



INTERIOR BOARD OF INDIAN APPEALS

Trenton Indian Service Area v. Great Plains Regional Director, Bureau of Indian Affairs

51 IBIA 130 (02/16/2010)



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
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TRENTON INDIAN SERVICE)	Order Docketing and
AREA,)	Dismissing Appeal
Appellant,)	
)	
v.)	
)	Docket No. IBIA 10-037
GREAT PLAINS REGIONAL)	
DIRECTOR, BUREAU OF)	
INDIAN AFFAIRS,)	
Appellee.)	February 16, 2010

Trenton Indian Service Area (Appellant) appealed to the Board of Indian Appeals (Board) from inaction by the Great Plains Regional Director, Bureau of Indian Affairs (Regional Director; BIA), after the Regional Director failed to respond to a November 30, 2009, request for action or decision made pursuant to 25 C.F.R. § 2.8.¹ Upon receipt of the appeal, the Board requested a status report from the Regional Director. On January 14, 2010, the Board received a report from the Regional Director, stating that he expected to issue a decision on the merits by January 29, 2010, which he has now done by a decision issued on that date.²

Appellant has received the only relief available to it through an appeal from inaction: the Regional Director took action and issued a decision. *See Hall-Houston Oil Company v. Western Regional Director*, 40 IBIA 33 (2004). The merits of the case, which were

¹ Appellant had requested that the Regional Director decide an appeal that Appellant then had pending before the Regional Director, which challenged the June 10, 2009, approval by the BIA Turtle Mountain Agency Superintendent of business lease No. 50-3993-0817 on Turtle Mountain Public Domain Allotment No. T-939-A (also referred to by Appellant as business land lease 2442 of the Turtle Mountain Council).

² On February 4, 2010, the Board's legal assistant contacted the Regional Office to inquire whether the Regional Director had issued a decision, and the Regional Office faxed a copy of the Regional Director's January 29, 2010, decision to the Board. The Regional Director's decision advised Appellant of its right to appeal that decision to the Board.

addressed in the Regional Director's decision, are not within the scope of this appeal. *See Forest County Potawatomi Community v. Deputy Assistant Secretary - Indian Affairs*, 48 IBIA 259, 264-66 (2009). Thus, the Board concludes that this appeal is moot. *See Hall-Houston Oil Company*, 40 IBIA at 33, and cases cited therein.

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 docketed this appeal but dismisses it as moot.³

I concur:

// original signed
Steven K. Linscheid
Chief Administrative Judge

// original signed
Debora G. Luther
Administrative Judge

³ In response to the Board's request for a status report from the Regional Director, the Turtle Mountain Band of Chippewa Indians filed an amicus curiae brief, arguing that Appellant lacks standing to challenge BIA's approval of the lease. As noted, BIA's approval of the lease is outside the scope of this appeal, this appeal from inaction is now moot, and therefore we decline to consider the Tribe's brief.