



INTERIOR BOARD OF INDIAN APPEALS

Richard James Steward v. Pacific Regional Director, Bureau of Indian Affairs

61 IBIA 196 (08/19/2015)



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
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RICHARD JAMES STEWARD,)	Order Affirming Decisions in
Appellant,)	Docket Nos. 13-109 and 14-008
)	and Dismissing Appeal in Docket
v.)	No. 14-074
)	
PACIFIC REGIONAL DIRECTOR,)	Docket Nos. IBIA 13-109
BUREAU OF INDIAN AFFAIRS,)	14-008
Appellee.)	14-074
)	
)	August 19, 2015

In these appeals, which we consolidate for purposes of this decision, Richard James Steward (Appellant) seeks review by the Board of Indian Appeals (Board) from actions or alleged inaction by the Pacific Regional Director (Regional Director), Bureau of Indian Affairs (BIA), in response to repeated requests from Appellant that BIA intervene in matters involving the governance of the Elem Indian Colony (Tribe). Appellant is a Tribal member who contends that the Tribe has violated its Constitution and the Federal Indian Civil Rights Act (ICRA), 25 U.S.C. §§ 1301-1303, and that the Tribe’s Secretary/Treasurer is fraudulently posing as a tribal member.

Appellant sought a decision from BIA informing the Tribe that certain meetings and actions taken by the Tribe were invalid and advising it that BIA would refuse to recognize the Tribe’s leadership until the violations were corrected and a new election held. In two cases (Docket Nos. 13-109 and 14-008), BIA’s Central California Agency Superintendent (Superintendent) and the Regional Director issued decisions declining Appellant’s requests for BIA intervention, and in the third (Docket No. 14-074), BIA failed to respond to a request from Appellant for action made pursuant to 25 C.F.R. § 2.8 (appeal from inaction of official).

Appellant has provided no basis for us to conclude that he, as an individual tribal member, had a right to seek or obtain BIA intervention through, in effect, declaratory judgments against the Tribe in order to “nullify” allegedly improper tribal actions, de-recognize the Tribe’s government as a sanction for its alleged improprieties, and thereby “hold [the Tribe] accountable to its own laws . . . and [ICRA].” Letter from Appellant to Superintendent, Nov. 8, 2012, at 5 (Docket No. 13-109 Administrative Record (AR) Tab E). Thus, in Docket Nos. 13-109 and 14-008, we affirm the Regional Director’s

decisions, dated May 16, 2013, and August 30, 2013, respectively, because Appellant lacked standing to seek BIA intervention in the tribal matters complained of.

We dismiss the appeal in Docket No. 14-074 because Appellant's request for BIA action was premised on the same operative facts that gave rise to his appeal in Docket No. 13-109 and our resolution of that appeal, and Docket No. 14-008, renders moot any issues concerning BIA's failure to respond to Appellant's request underlying the appeal in Docket No. 14-074.

Background

I. Docket No. 13-109: May 16, 2013, Decision Regarding Appellant's Request for BIA to Declare Invalid the November 3, 2012, General Council Meeting and Tribal Election

The incident that prompted Appellant to seek relief from BIA, and which eventually gave rise to the appeal in Docket No. 13-109, occurred in September 2012, when the Executive Committee of the Tribe suspended the voting rights of Appellant's sister, Lena Smith (Smith). Letter from Appellant to Superintendent, Nov. 8, 2012, at 1 (Docket No. 13-109 AR Tab E). Smith was subsequently denied entry to the Tribe's November 3, 2012, General Council meeting at which a tribal election of officers was held.¹ *Id.* at 1-2. Smith intended to address the General Council to rebut the Executive Committee's charges against her, as she and Appellant believed was her right as a matter of due process. *Id.* at 2. Other members of the Tribe who had been disenfranchised, numbering approximately 30, protested the validity of the meeting for lack of proper notice and violation of due process in relation to their disenfranchisement. *Id.* at 4.² The meeting and the tribal election proceeded without Smith and without the additional disenfranchised members. Appellant was not excluded from the General Council meeting, *see id.*, does not contend that he ran for office in the 2012 election, and does not contend that he was denied the right to vote.

Subsequent to the meeting, Appellant wrote to the Superintendent, providing "facts and details" to expose a "corrupt tribal government that threatens tribal membership and

¹ The governing body of the Tribe is a General Council, which consists of all qualified voters of the Tribe, and all members of the Tribe who are 18 years of age or older are qualified voters. Constitution and Bylaws for the Elem Indian Colony, art. III, §§ 1 & 2 (Docket No. 13-109 AR Tab F). The Executive Committee is elected by the General Council for 2-year terms, and consists of a Chairman, Vice-Chairman, Secretary/Treasurer, and two committee members. *Id.* § 3.

² Our recitation of facts, as alleged by Appellant, is intended solely to provide the context of these appeals, and shall not be construed as findings of fact.

accountability of tribal funds.” *Id.* at 1. Appellant recounted the events surrounding the November 3, 2012, tribal meeting, questioned the authority of the Executive Committee to suspend Smith’s voting rights, and contended that the election meeting, and a previous meeting held in August 2012, had not been properly noticed, had violated members’ due process rights, and were thus invalid. *Id.* at 2-4. Appellant cited an opinion issued by the Tribe’s attorney regarding a General Council meeting held in 2011 as authority for the assertion that a General Council meeting from which members had been excluded would be invalid. *Id.* at 2. Appellant asked the Superintendent to “shut down the . . . illegal acts,” *id.* at 1, occurring with the Tribe and to “once again hold [the Tribe] accountable” to its own laws and ICRA by “nullify[ing] all improper actions taken by the [E]xecutive [C]ommittee,” which would “cause” the Tribe to call and conduct another election with all members eligible to vote, *id.* at 5. *See also* Letter from Appellant to Superintendent, Nov. 26, 2012 (providing examples of correspondence from previous Superintendents regarding the validity of tribal meetings) (Docket No. 13-109 AR Tab E).

The Superintendent responded, saying that BIA “does not generally get involved in internal matters of the Tribe,” and that BIA “does not have the authority to make declarations or render an opinion regarding the internal issues” presented by Appellant. Letter from Superintendent to Appellant, Dec. 5, 2012 (Docket No. 13-109 AR Tab E). Appellant replied, arguing that BIA had “long upheld and protected” the right of tribal members to receive proper notice of meetings, as evidenced by previous letters from previous Superintendents declaring tribal meetings invalid without such notice. Letter from Appellant to Superintendent, Jan. 7, 2013, at 2 (January 7 Letter) (Docket No. 13-109 AR Tab E). Appellant also argued that there was a need for BIA to take Federal action to determine who is legally authorized to oversee and expend Federal funds, and thus BIA was required to determine whether the November 3, 2012, election was valid so that BIA could determine whether it was working with duly elected tribal officials. *Id.* at 3-4.

Appellant wrote two follow-up letters, one to the Superintendent and another to the Regional Director, reiterating his request for BIA to issue a statement or decision declaring that the tribal meetings and election were not properly called and conducted and thus were invalid and a new election must take place. *See* Letter from Appellant to Regional Director, Jan. 16, 2013 (Docket No. 13-109 AR Tab E); Letter from Appellant to Superintendent, Jan. 25, 2013 (January 25 Letter) (Docket No. 13-109 AR Tab E). Appellant argued, based on Board precedent, that violations of ICRA gave BIA both the authority and the responsibility to decline to recognize the results of the tribal election. January 25 Letter at 1-2 (citing, e.g., *Naylor v. Sacramento Area Director*, 23 IBIA 76 (1992)).

On January 31, 2013, the Superintendent again responded to Appellant, stating that General Council meetings and the vote in an election are internal tribal matters, and the issue of irregularities during the election process “is a matter that rests with the body in charge,” apparently referring to the General Council. Letter from Superintendent to

Appellant, Jan. 31, 2013 (Docket No. 13-109 AR Tab E). The Superintendent stated that tribes are sovereign and that internal issues must be resolved within a tribe. *Id.*

Appellant appealed the Superintendent's decisions to the Regional Director, arguing that previous Superintendents had been willing to respond to requests for opinions on the validity of tribal actions, and to declare invalid improperly noticed tribal meetings. Appeal Letter, Jan. 25, 2013, at 1 (Docket No. 13-109 AR Tab E.Appeal).³ Appellant invoked several Board decisions as precedent that in discharging its government-to-government responsibilities, "BIA has the authority and responsibility to decline to recognize the results of a tribal action when it finds that a violation of [] ICRA has occurred." Letter from Appellant to Superintendent, Feb. 5, 2013, at 1-2 (citing *Naylor*, 23 IBIA at 80; *United Keetoowah Band v. Muskogee Area Director*, 22 IBIA 75, 83 (1992)) (Appellant's emphases); *see also* Appellant's Brief to Regional Director, rec'd Feb. 26, 2013, at 2 (unnumbered) (Docket No. 13-109 AR Tab E).

The Regional Director affirmed the Superintendent's decisions. *See* Letter from Regional Director to Appellant, May 16, 2013 (May 16 Decision) (Docket No. 13-109 AR Tab C). The Regional Director stated that the Superintendent correctly concluded that BIA was precluded from taking action on Appellant's request due to lack of a Federal action, i.e., the absence of a separate matter that required BIA action and which, in turn, would require BIA to address the tribal dispute. *Id.* at 1. The Regional Director acknowledged that previous Superintendents may have issued such decisions without waiting for a matter that required BIA action, but found that more recent Board precedent held that it was improper for BIA to intervene in internal tribal disputes in the absence of necessary Federal action. *Id.* at 1-2 (citing *Committee to Organize the Cloverdale Rancheria Government v. Acting Pacific Regional Director*, 55 IBIA 220, 223-24 (2012); *Coyote Valley Band of Pomo Indians v. Acting Pacific Regional Director*, 54 IBIA 320, 320-21 (2012); *Alturas Indian Rancheria v. Pacific Regional Director*, 54 IBIA 138, 138-39 (2011)).

Appellant appealed to the Board. In response to the Board's briefing order, which solicited briefing on standing, Appellant contends that by failing to intervene, BIA "allowed

³ Appellant's January 25 Appeal Letter was filed as a notice of appeal from the Superintendent's December 5, 2012, decision, but was not mailed until February 12, 2013, and by then had been updated to incorporate a challenge to the Superintendent's January 31 decision. In the meantime, on February 5, 2013, Appellant had sent another letter to the Superintendent and the Regional Director, specifically responding to the Superintendent's January 31 decision. Neither of the Superintendent's decisions included appeal rights, and thus the timeliness of Appellant's appeals was not an issue. *See* 25 C.F.R. § 2.7(c) (tolling provisions when appeal rights not provided).

the tribal abuses reported by [A]ppellant to continue,” thus injuring Appellant and other disenfranchised tribal members.⁴ Opening Br. at 4.

On the merits, Appellant argues that the Regional Director was factually incorrect in finding that there was no separate need for Federal action. *Id.* at 3-4. According to Appellant, the Tribe had submitted a drawdown request for an existing ISDA contract, and that drawdown request required Federal action, thus requiring BIA to make determinations on the validity of tribal actions and whether it was dealing with validly elected tribal officials. Notice of Appeal, May 28, 2013, at 1; Opening Br. at 3. As “newly acquired evidence,” Appellant contends that he obtained a February 15, 2013, letter from the Tribe’s Chairman to the Superintendent, requesting a drawdown of ISDA funds. Appellant’s Opening Brief – New Evidence, Aug. 27, 2013, at 1-2 (unnumbered). Appellant argues that his “whole case [is] based on proving that a [F]ederal action existed which would have opened the door for BIA to address the tribal government malfeasance actions I reported.” Letter from Appellant to Board, June 19, 2014, at 2.

The Tribe filed an answer brief, arguing that Appellant lacks standing to bring the appeal.⁵ The Tribe defends the Regional Director’s decision, arguing that there is no authority for BIA to intervene in a tribal dispute “merely because a government-to-government interaction is occurring at the same time.” Tribe’s Answer Br., Sept. 19, 2013, at 3. Instead, the Tribe contends, BIA’s intervention in a tribal dispute is only authorized when and to the extent it is necessary for the government-to-government relationship. *Id.* The Tribe also notes that the February 2013 drawdown request cited by Appellant postdates the Superintendent’s decision, and thus could not have served as a predicate Federal action for the Superintendent’s involvement. *Id.* at 4.

Appellant filed a reply to the Tribe’s answer brief.⁶ Appellant reiterates his contention that the key to his appeal is determining whether a matter requiring Federal action exists, arguing that “if [the Board] finds . . . that a [F]ederal action exists, BIA would be held responsible to determine whether a tribal governing body is properly constituted and therefore qualified to represent the [T]ribe in dealings with BIA.” Reply Br., Oct. 1, 2013, at 2. In responding to the Tribe’s argument that he lacks standing because his

⁴ After the Tribe’s November 3, 2012, election meeting, the Tribe’s Secretary/Treasurer, Sarah Garcia, sent Appellant a Notice of Tribal Action, notifying Appellant that his revenue payments had been discontinued for 1 year as penalty for various alleged offenses. Opening Brief (Br.), July 24, 2013, Att. (Notice of Tribal Action, Nov. 16, 2012).

⁵ The Tribe generally disputes Appellant’s allegations of improprieties and civil rights violations, but contends that those allegations are not relevant to a decision in this case.

⁶ The Regional Director did not file briefs in Docket Nos. 13-109 or 14-008.

dispute is with the Tribe, Appellant argues that his dispute is not with the Tribe but with BIA's inaction: "[M]y appeals are [from] the inaction of BIA officials to act as required when a Federal action exists, to restore a legal tribal governing body that will protect the legal rights of the tribal members to expect and participate in legally called and conducted tribal meetings to conduct legal government-to-government relations." *Id.* at 5.

II. Docket No. 14-008: August 30, 2013, Decision Declining to Address Appellant's Contention That the Tribe's Secretary/Treasurer is Not a Tribal Member and That Her Actions are Invalid

In March 2013, while his appeal from the Superintendent's decisions was pending before the Regional Director, Appellant wrote to the Regional Director to bring to her attention a letter dated in 2001 in which Sarah Garcia, the Tribe's Secretary/Treasurer, had relinquished her membership in the Tribe. Letter from Appellant to Regional Director, Mar. 21, 2013, at 1 (Docket No. 14-008 AR Tab 4.H). Appellant conceded that when the letter surfaced, in 2011, he had gone along with a tribal resolution "to quell the relinquishment letter," but believed that action was wrong and ineffective. *Id.* at 1-2.⁷ Appellant stated that he thought it "incumbent upon [him] as a tribal member to expose this ugly truth," *id.* at 1, and he contended that Garcia's participation in tribal meetings required BIA to "uphold my appeal" and find that the "improperly noticed and improperly conducted" meetings "must be ruled invalid and a new tribal election be properly conducted," *id.* at 3.

The Regional Director's May 16 Decision did not address Appellant's charges concerning Garcia. Following that decision, Appellant again wrote the Regional Director to argue that Garcia, a "non-member of our tribe is illegally representing our tribe and expending tribal funds, federal and otherwise." Letter from Appellant to Regional Director, July 1, 2013 (Docket No. 14-008 AR Tab 4.F). Appellant asked that BIA "immediately rule that all actions taken by Sarah Garcia acting in her fraudulent capacity as an Elem tribal member or Elem tribal official be ruled invalid and a letter to that effect be immediately issued to the tribe." *Id.* at 2. When the Regional Director failed to respond, Appellant wrote again, asserting that "[t]he responsibility or duty to identify a tribal representative is a specific Federal action by BIA to properly and legally carry out it[s] duties." Letter from Appellant to Regional Director, July 10, 2013, at 2 (Docket No. 14-008 AR Tab 4.E). Appellant advised the Regional Director that the issue regarding Garcia was "separate" and not part of his appeal from the May 16 Decision. *Id.* at 1.

⁷ In 2011, Appellant was Vice-Chairman of the Executive Committee and Garcia was Secretary/Treasurer. See *Johnson v. Pacific Regional Director*, 54 IBIA 60, 60 n.2 (2011). In the 2012 tribal election, which Appellant contends was invalid, Garcia was reelected Secretary/Treasurer.

On August 30, 2013, the Regional Director responded to Appellant, stating that, as indicated in the May 16 Decision, BIA's ability to review tribal actions to determine if it is working with duly elected officials is dependent upon the existence of a separate Federal action that BIA is required to take. Letter from Regional Director to Appellant, Aug. 30, 2013 (August 30 Decision) (Docket No. 14-008 AR Tab 3). The Regional Director concluded that "[t]his matter is currently pending" before the Board in Docket No. 13-109. *Id.* at 1. The Regional Director also stated that Appellant's "allegations relating to relinquishment of membership, a fraudulent tribal member, loss of per-capita payments, and loss of voting rights are all internal tribal matters that do not require federal action by BIA." *Id.* at 2 (unnumbered).

Appellant appealed the August 30 Decision to the Board, arguing that his request regarding Garcia was entirely separate from the issues raised in Docket No. 13-109, and thus the Regional Director had erred in concluding that the pendency of that appeal had divested BIA of jurisdiction. Notice of Appeal, Sept. 12, 2013, at 1. The Tribe filed an answer brief. In addition to arguing that the Regional Director's response to Appellant was correct, the Tribe argues that the Board lacks jurisdiction over Appellant's claim that Garcia relinquished her tribal membership because the Board lacks jurisdiction over tribal enrollment disputes. Tribe's Answer Br., Feb. 26, 2014, at 1-2. Appellant filed a reply brief. Appellant states that he understands that the Board does not adjudicate enrollment disputes, but suggests that his more limited objective is to enforce BIA's obligation to determine that it is working with a legally constituted government. Appellant's Reply Br., Mar. 5, 2014, at 7.

III. Docket No. IBIA 14-074: Appeal from Regional Director's Failure to Respond to "New Evidence" of BIA's Obligation to Review and Decide the Validity of Tribal Actions

On December 27, 2013, while the appeals in both Docket Nos. 13-109 and 14-008 were pending, Appellant sent a letter to the Regional Director, "based upon new evidence," asking her to "discharge your duty under the government-to[-]government relationship to decline to recognize the results of a tribal action when [BIA] finds that a violation of [ICRA] has occurred," and referring to the Tribe's November 3, 2012, election. Letter from Appellant to Regional Director, Dec. 27, 2013, at 1. Appellant cited the Board's decision in *United Keetoowah Band* as authority for the Regional Director having an obligation to take action. *Id.* Appellant also again invoked the 2011 opinion of the Tribe's attorney that a General Council meeting from which tribal members were improperly excluded would be invalid. *Id.* at 3. Appellant demanded action from the Regional Director, pursuant to 25 C.F.R. § 2.8 (appeal from inaction of official), and when the Regional Director did not respond, Appellant filed an appeal with the Board from her alleged inaction. Notice of Appeal, Mar. 10, 2014. The Board solicited information from the Regional Director on whether she had responded to Appellant's December 27 letter.

The Board also expressed uncertainty about whether Appellant’s request for action by the Regional Director was, in effect, a request for her to reconsider her May 16 Decision, over which she would lack jurisdiction because of the pendency of the appeal in Docket No. 13-109. The Board understood the “new evidence” referred to by Appellant as a letter from the Tribe’s Chairman in 2011 incorporating the legal opinion of the Tribe’s attorney regarding proper notice for tribal meetings.

The Regional Director moved to dismiss Appellant’s § 2.8 appeal on the ground that the subject of Appellant’s demand for BIA action was subsumed by the pending appeal in Docket No. 13-109, implicating the Regional Director’s May 16 Decision, and thus BIA lacked jurisdiction over the matter. Regional Director’s Motion to Dismiss, Apr. 10, 2014, at 2.⁸ The Tribe supports the Regional Director’s motion to dismiss.

Appellant filed a response in opposition to the motion to dismiss, first arguing that both the Board and the Regional Director were incorrect in their understanding of the “new evidence” that formed the basis of Appellant’s § 2.8 demand. Appellant’s Response to Order and Motion, Apr. 21, 2014, at 2. According to Appellant, the “new evidence” he was presenting was language from Board precedent, specifically the “explicit language” that Appellant had found in *Naylor* and *United Keetoowah Band*, regarding BIA’s authority and responsibility to discharge its duties when it finds a violation of ICRA. *Id.*

Discussion

I. Docket No. 13-109: May 16, 2013, Decision

We affirm the Regional Director’s decision in Docket No. 13-109, rejecting Appellant’s request for a determination regarding the validity of the November 3, 2012, tribal election, though we do so on grounds different from those relied on by the Regional Director. The Regional Director and Appellant are both mistaken in focusing on the question of whether there was a separate matter pending before the Superintendent that required or warranted Federal action. The Tribe is correct that the threshold issue is whether Appellant had standing, as an individual Tribal member, to seek and obtain BIA’s intervention into tribal affairs. Even assuming that a separate matter was pending for BIA action, and that the Superintendent could or should have evaluated the validity of the tribal election meeting in another context—e.g., a competing request from another group claiming to have been elected as the Tribe’s Executive Committee—Appellant lacked

⁸ The Regional Director also argues that Appellant’s § 2.8 demand was procedurally defective because Appellant had not first separately requested a specific action from the Regional Director. Regional Director’s Motion to Dismiss at 2 (citing 25 C.F.R. § 2.8(a)(1)).

standing, as an individual tribal member, to seek or obtain such intervention. Therefore, the Superintendent correctly declined Appellant's request and the Regional Director correctly upheld that decision. In this case, Appellant did not even claim, when he sought the Superintendent's intervention, that his own rights had been adversely affected by any tribal action. Appellant contended that the November 3, 2012, tribal election meeting was not properly noticed, but his correspondence to BIA indicates that he attended the meeting, and he did not contend that he was denied a right to vote in the tribal election.⁹

It is well-established that an individual tribal member lacks standing to pursue a claim that is based upon his or her assessment of what is in the best interests of the tribe or the tribal membership. See *Visintin v. Midwest Regional Director*, 60 IBIA 337, 339-40 (2015) (and cases cited therein); *United Keetoowah Band*, 22 IBIA at 76-77 n.2 (citing *Frease v. Sacramento Area Director*, 17 IBIA 250, 256 (1989)). In addition, to the extent Appellant sought to vindicate the rights of Smith or other disenfranchised members, he lacked standing to assert the rights or interests of third parties. See *Quapaw Tribal Remediation Authority v. Eastern Oklahoma Regional Director*, 61 IBIA 55, 64-65 (2015); *Hazard v. Eastern Regional Director*, 59 IBIA 322, 326 n.5 (2015).

Thus, contrary to Appellant's argument, the presence of some Federal action would not have "opened the door" to impose upon BIA a duty to Appellant to consider his request for relief, and if a violation were found, to declare the tribal election meeting, or other meetings and actions, invalid, in order to "hold the Tribe accountable" and force a new election. As the Board recently stated, "the requirement for a separate matter to require or warrant BIA action does not mean that if such a matter is pending, BIA then has open-ended authority to intervene in a tribal dispute and address alleged ICRA violations." *Hazard v. Eastern Regional Director*, 59 IBIA 322, 326 (2015). Because Appellant lacked standing, the presence or absence of a separate matter requiring or warranting BIA action was irrelevant.

The Board's decisions in *Naylor* and *United Keetoowah Band*, upon which Appellant relies heavily, are not to the contrary. The language in those cases regarding BIA's "authority and responsibility" to decline to recognize the results of tribal action when it finds a violation of ICRA must be read in context. In *Naylor*, the appellants were candidates for office in an election that BIA declined to recognize. 23 IBIA at 76. In *United Keetoowah Band*, the appeals were brought on behalf of the tribe itself and two

⁹ We do not mean to imply that had Appellant been denied the right to vote, he would have been able to establish all of the elements of standing, or would have been entitled to BIA intervention, but at least he might have been able to establish some threshold injury at the time he made his request to the Superintendent in November 2012, initiating the proceedings.

candidates for office. 22 IBIA at 76, 78. Far from recognizing that an individual tribal member has standing to invoke BIA action to address alleged ICRA violations, in *United Keetoowah Band* the Board reaffirmed its previous dismissal of a related appeal by an individual tribal member for lack of standing. *Id.* at 76-77 n.2. Thus, whatever the import of the Board's language in those cases, when viewed in the proper context, neither case supports Appellant's argument that BIA had a duty or obligation in this case to take the actions requested by Appellant.

II. Docket No. 14-008: August 30, 2013, Decision

Appellant similarly lacked standing to seek BIA's intervention to declare invalid actions taken by the Tribe's Secretary/Treasurer, and thus we affirm on that ground the Regional Director's August 30 Decision rejecting Appellant's request for such intervention.¹⁰

III. Docket No. 14-074: Regional Director's Failure to Respond to § 2.8 Demand

In Appellant's appeal from the Regional Director's alleged inaction in response to Appellant's December 27, 2013, letter demanding that BIA "discharge its duties," we grant the Regional Director's motion to dismiss. It is apparent that the "new evidence" on which Appellant relied in again demanding action from the Regional Director was language from Board decisions that Appellant had cited repeatedly in connection with his prior demands for action, and we are not convinced that the December 27 request was severable from his pending appeals. In addition, it is not apparent that Appellant complied with the procedural prerequisites of filing a § 2.8 appeal. In any event, this appeal from alleged inaction has been rendered moot by our decision that Appellant lacked standing, as an individual tribal member, to demand that BIA remedy alleged violations of ICRA or tribal law.

Conclusion

In response to Appellant's demands for BIA intervention and a determination regarding the validity of tribal meetings and tribal actions that Appellant contends violated tribal law and ICRA, BIA properly declined to do so because Appellant lacked standing, as an individual tribal member, to seek such intervention.

¹⁰ We do not understand Appellant to be asking the Board to adjudicate the underlying membership issue with respect to Garcia, but of course, to the extent a determination of that issue were required, we would lack jurisdiction to do so because we lack jurisdiction to adjudicate tribal membership disputes. *See* 43 C.F.R. § 4.330(b)(1).

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 affirms the Regional Director's May 16, 2013, and August 30, 2013, decisions in Docket Nos. 13-109 and 14-008, and we dismiss as moot Appellant's § 2.8 appeal in Docket No. 14-074.

I concur:

// original signed
Steven K. Linscheid
Chief Administrative Judge

//original signed
Thomas A. Blaser
Administrative Judge