

§ 162.529

(e) Environmental and archeological reports, surveys, and site assessments as needed to facilitate compliance with applicable Federal and tribal environmental and land use requirements, including any documentation prepared under § 162.027(b);

(f) An equipment installation plan;

(g) A restoration and reclamation plan (and any subsequent modifications to the plan);

(h) Where the lessee is not an entity owned and operated by the tribe, documents that demonstrate the technical capability of the lessee or lessee's agent to construct, operate, maintain, and terminate the proposed project and the lessee's ability to successfully design, construct, or obtain the funding for a project similar to the proposed project, if appropriate;

(i) A legal description of the land under § 162.518;

(j) If the lease is being approved under 25 U.S.C. 415, information to assist us in our evaluation of the factors in 25 U.S.C. 415(a); and

(k) If the lessee is a corporation, limited liability company, partnership, joint venture, or other legal entity, except a tribal entity, information such as organizational documents, certificates, filing records, and resolutions, that demonstrates that:

(1) The representative has authority to execute a lease;

(2) The lease will be enforceable against the lessee; and

(3) The legal entity is in good standing and authorized to conduct business in the jurisdiction where the land is located.

§ 162.529 Will BIA review a proposed WEEL before or during preparation of the NEPA review documentation?

Upon request of the Indian landowners, we will review the proposed WEEL after negotiation by the parties, before or during preparation of the NEPA review documentation. Within 10 days of receiving the proposed WEEL, we will provide an acknowledgement of the terms of the lease and identify any provisions that, based on this acknowledgment review, would justify disapproval of the lease, pending results of the NEPA review.

25 CFR Ch. I (4-1-14 Edition)

§ 162.530 What is the approval process for a WEEL?

(a) Before we approve a WEEL, we must determine that the WEEL is in the best interest of the Indian landowners. In making that determination, we will:

(1) Review the WEEL and supporting documents;

(2) Identify potential environmental impacts and ensure compliance with all applicable environmental laws, land use laws, and ordinances;

(3) If the lease is being approved under 25 U.S.C. 415, assure ourselves that adequate consideration has been given to the factors in 25 U.S.C. 415(a); and

(4) Require any lease modifications or mitigation measures necessary to satisfy any requirements including any other Federal or tribal land use requirements.

(b) Upon receiving the WEEL package, we will promptly notify the parties whether the package is or is not complete. A complete package includes all the information and supporting documents required for a WEEL, including but not limited to, NEPA review documentation, where applicable.

(1) If the WEEL package is not complete, our letter will identify the missing information or documents required for a complete package. If we do not respond to the submission of a WEEL package, the parties may take action under § 162.588.

(2) If the WEEL package is complete, we will notify the parties of the date we receive the complete package, and, within 20 days of the date of receipt of the package at the appropriate BIA office, approve or disapprove the WEEL or return the package for revision.

(c) If we do not meet the deadline in this section, then the parties may take appropriate action under § 162.588.

(d) We will provide any WEEL approval determination and the basis for the determination, along with notification of appeal rights under part 2 of this chapter, in writing to the parties to the WEEL.

(e) We will provide any WEEL disapproval determination and the basis

for the determination, along with notification of rights to an informal conference, in writing to the parties. Within 30 days of receipt of the disapproval determination, the parties may request an informal conference with the official who issued the determination. Within 30 days of receiving this request, the official must hold the informal conference with the parties. Within 10 days of the informal conference, the official must issue a decision and the basis for the decision, along with a notification of appeal rights under part 2 of this chapter, in writing to the parties to the WEEL.

(f) We will provide the approved WEEL on tribal land to the lessee and provide a copy to the tribe. We will provide the approved WEEL on individually owned Indian land to the lessee, and make copies available to the Indian landowners upon written request.

§ 162.531 How will BIA decide whether to approve a WEEL?

(a) We will approve a WEEL unless:

(1) The required consents have not been obtained from the parties to the WEEL;

(2) The requirements applicable to WEELs have not been met; or

(3) We find a compelling reason to withhold our approval in order to protect the best interests of the Indian landowners.

(b) We will defer, to the maximum extent possible, to the Indian landowners' determination that the WEEL is in their best interest.

(c) We may not unreasonably withhold approval of a WEEL.

§ 162.532 When will a WEEL be effective?

(a) A WEEL will be effective on the date on which we approve the WEEL, even if an appeal is filed under part 2 of this chapter.

(b) The WEEL may specify a date on which the obligations between the parties to a WEEL are triggered. Such date may be before or after the approval date under paragraph (a) of this section.

(c) WEEL lease documents not requiring our approval are effective upon execution by the parties, or on the effective date specified in the lease docu-

ment. If the WEEL lease document does not specify an effective date, it becomes effective upon execution by the parties.

§ 162.533 Must a WEEL lease document be recorded?

(a) Any WEEL lease document must be recorded in our LTR0 with jurisdiction over the leased land.

(1) We will record the lease document immediately following our approval.

(2) If our approval of an assignment or sublease is not required, the parties must record the assignment or sublease in the LTR0 with jurisdiction over the leased land.

(b) The tribe must record lease documents for the following types of leases in the LTR0 with jurisdiction over the tribal lands, even though BIA approval is not required:

(1) Leases of tribal land that a corporate entity leases to a third party under 25 U.S.C. 477; and

(2) Leases of tribal land under a special act of Congress authorizing leases without our approval.

WEEL ADMINISTRATION

§ 162.534 May the parties amend, assign, sublease, or mortgage a WEEL?

The parties may amend, assign, sublease, or mortgage a WEEL by following the procedures and requirements for amending, assigning, subleasing, or mortgaging a WSR lease.

WEEL COMPLIANCE AND ENFORCEMENT

§ 162.535 What effectiveness, compliance, and enforcement provisions apply to WEELs?

(a) The provisions at § 162.586 apply to WEEL lease documents.

(b) The provisions at §§ 162.587 through 162.589 and 162.591 through 162.599 apply to WEELs, except that any references to § 162.590 will apply instead to § 162.536.

§ 162.536 Under what circumstances may a WEEL be terminated?

A WEEL must state whether, and under what conditions, the Indian landowners may terminate the WEEL.