

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
Office of Fire and Aviation
3833 South Development Avenue
Boise, Idaho 83705

November 29, 2001

In Reply Refer To:
9238 (FA-610) P

EMS Transmission 11/30/01
Instruction Memorandum No. OF&A 2002-003
Expires: 09/30/02

To: All Field Officials
From: Director, Office of Fire and Aviation
Subject: Fire Trespass

Program Area: This Instruction Memorandum (IM) applies to the Bureau of Land Management's (BLM) Wildland Fire Trespass Program.

Purpose: The purpose of this IM is to provide interim direction to the BLM Wildland Fire Trespass Program as a result of two recent Interior Board of Land Appeals (IBLA) decisions.

Background: The BLM has requested assistance from the Department of the Interior Office of the Solicitor, Division of Land and Water, in reviewing BLM/DOI policy and law for fire trespass in light of two recent IBLA decisions (Pamela Neville, IBLA 2001-286, 155 IBLA 303; and Gene Goold, IBLA 2001,155 IBLA 299).

In the Neville case, which set aside and remanded a notice of fire trespass issued by BLM's Elko Field Office, IBLA determined that BLM applied an improper standard of "strict liability" in determining responsibility for the ignition of a fire on public lands. The Goold decision determined that IBLA case law does not support strict liability for fire damage on Federal lands in any case stemming from human-caused fire. These decisions have Bureauwide implications for our fire trespass program because they call into question the adequacy of our trespass manual, handbook and current guidance to the state and field offices.

The BLM requested the Office of the Solicitor to (1) review current manuals, regulations, and applicable law to determine whether we have the authority to impose “strict liability” on those whose actions resulted in the ignition of fire on the public lands; (2) consider whether BLM should develop a “strict liability” standard through rule making/regulations; (3) review, clarify, and correct current fire trespass policy to make it conform with the law; and/or (4) develop legal guidelines that may be utilized by our Field Managers in determining degrees of intent or negligence for the assessment and collection of damages on trespass fires.

The Solicitor was encouraged to provide guidance as soon as possible in order for the field to comply with recommendations made by the Office of the Inspector General regarding the pursuit of cost recovery for human-caused fires.

Policy: Continue to proceed with all trespass fires as detailed in the *Fire Trespass Handbook, H-9238-1*, released on June 29, 2000, until such time as additional instructions are passed to the field.

Time Frame: This IM is effective upon receipt.

Budget Impact: No quantified budget impacts.

Manual/Handbook Sections Affected: None

Contact: If you have any questions regarding this IM, please contact Ed Lewis (FA-610) at 208-387-5166.

Please ensure this information is disseminated to State Office and Field Office Fire Management Officers.

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