



INTERIOR BOARD OF INDIAN APPEALS

Shawnee Tribe v. Assistant Secretary - Indian Affairs

39 IBIA 4 (02/24/2003)



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

SHAWNEE TRIBE,	:	Order Docketing and Dismissing
Appellant	:	Appeal
	:	
v.	:	
	:	Docket No. IBIA 03-58-A
ASSISTANT SECRETARY - INDIAN	:	
AFFAIRS,	:	
Appellee	:	February 24, 2003

The Shawnee Tribe seeks review of a December 6, 2002, decision issued by the Assistant Secretary - Indian Affairs finding that the Sunflower Army Ammunition Depot, consisting of approximately 9,065 acres situated in Johnson County, Kansas, does not lie within the present-day exterior boundaries of the Tribe's reservation. For the reason discussed below, the Board of Indian Appeals (Board) docketed this appeal but dismisses it for lack of jurisdiction.

The Board has previously stated that it is not a court of general jurisdiction, but rather has only that authority delegated to it by the Secretary of the Interior. It has not been delegated general authority to review decisions of the Assistant Secretary. Instead, it has authority to review those decisions only when the decision at issue specifically grants a right of appeal to the Board or there is a regulation granting such a right. See, e.g., Sac and Fox Nation of Missouri, et al. v. Assistant Secretary - Indian Affairs, 37 IBIA 222 (2002); Scotts Valley Band of Pomo Indians of California v. Assistant Secretary - Indian Affairs, 35 IBIA 89 (2000); Kawerak, Inc. v. Assistant Secretary - Indian Affairs, 28 IBIA 66 (1995). Here, no regulation established a right to appeal this type of decision to the Board, and the Assistant Secretary did not provide for such review in the notice at issue. Under these circumstances, the Board lacks authority to review the Assistant Secretary's decision.

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 appeal from the December 6, 2002, decision issued by the Assistant Secretary is docketed but dismissed for lack of jurisdiction.

//original signed
Kathryn A. Lynn
Chief Administrative Judge

//original signed
Kathleen R. Supernaw
Acting Administrative Judge