

HRUBETZ OIL CO.

IBLA 82-839

Decided September 15, 1982

Appeal from decision of the Wyoming State Office, Bureau of Land Management, rejecting in part oil and gas lease offers W 74912 and W 74920 through W 74923.

Affirmed.

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

Under Departmental regulation 43 CFR 3101.1-4(d), an oil and gas lease offer for land within a protracted survey must include only entire sections of land except where only a portion of a protracted section is available for lease, in which event the offeror must describe all of the land available within that section. An oil and gas lease offer may not be construed as an offer for all available lands within a protracted section where the offer describes the section as expressly excluding land within a specifically numbered mineral survey which remains available for leasing, and such an offer must be rejected.

2. Oil and Gas Leases: Applications: Description -- Oil and Gas Leases: Description of Land -- Oil and Gas Leases: Lands Subject to

Departmental regulation 43 CFR 3101.1-4(d) does not permit the splitting of protracted sections between two offers, even if they are filed at the same time.

APPEARANCES: Albert Hrubetz, for appellant.

OPINION BY ADMINISTRATIVE JUDGE STUEBING

Hrubetz Oil Company (Hrubetz) has appealed separate decisions of the Wyoming State Office, Bureau of Land Management (BLM), rejecting in part over-the-counter noncompetitive oil and gas lease offers W 74912 and W 74920 through W 74923. The offers described protracted sections of land in unsurveyed townships. The offers were rejected with respect to those protracted sections for which appellant had failed to apply for all of the land available.

[1] Departmental regulation 43 CFR 3101.1-4(d) provides that offers to lease lands shown on protracted surveys must include only entire sections, except where only a portion of such a section is available for lease, in which event an offer must describe all of the land available. Oil and gas lease offer W 74912 described land in T. 54 N., R. 106 W., sixth principal meridian, Wyoming. The offer was rejected with respect to the application for secs. 15 and 16. The offer described sec. "15 All Exc. MES 574A" and sec. "16 All Exc. MES 574A & B, 571B." However, the land within Mineral Survey 574 Tract A is unpatented and available for leasing. Because appellant failed to include this land in his offer, his application was rejected on the basis of Departmental regulation 43 CFR 3101.1-4(d). Appellant states that he intended to include all of the land available in that section for lease and that no acreage which was available for leasing was knowingly or intentionally omitted.

An oil and gas lease offer cannot be construed as applying to all of the available land within a section where a section is described as excluding land within a specifically numbered mineral survey which remains available for leasing, especially where appellant's offer is not accompanied by sufficient rental to cover the acreage so excluded. See Leon Jeffcoat, 66 IBLA 80 (1982). Such an offer is properly rejected because it fails to include all of the land available for leasing within a protracted section.

[2] Oil and gas lease offers W 74920 through W 74923 were rejected because appellant had split protracted sections among the offers. Section 16, T. 52 N., R. 107 W., sixth principal meridian, Wyoming, was divided between offers W 74920 and W 74921. Section 3 of that township was divided between offers W 74921 and W 74922. Section 21 of that township was divided between W 74922 and W 74923. Appellant contends that the offers are acceptable because they were filed at the same time and the offers of Hrubetz, therefore, included all of the entire section. Departmental regulation 43 CFR 3101.1-4(d) does not permit the splitting of protracted sections between two offers even if they are filed at the same time. In William B. Collister, 71 I.D. 124, 125 (1964), the Department noted that the clear intent of the regulation is to facilitate the leasing of lands in protracted surveys by entire sections and to eliminate small unleased tracts surrounded by leased areas. The Department had amended its regulations concerning the description of lands in an oil and gas lease offer to fulfill this intent. 27 FR 4365 (May 8, 1962). Cf. Jack V. Walker, A-29402, etc. (July 22, 1963) (regulation previously in effect did not clearly require that offers include

all of a protracted section). Thus, each offer was properly rejected to the extent that it had failed to include all of the land available within the protracted sections described.

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.

Edward W. Stuebing
Administrative Judge

We concur:

C. Randall Grant, Jr.
Administrative Judge

Douglas E. Henriques
Administrative Judge

