



INTERIOR BOARD OF INDIAN APPEALS

Pacific Enterprises Oil Co. (USA) v. Muskogee Area Director,  
Bureau of Indian Affairs

26 IBIA 275 (10/20/1994)

On reconsideration:  
27 IBIA 40



# United States Department of the Interior

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

PACIFIC ENTERPRISES OIL : Order Docketing and Dismissing Appeal  
COMPANY (USA), :  
Appellant :  
v. : Docket No. IBIA 95-5-A  
MUSKOGEE AREA DIRECTOR, :  
BUREAU OF INDIAN AFFAIRS, :  
Appellee : October 20, 1994

Appellant Pacific Enterprises Oil Company (USA) seeks review of a May 20, 1994, decision issued by the Muskogee Area Director, Bureau of Indian Affairs (Area Director; BIA), informing appellant that Oil and Gas Lease 602-1568 (65192), Mary Ayakatubby, now Allen, Chickasaw 24, covering the NE $\frac{1}{4}$  of sec. 36, T. 2 N., R. 7 E., Pontotoc County, Oklahoma, had expired for failure to produce oil and/or gas in paying quantities. The Area Director stated that production from the lease was last reported in July 1993.

The return receipt card for the Area Director's decision shows that it was signed for on May 23, 1994. The Area Director's decision states:

This decision may be appealed to the Interior Board of Indian Appeals \* \* \* in accordance with the regulations in 43 CFR 4.310-4.340. Your notice of appeal to the Board must be signed by you or your attorney and must be mailed within 30 days of the date you receive this decision. \* \* \*

If no appeal is timely filed, this decision will become final for the Department of the Interior, at the expiration of the appeal period. No extension of time may be granted for filing a notice of appeal.

In its notice of appeal, which is dated September 26, 1994, and postmarked September 23, 1994, appellant argues:

Please note from the copy of your letter attached that your notice of lease expiration was sent to the office address in Dallas which used to serve as the business address for [appellant] prior to the closing of the office and release of the employees. Pursuant to a sale of the majority of the assets of [appellant], the Dallas office was closed for ongoing business at the end of 1993 and since that time has been used primarily for storage of records and information. The letter of May 20, 1994, although apparently received at the old Dallas location, was not received by this office until September 1994, when the

letter was discovered in the Dallas location by a former employee. Therefore, [appellant] respectfully requests that this appeal be considered timely \* \* \*.

BIA sends notices concerning Indian oil and gas leases to the lessee of record at the address provided by the lessee. The May 20, 1994, letter was sent to appellant, as the lessee of record, at the address provided by it. It is the lessee's responsibility to keep BIA apprised of any change in address.

Appellant suggests it has no responsibility toward this lease, contending that it sold and/or assigned its interest in the lease in 1985. Appellant states that “[i]t is believed that at the time of the assignment that the completed assignment form was supplied to [the assignee] and he was advised to supply the form to BIA and obtain the necessary approval. Following the assignment [the assignee] filed an appropriate change of operator form with the Oklahoma Corporation Commission.”

It is also the lessee's responsibility to ensure that any assignment of an Indian lease is properly submitted to BIA for approval. The lessee's duties do not end until the assignment is approved. Appellant's belief concerning what another person might have been informed and/or might have done does not support a finding that appellant has no responsibility toward this lease based on an assignment. Furthermore, the filing of a change of operator form with the Oklahoma Corporation Commission does not constitute BIA approval of a lease assignment, or proof that an assignment was approved.

Appellant has not submitted any evidence or argument sufficient to warrant a finding that it is not the lessee of record for this lease; that it was not responsible for providing BIA with its current address; or that it should not be charged with receipt of a BIA letter sent to it at its address of record, and signed for at that location.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, this appeal from the Muskogee Area Director's May 20, 1994, decision is docketed and dismissed as being untimely filed.

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//original signed  
Kathryn A. Lynn  
Chief Administrative Judge

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//original signed  
Anita Vogt  
Administrative Judge