



INTERIOR BOARD OF INDIAN APPEALS

Earl W. Clausen v. Portland Area Director, Bureau of Indian Affairs

18 IBIA 185 (03/06/1990)

Related Board case:  
19 IBIA 56



## United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS  
INTERIOR BOARD OF INDIAN APPEALS  
4015 WILSON BOULEVARD  
ARLINGTON, VA 22203

EARL W. CLAUSEN,	:	Order Docketing and Dismissing
Appellant	:	Appeal
	:	
v.	:	
	:	Docket No. IBIA 90-51-A
PORTLAND AREA DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	March 6, 1990

On February 6, 1990, the Board of Indian Appeals (Board) received a notice of appeal from Earl W. Clausen (appellant). Appellant seeks review of a December 29, 1989, decision of the Portland Area Director, Bureau of Indian Affairs (appellee), concerning an agricultural lease on Coeur d'Alene Allotment No. 400.

The appeal is docketed under the above case name and number. Please cite this name and number in all future correspondence or inquiries regarding the matter. The Board finds, however, that this appeal should be dismissed without prejudice.

On March 1, 1990, the Board received a motion to dismiss from appellee, who stated that his December 29, 1989, decision had found that the Superintendent, Northern Idaho Agency, had not yet issued an appealable decision. Appellee stated he therefore remanded the matter to the Superintendent for a determination of who should receive the lease on the subject allotment.

A copy of appellee's December 29, 1989, decision is in the appeal's administrative record, which the Board received on March 2, 1990. The Board has carefully reviewed that decision. Although appellee discussed the circumstances of the case and indicated that appellant had a right of appeal to this Board, his actual decision was "that the Superintendent did not grant a lease on Coeur d'Alene Allotment 400. We are remanding this matter to the Northern Idaho Agency Superintendent and directing him to make a decision as to who will be granted this lease" (decision at 3-4).

Under these circumstances, the Board agrees that the appeal should be dismissed in order to allow BIA to make an initial determination in this matter. Muskkrat v. Acting Albuquerque Area Director, 12 IBIA 128 (1984). If appellant disagrees with the decision that is issued as a result of appellee's remand to the Superintendent, appellant will have an opportunity to contest that decision through the appeal process.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, this appeal from the Portland Area Director's December 29, 1989, decision is dismissed without prejudice.

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//original signed  
Kathryn A. Lynn  
Chief Administrative Judge

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//original signed  
Anita Vogt  
Administrative Judge