



INTERIOR BOARD OF INDIAN APPEALS

State of Wyoming v. Wind River Agency Superintendent, Bureau of Indian Affairs

57 IBIA 310 (08/27/2013)



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 WYOMING,)	Order Docketing and Dismissing
Appellant,)	Appeal
)	
v.)	
)	Docket No. IBIA 13-131
WIND RIVER AGENCY)	
SUPERINTENDENT, BUREAU OF)	
INDIAN AFFAIRS,)	
Appellee.)	August 27, 2013

On August 19, 2013, the Board of Indian Appeals (Board) received a notice of appeal from the State of Wyoming (State). The State seeks review of a July 12, 2013, decision (Decision) of the Wind River Agency Superintendent (Superintendent), Bureau of Indian Affairs (BIA), to accept 242.30 acres of land, referred to as the “Baird Property,”¹ in trust for the Northern Arapaho Tribe of the Wind River Reservation. We dismiss this appeal because the Board does not have jurisdiction over an appeal from the Superintendent’s decision. The State must first exhaust its remedies within BIA through an appeal to the BIA Rocky Mountain Regional Director (Regional Director).

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)(1). With exceptions not relevant here, the Board lacks jurisdiction to review action by a BIA superintendent. *See* 43 C.F.R. § 4.331(a); *Killough v. Miami Agency Superintendent*, 57 IBIA 50, 51 (2013) (dismissing appeal); *Marruffo v. Southern California Agency Superintendent*, 53 IBIA 276, 277 (2011) (same). Thus, the Board lacks jurisdiction to consider an appeal from the Superintendent’s decision.

¹ The Decision describes the Baird Property as consisting of four parcels of land situated in the E½NE¼, and Lots 1 and 2 of Section 23; in Lot 4 of Section 4; in Lot 3 of (Fractional) Section 25; and in (Fractional) Section 26; all in Township 42 North, Range 95 West, 6th Principal Meridian, Hot Springs County, Wyoming. The full metes and bounds description of the parcels is also included with the 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, the Board docketed but dismisses this appeal for lack of jurisdiction.²

I concur:

// original signed
Steven K. Linscheid
Chief Administrative Judge

//original signed
Debora G. Luther
Administrative Judge

² Under BIA's appeal regulations, a decision made by a BIA official subordinate may be appealed to the appropriate regional director. *Logan v. Taholah Agency Superintendent*, 48 IBIA 165, 166 (2008); *Northern Cheyenne Livestock Ass'n v. Acting Superintendent, Northern Cheyenne Agency*, 43 IBIA 24 (2006); see 25 C.F.R. § 2.4(a). In the present case, the Decision included appeal rights informing interested parties of the proper procedures for filing an appeal to the Regional Director, and it appears that in addition to filing its appeal with the Board, the State also filed copies with both the Superintendent and the Regional Director.