

GILL OIL COMPANY

IBLA 70-627

IBLA 70-628

IBLA 70-629

IBLA 70-630

IBLA 70-631

IBLA 70-632 Decided March 1, 1971

Oil and Gas Leases: Applications: Sole Party in Interest

Where oil and gas lease offers filed on drawing entry cards in a simultaneous filing procedure contain the names of additional parties in interest, and the required statements of interest, copies or explanation of the agreements between the parties, and evidence of qualifications of the additional parties are not filed within the time allowed by the Department's regulations, the offers are properly rejected.

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| IBLA 70-627 | : | Wyoming 23547, 23601, 23682 |
| IBLA 70-628 | : | 23695, 23740 & 23763 |
| IBLA 70-629 | : | |
| IBLA 70-630 | : | Oil and gas lease offers |
| IBLA 70-631 | : | rejected |
| IBLA 70-632 | : | |
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| | : | |
| GILL OIL COMPANY | : | Affirmed |

DECISION

Gill Oil Company has appealed to the Secretary of the Interior from a decision dated May 11, 1970, of the Wyoming land office, Bureau of Land Management, which rejected its above-identified six oil and gas lease offers. The offers were rejected for the reason that Gill Oil Company and other parties in interest failed to timely file statements showing the nature and extent of interest of each party in the lease offers as required by 43 CFR 3123.2(c)(3), (now 43 CFR 3102.7, 35 F.R. 9680 (1970)).

The lease offers were filed in the Wyoming land office on March 19, 1970, on simultaneous oil and gas drawing entry cards (Form 4-1664). The president of Gill Oil Company signed the front face of each of the drawing entry cards which included a statement that:

. . . applicant is the sole party in interest in this offer and the lease if issued, or if not the sole party in interest, that the names and addresses of all other interested parties are set forth on the reverse hereof.

On the reverse side of the cards under the caption "Other Parties in Interest" were listed the names and addresses of eight other individuals, each identified with a 9.375 percent interest in the offers. 1/ Underneath

1/ The other parties named were: S. Helen Damron, Samuel G. Engel, William G. Husband, Jr., Philip G. Lasky, Vincent S. Mulford, Jr., Dorothy R. Sage, Jack C. Tway, and Joseph F. Messenbaugh, 3rd.

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this list a note on the card specified "Compliance must be made with the provisions of 43 CFR 3123.2." The cited regulation sets forth the requirements for filing an oil and gas lease offer and what information must accompany an offer when it is filed. Subparagraph (c)(3) (now 43 CFR 3102.7) provides:

If there are other parties interested in the offer a separate statement must be signed by them and by the offeror, setting forth the nature and extent of the interest of each in the offer, the nature of the agreement between them if oral, and a copy of such agreement if written. All interested parties must furnish evidence of their qualification to hold such lease interest. Such separate statement and written agreement, if any, must be filed not later than 15 days after the filing of the lease offer.

The record shows that the required statements were not submitted with the drawing entry cards. After the prescribed 15-day period for filing had elapsed and the required statements had not been received in the land office the lease offers were rejected for failure to comply with the regulations.

The language of the cited regulations is clear and unequivocal on this point. Where the necessary showing is not filed with the land office within the time allowed an oil and gas offer does not comply with the mandatory provision of the regulations and must be rejected. Jesse B. Graner et al., A-30899 (March 29, 1968); Paul Harvey et al., A-30552 (June 24, 1966); aff'd. Harvey v. Udall, 384 F.2d 883 (10th Cir. 1967), rehearing denied December 14, 1967; Stephen J. Hlincik et al., A-30652 (January 18, 1967).

In this case, however, appellant does not take exception to the application of the controlling regulations, but alleges the necessary statements were timely filed in the land office. Appellant asserts that its agent, Mrs. Norma Rose, turned in six sets of affidavits to the land office on April 1, 1970, for appellant's lease offers involved in this case. Appellant states that Mrs. Rose has turned in this same type affidavit for other simultaneous drawings over the past year and "everything has worked very satisfactorily." Appellant suggests there may have been an oversight by someone in the land office and the affidavits were misplaced. In support of its contention appellant has submitted sample duplicate affidavits and a statement from Mrs. Norma Rose in which she attests to handing the affidavits through the land office window on April 1, 1970. In response to appellant's allegation the Bureau of Land Management has

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reported that a recent check of their records again confirms that the required statements were not filed with the Wyoming land office.

Under the circumstances of this case where the appellant has challenged the Bureau's statement that the necessary documents have not been timely filed, it is incumbent upon appellant, in order to succeed, to establish the truth of their contentions by substantial probative evidence. Appellant has not met this burden. Here, it has presented only self-serving statements that the documents were filed by its agent as she has done so in the past. Obviously, past performance, no matter how regular or reliable, does not establish that the alleged affidavits were filed in the land office in this instance. We also note appellant has submitted sample duplicate affidavits rather than reproductions of the originals and has not provided any dated copy of a letter or business record which might substantiate its claim of filing as of April 1, 1970.

Even if we consider the sample duplicate affidavits as representative of the type of filing appellant's agent had allegedly submitted to the land office in this case, it is clear they do not adequately identify the lease offers to enable land office personnel to determine which offers they are associated with. There are no identifying references on the affidavits to a drawing card number or a serial number. Nor has there been any indication that these sample affidavits were accompanied by a letter of transmittal or other writing that specified which lease offers they were associated with. In view of the many thousands of oil and gas lease offers filed with the land office each month and the multiple opportunities for confusion and error, the responsibility for a timely and properly identified filing of the required statements must be borne by the offeror. For this reason the Department has consistently held that the oil and gas lease offer must be read as it was filed and that the offeror must accept the consequences of errors in the offer. Cf. Lorraine Lafiner, A-31002 (May 16, 1969); Timothy G. Lowry, A-30487 (March 16, 1966); Lauren W. Gibbs, 67 I.D. 350 (1960).

To conclude, we find that the Wyoming land office correctly rejected the drawing entry card lease offers of the Gill Oil Company for failure to comply with the cited regulations.

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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.

Francis E. Mayhue, Member

We concur:

Edward W. Stuebing, Member

Anne Poindexter Lewis, Member.

