



INTERIOR BOARD OF INDIAN APPEALS

Cole Lange; Jeff Waln; Frederick B. LaRoche; Ruth Morgan Linabery;
and Rosebud Indian Land and Grazing Association
v. Great Plains Regional Director, Bureau of Indian Affairs

35 IBIA 279 (12/20/2000)

Related Board cases:

35 IBIA 259

Disapproving in part, 8 IBIA 90

35 IBIA 266

35 IBIA 281

35 IBIA 283



United States Department of the Interior

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

COLE LANGE,	:	Order Vacating Decisions and Remanding
Appellant	:	Cases to the Regional Director
	:	
JEFF WALN,	:	
Appellant	:	
	:	
FREDERICK B. LaROCHE,	:	
Appellant	:	
	:	
RUTH MORGAN LINABERY,	:	Docket Nos. IBIA 00-62-A
Appellant	:	IBIA 00-68-A
and	:	IBIA 00-87-A
	:	IBIA 00-88-A
ROSEBUD INDIAN LAND AND	:	IBIA 00-95-A
GRAZING ASSOCIATION	:	
Appellant	:	
	:	
v.	:	
	:	
GREAT PLAINS REGIONAL	:	
DIRECTOR, BUREAU OF	:	
INDIAN AFFAIRS,	:	
Appellee	:	December 20, 2000

Each of the appellants listed above seeks review of decisions of the Great Plains Regional Director, Bureau of Indian Affairs (Regional Director; BIA), increasing the minimum acceptable reservation rental rates for South Dakota reservations for the 2000 grazing season. For the reasons discussed below, the Board of Indian Appeals (Board) finds that the decisions must be vacated and these matters remanded to the Regional Director for additional consideration.

These appeals involve the adjustment of rental rates under grazing permits approved by the Regional Director. The Regional Director did not provide the Board with copies of any of the permits at issue in these cases. Although there are suggestions in the materials before the Board that the permits in these cases extended through the 2000 grazing season, the Board has no evidence that this is true.

In Long Turkey v. Great Plains Regional Director, 35 IBIA 259 (2000), the Board held that the Regional Director did not have authority to increase rental rates during the term of a five-year grazing permit. The grazing permit at issue in Long Turkey ran from December 1, 1997, through November 30, 2002. The Regional Director attempted to increase the rental rate for the 2000 grazing season.

If the permits at issue in these cases extended through the 2000 grazing season, the appeals would be controlled by the decision in Long Turkey.

In Fort Berthold Land and Livestock Association v. Great Plains Regional Director, 35 IBIA 266 (2000), the Board examined the Regional Director's setting of a rental rate at the start of a new grazing term. The Board there held that the Regional Director could set a new rate at that time, but that the rate must be supported by substantial evidence. Finding that the new rate was not supported by substantial evidence, the Board vacated the decision and remanded the matter to the Regional Director.

If the permits at issue in these appeals expired before the 2000 grazing season, the appeals would be controlled by the decision in Fort Berthold.

In the absence of any evidence as to the terms of the permits at issue in these appeals, the Board cannot determine whether each appeal is governed by Long Turkey or by Fort Berthold. Therefore, it must vacate these decisions and remand the cases to the Regional Director to determine which Board decision applies and to take appropriate action. ^{1/}

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 Great Plains Regional Director's decisions in the above cases are vacated and these matters are remanded to the Regional Director for further consideration in accordance with the decisions in Long Turkey and Fort Berthold.

//original signed
Kathryn A. Lynn
Chief Administrative Judge

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Anita Vogt
Administrative Judge

^{1/} Part of the appeal of the Rosebud Indian Land and Grazing Association seeks review of the increase in rental rates for the 2001 grazing season. This issue is not considered in this decision. On Sept. 26, 2000, the Board received a separate appeal from the Association's President specifically challenging the setting of grazing rates for the 2001 season. Therefore, the increase as to the 2001 grazing season is addressed in Waln v. Great Plains Regional Director, 35 IBIA 283 (2000).