

REPUBLIC OIL AND MINING CO.

IBLA 79-514

Decided February 29, 1980

Appeal from decision of the Utah State Office, Bureau of Land Management, rejecting oil and gas lease offer U-43432.

Affirmed.

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

The Bureau of Land Management properly rejects an oil and gas lease offer for land patented in 1874 under the placer mining laws.

APPEARANCES: Al T. Hays, President, Republic Oil and Mining Co., appellant.

OPINION BY ADMINISTRATIVE JUDGE THOMPSON

Republic Oil and Mining Co. has appealed from a decision of the Utah State Office, Bureau of Land Management (BLM), rejecting oil and gas lease offer U-43432, for the stated reason that the oil and gas interests in the land applied for are not owned by the United States, since patent for a placer mining claim had been issued for the subject land in 1874. Appellant, however, contends that the United States still has title to any oil and gas deposits on such land.

[1] The Bureau of Land Management properly rejects an oil and gas lease offer for lands in which the United States has conveyed title to any oil or gas deposits. See O. D. Presley, 21 IBLA 190 (1975). In contending that oil and gas has been retained by the United States, appellant has misread the language of the patent. It refers to the following language in the patent:

That the grant hereby made is restricted in its exterior limits to the boundaries of the said legal

subdivision as hereinbefore described and to any veins or lodes of quartz or other rock in place bearing gold, silver, cinnabar, lead, tin, copper or other valuable deposits, which may hereafter be discovered within said limits, and which are not claimed or known to exist at the date hereof.

It fails to mention the next provision in the patent which provides:

That should any vein or lode of quartz or other rock in place bearing gold, silver, cinnabar, lead, tin, copper or other valuable deposits, be claimed or known to exist within the above-described premises at the date hereof the same is expressly excepted and excluded from these presents.

What is clear from reading both these provisions is that veins or lodes for valuable minerals which were claimed or known to exist at the date of the patent were excluded from the grant. However, the grant included lands and minerals, including those within veins or lodes, which were not claimed or known to exist at the date the patent issued. The use of the word "restricted" in the provision first quoted above, established that the rights under the patented placer mining claim were restricted to the boundary limits of the claim. This is in distinction to lode claims where the patentee has in certain circumstances a right to follow the mineral-bearing vein outside the exterior boundaries of the claim. There was also a reservation in the patent pertaining to such a right for other locators. The action of BLM was correct and appellant has shown no error. A patent for a placer mining claim issued in 1874 included the rights to the oil and gas deposits. ^{1/}

^{1/} At the time the patent for the subject land was issued, oil and gas deposits were locatable under the placer mining laws. See 4 Summers, Oil and Gas, § 867 (1962). A patent for a placer mining claim conveyed title to all placer deposits, as well as unknown veins or lodes or known veins or lodes specifically acquired. See 2 Rocky Mountain Mineral Law Foundation, American Law of Mining, § 9.29 (1974).

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 affirmed.

Joan B. Thompson
Administrative Judge

We concur:

Frederick Fishman
Administrative Judge

James L. Burski
Administrative Judge

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