LORETTA JOHNSON, et al.,	:	Order Docketing and Dismissing
Appellants	:	Appeal
	:	
v.	:	
	:	Docket No. IBIA 95-71-A
ACTING BILLINGS AREA DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	March 20, 1995

This is an appeal from a December 8, 1994, decision of the Acting Billings Area Director, Bureau of Indian Affairs (Area Director; BIA), concerning BIA's collection of damages for timber trespass on Crow Allotment 3780. Appellants are Loretta Johnson, Constance Moccasin Top, Helen Moccasin, Tana Moccasin, Veda Rock Above, Nellie Moccasin, Joyce Moccasin, Harry O. Moccasin Top, and Wayne Moccasin, all of whom apparently hold interests in the allotment.

From the materials submitted by appellants with their notice of appeal, it clearly appeared that BIA has already assessed damages against the trespasser, settled the case, and collected the damages. 1/ Appellants contended that they should have been permitted to participate in the settlement leading to the payment of damages. They also contended that the damages collected by BIA were inadequate.

Appellants did not specifically state what relief they sought from the Board. It appeared likely, however, that they either wished to seek damages from BIA or to compel BIA to file suit against the trespasser. The Board noted that it had no authority to grant either form of relief and ordered appellants to show why their appeal should not be dismissed. The Board advised appellants that, in order to make such a showing, they must demonstrate that they are seeking a form of relief which the Board has authority to grant.

In their response, appellants state that they are seeking a remand of this matter to BIA so that they may present their side of the case. Appellants offer nothing, however, to show that any proceedings remain available before BIA in which they could be given an opportunity to present their side of the case. To the contrary, as noted above, appellants' original appeal documents indicated that trespass proceedings before BIA have been concluded. It is apparent, therefore, that a remand of this matter to BIA would be fruitless.

1/ According to a Sept. 13, 1994, Field Solicitor's memorandum submitted by appellants, BIA had negotiated a settlement of $7,431.80 and would have been able to obtain no more than $1,634.82 had it litigated the matter.

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The Board lacks authority to provide appellants with any relief in this matter. See, e.g., U.S. Fish Corp. v. Eastern Area Director, 20 IBIA 93 (1991), and cases cited therein. Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, this appeal is docketed and dismissed.

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Anita Vogt
Administrative Judge

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Kathryn A. Lynn
Chief Administrative Judge

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