



INTERIOR BOARD OF INDIAN APPEALS

James T. Doney v. Rocky Mountain Regional Director, Bureau of Indian Affairs

40 IBIA 287 (04/07/2005)

Denying reconsideration of:
40 IBIA 279



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

JAMES T. DONEY,
Appellant,

v.

ROCKY MOUNTAIN REGIONAL
DIRECTOR, BUREAU OF INDIAN
AFFAIRS,
Appellee.

: Order Denying Reconsideration
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: Docket No. IBIA 05-31-A
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: April 7, 2005

Appellant James T. Doney, pro se, appealed, pursuant to 25 C.F.R. § 2.8, from the alleged failure of the Rocky Mountain Regional Director, Bureau of Indian Affairs (Regional Director; BIA), to respond to a request that BIA address various issues involving the condition of certain trust lands owned by Appellant. 1/ After receiving a status report from the Regional Director, and after receiving a response from Appellant to the Regional Director's report, the Board dismissed the appeal on March 28, 2005. 40 IBIA 279.

On April 1, 2005, the Board received from Appellant a second, more detailed, response to the Regional Director's status report. Appellant's additional response was mailed to the Board before Appellant had received the order dismissing his appeal, and apparently was intended to supplement his initial response. 2/ The Board treats Appellant's additional submission as a request for reconsideration under 43 C.F.R. § 4.315.

On review of Appellant's additional response to the Regional Director's report, the Board concludes that reconsideration of the order dismissing this appeal is not warranted. In

1/ The lands are described as "Lot 9 and a 1/2 interest in Lot 8, of Section 22, Range 27 North, Township 42 North," and apparently include some or all of Fort Peck Allotments 1659 and 1660.

2/ On March 3, 2005, the Board had granted Appellant an extension, to April 4, 2005, to file a response to the Regional Director's status report. On March 7, 2005, the Board received what appeared to be that response, and the Board then viewed the case as ripe for a decision. Appellant, however, may have understood the extension as allowing him to file a second, more detailed response.

the order dismissing this appeal, the Board found that BIA had taken several actions to address the specific issues raised in Appellant's July 14, 2004, letter to the Regional Director. It was the Regional Director's alleged failure to act on Appellant's July 14 request that prompted his appeal under 25 C.F.R. § 2.8. Appellant's additional response raises issues that go beyond the four specific demands for action that were contained in his July 14 letter. As such, although the focus of Appellant's complaints — a prior lessee's use of the property — has not changed, the specific concerns now expressed to the Board go beyond the scope of his original appeal. In any event, the Board continues to believe that Appellant's ongoing concerns are best addressed by BIA outside of the context of a section 2.8 appeal to the Board, and that reconsideration is not warranted.

However, the Board strongly encourages the Regional Director or his staff to meet with Appellant within the next 30 days to discuss the matters raised in Appellant's most recent response, in order to determine whether further action by BIA is required or appropriate.

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 denies reconsideration of 40 IBIA 279.

// original signed
Steven K. Linscheid
Chief Administrative Judge

// original signed
Anita Vogt
Senior Administrative Judge