



INTERIOR BOARD OF INDIAN APPEALS

Pat H. Hayes v. Chesapeake Operating, Inc.

43 IBIA 54 (05/10/2006)

Related Court Cases: Hayes v. Chesapeake Operating, Inc.,
No. 07- 6025, 249 Fed. Appx. 709, 2007 WL 2819308
(10th Cir. 2007)



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

PAT H. HAYES, Appellant, v. CHESAPEAKE OPERATING, INC., Appellee.	: Order Docketing and Dismissing : Appeal, and Referring Matter : to the Eastern Oklahoma : Regional Director : : Docket No. IBIA 06-62-A : : May 10, 2006
---	---

On April 27, 2006, the Board of Indian Appeals (Board) received a notice of appeal from Pat H. Hayes (Appellant), as personal representative of the estate of Leona James Hayes (Decedent), Original Chickasaw Allottee No. M-240 (Probate No. PB-02-58, D. Ct. Caddo Co., Okla.), regarding oil and gas leases on Decedent’s allotment. Appellant’s notice of appeal was directed to the Acting Secretary of the Interior and was referred to the Board for action.

Appellant seeks an order from the Department awarding damages against Chesapeake Operating, Inc. (COI) for alleged violations of applicable regulations and lease requirements. 1/ The alleged violations appear to pertain largely, if not solely, to Appellant’s requests for information and an accounting of royalties and rentals for these leases, including information which Appellant asserts is necessary to close Decedent’s estate. It appears that Appellant, relying on an outdated provision in the regulations, sought assistance from the U.S. Geological Survey (USGS) to convene a hearing pursuant to

1/ Based on materials enclosed with the notice of appeal, it appears that this matter involves three leases, all for Chickasaw Allotment M-240. The leases are identified as Lease No. 602-1234 (60515) for the S¹/₂NE¹/₄NE¹/₄; E¹/₂NW¹/₄NE¹/₄; Lease No. 503-8343 for the SE¹/₄SW¹/₄NE¹/₄; NW¹/₄NE¹/₄SE¹/₄; NE¹/₄NW¹/₄SE¹/₄, and Lease No. 602-5878 (65748), for the NE¹/₄SW¹/₄NE¹/₄; SE¹/₄NE¹/₄; NE¹/₄NE¹/₄SE¹/₄, all within Section 32, Township 3 North, Range 5 West, Grady County, Oklahoma.

25 C.F.R. 213.37. ^{2/} Appellant contends that COI violated the leases and regulations by failing to respond to his requests for information and an accounting, that COI defaulted by failing to appear for a hearing scheduled by Appellant, and that COI is therefore liable for damages.

The Board is not a court of general jurisdiction, and only has authority that has been delegated to it by the Secretary of the Interior. See Migisew-Asiniwiin Ojibwa Grand Council of Clans v. Director, Office of Self-Governance, 41 IBIA 139 (2005), and cases cited therein. That delegation does not include authority to consider a claim for damages by a personal representative of an Indian estate against a lessee of Indian restricted property.

It appears that the leases involved in this appeal are located within the jurisdictional area of the Eastern Oklahoma Regional Director (Regional Director) and the Chickasaw Agency Superintendent (Superintendent). Although the Board would have jurisdiction to review an action or inaction of the Regional Director, Appellant's notice of appeal does not identify any action or inaction by either the Regional Director or the Superintendent as the subject of his appeal.

Therefore, the Board concludes that it lacks jurisdiction over this appeal.

The source of Appellant's complaint appears to be his contention that he is entitled to information and an accounting from COI or from the Department^{3/} of royalty and rental payments made on the subject leases. Lacking jurisdiction over this appeal, the Board expresses no views on Appellant's underlying complaint. The Board will, however, refer

^{2/} Section 213.37 authorizes the Secretary to assess penalties on lessees of oil and gas or other mineral interests in restricted lands of members of the Cherokee, Choctaw, Chickasaw, Creek and Seminole Tribes ("Five Civilized Tribes") in Oklahoma, after notice of violation and a hearing by an official of USGS. In 1982, the Minerals Management Service (MMS) was created within the Department and assumed minerals management functions formerly performed by USGS. 47 Fed. Reg. 28,368 (June 30, 1982). In 1983, onshore minerals management functions, with the exception of royalty management, were transferred from MMS to the Bureau of Land Management. 48 Fed. Reg. 8982 (Mar. 2, 1983). BIA has never revised Part 213 of 25 C.F.R. to reflect these changes in Departmental organization and delegations.

^{3/} Appellant enclosed several letters dated March 9, 1999 from the Bureau of Indian Affairs to several companies, including COI, revoking "direct pay" provisions for the leases and instructing that rental and royalties thereafter be paid to MMS.

this matter to the Eastern Oklahoma Regional Director. The Board requests that the Regional Director or Superintendent, as appropriate, review this matter and provide assistance to Appellant or direct him to the appropriate source(s) of information concerning these leases.

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, and refers the matter to the Eastern Oklahoma Regional Director to provide further assistance to Appellant, as appropriate.

I concur:

// original signed
Steven K. Linscheid
Chief Administrative Judge

// original signed
Amy B. Sosin
Acting Administrative Judge