



HEIRS OF MABEL M. CONDARDY

176 IBLA 266

Decided December 29, 2008



United States Department of the Interior
Office of Hearings and Appeals
Interior Board of Land Appeals
801 N. Quincy St., Suite 300
Arlington, VA 22203

HEIRS OF MABEL M. CONDARDY

IBLA 2008-75

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Appeal from a decision of the Alaska State Office, Bureau of Land Management, rejecting a request to reinstate acreage to Native allotment application AA-7001.

Reversed and remanded.

1. Alaska: Native Allotments--Alaska National Interest Lands Conservation Act: Native Allotments--Applications and Entries

When the record contains evidence that a Native allotment applicant originally sought 160 acres of land, her acceptance of a 65-acre parcel will not be considered a voluntary and knowing relinquishment of the remaining 95 acres where the record shows that, without first investigating whether her use and occupancy of the 160 acres pre-dated other conflicting claims and thus had preference over those claims, BIA advised her that she could not apply for lands included within townsite lands or patented lands. Even assuming that she acquiesced in the diminution of her application, that waiver would not be voluntary and knowing since she would have been unaware of her potentially superior rights to the land.

APPEARANCES: Carol Yeatman, Esq., Alaska Legal Services Corporation, Anchorage, Alaska, for the heirs of Mabel Condardy; Kenneth M. Lord, Esq., Office of the Regional Solicitor, U.S. Department of the Interior, Anchorage, Alaska, for the Bureau of Land Management.

OPINION BY ADMINISTRATIVE JUDGE GREENBERG

Arthur Condardy, Jr., and Debora Harshfield (Heirs) have appealed, as heirs of Mabel M. Condardy (Condardy),¹ a December 27, 2007, decision of the Alaska State Office, Bureau of Land Management (BLM), which rejected a request filed by the Bristol Bay Native Association (BBNA) that 95.07 acres be reinstated to Condardy's Native allotment application (AA-7001), filed pursuant to the Act of May 17, 1906, as amended, 43 U.S.C. §§ 270-1 through 270-3 (1970) (Native Allotment Act), repealed effective December 18, 1971, by section 18(a) of the Alaska Native Claims Settlement Act, 43 U.S.C. § 1617(a) (2000), subject to applications then pending. BLM rejected BBNA's request because the application the Bureau of Indian Affairs (BIA) had filed with BLM on Condardy's behalf on February 7, 1972, had described only 65 acres in protracted sec. 16 of what was then unsurveyed T. 31 S., R. 50 W., Seward Meridian (SM); BLM had conducted a field examination, surveyed, and conveyed a parcel containing 64.93 acres to Condardy's heirs on December 7, 1987; and no protest or attempt to correct the number of acres had been submitted in response to correspondence about the application. Because we find that the record supports the conclusion that Condardy originally applied for a 160-acre parcel and does not establish that she voluntarily and knowingly relinquished any land within that parcel, we reverse BLM's decision and remand the case to BLM for further action.

Background

BIA filed Native allotment application AA-7001 on Condardy's behalf with BLM on February 7, 1972. The filed application is typed and bears her signature and a date of December 11, 1970, as well as a date-stamp showing that it was originally received by the BIA realty office in Anchorage on December 14, 1970. The BIA Superintendent certified the application on February 2, 1972, shortly before forwarding it to BLM. The application identifies the land applied for as an approximately 65-acre parcel in protracted sec. 16, T. 31 S., R. 50 W., SM, at Ugashik, Alaska, as described by metes and bounds. Two maps depict the location of the parcel. Condardy claimed use of the land for fishing, trapping, and berry-picking periodically since 1920 and continuously since 1959.

BLM conducted a field examination of the 65-acre parcel on June 12, 1973. The March 1974 report documenting the field examination indicated that Condardy was not contacted but that "[t]he Ugashik Village Council spoke in [sic] behalf of the

¹ The casefile includes a copy of a Dec. 12, 1985, probate order identifying seven children as the heirs of Mabel M. Condardy. See Probate No. 1P SA 83N 85. BLM sent its decision to the six living children at individual addresses and to the heirs of the deceased seventh child in care of BBNA. Only Arthur Condardy, Jr., and Debora Harshfield appealed the decision.

applicant.” The examiner stated that the resources necessary to support Condardy’s claimed uses were available in the vicinity of the allotment, but that, because “no visible evidence of use of any kind was found anywhere on the parcel,” she had not met the substantial use and occupancy requirement of 43 C.F.R. § 2561. He, therefore, recommended that her application be rejected. The Acting Area Manager and the Acting District Manager concurred in this recommendation on April 1 and April 5, 1974, respectively. BLM notified Condardy of the examiner’s findings by letter dated May 24, 1974, and granted her additional time to submit further information in support of her claim.

In response, Condardy filed four witness statements supporting her application with BLM on October 24, 1974. The witness statements, three of which specifically described the parcel as containing 65 acres, were signed by her husband, a son, a brother-in-law, and a neighbor. By letter dated February 28, 1975, BLM informed Condardy that her application had been reviewed and that “[f]rom the information submitted, it has been determined that you have used the entire 65 acres that you applied for,” and advised her that she would be notified after the land had been surveyed. The return receipt card was signed on March 11, 1975, by Eunice Ruhl, Condardy’s daughter, and bears a Lynnwood, Washington, postmark. Condardy died on May 7, 1975, and BIA informed BLM of Condardy’s death by a memorandum dated November 3, 1977.

The parcel was surveyed in September 1986.² By Notice dated May 21, 1987, which was sent to Condardy in care of BIA in Anchorage, BLM informed Condardy that the parcel had been surveyed and was now described as “U.S. Survey No. 8475, Alaska, located southerly of the village of Ugashik, Alaska. Situated in Sec. 16, T. 31 S., R. 50 W., Seward Meridian. Containing 64.93 acres.” BLM granted her 30 days to provide evidence that the survey had been incorrectly performed and did not contain all the improvements intended to be on the parcel. No response was filed.³ On December 7, 1987, BLM issued Certificate of Allotment No. 50-88-0019 to the “Heirs, Devisees and/or Assigns of Mable M. Condardy.” BLM transmitted the certificate to BIA in Anchorage on December 9, 1987.

On May 21, 2007, BBNA filed a “Request for Reinstatement of 95.07 Acres Previously Deducted from Allotment in Error.” BBNA averred that Condardy had

² The plat for U.S. Survey No. 8475, was accepted on Jan. 2, 1987, and filed on Feb. 13, 1987. Condardy’s allotment application AA-7001 was conformed to U.S. Survey No. 8475 as of May 5, 1987.

³ BLM also determined in 1987 that Condardy’s claim was eligible for legislative approval under the Alaska National Interest Lands Conservation Act (ANILCA), 43 U.S.C. § 1634(a) (2000).

originally applied for a 160-acre allotment and that, since she had only received 64.93 acres, she was entitled to reinstatement of the remaining 95.07 acres. BBNA asserted that the reduction in acreage stemmed from BIA's failure to type all the information that Condardy had put on her original hand-written application, including the amount of acreage she claimed. In support of its assertion, BBNA appended documents from BIA's file for Condardy, which was now in BBNA's custody. Request for Reinstatement at 1.

These documents included two handwritten Native allotment applications, one signed by Condardy on December 11, 1970 (Ex. B), and one signed on October 1, 1971 (Ex. A). The December 11, 1970, handwritten application describes the parcel as follows:

Starting with point 1 (one) at the most northern corner marker, approx. 2000 feet South of Ugashik cannery. From there 2500 feet south along Ugashik River bank to Point 2 (two). Two parallel lines from point one and two towards the East to enclose 160 acres. A line that meets both parallels at points 3 and 4 would form the eastern boundary.

The application stated that Condardy had used the land for trapping since 1961. This application was accompanied by a letter dated December 11, 1970, and date-stamped as received by "Realty Anchorage Agency" on December 14, 1970, which was signed by two individuals who certified that Condardy had "occupied, marked and posted the land applied for as a Native allotment; and that this land is not claimed by any other Native; and is not an area of Native community use." The October 1, 1971, application, which did not have a description of the land applied for and contained several scratch-outs, claimed use and occupancy of the land for fishing, trapping, and berry-picking beginning in 1959. BBNA also provided a copy of the typed application for 65 acres actually filed with BLM (Ex. C), which, except for the addition of the description of the 65-acre parcel, tracked the language in the handwritten October 1, 1971, application that Condardy had signed *after* the typed application was executed.

BBNA submitted two other documents. The first was an August 5, 1971, letter from BIA to Condardy (Ex. D) that stated:

This refers to your Native Allotment application for *160 acres* of land at Ugashik.

Enclosed is a status plat which shows the filings at Ugashik. You will note outline[d] in red is the area of the Ugashik Townsite within which is patented land and a T&M [trade and manufacturing] Site. Outlined in blue is the area described on the map you sent.

Native allotment applications are not filed on Townsite lands and cannot be filed on patented or other filed land.

If there is other land along the river that you have used for berries, hunting and trapping since before 1968, please draw it on the map, complete the enclosed application forms and return to us. [Emphasis added.⁴]

The referenced status plat was not appended to the copy of the letter BBNA submitted. The second document (Ex. E) was a memorandum dated January 3, 1972, from the BLM Townsite Trustee to the BIA realty specialist, Anchorage Area Agency, which stated: “The Native allotment application of Mabel Condardy at Ugashik does not conflict with Ugashik Townsite. It borders the south end of unapproved U.S. Survey 4994, Ugashik Townsite. The metes and bounds description was prepared by our chief of survey party at the time he was making the townsite entry.” No metes and bounds description was included with the copy of this memorandum provided by BBNA.

According to BBNA, after receiving the Townsite Trustee’s memorandum, BIA wrote to Condardy and told her that it would now process her application, which BBNA assumed meant that BIA would then type the application that was actually filed with BLM, which reduced the amount of acreage Condardy had originally requested.⁵ Request for Reinstatement at 2. BBNA asserted that, since the record clearly demonstrated that Condardy had applied for 160 acres but received only 64.93, her application for the remaining 95.07 acres should be reinstated. *Id.*

BLM reviewed the reinstatement request and in an analysis prepared on November 1, 2007, concluded:

Acres reduced by BIA due to nonavailability of lands in applicant’s original description. BIA submitted application for 65 acres. The lands did not include approx[imately] 95 acres in conflict with townsite and the T&M Site. Need to plot original location and depict the areas in conflict [with] 160 acre parcel that would have been rejected by BLM. Deny reinstatement because these are not lands the applicant originally intended to claim.

⁴ It is possible that the handwritten application signed by Condardy on Oct. 1, 1971, may have been prepared in response to this letter.

⁵ The record before us does not contain a copy of the referenced written communication.

Native Allotment Review Reinstated/Reconstructed Applications at 1.

In its decision, which was entitled “Request for Additional Acreage Denied,” BLM stated that the application it had received had described only 65 acres; that its field examination inspected only those 65 acres; that its communications with Condardy had identified the parcel as including only 65 acres; and that neither BIA nor Condardy had responded to those communications to correct the acreage amount from 65 acres to 160 acres. Nor had BIA or anyone else responded to BLM’s May 21, 1987, survey conformance notice to correct the amount of acreage before the 64.93-acre parcel was conveyed to Condardy’s heirs on December 7, 1987. Decision at 1-2. BLM acknowledged that BIA’s August 5, 1971, letter referred to Condardy’s parcel as containing 160 acres, noting that “[t]his letter was not part of the record at the time of conveyance; had it been, BLM would have requested clarification of the acreage.” Decision at 2. Nevertheless, since no one had protested the acreage amount or attempted to correct the acreage prior to survey or conveyance of the parcel, BLM denied the request for additional acreage.

Analysis

On appeal, the Heirs contend that, regardless of BLM’s statement that the acreage was reduced because some of the land was unavailable, the casefile contains no evidence that either BIA or BLM ever considered whether Condardy might have a preference right to the land or determined that her claim to the land was not superior to the conflicting claims. Statement of Reasons (SOR) at 2-4. They argue that Condardy did not relinquish or amend her original claim for an allotment consisting of 160 acres and that, therefore, BLM erred in denying reinstatement of the 95 acres. They assert that this case is identical to the situations addressed in *Matilda S. Johnson*, 129 IBLA 82 (1994), and *Heirs of George T. Hoffman, Sr.*, 134 IBLA 361 (1996), and that, as in those cases, BLM’s decisions should be reversed.⁶ SOR at 5-8. They also maintain that BLM erred by failing to provide her a notice of rejection for

⁶ In those cases, BLM took action that reduced the acreage described in the allotment applications for which the appellants had intended to apply. In each case, the applicants had agreed to an adjustment of boundaries, but neither had intended to reduce the total acreage sought or to relinquish any part of their respective allotments. *Matilda S. Johnson*, 129 IBLA at 84; *George Hoffman, Sr.*, 134 IBLA at 364. In both cases, BLM argued that the applicants’ failure to respond to notices regarding the changed acreage resulted in a waiver of the right to timely request an amendment of the allotment applications. 129 IBLA at 85; 134 IBLA at 365. As the Board’s analysis makes clear, those cases stand for the basic proposition that BLM is required to adjudicate the application the applicant intended to submit and that a request to reinstate acreage originally applied for is not a request to amend an application. See *Heirs of Okalena Wassillie*, 175 IBLA 355, 361 (2008).

the eliminated portion of her allotment and to offer her an opportunity for a hearing as required by *Pence v. Kleppe*, 529 F.2d 135 (9th Cir. 1976). SOR at 8-9.

BLM not only disputes these arguments but claims that section 905(c) of ANILCA, 43 U.S.C. § 1634(c) (2000), precludes amending the application. That provision states, in relevant part, that “an allotment applicant may amend the land description contained in his or her application if said description designates land other than that which the applicant intended to claim at the time of application and if the description as amended describes the land originally intended to be claimed.” Answer at 8-11, 14-15. BLM argues that the present case is unlike *Matilda S. Johnson, supra*, on which the Heirs rely because they, rather than the applicant herself, seek an amendment of the application and because Condardy’s “intent is likely reflected in the fact that she actually applied for 65 acres” so changing the acreage would not be an amendment “to comport with the applicant’s original intent.” Answer at 10. BLM also points out that section 905(c), 43 U.S.C. § 1634(c) (2000), further provides “[t]hat no allotment application may be amended for location following adoption of a final plan of survey which includes the location of the allotment as described in the application or its location as desired by amendment,” and asserts that since Condardy’s 65-acre allotment was surveyed prior to issuance of the allotment certificate, amendment of the application is now statutorily precluded. Answer at 10-11. In addition, BLM argues that the presumption of regularity, equitable estoppel, collateral estoppel, and the doctrine of administrative finality preclude reopening the application.

Because we find that Condardy originally submitted an application for 160 acres and did not voluntarily and knowingly relinquish her claim to the 95 acres eliminated from her application, we reverse BLM’s decision and remand the case to BLM for further action.

[1] Although BLM discounts the probity of the handwritten application describing 160 acres signed on December 11, 1970, because it was not date-stamped by BIA, such a situation is neither unprecedented nor dispositive. See *Robert F. Paul, Sr.*, 159 IBLA 357, 368 (2003) (application without “time stamp” found in BIA file); *State of Alaska, Department of Transportation & Public Facilities*, 131 IBLA 121, 124 (1994), citing *Myrtle Jaycox*, 64 IBLA 97, 99 n.2 (1982). Any weight to be ascribed to the absence of a date-stamp is offset by the fact that the supporting letter certifying that Condardy had occupied and posted the land, which accompanied the handwritten application, bears a BIA date-stamp of December 14, 1970.

Nor does the fact that Condardy signed two applications on December 11, 1970 (the handwritten application for 160 acres and the typed application for 65 acres subsequently submitted to BLM), undermine the Heirs’ claim that she originally sought 160 acres. The Board has previously encountered situations in

which an applicant signed several Native allotment applications, some handwritten and some left blank so that the appropriate information could be typed onto them. See *Estate of Stan Paukan*, 146 IBLA 204, 208 (1998) (one handwritten and two signed and dated in blank); *United States v. Melgenak*, 127 IBLA 224, 227-29 (1993), *aff'd in part and rev'd in part*, *Heirs of Melgenak v. United States*, No. A95-0439 CV (JKS) (D. Alaska May 5, 1997); *Mitchell Allen*, 117 IBLA 330, 334 (1991) (appellant stated that he had signed six application forms, "none of which contained a land description"); *Nora L. Sanford (On Reconsideration)*, 63 IBLA 335, 336 (1982) (claimed to have left land description blank).

The Heirs' assertion that Condardy originally intended to and in fact did apply for 160 acres is further corroborated by BIA's August 5, 1971, letter to Condardy specifically referring to her application for 160 acres.⁷ Request for Reinstatement, Ex. D. We therefore conclude that Condardy intended to and did, in fact, submit to BIA a Native allotment application for 160 acres on December 11, 1970, before the repeal of the Native Allotment Act.⁸

Our inquiry now turns to whether Condardy voluntarily and knowingly relinquished the 95 acres that were eliminated from her application. Based on the record before us, we cannot conclude that she did.

BLM avers that not only does the filed application for only a 65-acre parcel evidence Condardy's relinquishment of any claim to an additional 95 acres, but also that her failure to respond to numerous communications specifically identifying the parcel as containing 65 acres or to object to or correct that acreage, and her heirs' and BIA's failures to respond or object, support its conclusion that Condardy relinquished her application for the additional 95 acres. While we certainly understand why BLM might believe that Condardy's apparent acquiescence in the reduction of her parcel signified her intent to relinquish that acreage, even assuming that the typed application and the failure to respond were tantamount to a relinquishment, we nevertheless conclude that, given the specific facts of this case, any such "relinquishment" may not have been voluntary and knowing.

⁷ We note that in its decision, BLM acknowledged that, if it had known of BIA's Aug. 5, 1971, letter referring to the parcel as containing 160 acres at the time of conveyance, it would have requested clarification of the acreage. Decision at 2.

⁸ Since Condardy originally filed an application for 160 acres, her request for reinstatement is not a request to amend her application and sec. 905(c) of ANILCA, 43 U.S.C. § 1634(c) (2000), does not apply to or preclude consideration of the request. See *George Hoffman, Sr.*, 134 IBLA at 366; *Matilda S. Johnson*, 129 IBLA at 86.

Any relinquishment of a Native allotment application must be made voluntarily and with knowledge of the applicant's allotment rights and the consequences of the relinquishment. *Shirley Nielsen*, 158 IBLA 26, 58 (2002); *Heir of Frank Hobson (On Reconsideration)*, 121 IBLA 66, 68-69 (1991); *Atkins v. BLM*, 116 IBLA 305, 312 (1990); *Matilda Titus*, 92 IBLA 340, 343 (1986); see *Edwards v. Arizona*, 451 U.S. 477, 482 (1981), quoting in part *Johnson v. Yerbst*, 304 U.S. 458, 464 (1938) (stating, in the context of waivers of a constitutional right by one accused of a crime, that "waivers . . . must not only be voluntary, but must also constitute a knowing and intelligent relinquishment or abandonment of a known right or privilege, a matter which depends in each case 'upon the particular facts and circumstances surrounding the case, including the background, experience and conduct of the accused'"). This fundamental precept was recognized by Congress and incorporated as a part of section 905(a) of ANILCA, 43 U.S.C. § 1634(a) (2000), which provides that legislative approval of certain Native allotment applications would not apply to those applications "knowingly and voluntarily relinquished by the applicant." See *Matilda Titus*, 92 IBLA at 343. In *Heir of Frank Hobson (On Reconsideration)*, 121 IBLA at 67-68, the Board identified the overlap between the requirement that an applicant relinquish a Native allotment application knowingly and voluntarily and the reasoning of *Pence v. Kleppe*, 529 F.2d 135 (9th Cir. 1976). The Board noted that the Ninth Circuit's reasoning regarding due process applied to relinquishment cases "so that when 'the possibility exists that an allotment applicant involuntarily and unknowingly relinquished her allotment application in whole or in part, or was fraudulently induced to do so, she is entitled to the procedural protections of *Pence*.'" 121 IBLA at 68, quoting *Feodoria (Kallander) Pennington*, 97 IBLA 350, 355 (1987); see *Shirley Nielsen*, 158 IBLA at 59.

On the record before us, we are unable to conclude that Condardy's purported relinquishment of the 95 additional acres was voluntary and knowing. Any acquiescence in the reduction of the size of her allotment appears to have been animated by BIA's August 5, 1971, letter, acknowledging her application for 160 acres but informing her that she could not file "on Townsite lands" and on "patented or other filed lands." Request for Reconsideration, Ex. D. Although BIA advised Condardy that she could not apply for land within townsites or patented land, there is no evidence in the record that BIA investigated whether her use and occupancy pre-dated, and thus had precedence over, any conflicting claims for the land. Without such an investigation and a determination that the conflicting claims were superior to her right to the land, BIA's letter quite possibly misinformed her of her allotment rights to the disputed acreage. Thus, to the extent BLM construes Condardy's failure to object to the reduction of her parcel to 65 acres to be a relinquishment or waiver of her application for 160 acres, the relinquishment was not voluntary and knowing because she apparently relied on BIA's possibly erroneous determination that she was not entitled to apply for the land and was unaware that she could nevertheless have preference rights to the land regardless of the conflicting

claims. Since Condardy may not have had accurate knowledge of her allotment rights, we cannot find, on this record, that the relinquishment was made voluntarily and knowingly.

Although BLM maintains that further adjudication of Condardy's application is barred by the doctrine of administrative finality, we disagree. Under the doctrine of administrative finality, which is the administrative counterpart to the doctrine of *res judicata*,

when a party has had an opportunity to obtain review within the Department and no appeal was taken, or an appeal was taken and the decision was affirmed, the decision may not be reconsidered in later proceedings except upon a showing of compelling legal or equitable reasons, such as violations of basic rights of the parties or the need to prevent an injustice.

Erling Skaflestad, 155 IBLA 141, 148-49 (2001); *see Heir of Jack Moore*, 174 IBLA 45, 53 (2008); *Shirley Nielsen*, 158 IBLA at 53-54; *Heirs of Edward Peter*, 122 IBLA 109, 113 (1992); *Melvin Helit v. Goldfields Mining Corp.*, 113 IBLA 299, 308-09, 97 I.D. 109, 114 (1990); *see generally William Demoski*, 143 IBLA 90, 95-122 (1980) (Burski, A.J., concurring). In this case, we find that, given the likelihood that Condardy was misled about her allotment rights and that any subsequent acquiescence in the reduction of the acreage in her allotment stemmed from the lack of knowledge of those rights, compelling legal and equitable reasons support reinstating Condardy's application for the additional 95 acres.⁹ Additionally, to the extent BLM suggests that issuance of the certificate of allotment in 1987 supports the application of administrative finality here, we find that the record does not contain any evidence that the heirs themselves, rather than BIA, actually received the certificate of allotment at that time, nor, given the fact that the handwritten application for 160 acres was not included in the original case file but was first submitted with the reinstatement request, does the record establish that the heirs were aware of the discrepancy in the acreage until the reinstatement request was submitted. We therefore reverse BLM's decision denying reinstatement of Condardy's application for the additional 95 acres described in her December 11, 1970, handwritten application.

⁹ Nor is Condardy equitably estopped from seeking reinstatement of her application for the additional 95 acres, since one pre-requisite for equitable estoppel is that the party to be estopped must know the true facts and, as discussed above, Condardy did not know the truth about her allotment rights. *See United States v. Georgia-Pacific Co.*, 421 F.2d 92, 96 (9th Cir. 1970). Additionally, the presumption of regularity invoked by BLM has no applicability because the Heirs do not assert that BLM mishandled or lost Condardy's application for 160 acres.

Although we reverse BLM's decision, we are unable on the record before us to make any determinations about Condardy's (and the Heirs') entitlement to the additional 95 acres. We therefore remand the request for reinstatement to BLM for further action. On remand, BLM should investigate whether Condardy's allotment rights to the additional 95 acres described in the December 11, 1970, handwritten application have priority over the conflicting claims to those lands, including whether she voluntarily and knowingly relinquished any of those rights, and whether she is entitled to an allotment for those lands. In so doing, BLM shall provide the Heirs with notice and an opportunity for a hearing, should one be required by *Pence v. Kleppe*. If BLM determines that Condardy satisfied the requirements for an allotment of all or a portion of the additional 95 acres, it should reinstate the application and pursue recovery of any land conveyed out of Federal ownership. See *Aguilar v. United States*, 474 F. Supp. 840 (D. Alaska 1979); see also *Heir of Ann A. Carney*, 176 IBLA 130, 136 n.8 (2008); *Mack Wiehl*, 169 IBLA 25, 28 n.4 (2006). If BLM determines that all or a portion of the 95 acres Condardy originally applied for was not available when she began her use and occupancy, then the allotment may not be issued for such land, nor may the heirs amend their original application to make up for land lost due to its unavailability. *Heirs of Harlen Mahle*, 171 IBLA 330, 393 (2007).

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, the decision appealed from is reversed and the casefile is remanded to BLM for further review of Condardy's Native allotment application.

/s/
Sara B. Greenberg
Administrative Judge

I concur:

/s/
James F. Roberts
Administrative Judge