



INTERIOR BOARD OF INDIAN APPEALS

Charles O. Tillman, Cora Jean Jech, Dudley Whitehorn, Joanna Barbara, R.E. Yarbrough,
John Johnson, Joe Hall, and Cody Tucker v. Director, Bureau of Indian Affairs

54 IBIA 288 (03/26/2012)

Related Board case:
60 IBIA 143



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
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CHARLES O. TILLMAN,)	Order Dismissing Appeal
CORA JEAN JECH, DUDLEY)	
WHITEHORN, JOANNA)	
BARBARA, R.E. YARBROUGH,)	
JOHN JOHNSON, JOE HALL,)	
AND CODY TUCKER,)	
Appellants,)	
)	Docket No. IBIA 12-064
v.)	
)	
DIRECTOR, BUREAU OF INDIAN)	
AFFAIRS,)	
Appellee.)	March 26, 2012

Charles O. Tillman, Cora Jean Jech, Dudley Whitehorn, Joanna Barbara, R.E. Yarbrough, John Johnson, Joe Hall, and Cody Tucker (Appellants) appealed to the Board of Indian Appeals (Board), pursuant to 25 C.F.R. § 2.8 (appeal from inaction of official), from the failure of the Director of the Bureau of Indian Affairs (Director, BIA), to issue a decision on the merits of Appellants’ demand that BIA conduct an election in accordance with 25 C.F.R. Part 90 for the governing body of the Osage Mineral Estate. We dismiss this appeal because a § 2.8 appeal is limited to prompting action by BIA, and BIA’s Eastern Oklahoma Regional Director (Regional Director) has issued a decision on the merits of Appellants’ request.

Appellants made their § 2.8 demand to the Director in a letter dated April 28, 2011. On January 3, 2012, the Director responded by stating that it was more appropriate for a decision in the matter to be made by the Regional Director. The Director stated that he had forwarded Appellants’ demand to the Regional Director with instructions to issue an appealable decision within 70 days. On March 12, 2012, the Regional Director issued a decision declining to conduct the tribal election requested by Appellants. In the decision, the Regional Director advised Appellants of their right to appeal the decision to the Board.

Section 2.8 is mechanism to prompt action by BIA. The Board’s role in a § 2.8 appeal is limited to deciding whether BIA must take action or issue a decision, and does not

extend to determining how BIA must act or decide a matter in the first instance. *Sandy Point Improvement Co. v. Northwest Regional Director*, 51 IBIA 277, 278 (2010). Because the Regional Director has now responded to Appellants' request for action, this § 2.8 appeal is moot. See *Roanhorse v. Navajo Regional Director*, 53 IBIA 126 (2011) (BIA's response to appellant's request for action rendered § 2.8 appeal moot); *Mullins v. Northwest Regional Director*, 52 IBIA 231 (2010) (same); *Tuttle v. Western Regional Director*, 41 IBIA 74 (2005) (same).

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 dismisses this appeal as moot.

I concur:

 // original signed
Steven K. Linscheid
Chief Administrative Judge

 // original signed
Debora G. Luther
Administrative Judge