

DUNCAN MILLER

IBLA 74-127

Decided January 17, 1974

Appeal from decisions of Montana State Office, Bureau of Land Management, requiring execution of special stipulations as a condition precedent to issuance of oil and gas leases M 25982 and M 25990.

Affirmed.

Oil and Gas Leases: Generally

The Board adheres to its decision in Quantex Corporation, 4 IBLA 31, 78 I.D. 317 (1971), that applicants for oil and gas leases must give written acceptance of reasonable special stipulations requested by the Bureau of Land Management relating to the protection of the land and surface resources as a condition precedent to issuance of noncompetitive public domain oil and gas leases.

APPEARANCES: Duncan Miller, pro se.

OPINION BY MR. HENRIQUES

The notice of lands available for oil and gas leasing posted September 17, 1973, by the Montana State Office, Bureau of Land Management, carried the following condition and advisory information:

All available lands are subject to the stipulations appearing on the attached Form MSO 3100-24. This stipulation is a part of the lease terms and does not require signature of offeror. Parcels requiring additional stipulations show a reference by number to that stipulation. Refer to the last page of the list. The text of all stipulations is available at the public information counter. All applicable stipulations will be included as a part of each oil and gas lease issued for any parcel listed herein. The stipulation indicates whether signature of offeror is or is not required.

Parcels 59 and 67 on the list were identified as requiring the successful offeror to accept over his signature special stipulations on Form MSO 3100-28 (3/73). Duncan Miller was declared the successful drawee for these two parcels.

By separate demands dated October 11, 1973, the State Office called upon Miller to submit the required first year's lease rental within 15 days ^{1/} and to consent to the special stipulations on Form MSO 3100-28 within 30 days. Miller timely paid the rental but appealed from the requirement that he execute the special stipulations.

Appellant asserts that compliance with the stipulations may require him to expend money. He objects for that reason. However, he "believes" that the stipulations "would be acceptable" if they were "amended" to credit him with the possible increased costs of compliance. Notwithstanding his appeal, appellant did timely execute and transmit the stipulations with the comment that "the stipulations are executed in the event of ultimate negative decision in this matter."

Appellant filed his applications pursuant to the published list of September 17, 1973. He knew, when he filed his drawing entry cards, that he would be compelled to accept the special stipulations in the event his offers were successfully drawn. He was not under any obligation to file the offers if the stipulations were repugnant to him.

The special stipulations in issue are intended to give greater protection to sensitive areas within the jurisdiction of BLM. They provide for reasonable requirements to prevent soil erosion, air and water pollution and unnecessary damage to vegetation, and to provide for restoration of the land surface and vegetation.

The Secretary of the Interior, in the exercise of his discretionary authority respecting issuance of oil and gas leases, may require acceptance of special stipulations as a condition precedent to issuance of such a lease, where such stipulations are designed to protect the soil and surface resources and do not unreasonably interfere with the lessee's right of enjoyment. Quantex Corporation, 4 IBLA 31, 78 I.D. 317 (1971). It is proper to require one making an oil and gas lease offer to consent to stipulations deemed necessary to protect the land and surface resources from undue damage by exploratory operations, as a condition precedent to the mandate of the Congress

^{1/} The oil and gas lease simultaneous filing procedure regulations provide that no rental is required with the drawing entry card, but only from the successful drawee after notice. 43 CFR 3112.4-1.

expressed in the National Environmental Policy Act of 1969. Id. The stipulations in issue here fall within that category. They are not considered to be an unreasonable interference with the lessee's rights under the lease. The Board adheres to its decision in Quantex Corporation, supra.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decisions appealed from are affirmed.

Douglas E. Henriques, Member

We concur:

Martin Ritvo, Member

Anne Poindexter Lewis, Member