

ED PENDLETON

IBLA 81-178

Decided August 25, 1981

Appeal from decision of the Wyoming State Office, Bureau of Land Management, rejecting acquired lands oil and gas lease offer. W 72366.

Affirmed.

1. Acquired Lands -- Mineral Leasing Act for Acquired Lands: Lands Subject to -- National Park Service Areas: Generally -- Oil and Gas Leases: Acquired Lands Leases -- Oil and Gas Leases: Lands Subject to

A noncompetitive oil and gas lease offer for acquired land within the boundaries of the Fort Laramie National Historic Site administered by the National Park Service is properly rejected since the Mineral Leasing Act for Acquired Lands specifically excludes lands within national parks or monuments from its terms.

APPEARANCES: Ed Pendleton, pro se.

OPINION BY ADMINISTRATIVE JUDGE LEWIS

Ed Pendleton has appealed from the October 29, 1980, decision of the Wyoming State Office, Bureau of Land Management (BLM), rejecting acquired lands oil and gas lease offer W 72366 for the stated reason that the lands applied for are within the boundaries of the Fort Laramie National Historic Site and were not subject to oil and gas leasing.

Appellant does not dispute that land within the site is unavailable for leasing. Instead, he contends that not all of the land for which he applied is within the boundaries of the site. This contention is incorrect. Congress extended the boundary of the site to include the subject land by the Act of November 10, 1978, P.L. 95-625, 92 Stat. 3467, 3477. The land for which appellant applied was conveyed to the National Park Service (NPS) by a deed dated February 27, 1980.

Appellant bases his mistaken assertion on a memorandum dated September 30, 1980, from BLM to the Regional Director of NPS. That memorandum expresses BLM's belief that the lands were "within and adjacent to the Fort Laramie National Historic Site" (emphasis added) and criticizes the NPS for not informing BLM of the conveyance. 1/ BLM used the words "adjacent to" apparently because it had not been informed of the enlargement of the site boundaries and its oil and gas plat at the time of appellant's application indicated that most of the subject land was outside the boundary of the historic site. NPS's response included a copy of the statutory provision under which the site was enlarged to include the subject lands as well as a copy of the conveyance to NPS. When it became clear to BLM that the land was within the historic site, it issued its decision rejecting appellant's lease offer.

[1] BLM's action was proper. Acquired land within a national park or monument is not subject to leasing under the Mineral Leasing Act for Acquired Lands. 30 U.S.C. § 352 (1976); 43 CFR 3101.2-1(b)(5); Roy G. Barton, Jr., 9 IBLA 50 (1973). Because land within the Fort Laramie National Historic Site is part of the national park system, such land is not available for leasing. 2/

1/ BLM was not aware of the acquisition of the land by NPS until appellant sent a copy of the conveyance with his application which was received by BLM on September 5, 1980.

2/ The Mineral Leasing Act, 30 U.S.C. § 181 (1976), and the Mineral Leasing Act for Acquired Lands, 30 U.S.C. § 352 (1976), exclude lands in "national parks and monuments." However, the fact that the NPS area is called a historic site rather than a park or monument does not make this land available for mineral leasing. Although the Fort Laramie National Monument was redesignated as the Fort Laramie National Historic Site by the Act of Aug. 29, 1960, P.L. 86-444, 74 Stat. 83, nothing in that Act indicated that this change in denomination made the land subject to mineral leasing, and the statute indicated that the site was to be administered by NPS in accordance with its organic legislation. In Tom Brown, 37 IBLA 381, 383-85 (1978), the Board held that land within the Buffalo National River was not subject to the location of mining claims because it was administered as a NPS area, even though it was not denominated as a park or monument.

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

Anne Poindexter Lewis
Administrative Judge

We concur:

Bruce R. Harris
Administrative Judge

Douglas E. Henriques
Administrative Judge

