

NOTE: This disposition is nonprecedential.



United States Department of the Interior
Office of Hearings and Appeals
Interior Board of Land Appeals
801 N. Quincy St., Suite 300
Arlington, VA 22203

703-235-3750

703-235-8349 (fax)

March 14, 2016

IBLA 2016-102)	DOI-BLM-ORWA-V000-2016-0006-DNA
)	
BLUE MOUNTAINS BIODIVERSITY PROJECT)	Wildfire Management
)	
)	Joint Motion for Partial Vacatur and Remand Granted in Part and Denied in Part; Motion to Dismiss Appeal Granted; Appeal Dismissed

ORDER

Appellant has appealed from, and petitioned to stay the effect of, the January 28, 2016, Final Decision issued by the Vale District Office, Baker Field Office (Oregon), Bureau of Land Management (BLM). In its Decision, BLM approved the immediate implementation of vegetation treatments listed in the agency's Windy Ridge Fire Emergency Stabilization and Rehabilitation Plan.

On March 10, 2016, before the Board could rule on appellant's petition for a stay, counsel for BLM filed a Joint Request for Partial Vacatur and Remand, and for Dismissal (Request). Therein, counsel states the parties jointly move the Board to vacate and remand the Decision only as it relates to herbicide use. *See* Request at 1-2. The parties seek to dismiss the remainder of appellant's appeal concerning aspects of the Decision not related to herbicide use. *See id.* The parties also move the Board to issue an Order directing BLM to proceed with the remaining emergency fire stabilization actions authorized in the Decision. *See id.* at 2, ¶¶1-2. The parties also seek a Board Order requiring BLM to follow National Environmental Policy Act requirements if the agency chooses to use herbicides to treat any Windy Ridge fire damage in the future. *Id.* at ¶1.

Based on parties' representations, the Request is granted in part and denied in part. 43 C.F.R. § 4.407(c). The Request is granted with respect to vacatur, remand, and dismissal. The Request is denied as it relates to directing BLM to engage in emergency fire stabilization actions, including any environmental analyses of potential herbicide use, because the Board cannot exercise supervisory authority over Departmental bureaus and agencies. *See Benson-Montin-Greer Drilling Corp.*, 178 IBLA 11, 18-19 (2009).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, the Request is granted in part and denied in part. The portion of the Decision, wherein BLM authorized the use of herbicides in treating damage caused by the 2015 Windy Ridge Fire, is vacated and remanded to BLM. The appeal is dismissed from the Board's docket.

_____/s/_____
Eileen G. Jones
Chief Administrative Judge

I concur:

_____/s/_____
Amy B. Sosin
Administrative Judge