

Oil and Gas Leases: Termination

An oil and gas lease expires at the end of its statutorily extended term where there has not been compliance with any of the provisions of the Mineral Leasing Act under which a further extension of the lease may be granted.

Rules of Practice: Protests

A protest against termination of an oil and gas lease is properly dismissed where there exists no reason under the Mineral Leasing Act to grant any further extension of the lease.

IBLA 71-4 : Wyoming 091832-C
MARGARET H. PAUMIER :
: Oil and gas lease expired;
: protest dismissed
:
: Affirmed

DECISION

Margaret H. Paumier has appealed to the Board of Land Appeals from a decision dated July 28, 1970, in which the Wyoming land office, Bureau of Land Management, dismissed her protest against expiration of noncompetitive oil and gas lease Wyoming 091832-C. The land office stated that the lease had been issued March 1, 1960, and extended to February 28, 1970, on which date it expired as no condition then existed whereby the lease might be further extended.

The appellant contends the land office is at fault for not telling her sufficiently early in 1969 that her lease would expire February 28, 1970, and for not advising her at the same time how a further extension of the lease could be obtained by making a partial assignment.

The record indicates that appellant obtained title to the lease Wyoming 091832-C effective March 1, 1960, by an assignment approved concurrently with issuance of the lease. The lease contained 80 acres, described as SW 1/4 NE 1/4, NE 1/4 SW 1/4 section 15, T. 55 N., R. 95 W., 6th P.M., Wyoming. Annual rentals were timely paid for the 5-year period of the original lease and the 5-year extension to February 28, 1970. On January 7, 1970, appellant tendered rental payment of \$40 for what she called the 10th lease year, but in reality it was for the 11th year from the date of issuance of the lease.

By letter dated January 8, 1970, the land office advised her that the lease would expire February 28, 1970, and could not be further extended except by actual production of oil or gas, by active drilling at the time of expiration, or by a partial assignment of the lease filed for approval prior to February 1, 1970. Necessary forms and instructions for making an assignment were included with the letter, but the letter carried an incorrect ZIP Code in its

address, and appellant claims she did not receive it until January 31, 1970. She immediately sent the land office a letter, received February 2, saying that she had sold 40 acres of her lease to Kathleen Paumier, and enclosed \$10 as filing fee for the assignment. However, she did not send any instrument of assignment for approval by the land office. The land office, by letter dated February 3, advised appellant that as no assignment had been submitted, the filing fee was being returned, and that unless there was production of oil or gas, or actual drilling operations were being conducted on the leasehold on February 28, 1970, the lease would expire as scheduled, and if neither of these conditions existed on February 28, the \$40 received January 7 would be refunded. This letter likewise had an incorrect ZIP Code in its address.

Subsequently, appellant made a telephone call to the Office of the Director, Bureau of Land Management, relative to her lease problems. Thereafter a letter dated February 20 from the Bureau to appellant recounted the history of the lease and the requirements for an extension by means of a partial assignment, and suggested that Miss Paumier might submit a protest in writing to the Wyoming land office. This letter also had an incorrect ZIP Code in its address.

On February 28, 1970, as there was no reported production of oil or gas or active drilling operations in progress on lease Wyoming 091832-C, the lease expired by operation of law.

After another phone call by appellant to the Office of the Director, Bureau of Land Management, in March 1970, the error in the ZIP Code on the several recent letters was discovered. The Wyoming land office was then instructed by the Director not to post the land in former lease Wyoming 091832-C to a simultaneous filing list (43 CFR Subpart 3112) until any protest by Miss Paumier is finally resolved.

Appellant sent a letter, dated July 20, 1970, to the United States Attorney, Cheyenne, Wyoming, who forwarded it to the Wyoming land office. The land office considered the letter to be a protest against termination of lease Wyoming 091832-C, and dismissed the protest. This appeal then followed.

The thrust of the appeal seems to be that the Bureau of Land Management did not give her specific and timely instruction so that she could obtain the benefit of a further extension to her lease by means of a partial assignment. She also suggests that the land office deliberately withheld the information for nefarious reasons.

The simple answer to her complaint is that one who holds an oil and gas lease from the United States is presumed to know the law and regulations and will conduct his affairs relative to the lease strictly in accordance therewith. A lessee's unfamiliarity with the regulations does not excuse his failure to take advantage of benefits which might be obtained thereunder. Cf. Ernest O. Tullis, A-29678 (December 27, 1962). Further, there is no requirement in law or regulation which compels the land office to give prior notice to lessees that their leases are about to expire and that a further extension of the lease term may be obtained if a certain course is followed. In this case, the information from the land office to Miss Paumier was gratuitous after it received her rental payment for no apparent reason.

It is unfortunate that the several letters from the Bureau to Miss Paumier were delayed because of an error in the ZIP Code, but the primary responsibility for knowing the rights and privileges under a federal oil and gas lease rests with the lessee. We find no merit to the charge by appellant that Bureau personnel deliberately contrived to cause her to lose this lease. The inadvertent transposition of numbers in the ZIP Code was carelessness perhaps, but there is no evidence that it was deliberately designed to impede delivery of the letters.

Lease Wyoming 091832-C was issued March 1, 1960, for a term of 5 years and extended for an additional 5 years to February 28, 1970, as provided by 30 U.S.C. § 226-1(a) (1964). Any further extension of the lease was contingent upon an action by the lessee timely performed, such as having a well capable of production of oil or gas in paying quantities on February 28, 1970, 30 U.S.C. § 226-1(b) (1964), or active drilling for oil or gas on that date, 30 U.S.C. § 226-1(d) (1964), or by filing of an acceptable assignment of a portion of the lease prior to February 1, 1970, 30 U.S.C. § 187a (1964), so that the assignment could be approved with at least one full month of the lease term remaining. Donald K. Ladd, 68 I.D. 169 (1961). As none of these conditions was satisfied, lease Wyoming 091832-C expired by operation of law at the end of its stated term on February 28, 1970.

Therefore, 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 protest against termination of the lease is dismissed. The case file is remanded to the Bureau of Land

Management for processing a refund to Miss Paumier of the rental payment of \$40 received January 7, 1970, and of the appeal fee of \$5 received August 10, 1970.

Newton Frishberg, Chairman

We concur:

Francis E. Mayhue, Member

Edward W. Stuebing, Member.

