

STEPHEN G. MOORE

IBLA 89-543

Decided October 31, 1989

Appeal from a decision of the Montana State Office, Bureau of Land Management, affirming approval of the suspension of operations and production under Federal oil and gas lease M 53315 effective May 1, 1986.

Affirmed.

1. Oil and Gas Leases: Suspensions

Sec. 39 of the Mineral Leasing Act, as amended, 30 U.S.C. § 209 (1982), authorizes suspension of operations and production under an oil and gas lease for the time needed to comply with the National Environmental Policy Act. An approved suspension becomes effective on the first of the month in which the completed application was filed with the authorized officer, suspends the obligation to pay rental, and extends the term of the lease for the suspension period.

2. Estoppel--Notice: Generally--Regulations: Generally

One who holds an oil and gas lease from the United States is presumed to know the applicable laws and regulations, and the United States cannot be bound or estopped by acts of its officers or agents, if doing so would undermine the correct enforcement of a particular law or regulation. Reliance upon erroneous or incomplete information provided by a BLM employee will not overcome a clear regulatory requirement.

APPEARANCES: Stephen G. Moore, pro se.

OPINION BY ADMINISTRATIVE JUDGE MULLEN

Stephen G. Moore (Moore) has appealed from an August 1, 1986, decision of the Montana State Office, Bureau of Land Management (BLM), affirming a

July 9, 1986, 1/ decision of the Lewiston District Office, BLM. The Lewiston District Office had granted suspension of operations and production under Federal oil and gas lease M 53315, effective May 1, 1986. However, the suspension was made effective the first day of the month Moore filed his suspension application, rather than the date requested by Moore. 2/

BLM issued noncompetitive oil and gas lease M 53315 to Moore, effective June 1, 1982. 3/ By letter dated August 27, 1984, the Great Falls Resource Area, BLM, notified Moore that an environmental analysis was being undertaken in the Blackleaf/Teton area, Montana, which included the lands subject to Moore's lease. This notice informed Moore that an environmental assessment "may result" in an extended period during which no drilling would be permitted and that Moore "may" want to file for a suspension of operations. 4/ After receiving the notice, Moore contacted BLM by telephone seeking further information. 5/

By letter dated April 5, 1985, BLM informed Moore that an Environmental Impact Statement (EIS) was being prepared to analyze the impact of oil and gas development in the Blackleaf/Teton area, and that no new operations would be permitted in the area during EIS preparation. In a letter dated January 7, 1986, BLM requested information concerning Moore's lease development plans. On February 1, 1986, Moore responded stating that he had no drilling permits and requested information regarding the objectives and scope of the EIS. In a February 13, 1986, letter BLM summarized the purpose and need for the Blackleaf EIS, and noted that "[n]o applications for oil

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1/ The District Manager's July 9, 1986, letter granting the suspension was followed by a July 25, 1986, decision of the BLM Lease Maintenance Unit which stated that the lease terms and rental payments for the lease were also suspended effective May 1, 1986.

2/ Moore filed a timely notice of appeal from the Aug. 1, 1986, decision, but the record was not received by the Board until July 17, 1989. In its transmittal memorandum accompanying the record, BLM requested expedited consideration of the case because of this significant delay. We grant BLM's request, and remind BLM that requests for expedited consideration should be prominently placed so that they are easily discovered by the docket attorney.

3/ The lease was issued pursuant to section 17 of the Mineral Leasing Act, as amended, 30 U.S.C. § 226 (1982). The leased land consists of 4,920.39 acres situated in T. 27 N., R. 9 W., Montana Principal Meridian, Teton County, Montana, and the term of the lease is for 10 years "and so long thereafter as oil or gas is produced in paying quantities." The lease expressly provides that it is "subject to all rules and regulations of the Secretary of the Interior now or hereafter in force."

4/ A copy of this notice was not included in the record. BLM is responsible for sending a complete record to the Board. Therefore, we accept Moore's representations as to the contents of this notice.

5/ Moore states that during that followup call he was not told a suspension would extend the lease term or about procedures for applying for a suspension.

and gas development will be approved until a final decision is reached. Lessees will be granted a suspension of lease terms, upon application, for the period of EIS preparation."

On May 17, 1986, Moore applied for a suspension of the lease term "for the period of the preparation of the EIS. I anticipate that that period began perhaps with your initial letter dated August 27, 1984 and surely no later than April 1985 when, according to your letter dated April 5, 1985, there was to be formal announcement of the EIS." On July 9, 1986, the District Office granted a suspension of operations and production for Moore's lease, effective May 1, 1986. The decision noted that suspension is not automatic, must be initiated by a lessee, and is made effective the first day of the month in which the request was received. The District Office decision also noted that a suspension of rental and an extension of the lease terms resulted from the suspension approval.

Moore then requested technical and procedural review (TPR) of the District Office decision, seeking a change in the effective date of the suspension to April 1985. In support of his request, Moore stated that he first learned that he could apply for a suspension (and the benefits of making a request) when he received the February 13, 1986, BLM letter. He contended that none of the earlier BLM communications advised him that he should apply for a suspension, explained the procedures for applying, or informed him that a suspension would provide rental relief and extend the lease term. Moore argued that BLM had an obligation to notify him of his suspension rights regardless of whether he could discover those rights by independent research in the regulations. In addition he asserted that BLM's February 13, 1986, letter stated that suspension would be granted "for the period of EIS preparation," and BLM's EIS preparation began in April 1985.

On August 1, 1986, the Deputy State Director, Division of Mineral Resources, issued his decision finding that Moore had been informed of the preparation of an environmental document affecting his lease on several occasions, and that BLM's August 27, 1984, letter had suggested that Moore file for a suspension of operations for the lease. He noted that the February 13, 1986, letter to Moore was incomplete because it did not state when a suspension became effective. He informed Moore that under 43 CFR 3165.1(c) 6/ an approved suspension becomes effective "on the first of the month in which the completed application was filed with the authorized officer."

The Deputy State Director concluded that Moore's contention that he was not fully informed of his suspension rights lacked merit. He found that BLM had informed Moore that he could apply for a suspension in 1984, even though the August 1984 letter did not set out the consequences or benefits of suspension. Noting that a suspension request is a voluntary action on the part of a lessee, and that a prudent lessee would have determined the benefits of a lease suspension "by research of his lease terms, the Code of

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6/ The decision actually cites this regulation as 43 CFR 3165.19(c).

Federal Regulations, or various BLM sources," he affirmed the May 1, 1986, effective date.

In his statement of reasons for appeal, Moore repeats the arguments raised in his TPR request. He asserts that BLM did not suggest that he file for a suspension in August 1984, and contends that, even if it had, a suspension request could not have been approved at that time because EIS preparation had not begun. <sup>7/</sup> Moore argues that the only logical conclusion from the statement that a suspension would be granted for "the period of EIS preparation" found in the February 13, 1986, letter is that the suspension would begin at the outset of the preparation period, *i.e.*, April 5, 1985. Moore contends that, if he had been as informed as BLM alleges, he would have acted to protect his rights, and states that he acted as a prudent lessee because he attempted to research the situation by contacting BLM after receipt of the August 1984 letter. Finally, Moore asserts that he has "certain rights in equity and in customary landlord/tenant relations and that [BLM] was careless if not neglectful in failing to make very clear to me that certain events were no longer speculative but had in fact occurred [and] that I must act in certain ways to ensure that I did not lose my rights." (Emphasis in original.)

[1] Section 39 of the Mineral Leasing Act of 1920, as amended, 30 U.S.C. § 209 (1982), gives the Secretary of the Interior the authority to suspend operations and production under an oil and gas lease in the interest of conservation. The term "conservation" includes prevention of environmental damage, and operations and production may be suspended to afford sufficient time to comply with the National Environmental Policy Act and decide whether and under what circumstances to permit exploration and development of mineral resources. See Copper Valley Machine Works v. Andrus, 653 F.2d 595, 600 (D.C. Cir. 1981); Union Oil Co. v. Morton, 512 F.2d 743 (9th Cir. 1975); Nevdak Oil & Exploration, Inc., 104 IBLA 133, 138 (1988); Mobil Producing Texas & New Mexico, Inc., 99 IBLA 5, 8 (1987), and cases cited therein.

An approved suspension of operations suspends the obligation to pay rental and extends the term of the lease for the suspension period. See 43 CFR 3103.4-2. The regulations provide that a suspension "will be effective on the first of the month in which the completed application was filed with the authorized officer." 43 CFR 3165.1(c). BLM received Moore's suspension request on May 27, 1986, and correctly set the effective date of the suspension at May 1, 1986.

[2] If we were to accept Moore's arguments, BLM would be obligated to explicitly advise a lessee that he should apply for a suspension, give a detailed explanation of the procedures for filing, and counsel a lessee as to all possible consequences and benefits that might result from requesting suspension. Moore contends that the effective date for suspension of his

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<sup>7/</sup> Moore apparently believes that only the actual preparation of the EIS created the opportunity for requesting a suspension.

lease should be April 5, 1985, because BLM failed to properly advise him of these rights and procedures, despite the regulatory provision mandating the May 1, 1986, effective date. We find two basic reasons that this argument, which is essentially one of estoppel, is without merit.

First, an essential element of estoppel is that the party asserting estoppel must be ignorant of the true facts. See Terra Resources, Inc., 107 IBLA 10, 13 (1989) and cases cited therein. In an analogous case, the lessee argued that BLM had not sufficiently advised her of the steps she could take to extend her lease. We held:

[O]ne who holds an oil and gas lease from the United States is presumed to know the law and regulations and will conduct his affairs relative to the lease strictly in accordance therewith. A lessee's unfamiliarity with the regulations does not excuse his failure to take advantage of benefits which might be obtained thereunder. \* \* \* Further, there is no requirement in law or regulation which compels [BLM] to give prior notice to lessees \* \* \* that a further extension of the lease term may be obtained if a certain course is followed. \* \* \* [T]he primary responsibility for knowing the rights and privileges under a federal oil and gas lease rests with the lessee. [Citation omitted.]

Margaret H. Paumier, 2 IBLA 151, 154 (1971). See also Terra Resources, Inc., supra at 14. Persons such as Moore, who deal with the Government, are presumed to have knowledge of relevant statutes and duly promulgated regulations. Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947); Terra Resources, Inc., supra; Venlease I, 99 IBLA 387 (1987); Ward Petroleum Corp., 93 IBLA 267 (1986). Having this imputed knowledge, Moore cannot successfully claim ignorance of material facts. Terra Resources, Inc., supra; Marion E. Banks, 88 IBLA 341 (1985).

The second reason for rejecting Moore's arguments is that the United States cannot be bound or estopped by acts of its officers or agents if doing so would undermine the correct enforcement of a particular law or regulation. Emery Mining Corp. v. Secretary of Labor, 744 F.2d 1411, 1416 (10th Cir. 1984); Jeffery Ranches, Inc., 102 IBLA 379 (1988). Reliance upon erroneous or incomplete information provided by a BLM employee cannot estop the United States or excuse compliance with regulatory provisions. See Parker v. United States, 461 F.2d 806 (Ct. Cl. 1972); Montilla v. United States, 457 F.2d 978 (Ct. Cl. 1972); Ward Petroleum Corp., supra; Fred S. Ghelarducci, 41 IBLA 277 (1979). Therefore, even assuming that BLM misinformed or incompletely informed Moore of the availability of a suspension of operations and production from his lease, Moore's reliance on that erroneous or incomplete information will not overcome the clear regulatory requirement set out at 43 CFR 3165.1(c) which established May 1, 1986, as the effective date for suspension of Moore's lease.

To the extent not specifically addressed herein, Moore's arguments have been considered and rejected.

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.

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R. W. Mullen  
Administrative Judge

I concur:

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C. Randall Grant, Jr.  
Administrative Judge