Bureau of Indian Affairs, Interior

§ 162.571 What are the consent requirements for an amendment to a WSR lease?

(a) Unless the lease provides otherwise, the lessee must notify all Indian landowners of the proposed amendment.

(b) The Indian landowners, or their representatives under §162.013, must consent to an amendment of a WSR lease in the same percentages and manner as a new WSR lease under §162.012, unless the lease:

(1) Provides that individual Indian landowners are deemed to have consented if they do not object in writing to the amendment within a specified period of time following the landowners' receipt of the amendment and the lease meets the requirements of paragraph (c) of this section;

(2) Authorizes one or more representatives to consent to an amendment on behalf of all Indian landowners; or

(3) Designates us as the Indian landowners' representative for the purposes of consenting to an amendment.

§ 162.570 May the parties amend a WSR lease?

The parties may amend a WSR lease by obtaining:

(a) The lessee’s signature;

(b) The Indian landowners’ consent under the requirements in §162.571; and

(c) BIA approval of the amendment under §§162.572 and 162.573.

§ 162.569 Will BIA require an appeal bond for an appeal of a decision on a WSR lease document?

(a) If a party appeals our decision on a WSR lease, assignment, amendment, or sublease, the appeal is made may require the appellant to post an appeal bond in accordance with part 2 of this chapter. We will not require an appeal bond:

(1) For an appeal of a decision on a leasehold mortgage; or

(2) If the tribe is a party to the appeal and requests a waiver of the appeal bond.

(b) The appellant may not appeal the appeal bond decision. The appellant may, however, request that the official to whom the appeal is made reconsider the bond decision, based on extraordinary circumstances. Any reconsideration decision is final for the Department.

WSR LEASE AMENDMENTS

§ 162.570 May the parties amend a WSR lease?

The parties may amend a WSR lease by obtaining:

(a) The lessee’s signature;

(b) The Indian landowners’ consent under the requirements in §162.571; and

(c) BIA approval of the amendment under §§162.572 and 162.573.

§ 162.569 Will BIA require an appeal bond for an appeal of a decision on a WSR lease document?

(a) If a party appeals our decision on a WSR lease, assignment, amendment, or sublease, then the official to whom the appeal is made may require the appellant to post an appeal bond in accordance with part 2 of this chapter. We will not require an appeal bond:

(1) For an appeal of a decision on a leasehold mortgage; or

(2) If the tribe is a party to the appeal and requests a waiver of the appeal bond.

(b) The appellant may not appeal the appeal bond decision. The appellant may, however, request that the official to whom the appeal is made reconsider the bond decision, based on extraordinary circumstances. Any reconsideration decision is final for the Department.
§ 162.572 What is the approval process for an amendment to a WSR lease?

(a) When we receive an amendment that meets the requirements of this subpart, we will notify the parties of the date we receive it. We have 30 days from receipt of the executed amendment, proof of required consents, and required documentation to approve or disapprove the amendment or inform the parties in writing that we need additional review time. Our determination whether to approve the amendment will be in writing and will state the basis for our approval or disapproval.

(b) Our letter informing the parties that we need additional review must identify our initial concerns and invite the parties to respond within 15 days of the date of the letter. We have 30 days from sending the letter informing the parties that we need additional time to approve or disapprove the amendment.

(c) If we do not meet the deadline in paragraph (a) of this section, or paragraph (b) of this section if applicable, the amendment is deemed approved to the extent consistent with Federal law.

Inconsistent with Federal law will be severed and unenforceable; all other provisions of the amendment will remain in force.

§ 162.573 How will BIA decide whether to approve an amendment to a WSR lease?

(a) We may disapprove a WSR lease amendment only if at least one of the following is true:

1. The lessee is in violation of the lease;
2. The lessee's mortgagees or sureties have not consented;
3. The lessee is in violation of the lease;
4. The requirements of this subpart have not been met; or
5. 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 amendment is in their best interest.

(c) We may not unreasonably withhold approval of an amendment.

WSR LEASE ASSIGNMENTS

§ 162.574 May a lessee assign a WSR lease?

(a) A lessee may assign a WSR lease by meeting the consent requirements in §162.575 and obtaining our approval of the assignment under §§162.576 and 162.577 or by meeting the conditions in paragraphs (b) or (c) of this section.

(b) Where provided in the lease, the lessee may assign the lease to the following without meeting consent requirements or obtaining BIA approval of the assignment, as long as the lessee notifies BIA of the assignment within 30 days after it is executed:

1. Not more than three distinct legal entities specified in the lease; or
2. The lessee's wholly owned subsidiaries.

(c) The lessee may assign the lease without our approval or meeting consent requirements if:

1. The assignee is a leasehold mortgagee or its designee, acquiring the lease either through foreclosure or by conveyance;