

WALTER R. ANAGICK

IBLA 71-13      Decided November 20, 1970

Rules of Practice: Request for Information or Guidance: Remand

A request for information or guidance considered by the State Office to be an appeal, nonetheless is not an appeal, and the case will be remanded to the Bureau of Land Management for appropriate action.

1 IBLA 97

IBLA 71-13: F 1041

WALTER R. ANAGICK : Mineral reservation to  
be imposed on native  
allotment  
: Remanded

#### DECISION

A decision of the Alaska State Office, Bureau of Land Management, dated August 11, 1970, notified Walter R. Anagick that, if granted, his native allotment, F 1041, would be impressed with a reservation of oil and gas and allowed him 30 days from the date of receipt in which to petition for reclassification of the land as nonmineral in character. Mr. Anagick was informed that he would have to support his petition with geological or other technical data that the lands were not mineral in character.

In a letter dated August 18, Mr. Anagick stated he did not wish to give up the oil and gas rights and asked the State Office for the necessary papers for him to acquire the land and mineral rights. The State Office construed the letter as an appeal, and forwarded the case to this office.

We find that Mr. Anagick's letter is not an appeal. Rather, it is a request for information or guidance with respect to reclassification of the land as non-mineral.

The State Office should advise Mr. Anagick of the specific procedures set forth in 43 CFR 2093.3-3. 1/ (A photocopy is attached hereto.)

If he desires to challenge the classification that the land involved is valuable for oil and gas, he must pursue, without delay, the instructions set forth in 43 CFR 2093.3-3(d). 2/ The burden of proof that the oil and gas classification is erroneous

---

1/ 35 F.R. 9538 (formerly 43 CFR 2023.4-3)

2/ 35 F.R. 9539 (formerly 43 CFR 2023.4-3(d))

rests upon him. If he cannot demonstrate error in the classification, reservation of the oil and gas must be imposed if his application for a native allotment is allowed.

To permit Mr. Anagick to avail himself of the procedure to seek reclassification of the land involved, it is proper to remand the case to the jurisdiction of the Bureau of Land Management.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior (211 DM 13.5; 35 F.R. 12081), the case is remanded to the Bureau of Land Management for further appropriate consideration.

---

Edward W. Stuebing, Member

I concur:    I concur:

---

Francis Mayhue, Member

---

Anne Poindexter Lewis, Member

