

R. L. MULHOLLAND

IBLA 81-386

Decided January 26, 1982

Appeal from decision of the Montana State Office, Bureau of Land Management, rejecting oil and gas lease offer M 41828 Acq.

Affirmed.

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

Acquired 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, while the offer is pending, the land is determined to be within a known geologic structure.

APPEARANCES: R. L. Mulholland, pro se.

OPINION BY ADMINISTRATIVE JUDGE BURSKI

R. L. Mulholland appeals from the January 28, 1981, decision of the Montana State Office, Bureau of Land Management (BLM), rejecting his noncompetitive oil and gas lease offer for acquired lands, M 41828 Acq. The decision stated: "All of the lands in your offer are situated within the Known Geologic Structure of the Big Bend Field effective September 11, 1980, and may be leased only in accordance with Regulation 43 CFR 3120."

The record indicates that appellant's over-the-counter offer, for a total of 11.8 acres, was filed pursuant to the Acquired Lands Leasing Act of 1947, as amended, 30 U.S.C. §§ 351-359 (1976), on September 12, 1978. The offer covers two small tracts described by metes and bounds. Subsequently appellant was required to file a mineral memorandum of title to establish Federal ownership. Appellant did so. On May 30, 1980, this offer was rejected as to a small portion due to a 0.2-acre conflict with another lease. Appellant was requested to execute special stipulations as to the remainder. Additionally, because of the on-going BLM investigation of alleged fraud in the noncompetitive oil and gas leasing system, appellant was directed to file a certification of compliance with the applicable regulations. Appellant submitted the signed stipulation and certification on July 8, 1980. However, by memorandum dated August 12, 1980, the Geological Survey informed BLM that based on oil development the lands for which appellant applied were among those being added to the Big Bend known geologic structure (KGS) effective September 11, 1980. On the basis of this notification, BLM rejected appellant's offer in its entirety on January 28, 1981.

In his statement of reasons, appellant argues that he properly filed his application and that he conscientiously provided considerable additional information at BLM's request. He claims that the lengthy delay unfairly deprived him of this lease.

[1] Acquired lands within a KGS of a producing oil or gas field shall be leased only by competitive bidding. See 43 CFR 3101.2-1(a). Competitive bidding procedures are outlined at 43 CFR 3120. See also 30 U.S.C. § 359 (1976). If lands embraced in a noncompetitive oil and gas lease offer are determined to be within a KGS before a lease issues, the offer must be rejected. See McDade v. Morton, 353 F. Supp. 1006 (D.D.C. 1973), aff'd, 494 F.2d 1156 (D.C. Cir. 1974). Appellant's diligence in filing his offer and responding to all inquiries does not impair this conclusion. This Department is without discretion to issue a noncompetitive lease for these lands.

Appellant has not challenged Geological Survey's determination on the merits of the existence of a KGS but has challenged merely the resulting rejection. He has provided no evidence to indicate that the KGS determination is incorrect. That uncontested determination is dispositive of this appeal.

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.

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James L. Burski  
Administrative Judge

We concur:

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Bernard V. Parrette  
Chief Administrative Judge

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Edward W. Stuebing  
Administrative Judge

