full force and effect for any future liabilities.

In those instances where the obligation in default is more than the face amount of the bond and the bond is depleted, collection efforts for the remaining obligation in default must continue.

If the replacement bond is a personal bond backed by cash or negotiable Treasury securities, BLM can quickly possess the funds to satisfy the remaining obligations. To not use such funds would be contrary to the interests of the U.S. and would result in premature efforts toward collecting under the Debt Collection Act (DCA) and initiation of ROW termination.

In the event that a surety bond is filed as a replacement bond, although unlikely, BLM’s demand for payment should be made against the bond before initiation of any ROW termination.

Further collection efforts under the DCA or initiating termination of the ROW are inappropriate when funds under a bond are available to secure compliance with the ROW terms and conditions.

Processing Replacement Bonds:

| ResponsibleOfficial | Step | Action |
| --- | --- | --- |
| FO Mailroom | 1 | Receive replacement bond. Date/time stamp, and forward to FO Lands & Realty |
| FO Lands & Realty | 2 | Enter bond abstract into the Bond and Surety System and into LR2000 Case Recordation. See Appendix 1 of the lands data standards. |
|  | 3 | Review bond to determine its acceptability following the steps under Personal and Surety Bonds above. Accept only after the following steps are completed, as appropriate. |
|  |  | NOTE: Before accepting a replacement bond and termination of the replaced bond, check to make sure that the two bonds are completely compatible and cover the same liabilities. |
|  | 4 | If the replacement includes a rider assuming liability of a prior bond, accept the replacement bond and rider.  |
|  | 5 | Complete processing of replacement bond following the steps in the preceding applicable sections. Terminate the period of liability of the prior bond effective the same date as acceptance of the replacement bond or appropriate rider. The termination of one bond and acceptance of the replacement bond can be combined into a single decision. A copy of the decision also must be provided to the surety of prior bond. |
|  | 6 | When a negotiable Treasury security matures and the funds are transferred into BLM’s suspense account, retain funds until new bonding is provided. If a new bond is provided or the SC-615 verifies that a new negotiable security has been furnished authorize a refund of the cash proceeds (see Illustration 21). |
|  |  | NOTE: A personal bond is considered replaced if, upon maturity of a negotiable security and the furnishing of a new security, a new, fully executed Form 2800-16 or 2800-17 accompanies the new security. If a negotiable instrument securing a bond is replaced, and the obligor, in a letter or some other statement, advises that the new security is being furnished to allow continuation of the coverage of the original bond, accept the security as a replacement and continue the bond using the same Bond and Surety System bond number (see Illustration 10) |
|  | 7 | If no rider has been provided, include a paragraph in the decision accepting the replacement bond suggesting that a rider be filed: 1.) to allow the termination of the prior bond; and 2.) to avoid the principal having to maintain two bonds while BLM determines whether there is any outstanding liability under the old bond which is not covered by the replacement bond. Send a copy of the decision to the surety, if a surety bond. |
|  |  | NOTE: The authorized officer may wish to notify the principal/surety by decision that the replacement bond is being held for acceptance pending receipt of a rider assuming liability of the prior bond, and that the period of liability of the prior bond can be released only upon BLM’s receipt and acceptance of the new bond and rider. This process is more efficient. |
|  | 8 | If the surety will not furnish the appropriate rider, but wants the replacement bond to be accepted, accept the new bond. Indicate clearly in the acceptance decision (see Illustration 20) that the old bond must remain in full force and effect until a review of all outstanding liabilities is completed, and that the new bond covers only new liabilities accrued from the date of its acceptance. |
|  |  | NOTE: If the review indicates no outstanding liabilities by BLM, immediately terminate the period of liability of prior bond. |
|  | 9 | Enter bond abstract into the Bond and Surety System and into LR2000 Case Recordation. See Appendix 1 of the lands data standards. |

Bond Review

| ResponsibleOfficial | Step | Action |
| --- | --- | --- |
| FO Lands & Realty | 1 | Prepare a letter to the holder informing them that it has been 5 years since the bond was accepted and a review is required. Request a Reclamation Cost Estimate (RCE) for the performance and reclamation of the action(s) covered by the bond. |
| FO Mailroom | 2 | Receive RCE. Date/time stamp and forward to FO Lands & Realty |
| FO Lands & Realty | 3 | If determined that an increase is needed, prepare a decision to the principal and/or surety requesting compliance with the increased bond requirement with the appropriate period of time, e.g., 60 days (see Illustration 23). The decision must include: |
|  |  | a.) Amount required for the increased bond; |
|  |  | b.) Explanation for the increase; and |
|  |  | c.) Statement that new operations will not be allowed on the ROW until the requirement is met. |
|  | 4 | Forward the decision to the signing official for signature. After signed, distribute to the principal/obligor and/or surety by certified mail. |
|  | 5 | Enter bond abstract into the Bond and Surety System and into LR2000 Case Recordation. See Appendix 1 of the lands data standards. |
|  | 6 | If the increased bond is received within the time specified, review the bond for acceptance according to the procedures for a replacement bond. |
|  | 7 | Enter bond abstract into the Bond and Surety System and into LR2000 Case Recordation. See Appendix 1 of the lands data standards. |
|  | 8 | Enter Action Date: Date Increased Bond Accepted; DE 2960 Action Code 469/DE 2910 Action Code 909.  |
|  | 9 | If the bond is an amount lower than that required by the decision is received, prepare a decision to the principal/obligor and/or surety, returning the bond and stating that no new operations will be approved on the ROW until an acceptable bond in the amount required is received. |
|  | 10 | Enter bond abstract into the Bond and Surety System and into LR2000 Case Recordation. See Appendix 1 of the lands data standards. |

Termination of Period of Liability in Part

Upon receipt of a request from the bonded principal, a personal bond may be reduced in phases upon completion and inspection of certain stages of abandonment.

| ResponsibleOfficial | Step | Action |
| --- | --- | --- |
| FO Mailroom | 1 | Receive request to reduce bond. Date/time stamp and forward to FO Lands & Realty |
| FO Lands & Realty | 2 | Enter bond abstract into the Bond and Surety System and into LR2000 Case Recordation. See Appendix 1 of the lands data standards. |
|  | 3 | Determine what, if any, of the bond can be reduced to a lower amount. |
|  | 4 | If determination is to reduce the bond, prepare a decision by certified mail (see Illustration 11) to the principal and surety reducing the bond amount and specify what the remainder will cover. The return of the certified mail card acknowledges the surety’s receipt of the decision. |
|  | 5 | Enter bond abstract into the Bond and Surety System and into LR2000 Case Recordation. See Appendix 1 of the lands data standards; and |
|  |  | Change bond amount on abstract screen in the Bond and Surety System. |

Termination of Period of Liability of Bond

| ResponsibleOfficial | Step | Action |
| --- | --- | --- |
| FO Mailroom | 1 | Receive letter or notice requesting BLM to cancel the bond or terminate the period of liability under the bond. Date/time stamp and forward it to the FO Lands & Realty. |
| FO Lands & Realty | 2 | Enter bond abstract into the Bond and Surety System and into LR2000 Case Recordation. See Appendix 1 of the lands data standards. |
|  | 3 | Prepare a standard notice to principal and copy the surety advising them of the status of the bond termination request (see Illustration 12). |
|  |  | NOTE: If the surety requested termination of the bond without notifying the principal, this standard notice effectively notifies the principal of the request and additional notification of the principal is not necessary. |
|  | 4 | a.) If it is determined that the bond is no longer needed, terminate the period of liability of the bond by decision (see Illustration 13). |
|  |  | b.) If it is determined that the bond is still needed, prepare a decision (see Illustration 14) specifying the reason the period of liability can’t be terminated. |
|  | 5 | Forward decision to signing official for signature. After signed, distribute to principal and surety. |
|  | 6 | Enter bond abstract into the Bond and Surety System and into LR2000 Case Recordation. See Appendix 1 of the lands data standards. |

Default and Collection on Bonds

Default is generally defined as the omission or failure to perform a legal or contractual duty or to observe a promise or discharge an obligation such as to pay interest or principal on a debt when due.

Upon default, the surety, or the obligor on a personal bond, must make payment to the United States of any indebtedness due under an authorization. However, all available measures must be taken prior to collection on a bond.

A. Procedures for Collection on a Surety Bond.

| ResponsibleOfficial | Step | Action |
| --- | --- | --- |
| FO Lands/Realty | 1 | Provide written orders by **certified mail** to the holder requiring (a) necessary work to be performed; (b) the time allowed to commence the work; (c) time allowed to complete the required activities; and (d) notice that failure to do so will result in eventual attachment of the bond. |
|  | 2 | Copies of the correspondence as noted in step 1 are tobe sent to the surety by **certified mail**. |
|  | 3 | If, after appropriate discussion and/or correspondence, the holder does not agree to perform the required work, a **certified** letter (see Illustration 15 and/or 15a) is to be sent to the surety, with a copy to the holder, requiring the work to commence within a specific period of time, determined by the authorized officer, and continued diligently until completion. The instructions to the surety shall indicate that if none of the above occurs within the time specified, the United States will take action to attach the bond for an amount equal to the total cost to the United States of performing the work, including administrative indirect costs. The authorized officer shall use the guidance provided in Handbook H-1681-1, Chapter II, in estimating rehabilitation costs (see Illustration 27). |
| Surety | 4 | The surety may, at his option, authorize in writing the BLM to act as the surety’s agent to contract and oversee the performance of the specified work, with the contractor billing the surety directly. Accounts will bill the surety and require advance payment of the estimated administrative costs. In these situations the surety will be responsible for the BLM’s costs to administer the specified work, including direct costs and indirect administrative costs. (See Illustration 27 for direction on estimating indirect administration costs.) The total liability of the surety is limited to the face amount of the bond. Upon BLM’s receipt of the money for the administrative costs the authorized officer can arrange directly to have the work performed. |
| FO Lands/Realty | 5 | The authorized officer, acting as the surety’s agent, will ensure that the specified work is performed as directed in steps 1 and 3. The authorized officer shall keep clear and thorough records of all cost incurred to perform the specified work. |
|  | 6 | If actual total administrative costs (direct and indirect) incurred are less than the monies received, the difference shall be refunded to the surety. |
|  | 7 | If additional bonding is required by the holder before a resumption of activities, the actions identified in a decision letter are to be followed. |
|  | 8 | Enter bond abstract into the Bond and Surety System and into LR2000 Case Recordation. See Appendix 1 of the lands data standards. |
|  | 9 | Suspend case for follow up. |
|  | 10 | If payment is not made:a.) Prepare a decision to the holder and surety advising that judicial action is being initiated due to nonpayment, i.e., default under the bond (see Illustration 16); and b.) Prepare memorandum to appropriate Solicitor for necessary judicial action providing all required background (see Illustration 17); andc.) If surety failed or refused to make default payment under the bond, prepare letter to Department of the Treasury, Surety Bond Branch, 401 14th Street, S.W., Washington, D.C. 20027, advising that the surety has failed to render payment under the bond and request Treasury take action to decertify the surety (see Illustration 18) |
|  Accounts | 11 | If payment is made by the surety for BLM to perform the specified work:a.) Deposit monies into the service charges, deposits and forfeitures account (BLM subactivity 5320). The authorized officer can arrange to perform the specified work using the above-referenced account to record expenditures.  |
|  |  | **NOTE**: Subactivity 5320 does not provide for the establishment of project numbers. The authorized officer shall keep clear and thorough case file records of all costs incurred to perform the work. The authorized officer shall take extreme care not to expend more funds, including leave surcharge and indirect administration costs, to rehabilitate the right-of-way than were secured by the bond. |
| FO/SO Contracting |  | b.) Contact at least 3 contractors that can perform the specified work and obtain estimates, if the estimates are above the micro purchase limit, a contractor may be awarded a contract and begin the reclamation work. When the work is completed, the contractor will submit an invoice for payment. Payment should be made from the bond proceeds. If actual costs incurred are less than the estimated costs, the difference is to be held (but any amount of the difference that is greater than the 25 percent required to cover the administrative fee is to be refunded). |
|  |  | **NOTE**: Estimates exceeding the micro purchase limit (found in IM-WY-2015-004, under the Purchase Business Line and Convenience Checks or current policy), require a valid procurement document that has handled by the SO Procurement/Contracts personnel. Therefore, close coordination among the FO and contracting personnel is essential. An important factor in a bond payment situation is that BLM is dealing with the proceeds from the bond rather than with direct Bureau funds, per se. |
| FO Lands/Realty |  | c.) When payment is made by a surety to BLM, the face amount of the bond is reduced by the amount paid, causing the bond amount to either be totally used or to drop below the required bond amount. |
|  |  | d.) When payment is made, issue a decision acknowledging receipt of surety payment and require the principal to restore the face amount of the bond back to the minimum amount required or such increased amount above the minimum regulatory amount as may be specified by the FO. Alternatively, the principal may be requested to furnish new bond coverage (see Illustration 19). Failure to do so subjects all ROW’s covered by the bond to cancellation. |
|  | 12 | If the actual total administrative costs (direct and indirect) incurred are less than the monies received, the difference shall be refunded to the surety. |
| Holder | 13 | If additional bonding is required by the holder before a resumption of activities, follow the section ‘Processing Replacement Bonds’ above. |
| FO Lands/Realty | 14 | If it is determined that bond coverage is no longer required, the period of liability may be terminated. Otherwise, the full amount of the bond must be restored. |
|  | 15 | Enter bond abstract into the Bond and Surety System and into LR2000 Case Recordation. See Appendix 1 of the lands data standards. |

B. Procedures for Collection of Personal Bonds.

If a notice of immediate temporary suspension is given by the authorized officer, the following actions shall be taken to collect on the personal bond in addition to the actions specified in BLM Manual 2801.4lD8b. BLM Manual Section 2807.17E3b provides guidance on disposal of facilities and rehabilitation of the site. 28 U.S.C. 2415 establishes a 6-year statute of limitation for every action for money damages brought by the United States, founded upon any contract. Therefore, the authorized officer must ensure that activities required to dispose of facilities and rehabilitate the site are undertaken and completed in a timely and satisfactory manner.

| ResponsibleOfficial | Step | Action |
| --- | --- | --- |
| FO Lands/Realty | 1 | Provide written orders by certified mail to the holder requiring (a) necessary work to be performed, (b) the time allowed to commence the work; (c) time allowed to complete the required activities and (d) notice that failure to do so will result in eventual attachment of the bond. |
|  | 2 | If the holder fails to take the above actions, the authorized officer will notify the holder that the BLM is taking the appropriate steps to attach the bond (see Illustration 24). The FO will notify the accounting section to collect on the personal bond. |
|  | 3 | Enter bond abstract into the Bond and Surety System and into LR2000 Case Recordation. See Appendix 1 of the lands data standards. |
| Accounts | 4 | Upon notification from the authorized officer to collect on the personal bond, accounts shall: |
|  | 5 | Cash bonds - prepare appropriate documents authorizing accounts to transfer the monies secured by the cash bond from the suspense account to the service charges, deposits, and forfeitures account. |
|  | 6 | Book Entry Deposit - Prepare appropriate documents authorizing the Federal Reserve to transfer the required amount to service charges, deposits, and forfeitures account. |
|  | 7 | Promptly notify the appropriate FO Lands & Realty that the monies secured by the personal bond are deposited and are available for rehabilitation work. |
| FO Lands/Realty | 8 | Enter bond abstract into the Bond and Surety System and into LR2000 Case Recordation. See Appendix 1 of the lands data standards. |
| Accounts | 9 | a.) Upon notification that the monies have been transferred into the service charges, deposits and forfeitures account (BLM subactivity 5320). The authorized officer can arrange to perform the specified work using the above-referenced account to record expenditures. |
|  |  | **NOTE**: Subactivity 5320 does not provide for the establishment of project numbers. The authorized officer shall keep clear and thorough case file records of all costs incurred to perform the work. The authorized officer shall take extreme care not to expend more funds, including leave surcharge and indirect administration costs, to rehabilitate the right-of-way than were secured by the bond. |
| FO/SO Contracting |  | b.) Contact at least 3 contractors that can perform the specified work and obtain estimates, if the estimates are above the micro purchase limit, a contractor may be awarded a contract and begin the reclamation work. When the work is completed, the contractor will submit an invoice for payment. Payment should be made from the bond proceeds. If actual costs incurred are less than the estimated costs, the difference is to be held (but any amount of the difference that is greater than the 25 percent required to cover the administrative fee, is to be refunded). |
|  |  | **NOTE**: Estimates exceeding the micro purchase limit (found in IM-WY-2015-004, under the Purchase Business Line and Convenience Checks or current policy), require a valid procurement document that has handled by the SO Procurement/Contracts personnel. Therefore, close coordination among the FO and contracting personnel is essential. An important factor in a bond payment situation is that BLM is dealing with the proceeds from the bond rather than with direct Bureau funds, per se. |
|  |  | c.) When payment is made by the obligor to the BLM, the face amount of the bond is reduced by the amount paid, causing the bond amount to either be totally used or to drop below the minimum amount. |
|  |  | d.) When payment is made, issue a decision acknowledging receipt of payment and require the principal to restore the face amount of the bond back to the minimum amount required or such increased amount above the minimum regulatory amount as may be specified by the FO. Alternatively, the principal may be requested to furnish new bond coverage (see Illustration 19). Failure to do so subjects all ROW’s covered by the bond to cancellation. |
|  | 10 | If actual total costs (including leave and indirect administrative costs) incurred are less than the monies received, the difference is to be returned to the suspense account. |
| Holder | 11 | If additional bonding is required by the holder before a resumption of activities, follow the section ‘Processing Replacement Bonds’ above. |
| FO Lands/Realty | 12 | If it is determined that bond coverage is no longer required, the period of liability may be terminated. Otherwise, the full amount of the bond must be restored. |
|  | 13 | Enter bond abstract into the Bond and Surety System and into LR2000 Case Recordation. See Appendix 1 of the lands data standards |

Statute of Limitations

Statutes of limitations are enacted by Congress and the State legislatures primarily to prevent futile civil or criminal actions by Federal and State governments. The statutes of limitations provide a reasonable time limit after which the Government will no longer take action.

The statutes of limitations applicable to BLM debt collection do not bar the agency from pursuing a debt by administrative means. The relevant statute of limitations for most debt collection actions is 6 years and is codified at 28 U.S.C. 2415 (1982). That section provides, in part:

“Subject to the provisions of section 2416 of this title, and except as otherwise provided by Congress, every action for money damages brought by the United States or an officer or agency thereof which is founded upon any contract express or implied in law or fact, shall be barred unless the complaint is filed within six years after the right of action accrues or within one year after final decisions have been rendered in applicable administrative proceedings required by contract or by law, whichever is later: Provided, that, in the event of later partial payment or written acknowledgement of debt, the right of action shall be deemed to accrue again at the time of each such payment or acknowledgement; . . . .”

The law states that no action can be maintained in a Court of the United States; it says nothing about barring debt collection activities by the agency not involving the courts. There are two important reasons for not barring further action by an agency to collect debts:

First, as a legal matter, if a debtor acknowledges a debt in writing or makes a partial payment on the debt, the statute of limitations begins to run again. For example, if BLM, after 7 years, decides to collect a debt owed by Corporation A, it may simply send Corporation A a bill. If Corporation A acknowledges the debt by payment, partial payment, or by letter agreeing with the bill, then BLM once again has 6 years to bring an action in court for the payment of that debt; that is, the statute of limitations in 28 U.S.C. 2415(a)(1982) begins to run again.

Second, the nature of the company’s holdings is a factor. For example, assume that Corporation A is a large, multi-national oil company holding interest in several ROW’s and Federal leases. In all likelihood, that company will pay the bill without question because, (1) the company wants to maintain its reputation as a “good citizen,” and (2) the people in that corporation know they have to do substantial business in the future with BLM. The corporation does not wish to jeopardize its future working relationship with the agency.

For a contrasting example, assume that a corporation had only one ROW. The corporation is now defunct. Pursuing this debt is impractical because collection is unlikely.

An important qualification to the information discussed above is contained in 28 U.S.C. 2416(c)(1982) which provides, in part:

“. . .[F] or the purpose of computing the limitations periods established in section 2415, there shall be excluded all periods during which . . . facts material to the right of action are not known and reasonably could not be known by an official of the United States charged with the responsibility to act in the circumstances; . . . .”

If, for example, Corporation B sends BLM data showing a debt, and BLM fails, through lack of budget, neglect, or other reasons, to pursue the debt in court for 6 years, the United States is barred from collecting the debt by an action in court (but not by other means discussed above). If, however, Corporation B conceals the facts which would put BLM on notice of the debt, then the statute of limitations does not begin to run until the BLM discovers the facts, even if this is many years later.

The difficulty with this statutory section is in deciding whether or not BLM “Knew or should have known” of the debt. If the debtor has submitted the correct reports, but BLM has misfiled them without taking action, then clearly the statute of limitations will continue to run because BLM “knew or should have known” of the debt.

The 6-year statute of limitations is the provision most likely to be used in debt collection activities by BLM. The statute, 28 U.S.C. 2415(a)(1982), gives 6 years to commence the action or 1 year after the final decision in administrative proceedings.

Relationship to Collections Under Bond

If a bond is still active, payment can be demanded under it for deficiencies more than 6 years old. Also, payment can be demanded after the period of liability of a bond has been terminated due to the fact that terminating the period of liability of the bond only means that no new cause of action may accrue.

A bond is a contract which must be construed in accordance with the terms of the contract and the intent of the parties. Where a bond is given to ensure a statutory obligation, it is known as a statutory bond. The terms of the statute and implementing regulations are considered to be incorporated into and are considered a part of the contract because the obvious purpose of the bond is to ensure the faithful performance of all obligations and conditions by the person obtaining the bond.

When the BLM determines, to the extent that it is able, that the terms and conditions of the ROW have been met, it terminates the period of liability of the bond; i.e., it sets a specific time after which no new liability may accrue. This termination of the period of liability by BLM does not mean that the surety may deny liability for a cause of action accruing before the termination of the period of liability. For example, suppose that Company A, plugged and abandoned a gas well (federal surface/private minerals) in 1995 and the FO determined in 2000 that the terms of the ROW had been met. The period of liability of the bond was released in 2000 and the ROW expired. However, adverse effects of improper plugging and abandonment of the gas well did not become manifest until 2006. Company A, is liable because the improper plugging activities occurred during the term of the bond under its former ROW. Company A’s surety also will be liable because its liability is co-extensive with that of the principal, i.e., the surety is not relieved of liability for improper activities that occurred during the period the bond was in effect, but whose adverse effects do not manifest themselves until after the period of liability of the bond was terminated. Moreover, the applicable statute of limitations would not begin to run until 2006 when BLM was actually aware or should have been aware of the adverse effects of the improper plugging activity.

Bankruptcy

The BLM can take action against a bankrupt debtor’s bond since the bond is not considered part of the bankruptcy estate. Obviously BLM must be aware of procedural limitations and requirements from a legal standpoint in order to comply with the Bankruptcy Code and still ensure collection of maximum available amounts under the bond.

This provides only general guidance regarding the areas of bankruptcy proceedings that concern the BLM operations. Various bankruptcy courts interpret the Bankruptcy Code sections differently. Therefore, the same result cannot be expected in each proceeding. Accordingly, coordination among the BLM and the appropriate Department of the Interior Solicitor’s Office is necessary to protect the Government in bankruptcy proceedings.

Pursuant to the 1978 United States Bankruptcy Code (11 U.S.C. 101 et. Seq.), a debtor, typically an individual or a company experiencing financial difficulties, may seek an organized liquidation of its debts and business or a restructuring of the debt through a re-organization. A Chapter 7 bankruptcy proceeding is a liquidation process in which the assets of the debtor are sold and the creditors are paid a pro rata share from the proceeds. Generally, the percentage of the debt returned to the creditor in a Chapter 7 proceeding ranges from zero to 4 percent. The bankruptcy court appoints a trustee in a Chapter 7 proceeding who is responsible for conducting the business of the debtor’s estate during the liquidation procedure.

The Chapter 11 bankruptcy proceeding generally provides for the orderly restructuring of the debts of the estate to allow the debtor to continue to operate with the assets necessary to do business after its discharge from the bankruptcy proceedings. The plan of re-organization which establishes the method of restructuring the debt allows for some return to the creditors while enabling the debtor to continue to operate. In a Chapter 11 proceeding, the court may appoint a trustee to supervise the business affairs of the estate, or the debtor may be allowed by the court to operate its financial affairs and business as a debtor-in-possession.

Included by the debtor in the filing of the bankruptcy petition is a list of scheduled creditors to whom prepetition amounts are owed. This list is a part of the bankruptcy schedules. Generally, an agency’s scheduled amount or its claim is an unsecured debt. Although the agency may be listed with a scheduled amount, the agency should verify the amount and file a proof of claim for the prepetition amount through its designated representative (through the appropriate Solicitor’s Office) before the “bar date” established by court order. The “bar date” is the last date set by the court to receive and to allow proofs of claim filed by creditors. The proof of claim can be amended with less difficulty than a scheduled amount can be changed.

Upon receipt of notification of the filing of a bankruptcy petition by a debtor, BLM should review all ROWs held by the debtor pre-petition and post-petition amounts that may be owed. If BLM discovers a bankruptcy proceeding for which it is not receiving notification by the bankruptcy court, but in which it believes it has an interest, it should contact the appropriate Solicitor’s Office to request preparation of an agency notice of appearance.

Currently, the Office of Natural Resources Revenue (ONRR) produces an updated listing which shows entities involved with the Federal mineral leasing program that have filed bankruptcy petitions. This list is circulated throughout ONRR and to all BLM State Offices. Upon discovery of defaults in the leases, possible refund amount, or pre-petition receivables, the appropriate Solicitor’s Office should be notified by memorandum with the necessary documentation attached. It is important that no action against the bond be taken without concurrence from the Solicitor handling the proceeding. The appropriate Solicitor’s Office coordinates with the BLM State Office concerning presentment of proofs of claim and other bankruptcy problems.

Procedures for Collecting Pre-petition Debts Under Bankruptcy

1. The bankruptcy coordinator for ONRR, compiles a list of all known bankruptcy filings, including the name of the debtor, type of proceeding, and date of bankruptcy filing. This list normally is compiled on a quarterly basis with any updates transmitted during the interim period. Each BLM State Office receives a copy of this bankruptcy list directly from the ONRR. This would cover all oil & gas related rights-of-way.
2. Based on the bankruptcy list received from ONRR, the FO Lands & Realty is to take the following steps:
3. Print an LR2000 Proprietor’s report to determine what ROW’s held by each entity listed on the bankruptcy list;
4. Check the ROWs indicated for each entity on the LR2000 Proprietor’s report to determine what the status of each is;
5. Report all defaults identified on ROWs held by any of the bankrupt entities to the Realty Officer, WY921.
6. When any notices or other written documentation of bankruptcy filings are received by any BLM FO, the FO is to immediately notify the Realty Officer, WY921. Copies of all other pertinent information, including whether BLM has identified a default, also should be transmitted to the Realty Officer, WY921, who will forward to the appropriate Solicitor’s Office.
7. The BLM and ONRR must notify one another to consolidate debts for demand against the bond of a bankrupt entity. The appropriate Solicitor is informed by both ONRR and BLM of the planned action against the bond, but no action against the bond should be taken without concurrence from the Solicitor.
8. The BLM FO Lands & Realty takes the lead to demand payment under the bond.

Procedures for Collecting Post-petition Debts Under Bankruptcy

Debt collection procedures for post-petition claims and amounts are the same as the procedures to be used for non-bankrupt entities. The only exception is that, if debts are not paid in full by the payor, holder, or corporate surety, the case is referred to the appropriate Solicitor for action.