



WESTERN WATERSHEDS PROJECT, *ET AL.*

187 IBLA 316

Decided May 2, 2016



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Interior Board of Land Appeals
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WESTERN WATERSHEDS PROJECT, *ET AL.*

IBLA 2015-80

Decided May 2, 2016

Appeal from a decision record of the Price (Utah) Field Office, Bureau of Land Management, concerning wildfire management in the Range Creek area, Carbon and Emery Counties, Utah. DOI-BLM-UT-G023-2014-010-EA.

The Board denies BLM's motion to reconsider our previous ruling denying its motion to dismiss, but we summarily dismiss the appeal on other grounds.

1. Appeals: Jurisdiction--Rules of Practice: Appeals: Jurisdiction--Wildfire Management

The regulation at 43 C.F.R. § 4.416 provides a time period for deciding appeals from wildfire management decisions, but the rule does not provide that the Board loses jurisdiction when the time limit is exceeded.

2. Appeals: Standing--Rules of Practice: Appeals: Standing to Appeal

To have standing to appeal, in addition to qualifying as a party to the case, an appellant must show it has a legally cognizable interest that is or is likely to be adversely affected by the decision on appeal. An appellant does not establish a legally cognizable interest in the public lands that is or is substantially likely to be adversely affected by a decision, when its member reported only an unspecified interest reflected in one past non-recreational tour and uncertain plans for a future visit. The Board will not find an appellant's absence from the project area, except for one tour, "in order to avoid increasing human use and presence in this sensitive area," evinces a legally cognizable interest or adverse impact to such interest as required for the purpose of standing. A mere interest in a problem is not enough to meet the adverse impact element required for standing.

3. Practice Before the Department: Persons Qualified to Practice

Only those who are eligible to practice before the Department, as identified in 43 C.F.R. § 1.3, are entitled to practice before this Board. The burden to show eligibility to practice before the Board rests with the person purporting to represent an appellant. Foundational to the rule is the principle that a person lacking authority to represent under 43 C.F.R. § 1.3 does not have sufficient interest in the matter to always provide the best representation and may even have at times conflicting concerns.

4. Practice Before the Department: Persons Qualified to Practice--Rules of Practice: Appeals: Dismissal--Rules of Practice: Appeals: Statement of Reasons

The filing of a statement of reasons (SOR) constitutes practice on behalf of parties. An SOR is critical to an appeal before the Board, as it provides the basis for appeal. As with notices of appeal, the rule of representation with respect to SORs, also serves the “best representation” interest and avoids the potential for “conflicting concerns.” Accordingly, the Board will not consider arguments raised in an SOR on behalf of parties that the person who filed the SOR and the appeal does not represent. In furtherance of 43 C.F.R. § 1.3, the Board will exclude from consideration an SOR signed solely by a representative of an appellant who does not demonstrate standing, and who has not shown he has the authority to represent any other appellant. The regulation at 43 C.F.R. § 4.412(c) provides for summary dismissal for failure to file an SOR. When a notice of appeal does not contain reasons for the appeal, and the only SOR filed with the Board is invalid and therefore excluded from consideration, we will summarily dismiss the appeal.

APPEARANCES: Jonathan B. Ratner, Director, Western Watersheds Project, Wyoming Office, Pinedale, Wyoming, for Western Watersheds Project; Neal Clark, Esq., Moab, Utah, for Southern Utah Wilderness Alliance; Dr. John Carter, Paris, Idaho, *pro se* and for Yellowstone to Uintos Connection; Allison Jones, Salt Lake City, Utah, for Wild Utah Project; Bryan Bird, Santa Fe, New Mexico, for WildEarth Guardians; John W. Steiger, Esq., and Cameron B. Johnson, Esq., Office of the Regional Solicitor, U.S. Department of the Interior, for the Bureau of Land Management.

OPINION BY ADMINISTRATIVE JUDGE KALAVRITINOS

Western Watersheds Project (WWP), Southern Utah Wilderness Alliance (SUWA), Yellowstone to Uintas Connection (YTUC), Wild Utah Project (WUP), WildEarth Guardians (WEG), and Dr. John Carter (Carter) (collectively, appellants) have appealed from a December 10, 2014, Decision Record (DR), of the Price (Utah) Field Office, Bureau of Land Management (BLM). BLM based its DR on an Environmental Assessment (EA), DOI-BLM-UT-G023-2014-010-EA, for the Range Creek project (the project). The DR is a wildfire management decision, which BLM issued pursuant to 43 C.F.R. § 5003.1, and was effective immediately upon issuance. DR at 11.

As discussed below, the Board determines that no entity appealing the DR has both demonstrated standing to appeal the DR and filed a valid statement of reasons for the appeal and, therefore, we will summarily dismiss the appeal.

I. Background

On January 9, 2015, appellants submitted a Notice of Appeal to BLM, challenging the DR, but that notice did not include a statement of reasons (SOR) for the appeal. The Notice of Appeal lists WWP, SUWA, YTUC, WUP, and WEG each as appellants, and lists a different representative for each appellant, and each representative individually signed the Notice of Appeal on behalf of their respective organizations. Notice of Appeal at 2-3. In addition, Carter, who signed the Notice of Appeal as a representative of YTUC, is also an individual appellant. *Id.* at 1 (caption and text).

The Board granted appellants' unopposed motions for extensions of time to file their SOR within 30 days after receipt of BLM's supplemental administrative record. On September 3, 2015, the Board received the SOR. Jonathan B. Ratner (Ratner), Director of the Wyoming Office of WWP, was the only person who signed the SOR. Neal Clark (Clark), Field Attorney for SUWA, signed the certificate of service for the SOR. Carter, Clark, and Allison Jones (of Wild Utah Project) signed declarations attached to the SOR.

On September 21, 2015, BLM filed a Motion to Dismiss the appeal on the basis that the Board lost jurisdiction of the case pursuant to 43 C.F.R. § 4.416, which provides, "The Board must decide appeals from decisions under . . . [43 C.F.R.] § 5003.1(b) . . . within 60 days after all pleadings have been filed, and within 180 days after the appeal was filed." 43 C.F.R. § 4.416. On November 5, 2015, the Board issued an Order denying BLM's Motion to Dismiss.

On January 27, 2016, after the Board granted BLM's motions for extension of time, BLM filed its Answer. BLM included with its Answer a motion to strike in part Carter's declaration (requesting that we strike everything except Clark's statement of standing). In the alternative, BLM moved for permission to file a supplemental answer, responding to Carter's declaration. On February 19, 2016, the Board denied the motion to strike, but granted permission to file a supplemental answer. On March 14, 2016, BLM filed its Supplemental Answer. Within the Supplemental Answer, BLM moved for reconsideration of the Board's Order denying its Motion to Dismiss.¹ Supplemental Answer at 4 n.3. Due to the additional time the parties needed to litigate this matter, the appeal did not become ripe for final disposition until March 14, 2016.

II. Jurisdiction

A. Exceedance of the 180-Day Period for Deciding Appeals of Wildfire Management Decisions

As a threshold matter, we discuss whether the Board should grant BLM's motion to reconsider our Order denying the Motion to Dismiss the appeal for lack of jurisdiction, and therefore, whether the Board has jurisdiction over the appeal of the DR, even though the time period specified under 43 C.F.R. § 4.416, which concerns when the Board is to decide appeals from wildfire management decisions, has expired.

Under our rules, "[t]he Board must decide appeals from decisions under . . . [43 C.F.R.] § 5003.1(b) . . . within 60 days after all pleadings have been filed, and *within 180 days after the appeal was filed.*" 43 C.F.R. § 4.416 (emphasis added). As noted, the DR constitutes a wildfire management decision, which BLM issued pursuant to 43 C.F.R. § 5003.1, and was effective immediately upon issuance. DR at 11. The 180-day time period provided by 43 C.F.R. § 4.416 has expired.

[1] In its motion for reconsideration, BLM emphasizes the language in 43 C.F.R. § 4.416 providing that the Board "must" decide appeals within 180 days, but it incorrectly assumes this language imposes a jurisdictional limitation upon the Board. See Supplemental Answer at 3-4. As we explained in our Order denying the Motion to Dismiss, 43 C.F.R. § 4.416 does not impose a consequence for exceeding the time limit set forth in that rule. We contrasted 43 C.F.R. § 4.416 with 43 C.F.R.

¹ In the Supplemental Answer, BLM also moved for reconsideration of our Order denying its motion to strike, and also protested that our Order did not allot sufficient time for the Supplemental Answer. Since the Board is dismissing the appeal, we deny as moot BLM's motion to reconsider that order.

§ 4.906, under Special Rules applicable to Appeals Concerning Federal Oil and Gas Royalties and Related Matters, which does provide consequences for exceeding the time limit. *See also* 30 U.S.C. § 1724(h) (2012) (cited by 43 C.F.R. § 4.906). The regulatory language of 43 C.F.R. § 4.416 does not provide that the Board loses jurisdiction when it exceeds the time limit. We decline to infer language into this regulation that is not promulgated by notice and comment rulemaking. We further note that, in an analogous situation, the Director of the Office of Hearings and Appeals held the Board may rule on a petition for stay beyond the time period provided under our rules, even though the stay rule employed mandatory language (“shall”). *David M. Burton*, 11 OHA 117 (1995). For these reasons discussed herein, and in accordance with our Order denying the Motion to Dismiss, we deny BLM’s motion for reconsideration of this Order.

B. Standing

1. Standard of Review for Standing to Appeal a Decision to the Board

As the Board has previously explained, “[i]n order to pursue an appeal from . . . a BLM decision, an appellant is required to have standing under 43 C.F.R. § 4.410 to appeal from the decision. 43 C.F.R. § 4.410(a) requires that an appellant demonstrate it is both a ‘party to a case’ and ‘adversely affected’ by the decision” *Wildlands Defense*, 187 IBLA 233, 236 (2016) (quoting *WWP*, 185 IBLA 293, 298 (2015)). “An appeal must be dismissed if either element is lacking.” *Id.* (quoting *WWP*, 185 IBLA at 298). “It is the appellant’s responsibility to demonstrate the requisite elements of standing.” *Id.* (quoting *WWP*, 185 IBLA at 298). When an organization alleges representational standing, *i.e.*, standing based on the standing of its members, “it must demonstrate that one or more of its members has a legally cognizable interest in the subject matter of the appeal, coinciding with the organization’s purposes, that is or may be negatively affected by the decision.” *Id.* (quoting *WWP*, 185 IBLA at 298-99 (citing *Native Ecosystems Council*, 185 IBLA 268, 273 (2015); *The Coalition of Concerned National Park [Service] Retirees*, 165 IBLA 79, 86-87 (2005))).

A “party to a case” is “one who has taken action that is the subject of the decision on appeal, is the object of that decision, or has otherwise participated in the process leading to the decision under appeal, e.g., by filing a mining claim or application for use of public lands, by commenting on an environmental document, or by filing a protest to a proposed action.” 43 C.F.R. § 4.410(b). For instance, the Board has held that an appellant satisfies the “party to a case” requirement when it commented on a draft EA that is the subject of the decision being appealed. *Native Ecosystems Council*, 185 IBLA at 273.

Concerning the “adversely affected” requirement, “[a] mere interest in a perceived problem, no matter how longstanding the interest or how qualified the organization may be in evaluating the problem, is not sufficient by itself to render the organization ‘adversely affected’ or aggrieved.” *Board of Commissioners of Pitkin County, Colorado*, 186 IBLA 288, 308 (2015) (citing *Sierra Club v. Morton*, 405 U.S. 727, 739 (1972)); *see also, e.g., Center for Biological Diversity*, 181 IBLA 325, 338 (2012). A party to a case is adversely affected “when that party has a legally cognizable interest, and the decision on appeal has caused or is substantially likely to cause injury to that interest.” 43 C.F.R. § 4.410(d); *see Wildlands Defense*, 187 IBLA at 238-39. “The legally cognizable interest must be shown to have been held by the appellant at the time of the decision that it seeks to appeal.” *Wildlands Defense*, 187 IBLA at 239 (quoting *WWP*, 185 IBLA at 298). Legally cognizable interests “include aesthetic and recreational values: ‘[A]dversely affect[ing] the scenery, natural and historic objects and wildlife . . . may amount to an ‘injury in fact’ sufficient to lay the basis for standing.” *WWP v. BLM*, 182 IBLA 1, 7 (2012) (quoting *Sierra Club v. Morton*, 405 U.S. at 734); *see also Friends of the Earth, Inc. v. Laidlaw Environmental Services, Inc.*, 528 U.S. 167, 182-83 (2000).

“[T]he burden falls upon the appellant to make colorable allegations of an adverse effect, supported by specific facts, set forth in an affidavit, declaration, or other statement of an affected individual that are sufficient to establish a causal relationship between the approved action and the injury alleged.” *Wildlands Defense*, 187 IBLA at 239 (quoting *WWP*, 185 IBLA at 299). “The appellant need not prove that an adverse effect will, in fact, occur as a result of the BLM action, but we have long held that the threat of injury and its effect on the appellant must be more than hypothetical.” *Id.* (quoting *WWP*, 185 IBLA at 299). “Standing will only be recognized where the threat of injury is real and immediate.” *Id.* (quoting *WWP*, 185 IBLA at 299, quoting *Legal & Safety Employer Research, Inc.*, 154 IBLA 167, 172 (2001)). “[M]ere speculation that an injury might occur in the future will not suffice.” *Id.* (quoting *WWP*, 185 IBLA at 299, quoting *Colorado Open Space Council*, 109 IBLA 274, 280 (1989)).

The Board has held that an organization fails to establish its causal relationship between the decision on appeal and the alleged injury to its legally cognizable interests, where its members or officers allege they have visited a general project area, but have not alleged they have visited the “specific areas” or “specific portions” of the project area where the alleged harmful actions will take place. *WWP*, 185 IBLA at 299-300; *Native Ecosystems Council*, 185 IBLA at 273-74; *contrast Roseburg Resources Co.*, 186 IBLA 325, 331-32 (2015); *see also WWP*, 182 IBLA at 10 (appellant established adverse impact based on repeated visits to watersheds downstream from a grazing allotment which were affected by BLM’s management of the allotment).

The Board has rejected a bright line rule that an appellant must always show a specific, concrete plan to visit the specific areas that will be directly impacted by the project in the future, but that may be a relevant factor. *Center for Biological Diversity*, 181 IBLA at 339 (“An intent or plan to visit an area in the future may be relevant, but is neither required nor controlling.”). We have held that “[a] single visit in the past with only a vague intention to return does not establish use sufficient to provide a basis for finding injury.” *WWP*, 182 IBLA at 8 (citing *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 563-64 (1992)). We have also held that when a person made two visits 20 years ago and planned to return sometime in the indefinite future, this was insufficient. *Native Ecosystems Council*, 185 IBLA at 275. Conversely, where a member of an organization had repeatedly recreationally used the specific forest lands allegedly to be destroyed and/or otherwise significantly harmed by a wildfire management decision, and that member expressed an intent to return in the future to those lands, we held that member’s organization had standing. *Wildlands Defense*, 187 IBLA at 240; *see also Friends of the Earth, Inc.*, 528 U.S. at 182-83. We previously stated: “Repeated recreational use itself, accompanied by a credible allegation of desired future use, can be sufficient, *even if relatively infrequent*, to demonstrate that environmental degradation of the area is injurious to that person.” *WWP*, 182 IBLA at 8 (emphasis added; citations omitted). In sum, an appellant fulfills its burden to show it has a legally cognizable interest that is or is substantially likely to be adversely affected by the decision on appeal, when it makes colorable allegations, supported by facts, of a causal relationship between the approved action and the alleged injury to the specific natural resources that the appellant repeatedly, recreationally had used at the time of the decision. *Wildlands Defense*, 187 IBLA at 240; *see also Friends of the Earth, Inc.*, 528 U.S. at 182-83.

2. Analysis of Standing

Carter, an individually-named appellant, is also a member or manager of each of the appellant organizations. Carter signed a declaration, which includes a statement of standing for the Range Creek project. Carter Declaration (Ex. A. of SOR) ¶¶11-13. Carter submitted comments on the draft EA. Administrative Record 200-1 (comments). Consequently, each appellant meets the party to a case requirement. *Accord Native Ecosystems Council*, 185 IBLA at 273 (held that an appellant met the party to the case requirement since that appellant had commented on the draft EA that was the basis for the decision it appealed).

However, as we later discuss, only WWP (Ratner) signed the SOR. No other party submitted an SOR. Ratner does not assert that he represents any of the other appellants, nor could he because of 43 C.F.R § 1.3. Accordingly, we address only whether WWP has established it has a legally cognizable interest that is adversely

affected or is substantially likely to be adversely affected by the decision on appeal, for purposes of standing.

In the SOR, WWP briefly discussed its organization's standing. "WWP has an interest in the ecological conditions on the Range Creek allotment and the project area. As such, WWP and its members, including Carter, will be adversely affected by this decision." SOR at 3. We find the statement lacks the specificity necessary to demonstrate WWP has a legally cognizable interest, and reflects only a mere interest in the alleged problem.

[2] Turning to the statement of standing in Carter's declaration, in light of his membership in WWP, we find it too fails to show that WWP, through a member, has a legally cognizable interest that the DR has adversely affected or is substantially likely to adversely affect. We recognize Carter has demonstrated his interest in the project, which is the subject of the DR, by commenting on it on multiple occasions, beginning as early as July 2013. See Carter Declaration ¶ 12. However, at no point in his statement of standing did Carter, in addition to attesting to a mere interest in the area, make colorable allegations, supported by facts, of a causal relationship between the approved action and the alleged injury to a legally cognizable interest, such as a specific natural resource that the appellant repeatedly, recreationally used at the time of the decision. *Wildlands Defense*, 187 IBLA at 240; see also *Friends of the Earth, Inc.*, 528 U.S. at 182-83.

Carter does not allege he previously engaged in recreational activities in the project area or that he has future plans to participate in recreational activities in the project area. Nor has Carter alleged he has any other legally cognizable interest in the project area that the DR has adversely affected or is substantially likely to adversely affect. Carter avers only that, on one occasion, July 17, 2014, he participated in a field tour of the project area, which BLM led in conjunction with the Natural History Museum of Utah and others, and that the tour was held at his request on behalf of the appellant organizations. Carter Declaration ¶ 13. As for the future, Carter avers, "I do plan to return to Range Creek to further inspect the area and hopefully, see the degraded stream and riparian zone continuing to recover and the adjacent uplands being restored through natural processes, or in the event this project goes forward, to inspect the ongoing progress or further degradation depending on the ultimate outcome." *Id.*

WWP does not fulfill its burden to show it has a legally cognizable interest that is or is substantially likely to be adversely affected by the decision on appeal, when it fails to make colorable allegations, supported by facts, of a causal relationship between the approved action and the alleged injury to a legally cognizable interest in the specific natural resources at issue. *Wildlands Defense*, 187 IBLA at 240; see also *Friends of the Earth, Inc.*, 528 U.S. at 182-83. In accordance with the Board's

regulation concerning standing and our case law, we hold WWP has not met its burden to show it has standing to appeal the DR, when its member has not alleged any legally cognizable interests that have been or are substantially likely to be adversely affected by the DR, but reported only an unspecified interest reflected in one past non-recreational tour and uncertain plans for a future visit.

Carter challenges the legal standard for standing, as just discussed and applied, arguing for an alternative standard. He contends he chose not to visit the area except for the one tour, “in order to avoid increasing human use and presence in this sensitive area.” Carter Declaration ¶ 13. He asserts, “[r]espect and caring for resources and not impacting them should be an equally valid reason for standing whether a person visits a site or not.” *Id.* Carter has not alleged any legally cognizable interest that has been or is substantially likely to be adversely affected by the DR. We do not find Carter’s absence from the project area, except for one tour, “in order to avoid increasing human use and presence in this sensitive area,” evinces a legally cognizable interest or adverse impact to such interest as required for the purpose of standing. It is a well-established principle that a mere interest in a problem does not satisfy the burden to show the existence of a legally cognizable interest that is or is likely to be substantially adversely affected by the decision on appeal. *Center for Biological Diversity*, 181 IBLA at 338. Here, WWP has not made a sufficient showing to carry its burden. Accordingly, we dismiss WWP from the appeal due to lack of standing.

We next address the issue of whether an appellant satisfies the regulatory requirement to submit an SOR when the SOR, filed with the Board, was signed only by an officer of an appellant organization (WWP), which the Board dismissed from the appeal for lack of standing.

III. Authority of a Non-Lawyer to Represent Other Organizations -- Exclusion of the SOR from Consideration

To represent an organization, one must be eligible under 43 C.F.R. § 1.3 to “practice” before the Department. Under 43 C.F.R. § 1.3, to “practice” before the Department on behalf of an organization, one must be a practicing lawyer, one formally admitted to practice before the Department under prior regulations, or an officer or full-time employee of the organization. *Native Ecosystems Council*, 185 IBLA at 271 (citing *Building & Construction Trades Council of Northern Nevada*, 139 IBLA 115, 116 (1997)). The rules define “practice” to include “any action taken to support or oppose the assertion of a right before the Department or to support or oppose a request that the Department grant a privilege” 43 C.F.R. § 1.2(c). The term “practice” also includes “any such action whether it relates to the substance of, or to the procedural aspects of handling, a particular matter.” *Id.*

[3] Under the applicable rules, “[o]nly those who are eligible to practice before the Department, as identified in 43 C.F.R. § 1.3, are entitled to practice before this Board.” *Native Ecosystems Council*, 185 IBLA at 271; *see* 43 C.F.R. § 4.3(a) (representation of parties in proceedings before the Board). . . The rule at 43 C.F.R. § 1.3(b)(3) broadly allows any individual to do so “in connection with a particular matter on his own behalf or on behalf of” a family member, a corporation *or association if an officer or full-time employee of that corporation or association*, among others. *See Native Ecosystems Council*, 185 IBLA at 271 n.4. The rule at 43 C.F.R. § 1.3(b)(2) allows “[a]ttorneys at law” to practice before the Department, subject to certain requirements. However, an “attorney-in-fact” is not eligible to practice before the Department, and 43 C.F.R. § 1.3 does not authorize practice by an “agent” or an individual performing a service for a client other than as an attorney. *Native Ecosystems Council*, 185 IBLA at 272 (citing cases). The burden to show eligibility to “practice” before the Board rests with the person purporting to represent an appellant. *Id.*; *see Umpqua Watersheds*, 158 IBLA 62, 66 (2002) and cases cited therein.

Foundational to the rule is the principle that a person lacking authority to represent under 43 C.F.R. § 1.3 “does not have sufficient interest in the matter to always provide the best representation and may even have at times conflicting concerns.” *John D. Wayne d/b/a/ Basin Surveying, Inc.*, 161 IBLA 140, 143 n.2 (2004) (citing *J.C. Trahan*, 74 IBLA 15, 16 (1983)). The consequences are well established. When the person claiming to represent an appellant has not met his/her burden to show eligibility to practice before the Board on behalf of that appellant, the Board will dismiss the appeal as to that appellant, in accordance with 43 C.F.R. § 1.3. *See, e.g., Native Ecosystems Council*, 185 IBLA at 273; *Klamath-Siskiyou Wildlands Center*, 182 IBLA 293, 294 n.1 (2012) (dismissing four parties from an appeal); *Oregon Chapter Sierra Club*, 176 IBLA 336, 345 (2009); *Gail Schmardebeck*, 142 IBLA 160, 161-62 (1998); *Building and Construction Trades Council*, 139 IBLA at 116-18; *SUWA*, 108 IBLA 318, 321 (1989) (SUWA’s appeal purported to be filed on behalf of SUWA and two other organizations; the Board dismissed those additional parties from SUWA’s appeal, as it did not appear the SUWA employee was an employee of those other organizations, or a licensed attorney authorized to represent them).

[4] As with notices of appeal, the filing of an SOR constitutes practice on behalf of parties, because “practice” includes any action taken to support or oppose the assertion of a right before the Department. *See* 43 C.F.R. § 1.2(c). An SOR is critical to an appeal before the Board, as it provides the basis for appeal. The regulations at 43 C.F.R. §§ 4.402(a) and 4.412(c) provide for summary dismissal for failure to file an SOR. *Wendi S. Bierling*, 185 IBLA 257, 260 (2015) (dismissal of appeal where the notice of appeal summarily asserted error and appellant did not file an SOR).

The rule of representation with respect to SORs also serves the “best representation” interest and avoids the potential for “conflicting concerns.” *Wayne*, 161 IBLA at 142 (citing *J.C. Trahan*, 74 IBLA at 16). Accordingly, we have declined to consider arguments raised in an SOR purportedly filed on behalf of parties who are not properly represented by the filer. *Antonio J. Baca*, 144 IBLA 35, 38 (1998); *see also Peter J. Mehringer*, 177 IBLA 152, 153 n.1 (2009). In the SOR at issue in *Baca*, Baca presented his own arguments, as well as others presented on behalf of an association. However, no evidence was presented showing that Mr. Baca was entitled, under 43 C.F.R. § 1.3, to practice before the Department on behalf of that organization, nor was there evidence to indicate he was an officer, full-time employee, or a member of that association. *Baca*, 144 IBLA at 38. The Board dismissed from the appeal all arguments raised on behalf of the other party. *Id.*; *see also Mehringer*, 177 IBLA at 153 n.1; *cf. Rudy Hillstrom*, 180 IBLA 388, 389 n.1 (2011) (a case in which an SOR was filed in compliance with 43 C.F.R. § 1.3, and an additional SOR was filed that was not in compliance with the rule, wherein the Board allowed the additional SOR to the extent it qualified under 43 C.F.R. § 4.406(d) (amicus briefs)). As we have opined, although the rule at 43 C.F.R. § 1.3 “may seem harsh for occasionally penalizing an otherwise qualified appellant, its enforcement is necessary to protect those who do business with the Department against the risk of inadequate or false representation.” *Native Ecosystems Council*, 185 IBLA at 272 n.5 (quoting *Ganawas Corp.*, 85 IBLA 250, 251 (1985) (citation omitted)).

In the matter at hand, a representative of each appellant individually signed the Notice of Appeal—a summary notice, containing no statement of reasons for the appeal. Only one SOR was filed—the SOR signed by Ratner.² *See* SOR at 30. Throughout the appeal, Ratner describes himself only as a Director of WWP (Wyoming Office); at no point has he alleged he is a full-time employee or an officer of any of the other appellants, nor has he alleged he is an attorney at law. *See, e.g.*, SOR at 30 (conclusion /signature page); Notice of Appeal at 2. As discussed herein, we dismissed WWP from the appeal for lack of standing. No SOR was filed by one who was authorized to practice before the Board and to represent a party with standing. Therefore, the Board properly excludes the SOR from consideration, which renders the appeal subject to summary dismissal. *See* 43 C.F.R. § 4.412(c)

² We see that Clark, who, elsewhere in the record, described himself as a Field Attorney for SUWA, signed the certificate of service for the SOR. However, his signature on the certificate of service provides only certification that Clark “served the [SOR] by placing a true and correct copy in the U.S. Mail, first-class postage prepaid, certified return receipt requested” on the date he specified and to the parties he listed in the certification.

(provides for summary dismissal for failure to file an SOR). WWP, who signed the SOR, as well as at least one of the other appellants (SUWA), is well aware of the requirements of 43 C.F.R. § 1.3, for practice before the Board. *See Native Ecosystems Council*, 185 IBLA at 273 (dismissing WWP from appeals); *SUWA*, 108 IBLA at 321 (where an officer of SUWA brought an appeal purporting to represent SUWA, along with two additional organizations, we dismissed those additional organizations from the appeal).

Accordingly, and in furtherance of 43 C.F.R. § 1.3, the Board excludes from consideration the SOR in this appeal, which was signed solely by an officer of WWP. WWP lacks standing to appeal and, therefore, was dismissed from the appeal. SUWA has standing to appeal, but Ratner has not shown he has authority to represent SUWA, under 43 C.F.R. § 1.3. Since the Notice of Appeal does not contain any SOR for the appeal, and the only SOR filed with the Board is invalid and excluded from consideration, we summarily dismiss the appeal. *See* 43 C.F.R. § 4.412(c); *Wendi S. Bierling*, 185 IBLA at 260 (dismissal of appeal where the notice of appeal summarily asserted error and appellant did not file an SOR).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, we deny BLM's motion to reconsider our previous ruling denying its motion to dismiss, but dismiss the appeal on other grounds.

/s/

Christina S. Kalavritinos
Administrative Judge

I concur:

/s/

James F. Roberts
Deputy Chief Administrative Judge