

DUNCAN MILLER

IBLA 71-235

Decided August 31, 1972

Appeal from the decision of the Wyoming Land Office rejecting oil and gas lease offer W-27911.

Affirmed.

Oil and Gas Leases: Applications: Generally

Where five copies of an approved form of the "Offer to Lease for Oil and Gas" are required by regulation, the requirement is not satisfied by filing four copies of the approved form and one machine reproduction of only the front of an offer form which was completed and signed prior to reproduction, and an offer so filed is properly rejected.

Oil and Gas Leases: Applications: 640-Acre Limitation

No offer may be made for less than 640 acres except where the offer is accompanied by a showing that the lands are in an approved unit or cooperative plan of operation, or where the land is surrounded by lands not available for leasing, and where these circumstances do not exist an offer for less than 640 acres is properly rejected.

APPEARANCES: Duncan Miller, pro se.

OPINION BY MR. STUEBING

Duncan Miller has appealed from the March 17, 1971, decision of the Wyoming Land Office by which his offer to lease "290 acres, more or less" was rejected for two reasons: (1) that his offer was not filed in the requisite five copies of an approved form or exact reproduction thereof, and (2) that other adjacent lands were available for leasing, so that the offer was violative of 43 CFR 3110.1-3(a).

Miller's reasons for appeal are that he "believes he sent five (5) copies of the offer" and that, "since some of the adjoining lands to the south appear to be land which because of geological situations production of oil and gas is impossible; hence, it would be improper to issue oil and gas leases for this land."

This appeal is clearly specious and totally undeserving of the attention which must necessarily be accorded it.

The governing regulation, 43 CFR 3111.1-1 (1972), requires the submission of five copies of the offer in such cases. Miller submitted four acceptable copies plus one machine reproduction of the face of a completed form. The reverse side of the reproduced copy was blank. The regulation also requires that the approved form may be reproduced provided that the copies are exact reproductions on one sheet of both sides of the official form. This same information is also recited at the bottom of the form itself. Failure to comply with this regulation affords a proper basis for rejection of the offer. See Charles J. Babington, A-30064 (March 5, 1965).

Turning to appellant's failure to include available adjacent land in his offer, we note that the Department is in no way bound by his personal judgment as to whether that land should be available for leasing. A regulation which requires that an offer for a noncompetitive oil and gas lease must include 640 acres, except when the lands applied for are surrounded by lands not available for leasing or are in an approved unit or cooperative plan of operation, is a reasonable exercise of the discretion vested in the Secretary of the Interior by the Mineral Leasing Act, and an offer which includes less than 640 acres and does not come within the exceptions is properly rejected. 43 CFR 3110.1-3 (1972); Annie Dell Wheatley, The Superior Oil Company, Intervenor, 62 I.D. 292 (1955); August A. Frymark, A-27162 (September 12, 1955); Halvor F. Holbeck, 63 I.D. 102 (1956); Duncan Miller, A-27279 (April 19, 1956); Blanche W. Sweeney, A-27339 (July 19, 1956); Duncan Miller, A-27598 (June 23, 1958); Charles J. Babington, 76 I.D. 30 (1969).

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.

Edward W. Stuebing
Member

We concur:

Douglas E. Henriques
Member

Frederick Fishman
Member

