

## **Appeals Language to Include Associated With Proposed Civil Penalty Assessments**

Pursuant to the 43 CFR 3165.3(c), you have the right to request a hearing on the State Director's decision on the proposed civil penalty before an Administrative Law Judge or, in lieu of a hearing, may appeal the State Director's decision to the Interior Board of Land Appeals (IBLA), Office of the Secretary, in accordance with the regulations contained in 43 CFR 4.400 and the attached Form 1842-1 (Enclosure \_\_). Pursuant to 43 CFR 3165.4 (e), "Because Section 109 of the Federal Oil and Gas Royalty Management Act (FOGRMA) provides for judicial review of civil penalties determinations only where a person has requested a hearing on the record, a waiver of such hearing precludes further review by District Court." Therefore, if you appeal to the IBLA, you waive the right to appeal to District Court under Section 109(j) of the FOGRMA.

If you request a hearing on the record, such request must be filed in writing with the State Director, within 30 days of receipt of this decision. If you appeal to the IBLA, a Notice of Appeal must be filed in this office at the aforementioned address within 30 days from the receipt of this decision. A copy of the Notice of Appeal and of any statement of reasons, written arguments, or briefs **must** also be served on the Office of the Solicitor at the address shown on Form 1842-1. It is also requested that a copy of any statement of reasons, written arguments, or briefs be sent to this office. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a Petition for a Stay of this Decision, pursuant to 43 CFR 4.21, the Petition must accompany your Notice of Appeal. A Petition for a Stay is required to show sufficient justification based on the standards listed below. Copies of the Notice of Appeal and Petition for a Stay **must** also be submitted to each party named in the Decision and to the IBLA and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

### **Standards for Obtaining a Stay**

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a Decision pending appeal shall show sufficient justification based on the following 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 immediate and irreparable harm if the stay is not granted; and
- (4) Whether the public interest favors granting the stay.