

ELCOEX, INC.

IBLA 82-1338

Decided October 28, 1982

Appeal from decision of Eastern States Office, Bureau of Land Management, rejecting oil and gas lease offer, ES 25394 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. C. McGuire, Vice President, Elcoex, Inc., for appellant.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Elcoex, Inc., appeals from the June 23, 1982, decision of the Eastern States Office, Bureau of Land Management (BLM), rejecting its noncompetitive oil and gas lease offer for acquired lands, ES 25394 Acq. The decision stated: "The lands requested are within a known geologic structure * * * and are therefore not available for noncompetitive leasing. (43 CFR 3101.1-1; 43 CFR 3110.1-8)."

The record indicates that appellant's over-the-counter offer for the Government's 75 percent interest in 2,031.735 acres of land in Chautauqua County, New York, was filed pursuant to the Acquired Lands Leasing Act of 1947, as amended, 30 U.S.C. §§ 351-359 (1976), on September 10, 1980. The offer embraces 15 tracts described by the Forest Service tract acquisition numbers.

By memorandum dated April 2, 1982, the Minerals Management Service (MMS) informed BLM that the lands applied for were included in the Lake Shore Undefined known geologic structure (KGS) effective March 1, 1982. On the basis of this notification, BLM rejected the offer.

Appellant argues only that it should be granted a noncompetitive lease for the lands in the area for which it applied that are unproductive. Appellant has not challenged the MMS determination nor has it provided any evidence to indicate that the KGS determination is not dispositive of this appeal.

[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 in 43 CFR Part 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); R. L. Mulholland, 61 IBLA 175 (1982). The Department is without authority to issue a noncompetitive lease for these lands.

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.

Douglas B. Henriques
Administrative Judge

We concur:

Will A. Irwin
Administrative Judge

James L. Burski
Administrative Judge

