

CURTIS D. WHEELER

IBLA 77-241

Decided July 25, 1977

Appeal from decisions of the Wyoming State Office, Bureau of Land Management, rejecting noncompetitive oil and gas lease offers W 58481 and W 58487.

Affirmed.

1. Oil and Gas Leases: Applications: Generally--Oil and Gas Leases: Lands Subject to

Land included within an outstanding oil and gas lease is not available for leasing and an oil and gas offer filed for such land must be rejected.

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

Lands within a known geological 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.

APPEARANCES: Curtis D. Wheeler, pro se.

OPINION BY ADMINISTRATIVE JUDGE THOMPSON

Curtis D. Wheeler has appealed from separate decisions of the Wyoming State Office, Bureau of Land Management, rejecting his noncompetitive oil and gas lease offers W 58481 and W 58487 for acquired land in Kansas. In its decisions rejecting the offers, the State Office noted that some of the land applied for was subject to outstanding leases and that all of the land applied for was in a known geological structure (KGS) of a producing oil and gas field.

[1] Appellant does not take issue with the rejection of his offers to the extent that they included land within outstanding leases. Offers for land within outstanding oil and gas leases must be rejected. See Leonard R. McSweyn, 26 IBLA 376 (1976).

[2] However, appellant objects to the rejection of his offers as to the remaining land. Appellant points to the national need for oil production and contends that nothing in the Mineral Leasing Act, 30 U.S.C. § 181 et seq. (1970), prohibits the leasing of land in a KGS. In making these contentions, appellant fails to recognize that this Department may only lease land within a KGS pursuant to a competitive bidding system and that noncompetitive lease offers may only be considered for land which is not within a KGS. The pertinent section of the Mineral Leasing Act, 30 U.S.C. § 226 (1970), provides in part as follows:

(b) If the lands to be leased are within any known geological structure of a producing oil or gas field, they shall be leased to the highest responsible qualified bidder by competitive bidding under general regulations in units of not more than six hundred and forty acres, which shall be as nearly compact in form as possible, upon the payment by the lessee of such bonus as may be accepted by the Secretary and of such royalty as may be fixed in the lease, which shall be not less than 12 1/2 per centum in amount or value of the production removed or sold from the lease.

(c) If the lands to be leased are not within any known geological structure of a producing oil or gas field, the person first making application for the lease who is qualified to hold a lease under this chapter shall be entitled to a lease of such lands without competitive bidding. * * * [Emphasis added.]

Because the Department only has authority to lease the subject land pursuant to the competitive leasing procedures provided at 43 CFR Part 3120, the State Office properly rejected appellant's noncompetitive offer. James A. Wallender, 26 IBLA 317 (1976).

If and when the Department determines that any available lands within the structure should be leased, it will publicize its intention to lease the land and appellant at that time may submit a competitive offer for the land pursuant to the provisions of 43 CFR Part 3120.

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:

Edward W. Stuebing
Administrative Judge

Anne Poindexter Lewis
Administrative Judge