

CHRIS PALZER ET AL.

IBLA 70-435, etc.

Decided June 27, 1972

Appeals from decisions (F 12287, etc.) by Alaska state office, Bureau of Land Management, rejecting oil and gas lease offers for lands included in PLO 3521.

Affirmed.

Oil and Gas Leases: Generally -- Oil and Gas Leases: Applications:
and Gas Leases: Lands Subject to

Generally -- Oil

Oil and gas lease offers for lands embraced within Public Land Order 3521, which provides that none of the public lands within the area shall be subject to oil and gas leasing until certain procedures, including the preparation of approved leasing maps, have been accomplished, are properly rejected where, although the lands described in the offers are shown on protraction diagrams on which leasing "blocks" have been designated, such lands have not been included within any such leasing blocks and they lie within two miles of Naval Petroleum Reserve No. 4, and are therefore not to be opened to leasing under the terms of PLO 3521.

APPEARANCES: William B. Murray, Esq., for the appellants.

OPINION BY MRS. LEWIS

Chris Palzer and others 1/ appealed to the Director, Bureau of Land Management, 2/ from decisions by the Bureau's Alaska state office rejecting their oil and gas lease offers filed under the Mineral Leasing Act of 1920, as amended, 30 U.S.C. §§ 181 et seq. (1970). All of the offers were rejected because they embrace lands covered by Public Land Order (PLO) 3521 of January 9, 1965, 30 F. R. 271, and none of the lands described in the offers have been opened

1/ See appendix A for a list of the IBLA docket numbers, Bureau of Land Management serial numbers and names of appellants for each offer.

2/ Effective July 1, 1970, the Board of Land Appeals, Office of Hearings and Appeals, assumed jurisdiction over all appeals pending before the Director, Bureau of Land Management, in the exercise of the supervisory jurisdiction of the Secretary of the Interior (35 F. R. 10012, June 18, 1970).

to the noncompetitive leasing provisions of the Mineral Leasing Act as required by paragraph 1 of said order. 3/

The appellants do not deny the fact that PLO 3521 covers the lands involved in their offers, but they contend that the Secretary of the Interior has the duty and authority to issue oil and gas leases to them with respect to the lands applied for under the provisions of the Mineral Leasing Act of 1920, supra.

We find that the contention is without merit for the reasons stated below. PLO 3521 reads in pertinent part:

1. None of the public lands within the area described in paragraph 2 of this order [4/] that are subject to the noncompetitive leasing provisions of the Mineral Leasing Act of 1920 * * * shall be subject to oil and gas leasing until approved leasing maps for such lands, or portions thereof, are from time to time prepared, and notices of the time and place of filing thereof and of the availability of the lands for leasing have been published in the Federal Register by the Bureau of Land Management. These notices will describe the lands subject to noncompetitive lease and will provide for a simultaneous filing period of offers to lease. The leasing maps will not describe any lands within two miles of Naval Petroleum Reserve No. 4.

The procedures specified therein have not been implemented with respect to any of the lands involved in the present offers, all of

3/ Only part of the lands described in offer F 12287 (IBLA 70-435) of Chris Palzer, T. Gordon Campbell and William R. Campbell are included in PLO 3521. The offer was rejected as to the remaining lands as they are located entirely within the exterior boundaries of Naval Petroleum Reserve No. 4 established by Executive Order No. 3797-A of February 27, 1923, and the offer was further rejected in its entirety because the lands in the offer are not entirely within an area six miles square or within an area not exceeding six surveyed sections in length or width as required by regulation 43 CFR § 3123.1(d) (1970). As the offerors filed with their appeal a withdrawal of their offer as to the lands within Naval Petroleum Reserve No. 4, these reasons for rejection have become moot. Thus, only the lands that are affected by PLO 3521 are left for consideration.

4/ Paragraph 2 describes an extensive area in northern Alaska, which includes all of the lands contained in the offers involved herein.

which lie within 2 miles of Naval Petroleum Reserve No. 4. Accordingly, the lands are not subject to the filing of noncompetitive oil and gas lease offers, and the offers were properly rejected. See Carlson Oil Company, Inc., 2 IBLA 378 (1971); Mark B. Ringstad et al., Inlet Oil Corporation et al., Robert L. Lawler et al., A-31111, A-31115, A-31134, A-31188 (March 17, 1970).

Appellants also contend that at the time of filing their offers, the records and status maps of the Fairbanks land office showed the lands described in their offers to be on the protraction diagrams and records of said office, and that they obtained from the office copies of the official status of the lands processed by that office indicating that said lands were open to lease under the Mineral Leasing Act.

It is true that all lands described in the offers are shown on approved protraction diagrams in the Fairbanks land office. However, this fact alone does not mean that these lands are available for oil and gas leasing. Approved protraction diagrams of the rectangular system of surveys are merely the basic record for describing the lands covered thereby for all authorized purposes. Approval of a protraction diagram does not comport with the requirement in PLO 3521 that a leasing map be approved. Protraction diagrams have been approved for all land within Naval Petroleum Reserve No. 4, as well as for land embraced in other withdrawn areas, such as the Arctic National Wildlife Refuge, on which oil and gas leasing is not permitted. Lands within the area described in PLO 3521 which have been opened to oil and gas leasing are identified on the protraction diagrams as leasing "blocks." These "blocks" usually embrace 4 protracted sections or approximately 2,560 acres. There are examples, however, where only an aliquot fraction of a standard block has been opened to leasing. For example, E 1/2 Block 5, T. 4 N., R. 3 E., U.M., consisting of protracted sections 15 and 22 has been opened to leasing, but the W 1/2 Block 5, consisting of section 16 and 21, has not been so opened. These latter sections are included in offer F 12287, a subject of this decision.

The appellants filed motions with this Board for a hearing and certain pretrial procedures.

We deny these motions. As the facts necessary for the determination herein are shown on Departmental records, no useful purpose would be served by a hearing. Although the lands are shown on protraction surveys, the records also conclusively show they have not been made available for leasing within any leasing blocks nor could they under the terms of PLO 3521. The reason is that the protractions show that all the lands within the subject offers are within two miles of Naval Petroleum Reserve No. 4. Moreover, the withdrawal order was an implementation of the Secretary's discretionary authority under the Mineral Leasing Act. In the circumstances,

there is no right to a hearing on the rejection of oil and gas lease offers. See Richard K. Todd et al., 68 I.D. 291, 300 (1961), and cases cited therein; George M. Keyston, Jr., et al., A-28350, A-28528 (August 7, 1962).

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 decisions appealed from are affirmed.

Anne Poindexter Lewis, Member

We concur:

Douglas E. Henriques, Member

Joan B. Thompson, Member

APPENDIX A

IBLA Serial <u>No.</u>	<u>Appellants</u>	BLM Docket <u>No.</u>
70-435	Chris Palzer, T. Gordon Campbell, and	F 12287 William R. Campbell
70-436	T. Gordon Campbell, and William R. Campbell	F 12413 70-504 Kadow Enterprises
	Oreg. Ltd, and F 12294	Chris Palzer
70-506	Harry Driver, and Chris Palzer	F 12303 70-508 Gilbert Copper, and Chris
	Palzer F 12278 70-512	William R. Campbell, and T. Gordon Campbell F
12382 70-513 "		F 12383 70-514 "
F 12384 70-515 "		F 12409 70-516 "
F 12410 70-517 "		F 12411 70-518 "
F 12412		

