

KIRK GREENE

IBLA 76-330

Decided March 29, 1976

Appeal from decision of the Nevada State Office, Bureau of Land Management, rejecting in part geothermal lease offer N-11929.

Set aside and remanded.

1. Environmental Quality: Generally -- Geothermal Leases: Generally -- Geothermal Leases: Discretion to Lease -- Geothermal Leases: Environmental Protection: Generally -- Geothermal Leases: Lands Subject to

Where the reason given for the partial rejection of a noncompetitive geothermal lease application is that the Environmental Analysis Record has recommended against leasing the lands because they lie within an area associated with historic trails, and the records indicate that the State Office has approved leasing similar areas subject to protective stipulations, the decision will be set aside and the case remanded for further consideration to determine whether the lands should be leased with protective stipulations.

APPEARANCES: Kirk Greene, pro se.

OPINION BY ADMINISTRATIVE JUDGE RITVO

Kirk Greene has appealed from a decision of the Nevada State Office, Bureau of Land Management (BLM), dated September 23, 1975, rejecting in part his geothermal lease offer N-11929 for lands in Sec. 6, T. 33 N., R. 24 E., M.D. Mer., Pershing County, Nevada.

The State Office rejected appellant's offer in part for the stated reason that, "The completed Environmental Analysis Record [EAR] has recommended against leasing the lands described above because they lie within an area associated with historic trails." 1/

Appellant requests that the State Office's partial rejection of this offer be withdrawn. He contends that removing all of these trail areas from geothermal leasing "is doing a disservice to the American people, both present and future generations. Some areas traversed by these trails have important natural resources, which belong to the people." He concludes "I cannot believe that you feel the preservation from geothermal development of great stretches of barren desert can begin to compare in importance with the development of an important energy source."

This case raises the identical issue which this Board has recently thoroughly considered in Richard C. Hoefle, 24 IBLA 181 (1976). The Hoefle case also involved the partial rejection of geothermal lease offers for public lands within the Buffalo Hills Planning Unit in the same area of Nevada because the lands were within an area associated with historical trails. 2/ Both of these cases involve the same EAR and there is nothing in that report to indicate whether any consideration was given to leasing the land with appropriate stipulations for the protection of historic trails.

In resolving Hoefle, the Board noted that the EAR record contained a memorandum which showed that the Bureau of Land Management has made some exceptions which will permit lands within the exclusion areas to be leased subject to stipulations. The Board remanded the Hoefle case to the Bureau for further consideration as to whether the lands in question may be leased with suitable protective stipulations. Because of the similarity of the instant case to Hoefle, we remand the case to the Bureau for a determination of whether the lands may be leased with stipulations for the protection of historic trails. If it is possible to lease with designated stipulations, the applicant should be required to execute them. If the Bureau

1/ The report is identified as ENVIRONMENTAL ANALYSIS RECORD, OIL AND GAS/GEOTHERMAL LEASING, WINNEMUCCA DISTRICT, SONOMA-GERLACH RESOURCE AREA, BUFFALO HILLS PLANNING UNIT, EAR No. 27-020-4-99, June 1975. The report is filed in Case File N-11022.

2/ The applied-for lands within the Hoefle Application were within the area of the Fremont Trail, whereas the lands in this Greene application appear to be within the area crossed by the Nobles Trail, although the decision does not identify the trail.

adheres to its original refusal to lease, the application should be rejected with clearly stated reasons justifying that action. Richard C. Hoefle, supra; cf. Kirk Greene, 24 IBLA 113 (1976).

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 set aside and the case record is remanded to the BLM for further action consistent with this decision.

Martin Ritvo
Administrative Judge

We concur:

Edward W. Stuebing
Administrative Judge

Douglas E. Henriques
Administrative Judge

