

RON W. HOWARD

IBLA 82-866

Decided August 15, 1983

Appeal from decision of the New Mexico State Office, Bureau of Land Management, rejecting oil and gas lease offers NM-A 43343 (TX) and NM-A 43344 (TX).

Set aside and remanded.

1. Oil and Gas Leases: Acquired Lands Leases--Oil and Gas Leases:  
Applications: Description

An over-the-counter oil and gas lease offer which describes acquired land by tract acquisition number must be accompanied by a map showing the location of the requested lands or the offer will be rejected.

2. Oil and Gas Leases: Applications: Generally--Oil and Gas Leases:  
Applications: Filing--Regulations: Generally

All persons dealing with the Government are presumed to have knowledge of duly promulgated rules and regulations, regardless of their actual knowledge of what is contained in such regulations. Failure to receive a copy of a regulation does not provide a valid reason for reinstating with original priority an over-the-counter oil and gas lease offer which had been rejected for failure to comply with the regulation.

APPEARANCES: Ron W. Howard, pro se; John H. Harrington, Esq., Office of the Field Solicitor, Albuquerque, New Mexico, for the Bureau of Land Management.

OPINION BY ADMINISTRATIVE JUDGE ARNESS

Ron W. Howard has appealed from the decision of the New Mexico State Office, Bureau of Land Management (BLM), rejecting his over-the-counter oil

and gas lease offers for acquired lands NM-A 43343 (TX) and NM-A 43344 (TX). Appellant's offers were rejected because he described the land by tract acquisition number as provided in 43 CFR 3101.2-3(b)(2), but failed to accompany his offers with maps clearly showing the tracts.

[1] BLM properly rejected the offers. An over-the-counter oil and gas lease offer which describes acquired land by tract acquisition number must be accompanied by a map showing the location of the requested lands or the offer will be rejected. Vester Songer, 69 IBLA 177 (1982). Appellant has supplied the needed maps with his notice of appeal, in which he also states that the stapled copies of the regulations sent him by BLM omitted the page containing the regulation that requires submission of a map. He requests that his offers be accorded priority as of the date originally filed, December 9, 1980.

Under 30 U.S.C. § 226(c) (1976), land not within the known geological structure (KGS) of a producing oil or gas field may only be leased to the first-qualified applicant. This provision applies to leases for oil and gas on acquired land. 30 U.S.C. § 352 (1976). Defects in over-the-counter offers which can be cured without loss of priority are enumerated in 43 CFR 3111.1-1(e). <sup>1/</sup> Failure to include a map is not one of them.

[2] Appellant's alleged failure to receive a copy of the regulation that requires submission of maps does not provide a valid reason for reinstating his offers with their original priority. In determining the priority of offers, fairness to all applicants requires as strict a compliance as possible with published regulations governing qualifications and application procedures. When regulations have been duly published, all persons dealing with the Government are presumed to have knowledge of them, regardless of their actual knowledge of what is contained in such regulations. See 44 U.S.C. §§ 1507, 1510 (1976); Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947); Overthrust Oil and Gas Corp., 52 IBLA 119, 88 I.D. 38 (1981). Accordingly, appellant's offers can be accorded priority no earlier than May 27, 1982, the date on which the maps were submitted with his notice of appeal. Although BLM correctly rejected appellant's offers, it is now appropriate to set aside BLM's decision and remand the cases for adjudication on the basis of their new priority. See Metro Energy, 52 IBLA 369, 373-74 (1981).

In its answer to appellant's statement of reasons, the Solicitor notes that the land described by appellant's offers has been classified as a KGS of a producing oil or gas field. Under 30 U.S.C. § 226(b) (1976), land within the KGS of a producing oil or gas field may only be leased by competitive bidding, and where land is determined to be within such a structure while a noncompetitive lease offer is pending, the offer must be rejected. McDade v. Morton, 353 F. Supp. 1006 (D.D.C. 1973), aff'd, 494 F.2d 1156 (D.C. Cir. 1974); Robert L. Lyon, 66 IBLA 141 (1982). Inasmuch as BLM did not adjudicate appellant's offers on the basis of the KGS determination, we remand the cases to the State Office to do so.

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<sup>1/</sup> This regulation is made applicable to acquired lands lease offers by 43 CFR 3111.1-2(a)(7).

We decline at this time to affirm the rejection of appellant's offers on the modified basis of the KGS determination. The present record only contains a report of the KGS designation with no reasons supporting it and thus provides no basis for our consideration of its merits. Furthermore, appellant has had no opportunity to challenge or seek review of the determination. However, appellant should note that an applicant for an oil and gas lease who challenges the determination that lands are situated within the KGS of a producing oil or gas field has the burden of showing that the determination is in error, and the determination will not be disturbed in the absence of a clear and definite showing of error. Robert L. Lyon, supra.

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 set aside and the case remanded for further adjudication consistent with this opinion.

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Franklin D. Arness  
Administrative Judge  
Alternate Member

We concur:

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Bruce R. Harris  
Administrative Judge

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Edward W. Stuebing  
Administrative Judge

