

P. M. BRAUN

IBLA 81-492

Decided December 4, 1981

Appeal from decision of New Mexico State Office, Bureau of Land Management, rejecting noncompetitive oil and gas lease offer. NM 39172 (OK).

Affirmed.

1. Oil and Gas Leases: Applications: Generally -- Oil and Gas Leases: Known Geologic Structure -- Oil and Gas Leases: Noncompetitive Leases

Lands within a known geologic structure of a producing oil or gas field may be leased only after competitive bidding under the provisions of 43 CFR Part 3120, and a noncompetitive oil and gas lease offer filed for such lands is properly rejected where during the pendency thereof the land is determined to be within the known geologic structure of a producing oil or gas field.

APPEARANCES: P. M. Braun, pro se.

OPINION BY ADMINISTRATIVE JUDGE HARRIS

P. M. Braun has appealed from a decision of the New Mexico State Office, Bureau of Land Management (BLM), dated February 18, 1981, rejecting appellant's noncompetitive oil and gas lease offer, NM 39172 (OK), because the lands are within "an undefined known geological structure" (KGS) and may only be leased by competitive bidding pursuant to 43 CFR Part 3120. Appellant's drawing entry card (DEC) was drawn with first priority for parcel NM-176 at a simultaneous oil and gas lease drawing held on November 14, 1979.

By memorandum dated February 9, 1981, pursuant to a request by BLM, dated January 20, 1981, Geological Survey (Survey) informed BLM that the subject land, situated in the NW 1/4 SW 1/4 sec. 11, T. 25 N., R. 21 W., Indian meridian, Harper County, Oklahoma, was considered to be within an undefined KGS "effective September 14, 1980, the completion date of a gas discovery in sec. 10, T. 25 N., R. 21 W." Memorandum from Acting District Supervisor, Resource Evaluation, Survey to Chief, Oil and Gas Section, Bureau of Land Management.

In her statement of reasons for appeal, appellant contends that BLM "arbitrarily assumed the right to reclassify this tract" during the 16-month period of time between the simultaneous oil and gas lease drawing (November 1979) and the BLM decision (February 1981). <sup>1/</sup>

[1] Lands within a KGS, as reported and posted by Survey, may only be leased by competitive bidding. 30 U.S.C. § 226(b) (1976); 43 CFR 3101.1-1(a). A noncompetitive offer to lease certain lands for oil and gas must be rejected where either before or after the filing of the offer and prior to the issuance of the lease the land is determined to be within the known geologic structure of a producing oil or gas field. 43 CFR 3112.6-2(b); Richard J. DiMarco, 53 IBLA 130 (1981), and cases cited therein.

Even though appellant may have been a qualified offeror, once the KGS determination was made, her offer could not have been processed otherwise. Appellant's arguments are without merit because the drawing of an offer for a noncompetitive oil and gas lease creates no vested rights in the offeror. Pauline Lebsack, 50 IBLA 361 (1980); Guy W. Franson, 30 IBLA 123 (1977).

Appellant has not challenged Survey's determination on the merits of the existence of a KGS but has challenged merely the rejection resulting therefrom, and, therefore, has provided no evidence to indicate that the KGS determination is incorrect. That uncontested determination is dispositive of this appeal. William M. Turner, 54 IBLA 111 (1981).

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

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<sup>1/</sup> We note that between Feb. 29, 1980, and Apr. 7, 1980, pursuant to Order No. 3049, the Secretary suspended noncompetitive oil and gas leasing. See 45 FR 30553 (May 8, 1980).

