



INTERIOR BOARD OF INDIAN APPEALS

Jennifer M. Reeder v. Southern Plains Regional Director, Bureau of Indian Affairs

58 IBIA 40 (09/20/2013)

Related Board cases:

55 IBIA 201

57 IBIA 184

57 IBIA 223



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

JENNIFER M. REEDER,)	Order Docketing and Dismissing
Appellant,)	Appeal
)	
v.)	
)	
SOUTHERN PLAINS REGIONAL)	Docket No. IBIA 13-120
DIRECTOR, BUREAU OF INDIAN)	
AFFAIRS,)	
Appellee.)	September 20, 2013

Jennifer M. Reeder (Appellant), as Secretary of the Caddo Nation of Oklahoma (Tribe),¹ appealed to the Board of Indian Appeals (Board) seeking review of alleged inaction by the Southern Plains Regional Director (Regional Director), Bureau of Indian Affairs (BIA). *See* 25 C.F.R. § 2.8 (appeal from inaction of official). Appellant contended that the Regional Director failed to respond to her March 25, 2013, request for action regarding amended Resolution No. 08-2012-01 (Resolution).²

On September 12, 2013, the Regional Director issued a decision, finding that BIA is unable to accept the Resolution and cannot initiate any action to retrocede

¹ This case involves a tribal government dispute. The Board's use of titles claimed by Appellant, and the Board's references to actions taken by or on behalf of tribal officials, tribal entities, or the Tribe, shall not be construed as expressing any view on the underlying merits of the tribal dispute.

² The amended Resolution requests the retrocession of all of the Tribe's Indian Self-Determination and Education Assistance Act (ISDA), Pub. L. No. 93-638, 25 U.S.C. § 450 *et seq.*, grants and contracts to BIA, and seeks to address certain problems identified by the Regional Director in his decision on the original version of the Resolution. *See Jarvis v. Southern Plains Regional Director*, 57 IBIA 184, 184-85 (2013).

the Tribe's ISDA grants and contracts.³ Because the Regional Director has now taken action, this appeal from his inaction must be dismissed as moot.

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 a determination of how BIA must act or decide a matter in the first instance, nor does it extend to a review of the merits of the underlying dispute. *Goodwin v. Pacific Regional Director*, 55 IBIA 8 (2012). When a BIA official takes action by issuing a decision on the merits, a § 2.8 appeal becomes moot. *Id.*; *Graven v. Western Regional Director*, 54 IBIA 171, 171-72 & n.4 (2011).

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 as moot.

I concur:

// original signed
Debora G. Luther
Administrative Judge

//original signed
Thomas A. Blaser
Administrative Judge

³ The Regional Director concluded that the Resolution could not be accepted because it was purportedly adopted at a meeting that was not held in accordance with the Tribe's Constitution and Bylaws and because, on August 15, 2013, the Tribal Council enacted Resolution No. 08-2013-04 rescinding the Resolution.