



INTERIOR BOARD OF INDIAN APPEALS

Violet Delonais, et al. v. Acting Billings Area Director, Bureau of Indian Affairs

26 IBIA 48 (06/17/1994)



# United States Department of the Interior

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

VIOLET DELONAIIS, et al.,	:	Order Affirming Decision
Appellants	:	
	:	
v.	:	
	:	Docket No. IBIA 94-48-A
ACTING BILLINGS AREA DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	June 17, 1994

This is an appeal from a notice sent by the Bureau of Indian Affairs (BIA), concerning recoupment of overpaid oil and gas royalties. Appellants are Violet Delonais, Edward Delonais, Carol Delonais, Brenda Delonais, Tracy Delonais, and Elizabeth Delonais. Their notice of appeal, received by the Board on January 12, 1994, stated in its entirety: "We received this notice the 13th of December this mistake was made by you and the computer. This is not our fault."

Appellants' notice of appeal was handwritten on the back of a copy of the BIA royalty notice addressed to Tracy Delonais. The BIA notice was undated and unsigned. It indicated that Tracy Delonais had received an overpayment of \$22.45 as a result of computer error, and that the overpaid amount would be recouped from future income. It also indicated that an appeal could be filed with the Board.

Because the BIA notice appeared to have originated from the Billings Area Office, the Board sought information from that office. By memorandum of March 15, 1994, the Acting Billings Area Director explained the circumstances leading to issuance of the notice. He stated that duplicate royalty payments had been made in November 1993 as a result of an error which occurred when the Area Office switched to a new computer system. He continued:

The appellants' accounts were over drafted in December to recover the erroneous payment made to them in November. To notify them and all of the people affected by this recovery of funds, an automated notice, authored by our staff, was sent out by the NTSC. [1/] More than 1,600 people were affected by this error. The notices were not signed due to the number of people affected and the amount of time it would have taken to process that many original signatures. Our desire was to notify the appellants and all royalty recipients before December's payment was made, this payment was scheduled for December 16, 1993. \* \* \*

1/ National Technical Support Center, BIA, Albuquerque, New Mexico.

Although this error has resulted in this appeal, we wish to assure you and all royalty recipients that our computer system has been improved significantly from the previous system. Royalty payment delivery in the future will be improved because of this computer upgrade.

Upon receipt of the Area Director's memorandum, the Board concluded that, under the circumstances, the BIA royalty notice should be construed as a decision made by the Area Director. <sup>2/</sup> It therefore docketed the appeal and gave appellants an opportunity to show error in the decision.

Appellants' response was due on or before May 2, 1994. No response has been received.

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

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//original signed  
Anita Vogt  
Administrative Judge

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//original signed  
Kathryn A. Lynn  
Chief Administrative Judge

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<sup>2/</sup> Any other construction would have required remand to the Area Director for further proceedings and would have caused a significant delay in the resolution of this matter.