

TEXACO INC.

IBLA 88-231

Decided August 15, 1990

Appeal from a decision of the Eastern States Office, Bureau of Land Management, dismissing protest of special stipulations imposed on oil and gas leases for acquired lands. ES 29012, ES 29014, ES 29015, ES 29017, and ES 29031.

Affirmed.

1. Oil and Gas Leases: Assignments and Transfers--Oil and Gas Leases: Stipulations--Rules of Practice: Appeals: Dismissal

An assignee of an oil and gas lease agrees to be bound by the terms and conditions of the lease as issued, including any stipulations consented to by the lessee as a condition of leasing. Accordingly, an appeal by an assignee of stipulations consented to by the lessee, his predecessor-in-interest, is properly denied.

APPEARANCES: Jeffrey K. Smith, Esq., New Orleans, Louisiana, for appellant.

OPINION BY ADMINISTRATIVE JUDGE GRANT

Texaco Inc., has appealed from a December 29, 1987, decision of the Eastern States Office, Bureau of Land Management (BLM), dismissing its protest of the special stipulations imposed on noncompetitive acquired lands oil and gas leases ES 29012, ES 29014, ES 29015, ES 29017, and ES 29031.

On August 28, 1981, Charles J. Mauer Oil Properties filed oil and gas lease offers for various tracts of acquired lands totalling 7,249.39 acres located on the Fort A. P. Hill Military Reservation in Caroline County, Virginia. The offers were filed pursuant to the Mineral Leasing Act for Acquired Lands, as amended, 30 U.S.C. §§ 351-359 (1982). In adjudicating the applications, BLM requested the Department of the Army, the agency having jurisdiction over the surface of the land, to complete a title report with respect to the land embraced in the lease offers. After several consultations between BLM and military authorities, the Department of the Army consented to the leasing of the land subject to various conditions and stipulations. On November 17, 1986, the designated attorney-in-fact for the offeror, Charles J. Mauer Oil Properties, signed the required stipulations, signifying assent to their imposition.

BLM issued the leases to Charles J. Mauer Oil Properties on November 17, 1986, with an effective date of November 1, 1986. ^{1/} Simultaneously, BLM approved assignments of the leases to Lyco Energy Corporation and Cornell Oil Company, with each obtaining 50 percent of the record title interest. BLM also concurrently approved assignments of 100 percent of the record title interest in the leases from Lyco Energy Corporation and Cornell Oil Company to Shore Exploration and Production Corporation (Shore). All the assignments were approved effective November 1, 1986.

On December 2, 1986, Shore executed assignments of 75 percent of its record title interest in the leases to appellant. Appellant signed the request for approval of assignment, agreeing to be bound by the terms and conditions of the leases, on December 15, 1986, and filed the assignments with BLM on December 17, 1986. On February 17, 1987, BLM approved the assignments effective January 1, 1987. Shore assigned its remaining 25 percent interest to Exxon, and BLM approved these assignments effective February 1, 1987.

On December 15, 1986, appellant filed with BLM a "notice of appeal" from BLM's issuance of the leases, arguing that some of the provisions, stipulations, and guidelines attached to and incorporated into the leases were unduly burdensome; were not rationally related to legitimate governmental objectives; and exceeded BLM's authority. Texaco also asserted BLM improperly failed to consider less restrictive alternatives. BLM treated this notice of appeal as a protest. ^{2/} By decision dated December 29, 1987, BLM dismissed appellant's protest on the grounds that appellant had no standing to challenge the lease stipulations. The BLM decision was based on two factors. First, BLM held Texaco had neither record title nor working interest in the leases at the time it appealed the lease stipulations. BLM further held that the assignments by which appellant obtained its interest in the leases were explicitly subject to the terms and conditions of the original leases, including the special stipulations.

In its statement of reasons for appeal, appellant argues both that it had standing to appeal the lease stipulations and that BLM erroneously

^{1/} The relevant regulation provided that a lease may be issued with an effective date of the first day of the month in which the lease is signed by the authorized BLM official on behalf of the United States. 43 CFR 3110.1-2 (1986).

^{2/} We note that a protest is an objection to an action proposed to be taken. 43 CFR 4.450-2. Here the leases had already been issued subject to the stipulations. Thus, appellant's objection did not strictly conform to the regulatory definition of a protest. In view of the fact that appellant's predecessor in interest signed and consented to the stipulations, BLM apparently treated appellant's submission as a request to alter the stipulations and responded thereto in its decision. This provided appellant with an appealable decision.

failed to consider the merits of its challenges to those stipulations. Appellant contends that it had standing at the time it filed its appeal challenging the lease stipulations because Shore's December 2, 1986, execution of the lease assignments to appellant immediately transferred interests in the leases to appellant. Appellant asserts that, as of December 2, 1986, it became the real party in interest to the leases even though record title to the leases did not change until BLM approved the assignments effective January 1, 1987. Appellant further alleges that it was adversely affected by the stipulations incorporated into the leases and notes that it was required to file its appeal within 30 days of the issuance of the leases or lose its right to appeal the stipulations.

Appellant describes the stipulations as "onerous" and unduly burdensome and incorporates the specific arguments made before BLM. It argues that BLM's decision failed to discuss any of the challenges to the stipulations or analyze the less restrictive alternatives presented by appellant. Because the decision contained no reasoned analysis, factual foundation, or legal basis, appellant contends that the decision was arbitrary, capricious, an abuse of discretion, and otherwise contrary to law.

As a preliminary matter, we agree with appellant that it had sufficient interest in the leases at the time it filed its original appeal to establish standing to appeal any BLM decision adversely affecting the leases. The Board has recognized that assignees of oil and gas leases pursuant to assignments which have been filed with BLM but which are unapproved have standing to appeal from decisions adverse to their interests in the lease. See Tenneco Oil Co., 63 IBLA 339 (1982). Accordingly, we find that BLM erred in finding that appellant had no interest in the leases when it filed its appeal.

[1] BLM was correct, however, in concluding that the assignments appellant received from Shore were explicitly subject to the terms and conditions of the original leases. The assignment form executed by appellant, at "Part II, Assignee's Request for Approval of Assignment," expressly provides that: "Assignee Agrees That, upon approval of this assignment by the authorized officer of the Bureau of Land Management, he will be bound by the terms and conditions of the lease described herein as to the lands covered by this assignment * * *." An assignee stands in the shoes of the assignor and possesses all rights or remedies available to the assignor while remaining subject to the same restrictions that bound the assignor. See du Pont de Bie v. Vrendenburgh, 490 F.2d 1057, 1061 (4th Cir. 1974); United States v. American National Bank, 443 F. Supp. 167, 174 (N.D. Ill. 1977); 6A C.J.S. Assignments § 88 (1975); 6 Am.Jur.2d Assignments § 102 (1964). The original lessee, Charles J. Mauer Oil Properties, agreed to be bound by the stipulations required by the Department of the Army, Fort A.P. Hill Military Reservation, as a prerequisite to issuance of the leases, and these stipulations became part of the original leases. Appellant, as the original lessee's successor in interest, is likewise bound by these stipulations. Prado Petroleum Co., 103 IBLA 247, 249 (1988). Accordingly, Texaco's appeal of the stipulations is properly denied.

Further, section 3 of the Mineral Leasing Act for Acquired Lands, 30 U.S.C. § 352 (1982), provides in pertinent part:

No mineral deposit covered by this section shall be leased except with the consent of the head of the executive department, independent establishment, or instrumentality having jurisdiction over the lands containing such deposit * * * and subject to such conditions as that official may prescribe to insure adequate utilization of the lands for the primary purposes for which they have been acquired.

See 43 CFR 3101.7-1(a). Thus BLM is without authority to waive compliance with or to modify a condition imposed by the agency having jurisdiction over the acquired lands as a prerequisite to giving its consent to issuance of a noncompetitive oil and gas lease. See James M. Chudnow, 91 IBLA 143, 146-47 (1986); Amoco Production Co., 69 IBLA 279, 281-82 (1982); Thomas Connell, 46 IBLA 331, 333 (1980).

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.

C. Randall Grant, Jr.
Administrative Judge

I concur:

Wm. Philip Horton
Chief Administrative Judge