

ARTHUR E. MEINHART AND
IRWIN RUBENSTEIN

IBLA 79-476
IBLA 79-490

Decided February 20, 1980

Appeal from decisions of the Colorado State Office, Bureau of Land Management, rejecting oil and gas lease offers C-27463, C-27464-acq., and C-27465-acq.

Affirmed.

1. Mineral Leasing Act for Acquired Lands: Consent of Agency -- Oil and Gas Leases: Acquired Lands Leases -- Oil and Gas Leases: Consent of Agency

The Mineral Leasing Act for Acquired Lands of 1947, as amended, 30 U.S.C. §§ 351-359 (1970), requires that the consent of the administrative agency having jurisdiction over acquired land described in a lease offer be obtained prior to the issuance of a lease for such land. Absent consent, the Department of the Interior is without authority to issue a lease.

APPEARANCES: Arthur E. Meinhart and Irwin Rubenstein, pro sese.

OPINION BY ADMINISTRATIVE JUDGE THOMPSON

Arthur E. Meinhart and Irwin Rubenstein appeal from three decisions of the Colorado State Office, Bureau of Land Management (BLM), dated May 3, 1979, May 7, 1979, and June 15, 1979, 1/ which rejected noncompetitive oil and gas lease offers C-27463, C-27464-acq., and C-27465-acq., in Bent County, Colorado.

1/ The rejection of lease offers C-27463 and C-27464-acq. were consolidated by BLM and assigned IBLA docket number 79-476. The appeal from the rejection of lease offer C-27465-acq. was assigned IBLA docket number 79-490. We have sua sponte consolidated the two appeals.

BLM relied on a number of grounds in rejecting portions of offers C-27463, and C-27465-acq. On appeal, the portion of the decision rejecting offers C-27463 and C-27465-acq., and all of the decision rejecting offer C-27464-acq. are challenged. The decisions are final as to those portions not appealed. BLM's decision in issue is that the applied for lands

[W]ere acquired by the Corps of Engineers, Department of the Army, for the John Martin Dam and Reservoir Project, and that agency has determined that leasing the land for oil and gas would not be compatible with the purposes for which the lands were acquired. This Bureau concurs in that determination, and the applicants' offer to lease is therefore rejected.

Appellants assert on appeal that the land in issue is not being utilized for the purpose for which it was acquired. Appellants have made reference to and have attached to their statement of reasons a newspaper article bolstering their assertion. The article notes that the John Martin Reservoir is currently dry. Appellants further allege that granting the lease applications would not be incompatible with the purposes for which the land was acquired and that they would be willing to accept any reasonable stipulation to protect the land. Even assuming that appellants' assertions are correct, the lease applications were properly rejected for the reasons set forth below.

Section 3 of the Mineral Leasing Act for Acquired Lands, as amended, 30 U.S.C. § 352 (1976), states:

No mineral deposit covered by this section shall be leased except with the consent of the head of the executive department, independent establishment, or instrumentality having jurisdiction over the lands containing such deposit * * * and subject to such conditions as that official may prescribe to insure the adequate utilization of the lands for the primary purposes for which they have been acquired or are being administered.

[1] The effect of this statute is to preclude mineral leasing on acquired lands without the consent of the administrative agency having jurisdiction over the acquired land. Capitol Oil Company, 33 IBLA 392 (1978); Charles F. Hajek, 29 IBLA 330 (1977). Thus, since the Corps

of Engineers has withheld its consent, the Department cannot issue oil and gas leases for the land and the lease applications were properly rejected. 2/

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decisions appealed from are affirmed.

Joan B. Thompson
Administrative Judge

We concur:

Anne Poindexter Lewis
Administrative Judge

Edward W. Stuebing
Administrative Judge

2/ Lease offer C-27463 was not on the proper form for leasing acquired lands and is subject to rejection for that reason as well as the reason given above. Appellants have not disputed that the lands are acquired lands under the jurisdiction of the Army Corps of Engineers.

