

IRVIN WALL

IBLA 82-926

Decided November 19, 1982

Appeal from decision of the Oregon State Office, Bureau of Land Management, rejecting noncompetitive oil and gas lease offer. OR 28946.

Affirmed.

1. Oil and Gas Leases: First-Qualified Applicant -- Oil and Gas Leases:
Noncompetitive Leases:

An oil and gas lease offer must be rejected when the land applied for has been leased to a senior offeror under a proper offer.

APPEARANCES: Irvin Wall, pro se.

OPINION BY ADMINISTRATIVE JUDGE IRWIN

Irvin Wall has appealed from the May 17, 1982, decision of the Oregon State Office, Bureau of Land Management (BLM), rejecting his noncompetitive oil and gas lease offer OR 28946, filed August 17, 1981, for lots 1, 2, and 3 of sec. 7; lot 3, W 1/2 NE 1/4, N 1/2 NW 1/4 sec. 9; S 1/2 NE 1/4, E 1/2 SE 1/4 sec. 12; E 1/2 NE 1/4, SE 1/4 sec. 13; E 1/2 NE 1/4, NW 1/4 NE 1/4, NE 1/4 N/W 1/4, E 1/2 SE 1/4 sec. 24; and the NE 1/4 NE 1/4 of sec. 25, T. 40 S., R. 20 E., Willamette meridian, Lake County, Oregon, because the lands described were already the subject of a valid oil and gas lease. ^{1/} The lands appellant applied for were leased under offer OR 27926 filed by Don G. Carpenter on July 7, 1981, issued effective June 1, 1982.

On June 14, 1982, appellant filed a timely notice of appeal. In his statement of reasons appellant contends that "the acreage described in [his lease offer] comprises a total of 924.11 acres rather than the total of 896.11 acres shown on the Offer To Lease And Lease * * * submitted by Mr. Don G. Carpenter having Serial Number OR 27926." Appellant's offer encompassed the same acreage as OR 27926.

^{1/} BLM rejected lot 3 of sec. 9 because the United States holds neither title to nor a reservation of the oil and gas.

A recount of the acreage described in the offers OR 27926 and OR 28946 confirms the total of 896.11 acres, as indicated in Carpenter's offer. ^{2/} Thus, Carpenter's offer was properly accepted.

[1] A junior offer is properly rejected where it includes land designated in a senior offer and the senior offer subsequently is accepted and the lease is properly issued. David A. Provinse, 33 IBLA 312 (1978); Connie Mull, 22 IBLA 307 (1975).

In addition, even if Carpenter's acreage count had been short, as argued by appellant, and, as a result, his first year's rental payment was deficient, the deficiency would have been less than 10 percent. Where an offer is deficient in the first year's rental by no more than 10 percent and all other requirements are met, BLM would issue the lease and afford the offeror 30 days from notice of the deficiency to provide payment under penalty of cancellation of the lease. 43 CFR 3103.3-1.

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.

Will A. Irwin
Administrative Judge

We concur:

James L. Burski
Administrative Judge

Bruce R. Harris
Administrative Judge

^{2/} Since Carpenter's lease did not include lot 3 of sec. 9, the total acreage minus lot 3, sec. 9 (3.92 acres), is 892.19 acres.

