



INTERIOR BOARD OF INDIAN APPEALS

Louis W. Ballard v. Acting Eastern Oklahoma Regional Director, Bureau of Indian Affairs

35 IBIA 255 (12/01/2000)

Denying reconsideration of:  
35 IBIA 216



## United States Department of the Interior

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

LOUIS W. BALLARD,	:	Order Denying Reconsideration
Appellant	:	
	:	
v.	:	
	:	Docket No. 00-107-A
ACTING EASTERN OKLAHOMA	:	
REGIONAL DIRECTOR, BUREAU	:	
OF INDIAN AFFAIRS,	:	
Appellee	:	December 1, 2000

This appeal was dismissed on October 16, 2000, for failure to prosecute. 35 IBIA 216. Subsequently, Appellant made a filing in the case. The Board treats the filing as a petition for reconsideration of the Board's October 16, 2000, order. Reconsideration of Board decisions is governed by 43 C.F.R. § 4.315, which provides that reconsideration will be granted only in extraordinary circumstances.

Appellant first complains that he has not received a response to an August 29, 2000, letter he wrote to the Assistant Secretary - Indian Affairs concerning this appeal. Just as it lacks authority to review decisions made by the Assistant Secretary, the Board also lacks authority to review inaction by the Assistant Secretary. Miller v. Bureau of Indian Affairs, 32 IBIA 294, recon. denied, 33 IBIA 60 (1998). Accordingly, Appellant's complaint is not a basis for reconsideration of the Board's October 16, 2000, order.

Next, Appellant appears to contend that he did not receive the Board's October 16, 2000, order. This is a puzzling contention because Appellant's petition for reconsideration is dated October 31, 2000, and the return receipt for certified mail (green card) for Appellant's copy of the October 16, 2000, order shows that he signed for it on October 27, 2000. Even had Appellant not received the Board's order, that fact would not constitute extraordinary circumstances warranting reconsideration. However, to ensure that Appellant has a copy of the October 16, 2000, order, the Board encloses another copy with his copy of this order.

Finally, Appellant contends that he "deserve[s] a complete and thorough review of this entire case by the incoming U.S. Secretary of [the] Interior and the Assistant Secretary - Indian Affairs." As the Board held in its October 16, 2000, order, Appellant failed to show that the trust acquisition he seeks may be made under the regulations in 25 C.F.R. Part 151. His petition for reconsideration also fails to make this showing. Although he does not specifically so

state, Appellant may be seeking a waiver of the regulations. If so, he must make his request to the Assistant Secretary - Indian Affairs. This Board has no authority to waive Bureau of Indian Affairs regulations.

Appellant has failed to show extraordinary circumstances warranting reconsideration of the Board's October 16, 2000, order. 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.

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//original signed  
Anita Vogt  
Administrative Judge

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//original signed  
Kathryn A. Lynn  
Chief Administrative Judge