



INTERIOR BOARD OF INDIAN APPEALS

Richard D. Hackford v. Acting Western Regional Director, Bureau of Indian Affairs

37 IBIA 33 (11/07/2001)



United States Department of the Interior

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

RICHARD D. HACKFORD,	:	Order Docketing and Dismissing
Appellant	:	Appeal
	:	
v.	:	
	:	Docket No. IBIA 02-4-A
ACTING WESTERN REGIONAL	:	
DIRECTOR, BUREAU OF INDIAN	:	
AFFAIRS,	:	
Appellee	:	November 7, 2001

On October 15, 2001, the Board received a telephone inquiry from the Western Regional Office, Bureau of Indian Affairs, as to whether Richard D. Hackford had filed a notice of appeal from an August 17, 2001, decision issued by the Acting Western Regional Director (Regional Director). At the Board's request, the Regional Office telefaxed a copy of the notice of appeal it had received from Hackford, as well as copies of the Regional Director's August 17, 2001, decision and the return receipt for certified mail (green card) for Hackford's copy of the decision.

The Regional Director's August 17, 2001, decision concerned Hackford's 2001 operation and maintenance bill from the Uintah Irrigation Project. The decision stated:

This decision may be appealed to the Interior Board of Indian Appeals (Board), 4015 Wilson Boulevard, Arlington, Virginia 22203, in accordance with the regulations in 43 CFR 4.310-340 (copy enclosed). Your notice of appeal to the Board must be signed by you or your attorney and must be mailed within 30 days of the date you receive this decision. * * *

If no appeal is timely filed, this decision will become final for the Department of the Interior at the expiration of the appeal period. No extension of time may be granted for filing a notice of appeal.

The green card showed that Hackford received the Regional Director's decision on August 21, 2001.

By order dated October 18, 2001, the Board gave Hackford an opportunity to show that he sent a timely notice of appeal to the Board.

In his response, Hackford states that he thought he had mailed the Board's copy of his notice of appeal at the same time he mailed copies to the interested parties but now realizes that he did not mail it. He asks the Board to accept a belated notice of appeal.

The Board's regulations prohibit the acceptance of Hackford's late-filed notice of appeal. See 43 C.F.R. § 4.332(a): "A notice of appeal not timely filed shall be dismissed for lack of jurisdiction;" 43 C.F.R. § 4.334: "Requests for extensions of time to file documents may be granted upon a showing of good cause, except for the time fixed for filing a notice of appeal which, as specified in § 4.332 of this part, may not be extended."

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 but is dismissed as untimely.

//original signed
Anita Vogt
Administrative Judge

//original signed
Kathryn A. Lynn
Chief Administrative Judge