

NOTE: This disposition is nonprecedential.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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February 9, 2016

IBLA 2016-64)	CACA 045018
)	
SUSAN PARIPOVICH-RUSSELL)	Right of Way
)	
)	Appeal Dismissed; Case Remanded

ORDER

Appellant appeals from and requests a stay of a bill for collection of rent issued on November 24, 2015, by the Needles (California) Field Office, Bureau of Land Management (BLM). This bill was for Appellant's use of a right of way (ROW) during 2016 and directed her to pay \$656.94 by January 1, 2016, in order to retain her use of that ROW. It stated that late payments would be assessed a 10% late fee (not to exceed \$500). Appellant filed a timely notice of appeal, asserting her bill is substantially higher than for previous years and that she cannot afford to pay a rent increase of more than \$500, along with a request for a waiver or reduction of rent under 43 C.F.R. § 2806.15(c), due to her limited income and health problems.

BLM responds by requesting the Board to suspend this appeal from its bill for collection of rent until such time as the State Director acts on Appellant's request for a waiver or reduction in her rent. BLM represents that it will not assess penalties or administrative fees during or for the period of suspension, which would "ensure that the Board's grant of a temporary suspension of the appeal will not cause any harm to Appellant." Request to Suspend Appeal Pending Waiver Decision at 2.

Once Appellant appealed her bill, BLM lost subject matter jurisdiction to adjudicate her waiver request. According to 43 C.F.R. § 4.21(a), BLM's authority as a deciding official is suspended once an appeal is before the Board and BLM's authority to act during the pendency of an appeal is limited. *See e.g. McMurry Oil Co*, 153 IBLA 391, 395 (2000); *Robert B. Bunn*, 102 IBLA 292, 297 (1988); *East Canyon Irrigation Co.*, 47 IBLA 155 (1980). Thus, even if we suspended our consideration of this appeal, BLM would be unable to act on Appellant's waiver request until we decide and/or remand this matter for further proceedings.

Under the circumstances presented, we believe the interests of the parties and the Board would be best served if we deem BLM's response to be a request for a remand so it can issue a waiver decision. So considered, we grant its request and note that Appellant's waiver request under 43 C.F.R. § 2806.14(c) is tantamount to a request for BLM to reconsider the amount due under its bill for collection of rent.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, this case is remanded back to BLM for further action.

/s/
James K. Jackson
Administrative Judge

I concur:

/s/
James F. Roberts
Deputy Chief Administrative Judge