

Appeal from decision of the Wyoming State Office, Bureau of Land Management, rejecting noncompetitive oil and gas lease offer W 78455.

Affirmed.

1. Oil and Gas Leases: Lands Subject to

The Bureau of Land Management properly rejects an oil and gas lease offer for lands which have been patented with no mineral reservation to the United States.

APPEARANCES: W. E. Haley, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

W. E. Haley has appealed the decision of the Wyoming State Office, Bureau of Land Management (BLM), dated January 12, 1981, rejecting his over-the-counter noncompetitive oil and gas lease offer, W 78455, because the oil and gas rights to the lands covered by the offer are not owned by the United States.

Appellant's lease offer covers the S 1/2, sec. 22, T. 36 N., R. 83 W., sixth principal meridian. At the time he filed the offer he also submitted copies of two patents to the lands involved which he asserted showed that the oil and gas rights to the lands had been reserved to the United States. He reasserts that claim on appeal.

The current BLM status plat shows that patents Nos. 905320 and 1121353 encompass the lands at issue and that the United States has retained no mineral rights to the lands. These are the two patents, copies of which were submitted by appellant.

Examination of patent No. 905320 reveals that it is a homestead patent issued to John M. Keech on May 4, 1923. It contained the following reservation:

Also excepting and reserving to the United States, all oil and gas in the lands so patented, and to it, or persons authorized by it, the right to prospect for, mine and remove such deposits from the same upon compliance with the conditions and subject to the provisions and limitations of the Act of July 17, 1914 (38 Stat. 509).

The second patent, No. 1121353, which was issued to John M. Keech on October 22, 1946, is identical to the first patent in all material respects except that it does not contain the above stated reservation, and the following statement was added: "This patent is issued supplemental to patent No. 905320, dated May 4, 1923, for the same land with reservation of the oil and gas."

Admittedly, the language added to the printed patent form of the latter patent is somewhat ambiguous. Both patents must be construed together, however. We conclude that the purpose of the second patent was to convey to John M. Keech those rights reserved in his first patent, as otherwise the second patent would convey nothing. This interpretation is the only one which comports with the status plat as well. Thus, the oil and gas rights to the S 1/2, sec. 22, T. 36 N., R. 83 W., sixth principal meridian, were transferred out of United States ownership in 1946.

[1] BLM properly rejects an oil and gas lease offer for lands in which the United States has conveyed title to the oil or gas deposits. Republic Oil and Mining Co., 46 IBLA 120 (1980); see O. D. Presley, 21 IBLA 190 (1975).

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision of the Wyoming State Office is affirmed.

Douglas E. Henriques
Administrative Judge

We concur:

Bernard V. Parrette
Chief Administrative Judge

Anne Poindexter Lewis
Administrative Judge

