



INTERIOR BOARD OF INDIAN APPEALS

Howard Crow Flies High v. Rocky Mountain Regional Director, Bureau of Indian Affairs

38 IBIA 41 (08/05/2002)

Denying reconsideration of:
38 IBIA 3



United States Department of the Interior

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

HOWARD CROW FLIES HIGH,	:	Order Denying Reconsideration
Appellant	:	
	:	
v.	:	
	:	Docket No. IBIA 02-112-A
ROCKY MOUNTAIN REGIONAL	:	
DIRECTOR, BUREAU OF INDIAN	:	
AFFAIRS,	:	
Appellee	:	August 5, 2002

The Board of Indian Appeals (Board) has received a timely petition for reconsideration of its dismissal order in the above case. 38 IBIA 3 (2002). The petition was accompanied by two affidavits. One affidavit was from counsel for Appellant Howard Crow Flies High. The second was from a paralegal in counsel’s office. As did two affidavits submitted by the same individuals prior to the issuance of the Board’s dismissal order, the present affidavits state that the notice of appeal in this matter was mailed to the Board. The only substantive distinction between the two sets of affidavits is that the paralegal now states that she personally remembers “the mailing of a copy of the above noted appeal documents” to the Board.

Although the Board sympathizes with counsel, the fact remains that no notice of appeal was timely filed. 43 C.F.R. § 4.332(a) explicitly states that an untimely appeal must be dismissed for lack of jurisdiction. American Land Development Corp. v. Acting Phoenix Area Director, 25 IBIA 197 (1994).

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, Appellant’s petition for reconsideration is denied.

Kathryn A. Lynn
Chief Administrative Judge

Anita Vogt
Administrative Judge