



INTERIOR BOARD OF INDIAN APPEALS

Dewey County, South Dakota v. Aberdeen Area Director, Bureau of Indian Affairs

34 IBIA 160 (11/05/1999)



United States Department of the Interior

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

DEWEY COUNTY, SOUTH DAKOTA, : Order Affirming Decision
Appellant :
 :
v. :
 :
 : Docket No. IBIA 99-87-A
ABERDEEN AREA DIRECTOR, :
BUREAU OF INDIAN AFFAIRS, :
Appellee : November 5, 1999

Appellant Dewey County, South Dakota, seeks review of a June 30, 1999, decision of the Aberdeen Area Director, Bureau of Indian Affairs (Area Director; BIA), to take the SE $\frac{1}{4}$, sec. 18, T. 12 N., R. 24 E., Black Hills Meridian, Dewey County, South Dakota, except for Lots 1, 2, 3, and 4, into trust for David Hump and Darren Fischer, both of whom are members of the Cheyenne River Sioux Tribe (Tribe). This land is within the exterior boundaries of the Tribe's reservation.

The original decision in this matter was made by the Superintendent, Cheyenne River Agency, BIA, on March 23, 1999. Appellant appealed that decision to the Area Director, presenting arguments in a Statement of Reasons. The Area Director considered Appellant's arguments in rendering her decision.

In its Notice of Appeal to the Board, Appellant made no allegation of error in the Area Director's decision. Nor did it make any argument. Rather, it simply stated that it was appealing the Area Director's decision. Appellant did not file a brief in this appeal, although it was advised in the Notice of Docketing that it bore the burden of proving error in the Area Director's decision.

It is conceivable that Appellant intended to repeat the arguments it made before the Area Director. However, it has not so stated. In any event, it was Appellant's task here to show how the Area Director erred in addressing the arguments Appellant made before her.

The Board has consistently held that an appellant who fails to make any allegation of error in an Area Director's decision, let alone any argument in support of such an allegation, has not carried its burden of proof. See, e.g., OK Tank Trucks, Inc. v. Acting Muskogee Area Director, 33 IBIA 119 (1999), and cases cited therein.

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 Aberdeen Area Director's June 30, 1999, decision is affirmed.

//original signed
Kathryn A. Lynn
Chief Administrative Judge

//original signed
Anita Vogt
Administrative Judge