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Colorado NTL-88-1

United States Department of the Interior

Colorado Bureau of Land Management

Notice to Lessee/Operators of Onshore

Federal Oil and Gas Leases Within the

Jurisdiction of the Colorado State Office

NTL-CO-88-1

Well Abandonment and Bonding Requirement Revisions

This notice is to inform lessee/operators of the Bureau of Land Management (BLM) policy that has been

developed in response to the recommendations presented by the Bonding Task Force to the Washington

Office.

The Task Force was set up as a result of widespread industry concern about a proposal to amend the existing

fluid mineral bonding requirements that was published in the May 1, 1985, Federal Register. The

rulemaking would have consolidated the existing bond types and increased the present bond amounts which

had only been adjusted once in 56 years. This Task Force was mandated to review the bonding issue, solicit

industry views, evaluate various alternatives, and provide the Director with recommendations. The Task

Force has completed its review and submitted its final recommendations (Enclosure).

As a result of these recommendations, the BLM has instituted a phased release of bond liability. The phased

release of bond liability applies only to federal wells. The Bureau of Indian Affairs is responsible for

acquiring and releasing the bonds on Indian leases and it has no similar provisions for the phased bonding

release. This policy applies only to single lease bonds and only to the abandonment of the last or only well

on a lease. Normally, these are the $10,000 bonds for lessees, operators, or designated operators. Under the

phased release, the authorized officer (AO) will be able to reduce the amount of the bond upon completion

and inspection of different phases of abandonment. In Colorado, the

program will consist of two phases.

Phase I goes into effect after proper plugging of the leasehold's well (s) and after the site has been stabilized

and seeded. Phase 2 goes into effect once reclamation is deemed complete, i.e., the site has been

successfully revegetated and reclamation can be approved. Depending on the location of the site and the

amount of reclamation that was required, a percentage of the bond liability can be released at Phase 1. This

percentage will vary, but may go as high as 80 percent. Upon successful revegetation (Phase 2), the bond

would be totally released, provided all other work necessary on the lease has been completed. The principal

and surety will both be notified of our actions at each phase.

As part of the Colorado State Office review of the procedures for this process, the procedures that

lessee/operators were following with regard to the permanent abandonment of each newly completed well,

recompleted well, or producing well not capable of producing oil or gas in paying quantities were also

examined. As a result of this examination, the procedures for permanent abandonment have been revised to

incorporate phased bonding release. The entire process is as follows:

1. Notice of Intention to Abandon (NIA) (Form 3160-5, Sundry Notice) notification of proposed

plugging procedures, or confirmation of verbal plugging procedures.

If plugging operations are not

commenced within 30 days of approval, the operator must submit a request for approval to temporarily

abandon the well, including the date when plugging operations are expected to take place.

2. Subsequent Report of Plugging (SRP) (Form 3160-5, Sundry Notice) notification within 30 days

following execution of plugging, detailing procedures used for the plugging operation, including method,

waiting on cement times, any tags, and any problems or abnormalities. Surface reclamation should be

addressed under a separate Sundry Notice or letter.

3. Subsequent Report of Abandonment (SRA) (Form 3160-5, Sundry Notice) notification of

completion of surface restoration (dirt work and reseeding). The SRA should not only detail the work that

was done but also request partial bond liability release. This Sundry Notice is only required when requesting

partial liability release of a single lease bond; it is optional in all other cases. Operators who do not request

phased bond release should include the dirt work and reseeding information in their Final Abandonment

Notice (FAN) (see item 4). The SRA is an acceptance rather than an approval action. The lease will be

inspected at this time to assure that the dirt work and reseeding meet APD requirements. If there are any

questions as to how the dirt work should be completed, the operator should request an inspection prior to

removal of earthmoving equipment.

4. Final Abandonment Notice (FAN) (Form 3160-5, Sundry Notice) notification to the AO that

restoration of the disturbed surface area has been completed, including adequate vegetational growth, and

the location is ready for inspection. Operators who do not request partial bond release should submit all

surface restoration and reclamation information for this location on this notice. On Form 3160-5, check

"Other" box under "Subsequent Report of" and fill in "FAN" in the blank provided. BLM approval of final

abandonment must wait the length of time necessary to rehabilitate a location and access road and obtain a

sufficient stand of vegetation for inspection. Depending on what part of the state your operations are in, this

waiting can take from 1 to 4 years. Upon successful rehabilitation of the last well on a single bond lease, the

bond may be released, provided all other work necessary on the lease has been completed.

Once the NIA has been submitted, a copy will be made and forwarded to other Surface Management

Agencies (SMA), if applicable, for any revised reclamation stipulations, confirmation of water well

conversion, etc. The SMA or Resource Area is responsible for approving or establishing the methods and

special requirements for surface rehabilitation and determining when this rehabilitation has been

satisfactorily accomplished. As such, once the FAN has been submitted, a copy will be made and forwarded

to other involved SSMAs if applicable. The BLM has made a commitment that an inspection to determine if

reclamation is satisfactory will be made within 60 days of receipt of a FAN, weather permitting, provided

BLM is the SMA and assuming the FAN is filed when reclamation is complete. If the BLM or other SMA

inspection reveals satisfactory reclamation, the FAN is approved. If the well is the last producing well on

the lease and the lease is in good order, a bond release recommendation will be made to the Colorado State

Office, provided all other work necessary on the lease has been completed.

If there is more than one single lease bond for that particular leasehold, all bonds will be released by the

same amount. The remaining amount of the partially released bond is an "acceptable alternative" to the full

bond amount as the bond would be progressively reduced to an amount commensurate with the leasehold's

risk. For wells where the bonding is different for deep and shallow formations, phased releases will occur

by segregation, i.e., when the last shallow well is plugged, phased bond release for the shallow bonds could

occur. Bonds for the deep wells would continue to be held. The site will be inspected at each phase before

partial or complete liability release can occur. The BLM has made a commitment that, allowing for weather,

etc., a field inspection will be made following a lessee or operator request, for either phase, so that bond

reduction or release can be completed within 60 days of the request.

Please be aware that the above procedures must be followed for all abandonments whether or not the

operator requests partial bond liability release.

Operators who have already filed SRAs in the past and who wish to clear the books of those wells that have

been rehabilitated may file a second SRA and/or FAN at the appropriate jurisdictional office.

Date: December 30, 1987 Approved by: Ralph Smith,

Acting State Director

Enclosure

BONDING TASK FORCE

FINAL RECOMMENDATIONS

INTRODUCTION

On May 1, 1985, the Bureau published in the Federal Register a proposal to amend the existing fluid mineral bonding

requirements. The rulemaking would have consolidated the existing bond types from twelve to only four, combining bond types,

oil and gas with geothermal and seismic with drilling bonds, and would also have increased the present bond amounts which had

been adjusted only once in 56 years.

This proposed rulemaking received a mixed response from industry. While most commentors were supportive of bond

consolidation, they were strongly opposed to increasing the bond amounts. Their opposition stemmed from concerns including:

the ability to obtain new bonds at the higher amounts, the current economic state of the oil and gas industry, and the "business

health" of surety companies.

Because of these widespread concerns underlying the Bureau's bonding requirements, the Director convened a task force composed

of three State Directors (New Mexico, Chairman, California and Wyoming) and a representative from the Minerals Management

Service. The U.S. Forest Service and the Office of Surface Mining have attended ex officio. This task force was mandated to

review the bonding issue, solicit industry views, evaluate various alternatives and provide the Director with recommendations.

The task force has completed this evaluation and developed their final recommendations. These recommendations are presented

below along with other alternatives which were considered but did not merit recommendation.

FINAL RECOMMENDATION

1. Maintain present bonding requirements including present types of bonds and bond amounts but add provisions in the

regulations to allow for:

a) "Piggyback" on State oil/gas bonds where possible. Under this arrangement, operators who have State oil and

gas bonds would, with the State's permission, satisfy the Bureau's bonding requirements through these State

bonds. This is already the practice in the Bureau's locatable minerals program and it would relieve operators of

the cost of 'double' bonding. Steps would be taken to coordinate actions between BLM and willing State

governments.

I Concur: signed Robert Burford

b) Allow third party surety bond coverage of lessee or operator. This provision would allow a party

other than the operator or lessee to provide the bond to the Bureau to cover the operator's activities.

The advantage lies in the operator/lessee not needing to qualify for surety bonding but only having to

find a patron to provide the bond , perhaps at a cost lower than for a surety bond for the

operator/lessee.

I Concur: signed Robert Burford

c) Accept letters of credit in lieu of bonds. This regulatory change would allow the use of irrevocable

letters of credit in place of surety bonds. They would be issued by a financial institution such as a

bank and the Bureau would be named as the sole payee. Letters of credit would provide a sound

source of funds and may be easier for some to obtain than surety bonds.

I Concur: signed Robert Burford

2. Remind field offices by instruction of the opportunity to raise bond amounts where appropriate. The Bureau

currently has the authority to raise the amount of any bond when additional coverage is determined to be appropriate.

The purpose of this instruction would be to emphasize this current authority and to encourage its use when necessary.

The field offices, however, would be cautioned to increase bonds on a selective basis and to adequately document such

decisions.

I Concur: signed Robert Burford

3. Instruct field offices to release individual well bond liability as soon as possible after receiving request.

Delays in releasing bond liabilities have made it difficult for some operators to acquire other bonds since surety

companies look at existing bonds as outstanding financial obligations. This change would allow a staged release of

bond liability, whereby the bond would be promptly reduced to a much lower amount upon completion of all

abandonment/reclamation work except revegetation. A small portion of the original bond amount would be retained

until the final stage (revegetation) is completed.

I Concur: signed Robert Burford

4 Seek legislation to make a portion of the Reclamation fund proceeds available for oil/gas, geothermal, or

mining reclamation. This fund receives a significant percentage (42 percent) of its total proceeds from oil and gas

receipts. However, such proceeds are not available for reclamation

work because, by statute, the purpose of the fund is

for the "construction and maintenance of irrigation works." This proposal would seek legislation whereby the monies

credited to the fund from oil and gas leasing would be "net" the amounts needed to cover reclamation or related losses.

I Concur: no signature

NO RECOMMENDATIONS ON:

1. Changes in bond amounts. Changes in the existing bond amounts are not recommended at this time due to:

the current depressed oil and gas market, the uncertain impact on the ability of operators to secure new bonds, and the

availability of preferable alternatives.

2. Bond consolidation (i.e., with seismic or geothermal). It is not recommended that oil/gas bonds be

consolidated with seismic bonds because few firms engage in both activities and where there are both undertakings,

with the same firm they are usually separate. Neither is it recommended that bonds for oil/gas and geothermal

activities be consolidated due to the substantial differences between the two.

3. Action on other types of bonds (OTHER THAN oil and gas and geothermal as well as mining, as above). No

other recommendations are presented for any other types of bonds because no such need was uncovered during this

evaluation because of the narrow focus of the task force's work.

4. Bond funds (i.e., "super fund" concept). The establishment of a bond fund for oil and gas reclamation would

require specific legislation and impose significant administrative workloads. A bond fund could also generate

controversy regarding the collection of fees and disbursement of payments. There was initial extreme opposition to

any such mutual schemes by industry spokespersons.

5. Abolishment of bonds. The elimination of bonding requirements, it was felt, would impose an unacceptable

risk upon the Federal Government and taxpayer. This elimination would also require legislation and would likely meet

with public opposition.

6. Expanded types of bond collateral. Allowing operators to post collateral in lieu of a surety bond would be

administratively burdensome as the Bureau would be required to appraise, manage, and protect any assets. Problems

could also arise in converting the assets to cash to exercise attachment of the "bond".

7. Self bonding. Under this option, an operator could submit evidence of the company's financial strength and

demonstrate financial responsibility in lieu of submitting a bond. This approach would impose a significant

administrative workload on Government to assess credit worthiness and require specialized financial expertise.

Furthermore, at least one State which currently uses this approach is considering disallowing its use because of these

very problems.

8. Priority collection on a bond. Also considered, but without recommendation, is the issue of whether the

Bureau or Minerals Management Service (MMS) should have priority in collecting on an oil and gas bond if there is

both a royalty loss (MMS) and a loss from improper or no reclamation (Bureau). The issue was raised because the

Bureau would have to cover the actual reclamation outlay from its appropriation if there was not a sufficient share of

the bond for BLM. MMS losses are unrealized gains. The task force decided that such matters may be best handled

on a case by case basis. However, the MMS/BLM Steering Committee may wish to consider this item to determine

whether it warrants a policy recommendation. This issue is also being considered by a special task force and

recommendations are due by April 17, 1987.

www.co.blm.gov/oilandgas/ntl-88-1.htm
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