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Comptroller General
of the United States

United States Government Accountability Office
Washington, DC 20548

Decision

Matter of: Office of Natural Resources Revenue—Disbursement of Mineral Leasing Receipts

File: B-322166

Date: September 27, 2012

DIGEST

The Submerged Lands Act and the Outer Continental Shelf Lands Act set forth a comprehensive statutory scheme for the allocation of the rights, title, and interest in submerged land and natural resources among the federal government and the coastal states. Neither act addresses the disposition of revenue in the event of the ambulation of the boundary that demarcates federal and state submerged lands due to coastal migration. However, both acts provide for the allocation of revenue, in other situations, based on the location of the lease. Disbursing to the relevant state the revenue attributed to that portion of a lease that comes to lie within the state's boundary, as the Department of the Interior's Office of the Solicitor has advised, is consistent with this statutory allocation.

DECISION

A certifying officer of the Department of Interior's (DOI) Office of Natural Resources Revenue (ONRR) has requested an advance decision under 31 U.S.C. § 3529 regarding the proper distribution of mineral leasing revenues derived from federal leases previously located wholly within federal jurisdiction that are now partially located within state jurisdiction due to ambulation of the state boundary. Letter from Certifying Officer to GAO, June 11, 2011 (Request Letter).

ONRR manages the receipt and disbursement of revenues derived from (1) federal and American Indian onshore mineral leases, (2) federal offshore mineral leases, and (3) offshore renewable energy efforts. ONRR, *Mission Statement, available at* www.onrr.gov/About/default.htm (last visited Sept. 6, 2012) (Mission Statement). DOI's Office of the Solicitor (Solicitor) has advised that ONRR should disburse to the relevant state the revenue attributed to that portion of the lease located within a state's boundary. Request Letter, at 1; Letter from Assistant Solicitor, Branch of Petroleum Resources, DOI, to Assistant General Counsel for Appropriations and

Budget, GAO (Sept. 29, 2011) (Response Letter), at 2. However, a certifying officer of ONRR has asked whether ONRR is authorized to distribute revenue under these circumstances in the manner directed by the Solicitor. As explained below, we agree with the Solicitor's advice.

Our practice when rendering decisions is to obtain the views of the relevant agency and to establish a factual record on the subject of the request. GAO, *Procedures and Practices for Legal Decisions and Opinions*, GAO-06-1064SP (Washington, D.C.: Sept. 2006), *available at* www.gao.gov/legal/resources.html. The record in this case consists of the Request Letter and the Response Letter.

BACKGROUND

Under the Submerged Lands Act of 1953 (SLA),[1] the federal government has vested in the coastal states, except as specifically reserved, all right, title, and interest in the submerged lands and natural resources lying within the areas extending three geographical miles seaward from the state's coastline.[2] 43 U.S.C. §§ 1311–1312; *see also* Response Letter, at 1. This three-mile demarcation is referred to herein as the SLA Boundary. The federal government has jurisdiction over that portion of submerged lands lying seaward of the SLA Boundary, an area referred to as the outer continental shelf (OCS). 43 U.S.C. §§ 1302, 1331(a). According to DOI, a coastal state's SLA Boundary is ambulatory due to coastal migration. Response Letter, at 1; Request Letter, at 1.

The Outer Continental Shelf Lands Act (OCSLA)[3] provides the Secretary of the Interior with the authority to issue oil, gas, and other mineral leases on the OCS. 43 U.S.C. § 1337(a); *see also* Request Letter, at 1. The Secretary is required to deposit all rentals, royalties, and other sums paid to the Secretary on any lease on the OCS into the Treasury, credited to miscellaneous receipts. 43 U.S.C. § 1338; *see also* Response Letter, at 1. However, section 8(g) of the OCSLA imposes a revenue sharing arrangement between the federal government and the coastal states with respect to revenue derived from leases located within the area that extends seaward three miles from the SLA Boundary. 43 U.S.C. § 1337(g). This area is referred to as the "8(g) zone." Specifically, DOI must transmit to the relevant coastal state 27 percent of all revenue derived from federal leases that lie within the 8(g) zone. *Id.* If a federal lease tract lies partially within the 8(g) zone, DOI must

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[1] Pub. L. No. 83-31, 67 Stat. 29 (May 22, 1953) (*codified, as amended,* at 43 U.S.C. §§ 1301–1315).

[2] With respect to Florida and Texas, the seaward boundary into the Gulf of Mexico is nine nautical miles from their respective coasts. Response Letter, at 1.

[3] Pub. L. No. 83-212, 67 Stat. 462 (Aug. 7, 1953) (*codified, as amended,* at 43 U.S.C. §§ 1331–1356a)

transmit to the relevant coastal state a percentage of the revenue equal to 27 percent of the portion of surface acreage of the tract that lies within the 8(g) zone.

DISCUSSION

DOI has determined that a number of lease tracts that were previously wholly within the 8(g) zone are now partially within the boundaries of coastal states due to ambulation of the state boundary. Request Letter, at 1. The issue here is the proper interpretation of the SLA and the OCSLA as it pertains to the disbursement of mineral lease revenues received by ONRR with respect to these leases.

In this regard, the SLA and OCSLA together set forth a comprehensive statutory scheme for the allocation of the rights, title, and interest in submerged land and natural resources. While neither act addresses the disposition of revenue in the event of the ambulation of the SLA Boundary, each provides for the allocation of revenue based on the location of the lease. *See* 43 U.S.C. §§ 1311, 1337(g); *see also* Response Letter, at 2.

The OCSLA allocates all revenue from leases located in the OCS to the federal government, except for any portion that is located within the 8(g) zone, and the SLA vests all coastal states (with limited exceptions) with all rights to revenue derived from leases lying landward of the SLA Boundary. The Solicitor has advised ONR to disburse to the applicable state all revenue derived from that portion of a lease tract that moves within that state's jurisdiction due to ambulation of the SLA Boundary, which is consistent with the statutory allocation of revenue.[4] We give considerable weight to an agency's reasonable application of a statute that it administers, and we find no reason to disagree with the Solicitor's application of the SLA and OCSLA here. *See*, *e.g.*, B-322481, Aug. 2, 2012; B-271511, Mar. 14, 1997.

CONCLUSION

The SLA vests coastal states with title to submerged lands and natural resources lying within three geographic miles from their coastlines, that is, the SLA Boundary. 43 U.S.C. §§ 1301, 1311. The Solicitor has concluded that when all or a portion of a

[4] In the Response Letter, the Solicitor notes that in *United States v. Louisiana*, 452 U.S. 762 (1981), the Supreme Court resolved a dispute regarding the location of Louisiana's SLA Boundary and decreed that Louisiana had the exclusive rights to revenues derived from mineral resources lying landward the SLA Boundary. *Louisiana,* 452 U.S. at 727. Accordingly, with respect to lease tracts that embraced both sides of the adjudicated SLA Boundary, the Court apportioned revenue from those leases based on the location of the lease tract. *Id.* at 728.

federal lease tract is repositioned, due to ambulation, to lie inside the SLA Boundary, ONRR should disburse to the state the revenue attributed to that portion of the lease that lies within the SLA Boundary. We agree.

Lynn H. Gibson
General Counsel