

SURNAMING PROCESS

The following strategy will be used for expediting the surnaming process:

- § Use of extended teams (including staff from appropriate groups and directorates) to prepare draft protest responses.
- § WO-210 will provide “heads up” to AD-200 when draft protest responses are ready for surnaming.
- § AD-200 will provide “heads up” at staff meetings to alert Group Managers of the availability of draft protest responses.
- § WO-210 will provide briefings for Group Managers (including GMs from other Directorates as needed) 2-3 days prior to obtaining necessary surnames. Requested changes should be substantive rather than editorial.
- § WO-210 will conduct “working briefings” with the AD-200, Deputy Director, Chief of Staff, etc. (including Departmental staff as necessary) early in the process as possible and prior to approval of protest responses.

Protest Package

A formal surnaming package should be prepared for each protest response. The format and content of the folder should include the following:

1. Cover sheet prepared for surnaming by the following individuals:

- § Protest Coordinator
- § Author (generally the WO-210 State Liaison)
- § Deputy Group Manager (DGM)
- § Group Manager (at the discretion of the DGM or author)
- § WO Group Managers who have an interest in the EIS, Plan, or issues/concerns raised in a protest.
- § Deputy Assistant Director (DAD)
- § Assistant Director (AD) at the discretion of the DAD
- § Director (at the discretion of the AD)
- § Others at the discretion of the author

2. The letter of protest, attached to the left side of the folder.

3. A Summary Brief (one or two pages) (attached to the left hand side of folder on top of the protest letter) in the following format:

- § Background concerning the plan (or plan amendment) and the NEPA document (EA, EIS) - including what kinds of documents were prepared, when were they completed, etc;
- § Date the protest period closed;
- § Requirements statement as to whether all of the NEPA, FLPMA, regulatory, and policy requirements were followed by the BLM SO/FO;
- § Position of constituents or other sensitivities - factual, political, litigation, etc;

- § Summary of the issues in this protest and disposition of each issue (standing, germane, whether issue is protestable or if it was dismissed or treated as a concern and why;
- § Recommended Decision or if you're recommending remand (return) in whole or part, why and what are the circumstances;
- § SO and FO Collaboration, who you worked with in the SO and/or FO and whether they've reviewed the draft letter; and
- § WO Coordination, who you worked with in the WO (make sure they are on the surnaming sheet).

Note: for large numbers of protests, the above information may be arranged in a tabular format rather than preparing individual summary briefs for each protest.

4. The Response letter attached to the right side of the folder, according to the following guidance:

These are typical responses to protests where the State Director's proposed decision is being upheld. For protests where the State Director's proposed decision is being returned in whole or in part, or the boilerplate paragraphs below do not fit the protest, consult with the respective state liaison for the exact language.

Response Letter Format and Content Guidance

I. Boilerplate Paragraphs

Each letter of response should contain the following paragraphs:

Paragraph 1:

“The Bureau of Land Management (BLM) recognizes the importance of collaboration in the management of public lands and resources. Involving the public during the preparation of land use plans, which guide the BLM's implementation of our multiple use mission, is especially critical. Land use plans are designed to balance the public demands for various land uses while ensuring appropriate levels of resource protection. While there may be times when we cannot meet the needs of all segments of public land users concurrently, we strive to address their concerns as best we can. In this spirit, I appreciate your involvement in the (name of plan).”

Paragraph 2:

“As the Assistant Director for Renewable Resources and Planning, I am responsible for reviewing all protests of BLM's land use plans, including your protest of (date). The purpose of this letter is to inform you of the results of that review.”

Paragraph 3:

“Under BLM's planning regulations at 43 CFR 1610.5-2, only a person who has participated in the planning process and has an interest which is or may be adversely affected will have standing to protest BLM's decision to approve or amend a land use plan. A protest may raise only those issues which were submitted for the record during the planning process. For a protest to be valid it must be submitted in writing to the BLM Director within 30-days after EPA has published the Notice of Availability in the *Federal Register* (for EA-level plan amendments - “For a protest to

be valid, it must be submitted in writing to the Director within the 30-day period established by the responsible BLM Field Office”). The protest must contain 1) the name, mailing address, telephone number, and interest of each person filing the protest; 2) a statement of the issues and parts of the land use plan being protested; and 3) a concise statement explaining why the State Director’s proposed decision is believed to be wrong. Disagreement, by itself, with a proposed decision or how the data are used, or unsupported allegations of violations of regulation, law, legal precedents, or other guidance documents, will not meet the requirement of the regulations.”

Paragraph 4:

For protests that are determined to be invalid because they were filed after the protest period:

“I find that you do not meet these requirements because your letter was not postmarked by the required date, therefore, I am not considering it filed timely. The regulations at 43 CFR 1610.5-2 do not allow for an extension of the protest period for any reason. Therefore, I am dismissing the protest. Even though your protest is being dismissed, your protest letter contained __#__ concern(s). That (those) concern(s) is(are) addressed below.”

For all valid protests that contain only issues:

“I find that you do meet these requirements. Your protest letter contained __#__ issue(s) of protest. The issue(s) is(are) respectively addressed below.”

For protests that contain both issues and concerns:

“I find that you do meet these requirements, in part, and therefore, portions of your protest letter are considered a valid protest. Your protest letter contained __#__ issue(s) of protest. You also identified __#__ concern(s) which does(do) not meet the requirement(s) to be considered (an) issue(s) of protest because...” (explain why - “they represent opinions or observations not substantiated with a concise statement of why the State Director’s proposed decision is believed to be wrong, it contains issues not previously raised in the planning process, or not germane to the planning process”, etc.). “The issue(s) and concern(s) are respectively addressed below.”

For protests that contain only concerns:

“I find that you do not meet these requirements because...” (see above). “Therefore, your protest is not valid and is hereby dismissed. Even though your protest is being dismissed, your letter contained __#__ concern(s). That(those) concern(s) is(are) addressed below.”

II. Issues Identified by the Protestant

Refer to Attachment 1 (State Office Evaluation and Detailed Review, Step 2 for a definition of issues and concerns). In our response letters, issues should be addressed within separate paragraphs for the issue and response, in the same order as in the submitted protest letter. Concerns that are interspersed between issues should to be moved toward the end of the protest response letter.

Use the following format for addressing issues and concerns:

Issue/Concern #:**Response:**

Protest response letters should clearly document whether BLM followed the correct procedures in arriving at the Proposed Decision(s). Authors should identify any regulatory basis for disagreeing with a protestant's assertion. Don't argue or try to debate or defend the proposed decisions in the response. Our response to each issue should cite page numbers, where possible, in the NEPA document which specifically relates to the issue or concern and not rely on what was said in meetings or derived from notes, files, or a phone call. Focus on what was in writing or in the formal planning process. Protesters should get the sense that we listened to their concerns.

Issues documented in a letter of protest should be quoted verbatim wherever possible. Where issues cannot reasonably be quoted (ie. they are long, rambling or contain material not pertinent to the issues), they should be clearly summarized. It is OK to have some issues summarized and others quoted.

III. Concerns

Concerns are to be addressed in the same sequence as the Protester's letter. Concerns should be politely addressed, stating why they are not issues, but responding to the concern to the best of our ability. If there are no "issues" in the letter of protest, but there are concerns, respond to the concerns after the boilerplate above.

Letters that are received in the protest period, addressed to the protest coordinator, but that state "this is not a letter of protest", should be forwarded to the respective field office. A letter should be sent to the sender thanking them for their interest, and letting them know we have forwarded the letter to the Field Office for substantive response.

IV. Boilerplate Paragraphs after the Issues/Concerns:**Decision**

For protests where the State Director's proposed decision is being upheld (for protests where the decision is being returned in whole or in part, consult with your state liaison for the appropriate response):

"After careful review of your protest letter, I conclude that the BLM ___ State Director and the ___ Field Office Manager followed the applicable planning procedures, laws, regulations and policies and considered all relevant resource information and public input in developing the ___ Resource Management Plan/Amendment/EIS. There is no basis for changing the Proposed Plan Amendment as a result of your protest."

"This decision is the final agency action for the Department of the Interior on your protest letter.

The Interior Board of Land Appeals (IBLA) does not hear appeals from a decision by the Director of the BLM on protests concerning RMPs. Any person adversely affected by a decision of a BLM official to implement some portion of an RMP may appeal such action to the IBLA at the time the action is proposed for implementation.”

“Thank you for your participation in the development of the _____ Management Plan/Amendment/EIS, and for your interest in the public lands. I encourage you to remain actively involved in BLM’s resource management activities and to provide information and input during the implementation of the management plan. If you have any questions, or wish to further discuss any issues or concerns regarding the plan, please feel free to call __name__, __name __ Field Office Manager, (____) ____-____.”

5. Final Protest Letters Stored on Shared Drive

Final protest letters containing all revisions should be stored on the WO-210 shared drive according to the following file format:

Protests- Final Responses
 State Office Name
 Plan/EIS/Amendment Name
 Response Letter Name