



INTERIOR BOARD OF INDIAN APPEALS

Michael Shayne Claymore v. Great Plains Regional Director, Bureau of Indian Affairs

43 IBIA 270 (09/29/2006)

Related Board cases:

43 IBIA 266

43 IBIA 274



United States Department of the Interior

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

MICHAEL SHAYNE CLAYMORE,	:	Order Docketing and Dismissing
Appellant,	:	Appeal
	:	
v.	:	
	:	Docket No. IBIA 06-124-A
GREAT PLAINS REGIONAL	:	
DIRECTOR, BUREAU OF INDIAN	:	
AFFAIRS,	:	
Appellee.	:	September 29, 2006

On September 28, 2006, the Board of Indian Appeals (Board) received a notice of appeal from Michael Shayne Claymore (Appellant), pro se. Appellant seeks review of an August 3, 2006 decision of the Great Plains Regional Director, Bureau of Indian Affairs (Regional Director; BIA), establishing a grazing rental rate of \$16.10 an Animal Unit Month for individually-owned Indian lands on the Cheyenne River Reservation for the 2007 grazing season, pursuant to 25 C.F.R. § 166.408. The Board docketed this appeal, but dismisses it for lack of jurisdiction because it is untimely.

A notice of appeal from a decision of a BIA Regional Director must be filed with the Board within 30 days after receipt by the appellant of the decision from which the appeal is taken. 43 C.F.R. § 4.332(a). The 30-day deadline for filing a notice of appeal is jurisdictional. Id.; Tsosie v. Acting Navajo Regional Director, 42 IBIA 131 (2006). Untimely appeals must be dismissed. State of Kansas v. Southern Plains Regional Director, 43 IBIA 229, 230 (2006).

In his notice of appeal, Appellant states that he received the Regional Director's decision on August 10, 2006. The Regional Director's decision provided correct appeal instructions, including the requirement that a notice of appeal be mailed to the Board within 30 days of the date that an appellant receives the Regional Director's decision. Appellant filed his notice of appeal on September 26, 2006, as evidenced by the postmark shown on the envelope in which his appeal was mailed. See 43 C.F.R. § 4.310(a).

Because Appellant filed his appeal after the 30-day time period expired, his appeal must be dismissed. 1/

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.01, the Board docketed this appeal, but dismisses it for lack of jurisdiction.

I concur:

// original signed
Steven K. Linscheid
Chief Administrative Judge

// original signed
Charles E. Breece
Acting Administrative Judge

1/ On September 5, 8 and 11, 2006, the Board received separately-filed appeals, numbering 18 in all, seeking review of the same August 3, 2006 Cheyenne River Reservation grazing rate decision of the Regional Director. On September 15, 2006, the Board consolidated those appeals. See Sept. 15, 2006 Order, Leroy and Linda DuBray, et al. v. Great Plains Regional Director. The DuBray appeal has been assigned IBIA Docket No. 06-114-A, and the other appeals are awaiting the assignment of docket numbers. Our dismissal of Claymore's appeal does not affect the remaining consolidated appeals, or Appellant's right to participate as an interested party (but not as an appellant) in that case.