DUNCAN MILLER

IBLA 70-212 Decided December 6, 1972

Appeal from a decision of the Office of Appeals and Hearings, Bureau of Land Management, finding issuance of a noncompetitive oil and gas lease proper and that appellant was bound by certain standard stipulations.
Affirmed.

Oil and Gas Leases: Applications: Generally

An applicant who executes a noncompetitive oil and gas lease offer stating he accepts, as part of the lease, stipulations provided for in 43 CFR 191.6 (now 43 CFR 3109.4-2), is bound by such stipulations and such lease may not be rescinded on the ground he was not able to consider the stipulations.

APPEARANCES: Duncan Miller, pro se.

OPINION BY MRS. LEWIS

Appellant has appealed from a decision of the Office of Appeals and Hearings, Bureau of Land Management, dated June 22, 1970, affirming dismissal of appellant's protest against the issuance of noncompetitive oil and gas lease Riverside 06971. The decision found that standard stipulations were binding on appellant, that the lease was properly issued, and held that the lease had terminated by operation of law for failure to pay timely the rental for the second lease year on or before the anniversary date.

Appellant contends, as he did before the Director, Bureau of Land Management, that noncompetitive oil and gas lease Riverside 06971 should be rescinded on the ground that he was not permitted to consider the stipulations in issue herein and did not sign them.

It is clear that Item 5(c) of the lease issued to appellant provides that "Offeror accepts as a part of this lease, to the extent applicable, the stipulations provided for in 43 CFR 191.6."

The stipulations in issue herein, which are standard stipulations, are entitled "United States Department of Interior, Bureau of Land Management, Stipulation for Lands under Jurisdiction of Department of Agriculture, Form 3103-2."

The land involved is in a national forest and therefore is under the jurisdiction of the Department of Agriculture. The pertinent regulation, 43 CFR 3109.4-2 (formerly designated as 3103.2 and 191.6), provides that offerors for noncompetitive oil and gas leases for lands, the surface of which is under the jurisdiction of the Department of Agriculture, will be required to consent to inclusion of stipulations on a form approved by the Director, BLM.

From the above, it is clear that BLM may properly require the acceptance of standard stipulations such as those here in issue, and that the lease offer form (which becomes the lease) gives sufficient notice to the lessee of such stipulations. Appellant had sufficient notice of the stipulations from the lease offer form before he submitted the offer and with such notice he could have obtained a copy of the stipulations if he wished, but apparently he did not. He voluntarily submitted the signed lease offer, agreeing to accept stipulations provided for in the above regulation.

Accordingly, as the requirement of the stipulations is proper, 1/ as appellant had notice that when he signed the lease offer form he accepted stipulations provided for in the regulation then numbered 43 CFR 191.6, and as he signed the offer with such notice, he is bound by the stipulations and the lease will not be rescinded. It therefore terminated, as the decision below held, at the end of its first lease year for appellant's failure to pay timely the annual rental.

Therefore, 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 affirmed.

Anne Poindexter Lewis, Member

We concur:

Martin Ritvo, Member

Edward W. Stuebing, Member.

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1/ The recent ruling in Duncan Miller, 6 IBLA 216 (1972), is applicable to special stipulations as opposed to the standard stipulations on the form approved by the Director here involved.