



## INTERIOR BOARD OF INDIAN APPEALS

Frank D. Rapp, Julie Rapp Trevillyan, and Lois Wilson Rapp v. Acting Great Plains  
Regional Director, Bureau of Indian Affairs

46 IBIA 3 (10/05/2007)



## United States Department of the Interior

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

FRANK D. RAPP, JULIE RAPP	)	Order Docketing and Dismissing
TREVILLYAN, and	)	Appeal
LOIS WILSON RAPP,	)	
Appellants,	)	
	)	
v.	)	Docket No. IBIA 07-126-A
	)	
ACTING GREAT PLAINS	)	
REGIONAL DIRECTOR,	)	
BUREAU OF INDIAN AFFAIRS,	)	
Appellee.	)	October 5, 2007

Frank D. Rapp, Julie Rapp Trevillyan, and Lois Wilson Rapp (Appellants), *pro se*, appealed to the Board of Indian Appeals (Board) from a July 24, 2007, decision of the Acting Great Plains Regional Director, Bureau of Indian Affairs (Regional Director; BIA), adjusting the grazing rental rate for existing permits for allotted lands on the Pine Ridge Reservation to \$13.80 an Animal Unit Month (AUM) for the 2008 grazing season, pursuant to 25 C.F.R. § 166.408. We docket this appeal but dismiss it for failure to prosecute.

Upon receiving Appellants' notice of appeal, the Board issued an order noting that it appeared that the Regional Director's decision to adjust the rate for 2008 to \$13.80/AUM was a reduction from the \$14.37/AUM rate that had been included in new permits that began with the 2007 grazing season.<sup>1</sup> See *Oglala Sioux Stockgrowers and its Members v. Great Plains Regional Director*, 44 IBIA 10 (2006). If Appellants sought to appeal the Regional Director's decision as permittees/ranchers, the rate reduction raised a question of whether they were injured by the decision, a necessary showing to demonstrate their standing.<sup>2</sup>

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<sup>1</sup> Appellants' grazing permits are for a five-year period, beginning November 1, 2006 (the start of the 2007 grazing season).

<sup>2</sup> To show standing, appellants must show (1) that they have suffered a concrete and particularized injury to a legally-protected interest, (2) that the injury resulted from the decision being challenged, and (3) that the injury is redressable. See *Hall v. Great Plains Regional Director*, 43 IBIA 39, 44 n.8 (2006).

Because it was unclear in what capacity Appellants sought to challenge the Regional Director's decision (i.e., as landowners or as permittees) and whether they sought to challenge the rate as too low or too high, the Board issued an order for Appellants to clarify their appeal and, if they sought to appeal as permittees, to show that they have standing to do so. The Board ordered Appellants to respond on or before September 14, 2007, and advised Appellants that failure to respond could result in dismissal of the appeal without further notice.

The Board has received no response from Appellants.

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 docketed but dismisses this appeal for failure to prosecute.<sup>3</sup>

I concur:

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// original signed  
Steven K. Linscheid  
Chief Administrative Judge

\_\_\_\_\_  
// original signed  
Debora G. Luther  
Administrative Judge

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<sup>3</sup> On September 25, 2007, the Board received from the Regional Director's office a facsimile copy of a letter from Appellants addressed to the Regional Director, received by the Regional Director on September 20, 2007. In their letter, Appellants recognize BIA's authority to change grazing rates annually, but express concern about what they characterize as "radical adjustments" in the rate over the last three years, and what they contend is a lack of explanation of the appraisal methods used for determining the rates. The letter concludes with Appellants' statement that they "are officially dropping [their] appeal," but hoping that someone will respond to their concerns. Appellants did not address or send a copy of their letter to the Board, and therefore the Board dismisses this appeal for failure to prosecute, rather than accept Appellants' letter to the Regional Director as a withdrawal of their appeal.