

EDDLEMAN COMMUNITY PROPERTY TRUST

IBLA 87-135

Decided January 19, 1989

Appeal from a decision of the Alaska State Office, Bureau of Land Management, denying assignment of record title to oil and gas lease AA 68100.

Affirmed.

1. Administrative Practice--Administrative Procedure: Decisions

It is incumbent upon BLM to ensure that its decision is supported by a rational basis and that such basis is stated in the written decision, as well as being demonstrated in the administrative record accompanying the decision.

2. Oil and Gas Leases: Acreage Limitations--Oil and Gas Leases: Applications: 2,560-acre Limitation

Under 43 CFR 3110.1-3(a), the minimum size for a noncompetitive oil and gas lease offer in Alaska is 2,560 acres or four full contiguous sections, whichever is larger, where the lands are within an approved protracted survey, unless the offer includes all available lands within the subject sections and there are no contiguous lands available for lease. An offer is properly rejected where it is established that the lands applied for, although comprising four full contiguous sections, together comprised less than 2,560 acres, and that contiguous lands were also available for leasing.

3. Oil and Gas Leases: Assignments or Transfers

Where an underlying oil and gas lease offer has been previously rejected, and no appeal was taken, there is no longer any interest which can be assigned from the offeror, and a request for approval of an assignment from the offeror to another party is properly rejected.

APPEARANCES: Roy C. Eddleman, Trustee, for appellant.

OPINION BY ADMINISTRATIVE JUDGE HUGHES

Roy C. Eddleman, in his capacity as Trustee for the Eddleman Community Property Trust (the Trust), has appealed from a decision of the Alaska State

Office, Bureau of Land Management (BLM), denying assignment to the Trust of record title to oil and gas lease AA 68100.

On March 6, 1985, Chaz Oil Corporation (Chaz) filed an over-the-counter noncompetitive oil and gas lease offer for secs. 27, 28, 29, and 30, T. 14 N., R. 8 E., Kateel River Meridian, Alaska. On December 4, 1985, while Chaz' application was pending, the Trust filed an application for approval of an assignment to it of record title for Chaz' lease, if issued.

However, on January 21, 1986, BLM issued a decision rejecting Chaz' offer, holding that it "is too small in size to be accepted" under 43 CFR Subpart 3110. Unfortunately, BLM's decision was silent as to why secs. 27, 28, 29, and 30 together do not comprise 2,560 acres. The record contains an officially filed protraction diagram (No. K8-3) of the township which reveals that secs. 27, 28, and 29 each comprise a full 640 acres, but that sec. 30 comprises only 623 acres. Thus, the total acreage applied for was only 2,543 acres. As discussed below, BLM's omission of this critical fact led to confusion later on.

Copies of BLM's decision rejecting Chaz' offer were sent both to Chaz and to the Trust. Neither appealed within 30 days as provided by 43 CFR 4.410.

On October 30, 1986, BLM issued a second decision denying the application for assignment of record title from Chaz to the Trust. BLM again noted that the offer from which the assignment was made had been rejected on January 21, 1986, because the offer was "too small in size to be accepted," without indicating why these four sections together did not comprise 2,560 acres.

On November 12, 1986, the Trust appealed BLM's second decision, noting:

My reason for appealing is that I believe the transfer request meets the minimum size and therefore should be approved. \* \* \* Your notice stated that the minimum size is 2,560 acres [or] four (4) fully contiguous sections and on this basis the assignment was denied. The assignment request was for [secs. 27, 28, 29, and 30,] all containing approximately 2,560 acres \* \* \*. Since this would appear to meet the minimum size, I fail to understand why it was denied.

Thus, the Trust's appeal evinces an understandable confusion as to why BLM concluded that the lands applied for did not total 2,560 acres.

[1] It is incumbent upon BLM to ensure that its decision is supported by a rational basis and that such basis is stated in the written decision, as well as being demonstrated in the administrative record accompanying the decision. Roger K. Ogden, 77 IBLA 4, 7, 90 I.D. 481, 483 (1983). The recipient of a decision by BLM is entitled to a reasoned and factual explanation of the basis for the decision, and must therefore be given some basis for understanding and accepting it or, alternatively, for appealing and disputing it before the Board. Southern Union Exploration Co., 51 IBLA 89, 92 (1980) (and cases cited).

In the instant case, it seems most unlikely, in view of the clarity of the regulatory provision involved, that the Trust would have even pursued an appeal if BLM had simply explained in its decision that these four sections comprise less than 2,560 acres because sec. 30 has only 623 acres.

[2] Notwithstanding the foregoing, BLM's decision denying the application for assignment must be affirmed. Under 43 CFR 3110.1-3(a), the minimum size for a noncompetitive oil and gas lease offer in Alaska is 2,560 acres or four full contiguous sections, whichever is larger, where the lands are within an approved protracted survey. There is an exception if the offer includes all available lands within the subject sections and there are no contiguous lands available for lease.

As noted above, the record contains a protraction diagram plat establishing that the lands applied for, although four full contiguous sections, together comprised less than 2,560 acres. This plat also shows that contiguous lands in sec. 26 were also available for lease. Accordingly, BLM correctly rejected the underlying lease offer in January 1986. Isabelle C. Chang, 99 IBLA 282 (1987). Moreover, when Chaz failed to timely appeal this rejection, it became final and not subject to further review. See 43 CFR 4.411(c).

[3] As the underlying offer was properly rejected, there was of course no longer any interest which could be assigned from Chaz to the Trust. Therefore, BLM properly rejected the application for assignment.

Accordingly, 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.

David L. Hughes  
Administrative Judge

I concur:

John H. Kelly  
Administrative Judge