

JOHN H. ANUNDSON
MARY M. MURPHY

IBLA 84-212, 84-213

Decided November 5, 1984

Appeals from decisions of the Nevada State Office, Bureau of Land Management, rejecting noncompetitive geothermal lease applications N-38156, N-38157, and N-38158.

Affirmed.

1. Geothermal Leases: Known Geothermal Resources Area --
Geothermal Leases: Noncompetitive Leases

An application for a noncompetitive geothermal lease must be rejected if the land is found to be within a known geological resource area prior to lease issuance where no evidence has been offered to show the known geological resource area designation to be in error.

APPEARANCES: John H. Anundson and Mary M. Murphy, pro sese.

OPINION BY ADMINISTRATIVE JUDGE ARNESS

John H. Anundson and Mary M. Murphy have appealed from decisions of the Nevada State Office, Bureau of Land Management (BLM), dated November 22 and December 5, 1983, rejecting their applications to lease geothermal resources (N-38156, N-38157, and N-38158).

Anundson filed his application June 1, 1983, for 1,280 acres of land located in secs. 12 and 23 of T. 25 N., R. 37 E., Mount Diablo Meridian, Pershing County, Nevada. Murphy filed her applications July 1, 1983, for 1,260 acres of land in secs. 8 and 18, T. 25 N., R. 38 E., Mount Diablo Meridian, Pershing County, Nevada, and 1,280 acres in secs. 12 and 23, T. 25 N., R. 37 E., Mount Diablo Meridian, Pershing County, Nevada. BLM rejected these applications because the applied-for lands were included within an addition to the Dixie Valley Known Geothermal Resource Area (KGRA) effective September 1, 1983, and therefore, were no longer available for noncompetitive leasing. These appeals are consolidated by the Board on its own motion because each case raises a single identical issue concerning lease issuance, in cases where application for lease preceded a determination that the applied-for lands are encompassed within a KGRA.

Both appellants contend that when they filed their applications the lands were available for noncompetitive leasing. Anundson states:

If the State BLM office had been current in its work the lease would have been issued long before September 1 when the area was added to the Dixie Valley KGRA.

I submit, therefore, that this application was made on legally approved land, and you accepted my advance rental, all in good faith. To then have the status of the land changed some four months after my valid and acceptable application was submitted, and only waiting for processing, should in no way invalidate my application.

Murphy also states she submitted her offers in good faith based on the BLM June availability list. She asserts this was done in May 1983, long before the KGRA was determined.

[1] Neither appellant challenges the KGRA determination for this area, but instead each questions delay by BLM in processing the applications. It is well established, however, that the filing of an application for a noncompetitive geothermal lease creates no vested rights in the offeror and the offer must be rejected pursuant to 43 CFR 3210.4 where the land is found to be within a KGRA at any time prior to lease issuance. Marvin L. McGahey, 50 IBLA 4 (1980); Earth Power Corp., 29 IBLA 37 (1977).

Section 2(e) of the Geothermal Steam Act of 1970, 30 U.S.C. § 1001 (1982), provides for the designation of KGRA's. Pursuant to 30 U.S.C. § 1003 (1982) lands within a KGRA may only be leased by competitive bidding. An application for a noncompetitive geothermal lease must be rejected if the land is found to be within a KGRA prior to issuance of a lease. 43 CFR 3210.4; Marvin L. McGahey, supra.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decisions appealed from are affirmed.

Franklin D. Arness
Administrative Judge

We concur:

Gail M. Frazier
Administrative Judge

Will A. Irwin
Administrative Judge