

ARTHUR ANCOWITZ

IBLA 81-898

Decided September 24, 1981

Appeal from the decision of the Oregon State Office, Bureau of Land Management, rejecting simultaneous oil and gas lease offer OR 23113.

Affirmed.

1. Oil and Gas Leases: Applications: Drawings--Oil and Gas Leases: Rentals

Where, following a drawing of simultaneously filed oil and gas lease offers, a priority applicant fails to submit advance rental within 15 days after receipt of a notice that payment was due, as prescribed by 43 CFR 3112.4-1 (1979), disqualification of the offer is automatic.

APPEARANCES: Arthur Ancowitz, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Arthur Ancowitz has appealed the decision of the Oregon State Office, Bureau of Land Management (BLM), dated June 22, 1981, rejecting his simultaneous oil and gas lease offer, OR 23113, for 1,962.9 acres of land in T. 18 S., R. 22 E., Willamette meridian, Oregon.

Appellant's lease offer was drawn with third priority for parcel No. OR 0-027 at the simultaneous drawing held by BLM on November 28, 1979. Following rejection of the offers drawn with first and second priority, on May 1, 1981, BLM sent appellant two documents: (1) A notice requiring that he submit a certified statement as to his qualifications to hold a lease and (2) a decision requiring acceptance of specified stipulations and requiring payment of rental within 30 days of receipt of the decision. BLM sent the documents by certified mail. The return receipt indicates that one M. White signed for the envelope on behalf of addressee Arthur Ancowitz on May 7, 1981. The rental was therefore due by June 8, 1981, the first business day following

the 30th day. On May 9, 1981, appellant executed the certification of qualifications to hold a Federal oil and gas lease and signed the stipulations. He then returned them to BLM which received them on May 14, 1981. No rental payment accompanied this submission. BLM did not receive the rental payment until June 17, 1981.

In his statement of reasons, appellant argues that he always accepts those leases for which he is eligible. He urges that BLM did not follow its usual and customary procedure of using the standard form notice of rental due (form 3112-4) which caused his error. He states that usually he receives the stipulations for signature many months after paying the rental and that in this case he thought that he had already made the payment. He asserts that his submission of the signed stipulations herein demonstrated his intent to accept the lease.

[1] The applicable regulation governing the offers made at the November 1979 simultaneous drawing, 43 CFR 3112.4-1 (1979), 1/ reads as follows:

§ 3112.4-1 Rental payment.

A lease will be issued to the first drawee qualified to receive a lease upon payment of the first year's rental. Rental must be received in the proper office of the Bureau of Land Management within fifteen (15) days from the date of receipt of notice that such payment is due. The drawee failing to submit the rental payment within the time allowed will be automatically disqualified to receive the lease, and consideration will be given to the entry of the drawee having the next highest priority in the drawing. [Emphasis added.]

There is no requirement that the notice of rental due be on a particular form. The decision issued by BLM was captioned "Acceptance of Stipulation(s) Required, Rental Required" and clearly stated that a rental payment was due. Even though BLM mistakenly allowed appellant a greater time period for submitting the rental than allowed by the regulations, appellant failed to comply timely. BLM properly rejected oil and gas lease offer OR 23113. Robert E. Bergman, 53 IBLA 122 (1981).

1/ The regulations at 43 CFR Subpart 3112 governing the simultaneous oil and gas leasing program have been revised (45 FR 35163 (May 23, 1980)). A priority applicant now has 30 days to return to BLM a signed lease agreement with the appropriate rental, the timely receipt of both constituting an offer to lease. 43 CFR 3112.4-1.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision of the Oregon State Office is affirmed.

Douglas E. Henriques

Administrative Judge

We concur:

Gail M. Frazier
Administrative Judge

Bruce R. Harris
Administrative Judge.

