

DOUGLAS R. WILLSON ET AL.

IBLA 81-200

Decided February 6, 1981

Appeal from decision of Utah State Office, Bureau of Land Management, rejecting noncompetitive oil and gas lease offer U-46856.

Affirmed as modified.

1. Oil and Gas Leases: Applications: 640-acre Limitation  
An oil and gas lease offer to lease less than 640 acres which adjoins land available for leasing is properly rejected.

APPEARANCES: Douglas H. Willson, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Douglas H. Willson, John E. Hoffman, Brian K. Pasque, and Douglas R. Willson filed noncompetitive offer to lease for oil and gas, U-46856, for lots 2, 3, 4, 5, 6, and 7, SE 1/4 NW 1/4, E 1/2 SW 1/4, SW 1/4 NE 1/4, SE 1/4 sec. 6, SW 1/4 SW 1/4 sec. 35, T. 12 N., R. 18 W., Salt Lake meridian, Utah, containing 535.88 acres. By decision of October 10, 1980, the Utah State Office, Bureau of Land Management (BLM), rejected the offer with the stated reason: "Oil and gas is not owned by the United States." This appeal followed.

Appellants allege that the records of Box Elder County, Utah, show mineral ownership of the lands applied for in sec. 6, T. 12 N., R. 18 W., to be in the United States, as the land has never been patented. The master title plat maintained by BLM verifies this allegation. Appellants further allege that mineral ownership in SW 1/4 SW 1/4 sec. 35, T. 12 N., R. 18 W., is in the United States, by virtue of a warranty deed to the United States in connection with an exchange, Utah 063389, consummated in 1944 under section 8 of the Taylor Grazing Act, 43 U.S.C. § 315g (1970), as the said warranty deed did not mention the reservation of any mineral interest to the grantor. BLM records indicate the exchange, Utah 063389, was for the surface only, with

each party reserving the minerals. The case will be remanded to BLM so that the actual ownership of minerals in SW 1/4 SW 1/4 sec. 35, T. 12 N., R. 18 W., may be verified.

[1] As the subject oil and gas lease offer was for less than 640 acres, the strictures of 43 CFR 3110.1-3(a) are applicable. That regulation provides that no noncompetitive offer to lease may be made for less than 640 acres except where the offer is accompanied by a showing that the lands are in an approved unit or cooperative plan of operation or where such a plan has been approved as to form by the Director, Geological Survey, or where the land is surrounded by lands not available for leasing under the Act. The land status plats of BLM showed that lands contiguous to sec. 6 in secs. 5 and 7, T. 12 N., R. 18 W., were not under oil and gas lease when offer U-046856 was first filed, even though they were included in pending offer to lease U-046393. A noncompetitive oil and gas lease offer for less than 640 acres is properly rejected where the offer failed to include other adjoining lands which were available at the time the offer was filed, although such lands may have been included in prior outstanding lease offers. Alice Hays, 36 IBLA 313 (1978); John F. Brown, 22 IBLA 50 (1975); Clem Daneau, A-28309 (June 14, 1960); Violet Goresen, A-28289 (June 8, 1960). Furthermore, land contiguous to sec. 6, T. 12 N., R. 18 W., in secs. 1 and 12, T. 12 N., R. 19 W., was available for leasing when the subject offer was filed.

The decision is modified to show rejection of offer U-46856 as to land in sec. 6, T. 12 N., R. 18 W., for the reason that the offer included less than 640 acres of available land.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision is affirmed as modified.

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Douglas E. Henriques  
Administrative Judge

We concur:

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Gail M. Frazier  
Administrative Judge

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Anne Poindexter Lewis  
Administrative Judge

