

GREAT PLAINS PETROLEUM, INC.

IBLA 88-632

Decided December 3, 1990

Appeal from a decision of the Montana State Office, Bureau of Land Management, declaring oil and gas lease NDM 25321 terminated by cessation of production.

Affirmed.

1. Oil and Gas Leases: Extensions -- Oil and Gas Leases: Termination -- Oil and Gas Leases: Well Capable of Production

Where, following receipt of a 60-day notice from BLM that it does not regard an oil and gas lease as containing a well capable of producing hydrocarbons in paying quantities, the operator or lessee of such lease in an extended term by reason of production fails to present any evidence establishing the well's current potential production and to produce the lease, the lease is properly declared to have terminated on account of the cessation of production.

APPEARANCES: Thomas A. Haugen, President, Great Plains Petroleum, Inc.

OPINION BY ADMINISTRATIVE JUDGE HUGHES

Great Plains Petroleum, Inc. (Great Plains), appeals from a decision of the Montana State Office, Bureau of Land Management (BLM), dated August 3, 1988, declaring oil and gas lease NDM 25321 terminated effective October 31, 1987, by cessation of production. Lease NDM 25321 was issued effective July 1, 1973, for a period of 10 years and so long thereafter as oil or gas was produced in paying quantities. On April 11, 1988, the Dickinson, North Dakota, District Office, BLM, notified Great Plains, which had been the designated operator, ^{1/} that BLM records showed no production from the lease since October 1987. BLM reminded Great Plains that

^{1/} Record title to the lease is held by Adobe Resource Corporation (Adobe), Flying J Exploration and Production, Inc., Edisto Resources Corporation, L.P., Samedan Oil Corporation, and NICOR Exploration Company. The record includes Designation of Operator forms naming Great Plains as operator, which the lessees filed with BLM in 1986. It appears from the record that Adobe attempted to have its interest in the lease assigned to Great

the lease was issued for a primary term of 10 years and so long thereafter as hydrocarbons were produced from the leasehold. ^{2/} BLM advised that, unless the lease contained a well capable of producing hydrocarbons in paying quantities, the lease would be considered to have terminated effective October 31, 1987. BLM informed Great Plains that, if it considered the lease capable of producing hydrocarbons in paying quantities, it had to furnish adequate test data showing the well's current potential production within 60 days of receipt of the notice and continue to produce the lease. Otherwise, BLM stated, the lease would terminate.

A conversation record in the case file indicates that on July 20, 1988, a BLM employee from the District Office spoke with a representative of Great Plains concerning the status of the Signalness 24-2 well, which was the last producing well on the lease. The representative stated that the well was shut-in and that Great Plains had filed for bankruptcy. The BLM employee reported that although the representative had added that the well was capable of producing, Great Plains had not submitted any data.

On July 27, 1988, the Acting District Manager advised the Montana State Director, BLM, that Great Plains had not responded to BLM's 60-day notice letter of April 11, 1988, and that it therefore appeared that the Signalness 24-2 well was not capable of producing hydrocarbons in paying quantities. The District Manager recommended that the lease be declared terminated effective October 31, 1987, the last day of the month in which production ceased.

In its decision dated August 3, 1988, BLM, referring to the report of the District Office, stated that the last producible well on the leasehold ceased production October 31, 1987. BLM concluded that, since there was no production to continue the lease, the lease term was exhausted and declared terminated by cessation of production effective October 31, 1987. ^{3/} Great Plains appealed.

In its statement of reasons, Great Plains explains that it was the operator of the Signalness 24-2 well until April 1986, when it agreed to be placed into bankruptcy, with a court-appointed trustee running operations at Great Plains from April 1986 through July 1987, during which time several wells, including the Signalness 24-2 well, were allowed to be shut-in; that no attempt was made by the trustee to place wells back

Plains. However, BLM denied the request for approval of the assignment by decision dated Apr. 15, 1987, because Adobe failed to provide the required bond and did not submit statements signed by the lessor and lessee authorizing BLM to make corrections on the assignment concerning the percentage of the record title interest held by Adobe.

^{2/} Actually, BLM mistakenly said the lease was issued for a term of 5 years.

^{3/} BLM also advised Great Plains that settlement of royalties due or payable had to be made to the Minerals Management Service, and that bonding coverage had to remain in full force and effect until final abandonment of all wells drilled on the lease had been approved.

on production; that upon the trustee's resignation in July 1987, the court appointed another company as operator of Great Plains' wells with the exception of five wells, including the Signalness 24-2, which were given back to Great Plains to operate; that the Signalness 24-2 well was not operating at that time and, due to insufficient income, Great Plains was unable to get the Signalness 24-2 "up and running"; and that eventually all of Great Plains' wells were shut down.

Great Plains asserts that it has continued to search for a solution to renew operations of all wells, noting that in May 1988 the court approved its Plan for Reorganization. According to Great Plains, it was in the process of "getting wells back up and running." Great Plains stated that it planned to have work completed on the Signalness 24-2 during the month of September 1988, and sought more time to get the well back into production. Great Plains filed no further information concerning its activities on the lease.

[1] Under section 17(f) of the Mineral Leasing Act, as amended, 30 U.S.C. § 226(f) (1988), an oil and gas lease in its extended term terminates by operation of law when paying production ceases on the lease, subject to three statutory exceptions. C & K Petroleum, Inc., 70 IBLA 354 (1983); Michael P. Grace, 50 IBLA 150 (1980); John S. Pehar, 41 IBLA 191 (1979). The exceptions provide that no lease shall terminate for cessation of production if: (1) Reworking or drilling operations are begun within 60 days after cessation and are continued with reasonable diligence until production resumes; (2) the Department has ordered or consented to suspension of operations or production; or (3) for lands on which there is a well capable of production, the lessee places the well in production within 60 days after receipt of notice to do so. See 43 CFR 3107.2-2, 3103.4-2, 3107.2-3.

In this case, there is no evidence that any reworking or drilling operations were under way within 60 days after cessation of production, and the Department did not order or consent to a suspension of operations or production on the lease. In its letter of April 11, 1988, BLM properly notified Great Plains that it had 60 days from receipt of the letter to submit to BLM adequate test data showing the well's then current potential production and to continue to produce the lease. See Michael P. Grace, supra at 151; Cf. C & K Petroleum, Inc., supra. Great Plains did not respond to this notice.

Upon a determination that production has ceased on an oil and gas lease in its extended term by reason of production because the well on the lease is no longer capable of production in paying quantities, the affected parties, including the lease operator and the lessees of record, are entitled to notice and an opportunity to request a hearing on the issue of the productive capacity of the well where they have presented evidence raising an issue of fact regarding the status of the well. Daynon D. Gililand, 108 IBLA 144 (1989); C & K Petroleum, Inc., supra; John Swanson, 51 IBLA 239 (1980). In this case, Great Plains has not contested BLM's finding that the Signalness 24-2 well, the last producible well on the leasehold, ceased production October 31, 1987. Nor has Great Plains submitted any

evidence regarding the productive capacity of the well. There is no allegation of facts which, if proven, would show compliance with the statute and prevent the lease from terminating. See John S. Pehar, supra at 193; C & K Petroleum, Inc., supra.

Therefore, BLM properly declared the lease terminated.

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.

David L. Hughes
Administrative Judge

I concur:

Bruce R. Harris
Administrative Judge