



INTERIOR BOARD OF INDIAN APPEALS

Diné Care, San Juan Citizens Alliance, Sierra Club, and Center for Biological
Diversity v. Navajo Regional Director, Bureau of Indian Affairs

49 IBIA 6 (03/09/2009)



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
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DINÉ CARE, SAN JUAN CITIZENS)	Order Granting Request for Remand and
ALLIANCE, SIERRA CLUB, and)	Vacating Decision
CENTER FOR BIOLOGICAL)	
DIVERSITY)	
Appellants,)	
)	Docket No. IBIA 09-21-A
v.)	
)	
NAVAJO REGIONAL DIRECTOR,)	
BUREAU OF INDIAN AFFAIRS,)	
Appellee.)	March 9, 2009

Appellants Diné Care, San Juan Citizens Alliance, Sierra Club, and Center for Biological Diversity filed an appeal with the Board of Indian Appeals (Board) from an October 8, 2008, record of decision (ROD) by the Navajo Regional Director (Regional Director), Bureau of Indian Affairs (BIA). The ROD approved a utility easement across individual land allotments and tribal trust lands for the construction, operation, and maintenance of a 500 kilovolt (kV) electric transmission line from northwestern New Mexico to a terminus in southern Nevada (otherwise known as the Navajo Transmission Project or NTP). In particular, Appellants challenge BIA’s compliance with the requirements of the National Environmental Policy Act (NEPA) and reliance upon an Environmental Impact Statement prepared by the Bureau of Land Management (BLM).

On March 3, 2009, and prior to submitting the administrative record in this appeal, the Regional Director filed a request with the Board to remand the ROD for further consideration. He avers that the “request is made as a consequence of the filing by [BLM], the lead federal agency on the NTP NEPA process, of a Request to Set Aside Decision in the companion case before the Interior Board of Land Appeals, *Diné Care, San Juan Citizens Alliance, and Sierra Club v. Bureau of Land Management*, IBLA 2009-45.” Request for Remand at 1-2 (emphasis omitted).¹ We grant the request, vacate the ROD, and remand the matter for further consideration.

¹ By order dated March 4, 2009, the Interior Board of Land Appeals set aside and remanded the decision appealed to that Board in *Diné Care*, IBLA 2009-45.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, the Board vacates the ROD and remands the matter to the Regional Director for further consideration and a new decision.²

I concur:

// original signed
Debora G. Luther
Administrative Judge

// original signed
Steven K. Linscheid
Chief Administrative Judge

² This remand order moots both the motion by Diné Power Authority to place the Regional Director's decision into immediate effect and the Regional Director's motion to consolidate this appeal with Appellants' appeal before the Interior Board of Land Appeals.