

DUNCAN MILLER

IBLA 77-411

Decided October 3, 1977

Appeal from decision of Montana State Office, Bureau of Land Management, requiring consent to stipulations for oil and gas lease offer M 36860.

Affirmed. Protest dismissed.

1. Oil and Gas Leases: Stipulations

The Secretary of the Interior may require offerors for noncompetitive oil and gas leases to accept stipulations reasonably designed to protect environmental and other land use values prior to the issuance of the leases. A stipulation which may require the lessee, at his own expense, to make an inventory of all archaeological, paleontological, and historical sites on those areas of the lease which he proposes to enter for exploration or drilling, and to accept reasonable conditions of use for the protection of such sites and artifacts and which requires the lessee to bear the cost of salvaging all objects of antiquity, is reasonable and will be upheld.

APPEARANCES: Duncan Miller, pro se.

OPINION BY ADMINISTRATIVE JUDGE RITVO

Duncan Miller has protested the action of the Montana State Office, Bureau of Land Management, which required him to execute, among other things, special stipulations for the protection of cultural and paleontological resources as a condition precedent to issuing an oil and gas lease.

Miller was the successful drawee for parcel MT 733 on the March list of parcels subject to filing under the simultaneous procedure. Miller was offered a lease subject to payment of rental and execution of certain stipulations that were attached to and made part of the lease. Miller signed the lease and the stipulations, and submitted timely payment of rental, while at the same time entering a formal objection to the stipulations.

Miller specifically objected to the Surface Occupancy Stipulation entitled "Protection of Cultural and Paleontological Resources." This stipulation provides that the lessee will not enter upon the lease area or disturb the surface for exploration or drilling purposes until the lessee, in the absence of action by the surface management agency, makes at his own expense a cultural resource inventory of all archaeological, paleontological and historical sites in the areas of the lease subject to development, occupancy or surface disturbance, and accepts reasonable conditions of use for the protection of such sites and artifacts. The stipulation also requires the lessee to bear the costs of survey and salvaging cultural resource values and all data and materials remain the property of the United States. He argues that this stipulation could be very costly to him.

[1] This Board has repeatedly upheld this type of stipulation in similar circumstances. Milan S. Papulak, 30 IBLA 220 (1977); General Crude Oil Company, 28 IBLA 214, 83 I.D. 666 (1976); W. E. Haley, 25 IBLA 311 (1976); Duncan Miller, 24 IBLA 203 (1976). Those decisions have held, generally, that the Secretary of the Interior may require offerors for noncompetitive oil and gas leases to accept stipulations reasonably designed to protect environmental and other land use values prior to issuing the leases. See 43 CFR 3109.2-1. Such stipulations may be required by BLM for oil and gas leases, either for lands it administers or after giving careful consideration to the recommendations of the administering agency, such as the Forest Service. The particular stipulation appellant protests against has been upheld as a reasonable exercise of the Secretary's authority in Milan S. Papulak, *supra*, and W. E. Haley, *supra*. Appellant has presented no arguments which would warrant a different result here.

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.

Martin Ritvo
Administrative Judge

We concur:

Anne Poindexter Lewis
Administrative Judge

Frederick Fishman
Administrative Judge

