

CECIL C. WALL

IBLA 77-295

Decided August 31, 1977

Appeal from decisions of the Colorado State Office, Bureau of Land Management (BLM), requiring additional rental for oil and gas lease offers C 23848 and C 23850.

Affirmed.

1. Oil and Gas Leases: Applications: Generally--Oil and Gas Leases: Noncompetitive Leases--Oil and Gas Leases: Rentals

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 over-the-counter filing procedures, even though the lease offers were submitted prior to the effective date of the increase.

APPEARANCES: Cecil C. Wall, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Cecil C. Wall appeals from decisions of the Colorado State Office, Bureau of Land Management (BLM), insofar as those decisions require him to pay advance annual rental for noncompetitive lease offers C 23848 and C 23850 at an increased rate of \$1 per acre under the revised version of 43 CFR 3103.3-2.

Wall asserts that he expected his lease applications, filed May 7, 1976, "to be acted on sometime in the immediate future," and argues that he expected the leases would issue at the then prevailing rental rate of \$.50 per acre. On January 5, 1977, however, the amended regulation 43 CFR 3103.3-2 was published in

the Federal Register at 42 F.R. 1032 increasing to \$1 per acre the annual rental for noncompetitive oil and gas leases issued after February 1, 1977. By BLM decision dated March 30, 1977, Wall was required to pay the increased rental.

[1] The argument which Wall poses in his Statement of Reasons, that, "The delay in issuance of these leases was not caused by anything done or not done by applicant and he should not be burdened with the additional rentals as required by the new regulation 43 CFR.," has been examined by this Board in a long series of cases beginning with Raymond N. Joeckel, 30 IBLA 32 (1977). We have consistently held in these cases that leases issued after February 1, 1977, must be at the increased rate of \$1 per acre as provided in the amended version of 43 CFR 3103.3-2. See William C. Kirkwood, 31 IBLA 178 (1977); Milton J. Lebsack, 29 IBLA 316 (1977). As we noted in these cases, there is a long established precedent in the Department sustained by Federal Court decisions, which dictates that no rights attach to a lease application until the lease is actually issued. E.g., Hannifin v. Morton, 444 F.2d 200 (10th Cir. 1971). Thus, for the reasons enumerated in Joeckel, supra, appellant Wall was properly required to pay the increased annual rental of \$1 per acre pursuant to 43 CFR 3103.3-2.

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.

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Douglas E. Henriques  
Administrative Judge

We concur:

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Newton Frishberg  
Chief Administrative Judge

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Joan B. Thompson  
Administrative Judge

