



## INTERIOR BOARD OF INDIAN APPEALS

Aleutian/Pribilof Islands Ass'n, Inc. v. Acting Deputy Assistant Secretary -  
Indian Affairs (Operations)

10 IBIA 23 (07/06/1982)

Related Board case:  
9 IBIA 254

Related judicial cases:  
*Aleutian-Pribilof Islands Ass'n, Inc. v. Powers*, Case No. A82-163 Civil (D. Alaska)  
*Tanana Chiefs Conference v. Lestenkof*, Case No. F82-017 Civil (D. Alaska)



# United States Department of the Interior

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

ALEUTIAN/PRIBILOF ISLANDS : Order Relieving Bureau of Indian  
ASSOCIATION, INC. : Affairs of Remand Requirements  
:  
v. :  
:  
: Docket No. IBIA 82-1-A  
ACTING DEPUTY ASSISTANT :  
SECRETARY--INDIAN AFFAIRS :  
(OPERATIONS) : July 6, 1982

On April 9, 1982, the Board issued a final opinion in this case, 9 IBIA 254 (1982), holding that the Bureau of Indian Affairs (BIA) had failed to follow its regulations in considering appellant's application for fiscal year 1981 grant funds under the Indian Child Welfare Act of 1978, Act of November 8, 1978, 92 Stat. 3069, 25 U.S.C. §§ 1901-1963 (Supp. II 1978). Accordingly, the Board remanded the case to BIA "so that it [might] expeditiously follow the procedures outlined in 25 CFR 23.29(b)(4). This decision [did] not require BIA to approve appellant's application or to give grant funds to appellant should the application be approved. It require[d] only that BIA follow its regulations in dealing with appellant's application." 9 IBIA at 261.

The Board recognized, however, that any remand might be moot depending upon the availability of funds appropriated for the 1981 fiscal year. Therefore, the Board retained "limited jurisdiction \* \* \* to rule on a motion that the Bureau be relieved of remand requirements imposed by this decision on grounds of mootness." 9 IBIA at 261. In a motion dated April 22, 1982, BIA sought relief from the remand requirements on the grounds that there were no appropriated funds available for application to appellant's funding request even if that request were to be approved. Appellant opposed this motion, and appellee filed a reply brief.

Appellee states that there are no fiscal year 1981 funds available to meet appellant's grant application. Although appellant argues that funds appropriated for similar programs may be applied to its application if no Indian Child Welfare Act funds remain, the Board finds there are no other funds that may be applied in this manner.

Therefore, because there are no unobligated fiscal year 1981 funds that could be applied to appellant's grant application even if that application were approved, BIA is relieved of the requirements for reconsidering appellant's application imposed by the Board's April 9, 1982, decision. This order in no way relieves BIA of the responsibility in the future to follow its regulations in considering grant applications under the Indian Child Welfare Act.

Pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, this order is final for the Department.

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//original signed  
Franklin D. Arness  
Administrative Judge

We concur:

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//original signed  
Wm. Philip Horton  
Chief Administrative Judge

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//original signed  
Jerry Muskrat  
Administrative Judge