

LEROY GATLIN

IBLA 72-122

Decided January 21, 1972

Appeal from decision, NM-A 14262 (Oklahoma), by New Mexico state office, Bureau of Land Management, rejecting acquired lands oil and gas lease offer.

Affirmed, as modified.

Oil and Gas Leases: Acquired Lands Leases

An acquired lands lease offer filed for land leasable only under the Mineral Leasing Act of 1920, as amended, must be rejected.

APPEARANCES: Leroy Gatlin, pro se.

OPINION BY MR. HENRIQUES

Leroy Gatlin has appealed from a decision dated September 22, 1971, by which the New Mexico state office, Bureau of Land Management, rejected his oil and gas lease offer NM-A 14262 (Oklahoma), filed pursuant to the Mineral Leasing Act for Acquired Lands, 30 U.S.C. §§ 351-359 (1970), because the lands sought to be leased are within Fort Sill Military Reservation and the Act specifically excludes lands set apart for military purposes. 43 CFR 3101.2-1 (1971).

The state office decision correctly states that lands acquired for military purposes are not subject to leasing under the Acquired Land Act, 30 U.S.C. § 352 (1970). However, the subject lands are not acquired lands. The record shows that they were added to Fort Sill Military Reservation for the exclusive use of the military by Executive Order dated February 26, 1897, upon their release from the Kiowa, Comanche and Apache Reservations, in accordance with an agreement signed by representatives of the Indians. The lands are public domain lands withdrawn for military purposes, and if leasable for oil and gas they are leasable only under the Mineral Leasing Act of 1920, as amended, 30 U.S.C. § 181 et seq. (1970).

An acquired lands lease offer filed for land leasable only under the Mineral Leasing Act of 1920 must be rejected. Ruth G. Strom, administratrix of the Estate of Ted R. Strom, T. Miller Gordon,

A-29120 (March 21, 1963). The regulation 43 CFR 3111.1-1(d) (1971) provides that an offer to lease not filed in accordance with the regulations will be rejected and will not afford the offeror any priority.

Gatlin admits that the lands he seeks are within Fort Sill but contends that he can exploit the oil and gas resources by means of directional drilling from off-reservation sites. He asserts that federal oil and gas leases have been issued for adjacent lands. He is correct in this assertion. Competitive oil and gas leases have been issued under the Mineral Leasing Act of 1920, as amended, 30 U.S.C. 181 (1970), on lands along the eastern boundary of Fort Sill after it had been determined that the lands were subject to drainage.

Rejection of Gatlin's application is without prejudice to his right to file an oil and gas offer under the Mineral Leasing Act of 1920, § 17, as amended, 30 U.S.C. § 226 (1970).

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 is affirmed as modified.

Douglas E. Henriques, Alternate Member

We concur:

Frederick Fishman, Member

Anne Poindexter Lewis, Member

