

DUNCAN MILLER

IBLA 70-63

Decided February 9, 1971

Oil and Gas Leases: Acquired Lands Leases -- Oil and Gas Leases: Applications: Generally --
Oil and Gas Leases: Consent of Agency

An applicant for an acquired lands oil and gas lease must execute any special stipulations required by the agency administering the lands as a condition to the issuance of the lease; the applicant, rather than this Department, must seek any modification or clarification of the stipulations from the agency.

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IBLA 70-63 : NM-A 8683 (Texas)

DUNCAN MILLER : Oil and gas lease
: stipulations required

: Affirmed

DECISION

Duncan Miller has appealed to the Secretary of the Interior from a decision by the Chief, Branch of Mineral Appeals, Office of Appeals and Hearings, Bureau of Land Management, dated May 26, 1969, affirming a New Mexico land office decision of January 15, 1969, requiring him to execute special stipulations as a condition to the issuance of an oil and gas lease pursuant to his successful simultaneously-filed offer NM-A 8683 (Texas).

The oil and gas lease offer is for acquired land under the jurisdiction of the Army Corps of Engineers for the Denison Dam project. The special stipulations imposed by this agency preclude surface use of the land and any drilling operation in, on, or under the land.

Appellant contends the stipulations should be clarified as the decision ignores his rights by failing to indicate how oil and gas exploration is possible under the stipulations.

Under the Mineral Leasing Act for Acquired Lands, 30 U.S.C. § 352 (1964), the consent of the agency administering the acquired lands is necessary for the issuance of a lease. D. Miller, A-27378 (October 15, 1956). Where an agency conditions its consent upon the execution of special stipulations by the lessee, the applicant must sign them or suffer the rejection of his offer. Celia R. Kammerman et al., 66 I.D. 255 (1959). This Department does not look into the conditions or terms imposed by the administering agency. Id. Instead, the applicant, rather than this Department, must seek any modification or clarification of the stipulations from that agency. Cf. Duncan Miller, A-29760 (September 18, 1963), Duncan Miller, A-30742 (December 2, 1966), Duncan Miller, A-30722 (April 14, 1967).

The decision below allowed Miller 30 days within which to seek any clarification of the stipulations from the Army Corps of Engineers in Tulsa, Oklahoma. Apparently, he has failed to do this. Therefore, if the stipulations, as required or clarified by the Army Corps of Engineers, are not filed in the New Mexico land office within 30 days from the date of this decision, Miller's offer will be considered as rejected without any further notice being given.

Pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior (211 DM 13.5; 35 F.R. 12081), the decision appealed from is affirmed.

Joan B. Thompson, Alternate Member

We concur:

Newton Frishberg, Chairman

Martin Ritvo, Member

