



INTERIOR BOARD OF INDIAN APPEALS

Menominee Indian Tribe of Wisconsin and Menominee Tribal Enterprises v. Midwest
Regional Director, Bureau of Indian Affairs

55 IBIA 14 (05/08/2012)



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
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MENOMINEE INDIAN TRIBE OF)	Order Dismissing Appeals
WISCONSIN AND MENOMINEE)	
TRIBAL ENTERPRISES,)	
Appellants,)	
)	
v.)	Docket Nos. IBIA 11-072
)	11-077
MIDWEST REGIONAL DIRECTOR,)	
BUREAU OF INDIAN AFFAIRS,)	
Appellee.)	May 8, 2012

The Menominee Indian Tribe of Wisconsin (Tribe) and Menominee Tribal Enterprises (MTE) each submitted a Forest Management Plan (FMP) to the Bureau of Indian Affairs (BIA) for approval, each claiming the authority to submit an FMP on behalf of the Tribe.¹ In a January 14, 2011, decision, the BIA Midwest Regional Director (Regional Director) disapproved both proposed FMPs on several grounds, including her determination that the competing proposals reflected an internal tribal dispute that should be resolved by the Tribe. Both parties appealed to the Board of Indian Appeals (Board).

On March 22, 2012, the Board received a motion from the Tribe to withdraw its appeal. On April 5, 2012, the Board received a motion from MTE to dismiss its appeal as moot, based on the Tribe's motion to withdraw its appeal. MTE states that it will submit an FMP to BIA for approval and seeks an order from the Board extending the existing FMP until a new FMP is approved and ordering BIA to work with MTE to finalize, approve, and implement a new FMP. The Regional Director does not object to dismissal of the appeals and both the Regional Director and the Tribe join in MTE's motion to extend the existing FMP until a new FMP is approved. The Regional Director does object, however, to MTE's motion for an order directing BIA to work with MTE to finalize, approve, and implement a new FMP. The Regional Director contends that such an order is unnecessary and could potentially be construed as interfering with BIA's ability to consult with the Tribe.

¹ Appellant Tribe's proposal was submitted pursuant to a resolution of the Menominee Tribal Legislature (MTL), and in these proceedings MTE contended that Appellant Tribe should instead be identified as MTL. The Board's caption of the case is based on the parties' self-identification and shall not be construed as taking any position on this issue.

The Board grants the Tribe's motion to withdraw its appeal and grants MTE's motion to dismiss its appeal as moot.

The Board denies MTE's motion to extend the existing FMP until a new FMP is approved by BIA. During these proceedings, the Board entered a stipulation from the parties to extend the existing FMP until 90 days after this dispute was decided and all appeals exhausted. But with the withdrawal of the Tribe's appeal and dismissal of MTE's appeal as moot, the Board's jurisdiction over this matter ends. The parties are free to stipulate to a further extension of the existing FMP, but we think that any further extension is a matter properly left to a decision of the Regional Director rather than the Board. The Board also finds no basis to order BIA to work with MTE to finalize, approve, and implement a new FMP. MTE's motion asks the Board to assume a supervisory role over BIA that the Board does not have. *See Roanhorse v. Navajo Regional Director*, 53 IBIA 126, 128 (2011) ("the Board lacks general supervisory authority over BIA").

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.

I concur:

 // original signed
Steven K. Linscheid
Chief Administrative Judge

 // original signed
Debora G. Luther
Administrative Judge