

CASEY C. JANSEN, ET AL.

IBLA 77-214

Decided May 12, 1977

77-215

77-219

Appeals from decisions of the New Mexico State Office, Bureau of Land Management, requiring 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 to be issued pursuant to the simultaneous filing procedures where the drawing was held prior to the effective date of the rent increase, and leases to be issued for a regular over! the! counter offer where the offer was filed prior to the effective date.

APPEARANCES: Casey C. Jansen, pro se; Lalo Enriquez, pro se; K. J. Feil, pro se.

OPINION BY ADMINISTRATIVE JUDGE THOMPSON

These appeals from decisions of the New Mexico State Office, Bureau of Land Management (BLM), requiring payment of the advance rental for the first year of oil and gas leases at the rate of

\$ 1 per acre have been consolidated for decision. ^{1/} The rental rate was increased from 50 cents per acre to \$ 1 per acre, effective February 1, 1977, by an amendment to 43 CFR 3103.3-2. 43 FR 1032 (January 5, 1977).

Appellants Jansen and Feil were successful simultaneous offerors at the December 10, 1976, oil and gas lease drawing held by the New Mexico State Office. They were informed in January 1977 that advance rental was due at the rate of 50 cents per acre. Each of these appellants submitted this rental prior to February 1, 1977. However, since their leases were not issued prior to February 1, they were notified that additional rental was required due to the rate increase. They then appealed.

Appellant Enriquez filed three over! the! counter noncompetitive oil and gas leases offers with the New Mexico State Office in October 1976. He submitted the first year's rental at 50 cents per acre with each offer as required by 43 CFR 3103.3-1. No lease was issued on any of these offers prior to February 1, 1977. This appellant was notified during February 1977 to submit additional rental due to the rate increase. He then filed this appeal.

The appellants generally protest the rental rate increase. They argue basically that they fulfilled all their obligations regarding the leases, that it is unfair for BLM to change the rules after receiving the offers, and that BLM's actions have been arbitrary and unfair.

[1] The precise issue raised by appellants was answered by the Board in Raymond N. Joeckel, 29 IBLA 170 (1977). The Joeckel decision has since been reaffirmed in Doris N. Sterkel, 30 IBLA 39 (1977); Raymond N. Joeckel, 30 IBLA 32 (1977); Milton J. Lebsack, 29 IBLA 316 (1977). These decisions held that rental for oil and gas leases issued after February 1, 1977, must be paid according to the increased rate, regardless of when the entry card or offer was submitted to BLM. As the Secretary of the Interior stated 2/:

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,

^{1/} See Appendix.

^{2/} Excerpt from letter of February 1, 1977, by Secretary Cecil B. Andrus to United States Senators Mike Gravel, James McClure, Paul Laxalt, Orrin Hatch, Malcolm Wallop, John Melcher, Jake Garn and Howard Cannon and quoted in Milton J. Lebsack, *supra*.

which dictates that no rights or responsibilities attach to a lease applicant until the lease is actually issued.

Therefore, appellants were properly required to pay the increased rental. See Hannifin v. Morton, 444 F.2d 200 (10th Cir. 1971); Miller v. Udall, 317 F.2d 573 (D.C. Cir. 1963).

Accordingly, 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.

Joan B. Thompson
Administrative Judge

We concur:

Newton Frishberg
Chief Administrative Judge

Douglas E. Henriques
Administrative Judge

APPENDIX

<u>IBLA Docket No.</u>	<u>Appellant</u>	<u>BLM Case File No.</u>
77-214	Casey C. Jansen	NM-29379
77-215	Lalo Enriquez	NM-29043
		NM-29046
		NM-29047
77-219	K. L. Feil	NM-29410

