

RACHALK PRODUCTION, INC.

IBLA 82-497

Decided May 3, 1982

Appeal from a decision of the California State Office, Bureau of Land Management, rejecting oil and gas lease offer CA 11317.

Affirmed.

1. Mineral Leasing Act for Acquired Lands: Consent of Agency -- Oil and Gas Leases: Acquired Lands Leases -- Oil and Gas Leases: Consent of Agency

The Mineral Leasing Act for Acquired Lands of 1947, as amended, 30 U.S.C. §§ 351-359 (1976), requires that the consent of the administrative agency having jurisdiction over acquired land described in a lease offer be obtained prior to the issuance of a lease for such land. Absent consent, the Department of the Interior is without authority to issue a lease.

APPEARANCES: K. Donelson Foose, Esq., Rachalk Production, Inc., for appellant.

OPINION BY ADMINISTRATIVE JUDGE PARRETTE

Rachalk Production, Inc., appeals from the January 21, 1982, decision of the California State Office, Bureau of Land Management (BLM), which rejected noncompetitive oil and gas lease offer CA 11317. The offer was filed on August 28, 1981, for 1,637.50 acres of acquired land situated within the U.S. Naval Construction Battalion Center (CBC), Port Hueneme, California, which is under the jurisdiction of the Department of the Navy. The decision states:

The regulations in 43 CFR 3111.1-2 require the consent of the jurisdictional agency before a lease may be issued. The Navy does not consent to these lands being leased for oil and gas for the following reasons.

CBC, Port Hueneme, is a critical national defense mobilization staging area. Oil and gas operations are not compatible

with the mobilization readiness mission of this naval installation. Leasing for purposes of oil and gas exploration has the tendency to expand and place unacceptable demands on the land and resources of the Station. Also, Port Hueneme Center has a fragile fresh water table threatened by salt water intrusion. There is a possibility that oil and gas operations in this area would further aggravate this problem. The use of the land at this key naval port facility to explore or develop oil and gas interests is not in the best interests of the Navy or national defense readiness.

As a result of the foregoing, offer CA 11317 is hereby rejected.

In its statement of reasons for appeal, appellant argues that:

1. The Oil and Gas Lease applied for could be granted to RACHALK Production, Inc., with "no surface" stipulations which would prevent any interference by oil and gas exploration activities with the defense mission of the base.

2. RACHALK further feels that the denial of its lease application because of the potential damage to the fresh water table by salt water intrusion was erroneous. With the drilling techniques and technology available to operators drilling contractors today, it is possible to protect said fresh water tables by the use of surface casing or other methods. Reasonable requirements set forth by BLM could ensure this protection. Therefore oil and gas exploration activities would not present any unreasonable risk of damage to the fresh water table and this reason therefore should not be sufficient to warrant denial of the Oil and Gas Lease for which RACHALK Production, Inc., applied.

Section 3 of the Mineral Leasing Act for Acquired Lands, as amended, 30 U.S.C. § 352 (1976), states in part:

No mineral deposit covered by this section shall be leased except with the consent of the head of the executive department, independent establishment, or instrumentality having jurisdiction over the lands containing such deposit * * * and subject to such conditions as that official may prescribe to insure the adequate utilization of the lands for the primary purposes for which they have been acquired or are being administered.

[1] The effect of this statute is to preclude mineral leasing on acquired lands without the consent of the administrative agency having jurisdiction over the acquired land. Dennis Harris, 55 IBLA 280 (1981). This, since the Department of the Navy has withheld its consent, this Department cannot issue oil and gas leases for the land, and the lease offer was properly rejected.

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.

Bernard V. Parrette
Chief Administrative Judge

We concur:

Gail M. Frazier
Administrative Judge

Bruce R. Harris
Administrative Judge

