

Sec. XIII. Appeal Procedures

Eliminating Dual Appeal Opportunities



Operational Appeals on NFS Lands (Pre-Order 1)

- NEPA analyses for the Surface Use Plan of Operations could be:
 - Appealed to the Forest Service (36 CFR 215);
 - Subject to BLM State Director Review;
 - Appealed to the Interior Board of Land Appeals (IBLA)
(43 CFR part 4).

Operational Appeals on NFS Lands (Pre-Order 1)

- Conditions of Approval could be
 - Appealed by the operator to the FS (36 CFR 251);
 - Subject to BLM State Director Review;
 - Appealed to the IBLA (43 CFR part 4).



Clarification Made in Order #1

Sec. XIII states:

“Incorporation of a FS approved Surface Use Plan of Operations into an approved APD or a Master Development Plan is not subject to protest to the BLM or appeal to the Interior Board of Land Appeals.”

Current Appeal Opportunities on NFS Lands

- Appeals of FS decisions relative to surface disturbance on NFS lands can only be appealed to the FS.
- BLM decisions related to the drilling plan may go through BLM State Director Review and then appealed to the Interior Board of Land Appeals.

Appeal Opportunities on Non-FS Lands

- BLM decisions are subject to State Director Review (43 CFR §3165).
- Decisions from State Director Review can be appealed to IBLA (43 CFR §4).
- Operator may appeal BIA decisions (25 CFR §2).

Conclusion

- Onshore Order 1 makes it clear that Forest Service decisions on Surface Use Plans of Operation can only be appealed to the Forest Service.

