

CHALFANT, MAGEE & HANSEN, INC.

IBLA 73-365

Decided October 16, 1973

Appeal from decision by New Mexico State Office, Bureau of Land Management, rejecting acquired lands oil and gas lease offer NM! A 18400 (Texas).

Affirmed as modified.

Oil and Gas Leases: Applications: Description

An oil and gas lease application is properly rejected when it does not adequately describe the lands applied for.

Oil and Gas Leases: Applications: Description

An application for an oil and gas lease covering unsurveyed acquired lands which fails to describe the lands by courses and distances between successive angle points and fails to include a map upon which the desired lands are clearly marked is inadequate when the pertinent regulation requires such description and map.

APPEARANCES: Wesley Chalfant, of Chalfant, Magee & Hansen, Inc.

OPINION BY MR. RITVO

Chalfant, Magee & Hansen, Inc., has appealed from a decision dated April 24, 1973, by which the New Mexico State Office, Bureau of Land Management, rejected a noncompetitive oil and gas offer, NM! A 18400, to lease unsurveyed, acquired lands of the United States in the state of Texas.

Appellant's offer to lease, filed on March 29, 1973, described the requested land as follows:

State Texas County Dawson

The South 84.97 acres in the West one! half of Section 9, Block 35, Township 5 North, T&P RR Co. Survey

The Government rejected the lease offer in its entirety for the following reason:

The Government's mineral interests in all of the lands applied for was sold by the Farmers Home Administration on November 20, 1951, to J. D. Braswell.

On appeal, appellant argues that the land applied for is not part of the land conveyed to J. D. Braswell. Appellant states that the United States originally acquired a 324.97 acre tract of land. Thereafter it conveyed 240 acres to Braswell but retained the mineral rights. Subsequently, the Government conveyed the mineral rights to Braswell.

The remaining 84.97 acres were transferred to the Dawson County Farm Labor Association with a mineral reservation held in favor of the United States. Appellant states that there is no indication that the United States ever divested itself of this mineral interest. Appellant contends that its application applies to the land having the mineral reservation.

Appellant has supplied the Board with copies of deeds describing the grant of 240 acres of mineral rights to Braswell and the grant of 84.97 acres of land to the Dawson County Farm Labor Association. Appellant requests that we review the deeds, application and other material in the record in order to further consider its offer to lease.

We need not reach the issue of which land is being applied for because the application is defective for having inadequately described the requested land. The applicable regulation, 43 CFR 3101.2-3 (1971), reads in pertinent part:

Description of lands in offer.

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(b)(1) Lands not surveyed under the rectangular survey system. If the lands have not been surveyed under the rectangular system of public land surveys, and the tract is not within the area of the public land surveys, it must be described as in the deed or other document by which the United States acquired title to the lands or minerals. If the desired land constitutes less than the entire tract acquired by the United States, it must be described by courses and distances between successive

angle points on its boundary tying by course and distance into the description in the deed or other document by which the United States acquired title to the land. In addition, if the description in the deed or other document by which the United States acquired title to the lands does not include the courses and distances between the successive angle points on the boundary of the desired tract, the description in the offer must be expanded to include such courses and distances.

(2) Each offer or application must be accompanied by a map upon which the desired lands are clearly marked showing their location with respect to the administrative unit or project of which they are a part (such map need not be submitted where the desired lands have been surveyed under the rectangular system of public land surveys, and the land description can be conformed to that system).

Appellant's application does not describe the land by courses and distances and was not accompanied by a map showing the location of the requested land, as required by the regulation governing land description. 1/

An application for an oil and gas lease which fails to describe the land by courses and distances between successive angle points or fails to include a map which clearly sets out the requested land does not adequately describe the land applied for and is properly rejected when the pertinent regulation requires such description and map. 2/ Arthur E. Meinhart, 11 IBLA 129 (1973); J. R. Wegierski, A-30252 (Dec. 28, 1964); Duncan Miller, A-28926 (July 30, 1962); Mervin E. Liss, A-28142 (Jan. 19, 1960); see Tidewater Oil Company, 71 I.D. 277 (1964).

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1/ Should the appellant reapply for this lease, an adequate description and map will more readily enable the local State Office to identify and determine whether the applied for land is situated within the Braswell or Dawson County Farm Labor Association land areas.

2/ As to whether describing land as "the South 84.97 acres in the West One Half of Section 9 \* \* \*" is adequate even under the rectangular survey system, see Jacob M. Wasserman, 74 I.D. 392 (1967).

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

Martin Ritvo  
Member

We concur:

Edward W. Stuebing  
Member

Joseph W. Goss  
Member

