

INTERIOR BOARD OF LAND APPEALS

Robert G. Volkmann

128 IBLA 159 (January 13, 1959 (*sic*, probably should be 1994))

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ROBERT G. VOLKMANN

IBLA 91-63

Decided January 13, 1959

Appeal from a decision of the Colorado State Office, Bureau of Land Management, rejecting noncompetitive oil and gas lease offer. COC-50438.

Affirmed.

1. Oil and Gas Leases: First-Qualified Applicant--Oil and Gas Leases: Lands Subject To--Oil and Gas Leases: Noncompetitive Leases--Oil and Gas Leases: Offers to Lease

BLM properly rejected a noncompetitive oil and gas lease offer for land that was not available for leasing because it was part of an existing oil and gas lease.

APPEARANCES: Robert G. Volkmann, Midland, Texas, pro se.

OPINION BY ADMINISTRATIVE JUDGE ARNESS

On June 21, 1989, Robert G. Volkmann filed a noncompetitive oil and gas lease offer with the Colorado State Office, Bureau of Land Management (BLM). His lease offer COC-50438 sought Federal oil and gas rights to approximately 298.08 acres of public lands in Tps. 7 and 8 S., R. 98 W., sixth principal meridian, Garfield and Mesa Counties, Colorado. On October 29, 1990, BLM issued a decision rejecting Volkmann's offer because the described lands "are currently under lease." The decision rejected Volkmann's application, which included 15 acres in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$, sec. 36, T. 7 S., R. 98 W. On November 5, 1990, Volkmann filed a timely notice of appeal limited to the 15 acres in sec. 36, T. 7 S., R. 98 W., for the reason that "[t]hese 15 acres were offered for competitive lease on November 17, 1988 as parcel CO-197. No bids were received. My non-competitive filing on June 21, 1989 covers these lands, and a lease should issue covering these 15 acres."

The BLM decision of October 29, 1990, rejected Volkmann's lease offer because the land applied for was not available for leasing since it was currently under lease. Departmental records show that the 15 acres that are at issue in this appeal remain included in oil and gas lease COC-49449, originally issued for a period of 10 years to Douglas E. Nelson, effective February 1, 1989. The record title interest to this tract was subsequently assigned to several approved assignees and the land continues in a leased status. Volkmann has not shown otherwise.

[1] It is axiomatic that land in an existing oil and gas lease is not available for such leasing and that BLM therefore properly rejected Volkmann's offer because the land he sought was not available. See Robert B. Bunn, 102 IBLA 292, 295 (1988), and cases cited. The BLM October 1990 decision correctly rejected Volkmann's offer for the 15 acres in question in T. 7 S., R. 98 E., sixth principal meridian, because these lands were not available for leasing. Volkmann has shown no error in the BLM decision and we can find none.

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.

Franklin D. Arness
Administrative Judge

I concur:

R. W. Mullen
Administrative Judge