



# 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

TOWN OF SOUTHAMPTON, NEW YORK,	)	Order Docketing and Dismissing Appeals
Appellant,	)	
v.	)	
EASTERN REGIONAL DIRECTOR, BUREAU OF INDIAN AFFAIRS,	)	
Appellee.	)	
	)	Docket Nos. IBIA 25-026
	)	25-027
NEW YORK STATE DEPARTMENT OF TRANSPORTATION,	)	
Appellant,	)	
v.	)	
ASSISTANT SECRETARY – INDIAN AFFAIRS,	)	
Appellee.	)	July 7, 2025

In these consolidated appeals, the Town of Southampton, New York (Town), sought review of action taken by the Eastern Regional Director (Regional Director), Bureau of Indian Affairs (BIA), on December 23, 2024, to record title to a parcel of land known as “Westwoods” in BIA’s Trust Asset and Accounting Management System (TAAMS<sup>1</sup>) as owned by the Shinnecock Indian Nation (Nation) in restricted fee status. The New York State Department of Transportation (NYSDOT) sought review of a January 2, 2025, letter issued by the Assistant Secretary – Indian Affairs (Assistant Secretary) that stated in part: “This correspondence is to inform you that on December 23, 2024, I sent a memorandum to the . . . Eastern Regional Director . . . directing her office

<sup>1</sup> TAAMS is the Department of the Interior’s system of record for title and land resource management data for Indian trust and restricted land.

to record the Shinnecock Indian Nation . . . parcel of land known as ‘Westwoods’ in . . . TAAMS[] as restricted fee. . . .”<sup>2</sup>

Upon receipt of the appeals, the Board of Indian Appeals (Board) solicited briefing regarding the Board’s jurisdiction over both appeals and the Town’s standing to appeal. The Board’s order solicited briefing on jurisdiction as follows:

## I. Town’s Appeal

*First*, to the extent the Town seeks review of the Regional Director’s recordation of title to the Westwoods property in TAAMS as being held by the Nation in restricted status, the Board solicits briefing on whether the Town’s appeal should be dismissed for lack of jurisdiction because the Regional Director’s action was compelled by the Assistant Secretary’s December 23, 2024, memorandum to the Regional Director. *See* 43 C.F.R. § 4.331(b) (providing that no appeal may be taken to the Board from a decision by a regional director that was approved in writing by the Assistant Secretary prior to promulgation). In the December 23, 2024, memorandum, the Assistant Secretary stated to the Regional Director in part: “I am directing you to have your staff record title to Westwoods in TAAMS as restricted fee . . . .” The Town does not appear to claim that the Regional Director’s action was anything but ministerial in carrying out, and consistent with, the Assistant Secretary’s directive. Therefore, it is unclear on what basis the Town believes that the Board has jurisdiction over its appeal. *See Fredericks v. Great Plains Regional Director*, 70 IBIA 175, 177 (2024), and cases cited therein. . . .

## II. NYSDOT’s Appeal

Turning now to NYSDOT’s appeal, N[Y]SDOT states that it seeks review of the Assistant Secretary’s January 2, 2025, letter. Letter from NYSDOT to Board, Jan. 30, 2025, at 1 (NYSDOT’s Notice of Appeal); NYSDOT’s Statement of Reasons at 1. With exceptions not relevant here, decisions of the Assistant Secretary are final for the Department. *See Fredericks*, 70 IBIA at 176-77. Thus, it appears that the Board must dismiss NYSDOT’s appeal for lack of jurisdiction to review the Assistant Secretary’s January 2, 2025, letter (or the Assistant Secretary’s prior December 23, 2024, memorandum, to the extent NYSDOT may also be seeking review of it).

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<sup>2</sup> Identical letters were addressed to the Nation and to the Southampton Town Board.

Order Soliciting Briefing, Feb. 4, 2025, at 3-4 (footnotes omitted).

The Board received an opening brief from NYSDOT and an answer brief from the Nation and the Nation's Council of Trustees regarding the threshold issues of jurisdiction and standing. The Town and the Regional Director did not file any briefs.

We dismiss both appeals for lack of jurisdiction. The Regional Director's action on December 23, 2024, to record title to the Westwoods parcel in TAAMS as owned by the Nation in restricted fee status was ministerial because she was carrying out the written instruction that the Assistant Secretary had given to do so. The Regional Director's action is not subject to appeal to the Board. *See* 43 C.F.R. § 4.331(b); *Fredericks*, 70 IBIA at 177 ("The Board has consistently recognized that it has no jurisdiction to hear appeals from BIA decisions that were approved in writing by the Assistant Secretary prior to issuance."). Therefore, the Board need not address the Town's standing to appeal.

NYSDOT's request for Board review of the Assistant Secretary's January 2, 2025, letter (or his December 23, 2024, memorandum to the Regional Director) fares no better. NYSDOT's brief confirms that it seeks review of the Assistant Secretary's decision that is contained in those documents, and neither document provides that an appeal may be taken to the Board. The following discussion in *Fredericks* is applicable here:

The Assistant Secretary – Indian Affairs . . . has been given the authority to lead and direct BIA and to discharge the duties of the Secretary of the Interior with respect to the administration of "a wide array of laws, regulations, and functions relating to Indian Tribes" (among other things). 109 Department Manual (DM) 8. With exceptions not relevant here, decisions made by the Assistant Secretary are final for the Department. *See, e.g., Cherokee Nation v. Acting Eastern Oklahoma Regional Director*, 58 IBIA 153, 161 (2014) (citing 25 C.F.R. § 2.6(c)(2014)).<sup>1</sup> Once a decision is final for the Department, it is no longer subject to administrative appeal within the Department . . . .

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<sup>1</sup> Under the current regulations, an agency decision is final if it is "not subject to administrative appeal," 25 C.F.R. § 2.301, and the regulations do not provide for administrative appeal from decisions by the Assistant Secretary, *id.* § 2.202 (Table 1). Thus, the Assistant Secretary's decisions are final for the Department. *See also* 25 C.F.R. § 2.507(d) (Table 1) (providing that the Assistant Secretary's administrative appeal decisions are final for the Department).

*Fredericks*, 70 IBIA at 176-77.

NYSDOT attempts to distinguish *Fredericks* on procedural grounds: there, the Assistant Secretary directed BIA *not* to take action on the underlying matter. *See* NYSDOT's Brief on Jurisdiction, Mar. 10, 2025, at 4. That distinction is inconsequential because, in both cases, the merits of the Assistant Secretary's decisions were being challenged. *See Fredericks*, 70 IBIA at 178. Indeed, many of the arguments made by NYSDOT in its brief challenge the merits of the Assistant Secretary's decision here, arguing that it was "ultra vires," did not follow "many procedural requirements set forth in Title 25 and elsewhere," and failed to "acknowledge the potential impact of the January 2025 Letter upon NYSDOT's highway easement." NYSDOT's Brief on Jurisdiction at 3. The Board cannot hear such challenges.

NYSDOT also argues that this case "is a textbook example of manifest injustice or error," and that, under 43 C.F.R. § 4.318, the Board may go outside its normal scope of review and exercise the inherent authority of the Secretary of the Interior to correct a manifest injustice or error where appropriate. NYSDOT's Brief on Jurisdiction at 5. NYSDOT asserts that it "could not have first raised the arguments set forth in its Appeal to the Regional Director . . . because NYSDOT first learned of BIA's moves . . . after the Assistant Secretary's decree," and thus the Board should consider those arguments for the first time on appeal pursuant to § 4.318. *Id.* at 6. But these arguments also challenge the merits of the Assistant Secretary's decision, over which the Board does not have jurisdiction. And as NYSDOT concedes, this provision of § 4.318 may be invoked to expand the scope of the Board's scope of review, but it "does not grant a separate and independent basis for the Board to have jurisdiction over an appeal." *Id.* at 5 (citing *Eighty-Three Fort Berthold Landowners v. Great Plains Regional Director*, 67 IBIA 293, 295 (2021)).

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 and dismisses these appeals for lack of jurisdiction.

I concur:



Thomas A. Blaser  
Chief Administrative Judge



James A. Maysonett  
Administrative Judge

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and New York State Department of Transportation  
v. Assistant Secretary – Indian Affairs  
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71 IBIA 71**

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