



INTERIOR BOARD OF INDIAN APPEALS

Quinault Indian Nation v. Northwest Regional Director, Bureau of Indian Affairs

56 IBIA 3 (10/19/2012)



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
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QUINAULT INDIAN NATION,)	Order Docketing and Dismissing
Appellant,)	Appeal
)	
v.)	
)	Docket No. IBIA 13-017
NORTHWEST REGIONAL)	
DIRECTOR, BUREAU OF INDIAN)	
AFFAIRS,)	
Appellee.)	October 19, 2012

On September 26, 2012, the Board of Indian Appeals (Board) received an appeal from the Quinault Indian Nation (Nation) seeking review of alleged inaction by the Northwest Regional Director (Regional Director), Bureau of Indian Affairs (BIA). *See* 25 C.F.R. § 2.8 (appeal from inaction of official). The Nation contends that the Regional Director failed to respond to an August 16, 2012, appeal that the Nation filed with the Regional Director regarding title status reports (TSRs) certified by the Manager of BIA’s Northwest Regional Land Title and Records Office (LTRO Manager), for Public Domain Allotment No. 1755-A (Sampson Johns).¹ We dismiss this appeal as premature because contrary to the Nation’s suggestion, a decision by the Regional Director is not overdue, and it also appears that the Nation failed to comply with the procedural requirements of § 2.8.

In its August 16, 2012, appeal to the Regional Director from the LTRO’s certified TSRs, the Nation requested a written response from the Regional Director within 30 days. But under BIA’s appeal regulations, after receiving an appellant’s statement of reasons, interested parties (including, in this case, the LTRO Manager) have 30 days in which to respond. *See* 25 C.F.R. § 2.11(c). Thus, assuming that the Nation’s letter of appeal to the Regional Director also constituted its statement of reasons, and assuming that interested parties were properly served and received the appeal shortly thereafter, the deadline for filing responses would have been sometime in mid- to late-September. The Regional Director’s decision on the appeal is due 60 days after the time for filing pleadings (including

¹ The name of the original allottee is variously spelled “Sampson Johns” or “Samson Johns” on documents enclosed with the Nation’s notice of appeal.

any extensions) has expired. *Id.* § 2.19(a). Thus, even under the strictest timetable, the deadline by which the Regional Director is required to decide the Nation's appeal would appear to be sometime in November. Accordingly, the Nation's appeal to the Board is premature. See *Roubideaux v. Rocky Mountain Regional Director*, 53 IBIA 83, 83-84 (2011); *Castillo v. Pacific Regional Director*, 41 IBIA 190, 190-91 (2005); *Bellonger v. Aberdeen Area Director*, 34 IBIA 49 (1999).

In addition, none of the documentation provided with the Nation's appeal to the Board indicates that the Nation complied with the procedural requirements of 25 C.F.R. § 2.8 before filing this appeal from the Regional Director's alleged inaction. Section 2.8 provides specific procedures that would-be appellants must follow before a BIA official's inaction is appealable. If a party believes that it has been adversely affected by a BIA official's failure to act on a request from the party for action, the party must "[r]equest in writing that the official take the action *originally asked* of him/her," *id.* § 2.8(a)(1) (emphasis added), and must otherwise comply with the procedural requirements of § 2.8, *see id.* § 2.8(a)(2)-(3).

In the present case, the Nation's appeal to the Board includes no documentation that the Nation complied with § 2.8(a)'s requirements before filing this appeal to the Board from the Regional Director's alleged inaction. Thus, noncompliance with the procedural requirements of § 2.8 appears to be another ground upon which dismissal is appropriate. See *Felter v. Western Regional Director*, 36 IBIA 98, 99 (2001).²

We also note that the relief requested by the Nation in this appeal is relief on the merits of the underlying dispute concerning the TSRs. Notice of Appeal at 5 (Nation "requests relief in the form of issuance of corrected TSRs"). The Board's jurisdiction over a § 2.8 appeal from inaction does not encompass a review of the underlying merits of the dispute. *Graven v. Western Regional Director*, 54 IBIA 171, 172 n.4 (2011); *Forest County Potawatomi Community v. Deputy Assistant Secretary – Indian Affairs*, 48 IBIA 259, 265-66 (2009).

² If the Regional Director does not issue a decision on the Nation's appeal within the time period prescribed by 25 C.F.R. § 2.19(a), our dismissal of this appeal does not preclude the Nation from submitting a § 2.8 demand for action to the Regional Director, and thereafter filing a new appeal from inaction with the Board if the Regional Director does not respond in accordance with § 2.8. See *Roanhorse v. Navajo Regional Director*, 53 IBIA 126, 128 (2011).

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 but dismisses this appeal.

I concur:

// original signed
Steven K. Linscheid
Chief Administrative Judge

//original signed
Debora G. Luther
Administrative Judge