

GREAT WHITE, INC.

IBLA 82-212, 82-295

Decided June 30, 1982

Appeal from decision of the Utah State Office, Bureau of Land Management, rejecting noncompetitive oil and gas lease offers U-47702 and U-47629.

Affirmed.

1. Oil and Gas Leases: Discretion to Lease

The Secretary of the Interior may, in his discretion, reject any offer to lease public lands for oil and gas upon a determination, supported by facts of record, that leasing is not in the public interest because leasing is incompatible with other uses of the land which are worthy of preservation. Where BLM has consolidated its holdings in order to manage the lands for recreational, scenic, and wildlife values which BLM determines oil and gas leasing would damage, rejection of the lease offer will be affirmed.

APPEARANCES: Steven H. Findeiss, president, Great White, Inc.

OPINION BY ADMINISTRATIVE JUDGE STUEBING

Steven H. Findeiss, president of Great White, Inc., has appealed from the separate decisions of the Utah State Office, Bureau of Land Management (BLM), issued November 21, 1981, and December 8, 1981, rejecting noncompetitive oil and gas lease offers U-47702 and U-47629 for lands in the Cane Flat Mesa areas of Garfield County, Utah. The BLM decisions stated that the environmental analysis had identified the land as having "outstanding resource values incompatible with oil and gas leasing." In addition, the decision

states that the "area provides crucial range for the only hunted, free roaming bison herd in the nation." ^{1/}

Appellant contends that the "Wilderness Act of 1964 and Federal Land Policy and Management Act of 1976, specifically provide for oil and gas exploration to take place even within roadless areas of outstanding recreational or wilderness character (Wilderness Areas), at least through 1983," and that "Congress intended the above-referenced acts to apply to any and all public land 'retaining its primeval character and influence, without permanent improvements or human habitation.' (Definition from wilderness Act)."

[1] The Secretary of the Interior, through his authorized representative, BLM, has the discretion to refuse to lease lands for oil and gas purposes, even if the lands have not been withdrawn from the operation of the general mining and mineral leasing laws. Udall v. Tallman, 380 U.S. 1, 4 (1965); United States v. Wilbur, 283 U.S. 414 (1930); Burglin v. Morton, 527 F.2d 486 (9th Cir. 1976); John M. Lebfrom, 43 IBLA 67 (1979); Cartridge Syndicate, 25 IBLA 57 (1976). This discretion may be exercised in favor of such considerations as wildlife, endangered species preservation, recreational use, and aesthetic or scenic values. Duesing v. Udall, 350 F.2d 748 (D.C. Cir. 1965), cert. denied, 383 U.S. 912 (1966); Carol Lee Hatch, 50 IBLA 80 (1980); R. C. Hoefle, 41 IBLA 174 (1979); Rosita Trujillo, 21 IBLA 289 (1975).

In Connie Mull, 63 IBLA 317, at 318 (1982), it is stated that:

The Board has held that BLM may refuse to issue a lease in the proper circumstances, where BLM outlines the reasons for refusal and provides a record and background data supporting the conclusion that the public interest would be served by rejection of a lease offer. Robert P. Kunkel, 41 IBLA 77 (1979); Cartridge Syndicate, supra at 59. Where the record describes a devotion of land to public purpose which is worthy of preservation and indicates that the development of an oil and gas field would be incompatible with this public purpose and would be less in the public interest than preserving the status quo, BLM's decision not to issue the lease will be affirmed in the absence of a showing by an appellant of reasons for modification or reversal. L. A. Idler (Supp.), 28 IBLA 8, 10 (1976); Rosita Trujillo, supra at 291.

See also Placid Oil Co., 58 IBLA 294 (1981).

Where appellant has failed to provide a compelling reason for modifying the BLM decisions and the case record supports BLM's finding, the decision will be affirmed.

^{1/} The BLM decision points out that these lands provide crucial bison range in an area where alternate range is limited; that the herd, which is already subject to some disturbances, requires seclusion. Additional details are provided in the environmental analysis report.

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.

Edward W. Stuebing
Administrative Judge

We concur:

Anne Poindexter Lewis
Administrative Judge

C. Randall Grant, Jr.
Administrative Judge

