

INTERIOR BOARD OF LAND APPEALS

Stanco Petroleum, Inc.

143 IBLA 86 (March 4, 1998)

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STANCO PETROLEUM, INC.

IBLA 96-513

Decided March 4, 1998

Appeal from a decision of the Colorado State Office, Bureau of Land Management, disallowing termination of a period of liability under bond. COC 078131.

Affirmed in part, set aside and remanded in part.

1. Oil and Gas Leases: Bonds

Under 43 C.F.R. § 3104.8, the authorized officer has authority not to consent to termination of liability of any bond until all the terms and conditions of the lease have been met.

2. Oil and Gas Leases: Termination—Oil and Gas Leases: Well Capable of Production

An oil and gas lease which is in its extended term by reason of production terminates by operation of law when it is determined that the lease no longer has a well capable of production in paying quantities and no approved reworking or drilling operations are commenced within 60 days of cessation of production.

APPEARANCES: Dallen Juelfs, President, Stanco Petroleum, Inc., Kimball, Nebraska, for Appellant.

OPINION BY ADMINISTRATIVE JUDGE TERRY

Stanco Petroleum, Inc., has appealed from a July 18, 1996, Decision of the Colorado State Office, Bureau of Land Management (BLM), which extended the lease term of oil and gas lease COC-078131, terminated the lease, and disallowed the termination of liability under bond, BLM No. CO-0941. The lease is on lands described as sec. 31, SE $\frac{1}{4}$, T. 12 N., R. 58 W., Sixth Principal Meridian, Weld County, Colorado. A well, the Government Brunel #1, is in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of the lease.

Stanco obtained this lease by assignment approved March 1, 1990. The bond, BLM CO-0941, in the amount of \$10,000, was executed on July 5, 1990,

by Stan Juelfs, then Appellant's president, as principal, and U.S. Fidelity and Guaranty Company as surety. It covered "[o]perations conducted by or on behalf of the principal or on the leasehold of the principal on the single lease." (COC-078131.)

In its Decision, BLM recited that lease COC-078131 had been issued effective July 1, 1962, for a primary term of 10 years or so long thereafter as oil or gas was produced in paying quantities. The lease was deemed in a producing status as of November 29, 1962. A suspension of production was granted effective May 31, 1986, and lifted on May 31, 1991. Production having ceased, the lease was deemed to have terminated on September 11, 1994. ^{1/} The BLM's Decision noted further that lease suspension, granted for production only, did not affect the requirement to pay rental, royalty, or minimum royalty and that according to Minerals Management Service (MMS) records, royalties in the amount of \$960 were owing for the years 1988 through 1994. The BLM's Decision advised Stanco that MMS would pursue collection of royalties, including interest and penalties.

The BLM then ruled:

The bond, unnumbered (BLM No. CO-941), will not be released until all operations have been approved for final abandonment by the authorized field officer, which includes concurrence from the Forest Service as the lands are located within the Pawnee National Grasslands, and all monies due have been paid to the MMS.

In its Statement of Reasons for appeal, Stanco asserts that "this well [apparently the Government Brunel #1] was plugged and abandoned 9 years ago" and that "[a]ll files have been disposed of." Stanco states that it acquired the lease solely for the purpose of salvaging the equipment, plugging the well, and restoring the well site. Stanco asserts that the well was "plugged and abandoned in accordance with all the rules we are aware of." Stanco states that it had no intention of "holding the acreage or producing the well" and that its salvage and plugging operations should have made this obvious. Stanco asserts that after posting bond, MMS should have notified Stanco, as the new operator, of any obligations, including minimum royalties.

[1] The authority of BLM to maintain liability under an oil and gas lease bond is found at 43 C.F.R. § 3104.8, which provides: "The authorized officer shall not give consent to termination of the period of liability of any bond unless an acceptable replacement bond has been filed or until all the terms and conditions of the lease have been met."

^{1/} In its July 18, 1996, Decision, BLM erroneously listed the lease termination date as May 31, 1996. On July 23, 1996, BLM issued a modification noting that the correct termination date was Sept. 11, 1994. We determine herein that the correct termination date was May 31, 1991.

In Marathon Oil Co., 102 IBLA 285, 289 (1988), we quoted from Pardee Petroleum Corp., 98 IBLA 20, 22 (1987), to demonstrate the conditions under which this authority may be implemented:

Bonds are required by BLM to insure full compliance with all the terms and conditions of the Federal lease. Forest Gray, 88 IBLA 64 (1985); Cf. R.K. Teichgraeber, 96 IBLA 249 (1987); O.R. Weyrich, Jr., 49 IBLA 347 (1980) (an oil and gas lease bond may not have its period of liability terminated until all the terms and conditions of the lease have been satisfied).

Stanco is the lessee and operator of the lease. As operator, Stanco is the individual of record who is "responsible under the terms and conditions of the lease for the operations conducted on the leased lands or a portion thereof." 43 C.F.R. § 3100.0-5(a). Well abandonment and plugging are conditions of the lease which must be carried out with BLM's approval. The required royalty payments are also conditions of the lease which must be met before bond release can be approved. See 43 C.F.R. § 3104.8. Thus, BLM is fully within its authority to withhold bond release until all conditions of the lease have been met, including the payment of required royalty payments.

As noted earlier, BLM, in its amended Decision, terminated the lease as of September 11, 1994. The original BLM Decision held the lease terminated on May 31, 1996. In neither case did BLM document its rationale for establishing either of these termination dates. The BLM had initially approved suspension of production on the lease effective May 19, 1986, when the lease was held by Appellant's predecessor-in-interest. On April 3, 1990, BLM confirmed by letter its continued approved suspension of production requirements for the lease until May 31, 1991. This suspension, while in effect, had the result of preventing the lease from terminating for failure to produce oil or gas in paying quantities. 30 U.S.C. § 226(i) (1994); see 43 C.F.R. § 3103.4-2(b); 43 C.F.R. § 3107.2-3. Minimum royalty payments are suspended during a period of suspension of all operations and production. 43 C.F.R. § 3103.4-4(d). The BLM takes the position that since production only was suspended in this case, the lessee had beneficial use of the leasehold and minimum royalty obligations accrued. See Solicitor's Opinion, 92 Interior Dec. 293, 299 (1985).

The assignee of a Federal oil and gas lease, upon approval of an assignment to him, becomes the lessee of the Government and is responsible for compliance with the lease terms which include the obligation to pay rentals and royalties until termination. The lessee is obliged to acquaint himself with the terms of the lease and regulations affecting the lease. Ralph G. Abbott, 115 IBLA 343, 346 (1990), and cases there cited. Thus, BLM has no duty to inform a lessee of its obligations under a lease.

[2] The facts of this case support a termination of the lease on May 31, 1991, however, rather than September 11, 1994. The suspension of production was lifted on May 31, 1991. At that time, based on the record

before us, the well on the lease, the Government Brunel #1, was not capable of production (the well having been abandoned) and all operations had long ceased. As a general rule, an oil and gas lease which is in its extended term by reason of production terminates by operation of law when it is determined that the lease no longer has a well capable of production in paying quantities, and no approved reworking or drilling operations are commenced within 60 days of cessation of production. 30 U.S.C. § 226(i) (1994); see Daymond G. Gilliland, 108 IBLA 144 (1989), and cases there cited.

Therefore, pursuant to the authority delegated to the Board of Land appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, the Decision appealed from is affirmed with respect to the obligation to pay minimum royalty payments from 1988 until termination on May 31, 1991, and set aside with regard to any further royalty payments. The matter is remanded to BLM for a proper determination of minimum royalty payments for the period approved herein. Appellant's bond requirement on the lease shall continue until recomputed minimum royalty payments, as determined by BLM, are liquidated and other terms and conditions of the lease have been satisfied.

James P. Terry
Administrative Judge

I concur.

C. Randall Grant, Jr.
Administrative Judge