

DAVID H. YATES

IBLA 77-475

Decided December 20, 1977

Appeal from decision of the Oregon State Office, Bureau of Land Management, rejecting oil and gas lease offer OR 15434 (Wash.).

Reversed and remanded.

1. Oil and Gas Leases: Applications: Description -- Surveys of Public Lands: Generally

Where there is no ambiguity or confusion in the description of lands in an oil and gas lease offer because it includes a complete description of land in a section in a particular township by legal subdivisions embracing unnumbered survey lots or fractional subdivisions, as well as a description of unnumbered lots in accord with current survey numbering practice, the lot designation may be disregarded, and the regulatory requirement that lands in an oil and gas lease offer which have been surveyed under the public land rectangular system must be described by legal subdivision, section, township, and range, is satisfied, even though the official plat of survey does not designate or number the fractional subdivisions as lots.

APPEARANCES: David H. Yates, pro se.

OPINION BY ADMINISTRATIVE JUDGE THOMPSON

David H. Yates has appealed from the June 1, 1977, decision of the Oregon State Office, Bureau of Land Management, which rejected in part oil and gas lease offer OR 15434 (Wash.) to the extent that it included certain land in section 18, T. 13 N., R. 18 E., Willamette

Meridian, Washington. Appellant's offer described the land he applied for in this section as follows: "Sec 18: Unnumbered Lots 2, 3, and 4, SE 1/4 NW 1/4, NE 1/4 SW 1/4 (S 1/2 NW 1/4, N 1/2 SW 1/4, SW 1/4 SW 1/4)."

Section 18 is an irregular section lying along the western edge of the township. The smallest legal subdivisions along the western edge of the section each contain more than 40 acres, and under current departmental practice each of these subdivisions would be designated as a numbered lot. See U.S. Department of the Interior, Bureau of Land Management, Manual of Surveying Instructions, § 3-82 and fig. 46 (1973). However, the 1884 official plat of survey does not designate these subdivisions as numbered lots.

The State Office rejected Appellant's application for unnumbered lots 2, 3, and 4, holding the reference to lot numbers to be an improper description of the lands that the description was intended to cover. The State Office maintains that the unnumbered lots should have been described as follows:

fractional SW 1/4 NW 1/4  
fractional W 1/2 SW 1/4  
or  
unnumbered lot in SW 1/4 NW 1/4  
unnumbered lot in NW 1/4 SW 1/4  
unnumbered lot in SW 1/4 SW 1/4

Because the State Office held the application defective as to the unnumbered lots, those lands remained available for leasing, so Appellant's offer for other land within the section was rejected because it did not effectively include all the available land in the section under the 640-acre rule prescribed by 43 CFR 3110.1-3(a).

[1] 43 CFR 3101.1-4(a) requires that one who applies for lands which have been surveyed under the public land rectangular system must "describe the lands by legal subdivision, section, township, and range." We note that in adjudicating Appellant's offer, the State Office did not consider Appellant's parenthetical description of the land by means of legal subdivision. In Robert P. Kunkel, 74 I.D. 373 (1967), the descriptions "NW 1/4" and "N 1/2" were held to be acceptable even though those subdivisions contained irregular numbered lots. The acceptability of a similar form of description is even more compelling where the plat of survey indicates no lot numbers for the irregular subdivisions. Under the rule set forth in Kunkel, Appellant's application for the S 1/2 NW 1/4, N 1/2 SW 1/4, SW 1/4 SW 1/4 meets the regulatory requirement to describe the land by legal subdivision.

The fact the more specific description included the lots by number does not render the offer invalid, even though the official plat of survey does not designate the fractional subdivisions by lot numbers. Appellant attempted to describe the lands fully and clearly. The dual description here creates no ambiguity that is normally held to justify rejection of an offer where BLM must guess from the instrument itself what lands are intended. See, e.g., Howard L. Peterson, A-30358 (Feb. 3, 1965). Appellant numbered the lots in a manner consistent with current correct survey methods, and it is clear that both descriptions refer to the same land. The lot designation may be disregarded as surplusage. The lack of ambiguity is also apparent from Appellant's proper computation of acreage and rental. <sup>1/</sup> Because we find the description of the lands in section 18 was adequate and embraced the fractional subdivisions, this moots the reason for rejecting the other lands in section 18 under the 640-acre rule.

Therefore, 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 reversed and remanded for further action consistent with this decision.

Joan B. Thompson  
Administrative Judge

We concur:

Douglas E. Henriques  
Administrative Judge

Frederick Fishman  
Administrative Judge

---

<sup>1/</sup> However, since the time Appellant filed his offer, the rental for leases has increased from 50 cents per acre to \$ 1 per acre. 43 CFR 3103.3-2; 42 FR 1032 (January 5, 1977).

