



INTERIOR BOARD OF INDIAN APPEALS

Yakama Nation v. Northwest Regional Director, Bureau of Indian Affairs

52 IBIA 262 (11/26/2010)



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
801 NORTH QUINCY STREET
SUITE 300
ARLINGTON, VA 22203

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|---------------------|---|---------------------------------------|
| YAKAMA NATION, |) | Order Vacating Decision and Remanding |
| Appellant, |) | |
| |) | |
| v. |) | |
| |) | Docket No. IBIA 10-075 |
| NORTHWEST REGIONAL |) | |
| DIRECTOR, BUREAU OF |) | |
| INDIAN AFFAIRS, |) | |
| Appellee. |) | November 26, 2010 |

The Yakama Nation (Nation) appealed to the Board of Indian Appeals (Board) from a February 5, 2010, decision of the Northwest Regional Director (Regional Director), Bureau of Indian Affairs, in which he upheld certain operation and maintenance (O&M) bills, including supplemental bills, issued in 2008 and 2009 to the Nation by the Wapato Irrigation Project.¹

On November 22, 2010, the Board received a joint motion from the parties for a remand of the Regional Director's February 5 decision "for additional consideration and amendment" in light of the Board's recent decision in *Yakama Nation v. Northwest Regional Director*, 52 IBIA 94 (2010). Joint Motion at 1. The motion is granted.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, the Regional Director's February 5, 2010,

¹ At issue in this appeal are 2008 bill nos. 2008000002023, 2058, and 2060; 2008 supplemental bill nos. 2008000002284, 2301, 2329, 2366, 2388, 2389, 2398, 2399, and 2404; and 2009 bill nos. 02009000001995, 1997, 2032, 2034, 2192, and 2193.

decision is vacated and this matter is remanded to him for further consideration and issuance of a new decision.²

I concur:

// original signed
Debra G. Luther
Administrative Judge

// original signed
Steven K. Linscheid
Chief Administrative Judge

² Although the parties do not expressly ask that the February 5 decision be vacated, an order of vacatur is the Board's normal procedure in granting a motion for a voluntary remand, even if not accompanied by a motion to vacate. *See, e.g., Birdbear v. Acting Great Plains Regional Director*, 51 IBIA 273 (2010); *Froelich v. Acting Great Plains Regional Director*, 51 IBIA 173 (2010); *United Keetoowah Band of Cherokee Indians in Oklahoma v. Eastern Oklahoma Regional Director*, 47 IBIA 87 (2008). An order of vacatur prevents any confusion about the status of BIA's prior decision, makes clear that the Board's order is dispositive and that the Board has not retained jurisdiction, and ensures that the matter is returned in full to BIA for issuance of a new decision with new appeal rights.