

Editor's note: 78 LD. 170 (IBLA decision not in "LD. format)

RICHARD HUBBARD

IBLA 70-665

Decided May 11, 1971

Oil and Gas Leases: Applications: Generally

Where an oil and gas lease offer filed on a drawing entry card in a simultaneous filing procedure contains the name of an additional party in interest, and the required statements of interest, copy or explanation of the agreement between the parties, and evidence of the qualifications of the additional party are not filed within the time prescribed, strict compliance with the Department's regulations may not be waived to favor an applicant who pleads ignorance of the law or inexperience in oil and gas leasing.

Oil and Gas Leases: Applications: Sole Party in Interest

Where an oil and gas lease offer filed on a drawing entry card in a simultaneous filing procedure contains the name of an additional party in interest, and the required statements of interest, copy or explanation of the agreement between the parties, and evidence of the qualifications of the additional party are not filed within the time prescribed by the Department's regulations, the offer must be rejected.

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IBLA 70-665 :

NM 11813

RICHARD HUBBARD

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: Oil and gas lease offer
: rejected
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: Affirmed

DECISION

Richard Hubbard has appealed to the Director, Bureau of Land Management, 1/ from a decision of the Bureau's Wyoming land office, dated May 15, 1970, which rejected his noncompetitive oil and gas lease offer, NM 11813, filed pursuant to the Mineral Leasing Act § 17, as amended, 30 U.S.C. § 226 (1964). The offer to lease was rejected because of a failure to comply with the requirements set forth in 43 CFR 3123.2(c)(3) (now 43 CFR 3102.7, 35 F.R. 9680) that each party in interest in the lease must file evidence of his qualifications to hold such lease interest, and that within 15 days after the filing of the lease offer a statement must be filed, signed by each party in interest, 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.

Appellant's lease offer, as prescribed by 43 CFR 3123.9(c)(1) and (2) (now, as amended, 43 CFR 3112.2-1, 35 F.R. 9692), was submitted on a "Simultaneous Oil and Gas Entry Card" (Form 3120-21, December 1968), numbered 206-1111, for inclusion in a drawing of offers simultaneously filed on May 7, 1970. Hubbard's signature and address are entered on the front of the card beneath a statement of the conditions applicable to an offer to lease, which contains among its provisions a stipulation 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 of the card, under the heading "Other Parties in Interest," appears the

1/ The Secretary of the Interior, in the exercise of his supervisory authority, transferred jurisdiction over all appeals pending before the Director, Bureau of Land Management, to the Board of Land Appeals, effective July 1, 1970. Circular 2273, 35 F.R. 10009, 10012.

signature of Louis B. Parron, the notation "50%," and an address identical to that given for Hubbard. At the bottom of the reverse side is printed the admonition: "NOTICE: Compliance must be made with the provisions of 43 CFR 3123.2." Appellant's offer was the first drawn for Parcel No. 49, and would have been the successful bid if the prescribed evidence of qualifications and statement of interest had been timely filed.

In his appeal, dated May 21, 1970, Hubbard admits to failure to file the required data, but requests reconsideration of the land office decision on the ground that he and Parron were ignorant of the full extent of the applicable law. He states that the parties to the offer have orally agreed that each is to have a 50-percent interest in the lease, and that both have qualified as U.S. citizens over 21 years of age.

Under the circumstances, the land office had no choice but to reject Hubbard's lease offer. The words plainly printed on the reverse of the entry card constituted sufficient notice to appellant that more was required than simply the name, address, and percentage of interest of another party to the lease offer. The regulation cited on the card provides (43 CFR 3123.2(c)(3); now 43 CFR 3102.7, 35 F.R. 9680):

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 qualifications 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 statements contained in the appeal, filed after the expiration of the 15-day period and signed by the offeror only, cannot be accepted as constituting compliance with the clear and unequivocal language quoted above.

Rejection of a lease offer for failure to adhere to the requirements of the cited regulation is mandatory. Gill Oil Company, 2 IBLA 18 (1971); Jesse B. Graner et al., A-30899 (March 29, 1968);

Timothy G. Lowry, A-30487 (March 16, 1966). The land office cannot waive strict compliance with the regulations to favor applicants who plead ignorance of the law or inexperience in oil and gas leasing. In the words of the decision in Jesse B. Graner et al., *supra*:

This Department has no authority to interpret or apply Departmental regulations on a different basis depending upon the experience that an applicant might have in finding oil and gas lease offers. Stephen J. Hlincik et al., A-30652 (January 18, 1967). It is hoped that Departmental personnel would be as helpful as possible to all persons seeking information on filing oil and gas offers, but such personnel, who deal at times with thousands of applications filed at a single time, cannot be expected to anticipate and furnish everything that an applicant might desire if it is not expressly requested. It is not unreasonable to assume that anyone filing a drawing card which expressly states that compliance must be made with "43 CFR 3123.2" would ascertain what this reference required by requesting further clarification from the land office.

We find that the Wyoming land office correctly rejected the drawing entry card lease offer submitted by Richard Hubbard for failure to comply with the regulations cited on the card.

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

We concur:

Edward W. Stuebing, Member

Martin Ritvo, Member.

