CHAMPLIN PETROLEUM CO.

IBLA 84-754 Decided April 9, 1985

Appeal from a decision of the Wyoming State Office, Bureau of Land Management, rejecting noncompetitive oil and gas lease offer W 85828.

Affirmed.

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

> Pursuant to 30 U.S.C. § 226(b) (1982), lands within the known geologic structure of a producing oil or gas field may be leased only by competitive bidding. Where lands are determined to be within such a structure, a noncompetitive lease offer for such lands must be rejected.

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

> An applicant for a noncompetitive oil and gas lease who challenges a determination that the land is within the known geologic structure of a producing oil or gas field has the burden of showing that the determination is in error.

APPEARANCES: E. P. Kerr III, for appellant; Lowell L. Madsen, Esq., Office of the Regional Solicitor, Rocky Mountain Region, Denver, Colorado, for the Bureau of Land Management.

OPINION BY ADMINISTRATIVE JUDGE ARNESS

Champlin Petroleum Company has appealed from a decision of the Wyoming State Office, Bureau of Land Management (BLM), dated June 19, 1984. That decision rejected appellant's noncompetitive oil and gas lease offer W 85828 for the W 1/2 and SW 1/4 NE 1/4 sec. 26, T. 18 N., R. 104 W., sixth principal meridian, Sweetwater County, Wyoming, for land determined to be within a known geological structure (KGS), effective May 2, 1984. The stated reason for rejection is that regulation 43 CFR 3112.5-2(b) provides that a noncompetitive oil and gas lease offer made for lands classified within a KGS shall

be rejected. Appellant was the successful first-drawn applicant for parcel WY 518 in the May 1983 simultaneous oil and gas drawing. By notice dated August 30, 1983, BLM transmitted to appellant the lease agreement and request for first year's rental. On September 23, 1983, appellant filed the signed lease agreement and submitted the first year's rental to BLM. Prior to lease issuance, however, on October 27, 1983, the Secretary of the Interior issued an order temporarily suspending issuance of unprocessed noncompetitive oil and gas leases until it could be determined which, if any, public lands were within a KGS. See 48 FR 49703 (1983). Thereafter, BLM was notified by its Rock Spring District Office that the land subject to lease offer W 85828 was part of the South Baxter Basin KGS.

On appeal appellant contends the KGS determination made in this case is erroneous because (1) the W 1/2 of sec. 26 has two legitimate dry holes drilled to the Jurassic formation through most of the area's producing formations; (2) all or most of the lands included in the offer are in a separate downdropped fault block which is 1,000 feet lower than the producing fault blocks to the east; and (3) the nearest producing well is 4,000 feet from the SE corner of the W 1/2 of sec. 26, but two fault blocks away geologically; all circumstances which appellant considers significant arguments against inclusion of this parcel in the South Baxter Basin KGS (Statement of Reasons at 1).

In answer, BLM acknowledges that two wells were drilled and abandoned in the W 1/2 of sec. 26. A well in the NE 1/4 SW 1/4 was drilled in 1969 by Mountain Fuel Supply Company. BLM records indicate that no shows of oil or gas were recovered during drill-stem tests of the potentially productive intervals of this well. However, BLM records indicate that two drill-stem tests run on the other well, which was drilled on the tract (SW 1/4 NW 1/4) in 1954 by the Chicago Corporation, showed 143,000 cubic feet of gas per day (CFGPD) and 23,000 CFGPD respectively. BLM states that this constituted a significant discovery of gas. The second well is not regarded as a dry hole, by BLM, based on a comparison with a currently producing well in a different formation in the Baxter Basin field.

In answer to appellant's arguments concerning the significance of geologic faulting, BLM produced a detailed analysis of 10 exhibits used to depict data which were considered in establishing the South Baxter Basin KGS. BLM points out several recognized and published interpretations of the faulting patterns in the Middle and South Baxter Basin areas, and argues that the hypothesis relied upon by appellant is incomplete. BLM's geologic interpretation, which is supported by a geologic report for the South Baxter Basin KGS and other exhibits attached to BLM's answer, is that a presumptively productive stratigraphic trap in the Frontier formation extends east to the Baxter Basin field. BLM states that this conclusion is also supported by statistical data obtained from wells drilled in the area between 1931 to 1981.

[1] Section 17(b) of the Mineral Leasing Act, as amended, 30 U.S.C. § 226(b) (1982), provides that public domain lands which are within the KGS of a producing oil or gas field "shall be leased * * * by competitive bidding." See also 43 CFR 3100.3-1. Where lands embraced in a noncompetitive oil and gas lease offer are designated as within a KGS prior to issuance of

the lease, the lease offer must be rejected. Evelyn D. Ruckstuhl, 85 IBLA 69 (1985); R. C. Altrogge, 78 IBLA 24 (1983); 43 CFR 3112.5-2(b). The Department has no discretion to issue a noncompetitive oil and gas lease for such lands. McDade v. Morton, 373 F. Supp. 1006 (D.D.C. 1973), aff'd, 494 F.2d 1156 (D.C. Cir. 1974); Frederick W. Lowey, 76 IBLA 195 (1983).

[2] Appellant has challenged the correctness of the determination that parcel WY 518 is situated within a KGS. The burden of proving that the KGS determination is in error is on appellant. 1/ Evelyn D. Ruckstuhl, supra. KGS is defined as "technically the trap in which an accumulation of oil or gas has been discovered by drilling and determined to be productive, the limits of which include all acreage that is presumptively productive." 43 CFR 3100.0-5(1). A KGS designation recognizes the existence of a continuous entrapping structure on some part of which there is production. It does not indicate what is known of the productivity of the lands in a structure, nor does it predict future productivity. John P. Brogan, 85 IBLA 379 (1985); Robert G. Lynn, 61 IBLA 153 (1982).

In this case, as the BLM Answer indicates, available information concerning tract W 85828 and the surrounding area indicates the tract should be considered presumptively productive for gas. Drill-stem tests conducted in a well on the tract have indicated the presence of natural gas in quantities considered by BLM to be significant. Current geologic information indicates that the faulting characteristics assumed to exist by appellant are less important than stratigraphic trapping when evaluating the productive potential of the tract. See exhibits 2, 4, 5, and 6 to BLM Answer. The statement of this principle by the BLM Geologic Report, South Baxter Basin KGS, is a reasonable conclusion based upon available geological statistics. The report explains:

> The South Baxter Basin Field is on the axis of the Rock Springs Uplift, a north-south trending, assymetrical [sic], doubly-plunging anticline, that is approximately 60 miles long and 36 miles wide. Dips on the western flank of the uplift are two to three times steeper than on the eastern flank. The southern tip of the uplift turns to the east, forming a plunging anticline upon which the Little Worm Creek, Pretty Water, and Joyce Creek Fields are located. The uplift is highly faulted, with most of the faults exhibiting limited displacement. With few exceptions, the faulting does not appear to have significantly interrupted the continuity or integrity of the producing reservoirs.
>
> The oil and gas trapping mechanism on the axis of the uplift is primarily structural with some stratigraphic components. Moving downdip on both the eastern and western flanks of the uplift, structural trapping disappears and the hydrocarbon accumulation is due exclusively to stratigraphic traps. The

1/ In cases where there has been an evidentiary hearing on the issue, appellant is required to establish his case by a preponderance of the evidence presented. Bender v. Clark, 744 F.2d 1424 (10th Cir. 1984).

> stratigraphic traps are interpreted to be the result of porosity/permeability variations within the reservoir rocks.

Geologic Report at 1.

While the conclusions drawn from geological data are subject to different interpretations, the Secretary is entitled to rely upon the reasoned opinion of his technical expert in the field. Bruce Anderson, 63 IBLA 111 (1982). Appellant has presented no data or evidence to persuade the Board that BLM's KGS determination is in error.

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.

Franklin D. Arness
Administrative Judge

We concur:

Will A. Irwin
Administrative Judge

R. W. Mullen
Administrative Judge.