



INTERIOR BOARD OF INDIAN APPEALS

Clementine Rice, et al. v. Portland Area Director, Bureau of Indian Affairs

18 IBIA 412 (09/04/1990)

Clarified:

19 IBIA 12



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
4015 WILSON BOULEVARD
ARLINGTON, VA 22203

CLEMENTINE RICE, ET AL.	:	Order Docketing and Dismissing
Appellants	:	Appeal
	:	
v.	:	
	:	Docket No. IBIA 90-135-A
PORTLAND AREA DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	September 4, 1990

Clementine Rice, Ralph E. Young, and Corrine K. Hill appeal from a July 13, 1990, decision of the Portland Area Director, Bureau of Indian Affairs, holding that 37 individuals were qualified to be enrolled in the Cow Creek Band of Umpqua Tribe of Indians under 25 U.S.C. § 712c (1982 and Supps.).

All three appellants received the Area Director's decision on July 18, 1990, as shown by the certified mail return receipts. Their notice of appeal is postmarked August 22, 1990. Accordingly, their appeal is untimely under 43 CFR 4.332(a), which requires that a notice of appeal be mailed "within 30 days after receipt by the appellant of the decision from which the appeal is taken." The Area Director's decision informed appellants of this requirement.

43 CFR 4.332(a) further provides that "[a] notice of appeal not timely filed shall be dismissed for lack of jurisdiction." Accordingly, this appeal must be dismissed.

For the reasons discussed in Deardorff v. Acting Portland Area Director, 18 IBIA 411 (1990), the Board would lack jurisdiction over this appeal even if it had been timely filed. Unlike Deardorff, this appeal is not referred to the Assistant Secretary - Indian Affairs for consideration under 25 CFR Part 62 because, in addition to being untimely under the Board's regulations, it is also untimely under 25 CFR 62.5(c).

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, this appeal from the Portland Area Director's July 13, 1990, decision is dismissed.

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Anita Vogt
Administrative Judge

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Kathryn A. Lynn
Chief Administrative Judge