



**U.S. Department of the Interior
Office of Inspector General**

EVALUATION REPORT

**ADMINISTRATIVE APPEALS PROCESS OF THE
INTERIOR BOARD OF LAND APPEALS,
DEPARTMENT OF THE INTERIOR**

**REPORT NO. 99-I-924
SEPTEMBER 1999**



United States Department of the Interior

OFFICE OF INSPECTOR GENERAL
Washington, D.C. 20240

SEP 30 1999

EVALUATION REPORT

Memorandum

To: Assistant Secretary for Policy, Management and Budget
Assistant Secretary for Land and Minerals Management

From: Robert J. Williams *Robert J. Williams*
Assistant Inspector General for Audits

Subject: Evaluation Report on the Administrative Appeals Process of the Interior Board of Land Appeals, Department of the Interior (No. 99-I-924)

INTRODUCTION

This report presents the results of our evaluation of that part of the Department of the Interior's administrative appeals process which is managed by the Minerals Management Service and the Office of Hearings and Appeals, Interior Board of Land Appeals. The objective of the evaluation was to determine whether the administrative appeals process of the Interior Board of Land Appeals as it related to the Federal Oil and Gas Royalty Simplification and Fairness Act of 1996 was efficient and effective. Specifically, we determined whether Land Appeals could process oil and gas royalty appeals within the 33-month processing time frame required by the Act. Our evaluation was initiated based upon a request from the previous Director of Hearings and Appeals.

BACKGROUND

The Office of Hearings and Appeals was created in July 1970 by delegation of the Secretary of the Interior to consolidate the various public lands hearings and appeals functions and Indian probate hearings throughout the Department of the Interior. Hearings and Appeals is responsible for quasi-judicial and appellate functions within the Department and consists of the Office of the Director, the Hearings Division, and three boards of appeals (the Interior Board of Land Appeals, the Interior Board of Contract Appeals, and the Interior Board of Indian Appeals). Administrative judges within the three designated boards of appeals render decisions in cases pertaining to appeals of bureau and Hearings Division decisions regarding public lands, contract disputes, and other determinations for the Bureau of Indian Affairs, the Bureau of Land Management, and the Office of Surface Mining Reclamation and

Enforcement. The appeals include matters related to Indian probates, Indian oil and gas disputes, land rights-of-way, land trespasses, timber sales, mining law violations, and mining citations. In addition, the Office of the Director renders decisions on all appeals that are not within the jurisdiction of an established appeals board, such as employee-management disputes, employee conduct, and property management issues.

Land Appeals responsibilities also include adjudicating oil and gas company appeals of decisions made by the Minerals Management Service. As of December 1998, the Board of Land Appeals had 27 full-time employees, consisting of 11 administrative judges, 13 attorney-advisers, and 3 administrative support personnel. One of the 11 judges, the Chief Judge, supervises the remaining administrative judges and manages the administrative appeals process within Land Appeals. The oil and gas royalty appeals process, which typically begins in the Minerals Management Service, is described in Appendix 1.

Prior to August 1996, there was no time limit for processing appeals of the Minerals Management Service's decisions. However, on August 13, 1996, Public Law 104-185, the Federal Oil and Gas Royalty Simplification and Fairness Act of 1996, imposed time frames for processing Federal oil and gas royalty appeals. Section 4 of the Act added Section 115(h) to the Federal Oil and Gas Royalty Management Act, which requires that the Department resolve appeals of Service orders and determinations for companies to pay additional oil and gas royalties within 33 months from the date the proceedings started. The Act provided that failure to meet this time frame would result in a default decision based on the value of royalties involved in the appeal. If no decision has been issued by the Secretary within the 33-month period, the Act (Section 115(h)) provides the following:

(A) The Secretary shall be deemed to have issued and granted a decision in favor of the appellant as to any nonmonetary obligation and any monetary obligation the principal amount of which is less than \$10,000; and

(B) the Secretary shall be deemed to have issued a final decision in favor of the Secretary, which decision shall be deemed to affirm those issues for which the agency rendered a decision prior to the end of such period, as to any monetary obligation the principal amount of which is \$10,000 or more, and the appellant shall have a right to judicial review of such deemed final decision in accordance with the United States Code.

An attorney from the Solicitor's Office defined judicial review as the process in which the appellant may file the appeal directly with a Federal district court, which would remove the decision on the second appeal from the Department's jurisdiction. The Act also provides that the 33-month period may be extended by any period of time agreed upon in writing by the Secretary and the appellant.

To facilitate resolution of these appeals, Section 115(i) of the Federal Oil and Gas Royalty Management Act, as amended by the Royalty Simplification Act (30 U.S.C. 1701 et seq.), requires the Department and the appellant to consult with each other regarding settlement negotiations. The Section states:

To expedite collections relating to disputed obligations due within the seven-year period beginning on the date the obligation became due [from the date the royalties were initially due], the parties shall hold not less than one settlement consultation and the Secretary and the State concerned may take such action as is appropriate to compromise and settle a disputed obligation, including waiving or reducing interest and allowing offsetting of obligations among leases.

SCOPE OF EVALUATION

The evaluation was conducted at the Office of Hearings and Appeals in Arlington, Virginia, and the Minerals Management Service Appeals Division and the Solicitor's Office in Washington, D.C. As part of the evaluation, we conducted interviews with the Director and the Deputy Director of the Office of Hearings and Appeals, the Chief Judge and the Deputy Chief Judge, 10 administrative judges, 12 staff attorneys, and an administrative support employee of Land Appeals. We also conducted interviews with the Chief and the Senior Appeals Analyst of the Service's Appeals Division; attorneys from the Office of the Solicitor in Washington, D.C.; and Appeals Coordinators from the Service's Office of Enforcement in Lakewood, Colorado. We conducted these interviews to obtain information concerning the appeals processes used by Land Appeals and the Service and the location and maintenance of appeals records. We also reviewed correspondence between Land Appeals and the Service in considering whether the appeals process ensured that the 33-month processing time frame could be met, as required by the Royalty Simplification and Fairness Act.

This evaluation was conducted in accordance with the "Quality Standards for Inspections," issued by the President's Council on Integrity and Efficiency, and accordingly included such tests and evaluation procedures that were considered necessary to accomplish the objective. In addition, we reviewed the Departmental Report on Accountability for fiscal year 1997, which includes information required by the Federal Managers' Financial Integrity Act of 1982, and the Office of Hearings and Appeals annual assurance statement on management controls for fiscal year 1997 and determined that no material weaknesses were included in these documents which directly related to the objective and scope of our evaluation. As part of our review, we also evaluated the system of internal controls to the extent that they related to the objective and scope of the evaluation. The internal control weaknesses identified related to the lack of supervisory review of appeals data that were recorded in Land Appeal's database and inadequate controls by the Service over appeals files. These control weaknesses are discussed in the Results of Evaluation section of this report. Our recommendations, if implemented, should improve the internal controls in these areas.

PRIOR AUDIT COVERAGE

Neither the Office of Inspector General nor the General Accounting Office has issued any reports during the past 5 years that addressed the administrative appeals process.

RESULTS OF EVALUATION

We concluded that the Interior Board of Land Appeals should be able to process oil and gas royalty appeals within the 33-month time frame required by the Federal Oil and Gas Royalty Simplification and Fairness Act of 1996. Our conclusion was based in part on the fact that the Office of Hearings and Appeals had implemented several procedural and organizational changes to enhance its oil and gas royalty appeals processing. However, we found internal control weaknesses in the appeals procedures used by Land Appeals and the Service. Specifically, Land Appeals did not have supervisory reviews over data entered into its computerized tracking system. As a result, data entry errors were not corrected, the same appeals were assigned to different judges, and the appeals deadlines were calculated inaccurately. In addition, the Service did not provide adequate supervisory controls to ensure that the appeals files sent to Land Appeals were complete and organized. Further, the Service did not have log-in and log-out procedures to track the location and status of appeals. If these weaknesses are corrected, we believe that appeals could be processed more efficiently.

Appeals Processing

Since the Royalty Simplification and Fairness Act was enacted in August 1996, Land Appeals and Service officials have implemented several organizational and procedural changes to enhance their ability to process oil and gas royalty appeals within the 33-month time frame required by the Act. Specifically, the Director and the Chief Judge of the Office of Hearings and Appeals monitored the due dates of the oil and gas royalty appeals by requiring monthly reports regarding the status of all workable cases pending more than 12 months. Also, Land Appeals increased the accountability of judges by revising their performance standards to require them to meet "statutory and regulatory deadlines" required by the Act. Furthermore, Land Appeals officials, with assistance from the Office of the Solicitor, developed a provision (for inclusion in Land Appeals orders and decisions) that required oil and gas companies (appellants) to agree to an extension of the required 33-month time frame when the Department and the appellant were engaged in settlement discussions or other litigation activity which might result in delays in processing the appeals. Finally, appellants may request an extension to facilitate preparing their appeals cases.

We determined that Land Appeals oil and gas royalty appeals procedures as enhanced by the changes discussed should be adequate to meet the 33-month processing time frame required by the Act. To arrive at this conclusion, we also reviewed Land Appeals monthly case activity reports for the 23-month period from August 1996 (the date of the Act) through June 1998 to determine the rate at which Land Appeals had historically processed oil and gas appeals. As of August 1996, 97 oil and gas appeals of Service decisions were recorded in Land Appeals computerized database. During the 23-month period, Land Appeals received 139 new appeals, or about 6 appeals per month (139 cases divided by 23 months), and disposed of 107 appeals, or about 4 appeals per month (107 cases divided by 23 months), which resulted in a remaining caseload of 129 appeals (97 plus 139 less 107 equals 129) as of June 30, 1998. However, we also found that Land Appeals completion rate had increased

from 4 appeals per month over the 23-month period to 6 appeals per month during the latest 12 months of that period (June 30, 1997, to June 30, 1998).

Of the 129 remaining appeals, 93 appeals, valued at about \$23.7 million, were subject to the 33-month processing requirement of the Act, and 36 appeals were not related to oil and gas royalties. For 10 of the 93 appeals, settlement negotiations were in process. Therefore, the due dates will not be determined until negotiations are complete, in accordance with Departmental procedures. Also, the due date for one appeal had not been computed because the notice of appeal, which includes the date of the appeal, was not in the file. The remaining 82 appeals had due dates from May 13, 1999, to December 3, 2002. Of the 82 appeals, 33 appeals were due by May 13, 1999 (the first due date established by the Act for appeals received on or before August 13, 1996). We found that as of June 11, 1999, the 33 appeals had been processed or decided by the May 13, 1999, deadline. The remaining 49 appeals were due over the next 43 months, from May 13, 1999, to December 3, 2002, thereby requiring an average completion rate of over 1 appeal per month. Based on the preceding information and on Land Appeals average completion rate ranging from 4 to 6 appeals per month, we concluded that Land Appeals should be able to process its caseload of 93 oil and gas royalty appeals within the 33-month time frame required by the Act.

Office of the Solicitor officials, who are responsible for advising the Service on matters regarding oil and gas royalty appeals, stated that Land Appeals could process the appeals within the 33-month time frame but that the existing backlogs of Bureau of Land Management and Office of Surface Mining Reclamation and Enforcement appeals would increase. However, we determined that Land Appeals backlogs were declining because it was completing more appeals than it was receiving. Specifically, Land Appeals computerized database contained 1,320 appeals of Bureau of Land Management and Surface Mining decisions as of August 1996. During the 23-month period ending June 30, 1998, Land Appeals received 902 new cases, or 39 per month (902 cases divided by 23 months), and completed 1,386 cases, or 60 per month, (1,386 cases divided by 23 months), thereby decreasing its case work load from 1,320 to 836 (1,320 plus 902 minus 1,386). Based on these data, we believe that the backlog of Bureau of Land Management and Surface Mining appeals should continue to decrease.

Appeals Process Control Weaknesses

We found internal control weaknesses that Land Appeals and the Service should correct to further improve the appeals process. Specifically, Land Appeals controls did not ensure that oil and gas royalty appeals were accurately entered into the computerized database. Also, the Service did not have controls which ensured that case files were complete and organized before they were transferred to Land Appeals and did not have a log-in and log-out procedure for tracking the location and status of appeals.

The inaccurate appeals data resulted in two different judges being assigned responsibility as the lead judge for each of two separate appeals during the 23-month period reviewed. This occurred because each of the two appeals was assigned two separate Land Appeals tracking numbers. We believe that an independent quality control review of data input into Land

Appeals computerized system would provide greater assurance that more than one tracking number would not be assigned to an appeal.

Regarding incomplete and unorganized Service files, Land Appeals officials stated that notices of appeals could not be found or were difficult to find in the case files which were received from the Service. These notices are normally used by the judges to compute the case due dates. Of the 93 case files reviewed, we found that 29 notices were not in the files. However, since 28 of the 29 appeals were received prior to August 1996 and the Act automatically provided 33 months to process appeals which were received prior to August 1996, the administrative judges were able to compute the due date for the 28 appeals. Land Appeals officials told us that they could not compute the due date for one appeal which was received after August 1996 because they could not find the notice of appeal in the files. An administrative judge said that Land Appeals did not request the notice of appeal from the Service for the one case because Land Appeals believed that it had enough time to decide the appeal in the time frame required by the Act. According to the judge, a decision for this appeal was made on February 25, 1999, which was more than 2 months before the first due date required by the Act, May 13, 1999.

Finally, as part of our review, we traced the 97 oil and gas appeals of Service decisions that were recorded in Land Appeals computerized database to the appeals tracking system at the Service. In addition, if the files had not been sent to Land Appeals, we ascertained whether the files were at the Service. We found that although the 97 appeals had been officially forwarded by the Service to Land Appeals, files for 5 of the appeals had not been forwarded because the Service did not have log-in and log-out procedures for tracking the status of the appeals. During our review, the files for the five appeals were forwarded to Land Appeals for processing. The identification of the missing appeals files should allow for the timely processing of the five appeals.

Proposed Rulemaking

In addition to the procedural and organizational actions taken by Land Appeals, Service officials issued proposed rulemaking procedures in the "Federal Register" on January 12, 1999,¹ in response to recommendations made by the Appeals and Alternative Dispute Resolution Subcommittee of the Royalty Policy Committee, which the Department established in September 1995 to provide advice to the Secretary on the Department's management of Federal and Indian mineral leases, revenues, and other mineral policies. Comments were requested from the public by March 15, 1999. Specifically, the "Federal Register" stated:

The Subcommittee recognized that the MMS [Minerals Management Service's] appeals process had been under criticism and serious review since

¹"Appeals of MMS [Minerals Management Service] Orders," "Federal Register," Vol. 64, No. 7 (January 12, 1999).

1994 and believed that substantial reform was needed. The Subcommittee identified deficiencies in the Service's appeals process as follows:

1. Lack of timely resolution;
2. Lack of clarity in some orders;
3. Perceived lack of independence and unfairness of MMS [Minerals Management Service's] Director-level appeals decisions due to the internal clearance process and communication within the Department between those involved in making the initial decision and those involved in making the decision on appeal;
4. Policy uncertainty--some orders issued without MMS having clearly decided and explained policy issues;
5. Inability of the appellant to determine what the administrative record for the order contains;
6. Allegedly conflicting roles of the Solicitor's Office in satisfying institutional needs (assisting in setting policy and overall litigation strategy) and acting as a legal advocate for the MMS; and
7. Duplication of effort between the MMS Director and Interior Board of Land Appeals (IBLA) levels of review.

In the "Federal Register," the Subcommittee recommended the following "to solve the problems and meet the principles identified":

1. MMS [Minerals Management Service] resolve all fundamental policy questions before it or delegated States issues an order;
2. DOI [Department of the Interior] encourage the resolution of disputes without completing the formal administrative appeals process;
3. DOI clarify the standing of Indian lessors and "States concerned" with respect to the administrative appeals process;
4. DOI change the structure of the administrative appeals process, so that appeals of MMS, State, or tribal orders are taken to IBLA [Interior Board of Land Appeals], under a special set of rules applicable to royalty appeals; and
5. DOI specify the differences in appeals involving Indian leases and Federal leases for minerals other than oil and gas because the provisions of the RSFA [Royalty Simplification and Fairness Act of August 1996] do not apply to those leases.

The "Federal Register" further stated that the Secretary accepted the Royalty Policy Committee's report for implementation "with some changes and clarifications" on September 22, 1997, and that the Service, on October 14, 1997, created an internal committee which drafted its proposed rulemaking for its appeals process.

Under the Service's proposed rulemaking process, the Service's role would be limited to recording development and settlement discussions at an early stage of the process, and the Service would decide whether to modify or rescind orders prior to argument at Land Appeals or to an Assistant Secretary. In addition, Land Appeals or an Assistant Secretary would decide cases under a new, modified appeals process, and time limits would be imposed in the appeals process to conform to the time restriction in the Act.

In 1997, the Service prepared an options paper evaluating the increased appeals work load that Land Appeals might experience under the proposed rulemaking. The options paper presented an estimate that the Service had historically processed about 300 appeals of Service decisions and orders per year. The Service determined that Land Appeals would not have to issue decisions on all of these appeals because the Service settles or otherwise resolves about one-half of its appeals before they reach the stage of issuing a decision. The Service estimated, in the 1997 options paper, that settlements and resolutions of appeals would result in about 163 of the 300 appeals being sent to Land Appeals for a decision.

Service officials said that they were "optimistic" that the mandatory record development and settlement processes required by Section 115(i) of the Act would increase the rate at which cases are settled, thus reducing the rate of increase in Land Appeals work load. The Department of the Interior issued a final rule effective May 13, 1999, published in the "Federal Register."

Recommendations

We recommend that the Director, Office of Hearing and Appeals, ensure that:

1. Data input is reviewed independently for completeness and accuracy.
2. Appeal due dates are subjected to a supervisory or an independent review to ensure that they are computed accurately.

We recommend that the Director, Minerals Management Service, ensure that:

3. Appeal files contain an index of critical documents, such as the notice of appeal, and that files are reviewed for accuracy and completeness before they are transmitted to Land Appeals.
4. Log-in and log-out procedures are established for appeals.

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Office of Hearings and Appeals Response and Office of Inspector General Reply

In the August 10, 1999, response (Appendix 2) to our draft report from the Director, Office of Hearings and Appeals, the Office concurred with Recommendations 1 and 2, which were addressed to the Director. Based on the response, we consider both recommendations resolved and implemented (see Appendix 4).

Minerals Management Service Response and Office of Inspector General Reply

In the August 10, 1999, response (Appendix 3) to our draft report from the Director, Minerals Management Service, the Service concurred with Recommendations 3 and 4, which were addressed to the Director. Based on the response, we consider both recommendations resolved and implemented (see Appendix 4).

Additional Comments on Evaluation Report

In its response, the Service provided specific comments on a statement in the report attributed to the Director, Office of Hearings and Appeals, which stated that "Land Appeals may get about six additional full-time employees from the Service in fiscal year 2000 because of a decrease in the Service's work load." The Service stated:

Our work load will not decrease. We must now conduct a settlement conference for each appeal as required by the Federal Oil and Gas Royalty Simplification and Fairness Act of 1996. This new function will more than offset any decrease in responsibilities that "may" arise under possible future changes in the appeals regulations.

Although the Service may realize increased efficiencies in some areas, we agree that the expected benefits of the proposed ruling cannot be determined until the new processes are fully implemented and evaluated over a period of time. Accordingly, we have deleted the reference in the report concerning the possible decrease in the Service's work load and staffing requirements.

Since the report's recommendations are considered resolved and implemented, no further response to this report is required (see Appendix 4).

Section 5(a) of the Inspector General Act (Public Law 95-452, as amended) requires the Office of Inspector General to list this report in its semiannual report to the Congress.

We appreciate the assistance of personnel of the Office of Hearings and Appeals and the Minerals Management Service in the conduct of our evaluation.

MINERALS MANAGEMENT SERVICE'S OIL AND GAS APPEALS PROCESS

The Minerals Management Service is responsible for collecting royalties from oil and gas companies that operate on Federal and Indian lands and for ensuring that royalties are paid in accordance with those companies' lease agreements with the Department of the Interior. To fulfill its responsibility of ensuring that the proper amount of royalties is paid, the Service's Royalty Management Program Office conducts audits of oil and gas companies. If a Service audit determines that a lessee has not fully paid its royalties, the Service imposes additional royalty assessments on the lessee through the issuance of an order to pay additional royalties or an order to perform restructured accounting. An order to perform restructured accounting requires the lessee to recalculate royalty payments and to pay any additional royalties due.

The Code of Federal Regulations (30 CFR 290) provides the opportunity for an oil and gas company to appeal the Service's audit determination that additional royalties are due the Department. More specifically, the Code states that any oil or gas company which believes the royalty assessment is inaccurate or inappropriate can file an appeal with the Service's Director. The Code requires that the appeal be made within 30 days from the date of the Service's assessment.

An appeal is usually filed by an oil and gas company through a Service field office. Upon receipt of an appeal, the Service field office enters the notice of appeal into the Service's Appeals Tracking System and forwards the notice of appeal and any other pertinent documentation to the Service's Appeals Division. A Service analyst within this Division prepares a draft decision based on the contents of the appeals file and on additional information provided by the Royalty Management Program, the appellant, and third parties such as Indian tribes. The analyst submits the draft decision to the Chief of the Appeals Division and to the Solicitor's Office for review and comments. The analyst prepares a final decision considering the comments received from the Service's Appeals Division and the Solicitor's Office and transmits the final decision to the Service's Associate Director for Policy and Management Improvement, who ultimately signs the final decision on behalf of the Director. The final decision is sent by certified mail to the appellant, and copies of the decision are electronically mailed to all Service Royalty Management field offices for informational purposes. The Code of Federal Regulations (30 CFR 290) provides that an appellant can submit a second appeal to the Service Director within 30 days of the Service's decision on the initial appeal.

Upon receipt of the appellant's second notice of appeal, an Appeals Division analyst reviews the case records to ensure that they are complete and makes two copies of the case file. The original case file and a copy are sent to the Solicitor, and one copy is maintained at the Appeals Division. The Appeals Division's staff also sends a copy of the second notice of appeal to Land Appeals and updates the Appeals Tracking System to show that the case file has been forwarded to the Solicitor's Office, which, after its review, sends the original case file to Land Appeals.

When the files relating to an appeal are received by Land Appeals, the docket attorney (an attorney assigned to enter data into the computer system) assigns a Land Appeals docket number to indicate that the appeal is pending. The case is assigned to a panel of two administrative judges, with one of the two judges designated the lead judge. The staff attorney assigned to the lead judge researches the appeal and prepares a draft decision or order for the lead judge. The lead judge then reviews and comments as necessary on the staff attorney's draft decision or order and passes the revised draft to the second judge for concurrence. After the two judges assigned to the appeal concur on the draft decision or order, the lead judge circulates the draft decision or order among all of the administrative judges in Land Appeals for review and comments. Thereafter, the decision or order is issued in final form by the lead judge.

IN REPLY REFER TO:



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS

4015 WILSON BOULEVARD
ARLINGTON, VIRGINIA 22203

August 10, 1999

Memorandum

To: Robert J. Williams
Assistant Inspector General for Audits

From: Robert L. Baum
Director

Subject: Draft Evaluation Report

The Interior Board of Land Appeals and the Office of Hearings and Appeals agree with the conclusions of the Draft Evaluation Report of the Administrative Appeals Process of the Interior Board of Land Appeals.

As noted in the Draft Report, we are implementing both recommendations as part of our ongoing efforts to improve management of the administrative appeals process. I have attached a copy of our June 4, 1999 response to the Preliminary Draft Report.

We appreciate the cooperation we have received from your office.

cc: Charles Breece
James Byrnes
Bruce Harris



IN REPLY REFER TO:

United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS

Interior Board of Land Appeals

4015 Wilson Boulevard

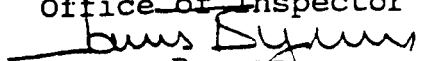
Arlington, Virginia 22203

June 4, 1999

MEMORANDUM

To: Ron Stith
Deputy Assistant Inspector General for Audits

Roy Mills
Team Leader
Office of Inspector General

From: 
James Byrnes
Chief Administrative Judge

Re: Preliminary Draft Evaluation Report

This is in response to our meeting with you last week along with the Director and Deputy Director of OHA and the Chief of the Appeals Division of the Minerals Management Service. As indicated at the meeting, the Interior Board of Land Appeals and the Office of Hearings and Appeals agree with the conclusions of the Preliminary Draft Evaluation Report of the Administrative Appeals Process of the Interior Board of Land Appeals.

Regarding the two recommendations of the Report relating to the IBLA, we agree and are implementing both recommendations as part of our ongoing efforts to improve management. We would offer the following language for inclusion in the report regarding our response to the recommendations:

In response to our recommendations, the Director and Deputy Director of the Office of Hearings and Appeals and the Chief Administrative Judge of the IBLA have already taken actions implementing these recommendations.

1- Data input is reviewed independently for completeness and accuracy.

Two staff support positions in the IBLA, Paralegal Specialist, GS-950, and Legal Assistant, GS-986, have been assigned the duties of the Docket Attorney to input data into the IBLA Docket database. The Docket Attorney will independently review the data for completeness and accuracy. The

implementation of this change is almost complete. The only action remaining is a personnel action establishing the Legal Assistant, GS-986 position.

2- Appeal due dates are subjected to a supervisory or an independent review to ensure that they are computed accurately.

The administrative judges are now required to update status reports on docketed MMS appeals monthly. These reports are reviewed by the Docket Attorney and IBLA management on a monthly basis. The Chief Administrative Judge and the Deputy Chief Administrative Judge review these docket reports with the administrative judges at least three times during the performance rating year.

The above language is descriptive of actions we have taken that we believe are responsive to your recommendations. Attached to this memorandum is a copy of the Preliminary Draft report with suggested edits. We appreciate the cooperation we have received from your office.

cc: Bob Baum
Charles Breece
Bruce Harris



United States Department of the Interior

MINERALS MANAGEMENT SERVICE
Washington, DC 20240

AUG 10 1999



Memorandum

To: Assistant Inspector General for Audits

Through: *for Sylvia V. Baca* *Shauna Freeman Simmons* AUG 10 1999
Acting Assistant Secretary, Land and Minerals Management

From: *Walt Rosenbusch* *Thomas R. Kites*, *for*
Acting Director, Minerals Management Service

Subject: Draft Evaluation Report "Administrative Appeals Process of the Interior Board of Land Appeals, Department of the Interior" [I-IN-OSS-005-98-R]

I appreciate the opportunity to comment on the Office of Inspector General (OIG) draft evaluation report on the appeals process.

We are in general agreement with the report and its findings, but have one comment on a statement on page 8, under the "Proposed Rulemaking" section. There it is indicated that "Land Appeals may get about six additional full-time employees from the Service in fiscal year 2000 because of a decrease in the Service's work load." Our work load will not decrease. We must now conduct a settlement conference for each appeal as required by the Federal Oil and Gas Royalty Simplification and Fairness Act of 1996. This new function will more than offset any decrease in responsibilities that "may" arise under possible future changes in the appeals regulations.

We agree, and have implemented, Recommendations 3 and 4 to improve the procedures of the Minerals Management Service's Appeals Division. The Responsible Official is Platte Clark, Acting Chief, Appeals Division.

Recommendation 3. Appeals files contain an index of critical documents, such as the notice of appeal, and files are reviewed for accuracy and completeness before they are transmitted to Land Appeals.

Implemented. After the Exit Conference on May 28, Mr. Clark instructed the staff to use the form entitled "Index of Critical Documents" (**Attachment 1**) when forwarding a file to the Interior Board of Land Appeals (IBLA). The analyst who drafted the decision being appealed to the IBLA will be responsible for reviewing the file and ensuring that it contains the critical documents.

Recommendation 4. Log-in and log-out procedures are established for appeals.

Implemented. The Appeals Division is now using the form entitled “Log of Appeals to IBLA -- Transmittal Dates and Documentation” (**Attachment 2**). The Appeals Clerk responsible for forwarding the files to IBLA maintains this log. The Division Chief reviews the log on a monthly basis to ensure that it is properly maintained.

Again, thank you for the opportunity to comment on the draft report. If you have any questions, please contact Bettine Montgomery, our Audit Liaison Officer, at (202) 208-3976.

Attachments

[NOTE: ATTACHMENTS NOT INCLUDED BY OFFICE OF INSPECTOR GENERAL.]

STATUS OF EVALUATION REPORT RECOMMENDATIONS

<u>Finding/Recommendation Reference</u>	<u>Status</u>	<u>Action Required</u>
1, 2, 3, and 4	Implemented.	No further action is required.