



INTERIOR BOARD OF INDIAN APPEALS

D & K Farms v. Anadarko Area Director, Bureau of Indian Affairs

25 IBIA 157 (02/01/1994)



# United States Department of the Interior

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

D & K FARMS,	:	Order Affirming Decision
Appellant	:	
	:	
v.	:	
	:	Docket No. IBIA 94-1-A
ANADARKO AREA DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	February 1, 1994

Appellant D & K Farms, seeks review of an August 17, 1993, decision of the Anadarko Area Director, Bureau of Indian Affairs (Area Director; BIA), cancelling Farming and Grazing Lease No. 41823. For the reasons discussed below, the Board of Indian Appeals (Board) affirms that decision.

Appellant's notice of appeal states in its entirety:

I am in receipt of a letter dated August 17, 1993, from the Superintendent of the Anadarko Area Agency [sic] stating his decision to cancel Farming and Grazing Lease Contract No. 41823.

This is my notice of appeal to you that I will appeal the above mentioned decision. I have sent copies of this letter to each of the interested parties listed on the attached list as well as Assistant Secretary - Indian Affairs in Washington, D.C., and the Area Director, BIA, Anadarko, Oklahoma. Copies were sent to all interested parties by United States mail.

Although advised of its right to do so, appellant did not file an opening brief. 1/

In appeals arising under 25 CFR Part 2, as this appeal does, the appellant bears the burden of proving that the agency decision complained of was erroneous or not supported by substantial evidence. See, e.g., Littleman v. Anadarko Area Director, 24 IBIA 129 (1993), and cases cited therein. In the

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1/ The Board sent its Oct. 13, 1993, notice of docketing to appellant by certified mail, return receipt requested. This notice advised appellant of its briefing privileges. The notice was returned to the Board as being unclaimed after the Postal Service attempted delivery on three occasions. The Board notes that the Area Director experienced the same problem in attempting to serve appellant. The Board's notice was remailed to appellant by regular mail on Nov. 17, 1993, and was not returned. Appellant has made no inquiries concerning its appeal.

present case, the notice of appeal does not set forth any grounds for the appeal, and appellant did not file a brief indicating those grounds. Because it has not given any reasons for the appeal, or attempted to show the error in the Area Director's decision, appellant has not sustained its burden of proof.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, the Anadarko Area Director's August 17, 1993, decision is affirmed.

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//original signed  
Kathryn A. Lynn  
Chief Administrative Judge

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//original signed  
Anita Vogt  
Administrative Judge