



## INTERIOR BOARD OF INDIAN APPEALS

Menominee County, Wisconsin v. Midwest Regional Director, Bureau of Indian Affairs

52 IBIA 72 (09/10/2010)



## United States Department of the Interior

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

MENOMINEE COUNTY,	)	Order Docketing and Dismissing Appeal
WISCONSIN,	)	
Appellant,	)	
	)	
v.	)	Docket No. IBIA 10-134
	)	
MIDWEST REGIONAL DIRECTOR,	)	
BUREAU OF INDIAN AFFAIRS,	)	
Appellee.	)	September 10, 2010

Menominee County, Wisconsin (County or Appellant) appealed to the Board of Indian Appeals (Board) from a July 8, 2010, decision of the Midwest Regional Director (Regional Director), Bureau of Indian Affairs (BIA), to accept four parcels of land in trust for the Menominee Tribe of Wisconsin (Tribe).<sup>1</sup> The Regional Director found that the Tribe's trust acquisition application for each of the four parcels was governed by 25 U.S.C. § 903d(c), and therefore the trust acquisition was mandatory. The Board ordered the County to clarify the grounds for its objection to the Regional Director's decision, and to state with particularity any legal or factual grounds on which the County contended the decision should be reversed or vacated. *See* Pre-Docketing Notice and Order for Clarification from Appellant, Aug. 18, 2010, at 2. The County responded that it makes no allegations that the Regional Director erred in making her decision, but instead objects, as a matter of policy, to the lack of compensation to the County for properties that are taken into trust and thereby made tax-exempt. We docket and dismiss this appeal because it is not within our authority to review the County's policy-based objection to a mandatory trust acquisition.

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<sup>1</sup> The parcels are identified as Basina (1014), Basina (1009), Thompson, and Larson (Lot 52), totaling approximately 8.04 acres. An exhibit attached to the Regional Director's decision contains the legal description for each parcel. According to the decision, all four parcels are located in Menominee County, Wisconsin, and within the exterior boundaries of the Menominee Reservation.

In its response to the Board's order, the County clarified that "it does not allege that the Regional Director has made any legal or factual error which requires the Board to reverse the decision or vacate the decision and remand for further proceedings." Appellant's Response to Order for Clarification at 1. The County noted that its challenge to the Regional Director's decision is based on policy objections. Namely, the County objects to placing the parcels in trust without compensation to the County.

As the Board explained in the order for clarification, the Board's role in reviewing a decision by a Regional Director is limited to determining whether she made any legal or factual error. It is not the Board's role to review general policy objections made by an appellant, independent of any alleged error by BIA. Further, the Board has consistently held that an appellant who fails to make any allegation of error in a Regional Director's decision, let alone any argument in support of such an allegation, has not carried its burden of proof. *See Sharon Little v. Acting Southern Plains Regional Director*, 50 IBIA 248, 248-49 (2009); *see also Steve Her Many Horses v. Acting Great Plains Regional Director*, 47 IBIA 71, 71-72 (2008). Because the County candidly acknowledges that it does not allege that the Regional Director made any legal or factual error in reaching her decision, and only raises a policy objection over which we lack jurisdiction, the County's appeal must be dismissed.

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 Board docketed but dismisses this appeal.

I concur:

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// original signed  
Steven K. Linscheid  
Chief Administrative Judge

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// original signed  
Debora G. Luther  
Administrative Judge