

ROBERT R. WAHL
HOWARD YEE

IBLA 75-503

75-504 Decided August 11, 1975

Appeal from decisions of Arizona State Office, Bureau of Land Management, requiring performance bonds as to oil and gas offers A-8864 and A-8873.

Reversed and remanded.

1. Oil and Gas Leases: Bonds

Oil and gas lease offers for lands within the Lake Mead National Recreation area are subject to the general oil and gas regulations. Bond requirements in situations, as this one, beyond the ambit of 43 CFR 3104.1-2 may not be imposed.

APPEARANCES: Robert R. Wahl, for appellants.

OPINION BY ADMINISTRATIVE JUDGE FISHMAN

Robert R. Wahl and Howard Yee have appealed from decisions dated March 3, 1975, rendered by the Arizona State Office, Bureau of Land Management (BLM), requiring the filing of a performance bond of \$5,000 for oil and gas offer A-8864 and a similar bond for \$6,000 for oil and gas offer A-8873.

The substance of the appeal is that the stipulations to be included in the oil and gas leases to be issued are too onerous so that appellants have not been able to get surety bonds.

[1] The lands in issue lie within the Lake Mead National Recreation Area. There are no discrete regulations governing oil and gas leasing in that area. See 43 CFR 3101.4-5. Therefore, bonding requirements for such lands are embodied in the general oil and gas lease regulation, 43 CFR 3104.1-2. That section reads as follows:

Subpart 3104 - Bonds
§ 3104.1-2 When filed.

- (a) Prior to commencement of drilling operations.
- (b) After notice that lands have been included within the limits of a known geologic structure.
- (c) Prior to entry on surface of patented lands.
- (d) Prior to issuance of a competitive lease.

None of the above applies to the cases at bar. In short, there is no statutory or regulatory basis for the demand for the bonds, despite the request therefor by the Superintendent of the Lake Mead Recreation Area, dated January 28, 1975.

The regulation spells out the circumstances under which an oil and gas bond may be required from an offeror. The doctrine of inclusio unius alterius exclusio est ^{1/} is applicable here.

In view of our conclusion, it is not necessary to consider the reasons offered in the appeal.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decisions below are reversed and the cases remanded for the issuance of leases, all else being regular.

Frederick Fishman
Administrative Judge

We concur:

Douglas E. Henriques
Administrative Judge

Anne Poindexter Lewis
Administrative Judge

^{1/} The express inclusion of one is an implied exclusion of all others.

