

Editor's note: Reconsideration denied by orders dated Aug. 28, 1974 and Oct. 7, 1974

DUNCAN MILLER

IBLA 71-109

Decided September 26, 1972

Appeal from the Montana state office decision rejecting appellant's oil and gas lease offers Mont. 16945, 16951, 16978 (ND), 16983 (ND), 16998, 17007 (ND), and 17023 (ND).

Affirmed.

Oil and Gas Leases: Applications: Generally

An oil and gas lease offer is properly rejected where the filing fee check is returned from the bank for the reason: "Account closed," in the absence of any evidence that the bank erroneously dishonored the check.

APPEARANCES: Duncan Miller, pro se.

OPINION BY MR. HENRIQUES

Appellant seeks review of a decision by the Montana state office, Bureau of Land Management, which rejected seven oil and gas lease offers because they were not accompanied by the requisite filing fees. The offers had been submitted under the simultaneous filing procedure, 43 CFR Subpart 3112 (1972), and each offer had been accorded priority of consideration after a drawing. Subsequent to the drawing, the checks tendered in payment of the filing fees for the subject offers, and others not given priority in the drawing, were returned unpaid by the drawer's bank, with the notation "account closed." The state office thereupon informed the appellant that his offers were rejected for failure to comply with 43 CFR 3112.2-1(2), which requires each entry card to be accompanied by remittance of a filing fee.

Appellant seeks to explain this failure by stating that: "Internal Revenue unlawfully closed out the account." This Department has held that the refusal of a bank to honor a check submitted in payment of the filing fee requires rejection of the lease offer, see Duncan Miller, A-31095 (February 2, 1970), unless such action was the result of a mistake on the part of the bank, see Duncan Miller,

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70 I.D. 113 (1963); Duncan Miller, A-29278 (May 13, 1963). In both of these latter cases the bank informed the Department that it had erroneously dishonored the offeror's check. In the instant case the appellant has not met the burden of showing that the bank erroneously rejected his check. On the contrary, the record indicates that the checks were drawn on an account that was nonexistent when they were presented for payment.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior 43 CFR 4.1 (1972) (211 DM 13.5; 35 F.R. 12081) the decision appealed from is affirmed.

Douglas E. Henriques
Member

We concur:

Anne Poindexter Lewis
Member

Joseph W. Goss
Member

