

ROBERT T. FOREST

IBLA 87-796

Decided September 12, 1988

Appeal from a decision of the Nevada State Office, Bureau of Land Management, rejecting noncompetitive geothermal lease offer N 46197.

Affirmed.

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

A noncompetitive geothermal resources lease offer must be rejected where the land is found to be within a known geothermal resources area prior to lease issuance and the offeror presents no evidence to show that the known geothermal resource area designation is in error.

APPEARANCES: Robert T. Forest, pro se.

OPINION BY ADMINISTRATIVE JUDGE BURSKI

Robert T. Forest has appealed from a decision of the Nevada State Office, Bureau of Land Management (BLM), dated August 28, 1987, rejecting his noncompetitive geothermal lease offer N 46197.

Appellant filed his offer to lease with BLM on February 2, 1987, for 2,523.48 acres of land within secs. 2, 10, 16, and 22, T. 31 N., R. 33 E., Mount Diablo Meridian, in Pershing County, Nevada, pursuant to a BLM notice, dated December 1, 1986, that posted certain lands, including those described in appellant's offer, as available for noncompetitive geothermal leasing "[i]n accordance with 43 CFR 3210.1."

The BLM decision provided the following explanation for its rejection of the offer:

The lands requested in your offer are not available for non-competitive leasing because they lie within the Rye Patch Known Geothermal Resource Area (KGRA). The lands were designated and added to the Rye Patch KGRA effective February 1, 1987, and are only available for leasing under the regulations contained in 43 CFR 3220.

In a document captioned "Nevada Known Geothermal Resources Area Minutes No. 48," BLM set forth information to support "the addition of

lands to the existing Rye Patch KGRA." These additions were "based on the knowledge of experienced BLM professionals, geological information, results of nearby well testing, and recently demonstrated competitive interest in nearby areas," recommending that these additions to the Rye Patch KGRA be made effective February 1, 1987. Included within the recommended addition were the lands described in appellant's offer.

In requesting a reinstatement of his lease offer, appellant makes the following assertions in his statement of reasons for appeal:

1) The lands were offered for noncompetitive lease application in accordance with 43 CFR 3210.1 by notice dated December 1, 1986.

2) My application was timely and properly filed in accordance with the terms and conditions set forth in that notice.

3) Information on the geothermal wells in the Rye Patch area was well known to BLM long before the lands in question were offered for noncompetitive lease application. [Emphasis in original.]

[1] It is well established that the filing of an application for a noncompetitive geothermal lease creates no vested rights in the offeror. Where land is found to be within a KGRA at any time prior to lease issuance, and no evidence has been offered to show the KGRA designation to be in error, a noncompetitive offer for such land must be rejected. See John H. Anundson, 83 IBLA 340 (1984); Marvin L. McGahey, 50 IBLA 4 (1980); Earth Power Corp., 29 IBLA 37 (1977). As we stated in John H. Anundson, supra:

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.

(83 IBLA at 341).

Appellant has submitted no evidence to show the decision to expand the KGRA was in error. In contrast, BLM has documented evidence in the "Minutes," based upon the evidentiary factors set forth in 30 U.S.C. § 1001(e) (1982), which affirmatively justifies the addition of the acreage to the Rye Patch KGRA. Appellant's assertions fail to show any error in BLM's determination. Accordingly, because appellant's noncompetitive lease offer described lands now included within a KGRA, BLM properly rejected the lease offer.

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.

James L. Burski
Administrative Judge

I concur:

Bruce R. Harris
Administrative Judge