

# Interior Board of Land Appeals



**James Roberts**

**Administrative  
Judge**

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**Acting Docket  
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Board**



**BUILDING A  
DEFENDABLE  
ADMINISTRATIVE  
RECORD**



# When is an AR born?

**The agency should not wait to begin this task until after a notice of appeal has been filed.**

**It should start to assemble a file at the initiation of any process that might culminate in a decision subject to the Board's review.**

**The first document placed in the record should be the one that initiates the process.**

A background image showing a surveying instrument, possibly a total station or theodolite, mounted on a tripod in an outdoor setting. The instrument is positioned in the center, with its legs extending outwards. The background is a blurred landscape with green foliage and a clear sky. The text is overlaid on the top half of the image.

- **Mr. Smith recently filed a timely notice of appeal of a BLM Decision**

- What now?

- BLM must “promptly” forward to the Board “[t]he complete administrative record compiled during [BLM’s] consideration of the matter leading to the decision being appealed.” 43 C.F.R. s 4.411(d).

# What does “promptly” mean?

- as soon as the record is complete for review.

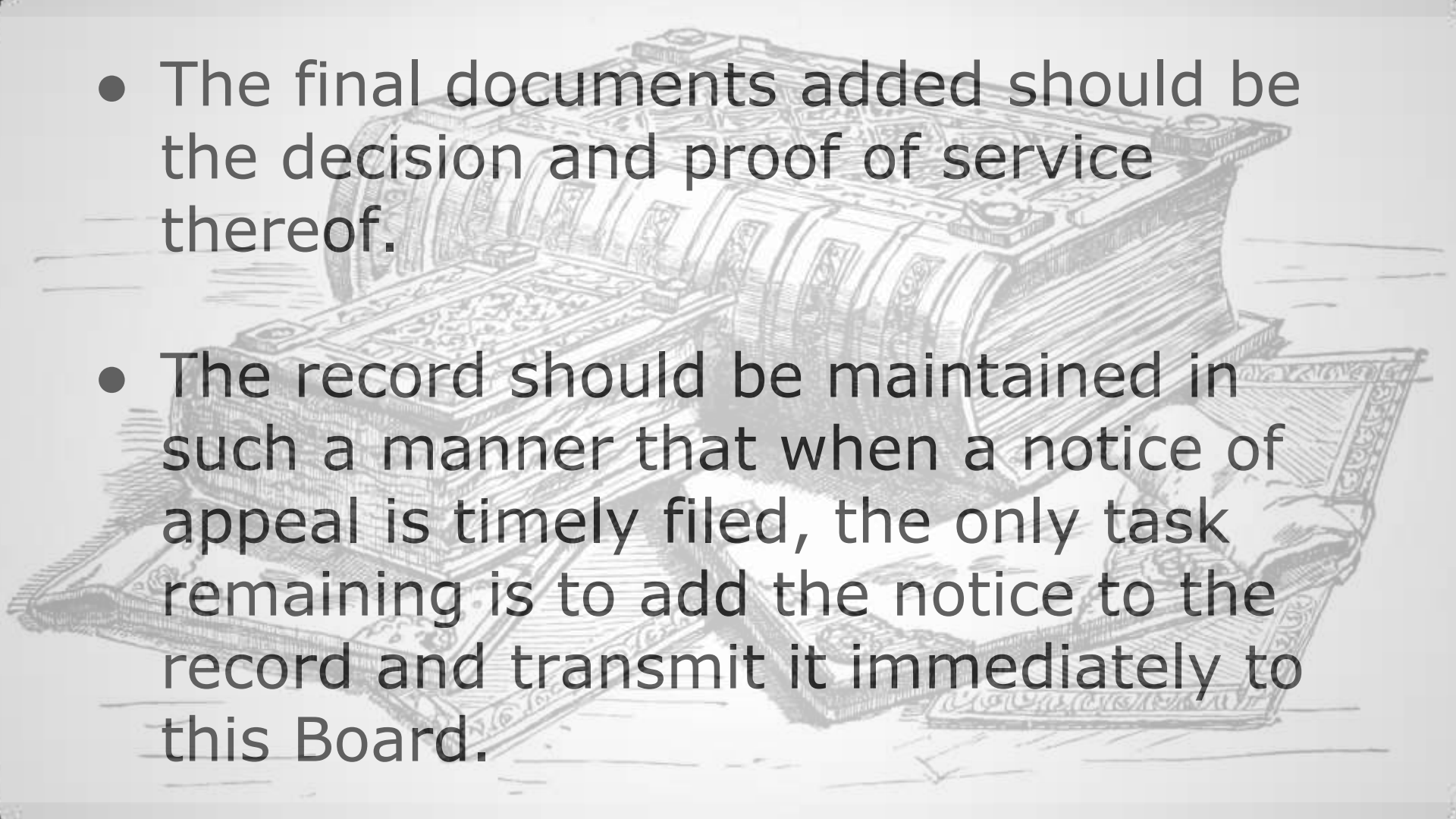
## When is it complete?

- as soon as it contains each record BLM considered in making its decision.

# More on Completeness



- A file containing any and all documents necessary to establish the basis for issuing the decision.
- Documents should be dated and included in the record chronologically as it is issued or received, along with memoranda of meetings and telephone conversations.

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- The final documents added should be the decision and proof of service thereof.
  - The record should be maintained in such a manner that when a notice of appeal is timely filed, the only task remaining is to add the notice to the record and transmit it immediately to this Board.

An index to the record would be amazing.



# Why is a complete record so important?

- The Board conducts an independent, objective review of the basis of the decision. We want to know by looking at the record what the agency did and why.
- The Board cannot affirm a decision when the record does not support it.
- judicial scrutiny. The Board has to sign off on the complete AR.

# Confidential information in the AR

- If the agency relied on it, then it goes in the file, regardless of whether the information is proprietary or otherwise excepted from disclosure.
- The agency may label the file as confidential.



# Supplementing the Record After an Appeal has been Filed

- If BLM feels compelled after an appeal is filed to present additional support for the decision not appearing in the record at the time the BLM decision was issued, then the agency may move to supplement the record.
- It is imperative that the agency serve a copy of any such submission upon all parties to the appeal.

Fin.