

HERBERT ADLER

IBLA 79-87

Decided August 22, 1979

Appeal from decision of the New Mexico State Office, Bureau of Land Management, rejecting oil and gas lease offer NM 34198.

Affirmed.

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

An oil and gas lease offer filed on a simultaneous filing drawing entry card must be rejected if it contains the names of additional parties in interest, and there is a failure to file the statement of their interests, the agreement between the parties, and the evidence of their qualifications within the time required by 43 CFR 3102.7.

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: Herbert Adler, pro se.

OPINION BY ADMINISTRATIVE JUDGE LEWIS

Herbert Adler has appealed from a decision of the New Mexico State Office, Bureau of Land Management (BLM), dated November 13, 1978, rejecting his oil and gas lease offer NM 34198 for parcel No. NM 742. The offer was filed on July 24, 1978, in the simultaneous drawing procedure pursuant to 43 CFR Subpart 3112.

At the public drawing held August 10, 1978, appellant's drawing entry card was drawn first for parcel No. NM 742. Appellant indicated on the card that Dr. Elias Lawrence and Mr. Louis Kahn were other parties in interest. The offer was subsequently rejected because appellant and the other parties listed failed to file statements setting forth the nature and extent of the interest of each in the offer, within 15 days of the filing of the lease offer as 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. Failure to file the statement and written agreement within the time allowed will result in the cancellation of any lease that may have been issued pursuant to the offer.

In his statement of reasons appellant contends he has always been the sole party in interest in the lease offer. He asserts that when he signed the drawing entry card he misconstrued the meaning of the word "interest." He specifically states:

There has never been an oral or written agreement that the two named above or either one were to have a share in the NM 742 parcel I put a bid in for in the July drawing. The only reason their names were entered, was an offer from both that if a geological study showed a possibility of the presence of Gas or Oil, and I had decided to drill rather than turn the lease over to others they would finance me at a very nominal rate of interest.

We have repeatedly held that the requirements of 43 CFR 3102.7 are mandatory. An offer not in compliance therewith must be rejected. Lyle W. Todd and Eileen S. Todd, 26 IBLA 246 (1976); Emily Sonnek, 21 IBLA 245 (1975); Ross I. Gallen, 15 IBLA 86 (1974); Melvyn Kegler, 13 IBLA 265 (1973).

Moreover, in similar circumstances we have pointed out that 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. James D. Caddell, 25 IBLA 274 (1976); D. O. Keon, 17 IBLA 81 (1974).

If appellant were the sole party in interest and there was never any intent to share in parcel No. NM 742, the two other names should not have appeared on the drawing entry card. Once the other parties were listed on the card the filing of the required statements is mandatory, even if the statement would disclose that the other parties had no interest. Therefore, we must affirm the rejection of this offer.

[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. James D. Caddell, supra at 276; 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.

Accordingly, 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.

Anne Poindexter Lewis
Administrative Judge

We concur:

Joseph W. Goss
Administrative Judge

James L. Burski
Administrative Judge

