



United States Department of the Interior
BUREAU OF SAFETY AND ENVIRONMENTAL ENFORCEMENT
Gulf of Mexico OCS Region
1201 Elmwood Park Boulevard
New Orleans, LA 70123-2394

In Reply Refer To: GE 973E

October 28, 2020

Ms. Cheryl Powell
EnVen Energy Ventures, LLC
609 Main Street, Suite 3200
Houston, Texas 77002

Dear Ms. Powell:

By letter dated June 24, 2020, and email dated June 25, 2020, EnVen Energy Ventures, LLC (EnVen) requested that the Bureau of Safety and Environmental Enforcement (BSEE) approve a Suspension of Operations (SOO) for Lease OCS-G 35625 (the Lease), Ewing Bank Block 920.

Background

The Lease was in its primary term through June 30, 2020. EnVen submitted an Exploration Plan (EP) for the Lease to the Bureau of Ocean Energy Management on May 3, 2018, and received approval of that EP on July 27, 2018. However, EnVen never submitted an application for an Application for Permit to Drill (APD) for any well on the Lease, and thus never received approval for an APD on the Lease, before the scheduled lease expiration. Also, EnVen had a rig under contract in March 2020 (the *Valaris DS-18*) and commenced operations with the rig at a location other than the Lease. EnVen then had the opportunity to use this same rig to drill a well on the Lease before its scheduled expiration (June 30, 2020), but EnVen did not exercise its option to extend the rig contract.

Analysis

The decision whether to grant a suspension is within the discretion of the Regional Supervisor. See *Statoil Gulf of Mexico*, 42 OHA 261, 267 (2011); see also *ATP Oil & Gas Corp.*, 173 IBLA 250 (2008), *aff'd*, *ATP Oil & Gas Corp. v. DOI*, 2009 U.S. Dist. LEXIS 75836 (E.D. La.), *aff'd*, *ATP Oil & Gas Corp. v. MMS*, 396 Fed. Appx. 93, 2010 U.S. App. LEXIS 19789 (5th Cir.), *cert. denied*, *ATP Oil & Gas Corp. v. DOI*, 131 S. Ct. 2159 (2011), *reh'g denied*, 131 S. Ct. 2983 (2011) (affirming BSEE exercise of discretion in denying SOO in absence of approved Exploration Plan (EP) or Application for Permit to Drill (APD), or an executed drilling-rig contract); see also *Monforte Exploration LLC, et al.*, 196 IBLA 108 (Sept. 4, 2020) (affirming BSEE denial of SOO where no approved Exploration Plan (EP) or Application for Permit to Drill (APD), or contract for drilling rig scheduled to begin drilling, prior to date lease would expire).

EnVen contends that an SOO is warranted under 30 CFR 250.175(a), which allows BSEE to grant an SOO "...when necessary to allow you time to begin drilling or other operations when you are prevented by reasons beyond your control, such as unexpected weather, unavoidable accidents, or drilling rig delays." As Notice to Lessees and Operators (NTL) No. 2019-G01 clarifies, "a fundamental component in determining whether or not you are 'prevented by reasons beyond your control' is whether or not the particular drilling rig was scheduled to conduct operations at your location before the scheduled lease expiration date. To that end, you should have timely filed and received approval of all necessary applications to conduct such operations, such as your Exploration Plan and Application for Permit to Drill, since timely filing of plan and permit applications is within your control." (emphasis in original).

In its June 24, 2020, letter, EnVen contends that it was prevented by reasons beyond its control from drilling a well on the Lease because "the drastic decline in the global oil market, due in part to...the worldwide pandemic ('Covid-19'), forced [EnVen] to lay-off staff and contractors, shut-in production and significantly cut capital expenditures. [Due to these upsets] Enven was unable to extend its [rig contract.]" Similarly, in its June 29, 2020, email, EnVen states that it was "forced to allow the contract to expire due to capital constraints and budget cuts resulting from the effects of Covid-19 and the drastic decline in the oil/gas market." In addition, EnVen indicates that it did not file an APD because it did not extend the rig contract that would have been necessary to drill a well on the Lease.

At issue is not whether the global oil market or the Covid-19 pandemic was within EnVen's control, but whether releasing the drilling rig and filing an APD were within EnVen's control. EnVen's rationale for releasing a rig that could have drilled the Lease indicates that EnVen made a business decision to release the rig; a decision that may have reduced commercial risk and was perhaps prudent, but nonetheless one that was within EnVen's control. "The regulations do not ask whether...a circumstance beyond a lessee's control makes development of a lease commercially risky. Instead, the regulations ask whether there is...a circumstance beyond one's control that prevents beginning drilling or other operations. Appellants, not the Department, are charged with evaluating the risks in the context of the applicable legal timelines and requirements and making business decisions accordingly." *Monforte Exploration*, 196 IBLA at 126. EnVen elected not to extend the drilling rig contract to drill the Lease; consequently, a drilling rig was never scheduled to conduct operations on the Lease prior to the scheduled expiration date.

Additionally, EnVen did not demonstrate that it was prevented from filing an APD by circumstances out of its control. Rather, EnVen exercised its business judgment in deciding not to seek an APD. EnVen did not file an APD for a potential well on the Lease and, therefore, did not obtain approval of one, prior to the end of the lease term. Without an approved APD, EnVen could not have initiated drilling operations on the Lease.

Decision

Therefore, we conclude that EnVen did not demonstrate that (1) an APD was filed timely and approved before the Lease was set to expire, or that (2) a rig was contracted and scheduled to begin drilling on the Lease before the date it was set to expire. EnVen has not demonstrated that

it was beyond its control to begin drilling the Lease before it was set to expire. Accordingly, BSEE hereby denies EnVen's request for an SOO for Lease OCS-G 35625.

This decision may be appealed pursuant to 30 CFR Part 290. If you elect to appeal, a Notice of Appeal must be filed with this office and served on the Associate Solicitor, Division of Mineral Resources, within 60 days of receipt of this letter (see NTL No. 2009-N12). If you have any questions regarding this matter, contact Mr. Andrew Cambus at (504) 736-5775 or at andrew.cambus@bsee.gov.

Sincerely,

**RICHIE
BAUD** Digitally signed
by RICHIE BAUD
Date: 2020.10.28
11:08:42 -05'00'

Richie D. Baud
Regional Supervisor
Office of Production and Development

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Lease OCS-G35625- Public, (GE 555A)

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