

M. ROBERT PAGLEE

IBLA 81-658

Decided October 27, 1981

Appeal from decision of the Wyoming State Office, Bureau of Land Management, requiring execution of a special stipulation as a condition precedent to issuing oil and gas lease W 74532.

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. Where an oil and gas lease applicant applies for lands underlain by such a storage area he may properly be required to execute a stipulation for the protection of the storage area.

2. Oil and Gas Leases: Stipulations -- Oil and Gas Leases: Subsurface Storage -- Secretary of the Interior

The Secretary of the Interior may require an oil and gas lease applicant to accept a stipulation reasonably designed to protect a duly established subsurface oil and gas storage area as a condition precedent to the issuance of a lease.

APPEARANCES: M. Robert Paglee, pro se.

OPINION BY ADMINISTRATIVE JUDGE LEWIS

M. Robert Paglee has appealed from a letter decision dated April 28, 1981, of the Wyoming State Office, Bureau of Land Management (BLM), requiring the execution of a stipulation as a condition of issuing lease W 74532.

The lease, on form 3120-7 (competitive public domain lands), described the following lands:

T. 26 N, R 87 W, 6th PM, WY Sec 28: S 1/2 NW 1/4 excluding and withholding from leasing the oil and gas rights of the Muddy Sandstone, Skull Creek, Dakota, and Sundance formations encountered between the depths of 1,988 feet and 2,192 feet and between depths of 2,570 feet and 2,650 feet with respect to the Sundance formation, as logged in Sinclair Oil Company Well No. 1 Federal, SE 1/4 SW 1/4 Sec. 29, T 26 N, R 87 W, containing 80 acres, more or less * * *.

Attached to the lease was a stipulation providing in relevant part as follows:

If drilling for deeper producing formations is contemplated, the storage formations can not be produced and MUST be thoroughly protected. An intermediate casing string MUST be cemented from 100 feet below the Chugwater formation to surface and tested per API Specifications.

The gas is stored at 1000 psi therefore the drilling mud must be of sufficient weight to contain this 1000 psi pressure from the Dakota at 2240' through the Chugwater at about 2766'. No air drilling will be permitted.

Appellant wanted to revise this stipulation to permit the production of oil only from the gas storage formations.

In its letter-decision BLM declined to accept appellant's proposal for revision as follows:

With your return of the executed lease forms and balance of bonus bid, you advised that you wished to have the stipulations which was attached to the lease revised. This cannot be done as the gas storage area is excluded from your lease.

This lease was parcel 20 of the March 11, 1981 competitive oil and gas sale. The sale notice listed the parcels available and this parcel specifically gave the exclusion, to wit,

T 26 N, R 87 W, 6th PM, WY Sec 28: S 1/2 NW 1/4 excluding and withholding from leasing the oil and gas rights of the Muddy Sandstone, Skull Creek, Dakota, and * * *.

[Emphasis supplied.]

The stipulation which was made part of the lease was supplied by the U.S. Geological Survey to protect the storage area should drilling for deeper formations occur.

In his statement of reasons, appellant alleges that the section in which the subject lease is located has not been determined to be a gas storage area with producing zone characteristics which would drain gas from adjoining sections. Appellant emphatically suggests that any problem could be remedied by reinjecting gas after separating the oil, and that the matter should be reviewed to determine if (1) this is a bona fide storage area, and this is not an unreasonable degree of "protection" for producers in certain adjoining sections; and (2) an acceptable method can be agreed upon for separating any oil from the gas, and for reinjecting all the gas into the "storage" area.

The file shows that parcel 20, among others, lies within the East Mahoney Dome Gas Storage Area. Effective October 1, 1971, Northern Utilities, Incorporated, was issued permit number 14-008-0001-12375, to use this area to store gas in the Dakota, Sundance, and Chugwater formations.

[1, 2] 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." This grant of discretionary authority is repeated, 43 CFR 3105.5-2. In the case before us, since a storage permit was granted, this authority was exercised. Neither the statute nor the regulation circumscribes the Secretary's authority by requiring the storage area to have the particular characteristics mentioned in the statement of reasons to provide for separation and reinjection of the gas. The stipulation to which appellant objects is designed to protect this storage area and appellant has not shown that it is either an arbitrary or unreasonable condition precedent to issuance of his lease. The Secretary of the Interior has the discretionary authority to issue oil and gas leases under such rules and regulations as he deems necessary, 30 U.S.C. § 189 (1976). The Secretary also has the discretion to refuse to issue any lease at all on any given tract. Udall v. Tallman, 380 U.S. 1, 4 (1965), rehearing denied, 380 U.S. 989 (1965). If the Secretary decides to issue a lease, he may require the execution of special stipulations to protect land use values. Vern K. Jones, 26 IBLA 165 (1976); 43 CFR 3109.2-1. However, proposed special stipulations must be supported by valid reasons which will be weighed by this Department with due regard for the public interest. A. A. McGregor, 18 IBLA 74 (1974); George A. Breene, 13 IBLA 53 (1974). The protection of the highly pressurized gas storage area is a valid reason for the stipulation herein.

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.

Anne Poindexter Lewis
Administrative Judge

We concur:

Gail M. Frazier
Administrative Judge

Douglas E. Henriques
Administrative Judge

