



## INTERIOR BOARD OF INDIAN APPEALS

Edson G. Gardner v. Acting Western Regional Director, Bureau of Indian Affairs

46 IBIA 105 (11/29/2007)

Denying Reconsideration of:  
46 IBIA 79



# United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS  
INTERIOR BOARD OF INDIAN APPEALS  
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EDSON G. GARDNER,	)	Order Denying Reconsideration
Appellant,	)	
	)	
v.	)	
	)	Docket No. IBIA 05-90-A
ACTING WESTERN REGIONAL	)	
DIRECTOR, BUREAU OF	)	
INDIAN AFFAIRS,	)	
Appellee.	)	November 29, 2007

On November 7, 2007, the Board of Indian Appeals (Board) affirmed the July 13, 2005, decision of the Acting Western Regional Director, which Appellant Edson G. Gardner had appealed to this Board. 46 IBIA 79. On November 19, 2007, the Board received a petition for reconsideration (Petition) from Appellant in which he reargues the merits of his appeal and raises new arguments not previously presented either to the Regional Director or to the Board.

Reconsideration of a decision of the Board will be granted only in extraordinary circumstances. 43 C.F.R. § 4.315; *Jacobs v. Great Plains Regional Director*, 43 IBIA 272 (2006). The Board affirmed the Regional Director’s decision because Appellant had failed to show any error in the decision. In his Petition, Appellant argues that the Board failed to adequately consider his arguments and he raises new, treaty-based arguments. The Board carefully considered the arguments raised by Appellant prior to issuing its November 7 decision. We are not convinced by Appellant’s renewed arguments in his Petition that our November 7 decision should be reconsidered.

With respect to the new arguments raised by Appellant in his Petition, the Board is not required to consider arguments raised for the first time in a petition for reconsideration. *Hackford v. Western Regional Director*, 37 IBIA 254 (2002). We see no reason to depart from that rule here.

Therefore, we conclude that Appellant does not show extraordinary circumstances warranting reconsideration of our decision to affirm the Regional Director’s July 13, 2005, decision. See 43 C.F.R. § 4.315; *Jacobs*, 43 IBIA 272.

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 denies reconsideration of 46 IBIA 79.

I concur:

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// original signed  
Debora G. Luther  
Administrative Judge

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// original signed  
Steven K. Linscheid  
Chief Administrative Judge