INTERIOR BOARD OF INDIAN APPEALS


44 IBIA 111 (01/26/2007)
On January 22, 2007, the Board of Indian Appeals (Board) received a letter from Michael S. Stone, Richard B. Stone, and Philomena Dolly Stone (Appellants), which the Board construes as a notice of appeal from an enclosed January 10, 2007 decision by the Blackfeet Agency Superintendent, Bureau of Indian Affairs (Superintendent; BIA). 1/ The Superintendent’s decision gave notice of cancellation of Appellants’ permit(s) for Range Unit 201 for noncompliance with Blackfeet Tribe Grazing Resolution 27-99(B) and 25 C.F.R. Part 166. We docket this appeal but dismiss it as premature because the Superintendent’s decision is not appealable to the Board. Consistent with BIA’s appeal regulations, we transmit the appeal to the Superintendent for filing as an appeal to the Regional Director, who must issue a decision before the matter becomes ripe for Board review.

1/ Appellants’ letter is addressed to the Board, requests help, and encloses several pieces of correspondence, including the Superintendent’s January 10, 2007 letter. Appellants’ letter pre-dates the Superintendent’s decision, but it was mailed to the Board on January 19, 2007, and by enclosing the Superintendent’s decision Appellants clearly are seeking the Board’s involvement with respect to that decision.

It may be that Appellants have also separately appealed the Superintendent’s decision to the Rocky Mountain Regional Director (Regional Director) by filing an appeal with the Superintendent, but because Appellants’ letter seeks to invoke the Board’s involvement in this matter, the Board will treat it as a notice of appeal, without prejudice to any separate appeal that Appellants may have filed with the Superintendent.
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. Northern Cheyenne Livestock Ass'n v. Acting Superintendent, Northern Cheyenne Agency, 43 IBIA 24 (2006); see 25 C.F.R. § 2.4(a) & (e); 43 C.F.R. § 4.331(a). Therefore, the Board lacks jurisdiction to review the Superintendent’s January 10, 2007 decision.

Even if Appellants’ letter to the Board is construed only as a request for Board assistance in the matter, see supra note 1, and not as a formal appeal, the Board lacks jurisdiction because the Board does not have general supervisory authority over BIA. Denny v. Northwest Regional Director, 36 IBIA 220, 225 (2001). Instead, the Board’s jurisdiction under 25 C.F.R. Part 2 is limited to reviewing specific decisions or actions taken by BIA Regional Directors or officials in the Office of the Assistant Secretary - Indian Affairs. See 25 C.F.R. § 2.4(e) (description of Board’s jurisdiction under 25 C.F.R. Part 2).

Consistent with the practice required of BIA officials when an appeal is misdirected, the Board will transmit Appellants’ appeal to the Superintendent with a copy to the Regional Director, for consideration by the Regional Director. 2/ See 25 C.F.R. § 2.13(b).

Of course, the Superintendent’s decision is subject to the automatic stay provision in 25 C.F.R. § 2.6, which provides that a BIA decision is neither final nor effective pending an appeal.

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 docket but dismisses this appeal as premature, and transmits the appeal to the Superintendent for filing as an appeal to the Regional Director.

I concur:

// original signed
Steven K. Linscheid
Chief Administrative Judge

// original signed
Debora G. Luther
Administrative Judge

2/ BIA’s regulations require that appeals from a Superintendent’s decision be filed with the Superintendent, with a copy to the Regional Director and interested parties. 25 C.F.R. § 2.9(a). Therefore, the Board will transmit the original of Appellants’ appeal to the Superintendent for filing, with a copy to the Regional Director and the Blackfeet Tribe.