

DE ANN T. GAETH

IBLA 83-56 Decided November 30, 1982

Appeal from decision of Nevada State Office, Bureau of Land Management, rejecting, in part, oil and gas lease offer N 21016.

Affirmed.

1. National Park Service Areas: Generally--Oil and Gas Leases:
Applications: Generally--Oil and Gas Leases: Lands Subject to

The Secretary of the Interior may, in his discretion, reject an offer to lease public lands for oil and gas deposits upon a proper determination that the leasing would not be in the public interest, even though the lands applied for are not withdrawn from operation of the Mineral Leasing Act. An oil and gas lease offer is properly rejected where the lands sought are within the Lake Mead National Recreation Area, and the National Park Service has declined, under 43 CFR 3566.3, to give consent to issuance of the lease.

APPEARANCES: De Ann T. Gaeth, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

De Ann T. Gaeth appeals the Nevada State Office, Bureau of Land Management (BLM), decision of September 8, 1982, which rejected her over-the-counter oil and gas lease offer N 21016 as to all sec. 8, all sec. 9, and all sec. 16, T. 20 S., R. 66 E., Mount Diablo meridian, Clark County, Nevada, because the lands are within the Lake Mead National Recreation Area and the National Park Service (NPS) had declined to give consent to the issuance of the lease.

Appellant contends outstanding natural features exist throughout the area, both within and outside of the national recreation area; that the topographical relief is such that drilling activity could easily be screened from

the road through the area under proper stipulations; that the area is geologically conducive to the existence of oil and/or gas along the Gale Hill anticlinal trend in secs. 8 and 9, and along the Pinto Ridge anticline in sec. 16; that an exploratory well in sec. 5 encountered significant oil and gas shows; that the drill site of the well in sec. 5 blended into the topography so well that it is now very difficult to find the site as the road is now practically nonexistent; and that withdrawal of the lands from oil and gas exploration just because of proximity to a scenic view is inconsistent with national energy problem and the multiple use concept of public lands.

The Lake Mead National Recreation Area was established by the Act of October 8, 1964, P.L. 88-639, 78 Stat. 1039, 16 U.S.C. § 460 (1976). The Secretary of the Interior is directed to administer the area for the general purposes of public recreation, benefit and use in a manner that will preserve, develop, and enhance the recreation potential and in a manner that will preserve the scenic, historic, scientific, and other important features of the area. Mineral leasing may be permitted only to the extent that will not be inconsistent with the recreational use.

Regulation 43 CFR 3566.3, 46 FR 62044 (Dec. 21, 1981), provides that oil and gas leases within a national recreation area shall be issued only with consent of the Regional Director, NPS, after his determination that the lease will not have a significant adverse effect upon the administration of the area pursuant to its authorizing legislation.

In response to the BLM request, NPS made this reply:

This lease offer of three sections lies on both sides of Northshore Road in one of the most colorful and scenic areas traversed by this road. Hiking, photography and sightseeing are popular activities in this part of the recreation area. Steep mountain cliffs adjacent to the highway and the colorful red rock of the nearby Bowl of Fire area provide outstanding scenery. This area is located within the 'Outstanding Natural Features Zone,' as identified in the Statement for Management. It would be inconsistent with the recreational opportunities the National Park Service is mandated to provide and protect under the Public Law 86-639 to lease this area. We, therefore, recommend denial of this application.

[1] Unless the Mineral Leasing Act or a withdrawn specifically provides otherwise, lands withdrawn for a specific purpose are available for oil and gas leasing if the issuance of a lease will not be inconsistent with or materially interfere with the purpose for which the land is withdrawn. Chevron, U.S.A., Inc., 52 IBLA 278 (1981). Here, where NPS has declined to give consent to issuance of a lease, based on a reasonable analysis of the problem, BLM may not issue an oil and gas lease for the land sought within the Lake Mead National Recreation Area.

The Secretary of the Interior may, in his discretion, reject an offer to lease public lands for oil and gas deposits upon a proper determination that the leasing would not be in the public interest, even though the land

applied for is not withdrawn from operation of the Mineral Leasing Act. BLM properly rejects an oil and gas lease offer where the land sought is within Lake Mead National Recreation Area and NPS has declined, under 43 CFR 3566.3, to give consent to issuance of the lease.

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 E. Henriques
Administrative Judge

We concur:

Gail M. Frazier
Administrative Judge

C. Randall Grant, Jr.
Administrative Judge

September 19, 1983

IBLA 83-56 : N 21016
69 IBLA 79 :
DE ANN T. GAETH : Oil and Gas
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ERRATA

The following changes are made to the above-captioned decision.

Citations to 43 CFR 3566.3 on 69 IBLA pages 7 (headnote 1.), 80, and 81 are changed to citations to 43 CFR 3109.5-2(e) (1982) (now 43 CFR 3109.2(b)).

The provisions of 43 CFR 3566.3 43 CFR 3109.5-2(e) (1982) are identical; both require consent of the National Park Service (NPS) before the Bureau of Land Management may issue a lease in NPS areas. However, the latter regulation applied specifically to oil and gas lease offers, and the former applied more generally to offers to lease other minerals. Since this case concerned an oil and gas lease offer, 43 CFR 3109.5-2(e) (1982) applied and should have been cited.

Douglas E. Henriques
Administrative Judge

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