

GEOSEARCH, INC.

IBLA 80-183, 80-196, 80-197

Decided May 29, 1980

Appeals from decisions of the Wyoming State Office, Bureau of Land Management, dismissing protests with respect for oil and gas leases W 47397, W 67684, and W 66042.

Affirmed.

1. Oil and Gas Leases: Applications: Drawings

Protests against the issuance of oil and gas leases are properly dismissed where the protestant fails to show with competent evidence that there have been violations of the leasing regulations, that the successful drawees should have been disqualified, or that the leases should have been cancelled.

APPEARANCES: Melvin E. Leslie, Esq. Salt Lake City, Utah, for appellant.

OPINION BY ADMINISTRATIVE JUDGE FISHMAN

Geosearch, Inc., has appealed from decisions of the Wyoming State Office, Bureau of Land Management (BLM), dismissing its protests with respect to the above listed oil and gas leases. 1/

Appellant's desire to protest these matters apparently stems from its purchase of the interests of the individuals whose drawing entry cards were drawn with second priority in the simultaneous drawings.

Lease W 47397 was issued effective October 1, 1974. Leases W 66042 and W 67684 were issued effective February 1 and June 1, 1979, respectively. All of the protests were filed in October 1979.

1/ We have consolidated these cases for decision because of the virtual identity of facts and issues involved.

In all three decisions BLM dismissed the protests on the ground that it had returned the drawing entry cards (DEC's) of the second and third priority drawees, that those persons had filed no appeals, and that therefore appellant could have no interest in the leases. The decisions state further that, despite the allegations of appellant to the contrary inquiry by BLM had revealed no violations of the leasing regulations in connection with issuance of the leases to the first priority drawees and that in any event appellant lacked standing to file either a protest or a contest in these matters.

Appellant's major argument on appeal is that BLM's return of the second and third priority DEC's cannot deprive it of its interest in the leases. Appellant questions BLM's diligence in returning the cards intimating that due process may not have been preserved in all cases. Appellant further argues that BLM erred in rejecting its private contest or protest and in finding that no violations of the filing regulations had occurred.

Appellant suggests that filing regulations 43 CFR 3102.7, requiring disclosure of all interested parties, and 43 CFR 3112.5-2, prohibiting multiple filings, may have been violated. Appellant concludes that if such violations occurred, the leases should be cancelled and awarded to Geosearch, Inc.

[1] There is no evidence in any of the records herein of any violation of the leasing regulations. Nothing has been shown to disqualify the successful drawees. The files contain statements from the successful drawees attesting to their integrity and categorically denying the allegations of impropriety asserted in appellant's protests. The file in W-66042 contains a letter from the first priority drawee to the effect that he filed his own DEC and had no agency agreement with anyone. In W 47397, the No. 1 drawee denies previous acquaintance with her assignee. A leasing agreement identical to that considered by the Board in Geosearch, Inc., 40 IBLA 401 (1979), and found there to create no interest in the leasing service, was involved in W-67684, here before us. Appellant's allegations in these cases are unsupported by any evidence which would raise an issue of fact as to the improprieties alleged. The burden is on appellant, as a protestant to show that the successful drawees should have been disqualified or that their leases were otherwise subject to cancellation. Appellant, whose presentations on appeal are in the realm of speculation and conjecture, has not met this burden. Consequently the second drawees' offers need not be considered. Geosearch, Inc., 41 IBLA 291 (1979); Geosearch, Inc., 40 IBLA 267 (1979). Since there is no competent evidence of irregularities in the issuance of these leases the protests were properly dismissed. Since appellant's protests have

been considered on their merits it is not necessary to reach the issue of standing raised by BLM. 2/

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.

Frederick Fishman
Administrative Judge

We concur:

Douglas E. Henriques
Administrative Judge

Anne Poindexter Lewis
Administrative Judge

2/ However, we note that 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 public lands. United States Steel Corp., 63 I.D. 318 (1956). We need not decide whether a protest may lie against an issued lease since in the case at bar BLM and this Board have considered the protests.