



INTERIOR BOARD OF INDIAN APPEALS

Paiute Indian Tribe of Utah v. Western Regional Director, Bureau of Indian Affairs

39 IBIA 263 (03/23/2004)



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
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SUITE 300
ARLINGTON, VA 22203

PAIUTE INDIAN TRIBE OF UTAH,	:	Order Dismissing Appeal Without
Appellant	:	Prejudice
	:	
v.	:	
	:	Docket No. IBIA 04-33-A
WESTERN REGIONAL DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	March 24, 2004

On December 22, 2003, the Board of Indian Appeals (Board) received a notice of appeal from the Paiute Indian Tribe of Utah (Appellant). Appellant filed its appeal under 25 C.F.R. § 2.8, which provides procedures under which a person may make the inaction of a Bureau of Indian Affairs (BIA) official the subject of an appeal to the next official in the appeal process. Appellant seeks review of the failure of the Western Regional Director, BIA (Regional Director), to respond to its November 19, 2003, request for the issuance of a decision on its fee-to-trust application for 5.45 acres of land in Iron County, Utah, for the Cedar City Band of Paiute Indians (Band).

By orders dated December 23, 2003, and February 13, 2004, the Board requested that the Regional Director provide it with information concerning the status of this matter before him. The Regional Director responded that he would issue a response to Appellant's November 19, 2003, request for action on or before March 22, 2004.

On March 22, 2004, the Board received a copy of the Regional Director's response to Appellant dated March 15, 2004. In his letter to Appellant, the Regional Director outlined the actions and documents he requires – some from Appellant – before he will issue a decision on the proposed acquisition. In a previous status report to the Board, the Regional Director acknowledged the considerable delay in processing Appellant's trust application, but also identified competing priorities within the office's realty workload, and the limited number of staff to perform the work. Despite workload and staffing issues, however, the Regional Director should have responded to Appellant's November 19, 2003, letter, as required by 25 C.F.R. § 2.8.

For the reasons discussed in Paiute Indian Tribe of Utah v. Western Regional Director, 39 IBIA 261 (2004), decided yesterday, the Board concludes that it is appropriate to dismiss this section 2.8 appeal without prejudice to allow the Regional Director to continue to address Appellant's request and to work with Appellant in collecting documents and taking the actions necessary to issue a decision.

Pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, this appeal is dismissed without prejudice.

// original signed
Kathleen R. Supernaw
Acting Administrative Judge

// original signed
Steven K. Linscheid
Chief Administrative Judge