

INTEGRITY OIL AND GAS CO.

IBLA 79-318

Decided August 22, 1979

Appeal from decision of Wyoming State Office, Bureau of Land Management, declaring noncompetitive oil and gas lease W-15629 terminated.

Vacated and remanded.

1. Oil and Gas Leases: Extensions – Oil and Gas Leases: Unit and Cooperative Agreements

An oil and gas lease is properly extended for 2 years pursuant to 30 U.S.C. § 226(e) (1970) and 43 CFR 3107.2-3 where prior to the expiration of the primary term of the lease, the lease is committed to an approved cooperative unit or plan and actual drilling operations are being conducted on behalf of the lease within the unit plan. For the purpose of qualifying for the extension, the determinative date of approval of the unit agreement is the effective date of the approved agreement rather than the actual date it is signed by U.S. Geological Survey.

APPEARANCES: Robert W. Willingham, President, Integrity Oil and Gas Company.

OPINION BY ADMINISTRATIVE JUDGE STUEBING

Integrity Oil and Gas Company (Integrity) has appealed from a decision, dated March 16, 1979, of the Wyoming State Office, Bureau of Land Management (BLM), which held that oil and gas lease W-15629 had expired at the end of its primary term, October 31, 1978.

The subject lease was originally issued to F. J. Bradshaw effective November 1, 1968, for a period of 10 years. The lease contains 79.71 acres located in sec. 4, T. 35 N., R. 87 W., sixth principal meridian, Natrona County, Wyoming. The lease was assigned to Integrity, September 13, 1978, by the Estate of F. J. Bradshaw, but had not yet been formally approved by BLM prior to the expiration date. The assignment was recorded with the Natrona County Clerk's Office October 19, 1978.

BLM informed Integrity in its March 16 decision that they had been advised by Geological Survey (GS) that there was no activity over the expiration date which would make this lease eligible for extension, and therefore the lease had expired October 31, 1978.

On appeal Integrity seeks a reinstatement of lease W-15629 contending that the lease was still in effect on October 31, 1978, due to (1) being in an approved communitization agreement which was effective October 1, 1978, and (2) the communitized area is capable of commercial production. In support of this request appellant states:

On September 12, 1978, Integrity appeared before the Wyoming Oil and Gas conservation [sic] Commission and presented evidence of a new gas reservoir in the Lance Formation and that 320 acre spacing was the proper spacing for Lance Gas Wells. (See attached commission order dated September 22, 1978, docket No. 131-78 and Integrity's application dated August 14, 1978 therefore). We, therefore, communitized the E2 of Section 33, T-36 North, R-87 West, and established the legal spacing unit for the 1-33 well to be the E2 of Section 33 in compliance with the spacing order. . . .

While we were drilling, completing and communitizing the 1-33 well we concurrently spudded the D.S. Federal 1-4 well on July 30, 1978 (see completion report attached) to extend the term of lease W-40601. (Termination date July 30, 1978). Note that lease W-15629 (the lease in appeal in this proceeding) is located in the W 1/2 Section 4 T35N R87W and is included in the spacing unit with the D.S. Federal 1-4 well according to the Wyoming Oil & Gas Conservation Commission spacing order 131-78.

We immediately began preparation of a communitization agreement covering the W2 of Section 4, T-35N, R-87W in order to comply with the now existing spacing order. The communitization agreement had to be circulated among 7 parties.

After receiving all the required signatures we submitted the Communitization Agreement [NRM-1564] to the USGS and it was approved April 18, 1979, effective 10-1-78. A copy of the communitization agreement is enclosed.

[1] The regulations governing lease extensions pursuant to 30 U.S.C. § 226(e) (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.]

For appellant's lease to qualify for a 2-year extension under this proviso, the lease must have been committed to an approved cooperative or unit plan, and actual drilling operations must have commenced on the lease itself or on behalf of the lease within the unit plan prior to the end of its primary term. Duncan Miller, 10 IBLA 4 (1973); see also Shell Oil Company, 36 IBLA 253 (1978).

In this instance the necessary, actual drilling was being conducted on the D.S. Federal 1-4 well on lease W-40601 within the unit plan prior to the expiration of the primary term of appellants' lease. 1/

Although the cited communitization agreement was not actually signed by GS until April 18, 1979, the effective date of the agreement was established by GS as October 1, 1978 (30 days prior to the expiration of W-15629).

The critical determination is whether the formal approval by GS of Agreement NRM 1564 April 18, 1979, backdated effective October 1, 1978, is sufficient for a 2-year extension for this lease expiring October 31, 1978. We hold that it was. In similar circumstances we recently examined the determinative time for affixing rights under cooperative or unit agreements. The crucial period for determining whether a lease is entitled to a 2-year extension under 30 U.S.C. § 226(j) (1970) is the span between the approval (and creation) of the unit by GS and the date its termination becomes effective. F. M. Tully, 37 IBLA 62 (1978). The

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1/ GS well completion report dated January 4, 1979, indicates Well #1-4 was spudded on July 30, 1978, in sec. 4, T 35 N., R 87 W., – and first production was obtained on November 19; the well being completed on December 9.

determinative date in Tully, as in this case, was the effective date of the approved unit rather than the date actually signed by GS. Since approval of an agreement runs from the effective date, lease W-15629 was automatically entitled to an extension for 2 years.

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 vacated and the case remanded for further action consistent herewith.

Edward W. Stuebing  
Administrative Judge

We concur:

Douglas E. Henriques  
Administrative Judge

Joan B. Thompson  
Administrative Judge

