

**Editor's note: appealed - aff'd, Civ.No. C80-258K (D.Wyo. Feb. 20, 1981)  
508 F.Supp. 839**

GEOSEARCH, INC.

IBLA 80-256

Decided May 29, 1980

Appeal from decisions of the Wyoming State Office, Bureau of Land Management, dismissing protests against oil and gas leases. W-48405, W-58242, W-59583, W-64804, W-65160, W-67069, W-67106, W-67424, and W-67663.

Affirmed.

1. Oil and Gas Leases: Applications: Drawings -- Rules of Practice: Protests

A protest against the issuance of an oil and gas lease is properly dismissed where it is based on vague allegations of noncompliance with leasing regulations and is unsupported by facts showing that the successful drawee should have been disqualified, that assignees were not bona fide purchasers or that the leases should be cancelled.

APPEARANCES: Melvin E. Leslie, Esq., Salt Lake City, Utah, for appellant; Eugene A. Reidy, Esq., Kutak, Rock & Huie, Denver, Colorado, for Sundance Oil Company; Morris R. Massey, Esq., Brown, Drew, Apostolos, Massey & Sullivan, Casper, Wyoming, for Charles E. Johnson; C. M. Peterson, Esq., Denver, Colorado, for Thomas Wittenwyler.

OPINION BY ADMINISTRATIVE JUDGE FISHMAN

Geosearch, Inc., appeals from decisions dated November 29, 1979, of the Wyoming State Office, Bureau of Land Management (BLM), dismissing its protests against issuance of the above-listed oil and gas

leases which were issued between January 1975 and June 1979. 1/ Each of these leases were assigned at least once; some were assigned several times, all assignments duly submitted to and approved by BLM.

By letter agreements executed between June and September 1979 appellant purchased the interests of the individuals whose drawing entry cards were drawn with second priority in the simultaneous drawings. Appellant's standing as second priority drawee forms the basis for its protests in these matters. 2/

Appellant's protests were filed in October, 1979, after all the leases in question had been issued.

In all cases except W-65160 3/ BLM dismissed the protests on the ground that it had returned the drawing entry cards (DEC) of the

1/ Onshore noncompetitive oil and gas leasing was suspended effective February 29, 1980, by Order of the Secretary No. 3049, wherein BLM is directed to "issue no lease in response to a pending offer based on an entry card drawn with priority under 43 CFR Subpart 3112 \* \* \*." The order, however does not prohibit adjudication of lease applications by BLM or the Board of Land Appeals.

2/ The following table details the effective date of each lease, the date appellant acquired status as second priority drawee and the date the second and third priority DEC's were returned to the persons who filed them:

Lease No.	Effective Date	Date Appellant Acquired Interest	Date Second and Third Priority DEC's Ret'd
W-48405	1/1/1975	8/24/1979	1/1/1975
W-58242	4/1/1977	9/7/1979	10/4/1979
W-59583	8/1/1977	7/ /1979	10/10/1979 and 10/12/79
W-64804	10/18/1978	6/18/1979	6/18/1979
W-65160	12/1/1978	6/20/1979	
W-67069	4/1/1979	6/18/1979	6/26/1979
W-67106	4/1/1979	6/15/1979	6/26/1979
W-67424	5/1/1979	6/16/1979	6/25/1979
W-67663	6/1/1979	9/7/1979	6/22/1979

3/ In this decision, BLM dismissed what is styled appellant's "private contest" on procedural grounds and because no violations of the filing regulations were shown. The major factual distinction between this decision and the others is that it does not mention whether the second and third priority DEC's were returned to the persons who filed them.

second and third priority drawees, that those persons had filed no appeals, and that therefore appellant could have no interest in the leases. In all nine decisions BLM stated that its inquiry revealed no violations of the leasing regulations in connection with issuance of the leases to first priority drawees, as alleged by appellant's protest. BLM further concluded that appellant lacked standing to file either protests or contests in these matters.

Appellant questions the procedure of returning Nos. 2 and 3 DEC's other than through registered or certified mail return receipt requested. He also suggests that such parties should be specifically apprised of their appeal rights. Unquestionably such procedures would adequately establish notice and would be appropriate procedures. It does not appear however, that appellant's legal posture has been affected adversely by any failure to conform therewith.

Appellant asserts that BLM erred in holding that appellant could neither file a private contest or a protest with respect to the leases.

The pertinent governing regulations are:

§ 4.450-1 By whom private contest may be initiated.

Any person who claims title to or an interest in land adverse to any other person claiming title to or an interest in such land or who seeks to acquire a preference right pursuant to the act of May 14, 1880, as amended (43 U.S.C. 185), or the act of March 3, 1891 (43 U.S.C. 329), may initiate proceedings to have the claim of title or interest adverse to his claim invalidated for any reason not shown by the records of the Bureau of Land Management. Such a proceeding will constitute a private contest and will be governed by the regulations herein.

§ 4.450-2 Protest.

Where the elements of a contest are not present, any objection raised by any person to any action proposed to be taken in any proceeding before the Bureau will be deemed to be a protest and such action thereon will be taken as is deemed to be appropriate in the circumstances.

The Department has held that one who merely hopes to lease land is not qualified as a contestant under the regulation which permits those "seeking to acquire title to or claiming an interest in the land involved" to apply to contest the claims of others in the public lands. United States Steel Corp., 63 I.D. 318 (1956). We need not decide whether a protest may be against an issued lease since in the case at bar BLM and this Board have considered the protests.

Appellant argues that BLM erred in finding that no violations of the filing regulations had occurred.

[1] There is no indication in any of the records herein of any violation of the leasing regulations, which, if established would disqualify the successful drawees. All nine files contain statements from the successful drawees attesting to the integrity of the application procedures followed and categorically denying the allegations of impropriety asserted in appellant's protests. Appellant's voluminous statement of reasons neglects this rather crucial point, choosing instead to argue the viability of the second drawee's offer and the denial of his constitutional rights. Absent a showing that the successful drawee should have been disqualified, that assignees were not bona fide purchasers, or that the leases were subject to cancellation, the second drawees' offers need not be considered. Geosearch, Inc., 41 IBLA 291 (1979); Geosearch, Inc., 40 IBLA 267 (1979). Appellant has failed to meet his burden of proof of showing irregularities by competent evidence that the lease offers were improperly issued or that the regulations have been violated otherwise. Accordingly, we conclude that appellant has not demonstrated that the protests were not properly dismissed.

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 affirmed.

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Frederick Fishman  
Administrative Judge

We concur:

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Edward W. Stuebing  
Administrative Judge

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Douglas E. Henriques  
Administrative Judge