



INTERIOR BOARD OF INDIAN APPEALS

Walker River Paiute Tribe v. Phoenix Area Director, Bureau of Indian Affairs

27 IBIA 298 (04/18/1995)



# United States Department of the Interior

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

WALKER RIVER PAIUTE TRIBE, Appellant	:	Order Vacating Decision and Remanding Case
	:	
v.	:	
	:	Docket No. IBIA 95-17-A
ACTING PHOENIX AREA DIRECTOR, BUREAU OF INDIAN AFFAIRS, Appellee	:	
	:	April 18, 1995

Appellant Walker River Paiute Tribe seeks review of an August 31, 1994, decision issued by the Acting Phoenix Area Director, Bureau of Indian Affairs (Area Director; BIA), concerning the determination of what period of time constituted a "reasonable opportunity" for appellant to purchase two tracts, consisting of 1.25 acres each, within Walker River Allotment WR-249. The allotment is owned by Randall Emm, a member of the Yerington Paiute Tribe. The Area Director's decision reversed a May 16, 1994, decision issued by the Western Nevada Agency Superintendent, BIA (Superintendent), which had allowed appellant one year in which to purchase the tracts. Both decisions were made in the context of Emm's request for a supervised sale of the tracts. It appears that Emm's decision to sell the tracts may have been influenced by outstanding BIA and Farmer's Home Administration (FmHA) loans on Allotment WR-249 and other allotments which he owned.

During the pendency of this appeal, the Board became aware that Emm was attempting to refinance certain BIA and FMHA loans. In a January 17, 1995, letter to the Superintendent, Emm stated: "If this proposed financial package could be arranged, I would not sell the tract of land that is currently under appeal for my supervised sale request" (Letter at 1). As relevant to this appeal, the Superintendent's January 24, 1995, response stated:

You should be cognizant of the fact that a portion of one (1) of your Walker River Allotments is involved in an on-going administrative appeal process. This Agency lost jurisdiction of the property when you appealed our decision regarding your supervised sale of a certain portion of that allotment. This Agency will continue to lose jurisdiction until such time [as] all appeal procedures have been exhausted.

The Superintendent's response did not approve the refinancing request. Emm appealed the January 24, 1995, decision to the Area Director, before whom the matter is now pending.

Emm's statements indicate that this appeal might be moot if the proposed refinancing were arranged and approved. Furthermore, it is evident

that the issue pending before the Board is not an isolated matter, but is part of a broader and on-going discussion between BIA and Emm regarding his property on the Walker River Reservation. Under these circumstances, the Board believes that both this appeal and the issues now pending before the Area Director should be considered together, in order to ascertain Emm's intent in regard to his property. The most efficient means for restoring the Area Director's authority over all of these related issues is to vacate the August 31, 1994, decision, and remand this matter to the Area Director for reconsideration in light of Em's new request and appeal.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, the Area Director's August 31, 1994, decision is vacated and this matter is remanded to the Area Director for additional consideration. This action authorizes the Area Director to make any appropriate decision with regard to the issue in this appeal, including but not limited to, reaffirming, modifying, or reversing the August 31, 1994, decision.

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Kathryn A. Lynn  
Chief Administrative Judge

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//original signed  
Anita Vogt  
Administrative Judge