

JAMES D. JOHNSON, ET AL.

IBLA 71-119

Decided December 11, 1972

Appeal from an Alaska State Office, Bureau of Land Management, decision rejecting oil and gas lease offers F 4286 and F 4287.

Affirmed.

Oil and Gas Leases: Lands Subject To -- Withdrawals and Reservations:      Effect of

Lands withdrawn from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, and reserved for selection by a Regional Corporation pursuant to the Alaska Native Claims Settlement Act are not available for leasing under the Mineral Leasing Act of 1920 and an oil and gas lease offer for such land is properly rejected although filed prior to the withdrawal.

Oil and Gas Leases: Applications: Generally -- Oil and Gas Leases: Applications:  
Amendments -- Oil and Gas Leases: First Qualified Applicant

Oil and gas lease offers are properly rejected when each offer shows on its face that there are four offerors, each with a 25 percent interest, but three of the offerors cannot be identified from the face of the offer form because their names are represented only by an illegible signature. An offeror whose identity cannot be established from the face of the offer cannot be regarded as the first qualified applicant for a lease, and such an over-the-counter offer earns no priority from the time of its filing. However, in such over-the-counter offers, the defect may be considered as being cured and the offer having priority from the time that a supplemental statement is submitted, signed by the offerors, properly identifying each.

APPEARANCES: William V. Boggess, Esq., for appellants.

OPINION BY MR. HENRIQUES

Appellants 1/ seek review of an Alaska State Office decision rejecting their oil and gas lease offers for Block 5, T. 4 S., R. 17 E., U.M., and for Block 1, T. 2 S., R. 19 E., U.M. because of the illegibility of three of the signatures affixed to the application. The offers were filed in the name of appellant James D. Johnson, but they were signed by appellant Johnson and the other appellants and the notation "25%" appeared after each signature. The State Office treated the application as a joint offer and held that as the identities of three of the parties were unknown the offer must be rejected.

The sole contention on appeal is that since the lands in question were subject to Public Land Order [PLO] 4582, which temporarily withdrew all Alaskan land, the proper and established procedure would be to remand the cases to the State Land Office. Appellants cite Caro E. Clark, et al., AA 3514, etc., (June 30, 1969) and similar cases to support their contention. Under the above cited cases a remand to the State Office would have been properly required. Congress, however, on December 18, 1971, enacted the Alaska Native Claims Settlement Act, P.L. 92-203, 85 Stat. 688 (1971), which specifically repealed PLO 4582.

On March 9, 1972, the Secretary of the Interior issued PLO 5169 withdrawing, inter alia, the lands involved here from all forms of appropriation under the public land laws, including the Mineral Leasing Act of February 25, 1920, and reserving these lands for selection by the Regional Corporation for the approximate area covered by the operation of the Arctic Slope Native Association. This withdrawal was amended by PLO 5191, dated March 17, 1972, but the lands involved in this appeal were not affected by the later order.

Since the lands applied for are now withdrawn from oil and gas leasing, appellants' offers must be rejected. Where public land has been withdrawn from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, it is proper to reject an application for an oil and gas lease even though the land was withdrawn after the application was filed. Dorothy P. Soeth, 60 I.D. 1 (1947); Denver R. Williams, 67 I.D. 315 (1960).

We note in passing that the State Office action to reject the offers was correct as oil and gas lease offers are properly rejected

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1/ James D. Johnson, Ray LaFleur, Roger F. Ruiz, and Lawrence H. Irving.

when each offer includes one or more offerors who cannot be identified from the face of the offer form because his name is represented only by an illegible signature. R. C. Bailey, 7 IBLA 266 (1972). In oil and gas lease offers filed "over-the-counter," as the subject offers were, this deficiency may be corrected with priority of consideration running from the time the supplemental information is submitted, *Id.*, but in view of our disposition of these offers, the issue in the State Office decision is now moot.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed for the reasons herein stated.

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Douglas E. Henriques, Member

We concur:

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Martin Ritvo, Member

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Newton Frishberg, Chairman.