

THOMAS W. DIXON ET AL.

IBLA 70-52

Decided December 30, 1970

Grazing Leases: Apportionment of Land -- Grazing Leases: Preference-  
Right Applicants

A division of lands for leasing purposes among preference-right applicants on an equal plane of preference will not be disturbed where a review of all factors involved indicates that the division is equitable.

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IBLA 70! 52 : W-01622  
: W-6-69-1

THOMAS W. DIXON : Section 15 grazing lease  
: applications rejected in

CHARLES K. & DOROTHY D. LAWRENCE : part

: Affirmed

#### DECISION

Thomas W. Dixon has appealed to the Secretary of the Interior from a decision dated March 17, 1969, by the Office of Appeals and Hearings, Bureau of Land Management, which affirmed the rejection by the district manager, Casper, Wyoming district, of his lease and grazing lease renewal application, in part, and awarded a part of the lands embraced therein to Charles K. and Dorothy D. Lawrence under their application to lease, W-6-69-1. The district manager also withheld action on range improvement permit applications pending an agreement to be reached by the parties concerning fence improvements.

The Bureau found that the public lands which both Dixon and Lawrence sought had been divided between them by the district manager on the basis of their respective needs, proper range management and in accordance with established departmental procedure. The Bureau also refused certain modifications requested by Dixon as to the range improvements.

The statement of reasons for appeal filed by Dixon is a cumulative reiteration of reasons, arguments and contentions submitted to the Director, Bureau of Land Management. However, they have been carefully reviewed and are found to have been adequately dealt with by the decision appealed from or to be without merit.

Under the controlling law, section 15 of the Taylor Grazing Act, 43 U.S.C. § 315m (1964), the conflicting applications are on an equal plane of preference. Since Dixon has submitted no

evidence that the division of land was in error or that he has not been dealt with fairly, the decision of the Bureau will not be disturbed. Hamilton H. Fox, A-28882 (May 24, 1962); Abraham Lorenz, A-29918 (May 25, 1964); Camp Creek Cattlemen's Association, Charles D. Miller, Robert E. Miller, A-30418 (October 28, 1965).

Several of Dixon's objections may, however, be noted briefly.

One allegation charges that the Lawrences' applications for lease were defective. It is enough to point out that the regulation then in effect permitted defective applications to be cured, 43 CFR 4122.4 (1968), and that the district manager, in a notice dated August 2, 1968, informed Dixon and the Lawrences that all the conflicting applications would be treated as one entry and one decision would treat the lands in conflict in their entirety. This action, which made all of the land applied for contiguous to section 16, wiped out any objection that the Lawrences did not occupy contiguous land. It also corrected any defects, if any there were, stemming from the status of the land at the time the Lawrences filed their applications.

Other of Dixon's arguments concern the ownership of fences and usefulness of a spring and a reservoir. There is no necessity to determine either point, since it is our view that the proposed division of the range is proper even if Dixon's contentions were accepted as established.

Finally, Dixon urges that the decision spell out in detail the consequences of noncompliance with the district manager's direction that Dixon and the Lawrences each build part of a new fence dividing the range between them. The district manager made grazing leases beyond the one year term dependent on the construction of the fence under a signed cooperative agreement with the Bureau of Land Management. This is a sufficient precaution.

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 appeal is dismissed.

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Martin Ritvo, Member

I concur:

I concur:

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Joan B. Thompson, Alternate Member

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Newton Frishberg, Chairman

