PACIFIC ENTERPRISES OIL COMPANY (USA), Appellant	:	Order Affirming Dismissal of Appeal on Reconsideration
v.	:	Docket No. IBIA 95-5-A
MUSKOGEE AREA DIRECTOR, BUREAU OF INDIAN AFFAIRS, Appellee	:	November 22, 1994

Appellant Pacific Enterprises Oil Company (USA) seeks reconsideration of an October 20, 1994, order issued by the Board of Indian Appeals (Board) dismissing appellant's appeal from a May 20, 1994, decision of the Muskogee Area Director, Bureau of Indian Affairs (Area Director; BIA). The Area Director concluded that Oil and Gas Lease 602-1568 (65192), Mary Ayakatubby, now Allen, Chickasaw 24, covering the NE¼ 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.

In support of its petition for reconsideration, appellant states:

> Subsequent developments have resolved the issue of effectiveness of the assignment of [appellant's] interest in the Lease, and of the financial responsibility for lessee obligations respecting the lease. On November 1, 1994, [appellant] filed the necessary documentation reflecting assignment with the Muskogee office of the BIA. The assignment, effective December 16, 1985, is to East Fitts Joint Ventures, the successor-in-interest to K.M. Hamilton. A copy of the filed assignment is attached. Moreover, [appellant] is informed that East Fitts has posted a bond for all liabilities arising from the Lease. [Appellant] is also informed that East Fitts plans to continue operations on the Lease as the assignee of the Lease interests.
>
> In view of these recent developments, [appellant] requests reconsideration of the October 20 Order. In view of the filing of appropriate assignment documentation and the bond posting of the assignee, the BIA Notice of Expiration to [appellant] is moot. The BIA is now fully secured by the bond of the assignee of the Lease interests. Accordingly, there is no need or grounds for any action against [appellant] or its bond respecting activity on the Lease.
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> Granting this Petition for Reconsideration will obviate any confusion regarding [appellant's] obligations with respect to the Lease. The May 20, 1994, Notice purports to impose obligations on [appellant] due to the apparent failure of the assignee to file appropriate documentation regarding the assignment. This failure has been cured, and a bond has been posted by the assignee. For

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these reasons it is necessary and appropriate to grant reconsideration for the purposes of vacating the Notice.

(Petition at 2-3).

The assignment enclosed with appellant's petition, which is signed only by appellant's Vice President, is dated "this 14th day of October, 1994, but effective as of December 16, 1985."

On December 16, 1985, 25 C.F.R. 213.38(a) provided as it does now:

> [Mining, including oil and gas, l]eases or any interest therein, may be assigned or transferred only with the approval of the Secretary of the Interior, and to procure such approval the assignee must be qualified to hold such lease under existing rules and regulations, and shall furnish a satisfactory bond for the faithful performance of the covenants and conditions thereof. No lease or any interest therein, or the use of such lease, shall be assigned, sublet, or transferred, directly or indirectly, by working or drilling contract, or otherwise, without the consent of the Secretary of the Interior. Assignments of leases shall be filed with the Area Director within 20 days after the date of execution.

As a lessee of Indian lands, appellant had the responsibility to familiarize itself with duly promulgated regulations governing its activities and is deemed to have knowledge of regulations published in the C.F.R. Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947); Narconon Chilocco New Life Center v. Acting Anadarko Area Director, 25 IBIA 273, 277 (1994), and cases cited therein.

Appellant states that it originally assigned the lease to Kent M. Hamilton on December 16, 1985. It does not contend that that assignment was presented to BIA within 20 days of December 16, 1985, or that it was approved by BIA. As of July 1993, the date of last reported production, and as of May 20, 1994, the date of the Area Director's decision, appellant was the lessee of record. Without an approved lease assignment, appellant is still the lessee of record. Because the lease had already expired by its own term for lack of production before appellant executed the purported assignment dated October 14, 1994, there was no lease to be assigned. 1/

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. 4.1 and 4.315, the Board affirms its dismissal of appellant's appeal from the Muskogee Area Director's May 20, 1994, notice to appellant that its lea had expired for lack of production.

Kathryn A. Lynn Chief Administrative Judge	Anita Vogt Administrative Judge

1/ Appellant's statement that East Fitts intends to undertake operations on the lease on the strength of the assignment is a matter that BIA will need to investigate.

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