

Editor's note: Erratum issued April 2, 1980 -- see 45 IBLA 231A below.

WILFRED PLOMIS

IBLA 79-189 Decided February 4, 1980
79 333

Appeals from decisions of the Eastern States Office, Bureau of Land Management, requiring additional rental for certain noncompetitive acquired lands oil and gas leases. ES 16231 et al. 1/

Affirmed.

1. Oil and Gas Leases: Future and Fractional Interest Leases--Oil and Gas Leases: Rentals

Under 43 CFR 3130.2 1, rental for noncompetitive oil and gas leases for acquired lands in which the United States owns an undivided fractional interest is payable at the same rate as provided for full acreage leases and not prorated.

APPEARANCES: Wilfred Plomis, pro se.

OPINION BY ADMINISTRATIVE JUDGE GOSS

In IBLA 79-189 and 79-333, Wilfred Plomis has appealed from 12 decisions of the Eastern States Office, Bureau of Land Management (BLM), requiring additional rental for certain noncompetitive acquired lands oil and gas leases where the United States owns an undivided fractional interest in the leased land. The rental was to be payable at the same rate as provided for full acreage leases and not prorated. The appeals concern the same issue and are therefore consolidated.

1/ The appeals concern the following oil and gas leases:

IBLA 79-189 - ES 16231, ES 16553, ES 16584, ES 16588, ES 16589, ES 16594, ES 16618, ES 16619, ES 16620, ES 16621, ES 16639, ES 16640, and ES 16641.

IBLA 79-333 - ES 16594.

In his statements of reasons for appeal, appellant contends that the additional rental charged by BLM exceeds that provided for in the regulations, as evidenced by the fact that royalties are prorated, and may be a charge for the remaining non-Federal interest in the land. Appellant also envisages several problems under the present system; namely, the loss of leases by those paying prorated rental according to 'general practice' and problems with 'chargeability.' As to the latter, appellant presents two scenarios wherein several lessees each own a portion of the Federal Government's undivided fractional interest in the leased land or else several lessees each own a separate undivided fractional interest in the leased land such that each lessee would be charged for the full acreage, resulting in the collection of excess rental.

[1] The additional rental charged by BLM fully comports with the present regulation, 43 CFR 3130.2 1, which provides: 'Rental shall not be prorated for any lands in which the United States owns an undivided fractional interest but shall be payable at the same rate as provided in Subpart 3103 of this chapter for the full acreage in such lands.' Royalties for production, on the other hand, are prorated as provided in 43 CFR 3130.2 2.

As of October 28, 1976, the regulations pertaining to rentals and royalties for fractional leases were changed to their present form. Prior to that time rentals on fractional leases were prorated. 43 CFR 3130.2 (1975); 41 FR 43149 (Sept. 30, 1976). Moreover, in the instance of assignments of separate strata within an oil and gas lease, the payment of multiple rentals has not been held improper where rental obligations are separate and distinct. See Continental Oil Company, 74 I.D. 229 (1967).

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.

Joseph W. Goss
Administrative Judge

We concur:

James L. Burski
Administrative Judge

Frederick Fishman
Administrative Judge

April 2, 1980

IBLA 79-189, 79-333 : ES 16231 et al.
: :
45 IBLA 230 : Oil and Gas
: :
WILFRED PLOMIS : :

ERRATUM

On February 4, 1980, the Board decided the appeal in Wilfred Plomis, 45 IBLA 230. In that decision an error occurred in the third paragraph on page 231. Accordingly, the last sentence of that paragraph is amended to read:

Moreover, in the instance of assignments of separate strata within an oil and gas lease, the payment of multiple rentals has not been held improper where rental obligations are separate and distinct. See Continental Oil Company, 74 I.D. 229 (1967).

Joseph W. Goss
Administrative Judge

We concur:

James L. Burski
Administrative Judge

Frederick Fishman
Administrative Judge

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