



INTERIOR BOARD OF INDIAN APPEALS

Lincoln White Shirt v. Billings Area Director, Bureau of Indian Affairs

24 IBIA 127 (07/28/1993)



United States Department of the Interior

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

LINCOLN WHITE SHIRT, : Order Dismissing Appeal
Appellant :
 :
v. : Docket No. IBIA 93-58-A
 :
BILLINGS AREA DIRECTOR, :
BUREAU OF INDIAN AFFAIRS, :
Appellee : July 28, 1993

On March 15, 1993, the Board of Indian Appeals (Board) received a notice of appeal, including arguments, from appellant Lincoln White Shirt. Appellant sought review of a February 8, 1993, decision of the Billings Area Director, Bureau of Indian Affairs (Area Director), concerning the granting to U.S. West Communications, Inc., of a fiber-optic cable right-of-way across Crow Allotment Nos. 1192, 1193, and 1194, over the objection of some of the allotment owners.

The Area Director's decision informed appellant that the regulations required him to serve copies of his notice of appeal to the Board on the Assistant Secretary - Indian Affairs, the Area Director, and all interested parties known to him. Of these people, appellant's notice of appeal indicated service on only the Assistant Secretary. By a predocketing notice dated March 15, 1993, appellant was advised, *inter alia*, that all owners of interests in the three allotments were interested parties, and he was required to provide the names and addresses of these individuals.

The Board received the administrative record on April 19, 1993. By order dated April 27, 1993, the Board noted that although a notice of docketing would normally be issued at that time, appellant had not complied with its order to provide the names and addresses of interested parties. Accordingly, the Board ordered appellant to provide this information before May 21, 1993, or the appeal would be dismissed for lack of prosecution.

Appellant provided the names and addresses of the other allotment owners by letter dated May 14, 1993. The Board docketed the appeal and provided a briefing schedule by order dated May 20, 1993. That order informed appellant of his obligation to serve copies of all documents he filed with the Board on interested parties.

By memorandum dated June 4, 1993, the Area Director informed the Board that appellant had not served him with a copy of his notice of appeal, and he was not aware of whether appellant had served other interested parties. On June 10, 1993, the Board issued an order to serve parties. The Board noted that appellant's May 14, 1993, letter stated: "All I.B.I.A. appeal information will be mailed out on Monday 17, (sic) 1993 to all interested

