

WILLIAM B. MURRAY AND CHRIS PALZER

IBLA 70-572

Decided August 30, 1972

Appeal from decision (F 12302) by the Alaska state office, Bureau of Land Management, rejecting oil and gas lease offer.

Affirmed as modified.

Oil and Gas Leases: Applications: Six-mile Square Rule

An oil and gas lease offer describing widely scattered tracts of land, in violation of the six-mile square rule, must be rejected.

Naval Petroleum Reserves -- Oil and Gas Leases: Lands Subject to

Lands within Naval Petroleum Reserve No. 4 are not subject to oil and gas leasing under the Mineral Leasing Act of 1920.

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

An oil and gas lease offer is properly rejected as to land formerly included in a lease which terminated by operation of law, where the land had not been posted as available for filing in accordance with 43 CFR Subpart 3112 (1972).

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

An oil and gas lease offer 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, is properly rejected where, although the lands described in the offer are shown on protraction diagrams on which "leasing blocks" have been designated, such lands have not been included within any such "leasing block" as they lie partially within two miles of Naval Petroleum Reserve No. 4, and are therefore not to be opened to leasing under the terms of PLO 3521.

Administrative Procedure Act: Hearings -- Rules of Practice: Appeals:  
Hearings

A request for a hearing and motions for certain pretrial procedures will be denied where the record contains all information necessary for proper legal determinations.

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

OPINION BY MRS. LEWIS

William B. Murray and Chris Palzer appealed from a decision of the Alaska state office, Bureau of Land Management, which rejected their oil and gas lease offer filed pursuant to the Mineral Leasing Act of 1920, as amended, 30 U.S.C. § 181 et seq. (1970), for the following-described lands:

Section 5, T. 22 N., R. 15 W., U.P.M.  
Section 10, T. 2 S., R. 2 W., U.P.M.  
Section 31, T. 1 N., R. 3 E., U.P.M.  
Section 27, T. 4 N., R. 3 E., U.P.M.

The decision rejected the offer because the lands described therein are not entirely within an area of 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). <sup>1/</sup> As may be readily seen from the descriptions of the four sections involved, the sections are very widely scattered, and the offer is clearly in violation of this rule. Therefore, the offer in its entirety was properly rejected for this reason. See Hugh E. Pipkin et al., 71 I.D. 89 (1964); Merwin E. Liss, 68 I.D. 86 (1961). With respect to the individual sections, the offer was also properly rejected for the additional reasons set forth below.

Section 5 is located within Naval Petroleum Reserve No. 4 established by executive order No. 3797-A of February 28, 1923. As exclusive jurisdiction over the oil and gas deposits in the reserve is vested in the Department of the Navy by the Act of August 10, 1956, 10 U.S.C. §§ 7421-7438 (1970), the Secretary of the Interior has no authority to issue oil and gas leases therein. This finding is correct. Starling Brokers et al., 6 IBLA 237 (1972).

The decision rejected the offer as to section 31 because it was formerly included in a lease which terminated by operation of law and had not been posted as available for filing at the time the offer was

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<sup>1/</sup> Now embodied within 43 CFR 3110.1-3(a).

filed because of a native protest, citing Union Oil Company of California, A-29904 (February 20, 1964); 43 CFR 3123.9 (1970). <sup>2/</sup> Although the appellants argue that this section was available for filing, such is not the case. The decision below is correct.

The offer was held to be unacceptable for filing as to sections 10 and 27 because these sections were withdrawn from leasing by Public Land Order (PLO) 4582 of January 17, 1969. This holding is correct. This withdrawal, standing alone, would no longer be a bar to the filing of lease offers since PLO 4582, as amended, terminated by its own terms upon enactment of the Alaska Native Claims Settlement Act of December 18, 1971, 85 Stat. 688. However, the land was in the withdrawal at the time the offer was filed. The offer was therefore invalid, and the subsequent termination of the withdrawal could not validate the offer. Charles W. Trownson, 60 I.D. 182 (1948).

Furthermore, we note from the official protraction diagrams in the case file that these sections are embraced within PLO 3521 of January 9, 1965, 30 F.R. 271, which provides that none of the lands within the area described therein shall be subject to oil and gas leasing until certain procedures, including the preparation of approved leasing maps, have been accomplished. The order further provides that the leasing maps will not describe any lands within two miles of Naval Petroleum Reserve No. 4.

Although the protraction diagrams show that large areas of land in the vicinity of sections 10 and 27 have been divided into "leasing blocks" and are opened to leasing, these sections have not been included in any "leasing block" as they lie partially within two miles of Naval Petroleum Reserve No. 4. Therefore, the offer is also rejected as to these sections for this reason. See Chris Palzer et al., 6 IBLA 248 (1972); also 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). The decision below is modified to this extent.

Appellants filed motions with this Board for a hearing and certain pretrial procedures. As the record contains all information necessary for the legal determinations made herein, no useful purpose would be served by a hearing. Therefore, the motions are denied. See Starling Brokers et al., supra; Chris Palzer et al., supra.

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<sup>2/</sup> Since recodified as 43 CFR Subpart 3119 (1972).

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), for the reasons stated above the decision appealed from is affirmed as modified.

Anne Poindexter Lewis  
Member

We concur:

Douglas E. Henriques  
Member

Joan B. Thompson  
Member

