



INTERIOR BOARD OF INDIAN APPEALS

State of Kansas v. Southern Plains Regional Director, Bureau of Indian Affairs

43 IBIA 229 (08/10/2006)

Related Board case:
47 IBIA 222



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

STATE OF KANSAS,	:	Order Docketing and Dismissing
Appellant,	:	Appeal
	:	
v.	:	
	:	Docket No. IBIA 06-82-A
SOUTHERN PLAINS REGIONAL	:	
DIRECTOR, BUREAU OF INDIAN	:	
AFFAIRS,	:	
Appellee.	:	August 10, 2006

On August 3, 2006, the Board of Indian Appeals (Board) received a notice of appeal from the State of Kansas (State), seeking review of a June 27, 2006 decision of the Southern Plains Regional Director, which approved the acceptance of the “ABC Exteriors” tract of land in Jackson County, Kansas, 1/ in trust for the Prairie Band of Potawatomi

1/ The “ABC Exteriors” tract is described in the Regional Director’s decision as: A tract of land located in the Northwest Fractional Quarter of Section 27, Township 8 South, Range 15 East of the 6th PM, in Jackson County, Kansas, more particularly described as follows: Beginning at the Southeast Corner of the Northwest Fractional Quarter of said Section 27, said point being marked by a ½” iron bar; thence along the South line of the Northwest Fractional Quarter of said Section 27, South 89°08’28” West 2339.83 feet to the Southwest corner of the Northwest Fractional Quarter of said Section 27, said corner being marked by a yellow-capped bar; thence along the West line of the Northwest Fractional Quarter of said Section 27, North 01°14’28” West 1155.66 feet to a point marked by a ½” iron bar; thence leaving said West line North 89°08’26” East 874.01 feet to a point marked by a ½” iron bar; thence leaving West line North 89°08’26” East 874.01 feet to a point marked by a ½” iron bar; thence South 00°53’29” East 655.64 feet to a point marked by a ½” iron bar; thence North 89°08’28” East 1472.88 feet to a point marked by a ½” iron bar on the East line of the Northwest Fractional Quarter of said Section 27; thence along said East line, South 00°53’29” East 500.00 feet to the point of beginning, Jackson County, Kansas.

Nation, Kansas. The Board docketed the appeal, but dismisses it for lack of jurisdiction because it is untimely.

A notice of appeal from a decision of a BIA Regional Director must be filed with the Board within 30 days after receipt by the appellant of the decision from which the appeal is taken. 43 C.F.R. § 4.332(a). The 30-day deadline for filing a notice of appeal is jurisdictional. Id.; Tsosie v. Acting Navajo Regional Director, 42 IBIA 131 (2006). Untimely appeals must be dismissed. State of Kansas v. Acting Southern Plains Regional Director, 37 IBIA 61, 62 (2001).

In its notice of appeal, the State asserts that it received the Regional Director's decision on June 30, 2006, which is also the date of receipt stamped on the copy of the decision enclosed with the appeal. The Regional Director's decision provided correct appeal instructions, including the 30-day time limit for filing an appeal with the Board. The State filed its notice of appeal on August 1, 2006, as evidenced by the postmark shown on the envelope in which the appeal was mailed. See 43 C.F.R. § 4.310(a).

Because the State filed its appeal after the 30-day time period expired, this appeal must be dismissed. 2/

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.01, the Board docketed this appeal, but dismisses it for lack of jurisdiction.

I concur:

 // original signed
Steven K. Linscheid
Chief Administrative Judge

 // original signed
Amy B. Sosin
Acting Administrative Judge

2/ On July 28, 2006, the Board received a notice of appeal from Jackson County, Kansas seeking review of the same June 27, 2006 decision of the Regional Director to accept the "ABC Exteriors" tract in trust for the Nation. Our dismissal of the State's appeal does not affect the County's appeal, or the State's right to participate as an interested party (but not an appellant) in the County's appeal.