



INTERIOR BOARD OF INDIAN APPEALS

Wallace Wells v. Acting Great Plains Regional Director, Bureau of Indian Affairs

48 IBIA 210 (01/14/2009)



## United States Department of the Interior

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

WALLACE WELLS,	)	Order Vacating Decision and Remanding
Appellant,	)	Matter for Additional Consideration
	)	
v.	)	
	)	
ACTING GREAT PLAINS REGIONAL	)	Docket No. IBIA 08-133-A
DIRECTOR, BUREAU OF	)	
INDIAN AFFAIRS,	)	
Appellee.	)	January 14, 2009

Wallace Wells (Appellant), pro se, appealed to the Board of Indian Appeals (Board) from an August 6, 2008, decision of the Acting Great Plains Regional Director, Bureau of Indian Affairs (Regional Director; BIA), adjusting the grazing rental rate to \$26.40 an Animal Unit Month (AUM) for the 2009 grazing season on the Crow Creek Reservation (Reservation), pursuant to 25 C.F.R. § 166.408. The Board granted a request by the Crow Creek Sioux Tribe (Tribe) to limit the appeal to reviewing the Regional Director's decision as applied to Appellant's three grazing permits. *See* Order, Sept. 25, 2008.<sup>1</sup> Appellant's opening brief was received on December 4, 2008.

On January 5, 2008, the Board received a request from the Regional Director that the matter be remanded to him for additional consideration. In the same submission, but independent of the request for a remand, the Regional Director also advised the Board that Appellant recently died.

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<sup>1</sup> In granting the Tribe's request, the Board's order provided that to the extent that the appeal period may have expired for other permittees who were given notice of the Regional Director's decision and did not appeal, the Regional Director's decision could be treated as final and effective under 25 C.F.R. § 2.6. A total of 31 grazing permits were issued for trust land on the Reservation. The Tribe owns interests in allotted lands that are subject to grazing permits affected by the Regional Director's decision, including permits held by Appellant.

The Board grants the Regional Director's request for a remand. On remand, the Regional Director shall consider the record developed during this appeal, including the arguments raised by Appellant, to the extent that they may be relevant to the rights of a successor in interest, if any, to the permits that were held by Appellant. In addition, the Tribe and other potentially affected landowners shall be afforded an opportunity to participate in remand proceedings, to the extent appropriate.

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 August 6, 2008, decision as it applies to the three grazing permits held by Appellant, and remands the matter to the Regional Director for additional consideration.<sup>2</sup>

I concur:

          // original signed            
Steven K. Linscheid  
Chief Administrative Judge

          // original signed            
Debora G. Luther  
Administrative Judge

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<sup>2</sup> One other appeal has been received by the Board from the Regional Director's decision, *Harold D. Miller v. Acting Great Plains Regional Director*, Docket No. IBIA 09-24-A. That appeal is in the preliminary stages and is not affected by this decision.