



INTERIOR BOARD OF INDIAN APPEALS

Loren Corpuz v. Acting Northwest Regional Director, Bureau of Indian Affairs

35 IBIA 149 (08/15/2000)



United States Department of the Interior

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

LOREN CORPUZ,
Appellant

v.

ACTING NORTHWEST REGIONAL
DIRECTOR, BUREAU OF INDIAN
AFFAIRS,
Appellee

: Order Docketing Appeal,
: Vacating Decision, and
: Remanding Matter to
: Regional Director
:
:
: Docket No. IBIA 00-101-A
:
:
: August 15, 2000

This is an appeal from a July 10, 2000, decision of the Acting Northwest Regional Director, Bureau of Indian Affairs (Regional Director), dismissing as untimely an appeal filed by Loren Corpuz (Appellant) from a bill for operation and maintenance assessments on the Wapato Irrigation Project.

Appellant enclosed a copy of the Regional Director's decision with his notice of appeal. The decision quoted a portion of 25 C.F.R. § 2.9(a), including the sentence: "The notice of appeal must be filed in the office of the official whose decision is being appealed within 30 days of receipt by the appellant of the notice of administrative action." However, the decision then stated: "You did not * * * file any appeal documents until May 11, 2000, or 31 days after the April 10, 2000 billing notice. Since your appeal was not timely filed, it is my decision not to consider your appeal. Your appeal is therefore dismissed."

It appeared from his decision that the Regional Director had counted the 30-day appeal period from the date of the billing notice, rather than the date of Appellant's receipt of the billing notice, as is required by 25 C.F.R. § 2.9(a). Therefore, the Board ordered the Regional Director to provide (1) evidence of the date Appellant received the billing notice and (2) evidence of the postmark date for Appellant's notice of appeal, if it was mailed, or receipt by BIA, if it was hand-delivered. The Board advised the Regional Director that, unless he could show that Appellant mailed or hand-delivered his notice of appeal more than 30 days after he received his billing notice, the Board would vacate the July 10, 2000, decision and remand this case for consideration on the merits.

In response to the Board's order, the Regional Director furnishes a copy of the envelope in which Appellant's notice of appeal to him was mailed. The envelope bears a postmark date of May 11, 2000. However, the Regional Director is unable to furnish any evidence of the date Appellant received his bill.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, this appeal is docketed, the Regional Director's July 10, 2000, decision is vacated, and this matter is remanded to him for consideration of the merits of Appellant's appeal.

//original signed
Anita Vogt
Administrative Judge

//original signed
Kathryn A. Lynn
Chief Administrative Judge