



INTERIOR BOARD OF INDIAN APPEALS

Gerald Chisum v. Acting Muskogee Area Director, Bureau of Indian Affairs

29 IBIA 193 (05/16/1996)



United States Department of the Interior

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

GERALD CHISUM, Appellant	: Order Docketing and Dismissing : Appeal : :
v.	:
ACTING MUSKOGEE AREA DIRECTOR, BUREAU OF INDIAN AFFAIRS, Appellee	: Docket No. IBIA 96-59-A : : : May 16, 1996

Appellant Gerald Chisum sought review of a February 15, 1996, notice issued by the Acting Muskogee Area Director, Bureau of Indian Affairs (Area Director; BIA), to BKANS Oil, Inc. The notice stated that Oil and Gas Lease No. 601-46750 (62778), Florence Harley now John, Choctaw 3131, had expired for failure to produce oil and/or gas in paying quantities. The Area Director stated: "It is our understanding that this lease was sold and commercially assigned to Mr. Gerald Chisum of Duncan, Oklahoma; however, as this transfer of title was not approved by the Secretary of the Interior, BKANS Oil, Inc., remains lessee of record."

In HCB Industries, Inc. v. Muskogee Area Director 18 IBIA 222 (1990), the Board held that an unapproved assignment of an oil and gas lease is void ab initio, has no force or effect, and grants no rights to either the attempted grantor or grantee. It further held that because an assignment of a lease is not effective until approved by BIA, an unapproved assignee lacks standing to challenge actions taken by BIA as the manager of the lease. In Uinta Oil and Gas, Inc. v. Acting Phoenix Area Director 27 IBIA 3 (1994), the Board dismissed for lack of standing an appeal filed by an unapproved assignee of an Indian oil and gas lease. The Board stated in Uinta that "[i]n order to show standing under HCB Industries, appellant was required to show that it had an approved assignment and thus had a valid interest in the lease" (27 IBIA at 4).

Citing these precedents, the Board gave appellant until April 30, 1996, to show that he had standing to bring this appeal. 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, this appeal from the Acting Muskogee Area Director's February 15, 1996, notice is docketed and dismissed.

//original signed
Kathryn A. Lynn
Chief Administrative Judge

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Anita Vogt
Administrative Judge