



INTERIOR BOARD OF INDIAN APPEALS

Redwood Valley Little River Band of Pomo Indians v. Central California Agency
Awarding Official, Bureau of Indian Affairs

54 IBIA 337 (04/24/2012)



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

REDWOOD VALLEY LITTLE) Order Dismissing Appeal
RIVER BAND OF POMO)
INDIANS,)
Appellant,)
v.)
CENTRAL CALIFORNIA AGENCY) Docket No. IBIA 12-071
AWARDING OFFICIAL,)
BUREAU OF INDIAN AFFAIRS,)
Appellee.) April 24, 2012

The Redwood Valley Little River Band of Pomo Indians (Tribe) filed an appeal with the Board of Indian Appeals (Board) seeking review of a January 13, 2012, decision (Decision) by the Awarding Official for the Central California Agency (Awarding Official) of the Bureau of Indian Affairs (BIA). The Decision notified the Tribe that BIA will withhold contract support payments for Fiscal Year 2012 under the Tribe's Indian Self-Determination and Education Assistance Act (ISDA) contracts as a sanction until the Tribe submits certain required single audit reports. *See* Decision at 2 (unnumbered). We dismiss this appeal and refer the matter back to the Awarding Official because an appeal from a decision to withhold contract support payments is not properly directed to the Board and, as the Awarding Official agrees, the appeal instructions that she provided to the Tribe were incorrect.

The Tribe filed its appeal with the Board pursuant to instructions provided by the Awarding Official in the Decision,¹ but the subject matter of the appeal — withholding of

¹ The Awarding Official's decision variously referred the Tribe to this Board and to the "Interior Board of Contract Appeals" (IBCA) at the Board's address. Effective January 6, 2007, Congress abolished the IBCA and transferred its functions to a new Civilian Board of Contract Appeals (CBCA) within the General Services Administration. The ISDA regulations were amended in 2010 to conform to that statutory change, *see* 75 Fed. Reg. 31,699, 31,701 (June 4, 2010), and the amended regulations are codified in the 2011 edition of Title 25 of the Code of Federal Regulations. *See, e.g.*, 25 C.F.R. § 900.222 (2011).

contract support payments for an existing contract — did not fall within any of the categories of ISDA appeals over which the Board has jurisdiction. *See* 25 C.F.R. § 900.150. The Awarding Official’s appeal instructions, *see* note 1, suggest that she may have intended to direct the Tribe to the CBCA, raising the possibility that the Board might refer the matter to the CBCA. But after soliciting additional statements from the parties, and even though the Awarding Official confirmed that her appeal instructions were incorrect and stated her belief that the appeal should be filed with the CBCA, it remained unclear to the Board that referral to the CBCA would be appropriate. As the Board explained, not all appeals from post-award disputes go to the CBCA. *See* Order for Supplemental Statements, Mar. 8, 2012, at 1-2 (noting that if the Awarding Official issued the decision pursuant to 25 C.F.R. § 900.221(a), the CBCA would appear to be the correct forum for the appeal, but if the decision falls within the scope of 25 C.F.R. § 900.170(a)(2), the Awarding Official must notify the Deputy Director of the Office of Hearings and Appeals for the Department of the Interior, who would then refer the matter to an administrative law judge within the Department of the Interior for a hearing).

In our March 8, 2012, order, we proposed dismissing the appeal and referring the matter back to the Awarding Official for issuance of a new decision that complied with the applicable regulations regarding a right of review or appeal. The Board received no responses from the parties.

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 Board dismisses this appeal for lack of jurisdiction and refers the matter back to the Awarding Official for further action, as appropriate.²

I concur:

// original signed
Steven K. Linscheid
Chief Administrative Judge

// original signed
Debora G. Luther
Administrative Judge

² In the absence of responses from either party, it is not clear whether the matter has now been resolved. Our referral of the matter back to the Awarding Official does not require a new decision if the matter has been resolved.