

DUNCAN MILLER

IBLA 77-426

Decided July 22, 1977

Appeals from a decision of Eastern States Office, Bureau of Land Management, requiring payment of additional rental prior to issuance of noncompetitive oil and gas leases. ES 16702, ES 16712, ES 16721.

Affirmed.

1. Oil and Gas Leases: Applications: Generally--Oil and Gas Leases: Noncompetitive Leases--Oil and Gas Leases: Rentals--Regulations: Applicability

Where the Department, through a duly promulgated regulation, has increased the rental rate on all noncompetitive oil and gas leases issued after a specified date, such increased rate is applicable to all leases issued subsequent to that date, including leases issued pursuant to the simultaneous filing procedures, even though the lease offers were drawn with first priority prior to the effective date of the increase.

APPEARANCES: Duncan Miller, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Duncan Miller has appealed from decisions of the Eastern States Office, Bureau of Land Management, requiring payment of rental at the rate of \$1 per acre prior to issuance of noncompetitive oil and gas leases, ES 16702, ES 16712, ES 16721.

In each case, appellant's drawing entry card had been drawn first for a parcel of land offered to oil and gas leasing in the December 1976 simultaneous filing procedure. The decisions were based on a change in the regulation, 43 CFR 3103.3-2, increasing the rental from 50 cents to \$1 per acre on all noncompetitive oil and gas leases issued on or after February 1, 1977. 42 FR 1032.

Appellant contends that a change in the rental rate after he had filed his lease offers should not apply to him. He has paid the required rental of \$1 per acre, albeit under protest.

The precise issue raised in this appeal has been fully considered by this Board in a number of recent cases. E.g., Duncan Miller, 30 IBLA 350 (1977), Milton J. Lebsack, 29 IBLA 316 (1977), Raymond N. Joeckel, 29 IBLA 170 (1977). Each of these decisions held that the increased rental must be paid on a lease issued on or after February 1, 1977. For the reasons stated therein, appellant was properly required to pay the rental of \$1 per acre on the three offers under consideration herein.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decisions appealed from are affirmed, and the cases remanded to the Eastern States Office for issuance of the leases.

Douglas E. Henriques
Administrative Judge

We concur:

Martin Ritvo
Administrative Judge

Newton Frishberg
Chief Administrative Judge