



INTERIOR BOARD OF INDIAN APPEALS

Jim SiJohn v. Northwest Regional Director, Bureau of Indian Affairs

46 IBIA 304 (03/19/2008)



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
801 NORTH QUINCY STREET
SUITE 300
ARLINGTON, VA 22203

JIM SIJOHN,)	Order Docketing and Dismissing Appeal
Appellant,)	
)	
v.)	
)	Docket No. IBIA 08-52-A
NORTHWEST REGIONAL)	
DIRECTOR, BUREAU OF)	
INDIAN AFFAIRS,)	
Appellee.)	March 19, 2008

On March 17, 2008, the Board of Indian Appeals (Board) received a notice of appeal, which had been mailed by Jim SiJohn (Appellant) to the Northwest Regional Director, Bureau of Indian Affairs (Regional Director; BIA), and which was forwarded to the Board by the Acting Regional Director. In his notice of appeal, Appellant seeks review of a January 3, 2008, decision of the Regional Director, which affirmed an October 9, 2007, decision by the Coeur d'Alene Agency Superintendent to approve Agricultural Lease No. 8717-08-17 for Allotment No. 407. The Board docketed this appeal, but dismisses it for lack of jurisdiction because it is untimely.

A notice of appeal from a decision of a BIA Regional Director must be filed *with the Board* within 30 days after receipt by the appellant of the decision from which the appeal is taken. 43 C.F.R. § 4.332(a). The 30-day deadline for filing a notice of appeal is jurisdictional. *Id.*; *Claymore v. Great Plains Regional Director*, 43 IBIA 274 (2006). Untimely appeals must be dismissed. *State of Kansas v. Southern Plains Regional Director*, 43 IBIA 229, 230 (2006).

In his notice of appeal, Appellant states that he received the Regional Director's decision on January 14, 2008, and therefore he had until February 13, 2008, to file his notice of appeal with the Board. The Regional Director's decision correctly advised Appellant of his appeal rights, the Board's current address, and the 30-day time limit for filing an appeal with the Board. However, Appellant did not file his notice of appeal with the Board, but instead mailed it to the Regional Director, who then forwarded it to the Board. The Board received the notice of appeal on March 17, 2008, well beyond the 30-day deadline for filing an appeal.

The Board has consistently held that a notice of appeal is untimely when the appellant has been given correct appeal information but files a notice of appeal with an official other than the Board, resulting in receipt of the notice of appeal by the Board outside the time period specified in the regulations. *Wick v. Midwest Regional Director*, 44 IBIA 20, 21 (2006). An appellant who ignores explicit appeal instructions and files his notice of appeal in the wrong office bears the risks of delays in transmitting his notice of appeal to the Board. *Id.*

Because Appellant's notice of appeal was filed with the Board after the 30-day appeal period expired, his appeal must be dismissed.

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 docketed this appeal, but dismisses it for lack of jurisdiction because it is untimely.

I concur:

// original signed
Steven K. Linscheid
Chief Administrative Judge

// original signed
Debora G. Luther
Administrative Judge