

Lesson 4: Terminating Bond Period of Liability (POL) Script

Slide 1: At this stage, we have learned how to receive and adjudicate a bond, write a Decision, and maintain a bond. We will now learn how to terminate the period of liability of a bond in Lesson 4. This will take us full circle through the life cycle of a bond.

Slide 2: Looking at our objectives we will see - by the end of this lesson, each bond adjudicator should be able to: 1) Given a request to terminate a period of liability, from a surety, principal/operator or 3rd party, review the request and determine if it meets the requirements outlined in the Bond Processing Handbook. 2) Given a bond file and request to terminate a period of liability, write a Decision letter to terminate the period of liability in accordance with the Bond Processing Handbook, and 3) Given the various actions involving a Term POL Request, update the Bond and Surety System in LR2000 in accordance with the data standards. 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 4. In Topic 1, we will cover general bond termination knowledge. In Topic 2, we will learn to adjudicate a terminate period of liability request, and in Topic 3, we will adjudicate the termination of the period of liability of a bond. Now that you know what topics we'll be covering, let's go over General Bond Termination Knowledge.

Slide 4: (Topic 1, General Bond Termination Knowledge). Let's talk about the who, what, when, where and why.

Slide 5: Let's start with the purpose and importance of the period of liability. From the time a satisfactory bond is filed until the time a bond comes to an end, is the period of liability. When the BLM terminates the period of liability under a bond, the action sets a date *after which* no new liabilities may accrue under the bond. The termination of the period of liability does not release liabilities incurred prior to the termination date.

Slide 6: When can a period of liability be terminated? When all obligations under the bond are met (such as when the authorized officer determines that the bond is no longer required) or a replacement bond is provided.

Why do you terminate the period of liability? When there is no outstanding liability or satisfactory replacement bond coverage has been furnished, the BLM has no authority to continue to require the bond.

Slide 7: What does this mean exactly? Most programs have regulations that state we do not allow any complete cancellation or an "unconditional release" of the bond unless it is replaced and all previous obligations are adequately covered by the replacement bond. The bond was accepted to provide coverage for operations and interests held by the principal during the period from the date of bond acceptance until BLM determined, to the best of its knowledge, that the

bond was no longer required. The termination of liability would not preclude our assessing liability against the principal and surety if, for example, two years after termination of the period of liability, BLM discovers that reclamation and restoration was improperly performed or has caused serious environmental damage.

Who can request or determine it? A surety, operator/principal, or third party can request termination, and the Field Office or State Office, as appropriate, can also. A surety or bond principal may request termination of the POL if they believe all required work is completed or a replacement bond is submitted. We see this quite often in oil and gas. The operator will request the State Office to close the bond once the FAN or final abandonment notice is submitted. An example of the third party requesting termination would be if a financial institution no longer wanted to provide the guarantee through their Letter of Credit or Time Deposit.

Slide 8: Now that we've gone over general bond termination knowledge, we will move on to Topic 2, adjudicating the termination of period of liability request.

Slide 9: As stated above, you may receive a notice of cancellation from surety or letter requesting BLM terminate period of liability under the bond from surety, operator/principal, or third party. You may also received a Decision from the Field Office or the authorized officer stating the bond is no longer required. Please keep in mind that while I will show you some specific examples, there may be some differences based on your State or program. I will discuss some of these differences but please make sure to clarify any questions within your state or you may contact me and we can discuss any details you feel I have left out.

What are the processing steps? You will receive the request and date stamp, perform data entry in BASS, determine what operations would be affected by Term POL and determine if the request is timely.

Slide 10: I will now demonstrate a POL request from a surety.

This demonstration is in your materials titled Lexon Notice of Cancellation Demonstration. Let's go through the steps we went over above. First, is it date stamped? Yes, we can see that the notice of cancellation was received on September 14, 2019. Next, we would perform the data entry.

We are going to enter action code 472, which is termination requested. Since the surety wants to cancel the bond we will put TOTAL in the remarks to note that the request is for a total release.

Next we need to determine what operations would be affected. Because this request is from the surety for the entire bond amount, all operations covered under the bond would be affected. The bond we have been working with in our exercises is a statewide bond. Therefore, we could have multiple operations affected by this bond cancellation. They should all be listed in the serial number section of your bond abstract. Lastly, we would need to determine if they request is

timely. Is it? The Notice states the bond will be cancelled 30 days from the date of receipt. The 3809 surety bond form specifically states the surety must give 90 days notice, not 30. For other programs this is not specifically stated, but it has become our policy to require 90 days. This gives the BLM and the bond principal adequate time to determine if the bond is still required and provide a replacement if necessary. In this instance we would respond to the surety company that the 30 day time frame is insufficient and they must give us 90 days.

Slide 11: Exercise #20 is reviewing a POL Term request from a bond principal. Take a few minutes to review this request from the bond principal. At this point you are only determining if we can accept the request for termination and move on to adjudicating it.

Slide 12: Exercise #21 – Please update BASS for Term POL request. Action code 472 (bond termination requested)

Slide 13: Now that we have discussed a request to terminate a period of liability, let's move on to Topic 3, adjudicating a term POL when it is determined that the bond is no longer required.

Slide 14: As stated earlier, requests to term POL of a bond comes in many forms and for many reasons. Sometimes we don't get a request but simply notification that a bond is no longer required. Let's take a look at the reasons we would terminate a period of liability on a bond.

1) a replacement bond was submitted. The principal or operator can submit a replacement bond at any time. They may replace a personal bond with a surety bond, or vice versa, replace a surety bond with a different surety bond, or they may change the type of financial instrument supporting the personal bond. As discussed in lesson 3, as long as the operator submits an acceptable, compatible replacement bond, you may terminate the period of liability for the prior bond because it has been replaced and is no longer required.

- Note that there is no unconditional release of bond liability after the BLM has terminated the period of liability. However, a surety (not a principal) may get an unconditional release of liability if a replacement bond covers those obligations satisfactorily.

2) If BLM offices need more time to review this request to terminate, because reports are required from multiple offices, such as for a statewide or nationwide bond, send a **notice** to the requestor notifying that each BLM authorized officer must confirm there is no objection to termination of the period of liability for this bond.

3) the bond funds are required and must be collected: If notification is received that funds from the bond are required, proceed to make a demand against the bond to collect the monies as needed. Or, if final reclamation on the disturbance covered by the bond has not yet been approved, deny the request for termination and refer to the office of jurisdiction. Prepare a Decision specifying the reason the period of liability cannot be terminated.

4) And lastly, the affected BLM offices may report that the disturbance no longer exists. This may come in response to the request for cancellation or on it's own. If you receive a request for termination from a surety or the bond principal you will need to contact the Field Offices with affected operations to determine if the bond is still required. In your class materials is a termination checklist that was created in Nevada for Oil and Gas bonds. This checklist allows the bond adjudicator to track responses when sending requests for termination. In most cases with 3809 and mineral material bonds, the Field Office or the authorized officer will make this determination before the request is made.

Slide 15: Note that original bond forms cannot be returned. If the surety or principal requests the bond be returned, respond that once a document is received by the BLM, it is a matter of BLM record and a permanent part of the case file. Conversely, the financial pledge, such as cash, letter of credit, or time deposit is returned. The financial instrument pledged as security for the bond is returned to the remitter, thus terminating the Secretary's power of attorney for control of the depositor's money.

Slide 16: We have seen what a surety's request for cancellation looks like and have practiced on a request from the principal. Let's take a look at a Decision where the Field Office or the Authorized Officer decided the bond was no longer required because reclamation was complete. In this instance we would not need the principal to request the bond to be closed. The BLM determined it was not needed anymore. If this bond were an individual bond we would automatically close the bond and return the financial instrument (if there was one). If this operation was secured by a statewide bond we would remove the obligation under the bond for this project and possibly close if there wasn't any other operations bonded.

Slide 17: Now let's take a look at the 3809 handbook's template for writing a Decision on terminating a period of liability on a bond. This is the template from the 3809 handbook and shows all required language. As with all Decisions it will go on your office's letterhead. You will address the letter to all interested parties. So obviously the bond principal but also the surety if it's a surety bond and the financial institution if the bond is secured by a letter of credit or a time deposit. This template is a great guide because it contains language for all types of bonds and financial instruments.

Slide 18: Let's now do Exercise #22. Using the field office release demonstration decision, write a Decision letter terminating the period of liability for your personal bond. Please keep in mind this is a general exercise and your program may not have a field office decision with this language. However, we will be using this Decision as our authority to cancel the bond for this exercise. For extra practice, you may write a Decision terminating the period of liability on your surety bond, if you choose to. Please bring your decision letter to the live, classroom webinar.

Slide 19: Now that you have practiced writing a Decision letter for a Term POL Request, I will demonstrate how to update BASS, entering 4 occurrences for this Decision. You will enter

action code 970 (closed) with the date of your Decision. You will enter action code 473 (bond period terminated) with the date the period of liability of the bond was terminated. If you have authorized a refund of a cash bond, you will enter action code 092 with the amount of refund in the remarks. And lastly, if the Field Office determined that the bond is no longer required, as it did in our scenario, you will enter action code 467 with the date that the field office made that determination.

Slide 20: Please update BASS for the term POL request you have just adjudicated and wrote a Decision for. Be ready to discuss this action during the live class webinar.

Slide 21: In conclusion, let's look back at what we covered in Lesson 4.

Slide 22: Our objectives for this lesson were, 1) Given a request to terminate a period of liability, from a surety, principal/operator or 3rd party, review the request and determine if it meets the requirements outlined in the Bond Processing Handbook. 2) Given a bond file and request to terminate a period of liability, write a Decision letter to terminate the period of liability in accordance with the Bond Processing Handbook, and 3) Given the various actions involving a Term POL Request, update the Bond and Surety System in LR2000 in accordance with the data standards.

Slide 23: In Lesson 4, we covered three topics, general bond termination knowledge, adjudicating a request to terminate a period of liability, and adjudicating the termination of a period of liability. Remember, when BLM terminates the period of liability under a bond, the action sets a date after which no new liabilities may accrue under the bond. It is the final step in bond adjudication! This is the final video lesson; please remember to complete all exercises (with your results or notes annotated) before coming to the live, class webinar.