



INTERIOR BOARD OF INDIAN APPEALS

State of California v. National Indian Gaming Commission

44 IBIA 22 (11/15/2006)



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 CALIFORNIA,	:	Order Docketing and Dismissing
Appellant,	:	Appeal
	:	
v.	:	
	:	Docket No. IBIA 07-39-A
NATIONAL INDIAN GAMING	:	
COMMISSION,	:	
Appellee.	:	November 15, 2006

On November 14, 2006, the Board of Indian Appeals (Board) received a notice of appeal from the State of California (State) in which the State seeks review of a September 6, 2006 memorandum from the Office of General Counsel (OGC) of the National Indian Gaming Commission (NIGC) to the Chairman of the NIGC. In this memorandum, the OGC provided the Chairman, NIGC with its legal analysis and conclusion that an individual trust allotment leased to the Big Sandy Rancheria of Mono Indians of California “constitutes ‘Indian lands’ under the Indian Gaming Regulatory Act” upon which “the Big Sandy Rancheria may conduct Class II and III gaming activities.” Memorandum at 6. 1/ We docket the appeal but dismiss for lack of jurisdiction.

The Board’s jurisdiction is limited to the authority vested in it by regulation or otherwise delegated to it by the Secretary of the Interior. See 43 C.F.R. § 4.1(b)(2); County of Amador v. Associate Deputy Secretary, 44 IBIA 4 (2006); see also 25 C.F.R. Chapter III (regulations governing the NIGC). No regulation or delegation grants the Board authority to review any actions taken by the NIGC or its component offices, including its Office of General Counsel.

1/ The September 6th memorandum stated that it “is an advisory opinion issued by the Office of General Counsel and not a final agency action.” Memorandum at 6-7.

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 is docketed but dismissed for lack of jurisdiction.

I concur:

// original signed
Debora G. Luther
Administrative Judge

// original signed
Steven K. Linscheid
Chief Administrative Judge