

JAMES D. CADDELL

IBLA 76-450

Decided June 24, 1976

Appeal from a decision of the Wyoming State Office, Bureau of Land Management, rejecting simultaneous oil and gas lease offer W 53232.

Affirmed.

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

An oil and gas lease offer filed on a drawing entry card in a simultaneous filing procedure must be rejected when the entry card contains the name of an additional party in interest and the required statement of the additional party's interest and qualifications is not filed within the time required by 43 CFR 3102.7. The offeror is not retroactively excused from submitting the required statement by an assertion in his appeal that he is the sole party in interest because the anticipated association between him and the additional party listed on the entry card had failed to materialize.

2. Oil and Gas Leases: Applications: Drawings

A first-drawn simultaneous drawing entry card which is defective because of noncompliance with a mandatory regulation must be rejected and may not be cured by the submission of further information.

APPEARANCES: James D. Caddell, pro se.

OPINION BY ADMINISTRATIVE JUDGE RITVO

James D. Caddell has appealed from a decision of the Wyoming State Office, Bureau of Land Management, dated January 6, 1976, rejecting his oil and gas lease offer W 53232 for Parcel 37. The offer was filed in November 1975 in a simultaneous drawing procedure, pursuant to 43 CFR Subpart 3112.

On his drawing entry card, which was drawn first in the drawing, appellant indicated that Robert S. Davis had an interest in his offer. The offer was rejected for failure to file the statement of interest required by 43 CFR 3102.7. The cited regulation provides:

\* \* \* 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. \* \* \*

In his appeal, appellant asserts that at the time of signing the drawing entry card he was, and still is, the sole party in interest in the lease offer; that when he signed the entry card he indicated Davis as a party in interest because prior to that date discussions had taken place between him and Davis in regards to forming an association but that no association has been finalized.

[1] We have repeatedly held that the requirements of 43 CFR 3102.7 are mandatory and that an offer not in compliance therewith must be rejected. Emily Sonnek, 21 IBLA 245 (1975); Joy Goodale, 18 IBLA 38 (1974); Wesley Warnock, 17 IBLA 338 (1974); Mary West, 17 IBLA 84 (1974); D. O. Keon, 17 IBLA 81 (1974). As we said in Keon (at 83):

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 at the time of filing, Caddell was the sole party in interest and the intention was to show the negotiations looking to an agreement with Davis were incomplete, then Davis should not have been listed as a party in interest. If there was an informal agreement for Davis to contribute and share in the lease but the agreement was subject to further change, this should have been set forth. In any event, having listed him, the filing of the required statement is mandatory. Therefore, we have no choice but to affirm the rejection of the offer by the decision below.

[2] Appellant's statement in his appeal that he was, and still is, the sole party in interest in the offer is to no avail. Under the simultaneous filing procedure an applicant may not "cure" the defects in his offer by the submission of additional information after the drawing. Southern Union Production Co., 22 IBLA 379, 382 (1975); Manhattan Resources, Inc., 22 IBLA 24, 26 (1975), and cases cited. See 43 CFR 3112.5-1.

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.

Martin Ritvo

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Administrative Judge

We concur:

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Joan B. Thompson  
Administrative Judge

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Joseph W. Goss  
Administrative Judge

