



INTERIOR BOARD OF INDIAN APPEALS

Ralph E. Alskog v. Northwest Regional Director,  
Bureau of Indian Affairs

51 IBIA 164 (03/03/2010)



## United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS  
INTERIOR BOARD OF INDIAN APPEALS  
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RALPH E. ALSKOG,	)	Order Docketing Appeal and Affirming
Appellant,	)	Decision
	)	
v.	)	
	)	
NORTHWEST REGIONAL	)	Docket No. IBIA 10-055
DIRECTOR, BUREAU OF INDIAN	)	
AFFAIRS,	)	
Appellee.	)	March 3, 2010

The Board of Indian Appeals (Board) received a notice of appeal from Ralph E. Alskog (Appellant), who appeals from the December 28, 2009, decision of the Northwest Regional Director (Regional Director), Bureau of Indian Affairs (BIA), in which the Regional Director dismissed as untimely Appellant's appeal from an October 15, 2009, decision of BIA's Puget Sound Agency Superintendent (Superintendent). We docket this appeal, and summarily affirm the Regional Director's December 28 decision because Appellant concedes that his appeal to the Regional Director was untimely, and this appeal is limited to that issue.

The scope of any appeal before the Board is limited to those issues decided, in this instance, by the Regional Director. 43 C.F.R. § 4.318; *Grinde v. Navajo Regional Director*, 42 IBIA 36, 38-39 (2005). At the time of his December 28 decision, the first issue before the Regional Director was whether Appellant's appeal was timely, and he held that Appellant's appeal was untimely because it was filed more than 30 days after Appellant received the Superintendent's decision. Therefore, it is the merits of the Regional Director's determination of timeliness over which the Board has jurisdiction, not the underlying merits of the Superintendent's decision.<sup>1</sup>

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<sup>1</sup> If the Board were to disagree with the Regional Director's determination of untimeliness, the Board would vacate the Regional Director's December 28 decision, and remand the matter to the Regional Director for a decision on the merits of Appellant's challenge to the Superintendent's decision.

Here, we summarily affirm the Regional Director's decision because, as Appellant concedes, he received the Superintendent's decision "on October 21, 2009 and [I] did not file my appeal with [the Regional Director] until November 23, 2009. It was postmarked 3 days late." Notice of Appeal at 1 (unnumbered). The Superintendent gave correct appeal instructions in her October 15 decision, informing Appellant that a "notice of appeal must be filed in [the Superintendent's] office within 30 days of the date you receive this decision." Oct. 15 decision at 2 (unnumbered); *see* 25 C.F.R. § 2.9(a) (30-day deadline for filing appeals). In addition, the Superintendent's decision informed Appellant that the decision would become final for the Department of the Interior upon expiration of the appeal period if an appeal were not timely submitted, and informed him that "[n]o extension of time may be granted for filing a notice of appeal." *Id.* at 3 (unnumbered); *see* 25 C.F.R. § 2.9(a) (same).

Inasmuch as Appellant concedes that his appeal to the Regional Director was filed 3 days late, given the accuracy of the Superintendent's appeal instructions, and given the limited scope of this appeal, we affirm the Regional Director's decision to dismiss Appellant's appeal as untimely.

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 docket the appeal but summarily affirms the Regional Director's December 28, 2009, decision.

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