



INTERIOR BOARD of LAND APPEALS

ANNUAL REPORT

Fiscal Year 2015

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Introduction and Executive Summary

This report is dedicated to the customers we serve—the American public; the parties; the representatives who appear before us; the Secretary of the Department of the Interior and other executives who support us, and; the bureaus guided by our decisions. We proffer this report to provide insight and transparency into the operations of the Board.

The report includes an overview of Board structure and operations, and statistics illustrating the progress we made in fiscal year 2015 (FY15), running between October 1, 2014, and September 30, 2015. We also articulate the goals for the Board for the upcoming fiscal year.

It is a pleasure to serve our customers and to present what is the Board's first annual report. On behalf of the Board, I hope you find the contents interesting and informative.

Eileen Jones
Chief Administrative Judge
Interior Board of Land Appeals

September 19, 2016

Contents

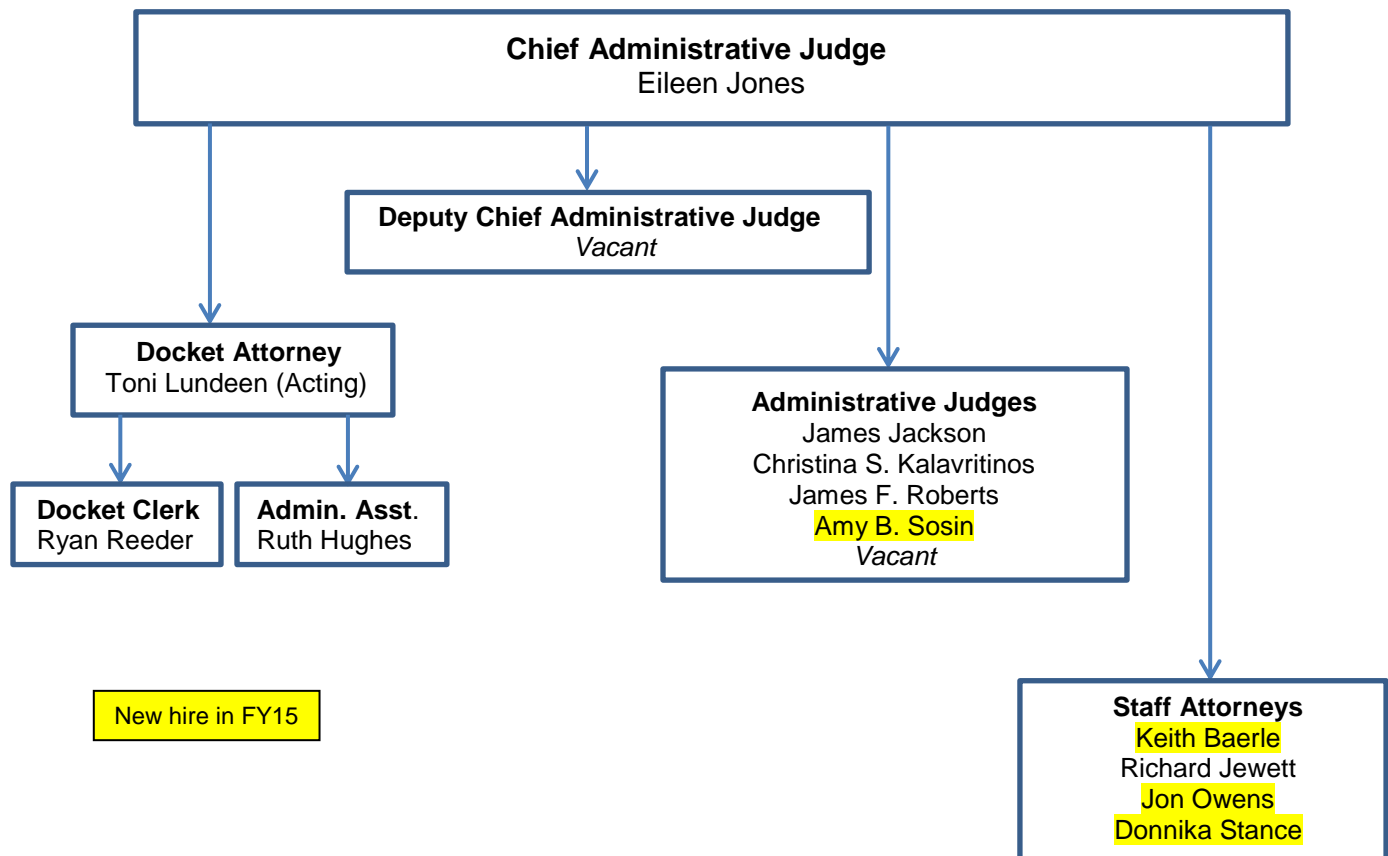
Organizational Structure and Staffing	1
Function of the Board	2
Bureaus Whose Decisions We Review	3
Case Statistics	4
Types of Cases Pending for Disposition at the Beginning of FY15.....	5
Cases Decided in FY15: A Breakdown of Dispositions by Bureau.....	6
Disposition of Cases by Subject Matter	8
Disposition of Cases by Outcome	9
Petitions for Stay Pending Appeal.....	11
The Inactive Docket: Cases in Suspended Status	12
Fiscal Year 2016 Goals	13
SUMMARY.....	14
Appendix	15

Organizational Structure and Staffing

The Board is a division of a larger entity, the Office of Hearings and Appeals, within the Department of the Interior. The Office of Hearings and Appeals is headed by a Director; that position is currently held by Shayla Freeman Simmons. The Office of Hearing and Appeals is under the Deputy Assistant Secretary for Technology, Information & Business Services, part of the organization under the leadership of the Assistant Secretary for Policy, Management and Budget.

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. That position is currently held by Eileen Jones who was appointed in 2014. Although not currently filled, historically, the Board also had a position for a Deputy Chief Administrative Judge.

BOARD ORGANIZATIONAL CHART



In FY15, we completed significant hiring actions. The Board added a new judge, Amy B. Sosin, and hired three new staff attorneys. We also moved one of our experienced staff attorneys into the position of Acting Docket Attorney. The staff changes occurred mostly due to retirements, and in one instance a promotion to a different Federal agency. All new staff were placed into existing positions; no new positions were created.

While we filled several vacancies, two vacancies (Deputy Chief Administrative Judge and Administrative Judge) remained open with plans to fill both positions.

Function of the Board

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. The Chief Administrative Judge leads the Board and manages day-to-day operations. At the same time, the Chief carries a full case load and otherwise functions as an Administrative Judge by acting as the second judge on two-judge decisions and orders, and reviewing draft decisions and orders for style and substance.

The Administrative Judges focus on reviewing pleadings and administrative records and finalizing draft orders and decisions to resolve matters on appeal. In the process, Administrative Judges are mentors to the staff attorneys with whom they work.

For more information about the Office of Hearings and Appeals, please go to <https://www.doi.gov/oha>. The website also contains information about the Board, including copies of our decisions.

Bureaus Whose Decisions We Review

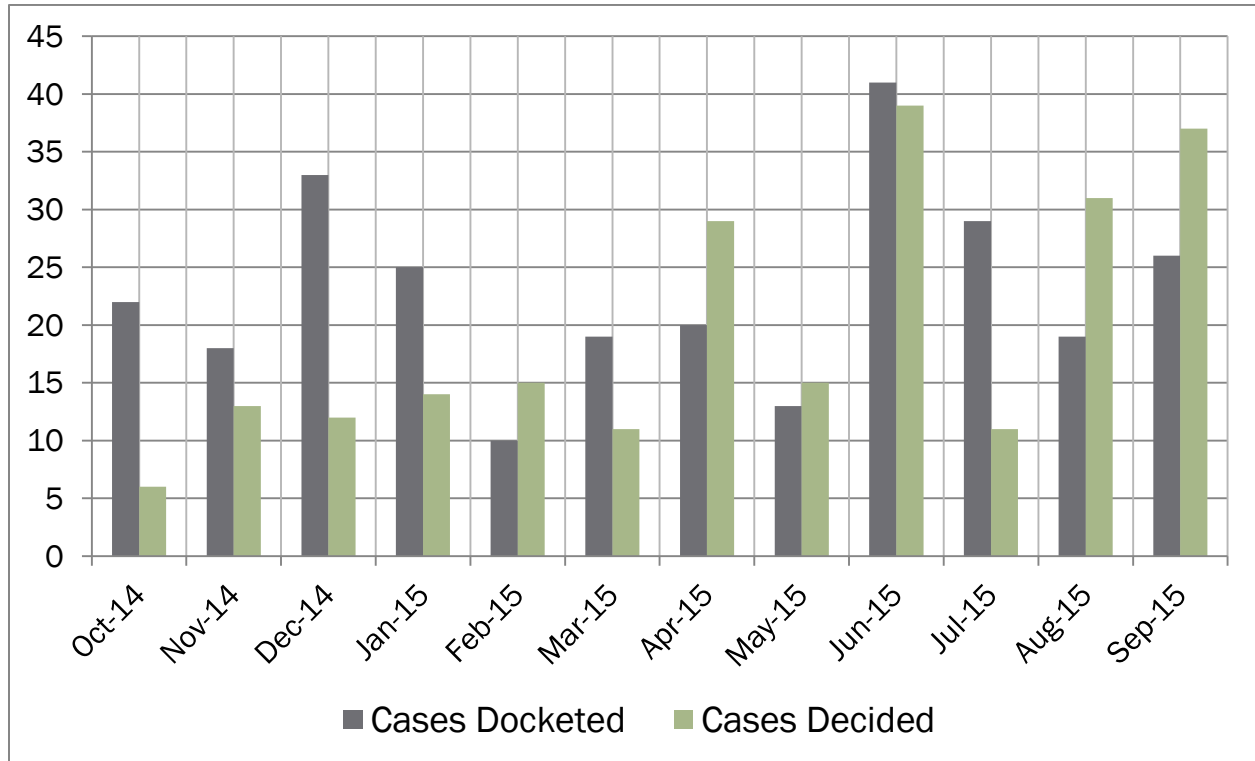
The Board is separate and independent from the Bureaus and Offices whose decisions we review. The Board decides finally for the Department appeals from decisions rendered by Departmental officials, as provided in 43 C.F.R. § 4.1.

The Board hears appeals from decisions issued by:

- Bureau of Land Management (BLM)
 - These decisions relate to a multitude of actions, including mining, grazing, energy development, timber harvesting, wildfire management, special use and recreation permits, wild horse and burro management, cadastral surveys, Alaska land conveyances, rights of way, land exchanges, and trespass actions.
- Office of Natural Resources Revenue (ONRR)
 - These decisions primarily deal with royalties management.
- Bureau of Ocean Energy Management (BOEM)
 - These decisions relate to offshore oil and gas facilities.
- Bureau of Safety and Environmental Enforcement (BSEE)
 - These decisions relate to noncompliance and civil penalty matters for offshore oil and gas operations.
- Office of Surface Mining Reclamation and Enforcement (OSM)
 - These decisions deal with surface coal mining operations.
- OHA's Departmental Cases Hearings Division (DCHD)
 - These appeals are from decisions of administrative law judges relating to grazing matters, private and government mining claim contests, surface coal mining matters, and royalty civil penalties cases.

Case Statistics

During FY15, we received (docketed) 275 new cases. Peak months for incoming cases were December 2014, and June 2015, as indicated in the chart below.



Juxtaposed with the incoming cases is a graph showing decided appeals, *i.e.*, the Board’s production.

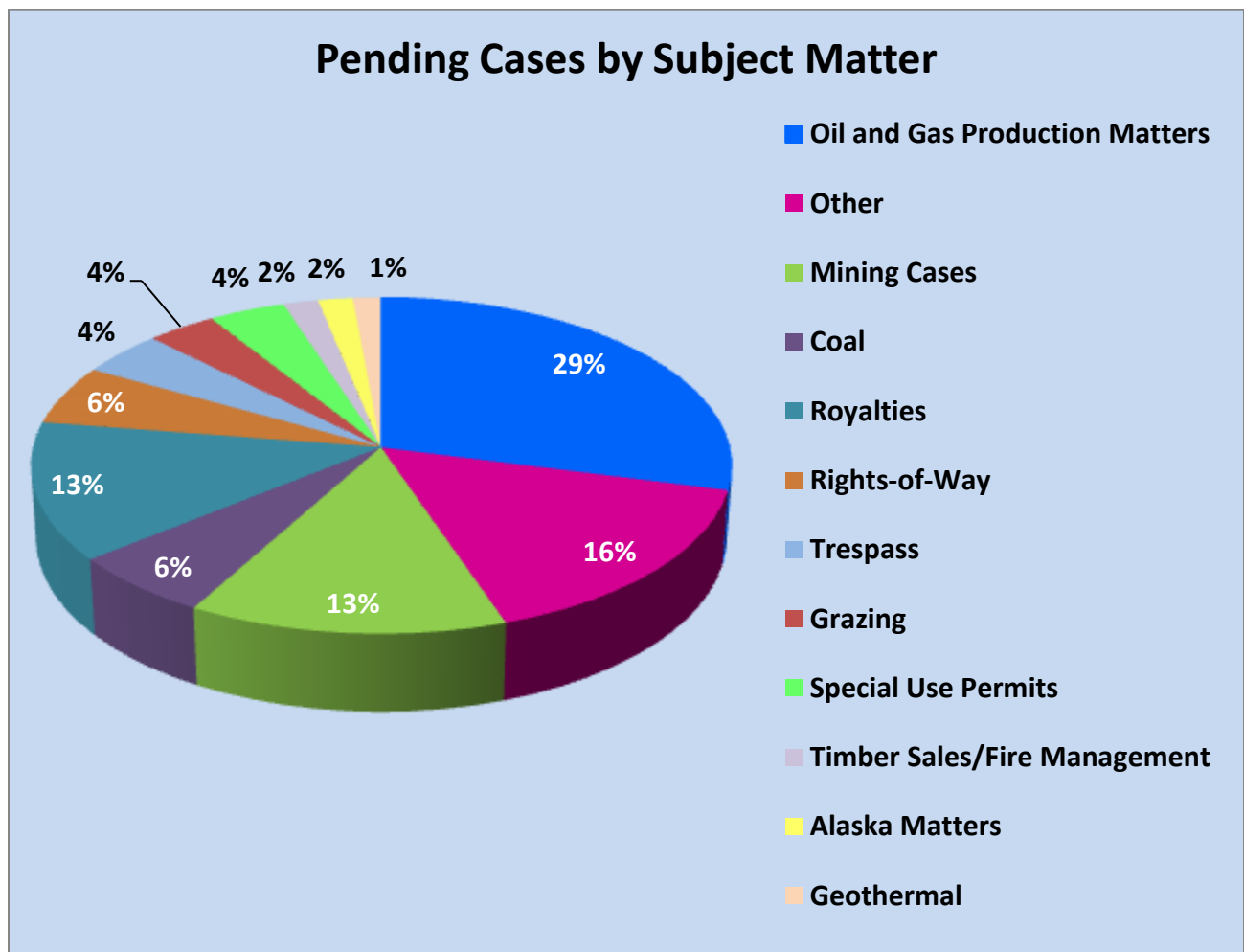
The table to the right summarizes the Board’s docketed cases, production, and pending cases for FY15.

Summary Caseload for Fiscal Year 2015	
Pending Cases as of 10/1/2014	279
Cases Docketed	275
Cases Concluded	233
Pending Cases as of 9/30/2015	321

Types of Cases Pending for Disposition at the Beginning of FY15

IBLA identifies the subject matter of each case. The Appendix to this report lists the topics IBLA used to identify the subject matter of each case.

Of the 279 cases pending at the beginning of the fiscal year, October 1, 2014, about 29% involved matters related to onshore and offshore oil and gas production. The next largest group of cases was identified as "other," which comprised about 16% of the pending case load. "Other" typically includes BLM's miscellaneous land use and mineral leasing decisions that the bureau issues after NEPA review. It also includes wild horse and burro adoptions and gathers, cadastral survey cases, and land use determinations.

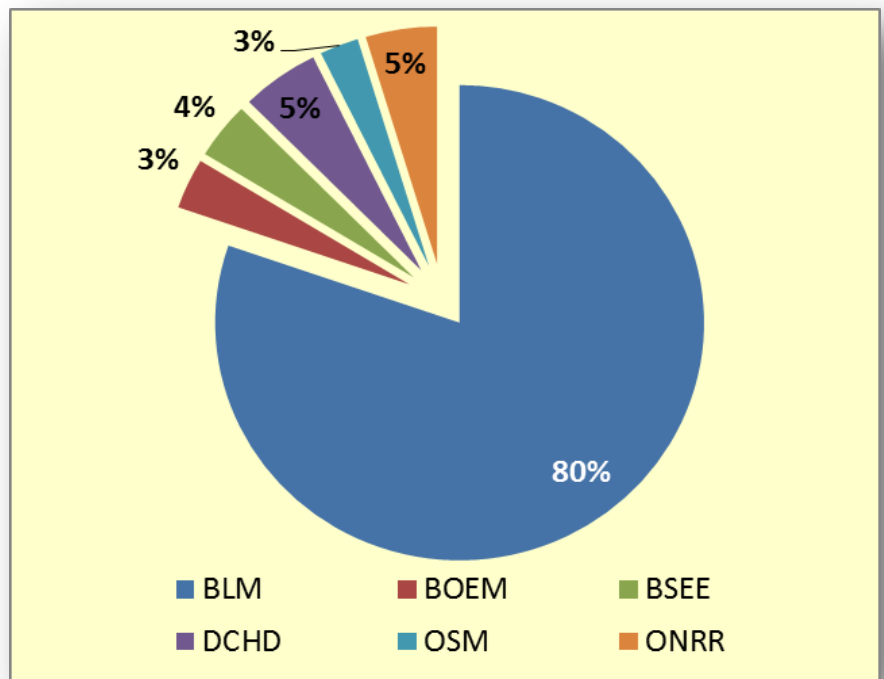


A close runner up to "Other" was the mining claim cases at about 13%. Royalty appeals also accounted for approximately 13% of all pending cases. The balance of the cases covered a wide array of subject matter, including: surface coal mining and coal leasing (6%); rights-of-way (6%); land and mineral trespasses (4%); grazing (4%); special use permits (4%); timber sales and fire management decisions (2%); Alaska matters (2%), and; geothermal leasing (1%).

Cases Decided in FY15: A Breakdown of Dispositions by Bureau

The vast majority of the Board's FY15 caseload consisted of appeals from BLM decisions.

BLM has jurisdiction over 248 million acres of public lands, which are primarily located in the western part of the United States, including Alaska. BLM also administers approximately 700 million acres of mineral-estate underlying both Federal and non-Federal lands.



Approximately 80% of the 233 cases concluded in FY 15 came from BLM.

Departmental regulations provide for most of BLM's decisions to be appealed to the Board.

BSEE exercises the safety and environmental oversight and enforcement functions over offshore energy development on the U.S. Outer Continental Shelf (OCS). **BOEM** manages the development of OCS energy and mineral resources in an environmentally and economically responsible way.

Incidents of non-compliance, supplemental bonding orders, and civil penalty assessments issued by BSEE or BOEM are among the decisions that are appealable to the Board.

Approximately 7% of the 233 cases concluded in FY 15 came from BSEE and BOEM.

ONRR collects, accounts for, and verifies natural resource and energy royalties due the United States, American Indians, and the States from mineral extraction taking place on the U.S.'s mineral estate. Any orders to pay royalties are appealable to the Board.

Approximately 5% of the 233 cases concluded in FY 15 came from ONRR.

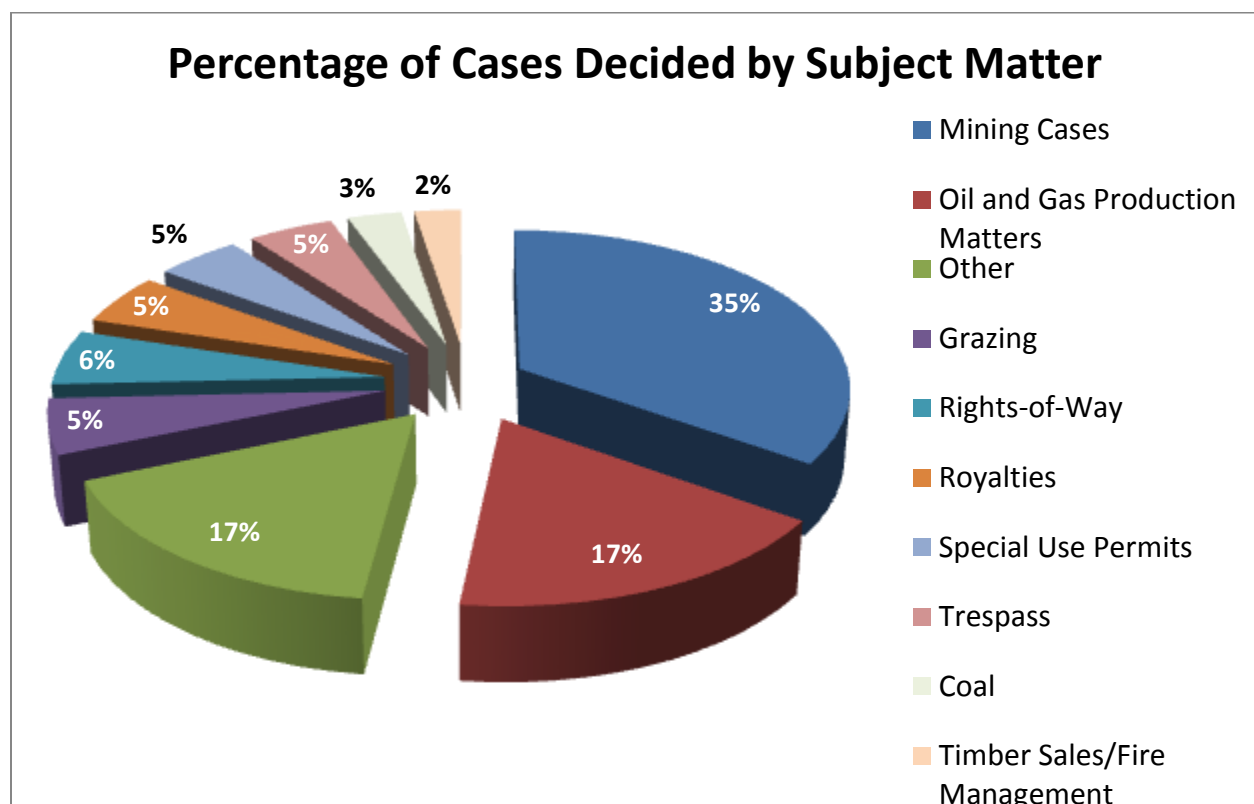
OSM focuses on overseeing state programs that protect the environment from

the adverse effects of surface coal mining operations. OSM decisions relating to ten-day notices, reclamation bonding decisions, citizens' complaints, and other matters are appealable to the Board.

Approximately 3% of the 233 cases concluded in FY 15 came from OSM.

Disposition of Cases by Subject Matter

Of the 233 cases concluded in FY15, the largest group of cases was mining claim matters, which comprised about 35% of the Board's output. Second and third in output are oil and gas production matters and "other," at about a combined 34% of the Board's production. Other subject matter areas reflected in a significant amount of production are rights-of-way appeals, at about 6%.



Disposition of Cases by Outcome

The Board disposes of cases in multiple ways. Below is a description of our common dispositions.

Affirm/Affirm as Modified: When the Board agrees with the decision below, we will affirm. We will affirm, as modified, when we agree with the decision's outcome or result, but we find that the basis for the decision was incorrect in whole or in part.

Set Aside and Remand: The Board sets aside and remands a matter back to the bureau when we cannot determine whether the decision below is correct. Typically, this occurs when the administrative record does not support the bureau's decision.

Vacate/Reverse: When the result of the bureau's decision is incorrect, we can send it back to the bureau for further adjudication. The Board can also provide the correct result in a way that disposes of the case and a remand is unnecessary.

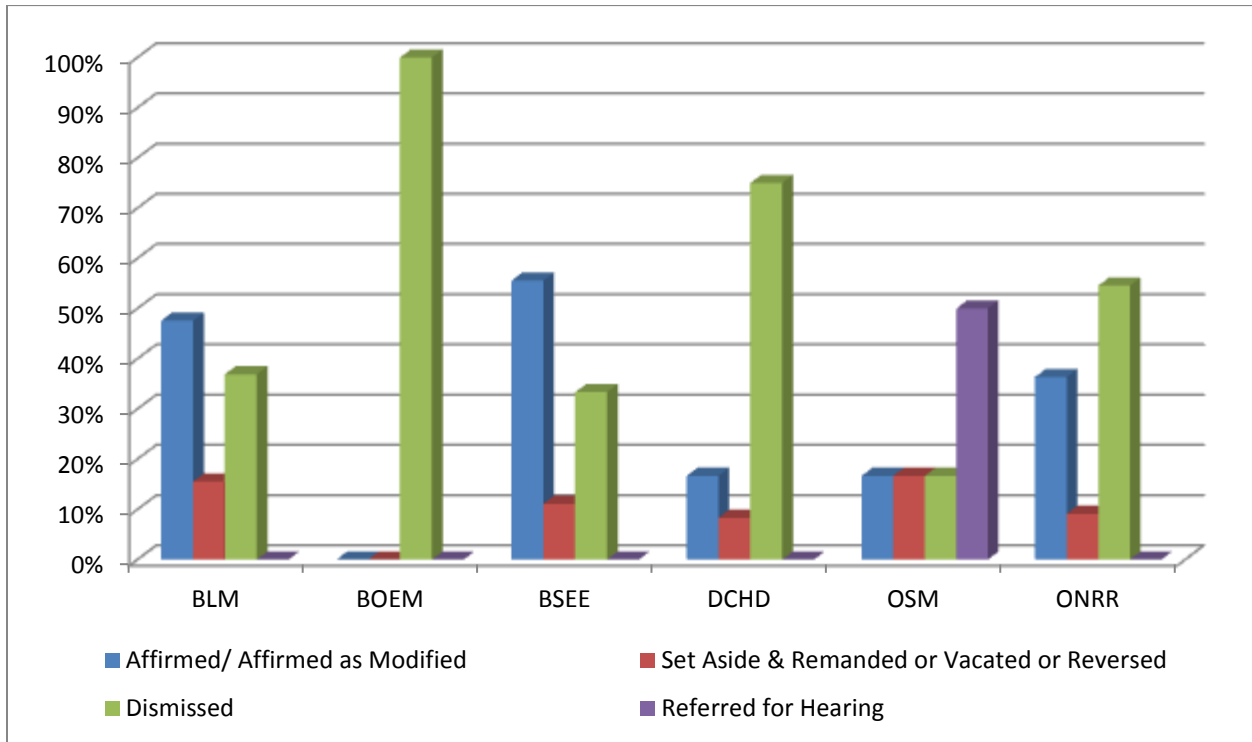
Dismiss: We can dismiss an appeal without discussing the merits when we do not have jurisdiction to hear the case or when the parties request to withdraw the appeal.

Refer for Hearing: We can refer an appeal to DCHD for a hearing on an issue of fact.

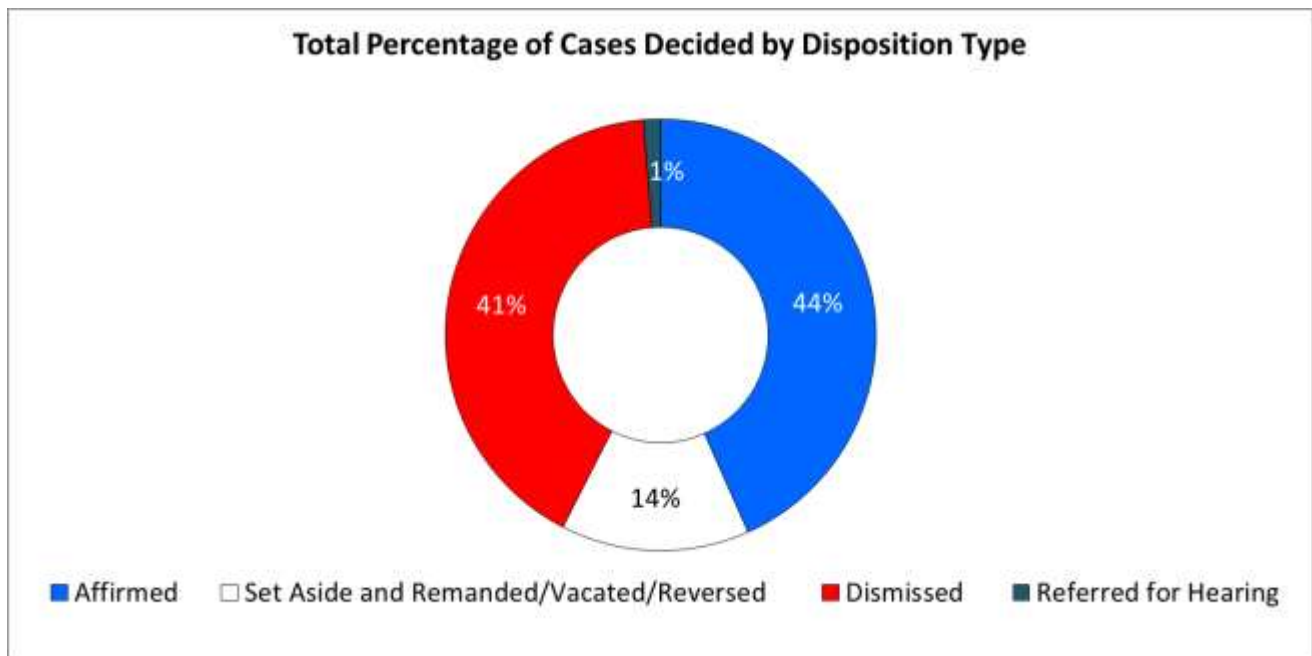
The following table breaks down case dispositions in FY15 by bureau:

Disposition Type	BLM	BOEM	BSEE	DCHD	OSM	ONRR
Affirmed/Affirmed as Modified	48%	0%	56%	17%	17%	36%
Set Aside & Remanded Vacated/Reversed	16%	0%	11%	8%	17%	9%
Dismissed	37%	100%	33%	75%	17%	55%
Referred for Hearing	0%	0%	0%	N/A	50%	0%

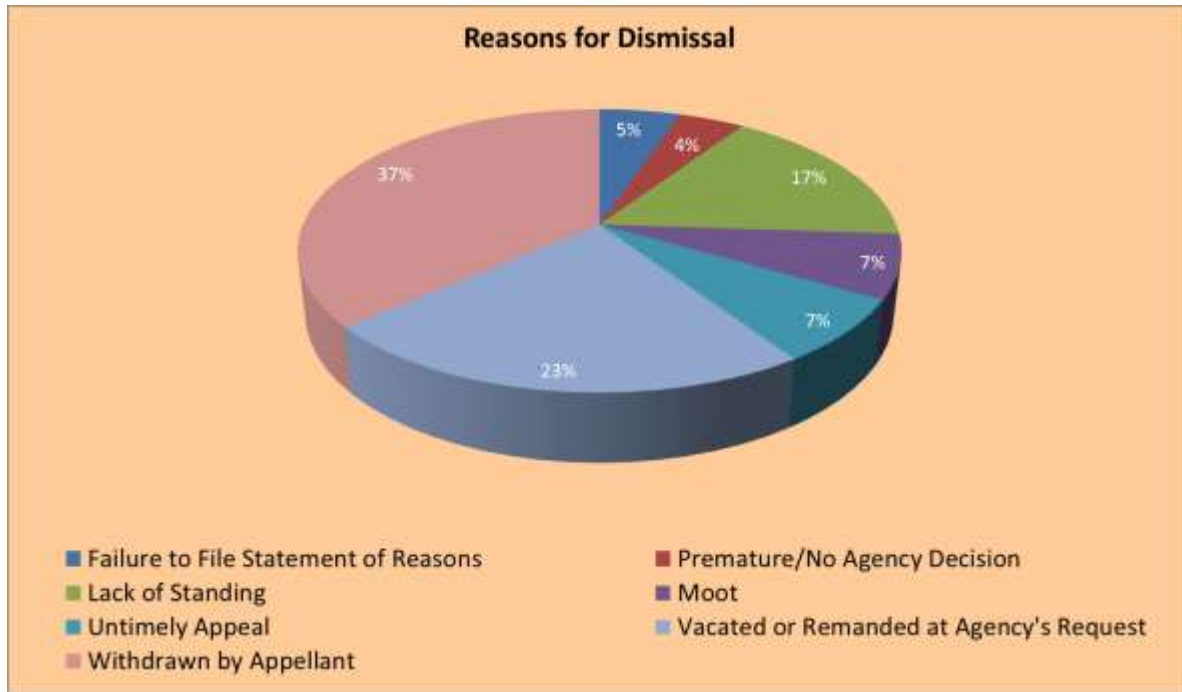
The following chart is another illustration of how FY15 cases were decided based on bureau:



Overall, the Board affirmed 44% of all the appeals we decided in FY15. Of the 233 cases the Board concluded in FY15, 41% of them were dismissed.



The chart below breaks down the type of dismissals the Board issued in FY15.

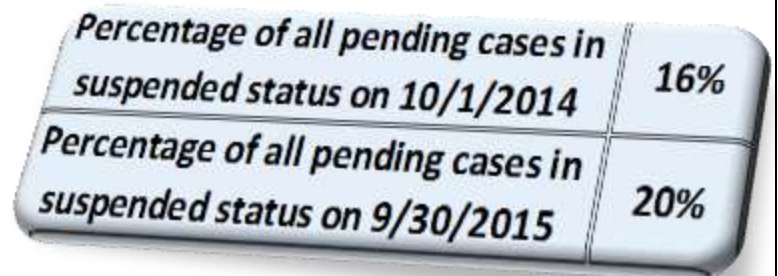


Petitions for Stay Pending Appeal

Pursuant to 43 C.F.R. § 4.21, an appellant may petition for a stay of the effect of certain bureau decisions during the pendency of the appeal before the Board. The Board is required to grant or deny a petition for a stay within 45 calendar days of the end of the 30-day period for filing a notice of appeal. A considerable number of appeals are accompanied by a petition for a stay, requiring the Board to devote substantial time and resources in meeting the 45-day deadline imposed by § 4.21. The Board will decide the case on the merits when it reaches its turn on the Board's active docket.

The Inactive Docket: Cases in Suspended Status

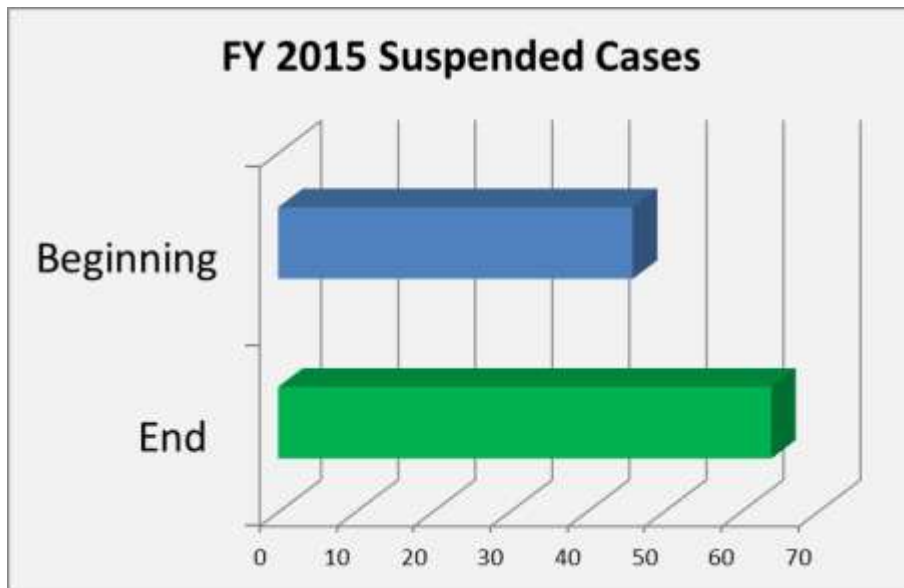
Of the 279 cases in inventory at the start of the fiscal year, 46 were in suspended status. That means that the case was not being actively adjudicated and any filing deadlines have been tolled. There are various reasons why a case is in suspended status. Typically, a case is suspended at the request of a party or parties. Frequently, a case is suspended while the parties engage in settlement negotiations. Other reasons for suspending a case include active Federal litigation such as bankruptcy proceedings that may affect the outcome of a pending case.



A Board initiative in FY15, and continuing into FY16, is more active management of suspended cases. By “active management” we mean our expectation is that parties who are granted suspended status will be actively

working to resolve the matter that caused the suspension and to keep the Board apprised of those efforts. The Board is ordering regular status reports, and where appropriate, issuing orders to show cause for possible return to the active docket.

Despite more active management practices, overall our docket of



suspended cases grew during FY15. We ended FY15 on September 30, 2015, with 64 suspended cases. Of those 64, 34 were carry-over from cases in suspended status at the beginning of FY15 on October 1, 2014. Thus, between October 1, 2014, and October 1, 2015, we added 24 new cases to our inactive docket.



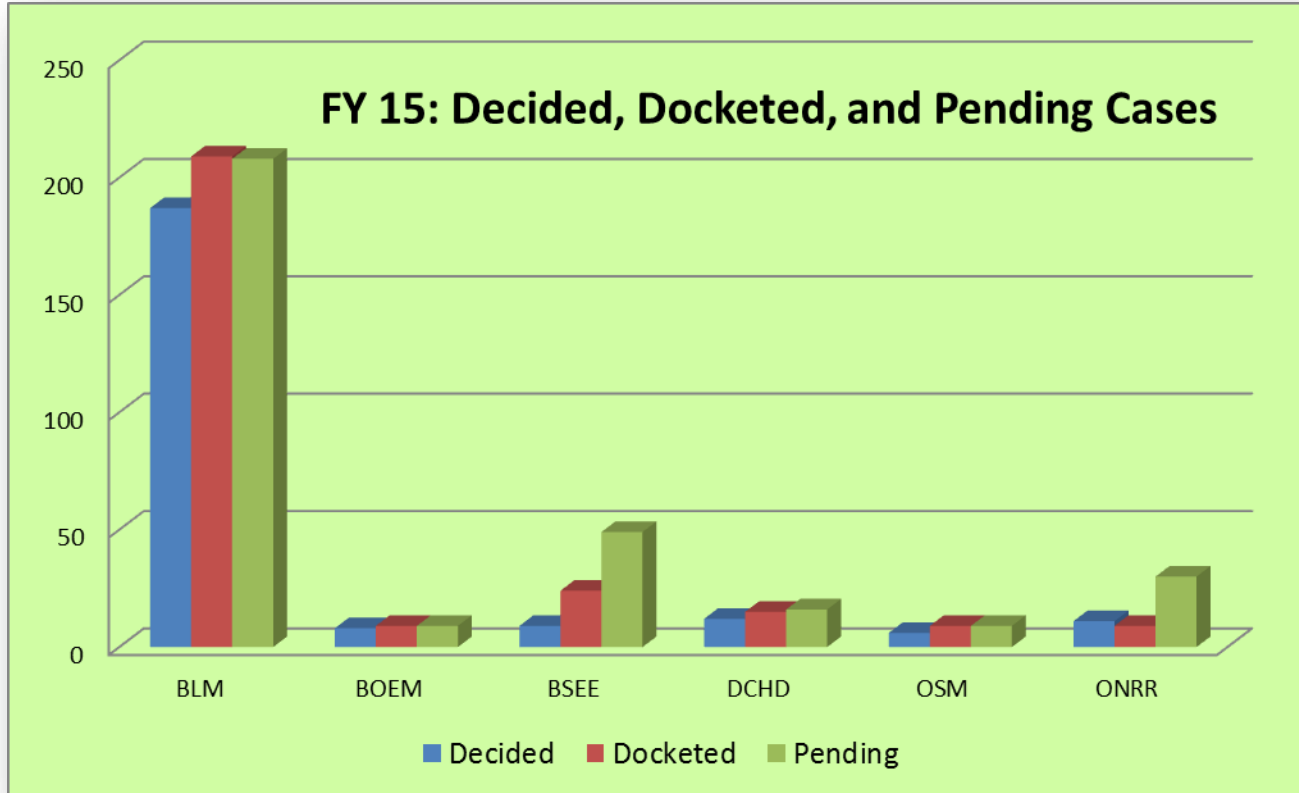
**FY16
GOALS**

Listed below are the Board's major goals for the next fiscal year:

- Conclude 250 or more cases.
- Resolve 100% of cases docketed in FY13.
- Reduce by 50% all cases docketed in FY14.
- Reduce by 10% or more the average processing time for concluding adjudicated cases.
- Resolve all mining claim fee and recordation cases within 180 days of ripe date, *i.e.*, the administrative record has been received and all pleadings have been filed.
- Enhance management of suspended cases.
- Develop a tracking system for all stay petitions.
- Decide 75% or more stay petitions within the regulatory timeframe.
- Enhance transparency and improve public accessibility to Board opinions and orders and other public information.

SUMMARY

This report describes the functions of the Board and captures its progress in FY15. The Board is composed of four Administrative Judges and the Chief Administrative Judge. The Board finalized 233 cases. Those cases cover a wide array of subject matter, most commonly involving public land usage for oil and gas production and mining. The baseline provided in this report will support the Board's FY16 goals, including greater public access to Board decisions and orders, a reduction in the Board's processing time for cases, and increased production.



Appendix

LANDS		MINERALS	
Sub-Category	Type	Sub-Category	Type
Alaska	Selections – ANILCA	EAJA	Attorney Fees - Minerals
	Town sites, T&M sites, etc.		
	Native Allotment	Mining	Rental/Maintenance Fees
	Selections – ANCSA		Recordation
	Other Mining Occupancy		
EAJA	Attorney Fees - Lands		Patent Applications
			Contests
FLMPA	Disclaimers	MLA - Non O&G	Other MLA Applications
	Patent Correction		Leases/Licenses/Permits
	FLMPA 203 & 302 Sales		
Grazing	Other (including capacity)	Oil & Gas (Onshore)	Applications
	Lease/Permit Applications		Lease
	Tresspass, Violations		Misc.
	Stays		Reinstatement
			Unitization
Land Conveyance	Desert Land Entry	SMCRA	APA
	Land Entry - General		Applicant/Violator System
	Indian Allotments		Attorney Fees
	State Selection		Non-APA
	State Indemnity Adjudication		Other
Land Exchanges		Material Sales	
			Trespass - Minerals
Recreation	Rec & Public Purpose		FLPMA Retained Int.
	Special Use Permit		
Right-of-Way	Bond/Rent/Stipulation	Royalty	Indian Royalty
	Other ROW		Royalty Fairness Act
Timber	Other Sales/Mgmt.		
	Wildfire Management	Offshore	leases/Unitization/ROW
	Sourcing Area Application		Safety & Environmental
Trespass	Trespass - Land		
	Trespass - Fire		
Other Lands	Cadastral Survey		
	Color-of-Title		
	Land Use - Misc.		
	Wild Horses/Burro		
	Payments in Lieu of Taxes		