

BETH SITTRE, TRUSTEE

IBLA 84-457

Decided December 24, 1984

Appeal from decision of the Alaska State Office, Bureau of Land Management, rejecting noncompetitive oil and gas lease offer, AA-49138.

Affirmed.

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

A junior over-the-counter noncompetitive oil and gas lease offer is properly rejected where the lands have been leased to a senior offeror and the junior offeror fails to provide valid reasons why the senior offer should be considered defective.

APPEARANCES: Beth Sittre, trustee for Justin Sittre.

OPINION BY ADMINISTRATIVE JUDGE GRANT

Beth Sittre has appealed from a decision of the Alaska State Office, Bureau of Land Management (BLM), dated April 3, 1984, rejecting noncompetitive over-the-counter oil and gas lease offer, AA-49138. On October 18, 1983, Sittre filed the offer to lease sec. 7, T. 21 S., R. 5 E., Fairbanks Meridian, Alaska, as trustee for her minor son, Justin Sittre. The subject lands had been opened to mineral leasing in 1982 by Public Land Order No. (PLO) 6329. 47 FR 39495 (Sept. 8, 1982). BLM's decision rejected the offer because the described lands had been leased to a senior offeror, Alaska Petroleum Corporation, pursuant to a lease offer filed on October 11, 1983.

Appellant challenges BLM's decision on the grounds that she was told the land was available when she prepared the lease offer and BLM later identified her as the owner of the lease. She also asserts that the offer cannot be rejected because BLM has accepted it, cashed her check, and sent her notices regarding the lease.

[1] Under 30 U.S.C. § 226(c) (1982), once the Secretary of the Interior has determined to lease lands not within the known geologic structure of a producing oil and gas field, "the person first making application for the lease who is qualified to hold a lease under this chapter shall be entitled to a lease of such lands without competitive bidding." Where a

junior offeror fails to provide valid reasons why the senior offer should be considered defective, the junior offer is properly rejected. Charles E. Shaw, 81 IBLA 348 (1984); John D. LaRue, 78 IBLA 239 (1984). Priority of an offer received over-the-counter is determined as of the time and date it is filed in the proper BLM office. 43 CFR 3111.1-1(b).

Sittre argues that BLM told her that she "had these tracts." The record shows that BLM received her offer form on October 18, 1983, and processed it in accordance with the regulations. Notice of the offer was posted to BLM's computer records system, but the offer itself was not reviewed until March 4, 1984. At that time, offer AA-49090 had been adjudicated and a lease for sec. 7, T. 21 S., R. 5 E., Fairbanks Meridian, had been issued effective March 1, 1984. Nowhere in the record is Sittre identified as being entitled to lease the subject lands. While appellant suggests that she was misinformed by a BLM official, we must point out that reliance on erroneous or incomplete information by a Federal employee cannot create any rights not authorized by law. 43 CFR 1810.3(c); Harriet C. Shaftel, 79 IBLA 228 (1984), and cases cited therein.

In the absence of any valid reasons raised by Sittre as to why lease offer AA-49090 should be considered defective, we affirm BLM's decision rejecting lease offer AA-49138.

Accordingly, 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:

Gail M. Frazier
Administrative Judge

Edward W. Stuebing
Administrative Judge.

