INTERIOR BOARD OF INDIAN APPEALS

William J. Pink v. Acting Assistant Secretary - Indian Affairs

62 IBIA 250 (03/07/2016)

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

WILLIAM J. PINK, Appellant,	)	Order Docketing and Dismissing Appeal
v.	)	
	)	Docket No. IBIA 16-048
ACTING ASSISTANT SECRETARY – INDIAN AFFAIRS, Appellee.	)	March 7, 2016

On March 2, 2016, the Board of Indian Appeals (Board) received a notice of appeal from William J. Pink (Appellant), as Chairman of the Agua Caliente Tribe of Cupeno Indians of the Pala Reservation, through Dennis G. Chappabitty, Esq. Appellant seeks review of a decision of the Acting Assistant Secretary – Indian Affairs (Assistant Secretary) to publish, in the list of Federally recognized tribes, a name change for the previously listed "Pala Band of Luiseno Mission Indians of the Pala Reservation, California" to "Pala Band of Mission Indians." *See* Indian Entities Recognized and Eligible To Receive Services From the United States Bureau of Indian Affairs, 81 Fed. Reg. 5019, 5022 (Jan. 29, 2016). Appellant objected to the name change unless the Agua Caliente Tribe of Cupeno was simultaneously added to the Federal Register list, *see* Notice of Appeal, Feb. 29, 2016, Ex. (Letter from Twietmeyer to Iron Cloud, June 16, 2015, at 1), which did not occur. Appellant contends that the name change will distort history and threaten the Agua Caliente Cupeno. We dismiss the appeal 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. *See* 43 C.F.R. § 4.1(b)(1); *George v. Assistant Secretary – Indian Affairs*, 54 IBIA 113, 113 (2011). The Board does not have general authority to review decisions or actions by the Assistant Secretary. *See George*, 54 IBIA at 113 (dismissing appeal); *Kozlowicz & Gardner Advocates, Inc. v. Superintendent, Uintah and Ouray Agency*, 50 IBIA 201, 202 (2009) (same); *Pendleton v. Assistant Secretary – Indian Affairs*, 45 IBIA 133, 133 (2007) (same).

Appellant filed the appeal "[p]ursuant to 43 C.F.R. Part 4 and 25 C.F.R. Part [2]." Notice of Appeal at 1. Those regulations provide the Board with authority to review administrative actions of certain officials subordinate to the Assistant Secretary, but not administrative actions of the Assistant Secretary, unless referred by the Assistant Secretary

or the Secretary of the Interior. *See* 43 C.F.R. § 4.330(a); 25 C.F.R. § 2.4(e); *Deganawidah-Quetzalcoatle University v. Assistant Secretary – Indian Affairs*, 39 IBIA 265, 265 (2004). In this case, no regulation, delegation, or referral grants the Board the authority to review the Assistant Secretary's action.

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 dockets but dismisses this appeal for lack of jurisdiction.

I concur:

// original signed	//original signed
Steven K. Linscheid	Thomas A. Blaser
Chief Administrative Judge	Administrative Judge