

NOTE: This disposition is nonprecedential.



United States Department of the Interior
Office of Hearings and Appeals
Interior Board of Land Appeals
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July 12, 2016

IBLA 2016-33) GE 1035A
)
ANR PIPELINE COMPANY) Incidents of Non Compliance
)
) Motion to Dismiss Appeal Denied;
) Case Set Aside and Remanded

ORDER

Appellant appealed from Incidents of Non-Compliance (INCs) issued on September 22, 2015, by the Bureau of Safety and Environmental Enforcement (BSEE). The Board suspended this appeal to facilitate the parties' settlement negotiations.

On July 5, 2016, appellant filed a Motion to Dismiss Appeal with Prejudice (Motion). Appellant represents that the parties have reached an agreement and BSEE has "rescinded the INCs currently under appeal."¹ Consequently, appellant requests the Board to lift suspension of this proceeding and dismiss the matter from our docket.

Since jurisdiction over the appealed INCs still lies with the Board, BSEE has no authority to take any action concerning those INCs until the Board restores jurisdiction back to the agency.² We therefore deny appellant's Motion because the INCs on appeal still remain in effect.³

BSEE's attempt to rescind the INCs at issue in this appeal makes it apparent that the agency no longer endorses them and seeks to withdraw them. Therefore, we need not wait for the agency's motion for remand, but instead, set aside and remand *sua sponte* the matter back to BSEE for further action.

¹ Motion at 2.

² See *PacifiCorp.*, 187 IBLA 245, 249 (2016).

³ See 43 C.F.R. § 4.407(c).

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior,⁴ we set aside BSEE's INCs and remand the matter back to the agency for further action.

/s/
Eileen G. Jones
Chief Administrative Judge

I concur:

/s/
James F. Roberts
Deputy Chief Administrative Judge

⁴ 43 C.F.R. § 4.1.