

MOUNTAIN FUEL SUPPLY CO.

IBLA 73-288

Decided September 21, 1973

Appeal from a decision of the Montana State Office, Bureau of Land Management rejecting oil and gas lease offer M 24159.

Affirmed.

Oil and Gas Leases: Applications! ! Oil and Gas Leases: Rentals

An application for an oil and gas lease is properly rejected where the rental payment is deficient by more than ten per cent of the rental required for the land as literally described, notwithstanding the fact that the land erroneously included in the application was not available for leasing.

Oil and Gas Leases: Applications: Description

Even though a state office could probably make an accurate guess as to the source of disparity between the amount of land actually described in an oil and gas lease offer and the amount of land for which advance rentals were paid, it has neither the authority nor the duty to correct the probable error in order to make the offer valid.

APPEARANCES: Ralph M. Kirsch, Esq., Mountain Fuel Supply Co., Salt Lake City, Utah.

OPINION BY MR. STUEBING

Mountain Fuel Supply Co. has appealed from the January 23, 1973, decision of Kenneth J. Sire, Chief, Lands and Minerals Adjudication Section, Montana State Office, Bureau of Land

Management. The appellant intended to offer an application for 1641.92 acres. However, due to its own typographical error, that amount was increased by 320 acres to 1961.92 acres. The rental payment actually made by the appellant was \$ 821; the deficiency between that and the rental payment required for 1961.92 acres, \$ 981, is greater than the ten per cent allowed by departmental regulations, 43 CFR 3111.1-1(e)(1). For that reason the application was rejected by the Montana State Office.

The appellant urges that the error was so patently obvious that it should have been disregarded. The erroneous description read, in part, as follows:

Section 6: Lots 3-7, SE 1/4 NW 1/4, E 1/2 SW 1/4 (E 1/2)

The typographical error pointed out by the appellant is the (E 1/2). It should read (W 1/2) as it was intended to be a summation of the first part of the description.

While we agree with the appellant that the source of the disparity between the description and the amount of acreage for which rent was paid is fairly clear, still the Montana State Office could not have stated with certainty what land was actually intended to be included in the offer. If that could have been determined with certainty, the description would have been adequate. Since a state office has neither the authority nor the duty to alter lease offers in order to make them valid, the description was properly interpreted as including the E 1/2. W. H. Burnett, William Weinberg, A-28037 (August 20, 1959).

The appellant has further contended that since the land mistakenly included in the lease offer was not available for leasing, the Montana State Office should have disregarded it in calculating the total amount of land. This contention is without merit since 43 CFR 3103.3-1 requires that "[e]ach offer, when first filed, shall be accompanied by full payment of the first year's rental based on the total acreage \* \* \*" (emphasis added). See also Joe Bart Moore, A-29361 (July 1, 1963). Therefore, the application was properly rejected due to a deficiency greater than ten per cent in the advance rental payments. Lendal R. Smith, Sr., A-28868 (August 10, 1962).

To the casual observer this result may appear not only to be harsh, but also to bespeak an obsession with trivia. This is most assuredly not the case.

A commonplace colloquialism in our language is the expression "a land! office business". The source of the expression is the large volume of business conducted by land offices when new lands were opened to entry for homesteads. The expression is just as accurate today with respect to the large volume of oil and gas lease applications which must be processed by state offices of the Bureau of Land Management. In order to process this large volume, certain procedures must be followed which for their successful operation require complete accuracy on the part of the applicants. The state offices simply do not have the time, the money, or the authority to correct errors of applicants. The effect, of course, is to place the economic cost of errors on those seeking benefit from the public lands, and not on the taxpayer. We believe that this result is consistent with the public interest.

Further, if Bureau personnel undertook to "correct" deficient oil and gas lease offers they would run the risk of doing so improperly, i.e., deleting land from the description that the offeror actually intended to include, altering the description to include land that the offeror did not want, or entering some other item of omitted information incorrectly. Uniformity of administration would suffer if individual Bureau officials "corrected" applications in certain instances and failed to make such corrections in other cases.

Finally, the statute gives preference to the first qualified offer. If Bureau personnel "qualified" a deficient first! filed offer, such action would work to the detriment of one who subsequently filed an adequate offer.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Edward W. Stuebing  
Member

We concur:

Joseph W. Goss  
Member

Anne Poindexter Lewis  
Member

