



INTERIOR BOARD OF INDIAN APPEALS

Executive Committee of the Elem Indian Colony v. Sacramento Area Director,
Bureau of Indian Affairs

27 IBIA 181 (02/14/1995)



United States Department of the Interior

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

EXECUTIVE COMMITTEE OF	:	Order Docketing and Dismissing
THE ELEM INDIAN COLONY,	:	Appeal
Appellant	:	
	:	
v.	:	Docket No. IBIA 95-75-A
ACTING SACRAMENTO AREA	:	
DIRECTOR, BUREAU OF	:	
INDIAN AFFAIRS,	:	
Appellee	:	February 14, 1995

On February 13, 1995, the Board of Indian Appeals received a notice of appeal from the Executive Committee of the Elem Indian Colony, through Mable E. Fourkiller, its Vice Chairperson. Appellant states that it seeks review of a January 13, 1995, decision of the Sacramento Area Director, Bureau of Indian Affairs (Area Director), concerning the Colony's General Council meetings of May 28 and July 23, 1994.

The Area Director's January 13, 1995, decision declined to reconsider a November 16, 1994, decision issued by an Acting Area Director. The November 16, 1994, decision stated:

This decision may be appealed to the Interior Board of Indian Appeals, 4015 Wilson Boulevard, Arlington, Virginia 22203, in accordance with the regulations in 43 CFR 4.310-4.340. Your notice of appeal to the Board must be signed by you or your attorney and must be mailed within 30 days of the date you receive this decision. * * * You must send copies of your notice of appeal to (1) the Assistant Secretary - Indian Affairs, * * * (2) each interested party known to you, and (3) this office. Your notice of appeal sent to the Board of Indian Appeals must certify that you have sent copies to these parties. * * *

If no appeal is timely filed, this decision will become final for the Department of the Interior at the expiration of the appeal period. No extension of time may be granted for filing a notice of appeal. [Emphasis in original.]

It is apparent that the decision for which appellant really seeks review is the November 16, 1994, decision. Instead of filing a notice of appeal from that decision, however, appellant sought reconsideration from the Area Director. 25 CFR Part 2 makes no specific provision for Area Directors' reconsideration of their own decisions. Thus, although appellant was not precluded from seeking reconsideration from the Area Director, the fact that it did so did not extend the period of time within which it was required to file its notice of appeal with the Board.

Appellant has failed to file a timely notice of appeal. The Acting Area Director's November 16, 1994, decision clearly informed it that its notice of appeal was to be filed with the Board and provided the Board's address. Appellant did not follow the Acting Area Director's instructions. Accordingly, its appeal must be dismissed as untimely.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, this appeal is docketed and dismissed.

//original signed
Anita Vogt
Administrative Judge

//original signed
Kathryn A. Lynn
Chief Administrative Judge