

DOUGLAS M. GALL

IBLA 74-19

Decided September 25, 1973,

Appeal from decision of the California State Office, Bureau of Land Management, rejecting oil and gas lease offer, CA 170.

Affirmed.

Oil and Gas Leases: Discretion to Lease! ! Oil and Gas Leases: Lands  
Subject to

Since the Mineral Leasing Act gives the Secretary of the Interior discretionary authority to determine whether particular public land shall or shall not be leased for oil and gas and the policy expressed in the Department's regulations prohibits the issuance of oil and gas leases for lands within a mile of the exterior boundaries of a naval petroleum reserve except where certain conditions prevail, the rejection of a lease offer for such lands is proper when the Navy Department has recommended against the leasing of the land and the required conditions of the regulations have not been shown.

APPEARANCES: Douglas M. Gall, pro se.

OPINION BY MRS. LEWIS

Douglas M. Gall has appealed from that portion of a decision of the California State Office, Bureau of Land Management, dated June 8, 1973, which rejected his noncompetitive oil and gas lease offer, CA 170, as to the E 1/2, S 1/2 NW 1/4, SW 1/4 sec. 14, T. 31 S., R. 24 E. M.D.M., California, on the ground that the land lies within one mile of Naval Petroleum Reserve No. 1 and the Department of the Navy has recommended that the land should not be leased.

Appellant states that the remaining lands in his offer had been leased continuously from 1921 through May 1971. He contends the five dry wells drilled on the subject lands tend to show that the zones under Naval Petroleum Reserve No. 1 are not under the subject lands, since many of the wells on the Naval Petroleum Reserve are producing from depths that were tested by said dry holes.

The Department's policy concerning the issuance of oil and gas leases for lands within a mile of the exterior boundaries of a naval petroleum reserve is contained in regulation 43 CFR 3101.1-1(a)(6), which provides:

\* \* \* No oil and gas lease will be issued for land within 1 mile of the exterior boundaries of a naval petroleum or a helium reserve, unless the land is being drained of its oil or gas deposits or helium content by wells on privately owned land or unless it is determined by the authorized officer, after consultation with the agency exercising jurisdiction over the reserve, that operations under such a lease will not adversely affect the reserve through drainage from known productive horizons.

The Geological Survey reports that the lands described above are not currently being drained from wells on privately owned land.

The Director of the Naval Petroleum and Oil Shale Reserves, Department of the Navy, informed the Bureau of Land Management that the lands in the subject offer are situated within the one mile buffer zone of Naval Petroleum Reserve No. 1 in Kern County, California, and requested that the lands not be leased for oil and gas, because

[b]ased on geological information presently available relating to the area under consideration, it is not possible to state that operations under such a lease will not adversely affect the adjacent Naval Petroleum Reserves through drainage from productive oil and gas horizons. Our information indicates the possibility that formations underlying the Petroleum Reserves deposits may contain oil and gas in commercial quantities.

Further, the Navy considers that any action which will increase the likelihood of drainage from Reserves is inconsistent with existing laws requiring the maintenance of the Reserves for production during times of national emergency.

Appellant's contention that these lands had been previously leased by the United States is true. The Department of the Navy, however, since the issuance of the last lease thereon, has recommended that the lands applied for should not be leased. The fact that these lands were formerly leased for oil and gas, in view of the current recommendation of the Department of the Navy, is not in itself sufficient justification for the issuance of a lease to the appellant. Cf. Muriel Musser, 54 L.D. 312 (1933).

Appellant in a supplemental statement refers to the fact that very recently a well in sec. 7, T. 30 S., R. 23 E., M.D.M., struck oil. The well is in a township and range north and west of that in which the subject lands are situated. He states the land on which the well is located is privately owned, adjoins Naval Petroleum Reserve No. 1 on three sides, and is within one mile of the Reserve.

The Department of the Navy in a letter dated August 22, 1973, addressed to the Bureau of Land Management, reported this occurrence and reaffirmed its opposition to the leasing of any lands within the one mile buffer zone of Naval Petroleum Reserve No. 1, because of potential drainage of the Reserve.

As appellant has not persuasively shown the existence of either of the conditions stated in the regulations, which is a prerequisite to the issuance of an oil and gas lease for lands within one mile of the boundaries of a naval petroleum reserve, the rejection of his offer is proper. Albert P. Mickunas, 12 IBLA 375 (1973); Adrian R. Boland, A-30773 (September 12, 1968); Robert Kamon, A-30732 (September 13, 1968). The issuance of oil and gas leases is committed to the discretion of the Secretary of the Interior and he may determine whether or not a lease is to be issued on any given tract. Udall v. Tallman, 380 U.S. 1, 4 (1965); Halvor F. Holbeck, A-29104 (January 14, 1963).

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.

Anne Poindexter Lewis  
Member

We concur:

Joseph W. Goss  
Member

Joan B. Thompson  
Member

