

Editor's note: 78 I.D. 13

CARLSON OIL COMPANY, INC.

IBLA 70-680

Decided January 15, 1971

Rules of Practice: Appeals: Dismissal

An appeal to the Director, Bureau of Land Management, will be dismissed where the appellant did not timely file the notice of appeal in the proper office.

1 IBLA 238

IBLA 70-680 : F 12530, 12531, 12532, 12533

CARLSON OIL COMPANY, INC. : Oil and gas lease offers
: rejected

: Appeal dismissed

DECISION

Carlson Oil Company, Inc., has appealed to the Director, Bureau of Land Management, 1/ from decisions dated June 24, 1970, by the Bureau's State Office for Alaska which rejected its non-competitive oil and gas lease offers F 12530, 12531, 12532 and 12533, because the description of the lands sought in each offer did not meet the regulatory requirements.

The decisions were received by Carlson on June 26, 1970. Carlson's combined notice of appeal, addressed to the "Director, Department of the Interior, Bureau of Land Management," accompanied by the requisite filing fees, was filed in the Departmental mail room, Washington, D.C., on July 6, 1970.

The Department's rules of practice in effect at the time of the State Office decisions provided that appeals to the Director, Bureau of Land Management, be filed, together with payment of a filing fee, in the office of the officer who made the decision appealed from. Each decision here involved specifically directed

1/ The Secretary of the Interior, in the exercise of his supervisory authority, transferred jurisdiction over all appeals pending before the Director, Bureau of Land Management, to the Board of Land Appeals, effective July 1, 1970. Circular 2273; 35 F. R. 10009, 10012.

that any appeal must be filed in the Alaska State Office within 30 days from date of receipt of the decision. When no appeals were received in the Alaska State Office during the period allowed, the cases were closed of record and refunds of the advance rental payments were directed.

The Board of Land Appeals received the notice of appeal by Carlson on July 14, 1970, but did not ascertain that the document should have been filed in the Alaska State Office, Bureau of Land Management, until after July 27, 1970.

The Department has many times been confronted with cases under its rules of practice where the appellant erroneously filed in one office documents which should have been filed in another office, and, by the time the document had been forwarded to the proper office, the time for filing had expired. Consistently in such cases the Department held that the appeal has not been timely filed. Malcolm C. Petrie, 67 I.D. 220 (1960); Wilbert Phillips et al., 64 I.D. 385 (1957); United States v. August Ebbert and Verdabella Ebbert, A-30984 (June 3, 1968).

This appeal was improperly filed with the Director, Bureau of Land Management, and by the time it was ascertained that the document should have been filed in the Alaska State Office, Bureau of Land Management, the period for filing the notice of appeal had expired. As the appeal was not forwarded to the proper office so as to be timely received there, it must be dismissed. 43 CFR 1842.4(c).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior (211 DM 13.5; 35 F. R. 12081), the appeal is dismissed.

Francis E. Mayhue, Member

I concur:

I concur:

Martin Ritvo, Member

Edward W. Stuebing, Member

