



INTERIOR BOARD OF INDIAN APPEALS

David Little Whiteman III v. Rocky Mountain Regional Director, Bureau of Indian Affairs

47 IBIA 220 (09/03/2008)



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

DAVID LITTLE WHITEMAN III,)	Order Vacating Decision and Remanding
Appellant,)	For Further Consideration
)	
v.)	
)	
ROCKY MOUNTAIN REGIONAL)	Docket No. IBIA 08-26-A
DIRECTOR, BUREAU OF)	
INDIAN AFFAIRS,)	
Appellee.)	September 3, 2008

David Little Whiteman III (Appellant) appealed to the Board of Indian Appeals (Board) from an October 24, 2007, decision of the Rocky Mountain Regional Director (Regional Director; BIA). The Regional Director denied Appellant's request to waive the bond requirement for Agricultural Lease No. 1004130711, covering Allotment No. 627-A. The Regional Director stated in his decision that the bond was necessary to ensure the completion of the required repairs to a boundary fence, and that the lease should not have been approved by the Superintendent of the Northern Cheyenne Agency, BIA (Superintendent), without such a bond. Appellant argued in his notice of appeal that the bond should be waived because the fence was "in compliance" and because he had obtained permission to waive the bond from the other majority interest holders in the property.

On July 28, 2008, the Board received a memorandum from the Regional Director in which he requested the Board to vacate his October 24 decision and remand the matter to him for issuance of a new decision. Attached to the Regional Director's memorandum was documentation received from the Superintendent concerning repairs that Appellant had made to the boundary fence.¹

¹ The Regional Director's memorandum to the Board did not include a certificate of service. On August 21, 2008, the Regional Director provided a statement to the Board that confirmed that his memorandum had been served on Appellant, his representative, and other interested parties. However, it is unclear whether the attachments to the memorandum were also served. If not, the Regional Director is reminded that he must serve interested parties with complete copies of all pleadings filed with the Board, including attachments, unless the documents are confidential or privileged. *See* 43 C.F.R. §§ 4.31 and 4.310(b).

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 vacates the Regional Director's October 24, 2007, decision and remands the matter to him for further consideration and a new decision.

I concur:

// original signed
Debora G. Luther
Administrative Judge

// original signed
Steven K. Linscheid
Chief Administrative Judge