VICTORIA IRON PIPE RUTHERFORD,	:	Order Denying Reconsideration
Appellant	:	
	:	
v.	:	
	:	Docket No. IBIA 97-131-A
BILLINGS AREA DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	March 5, 1999

The Board issued a decision in this appeal on February 16, 1999. 33 IBIA 161. On February 26, 1999, it received a petition for reconsideration from Appellant. The petition alleges:

> 1. The Appellant and her legal counsel were never served or furnished with copies of any statements or briefs filed by Harvetta Iron Pipe and Beverly Iron Pipe Racine concerning alleged misrepresentations made by Appellant. These come now as a matter of first impression to Appellant and her counsel.
>
> 2. By reason of the fact that the allegations of Iron Pipe and Racine were never furnished or served upon Appellant and her counsel, there is no way that Appellant could respond to the same and, thereby, have due process of law.

Appellant requests that she now be furnished with copies of all briefs or statements filed by Iron Pipe and Racine and that she be given at least 45 days to respond to them.

As noted in the Board's February 16 decision, 33 IBIA at 164, Iron Pipe and Racine did not file a brief before the Board. The appeal they filed with the Area Director contains the allegations discussed by the Board and includes a certificate of service showing that the appeal was served on Appellant. That document and other documents Iron Pipe and Racine filed with BIA were listed in the table of contents for the administrative record in this appeal, a copy of which was furnished to Appellant's attorney with the notice of docketing for this appeal. Thus, even if Appellant did not receive Iron Pipe and Racine's appeal to the Area Director at the time it was filed, Appellant's attorney was made aware of it, at the latest, when he received the table of contents from the Board. Moreover, Appellant was clearly aware that, as a result of the appeal filed by Iron Pipe and Racine, the Area Director had issued a decision adverse to her. Thus, she had to have been aware that the filings made by Iron Pipe and Racine were critical documents in this appeal.

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It was Appellant's and/or her attorney's responsibility to review the table of contents for the administrative record and to request copies of documents which they did not already have, especially when the documents were obviously critical to Appellant's case. See May v. Acting Phoenix Area Director, 33 IBIA 125, 131 and n.5 (1999) (A party to an appeal before the Board bears the responsibility for knowing the contents of documents listed in the table of contents for the administrative record).

Appellant has failed to show extraordinary circumstances warranting reconsideration in this matter. 43 C.F.R. § 4.315(a).

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, Appellant's petition for reconsideration is denied.

Anita Vogt
Administrative Judge

Kathryn A. Lynn
Chief Administrative Judge

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