

JOHN P. LOCKRIDGE

IBLA 86-919

Decided January 27, 1988

Appeal from a decision of the Utah State offices, Bureau of Land Management, denying petition for reinstatement of oil and gas lease U-28927.

Affirmed.

1. Oil and Gas Leases: Reinstatement--Oil and Gas Leases: Termination

Under 30 U.S.C. § 188(c) (1982), MM lacks authority to make a class I reinstatement of a noncompetitive oil and gas lease terminated automatically for nonpayment of annual rental if the rental payment was not tendered at the proper office within 20 days after the anniversary date.

APPEARANCES: John P. Lockridge, pro se.

OPINION BY ADMINISTRATIVE JUDGE MULLEN

John P. Lockridge appeals from a decision of the Utah State Office, Bureau of Land Management (BLM), dated March 28, 1986, denying his petition for reinstatement of oil and gas lease U-28927.

In order to provide an understanding of the unfortunate circumstances leading to this appeal we will set out a history of the pertinent facts. BLM originally issued lease U-28927 to Elizabeth B. Gorman, effective January 1, 1975. The lease was assigned to Abby Corporation and then to Regal U.S.A., Inc. (Regal), effective January 1, 1983. On February 6, 1984, Calais Resources Inc. (Calais) notified BLM of an address change for Calais/Regal for service under lease U-28927.

On August 16, 1984, John P. Lockridge, president of John P. Lockridge, Operator, Inc., filed an application for permit to drill (APD) for Calais. On December 120, 1984, Lockridge submitted a check for \$440 for rental from January 1 through December 31, 1985. On December 27, 1984, BLM advised Lockridge by telephone that the APD could not be approved because a Cultural Resource Survey Report was not submitted. By letter of December 27, 1984, Lockridge explained that he was unable to submit the report due to snow cover

and requested a suspension of Operations and production. On January 17, 1985, BLM granted the request for suspension of operations and production for lease U-28927, effective December 1, 1984. BLM stated that the suspension would terminate on June 1, 1985. On March 18, 1985, an assignment of lease U-28927 was filed with BLM, naming Lockridge and Prima Energy Corporation (Prima) as assignees; Regal assigned to Lockridge and Prima each an undivided 40 percent interest in the record title and retained a 20-percent interest. On April 30, 1985, Lockridge requested that the suspension be terminated effective May 1, 1985. BLM granted this request on May 15, 1985, and established the new expiration date of the lease as May 31, 1985.

On July 26, 1985, BLM sent Regal a decision noting the termination of the suspension and extending the lease which reads as follows:

Operations and production under oil and gas lease U-28927 were suspended from December 1, 1984, until May 1, 1985. In view of the suspension, the expiration date became May 31, 1985.

This office has been advised that actual diligent drilling operations were being conducted over May 31, 1985, the new expiration date.

In accordance with the regulations in 43 CFR 3107.1, this lease is extended to and including May 31, 1987, and so long thereafter as oil or gas is produced in paying quantities, provided annual rentals are timely paid.

Rental paid on December 12, 1984, has been credited through December 31, 1985. A refund of excess rental paid for the period of January 1, 1985, through May 31, 1985, has been authorized.

On July 30, 1985, BLM approved the March 18, 1985, assignments to Lockridge and Prima effective August 1, 1985. By letter dated August 29, 1985, and filed with BLM on September 3, 1985, Lockridge notified BLM that commencing September 1, 1985, John P. Lockridge, Operator, Inc., would be responsible for submitting rental payments and receiving all notices regarding the lease.

By a decision dated February 12, 1986, BLM informed Regal that oil and gas lease U-28927 terminated on January 1, 1986, for failure to pay rental in a timely manner. The BLM decision also advised Regal of its right to petition for reinstatement of the lease pursuant to 30 U.S.C. § 188(c) (1982) (class I reinstatement) and/or 30 U.S.C. § 188(d) and (e) (1982) (class II reinstatement).

In his petition for class I reinstatement, Lockridge set out the chronology of events leading to the suspension of operations and production for lease U-28927 and the termination of that lease. Lockridge explained that he drilled No. 34-22 Horseshoe Bend Federal on U-28927, spudding this well

May 25, 1985, and plugging it June 5, 1985. Lockridge presumed the drilling of the No. 34-22 "across the expiration date" permitted extension of the termination date for the lease to May 31, 1987.

Lockridge states he had no knowledge that BLM intended to refund a portion of the rental payments and presumed the rental payment of \$440 made for January 1 through December 31, 1985, would be applied to rental owing through May 31, 1986, because of the 6-month suspension lease during that period. Lockridge refers to BLM's July 26, 1985, letter to Regal describing the suspension and the new expiration date. Lockridge also refers to a Receipt and Accounting Advice which explains that the refund of \$183.33 to Regal is equal to 5 months/12 months times the annual delay rental of \$440 and was for the suspension period of January 1 through May 31, 1985. ^{1/} Lockridge believes that copies of these documents should have been sent to him.

Lockridge notes that by letter, dated August 29, 1985, he had informed BLM that notices concerning the lease should be sent to him, but the rental notice for U-28927 was transmitted to Regal on or about November 1, 1985. The Oil and Gas Termination Notice, dated February 12, 1986, was also sent to Regal. Lockridge asserts that he first received a copy of this notice from BLM on March 4, 1986. Lockridge contends that BLM should have advised him of the refund of rental payment and should have honored and complied with his request in the letter to BLM dated August 29, 1985, for the change in notice address. Accompanying his petition for reinstatement was a check for \$465, (\$440 rental for the period January 1 through December 31, 1986, and \$25 filing fee). Lockridge points out that the rental payment was submitted within 20 days of receipt of any information pertaining to lease U-28927.

In its decision dated March 28, 1986, BLM denied Lockridge's class I petition for reinstatement because the rental was not received by BLM within 20 days of the anniversary date of the lease. BLM advised Lockridge that if he wished his lease to be considered for class II reinstatement, a \$500 reinstatement processing fee and additional rental in the amount of \$3,960 (\$5/acre) would be required by May 4, 1986, 60 days from receipt of the termination notice.

On appeal, Lockridge Emphasizes that "BLM and MMS contributed significantly and diligently to the circumstances surrounding nonpayment of rentals prior to January 1, 1986." Lockridge incorporates the same arguments made in his petition for reinstatement.

[1] Section 31(b) of the Mineral Leasing Act, as amended, 30 U.S.C. § 188(b) (1982), provides that upon the failure of a lessee to pay rental on or before the anniversary date of a lease on which there is no well capable of production of oil and gas in paying quantities, the lease terminates automatically by operation of law. See 43 CFR 3108.2-1(a). Appellant's rental

^{1/} The record contains two letters from Calais/Regal stating that as of the date of appeal, no partial refund of the rental had been received.

payment was not received on or before the anniversary date, and oil and gas lease U-28927 terminated automatically.

Under 30 U.S.C. § 188(c) (1982), if an oil and gas lease is terminated automatically by operation of law for failure to pay the annual rental on or before the anniversary date, but such rental was paid on or tendered within 20 days thereafter, and if it is shown that such failure was either justifiable or not due to a lack of reasonable diligence, the Secretary may reinstate the lease. *Luceal Robert*, 90 IBLA 182 (1986); *Hugh Carter Crutchfield Trust*, 87 IBLA 27 (1985); *Harriet C. Shaftel*, 79 IBLA 228 (1984). We are limited by the statutory language that for class I reinstatement payment must be made within 20 days from the anniversary date. Unfortunately, appellant did not pay or tender his overdue annual rental within 20 days of the lease anniversary date, i.e., January 1, 1986, and not the "expiration date." No matter how we might attempt to stretch the meaning of the statute, Congress clearly stated that payment must be tendered within 20 days from the anniversary date. We cannot construe this to mean that payment must be made within the 20 days from the date of receipt of notice of automatic termination. For this reason, appellant did not qualify for and is not entitled to a class I reinstatement. 2/ *Maynard J. Bonesteel*, 82 IBLA 237 (1984).

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

R. W. Mullen
Administrative Judge

We concur:

C. Randall Grant, Jr.
Administrative Judge

Wm. Philip Horton
Chief Administrative Judge

2/ We do not reach the issue of whether Lockridge's reliance upon BLM's statement that the expiration date was moved to May 31, 1987, was sufficiently misleading to cause the failure to pay to be justifiable.

