Appeal from a decision of the Eastern States Office, Bureau of Land Management, rejecting appellant's noncompetitive acquired lands oil and gas lease offer ES 12675 (Mississippi).

Set aside and remanded.

1. Administrative Authority: Generally -- Administrative Authority: Estoppel -- Federal Employees and Officers: Authority to Bind Government

Reliance upon erroneous or incomplete information provided by Bureau of Land Management employees cannot create any rights not authorized by law.

2. Applications and Entries: Generally -- Mineral Leasing Act for Acquired Lands: Generally -- Oil and Gas Leases: Acquired Lands Leases -- Oil and Gas Leases: Applications: Generally -- Oil and Gas Leases: Future and Fractional Interest Leases

An acquired lands lease offer for land in which the United States owns only a fractional mineral interest is defective and subject to rejection when the applicant fails to accompany his offer with the statement required by the regulations showing the extent of his ownership of operating rights to the fractional mineral interest not owned by the United States. Under the regular or "over-the-counter" filing procedure, however, if

18 IBLA 55
the offeror submits his statement of operating rights with his appeal, the defect may 
be considered cured with priority of filing as of that time.

APPEARANCES: James H. Scott, pro se.

OPINION BY ADMINISTRATIVE JUDGE THOMPSON

James H. Scott appeals from a decision by the Eastern States Office, Bureau of Land Management, dated May 8, 
1974, rejecting his acquired lands oil and gas lease offer ES 12675 (Mississippi), filed "over the counter" on August 27, 1973. 
The decision pointed out:

The records indicate that the United States owns only an undivided 50% interest in the minerals in 
the offered land. The offer was filed for a 100% interest lease, and was not accompanied by a 
statement showing the extent of the offeror's ownership of the operating rights to the fractional 
mineral interest not owned by the United States. Therefore, pursuant to 43 CFR 3130.3-1, the offer is 
rejected in its entirety.

The cited regulation pertains to public land lease offers but is quite similar to the governing regulation applicable to 
acquired lands, 43 CFR 3130.4-4, which provides:

An offer for a fractional present interest noncompetitive lease must be executed on a form approved 
by the Director and it must be accompanied by a statement showing the extent of the offeror's 
ownership of the operating rights to the fractional mineral interest not owned by the United States in 
each tract covered by the offer to lease. Ordinarily, the issuance of a lease to one who, upon such 
issuance, would own less than 50 percent of the operating rights in any such tract, will not be 
regarded as in the public interest, and an offer leading to such results will be rejected.

With his appeal appellant submitted a statement which he asked to be attached to his application for a lease. He 
asserts that he owns no operating rights to the fractional mineral interest not owned by the United States in the lands subject to 
his offer. In view of the submission of the statement, appellant concludes, "a
lease should be issued based on the original application made in File ES-12675 Mississippi," i.e., with priority of his offer to be determined as of the date of that filing.

In support of this contention appellant alleges that he was misled by an employee of the Eastern States Office, who advised him by telephone that the tract in question was owned by the United States and was available for leasing, but failed to specify that the United States owned only a 50-percent interest in the minerals contained therein. He states that had he been aware of the actual status of the leasehold he would have accompanied his offer with the statement required of an applicant for a fractional mineral interest. He argues, however, inter alia, that:

The directive requiring the filing of a statement as to the ownership of operating rights on mineral interests not owned by the United States, as administered, has the effect of merely asking for information and does not go to the operation of the lease or to the granting of the lease. Normally a lease will be issued in due course if a statement is made as to whether or not an applicant owns operating rights on outstanding minerals which are not owned by the United States. * * *

[1] We find appellant's arguments to be unpersuasive. Regardless of the truth of his assertion as to what he was told when he called the Eastern States Office to inquire regarding the status of the land which he desired to lease, appellant can gain no rights by virtue of the inadequacy of the information he may have received. It is well established that reliance upon incomplete or erroneous information furnished by a federal employee cannot estop the United States or confer upon an applicant for an interest in the public or acquired lands of the United States any rights not authorized by law. 43 CFR 1810.3(c); Southwest Salt Co., 2 IBLA 81, 84-85, 78 I.D. 82, 84-85 (1971); see, e.g., Grady C. Price, Jr., 17 IBLA 98, 100 (1974); Gordon R. Epperson, 16 IBLA 60, 64 (1974); Superior Oil Co., 12 IBLA 212, 225-26 (1973); cf Marathon Oil Co., 16 IBLA 298, 316, 81 I.D. 447, 455 (1974).

An offer for a noncompetitive oil and gas lease of acquired lands is, by its terms, a commitment by the offeror to lease "any or all" of the lands described in Item 2 of the offer form (see 43 CFR 3111.1-2(a)(1)) including the total extent of whatever mineral interest the United States owns in such lands. Irwin Rubenstein, 3 IBLA 250, 253 (1971). In the case at bar appellant filed an

18 IBLA 57
offer for a 100-percent mineral interest in the described lands, whereas the land status records showed that the United States possessed only a 50-percent mineral interest therein. The lease offer, therefore, became a fractional interest offer for a 50-percent interest, and as such was subject to the requirement to file an accompanying statement.

[2] The requirement that an applicant for a noncompetitive oil and gas lease of lands in which the United States owns only a fractional mineral interest accompany his offer with a statement showing the extent of the offeror's ownership of the operating rights to the fractional mineral interest not owned by the United States is mandatory. Where there is no such accompanying statement the offer is defective and accorded no priority, and must be rejected. Michigan Wisconsin Pipe Line Co., 17 IBLA 282, 283 (1974); Celia R. Kammersman, 66 I.D. 255, 262-63 (1959). Under the regular or "over-the-counter" filing procedure, however, if the offeror submits the required statement before the rejection decision becomes final, subject to any intervening offers, the offer may be given priority from the date the defect is cured, R. C. Bailey, 7 IBLA 266, 268-69 (1972); Bear Creek Corp., 5 IBLA 202 (1972); William B. Collins, 4 IBLA 8, 10 (1971); see Irwin Rubenstein, supra at 254.

Appellant's offer, as filed, was subject to rejection for failure to include the statement required by regulation 43 CFR 3130.4-4. Because appellant filed such a statement on May 17, 1974, with his appeal, his offer may be given priority as of that date, and adjudicated further.

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 set aside and the case is remanded for further consideration.

Joan B. Thompson
Administrative Judge

18 IBLA 58
We concur:

Anne Poindexter Lewis
Administrative Judge

Douglas E. Henriques
Administrative Judge

18 IBLA 59