

TOM NOTESTINE

IBLA 82-807

Decided June 7, 1983

Appeal from decision of the Idaho State Office, Bureau of Land Management, rejecting noncompetitive over-the-counter oil and gas lease offer I-18549.

Affirmed.

1. Oil and Gas Leases: Lands Subject to -- Oil and Gas Leases: Patented or Entered Lands -- Withdrawals and Reservations: Effect of

BLM may properly reject an oil and gas lease offer filed pursuant to sec. 17 of the Mineral Leasing Act, 30 U.S.C. § 226 (1976), where the minerals reserved in the patent of the land have been withdrawn from disposition under the mineral leasing laws.

APPEARANCES: Tom Notestine, pro se.

OPINION BY ADMINISTRATIVE JUDGE GRANT

Tom Notestine has appealed from a decision of the Idaho State Office, Bureau of Land Management (BLM), dated April 21, 1982, rejecting his noncompetitive over-the-counter oil and gas lease offer, I-18549. On February 18, 1982, appellant filed an oil and gas lease offer, pursuant to section 17 of the Mineral Leasing Act, 30 U.S.C. § 226 (1976). The decision of BLM rejected appellant's offer because the lands described in the lease offer were patented under the Act of September 19, 1964, 43 U.S.C. §§ 1421-1427 (1976). Under section 4 of the Act, 43 U.S.C. § 1424 (1976), all mineral deposits shall be reserved to the United States, but such reserved minerals are withdrawn from appropriation under the public land laws including the mining and mineral leasing laws.

On appeal appellant states: first, that the Act refers to solid minerals or fuels, rather than oil and gas; second, that the authority granted by the Act expired on June 30, 1969; and finally, that when mineral deposits are reserved to the United States the lands are usually open to oil and gas leasing.

Section 4 of the Act of September 19, 1964, provides:

All patents or other evidences of title issued under this subchapter shall contain a reservation to the United States of

all mineral deposits which shall thereupon be withdrawn from appropriation under the public land laws including the mining and mineral leasing laws. Patents and other evidences of title may contain such reservations and reasonable restrictions as are necessary in the public interest, but no restriction to insure proper development of the lands after they have passed from Federal ownership shall be imposed.

43 U.S.C. § 1424 (1976). ^{1/}

[1] The record indicates that appellant's lease offer involves land which was patented, with a reservation to the United States of all mineral deposits which were thereupon withdrawn from appropriation under the mineral leasing laws pursuant to section 4 of the Act of September 19, 1964. The termination of authority to patent land under this statute, except where notice has already been given, does not terminate the express statutory withdrawal of all minerals reserved in lands patented under the statute from appropriation under the mineral leasing laws. The land sought by appellant is not available for oil and gas leasing pursuant to section 17 of the Mineral Leasing Act, 30 U.S.C. § 226 (1976). Land which has specifically been withdrawn from mineral leasing is not subject to oil and gas leasing. Golden Eagle Petroleum, 67 IBLA 112 (1982); Edward C. Shepardson, 47 IBLA 223 (1980); see Chevron U.S.A., Inc., 52 IBLA 278 (1981).

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.

C. Randall Grant, Jr.
Administrative Judge

We concur:

R. W. Mullen
Administrative Judge

Bruce R. Harris
Administrative Judge

^{1/} Section 3 of the Act of Dec. 18, 1967, P.L. 90-213, 81 Stat. 660, amends section 7 of the Act of Sept. 19, 1964. Section 7 is amended to read as follows:

"The authority granted by this act shall expire six months after the final report of the Public Land Law Review Commission has been submitted to Congress, except that sales concerning which notice has been given in accordance with section 3 hereof prior to such time may be consummated and patents issued in connection therewith after such time."

