

AMERICAN NATURAL GAS PRODUCTION CO.

IBLA 80-208

Decided August 12, 1980

Appeal from the decision of the Utah State Office, Bureau of Land Management, rejecting noncompetitive oil and gas lease offer U-44386.

Affirmed.

1. Oil and Gas Leases: Lands Subject To – Oil and Gas Leases: Subsurface Storage

Under sec. 17(j) of the Mineral Leasing Act, the Secretary of the Interior may authorize the subsurface storage of oil and gas in lands leased or subject to leasing under the Act. Any lease on which storage is authorized shall be extended at least for the period of storage and so long thereafter as oil or gas not previously produced is produced in paying quantities. A storage agreement which recognizes an existing lease and only reserves to the United States all of the United States interest in minerals in the lands does not terminate the rights of the existing lessee to drill for and produce oil and gas. An oil and gas lease offer submitted subsequently by a third party for the lands subject to the lease is properly rejected since the United States does not hold the mineral interest sought.

APPEARANCES: Alan A. Enke, Esq., Ray, Quinney & Nebeker, Salt Lake City, Utah, for appellant; Ruland J. Gill, Jr., Esq., Salt Lake City, Utah, for Mountain Fuel Supply Company.

OPINION BY ADMINISTRATIVE JUDGE BURSKI

American Natural Gas Production Company has appealed the decision of the Utah State Office, Bureau of Land Management (BLM), rejecting its noncompetitive oil and gas lease offer, U-44386, because the lands already are included in oil and gas leases SL 070555 and SL 070555-A. Appellant's lease offer covers the following lands: Lots 1-7, SE 1/4 NW 1/4, S 1/2 NE 1/4, E 1/2 SW 1/4, SE 1/4, sec. 6, T. 2 N., R. 6 E., Salt Lake meridian.

On January 1, 1951, BLM issued oil and gas lease SL 070555 covering the above described lands to Edythe F. Parkinson for a 5-year term. The lease was extended for an additional 5 years to December 31, 1960. After various assignments, the ownership of the lease became vested in Mountain Fuel Supply Company (Mountain Fuel) in 1957. Oil and gas lease SL 070555-A covering Lot 7, sec. 6, T. 2 N., R. 6 E., Salt Lake meridian, was created by partial assignment of SL 070555 on December 13, 1960. The terms of both leases were extended to November 30, 1962, pursuant to 43 CFR 192.144(b) (1954) (now 43 CFR 3107.6-2) because of this assignment. SL 070555-A was reassigned to Mountain Fuel on February 1, 1961.

On January 1, 1961, the Department of the Interior entered into an agreement with Mountain Fuel pursuant to 30 U.S.C. § 226(j) (1976) entitled "Agreement for the Subsurface Storage of Gas" (Agreement). Under the terms of the Agreement, Mountain Fuel was permitted to store gas under certain lands including those covered by leases SL 070555 and SL 070555-A.

In its statement of reasons, appellant argues that the Agreement modified the rights granted under oil and gas leases SL 070555 and SL 070555-A. In effect, appellant contends that Mountain Fuel no longer has the right to drill for, extract, and dispose of oil and gas deposits on the leasehold. Appellant contends that instead, under the Agreement, Mountain Fuel is allowed to store natural gas exclusively in the specified area and to perform related activities. Appellant then focuses on section 9 of the Agreement which reserves to the United States the right to lease or otherwise dispose of the surface lands, the right to all of the United States interest in the minerals in the lands, and the right to use or lease the lands for any purpose, all subject to the rights of Mountain Fuel. Appellant argues that no new development has occurred under the subject tract, Mountain Fuel continues to store fuel, and unless the United States leases those rights which were reserved to it, any gas in formations on the leasehold other than that in the storage area "will remain locked in the ground and unproductive. Such a result would be contrary to the intent of Congress [with respect to multiple mineral development] and

would also negate the contractual rights which the United States reserved to itself."

[1] Section 17(j) of the Mineral Leasing Act, 30 U.S.C. § 226(j) (1976), provides, in relevant part, that:

The Secretary of the Interior, to avoid waste or to promote conservation of natural resources, may authorize the subsurface storage of oil or gas, whether or not produced from federally owned lands, in lands leased or subject to lease under this chapter. Such authorization may provide for the payment of a storage fee or rental on such stored oil or gas or, in lieu of such fee or rental, for a royalty other than that prescribed in the lease when such stored oil or gas is produced in conjunction with oil or gas not previously produced. Any lease on which storage is so authorized shall be extended at least for the period of storage and so long thereafter as oil or gas not previously produced is produced in paying quantities. [Emphasis added.]

Thus, oil and gas leases on which storage is authorized are extended by operation of law for the storage period. See also 43 CFR 3105.5-4. The BLM status plat in the case record indicates and appellant acknowledges that the storage agreement between Mountain Fuel and the Department of the Interior is still in effect. Oil and gas leases SL 070555 and SL 070555-A therefore remain in effect, provided annual rental is paid. See Texas Eastern Transmission Corp., 14 IBLA 361 (1974).

We do not agree with appellant that the terms of the leases have been modified by the Agreement in the manner argued by appellant. The leases and the Agreement represent separate legal transactions. The Agreement expressly recognizes Mountain Fuel's existing interest in the lands as well as other existing leases and only reserves to the United States "the right to all of the United States' interest in the minerals on, in, or under" the lands (Agreement, preamble, sections 9, 10, 12). Mountain Fuel's right to drill and produce oil and gas is only modified to the extent that such activities would be inconsistent with Mountain Fuel's own storage operation. Appellant argues, in effect, that the Agreement terminates that right altogether. That it does not do. The oil and gas leases have been extended and Mountain Fuel may drill and produce to the same extent that any other lessee who obtains a lease to any part of the Federal interest may do.

The United States does not hold the mineral interests sought by appellant. Therefore, BLM properly rejected oil and gas lease offer U-44386.

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.

James L. Burski
Administrative Judge

We concur.

Douglas E. Henriques
Administrative Judge

Edward W. Stuebing
Administrative Judge

