



INTERIOR BOARD OF INDIAN APPEALS

Spokane Tribe of Indians v. Acting Assistant Secretary - Indian Affairs

18 IBIA 383 (07/23/1990)

Related Board case:  
18 IBIA 379



# United States Department of the Interior

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

|  |   |                                |
|--|---|--------------------------------|
| SPOKANE TRIBE OF INDIANS,<br>Appellant   | : | Order Docketing and Dismissing |
|  | : | Appeal                         |
|  | : |                                |
| v.   | : |                                |
|  | : |                                |
| DEPUTY TO THE ASSISTANT<br>SECRETARY - INDIAN AFFAIRS<br>(OPERATIONS),<br>Appellee | : | Docket No. IBIA 90-119-A       |
|  | : |                                |
|  | : | July 23, 1990                  |

This is an appeal from a May 9, 1990, memorandum of the Deputy to the Assistant Secretary - Indian Affairs (Operations), concerning the use of the Sherwood Mine. The appeal is dated June 21, 1990, and was filed with the Assistant Secretary - Indian Affairs. It was referred to the Board for review in accordance with appeal procedures for the Bureau of Indian Affairs and the Board which became effective on March 13, 1989. 25 CFR Part 2, 43 CFR Part 4, Subpart D, 54 FR 6478 and 6483 (Feb. 10, 1989). The Board received the appeal on July 20, 1990.

On July 18, 1990, the Board received another appeal from the same appellant, seeking review of a June 15, 1990, letter of the Acting Assistant Secretary - Indian Affairs, which reached the same conclusion as the Deputy's May 9 memorandum. On July 19, 1990, the Board dismissed the appeal for lack of jurisdiction because the Acting Assistant Secretary's decision was final for the Department of the Interior. 18 IBIA 379.

Although the Deputy to the Assistant Secretary - Indian Affairs (Operations) does not have authority under 25 CFR Part 2 to issue decisions which are final for the Department, his May 9 decision was ratified by the Acting Assistant Secretary's June 15 decision. Because the Acting Assistant Secretary has issued a final decision on this matter, this appeal must be dismissed.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, this appeal from the May 9, 1990, decision of the Deputy to the Assistant Secretary - Indian Affairs (Operations) is dismissed.

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//original signed  
Anita Vogt  
Administrative Judge

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//original signed  
Kathryn A. Lynn  
Chief Administrative Judge