

JELENKO STEFANOVIC

IBLA 76-625

Decided August 17, 1976

Appeal from a decision of Montana State Office, Bureau of Land Management, rejecting oil and gas lease offer M-33631.

Affirmed.

1. 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 Interests Leases

A simultaneous acquired lands oil and gas lease offer for lands in which the United States owns only a fractional mineral interest is defective and is properly rejected when the applicant fails to accompany his offer with the statement required by the regulation showing the extent of his ownership of operating rights to the fractional mineral interests not owned by the United States, nor can such defect be cured by submitting the information on appeal.

APPEARANCES: Jelenko Stefanovic, pro se.

OPINION BY ADMINISTRATIVE JUDGE RITVO

Jelenko Stefanovic has appealed from a decision of the Montana State Office, Bureau of Land Management, dated April 26, 1976, which rejected his noncompetitive acquired lands oil and gas lease offer M-33631 filed as a drawing entry card for parcel No. 1045 in response to a posting of lands available for filing of simultaneous oil and gas lease offers on February 17, 1976.

Appellant's offer was drawn second in the February 1976 simultaneous drawing. The United States owns a 50-percent mineral interest in these lands, a fact clearly indicated on the notice of availability. Both his offer and that of number 1 were rejected because the offerors did not file an accompanying statement required by 43 CFR 3103.4-4 showing the extent of their ownership of the operating rights to the fractional mineral interest not owned by the United States. No appeal has been filed by number 1.

The pertinent regulation, 43 CFR 3130.4-4, states:

Fractional present interests.

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. [Emphasis supplied.]

Appellant states that he did not understand the regulatory requirements. Unfortunately, this circumstance does not eliminate the necessity for his compliance with these requirements.

[1] We have repeatedly emphasized that this regulatory requirement is mandatory. Where the United States owns only a fractional mineral interest in the land, the offeror must accompany the offer with a statement showing the extent of the offeror's ownership of the operating rights in the fractional mineral interest not owned by the United States. Where there is no such accompanying statement the offer must be rejected. Michael Shearn, 24 IBLA 259 (1976); Margaret Hughey Hugus, 22 IBLA 146 (1975); George H. Isbell, Jr., 20 IBLA 312 (1975); James H. Scott, 18 IBLA 55 (1974); Michigan Wisconsin Pipe Line Co., 17 IBLA 282 (1974); Arthur E. Meinhart, 11 IBLA 138, 80 I.D. 395 (1973). The regulation is clear and free from ambiguity and cannot be disregarded. Michigan Wisconsin Pipe Line Co., *supra*. It is applicable to both simultaneous and over-the-counter filings. Arthur E. Meinhart, *supra*.

On appeal Stefanovic asserts that he does not have any interest in the 50 percent not owned by the United States. However, a simultaneously filed offer and drawing entry card must be rejected

and may not be cured by the late submission of further information. June Brooks, 25 IBLA 326 (1976).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision of the Eastern States Office is affirmed.

Martin Ritvo
Administrative Judge

We concur:

Edward W. Stuebing
Administrative Judge

Joseph W. Goss
Administrative Judge

