

RAYMOND N. JOECKEL, ET AL.

IBLA 77-148, 77-156, 77-162
77-165, 77-166

Decided April 11, 1977

Appeals from separate determinations of various state offices of the Bureau of Land Management, requesting additional rent prior to issuance of noncompetitive oil and gas leases.

Affirmed.

1. Oil and Gas Leases: Applications: Generally! ! Oil and Gas Leases:
Noncompetitive Leases! ! Oil and Gas Leases:
Rentals! ! Regulations: Applicability

Where the Department, through a duly promulgated regulation, has increased the rental rate on all noncompetitive oil and gas leases issued after a specified date, such increased rate is applicable to all leases issued subsequent to that date, including leases issued pursuant to the simultaneous filing procedures, even though the lease offers were drawn with first priority prior to the effective date of the increase.

APPEARANCES: Douglas W. Boehm, pro se; Kenneth A. Winsberg, Esq., for appellant, Ruth E. Jakoby; Raymond N. Joeckel, pro se; Raymond N. Joeckel, Vice President, for Parna Corp.

OPINION BY ADMINISTRATIVE JUDGE STUEBING

These are consolidated appeals from determinations of various state offices of the Bureau of Land Management (BLM), 1/ requiring payment of the advance annual first! year's rent on noncompetitive oil and gas leases so as to comply with the requirement of \$ 1 per acre imposed by 43 CFR 3103.3-2, effective February 1, 1977, 42 F.R. 1032.

In each appeal, the appellant paid annual rental on the basis of 50 cents per acre. The decisions of the various state offices of the Bureau of Land Management requesting an increase in rental due, were based upon a change of regulations in 43 CFR 3103.3-2, increasing the rental on all noncompetitive leases from 50 cents per acre to \$ 1 per acre, for all leases issued on or after February 1, 1977.

The appellants contend that a change in the rental after advertising the parcels at one rate, with no indication of a rate increase, and the acceptance of payment based on the 50! cent rental rate should bind the government to that rate. They do not contend that the Department has no right to raise rental fees, but imply that such action should not apply to offers filed prior to the effective date of the amendment.

The precise issue raised in the instant appeals came before this Board in Raymond N. Joeckel, 29 IBLA 170 (1977). That decision was again affirmed in Milton J. Lebsack, 29 IBLA 316 (1977). Those two decisions contain a thorough review of the law. They held that a lease granted after February 1, 1977, must be at the rate provided for in 43 CFR 3103.3-2. It is enough to quote from a letter from the Secretary of the Interior, as cited in Lebsack:

Although it might appear that applicants for oil and gas leases pending prior to February 1, 1977 have been treated unfairly under the Amended Regulations, it is important to note that there is an established precedent in the Department, reinforced by Court decisions, which dictates that no rights or responsibilities attach to a lease applicant until the lease is actually issued. [2/]

For the reasons stated in Joeckel, the appellants were properly required to pay the annual rent as required by 43 CFR 3103.3-2.

1/ See Appendix.

2/ Excerpt from letter of February 1, 1977, by Secretary Cecil D. Andrus to United States Senators Mike Gravel, James McClure, Paul Laxalt, Orrin Hatch, Malcolm Wallop, John Melcher, Jake Garn and Howard Cannon.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decisions appealed from are affirmed.

Edward W. Stuebing
Administrative Judge

We concur:

Newton Frishberg
Chief Administrative Judge

Frederick Fishman
Administrative Judge

Appendix

<u>IBLA</u> <u>Docket No.</u>	<u>BLM</u> <u>Serial No.</u>	<u>BLM</u> <u>Offeror's Name</u>	<u>Decision Dated</u>
77-148	C-24953	Raymond Joeckel	1/27/77
77-156	C-24884	Parna Corp.	1/24/77
77-162	C-14708	Raymond Joeckel	2/15/77
77-165	A-9718	Ruth Jakoby	1/24/77
77-166	NM-21977-78	Douglas Boehm	2/08/77

