

AMOCO PRODUCTION CO.

IBLA 83-546

Decided August 31, 1983

Appeal from a decision of the Montana State Office, Bureau of Land Management, rejecting simultaneous oil and gas lease offer M 56634.

Set aside and remanded.

1. Oil and Gas Leases: Applications: Attorneys-in-Fact or Agents--Oil and Gas Leases: First-Qualified Applicant-- Oil and Gas Leases: Rentals

Rejection of an oil and gas lease offer will be set aside where the offeror files his offer, rental, and, where appropriate, power of attorney or serial number reference thereto, within the 30-day period provided by regulation 43 CFR 3112.6-1(b)(2), even though the offer, rental, and appropriate power of attorney materials were not received together by BLM.

APPEARANCES: L. G. Gaskins, Esq., Amoco Production Company, Denver, Colorado, for appellant.

OPINION BY ADMINISTRATIVE JUDGE LEWIS

Amoco Production Company (Amoco) appeals from a decision of the Montana State Office, Bureau of Land Management (BLM), dated March 22, 1983, rejecting its offer to lease for oil and gas lands in parcel MT 145, Valley County, Montana. Appellant's application to lease was drawn with first priority in the September 1982 drawing of simultaneously filed applications. BLM rejected appellant's offer because appellant failed to include with its offer and rental a copy of its power of attorney or a reference to the serial number under which such authorization is filed.

In support of its rejection BLM cited regulation 43 CFR 3112.4-1(b). This regulation, newly revised at 48 FR 33648, 33680 (July 22, 1983), and effective August 22, 1983, is now found at 43 CFR 3112.6-1(b)(2):

- (2) An attorney-in-fact signing a lease offer on behalf of the prospective lessee shall file, together with the offer, a copy of his/her power of attorney, or where such power of attorney has previously been filed in a proper BLM office, a reference to the serial number of the record in which it has been filed * * *. [Emphasis added.]

BLM noted that appellant's lease and rental were received by the Montana State Office on March 11, 1983. On March 14, 1983, the State Office received a letter from Amoco providing the serial number of the record in which its power of attorney is filed.

Appellant's filing of its lease offer and rental was triggered by a notice from BLM, dated February 23, 1983, and received by appellant on February 28, 1983. That notice granted appellant 30 days from receipt thereof to file its offer, rental, and, where appropriate, a copy of its power of attorney or serial number reference. Having received this notice on February 28, 1983, Amoco was required to file the appropriate documents on or before March 30, 1983.

The issue whether an offeror in appellant's circumstances has satisfied the regulation and notice requirements has been addressed by this Board in Northwest Exploration Co., 73 IBLA 123 (1983). In that case, BLM rejected Northwest's offer for failure to file the appropriate power of attorney materials with its offer and rental as required by 43 CFR 3112.4-1. After receipt of BLM's decision and during the 30-day period allotted to it by regulation and notice, Northwest filed the necessary materials. We found therein that Northwest's piecemeal approach to filing the necessary materials had satisfied the regulation: "In this case we see no reason to impose a restrictive interpretation to a regulation, when appellant has, in fact, complied with the spirit of the regulation by providing all that was required within the regulatory time limits." (Footnote omitted.)

Although the language of the regulation interpreted in Northwest Exploration has been altered, the new regulation continues in the same spirit and should be similarly interpreted. So long as the lease offer, rental, and appropriate power of attorney documents are filed within the 30-day period provided by regulation, the fact that these materials were not received together will not support rejection of the offer. All else being regular, a lease should issue to appellant.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision of the State Office is set aside and the case remanded for action consistent herewith.

Anne Poindexter Lewis
Administrative Judge

We concur:

Franklin D. Arness
Administrative Judge
Alternate Member

Gail M. Frazier
Administrative Judge

