

INTERIOR BOARD OF LAND APPEALS

Alaska Pacific Oregon, Ltd.

137 IBLA 394 (January 23, 1997)

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ALASKA PACIFIC OREGON, LTD.

IBLA 94-125

Decided January 23, 1997

Appeal from a decision of the Oregon State Office, Bureau of Land Management, rejecting in part noncompetitive geothermal lease offer OR 36656.

Affirmed.

1. Geothermal Leases: Consent of Agency

Under 30 U.S.C. § 1014(b) (1994) and 43 CFR 3201.1-3, BLM has no authority to issue a geothermal lease for land withdrawn for a National Forest over the objection of the U.S. Forest Service, an agency of the Department of Agriculture.

APPEARANCES: C. Girard Davidson, General Partner, for appellant.

OPINION BY ADMINISTRATIVE JUDGE PRICE

Alaska Pacific Oregon, Ltd., has appealed from an October 28, 1993, decision of the Oregon State Office, Bureau of Land Management (BLM), rejecting that part of noncompetitive geothermal lease offer OR 36656 describing 600 acres of land situated in secs. 27 and 34, T. 4 N., R. 7 E., Willamette Meridian, Washington, for the stated reason that the U.S. Forest Service, the agency in charge of administration of the surface of that land, did not consent to leasing in the Wind River Experimental Forest, a U.S. Forest Service administrative designation that includes the tract at issue.

Appellant contends that geothermal operations would not have enough of an adverse impact on the experimental forest to warrant the exclusion of the area from leasing. Appellant cites the specific geologic features of the site which make it favorable for exploration.

[1] Nevertheless, BLM has no authority to issue a lease on land withdrawn for the National Forest over the objection of the U.S. Forest Service, an agency of the Department of Agriculture. The Geothermal Leasing Act, 30 U.S.C. § 1014(b) (1994), provides:

Geothermal leases for lands withdrawn or acquired in aid of functions of the Department of Agriculture may be issued only with the consent of, and subject to such terms and conditions

as may be prescribed by, the head of that Department to insure adequate utilization of the lands for the purposes for which they were withdrawn or acquired.

This limitation on geothermal leasing of lands administered by the Department of Agriculture has been strictly observed by this Department. See 43 CFR 3201.1-3; Charlotte Hook, 136 IBLA 305 (1996); Francana Resources, Inc., 75 IBLA 125, 126 (1983), Alaska Pacific Lumber Co., 36 IBLA 88 (1978). Notwithstanding the arguments advanced by appellant in support of its offer, this Department has no authority to issue a lease including land over the U.S. Forest Service's objection. ^{1/}

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.

T. Britt Price
Administrative Judge

I concur.

James L. Burski
Administrative Judge

^{1/} The objections of a surface management agency may likewise preclude BLM from issuing oil and gas leases on acquired land, but BLM's regulations pertaining to such leases make clear that any appeal from such objections "shall be pursuant to the administrative remedies provided by the particular surface managing agency." 43 CFR 3101.7-3(b). BLM's geothermal leasing regulations lack a similar provision which would at least direct appellants to a forum that could consider their substantive arguments.