

Appeal from decision of Wyoming State Office, Bureau of Land Management, imposing special stipulations as condition to issuance of noncompetitive oil and gas lease. W-75524.

Affirmed.

1. Oil and Gas Leases: Stipulations

Although the Bureau of Land Management may require such special stipulations as are necessary for protection of environmental and other land use values, such special stipulations must be supported by valid reasons weighed with due regard for the public interest. A decision to impose a no surface occupancy stipulation will be affirmed where the record on appeal indicates that the restriction is based on valid concerns and the applicant fails to show that the restriction is unreasonable.

APPEARANCES: James M. Chudnow, pro se.

OPINION BY ADMINISTRATIVE JUDGE BURSKI

James M. Chudnow has appealed from a decision of the Wyoming State Office, Bureau of Land Management (BLM), dated July 2, 1981, imposing special stipulations as a condition to issuance of noncompetitive oil and gas lease W-75524.

On May 27, 1981, appellant filed a noncompetitive oil and gas lease offer for certain land situated in secs. 1, 2, and 12, T. 52 N., R. 103 W., sixth principal meridian, Park County, Wyoming. In its July 1981 decision, BLM required appellant, in part, to execute a stipulation providing that "[n]o occupancy or other surface disturbance will be allowed within 1,320 feet of the Shoshone River or Buffalo Bill Reservoir."

In his statement of reasons for appeal, appellant objects to the provision that no occupancy is allowed "within 1,320 feet of the Shoshone River or Buffalo Bill Reservoir." Appellant argues that the provision is overly severe and unnecessary "for the fostering of proper safety and like measures" and that the standard distance is 250 to 500 feet.

By memorandum of September 3, 1982, we requested comments from the State Office concerning appellant's contentions. By memorandum received on September 24, 1982, the Associate State Director, responded.

In his response, the Associate State Director agreed that the normal no surface occupancy distance from the Shoshone River is 250 to 500 feet. The State Office indicated, however, that this was not the normal situation, noting that the lands in the offer "are located over the tunnels of joint U.S. highways 14, 16, and 20," and are also adjacent to the Buffalo Bill Dam visitors' center.

The memorandum pointed out that the environmental assessment for these lands had originally provided for a no surface occupancy restriction of 500 feet, but that public comment had suggested that greater protection be afforded and the District Manager had determined that a no surface occupancy restriction of 1,320 feet was justified. But, the Associate State Director continued:

It is important to note that the stipulation has an exception clause. It states that this distance may be modified when specifically approved in writing by the District Supervisor of the Minerals Management Service, with the concurrence of the District Manager of BLM.

The exception clause is important. It means that the BLM and MMS are willing to review any site specific proposal and try to accommodate the location of a drill rig. In an area as sensitive as this, we believe this is the best way to deal with operators' lease development plans, and conduct our surface management responsibilities.

After receipt of this memorandum, we afforded appellant an opportunity to respond to these comments. No response from appellant was forthcoming.

[1] The Secretary of the Interior has the discretionary authority to require the execution of special stipulations as a condition precedent to issuance of an oil and gas lease, in order to protect environmental and other land use values. James M. Chudnow, 62 IBLA 16 (1982); Richard P. Cullen, 18 IBLA 414 (1975). Such stipulations will be upheld on appeal only if the record shows that BLM adequately considered the factors involved and if they reflect a reasonable means to accomplish a proper Departmental purpose. H. E. Shillander, 44 IBLA 216 (1979); Neva H. Henderson, 31 IBLA 217 (1977); A. A. McGregor, 18 IBLA 74 (1974).

The memorandum of the Associate State Director adequately justifies the imposition of the no surface occupancy restriction involved herein. Appellant has failed to submit anything which calls this restriction into doubt. In such a situation, the decision of the State Office must be sustained.

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.

James L. Burski
Administrative Judge

We concur:

Bruce R. Harris
Administrative Judge

Edward W. Stuebing
Administrative Judge

