INTERIOR BOARD OF INDIAN APPEALS

Helen Dorene Goodwin v. Pacific Regional Director, Bureau of Indian Affairs

55 IBIA 8 (05/03/2012)

Related Board case:
44 IBIA 25

United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
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HELEN DORENE GOODWIN,	)	Order Dismissing Appeal
Appellant,	)	
	)	
v.	)	
	)	Docket No. IBIA 12-074
PACIFIC REGIONAL DIRECTOR,	)	
BUREAU OF INDIAN AFFAIRS,	)	
Appellee.	)	May 3, 2012

Helen Dorene Goodwin (Appellant) appealed to the Board of Indian Appeals (Board), pursuant to 25 C.F.R. § 2.8 (appeal from inaction of official), from the failure of the Pacific Regional Director (Regional Director), Bureau of Indian Affairs (BIA), to issue a decision in Appellant's August 31, 2011, appeal from the alleged failure of BIA's Central California Agency Superintendent (Superintendent) to take action to address the occupation by Elizabeth Laiwa of Round Valley Allotment 445 (RV-445), in which Appellant owns an interest.[1] On April 4, 2012, the Regional Director issued a decision on the merits of Appellant's appeal, and therefore we dismiss this appeal from inaction as moot.[2]

Section 2.8 is a mechanism to prompt action by BIA. The Board's role in a § 2.8 appeal is limited to deciding whether BIA must take action or issue a decision, and does not extend to determining how BIA must act or decide a matter in the first instance. *Sandy Point Improvement Co. v. Northwest Regional Director*, 51 IBIA 277, 278 (2010). Because the Regional Director has now responded to Appellant's request for action, this § 2.8 appeal is moot. *See Roanhorse v. Navajo Regional Director*, 53 IBIA 126 (2011) (BIA's response to appellant's request for action rendered § 2.8 appeal moot); *Mullins v. Northwest*

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[1] Both Laiwa and Appellant own minority fractional interests in RV-445. Laiwa has been occupying the allotment without a lease and without permission from her co-owners, and Appellant has been seeking to have BIA evict Laiwa. The dispute was the subject of a prior appeal to the Board. *See Goodwin v. Pacific Regional Director*, 44 IBIA 25 (2006).

[2] In her decision, the Regional Director advised Appellant and Laiwa of their right to appeal the merits decision to the Board.

Regional Director, 52 IBIA 231 (2010) (same); *Tuttle v. Western Regional Director*, 41 IBIA 74 (2005) (same).

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 dismisses this appeal as moot.

I concur:

// original signed
Steven K. Linscheid
Chief Administrative Judge

// original signed
Debora G. Luther
Administrative Judge