

Appeal from decision of the New Mexico State Office, Bureau of Land Management, denying petition for reinstatement of oil and gas lease NM-16811.

Set aside and remanded.

1. Oil and Gas Leases: Reinstatement--Oil and Gas Leases: Termination--Rules of Practice: Appeals: Generally--Rules of Practice: Appeals: Motions

The Board of Land Appeals will entertain and grant a motion by the Bureau of Land Management to remand an oil and gas lease case on appeal to the Board from a decision holding the lease had terminated and denying a petition to reinstate the lease, where BLM discovered, while the case was on appeal, that its decision was predicated on an erroneous factual basis in that annual rental for the lease had actually been paid on time, but the check had been misplaced by BLM and was later found.

APPEARANCES: Kathryn A. Dalton, pro se.

OPINION BY ADMINISTRATIVE JUDGE THOMPSON

Kathyrn A. Dalton appeals from the January 5, 1977, decision of the New Mexico State Office, Bureau of Land Management (BLM), denying her petition for reinstatement of oil and gas lease NM-16811. BLM had determined that the lease had terminated by operation of law when the annual rental was not received at the State Office on or before the anniversary date of the lease, October 1, 1976.

Appellant alleged that a check for the rental was mailed on September 2, 1976. She could not explain its failure to arrive at the New Mexico State Office before October 1. By letter dated May 18, 1977, the Chief, Division of Technical Services at the New Mexico State Office, stated that appellant's check for the October 1, 1976, annual rental was discovered on May 13, 1977, and that the rental had been timely paid. He requested the case be returned to the State Office for reinstatement of the lease. We grant this motion.

[1] The Board of Land Appeals may entertain and grant motions by BLM for the remand of a case in order to reconsider the decision appealed from. Harold Gillis, 24 IBLA 248 (1976). The granting of such a motion is particularly appropriate where the BLM decision was based on erroneous facts. Since the annual rental apparently was timely received by the State Office, but was misplaced and later found, appellant's lease did not terminate by operation of law.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is set aside and the case remanded for appropriate action.

Joan B. Thompson
Administrative Judge

We concur:

Martin Ritvo
Administrative Judge

Newton Frishberg
Chief Administrative Judge