

Walter Loewen - Statement of Reasons for MSPB appeal

The Removal Decision dated Nov. 16, 2021, for Mr. Loewen was pursuant to his second Proposed Removal, dated June 17, 2021, which was based on the same facts as his first Proposed Removal, dated Feb. 19, 2021. Mr. Loewen now appeals because the Nov. 16 Removal Decision:

a) Is legally defective because while labeled as addressing misconduct, in fact it is based entirely on performance. However, the Department of the Interior failed to use a proper performance appraisal system for Mr. Loewen. The system it used was invalidated in the **Laminack** decision, *D'anna Laminack, Appellant, v. Department of the Interior, Agency*, 2021 MSPB LEXIS 894.

b) Is based on an inadequate and legally defective performance appraisal process created by the Trump Administration that was revoked by the Biden Administration before Mr. Loewen was proposed for removal.

c) Resulted from retaliation and bias against him by his supervisor, in violation of the Whistleblower Protection Act, thus the BLM committed prohibited personnel practices. Mr. Loewen was removed for disclosing major adverse impacts on migratory birds, such as the loss of nesting sites for ferruginous hawks, kestrels, owls, and other raptors, under a plan for 5,000 oil and gas wells, 1,400 miles of gas and water pipelines, new roads, and electrical lines in Converse County, WY.

d) Is based on improper performance management by his supervisor.

e) Is based on false allegations of misconduct.

f) Contains a repeatedly defective *Douglas* factors analysis, which if applied properly would have resulted in a lesser sanction than removal.

g) Does not promote the efficiency of the BLM.

h) Is not supported by the evidence. Further discovery is expected to reveal more evidence supporting his appeal.

Mr. Loewen is entitled to full reinstatement and compensation for his back pay, back benefits, and his attorneys fees and costs.