Keywords

XIV. Replacement of Bond

A. General

Principals may request to replace existing bonds because:

REPLACEMENT BOND

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, that 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 lease obligations without any coverage.

OUTSTANDING LIABILITIES

The most difficult aspect of replacing a statewide or nationwide bond is that a new bond that is not specifically conditioned to completely replace the old bond may not cover all lease obligations that were covered by the old bond. This could include the responsibility to properly plug and abandon all wells on leases which expire or terminate before the new bond is filed. In replacing statewide/nationwide bonds, check to ensure that the new bond is conditioned to assume any outstanding liability on the leasehold(s) covered by the prior bond.

UNPLUGGED WELLS

If an unplugged well exists on an active lease covered under a bond that is being replaced by a new bond, the period of liability of the previous bond is to **not** be terminated until a rider has been accepted that assumes past liabilities for the unplugged well. 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 unplugged well on a lease that has terminated or expired indicates that the operator has not complied with the lease terms. Therefore, the bond covering the lease must remain in full force and effect until the proper plugging, abandonment, and surface reclamation have been accomplished either by an arrangement made by the surety or through the BLM contracting for the work. (See Section XVIII, below, that addresses default and collection on bonds.)

Keywords

BOND LIABILITY TERMINATED BUT UNPLUGGED WELLS OUTSTANDING ON LEASE

If the period of liability of the bond has been terminated for a lease with an unplugged well and reclamation work that has yet to be completed, a concerted effort is to be made by the BLM 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 lease terms and obligations. To avoid this situation from occurring, either obtain a replacement bond with an attached rider that assumes all previous liabilities existing under the prior bond, or do not release the prior bond until all the liabilities covered by the bond have been properly and fully corrected.

BOND AMOUNT REDUCED DUE TO DEFAULT

The regulations at 43 CFR 3104.7 provide that where, upon default, the surety makes a payment to the U.S. of an obligation (debt) incurred under a lease, the face amount of the bond is reduced by the amount of the required payment. After a default on a lease, the principal on the bond must either post a new bond or replenish the existing bond to its original amount or to an increased amount determined by the BLM (and the surface management agency (see 43 CFR 3104.5).

SEPARATE OR SUBSTITUTE BOND TO REPLACE DEFICIENT BOND

The regulations also allow the principal to file separate or substitute bonds in lieu of either posting a new bond or increasing the existing statewide or nationwide bond. If the principal uses this option and files individual lease bonds, the BLM may **not** use an individual bond from one lease to cover an obligation due under another lease. 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.

DEPLETION OF BOND

In 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 (see 43 CFR 3104.7).

REPLACEMENT PERSONAL BOND

If the replacement bond is a personal bond backed by cash or negotiable Treasury securities, the 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 could result in premature efforts toward collecting under the Debt Collection Act (DCA) and initiation of lease cancellation proceedings.

Keywords

SURETY ELECTION HANDLED EXPEDITIOUSLY

A surety election to terminate future liability must be handled expeditiously to avoid the Field Office Fluid Mineral Operations personnel from authorizing operations on a lease to which the bond is not applicable due to the election made by the surety.

Whenever notification is received from a surety that it intends to terminate the additional coverage on leases that are extended beyond the primary term by drilling and/or production, and the leases are covered under the bond prior to the effective date of the surety election to terminate future liability, promptly notify the surety advising that it cannot elect to make additional coverage inapplicable for lease extensions or drilling operations under the provisions of the bond form. Indicate to the surety that the BLM's position was clarified by a Federal Register notice that was published on June 15, 1987 (52 FR 22646). It is important to also notify the principal with a copy of the surety's correspondence and the BLM's response.

B. Processing of Bonds Terminated in Part

Responsible Official	Step	Action	Keywords
Receiving Official	1.	Receive notice of election to terminate future liability from surety. Date/time stamp and forward to Adjudication.	SURETY ELECTION RECEIVED
Adjudication	2.	Review notice of election for specific language whereby surety elects to terminate additional future coverage under the bond. A notice of the surety's cancellation indicates a desire to terminate the period of liability of the bond in **full**.	NOTICE OF SURETY ELECTION TO TERMINATE ADDITIONAL FUTURE BOND COVERAGE
		Request reports from Field Office Operations and the SMA regarding possible bond termination, consistent with Section XVII, below. Unless clearly not the election allowed by conditions of the bond (see Section XV.A, above), issue a decision acknowledging the election to terminate additional future liability under the bond effective 30 calendar days from the date of receipt of the request by the proper BLM office (see Illustration 61).	FIELD REPORTS IN RESPONSE TO SURETY ELECTION TO TERMINATE ADDITIONAL FUTURE LIABILITY UNDER THE BOND
ABSS Entry	4.	Enter into the ABSS.	AUTOMATED NOTATION
		4a. Enter Action Date: Date surety notice is received electing to terminate additional bond coverage in part; DE 2960 Action Code 474 Action Remarks: Enter effective date (MM/DD/YYYY), i.e., 30 calendar days after receipt in the proper BLM office of the surety's request.	
Adjudication	5.	After decision is signed, distribute copies to the surety and principal. Route for ABSS Entry.	

Responsible Official	Step	Action	Keywords
ABSS Entry	6.	Enter in the ABSS: 6a. Enter Action Date: Date of decision acknowledging termination of future liability under bond in part; DE 2960 Action Code 475; or 6b Enter Action Date: Date of decision denying bond termination request; DE 2960 Action Code 476; Action Remarks: Effective date (MM/DD/YYYY); Reason termination in part is denied (or place in General Remarks).	AUTOMATED NOTATION