

VERNER F. SORENSON

IBLA 77-463

Decided October 21, 1977

Appeal from decision of Wyoming State Office, Bureau of Land Management, rejecting drawing entry card lease offer W 59605.

Affirmed.

1. Notice: Generally--Regulations: Generally

All persons dealing with the Government are presumed to have knowledge of duly promulgated regulations.

2. Administrative Practice--Oil and Gas Leases: Applications:
Generally--Oil and Gas Leases: Applications: Sole Party in Interest

Where an oil and gas lease offer filed on a drawing entry card in a simultaneous filing procedure contains the name of additional parties and the statements of interest, copy or explanation of the agreement among the parties, and evidence of the qualifications of the additional parties are not filed within the time required by 43 CFR 3102.7, the offer must be rejected.

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

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

APPEARANCES: Kevin M. Wein, Esq., Denver, Colorado, for appellants.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Verner F. Sorenson *et al.*, have appealed from a decision by the Wyoming State Office, Bureau of Land Management, dated June 24, 1977, which rejected oil and gas lease offer W 59605, filed by drawing entry card (DEC) for Parcel WY-67, in the May 1977 simultaneous filing procedure pursuant to 43 CFR Subpart 3112.

The DEC, which received first priority in the drawing, was signed by Verner F. Sorenson and Eunice M. Sorenson, as applicants, and also indicated that two other persons, each surnamed "Sorenson," were other parties in interest in the offer. The DEC was rejected for failure of the parties to file the statements of interests required by 43 CFR 3102.7.

On the reverse side of the card under the heading "INSTRUCTIONS" is the following: "Other parties in interest - All interested parties named below must furnish evidence of their qualifications to hold such lease interest. See 43 CFR 3102.7." The regulation, 43 CFR 3102.7, provides pertinently:

If there are other parties interested in the offer of 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.

Appellants contend essentially that the instructions on the DEC are not adequate to inform the public as to rules and regulations of which they have no knowledge, and consequently they should not be held to the guidelines in 43 CFR 3102, nor should they be penalized for failure to comply with such rules. They suggest that the subject DEC was completed in conformance with information furnished to their agency by an employee of BLM, and that they should not be penalized for reliance on incorrect information from BLM.

As appellants point out, the simultaneous filing procedure in 43 CFR Subpart 3112 is a method utilized by the Department to give equal opportunity to those who seek to obtain an oil and gas lease in the drawing procedure to determine priority of consideration. What they seem not to understand is that the Government, if it issues a

noncompetitive oil and gas lease, must issue that lease to the person first qualified who makes application. 30 U.S.C. § 226(c) (1970). The drawing to determine priority among the simultaneously-filed DEC does not determine that a lease will issue to the applicant of the first-drawn card, it only establishes the priority of consideration of the card so drawn. A lease may be issued in response to the DEC only if the offeror of the DEC having priority of consideration is shown to be qualified under the statute and regulations.

So, in this case, the DEC of the Sorensens' was drawn first for Parcel WY-67, but then, in the adjudicatory process, the DEC was discovered to be deficient under the regulations - the statements of interest required by 43 CFR 3102.7 had not been filed within the time period prescribed in the regulations.

[1, 2] The contention that appellants should not be held to the Department's regulatory requirements has been pressed before this Board on many other occasions. In Ross I. Gallen, 15 IBLA 86 (1974), the appellant maintained that he was misled by information printed on the DEC. The Board upheld the rejection of the DEC for which the required statement of interest had not been filed and rejected the argument that the DEC was misleading because it did not state that a separate statement of interest had to be filed, holding that the regulations referred to on the DEC, and quoted above, clearly prescribe the requirements. See also James D. Caddell, 25 IBLA 274 (1976); Leon M. Flanagan, 25 IBLA 269 (1976).

As to the allegation that appellants or the public do not know what "CFR" means, we point out that all persons dealing with the Government are presumed to have knowledge of duly promulgated regulations. 44 U.S.C. §§ 1507, 1510 (1970); Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380, 384-85 (1947). The regulation applicable here was duly promulgated at 35 FR 9678, June 13, 1970. The references on the DEC help an offeror to find the pertinent regulation, to aid him in compliance with the regulations. As the statements required by 43 CFR 3102.7, were not filed, the offer must be rejected. Gallen, supra; Caddell, supra; Flanagan, supra; Emily Sonnek, 18 IBLA 245 (1975); Jan Goodale, 18 IBLA 38 (1974); D. O. Keon, 17 IBLA 81 (1974).

[3] The argument of appellants that their agent obtained information from BLM and then followed the procedure therein indicated in connection with the subject DEC cannot prevail. The Department's regulations provide pertinently:

The United States is not bound or estopped by acts of its officers or agents when they * * * cause to be done what the law does not sanction or permit. 43 CFR 1810.3(b).

Reliance upon information or opinion of any officer, agent or employee * * * cannot operate to vest any right not authorized by law. 43 CFR 1810.3(c).

See, e.g., Margaret Hughey Hugus, 22 IBLA 146 (1975); Wilfred S. Wood, 20 IBLA 284 (1975). It is the responsibility of the offeror to comply with the requirements of the Department's duly promulgated regulations.

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.

Douglas E. Henriques
Administrative Judge

We concur:

Frederick Fishman
Administrative Judge

Martin Ritvo
Administrative Judge

