

## H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

KeywordsVI. Waiver of Lease RightsA. Introduction

The regulations at 43 CFR 3108.5 and the MLA at 30 U.S.C. 184(j) provide that during the lease cancellation proceedings, a lessee may file a waiver of lease rights, including the rights to assign any of the lease interests or to drill on the lease, or the Secretary of the Interior may suspend such rights pending a final decision on the cancellation proceedings. When a lessee files a waiver of lease rights in the proper BLM office, the obligation to pay rental and the lease term must be suspended beginning from the first day of the month following the filing of the waiver or the Secretary's suspension. During the waiver, the suspension continues until the first day of the month following the final decision of the proceeding or the revocation of the waiver. However, if the waiver of lease rights is filed in the proper BLM office after the lease anniversary date, and the rental had not been timely paid, the lease automatically terminates and the waiver of lease rights cannot be honored. The purpose of the waiver of lease rights and the suspension of the lease payments and lease term is to prevent the lease from terminating during the pendency of the cancellation proceedings, but at the same time to prevent the lease property from being transferred to another party or from being drilled and developed during the course of the cancellation proceedings.

WAIVER OF  
LEASE RIGHTS

It is important to note that a waiver of lease rights is not limited to a bona fide purchaser.

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B. Waiver of Lease Rights Procedures

Responsible Official	Step	Action	Keywords
Adjudication	1.	Upon receipt of a waiver of lease rights, determine if it is acceptable, i.e., if it was executed by all of the current record title holders and was filed prior to the anniversary date. If the waiver is received after the anniversary date and the annual rental was not timely paid, prepare a decision denying the request for a waiver of lease rights. Send a copy to all interested parties (see Illustration 51).	WAIVER OF LEASE RIGHTS REVIEWED
	2.	If the waiver is acceptable, document the case file indicating the beginning date of the waiver suspension period.	DOCUMENT CASE FILE
	3.	Prepare accounting advice for the MMS-DMD to suspend the lease in its automated system (see Illustration 52).	ACCOUNTING ADVICE - SEND TO MMS-DMD
ALMRS Entry	4.	Enter Action Date (MANDATORY ACTION CODE): Effective date of suspension of lease; DE 1775 Action Code 315/DE 2910 Action Code 676; Action Remarks: Enter reason (LSE RGTS WAIVER).	AUTOMATED NOTATION
Adjudication	5.	Return case file to Docket until final action is taken on cancellation proceedings.	
Docket	6.	File cases with active cases.	
Adjudication	7.	If the cancellation is reversed, prepare a decision adjusting the lease terms. (See Handbook 3103-1.)	CANCELLATION REVERSED
ALMRS Entry	8.	Update the case in the ALMRS automated system using the current data standards. (See Appendix 5 for a listing of the key action codes from the data standards that are to be used in ALMRS Case Recordation and Record System Release 1.0.)	AUTOMATED NOTATION

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Responsible Official	Step	Action	Keywords
	8a.	Enter Action Date: Date decision reversed; DE 1775 Action Code 720/DE 2910 Action Code 366; Action Remarks: Cite IBLA decision.	
	8b.	Enter Action Date (MANDATORY ACTION CODE): Date waiver of lease rights suspension lifted; DE 1775 Action Code 316/DE 2910 Action Code 678; Action Remarks: Optional.	
	8c.	Enter Action Date (MANDATORY ACTION CODE): Date lease extended; DE 1775 Action Code 258/DE 2910 Action Code 235; Action Remarks: THRU MM/DD/YY; and	
	8d.	Enter Action Date (MANDATORY ACTION CODE): Date lease expires; DE 1775/2910 Action Code 763; Action Remarks: Optional.	
	<u>NOTE:</u>	In the ALMRS Case Recordation and On-line Recordation & Case Access System (ORCA), the lease will remain in the cancelled disposition unless an action code is inserted to put the lease back in an authorized disposition. In order to reactivate a lease, the cancelled codes must be removed and replaced with the DE 2910 Action Code 393 for a decision Issued, with entry in the Action Remarks of "LEASE CANCELLED."	

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