



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS

Interior Board of Land Appeals
801 N. Quincy Street, Suite 300
Arlington, Virginia 22203

703-235-3750

703-235-8349 (fax)



June 22, 2015

IBLA 2015-122

)

UTB000019

)

MAR/REG OIL COMPANY

)

Statewide Oil and Gas Bond

)

)

Motion to Strike Denied

ORDER

On March 13, 2015, appellant filed a notice of appeal from the Utah State Office, Bureau of Land Management (BLM), wherein the agency determined that appellant must furnish an increased statewide oil and gas bond to cover potential liability related to the temporary abandonment of the Tin Cup Mesa No. 1-25 well on Federal Lease UTU 31928 in San Juan County, Utah (Bond No. UTB000019). Appellant filed a statement of reasons in support of its appeal on March 16, 2015. BLM requested, and the Board granted, an extension of time until May 15, 2015, to file an answer to appellant's statement of reasons. The agency mailed its answer on Friday, May 15, 2015, and the Board timely received it on Monday, May 18, 2015. See 43 C.F.R. § 4.401(a).

On June 8, 2015, appellant filed a one-page motion to strike BLM's answer as untimely filed. Appellant states that it "received BLM's answer by certified mail on June 2, 2015. The certificate of service states that BLM ANSWER TO STATEMENT OF REASONS was sent by certified mail on May 15, 2015." Appellant points out that, based on the postage meter stamp affixed to the envelope containing the answer, BLM did not mail the pleading to appellant until May 27, 2015. Appellant therefore concludes that the "BLM office has tried to mislead the IBLA and appellant by filing a certificate of service that is not supported by the facts. BLM got caught in their actions, thus this reprehensible action of the BLM must be punished so it does not happen again."

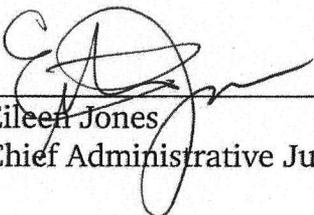
In response, BLM explains that it sent the original copy of the answer to the Board and a copy to appellant by certified mail. See 43 C.F.R. § 4.401(c) ("A party that files any document under this subpart must serve a copy of it concurrently . . . on each party to the appeal."). According to BLM, the certified mail to appellant was returned to sender as undeliverable on May 27, 2015, because a part of the address

label had been inadvertently torn from the envelope. BLM resent a copy of the answer to appellant that same day.

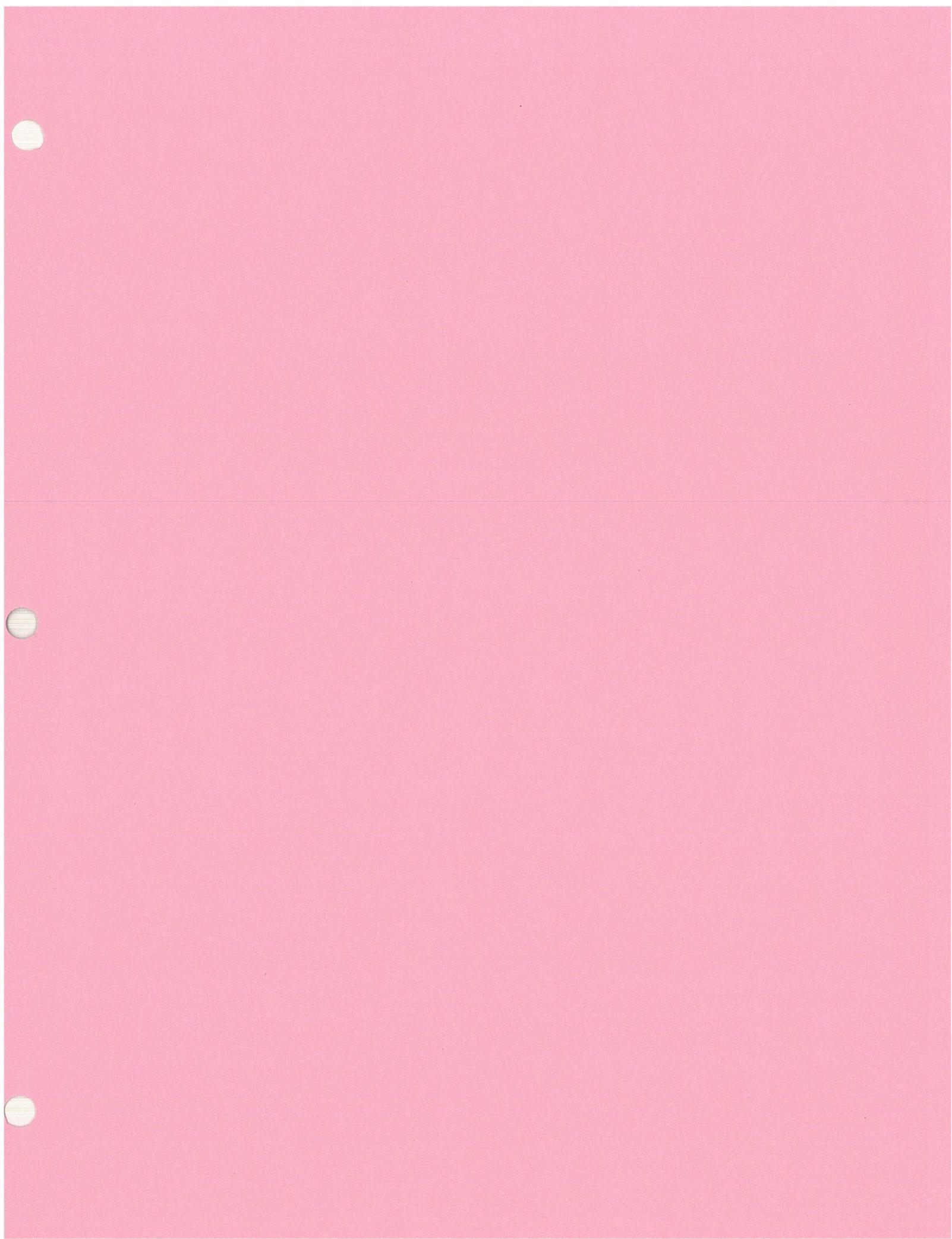
BLM's explanation of what happened is a reasonable and credible one. The answer received by appellant was a copy of the timely-filed pleading sent to the Board and therefore the certificate of service documented the date that BLM initially sent the pleading. The copy of the answer, while mailed concurrently with the original, was returned to sender, at which time BLM resent to appellant the pleading. Thus, appellant received a copy of the answer that still displayed the original certificate of service date.

Appellant points to no prejudice it suffered as a result of these circumstances. Indeed, the Board received appellant's reply to BLM's answer on June 12, 2015.

Appellant's motion to strike BLM's answer is denied.



Eileen Jones
Chief Administrative Judge





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January 12, 2016

IBLA 2015-265)	BLM/CO/PL-15/016
)	
COLORADO OFF-HIGHWAY)	Travel Management Plan
VEHICLE COALITION, <i>ET AL.</i>)	
)	Motion to Strike Granted;
)	Extension of Time to File Second
)	Replacement Statement of Reasons
)	Granted

ORDER

By Order dated November 16, 2015, the Board rejected appellants' statement of reasons (SOR) filed in the above-captioned appeal because appellants' SOR did not conform to the Board's document formatting requirements. Unless the Board orders otherwise, the text of an SOR must be double spaced and cannot exceed 30 pages. 43 C.F.R. §§ 4.401(d) and 4.412(a). The Board permitted appellants to submit a replacement SOR that conformed to the Board's document standards.

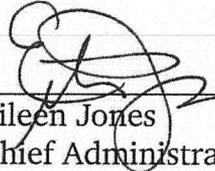
The Board received appellants' replacement SOR (RSOR) on December 8, 2015. The text of the RSOR is 40-pages long. To date, counsel for appellants has not filed with the Board a motion for leave to file an SOR that exceeds the page limit. 43 C.F.R. § 4.4412(a) (requiring a party seeking to file an SOR that exceeds the 30-page limit to first provide reasons why the arguments cannot be made within the limits specified by the regulation).

On January 11, 2016, counsel for the Bureau of Land Management (BLM) filed a Motion to Strike Replacement Statement of Reasons (Motion). Therein, counsel objects to appellants' RSOR on the grounds that it violates the regulatory page limit requirement and the Board order directing appellant to file an SOR that conforms with 43 C.F.R. § 4.412. Counsel requests the Board to either strike the RSOR in its entirety or strike the last 10 pages of the pleading.

The Board's rules of practice limits an SOR to 30 pages. 43 C.F.R. § 4.412(a). The Board imposes pages limits to promote concise arguments and administrative economy. Counsel for appellant has neglected this rule for a second time. When a party ignores the rules of practice, the Board may protect the integrity of its

proceedings by rejecting the pleading and by requiring the party to submit a pleading that conforms to the rules. *See Southern Utah Wilderness Alliance*, 185 IBLA 150, 155 (2014). We again grant BLM's Motion and reject appellant's RSOR. 43 C.F.R. § 4.407(c).

Appellants are granted until January 21, 2016, to submit a second replacement SOR that conforms with the standards set forth in 43 C.F.R. §§ 4.401(d) and 4.412(a). BLM shall have until February 22, 2016, to file its answer to appellants' second replacement SOR. *See* 43 C.F.R. § 4.414.



Eileen Jones
Chief Administrative Judge

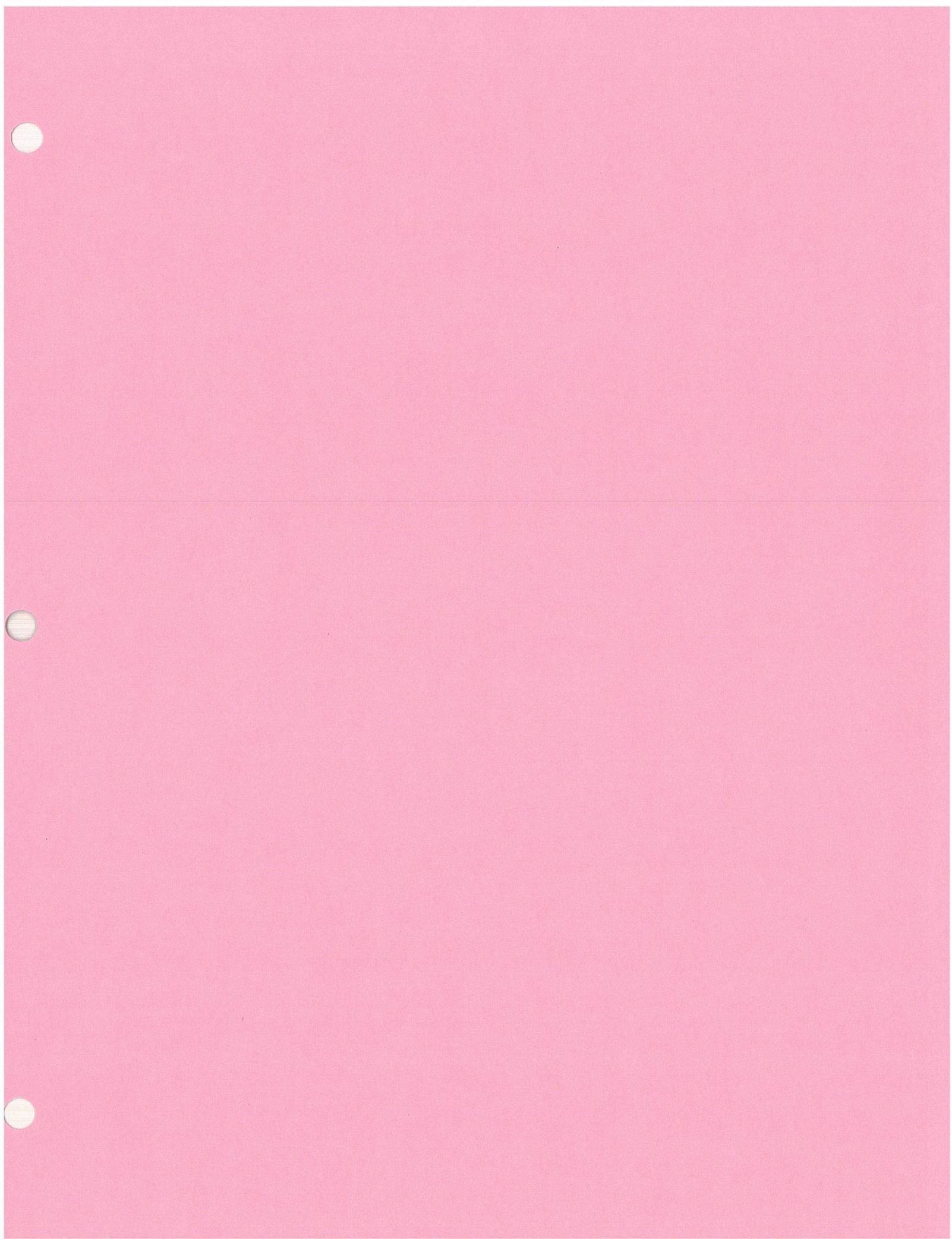
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EMAILED

MAILED

United States Department of the Interior
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November 24, 2015

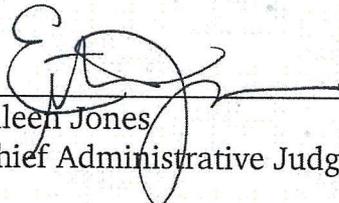
IBLA 2014-265)	MMS-10-0021-O&G
)	
CONOCOPHILLIPS COMPANY)	Oil and Gas Royalties
)	
)	Motion to Strike Denied

ORDER

Counsel for the Office of Natural Resources Revenue (ONRR) has filed a "Motion to Strike Conoc[o]Phillips' Response to ONRR's Answer" (Motion). Counsel states that appellant's reply brief is untimely and therefore counsel requests the Board to strike appellant's reply brief from the record.

Appellant did not timely file its reply brief. An appellant has 15 days after receiving an answer to file a reply brief unless it requests, and receives, an extension of time to file the pleading. 43 C.F.R. §§ 4.405, 4.412(d). In this case, appellant did not file a motion to extend the deadline for filing a reply brief. Therefore, appellant had until September 18, 2015, to file its reply brief. See 43 C.F.R. §§ 4.22(e), 4.412(d). Appellant filed its reply brief on November 16, 2015, approximately 75 days after receiving ONRR's answer. Appellant's reply brief does not provide an explanation for why the pleading was filed out of time.

While appellant did not adhere to the filing deadline set forth in 43 C.F.R. § 4.412(d), ONRR does not allege that it has suffered any prejudice as a result of appellant's late filing. Moreover, we find the interest of having the issues of this appeal fully briefed outweighs appellant's procedural errors. Accordingly, ONRR's Motion is denied. 43 C.F.R. § 4.407(c).


Eileen Jones
Chief Administrative Judge