

JAMES M. CHUDNOW

IBLA 81-983

Decided August 27, 1982

Appeal from decision of the Montana State Office, Bureau of Land Management, rejecting noncompetitive oil and gas lease offer M 48393.

Affirmed.

1. Oil and Gas Leases: Applications: 640-acre Limitation

An oil and gas lease offer to lease less than 640 acres which adjoins land available for leasing is properly rejected.

APPEARANCES: James M. Chudnow, pro se.

OPINION BY ADMINISTRATIVE JUDGE GRANT

James M. Chudnow filed noncompetitive offer to lease public domain lands for oil and gas, M 48393. The lease offer described sec. 31, T 28 N., R. 17 W., Principal meridian, Montana, containing 620 acres. By decision dated July 27, 1981, the Montana State Office, Bureau of Land Management (BLM), rejected the offer stating: "[t]he offer is for a total of less than 640 acres of available land and is not within the exceptions contained in 43 CFR 3110.1-3(a)." This appeal followed.

On appeal appellant alleges that the oil and gas lease application was made for 640 acres and covered the entire section. He further asserts that no surveyed lots within a 6-mile square existed which would have permitted him to add to his lease offer without adding an additional section.

[1] As the subject oil and gas lease offer was for less than 640 acres as the land status plats show, the strictures of 43 CFR 3110.1-3(a) are applicable. That regulation provides that no noncompetitive offer to lease public domain may be made for less than 640 acres except where the offer is accompanied by a showing that the lands are in an approved unit or cooperative plan of operation or where such a plan has been approved as to form by the Director, Geological Survey, or where the land is surrounded by lands not available for leasing under section 17 of the Mineral Leasing Act of 1920, as amended, 30 U.S.C. § 226 (1976). The land status plats of BLM show that land contiguous to sec. 31 in secs. 29, 30, and 32, T. 28 N., R. 17 W, were not under oil and gas lease when offer M-48393 was filed, even though they were included in pending offers to lease. A noncompetitive oil and gas lease

offer for less than 640 acres is properly rejected where the offer failed to include other adjoining lands which were available at the time the offer was filed, although such lands may have been included in prior outstanding lease offers. Douglas R. Willson, 52 IBLA 246 (1981); Alice Hays, 36 IBLA 313 (1978). This result is not altered by the fact that the contiguous lands were unsurveyed, but instead were located within a protracted survey.

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.

C. Randall Grant, Jr.
Administrative Judge

We concur:

Will A. Irwin
Administrative Judge

Anne Poindexter Lewis
Administrative Judge

