

LUCINDA E. BOGGS

IBLA 79-414

Decided January 14, 1980

Appeal from decision of the Wyoming State Office, Bureau of Land Management, rejecting oil and gas lease offer for parcel WY 2933.

Affirmed.

1. Oil and Gas Leases: Applications: Generally -- Oil and Gas Leases: Reinstatement -- Oil and Gas Leases: Termination -- Reinstatement: Generally

When an oil and gas lessee submits the amount of rental stated in a bill rendered by an authorized officer and the amount is found to be in error resulting in a deficiency, generally such lease shall not have automatically terminated for failure to pay the annual rental timely and new offers to lease the lands must be rejected.

APPEARANCES: Steven K. Iverson, Mid-America Oil and Gas Leases, Inc., for appellant.

OPINION BY ADMINISTRATIVE JUDGE THOMPSON

Lucinda E. Boggs appeals from the decision dated April 30, 1979, of the Wyoming State Office, Bureau of Land Management (BLM), rejecting her lease offer for parcel WY 2933. The offer was rejected because the land is in oil and gas lease W 61334-A which issued December 1, 1977, for a period of 10 years.

Due to an error on BLM's part the billing notice to the lessee indicated an amount due that was half the actual amount due. Lessee submitted the amount requested in the notice, and, unaware of its error, BLM held the lease terminated automatically pursuant to 43 CFR 3103.3-2(d). The lessee submitted copies of the erroneous bill, and the receipt, and BLM "reinstated" the lease under 43 CFR 3108.2-1.

In the interim, before BLM's action restoring the lease, the lands were offered for lease in a simultaneous filing-drawing procedure, and appellant was the successful applicant. In its decision, BLM informed appellant that her application must be rejected and the advance rental and filing fee would be refunded at the expiration of the appeal period.

On appeal, appellant asserts that the terms of the lease state that failure to pay rental timely automatically terminates the lease. Appellant states she has complied with the procedures and should receive the lease.

Regulation 43 CFR 3108.2-1 states in part:

(b) Exceptions. If the rental payment due under a lease is paid on or before its anniversary date but * * * the amount of payment made was determined in accordance with the rental or acreage figure stated in the lease or stated in a bill or decision rendered by an authorized officer and such figure is found to be in error resulting in a deficiency, such lease shall not have automatically terminated unless (1) a new lease had been issued prior to May 12, 1970, or (2) the lessee fails to pay the deficiency within the period prescribed in the Notice of Deficiency provided for in this section.

This regulation implements the second proviso of 30 U.S.C. § 188(b) (1970). The facts in this case fall within the ambit of the regulation and statute. Appellant has failed to show that BLM acted improperly in restoring the lease and rejecting appellant's conflicting lease offer.

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.

Joan B. Thompson
Administrative Judge

We concur:

Edward W. Stuebing
Administrative Judge

Newton Frishberg
Chief Administrative Judge

