

MARDAM EXPLORATION, INC.

IBLA 84-24

Decided March 6, 1984

Appeal from the decision of the New Mexico State Office, Bureau of Land Management, rejecting noncompetitive oil and gas lease offer NM-A 37982 (TX).

Affirmed.

1. Oil and Gas Leases: First-Qualified Applicant -- Oil and Gas Leases: Noncompetitive Leases

An oil and gas lease offer must be rejected when the land applied for has been leased to a senior offeror under a proper offer.

APPEARANCES: James R. Dammann, President, Mardam Exploration, Inc.

OPINION BY ADMINISTRATIVE JUDGE IRWIN

Mardam Exploration, Inc., has appealed the decision of the New Mexico State Office, Bureau of Land Management (BLM), dated September 14, 1983, rejecting noncompetitive oil and gas lease offer NM-A 37982 (TX) because all of the lands in the offer were included in oil and gas lease NM-A 37369 (TX) issued effective October 1, 1983.

Appellant filed its lease offer on July 23, 1979. On July 28, 1980, BLM issued a decision requiring that special stipulations be signed before the lease could be issued. Appellant appealed that requirement to this Board. By decision dated February 9, 1981, the Board set aside and remanded the case, finding that imposition of the stipulations was not supported by the record. See Mardam Exploration, Inc., 52 IBLA 296 (1981).

In its statement of reasons, appellant argues that at no time during the 4 years since it filed its offer had it been given any indication that it would not be issued a lease, and requests that its offer to lease be granted.

Appellant's offer first identifies the land sought as follows:

677.9 acres of land, more or less, lying and being situated in the Edward Beaty League, Abstract No. 6, Jackson County, Texas, and being more particularly described by metes and bounds as Parcel No. 2 on Schedule A of the Warranty Deed from M. T. Simmons, Jr., et al to The United States of America, dated August 25, 1973 and recorded in Volume 483, Page 520 of the Deed Records of Jackson County, Texas.

Schedule "A," attached to the lease offer, is labeled "Tract No. I-C-114" and contains the metes and bounds descriptions of two parcels. A map titled "Schedule 'A' Sheet No. 2" with parcel 2 colored in orange was also attached.

Lease offer NM-A 37369 (TX) was filed on May 30, 1979, covering various lands in Jackson County, Texas, including all available land in tract I-C-114.

[1] Under 30 U.S.C. § 226(c) (1976), once the Secretary of the Interior has determined to lease lands not within the known geologic structure of a producing oil and gas field, "the person first making application for the lease who is qualified to hold a lease under this chapter shall be entitled to a lease of such lands without competitive bidding." Because a qualified offeror filed an offer before appellant, BLM properly issued a lease to that first offeror and rejected appellant's subsequent offer. James C. Stevenson, 77 IBLA 150 (1983); Leo P. Sas, 67 IBLA 36 (1982); El Paso Products Co., 10 IBLA 116 (1973). In the absence of any valid reasons raised by appellant as to why lease offer NM-A 37369 (TX) should be considered defective, we affirm BLM's decision rejecting lease offer NM-A 37982 (TX). Irvin Wall, 71 IBLA 349 (1983).

We are constrained to add that under the circumstances of this case there seems little reason for the State office not to have recognized the conflict between the two lease offers for the same lands earlier on. The case file for lease NM-A 37369 (TX) contains the same map and schedule "A" as appellant's lease offer. On the same day, July 28, 1980, that the Acting Chief, Oil and Gas Section, issued the decision to appellant requiring special stipulations, the Chief, Oil and Gas Section, requested Geological Survey to provide a preliminary structure report on offer NM-A 37369 (TX). Following a report in August 1980 that tract I-C-114 was on an undefined known geologic structure, BLM issued a decision rejecting offer NM-A 37369 (TX) as to tract I-C-114 on October 15, 1980. That decision was also appealed to this Board which set it aside to the extent that the report of existence of a known geologic structure had been changed. See Bruce Anderson, 63 IBLA 111 (1982). The case file reflects as well that there has been considerable investigation and discussion of leasing in this area.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision of the New Mexico State Office is affirmed.

Will A. Irwin
Administrative Judge

We concur:

Bruce R. Harris
Administrative Judge

James L. Burski
Administrative Judge

