

ALTEX OIL CORPORATION

IBLA 77-543

Decided November 7, 1977

Appeal from decision of the Colorado State Office, Bureau of Land Management, requiring additional rental prior to issuance of noncompetitive oil and gas lease C-24840.

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 for a regular over-the-counter offer where the offer was filed prior to the effective date.

APPEARANCES: Cecil C. Wall, President of Altex Oil Corporation, pro se.

OPINION BY ADMINISTRATIVE JUDGE RITVO

This is an appeal from a decision of the Colorado 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. 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).

Appellant filed an over-the-counter noncompetitive oil and gas lease offer with the Colorado State Office on January 3, 1977. It

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 the offers prior to February 1, 1977. Appellant was notified during July 1977 to submit additional rental due to the rate increase. It then filed this appeal.

Appellant protests the rental increase on the ground that it filed the offer before notice of the rental increase was published in the Federal Register.

[1] The Board has considered and rejected a similar contention. In Casey C. Jansen, 30 IBLA 134 (1977), one of the appellants had filed a noncompetitive over-the-counter lease in October 1976, and when the lease was issued after February 1, 1977, he was required to pay the increased rental rate of \$1 per acre. The Board has also answered the issue raised here in Altex Oil Corporation, 32 IBLA 19 (1977); and Raymond N. Joeckel, 29 IBLA 170 (1977). Joeckel has since been reaffirmed in XO Exploration, Inc., 30 IBLA 209 (1977); Casey C. Jansen, *supra*; and Milton J. Lebsack, 29 IBLA 316 (1977). These decisions hold that rental for oil and gas leases issued after February 1, 1977, must be paid according to the increased rate, regardless of when the offer was submitted to BLM. See also 43 CFR 1810.3. Therefore, appellants were properly required to pay the increased rental.

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.

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Martin Ritvo  
Administrative Judge

We concur:

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Joan B. Thompson  
Administrative Judge

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Frederick Fishman  
Administrative Judge

