

D. O. KEON

ROSE K. KEITH

IBLA 74-266

Decided September 5, 1974

Appeal from decision of New Mexico State Office, Bureau of Land Management, rejecting noncompetitive oil and gas lease offer NM 20907.

Affirmed.

Administrative Practice--Oil and Gas Leases: Applications: Generally--Oil and Gas Leases: Applications: Sole

Where an oil and gas lease offer indicates that there is an additional party in interest, and the required statements of the additional party's qualifications are not filed within the time allowed by regulation, the offer is properly rejected. It is not within the province of the Department to determine the unstated intentions of the offeror as to how and when the rights of a third party will vest.

Oil and Gas Leases: Applications: Generally--Oil and Gas Leases: Applications: Sole Party in Interest

The fact that a named interested party in a simultaneous oil and gas lease offer filed his statement of qualifications in a separate lease offer does not relieve said party of the mandatory requirements of 43 CFR 3102 calling for the filing of evidence of the qualifications to hold any lease interest and [Illegible Words] agreement between the offeror and the interested party in each affected offer.

APPEARANCES: D. O. Keon and Rose K. Keith, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

On January 28, 1974, D. O. Keon filed drawing entry card No. 53-4431 as an offer to lease for oil and gas Parcel No. 12 in the January 1974 list of lands available in the simultaneous filing procedure posted by the New Mexico State Office, Bureau of Land Management. On the back of the card, in the space under the heading "Other Parties in Interest" was typed the name "Rose K. Keith (50%)" together with an address and social security number. Subsequently this card was drawn with first priority and was assigned serial number NM 20907.

In a letter dated March 22, 1974, signed by both D. O. Keon and Rose K. Keith, it was stated: "When filing, it was my intention to give Rose K. Keith, of 13041 Birchwood St., Garden Grove, California, a 50% interest in this lease. Instead of filing as usual, and later assigning her the 50%, I noted on the reverse side of the card her name, address, Social Security Number and the 50%."

By decision of April 4, 1974, the State Office rejected the offer for noncompliance with the provisions of 43 CFR 3102.7, specifically stating that the offeror and the interested party did not file within 15 days of the filing of the offer a statement setting forth the nature of their agreement or a written copy of the agreement; and that interested party, Rose K. Keith, did not furnish evidence of her qualifications to hold such lease interest.

In their appeal appellants contend that Rose K. Keith was properly identified on the card since her name, address and social security number and her 50% interest were typed on the offer, and Rose K. Keith's qualifications were fully attested to in connection with separate offers in the same drawing of February 12.

43 CFR 3102.7 states:

If there are other parties interested in the offer a separate statement must be signed by them and by the offeror, setting forth the nature and extent of the interest of each in the offer, the nature of the agreement between them if oral, and a copy of such agreement if written. All interested parties must furnish evidence of their qualifications to hold such lease interest. Such separate statement and written agreement, if any, must be filed not later than 15 days

after the filing of the lease offer. Failure to file the statement and written agreement within the time allowed will result in the cancellation of any lease that may have been issued pursuant to the offer.

The decision of the State Office is affirmed. The naming of a party on the reverse side of the drawing entry card is prima facie evidence that the named person is in fact an interested party within the ambit of 43 CFR 3102.7. It is not within the province of the Department of the Interior to determine the unstated intentions of the offeror as to how and when the right of an interested party will vest. If the offeror's intention was to make his own offer and then, without previous understanding, to assign 50% of his interest in the lease after its issuance, he should not have listed anyone as a party in interest on the drawing card.

The requirements of 43 CFR 3102.7 are mandatory. An offer not in compliance with this regulation must be rejected. Ross I. Gallen, 15 IBLA 86 (1974); W. D. Girand, 13 IBLA 112 (1973). Moreover, the Department's regulations may not be waived to favor an applicant who pleads ignorance of the law or inexperience in oil and gas leasing. Hiroshi Mizoguchi, 4 IBLA 249 (1972).

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

Douglas E. Henriques
Administrative Judge

We concur:

Joseph W. Goss
Administrative Judge

Martin Ritvo
Administrative Judge

