



INTERIOR BOARD OF INDIAN APPEALS

Walter E. Old Elk, Sr. v. Billings Area Director, Bureau of Indian Affairs

18 IBIA 393 (07/30/1990)



# United States Department of the Interior

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

WALTER E. OLD ELK, SR.,	:	Order Docketing and Dismissing
CHAIRMAN, CROW TRIBAL	:	Appeal
ELECTION BOARD,	:	
Appellant	:	
	:	
v.	:	Docket No. IBIA 90-126-A
	:	
BILLINGS AREA DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	July 30, 1990

This is an appeal from a July 2, 1990, decision of the Billings Area Director, Bureau of Indian Affairs, approving a \$30,000 drawdown request from Crow Tribal Chairman Clara Nomee. Appellant Walter E. Old Elk, Sr., who is Chairman of the Crow Tribal Election Board, stated in his notice of appeal that he was appealing the decision because it recognized the election of Clara Nomee as Chairman.

By memorandum of May 10, 1990, the Assistant Secretary - Indian Affairs decided that, until July 6, 1990, all decisions of the Area Director approving or disapproving Crow tribal drawdown requests would be final for the Department of the Interior. <sup>1/</sup> The Board therefore ordered appellant to show cause why its appeal should not be dismissed for lack of jurisdiction.

Appellant's response was received on July 26, 1990. He contends that the authority conferred on the Area Director by the Assistant Secretary's May 10 memorandum was expressly limited to drawdown requests and was not intended to encompass decisions concerning Crow tribal elections or other matters relating to the Crow tribal government. He states: "This appeal does not concern any drawdown. Appellant does not seek to recapture or otherwise prevent the expenditure of the \$30,000 drawdown request. Rather, Appellant challenges the decision recognizing the election of Clara Nomee."

The Area Director's July 2 decision explicitly recognized Nomee as Chairman of the Crow Tribe. While appellant would like to sever this element of the Area Director's decision from his ultimate determination to approve Nomee's drawdown request, it is clear that the two aspects of the decision are inextricably

<sup>1/</sup> By memorandum dated July 6, 1990, the Acting Assistant Secretary extended the effectiveness of the May 10 memorandum for six months.

intertwined. The Area Director could not have honored Nomee's drawdown request without recognizing her authority as a tribal official. That authority resulted from her election to the office of Tribal Chairman.

The Board finds that the Area Director's July 2, 1990, decision is subject to the Assistant Secretary's May 10, 1990, memorandum and is therefore final for the Department. 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 dismissed for lack of jurisdiction.

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//original signed

Anita Vogt  
Administrative Judge

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//original signed

Kathryn A. Lynn  
Chief Administrative Judge