CITY OF AUBURN, WASHINGTON,	:	Order Denying Petition for
Appellant	:	Reconsideration
	:	
CITIZENS FOR SAFETY & ENVIRONMENT,	:	
Appellant	:	
	:	
CITY OF ENUMCLAW, WASHINGTON,	:	Docket Nos. IBIA 97-144-A
Appellant	:	IBIA 97-145-A
	:	IBIA 97-148-A
v.	:	
	:	
PORTLAND AREA DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	October 22, 1997

Appellant City of Auburn, Washington, has opposed a request for remand filed in the above cases by the Portland Area Director, Bureau of Indian Affairs (Area Director; BIA). Because the Board granted the Area Director's request on October 9, 1997, 31 IBIA 183, it treats Appellant's opposition as a petition for reconsideration. The appeals sought review of the Area Director's May 30, 1997, decision dismissing as premature appeals concerning a Finding of No Significant Impact (FONSI) in connection with the proposed development of an amphitheater on fee lands owned by the Muckleshoot Indian Tribe within its reservation. The FONSI was issued in compliance with the requirements of the National Environmental Policy Act (NEPA), 42 U.S.C. §§ 4321-4335 (1994).

Appellant contends that the Area Director seeks to retract this FONSI in order to "allow[] the Muckleshoot Amphitheatre project to be developed in the absence of federal environmental review." Opposition at 2. Appellant suggests that the project will be constructed without NEPA review, and asserts that site preparation has begun. It argues that in requesting remand, the Area Director was "attempting to avoid substantive review of its inadequate NEPA compliance by asserting that it should never have complied [with NEPA] in the first place." Id. at 3.

The Board notes that the question before it in these appeals was not the adequacy of BIA's NEPA compliance. The question was the timing of an appeal from such compliance.

Nothing in the Area Director's request for remand suggests that BIA is attempting to avoid NEPA compliance or to allow the project to go forward without any required environmental review. In fact, as quoted in the Board's initial order, the Area Director specifically stated that "[w]hen, and if, federal action by BIA is required with respect to the Tribe's amphitheatre project, the Superintendent will, of course, first comply with

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[NEPA]." 31 IBIA at 183-84. The Board finds nothing in Appellant's filing which causes it to reconsider its October 9, 1997, dismissal order.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, Appellant's petition for reconsideration is denied.

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Kathryn A. Lynn
Chief Administrative Judge

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Anita Vogt
Administrative Judge

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