



INTERIOR BOARD OF INDIAN APPEALS

California Valley Miwok Tribe v. Pacific Regional Director, Bureau of Indian Affairs

41 IBIA 91 (06/06/2005)



United States Department of the Interior

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

CALIFORNIA VALLEY MIWOK TRIBE,	:	Order Docketing and
Appellant,	:	Dismissing Appeal
	:	
v.	:	
	:	Docket No. IBIA 05-76-A
PACIFIC REGIONAL DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee.	:	June 6, 2005

On June 2, 2005, the Board received a notice of appeal from the California Valley Miwok Tribe (Tribe), seeking review of a May 4, 2005, decision of the Pacific Regional Director, Bureau of Indian Affairs (Regional Director; BIA). The Regional Director denied the Tribe's request that it be removed from the jurisdiction of the Central California Agency, BIA, and be placed under the jurisdiction of the Northern California Agency, BIA. The Board docketed the appeal, but dismisses it for lack of jurisdiction.

The Tribe's appeal was filed pursuant to 43 C.F.R. §§ 4.310-4.340 and 25 C.F.R. Part 2. Under 43 C.F.R. § 4.330(a), the Board's jurisdiction over appeals from decisions of BIA officials is limited to reviewing decisions issued under 25 C.F.R. Chapter I. Decisions to change — or decline to change — BIA's organizational structure are not made under regulations in 25 C.F.R. Chapter I. Nez Perce Tribe v. Northwest Regional Director, 36 IBIA 237, 241-42 (2001). ^{1/} Nor has this matter been referred to the Board by the Assistant Secretary - Indian Affairs. See 43 C.F.R. § 4.330(a). Therefore, the Board does not have jurisdiction over this appeal.

^{1/} The Regional Director's decision advised the Tribe of its right to appeal to the Board. It was prudent for the Regional Director to include the standard appeal instructions, leaving the jurisdictional decision to the Board. Such advice cannot, of course, vest the Board with jurisdiction it does not otherwise have.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, the Board docketed this appeal, but dismisses it for lack of jurisdiction.

I concur:

// original signed
Steven K. Linscheid
Chief Administrative Judge

// original signed
Anita Vogt
Senior Administrative Judge