



INTERIOR BOARD OF INDIAN APPEALS

Cherokee Nation v. Muskogee Area Director, Bureau of Indian Affairs

28 IBIA 222 (10/12/1995)



United States Department of the Interior

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

CHEROKEE NATION,	:	Order Vacating Decision and
Appellant	:	Remanding Case
	:	
v.	:	
	:	Docket No. IBIA 95-129-A
MUSKOGEE AREA DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	October 12, 1995

Appellant Cherokee Nation sought review of a May 18, 1995, decision of the Muskogee Area Director, Bureau of Indian Affairs (Area Director), concerning equipment repair and replacement monies for "force account" equipment used in Indian Reservation Roads construction projects.

On September 25, 1995, the Board of Indian Appeals received a motion from the Area Director asking that the matter be remanded to him for further consideration. The Area Director cites four reasons why he believes remand would be appropriate. Appellant has filed a response opposing remand and providing rebuttals to each of the Area Director's reasons. As of the date of filing of the Area Director's motion, intervenor Muscogee (Creek) Nation stated that it did not oppose a remand; however, by the time appellant filed its opposition to remand, intervenor had decided to oppose remand.

The Board has carefully considered the motion and appellant's filing in opposition to remand. It has also considered the subject matter of this case, the fact that the matter has not yet been briefed, and the possible impact of a decision on the interests of other tribes in the Muskogee Area. It has concluded that this is a case that would be better resolved by the parties than in an adversarial, judicial forum.

Accordingly, the Board vacates the Area Director's decision, and remands this matter to the Area Director for further consideration. The Board encourages the Area Director to involve the affected tribes in his decisionmaking process, perhaps through the use of some form of alternate dispute resolution.

Pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, the Muskogee Area Director's May 18, 1995, decision is vacated and this matter is remanded to the Area Director for further consideration.

//original signed
Kathryn A. Lynn
Chief Administrative Judge

//original signed
Anita Vogt
Administrative Judge