



INTERIOR BOARD OF INDIAN APPEALS

Chemehuevi Indian Tribe, On Its Own Behalf and On Behalf Of Its Assignees,
John W. Hernandez, Sharon Melissa Kaseman, Brian Kellywood,
Steven Dale Maderos, and Adam Steven Trujillo, Sr. v. Acting Western Regional Director,
Bureau of Indian Affairs

52 IBIA 364 (12/30/2010)

Judicial review of this case:

Affirmed, *Chemehuevi Indian Tribe v. Salazar*, No 11-4437 SVW (C.D. Cal. Aug. 6, 2012),
aff'd, *Chemehuevi Indian Tribe v. Jewell*, ___F.3d___, 2014 WL 4627994 (9th Cir. 2014).

l Board cases:

45 IBIA 81

46 IBIA 298

52 IBIA 192



United States Department of the Interior

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CHEMEHUEVI INDIAN TRIBE, ON)	Order Summarily Affirming Decision
ITS OWN BEHALF AND ON)	
BEHALF OF ITS ASSIGNEES,)	
JOHN W. HERNANDEZ,)	
SHARON MELISSA KASEMAN,)	
BRIAN KELLYWOOD, STEVEN)	
DALE MADEROS, and ADAM)	
STEVEN TRUJILLO, Sr.,)	
Appellants,)	Docket No. IBIA 10-102
)	
v.)	
)	
ACTING WESTERN REGIONAL)	
DIRECTOR, BUREAU OF)	
INDIAN AFFAIRS,)	
Appellee.)	December 30, 2010

On October 26, 2010, the Board of Indian Appeals (Board) affirmed two decisions by the Western Regional Director (Regional Director) in which he stated that 29 land assignments — made by the Chemehuevi Indian Tribe (Tribe) to tribal members — “may not be approved” under 25 U.S.C. § 81. *Chemehuevi Indian Tribe v. Western Regional Director*, 52 IBIA 192 (2010) (*Chemehuevi*). The present appeal concerns the Tribe’s challenge to an identical decision by the Regional Director, issued May 3, 2010, in which he held that an additional 5 land assignments made by the Tribe “may not be approved” under § 81.¹ We now summarily affirm the Regional Director’s May 3 Decision for the reasons asserted in *Chemehuevi*.

This appeal has been stayed since its receipt by the Board, pending our consideration of and decision in *Chemehuevi*. At the same time *Chemehuevi* was decided, we also issued an order lifting the stay in the present appeal and directing the Tribe to show cause (OSC) why

¹ The Tribe appeals on behalf of itself as well as the five assignees, John W. Hernandez, Sharon Melissa Kaseman, Brian Kellywood, Steven Dale Maderos, and Adam Steven Trujillo, Sr.

we should not summarily affirm the Regional Director's May 3 Decision. The Tribe's response was due to the OSC on or before December 7, 2010. No response has been received by the Board.

It appears that the Tribe authorized the five land assignments at issue in the present appeal pursuant to the same tribal land assignment program as the land assignments reviewed in *Chemehuevi*.² It further appears that the Regional Director's May 3 Decision, like the decisions reviewed in *Chemehuevi*, simply stated that the land assignments could not be approved for the reasons stated in an earlier, August 10, 2005, decision in which the Regional Director declined to approve still other land assignments made by the Tribe pursuant to the same tribal land assignment program.³ And, since the Tribe has not responded to the OSC, we see no reason why we should not summarily affirm the Regional Director's May 3 Decision for the reasons set forth in *Chemehuevi*.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, and for the reasons set forth in *Chemehuevi Indian Tribe v. Western Regional Director*, 52 IBIA 192 (2010), the Board summarily affirms the Regional Director's May 3, 2010, decision.

I concur:

// original signed
Debora G. Luther
Administrative Judge

// original signed
Steven K. Linscheid
Chief Administrative Judge

² When it filed the instant appeal, the Tribe suggested that this appeal could be consolidated with the appeals decided in *Chemehuevi* because, *inter alia*, the legal arguments and material facts were identical. Given the absence of response to the Board's OSC and our disposition of this appeal, the Board did not order the record. Therefore, we accept the Tribe's representation that the critical facts underlying the present appeal are the same as those in *Chemehuevi*.

³ The Tribe appealed the Regional Director's August 10 Decision to the Board, where it was dismissed as untimely. *Chemehuevi Indian Tribe v. Acting Western Regional Director*, 45 IBIA 81 (2007). In the Board's October 26 decision in *Chemehuevi*, the Board declined to apply the principles of *res judicata*, and reviewed the merits of the Tribe's challenges to the August 10 Decision.