



INTERIOR BOARD OF INDIAN APPEALS

Estate of Calvin S. Melbourne, Sr.

57 IBIA 221 (07/19/2013)

Denying Petition for Reconsideration of:  
57 IBIA 136



A petition for reconsideration must be filed with the Board within 30 days from the date of the Board's decision. 43 C.F.R. § 4.315(a). Appellant mailed the petition for reconsideration to the Board on July 13, 2013, and as relevant here, the date of filing is the date of mailing. *See id.* § 4.310(a)(1). Therefore, as a petition for reconsideration, Appellant's submission is timely, but as explained below, it cannot cure the untimely appeal and cannot serve as a basis to grant reconsideration.

Reconsideration of a decision of the Board "will be granted only in extraordinary circumstances." 43 C.F.R. § 4.315(a). The purpose of reconsideration is to allow the Board, in extraordinary circumstances, to correct or amend what would otherwise remain a final decision. In the present case, Appellant's filing of his original notice of appeal within 30 days of our dismissal of his appeal does not demonstrate that the Board erred in concluding that the appeal was untimely. The Order Denying Rehearing contained correct appeal instructions, and although in her telephone call to the Board, Susan stated that they did not understand the appeal instructions, those instructions clearly state that an appeal "shall be filed with" the Board, and provide the Board's correct address.

The 30-day deadline for filing an *appeal* was triggered on the date of the Order Denying Rehearing, and Appellant missed that deadline. The 30-day period for seeking reconsideration of a Board decision does not provide a new time period to cure an untimely appeal, nor is it a "grace period" for filing an appeal. As we noted in our decision, the "Board does not have authority to grant an extension for filing a notice of appeal," and an untimely appeal must be dismissed for lack of jurisdiction. 57 IBIA at 136.

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 denies reconsideration of 57 IBIA 136.

I concur:

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// original signed  
Steven K. Linscheid  
Chief Administrative Judge

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//original signed  
Thomas A. Blaser  
Administrative Judge