

Appeals from decisions of the Alaska State Office, Bureau of Land Management, vacating notice of assignment approval, cancelling segregated leases, and denying approval of assignments. AA-48667-0 et al.

Affirmed in part and vacated in part.

1. Oil and Gas Leases: Assignments or Transfers

BLM should properly suspend action on a request for approval of assignment if it has received notice that the power of the attorney in fact to act on behalf of the assignor has been revoked and the request is signed by the attorney in fact after such revocation. Where BLM has incorrectly approved such a request, it should revoke such approval and suspend action until the parties have resolved the dispute as to the validity of the assignment.

APPEARANCES: Frank E. Maynes, Esq., Durango, Colorado, for Jack and Glenda Stahl; Daniel M. Byrnes, Esq., Amery, Wisconsin, for Orrin Nathan Arneson; Gary L. Baird, Ola B. Stapleton, Esther Grey Crisler, Betty Sue Robinson, Carroll L. Nichols, and Sandra K. Nichols, pro sese.

OPINION BY ADMINISTRATIVE JUDGE IRWIN

Jack W. Stahl, Glenda M. Stahl, Gary L. Baird, Ola B. Stapleton, Esther Grey Crisler, and Orrin Nathan Arneson appeal from virtually identical decisions of the Alaska State Office, Bureau of Land Management (BLM), dated January 1 and 3, 1985, 1/ vacating notice of assignment approval, cancelling

1/ These appeals have been docketed as follows:

IBLA 85-260 Jack W. Stahl AA-48667-O Jan. 1, 1985 Glenda M. Stahl

IBLA 85-275 Gary L. Baird AA-48667-D Jan. 1, 1985

IBLA 85-276 Orrin Nathan Arneson AA-48667-I Jan. 3, 1985

IBLA 85-345 Ola B. Stapleton AA-48667-E Jan. 1, 1985 Esther Grey Crisler

segregated leases, and denying approval of assignments. Betty Sue Robinson, Carroll L. Nichols, and Sandra K. Nichols also appeal from virtually identical decisions of the Alaska State Office, BLM, dated January 14, 1985, 2/ denying approval of assignments.

The common feature shared by appellants is oil and gas lease AA-48667, issued effective August 1, 1983, to Charles M. Lusk (Lusk). On May 13, 1983, Lusk granted to Mark Travers Browne (Browne) a limited power of attorney to transfer leases thereafter acquired by Lusk. BLM's decisions recite that Browne executed a partial assignment of lease AA-48667 to each of appellants, but that he did so at a time when the power had been revoked.

In those cases decided by BLM on January 1 and 3, 1985, hereafter referred to as the Stahl group, BLM seems to have been unaware on November 1, 1984, that Lusk had revoked his limited power on March 14, 1984. Although notice of Lusk's revocation was conveyed to BLM on May 11, 1984, BLM on November 1, 1984, nevertheless approved the assignment of segregated leases to appellants pursuant to assignment documents which had been executed by Browne as attorney in fact for Lusk. Each of these approved assignments bore the signature of Browne and his certification, dated March 30, 1984, that 100 percent of the assignor's record title to the described tract was being conveyed to the assignee. Having apparently become aware of Lusk's revocation of his grant of power of attorney to Browne, BLM issued the decisions on appeal vacating its November 1 notice of assignment approval, cancelling the segregated leases created by the assignments, and denying approval of the assignments bearing Browne's signature.

In those cases decided by BLM on January 14, 1985, hereafter referred to as the Robinson group, BLM never approved the assignments to appellants, but instead denied approval outright, citing regulation 43 CFR 3102.4. 3/

As of May 11, 1984, BLM had two documents that should have caused it to perceive a conflict between assignor Lusk and the various appellants. On the one hand, it had Form 3106-5, captioned "Assignment Affecting Record Title To

2/ These appeals have been docketed as follows:

IBLA 85-365	Betty Sue Robinson	AA-48667	Jan. 14, 1985	
IBLA 85-366	Carroll L. Nichols	AA-48667	Jan. 14, 1985	Sandra K. Nichols

3/ This regulation states in part:

"§ 3102.4 Signatures".

"All applications, the original of offers, competitive bids, assignments and requests for approval of an assignment shall be holographically (manually) signed in ink and dated by the present or potential lessee or by anyone authorized to sign on behalf of the present or potential lessee, * * *. Documents signed by anyone other than the present or potential lessee shall be rendered in a manner to reveal the name of the present or potential lessee, the name of the signatory and their relationship."

Oil and Gas Lease," submitted severally by appellants and, on the other hand, it had Lusk's revocation of the Browne power of attorney. By their use of Form 3106-5, appellants sought to obtain BLM's approval of the assignments by Lusk (through his attorney in fact Browne). By his use of a revocation of power, Lusk sought to inform BLM that no assignment executed by Browne, his attorney in fact, after a date certain should be approved. In all of the cases on appeal, Browne's signature and certification are on documents dated after his power to convey Lusk's leases had been revoked. ^{4/}

The Department has consistently held that it will not act on an assignment of an oil and gas lease submitted for approval when it has notice of a controversy between the parties as to the effect or validity of the assignment instrument. Anthony C. VonderBecke, A-28073 (Feb. 11, 1960). Had BLM been aware of Lusk's revocation of power when it examined those Forms 3106-5 naming the Stahl group as assignees, it surely would not have approved the assignments on November 1, 1984. BLM should have taken no action on these assignments and thus acted in accordance with the Department's longstanding practice.

Having approved the Stahl group assignments in error, BLM could properly correct its actions by revoking its approval of the assignments and suspending further activity until the parties had resolved their disputes. Petrol Resources, 65 IBLA 104 (1982). Its decisions of January 1 and 3, 1985, are, accordingly, affirmed insofar as they vacated the assignment approvals of November 1 and cancelled the segregated leases created by such approvals. These decisions went too far, however, in denying approval of the assignments and, therefore, are vacated as to this aspect.

As noted above, the Robinson group cases involved only a single decision by BLM, dated January 14, 1985, denying approval of assignments naming these appellants. Having become aware of the Lusk revocation of power prior to any assignment approval, BLM should have suspended action on these

assignments. Its decisions denying approval of these assignments must be vacated. Spectrum Oil & Gas Co., 73 IBLA 162 (1983).

All requests for assignment approval, whether naming appellants in the Stahl or Robinson group, will remain pending. BLM is instructed to not approve any assignment in issue until the parties claiming an interest in the lease have filed with the State Office evidence of either an agreement or a court order that shows a resolution of their dispute.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decisions of the

^{4/} In their statement of reasons on appeal, Jack and Glenda Stahl contend that Browne had signed their Form 3106-5 before Lusk revoked his power of attorney. Only after the Stahls returned their signed form to Trans-Alaska Energy Corporation was a date affixed to Browne's signature, they contend. This date, Mar. 30, 1984, was subsequent to Lusk's revocation of power.

Alaska State Office are affirmed in part and vacated in part as set forth herein.

Will A. Irwin
Administrative Judge

We concur:

Franklin D. Arness
Administrative Judge

R. W. Mullen
Administrative Judge

