

BEVERLEY LASRICH

IBLA 75-592

Decided October 15, 1975

Appeal from decision of the Utah State Office, Bureau of Land Management, requiring execution of a special stipulation as a condition precedent to issuance of oil and gas lease U-28699.

Set aside and remanded.

1. Oil and Gas Leases: Consent of Agency -- Oil and Gas Leases: Stipulations -- Secretary of the Interior

The Secretary of the Interior may require execution of special stipulations reasonably designed to protect identifiable resource values as a condition precedent to issuance of an oil and gas lease. Stipulations proposed by the Forest Service will be carefully considered by this Department, but the final decision for oil and gas leasing on public domain land rests with this Department. A "no surface occupancy" stipulation proposed in order to protect a recreation area cannot stand if it might preclude surface occupancy unreasonably beyond the boundaries of the recreation area.

APPEARANCES: Beverley Lasrich, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Beverley Lasrich appeals from a decision dated April 22, 1975, wherein the Utah State Office, Bureau of Land Management, required execution of a special stipulation prior to issuance of oil and gas lease U-28699 for lands within the Dixie National Forest.

The Forest Service voiced no objection to the issuance of the lease provided that the appellant agreed to a "no surface occupancy" stipulation for all the lands sought because the lands are in a recreation area. 1/ The stipulation provides:

No occupancy of the surface is authorized by this lease. The lessee, however, is authorized to employ directional drilling to the oil and gas resources provided that such drilling will not disturb the surface of the area or otherwise interfere with the use being made of it.

An environmental analysis report for the Dixie National Forest recommends stipulations "restricting surface occupancy but allowing directional drilling" for areas "within 500 feet of existing or inventoried recreation areas."

[1] The stated reason for the stipulation is protection of a recreation area, and the Secretary of the Interior may require an oil and gas lessee to accept stipulations reasonably designed to protect recreational and other identifiable resource values on the land involved as a condition precedent to the issuance of a lease. Richard P. Cullen, 18 IBLA 414 (1975); Duncan Miller, 16 IBLA 349 (1974); 43 CFR 3109.2-1; 43 CFR 3109.4. In the leasing of national forest lands, this Department will give careful consideration to the recommendations of the Forest Service, but the latter does not have final authority over leasing public land. W. T. Stalls, 17 IBLA 175, 177 (1974); George A. Breene, 13 IBLA 53 (1973); Duncan Miller, 6 IBLA 216, 79 I.D. 416 (1972). This Board will review a proposed stipulation to determine whether there is a need for the stipulation, and whether the stipulation is a reasonable means to achieve the intended purpose. Earl R. Wilson, 21 IBLA 392 (1975). In this case, however, the record indicates that of the 1401.11 acres described in the lease application, only about 320 acres have been withdrawn for the Navajo Lake Recreation Area while the stipulation would cover all of the land in the lease. 2/ The record discloses no reason for extending the "no

1/ Appellant's statement of reasons indicates that she was under the mistaken impression that the stipulation was proposed because the land was in a roadless or wilderness area.

2/ Appellant filed her application for the following land: all secs. 1 and 2; lots 1 and 2, SE 1/4 NE 1/4, sec. 3, T. 38 S., R. 9 W., S.L.M. Of this land only SW 1/4, sec. 1, and SE 1/4, sec. 2 have been withdrawn from all forms of appropriation under the public land laws but not the mineral leasing laws in order to reserve the land for the Navajo Lake Recreation Area. Public Land Order 1775, 24 F.R. 423 (1959), amended, Public Land Order 2648, 27 F.R. 3517 (1962).

surface occupancy" stipulation so far beyond the boundaries of the withdrawn recreation area. The proposed stipulation would unreasonably interfere with the lessee's enjoyment of the lease and cannot stand as proposed because it would severely impair or preclude development of the lease. A. Helander, 15 IBLA 107 (1974).

The decision below is set aside, and the case remanded to the Utah State Office for a determination of the need for the proposed "no surface occupancy" stipulation on all the land. The Forest Service should be given an opportunity to support its request for a stipulation reasonably designed to protect the withdrawn recreation area without so severely interfering with the rights of the enjoyment of the lessee envisaged by the law.

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 set aside and the case remanded to the Utah State Office for action consistent with this opinion.

Douglas E. Henriques
Administrative Judge

I concur:

Frederick Fishman
Administrative Judge

I concur in the result:

Joan B. Thompson
Administrative Judge

