

DONALD REESE

IBLA 74-118

Decided March 12, 1974

Appeal from a decision by the Wyoming State Office, Bureau of Land Management, rejecting oil and gas lease offer W 40871.

Affirmed.

Oil and Gas Leases: Applications: Generally--Oil and Gas Leases: Known Geological Structure--Oil and Gas I

The drawing of an offer for a noncompetitive lease creates no vested rights in the offeror, and if lands embraced in the offer have been designated as within a known geologic structure before the issuance of a lease, the offer must be rejected as to those lands.

APPEARANCES: Donald Reese, pro se.

OPINION BY ADMINISTRATIVE JUDGE THOMPSON

Appellant Donald Reese was the successful applicant for an oil and gas lease for parcel number 150 in the June 1973 simultaneous drawing conducted by the Wyoming State Office, Bureau of Land Management. His application was rejected in a decision dated October 10, 1973, because the State Office discovered that the parcel was in a known geologic structure and was incorrectly included in the drawing. We affirm the decision.

In his statement of reasons for appeal, Reese asserts the following in support of his request that we reverse the decision of the State Office:

- a. No allegations of bad faith on my part or failure to comply with applicable regulations and procedures are made.

- b. The action in rejecting application W 40871 three months after the fact is invalid because the application was in fact accepted and entered in the June drawing.
- c. Failure to award me the lease I filed for and won would deprive me of my legal right to participate constructively in the June drawing.
- d. As I acted in good faith in filing this application, and in my actions during the three months that I had legitimate reason for believing that I owned this lease, it would be manifestly unfair to deprive me of my winnings because of bureaucratic error.

Reasons a, b, and d involve the question of under what circumstances a simultaneous lease offer may be rejected after it has been drawn. Contrary to Reese's contentions, neither his compliance with our regulations, nor the Department's delay in rejecting his offer, nor his good faith shield him from having his offer rejected prior to the issuance of the lease if the land is in a known geologic structure. In Silver Monument Minerals, Inc., 14 IBLA 137, 140 (1974), we said:

The Mineral Leasing Act provides that land within a known geological structure may only be leased by competitive bidding. 30 U.S.C. § 226(b) (1970). The fact that the designation of the tracts was reported to the Bureau of Land Management after the drawing does not help appellant; the date of ascertainment of the known geological structure, not the date of pronouncement, controls. 43 CFR 3100.7-3. The filing of any offer for a noncompetitive lease creates no vested rights in the offeror, and the offer must be rejected if the lands are found to be within a known geological structure at any time prior to the issuance of the noncompetitive lease. 43 CFR 3110.1-8; T. D. Skelton, 9 IBLA 322 (1973); Solicitor's Opinion, 74 I.D. 285 (1967).

The Frenchie Draw "A" field was designated as a known geologic structure on July 12, 1963, and was revised on September 16, 1969, prior to the drawing, to include parcel 150. ^{1/} Because of this, the Department had no authority to lease the lands without taking competitive bids and the rejection of the lease offer was proper.

^{1/} Part of the Frenchie Draw "A" field is located in T. 38 N., R. 89 W., sec. 32. Parcel number 150 is located in T. 38, R. 89 W., sec. 32, NW 1/4 and S 1/2.

In answer to contention c, the simultaneous drawing procedure only establishes priority of filing but creates no other rights in an offeror. Silver Monument Minerals, Inc., supra at 140. Appellant's filing fee and advance rentals will be returned to him. The error of the Bureau in listing lands within a known geological structure cannot create rights in the appellant which are contrary to law. 43 CFR 1810.3.

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.

Joan B. Thompson
Administrative Judge

We concur:

Martin Ritvo
Administrative Judge

Joseph W. Goss
Administrative Judge

