



INTERIOR BOARD OF INDIAN APPEALS

Winlock Veneer Co. v. Acting Juneau Area Director, Bureau of Indian Affairs

28 IBIA 220 (10/11/1995)

Denying reconsideration of:

28 IBIA 149

Related Board cases:

20 IBIA 3

Reconsideration denied, 20 IBIA 100

22 IBIA 314



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
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WINLOCK VENEER CO.,	:	Order Denying Petition for
Appellant	:	Reconsideration
	:	
v.	:	
	:	Docket No. IBIA 94-167-A
JUNEAU AREA DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	October 11, 1995

Appellant Winlock Veneer Co. has petitioned for reconsideration of a decision issued by the Board of Indian Appeals (Board) on September 5, 1995. 28 IBIA 149. The case involves the assessment of additional damages based on appellant's breach of Timber Sale Contract No. E00C14203082.

Reconsideration of Board decisions is governed by 43 CFR 4.315(a) which states in pertinent part: "Reconsideration of a decision of the Board will be granted only in extraordinary circumstances."

Appellant seeks reconsideration of the Board's ruling that it would not consider new information in the form of an affidavit from Kelly C. Niemi. This affidavit and the information on which it was based were raised for the first time in appellant's reply brief. The Board declined to consider this evidence on the grounds that it was not required to consider evidence and arguments raised for the first time in a reply brief. 28 IBIA at 157.

Appellant contends that Niemi attempted to obtain the information in time to include it in the opening brief, but was prevented from doing so because a Bureau of Indian Affairs (BIA) official whose approval was required, apparently for the release of certain information Niemi sought, was out of the country in December 1994 when appellant's opening brief was filed. Appellant further states that it was not informed of the official's return until mid-February 1995.

Assuming that appellant's statement is accurate, and further assuming that no other Department of the Interior official, including both BIA officials and BIA's Departmental counsel, could have approved the release of the information sought, appellant still does not explain why it did not either mention its unsuccessful attempt to obtain this information in its opening brief, or request an extension of time until the BIA official returned, so that it could present this information in a timely and orderly manner. The Board notes that it granted extensions of time to both appellant and the Area Director, so that there was no reason for appellant to

