CLARA NOMEE, SECRETARY,	:	Order Vacating Area Director's
CROW TRIBE,	:	Decision and Remanding Case
Appellant	:	
	:	
v.	:	
	:	Docket No. IBIA 90-10-A
ACTING BILLINGS AREA DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	December 20, 1989

This is an appeal from an October 3, 1989, 1/ decision of the Acting Billings Area Director, Bureau of Indian Affairs, concerning the release of Crow tribal funds to Richard Real Bird, Chairman of the Crow Tribe.

On September 27, the Area Director issued two authorizations for release of tribal funds (one for $71,437.17 and one for $218,358.00) to Real Bird. On October 3, the Area Director advised Real Bird that the funds would be paid from the United States Treasury on October 6. Appellant filed a notice of appeal from the September 27 authorizations with the Area Director and a notice of appeal from the October 3 decision with the Board.

Appellant's notice of appeal to the Board was received on October 5. The Board issued a pre-docketing notice on the same date. Because appellant indicated that the Area Director might attempt to implement his decision even though a notice of appeal had been filed, the Board also issued an order staying the effect of the decision. 2/

Following denial of several preliminary motions filed by the Crow Tribe, the appeal was docketed on October 26. Expedited consideration was granted. A partial release of funds was authorized by the Board on November 15. 3/

1/ All dates are 1989 dates.

2/ The order was issued for purposes of clarification only. Under the Department's regulations, a decision is not effective during the time when it may be appealed, or after the filing of a notice of appeal, unless it has been put into immediate effect by the official or appeals board before whom the appeal is pending. 25 CFR 2.6(a); 43 CFR 4.21; 43 CFR 4.314(a).

3/ In the same order, the motion of Jerome J. Cate, Esq., to appear on behalf of 74 Crow tribal employees was granted. The employees filed a number of motions, some of which were similar to motions filed earlier by the Crow Tribe and denied by the Board. The employees' motions were taken under advisement.

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On November 14, the Board received a motion to dismiss this appeal from Real Bird. Real Bird states that he has withdrawn his request to draw down tribal funds and argues that the appeal is therefore moot. He also states that he has instituted a declaratory judgment action in Crow Tribal Court which will resolve the issue of the lawful authority to administer the Crow tribal government.

In her response to Real Bird's motion, appellant agrees that this appeal should be dismissed. The Area Director also agrees that the appeal should be dismissed and recommends that the Board issue an order vacating his decision.

In view of Real Bird's withdrawal of the request which gave rise to the decision on appeal here, and in view also of appellant's and appellee's concurrence with Real Bird's motion to dismiss, the Board finds that it should dispose of this appeal. 4/ The Board agrees with the Area Director that his decision should be vacated.

Appellant's November 2 motion to consolidate her appeals from the September 27 authorizations and the October 3 decision is granted. All other pending motions are denied.

Pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, the Area Director's September 27, 1989, authorizations for release of tribal funds and his October 3, 1989, decision are vacated, and this case is remanded to the Area Director for whatever further action may be appropriate. 5/

_____
Anita Vogt
Administrative Judge

_____
Kathryn A. Lynn
Chief Administrative Judge

4/ This is particularly appropriate in light of the Board's well-established policy of deference to a tribe's authority to interpret its own laws and resolve its own internal disputes. See, e.g., Wright v. Aberdeen Area Director, 17 IBIA 296, 298 (1989); Fort McDermitt Paiute Shoshone Tribe v. Acting Phoenix Area Director, 16 IBIA 221, 223 (1988).

5/ The tribal employees did not respond to Real Bird's motion. Even if the employees had opposed Real Bird's motion, the Board would find, under the circumstances present here, that it should not unduly delay the ultimate resolution of this matter by retaining jurisdiction over this appeal.

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