

RURAL ALLIANCE FOR MILITARY ACCOUNTABILITY

IBLA 2000-257

Decided September 15, 2004

Appeal from a Record of Decision of the Field Manager, Carson City, Nevada, Field Office, Bureau of Land Management, granting rights-of-way for communications facilities designed to facilitate training operations at a military installation.

Affirmed.

1. Environmental Quality: Environmental Statements--Appeals: Jurisdiction

Departmental regulations at 43 CFR 4.1(b)(3) and 4.410 provide a right of appeal to the Board to any party adversely affected by decisions of officers of the Bureau of Land Management, not from decisions by agencies of other Departments. On appeal, a BLM decision to grant rights-of-way on public lands for communications facilities designed to facilitate training operations at a military installation will be affirmed when, in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, 42 U.S.C. § 4332(2)(C) (2000), BLM has, in an environmental impact statement jointly prepared with the Department of the Navy, taken a hard look at the potential significant environmental impacts of anticipated jet aircraft overflights and other military activities, and the appellant has failed to demonstrate that adverse effects it has identified have a causal nexus to BLM's decision.

APPEARANCES: Grace Potorti, Executive Director, Reno, Nevada, for the Rural Alliance for Military Accountability; John Singlaub, Carson City, Nevada, Field Office, Bureau of Land Management, U.S. Department of the Interior, for the Bureau of Land Management.

OPINION BY ADMINISTRATIVE JUDGE HEMMER

The Rural Alliance for Military Accountability (RAMA) has appealed from an April 2000 Record of Decision (ROD) of the Field Manager, Carson City, Nevada, Field Office, Bureau of Land Management (BLM), approving, in relevant part, the U.S. Department of the Navy's (Navy) "Fallon Range Training Complex Requirements" concerning "Naval Air Station Fallon" (NAS Fallon), located in west-central Nevada. The ROD at issue here constitutes a joint decision of the Field Manager and the Navy's Deputy Assistant Secretary for Environment and Safety, approving proposed improvements, operations, and associated facilities on Federal lands separately administered by BLM and the Navy. The improvements are intended to facilitate military training operations at NAS Fallon's 234,124-acre "Fallon Range Training Complex" (Complex). The ROD was executed by the Field Manager and the Deputy Assistant Secretary on April 4, and 10, 2000. Notice of the ROD was published in the Federal Register on April 14, 2000. 65 FR 20198.

The final decision followed joint preparation by BLM and the Navy of a Draft and, after a 90-day public comment period, a Final Environmental Impact Statement (EIS) in January 2000. The EIS was designed to address the potential significant environmental impacts of the proposed action and alternatives thereto, in satisfaction of the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), as amended, 42 U.S.C. § 4332(2)(C) (2000), and its implementing regulations at 40 CFR Part 1500.

In the case of public lands administered by BLM, the proposed action provided for the issuance to the Navy of right-of-way grants which would assist the Navy's conduct of military training operations at the Complex.^{1/} The proposed action was to specifically authorize the construction and operation on public lands of four 5.7-acre fixed "Electronic Warfare" (EW) sites in Edwards Creek Valley, Gabbs Valley, Smith Creek Valley, and Big Smoky Valley, and four 16-foot-square "Tracking Instrumentation Subsystem" (TIS) sites. The four EW sites, which would simulate the threat posed to military jet aircraft by "enemy" radar tracking/surface-to-air missile sites, were to be added to the existing sites at the Complex in order to allow the Navy to devise "more realistic training scenarios": "With threats located as far as 75 miles from existing target areas, aircrews would be forced to fly through defended airspace for distances of up to 100 miles - a level of coverage representative of roughly 50 percent of targets in typical conflict scenarios." ("Review of Navy Requirements for the Fallon Range Training Complex," Institute for Defense Analysis, dated

^{1/} The record indicates that in 1996, BLM refused to provide such ROWs to the Navy and the Navy protested that decision. RAMA does not raise BLM's change in position as an issue in this appeal.

April 1999, at ES-2.) According to the Navy, “[i]ncreased reliance on mobile targets and threat systems [will] enhance training realism and reduce impacts on public lands.” Id. at ES-3.

The EIS considered the proposed action described above and also three alternatives to the proposed action: Alternative I (Four Valleys-Fixed and Mobile), Alternative II (Two Valleys-Fixed and Four Valleys-Mobile), and Alternative III (Four Valleys-All Mobile). The alternatives involved reducing the size and/or limiting or eliminating the number of fixed EW sites, together with the addition of mobile EW sites and/or communications relay towers or “hubs” built on 0.1-acre sites. The EIS also considered a No Action Alternative, in which no new EW or TIS sites would be constructed on public lands.

Based on the Final EIS and comments submitted during an additional 30-day public comment period, the Field Manager and the Deputy Assistant Secretary issued their joint April 2000 ROD, approving a modified version of preferred Alternative II. Under this alternative, as originally proposed, BLM would have issued right-of-way grants authorizing the construction and operation on public lands of two 5.7-acre fixed EW sites in Edwards Creek Valley and Gabbs Valley, and four TIS sites:

[N]o fixed EW sites will be developed in Smith Creek Valley and Big Smoky Valley. To compensate for the lack of fixed EW sites in these two valleys, fixed communication[s] relay towers [each] on one-tenth [of an] acre of land will be developed. Five mobile EW sites will be developed in each of the four valleys for a total of 20 mobile sites.

65 FR at 20199. In adopting a modified Alternative II, BLM provided for reducing the size of fixed EW sites from 5.7 to 3 acres, in order to minimize surface disturbance. Id.

BLM and the Navy concluded: “After careful deliberation, we have determined that the preferred alternative, with reduced EW site size, provides the best combination of effectively meeting the training requirements of NAS Fallon, responding to the public concerns, and minimizing environmental effects.” 65 FR at 20200. In addition to the rights-of-way on public lands administered by BLM, the Navy authorized, under modified Alternative II, the construction and operation of fixed and mobile EW sites and fiber optic cable lines on Federal lands administered by that Department, as well as various military training facilities and operations, including live mortar ranges, helicopter ordnance and gunnery targets, a rough terrain helicopter gunnery target, close air support training (including laser spotting), Hellfire missile training, and high altitude weapons delivery training (including new restricted airspace up to 35,000 feet above mean sea level). 65 FR at 20198.

RAMA, which had participated in the environmental review process, appealed from the April 2000 ROD. RAMA contends that the EIS failed to adequately assess potential significant environmental impacts to the “long[-]term quality” of the human environment caused by military training operations, which would be facilitated by the presence of communications sites on public lands, in violation of section 102(2)(C) of NEPA. (Notice of appeal/statement of reasons (NA/SOR) at 2.) RAMA alleges likely significant direct, indirect, and cumulative impacts to “public land ecosystems[] and the public’s health[,] safety, [and] use and enjoyment of public lands in central Nevada” from sonic booms, explosions, and other noise, and from the widespread dispersal of airborne “chaff,” all caused by the “continuous and long[-]term presence of military jet aircraft” in the skies of central Nevada. *Id.* at 2, 5. In addition to its NEPA arguments, RAMA contends that BLM lacks authority under various provisions the Federal Land Policy and Management Act of 1976 (FLPMA), as amended, 43 U.S.C. §§ 1761-1771 (2000), to approve the right-of-way grants at issue here.

In its answer BLM asserts that RAMA will not be adversely affected by BLM’s decision to authorize the issuance of right-of-way grants, and thus lacks standing to appeal from the ROD. Given the passage of time since the appeal was filed, we will not undertake to obtain the requisite additional filings from RAMA needed to resolve the issue of standing. Instead, we deal directly with the merits of the appeal.

[1] Beginning with RAMA’s arguments under NEPA, it is important to recite the longstanding principle that the statute is procedural in nature; its procedures are designed to “insure a fully informed and well-considered decision.” Vermont Yankee Nuclear Power Corp. v. Natural Resources Defense Council, Inc., 435 U.S. 519, 558 (1978). NEPA requires only that an agency take a “hard look” at the environmental effects of any major Federal action. Kleppe v. Sierra Club, 427 U.S. 390, 410 n.21 (1976). It does “not require agencies to elevate environmental concerns over other appropriate considerations.” Baltimore Gas & Electric Co. v. Natural Resources Defense Council, Inc., 462 U.S. 87, 97 (1983). As the Court stated in Robertson v. Methow Valley Citizens Council, 490 U.S. 332, 350-51 (1989) (citations and footnote omitted):

NEPA does not mandate particular results, but simply prescribes the necessary process. * * * If the adverse environmental effects of the proposed action are adequately identified and evaluated, the agency is not constrained by NEPA from deciding that other values may outweigh environmental costs. * * * Other statutes may impose substantive environmental obligations on federal agencies, but NEPA merely prohibits uninformed--rather than unwise--agency action.

Thus, the adequacy of an EIS prepared under section 102(2)(C) of NEPA must be judged by whether it constituted a “detailed statement” that took a “hard look” at

all of the potential significant environmental consequences of the proposed action and reasonable alternatives thereto, considering all relevant matters of environmental concern. 42 U.S.C. § 4332(2)(C), (E) (2000); 40 CFR 1502.1; Kleppe v. Sierra Club, 427 U.S. at 410 n.21; Natural Resources Defense Council, Inc. v. Hodel, 819 F.2d 927, 929 (9th Cir. 1987); Southwest Center for Biological Diversity, 154 IBLA 231, 236 (2001); Legal and Safety Employer Research Inc., 154 IBLA 167, 173 (2001); Colorado Environmental Coalition, 142 IBLA 49, 52 (1997). The critical question is whether the EIS contains a “reasonably thorough discussion of the significant aspects of the probable environmental consequences” of the proposed action and alternatives. State of California v. Block, 690 F.2d 753, 761 (9th Cir. 1982), quoting Trout Unlimited v. Morton, 509 F.2d 1276, 1283 (9th Cir. 1974); Scientists’ Institute for Public Information v. Atomic Energy Commission, 481 F.2d 1079, 1092 (D.C. Cir. 1973).

In order to overcome BLM’s decision to approve, following preparation of the EIS, the issuance of right-of-way grants for communications sites to be used in connection with military training operations at NAS Fallon’s Complex, RAMA must carry the burden to demonstrate by a preponderance of the evidence and with objective proof that BLM failed to adequately consider a substantial environmental question of material significance to the proposed action, or otherwise failed to abide by section 102(2)(C) of NEPA. Colorado Environmental Coalition, 142 IBLA at 52. We find that RAMA has failed to meet this burden.

The principal reason for RAMA’s failure in this appeal derives from the limitations on this Board’s authority. The Board is an administrative appellate body of the U.S. Department of the Interior; we have jurisdiction under 43 CFR 4.1(b)(3) and 4.410 only over BLM’s decision to approve the issuance of right-of-way grants on public lands. The Board has no jurisdiction over any decisions of the Navy, including those authorizing or approving military training operations on Federal lands administered by it. See Sierra Club (On Judicial Remand), 80 IBLA 251, 269 (1984), aff’d sub nom., Getty Oil Co. v. Clark, 614 F. Supp. 904 (D. Wyo. 1985), aff’d sub nom., Texaco Producing, Inc. v. Hodel, 840 F.2d 776 (10th Cir. 1988).

It is evident from the NA/SOR that RAMA supplied a general statement of its concerns with the actions of the Navy. RAMA complains of the Navy’s decisions to maintain and continue military overflight operations and its withdrawal of 90,000 acres for the expansion of its training facilities and argues that the Navy’s actions in operating its training programs on those lands have not been adequately considered. To the extent RAMA’s complaints are against ongoing Navy operations, we have no authority over them.

It follows that the “scope of this appeal is properly limited to those issues that have a nexus to BLM’s decision that is distinct from the issues finally decided by” the

exercise of the Navy's statutory authority. Las Vegas Valley Action Committee, 156 IBLA 110, 123 (2001). In Great Basin Mine Watch, 160 IBLA 87, 90 (2003), we stated:

[T]he extent to which IBLA will review decisions by other agencies has arisen in other contexts, and the Board has been careful to avoid taking the role of reviewing or opining on decisions by those agencies to implement authority delegated to them. In Las Vegas Valley Action Committee, 156 IBLA 110, 123 (2001), the Board recently limited the scope of an appeal to issues raised by a BLM decision that were "distinct from the issues finally decided by [the Federal Aviation Administration's] 1998 EA and FONSI that arise from the exercise of that agency's statutory authority." In Wyoming Independent Producers Association, 133 IBLA 65, 70-71 (1995), the Board dismissed an appeal in which we found that "it [was] the [Federal Energy Regulatory Commission] decision that adversely affects [an appellant] rather than that of BLM."

We do not dismiss this appeal, however, because it does include a challenge to a BLM decision to approve rights-of-way on public lands. Nonetheless, we must sort out the impacts with a causal relation to the decision to approve the ROWs from those impacts resulting from ongoing operations of the Navy. It is only the former that we may consider in the context of this appeal.

By virtue of the fact that the construction and operation of communications sites on public lands will enable or facilitate military training operations on Federal lands administered by the Navy, BLM is obligated by NEPA to ensure that the potential significant environmental impacts of its decision to approve those sites are adequately considered in the EIS. Howard B. Keck, Jr., 124 IBLA 44, 47-50 (1992), aff'd, Keck v. Hastey, No. S92-1670-WBS-PAN (E.D. Cal. Oct. 4, 1993). BLM is obligated to consider direct and indirect effects. "Direct effects" are "caused by the action and occur at the same time and place." 40 CFR 1508.8(a). "Indirect effects" are "caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable. Indirect effects may include growth inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems, including ecosystems." 40 CFR 1508.8(b). As we noted in James Shaw, 130 IBLA 105, 114 (1994), "a 'reasonably close causal relationship' between the Federal action and the effects at issue is critical, and where the 'causal chain' is unduly lengthened, NEPA does not apply. See Metro. Edison Co. v. People Against Nuclear Energy, 460 U.S. 766, 774-75 (1983)."

After reviewing the record and the NA/SOR, we are not persuaded that RAMA has identified a failure on BLM's part to consider potential significant environmental

impacts that stem from BLM's decision to approve the issuance of the subject communications site right-of-way grants.^{2/} Rather, RAMA's environmental concerns stem from the fact that the Navy proposes to continue pre-existing training operations using the new communication site locations. RAMA's concerns are that the training operations will create noise impacts in the form of sonic booms and extra overflights, and that the Navy is using chaff in association with its training program. RAMA asserts generally that "with the dispersion of threat emitters throughout central Nevada one must assume that many flights currently in Dixie Valley will now occur in Edwards Creek Valley, Gabbs Valley, Smith Creek Valley, and Big Smoky Valley. Accordingly, we defy the Navy or the BLM to deny this clearly undeniable fact!" (NA/SOR at 4.)

RAMA has done nothing to show that these effects stem from BLM's challenged decision to approve the rights-of-way. In fact, noise impacts were fully considered in the EIS, and in response to identical comments made by RAMA during the public comment period. (EIS at 3-33 to 3-34, 4-19 to 4-21, 5-9.) The EIS specifically noted that, so far as they concerned jet aircraft overflights, the proposed action and other action alternatives "would not increase the number of flight operations or substantially alter existing flight patterns," thus generally resulting in the same level of impacts already being experienced. *Id.* at 4-18; *see* BLM Answer at 1 ("The flight paths [and] numbers of flights * * * do not change as a result of this ROD"). Further, the EIS specifically addressed the nature of noise impacts on residents and users of public lands near or adjacent to the sites of military training operations and wildlife, generally concluding that the impacts would be consistent with those generated by existing operations. (EIS at 3-33 to 3-34, 4-5, 4-19 to 4-21, 5-6, and 5-9.)

RAMA specifically identified its concerns in letters and e-mails to BLM during the public comment process. *See* EIS at RTC-45-46, Letter 18, Comments of RAMA; Mar. 6, 2000, RAMA electronic message to BLM at 2. BLM responded to RAMA's comments, setting forth the information that noise would be consistent with ongoing operations. (EIS at RTC-46, Letter 18, Response to Comment 18-6; *see also* RTC-108 (no additional sonic booms).) RAMA has failed to acknowledge BLM's response to RAMA's comments or point out error in it in this appeal. *See Watts v. United States*, 148 IBLA 213, 217 (1999). Even had RAMA attempted to do so, however, RAMA has made no effort to show how noise impacts will increase as a direct or indirect impact

^{2/} RAMA generally argues that BLM's "piecemeal approach" to the granting of rights-of-way for military-related facilities on public lands has precluded and will preclude State and local officials and the public from participating in "major public land-use decisions" by the Navy. (NA/SOR at 7.) RAMA's concerns about the Navy's land use planning are properly directed to that Department.

of BLM's approving the right-of-way sites within the meaning of 40 CFR 1508.8. Either failure defeats RAMA's appeal on this point.^{3/}

RAMA argues that BLM should have concluded that use of mobile EW sites would shift the nature of the noise impacts.^{4/}

[T]he FEIS provided no analysis of the potential change in flight patterns associated with the dispersion of EW sites. * * * [T]he use of fixed sites restricts the number of training scenarios that can be developed and enables air crews to memorize the location of threat [emitting] systems [at the sites] and adapt their flight profiles accordingly.

* * * * *

With the construction of every new ground-based threat emitter site * * * comes a more focused and intensified use of the military airspace in the vicinity of the site, including suppression of enemy air defenses, air interdiction strikes, fighter sweeps and escorts, close air support, and jamming and electronic support measures. These activities are responsible for both direct and indirect impacts on the human and natural environments. In essence, localized and repetitive air combat training results in the amplification of cumulative health, safety and quality of life impacts to local residents, as well as to visitors who use the public lands and to numerous unique and sensitive ecosystems. Impacts are caused by sonic booms (from high/medium altitude jet overflights), startled effects, and excessive noise (from low/medium altitude high speed overflights).

(NA/SOR at 4-5 (emphasis added).)

^{3/} RAMA argues that BLM's assessment of noise impacts was flawed because its conclusion that noise would be "dispersed" over distances was not based on "actual monitoring," but rather on "inadequate modeling." (NA/SOR at 2.) The assessment of noise impacts evidently was based on modeling, which took into account the likelihood that noise generated by jet aircraft overflights and other military training operations would be dispersed over the surrounding lands. RAMA presents no evidence that such modeling was not sufficient to afford BLM an adequate view of likely impacts, direct or indirect.

^{4/} RAMA's assertion that overflights will be shifted to fixed EW sites in Smith Creek and Big Smoky valleys (NA/SOR at 4) derive from its comment letter and its failure to revise its argument in response to the agency decision. The selected alternative does not provide for fixed EW sites in those valleys. 65 FR at 20199.

Such non-specific allegations of “focused and intensified” use of airspace is supported neither with evidence nor by the record. BLM generally concluded that there would be no significant increase in noise impacts, given the lack of new aircraft concentrations over and near fixed EW sites and the likely higher altitude of overflights:

[N]o significant changes in flight patterns would result from development of EW sites in the proposed four eastern valleys. The reason for this is that computers currently simulate threats at the places proposed for actual ground placement of new EW sites without allowing for a full complement of training. The placement of [new] EW sites would not result in an increase in low-level flight [operations] by attracting aircraft; rather, placement of EW systems may result in aircraft flying at higher elevations within the designated airspace to avoid ground threats that the EW systems are simulating. Because current flight patterns would be maintained, no significant changes in noise levels are anticipated[.]

(EIS at RTC-46; see id. at 4-3.) RAMA provides no evidence to refute this conclusion and we consider this issue no further.

RAMA’s contention that BLM failed adequately to assess likely environmental impacts from the widespread dispersal of airborne “chaff” by jet aircraft overflying public and private lands in central Nevada, in connection with military training operations approved by the Navy at the Complex, suffers from the same flaws identified in association with its arguments regarding noise. RAMA states: “We are concerned that inhalable particulate [matter] * * * may occur from the decomposition and resuspension of Chaff fiber particulate by mechanical means.” (NA/SOR at 6.)

“Chaff” is particulate matter, generally composed of aluminum-coated silica glass fibers, emitted by military jet aircraft during the course of training operations, for the purpose of confusing “enemy” radar tracking stations. (Sept. 25, 1998, Environmental Protection, DOD Management Issue Related to Chaff, Report to Congress, at 1-3.) In adopting the August 21, 1998, “Central Nevada Communication Sites Modified Final Plan Amendment,” which was designed generally to guide BLM decision-making regarding the granting of rights-of-way for EW sites on public lands in Central Nevada, the State Director, Nevada, BLM, noted that the “Navy has agreed to drop radar avoidance chaff only over lands under the jurisdiction of the Navy.” (Plan Amendment at 3.) In accordance with this agreement chaff will not be dropped directly over public and private lands in Central Nevada.

Thus, RAMA’s issue is that chaff may drift over public lands. We find, however, that RAMA makes no effort to connect a direct or indirect effect in the form of chaff

with BLM's decision to approve the rights-of-way. Rather, RAMA complained of the Navy's use of chaff in its comment letter to BLM. (EIS at RTC-45, Letter 18, Response to Comment 18-5.) BLM explained that "[c]haff use would not change as a result of the proposed action or alternatives." Id. RAMA does not dispute this response. RAMA appears to concede that its argument is against the Navy's "continued use of Chaff" and goes on to complain of that Department's "lackadaisical attitude towards human health risks." (NA/SOR at 6.) This is neither a challenge to BLM's decision nor a refutation of BLM's response. RAMA fails to identify a direct or indirect effect relating to chaff that stems from BLM's decision to approve the rights-of-way.

In summary, RAMA has not carried its burden to demonstrate by a preponderance of the evidence, with objective proof, that BLM failed to adequately consider a substantial environmental problem of material significance to the proposed action, or otherwise failed to abide by section 102(2)(C) of NEPA. Colorado Environmental Coalition, 142 IBLA at 52. The fact that RAMA has a challenge to actions of the Navy must be taken to that agency.

RAMA contends that BLM lacks authority under FLPMA to issue right-of-way grants to the Navy for the construction of "military Electronic Warfare sites." "These are not communication sites." (NA/SOR at 4.)

Section 501(a) of FLPMA, 43 U.S.C. § 1761(a) (2000), specifically authorizes BLM, as the delegate of the Secretary of the Interior, to grant rights-of-way "over, upon, under, or through" the public lands for "systems for transmission or reception of radio, television, telephone, telegraph, and other electronic signals, and other means of communication." See 43 CFR Part 2800. It is not disputed that the sites at issue here are intended to permit the construction and operation of facilities which would house systems for transmitting and receiving "electronic signals[] and other means of communication." As RAMA fails to explain its position regarding the non-applicability of FLPMA section 501 to the sites at issue here, we will not consider the issue further. Compare with State of Nevada, 127 IBLA 375, 377-78 (1993) (on-ground Naval operations and maneuvering not allowed under FLPMA right-of-way provision).

RAMA also argues (NA/SOR at 3, 5, 7-9) that, in approving the issuance of right-of-way grants BLM failed to fulfill its requirements, under section 302(a) of FLPMA, 43 U.S.C. § 1732(a) (2000), to manage the public lands under the "principle[] of multiple use" in a "harmonious and coordinated [manner] * * * without permanent impairment of the productivity of the land and the quality of the environment." See also 43 U.S.C. § 1702(c) (2000). However, as we said in Friends of the Bow, 139 IBLA 141, 143-44 (1997):

The thrust of the multiple-use mandate requires a choice of the appropriate balance to strike between competing resource uses, recognizing that not every possible use can take place fully on any given area of the public lands at any one time. Multiple use necessitates a trade-off between competing uses. * * * Multiple-use management, however, does not dictate the choice or require that any one resource, or corresponding use, take precedence.

(Citations omitted). BLM was required by the statute reasonably to balance the competing interests concerning potential uses of the public lands, including the interests of the Navy and the public. RAMA has not further justified its complaint that the right-of-way site approvals were not part of this multiple-use mandate of section 302(a) of FLPMA.

Finally, RAMA asserts that BLM's ROD violates the FLPMA requirement to prevent "unnecessary or undue degradation" of the public lands. (NA/SOR at 7-9, quoting from 43 U.S.C. § 1732(b) (2000).) RAMA provides no argument or evidence in support of its assertion, nor does RAMA demonstrate specifically harm that would constitute such degradation as a result of BLM's decision to grant communications site rights-of-way.

Except to the extent that they have been expressly or impliedly addressed in this decision, all other errors of fact or law raised by RAMA have been considered and rejected.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Lisa Hemmer
Administrative Judge

I concur:

David L. Hughes
Administrative Judge