

LYLE Q. JOHNSON, TRUSTEE FOR GINGER TRUST ET AL.

IBLA 73-275, 73-276, 73! 277, 73! 278

Decided October 10, 1973

Appeals from decisions (NM 17558, N, 17434, NM 17559, NM 17560) by New Mexico State Office, Bureau of Land Management, rejecting oil and gas lease offers.

Affirmed.

Oil and Gas Leases: Applications: Generally

An oil and gas lease offer, filed in the name of a trustee, is properly rejected where the offer is neither accompanied by a certified copy of the trust agreement and statements as to the citizenship and holdings of the trustee and beneficiaries, nor makes reference to a serial number of a record in which such evidence had previously been filed.

APPEARANCES: Michael P. Watkins, Esq., of Oldaker & Oldaker, Albuquerque, New Mexico, for appellants.

OPINION BY MR. FISHMAN

Appellants, as trustees of four discrete trusts, have appealed from decisions by the New Mexico State Office, Bureau of Land Management, which rejected their respective oil and gas lease offers. 1/

The noncompetitive oil and gas lease offers were filed pursuant to section 17 of the Mineral Leasing Act of February 25, 1920, as amended, 30 U.S.C. § 226 (1970). Each of the offers was submitted on a "Simultaneous Oil and Gas Entry Card," and each offer was drawn

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1/ The name of each appellant, the appeal numbers, the lease application serial numbers, and the dates of the decisions appealed from are set forth in Appendix A.

number one at public drawings which occurred no later than December 12, 1972. The decisions, which were handed down in January of 1973, rejected the respective lease offers for the following reasons:

The drawing entry card lease offer was not accompanied by a certified copy of the trust agreement and statements as to the citizenship and acreage holdings of the trustee and beneficiaries of the trust as required by the regulations Title 43 CFR Subpart 3102.5-1, nor was there reference on the entry card to a serial number under which the information could be found. (Title 43 CFR Subpart 3102.5-2).

Appellants concede that their respective lease offers were not accompanied by the information required under 43 CFR 3102.5-1. They assert, however, that (1) they are now and always have been the sole trustees for their respective trusts; (2) they have previously filed with the State Office offers to lease for oil and gas, including therewith the required certified copies of their respective trust agreements, statements as to the citizenships and acreage holdings of the trustees and beneficiaries of the trusts, and serial numbers; (3) the foregoing information was readily available to the State Office in its own files; and (4) the procedure followed by the State Office was arbitrary and capricious, and not in conformance with past established practices of the State Office.

The applicable regulation, 43 CFR 3102.5-2, provides:

Evidence previously filed.

Where evidence of the authority to act as a guardian, trustee, an executor or administrator, or where articles of association, including partnership agreements, have previously been filed pursuant to regulations in this section, a reference by serial number to the record in which such evidence has previously been filed, together with a statement as to any amendments thereof will be accepted.

Although appellants may have previously filed the evidence required by the regulations, it is clear that they failed to make any reference by serial number to records containing such evidence.

In filing a lease offer, where statements required by the regulations are not filed with the offer, a reference by serial number to a record in which such statements have been filed must accompany the offer. The requirement is mandatory and a lease

offer is properly rejected where an offeror fails to provide the requisite information timely. Apollo Drilling & Exploration, Inc., 10 IBLA 81 (1973); Read & Stevens, Inc., 9 IBLA 67 (1973); J! S Enterprises, Ltd., 2 IBLA 9 (1971); Lyle Quintana Johnson, 1 IBLA 245 (1971).

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

Frederick Fishman  
Member

We concur:

Douglas E. Henriques  
Member

Joan B. Thompson  
Member

APPENDIX A

LYLE Q. JOHNSON, TRUSTEE 73-275 NM 17558 January 17, 1973  
FOR THE GINGER TRUST

DOROTHY HARVEY, TRUSTEE 73-276 NM 17434 January 12, 1973  
FOR THE MARIE TRUST

ROSEMARY McINTYRE, TRUSTEE 73-277 NM 17559 January 22, 1973  
FOR THE WINSTON TRUST

RAY ANAYA, TRUSTEE FOR 73-278 NM 17560 January 22, 1973  
THE MIKE TRUST

