



## INTERIOR BOARD OF INDIAN APPEALS

Roger Birdbear v. Acting Great Plains Regional Director, Bureau of Indian Affairs

51 IBIA 273 (05/26/2010)

Related Board case:  
56 IBIA 87



# United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS  
INTERIOR BOARD OF INDIAN APPEALS  
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ROGER BIRDBEAR,	)	Order Vacating Decision
Appellant,	)	and Remanding
	)	
v.	)	
	)	Docket No. IBIA 10-054
ACTING GREAT PLAINS REGIONAL	)	
DIRECTOR, BUREAU OF	)	
INDIAN AFFAIRS,	)	
Appellee.	)	May 26, 2010

Roger Birdbear (Appellant) appealed to the Board of Indian Appeals (Board) from a December 23, 2009, decision of the Acting Great Plains Regional Director, Bureau of Indian Affairs (Regional Director), in which the Regional Director summarily dismissed as untimely an appeal filed by Appellant from a June 24, 2009, decision of the Fort Berthold Agency Superintendent (Superintendent). On May 17, 2010, the Board received a motion from the Regional Director for a remand in order to allow further consideration of her decision.

As a general rule, the Board will grant a Regional Director’s motion for a voluntary remand. *See, e.g., Froelich v. Acting Great Plains Regional Director*, 51 IBIA 173 (2010); *Roberts County, South Dakota v. Acting Great Plains Regional Director*, 48 IBIA 304 (2009); *United Keetoowah Band of Cherokee Indians in Oklahoma v. Eastern Oklahoma Regional Director*, 47 IBIA 87 (2008). Thus, and particularly in light of the limited scope of this appeal, the Board summarily grants the Regional Director’s motion.<sup>1</sup>

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<sup>1</sup> The Regional Director’s decision was limited to deciding the timeliness of Appellant’s appeal from the Superintendent’s decision. The subject of the Superintendent’s underlying decision, which was not within the scope of the present appeal, was a request from Appellant that his consent first be obtained before BIA approved an assignment of an oil and gas lease or leases from Zenergy Properties 6 Ft. Berthold Allottee, LLC, or Zenergy, Inc., to Dakota-3 E&P Company LLC, for Fort Berthold Allotments M866A, M2081, and M865A-A.

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 Regional Director's December 23, 2009, decision, and remands the matter for further consideration.

I concur:

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// original signed  
Steven K. Linscheid  
Chief Administrative Judge

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// original signed  
Debora G. Luther  
Administrative Judge