

Editor's note: Reconsideration granted; set aside -- See Vance Phillips, 14 IBLA 79 (Dec. 11, 1973)

VANCE W. PHILLIPS
AELISA A. BURNHAM

IBLA 71-274, 71-275

Decided March 13, 1973

Appeals from decisions by the Alaska State Office, Bureau of Land Management, partially rejecting oil and gas lease offers.

Affirmed as modified.

Oil and Gas Leases: Applications: Generally -- Oil and Gas Leases: Lands Subject to -- Withdrawals and Reservations: Effect of

Where all the lands described in an oil and gas lease offer are withdrawn from all forms of appropriation under the public land laws, including the mineral leasing laws, pursuant to the authority vested in the Secretary of the Interior by section 11(a)(3) of the Alaska Native Claims Settlement Act of December 18, 1971, the offer will be rejected although filed prior to the withdrawal.

APPEARANCES: Eugene F. Wiles, Esq., of Delany, Wiles, Moore, Hayes and Reitman, Inc., Anchorage, Alaska, for appellants.

OPINION BY MRS. LEWIS

This is a joint appeal by Vance W. Phillips and Aelisa A. Burnham from separate decisions by the Alaska State Office, Bureau of Land Management, dated April 5, 1971, and April 9, 1971, which partially rejected their respective oil and gas lease offers F 5159 and F 5181, filed on August 21, 1968, for lands in T. 7 N., R. 29 E., F.M., Alaska, under the Mineral Leasing Act, as amended (30 U.S.C. § 226 (1970)). The stated reason for rejection in each instance was that certain lands were formerly in leases that were relinquished or terminated by operation of law and the lands had not yet been posted as available for the filing of new offers in accordance with regulation 43 CFR 3112.1-1. The decisions further stated that the balance of the lands in the offers are in conflict with a Native protest and action as to those lands is therefore suspended.

On March 9, 1972, the Secretary of the Interior issued Public Land Order (PLO) 5173, 37 F.R. 5575, pursuant to the authority vested in him by section 11(a)(3) of the Alaska Native Claims

Settlement Act of December 18, 1971, 85 Stat. 688, 696, withdrawing all of T. 7 N., R. 29 E., F.M., Alaska, among other lands, from all forms of appropriation under the public land laws, including the mineral leasing laws.

Since all the lands applied for in each offer are now withdrawn from oil and gas leasing, each offer must be rejected in its entirety. Where public land has been withdrawn from all forms of appropriation under the public land laws, including the mineral leasing laws, an oil and gas lease offer must be rejected even though the land was withdrawn after the offer was filed. James D. Johnson, et al., 8 IBLA 348 (1972); Denver R. Williams, 67 I.D. 315 (1960); Dorothy P. Soeth, 60 I.D. 1 (1947).

In view of the status of the lands described above, all other issues are moot and require no discussion.

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

Anne Poindexter Lewis, Member

We concur:

Frederick Fishman, Member

Joseph W. Goss, Member.

