

RALPH T. SCOTT

IBLA 74-161

Decided May 13, 1974

Appeal from a decision of the Wyoming State Office, Bureau of Land Management, rejecting simultaneous oil and gas lease offer W 41847.

Affirmed.

Oil and Gas Leases: Applications: Generally--Oil and Gas Leases:  
Applications: Drawings

An oil and gas lease offer drawn first in a simultaneous filing is properly rejected under 43 CFR 3103.3-1 and 3111.1-1(e)(1) where the offer is deficient in the first year's rental by more than ten percent. The amendment of the regulations to eliminate the requirement that the advance rental must be submitted with simultaneous filings, effective September 17, 1973, will not help an offeror who filed for the August, 1973 drawing.

APPEARANCES: Ralph T. Scott, pro se.

OPINION BY ADMINISTRATIVE JUDGE LEWIS

Ralph T. Scott has appealed from the November 26, 1973, decision of the Wyoming State Office, Bureau of Land Management, which rejected his simultaneous oil and gas lease offer W 41847.

The offer was filed on a drawing entry card for Parcel No. 213 in the simultaneous drawing procedure held for the month of August 1973. In the drawing the offer was drawn first for that parcel. The offer was rejected because the advance rental was more than ten percent short and was, therefore, not within the meaning of regulation 43 CFR 3111.1-1(e)(1), which provides that an offer deficient in the first year's rental by not more than ten percent is a curable defect.

Parcel No. 213 contains 880 acres. According to the regulations, which were in effect in August 1973, the offer should have been accompanied by separate remittances covering the filing fee of \$10 and \$440 for the first year's advance rental on the 880 acres. 43 CFR 3103.3-1; 43 CFR 3112.2-1(a)(2). The case record discloses that a remittance of only \$22 was received with the offer.

Appellant does not challenge the Bureau's ruling. In fact, he admits to " \* \* a clerical error made in the rush of [preparing] several applications just prior to the deadline for the monthly drawing," and asks if his filing can be included under the current regulations which do not require advance rentals.

The regulations governing the filing of simultaneous offers, 43 CFR Subpart 3112, were amended in several respects, effective September 17, 1973, by Circular No. 2348, which was published in the Federal Register of August 17, 1973 (38 F.R. 22230). One of the amendments eliminated the requirement that advance rental must be submitted with simultaneous lease offers. Unfortunately, this amendment came too late to help appellant.

Accordingly, we have no alternative but to hold that the application was properly rejected due to a deficiency greater than ten percent in the advance rental payment. See Mountain Fuel Supply Co., 13 IBLA 85 (1973); Robert D. Houston, 12 IBLA 336 (1973); Joe L. Frazier, 11 IBLA 317 (1973).

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.

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Anne Poindexter Lewis  
Administrative Judge

We concur:

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Douglas E. Henriques  
Administrative Judge

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Joseph W. Goss  
Administrative Judge

