

AMERICAN RESOURCES MANAGEMENT CORP.

IBLA 78-266

Decided July 31, 1978

Appeal from decision of Colorado State Office, Bureau of Land Management, holding that oil and gas lease Colorado 0117749 had terminated and so no action would be taken to create a segregated lease for the portion not committed to the Blair Mesa Unit Agreement.

Vacated and remanded.

1. Oil and Gas Leases: Unit and Cooperative Agreements

Where only a portion of an oil and gas lease is committed to an approved unit agreement sec. 17(j) of the Mineral Leasing Act, as amended, mandates the segregation of the noncommitted lands into a separate lease.

2. Oil and Gas Leases: Rentals -- Oil and Gas Leases: Termination

The automatic termination provision in sec. 31 of the Mineral Leasing Act, as amended, does not apply to a situation where, due to other contingencies, additional rental may become due on a date other than the anniversary date of a lease.

APPEARANCES: Dean W. Payne, Secretary-Counsel, American Resources Management Corp., for appellants.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Appeal has been taken by American Resources Management Corp., as operator of the Blair Mesa Unit and for itself, and for Trend Exploration Ltd., and for Stuart W. McLaughlin Estate, from the decision of the Colorado State Office, Bureau of Land Management, dated January 25, 1978, which, inter alia, announced the segregation of certain oil and gas leases because of partial commitment to the Blair Mesa Unit Agreement, 14-08-0001-16051, effective April 19, 1977, and stated:

It is noted that a portion of the land covered in Lease No. C-0117749 would have ordinarily been segregated into a new lease by virtue of the unitization. The original lease, however, expired on September 1, 1977 and this office has no record of any payment or tender of payment for rental on the land that would have been segregated. Accordingly, the lease in all of the land covered by C-0117749 is deemed to have expired and no new lease to cover the land that could have been segregated has been established.

Appellant contends BLM should effect the segregation of the noncommitted portion of lease Colorado 0117749.

[1] As the BLM decision pointed out, the statute provides:

[F]or the segregation of any lease covering unitized and nonunitized lands, and that the lease as to the nonunitized portion shall continue in force and effect for the term of the original lease, but not for less than two years from the date of such segregation and so long thereafter as oil or gas is produced in paying quantities.

30 U.S.C. § 226(j). Thus, by statutory mandate, partial commitment of lease Colorado 0117749 to the Blair Mesa Unit Agreement effected a segregation, requiring only a ministerial action by BLM to assign a new serial number to designate the segregated lease. It was error for BLM to decline to and to fail to make such designation.

Lease Colorado 0117749 issued February 1, 1964, for a 10-year period and so long thereafter as oil or gas is produced in paying quantities. At the end of the primary term on January 31, 1974, lease Colorado 0117749 was committed to the Parker Unit Agreement, and on that date actual drilling operations were in progress on lands committed to the Parker Unit Agreement so that the lease Colorado 0117749 was extended for 2 years until January 31, 1976. 30 U.S.C. § 226(e). The Parker Unit was contracted, pursuant to its terms on September 1, 1975, with resultant elimination of lease Colorado 0117749, and consequent extension of its lease term to September 1, 1977. 30 U.S.C. § 226(j). And as stated above, partial commitment of lease Colorado 0117749 to the Blair Mesa Unit Agreement on April 19, 1977, extended the term of the segregated uncommitted portion of the lease to April 18, 1979.

[2] As its reason for belatedly declining to segregate lease Colorado 0117749 BLM stated that no rental had been paid beyond September 1, 1977, and so the lease had expired. This reason is not in accord with the Department's holding in C. W. Trainer, 69 I.D. 81

(1962), that automatic termination provisions of 30 U.S.C. § 188(b) does not apply in situations where, due to other contingencies, additional rental may become due on a date other than the anniversary date of the lease still in effect. The lessee must be advised of the further extension of the lease term and of the obligation to pay additional rental from September 1, 1977. Similarly, failure to pay the rental due on the anniversary date of February 1, 1978, cannot be held to effect termination of the segregated lease because the lessee had never been advised of the further extension. See Transco Gas & Oil Corp., A-28363 (August 2, 1960).

We do not reach the question as to the continued life of lease Colorado 0117749 committed to the Blair Mesa Unit Agreement. Extension of that lease beyond September 1, 1977, depends upon the production of oil or gas in paying quantities on that date under the provisions of the Blair Mesa Unit Agreement. That question is presently before the Director, Geological Survey, from whose decision an appeal will lie to this Board.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the Colorado State Office decision of January 25, 1978, as it relates to lease Colorado 0117749 is vacated and the case is remanded to the State Office for further action consistent herewith.

Douglas E. Henriques  
Administrative Judge

We concur:

James L. Burski  
Administrative Judge

Frederick Fishman  
Administrative Judge

