



INTERIOR BOARD OF INDIAN APPEALS

Roberts County, South Dakota v. Acting Great Plains Regional Director,
Bureau of Indian Affairs

58 IBIA 320 (06/04/2014)



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
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ROBERTS COUNTY, SOUTH)	Order Affirming Decisions
DAKOTA,)	
Appellant,)	
)	
v.)	Docket Nos. IBIA 13-075
)	13-076
ACTING GREAT PLAINS REGIONAL)	13-077
DIRECTOR, BUREAU OF INDIAN)	
AFFAIRS,)	
Appellee.)	June 4, 2014

Roberts County, South Dakota (County), appealed to the Board of Indian Appeals (Board) from three decisions, each dated February 4, 2013, of the Acting Great Plains Regional Director (Regional Director), Bureau of Indian Affairs (BIA), to accept, into trust for the Sisseton-Wahpeton Oyate, three properties located in Roberts County, South Dakota. The properties are referred to as the “St. Peter’s Property,” the “Mendenhall Property,” and the “Knapp Property.” Because the County has not made any arguments on appeal or asserted any error in the Regional Director’s decisions, we affirm.

The County’s notices of appeal state that it is appealing the Regional Director’s decisions, but do not assert any basis for its disagreement with the decisions. On May 7, 2013, the Board issued a Notice of Docketing and Order Setting Briefing Schedule (Order), which informed the County that it could submit an opening brief on or before June 19, 2013. The Board advised the County “that it bears the burden of proving error in the decisions being appealed.” Order at 2.

No opening brief was received from the County. The Regional Director filed a brief on July 11, 2013, to which the County did not respond. Other than the notices of appeal, the Board has not heard from the County.

The Board has consistently held that appellants bear the burden of establishing that a regional director’s decision was in error or was not supported by substantial evidence. *Van Gorden v. Acting Midwest Regional Director*, 41 IBIA 195, 198 (2005). An appellant who has not made any allegations of error has not met its burden of proof. *Johnson v. Rocky Mountain Regional Director*, 38 IBIA 64, 67 (2002). The Board may affirm a regional director’s decision where the notice of appeal does not identify any error in the decision

being appealed and the appellant submits no brief or other statement of reasons in opposition to the regional director's decision. *Scrudder v. Southern Plains Regional Director*, 56 IBIA 206, 207 (2013), and cases cited therein.

The County's notices of appeal contain no allegations of error or argument concerning the decisions, and the County has filed no briefs on the merits of its appeals. Consequently, the County has not met its burden of proof. *See Roberts County, South Dakota v. Great Plains Regional Director*, 58 IBIA 267, 268 (2014).

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 affirms the Regional Director's February 4, 2013, decisions.

I concur:

// original signed
Thomas A. Blaser
Administrative Judge

//original signed
Steven K. Linscheid
Chief Administrative Judge