



INTERIOR BOARD OF INDIAN APPEALS

Craig Thorstenson v. Superintendent, Cheyenne River Agency,
Bureau of Indian Affairs

39 IBIA 87 (07/08/2003)

Related Board case:
39 IBIA 67

Related Federal case:
Thorstenson v. Norton, 440 F.3d 1059 (8th Cir. 2006)



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
801 NORTH QUINCY STREET
SUITE 300
ARLINGTON, VA 22203

CRAIG THORSTENSON,	:	Order Docketing and Dismissing
Appellant	:	Appeal
	:	
v.	:	
	:	Docket No. IBIA 03-115-A
SUPERINTENDENT, CHEYENNE	:	
RIVER AGENCY, BUREAU OF	:	
INDIAN AFFAIRS,	:	
Appellee	:	July 8, 2003

Appellant Craig Thorstenson, through counsel, James E. Carlon, Esq., sought review of a May 21, 2003, trespass notice issued by the Superintendent, Cheyenne River Agency, Bureau of Indian Affairs (Superintendent; BIA). On July 1, 2003, the Board of Indian Appeals (Board) received a copy of Appellant's notice of appeal by fax from the Office of the Field Solicitor, Ft. Snelling, Minnesota. The appeal appears to have been filed with the Hearings Division, Office of Hearings and Appeals. In order to prevent any confusion over the appeal and for the reasons discussed below, the Board docketed and dismisses this appeal.

The federal regulations at 25 C.F.R. Part 166 govern trespass on Indian lands. The Board has interpreted the appeal of trespass notices in Miller v. Rocky Mountain Regional Director, 39 IBIA 57 (2003). There, the Board held that 25 C.F.R. § 166.803(c) restricts administrative appeals from the actual trespass notice. However, an appeal from the finding of trespass or from any action that BIA takes as a result of its finding of trespass may be taken under 25 C.F.R. Part 2, unless provided otherwise. ^{1/} A copy of Miller is attached.

Therefore, neither the Hearings Division nor this Board, has jurisdiction to review the trespass notice. If the Hearings Division has docketed the appeal, it is instructed to dismiss it.

^{1/} The process in 25 C.F.R. § 2.4 is that the Superintendent's decision would be appealed to the Regional Director, and the Regional Director's decision would be appealed to the Board.

Pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C. F. R. § 4.1, the appeal of the Superintendent's May 21, 2002, decision is docketed but dismissed.

//original signed
Kathleen R. Supernaw
Acting Administrative Judge

//original signed
Kathryn A. Lynn
Chief Administrative Judge