Federal Mineral Leasing Act of 1920

EXHIBIT 8
DATE 1-25-11
HB 170

"(A) files a petition for reinstatement of the lease;

"(B) complies with the conditions of section 31(e) of the Mineral Leasing Act (30 U.S.C. 188(e)); and

"(C) certifies that the lessee did not receive a notice of termination by the date that was 13 months before the date of termination; and

"(2) the land is available for leasing."

AUTHORITY FOR ISSUANCE OF LEASES UNAFFECTED BY REINSTATEMENT OF LEASES

Section 2 of Pub. L. 87-822 provided that: "Nothing in this Act [amending this section] shall be construed as limiting the authority of the Secretary of the Interior to issue, during the periods in which petitions for reinstatement may be filed, oil and gas leases for any of the lands affected."

OUTER CONTINENTAL SHELF; CANCELLATION OF LEASES

Cancellation of mineral leases on submerged lands of outer Continental Shelf, see sections 1334 and 1337 of Title 43, Public Lands.

§ 188a. Surrender of leases

The Secretary of the Interior is authorized to accept the surrender of any lease issued pursuant to any of the provisions of this chapter, or any amendment thereof, where the surrender is filed in the Bureau of Land Management subsequent to the accrual but prior to the payment of the yearly rental due under the lease, upon payment of the accrued rental on a pro rata monthly basis for the portion of the lease year prior to the filing of the surrender. The authority granted to the Secretary of the Interior by this section shall extend only to cases in which he finds that the failure of the lessee to file a timely surrender of the lease prior to the accrual of the rental was not due to a lack of reasonable diligence, but it shall not extend to claims or cases which have been referred to the Department of Justice for purposes of suit.

(Nov. 28, 1943, ch. 329, 57 Stat. 593; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

CODIFICATION

Section was not enacted as part of act Feb. 25, 1920, ch. 85, 41 Stat. 437, known as the Mineral Leasing Act, which comprises this chapter.

TRANSFER OF FUNCTIONS

"Bureau of Land Management" substituted in text for "General Land Office" on authority of Reorg. Plan No. 3 of 1946, § 403, set out in the Appendix to Title 5, Government Organization and Employees.

§ 189. Rules and regulations; boundary lines; State rights unaffected; taxation

The Secretary of the Interior is authorized to prescribe necessary and proper rules and regulations and to do any and all things necessary to carry out and accomplish the purposes of this chapter, also to fix and determine the boundary lines of any structure, or oil or gas field, for the purposes of this chapter. Nothing in this chapter shall be construed or held to affect the rights of the States or other local authority to exercise any rights which they may have, including the right to levy and collect taxes upon improvements, output of mines, or other rights, property, or assets of any lessee of the United States.

(Feb. 25, 1920, ch. 85, § 32, 41 Stat. 450.)

TRANSFER OF FUNCTIONS

Functions of Secretary of the Interior to promulgate regulations under this chapter relating to fostering of competition for Federal leases, implementation of alternative bidding systems authorized for award of Federal leases, establishment of diligence requirements for operations conducted on Federal leases, setting of rates for production of Federal leases, and specifying of procedures, terms, and conditions for acquisition and disposition of Federal royalty interests taken in kind, transferred to Secretary of Energy by section 7152(b) of Title 42, The Public Health and Welfare. Section 7152(b) of Title 42 was repealed by Pub. L. 97-100, title II, § 201, Dec. 23, 1981, 95 Stat. 1407, and functions of Secretary of Energy returned to Secretary of the Interior. See House Report No. 97-315, pp. 25, 26, Nov. 5, 1981.

OUTER CONTINENTAL SHELF; RULES AND REGULATIONS WITH RESPECT TO LEASES

Rules and regulations with respect to mineral leases on submerged lands of outer Continental Shelf to be prescribed by Secretary of the Interior, see section 1334 of Title 43, Public Lands.

§ 190. Oath; requirement; form; blanks

All statements, representations, or reports required by the Secretary of the Interior under this chapter shall be upon oath, unless otherwise specified by him, and in such form and upon such blanks as the Secretary of the Interior may require.

(Feb. 25, 1920, ch. 85, § 33, 41 Stat. 450.)

§ 191. Disposition of moneys received

(a) In general

All money received from sales, bonuses, royalties including interest charges collected under the Federal Oil and Gas Royalty Management Act of 1982 [30 U.S.C. 1701 et seq.], and rentals of the public lands under the provisions of this chapter and the Geothermal Steam Act of 1970 [30 U.S.C. 1001 et seq.], shall be paid into the Treasury of the United States; and, subject to the provisions of subsection (b) of this section, 50 per centum thereof shall be paid by the Secretary of the Treasury to the State other than Alaska within the boundaries of which the leased lands or deposits are or were located; said moneys paid to any of such States on or after January 1, 1976, to be used by such State and its subdivisions, as the legislature of the State may direct giving priority to those subdivisions of the State socially or economically impacted by development of minerals leased under this chapter, for (i) planning, (ii) construction and maintenance of public facilities, and (iii) provision of public service; and excepting those from Alaska, 40 per centum thereof shall be paid into, reserved, appropriated, as part of the reclamation fund created by the Act of Congress known as the Reclamation Act, approved June 17, 1902, and of those from Alaska, 90 per centum thereof shall be paid to the State of Alaska for disposition by the legislature thereof: *Provided*, That all moneys which may accrue to the United States under the provisions of this chapter and the Geothermal Steam Act of 1970 from lands within the naval petroleum reserves shall be deposited in the Treasury as "miscellaneous receipts", as provided by section 7433(b) of title 10.

All moneys received under the provisions of this chapter and the Geothermal Steam Act of 1970 not otherwise disposed of by this section shall be credited to miscellaneous receipts. Payments to States under this section with respect to any moneys received by the United States, shall be made not later than the last business day of the month in which such moneys are warranted by the United States Treasury to the Secretary as having been received, except for any portion of such moneys which is under challenge and placed in a suspense account pending resolution of a dispute. Such warrants shall be issued by the United States Treasury not later than 10 days after receipt of such moneys by the Treasury. Moneys placed in a suspense account which are determined to be payable to a State shall be made not later than the last business day of the month in which such dispute is resolved. Any such amount placed in a suspense account pending resolution shall bear interest until the dispute is resolved.

(b) Administrative costs

In determining the amount of payments to the States under this section, the amount of such payments shall not be reduced by any administrative or other costs incurred by the United States.

(c) Rentals received on or after August 8, 2005

(1) Notwithstanding the first sentence of subsection (a) of this section, any rentals received from leases in any State (other than the State of Alaska) on or after August 8, 2005, shall be deposited in the Treasury, to be allocated in accordance with paragraph (2).

(2) Of the amounts deposited in the Treasury under paragraph (1)—

(A) 50 percent shall be paid by the Secretary of the Treasury to the State within the boundaries of which the leased land is located or the deposits were derived; and

(B) 50 percent shall be deposited in a special fund in the Treasury, to be known as the "BLM Permit Processing Improvement Fund" (referred to in this subsection as the "Fund").

(3) For each of fiscal years 2006 through 2015, the Fund shall be available to the Secretary of the Interior for expenditure, without further appropriation and without fiscal year limitation, for the coordination and processing of oil and gas use authorizations on onshore Federal land under the jurisdiction of the Pilot Project offices identified in section 15924(d) of title 42.

(Feb. 25, 1920, ch. 85, §35, 41 Stat. 450; May 27, 1947, ch. 83, 61 Stat. 119; Aug. 3, 1950, ch. 527, 64 Stat. 402; Pub. L. 85-88, §2, July 10, 1957, 71 Stat. 282; Pub. L. 85-508, §§6(k), 28(b), July 7, 1958, 72 Stat. 343, 351; Pub. L. 94-273, §6(2), Apr. 21, 1976, 90 Stat. 377; Pub. L. 94-377, §9, Aug. 4, 1976, 90 Stat. 1089; Pub. L. 94-422, title III, §301, Sept. 28, 1976, 90 Stat. 1323; Pub. L. 94-579, title III, §317(a), Oct. 21, 1976, 90 Stat. 2770; Pub. L. 97-451, title I, §§104(a), 111(g), Jan. 12, 1983, 96 Stat. 2451, 2456; Pub. L. 100-203, title V, §5109, Dec. 22, 1987, 101 Stat. 1330-261; Pub. L. 100-443, §5(b), Sept. 22, 1988, 102 Stat. 1768; Pub. L. 103-66, title X, §10201, Aug. 10, 1993, 107 Stat. 407; Pub. L. 106-393, title V, §503, Oct. 30, 2000, 114 Stat. 1624; Pub. L. 109-58, title III, §365(g), Aug. 8, 2005, 119 Stat. 725.)

REFERENCES IN TEXT

The Federal Oil and Gas Royalty Management Act of 1982, referred to in subsec. (a), is Pub. L. 97-451, Jan. 12, 1983, 96 Stat. 2447, which is classified generally to chapter 29 (§1701 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of this title and Tables.

The Geothermal Steam Act of 1970, referred to in subsec. (a), is Pub. L. 91-581, Dec. 24, 1970, 84 Stat. 1566, which is classified principally to chapter 23 (§1001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

The Reclamation Act, referred to in subsec. (a), is act June 17, 1902, ch. 1093, 32 Stat. 388, as amended, which is classified generally to chapter 12 (§371 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 371 of Title 43 and Tables.

CODIFICATION

"Section 7433(b) of title 10" substituted in subsec. (a) for "the Act of June 4, 1920 (41 Stat. 813), as amended June 30, 1938 (52 Stat. 1252)", which was classified to section 524 of former Title 34, Navy, on authority of act Aug. 10, 1956, ch. 1041, §49(b), 70A Stat. 640, the first section of which enacted Title 10, Armed Forces.

Provisions of subsec. (a) which authorized the payment of monies to the Territory of Alaska were omitted as superseded by the provisions authorizing the payment of monies to the State of Alaska.

AMENDMENTS

2005—Subsec. (c). Pub. L. 109-58 added subsec. (c).

2000—Subsec. (b). Pub. L. 106-393 amended subsec. (b) generally. Prior to amendment, subsec. (b) related to deductions for administration from the amount to be paid to States under this section or under other laws requiring payment to a State of revenues derived from the leasing of onshore lands owned by the United States for the production of the same types of minerals leasable under this chapter or of geothermal steam.

1993—Pub. L. 103-66 struck out last sentence, designated remaining provisions as subsec. (a) and in first sentence inserted "and, subject to the provisions of subsection (b) of this section," before "50 per centum", and added subsec. (b). Prior to amendment, last sentence read as follows: "In determining the amount of payments to States under this section, the amount of such payments shall not be reduced by any administrative or other costs incurred by the United States."

1988—Pub. L. 100-443 struck out "notwithstanding the provisions of section 20 thereof," before "shall be paid".

1987—Pub. L. 100-203 inserted at end "In determining the amount of payments to States under this section, the amount of such payments shall not be reduced by any administrative or other costs incurred by the United States."

1983—Pub. L. 97-451, §111(g), inserted reference to interest charges collected under the Federal Oil and Gas Royalty Management Act of 1982.

Pub. L. 97-451, §104(a), struck out "as soon as practicable after March 31 and September 30 of each year" after "Secretary of the Treasury" and "of those from Alaska", and inserted at end provisions directing that payments to States be made not later than the last business day of the month in which such moneys are warranted by the United States Treasury to the Secretary as having been received, that warrants be issued by the Treasury not later than 10 days after receipt of the money by the Treasury, that moneys placed in a suspense account which are determined to be payable to a State be made not later than the last business day of the month in which a dispute is resolved, and that amounts placed in a suspense account pending resolution bear interest until the dispute is resolved.

1976—Pub. L. 94-579 substituted provisions setting forth determination of amount, time for payments, and manner of expenditure by the States of all moneys re-

ceived from sales, etc., under provisions of this chapter and the Geothermal Steam Act of 1970, and proviso relating to naval petroleum reserve moneys, for provisions setting forth determination of amount and time for payment to the States of all moneys received from sales, etc., under the provisions of this chapter, and provisos relating to naval petroleum reserve moneys, additional moneys from sales, etc., under this chapter and the Geothermal Steam Act of 1970, and expenditure of State oil shale funds.

Pub. L. 94-422 inserted proviso that all moneys paid to any State from sales, bonuses, royalties, and rentals of oil shale in public lands may be used by any State for planning, construction, and maintenance of public facilities as legislature of State may direct.

Pub. L. 94-377 substituted "40 per centum thereof shall be paid into, reserved" for "52½ per centum thereof shall be paid into, reserved", inserted "and the Geothermal Steam Act of 1970, notwithstanding the provisions of section 20 thereof" before "shall be paid into the Treasury of the United States", "and the Geothermal Steam Act of 1970" before "from lands within the naval petroleum reserves" and before "not otherwise disposed of by this section", and provisos relating to the payment of an additional 12½ per centum of all money received from lands under provisions of this chapter and the Geothermal Steam Act of 1970 to the State within whose boundaries the lands are located, to be used for construction of public facilities, and relating to the use of funds received by Colorado and Utah under the specified leases.

Pub. L. 94-273 substituted "March" for "December" and "September" for "June".

1958—Pub. L. 85-508, §§6(k), 28(b), struck out provisions which related to disposition of proceeds or income derived by the United States from mineral school sections in the Territory of Alaska and substituted ", and of those from Alaska 52½ per centum thereof shall be paid to the State of Alaska for disposition by the legislators thereof" for ", and of those from Alaska 52½ per centum thereof shall be paid to the Territory of Alaska for disposition by the Legislature of the Territory of Alaska" before proviso.

1957—Pub. L. 85-88 inserted ", and of those from Alaska 52½ per centum thereof shall be paid to the Territory of Alaska for disposition by the Legislature of the Territory of Alaska" before proviso.

1950—Act Aug. 3, 1950, in providing that payments to States be made bi-annually instead of annually, substituted "as soon as practicable after December 31 and June 30 of each year" for "after the expiration of each fiscal year".

1947—Act May 27, 1947, extended provisions by allocating 37½% of the money received from sales, bonuses, royalties, and rentals of public lands to the Territory of Alaska, for the construction and maintenance of public schools or other public educational institutions and inserted provisions relating to disposition of proceeds or income derived by the United States from mineral school sections in the Territory of Alaska.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by section 104(a) of Pub. L. 97-451 applicable with respect to payments received by the Secretary of the Treasury after Oct. 1, 1983, unless the Secretary by rule, prescribes an earlier effective date, see section 104(c) of Pub. L. 97-451, set out as an Effective Date note under section 1714 of this title.

SAVINGS PROVISION

Amendment by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of Title 43, Public Lands.

FINDINGS

Pub. L. 106-393, title V, §502, Oct. 30, 2000, 114 Stat. 1624, provided that: "The Congress finds the following:

"(1) Section 10201 of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103-66; 107 Stat. 407) amended section 35 of the Mineral Leasing Act (30 U.S.C. 191) to change the sharing of onshore mineral revenues and revenues from geothermal steam from a 50:50 split between the Federal Government and the States to a complicated formula that entailed deducting from the State share of leasing revenues '50 percent of the portion of the enacted appropriations of the Department of the Interior and any other agency during the preceding fiscal year allocable to the administration of all laws providing for the leasing of any onshore lands or interest in land owned by the United States for the production of the same types of minerals leasable under this Act or of geothermal steam, and to enforcement of such laws * * *'.

"(2) There is no legislative record to suggest a sound public policy rationale for deducting prior-year administrative expenses from the sharing of current-year receipts, indicating that this change was made primarily for budget scoring reasons.

"(3) The system put in place by this change in law has proved difficult to administer and has given rise to disputes between the Federal Government and the States as to the nature of allocable expenses. Federal accounting systems have proven to be poorly suited to breaking down administrative costs in the manner required by the law. Different Federal agencies implementing this law have used varying methodologies to identify allocable costs, resulting in an inequitable distribution of costs during fiscal years 1994 through 1996. In November 1997, the Inspector General of the Department of the Interior found that 'the congressionally approved method for cost sharing deductions effective in fiscal year 1997 may not accurately compute the deductions'.

"(4) Given the lack of a substantive rationale for the 1993 change in law and the complexity and administrative burden involved, a return to the sharing formula prior to the enactment of the Omnibus Budget Reconciliation Act of 1993 [Aug. 10, 1993] is justified."

FUNDS HELD BY COLORADO AND UTAH FROM INTERIOR DEPARTMENT OIL SHALE TEST LEASES

Section 317(b) of Pub. L. 94-579 provided that: "Funds now held pursuant to said section 35 [this section] by the States of Colorado and Utah separately from the Department of the Interior oil shale test leases known as C-A; C-B; U-A and U-B shall be used by such States and subdivisions as the legislature of each State may direct giving priority to those subdivisions socially or economically impacted by the development of minerals leased under this Act for (1) planning, (2) construction and maintenance of public facilities, and (3) provision of public services."

ADMISSION OF ALASKA AS STATE

Effectiveness of amendment by Pub. L. 85-508 was dependent on admission of Alaska into the Union under sections 6(k) and 8(b) of Pub. L. 85-508. Admission was accomplished Jan. 3, 1959, on issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85-508. See notes preceding section 21 of Title 48, Territories and Insular Possessions.

OUTER CONTINENTAL SHELF; REVENUES FROM LEASES

Disposition of revenues from leases on submerged lands of outer Continental Shelf, see sections 1337 and 1338 of Title 43, Public Lands.

§191a. Late payment charges under Federal mineral leases

(a) Distribution of late payment charges

Any interest or other charges paid to the United States by reason of the late payment of any royalty, rent, bonus, or other amount due to