

N. L. INDUSTRIES, INC.

IBLA 78-580

Decided October 26, 1978

Appeal from decision of Utah State Office, Bureau of Land Management, rejecting noncompetitive oil and gas lease offer U 40064.

Dismissed.

1. Administrative Procedure: Administrative Review--Appeals--Res Judicata--Rules of Practice: Appeals: Generally--Rules of Practice: Appeals: Dismissal

Where the Board of Land Appeals has considered an appeal and rendered a final decision holding that a particular oil and gas lease offer may properly be rejected for the reason that title to the lands involved was uncertain, and a new lease offer for the same lands is again rejected for the same reason, the matter is res judicata, and the subsequent appeal is properly dismissed.

APPEARANCES: H. Byron Mock, Esq., Salt Lake City, Utah, for appellant.

OPINION BY ADMINISTRATIVE JUDGE FISHMAN

N. L. Industries, Inc., appeals from the July 11, 1978, decision of the Utah State Office, Bureau of Land Management (BLM), rejecting its noncompetitive oil and gas lease offer U-40064 on the ground that the lands involved were within the surveyed meander line of the Great Salt Lake.

Offer U-40064 is a new offer for the same lands which appellant had previously applied for under U-31030. U-31030, among others, was rejected by a BLM decision of September 27, 1977. That decision was appealed and affirmed as modified by this Board in N. L. Industries,

34 IBLA 99 (1978). The essence of our holding was that oil and gas lease offers may be rejected where legal title to the lands in issue is uncertain, and that it is proper for BLM to refuse to suspend such offers pending determination of the title issue.

Appellant alleges that uncertainty as to title to the lands in U-40064 "had been resolved by the time of the [Boards decision]," *supra*. Appellant, maintaining that U-40064 "is limited to what appears to be unsurveyed islands" in the bed of the lake, alleges on the other hand that title to the lands in issue is uncertain. Appellant suggests that the United States should clear title and in the interim maintain the offer in good standing.

[1] Appellant's arguments are the same as those presented in appeal of the earlier BLM decision and were fully covered by the Board in N. L. Industries, Inc., *supra*. The instant appeal is, in effect, a questioning of the Board's decision in N. L. Industries, involving the same parties, the same lands, the same issue, and is before the same tribunal. The Board's previous decision disposed of these issues, is final for the Department, and no further appeal will lie in the Department. 43 CFR 4.21(c). Where an appeal has been taken and a final Departmental decision has been reached, under the doctrine of administrative finality the principle of res judicata ordinarily will operate to bar consideration of a new appeal arising from a later proceeding involving the same parties, the same land, and the same issues. Donald W. Coyer, 36 IBLA 181 (1978); Dallas C. Qualman, 36 IBLA 119 (1978), Pekka K. Merkallio, 30 IBLA 157 (1977); United States v. Blythe, 16 IBLA 94 (1974), *aff'd* Blythe v. Kleppe, Civ. No. 77-1446 (10th Cir., filed Nov. 16, 1977); Elsie Farrington, 9 IBLA 191 (1975), *aff'd* Farrington v. Morton, Civ. No. S-2768 (D. Calif., filed Dec. 15, 1973); Eldon L. Smith, 6 IBLA 310 (1972); Eldon L. Smith, 5 IBLA 330, 79 I.D. 149 (1972); The Dredge Corporation, 3 IBLA 98 (1971); Gabbs Exploration Co., 67 I.D. 160 (1960), *aff'd*, Gabbs Exploration Co. v. Udall, 315 F. 2d 37 (D.C. Cir. 1963), *cert den.* 375 U.S. 822 (1963).

This appeal is clearly a manifestation of a case previously decided. Under the principle of res judicata it is properly dismissed for that reason.

Appellant requests that the Board quiet title to the land if it has authority to do so and, if it does not, it should suspend appellant's application. The Board has no original jurisdiction—its jurisdiction is solely appellate. An oil and gas offer ordinarily will not be suspended pending resolution of unresolved title issues. Georgette B. Lee, 10 IBLA 23 (1973).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the petition for reconsideration is denied and the appeal is dismissed.

Frederick Fishman
Administrative Judge

We concur.

Edward W. Stuebing
Administrative Judge

Joseph W. Goss
Administrative Judge

