



INTERIOR BOARD OF INDIAN APPEALS

Ray Roubideaux v. Rocky Mountain Regional Director,
Bureau of Indian Affairs

53 IBIA 83 (03/03/2011)



United States Department of the Interior

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

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| RAY ROUBIDEAUX, |) | Order Docketing and Dismissing |
| Appellant, |) | Appeal |
| |) | |
| v. |) | |
| |) | |
| ROCKY MOUNTAIN REGIONAL |) | Docket No. IBIA 11-070 |
| DIRECTOR, BUREAU OF |) | |
| INDIAN AFFAIRS, |) | |
| Appellee. |) | March 3, 2011 |

On February 16, 2011, the Board of Indian Appeals (Board) received an appeal from Ray Roubideaux (Appellant), alleging that the Rocky Mountain Regional Director (Regional Director), Bureau of Indian Affairs (BIA), had failed to respond to Appellant’s appeal to the Regional Director from a December 21, 2010, letter from the BIA Crow Agency Acting Superintendent (Superintendent).¹ We dismiss this appeal as premature because, contrary to Appellant’s belief, a decision by the Regional Director is not overdue.

Appellant filed his appeal with the Board on February 14, 2011, as shown by the date of its postmark. *See* 43 C.F.R. § 4.310(a) (date of mailing is date of filing). Appellant contends that neither the Regional Director nor the Superintendent responded to his appeal from the Superintendent’s December 21, 2010, letter, and that “[d]ue to the time frame expirations,” he forwarded his appeal to the Board. Notice of Appeal at 1.

The documentation provided by Appellant, however, shows that his notice of appeal from the Superintendent’s letter to the Regional Director is dated December 27, 2010, and that his statement of reasons sent to the Superintendent to support his appeal is dated January 27, 2011. Under BIA’s appeal regulations, after receiving an appellant’s statement of reasons, interested parties (which would include the Superintendent) have 30 days in which to respond, *see* 25 C.F.R. § 2.11(c), thus apparently making the due date for answer briefs sometime in early March. After the time for filing pleadings (including any

¹ The Superintendent’s letter responded to concerns raised by Appellant about allottee water rights under the Crow Tribe Water Rights Settlement Act of 2010, Pub. L. No. 111-291, Title IV, 124 Stat. 3097.

extensions) has passed, the Regional Director then has 60 days to render a decision regarding the appeal. *Id.* § 2.19(a). Thus, even under the strictest timetable, and assuming that the Regional Director granted no extensions, the time period in which the Regional Director is required to decide Appellant's appeal is approximately 2 months away. Accordingly, Appellant's appeal to the Board is premature. *See Castillo v. Pacific Regional Director*, 41 IBIA 190, 190-91 (2005); *Bellonger v. Aberdeen Area Director*, 34 IBIA 49 (1999).

In addition, the Board notes that none of the documentation provided with the notice of appeal indicates that Appellant complied with the requirements of 25 C.F.R. § 2.8 before filing his appeal with the Board. Section 2.8 provides specific procedures that would-be appellants must follow before a Regional Director's inaction is appealable to the Board. Thus, even if this appeal were not otherwise premature as an appeal from purported inaction, Appellant would still need to demonstrate that he complied with the requirements of § 2.8 before seeking to appeal from alleged inaction by the Regional Director.

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 but dismisses this appeal.

I concur:

// original signed
Steven K. Linscheid
Chief Administrative Judge

// original signed
Debora G. Luther
Administrative Judge