

Appeal from decision of Utah State Office, Bureau of Land Management, rejecting noncompetitive oil and gas lease offer. U-46884.

Set aside and remanded.

1. Oil and Gas Leases: Lands Subject to--Oil and Gas Leases:
Noncompetitive Leases

Where a noncompetitive oil and gas lease offer is rejected because the oil and gas interest in the land sought is not owned by the United States, but the record does not support such a finding, the case will be remanded for reexamination of whether the land in question is available for oil and gas leasing.

APPEARANCES: John E. Hoffman, pro se, and for the other appellants.

OPINION BY ADMINISTRATIVE JUDGE HARRIS

Douglas H. Willson, John E. Hoffman, Brian K. Pasque, and Douglas R. Willson have appealed from a decision of the Utah State Office, Bureau of Land Management (BLM), dated January 16, 1981, rejecting their noncompetitive oil and gas lease offer, U-46884, because the oil and gas interest in the land sought was "not owned by the United States."

Appellants' oil and gas lease offer was filed on September 18, 1980, for 2,545.18 acres of land situated in lots 1 through 4, S 1/2 N 1/2, and the S 1/2, sec. 1, and secs. 11, 13, and 24, T. 10 N., R. 12 W., Salt Lake meridian, Box Elder County, Utah. The offer was filed pursuant to the Mineral Lands Leasing Act, 30 U.S.C. §§ 181-287 (1976).

In their statement of reasons for appeal, appellants contend that the mineral rights in the subject land are owned by the United States. They argue that a "careful and thorough examination of the [BLM] land status plats * * * clearly shows that said land [sec. 24, T. 10 N., R. 12 W., Salt Lake meridian, Utah] belongs to the USA, never having been patented or disposed of by the USA." Furthermore, a "thorough examination of the Official Records of [the] Box Elder County Recorder's Office * * * revealed that title to both the surface and mineral estate [of the remaining lands] was conveyed to the USA." Appellants submit a letter from Robert C. Rodman, a Utah registered abstractor, dated February 20, 1981, who, based on a title search of "county records," agreed that the surface and mineral rights in the remaining lands are owned by the United States. Appellants also submit copies of county records indicating a chain of title with respect to these lands beginning in 1912 with a conveyance from Central Pacific Railway Company to one L. James and concluding with a conveyance of the land by warranty deed, dated April 30, 1941, to the United States.

[1] A noncompetitive oil and gas lease offer filed pursuant to the Mineral Lands Leasing Act, supra, for land where the mineral interest is not held by the United States must be rejected. Diane B. Katz, 48 IBLA 118 (1980); Georgette B. Lee, 1 IBLA 263 (1971); see O. D. Presley, 21 IBLA 190 (1975). However, there is nothing in the record to indicate that the mineral interest in the subject land is not held by the United States.

The land status plat with respect to T. 10 N., R. 12 W., Salt Lake meridian, Utah, indicates that secs. 1, 11, and 13 were reconveyed to the United States by warranty deed in a private exchange, Salt Lake 062623. The record includes a warranty deed, dated April 30, 1941, whereby Fred W. and La Preal Douglas conveyed this land to the United States "for and in consideration of the exchange of certain lands, as authorized by Section 8 of the [A]ct of June 28, 1934" (Taylor Grazing Act), as amended, 43 U.S.C. § 315g (1970) (repealed, Federal Land Policy and Management Act of 1976, P.L. 94-579, § 705(a), 90 Stat. 2792). There is no indication that the grantor reserved an interest in the mineral estate. ^{1/} Moreover, there is no indication on the land status plat, or elsewhere in the record, that the United States does not own the mineral interest in sec. 24, T. 10 N., R. 12 W., Salt Lake meridian, Utah.

Accordingly, based on the record we believe that it is appropriate to remand this case to BLM to reexamine whether the subject land is in fact available for oil and gas leasing. See Husky Oil Co. of Delaware, 26 IBLA 194 (1976); Georgette B. Lee, 5 IBLA 295 (1972).

^{1/} A copy of the BLM serial pages relating to the exchange indicates that these base lands were conveyed to the United States with "no reservations or easements by applicant." However, exchange patent No. 1118185 which was dated Apr. 1, 1944, reserved all minerals to the United States.

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 set aside and the case remanded to BLM for further action not inconsistent herewith.

Bruce R. Harris

Administrative Judge

We concur:

Bernard V. Parrette
Chief Administrative Judge

C. Randall Grant, Jr.
Administrative Judge.

