

WYOMING OUTDOOR COUNCIL, ET AL.

IBLA 2000-241

Decided October 6, 2000

Appeal from a decision of the Acting Deputy State Director, Minerals and Lands, Wyoming State Office, Bureau of Land Management, dismissing a protest to the February 1, 2000, oil and gas lease sale.

Motion to dismiss granted in part and denied in part; request for stay granted in part and denied in part; service directed; time to respond granted.

1. Oil and Gas Leases: Competitive Leases--Rules of Practice: Appeals: Standing to Appeal

Under 43 C.F.R. § 4.410(a), in order to have standing to appeal a BLM decision dismissing a protest to the offering of all parcels at a competitive oil and gas lease sale, the appellant must be a party to the case and be adversely affected by the dismissal decision. Dismissal of the protest establishes that the appellant is a party to the case; however, the appellant may appeal the dismissal only as to those parcels for which it can establish that it is adversely affected.

2. Oil and Gas Leases: Competitive Leases--Rules of Practice: Appeals: Motions--Rules of Practice: Appeals: Stay

One appealing the decision of a BLM State Director dismissing a protest of a competitive oil and gas lease sale may petition for a stay of that decision and the petition must show sufficient justification for granting the stay based on the standards set forth in 43 C.F.R. § 3165.4(c).

3. Rules of Practice: Appeals: Service on Adverse Party

Under 43 C.F.R. § 4.413, an appellant is required to serve a copy of the notice of appeal and any statement of reasons, written arguments, or briefs on each adverse party named in the decision from

which the appeal is taken. If the decision being appealed does not name any adverse parties, no service obligation arises.

APPEARANCES: Daniel Heilig, Esq., Lander, Wyoming, for appellants; Lyle K. Rising, Esq., Office of the Regional Solicitor, U.S. Department of the Interior, Lakewood, Colorado, for the Bureau of Land Management.

OPINION BY DEPUTY CHIEF ADMINISTRATIVE JUDGE HARRIS

Wyoming Outdoor Council and Powder River Basin Resource Council (the Councils or appellants) have appealed from an April 7, 2000, decision of the Acting Deputy State Director, Minerals and Lands, Bureau of Land Management (BLM), dismissing the January 27, 2000, protest filed by the Councils to the offering of 49 parcels of land located in Campbell, Johnson, and Sheridan Counties, Wyoming, at the February 1, 2000, competitive oil and gas lease sale. ^{1/} The Councils also requested a stay of that decision.

In their protest, the Councils alleged that all of the leases for the 49 parcels would allow surface occupancy and, as such, they represent a full and irretrievable commitment of resources. The Councils asserted, citing Conner v. Burford, 848 F.2d 1441 (9th Cir. 1988), that in such a circumstance BLM was required to comply with National Environmental Policy Act (NEPA) requirements prior to leasing and that those requirements include the preparation of an environmental impact statement (EIS). ^{2/} In the Councils' opinion, coalbed methane (CBM) development and extraction was the most likely predominant use for the 49 proposed leases. The Councils recognized that the BLM Buffalo District Office completed a resource management plan (RMP) in 1985, which discussed the environmental impacts of oil and gas leasing in general, but they charged that the RMP did not analyze the impacts of CBM extraction because such extraction was not a contemplated use in 1985. For that reason, they argued the RMP EIS could not serve at the required preleasing EIS. The Councils asserted that the effects and environmental impacts of CBM development and extraction are not comparable to the impacts of other oil and gas development.

The Councils also stated that the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1732 (1994), and implementing regulations require that, after development of an RMP, all future resource management

^{1/} At the sale, 48 of the 49 parcels were sold.

^{2/} Appellants cite BLM Informational Bulletin (IB) 92-198 in support of their contention that the Conner case is controlling. That IB, dated Jan. 21, 1992, from the BLM Director, and signed by the BLM Assistant Director, Energy and Mineral Resources, to all BLM State Directors, contained the following statement on page 1, quoted by appellants: "The simple rule coming out of the Conner case is that we will comply with NEPA and ESA [Endangered Species Act] prior to leasing."

authorizations are required to be in conformance with the approved plan. They contended that the terms, conditions, and decisions in the Buffalo RMP did not even contemplate CBM extraction.

In his April 7, 2000, decision dismissing the protest, the Acting Deputy State Director stated that oil and gas exploration and development is specifically provided for in the Buffalo RMP and is consistent with the terms, conditions, and decisions of the approved plan. His position was that oil and gas exploration and development includes the production of CBM and that "methane" and "natural gas" are used interchangeably. Further, he disagreed with the Councils' assertion that "the production of coal bed methane is significantly different from the production of other methane, i.e., natural gas, or that the production of coal bed methane has a unique production problem because of produced water." (Decision at 1-2.) He relied on the decision in Park County Resource Council v. U.S. Department of Agriculture, 817 F.2d 609 (10th Cir. 1987), which, he stated, "held that an Environmental Impact Statement (EIS) need not be prepared before the issuance of oil and gas leases, particularly where the leases were issued for unexceptional forest land with no unusual resource values." (Decision at 1-2.) He found the Park County case to be applicable because "[t]he land in question is even more unexceptional prairie land having no unusual resource values" and "BLM in Wyoming follows the law of the circuit where it is located and not the law of another circuit." (Decision at 2.) The law of another circuit, which had been cited by the Councils, was Conner v. Burford, *supra*. The Acting Deputy State Director distinguished Conner on its facts because it dealt "with unusual resource values such as the presence of endangered species in a large and nearly pristine area, considerations which are notably absent here." *Id.* The Acting Deputy State Director made no mention of IB 92-198, which, according to the Councils, had obligated BLM to comply with Conner nationwide.

In their Notice of Appeal and Request for Stay Pending Appeal (Notice and Request), appellants reiterate the objections raised in their protest and assert that they are entitled to a stay because they have satisfied the standards for a stay as set forth in 43 C.F.R. § 3165.4(c). ^{3/}

In response, BLM has filed a motion to dismiss appellants' appeal on the basis of lack of standing. It argues that appellants merely have an interest in a problem, but that they have failed to identify any specific

^{3/} That regulation provides that a petition for stay is required to show sufficient justification for the granting of a stay based on four standards: "(1) The relative harm to the parties if the stay is granted or denied, (2) The likelihood of the appellant's success on the merits, (3) The likelihood of irreparable harm to the appellant or resources if the stay is not granted, and (4) Whether the public interest favors granting the stay."

harm to any protected interest of any particular member of their organizations. BLM charges that the appeal is "nothing more than an ideological attack on the policy of the Department to allow production of natural gas from Federal oil and gas leases." ("Government's Answer and Opposition to Petition for Stay[,] Motion to Dismiss" (BLM's Response) at 6.) In the alternative, BLM argues that appellants' petition for stay should be denied.

Appellants replied to the motion providing a copy of an affidavit of Mike Foate, a member of both Councils, who states that he uses public lands included in sale parcel WY-0002-093 for his personal recreation and in his guiding and tour business. Foate asserts that CBM development will have a negative effect on the land because the large volumes of discharged water will erode soils, potentially change ephemeral streams to perennial streams, and negatively impact native vegetation, wildlife, and fisheries due to the high sodium concentrations found in the water. Other negative impacts cited by Foate are surface disturbances caused by new roads, power lines, compressors, and pipelines. That affidavit, appellants claim, is sufficient to establish their standing to appeal. Subsequently, appellants submitted a copy of an additional affidavit from another of their members, Bill Barlow. Barlow asserts that he holds grazing privileges on approximately 2,500 acres of Federal lands and that one of the parcels offered for lease and leased in the February 1, 2000, sale was parcel WY-0002-082, for which he holds a current grazing permit. He cites similar adverse impacts to those listed by Foate. A third affidavit provided by appellants is that of Jane Dunbar, who claims to be a member of one of the Councils, Powder River Basin Council. Dunbar asserts that she is the surface owner of two parcels in the February sale, WY-0002-92 and WY-0002-93, for which BLM sold oil and gas leases for the underlying Federal minerals. She states that in addition to living on the land, she leases it to ranchers and hunters. She is concerned with the impacts of CBM on her lands.

BLM challenges Foate's use of the public lands in his business as unauthorized use of the public lands for commercial purposes. It has also provided a copy of a letter from Foate to the BLM Buffalo Field Office, dated August 17, 2000, in which Foate stated: "We have not visited the BLM lands in question this year (as per WY-093 map). We will not be visiting the lands in question in the future, as our access to these lands no longer exists." BLM asserts that Foate cannot be adversely affected because he does not presently have access rights to the lands, which he previously used. BLM does not dispute the statement of either Barlow or Dunbar.

[1] We will first consider BLM's motion to dismiss for lack of standing because, if appellants have no standing, all other matters are moot. Under 43 C.F.R. § 4.410, "[a]ny party to a case who is adversely affected" by a BLM decision has a right to appeal to this Board. The party seeking review must itself be among the injured, and the mere concern of a group or individual opposing a BLM action does not constitute a cognizable legal interest. An appellant must have a legally cognizable interest in

the land at issue in order to be adversely affected; however, that interest need not be an economic or a property interest. Use of the land will suffice. Craig M. Weaver, 141 IBLA 276, 281 (1997); Kendall's Concerned Area Residents, 129 IBLA 130, 136-37 (1994), and cases cited. An organization may establish that it is adversely affected within the meaning of 43 C.F.R. § 4.410 by showing that one or more of its members uses the public land in question. National Wildlife Federation, 82 IBLA 303, 307-08 (1984). In this case, appellants responded to BLM's motion by filing the affidavits of three individuals, Foate, Barlow, and Dunbar, who are members of one or more of the Councils. Each claims to use a separate parcel included in the February 2000 sale. BLM challenges the Foate affidavit alleging that it only shows illegal commercial activity on public lands. BLM argues that standing may not be predicated on unauthorized and unlawful use of the public lands.

BLM is correct that unauthorized or unlawful use of the public lands may not support standing to appeal a substantive BLM decision denying a protest. See Eugene M. Witt, 90 IBLA 265, 272 (1986).^{4/} Although Foate's affidavit focuses primarily on his business use of lands included in sale parcel WY-0002-093, he also states in his affidavit that he uses such land for "my personal enjoyment." BLM has shown, however, that, subsequent to the filing of his affidavit, Foate notified BLM that he no longer has access to the lands in sale parcel WY-0002-093. We conclude that the record fails to establish that Foate is adversely affected by the decision in question, and, thus, the Councils are not adversely affected. We hold that the Foate affidavit may not be utilized by appellants to establish their standing to appeal the Acting Deputy State Director's decision as it relates to sale parcel WY-0002-093. However, appellants have provided the Dunbar affidavit, which does provide a basis for appellants' standing to challenge the Acting Deputy State Director's decision as it relates to that same sale parcel WY-0002-093, as well as sale parcel WY-0002-092. The Barlow affidavit supports appellants' claim of standing as to sale parcel WY-0002-082.

Appellants contend, in reliance on John R. Jolley, 145 IBLA 34 (1998), that they need only show use of one of the 48 parcels of land leased in the February 2000 lease sale in order to establish standing to challenge the Acting Deputy State Director's decision as it relates to all those parcels. In the Jolley case, John R. Jolley protested a land exchange and the BLM Wyoming State Director dismissed the protest. On appeal, the Board granted intervention to the landowners whose private lands were to be exchanged for public land and those landowners challenged Jolley's standing to appeal. Jolley alleged life-long use of several of the public land parcels slated for exchange and the Board held that a

^{4/} Judicial review of that decision resulted in a stipulated dismissal, sub nom. Cadzow v. Hodel, No. A 87-253 (D. Alaska Dec. 28, 1987).

person challenging a multiple parcel land exchange did not have to allege use of each parcel of public land in the exchange in order to satisfy the Board's standing requirements and thereby appeal the dismissal of his protest of the entire exchange. Id. at 37.

We believe appellants' reliance on Jolley is misplaced and that the Jolley ruling on standing is limited to the land exchange situation in which each parcel is an integral part of the proposed exchange. Clearly, each parcel in an oil and gas lease sale is not essential to the sale. BLM could conduct a sale for one parcel or for a hundred parcels. Each individual parcel has its own characteristics and is offered separate from every other parcel. Thus, while an individual or a group has the right under 43 C.F.R. § 4.450-2 to protest all parcels offered at a lease sale, dismissal of such a protest does not guarantee the right to appeal the dismissal decision as to all parcels. Dismissal of the protest of the individual or group establishes "party to a case" status under 43 C.F.R. § 4.410(a). However, in order to maintain an appeal one must also show that he or she is adversely affected by the decision being appealed. As discussed above, this may be shown through evidence of use of the land in question. In the oil and gas lease sale context, that means providing evidence of use of each particular parcel to which the appeal relates. In this case, appellants have provided such evidence for only three parcels. Thus, we conclude that appellants have standing to appeal the Acting Deputy Director's decision only as it relates to those three parcels—WY-0002-082, WY-0002-092, and WY-0002-093. With regard to all other parcels sought to be encompassed by appellants' appeal, they have failed to establish standing. Accordingly, we grant BLM's motion to dismiss in part and deny it in part.

We turn now to consideration of appellants' request for a stay in light of the standards set forth in 43 C.F.R. § 3165.4 for evaluating a stay request. Appellants argue that they have established a likelihood of success on the merits because BLM has clearly violated both NEPA and FLPMA in conducting the lease sale. They challenge the Acting Deputy State Director's claim that the decision to authorize leasing of the parcels was in conformance with the RMP, as maintained and amended. They point to BLM's "Budget Justifications and Annual Performance Plan, FY 2001," excerpts of which they attach to their Notice and Request as Exhibit 8. Therein, BLM represented at page III-23 that it was

faced with critical air quality issues from the development and transportation associated with coalbed methane and other energy development efforts occurring in the Powder River Basin of Wyoming and Montana. * * * Without additional funding to address these issues, the BLM could face additional legal challenges to land and resource allocation decisions, since impacts to public land resources and the environment are not adequately documented in the current land use plans and associated NEPA documents.

Appellants charge that such a statement supports their position that CBM extraction and development is not adequately addressed in the Buffalo RMP and its supporting EIS. In fact, according to appellants, it was not addressed at all, because it was not contemplated in 1985 at the time of completion of the RMP.

Appellants also strongly disagree with the Acting Deputy State Director's representation at pages 1 and 2 of his decision that production of CBM is not "significantly different from those associated with the production of other methane, i.e., natural gas, or that the production of coal bed methane has a unique production problem because of produced water." Appellants' position is that CBM extraction and production involves substantial environmental impacts different from ordinary oil and gas extraction and production. They point to two BLM documents attached as exhibits to their Notice and Request to support such a position. ^{5/} Moreover, they assert that the most significant impact is the water quantity surface discharge from CBM wells, which is substantially greater than that from conventional gas wells. ^{6/} See Notice and Request, Ex. 3.

Appellants take exception with the Acting Deputy State Director's statement that BLM in Wyoming is required to follow the law of the circuit in which it is located. That statement, appellants charge, ignores IB 92-198, which issued after both the Park County and Conner decisions, and which appellant characterizes as determining that BLM would, on a nationwide basis, follow the Conner decision.

^{5/} Exhibit 9 is a copy of a document signed by three BLM officials in June 1990 proposing "Plan Change No. 2," which, appellants represent, relates to the Buffalo RMP. The document states under the heading "CHANGE:" "Add environmental analysis of coal bed methane. This type of technology was not considered in the RMP." Under the heading "REASONS," it states: "RMP did not cover this non-traditional type of oil and gas activity." Exhibit 10 is a copy of Notice to Lessees 88-2, dated Sept. 26, 1988, issued by the BLM Colorado State Office, stating at page 1: "Production characteristics of coal bed methane gas wells are radically different than gas completed in conventional reservoirs."

^{6/} Appellants also assert that the quality of CBM well water discharge is an issue because it "is usually high in salt concentration and is unsuitable for human consumption." (Notice and Request at 4.) That assertion, however, is contradicted by Exhibit 3 provided by appellants with their Notice and Request, which is a copy of a Wall Street Journal article, dated Dec. 27, 1999, detailing the impacts of water produced by CBM extraction in Wyoming. Therein, it is stated: "To bring the methane to the surface, producers must pump up the water that is mixed with it down in the coal seams. Although most of that water is nearly as pure and potable as what comes from Gillette's household faucets, the volumes involved are enormous --as much as 100 gallons a minute at some wellheads."

Finally, appellants assert that BLM has also violated FLPMA because CBM extraction and development is not in conformance with the Buffalo RMP. They contend that the RMP must be amended and that the RMP amendment process must conform with NEPA.

Regarding irreparable harm, appellants argue that issuance of leases without meaningful surface use restrictions constitutes an irretrievable commitment of resources and, thus, they are irreparably harmed by BLM's failure to make the necessary environmental reviews prior to leasing. They claim that their likely success on the merits demonstrates that a stay actually benefits all parties by preserving the status quo until the proper environmental analyses are completed. They assert that it is in the interest of all parties to have the environmental impacts of lease development disclosed prior to the irretrievable commitment of resources. Lastly, they contend that a stay in this case is in the public interest because all the citizens of the counties in which CBM development on the parcels in question will take place will have to live with the environmental impacts of that development for years to come and that they deserve to have those impacts thoroughly analyzed prior to the irretrievable commitment of resources.

In response, BLM argues that appellants have no likelihood of success on the merits of their appeal. BLM states that "in terms of NEPA documentation, it is fair to say that the Powder River Basin is probably the most over-studied area in the United States, if not the world." (BLM's Response at 11.) It asserts that four regional EIS' have been prepared, as well as numerous other EIS' and environmental assessments (EA's). Ground water has been thoroughly studied, it contends, in detailed documents required for the permitting of large surface coal mines in the basin. BLM also points out that it recently completed in November 1999 an EIS, known as the Wyodak EIS, addressing the environmental impacts of CBM production from coal formations in the Powder River Basin. "Thus, it is puzzling and somewhat quixotic for the Appellants to argue that there has been insufficient NEPA analysis for this oil and gas lease sale." (BLM's Response at 13.) BLM maintains that it has complied with NEPA by preparation of the Wyodak EIS.

Regarding appellants' argument that the Buffalo RMP is defective and must be amended to address CBM development, BLM responds that in 1985 more than 99 percent of the lands in the Buffalo Resource Area were identified in the RMP as available for oil and gas leasing and production, and that most of the land in that resource area is sparsely populated, unexceptional prairie land suitable for grazing and mineral production. BLM states that nothing has changed in the last 15 years to alter those facts; however, BLM asserts that what has changed is that it has updated its RMP through the process known as maintenance, which is provided for in the regulations at 43 C.F.R. § 1610.5-4. BLM states that it uses maintenance when RMP decisions to use specific lands for certain purposes, such as oil and gas production, have not changed, "but where additional data becomes available." (BLM's Response at 15.) As an example of additional data, BLM cites the Wyodak EIS.

BLM claims that issuance of a stay will greatly harm the Federal Government and the Federal taxpayer and that appellants will suffer no harm at all. It also argues that there is no likelihood of immediate or irreparable harm to appellants in this case because they "never once show the likelihood of any specific harm to any specific person." (BLM's Response at 16.) According to BLM, it has little control over whether natural gas will be produced from the areas in question because of the "crazy quilt" of land ownership patterns. (BLM's Response at 8.) Leasing of the Federal lands merely ensures that Federal resources will not be subject to drainage from development on other lands, BLM argues. Thus, BLM asserts, the real choice is not whether natural gas production takes place, but whether royalties will be paid to the Federal Government or only to private interests. For the same reasons, BLM asserts that the public interest favors denial of a stay.

Finally, BLM claims that all the parties who purchased leases at the February 1, 2000, lease sale are adverse parties in this appeal. It requests that they "be made parties and that service be required upon each and every one of them" in order to protect their due process rights. (BLM's Response at 17.)

Appellants filed a reply. Therein, they assert that, regarding the issue of RMP conformity under FLPMA, BLM missed the point. The issue, appellants contend, is whether the 1985 Buffalo RMP properly considered CBM extraction and production and their environmental consequences. Appellants argue that it does not. BLM's reliance on "maintenance" of the RMP is inappropriate, appellants allege, because the regulation cited by BLM, 43 C.F.R. § 1610.5-4, provides that maintenance is for "minor changes in data" and "shall not result in expansion in the scope of resource uses * * *." CBM extraction, appellants contend, is exactly that—an expansion in the scope of resource uses.

Appellants respond to BLM's thesis that preleasing NEPA documentation for the February 2000 sale was unnecessary because of all the previous environmental studies undertaken for the Powder River Basin by pointing out that there is a difference between project-level NEPA documents and preleasing NEPA documents. The Wyodak EIS, which BLM relies on as satisfying its NEPA obligations, was, appellants contend, a project-level document and, as such, neither it nor any other CBM project-level EIS or EA can satisfy BLM's preleasing NEPA requirements. Those requirements, appellants argue, are distinct from project-level NEPA document requirements and include consideration of various leasing alternatives, including leasing without stipulations, leasing with stipulations, and no leasing. Such preleasing requirements, appellants contend, are supported by either Conner v. Burford, *supra*, or Park County Resource Council v. U.S. Department of Agriculture, *supra*. According to appellants, the only document to examine the requisite preleasing requirements was the Buffalo RMP/EIS and that document did not address CBM extraction and production.

Appellants dismiss BLM's claim that a stay would adversely affect revenues and the taxpayer. They assert that compliance with Federal laws must always take precedence.

Finally, considering BLM's assertion that appellants should have served all lease purchasers with copies of their filings, appellants argue that BLM is the only necessary party. They point out that the appeal information provided with the Acting Deputy State Director's decision states that appellants are required to serve only those adverse parties "named in decision." (Reply, Ex. B.) Appellants state that no adverse parties were named in the decision.

[2] In Sierra Club, 108 IBLA 381, 384-85 (1989), the Board stated:

In balancing the likelihood of movant's success against the potential consequences of a stay on the other parties it has been held that "it will ordinarily be enough that the plaintiff has raised questions going to the merits so serious, substantial, difficult and doubtful, as to make them a fair ground for litigation and thus for more deliberative investigation." Hamilton Watch Co. v. Benrus Watch Co., 206 F.2d 738, 740 (2d Cir. 1953), quoted in Placid Oil Co. v. United States Department of the Interior, 491 F. Supp. 895, 905 (N.D. Texas 1980).

It is clear that the Buffalo RMP/EIS completed in 1985 did not address CBM extraction and development. BLM's position is that CBM extraction and production is no different than any other natural gas extraction and production and that the production of water "is a commonplace occurrence in the oil and gas industry and the practices for dealing with it were well-established for many decades before the Buffalo RMP was completed." (Decision at 2.) Appellants, however, have well documented that water production from CBM extraction in the Powder River Basin is on a magnitude that presents unique problems. (Notice and Request, Exs. 3-6.) In addition, they have shown that CBM development and transportation presents "critical air quality issues" which "are not adequately documented in current land use plans and associated NEPA documents." (Notice and Request, Ex. 8 at Page III-23.) Moreover, although BLM maintains on appeal that it complied with NEPA through preparation of the Wyodak EIS, appellants point out that the Wyodak EIS is a project-level EIS, not a preleasing NEPA document. We note that BLM's Handbook on Planning for Fluid Mineral Resources (H-1624-1) provides, as follows, at Chapter I B.2.:

Compliance with NEPA has been integrated into BLM's resource management planning process. The BLM has a statutory responsibility under NEPA to analyze and document the direct,

indirect and cumulative impacts of past, present and reasonably foreseeable future actions resulting from Federally authorized fluid minerals activities. By law, these impacts must be analyzed before the agency makes an irreversible commitment. In the fluid minerals program, this commitment occurs at the point of lease issuance. Therefore, the EIS prepared with the RMP is intended to satisfy NEPA requirements for issuing fluid mineral leases * * *.

Although BLM states that additional NEPA analysis is added to the RMP through the regulatory maintenance process of 43 C.F.R. § 1610.5-4, and that the Wyodak EIS is "a good example in this case" (BLM's Response at 15), maintenance is restricted by regulation to minor changes in data and may not expand the scope of resource use. Appellants allege that CBM extraction and development represent an expansion of the scope of resource use.

We believe that in this case appellants have shown sufficient justification for granting a stay based upon the regulatory standards. They have raised substantial questions regarding compliance with NEPA and FLPMA, questions which will require careful consideration. The necessity to resolve such questions in a deliberative manner dictates that we grant a stay of the Acting Deputy State Director's decision as it relates to the three parcels for which appellants have established their standing to appeal.

[3] The last issue for consideration is the requirement for service on adverse parties. The regulations require that an appellant "serve a copy of the notice of appeal and any statement of reasons, written arguments, or briefs on each adverse party named in the decision from which the appeal is taken and the Office of the Solicitor * * *." (Emphasis added.) 43 C.F.R. § 4.413. The decision in question did not list any adverse parties. Thus, appellants were obligated only to serve the Office of the Solicitor, which they did. The purchasers of the three parcels for which appellants established their standing are, however, clearly interested parties. As such we will require both appellants and BLM to serve them with copies of all documents previously filed with this Board in this appeal and all subsequent filings. In addition, those purchasers will be offered the opportunity to seek intervention in this proceeding and file any desired response to the previously-filed pleadings.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, BLM's motion to dismiss is granted in part and denied in part, as described herein. Appellants' request for stay is granted in part and denied in part, as described herein. BLM and appellants shall serve all previously-filed documents on

the purchasers of sale parcels WY-0002-082, WY-0002-092, and WY-0002-093, and those purchasers are granted 30 days from receipt of the last served of those documents to seek intervention and file any desired response with this Board.

Bruce R. Harris
Deputy Chief Administrative Judge

I concur:

James L. Burski
Administrative Judge

