



INTERIOR BOARD OF INDIAN APPEALS

Phillip Del Rosa v. Pacific Regional Director, Bureau of Indian Affairs

58 IBIA 191 (01/30/2014)



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

PHILLIP DEL ROSA,)	Order Dismissing Appeal
Appellant,)	
)	
v.)	
)	Docket No. IBIA 13-126
PACIFIC REGIONAL DIRECTOR,)	
BUREAU OF INDIAN AFFAIRS,)	
Appellee.)	January 30, 2014

Phillip Del Rosa (Appellant), as Chairman of the Alturas Indian Rancheria (Tribe), appealed to the Board of Indian Appeals (Board) from a June 14, 2013, decision (Decision) of the Pacific Regional Director (Regional Director), Bureau of Indian Affairs, in which the Regional Director approved the Tribal Charter for the Alturas Economic Development Corporation.¹ We dismiss the appeal because Appellant failed to establish that he has standing to bring the appeal.

An appellant has the burden to establish that he has standing to appeal from a decision. *Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas v. Acting Southern Plains Regional Director*, 56 IBIA 267, 268 (2013). In order to have a right to appeal to the Board, an appellant must establish that he has a cognizable interest that is adversely affected by the decision being appealed. See 25 C.F.R. § 2.2 (definitions of “Appellant” and “Interested party”); 43 C.F.R. § 4.331 (Who may appeal); see also *Kickapoo Tribe*, 56 IBIA at 267 (appellant must have suffered injury to or an invasion of a legally protected interest); *Reeves v. Great Plains Regional Director*, 54 IBIA 207, 212 (2012) (injury must be to a legally protected interest, caused by the challenged decision, and redressable by a favorable decision).

Appellant’s notice of appeal contained no allegations of error or statement of reasons for the appeal. When the Board scheduled briefing, it ordered Appellant to demonstrate that he has standing to bring the appeal. Notice of Docketing and Order for Appellant to

¹ The Decision recites that the Charter was accompanied by a tribal resolution requesting approval, enacted by the Tribe’s Business Committee, and states that after the Regional Director’s approval, the Charter shall not become operative until ratified by the governing body of the Tribe. Decision at 1.

Demonstrate Standing, Sept. 24, 2013, at 2-3. The Board explained that Appellant had not identified upon what basis he appealed from the Decision, nor was it clear how Appellant suffered any concrete and particularized injury to a legally protected interest, in his capacity as Chairman or otherwise, as a result of the Decision, or how a decision by the Board setting aside the approval of the Tribal Charter would redress an injury to Appellant. *Id.* at 2. The Board also advised Appellant that if he failed to demonstrate standing, his appeal would be dismissed. *Id.* The U.S. Postal Service's Track-and-Confirm service on its website indicates that Appellant received the Board's order on September 30, 2013.

Appellant did not file a brief or otherwise respond to the order for him to demonstrate standing. Accordingly, Appellant has failed to meet his burden of establishing standing and the Board will dismiss this appeal. *See Kickapoo Tribe*, 56 IBIA at 268.

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 dismisses this appeal.

I concur:

// original signed
Steven K. Linscheid
Chief Administrative Judge

//original signed
Thomas A. Blaser
Administrative Judge