

ALMINEX USA, INC.

IBLA 81-594

Decided June 26, 1981

Appeal from the Colorado State Office, Bureau of Land Management, disapproving the assignment from Alminex USA, Inc., to Lochiel Exploration, Inc., of 50 percent of the record title in oil and gas lease C-13759.

Affirmed.

1. Oil and Gas Leases: Assignments or Transfers

Where approval of an assignment of oil and gas lease record title was not requested of the Bureau of Land Management until over 4 years after the assignment transaction, approval was properly denied under 43 CFR 3106.3-1.

2. Oil and Gas Leases: Assignments or Transfers

Although the regulation governing Bureau of Land Management approval of assignments of oil and gas lease record title. 43 CFR 3106.3-1, does not strictly require rejection of the request for approval in every case where the stated 90-day limit has been exceeded, the approval cannot be given where the applicant is almost 4 years tardy with his request and another party has in the interim received approval for transfer of the same record title. It is Departmental policy to decline adjudication of issues regarding the validity or effect of conflicting assignments until the parties have first settled their dispute privately or in court.

APPEARANCES: Charles E. Kaser for Alminex USA, Inc.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Alminex USA, Inc. (Alminex), appeals the decision dated March 25, 1981, of the Colorado State Office, Bureau of Land Management (BLM), wherein a proposed assignment of 50 percent of the record title in oil and gas lease C-13759 from Alminex to Lochiel Exploration, Inc., was denied approval.

The case file shows that the original assignor, Gearald J. Kellogg, assigned his entire 100 percent interest in the subject lease to James O. Breene, Jr., on February 17, 1975. In that same month, Breene assigned his 100 percent interest to TransOcean Oil, Inc. The next assignment of this lease, according to the documents found in the case file, transferred 100 percent record title interest to Mobil Oil Corporation from TransOcean Oil, Inc. All of these assignments were approved by BLM.

When on March 19, 1981, Alminex filed for approval with BLM an assignment to Lochiel Exploration, Inc., of 50 percent of the record title in the lease, BLM responded by issuing a decision which stated in part: "The assignment is not approved, as according to our records Mobil Oil Corporation owns 100 percent of the record title for this lease effective March 1, 1981. Alminex USA, Inc., thus, has no interest to assign."

On appeal, Alminex explains the following:

On 1977 January 10, TransOcean assigned a 50 percent interest each to Alminex USA, Inc., and Bonanza Oil and Gas in all P&NG rights to the Base of the Niobrara.

This * * * assignment was recorded in the County records, however, we failed to have same recorded and approved at that time by the Bureau of Land Management.

Mobil Oil Corporation succeeded to the interest of TransOcean Oil, Inc., and hence, your records now show Mobil as the 100 percent owner of the record title.

Enclosed is a xeroxed copied of the signed document of TransOcean to Alminex and Bonanza. We are currently taking steps to have the Bureau of Land Management recognize this assignment by providing the original documentation.

[1] Alminex has submitted a document executed on January 10, 1977, which seems to transfer certain rights in the lease from TransOcean Oil, Inc., to Alminex. 1/ However, the fact that this

1/ The assignment submitted by Alminex purported to convey from TransOcean Oil, Inc., to Alminex, U.S.A., Inc., and Bonanza Resources, Inc., in equal proportions of 50 percent each of oil and gas rights only from the surface down to and including the Niobrara formation. Regulation 43 CFR 3106.3-2 provides that an assignment of a separate

document and the request for its approval were not filed with BLM until more than 4 years after the date of execution disqualifies the assignment under 43 CFR 3106.3-1, which states in part: "To obtain approval of a transfer affecting the record title of an oil and gas lease, a request for such approval must be made, within 90 days from the date of execution of the assignment by the parties." That regulation constitutes one of the conditions to Secretarial approval of an assignment of such oil and gas leases, and according to 30 U.S.C. § 187 (1976), such assignments are not authorized "except with the consent of the Secretary of the Interior."

[2] We have previously held that 43 CFR 3106.3-1 does not always require the rejection of tardy assignment applications. "[T]he purpose of the regulation is one of Departmental convenience." Hughes & New Oil Company, Inc., 22 IBLA 305, 306 (1975). However, in Joseph Alstad, 19 IBLA 104, 111 (1975), the Board noted that "one of the purposes of the regulation was to encourage assignees to file the assignment so that third parties would have notice of the transfer, and also to apprise the Department of the parties in interest in the lease." Where the entire lease title is presently invested in a third party, as this lease is held by Mobil Oil Corporation, there is nothing of record in Alminex which may be assigned. BLM has acted properly in denying the requested approval. Any dispute that Alminex has is against either TransOcean or Mobil, and "[w]here there is a private dispute as to an oil and gas lease assignment, it has been the longstanding policy of the Department to decline to adjudicate issues regarding the validity or effect of the assignment until the parties have had an opportunity to settle their dispute privately or in court." William B. Brice, 53 IBLA 174, 177 (1981).

Accordingly, 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.

Douglas E. Henriques
Administrative Judge

We concur:

Edward W. Stuebing
Administrative Judge

Anne Poindexter Lewis
Administrative Judge

fn. 1 (continued)

zone or deposit will not be approved unless the necessity therefor is established by clear and convincing evidence.

