

JAMES A. WALLENDER

IBLA 76-16

Decided August 30, 1976

Appeal from a decision of the New Mexico State Office, Bureau of Land Management, rejecting oil and gas lease offer NM-A 24541 (Texas)

Affirmed.

1. Oil and Gas Leases: Applications: Generally -- Oil and Gas Leases: Known Geological Structure -- Oil and Gas Leases: Noncompetitive Leases

Lands within a known geologic structure of a producing oil or gas field may only be leased by competitive bidding pursuant to 43 CFR 3120, and a noncompetitive oil and gas lease offer filed for such lands is properly rejected.

2. Oil and Gas Leases: Known Geological Structure

One who attacks a determination by the Geological Survey that lands are situated within the known geologic structure of a producing oil or gas field has the burden of showing that the determination is in error and the determination will not be disturbed in the absence of a clear and definite showing of error.

APPEARANCES: James A. Wallender, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

James A. Wallender has appealed from a decision of the New Mexico State Office, Bureau of Land Management, dated June 3, 1975, which rejected his noncompetitive oil and gas lease offer NM-A 24541 (Texas)

for the reason that except for 40 acres which were in an outstanding oil and gas lease, all of the lands embraced in the offer were within the known geologic structure of a producing oil or gas field [KGS] and could therefore be leased only pursuant to the competitive leasing procedures set out in 43 CFR 3120.

In his statement of reasons for appeal, appellant has deleted his request for the 40 acres presently under lease, but has also assailed the classification of the land embraced within his offer as within a known geologic structure of a producing oil or gas field.

[1, 2] We note initially that the State Office correctly held that land within a known geologic structure of a producing oil or gas field may only be leased competitively, and a noncompetitive oil and gas lease offer for such lands must be rejected. 43 CFR 3120; Minetta A. Miller, 17 IBLA 245 (1974); Geral Beveridge, 14 IBLA 351, 81 I.D. 80 (1974). Appellant does not contend that a noncompetitive oil and gas lease may issue for land within a known geologic structure, but rather contends that there is no basis in fact for holding the lands embraced by his office to be within a KGS.

Appellant contends that there is no nearby production within the area, the closest well, which was 2 1/2 miles away, having shut down in September 1974, and that the closest producing wells are approximately 17 miles to the north of the lands sought.

This Board has held many times that the Secretary of the Interior is justified in relying upon the technical expertise of Departmental experts, and that those who seek to attack a determination of the Geological Survey that lands are situated within a KGS have the burden of showing that the determination is in error, and the determination will not be disturbed absent a clear and definite showing of error. William T. Alexander, 21 IBLA 56 (1975); Geral Beveridge, *supra*. Cf. Exxon Company, U.S.A., 15 IBLA 345 (1974). While appellant has raised some questions concerning the KGS determination, he has failed to clearly show that the decision of the Geological Survey was in error.

This is not to say, however, that appellant is foreclosed from submitting a petition to the Director, U.S. Geological Survey, asking that the subject KGS determination be rescinded. If the KGS determination is removed and the BLM land status records so noted, the lands thereafter would be available for filing of noncompetitive oil and gas lease offers.

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.

Douglas E. Henriques
Administrative Judge

We concur:

Frederick Fishman
Administrative Judge

Martin Ritvo
Administrative Judge

