**Lesson 1: Receive & Adjudicate a Bond Script**

**Slide 1**: **Lesson 1: Receive & Adjudicate a Bond**. Hello my name is Lacy Trapp and I am the Branch Chief, for Mineral Resources, Solids, at the Nevada State Office. Bond Adjudication is such an important topic and I am very excited that we finally have this class to help people with bond adjudication. Now that you know who I am, let’s take a look at our lesson objectives.

**Slide 2**: By the end of this lesson, each bond adjudicator should be able to: 1) given a bond form and serial register page, create a bond abstract in LR2000 in accordance with the LR2000 Bond and Surety Transaction Processing User Guide, and 2) given a bond form, serial register page, circular 570 (if applicable), and financial instrument (if applicable), adjudicate the bond form to determine if it is acceptable or not in accordance with the bond processing handbook. These two objectives provide the focus and foundation for the rest of the lessons, and are crucial to accurately adjudicating BLM bonds. Now that you know what our objectives are, let’s look at the topics for this lesson.

**Slide 3**: In order to achieve these objectives, we will cover 3 topics in Lesson 1. In Topic 1, we will cover general bond information. In Topic 2, we will learn to adjudicate a surety bond, and Topic 3, we will learn to adjudicate a personal bond. Now that you know what topics we’ll be covering, let’s go over General Bond Information.

**Slide 4**: Topic 1 is General Bond Information. Let’s talk about the who, what, when, where and why of a bond.

**Slide 5**: By the end of this topic, we’ll help you understand: what the purpose of a bond is? Why a bond is important? Who furnishes the bond? When a bond is required? and Where a bond is kept?

**Slide 6**: We will also cover: what are the responsibilities of a bond adjudicator are? What laws, manuals, and policies exist for each program area? What are the different types of bond coverage and the different types of bonds are?

**Slide 7**: Let’s start with the purpose of a bond. A bond is a written contract secured by a monetary pledge or a surety company’s promise to guarantee performance of a specified obligation or duty, and is collected if a principal fails to perform. In the event that an operator cannot or will not perform the required reclamation, the financial assurance will be there to guarantee that the lands will be reclaimed.

**Slide 8**: You may ask, why is a bond important? Bonds protect the government, and ***taxpayers***, against financial damages or loss arising from defaulted or terminated contacts, leases, permits, special-use authorizations, and licenses. Bond determinations are different in each program. In the 3809 or hard rock mining program, the bond amount is determined by the actual amount it would cost to reclaim the land. This amount will vary depending on the reclamation plan. The 3600 or mineral material program and the 2800 or ROW bonds are the same as 3809. Oil and Gas and geothermal regulations however, cite minimum bond amounts for bonds. Although, the regulations do allow for the authorized officer to determine a higher bond amount.

**Slide 9**:Who furnishes the bond? This varies in each program. Ultimately, the bond needs to cover all operations conducted by the operator. In most cases you will see an operator submit the bond. When we get to lesson 3 we will go into more detail about what to do when this is not the case. Sometimes you will have a parent company submit the bond for one of its subsidiaries or you will see a partnership where 1 person is the operator and the other is the bond holder.

**Slide 10**: How is a bond received? A hard copy must be delivered to the office of jurisdiction, and we’ll look at a chart with the office of jurisdiction in a few moments. Only original bond forms with original signatures may be submitted to the BLM. Every program has specific bond forms that are required.

**Slide 11:** When are bonds required? Bonds must be in place prior to initiating disturbance,and must be continued in full force and effect until all the terms and conditions of the operations have been met. The bond must cover the estimated cost as if BLM were to contract with a third party to reclaim operations according to the reclamation plan.

**Slide 12**: This chart shows where bonds are filed and kept. Lands bonds and Mineral Materials bonds are maintained at the Field Office, while all other bonds are maintained at the State Office. The original bond forms must be submitted to the office who has the bond files.

**Slide 13**: Bond adjudicators have many responsibilities: receiving and date stamping the bond, creating a bond abstract, adjudicating the bond form, writing a Decision, updating the Bond and Surety System, establishing a case file, making decisions regarding the maintenance and termination of bonds, and ultimately, ensuring that a bond can be collected if the required duty is not performed. You will learn more about all of these responsibilities as we move forward in the lesson.

**Slide 14**: What regulatory laws, manuals and policies exist for each program area? The BLM has to have authority and authorization to require a bond. The law provides authority to require a bond, and written direction, usually the regs, provide authorization as to how to bond. A few of the relevant regulations are listed here.

**Slide 15**: What are the different types of bond coverage? Individual bonds provide coverage for one operation. Statewide bonds provide coverage for all operations in one state. Nationwide bonds provide coverage for all operations nationwide. If an operator is only drilling one well in one state, individual bond coverage would be appropriate. If an operator is conducting mining exploration in multiple locations within one state, statewide bond coverage would be appropriate. If an operator will operate leases all over the US, nationwide coverage might be best. It is ultimately up to the operator to decide the type of coverage, but we can make suggestions if they ask for guidance. It is also important to note that more than one bond may be accepted to provide reclamation coverage on an individual, statewide, or nationwide basis. For example, in Nevada we have some very large mines, with millions of dollars worth of bonding. Some operators choose to have multiple individual bonds to add up to the total amount required.

**Slide 16**: What are the different types of bonds? There are two types of BLM bonds, personal bonds and surety bonds.

**Slide 17**: A personal bond is a two party contract between the obligor or operator and the BLM, which recognizes an obligation to pay money or perform a specific act. A personal bond must be accompanied by a financial instrument pledged to BLM as security for the bond. A surety bond is a ***three*** party contract between the principal, the BLM and the surety company. A surety bond consists of a promise by a principal ***and*** surety to the BLM that the surety will correct any default should the principal fail to do so. Now that we’ve gone over general bond information, we will move on to our second topic, which is how to adjudicate a surety bond.

**Slide 18**: By the end of this topic, we’ll help you understand the definition of a surety bond, the benefits to the BLM, the forms used, and what is needed to adjudicate a surety bond and why. We’ll cover more of the who, what, when, where and why of a Surety Bond.

**Slide 19**: As we talked about in the general bond information, a surety bond is a three party contract between the principal, BLM and the surety company. One of the benefits to the BLM is that the surety will complete the work or pay for the cost of reclamation up to the penal sum of the bond if the principal defaults. We call this, “pay or perform.”

**Slide 20**: As you see with the list here, the forms vary depending on the program. If someone is trying to bond a 3809 mining project and they use a 2800 ROW bond form that’s not going to be acceptable. All of these forms have been provided in your class materials. Sometimes these forms are difficult to find so make sure you download them for future use.

**Slide 21:** In order to adjudicate a surety bond, you will need the original bond form signed by the principal and surety company, circular 570, and the surety’s power of attorney. You also need the documentation requiring the bond. This will be different in each program. In most cases, the authorized officer will determine a bond is required and what the amount should be. As we discussed earlier, the 3809, 3600 and 2800 programs will have a bond amount based on the required work. Oil and gas and geothermal have minimum bond amounts. In some cases a bond will be expected since we know they are filing an APD. In other cases, we may receive the bond first.

**Slide 22**: The first step is to date stamp the bond. The date stamp is important for so many reasons. One reason is that the execution ( or signing) date of the bond must come before the date the bond is filed. Second, is that the bond must be entered promptly into the system. Third, if the bond is acceptable, the acceptance decision will be effective the date the complete bond is filed in the proper BLM office, and this date will be referenced in your Decision and on the bond abstract. You’ll see in the illustration here, the date stamp on the surety bond. Make sure to date stamp each page of the bond form, in case the pages get separated.

**Slide 23**: The second step is to create a bond abstract, which I will demonstrate now.

After you have logged in to the BLM application security system with your user name and password, you will access BASS through LR2000 production. For the purposes of this class, ***Please*** make sure that you are in the test/training site and not the production site for everything you do during this training.

You create a bond abstract in BASS which is a component of LR2000. BASS stands for Bond and Surety System and unlike case recordation, BASS is a nationwide system. This means that you can access bond information from other states, not just your own. This is especially helpful if you have a nationwide bond and are working with other states on its management. You will still only be able to view the bond information though. In BASS you are only allowed to edit bond information for your own state. This also means that any new names you need added to the system are done by the NOC and not your local data stewards as with case recordation.

You will click on New Bond on the LR2000 Main Screen, as shown here.

We will practice entering a new bond in a minute but let’s take some time to explore all of the required fields.

To create a new bond, you must enter Admin State, office, Bond Type, Case Type, Land Type, Bond Coverage, Bond Amount, Activity/Purpose, Commodity, Customer Details, and Action Code. States Covered is required if bond coverage is “Statewide”, serial number is required if bond coverage is “Individual”.

Ok, let’s enter our bond. I’m going to be using a 3809 surety bond for this exercise. The first field we have to fill out is admin state. As you can see here NV is already populated that’s because when I signed in, LR2000 knows I’m in NV and I only have the authority to enter bonds for NV. The next field we have to enter is office this is the office that holds the bond. In this case a 3809 bond held in nv is held by solid minerals adjudication. My office code is LLNV921000.

The next field we have is bond type; if you can’t remember these codes we have this handy lookup button on all of these that tells you all of the options for that field. This shows all of the different options you have for bond type. In this case we are entering a surety bond so we click on surety, select, and it’s going to fill it in. Once you’ve done this a couple hundred times you’ll know that bond type 2 is a surety bond.

The next required field is case type and this instance we are going to use 380913. Now, again, if you aren’t sure what you want to put in the field you can always use lookup and it will list all of the available case types for you to use.

The next required field is land type. In this instance I’m going to put my cursor in this box and click on lookup so we can see all available options. For 3809 we use “other” but if you are in other programs you might decide in your office to use these other types of land types.

Next is coverage; and if we remember from earlier, coverage is individual, statewide or nationwide. In this instance we are going to do a statewide bond. Then we choose our amount. The amount we are going to use for this bond is $64,000.

And the next is the document number. This is a really handy field especially when you are trying to get a quick look we can go over this a little bit later but document number you want to put the surety bond number here. In this instance we’ll do S#1118942. That’s just the number on the sample I’m using.

Now, because we chose statewide coverage, we must enter the states covered. So we are going to put NV for Nevada. And then for the activity and purpose lets go ahead and click on the lookup field and see all of our available options. So you see we have many many different options. You can see we have some geothermal options, we have an exploration option, we have a surface management option. This is a 3809 bond so this is the one we are going to choose.

And then we have commodity. Commodity is actually what you are mining. Now this is 3809, so the commodity we are going to be looking for is some sort of hard rock mineral gold, silver, lithium; something you can mine. You can see here that they are in alphabetical order so they are very easy to find. They have geothermal, they have rights of ways but we are going to choose gold.

Now that the top portion is filled out next we need to fill out the customer names. This is a surety bond so we have to enter a surety. Now we don’t have any option for the suretys listed here. The suretys that are listed here are the suretys that are accepted by the Circular 570 and we will get into that here in a little bit. But ultimately if you enter a name in here and you can’t find it, more research needs to be done. In this case we are going to look for Lexon Insurance Company so we are going to type in Lexon, we are going to hit lookup, we are going to make our selection for Lexon Insurance Company, and hit select.

Ok, next we have to fill out the bond principal. This interest relation you can see is already filled out “47.” That’s because the bond principal is required. There are many other options you have here. You can have an agent, or a financial institution; if the operator is different than the principal you can list that also. But at a bare minimum, you do have to make sure the bond principal is listed. In this case we are going to use Coral Resources. Now if you type your name in here and hit lookup and that name is not listed; you are going to have to request that the NOC add that name to the list.

Next we have serial number. Because this is a statewide bond the serial number is not required to be listed, it would only be required to be listed if it was an individual bond. However, with statewide bonds, if a statewide bond covers multiple projects it’s very very helpful to have all the serial numbers listed here. For now, we are going to leave that blank.

And next we have actions. Again, you can see action code 468 is already listed here. Action code 468 is “bond filed”. It’s the minimum required to establish a new bond. So the date we are going to use here is the date the bond form was received by the BLM. In this case we are going to use September 3, 2019. Our date format is a 2 digit month, a 2 digit day, and a 4 digit year.

Action code 468 bond filed is already in there. There’s nothing we need to put in remarks and we must use a pending organization. Pending organization tells anyone looking in LR2000 if there is a pending action awaiting. In this case it’s waiting for solids adjudication to adjudicate the bond form and determine if it is acceptable.

The last area we have is in remarks. In NV we like to use line 000 to highlight the project name or if it’s a statewide bond we will put statewide here. This allows us another opportunity to take a quick look at the bond abstract and determine what kind of bond it is. Once we have all of our fields filled out we will click the save button.

So, to save the new bond, click “Save” button to the right of the Bond File Number panel or the “Save” button located at the bottom of the screen. If the bond has been entered correctly, the BLM bond number will be assigned. As you can see here, this is our bond number for the bond we just entered. NVB001978.

Please note that the office that has accepted the bond has sole responsibility for the initial entry and update of the bond data in the automated bond system.

**Slide 24:** In order to assist you with entering data into the bond and surety system, please refer to the Bond and Surety Transaction Processing User Guide and take some time to review this guide. It’s very helpful and gives a step by step explanation.

**Slide 25:** You may also check the Data Element Dictionary, which gives a comprehensive list of all action codes in the bond and surety system. It gives details for each code, such as what date to use and what to enter in remarks for each action code.

**Slide 26**: Now we will have our first exercise, Exercise 1 will be to create a bond abstract.. Please create a bond abstract for a surety bond. First, open and download the bond form applicable to your program. The bond form is titled Exercise 1 with the program number and surety bond. So if you are a realty specialist working on ROW bonds you will use the document titled Exercise 1 2800 Surety Bond. Please keep in mind we are just creating the new file in BASS for now. Important Note! Once you have created your new bond, make sure you write down your new bond number. I usually do this in the top right corner of the bond form. ***Please*** make sure that you are in the test training site and not the live site. We will review this together during our live, class webinar session.

**Slide 27**: Welcome back. I hope you were able to successfully enter the bond in BASS. The next step, step 3, is to adjudicate the bond form. Is it on the correct form? Is it properly executed? Does it have original signatures? Is the bond principal the operator? Although the forms look different, all of the bond forms for all programs require the same information. We discussed these questions earlier. It’s important to note that these are all fatal flaws, if the information is incorrect. We would not accept the bond form if any of these were incorrect.

**Slide 28:** The next step is to verify the surety company securing the bond. How do you know if a surety is certified to underwrite a bond? Is the surety authorized to issue bonds in the state it was issued? Does the bond amount exceed the surety’s underwriting limitation? Is the bond executed by the surety?

**Slide 29**: All of this key information about the surety company can be found on the US Treasury’s Circular 570 website. You can verify that the surety is certified by the US Treasury to underwrite a bond for the Federal government. The state in which the bond was executed must be shown in the surety’s listing. The amount of the bond must not exceed the underwriting limitation for the surety according to the Circular 570. If the surety company is not certified, return the unacceptable bond to the principal or surety by Decision. We will revisit this in Lesson 2, Decision Writing.

**Slide 30**: You also have to make sure that the surety bond is signed by the surety, with a power of attorney or POA attached. The power of attorney shows proof of signing authority of a surety’s representative. If a surety bond is submitted without a POA, it must be rejected. Verify that the person signing for the surety had the authority to sign for the amount of money specified by the bond and is not restricted to a lesser amount. The bond must be for at least the amount required by the correspondence from the authorized officer. And the bond should indicate the coverage – individual, statewide, or nationwide. And as we mentioned before, check that the execution date precedes the date of filing. The bond cannot be effective at a future date.

**Slide 31**: I will now demonstrate how to use the Circular 570 Website by talking through each aspect of it. To pull up the Circular 570 website you can simply search the term Circular 570. The official website address is shown here at the top of the screen. You can see that there are links to each letter to make it easier to scroll. All certified sureties are listed here in alphabetical order. The business address and phone number are also listed. In some instances you may find the address on the surety bond form is different than the one listed here. That’s ok, the address here is the corporate address. Sometimes the attorney that executes the bond form will list their local address instead of the corporate address. The next line shows the underwriting limitation we discussed. You will want to make sure your bond amount is less than what is listed. And lastly the Circular 570 lists the states the surety company is licensed to execute bonds in. This is NOT the states the bond can be held in. If Montana is not listed but that is where your operations are, that is ok, as long as the POA was executed in a state listed on the circular 570.

**Slide 32**: This brings us to **Exercise #2, adjudicating a surety bond**. Using your surety bond form from Exercise 1, and the circular 570 website, adjudicate the bond form to determine if it is acceptable or not in accordance with your program specific handbook. Please bring your findings with you to the live, class webinar.

**Slide 33**: Now that we’ve gone over general bond information, and adjudicated a surety bond, we will move on to our third topic, which is how to adjudicate a personal bond. We will cover what a personal bond is, what it is used for, what forms are used, and what is needed to adjudicate a personal bond.

**Slide 34**: A personal bond form is a two party contract between the obligor or operator and the BLM. It must be accompanied by a financial instrument pledged to the BLM. The principal agrees that in the event of any default, the bond may be forfeited.

**Slide 35**: Again, the forms are program specific and are listed here and can be found in the resources for this course.

**Slide 36**: To adjudicate a personal bond, the steps are similar to what we have already gone over with a surety bond. Step One, date stamp the bond. Make sure to date stamp each page in case the pages are separated. Step two, create a bond abstract in BASS within LR2000. Refer again to your bond transaction processing guide and data element dictionary to enter your bond.

**Slide 37**: For **exercise # 3**, please create a bond abstract for your sample personal bond. Please refer to the personal bond form and financial instrument specific to your program for this exercise. The bond form is titled Exercise 3 with the program number and personal bond. So if you are a realty specialist working on ROW bonds you will use the document titled Exercise 3 2800 Personal Bond. Important! Once you have created your new bond, make sure you write down your new bond number. I usually do this in the top right corner of the bond form. ***Please*** make sure that you are in the test training site and not the live site. We will review this together during our live, class webinar session.

**Slide 38**: Now that we’ve entered the bond in BASS and created a bond number, let’s adjudicate it. To adjudicate the personal bond form, we will ask many of the same questions as we did with the surety bond. Is it on the correct form? It is properly executed? Does it have original signatures and notary signature, if applicable? Is the bond principal the operator? Is the bond for at least the amount required by the authorized officer? Is the bond coverage, individual, statewide or nationwide, indicated? And last but not least, is there a financial guarantee?

**Slide 39**: The financial instruments acceptable for a personal bond vary slightly by program. But in general, the principal can submit cash, a letter of credit, a time deposit, or a negotiable US Treasury Security.

**Slide 40**: For cash, the principal can submit a certified check, money order, or cashier’s check made out to the BLM, or pay by cash, wire transfer or credit card payment. The reason the BLM cannot accept a personal or company check for a bond is that the funds need to be immediately available. It might take too long to discover that a check has bounced, and at that point, the bond has already been accepted but would have no financial instrument to support it.

**Slide 41**: Another acceptable financial instrument is a Letter of Credit. An irrevocable letter of credit secures a bond with an unconditional promise by a bank to pay up to a stated amount of money to the BLM under certain conditions. The original is considered a negotiable instrument and must be immediately secured in a safe. So, what is required to be in a Letter of Credit?

* The Letter of Credit must be an original
* Must be payable to the BLM
* The original expiration date must be not less than 1 year from the date of issuance, and must contain automatic renewal provisions.
* It must not have a “drop dead” clause with a final date of renewal. A drop dead date is a future date where the LC expires. You really want to avoid accepting a LC with a drop dead date. It would require additional tracking and oversight on your part and can be easily forgotten. Once that drop dead date passes, you would not have an avenue with which to collect the LC.
* It must contain a 90 day notice of non-renewal This is very important as it will allow the BLM enough time to request a replacement from the operator if needed. When we receive a notice not to renew we must allow the operator time to replace. We usually give them up to 60 days for this. If we do not receive the replacement, we would give the financial institution 30 days to pay the LC.
* The LC must be issued from a financial institution authorized to do business in the U.S. If the bank is an international bank, the letter of credit must be issued by a branch in the U.S.

**Slide 42:** Let’s take a look at a sample Letter of Credit. We are going to look at the document titled Sample LC. This came from the 3809 handbook and is a great example of a LC that has all of the requirements. This will come in handy if you ever get a request for a sample. We have sent this to operators and sometimes directly to financial institutions that are looking to comply with our regulations. We will usually receive a LC on the financial institution’s letterhead. So our first requirement is that it be payable to the BLM. You can see in the first paragraph that the LC is established in favor of the BLM. The original expiration date must be not less than 1 year from the date of issuance and must contain automatic renewal provisions. Let’s take a look at the sample. The third paragraph shows the language for the expiration date, automatic renewal and the 90 day provision. In my experience this is the most common issue we will see with a LC; the expiration date or the LC has language with a drop dead date. You can see by the sample that the language doesn’t have to be very complicated. The last requirement we have is that the financial institution must be authorized to do business in the US. In a few cases we have seen LCs that are issued by a Canadian bank and payable through a US branch, which is acceptable. Really take note as to where the LC shows to send a notice for payment.

**Slide 43**: A time deposit, or CD is a financial instrument issued by a bank specifying that a certain amount of money has been deposited with the bank in an interest bearing account for a specified period of time. Originally a CD was a negotiable instrument issued by a bank, but often it is now a computerized receipt. Regardless of the form it comes in, the time deposit should be immediately secured in a safe, just like the letters of credit.

**Slide 44:** A time deposit must be issued from an FDIC bank, give the BLM sole rights to redeem, contain an agreement not to off-set (which means the bank can’t use the money in the account to pay off another debt or loan that the operator has), must allow the BLM to redeem early/at any time if necessary without fees being taken from the principal amount, must have automatic renewal provisions, and cannot exceed $250,000, which is the current standard deposit insurance coverage limit by the FDIC.

**Slide 45**: Negotiable US Treasury Securities are managed by the NOC. Securities are purchased by the obligor through their financial institution, and delivered to the Federal Reserve.

* The operator/principal will work with the NOC’s Negotiable Securities Manager to get the treasury security in place.
* The operator/principal must still submit a personal bond form to the appropriate BLM office. The current value of the security must be at least the bond amount required by the Authorized Officer (AO).
* The bond adjudicator will determine the sufficiency of the bond instrument, and authorize the release of collateral after the period of liability is terminated we’ll learn more on this in lesson 4.
* The NOC will oversee the acceptance, transfer and return of Treasury Securities.

**Slide 46: Exercise #4: Adjudicate a Personal Bond.** Using your personal bond and financial instrument from exercise #3, please adjudicate the personal bond to determine if it is acceptable in accordance with your program area. Each program has been given a different financial instrument. If you would like extra practice adjudicating the different types of financial instruments you can adjudicate all of them. Please bring the results of your review to the live, class webinar.

**Slide 47**: In conclusion, let’s look back at what we covered in Lesson 1.

**Slide 48:**If you will remember, our objectives for this lesson were, 1) given a bond form and serial register page, create a bond abstract in LR2000 in accordance with the LR2000 Bond and Surety Transaction Processing User Guide, and 2) given a bond form, serial register page, circular 570 (if applicable), and financial instrument (if applicable), adjudicate the bond form to determine if it is acceptable or not in accordance with the bond processing handbook. You met these objectives by completing all of the assigned exercises.

**Slide 49:** In order to meet those objectives, we covered three topics, general bond information, adjudicating a surety bond, and adjudicating a personal bond. We had several demonstrations and exercises that allowed you to learn how to adjudicate Surety and Personal bonds. Next, we will move on to Lesson 2, where we will learn how to write a Decision.