

AUSTRAL OIL COMPANY, INC.

IBLA 75-371

Decided August 11, 1975

Appeal from decision of Colorado State Office, Bureau of Land Management, rejecting in part noncompetitive geothermal lease application C-20101.

Affirmed.

1. Applications and Entries: Generally -- Geothermal Leases: Generally -- Geothermal Leases: Applications: Generally -- Geothermal Leases: Lands Subject to

A noncompetitive geothermal lease application must include all available lands within a surveyed or protracted section. If it describes less, the application is properly rejected as to such section.

APPEARANCES: Frank A. Scruggs, Vice-President, Austral Oil Company, Inc.

OPINION BY ADMINISTRATIVE JUDGE THOMPSON

By decision of February 20, 1975, the Acting Chief, Branch of Minerals Operations, Colorado State Office, Bureau of Land Management, rejected geothermal lease application C-20101 as to all the lands applied for in section 17, T. 49 N., R. 4 E., N.M.P.M., because other land in that section was available for leasing at the time the application was filed (January 1974 filing period).

[1] The decision applied the controlling regulation, 43 CFR 3210.2-1, which requires an applicant for a noncompetitive geothermal lease application to include a description of "all available lands, including reserved geothermal resources, within a surveyed or protracted section." If an application does not include all available lands in a section, the application must be rejected as to the lands applied for in that particular section. Robert G. Lynn, 19 IBLA 167 (1975).

Appellant offers no reason which would warrant a different result in this case. Appellant apparently is under the impression that the lands in section 17 not applied for have all been patented by the United States. This assumption is not correct. The status plat shows that certain subdivisions have been patented. However, it also shows that other subdivisions, namely: the N 1/2 NE 1/4, SW 1/4 NE 1/4, and W 1/2 NW 1/4, are public lands subject only to a right-of-way through a portion of the subdivision. Because there were public lands available for leasing in section 17, appellant's application did not include all available lands within the section and was properly rejected for that reason. This conclusion renders moot consideration of appellant's contentions regarding the patented lands.

Accordingly, 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:

Newton Frishberg
Chief Administrative Judge

Edward W. Stuebing
Administrative Judge

