



INTERIOR BOARD OF INDIAN APPEALS

James Anderson v. Rocky Mountain Regional Director, Bureau of Indian Affairs

47 IBIA 34 (04/23/2008)



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
801 NORTH QUINCY STREET
SUITE 300
ARLINGTON, VA 22203

JAMES ANDERSON,)	Order Docketing and Dismissing Appeal
Appellant,)	
)	
v.)	
)	Docket No. IBIA 08-57-A
ROCKY MOUNTAIN REGIONAL)	
DIRECTOR, BUREAU OF)	
INDIAN AFFAIRS,)	
Appellee.)	April 23, 2008

James Anderson (Appellant) appealed to the Board of Indian Appeals (Board) from a February 7, 2008, decision of the Rocky Mountain Regional Director, Bureau of Indian Affairs (Regional Director; BIA). The Regional Director’s decision required Appellant to post an appeal bond during the pendency of an appeal before the Regional Director. Appellant had appealed to the Regional Director from a November 1, 2007, decision of the Fort Peck Agency Superintendent, BIA (Superintendent), adjusting the grazing rental rate from \$13.00 per Animal Unit Month (AUM) to \$15.75 per AUM for individually-owned Indian trust lands for the remaining five years of the permit period from 2008-2012.¹ The Board docketed this appeal, but dismisses it because it is moot.

On April 3, 2008, the Board received a motion to dismiss from the Regional Director. The Regional Director stated that he had issued a decision on Appellant’s appeal from the Superintendent’s decision adjusting the grazing rental rate, and the Regional Director attached to his motion a copy of that decision, issued March 27, 2008.² The Regional Director moves for dismissal of this appeal on the grounds that the only subject of

¹ The amount of the appeal bond was \$2.75 per AUM, the difference between the existing grazing rate and the adjusted rate decided by the Superintendent.

² The copy of the decision attached to the Regional Director’s motion was not signed or dated. The Board’s legal assistant contacted the Regional Director and obtained a signed and dated copy.

The Regional Director’s decision on the merits of the grazing rate decision included appeal rights for that decision.

this appeal to the Board is the Regional Director's decision to require Appellant to post an appeal bond during the pendency of his appeal before the Regional Director. Thus, because the Regional Director has now decided Appellant's appeal to him on the merits of the grazing rate adjustment, the issue of imposing a bond during the pendency of that appeal is moot.³

We agree that this appeal is moot. The scope of this appeal is limited to the Regional Director's appeal bond decision. Because Appellant's appeal from the Superintendent's grazing rate decision is no longer pending before the Regional Director, nothing turns on the outcome of this appeal to the Board from a decision that would only have applied during the pendency of the proceedings before the Regional Director. *See Pueblo of Tesuque v. Acting Southwest Regional Director*, 40 IBIA 273, 274 (2005) (appeal is moot when nothing turns on the outcome).

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 this appeal, but dismisses it as moot.

I concur:

// original signed
Steven K. Linscheid
Chief Administrative Judge

// original signed
Debra G. Luther
Administrative Judge

³ Because Appellant appealed the Regional Director's separate appeal bond decision to the Board, that decision did not become effective or final. *See* 25 C.F.R. § 2.6.