



INTERIOR BOARD OF INDIAN APPEALS

Zuni Tribe v. Southwest Regional Director, Bureau of Indian Affairs

54 IBIA 135 (11/03/2011)



## United States Department of the Interior

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

ZUNI TRIBE,	)	Order Docketing and
Appellant,	)	Dismissing Appeal
	)	
v.	)	
	)	Docket No. IBIA 12-004
SOUTHWEST REGIONAL	)	
DIRECTOR, BUREAU OF	)	
INDIAN AFFAIRS,	)	
Appellee.	)	November 3, 2011

The Zuni Tribe (Appellant or Tribe) appealed to the Board of Indian Appeals (Board) from alleged inaction by the Southwest Regional Director (Regional Director), Bureau of Indian Affairs (BIA). Appellant had asked the Regional Director to withdraw a March 18, 2011, letter, which contained interpretations of certain provisions of the Tribe's Constitution, and, when the Regional Director did not respond, Appellant appealed to the Board. Because it appeared that Appellant had not complied with the procedural requirements of 25 C.F.R. § 2.8 (appeal from inaction of official) prior to filing this appeal, the Board ordered Appellant to show cause why the appeal should not be summarily dismissed.<sup>1</sup>

On September 28, 2011, the Board received Appellant's response to the OSC. Appellant seeks dismissal of the appeal without prejudice, and does not address its failure to have complied with § 2.8 before filing this appeal.

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<sup>1</sup> Section 2.8 of 25 C.F.R. is an action-prompting mechanism through which a party seeking action by a BIA official may request action and then appeal from the BIA official's inaction if the official does not respond in accordance with § 2.8. Section 2.8, however, also contains procedural requirements that a party must follow in submitting a demand-for-action letter to the BIA official before the official's inaction is appealable. *See* 25 C.F.R. § 2.8(a); *Her Many Horses v. Great Plains Regional Director*, 52 IBIA 154, 154 n.2 (2010) (and cases cited therein). Appellant's demand letter to the Regional Director, a copy of which was enclosed with the notice of appeal, did not comply with the requirements of § 2.8.

The Board grants Appellant's motion and dismisses the appeal without prejudice as premature. *See Spotted Horse et al. v. Southern Plains Regional Director*, 37 IBIA 218 (2002).

Therefore, pursuant to the authority delegated to the Board by the Secretary of the Interior, 43 C.F.R. § 4.1, the Board docketed and dismisses this appeal.

I concur:

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// original signed  
Steven Linscheid  
Chief Administrative Judge

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// original signed  
Debora Luther  
Administrative Judge