

LYLE QUINTANA JOHNSON ET AL.

IBLA 70-70

Decided January 28, 1971

Oil and Gas Leases: Applications: Drawings -- Oil and Gas Leases:
First Qualified Applicant

An oil and gas lease offer is properly rejected where the offeror is acting as a trustee and the entry card offer is not accompanied by the statements required by the pertinent regulation.

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IBLA 70-70	:	NM 9179
	:	NM-A 9230 (Okla.)
LYLE QUINTANA JOHNSON, TRUSTEE FOR THE GINGER TRUST	:	Oil and gas offer rejected
ANNE HEBENSTREIT, TRUSTEE FOR THE MARIE TRUST	:	Affirmed

DECISION

Trustees Johnson and Hebenstreit have appealed to the Secretary of the Interior from a decision dated July 10, 1969, in which the Office of Appeals and Hearings affirmed the New Mexico land office decision dated March 17, 1969, rejecting their offers to lease for oil and gas under NM 9179 and NM-A 9230 (Okla.).

Each appellant contends herein that its irrevocable trust agreement in connection with its noncompetitive lease offer was "technically tendered" to the Bureau of Land Management in accordance with 43 CFR 3123, which tender and acceptance was relied upon by that appellant. The same arguments were made in the appeals from the land office decisions.

The record shows that lease offer NM-A 9230 (Okla.) (Marie Trust) and lease offer NM 9179 (ginger Trust) were filed on February 25, 1969, and were No. 1 at public drawings held on March 6, 1969. On March 17, 1969, the land office issued decisions rejecting both offers on the ground that statements required by the regulations, 43 CFR 3102.5-1, 35 F. R. 9679 (formerly 43 CFR 3123.2(e)), did not accompany the lease offers, and reference was not made to a record in which such statements had previously been filed.

Thereafter, irrevocable trust agreements for the Marie Trust, Bruce Hebenstreit, Trustee, and for the Ginger Trust, Lyle Quintana Johnson, Trustee, were filed March 19, 1969. the Trustee for the Ginger Trust filed a properly executed statement of qualifications on March 19, 1969. The Trustee for the Marie Trust filed a properly executed statement of qualifications on April 14, 1969, and the successor trustee for the Marie Trust,

Anne Hebenstreit, filed a properly executed statement of qualifications on June 20, 1969. the statement of qualifications for each was accepted as of the date of its filing.

The Department's requirements that certain information accompany a lease offer, 43 CFR 3102.5-1, 35 F. R. 9679 (formerly 43 CFR 3123.2(e)), or be submitted not later than 15 days after the filing of the lease offer, 43 CFR 3102.7, 35 F. R. 9680 (formerly 43 CFR 3123.2(c)(3)), are absolute. The appellants herein have not met the above requirements. Accordingly, we hereby find their lease offers defective, and the rejection of such offers was proper. Jesse B. Graner et al., A-30899 (March 29, 1968); E. S. Lippert, A-31173 (May 14, 1970). As it appears that a hearing would not affect the determination herein, appellants' request for one is denied.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior (211 DM 13.5; 35 F. R. 12081), the decision appealed from is affirmed.

Anne Poindexter Lewis, Member

I concur:

I concur:

Edward W. Stuebing, Member

Francis E. Mayhue, Member

