

ELAINE WOLF

IBLA 88-487

Decided March 27, 1990

Appeal from a decision of the Wyoming State Office, Bureau of Land Management, cancelling oil and gas lease W-108927.

Affirmed.

1. Oil and Gas Leases: Applications: Attorneys-in-Fact or Agents--Oil and Gas Leases: Offers to Lease

An oil and gas lease offer signed by someone other than the potential lessee, which does not disclose the relationship between the potential lessee and the signatory, and where the signatory is not authorized as an agent or attorney-in-fact of the potential lessee, is subject to rejection under 43 CFR 3102.4 and 3112.6-1.

2. Oil and Gas Leases: Cancellation

The Secretary of the Interior has the authority to cancel any oil and gas lease issued contrary to law or regulation because of the inadvertence of his subordinates. Where an oil and gas lease offer should have been rejected because it failed to comply with applicable regulations, a lease based on such an offer is properly cancelled.

APPEARANCES: Elaine Wolf, Denver, Colorado, pro se.

OPINION BY ADMINISTRATIVE JUDGE HARRIS

Elaine Wolf has appealed from a decision dated May 20, 1988, by the Wyoming State Office, Bureau of Land Management (BLM), cancelling oil and gas lease W-108927.

Appellant was the priority applicant for Wyoming parcel WY-684 in the December 1987 simultaneous oil and gas lease filing. Appellant filed her simultaneous oil and gas lease application Form B on her own behalf. It bore her signature in the signature block. On March 3, 1988, BLM sent her oil and gas lease offer forms and environmental protection stipulations for her execution. These documents were signed not by appellant, but by Melvin

Wolf, and were returned to BLM on March 16, 1988. On April 27, 1988, BLM's authorized officer executed lease W-108927 on behalf of the United States, effective May 1, 1988.

BLM's decision notified appellant that her lease was cancelled, under authority of 43 CFR 3112.5-3, because the lease offer and stipulations had been signed by Melvin Wolf, rather than appellant, and because no reference was made to a power of attorney, as required by 43 CFR 3112.6-1(a) and (b).

In her statement of reasons, appellant explains that her secretary inadvertently presented the lease and stipulations to Melvin Wolf, rather than herself, for signature. She points out that BLM also failed to discover the error when the papers were returned to the State Office, and proceeded to issue the lease.

[1] One of the applicable regulations, 43 CFR 3112.6-1(a), requires that "[o]nly the personal handwritten signature, in ink, of the prospective lessee, or his/her attorney-in-fact, as described in paragraph (b) of this section, shall be accepted." ^{1/} Moreover, 43 CFR 3112.6-1(b)(2) requires the filing of a copy of the power of attorney with the offer. Another regulation, 43 CFR 3102.4, provides that the "original" of oil and gas lease offers "shall be holographically (manually) signed in ink and dated by the * * * potential lessee or by anyone authorized to sign on behalf of the * * * potential lessee." ^{2/} That regulation further provides:

Documents signed by anyone other than the * * * potential lessee shall be rendered in a manner to reveal the name of the * * * potential lessee, the name of the signatory and their relationship. (Example: John Smith, agent for Mary Jones; or ABC Corporation, agent for Mary Jones by John Smith.)

BLM may properly reject lease offers which do not comply with 43 CFR 3102.4, where such offers have been signed by a person other than the potential lessee and the relationship between the signatory and the lessee is not revealed. Ethel K. Brauns, 94 IBLA 64, 65 (1986); see Jonas P. Beachy, 80 IBLA 209, 211 (1984), and cases cited therein.

In this case, the record does not disclose the relationship between appellant and her signatory on the lease form, Melvin Wolf, nor does appellant contend that Melvin Wolf signed in a representative capacity or as an

^{1/} The regulations are discussed in the present tense because they were in effect at the time of the filing of the offer and the cancellation of the lease. However, 43 CFR Subpart 3112 was removed from the regulations as part of the revisions made to adjust for changes in the simultaneous oil and gas leasing system made by the Federal Onshore Oil and Gas Leasing Reform Act of 1987, P.L. 100-203, 101 Stat. 1330. 53 FR 22814, 22843 (June 17, 1988).

^{2/} This regulation was revised, effective June 15, 1988. 53 FR 17353 (May 16, 1988).

attorney-in-fact. Consequently, BLM should have rejected appellant's lease offer as running afoul of both 43 CFR 3102.4 and 3112.6-1. Since, however, BLM failed to discover appellant's lack of compliance with the regulations until after the lease issued, BLM was authorized under 43 CFR 3112.5-3 to cancel the lease. That regulation provides that where a lease has issued "on the basis of an application or offer which properly should have been rejected" action should be taken to cancel the lease "unless the rights of a bona fide purchaser * * * intervene." Moreover, the Secretary of the Interior has the authority to cancel any oil and gas lease issued contrary to law because of the inadvertence of his subordinates. Boesche v. Udall, 373 U.S. 472 (1963); Hanes M. Dawson, 101 IBLA 315, 318 (1988), and cases cited therein.

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.

Bruce R. Harris
Administrative Judge

I concur:

James L. Burski
Administrative Judge