

SUSAN R. SMITH

IBLA 76-669 Decided November 24, 1976

Appeal from decision of Eastern States Office, Bureau of Land Management, rejecting oil and gas lease offer ES 16187.

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 Interest Leases

An oil and gas lease offer for acquired lands in which the United States owns a fractional mineral interest 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. An offer which is defective for failure to comply with this mandatory regulation must be rejected.

APPEARANCES: Susan R. Smith, pro se.

OPINION BY CHIEF ADMINISTRATIVE JUDGE FRISHBERG

Susan R. Smith appeals from a decision of the Eastern States Office, Bureau of Land Management, dated June 1, 1976, rejecting her noncompetitive acquired lands oil and gas lease offer ES 16187 filed as a drawing entry card for Parcel No. 4, List No. 76-4, which was posted as available for simultaneous filing of oil and gas lease offers on April 19, 1976. The basis for the decision was that the United States owns only a fractional mineral interest in the oil and gas in the parcel, and the offeror failed to provide a statement required by 43 CFR 3130.4-4 showing her ownership of operating rights to the fractional mineral interest not owned by the United States.

In her statement of reasons, appellant contends:

*** This decision and rejection is totally without merit because I submitted a statement as required, reading:

"I, the offeror, own none of the operating rights to the fractional mineral interest not owned by the United States."

and stapled it to the upper left corner of the card. If it is not attached as maintained, then it must have been pulled off when the envelope was opened in the Land Office. It has always been my practice to fill out the card and systematically review it after rereading the instruction sheet and card. ***

The Board contacted the Eastern States Office to inquire how attachments were processed at the time of the April 1976 drawing. We were informed that the practice was to attach such a statement to the offer so that it remained with the offer during the drawing. The Eastern States Office said that there was no attachment with Ms. Smith's offer when it was drawn; nor was there a loose document remaining in the hopper after the drawing. We therefore conclude that the required statement was not attached to the offer as alleged by appellant.

[1] This Board has repeatedly emphasized that the requirement in 43 CFR 3130.4-4 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. Frank G. Wells, 28 IBLA 113 (1976); Grady Argenbright, 27 IBLA 24 (1976); Michael Shearn, 24 IBLA 259 (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 appealed from is affirmed.

Newton Frishberg
Chief Administrative Judge

We concur.

Frederick Fishman Anne Poindexter Lewis
Administrative Judge

Administrative Judge.

