

**BEFORE THE ENVIRONMENTAL APPEALS BOARD  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C.**

---

In re: )  
 )  
 )  
Isbrandtsen Oil and ) UIC Appeal No. 99-1  
Gas Company, Inc. )  
 )  
Docket No. UIC-AO-97-011 )  
 )

---

**ORDER DISMISSING APPEAL**

On March 11, 1999, Isbrandtsen Oil and Gas Company, Inc. (Isbrandtsen), the respondent in the above-entitled proceeding, filed with the Environmental Appeals Board a Notice of Appeal and an accompanying Motion for Extension of Time to File Brief on Appeal. According to the Notice of Appeal, Isbrandtsen is seeking review of a "Decision on Cross-Motions for Summary Determination dated February 18, 1999." Because Isbrandtsen's Notice of Appeal makes no reference to a penalty assessment, the Board has regarded the Decision on Cross-Motions for Summary Determination as addressing liability only, and has therefore treated the appeal as interlocutory in nature.<sup>1</sup> Thus, on March 31, 1999, the Board

---

<sup>1</sup>Subsequent pleadings indicate that the appeal is interlocutory in nature. According to the Motion to Dismiss the Appeal submitted by Region V: "Complainant \* \* \* filed a Motion, requesting Summary Determination on Liability \* \* \*. Respondent \* \* \* filed a Response and Cross-Motion for Summary  
(continued...)"

issued an order requiring Isbrandtsen and U.S. EPA Region V to submit briefs addressing two jurisdictional issues: 1. whether an administrative appeal is available at any time in this matter, and 2. whether such an appeal can be taken at this stage of this proceeding. Pursuant to the Board's March 31 order, the Region's brief regarding these jurisdiction issues was to be filed by April 8, 1999, and Isbrandtsen's brief was to be filed by April 19, 1999. On April 5, 1999, Region V submitted a motion to dismiss Isbrandtsen's appeal for lack of jurisdiction, together with a supporting memorandum. Isbrandtsen has neither responded to the Region's motion to dismiss nor otherwise complied with the Board's March 31 order for briefing on jurisdiction issues.

In view of the foregoing, we regard Isbrandtsen's interlocutory appeal as having been abandoned and hereby dismiss the appeal. Because the jurisdictional questions in this case have not been fully briefed, the Board at this time intimates no view as to the proper resolution of those issues.

---

<sup>1</sup>(...continued)  
Determination of its own. \* \* \* On February 18, 1999, the Presiding Officer issued a Decision on the Motions for Summary Determination. The decision found Respondent liable. It is this decision on liability from which Respondent seeks to appeal." Motion to Dismiss Appeal at 1-2 (March 30, 1999).

This dismissal is without prejudice to any basis Isbrandtsen may have to seek further review after the Presiding Officer has issued her Initial Decision in this case.

So ordered.

ENVIRONMENTAL APPEALS BOARD

By: \_\_\_\_\_ /s/  
Scott C. Fulton  
Environmental Appeals Judge

Dated: 08/05/99

**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing Order Dismissing Appeal in the matter of Isbrandtsen Oil & Gas Co., UIC Appeal No. 99-1, were served upon the following persons in the manner indicated:

By certified mail:

Matthew D. Zimmerman  
Mark M. Davis  
Varnum, Riddering,  
Schmidt & Howlett  
Bridgewater Place  
P.O. Box 352  
Grand Rapids, MI 49501-0352

By first-class mail:

Thomas C. Nash (C-29A)  
Assistant Regional Counsel  
U.S. EPA, Region V  
77 W. Jackson Blvd.  
Chicago, IL 60604-3590

Regina M. Kossek  
Regional Judicial Officer  
U.S. EPA, Region V  
77 W. Jackson Blvd.  
Chicago, IL 60604-3590

/s/

---

Annette Duncan  
Secretary

Dated: 08/06/99