



INTERIOR BOARD OF INDIAN APPEALS

County of San Diego, California;
Board of Directors of the San Diego Rural Fire Protection District;
and Walter Rosales, Karen Toggery, and the Estate of Marie Toggery
v. Pacific Regional Director, Bureau of Indian Affairs

37 IBIA 233 (04/23/2002)



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
801 NORTH QUINCY STREET
SUITE 300
ARLINGTON, VA 22203

COUNTY OF SAN DIEGO, CALIFORNIA,	:	Order Dismissing Appeals
Appellant	:	
	:	
BOARD OF DIRECTORS OF THE SAN	:	
DIEGO RURAL FIRE PROTECTION	:	
DISTRICT,	:	
Appellant	:	
	:	Docket Nos. IBIA 02-31-A
WALTER ROSALES, KAREN TOGGERY,	:	IBIA 02-33-A
and the ESTATE OF MARIE TOGGERY,	:	IBIA 02-36-A
Appellants	:	
	:	
v.	:	
	:	
PACIFIC REGIONAL DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	April 23, 2002

Appellants County of San Diego, California; Board of Directors of the San Diego Rural Fire Protection District; and Walter Rosales, Karen Toggery, and the Estate of Marie Toggery, each sought review of a Finding of No Significant Impact (FONSI) issued under the National Environmental Policy Act on November 9, 2001, by the Pacific Regional Director, Bureau of Indian Affairs (Regional Director; BIA). The FONSI related to the proposed trust acquisition of approximately 101 acres of land for the Jamul Indian Village.

Questions were raised as to whether the FONSI determination was independently appealable to the Board. The Board stayed the appeals pending the issuance of a trust acquisition decision partly because of that question and partly to conserve the time and resources of both the parties and the Department, because the FONSI determination would be rendered moot if the proposed trust acquisition was not approved.

The Regional Director copied the Board with letters written on April 2, 2002, to Appellants County of San Diego, California, and San Diego Rural Fire Protection District. ^{1/} The

^{1/} The Regional Director apparently did not send a similar letter to Appellants Rosales et al., who are involved in an ongoing dispute as to the proper leadership of the Jamul Indian Village. He did, however, send a copy to the Village's presently recognized leadership.

letters stated that the FONSI had been withdrawn and that BIA would be preparing a full Environmental Impact Statement.

The Board has been awaiting requests from Appellants to withdraw their appeals or the filing of a formal motion from the Regional Director to dismiss the appeals. However, nothing has been received.

For purposes of this order, the Board treats the Regional Director's April 2, 2002, letters as motions to dismiss these appeals. Because it sees no purpose that will be served by continuing to carry these cases on its docket, the Board grants the motions.

Pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, these appeals from the Regional Director's November 9, 2001, FONSI are dismissed. 2/

//original signed
Kathryn A. Lynn
Chief Administrative Judge

//original signed
Anita Vogt
Administrative Judge

2/ In its Dec. 20, 2001, order staying the Rosales et al. appeal, the Board noted that it was not considering at that time "such issues as whether [the] appeal was timely; whether these Appellants have standing to bring an appeal; and whether, even if the named individuals have standing, an estate has standing." Because the appeal is being dismissed, it does not consider these issues now either.