

MARK A. STEPHENS

IBLA 85-416

Decided September 3, 1986

Appeal from a decision of the Wyoming State Office, Bureau of Land Management, rejecting noncompetitive oil and gas lease offer. W-78252.

Affirmed.

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

BLM must reject a noncompetitive oil and gas lease offer where the land has been determined to be within a known geologic structure of a producing oil or gas field after the simultaneous oil and gas lease drawing but prior to issuance of a lease.

APPEARANCES: Mark A. Stephens, pro se.

OPINION BY ADMINISTRATIVE JUDGE FRAZIER

Mark A. Stephens has appealed from a decision of the Wyoming State Office, Bureau of Land Management (BLM), dated January 28, 1985, rejecting his noncompetitive oil and gas lease offer W-78252. Appellant's simultaneous oil and gas lease application had been drawn with first priority for parcel WY-6098 in the November 1981 simultaneous oil and gas lease drawing. The land in parcel WY-6098 was described as the N 1/2 sec. 32 and the N 1/2 sec. 34, T. 17 N., R. 95 W., sixth principal meridian, Sweetwater County, Wyoming.

By decision dated August 10, 1984, BLM rejected appellant's lease application with respect to the N 1/2 of sec. 34 because BLM had determined that the land in that section was within the Washakie Basin known geologic structure (KGS) effective May 29, 1984, and was only subject to leasing by competitive bidding. By decision also dated August 10, 1984, BLM required appellant to submit executed copies of a noncompetitive oil and gas lease offer, with attached stipulations, for the remaining lands available in parcel WY-6098, and the first year's advance rental "within 30 days from the date of your receipt of this decision." On August 28, 1984, appellant submitted the required documents and the first year's advance rental. 1/

1/ Appellant, however, had not signed in all the appropriate places on the lease offer forms. By letter dated Aug. 31, 1984, BLM afforded appellant an additional opportunity to insert the additional signatures. The fully executed copies of the lease offer were received by BLM on Sept. 14, 1984.

By memorandum dated January 4, 1985, the Rock Springs District Manager informed the State Director that appellant's lease offer was entirely within the Washakie Basin KGS as delineated effective December 21, 1984. In its January 1985 decision, BLM rejected appellant's lease offer pursuant to 43 CFR 3112.5-2(b) because the land was within a KGS and was only subject to leasing by competitive bidding.

In his statement of reasons for appeal, appellant contends that BLM improperly rejected his lease offer where the "lease was issued to me on or about September 11, 1984, when the [lease offer] forms * * * were signed by me and the first year's rental payment * * * had been received." Appellant notes that this purported lease issuance was prior to the effective date of the relevant KGS determination, i.e., December 21, 1984.

[1] Section 17(b) of the Mineral Leasing Act, as amended, 30 U.S.C. § 226(b) (1982), provides that 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. It is well settled that where lands embraced in a noncompetitive oil and gas lease offer are determined to be within a KGS at any time prior to issuance of a lease, the lease offer must be rejected. Evelyn D. Ruckstuhl, 85 IBLA 69 (1985), and cases cited therein; 43 CFR 3112.5-2(b). The Department has no discretion to issue a noncompetitive oil and gas lease for KGS lands. McDonald v. Clark, 771 F.2d 460, 464 (10th Cir. 1985); McDade v. Morton, 353 F. Supp. 1006 (D.D.C. 1973), aff'd, 494 F.2d 1156 (D.C. Cir. 1974); Frederick W. Lowey, 76 IBLA 195 (1983).

Moreover, BLM does not obligate itself to issue a lease merely by selecting lease applications in a drawing or accepting lease offer forms executed by the lease applicant and the first year's advance rental. B. K. Killion, 90 IBLA 378 (1986); Charley D. Armev, 90 IBLA 375 (1986). A lease only becomes effective when it is signed by an authorized BLM officer. Harry S. Hills, 71 IBLA 302, 305 (1983); see 43 CFR 3112.6-1(a).

Accordingly, we conclude that BLM properly rejected appellant's lease offer where it had been determined to be within a KGS prior to lease issuance.

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.

Gail M. Frazier
Administrative Judge

We concur:

Wm. Philip Horton
Chief Administrative Judge

Bruce R. Harris
Administrative Judge

