Appeals from decisions of the California State Office, Bureau of Land Management, rejecting noncompetitive oil and gas lease offers, CACA 27801, CACA 26792, and CACA 26773.

Affirmed.

1. Oil and Gas Leases: Applications: Generally--Oil and Gas Leases: Federal Onshore Oil and Gas Leasing Reform Act of 1987--Oil and Gas Leases: Lands Subject To--Oil and Gas Leases: Offers to Lease

Lands included within a wilderness study area are not subject to leasing pursuant to the Mineral Leasing Act of 1920. An oil and gas lease offer filed for lands which are not subject to leasing by reason of inclusion in a wilderness study area is properly rejected without suspending adjudication of the offer pending the ultimate determination whether the lands will be designated as wilderness.

APPEARANCES: Richard D. Sawyer, pro se.

OPINION BY ADMINISTRATIVE JUDGE GRANT

Richard D. Sawyer has appealed from decisions of the California State Office, Bureau of Land Management (BLM), rejecting his noncompetitive oil and gas lease offers CACA 27801, CACA 26792, and CACA 26773, in whole or in part. BLM rejected the lease offers as to those lands included in the offers which are within the Caliente Wilderness Study Area (WSA) because lands included within BLM administered WSA's are not subject to oil and gas leasing. We have consolidated these appeals for review at the request of appellant as they present the same issue.

In his statement of reasons for appeal, appellant contests neither the fact that the rejected lands lie within the WSA nor the fact that lands within a WSA are unavailable for leasing. Rather, appellant contends the offers for the lands at issue should be retained by BLM in a suspended status pending a determination by Congress whether or not to designate the lands as wilderness. Appellant asserts the law precludes leasing of such lands, but not the retention of unaccepted offers pending resolution of the wilderness status of the land. Appellant argues that the pending lease offers will serve as a demonstration of leasing interest relevant
to the legislative determination whether to designate the lands as a wilderness. Further, appellant contends
his offers may give him priority in receiving a lease if the lands are ultimately made subject to leasing and
there are no bids at a competitive lease sale.

[1] Lands included within a WSA have been withdrawn from mineral leasing by terms of statute
amending the Mineral Leasing Act. Federal Onshore Oil and Gas Leasing Reform Act of 1987, section 5112,
30 U.S.C. § 226-3(a)(2) (1988). This statutory exception from leasing is noted specifically in the regulations
excluding lands within a WSA from oil
and gas leasing. 43 CFR 3100.0-3(a)(2)(viii).

This Department has long had a policy of rejecting offers to lease public lands which are
unavailable for leasing at the time the lease
offers are adjudicated and not suspending consideration of such offers pending future events which might
cause the land to become subject to leasing. In J. G. Hatheway, 68 I.D. 48 (1961), the Department rejected
the lease offeror's contention that the offers should be continued as pending offers which would be entitled
to priority at any time in the future that the lands might become available for leasing:

As the appellants recognize, the Department has long followed
the policy, as to applications for mineral leases and other interests in public lands, of
rejecting all applications for
lands which are not available for requested disposition at the time they are filed or
considered. Noel Teuscher et al., 62 I.D. 210 (1955); D. Miller, 60 I.D. 161 (1948).
This rule has been followed whether the lands applied for were unavailable because
of a statute, 4/ a withdrawal, 5/ a temporary disposition, 6/ or the exercise of the
Secretary's discretion. 7/


J. G. Hatheway, 68 I.D. at 51. After noting that the policy serves the purpose of public land administration
by avoiding a large number of applications which cannot be acted upon in the foreseeable future and that
the policy is consistent with the practice of not allowing an applicant
to obtain priority by filing an application at a time when the public
land records show that the land is unavailable, the Department in Hatheway declined to grant appellant's
request to hold the lease offers pending possible future availability of the land. 68 I.D. at 52; see Paul C.

Subsequently, this practice has been embraced in a Departmental regulation codified at 43 CFR
2091.1:

(a) Except where the law and regulations provide otherwise, all applications
shall be accepted for filing. However, applications which are accepted for filing shall
be rejected and

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cannot be held pending possible future availability of the lands or interests in lands * * * when approval of the application is prevented by:

(1) A withdrawal, reservation, classification, or management decision applicable to the lands;

(7) The fact that, for any reason, the lands have not been made subject to, restored or opened to operation of the public land laws, including the mineral laws.

This regulation is controlling on the facts of the present case. The lands at issue have been withdrawn from mineral leasing by statute. Accordingly, appellant's lease offers were properly rejected to the extent they described lands within a WSA.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decisions appealed from are affirmed.

C. Randall Grant, Jr.
Administrative Judge

I concur:

Gail M. Frazier
Administrative Judge

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