



## INTERIOR BOARD OF INDIAN APPEALS

Rosebud Indian Land and Grazing Association and its Members v.  
Acting Great Plains Regional Director, Bureau of Indian Affairs

51 IBIA 57 (01/06/2010)

Related Board Case:  
53 IBIA 42



# United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS  
INTERIOR BOARD OF INDIAN APPEALS  
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ROSEBUD INDIAN LAND )  
AND GRAZING ASSOCIATION )  
AND ITS MEMBERS, )  
Appellants, )  
v. )  
ACTING GREAT PLAINS REGIONAL )  
DIRECTOR, BUREAU OF )  
INDIAN AFFAIRS, )  
Appellee. )

Order Dismissing Appeal

Docket No. IBIA 09-10-A

January 6, 2010

The Rosebud Indian Land and Grazing Association (Association), on behalf of itself and its members, appealed to the Board of Indian Appeals (Board) from an August 28, 2008, decision of the Acting Great Plains Regional Director, Bureau of Indian Affairs (Regional Director; BIA), to adjust the grazing rental rate to \$18.40 an Animal Unit Month (AUM) for individually-owned Indian lands on the Rosebud Reservation for the 2009 grazing season, pursuant to 25 C.F.R. § 166.408.

By order dated April 8, 2009, the Board granted the Regional Director's unopposed request to limit the scope of this appeal to the permits held by the 36 individual permittees who had been identified by the Association as its members on whose behalf the Association filed this appeal. In the same order, the Board granted the Regional Director's unopposed request for an appeal bond, *see* 43 C.F.R. § 4.332(d), 25 C.F.R. § 2.5, and ordered the Regional Director to submit additional information to determine the amount of the bond. On September 16, 2009, the Board issued an order setting the appeal bond amount for this appeal at \$11,802.89 and ordering the Association to pay the bond on or before October 30, 2009. The Board twice extended the deadline, most recently to December 31, 2009.

On December 30, 2009, the Board received a letter from Scott J. Shelbourn, President of the Association, withdrawing the Association's appeal.<sup>1</sup>

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 this appeal.<sup>2</sup>

I concur:

          // original signed            
Steven K. Linscheid  
Chief Administrative Judge

          // original signed            
Debora G. Luther  
Administrative Judge

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<sup>1</sup> In its withdrawal letter, the Association states that it held a conference call with the Regional Director on December 11, 2009, and suggests that BIA's failure to answer many of its questions or provide certain information contributed to its inability to submit the required appeal bond, because it could not calculate an appropriate appeal bond "per person." Without condoning any alleged lack of cooperation by BIA in answering questions or providing information, the Board notes that the Association has known since April of 2009 that an appeal bond would be imposed, has known the amount since September of 2009, and has not previously suggested the need for additional information from BIA. Moreover, the appeal was filed by the Association and, although the total bond amount was calculated based on the permits of Association members, the appeal bond was imposed on the Association. Presumably, the Association could obtain sufficient information from its members about the grazing capacity associated with each permit in order to determine an appropriate amount to collect from each member, if it chose that mechanism to secure the amount of the bond.

<sup>2</sup> This appeal was consolidated with an appeal filed individually by Ruth Linabery, Docket No. IBIA 09-09-A. Although Linabery is also a member of the Association, the Board's dismissal of the Association's appeal does not affect Linabery's individual appeal. The practical effect of the dismissal of this appeal is that the Regional Director's decision, and the \$18.40/AUM rate, is now final and effective for all grazing permits for the 2009 grazing season *except* Linabery's permit(s).