JAMES E. BELDEN
HENRY Y. YOSHINO

IBLA 76-116, 76-260 Decided January 6, 1976

Separate appeals from decisions of the Montana State Office, Bureau of Land Management, rejecting simultaneous oil and gas lease offers M 31815 (ND) and M 32313.

Affirmed.

1. Oil and Gas Leases: Future and Fractional Interest Leases

An acquired lands oil and gas lease offer, for lands in which the United States owns only a fractional mineral interest, successfully drawn at a noncompetitive lease simultaneous drawing, is defective and is properly rejected when the applicant fails to accompany his offer with the statement required by the regulation showing the extent of his ownership of operating rights to the fractional mineral interest not owned by the United States.

APPEARANCES: James E. Belden, pro se; Henry Y. Yoshino, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

James E. Belden has appealed from a decision of the Montana State Office, Bureau of Land Management, dated July 3, 1975, rejecting his simultaneous oil and gas lease offer filed for acquired lands lease M 31815 (ND). Appellant's offer for Parcel No. 956 in the June 1975 drawing was drawn second. The offer drawn number one was rejected for failure to submit a statement setting forth ownership of operating rights to the fractional oil and gas interest not owned by the United States. The first drawn offeror did not appeal. Thereupon, Belden's offer was rejected for the same reason.

Henry Y. Yoshino has appealed from a decision of the Montana State Office, BLM, dated September 12, 1975, rejecting his simultaneous oil and gas lease offer filed for acquired lands lease M 32313. Yoshino's offer for Parcel No. 282 in the August 1975 drawing was drawn first. His offer was also rejected for failure to submit a

statement setting forth ownership of operating rights to the fractional oil and gas interest not owned by the United States. Because the issue involved in both appeals is the same, we have consolidated the two cases.

The United States owned only a 50 percent mineral interest in each parcel. The notice of available lands for both drawings indicated, by means of two asterisks, that "Statement of offeror's ownership of operating rights not owned by the United States must accompany the offer." Additionally, 43 CFR 3130.4-4 provides that an offer for a fractional noncompetitive lease "must be accompanied by a statement showing the extent of the offeror's ownership of the operating rights to the fractional mineral interest not owned by the United States in each tract covered by the offer to lease."

[1] The Department has consistently ruled that failure to submit a statement showing the extent of the offeror's ownership of the operating rights in the fractional mineral interest not owned by the United States mandates rejection of the offer. E.g., George H. Isbell, Jr., 20 IBLA 312 (1975); Frederick L. Smith, 19 IBLA 162 (1975); James H. Scott, 18 IBLA 55 (1974); cf. Arthur E. Meinhart, 11 IBLA 139, 80 I.D. 395 (1973). The same result obtains even when the United States offers 50 percent or more of the mineral interest. George H. Isbell, Jr., supra. Failure to comply with a mandatory requirement of the regulations necessitates rejection of the lease offers. George H. Isbell, Jr., supra; Frederick L. Smith, supra.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decisions appealed from are affirmed.

Douglas E. Henriques
Administrative Judge

We concur:

Newton Frishberg
Chief Administrative Judge

Joan B. Thompson
Administrative Judge