



INTERIOR BOARD OF INDIAN APPEALS

Cathy Pendleton and Lower Sioux United, Inc. v. Assistant Secretary - Indian Affairs

45 IBIA 133 (08/07/2007)



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

CATHY PENDLETON and LOWER)	Order Docketing and Dismissing Appeal
SIOUX UNITED, INC.,)	
Appellants,)	
)	
v.)	Docket No. IBIA 07-119-A
)	
ASSISTANT SECRETARY - INDIAN)	
AFFAIRS)	
Appellee.)	August 7, 2007

On August 2, 2007, the Board of Indian Appeals (Board) received a notice of appeal, a statement of reasons, and a petition for a stay of decision from Cathy Pendleton and Lower Sioux United, Inc. (Appellants). Appellants seek review of a July 13, 2007, memorandum from the Assistant Secretary - Indian Affairs (Assistant Secretary) to the Midwest Regional Director, Bureau of Indian Affairs. The Assistant Secretary granted a request of the Lower Sioux Indian Community (Tribe) to waive 25 C.F.R. §§ 81.6(d) and 81.9, to permit all adult members of the Tribe who register to vote to cast ballots in a Secretarial election to amend the Tribe's Constitution and to allow the Tribe to establish an additional polling place. We docket the appeal, but dismiss it for lack of jurisdiction.

The Board's jurisdiction is limited to the authority vested in it by regulation or otherwise delegated to it by the Secretary of the Interior. *See* 43 C.F.R. § 4.1(b)(2); *Preckwinkle v. Pacific Regional Director*, 44 IBIA 45 (2006). The Board has very limited jurisdiction to review decisions of the Assistant Secretary. *See, e.g.*, 25 C.F.R. § 83.11 (decisions on petitions for federal tribal acknowledgment); 43 C.F.R. § 4.330 (matters specifically referred to the Board by the Assistant Secretary for review). Thus, the Board does not have general authority to review decisions of the Assistant Secretary, and no regulation, delegation, or referral grants the Board authority to review the decision at issue in this appeal. *See Standing Rock Sioux Tribe v. Acting Assistant Secretary - Indian Affairs*, 41 IBIA 188 (2005).

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

I concur:

 // original signed
Debra G. Luther
Administrative Judge

 // original signed
Steven K. Linscheid
Chief Administrative Judge