



INTERIOR BOARD OF INDIAN APPEALS

William H. Price and Flare Oil, Inc. v. Acting Muskogee Area Director,
Bureau of Indian Affairs

32 IBIA 290 (08/10/1998)



United States Department of the Interior

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

WILLIAM H. PRICE,	:	Order Affirming Decision
Appellant	:	
	:	
FLARE OIL, INC.	:	
Appellant	:	
	:	Docket Nos. IBIA 98-11-A
v.	:	IBIA 98-25-A
	:	
ACTING MUSKOGEE AREA DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	August 10, 1998

These are appeals from a September 23, 1997, decision of the Acting Muskogee Area Director, Bureau of Indian Affairs (Area Director), finding that Oil and Gas Lease No. 503-7196 (69155), Dave Yargee, Creek 1010, had expired for failure to produce oil and/or gas in paying quantities.

The Area Director has moved to dismiss these appeals. Upon review of the record, the Board finds that disposition on the merits is more appropriate in this case.

The Area Director's decision indicated that there was no production at all during the period June 1996 through March 1997; that a total of 150 barrels was produced during the period April through July 1997, although no royalties were paid on that production; and that production ceased again after July 1997. The administrative record includes a Bureau of Land Management report which supports the Area Director's statements in this regard.

Appellant Price contended in his notice of appeal that the lease "has not expired or terminated, and is in full force and effect." He stated that he "reserve[d] the right to further plead the grounds for such contention, and to identify the points of error relating to the Decision and notice of termination." However, he filed nothing further.

Appellant Flare Oil, Inc., filed an opening brief which discussed disputes between the two Appellants, and/or others involved with the lease, but which failed entirely to address the issue of lease expiration.

The Area Director filed an answer brief discussing the law relevant to the issue of lease expiration. Neither Appellant filed a reply brief.

In appeals arising under 25 C.F.R. Part 2, an appellant bears the burden of providing that the agency action complained of is erroneous or not supported by substantial evidence. E.g., Farmers & Merchants Bank of Tryon.

Oklahoma v. Muskogee Area Director, 21 IBIA 106 (1991); Kahan v. Muskogee Area Director, 18 IBIA 180 (1990). By making only general allegations of error in the Area Director's decision and failing to support those allegations, Appellants have failed to carry their burden of proof in these appeals. Miami Tribe of Oklahoma v. Muskogee Area Director, 27 IBIA 123, recon. denied, 27 IBIA 153 (1995).

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 Area Director's September 23, 1997, decision is affirmed.

//original signed

Anita Vogt
Administrative Judge

//original signed

Kathryn A. Lynn
Chief Administrative Judge