



INTERIOR BOARD OF INDIAN APPEALS

Robert Edwards v. Pacific Regional Director, Bureau of Indian Affairs

42 IBIA 40 (11/17/2005)

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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

ROBERT EDWARDS,	:	Order Docketing and Dismissing
Appellant,	:	Appeal
	:	
v.	:	
	:	Docket No. IBIA 06-13-A
PACIFIC REGIONAL DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee.	:	November 17, 2005

On October 17, 2005, the Board (Board) received a notice of appeal from Robert Edwards (Appellant), pro se. Appellant seeks review of a September 6, 2005 decision of the Pacific Regional Director, Bureau of Indian Affairs (Regional Director), declining to recognize an alleged recall election of five members of the Enterprise Rancheria Tribal Council conducted on January 15, 2005. The Board docketed the appeal, but dismisses it for lack of jurisdiction because it is untimely.

Appellant filed his notice of appeal on October 14, 2005, as evidenced by the postmark. See 43 C.F.R. § 4.310(a). The notice of appeal did not indicate the date the Appellant received the Regional Director's September 6, 2005 decision. Because it appeared that the appeal might be untimely, the Board ordered Appellant to certify the date on which he received the Regional Director's decision.

In response, Appellant certified that he received the Regional Director's decision on September 7, 2005. ^{1/} However, Appellant argues that he had filed a timely appeal of the Regional Director's initial failure to issue a decision regarding the alleged recall election after Appellant submitted a formal demand pursuant to 25 C.F.R. § 2.8 (Appeal from inaction of official), and that he believed that his section 2.8 appeal was sufficient to preserve his appeal rights. Appellant notes that he only filed the present appeal after the

^{1/} The Regional Director submitted to the Board a copy of the certified mail return receipt card from Appellant for the September 6, 2005 decision. Although Appellant did not fill in the date of receipt, the return postmark and date-stamp on the card returned to BIA are consistent with Appellant's certification.

