



INTERIOR BOARD OF INDIAN APPEALS

Seymour Anderson, Maureen Johnson, and Alex Smith v. Acting Southwest
Regional Director, Bureau of Indian Affairs

40 IBIA 101 (09/13/2004)

Reconsideration denied:

44 IBIA 137

Related Board case:

44 IBIA 218



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
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SEYMOUR ANDERSON, MAUREEN	:	Order Vacating Decision and
JOHNSON, and ALEX SMITH,	:	Remanding
Appellants,	:	
	:	
v.	:	
	:	Docket No. IBIA 04-91-A
ACTING SOUTHWEST REGIONAL	:	
DIRECTOR, BUREAU OF INDIAN	:	
AFFAIRS,	:	
Appellee.	:	September 13, 2004

Appellants Seymour Anderson, Maureen Johnson, and Alex Smith, sublessees under the Cochiti Lake Master Lease in the town of Cochiti Lake, New Mexico, appealed a March 9, 2004, decision of the Acting Southwest Regional Director, Bureau of Indian Affairs (Regional Director). The Regional Director's decision approved a request from the lessor, Pueblo of Cochiti (Pueblo), for Secretarial consent to the Pueblo's action releasing the lessee, Cochiti Community Development Corporation, from certain obligations under the Master Lease.

On September 10, 2004, the Board of Indian Appeals (Board) received a motion from the Regional Director to dismiss this appeal without prejudice and remand the matter to him for further consideration. The Regional Director requests the remand in order to allow him to further review and consider certain documents submitted by the parties during the course of this appeal, and other documents contained in the administrative record, after which he intends to issue a new decision.

The Pueblo conditionally concurs in the Regional Director's motion, arguing that any dismissal by the Board should limit the Regional Director's review to the administrative record transmitted to the Board in this appeal, as supplemented by the Board's August 5, 2004, order. The Pueblo also asks that the parties be barred from making further submissions or arguments before the Regional Director on remand.

The Board grants the Regional Director's motion, but denies the Pueblo's request to limit the record or arguments that the Regional Director may consider on remand. The Board leaves it for the Regional Director to determine, on remand, whether it is appropriate to reopen the administrative record or allow additional arguments from the parties. The Regional

Director should, however, consider the record as supplemented during this appeal, which includes the arguments contained in Appellants' notice of appeal. 1/

Therefore, pursuant to the authority delegated to the Board by the Secretary of the Interior, 43 C.F.R. § 4.1, the Regional Director's March 9, 2004, decision is vacated, this appeal is dismissed without prejudice, and the matter is remanded to the Regional Director for further consideration.

// original signed
Steven K. Linscheid
Chief Administrative Judge

// original signed
Colette J. Winston
Administrative Judge

1/ Because the Regional Director moved to have this appeal dismissed and remanded before response briefs were due, on remand the Regional Director should consider allowing the Pueblo an opportunity to respond to the arguments raised in Appellants' notice of appeal, and allowing Appellants an opportunity to reply.