

ENERGY TRADING, INC.

IBLA 80-376

Decided June 9, 1981

Appeal from decision of Utah State Office, Bureau of Land Management, holding noncompetitive oil and gas leases to have terminated by operation of law. U-8891, et al.

Affirmed.

1. Oil and Gas Leases: Extensions -- Oil and Gas Leases: Production -- Oil and Gas Leases: Termination -- Oil and Gas Leases: Unit and Cooperative Agreements -- Oil and Gas Leases: Well Capable of Production

Where a unit agreement specified that a determination whether a well completed determination whether a well completed prior to the effective date of the agreement is capable of producing in paying quantities will be deferred until completion of a well capable of producing in paying quantities under the unit agreement, wells completed prior to the effective date of the agreement and capable of production in paying quantities will not extend a unitized lease upon which no such well exists.

2. Oil and Gas Leases: Drilling -- Oil and Gas Leases: Extensions -- Oil and Gas Leases: Termination -- Oil and Gas Leases: Unit and Cooperative Agreements

To qualify for a 2-year extension pursuant to 30 U.S.C. § 226(e) (1976), the evidence must show that actual drilling operations were being diligently pursued on the leasehold or, for the lease under an approved unit agreement, on the last day of the lease term, with a bona fide intent to complete a producing well.

3. Administrative Authority: Generally -- Federal Employees and Officers: Authority to Bind Government

Reliance upon erroneous or incomplete information provided by Federal employees does not create any rights not authorized by law.

APPEARANCES: Richard G. Allen, Esq., Salt Lake City, Utah, for appellant.

OPINION BY ADMINISTRATIVE JUDGE HARRIS

Energy Trading, Inc., has appealed from a decision of the Utah State Office, Bureau of Land Management (BLM), dated January 8, 1980, holding various noncompetitive oil and gas leases to have terminated by operation of law, effective July 31, 1979. 1/ BLM based its decision on the fact that the leases had been committed to the Antelope Canyon Unit Agreement No. 14-08-0001-18052, effective June 15, 1979, and that Geological Survey (Survey) had informed BLM "that no drilling activities were being conducted under the unit plan over the leases' expiration date."

Energy Trading, Inc., is assignee of the leases under various assignments from Phoenix Resources Co., and Natural Resources Corp., filed September 13, 1979, with BLM. On January 31, 1980, BLM returned the assignments "unapproved," indicating that the leases had terminated.

The subject oil and gas leases were originally issued effective August 1, 1969, for a term of 10 years "and so long thereafter as oil or gas is produced in paying quantities."

[1] The issues raised by appellant on appeal are identical to those presented in Energy Trading, Inc., 50 IBLA 9 (1980). The rationale in that case is dispositive of this appeal. In that case, involving the same unit agreement, we held that section 11 of the unit agreement deferred "consideration of the producing status of wells completed prior to the effective date of the Antelope Canyon Unit (June 15, 1979), such as the Burton/Hawks No. 5-1 and No. 25-1, 2/ until a well

1/ The leases, U-8891 through U-8894, U-8900 and U-8901, U-8938, U-8940 through U-8944, and U-8998, are situated in Duchesne County, Utah.

2/ The Burton/Hawks No. 5-1 Nutters Ridge Federal, located on lease U-8894-A, produced 400 MCFGPD and 33 BOPD before being shut in by order of the State of Utah because of excessive flaring of gas. The Burton/hawks No. 25-1 Right Fork Antelope Canyon, located on lease U-8897-A, found three gas pay zones before being shut in, awaiting a pipeline hookup.

capable of producing unitized substances in paying quantities is completed under the unit" (*Id.* at 12). Completion under the unit requires completion of a well on unit lands subsequent to the effective date of the unit, which well is capable of producing unitized substances in paying quantities. In this case no such well was completed from the effective date of the unit to the July 31, 1979, expiration date of the leases in question. BLM properly disregarded the two wells completed prior to the effective date of the unit in holding that these leases were not extended by production elsewhere on the unit. 3/

[2] Appellant contends that pursuant to 30 U.S.C. § 226(e) (1976), the subject leases are entitled to a 2-year extension by reason of actual drilling operations. Appellant alleges that drilling operations took place on lease U-8943-A in the Antelope Canyon Unit between June 29, 1979, and July 6, 1979, when the well was plugged as a dry hole. As we stated in Energy Trading, Inc., *supra* at 13, "the evidence must show that actual drilling operations were being diligently pursued on the leasehold or for the lease under an approved unti agreement on the last day of the lease term with a bona fide intent to complete a producing well." (Emphasis supplied.)

[3] Appellant also stated that the District Engineer, Survey, agreed that drilling operations on the Antelope Canyon Unit prior to June 30, 1979, would prevent the subject leases from expiring. Letter to District Engineer, Survey, from Exploration Manager, Burton/Hawks, Inc., dated May 30, 1979, purportedly summarizing telephone conversation of May 29, 1979. Appellant alleges that it relied in good faith on this representation.

In response to this same argument in Energy Trading, Inc., we stated at 13, that even assuming the facts as stated by appellant, "reliance upon erroneous or incomplete information or opinions provided by any officer, agent or employee of the Department cannot operate to vest any right not authorized by law." The law clearly requires actual drilling operations to be performed on the last day of the lease with a bona fide intent to complete a producing well.

3/ Appellant also points out that lease U-8894-A and U-8897-A were put on a minimum royalty rather than a rental basis and that the land covered by the Burton/Hawks Nos. 5-1 and 25-1 wells was designated as an undefined known geologic structure by Survey. While these facts are further evidence that the wells are capable of production, they do not change the result.

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.

Bruce R. Harris
Administrative Judge

We concur:

James L. Burski
Administrative Judge

Douglas E. Henriques
Administrative Judge

