

DUNCAN MILLER

IBLA 70-137

Decided October 22, 1971

Oil and Gas Leases: Generally

An application to consolidate two noncompetitive oil and gas leases, which were originally one lease held by the applicant, will be denied where the primary result of the consolidation would be to reduce drilling requirements under the leases and where it does not appear that the interests of the Federal Government will be benefited.

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M 020384, M 020384-A

DUNCAN MILLER

: Oil and gas leases  
: consolidation denied  
  
: Affirmed

### DECISION

Duncan Miller has appealed from the decision of the Chief, Branch of Mineral Appeals, Bureau of Land Management, dated March 18, 1970, affirming the decision of the Montana land office dated December 1, 1969, which denied his application to consolidate noncompetitive oil and gas leases M 020384 and M 020384-A.

Montana 020384 was originally issued to the appellant effective April 1, 1958, and was extended for 5 years. By various assignments the two leases were created and extended to February 28, 1970, pursuant to 30 U.S.C. 187a (1958). See Sol. Op., 64 I.D. 135 (1956). By an assignment effective November 1, 1969, M 020384-A was assigned back to Miller.

Lease M 020384 was extended to February 29, 1972, by virtue of diligent drilling operations, pursuant to 30 U.S.C. 226-1(d) (1970). Thus, one effect of the requested consolidation would be to give the M 020384-A lease a two-year extension it had not otherwise earned.

The Bureau decision held that the appellant had failed to show that the public interest would be benefited by the requested consolidation and that he had not shown any error in the land office denial of his application for such consolidation. Moreover, that decision stated that the primary result of consolidation would be to reduce the drilling requirements under the leases.

Both the land office decision and the Bureau decision were based on a memorandum from the Geological Survey dated November 26, 1969, which stated that it sees no benefit to United States to be derived from consolidating the leases and recommended that the consolidation not be approved. We note that oil and gas lease M 020384-A expired as of February 28, 1970.

In his appeal the appellant contends that there are a number of dry holes in the area of the leases in issue and that the nearest oil fields are the Ute Field and the Leary Field about five miles away and that both these fields have 80-acre spacing. However that may be, it has no probative effect to establish that 40-acre spacing is not permissible with respect to the leases in question.

We have reviewed the record and find no basis for reversing the decision below. Cf. Cities Service Oil Company, A-24573 (December 12, 1947).

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 decision appealed from is affirmed.

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Frederick Fishman, Member

We concur:

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Martin Ritvo, Member

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Edward W. Stuebing, Member

