



INTERIOR BOARD OF INDIAN APPEALS

Kiowa, Comanche and Apache Intertribal Land Use Committee
v. Acting Director, Office of Economic Development, Bureau of Indian Affairs

34 IBIA 2 (06/01/1999)

Denying reconsideration of:
33 IBIA 123



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
4015 WILSON BOULEVARD
ARLINGTON, VA 22203

KIOWA, COMANCHE AND APACHE : Order Denying Reconsideration
INTERTRIBAL LAND USE :
COMMITTEE, :
Appellant :
v. : Docket No. IBIA 99-38-A
ACTING DIRECTOR, OFFICE OF :
ECONOMIC DEVELOPMENT, :
BUREAU OF INDIAN AFFAIRS, :
Appellee : June 1, 1999

Appellant Kiowa, Comanche and Apache Intertribal Land Use Committee petitioned for reconsideration of the Board's January 26, 1999, order docketing and dismissing Appellant's appeal from a December 14, 1998, letter issued by the Acting Director, Office of Economic Development, Bureau of Indian Affairs (Director; BIA). 33 IBIA 123. On March 5, 1999, the Board took Appellant's petition under advisement and allowed briefing on the question of whether or not it had jurisdiction over this appeal. Appellant and the Director have filed briefs on the Board's jurisdiction.

In dismissing Appellant's appeal, the Board found that this matter concerned the collection of an alleged debt owed by Appellant to the United States in regard to the financing of the Native Sun Water Park. It further found that this matter arose under regulations in 4 C.F.R. Chapter II, the Federal Claims Collection Standards (General Accounting Office--Department of Justice), and concluded that it did not have jurisdiction over matters arising under those regulations.

Appellant contends that it brought its appeal under 25 C.F.R. § 103.39, which deals with BIA's loan guaranty, insurance, and interest subsidy program. Section 103.39 provides: "The Secretary may cancel the uncollectable portion of any obligation assigned to the United States or rights to which the United States is subrogated and the security assigned to the United States." Appellant argues that it seeks review of "a decision by the BIA not to exercise the authority set forth in that regulation." Petition for Reconsideration at 3. In particular, Appellant contends that BIA's failure to cancel the debt violates a September 9, 1996, memorandum from the Director to BIA Area Directors.

The Board finds nothing in Appellant's petition and brief which convinces it that this is actually a proceeding under 25 C.F.R. Part 103, rather than one under 4 C.F.R. Chapter II.

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

//original signed
Kathryn A. Lynn
Chief Administrative Judge

//original signed
Anita Vogt
Administrative Judge