KUIGPAGMIUT, INC.,	:	Order Docketing and Dismissing
Appellant	:	Appeal
	:	
v.	:	
	:	Docket No. IBIA 95-48-A
JUNEAU AREA DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	December 8, 1994

Appellant Kuigpagmiut, Inc., sought review of a March 8, 1994, letter from the Juneau Area Director, Bureau of Indian Affairs (Area Director; BIA), which appellant stated "establish[ed] May 24, 1994, as the date of retrocession of Pilot Station Traditional Council from [appellant], a tribal organization" (Notice of Appeal at 1). Because the materials submitted with the November 4, 1994, notice of appeal raised several questions, including whether the matter was properly before the Board of Indian Appeals (Board), by order dated November 7, 1994, the Board requested that the Area Director provide a brief statement of the background of this appeal and indicate what appeal procedure he believed applied.

In his response, which the Board received on December 7, 1994, the Area Director stated that the Native Village of Pilot Station had authorized appellant to perform services for it under the Indian Self-Determination Act, 25 U.S.C. §§ 450-450n (1988) (P.L. 93-638). In December 1993, the Village decided to rescind P.L. 93-638 contract authority from appellant, and to authorize contracting with the Association of Village Council Presidents. The Area Director explained that BIA effects such a transfer through retrocession and reassumption of the contracted programs, followed by initiation of services by the new contractor.

The Area Director further stated that, in response to a request from appellant, an informal conference was held after the filing of this appeal, and that

> [a]greements were reached at that conference whereby [BIA] and the Appellant will each take certain actions over the next about three weeks, based upon which a settlement by agreement of the parties may be possible. In any event, this office shall proceed in accordance with those agreements, with the understanding on the part of the Appellant that this will not affect Appellant's right to proceed with a formal appeal should the results of those efforts be found unsatisfactory to the Appellant.

(Response at 4).

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The Area Director suggested that the proper appeal procedure is the one set forth in 25 C.F.R. 271.81-.82. He reasoned that although no appeal procedure is specified in the regulations for retrocessions, 25 C.F.R. 271.81-.82 is the procedure used in reassumptions, and that because this case involves both a retrocession and a reassumption, the appeal procedure for reassumptions appeared to be most appropriate.

The Board accepts the Area Director's reasoning, and concludes that the appeal procedure in 25 C.F.R. 271.81-.82 should be followed under the circumstances of this case. Because the Board is not part of that appeal procedure, this appeal must be dismissed for lack of jurisdiction.

Therefore, 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 from the Juneau Area Director's decision is docketed and dismissed without prejudice to appellant's right to seek further review under 25 C.F.R. 271.81-.82, should the present efforts not result in a satisfactory resolution of this matter.

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Kathryn A. Lynn
Chief Administrative Judge

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Anita Vogt
Administrative Judge

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