



INTERIOR BOARD OF INDIAN APPEALS

Tabeguache/Uncompahgre Indian Tribal Members, and Uinta Tribal Members v.
Uintah and Ouray Agency Superintendent, Bureau of Indian Affairs

53 IBIA 129 (03/30/2011)



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
801 NORTH QUINCY STREET
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ARLINGTON, VA 22203

TABEGUACHE/UNCOMPAHGRE)	Order Docketing, Dismissing, and
INDIAN TRIBAL MEMBERS, AND)	Referring Appeals to the Regional
UINTA TRIBAL MEMBERS,)	Director
Appellants,)	
)	
v.)	Docket Nos. IBIA 11-088
)	11-089
UINTAH AND OURAY AGENCY)	
SUPERINTENDENT, BUREAU)	
OF INDIAN AFFAIRS,)	
Appellee.)	March 30, 2011

On March 11, 2011, the Board of Indian Appeals (Board) received notices of appeal filed on behalf of “Tabeguache/Uncompahgre Indian Tribal Members” and “Uinta Indian Tribal Members” (collectively, Appellants), through Lynda M. Kozlowicz, Ute Tribal Advocate, and Edson G. Gardner, Uintah Descendant Advocate, of Kozlowicz & Gardner Advocate, Inc. (Kozlowicz & Gardner).¹ Appellants seek review of a February 9, 2011, letter of the Uintah and Ouray Agency Superintendent (Superintendent), Bureau of Indian Affairs (BIA), responding to several letters from Kozlowicz & Gardner, which the Superintendent understood as requests for BIA to issue corporate charters, under 25 U.S.C. § 477, to Kozlowicz & Gardner and to Appellants, and to conduct a Secretarial election, *see id.* § 476, on a “Proposed Amendment to the Ute Tribal Constitution.” *See* Letter from Superintendent to Kozlowicz & Gardner, Feb. 9, 2011, at 1-2.² We docket but summarily dismiss these appeals because we lack jurisdiction to review the Superintendent’s letter.

¹ The notices of appeal do not identify any member-individuals comprising Appellants. Because we summarily dismiss the appeals, we need not require Kozlowicz & Gardner to further identify the individuals on whose behalf the appeals were filed, nor do we need to determine whether Kozlowicz & Gardner has authority to represent Appellants in these appeals.

² The Superintendent concluded that he lacked authority to grant Appellants’ requests. The Superintendent did not include appeal instructions in his letter.

Under the general provisions for appealing an administrative action by a BIA official, a decision made by a BIA official subordinate to a regional director must first be appealed to the appropriate regional director before it can be appealed to the Board. *See Northern Cheyenne Livestock Ass'n v. Acting Superintendent, Northern Cheyenne Agency*, 43 IBIA 24, 24 (2006); 25 C.F.R. § 2.4(a) & (e); 43 C.F.R. § 4.331(a). Because Appellants have not exhausted their remedies within BIA through an appeal to the BIA Western Regional Director (Regional Director), the Board lacks jurisdiction. *See Demery v. Standing Rock Agency Superintendent*, 50 IBIA 136, 137 (2009). *See also Gardner v. Uintah and Ouray Agency Superintendent*, 51 IBIA 166, 167 (2010); *Kozłowicz & Gardner Advocates, Inc. v. Superintendent, Uintah and Ouray Agency*, 50 IBIA 201, 202 (2009). After the Regional Director issues a decision, and if that decision adversely affects Appellants, they may then appeal the Regional Director's decision to the Board. *See* 25 C.F.R. § 2.4(e); 43 C.F.R. § 4.331; *Hardy v. Acting Midwest Regional Director*, 42 IBIA 255, 256 (2006).

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 these appeals but dismisses them for lack of jurisdiction, and refers the appeals to the Regional Director for consideration.

I concur:

// original signed
Steven K. Linscheid
Chief Administrative Judge

// original signed
Debora G. Luther
Administrative Judge