



INTERIOR BOARD OF INDIAN APPEALS

Frank Riordan and Chuck Tidrington v. Northwest Regional Director,  
Bureau of Indian Affairs

38 IBIA 258 (12/30/2002)



# 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

FRANK RIORDAN,	:	Order Dismissing Appeals
Appellant	:	
	:	
CHUCK TIDRINGTON,	:	
Appellant	:	
	:	Docket Nos. IBIA 03-3-A
v.	:	IBIA 03-9-A
	:	
NORTHWEST REGIONAL DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	December 30, 2002

These are appeals from an August 16, 2002, decision of the Acting Northwest Regional Director, Bureau of Indian Affairs, to take a 76.9-acre tract near Campbell Lake, Skagit County, Washington, into trust for the Samish Indian Nation. For the reasons discussed below, the Board dismisses these appeals for lack of standing. <sup>1/</sup>

In the notice of docketing for these appeals, the Board stated: “In their opening briefs, Appellants Riordan and Tidrington must show that they have standing in this matter. They are advised that, if their opening briefs fail to show that they have standing, their appeals will be subject to immediate dismissal.” The Board furnished all parties with copies of Evitt v. Acting Pacific Regional Director, 38 IBIA 77 (2002), the Board’s most recent decision concerning the standing of individuals to challenge BIA trust acquisition decisions before the Board.

Tidrington did not file an opening brief. Riordan filed a brief in which he stated that he lives on a street which has been identified as the primary access point for the Tribe’s proposed development. He then stated:

I will suffer an adverse impact due to the [trust acquisition decision]. The following is a list of reasons:

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<sup>1/</sup> Another appeal from the same decision was filed by Skagit County, Washington. That appeal, docketed as IBIA 03-7-A, remains before the Board.

- a) Environmental impacts to my property and the surrounding areas.
- b) Increase of traffic in my neighborhood and Fidalgo Elementary School.
- c) Lack of regulations over density and use of development.
- d) Destruction of rural character of neighborhood.
- e) No formal or informal communications or relationships established between Skagit County Government and the Samish Tribe.
- f) No formal or informal communications documented between the Samish Tribe and the surrounding community impacted by this decision.

Riordan did not elaborate upon this statement.

For the reasons discussed in Evitt, the Board has construed appeals from trust acquisition decisions to incorporate appeals from related environmental decisions made by BIA. Thus, the Board has addressed the standing of individual appellants in trust acquisition appeals under the more lenient rules of standing applicable to environmental cases. See Evitt, 38 IBIA at 78-79.

As it did with respect to the appellants in Evitt, 38 IBIA at 80, the Board assumes here that Riordan has shown, by virtue of the location of his residence, that he satisfies the first of the three elements of standing described by the Supreme Court in Lujan v. Defenders of Wildlife, 504 U.S. 555 (1992). <sup>2/</sup> The Board makes the same assumption with respect to Tidrington, who stated in his notice of appeal that his residence is close to the property proposed for trust acquisition.

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<sup>2/</sup> In Lujan, the Supreme Court stated:

“[T]he irreducible constitutional minimum of standing contains three elements. First, the plaintiff must have suffered an ‘injury in fact’—an invasion of a legally protected interest which is (a) concrete and particularized, \* \* \* and (b) ‘actual or imminent, not “conjectural” or “hypothetical,”’ \* \* \*. Second, there must be a causal connection between the injury and the conduct complained of—the injury has to be ‘fairly . . . trace[able] to the challenged action of the defendant, and not . . . th[e] result [of] the independent action of some third party not before the court.’ \* \* \* Third, it must be ‘likely,’ as opposed to merely ‘speculative,’ that the injury will be ‘redressed by a favorable decision.’” [Citations and footnote omitted.] 504 U.S. at 560-61.

The second and third Lujan elements, and their application to trust acquisition appeals, were discussed in Evitt, 38 IBIA at 80-83. Neither Riordan nor Tidrington has made any attempt to show satisfaction of either of these elements.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, the Board dismisses these appeals for lack of standing.

//original signed

Anita Vogt  
Administrative Judge

//original signed

Kathryn A. Lynn  
Chief Administrative Judge