INTERIOR BOARD OF INDIAN APPEALS

Joe Kennedy, Grace Goad, Erick Mason, Pauline Esteves, and Madeline Esteves v. Pacific Regional Director, Bureau of Indian Affairs

58 IBIA 129 (11/22/2013)

United States Department of the Interior

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

JOE KENNEDY, GRACE GOAD, ERICK MASON, PAULINE ESTEVES, AND MADELINE ESTEVES, Appellants,	)	Order Vacating Decision and Dismissing Appeal
v.	)	Docket No. IBIA 14-030
PACIFIC REGIONAL DIRECTOR, BUREAU OF INDIAN AFFAIRS, Appellee.	)	November 22, 2013

Joe Kennedy, Grace Goad, Erick Mason, Pauline Esteves, and Madeline Esteves (Appellants) appealed to the Board of Indian Appeals (Board) from a September 20, 2013, decision (Decision) of the Pacific Regional Director (Regional Director), Bureau of Indian Affairs, to authorize a Secretarial election for the Timbisha Shoshone Tribe (Tribe) on a proposed Constitution for the Tribe. On October 30, 2013, after this appeal was filed, the Regional Director purported to "withdraw" her Decision, because the Tribe had withdrawn its request for the election.[1] The Regional Director then moved to dismiss this appeal as moot. In response, based on the Regional Director's action to withdraw her authorization of the election, Appellants filed a notice of withdrawal of their appeal.

The Regional Director lacked jurisdiction to unilaterally withdraw the Decision, in light of this pending appeal. *See Alturas Indian Rancheria v. Pacific Regional Director*, 53 IBIA 100, 101 (2011); *Yakama Nation v. Northwest Regional Director*, 51 IBIA 187, 187 (2010) (and cases cited therein); *Bullcreek v. Western Regional Director*, 39 IBIA 100, 101-02 (2003). But her action is consistent with the Tribe's withdrawal of its request for the election, and thus we give effect to that action by vacating the Decision. As the Regional

[1] This case involves a tribal government dispute. The Board expresses no view on the underlying merits concerning actions taken in the name of the Tribe to request a Secretarial election, and then to withdraw that request.

Director and Appellants recognize, a withdrawal or vacatur of the Decision renders this appeal moot.[2]

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 Decision and dismisses this appeal.[3]

I concur:

// original signed	//original signed
Steven K. Linscheid	Thomas A. Blaser
Chief Administrative Judge	Administrative Judge

[2] Although the Regional Director suggests (notwithstanding her motion to dismiss the appeal as moot) that an exception to the mootness doctrine may apply, we see no reason to consider that issue in light of Appellants' withdrawal of their appeal.

[3] Our dismissal of this appeal also renders moot, and of no further effect, any pending procedural orders issued by the Board.