



INTERIOR BOARD OF INDIAN APPEALS

Seymour Anderson, Maureen Johnson, and Alex Smith v. Acting Southwest
Regional Director, Bureau of Indian Affairs

40 IBIA 137 (10/19/2004)

Denying reconsideration of:
40 IBIA 101

Related Board case:
44 IBIA 218



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
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SEYMOUR ANDERSON, MAUREEN	:	Order Denying Reconsideration
JOHNSON, and ALEX SMITH,	:	
Appellants,	:	
	:	
v.	:	
	:	Docket No. IBIA 04-91-A
ACTING SOUTHWEST REGIONAL	:	
DIRECTOR, BUREAU OF INDIAN	:	
AFFAIRS,	:	
Appellee.	:	October 19, 2004

Appellants Seymour Anderson, Maureen Johnson, and Alex Smith, are sublessees under the Cochiti Lake Master Lease in the town of Cochiti Lake, New Mexico. They seek reconsideration of the September 13, 2004, order of the Board of Indian Appeals (Board) vacating and remanding a March 9, 2004, decision of the Acting Southwest Regional Director, Bureau of Indian Affairs (Regional Director). 40 IBIA 101 (2004). The Regional Director's decision had approved a request from the lessor, Pueblo of Cochiti (Pueblo), for Secretarial consent to the Pueblo's action releasing the lessee, Cochiti Community Development Corporation, from certain obligations under the Master Lease. Although Appellants challenged the Regional Director's decision in their appeal, they now object to the Board's remand, on the grounds that it will delay resolution of a longstanding dispute and place continued economic hardship on the sublessees. For the reasons discussed below, the Board denies Appellants' motion for reconsideration.

The Board's decision to vacate the Regional Director's decision and remand the matter was issued in response to the Regional Director's motion for a remand. The motion followed an August 5, 2004, order by the Board granting a motion from the Pueblo to supplement the administrative record. The Board allowed supplementation of the record when it became clear that the administrative record submitted to the Board by the Regional Director was incomplete. As the Board pointed out in its August 5 order, the regulations require that the administrative record include all documents upon which previous decisions were based. See 43 C.F.R. § 4.335. The record submitted by the Regional Director did not include documents that he should have considered.

Reconsideration of a decision of the Board is granted only in extraordinary circumstances. 43 C.F.R. § 4.315. Although Appellants contend that the remand will further delay resolution of this dispute, to their financial detriment, that objection is insufficient to warrant reconsideration of the Board's decision. The omission of documents that should have been, but were not, included in the administrative record that was before the Regional Director, justified the Board's order to vacate the Regional Director's decision and remand the matter. At the same time, however, the Board acknowledges Appellants' interest in having this matter finally resolved, and therefore urges the Regional Director to act expeditiously to issue a new decision on the merits, with a complete record before him.

Therefore, pursuant to the authority delegated to the Board by the Secretary of the Interior, 43 C.F.R. § 4.1, the motion for reconsideration of 40 IBIA 101 is denied. 1/

// original signed
Steven K. Linscheid
Chief Administrative Judge

// original signed
Colette J. Winston
Administrative Judge

1/ The Regional Director filed a procedural objection to Appellants' motion for reconsideration, arguing that the Board lacks authority to consider the motion because the Board's order remanding the matter has been issued and there is no longer a case before the Board upon which it can act. The Regional Director's objection is without merit. The Board's regulations expressly allow it to consider motions for reconsideration of final decisions. 43 C.F.R. §§ 4.315; see id. § 4.312.