

SHELL OIL COMPANY

IBLA 78-293

Decided August 15, 1978

Appeal from decision of Eastern States Office, Bureau of Land Management (BLM) declaring noncompetitive oil and gas lease BLMA 043577 terminated.

Reversed and remanded.

1. Oil and Gas Leases: Drilling -- Oil and Gas Leases: Extensions -- Oil and Gas Leases: Production -- Oil and Gas Leases: Termination -- Oil and Gas Leases: Unit and Cooperative Agreements

An oil and gas lease is extended by operation of law for 2 years beyond the expiration of its primary term when actual drilling operations were commenced on the lease (or for the lease under a unit plan) prior to the expiration of the primary term and such operations are being diligently prosecuted on the expiration date.

2. Oil and Gas Leases: Drilling -- Oil and Gas Leases: Extension -- Oil and Gas Leases: Unit and Cooperative Agreements

A unitized oil and gas lease is entitled to an extension for 2 years where production testing operations are being conducted on the unit well on the expiration date of the lease. Such testing qualifies as "actual drilling operations" as defined by 43 CFR 3107.2-1 which includes not only the physical drilling of a well, but the testing, completing, or equipping of such well for production of oil or gas.

APPEARANCES: Melinda J. Stewart, Esq., New Orleans, Louisiana, for appellant.

OPINION BY ADMINISTRATIVE JUDGE STUEBING

Shell Oil Company has appealed from a decision of the Eastern States Office, Bureau of Land Management, dated January 24, 1978, declaring noncompetitive oil and gas lease BLMA 043577 terminated at the end of its term on February 28, 1977, pursuant to 43 CFR 3107.4-2. ^{1/}

The record shows that this lease originally had been issued for a 10-year period from March 1, 1967, to February 28, 1977, to Keith M. Pyburn. Shell Oil acquired the rights to the lease by an approved assignment September 1, 1975. The lease was subsequently committed to the Camp Shelby Unit 14-08-001-16000, approved effective July 23, 1976. Shell Oil completed well No. 8-14 on lease ES 1908 as a unit well under the unit agreement February 22, 1977. On February 28, 1977, the U.S. Geological Survey directed Shell to place the well on a 60 day production test basis commencing with the date of reported completion, February 22 and ending on April 23. The test program was requested in order to determine if the well was capable of producing in paying quantities under the terms of the unit agreement.

On October 25, 1977, the Eastern Area Oil and Gas Supervisor, U.S. Geological Survey, notified BLM that they had received completion reports on well No. 8-14 for the crucial 60 day period. These reports indicated that production had declined rapidly to a point where they did not consider the well to be a paying well under the terms of the unit agreement, and lease BLM A-043577 was not considered eligible for extension. The Camp Shelby Unit was terminated effective July 22, 1977. In the decision appealed from BLM terminated the lease, citing the Survey's recommendations.

Shell contends that it is entitled to an extension as provided in 43 CFR 3107.2-3 for a period of two years from February 28, 1977, and as long thereafter as oil or gas is produced in paying quantities. Appellant asserts that this extension is one automatically granted under the regulations to "[a]ny lease * * * for which under an

^{1/} This section of the regulations provides:

Section 3107.4-2 Other leases committed to plan.

Any other lease issued under any section of the act, committed to any such plan that contains a general provision for the allocation of oil or gas, shall continue in effect as to the land committed so long as the lease remains subject to the plan. Provided, that production of oil or gas is had in paying quantities under the plan prior to the expiration date of such lease, whether it be in its primary term or its extended term.

approved cooperative or unit plan of development or operation, actual drilling operations were commenced prior to the end of its primary term and are being diligently prosecuted at that time * * *." Appellant asserts it met these requirements when, prior to the end of the primary term of this lease, it commenced and diligently prosecuted its testing program for the 60-day period.

[1] The regulations governing lease extensions pursuant to 30 U.S.C. § 226-1(d) (1970) in 43 CFR 3107.2-3 provide:

Any lease on which actual drilling operations, or for which under an approved cooperative or unit plan of development or operation, actual drilling operations were commenced prior to the end of its primary term and are being diligently prosecuted at that time, shall be extended for 2 years and so long thereafter as oil or gas is produced in paying quantities. [Emphasis added.]

Under this authority a unitized lease is automatically entitled to a 2-year extension by operation of law from the end its primary term where "actual drilling operations" have been commenced on the lease itself or on behalf of the lease within the unit plan before the end of the primary term of the lease and are being diligently prosecuted at the expiration date. Rio Blanco Natural Gas Company, 30 IBLA 191, 84 I.D. 198 (1977); Alta Vista Resources Inc., 10 IBLA 45 (1973).

[2] In this instance appellant has stated that at the time of expiration of the primary term of this lease it was diligently carrying out the testing operations that had been specifically directed by Geological Survey on the unit well on lease ES 1908. The drilling program for this production test clearly qualifies as actual drilling being diligently prosecuted at the crucial time of lease expiration for BLMA 043577. "Actual Drilling operations" as defined by the regulations in 43 CFR 3107.2-1 includes not only the physical drilling of a well, but the testing, completing or equipping of such well for production of oil or gas. The 60-day testing on the unit well was performed for the benefit of each and every other lease in the unit and is properly construed as satisfactory drilling to meet the requirements for a 2-year extension. There is nothing in the record which suggests that Shell was not diligently engaged in testing the completed will at the expiration of the primary term, as it alleges.

Accordingly, we hold that lease BLMA 043577 was automatically extended for 2 years when actual drilling operations were commenced for the lease under the Camp Shelby Unit Plan prior to February 28, 1977, the end of its primary term, and were being diligently conducted at that time.

Therefore, 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 reversed and the case remanded for further action consistent herewith.

Edward W. Stuebing
Administrative Judge

We concur:

Douglas E. Henriques
Administrative Judge

Joseph W. Goss
Administrative Judge

