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INTRODUCTION

Welcome to the fourth annual report of the Interior Board of Land Appeals. The Board is committed to efficiently resolving disputes, fostering transparency, and providing an objective forum to hear process and substantive concerns relating to the use of public lands and their resources.

This report includes an overview of Board organization and function. It also contains statistics illustrating the Board’s caseload for fiscal year 2018 (FY18), which ran from October 1, 2017, to September 30, 2018.

This report includes hyperlinks to corresponding websites. The text either invites readers to click on an image or link, or the hyperlinked text is underlined, and a text balloon will appear with instructions to click on the link.

For more information about the Board, please see the links provided in the final section of this report.

Silvia Riechel Idziorek
Acting Chief Administrative Judge
Interior Board of Land Appeals
SUMMARY OF FY18 ACCOMPLISHMENTS

We concluded 196 appeals in FY18. Thirty seven percent of all docketed appeals included stay petitions, and we adjudicated over 80 stay petitions in FY18. We also ruled on 411 non-dispositive motions.

We continue to improve transparency and serve the public by listing the status of all pending appeals on our website. By the end of FY18, we had 424 filed cases, with 335 of those cases on our active docket (see page 10).

In FY18, we added to our website an online dashboard that houses Board statistics, which we update each month. We also made additions to the Frequently Asked Questions (FAQs) on the Board’s website.
THE ORGANIZATION AND FUNCTION OF THE BOARD

Within the Department of the Interior, the Office of the Secretary is organized into multiple offices, including the Office of the Assistant Secretary for Policy, Management and Budget. The Office of Hearings and Appeals (OHA) is within the Office of the Assistant Secretary for Policy, Management and Budget. In FY18, Director Shayla Freeman Simmons headed OHA. In addition to the Director’s Office, OHA has four units, one of which is the Interior Board of Land Appeals.

The Board is an appellate review body that exercises the delegated authority of the Secretary of the Interior to issue final decisions for the Department of the Interior. Its Administrative Judges decide appeals from bureau decisions relating to the use and disposition of public lands and resources, mineral resources on the Outer Continental Shelf, and surface coal mining operations under the Surface Mining Control and Reclamation Act. The Board is separate and independent from the Bureaus and Offices whose decisions it reviews.

By regulation, the Board is composed of Administrative Judges who serve as its members. Also by regulation, the Board is managed by a Chief Administrative Judge. During FY18, Eileen Jones held that position until February 2018. James F. Roberts served as Acting Chief Administrative Judge for the remainder of FY18. Including the Chief and Deputy Chief Administrative Judges, the Board had between four and six active Administrative Judges in FY18.

The chart below summarizes the FY18 organizational structure of the Board and its staff.
The Board has the authority to consider appeals from:

- **Bureau of Land Management (BLM)**: decisions including but not limited to mining, grazing, energy development, royalty management, timber harvesting, wildfire management, recreation, wild horse and burro management, cadastral surveys, Alaska land conveyances, rights of way, land exchanges, and trespass actions;
- **Bureau of Ocean Energy Management (BOEM)**: decisions primarily concerning bonding for offshore facilities;
- **Bureau of Safety and Environmental Enforcement (BSEE)**: decisions primarily concerning notices of incidents of noncompliance and civil penalties;
- **Departmental Cases Hearings Division (DCHD)**: decisions of Administrative Law Judges in the Office of Hearings and Appeals;
- **Office of Natural Resources Revenue (ONRR)**: decisions made by ONRR or the Deputy Assistant Secretary-Indian Affairs regarding royalties owed to the Federal government; and
- **Office of Surface Mining Reclamation and Enforcement (OSM)**: decisions regarding surface coal mining operations.

The Board is separate and independent from the Bureaus and Offices whose decisions we review.

For more information on each Bureau or Office, click on the corresponding image below:
THE APPEALS PROCESS

The appeals process is governed by the regulations set forth in 43 C.F.R. Part 4.

- **Notice of Appeal**
  - A notice of appeal is filed with Bureau or Office, which forwards it to the Board. Notices of Appeal may include Stay Petitions.

- **Board Dockets Appeal**
  - The appeal is assigned a docket number, and the Board sends a docketing notice to the the appellant, the Bureau or Office, and the appropriate Office of the Solicitor.

- **Board Receives Admin. Record**
  - The Bureau or Office files the complete administrative record with the Board.

- **Parties file briefs**
  - The parties file briefs, supporting documents, and motions pursuant to our procedural rules set out in 43 C.F.R. Part 4.

- **Final Disposition**
  - Once the case is ripe (i.e., the Bureau or Office filed the administrative record, the parties have filed all pleadings, and the matter is ready for review), the Board decides the appeal.

- Our caseload is very diverse; the subject matter and complexity is different for each appeal. In addition, when an appeal is ready for review and resolution depends on the unique circumstances of the appeal. For example, we conclude appeals quickly if the parties agree to dismiss the appeal or we determine that we do not have jurisdiction to decide the appeal. Other cases take months just to become ready for review, as the parties file documents, seek extensions, or engage in settlement negotiations.

- Once an appeal becomes ready for review, it is assigned to a panel of Administrative Judges to resolve. The two-judge panel, assisted by the Board’s staff attorneys, reviews the pleadings and the administrative record, conducts legal research, and prepares the final order or decision. After the Administrative Judges review the draft, the two-judge panel issues a final order or decision resolving the appeal.

- One factor affecting how quickly appeals are decided is the number of stay petitions the Board receives. An Appellant may file a stay petition when it files its appeal, requesting that the Board make the decision on appeal ineffective while the appeal is pending. By regulation, the Board is required to grant or deny a petition for a stay within 45 calendar days of the end of the period for filing a notice of appeal. Because a considerable number of appeals are accompanied by a petition for a stay, the Board must devote substantial time and resources to ruling on stay petitions.
THE BOARD’S FY18 CASELOAD

This section discusses and illustrates the appeals we received, the appeals we concluded, and the appeals that are still pending.

Appeals and Stay Petitions Received

During FY18, we received (docketed) 220 new appeals.

Here is how FY18 compares to the last 10 years of incoming appeals:

Eighty four of all docketed appeals (38%) included stay petitions:
In FY18, 183 (83%) of all received appeals were from BLM decisions. Of those appeals, 110 (60%) dealt with matters concerning oil and gas, phosphate, hardrock mining, and other minerals, while 73 (40%) concerned land issues, such as vegetation management, horse and burro gathers, timber sales, recreation, rights of way, and other land use authorizations. Appeals from BSEE decisions were the next highest percentage of appeals the Board received during FY18, at 17 (8%).

### Concluded Appeals, Stay Petitions, and Motions

We concluded 196 appeals in FY18. Approximately 68 (35%) of those appeals were decided on the merits. Of the appeals decided on the merits, we affirmed 53 bureau decisions; modified, vacated, reversed, or set aside 6 bureau decisions; denied 7 motions for reconsideration; and granted 2 motions for reconsideration.

It took an average of 10 months to decide these 68 appeals after they became ready for review.

### Cases Decided on the Merits

- Affirmed: 78%
- Modified, Vacated, Reversed, or Set Aside: 9%
- Motion for Reconsideration Denied: 10%
- Motion for Reconsideration Granted: 3%
One hundred twenty-eight concluded appeals (65%) were not decided on their merits. Instead, the Bureaus or Offices sought remand - sending the case back for further action - of 40 appeals (31% of all appeals not decided on the merits) and Appellants withdrew 36 appeals (28% of all appeals not decided on the merits). The Board found that 18 Appellants did not have standing to appeal (14% of all appeals not decided on the merits) and 16 appeals were premature (12% of all appeals not decided on the merits).

The Board works to decide as many appeals as it can with the resources that it has. But the Board cannot resolve every appeal that is filed each fiscal year. As a result, the Board consistently has an inventory of appeals from previous fiscal years. In FY18, the Board was able to reduce its existing inventory by 20 percent.

In addition to concluding 196 appeals, the Board also decided 83 stay petitions and 411 non-dispositive motions.
We concluded FY18 with 424 appeals in inventory. Of those appeals, 335 (79%) were part of the Board’s active docket, which includes both ripe and unripe appeals. The remaining 89 pending appeals were those that the Board suspended from consideration (usually at the parties’ request) and constitute our inactive docket. We suspend appeals, for example, to facilitate the parties’ settlement discussions or to await a Federal court ruling that will affect the outcome of the pending appeal.

**End of FY18 Pending Appeals by Year Filed**

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<thead>
<tr>
<th>Year</th>
<th>Active</th>
<th>Suspended</th>
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<tr>
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<tr>
<td>FY10</td>
<td>1</td>
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</tr>
</tbody>
</table>

**Pending Appeals - A 10-Year Comparison**

- **Pending Appeals**
  - FY09: 150
  - FY10: 100
  - FY11: 150
  - FY12: 200
  - FY13: 250
  - FY14: 300
  - FY15: 350
  - FY16: 400
  - FY17: 450
  - FY18: 500

- **Number of Admin Judges**
  - FY09: 0
  - FY10: 2
  - FY11: 4
  - FY12: 6
  - FY13: 8
  - FY14: 10
  - FY15: 12
  - FY16: 10
  - FY17: 8
  - FY18: 6
FOR MORE INFORMATION

Please visit our website to learn more about the Board. Our resources can be found by clicking the links below:

ABOUT IBLA
IBLA ANNUAL REPORTS
IBLA FAQS
IBLA DECISIONS
IBLA DISPOSITIVE ORDERS
IBLA PENDING APPEALS
IBLA ORGANZIATION CHART
IBLA REGULATIONS
IBLA INTERNSHIPS
IBLA STATISTICS DASHBOARD