INTERIOR BOARD OF INDIAN APPEALS

Ziebach County, South Dakota v. Great Plains Regional Director,
Bureau of Indian Affairs

35 IBIA 257 (12/19/2000)

United States Department of the Interior

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

ZIEBACH COUNTY, SOUTH DAKOTA, Appellant	: Order Docketing and Dismissing Appeal
v.	:
	: Docket No. IBIA 01-27-A
GREAT PLAINS REGIONAL DIRECTOR, BUREAU OF INDIAN AFFAIRS, Appellee	: December 19, 2000

On November 13, 2000, the Board received from the Great Plains Regional Director, Bureau of Indian Affairs (Regional Director; BIA), a copy of a notice of appeal which Ziebach County, South Dakota (Appellant), apparently intended to file with the Board. The notice indicated that Appellant sought to challenge a July 28, 2000, decision issued by the Regional Director concerning a trust acquisition for Carson G. Williams, a member of the Cheyenne River Sioux Tribe.

Appellant's notice of appeal was dated August 25, 2000, and did not show that it had been sent to the Board. The copy transmitted by the Regional Director was the first copy of the notice received by the Board.

The Regional Director's July 28, 2000, decision correctly stated that any notice of appeal filed by Appellant was required to be mailed to the Board within 30 days of Appellant's receipt of that decision. According to the return receipt for certified mail (green card) for Appellant's copy of the decision, counsel for Appellant received the decision on July 31, 2000.

The Board gave Appellant an opportunity to show that it had filed a timely notice of appeal with the Board. In its response, Appellant concedes that it failed to mail a notice of appeal to the Board. Appellant's counsel states:

> While I understand the CFR rules regarding this matter, I would still ask that the appeal still be heard by your office as although the original Notice was not filed with the Board of Appeals, all interested parties were aware of the Notice and their rights have been preserved and no one has been prejudiced.

As Appellant recognizes, the timely filing of notices of appeal is a requirement imposed by the Board's regulations. Those same regulations prohibit the Board from considering an untimely appeal. See 43 C.F.R. § 4.332(a): "A notice of appeal not timely filed shall be dismissed for lack of jurisdiction."

Appellant has failed to file a timely notice of appeal. Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, this appeal is docketed but is dismissed for lack of jurisdiction.

//original signed
Anita Vogt
Administrative Judge

//original signed
Kathryn A. Lynn
Chief Administrative Judge