

HUSKY OIL CO.

IBLA 83-700

Decided October 25, 1983

Appeal from decision of Wyoming State Office, Bureau of Land Management, holding lease W-35360 to have expired at the end of its primary term.

Reversed and remanded.

1. Oil and Gas Leases: Communitization Agreements -- Oil and Gas Leases: Extensions

To qualify for a 2-year extension pursuant to 30 U.S.C. § 226(e) (1976) and 43 CFR 3107.2-3, the evidence must show that actual drilling operations were being diligently pursued on the leasehold or for the lease under an approved cooperative or unit agreement on the last day of the lease. Where on appeal such evidence is provided, the decision holding that the lease has expired will be reversed.

APPEARANCES: C. W. Smith, Manager, Land Administration, Husky Oil Co., Englewood, Colorado.

OPINION BY ADMINISTRATIVE JUDGE HARRIS

Husky Oil Company appeals from a decision of the Wyoming State Office, Bureau of Land Management (BLM), dated May 23, 1983, holding that oil and gas lease W-35360 1/ expired at the end of its primary term because it did not qualify for an extension under 43 CFR 3107.2-3 which provides as follows:

§ 3107.2-3 Period of extension.

Any lease on which actual drilling operations, or for which under an approved cooperative or unit plan of development or operation, actual drilling operations were commenced prior

1/ Lease W-35360 embraces the N 1/2 S 1/2 sec. 5, T. 48 N., R. 99 W., sixth principal meridian, Park County, Wyoming.

to the end of its primary term and are being diligently prosecuted at that time, shall be extended for 2 years and so long thereafter as oil or gas is produced in paying quantities. 2/

BLM based its decision on the fact that the Minerals Management Service (MMS) had informed BLM that "[t]here has been no activity on [lease W-35360] which would make it eligible for extension."

Effective July 1, 1972, BLM issued oil and gas lease W 35360 for a period of 10 years. Appellant contends that pursuant to the provisions of 43 CFR 3107.2-3, the subject lease is entitled to a 2-year extension because actual drilling operations were in progress for the lease under an approved communitization agreement.

[1] We stated in Energy Trading, Inc., 50 IBLA 9, 13 (1980), that "the evidence must show that actual drilling operations were being diligently pursued on the leasehold or for the lease under an approved unit agreement on the last day of the lease term with a bona fide intent to complete a producing well." See also Devon Corp., 57 IBLA 131 (1981); Energy Trading, Inc., 55 IBLA 167 (1981); Pacific Transmission Supply Co. & Raymond Chorney, 53 IBLA 204 (1981). Appellant documents that lease W-35360 was communitized with W-43824 and W-54755 by Communitization Agreement NCR-460, effective June 1, 1982. This agreement was approved on June 17, 1982, by the Deputy Minerals Manager, MMS, North Central Region, Oil and Gas. The communitized area is the S 1/2, sec. 5, T. 48 N., R. 99 W.

On appeal appellant has provided copies of "Monthly Reports of Operations" and "Sundry Notices and Reports of Wells" and a copy of a daily drilling report which document that Texas American Oil Corporation spudded the Husky-Federal No. 5-2 well in the SW 1/4 SW 1/4, sec. 5, T. 48 N., R. 99 W., on May 25, 1982. 3/ The information provided by appellant reveals that actual drilling operations were in progress on June 30, 1982, the last day of the lease term. 4/ The Sundry Notices reflect that actual drilling operations were diligently pursued, that the well has since been drilled and completed as a shut-in gas well, awaiting a pipeline connection.

2/ 30 U.S.C. § 226(e) provides in pertinent part as follows:

"(e) Competitive leases issued under this section shall be for a primary term of five years and noncompetitive leases for a primary term of ten years. Each such lease shall continue so long after its primary term as oil or gas is produced in paying quantities. Any lease issued under this section for land on which, or for which under an approved cooperative or unit plan of development or operation, actual drilling operations were commenced prior to the end of its primary term and are being diligently prosecuted at that time shall be extended for two years and so long thereafter as oil or gas is produced in paying quantities."

3/ The daily drilling report states that the well was spudded on May 25. The "Monthly Report of Operations" gives May 26 as the date.

4/ "Actual drilling operations" is defined in 43 CFR 3107.2-1(a) as including "not only the physical drilling of a well but the testing, completing or equipping of such well for the production of oil or gas."

Apparently, BLM terminated this lease because of improper handling of required paperwork and reporting procedures by the operator of the Federal No. 5-2 well. The documents submitted by appellant had been filed under Federal lease W-54755, one of the leases communitized with the subject lease, instead of under the communitization number as they should have been. Appellant assures the Board that the reports have now been properly filed. Appellant has met the burden of providing sufficient evidence to establish that lease W-35360 qualifies for a 2-year drilling extension pursuant to 30 U.S.C. § 226(e) and 43 CFR 3107.2-3.

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 reversed and the case files are remanded to BLM for appropriate action.

Bruce R. Harris
Administrative Judge

We concur:

Douglas E. Henriques
Administrative Judge

Anne Poindexter Lewis
Administrative Judge

