



INTERIOR BOARD OF INDIAN APPEALS

Jamul Indian Village v. Sacramento Area Director, Bureau of Indian Affairs

29 IBIA 90 (02/21/1996)



## United States Department of the Interior

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

JAMUL INDIAN VILLAGE,	:	Order Docketing and Dismissing
Appellant	:	Appeal as Premature
	:	
v.	:	
	:	Docket No. IBIA 96-45-A
SACRAMENTO AREA DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	February 21, 1996

On February 14, 1996, the Board of Indian Appeals received a notice of appeal filed by Patrick D. Webb, Esq., San Diego, California, purportedly on behalf of Jamul Indian Village (appellant) and its members. <sup>1/</sup> Appellant states that it seeks review of a December 5, 1994, decision issued by the Superintendent, Central California Agency, Bureau of Indian Affairs (Superintendent; BIA) concerning a September 4, 1994, recall election and a subsequent election within the Village, as well as August 3 and 4, 1995, decisions issued by the Superintendent concerning a June 17, 1995, election within the Village.

Appellant states that it has appeals pending before the Sacramento Area Director, BIA (Area Director), concerning all three of the Superintendent's decisions and that it filed an additional statement of reasons concerning all three decisions on December 11, 1995. Appellant believes that the Area Director was required to issue a decision within 60 days after December 11, 1995.

25 CFR 2.19 requires that Area Directors "render written decisions in all cases appealed to them within 60 days after all time for pleadings (including extensions granted) has expired." The term "all pleadings" includes answers of interested parties under 25 CFR 2.11. E.g., *Cheyenne River Sioux Tribe v. Aberdeen Area Director*, 23 IBIA 103 (1992). If appellant was permitted to file a supplemental statement of reasons with the Area Director, interested parties were entitled to file supplemental answers within 30 days of receipt of appellant's supplemental statement of reasons. The Area Director's 60-day period for issuing his decision did not begin to run until the time for filing supplemental answers expired.

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<sup>1/</sup> For purposes of this order, the Board considers the Village to be the appellant. However, the decisions for which appeal is sought concern recall and other elections within the Village. Such matters are intra-tribal disputes, and thus it appears extremely unlikely, were the Board to reach the merits here, that it would find the village itself to be a proper appellant.

This appeal is therefore premature.

In any event, appellant does not allege that it has followed the procedures in 25 CFR 2.8. That provision sets out the steps that a party must take in to order to appeal the inaction of a BIA official to a higher official. Inactions subject to this provision include alleged failures to issue decisions within required time periods. Ruby Sun Goes Slow Simpson v. Billings Area Director, 26 IBIA 143 (1994).

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 but is dismissed as premature.

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//original signed

Anita Vogt  
Administrative Judge

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//original signed

Kathryn A. Lynn  
Chief Administrative Judge