



INTERIOR BOARD OF INDIAN APPEALS

White Mountain Apache Tribe v. Phoenix Area Director,
Bureau of Indian Affairs

13 IBIA 228 (08/13/1985)

Related Board case:
16 IBIA 51



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
4015 WILSON BOULEVARD
ARLINGTON, VA 22203

WHITE MOUNTAIN APACHE TRIBE,	:	Order to Show Cause
Appellant	:	
	:	
v.	:	
	:	Docket No. IBIA 85-27-A
	:	
AREA DIRECTOR, PHOENIX AREA	:	
OFFICE, BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	August 13, 1985

On August 5, 1985, the Board of Indian Appeals (Board) received a motion for expedited decision from appellant White Mountain Apache Tribe. Appellant requests the Board to issue a decision in this appeal based upon the record currently before it. This motion was filed because of delays by the Bureau of Indian Affairs (BIA) in providing the complete administrative record to the Board.

The Board received appellant's notice of appeal on March 18, 1985. Appellant sought review by the Board because its appeal to the Deputy Assistant Secretary--Indian Affairs (Operations) had been pending for more than 30 days without decision in violation of 25 CFR 2.19. In its notice of appeal to the Board, appellant, as it had previously, emphasized the importance of expeditious resolution of this case because it involved approval of an attorney contract for pending litigation. On March 18, 1985, the Board made a preliminary determination that it had jurisdiction over the matter and requested that the administrative record be transmitted to it within 30 days.

Since March, the Board has requested the administrative record three additional times. The record has not yet been received.

The BIA's delay in transmitting the administrative record in this matter would appear to be a violation of the Federal trust responsibility, and an action for which appellant could seek immediate review in Federal court under the Administrative Procedure Act as agency action unreasonably delayed. Appellee is, therefore, ordered to show cause why appellant's motion should not be granted. Appellee is further ordered to inform the Board whether he will be represented by counsel from the Office of the Solicitor and, if so, the name of his counsel. These responses are due on or before August 30, 1985.

//original signed
Bernard V. Parrette
Chief Administrative Judge

//original signed
Jerry Muskrat
Administrative Judge

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Anne Poindexter Lewis
Administrative Judge