

BOB G. HOWELL

IBLA 82-58, IBLA 82-59

Decided April 6, 1982

Appeal from decision of the Arizona State Office, Bureau of Land Management, rejecting noncompetitive oil and gas lease offer A-17091.

Vacated and remanded.

1. Oil and Gas Leases: Applications: Description--Oil and Gas Leases: Description of Land

An oil and gas lease offer which on its face describes the land as being in R. 34 W., but on a supplemental attachment describes land in R. 24 W., is unacceptably ambiguous. BLM personnel are without authority to alter, modify, or correct errors in land descriptions or to so construe ambiguities in lease offers as to qualify an unacceptable offer.

APPEARANCES: Roger K. Stewart, Esq., Fresno, California, for appellant; Robert F. Gill, Jr., Esq., for Inexco Oil Company.

OPINION BY ADMINISTRATIVE JUDGE STUEBING

Bob G. Howell has appealed from a decision of the Arizona State Office, Bureau of Land Management (BLM), which rejected his noncompetitive oil and gas lease offer A-17091.

On May 27, 1981, Inexco Oil Company filed a noncompetitive over-the-counter offer to lease for oil and gas certain lands enumerated in the offer. On July 6, 1981, George D. Fehr and Great American Land and Cattle Company filed a noncompetitive over-the-counter offer to lease 660 acres for oil and gas in the same area described in the supplemental sheet attached to Inexco's offer. On July 8, 1981, Bob G. Howell filed a noncompetitive over-the-counter offer to lease the same lands as those described by Inexco on its supplemental attachment.

The lands sought for lease under Howell's offer and as listed on Exhibit A of Inexco's lease offer are as follows:

[1] The inclusion of two range designations made Inexco's offer patently ambiguous, and appellant is correct in asserting that Inexco's offer should have been rejected because the offer was deficient as filed. C. C. Hughes, 33 IBLA 237 (1977). The fact that the error was inadvertent is not exculpatory. Amerada Hess Corp., 34 IBLA 64 (1978). BLM erred in ignoring the ambiguity and accepting the offer on the basis of what it perceived to be Inexco's intention. Not only have we held that BLM personnel are not required to alter, modify, or correct erroneous descriptions in offers and applications, C. C. Hughes, *supra*; but further, that BLM personnel are without authority to do so, or to construe ambiguities therein in such a way as to make them acceptable. B. D. Price, 34 IBLA 41 (1978); Mountain Fuel Supply Co., 13 IBLA 85 (1973). As we explained in Mountain Fuel Supply Co., *supra*, there are four basic reasons for prohibiting BLM personnel from attempting to resolve errors or ambiguities in land descriptions furnished by applicants. First, by "qualifying" deficient first-filed offer which otherwise would be unacceptable, BLM is acting to the prejudice of one who subsequently filed a proper offer which is entitled to statutory priority. Second, in attempting to interpret the true intention of the offeror, BLM runs a risk of doing so improperly, resulting in an action contrary to the offeror's intention, as occurred in B. D. Price, *supra*. Third, attempts to resolve such errors and ambiguities in some cases and not in others is violative of the salutary objective of consistent, uniform administration, and can lead to charges of favoritism, discrimination, and prejudice. Fourth, such efforts frequently are administratively troublesome, costly, and time-consuming.

Where an offer for a noncompetitive oil and gas lease contains a defective description of the lands sought, and prior to lease issuance a second offer is filed correctly describing the same lands, the lease issued in response to the first offer must be canceled and awarded to the qualified junior offeror. Sam P. Jones, 45 IBLA 208 (1980); Arthur E. Meinhart, 6 IBLA 39 (1972); Jacob N. Wasserman, 74 I.D. 392 (1967).

In light of our holding with reference to the ambiguous land description in Inexco's offer, it is unnecessary to consider appellant's other allegations.

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 vacated and the case is remanded for further action consistent with this opinion.

Edward W. Stuebing
Administrative Judge

We concur:

Bruce R. Harris Douglas E. Henriques
Administrative Judge

Administrative Judge

