



INTERIOR BOARD OF INDIAN APPEALS

Rusty Coal Blackwater and Trent Lane Blackwater v. Principal Deputy
Assistant Secretary - Indian Affairs

58 IBIA 121 (11/18/2013)



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

RUSTY COAL BLACKWATER AND)	Order Docketing and Dismissing
TRENT LANE BLACKWATER,)	Appeal
Appellants,)	
)	
v.)	
)	Docket No. IBIA 14-029
PRINCIPAL DEPUTY ASSISTANT)	
SECRETARY – INDIAN AFFAIRS,)	
Appellee.)	November 18, 2013

On October 17, 2013, the Board of Indian Appeals (Board) received a notice of appeal from Rusty Coal Blackwater and Trent Lane Blackwater (Appellants), through Luke T. Federici, Esq., of Hawkins, Folsom & Muir. Appellants seek review of two decisions of the Principal Deputy Assistant Secretary – Indian Affairs (Principal DAS), both dated November 9, 2012, upholding respective determinations by the Western Regional Director that each Appellant is ineligible to share in the judgment funds awarded to the Western Shoshone in Docket 326-K.¹ Each decision states that it was issued pursuant to authority delegated to the Principal DAS and pursuant to 25 C.F.R. §§ 61.13 (Assistant Secretary’s decision in judgment fund roll appeals) and 62.11 (action by Assistant Secretary in enrollment appeals), and is final for the Department of the Interior (Department). We docket this appeal, but dismiss it for lack of jurisdiction.

The Board’s jurisdiction is limited to the authority vested in it by regulation or otherwise delegated to it by the Secretary of the Interior (Secretary). *See* 43 C.F.R. § 4.1(b)(1); *State of California v. National Indian Gaming Commission*, 44 IBIA 22, 22 (2006). The regulations governing eligibility determinations for the Western Shoshone Claims Distribution Act expressly provide that a decision by the Assistant Secretary is final and conclusive. 25 C.F.R. § 61.13. Here, the decisions from which Appellants seek to appeal were issued by the Principal DAS, not the Assistant Secretary. But the decisions recite that the Principal DAS was exercising authority delegated to him by the Secretary to take action for the Department under §§ 61.13 and 62.11. The Board is not part of the appeals process for Western Shoshone judgment fund enrollment determinations or for

¹ The Regional Director and Principal DAS concluded that Appellants do not have at least 1/4 degree of Western Shoshone blood. *See* Western Shoshone Claims Distribution Act, Pub. L. No. 108-270, § 3(b)(1)(A), 118 Stat. 805, 806 (July 7, 2004).

enrollment appeals. See 25 C.F.R. §§ 61.4(k), 61.11–.13, and 62.10–.11; *The Direct Lineal Descendants of Rosie Jack and Wagon Jack*, 58 IBIA 85, 86 (2013); *Mease v. Secretary of the Interior*, 52 IBIA 237, 238 n.3 (2010) (Board is not part of the appeals process under Part 62).

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
Thomas A. Blaser
Administrative Judge