



INTERIOR BOARD OF INDIAN APPEALS

P & M Drilling, Inc. v. Acting Muskogee Area Director, Bureau of Indian Affairs

33 IBIA 208 (03/12/1999)



# United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS  
INTERIOR BOARD OF INDIAN APPEALS  
4015 WILSON BOULEVARD  
ARLINGTON, VA 22203

P & M DRILLING, INC.,  
Appellant

v.

ACTING MUSKOGEE AREA  
DIRECTOR, BUREAU OF  
INDIAN AFFAIRS,  
Appellee

: Order Affirming Decision  
:  
:  
:  
: Docket No. IBIA 98-24-A  
:  
:  
:  
: March 12, 1999

This is an appeal from an October 14, 1997, decision of the Acting Muskogee Area Director, Bureau of Indian Affairs (Area Director; BIA), holding that Oil and Gas Lease No. 503-6996 (68966), Munnie Bear now Bluford, Creek 4155, had expired for failure to produce oil and/or gas in paying quantities. For the reasons discussed below, the Board affirms the Area Director's decision.

The lease at issue here was approved by BIA on August 15, 1974. It was assigned to Appellant on March 3, 1980; the assignment was approved on June 25, 1980. On October 14, 1997, the Area Director sent Appellant a notice of expiration, stating that the last reported production from the lease had occurred in July 1996.

On appeal, Appellant concedes that it had "not produced oil on the lease for over one year." Appellant's Opening Brief at 1. It states, however, that it has not abandoned the lease but has done necessary work on the wells during that year. It attaches several invoices, showing work done in July 1996 and in the period between April and October 1997.

Appellant does not contend that its long period of non-production was caused by a mechanical breakdown or accident (which might excuse the non-production had Appellant also shown that it had made repairs and resumed production within a reasonable time. See, e.g., Oxley Petroleum v. Acting Muskogee Area Director, 29 IBIA 169 (1996); Citation Oilfield Supply & Leasing, Ltd. v. Acting Billings Area Director, 27 IBIA 210 (1995)). Rather, the work Appellant describes appears to have been routine maintenance and repair work. Further, as far as Appellant's filings show, no work at all was done during the period between August 1996 and March 1997.

The burden was on Appellant to show that its period of non-production was excusable. Oxley, 29 IBIA at 171. Appellant has failed to carry that burden here.

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 Area Director's October 14, 1997, decision is affirmed.

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Anita Vogt  
Administrative Judge

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//original signed  
Kathryn A. Lynn  
Chief Administrative Judge