



INTERIOR BOARD OF INDIAN APPEALS

GMG Oil & Gas Corp. v. Muskogee Area Director, Bureau of Indian Affairs

18 IBIA 116 (01/18/1990)



United States Department of the Interior

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

GMG OIL AND GAS CORP., Appellant	:	Order Approving Settlement and Dismissing Appeal
v.	:	
MUSKOGEE AREA DIRECTOR, BUREAU OF INDIAN AFFAIRS, Appellee	:	Docket No. IBIA 90-18-A January 18, 1990

On October 20, 1989, the Board of Indian Appeals received a notice of appeal from GMG Oil & Gas Corp., through counsel, Donald W. Henson, Esq., Okmulgee, Oklahoma. Appellant stated that it sought review of a decision cancelling Departmental Oil and Gas Lease G02C1420-7854 (69799), Winey Hawkins now Harjo, Creek 2065, but did not furnish the Board with a copy of the decision appealed from. Nor did it identify the deciding official or the date the decision was rendered.

The Board ordered appellant to supply a copy of the decision appealed from and to inform the Board of the date it received the decision. Appellant did not respond. Therefore, on November 21, 1989, the Board ordered appellant to show cause why its appeal should not be dismissed. Appellant also failed to respond to the show cause order.

On January 17, 1990, the Board was furnished with a copy of a January 8, 1990, letter from the Acting Muskogee Area Director to appellant, purporting to reinstate the cancelled lease following appellant's posting of a performance bond. The letter also purported to dismiss this appeal.

The Acting Area Director clearly had no authority to dismiss this appeal. Further, his authority to reinstate the lease, without approval from the Board, is doubtful, because he was without jurisdiction over this matter following appellant's filing of a notice of appeal with the Board. It appears, however, that the lease reinstatement was undertaken in furtherance of a settlement agreement between the parties.

Because of the possibility that the Acting Area Director's reinstatement of the lease may otherwise be invalid for lack of authority, the Board will construe his January 8, 1990, letter as a notice of settlement and will approve the settlement. 1/

1/ Normally, the Board would require confirmation of a settlement from an appellant before dismissing its appeal on the basis that the appeal had been settled. In this case, however, appellant is subject to having its appeal dismissed on other grounds because of its failure to respond to the Board's orders.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, the settlement between the parties to this appeal is approved and the appeal is dismissed.

//original signed
Anita Vogt
Administrative Judge

//original signed
Kathryn A. Lynn
Chief Administrative Judge