



SDR-922-90-13  
3165.3 (922.L)

February 13, 1991

RETURN RECEIPT REQUESTED

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

DECISION

Mr. Jerry Croft	)	
Croft Petroleum Company	)	SDR No. 922-90-13
Petroleum Center Building	)	
214 North Central Avenue	)	
Cut Bank, Montana 59427	)	

REMANDED

Croft Petroleum Company (Croft) requested a State Director Review of a drainage decision issued by the Lewistown District Office (LDO) on September 20, 1990 (Enclosure 1). The request was timely received on September 28, 1990 (Enclosure 2). The decision required Croft to pay compensatory royalty on gas drained by the Huntzing No. 3 well from Blackfeet Tribal oil and gas lease No. 14-20-251-4313 and No. 14-20-251-7219, Case No. 849.

Croft also requested that they be allowed to present their arguments orally concerning this assessment. On February 7, 1991, Croft was contacted concerning this review and preliminary findings. At that time, Croft decided an oral presentation was not necessary.

The following is the chronology of events which have taken place on the two leases.

Croft is the lessee of lease No. 14-20-0251-4313 and No. 14-20-0251-4605. Lease No. 14-20-0251-4313 covers Lots 9 and 10 (49.55 acres) sec. 2, T.37N., R.6W. and Lot 5 (24.26 acres) sec. 11, T.37N., R.6W. This lease was issued effective January 27, 1975, under a 3-year term and a royalty rate of 16-2/3 percent (Enclosure 3). The lease was committed to the Blackfoot Cut Bank Madison Sand Unit Agreement on July 1, 1976, and is currently held-by-production by the unit.

Lease No. 14-20-0251-4605 covers Lots 8 (35.21 acres) sec. 2, T.37N., R.6W. This lease was issued effective August 23, 1977, under a 3-year term and a royalty rate of 16-2/3 percent (Enclosure 4). This lease expired on its own terms, and has been re-leased to Northland Holdings, Inc., effective April 11, 1990, under lease No. 14-20-0251-7219. The new lease has a 5-year term and a royalty rate of 16-2/3 percent (Enclosure 5).

On November 4, 1979, the Muntzing No. 3 well, located in the NE~~1~~SW~~1~~SW~~1~~ (Lot 7) sec. 2, T.37N., R.6W., Glacier County, Montana, was drilled by Blackleaf Petroleum and Croft. On November 16, 1979, the well was completed as a gas well with a flow rate of 1316 MCFGPD (Enclosure 5). The well was originally drilled under the statewide Rule 36.22.702, which established spacing for gas as one well per governmental section (640 acres). The well is located 250 feet east of the Tribal lease No. 14-20-0251-4313.

On June 27, 1980, Croft sent a letter to the Chairman of the Blackfeet Tribal Business Council (BTBC) requesting a Tribal resolution to approve pooling or communitization of Tribal lands in secs. 2 and 11 under lease No. 14-20-0251-4605 and No. 14-20-0251-4313 (Enclosure 7).

On July 14, 1980, Croft sent a letter to the Superintendent, Bureau of Indian Affairs (BIA), Blackfeet Agency, requesting a Tribal resolution from the BTBC to approve pooling or communitization of Tribal lands in secs. 2 and 11 under lease No. 14-20-0251-4605 and No. 14-20-0251-4313 (Enclosure 8).

On July 22, 1980, Mr. Bill Croft, Dick Betapeti (actually Richard Beatty), Attorney for Croft, and Linda Knickerbocker met with the Blackfeet Tribal Land Committee (BTLIC) concerning the communitization agreements (CA) for secs. 2 and 11 which would pool the Tribal lease (Enclosure 9). The BTLIC stated that they would need about 2 weeks to do some research work on the agreement before the BTBC would sign it. The BTBC also stated that they would like to visit the well location and gas line route.

On August 5, 1980, Richard Beatty sent a letter to Mr. Leland Ground, Blackfeet Tribal Council concerning the CA under secs. 2 and 11 (Enclosure 10). Mr. Beatty stated in his letter that 2 weeks had passed since the Tribal meeting and neither Mr. Croft nor himself had heard anything from the Tribal Council regarding the CA.

On August 23, 1980, Blackfeet Tribal Lease No. 14-20-0251-4605 expired on its own terms.

On September 30, 1980, Croft filed an application (Enclosure 11) under Docket No. 106-80 (Enclosure 12) with the Montana Board of Oil and Gas Conservation (MBOGC) to establish a field for the production of natural gas from all horizons lying above the top of the Kootenai Formation. The docket, if approved, would only allow one gas well to be produced from the specified formation. Croft also filed two applications under Docket No. 107-80 and No. 108-80 for the pooling of interests for gas production from the spacing unit described under Docket No. 106-80.

On October 30, 1980, a hearing of the MBOGC was held in Billings, Montana (This office has obtained a copy of a taped proceedings for this hearing.) The testimony presented by Richard Beatty, Attorney for Croft and Blackleaf Petroleum, informed the MBOGC of the chronological events that lead to the applicant's filing of the three dockets to establish field and spacing rules,

and to force pool the subject lands under secs. 2 and 11. It was pointed out by the MBOGC that they have no jurisdiction to force pool Indian lands. It was also discussed whether the MBOGC would allow any additional wells being drilled on the Indian lands that were excluded from the application. The MBOGC stated that any further wells in this area would have to be presented to the MBOGC for approval. After hearing the testimony, the MBOGC approved the applications and issued orders No. 121-80, 122-80, and 123-80 (Enclosure 13). The MBOGC designated the field as the Blackfoot-Shallow Gas Field.

On December 21, 1981, the United States Geological Survey (USGS) approved CA No. NCR-372, effective November 1, 1979, covering 444.27 acres in sec. 2 excluding the Tribal lands (Enclosure 14). The agreement communitizes all rights as to natural gas and associated liquid hydrocarbons producible from the surface down to the base of the Dakota Formation underlying sec. 2, T.37N., R.6W., M.P.M. The CA comprises 52.06 acres of Federal land under lease No. MTM 5298, No. MTM 38082, and No. MTM 46392 and 392.21 acres of patented land. The designated operator was Blackleaf Petroleum.

On May 15, 1987, the LDO accepted Croft, as the successor operator of the CA effective January 1, 1987 (Enclosure 15).

On July 28, 1988, the LDO notified Croft concerning drainage of the lands on Tribal lease No. 14-20-251-4313 (Enclosure 16). They informed Croft that it appeared that these lands were not included within the spacing unit when the spacing unit was approved by the MBOGC on October 30, 1980 (Orders No. 121-80, 122-80, and 123-80), and suggested amending the existing CA to include the Tribal lands.

On August 1, 1988, Croft responded to the LDO July 28, 1988, letter stating that they had attempted to persuade the BTBC to commit the Tribal leases to CA NCR-372 and the Tribe rejected the offer (Enclosure 17).

On September 18, 1990, the LDO issued the first decision letter to Croft assessing compensatory royalty effective January 1, 1987, with a drainage factor of 13.06 percent (Enclosure 18). The LDO rejected Croft's justification stated in the letter dated August 1, 1988.

On September 20, 1990, the LDO issued a correction to the first decision letter to Croft assessing compensatory royalty (Enclosure 19). The corrected drainage factor is 16.03 percent.

On November 20, 1990, this office received additional information from Richard Beatty concerning this case (Enclosure 20). The information comprised of photocopies of handwritten notes made at the time indicating contacts with the BIA, USGS, BLM, and Tribal officials between June 19, 1980, and August 13, 1980, regarding communitization.

On January 9, 1991, this office sent a memorandum to the BIA, Billings Area Office to request any other data that may be available to assist this office in the review of this case (Enclosure 21). On February 4, 1991, this office received a response from the Superintendent, Blackfeet Agency, concerning our request; however, the information supplied was already available (Enclosure 22).

According to the records, Croft made numerous attempts to work with the BTBC and Superintendent, BIA, Blackfeet Agency to communitize the Tribal lease under secs. 2 and 11. No response was ever received by Croft from the BTBC on this issue. However, there is no record indicating that the Tribe rejected Croft's offer. On December 21, 1981, the USGS approved the CA submitted by Blackleaf Petroleum and Croft. The CA excluded the Tribal lands in sec. 2. According to the records, it appears Croft has diligently pursued the approval from the BTBC for committing the Tribal lands in secs. 2 and 11 to the CAs. All attempts were unsuccessful. Therefore, Croft is not required to amend the existing CAs to include the Tribal lands as required by the LDO decision letter dated September 20, 1990.

The LDO has determined, based on engineering and geologic analyses, the Tribal lease are physically being drained. However, they did not conduct an economic evaluation to determine whether a paying well could have been drilled on the drained tract.

Therefore, the case is hereby remanded to the LDO. If the LDO determines that a paying protective well could have been drilled, the LDO can re-assess Croft for the amount of compensatory royalties due.

/s/ Jay R. Spielman

Jay R. Spielman  
Acting, Deputy State Director  
Division of Mineral Resources

#### 22 Enclosures

- 1-LDO letter dated September 20, 1990 (2 pp)
- 2-Croft letter dated September 27, 1990 (3 pp)
- 3-Indian Oil and Gas Lease No. 14-20-0251-4313 (4 pp)
- 4-Indian Oil and Gas Lease No. 14-20-0251-4605 (2 pp)
- 5-Indian Oil and Gas Lease No. 14-20-0251-7219 (5 pp)
- 6-State Completion Report (1 p)
- 7-Croft letter dated June 27, 1980 (1 p)
- 8-Croft letter dated July 14, 1980 (1 p)
- 9-Land Committee Meeting Minutes dated July 22, 1980 (6 pp)
- 10-Croft letter dated August 5, 1980 (2 pp)