

JOHN M. LEBFROM

IBLA 79-213

Decided September 19, 1979

Appeal from a decision of the Colorado State Office, Bureau of Land Management, rejecting, in part, oil and gas lease offer C 26605.

Set aside and remanded.

1. Oil and Gas Leases: Applications: Generally -- Oil and Gas Leases: Discretion to Lease -- Oil and Gas Leases: Stipulations

A decision rejecting an oil and gas lease offer because it would result in undue degradation of the environment will be set aside where the record does not clearly support the conclusion reached by BLM.

APPEARANCES: John M. Lebfrom, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

John M. Lebfrom appeals from the Colorado State Office, Bureau of Land Management (BLM), decision dated January 18, 1979, which rejected his noncompetitive oil and gas lease offer C 26605 for lots 3 and 4, sec. 22, T. 4 S., R. 92 W., sixth principal meridian, Colorado, for the reason that the subject land is located adjacent to the Rifle Falls Fish Hatchery, and BLM has determined that issuance of the oil and gas lease would result in undue degradation of the environment.

Appellant suggests that an oil and gas lease might be issued subject to appropriate stipulations so that prior to any entry or disturbance of the surface of the land for drilling or other purposes the District Engineer, U.S. Geological Survey, and the appropriate surface management agency would have the right to deny any proposed operations which might be detrimental to the environment.

The oil and gas plat for T. 4 S., R. 92 W., indicates that the subject land is adjacent to existing Federal oil and gas leases in the W 1/2 sec. 22 and all sec. 23.

It is well settled that the Secretary of the Interior has discretionary authority to refuse to lease public land for oil and gas where leasing would not be in the public interest, even though the land applied for is not withdrawn from operation of the Mineral Leasing Act, 30 U.S.C. §§ 181-287 (1976). Duncan Miller, 31 IBLA 371 (1977); 31 IBLA 351 (1977); 30 IBLA 350 (1977). Also in his discretion the Secretary may refuse to lease land because such action would be incompatible with uses of the land which are worthy of preservation. Dell Hatch, 34 IBLA 374 (1978). But it is equally well settled that the Secretary may issue an oil and gas lease where reasonable stipulations may be imposed to protect the specific values of the land. Richard P. Cullen, 18 IBLA 114 (1975). And where BLM had adequately weighed all factors involved, it may even issue leases for oil and gas with a no-surface occupancy stipulation. Robert L. Healy, 35 IBLA 66 (1978).

The record before us seems to indicate the location of the Rifle Falls Fish Hatchery is within the N 1/2 NE 1/4 sec. 22, on privately-owned land. It is not clear why leasing of lots 3 and 4, sec. 22 would be more degrading to the environment than the existing oil and gas leases in the W 1/2 sec. 22 and all of sec. 23, not to mention other oil and gas leases throughout the township. Nor does the record show why an oil and gas lease on lots 3 and 4, sec. 22 would be inimical to the operations of the fish hatchery.

It is appropriate, therefore, to set aside the BLM decision and remand the case for further review to ascertain if an oil and gas lease may be issued for lots 3 and 4, sec. 22, T. 4 S., R. 92 W., with protective stipulations, or if not, for development of an adequate record to support the adverse decision.

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 set aside and the case remanded for further consideration consistent with this opinion.

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Douglas E. Henriques  
Administrative Judge

We concur:

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Anne Poindexter Lewis  
Administrative Judge

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Frederick Fishman  
Administrative Judge

