

JACK C. BRADLEY, JR.

IBLA 73-84

Decided June 28, 1973

Appeal from decision (W-30691) by the Wyoming State Office, Bureau of Land Management, holding oil and gas lease annual rental increased, because the land is now within the known geologic structure of a producing field.

Affirmed.

Oil and Gas Leases: Known Geological Structure--Oil and Gas Leases: Rentals

In the absence of a clear showing that it was improperly made, the Geological Survey's definition of a known geologic structure of a producing oil or gas field will not be disturbed, and an increase in annual rental rate of an oil and gas lease, based upon such definition, will be sustained.

APPEARANCES: Jack C. Bradley, Jr., pro se.

OPINION BY MR. GOSS

Jack C. Bradley, Jr., has appealed to the Secretary of the Interior from a decision dated June 26, 1972, of the Chief, Oil and Gas Section, Wyoming State Office, Bureau of Land Management, requiring an increased rental under noncompetitive oil and gas lease W-30691, issued October 1, 1971. The decision notified lessee that beginning October 1, 1972, the commencement of the next lease year, the rental would be increased to \$2 per acre because of a May 25, 1972, Geological Survey determination that the leased land is within the known geologic structure of the Osage oil and gas field. Additionally, lessee was to post a lease bond of \$3100 under 43 CFR 3104.1(b).

Lease W-30691 includes a total of 760 acres of public land located in sections 1, 2 and 12, T. 45 N., R. 64 W., 6th Prin. Mer., Weston County, Wyoming. The lands were leased under section 17 of the Mineral Leasing Act of February 25, 1920, as amended, 30 U.S.C. § 226 (1970). The State Office decision was based upon a memorandum of the Geological Survey which stated as follows:

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Based on oil development the following described lands are within an undefined addition to the Osage field defined known geologic structure effective May 16, 1972:

\* \* \* \* \*

T. 45 N., R. 64 W.

Sec. 1, Lots 1, 2, and 3, S 1/2 NE 1/4,  
SE 1/4 NW 1/4, NE 1/4 SW 1/4,  
N 1/2 SE 1/4

\* \* \* \* \*

Lease numbers Wyoming 11687 and 30691 are affected by this determination. (Emphasis added.)

In his appeal, appellant contends (1) that there is very little to indicate that the total acreage of his lease will prove to be commercially productive; (2) he has just completed one well in the SW 1/4 NE 1/4, section 1, which is of minimal commercial production; (3) there may be no further wells drilled on the lease; and (4) the annual rental of \$1520 is unreasonable "for one 10 to 15 barrel per day well." Appellant admits, however, that he is in accord with the BLM as to the 40 acres on which the above well is situated, and he states that should he achieve further production on the lease, he would not be adverse to including such further production within the KGS.

In declaring land within an oil and gas lease to be within a known geologic structure, the Bureau of Land Management relies on the reports of the Geological Survey. The Director, Geological Survey, is the person to whom the Secretary of the Interior has delegated the task of determining the extent of the known geologic structure of producing oil or gas fields. One who attempts to refute a determination by the Geological Survey that lands are within a known geologic structure must make a "clear and definite showing" that the determination was in error. Charles J. Babington, 4 IBLA 43, 48 (1971).

Appellant has offered no persuasive evidence to controvert the Survey's determination that the lands within his lease are within the known geologic structure of a producing oil and gas field. He not only has failed to sustain his burden of proof, but also admits the validity of the Survey's determination at least as

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to the 40 acres where he has established a producing well. Where leases are wholly or partly within the known geologic structure of a producing oil or gas field, a rental of \$2 per acre or fraction thereof is required. 43 CFR 3103.3-2(b) (1). 1/

In the absence of a clear and definite showing that it was improperly made, the Geological Survey definition of the known geologic structure of a producing oil or gas field will not be disturbed. Charles J. Babington, supra; Duncan Miller, 66 I.D. 388 (1959).

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.

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Joseph W. Goss, Member

We concur:

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Douglas E. Henriques, Member

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Anne Poindexter Lewis, Member

1/ 43 CFR 3103.3-2 provides in part that:

"Rentals shall be payable in advance at the following rates:

\* \* \* \* \*

(b) On leases wholly or partly within the known geologic structure of a producing oil gas field:

(1) If issued noncompetitively under section 17 of the act, and not committed to a cooperative or unit plan which includes a well capable of producing oil or gas and contains a general provision for allocation of production, beginning with the first lease year after the expiration of thirty days' notice to the lessee that all or part of the land is included in such a structure and for each year thereafter prior to a discovery of oil or gas on the leased lands, rental of \$2 per acre or fraction thereof."

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