

DEAN W. ROWELL

IBLA 78-460

Decided November 6, 1978

Appeal from decision of the Utah State Office, Bureau of Land Management, requiring acceptance of a no-surface-occupancy stipulation prior to issuing noncompetitive oil and gas lease U-37041.

Affirmed.

1. Oil and Gas Leases: Discretion to Lease—Secretary of the Interior—Wild and Scenic Rivers Act

The Secretary of the Interior may require execution of special stipulations reasonably designed to protect environmental and other land use values as a condition precedent to the issuance of an oil and gas lease. Oil and gas lease offers within area proposed for inclusion in the wild and scenic river system may be rejected to protect such areas.

2. National Environmental Policy Act of 1969: Generally—Oil and Gas Leases: Stipulations—Wild and Scenic Rivers Act

The Bureau of Land Management may require the execution of special stipulations, including a no-surface-occupancy stipulation, to protect environmental and other land use values, as a condition for issuing an oil and gas lease. Where the Bureau of Land Management, in a decision requiring a no-surface-occupancy stipulation along a proposed wild and scenic river corridor, has considered all information available to it, has adequately weighed the factors involved, and the appellant has not shown sufficient reason to change the result, the decision will be upheld.

APPEARANCES: Dean W. Rowell, pro se.

OPINION BY ADMINISTRATIVE JUDGE STUEBING

Dean W. Rowell has appealed from a decision of the Utah State Office, Bureau of Land Management (BLM), dated April 27, 1978, which required him to execute a no-surface-occupancy stipulation as a condition precedent to issuing an oil and gas lease for his offer U-37041.

The Utah State Office, BLM, rejected the offer, in part, as to lands within portions of secs. 34, 35, and 36, T. 26 S., R. 17-1/2 E., Salt Lake meridian, Utah, which are withdrawn by P.L. 92-154 for the Canyonlands National Park. Appellant does not question this segment of the decision. The Bureau also determined that the remainder of the lands in the lease offer within secs. 26, 27, 28, and other portions of secs. 34, 35, and 36, excluding the Canyonlands National Park, T. 36 S., R. 17-1/2 E., Salt Lake meridian, Utah, were located in a no-surface-use area within the Green River Corridor. Referring to an oil and gas environmental analysis (EAR) prepared for lands within the area administered by the Moab District Office, BLM, the State Office required execution of a no-surface-occupancy stipulation before a lease would issue. The State Office discussed at length the recreational activities that are conducted on the Green River which runs immediately through and adjacent to the applied for lands. The State Office gave the following rationale for the need for the stipulation:

Oil and gas operations could increase sediment load in the river, and serious impacts would occur if oil or other caustic fluids were released into the water. The aquatic flora and fauna could be affected by petroleum activities.

Recreation activities such as floatboating, swimming and sunbathing would be damaged by an oil spill into the river. An important consideration is that the water from the Green River eventually flows through Canyonlands National Park and into Lake Powell. An oil spill that would reach these areas would have serious impacts both ecologically and aesthetically.

Any oil and gas activity that would disrupt the environment of the portion of the river that is being studied for designation under the Wild and Scenic River[s] Act would probably remove the river from further consideration.

Appellant takes exception to all of the Bureau's reasons for the imposition of the restrictive stipulation. He admits the Green River runs along the edge of his lease application but disagrees that oil

and gas activity will affect either recreational activities on the river or the unusual scenic value of the river. As for the primary consideration of potential impact of a serious oil spill in this area appellant states:

There is no doubt that an oil spill would do precisely what the Bureau has stated; but the oil spill would have to be of a magnitude comparable to last years oil spill in the North Sea. There have been enough wells drilled in this area to assure us that there is not an accumulation of oil and gas that could even mildly approach that of the North Sea.

Appellant asks for a less restrictive surface stipulation as he has executed in similar leases which would not require directional drilling that he contends is too dangerous and costly.

[1] The Secretary of the Interior has the discretionary authority to issue oil and gas leases under such rules and regulations as he deems necessary, 30 U.S.C. § 189 (1976). The Secretary also has the discretion to refuse to issue any lease at all on a given tract. Udall v. Tallman, 380 U.S. 1, 4 (1965), rehearing denied, 380 U.S. 989 (1965). This Board has held that oil and gas lease offers for land within an area under study for possible inclusion in the wild and scenic rivers system under 16 U.S.C. § 1271 et seq. (1976) may be rejected in the exercise of the Secretary's discretion to protect the areas. Questa Petroleum Co., 33 IBLA 116 (1977); Rosita Trujillo, 21 IBLA 289 (1975).

[2] If the Secretary decides to issue a lease, he may require the execution of special stipulations to protect environmental and other land use values. Vern K. Jones, 26 IBLA 165 (1976); 43 CFR 3109.2-1. Moreover, we have held that in proper circumstances, the no-surface-occupancy stipulation is a valid exercise by BLM of its management authority regarding the oil and gas leasing of the public lands. E.g., Neva H. Henderson, 31 IBLA 217 (1977); Bill J. Maddox, 17 IBLA 234 (1974); Quantex Corp., 4 IBLA 31 (1971).

This Board has recently closely scrutinized this type of stipulation, involving the same Green River area, and required extensive documentation and justification from the EAR to be made part of the record in Questa Petroleum, Inc., supra. The EAR relied upon in Questa, as in this case, was the Price District Oil and Gas EAR (August 15, 1975 UT-060-601). Pertinent segments of that report have also been made a matter of record herein. Lands within the critical applied for area of the Green River Corridor (#10) have been designated no occupancy or other surface activity areas (p. 115). In addition a portion of a supplement to the EAR of October 20, 1976, clarifies that the Green River Corridor is not currently protected under the provisions of the Wild and Scenic Rivers Act, supra, and

points out that oil and gas operations could have the effect of altering these areas in ways that would preclude their designation as wild or scenic rivers under the Act.

We find the record supports the BLM determination to require the stipulation for this lease offer. The stated reason for the stipulation in this case is the protection of the prime recreation area along the Green River Corridor. The Green River winds its way through most of the lease offer area. Although the proposed stipulation clearly would make appellant's use and development of the lease area more difficult, there is adequate justification for such action. Appellant has failed to present any substantive evidence or argument with this appeal to persuade us that BLM's conclusions are in error. At best he argues the facts and presents another viewpoint on the conflict of oil resource development verses protection of a scenic recreational area. Although he alludes to the existence of uranium mining and oil and gas development already in progress along the river, this does not justify intensification of such activities along the river corridor.

As we emphasized in Questa, BLM has not reached this conclusion in a vacuum without considering all the relevant factors. We stated at 119:

BLM, as manager of the public lands, must consider all available information when it weighs the various uses of the land. It has done so here. When conflicting uses are at issue, obviously the final decision will cause complaint. However, in the absence of a showing that BLM did not adequately consider all the factors involved, and where the Appellant has not shown sufficient reason to change the result, the final decision will be upheld. Cf. Neva H. Henderson, *supra*; Bill J. Maddox, 24 IBLA 147 (1976). The Utah State Office, in its decision requiring the no-surface-occupancy stipulation, has shown that it considered all information available to it and has adequately weighed the factors involved. To reemphasize, it has been held proper to reject an oil and gas lease offer to protect a proposed wild and scenic river corridor. Rosita Trujillo, *supra*; John Oakason, 19 IBLA 191 (1975). Therefore, *a fortiori*, it is appropriate to condition issuance of a lease along such corridor upon the lessee's acceptance of a no-surface-occupancy stipulation.

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.

Edward W. Stuebing
Administrative Judge

We concur.

Douglas E. Henriques
Administrative Judge

James L. Burski
Administrative Judge

