

Appeal from decision of the Wyoming State Office, Bureau of Land Management, rejecting in part noncompetitive oil and gas lease offer W 86761.

Affirmed.

1. Oil and Gas Leases: Applications: Generally -- Oil and Gas Leases: Known Geologic Structure -- Oil and Gas Leases: Noncompetitive Leases

Lands within a known geologic structure of a producing oil or gas field may only be leased by competitive bidding pursuant to 43 CFR 3120. A noncompetitive oil and gas lease offer filed before the lands were determined to be within a known geologic structure but not accepted by the United States on the date of determination is properly rejected.

APPEARANCES: John W. Rollins, Esq., Manchester, Tennessee, for appellant.

OPINION BY ADMINISTRATIVE JUDGE HARRIS

V. H. Jernigan filed a simultaneous noncompetitive oil and gas lease application for parcel WY 291 in the July 1983 simultaneous drawing. Jernigan's application was selected with first priority, and he submitted executed offer forms.

On May 31, 1984, the Bureau of Land Management (BLM) issued a decision rejecting in part Jernigan's offer. The basis for the partial rejection was that 197.56 acres of the 515.30 acres in parcel WY 291 were determined effective May 8, 1984, to be within an undefined addition to the Burke Ranch field defined known geologic structure (KGS). BLM issued a lease to Jernigan for the remainder of the acreage (317.74 acres).

Jernigan appealed the partial rejection stating that the simultaneous listing indicated no restriction or reservation for parcel WY 291; that BLM unilaterally amended the lease to deprive him of his property without due process; and that such amendment was arbitrary, capricious, and violative of the Constitution.

[1] Appellant's arguments exhibit a lack of understanding of Federal oil and gas leasing procedures. A listing of parcels available for leasing under the simultaneous procedures merely notifies the public of those lands for which BLM will accept applications. A drawing of such applications is subsequently held, and the first-priority applicant is forwarded lease forms in accordance with 43 CFR 3112.6-1. The lease agreement, signed by the successful applicant, and payment of the first years rental within the time prescribed constitute the offer to lease. Prior to acceptance of the offer, the authorized officer is required to determine the status of the lands in the offer. Lands classified as KGS lands at any time prior to lease issuance must be leased competitively pursuant to 43 CFR Part 3120, and a noncompetitive lease offer for such lands must be rejected. McDade v. Morton, 353 F. Supp. 1006, aff'd, 494 F.2d 1156 (D.C. Cir. 1974); Joseph A. Talladira, 83 IBLA 256, 258 (1974).

Thus, appellant's characterization that BLM "amended the lease" is incorrect. No lease had issued. Appellant had merely made an offer to lease. Appellant had no property of which to be deprived and BLM's actions, rather than arbitrary and capricious, were, in fact, required by law. Appellant has raised no challenge to the KGS determination itself.

Accordingly, 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.

Bruce R. Harris
Administrative Judge

We concur:

Edward W. Stuebing
Administrative Judge

Wm. Philip Horton
Chief Administrative Judge

