



INTERIOR BOARD OF INDIAN APPEALS

Francis Eatherington v. Acting Northwest Regional Director,
Bureau of Indian Affairs

34 IBIA 189 (11/30/1999)



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
4015 WILSON BOULEVARD
ARLINGTON, VA 22203

FRANCIS EATHERINGTON,	:	Order Docketing Appeal and Vacating
Appellant	:	Decision
	:	
v.	:	
	:	
ACTING NORTHWEST REGIONAL	:	Docket No. IBIA 00-13-A
DIRECTOR, BUREAU OF INDIAN	:	
AFFAIRS,	:	
Appellee	:	November 30, 1999

Appellant Francis Eatherington sought review of a September 17, 1999, decision of the Acting Northwest Regional Director (formerly Portland Area Director), Bureau of Indian Affairs (Regional Director; BIA), imposing an appeal bond in the amount of \$39,067.66. The underlying appeal sought review of BIA approval of the Chu-aw Clau-she Timber Sale on the Coquille Indian Reservation. For the reasons discussed below, the Board of Indian Appeals (Board) docketed this appeal and vacates the September 17, 1999, decision.

The materials Appellant submitted indicated that the timber sale had been withdrawn. In an October 25, 1999, order, the Board suggested that, if this were the case, the Regional Director might wish to reconsider the imposition of an appeal bond. ^{1/}

On November 22, 1999, the Board received a response from the Regional Director which included a copy of an October 28, 1999, decision that the Regional Director issued in the underlying appeal. In the October 28 decision, the Regional Director held that the timber sale should not have been advertised. As relevant to this appeal, the Regional Director withdrew his September 17, 1999, decision imposing an appeal bond.

Technically, on October 28, 1999, the Regional Director lacked jurisdiction to withdraw his September 17, 1999, decision because that decision had already been appealed to the Board. See, e.g., Five Sandoval Indian Pueblos, Inc. v. Deputy Commissioner of Indian Affairs, 21 IBIA 17, 18-19 (1991). However, the Board will treat the Regional Director's withdrawal of his September 17 decision as a request that the Board vacate that decision.

^{1/} The Board also raised several other matters in that order. It finds that a discussion of those matters is not necessary for disposition of this case.

Pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, this appeal from the September 17, 1999, imposition of an appeal bond by the Northwest Regional Director is docketed and the decision is vacated.

//original signed
Kathryn A. Lynn
Chief Administrative Judge

//original signed
Anita Vogt
Administrative Judge