

PIERCE AND DEHLINGER

IBLA 75-527
IBLA 76-84

Decided November 24, 1975

Appeals from two decisions of the Wyoming State Office, Bureau of Land Management, dismissing protest against the expiration of seven noncompetitive oil and gas leases Wyoming 0313149 etc.

Dismissed.

1. Practice Before the Department: Persons Qualified to Practice

An appeal brought by a person who does not fall within any of the categories of persons authorized by regulation to practice before the Department is subject to dismissal.

APPEARANCES: John P. Harpel, Jr., for Pierce and Dehlinger.

OPINION BY ADMINISTRATIVE JUDGE LEWIS

These are separate appeals from decisions dated April 18, 1975, and July 7, 1975, by the Wyoming State Office, Bureau of Land Management (BLM), dismissing protests against the expiration of noncompetitive oil and gas leases Wyoming 0313149, Wyoming 0314952, Wyoming 0317152, Wyoming 0317154, Wyoming 0317155, Wyoming 0317157, and Wyoming 0317158. ^{1/}

Leases Wyoming 0313149 and Wyoming 0314952 were originally issued April 1, 1965, each for a 10-year term. As no situation qualifying them for an extension existed, each lease expired on

^{1/} Appeals Docket IBLA 75-527 involves leases Wyoming 0313149 and Wyoming 0314952. IBLA 76-84 covers leases Wyoming 0317152, Wyoming 0317154, Wyoming 0317155, Wyoming 0317157, and Wyoming 0317158. The appeals were consolidated for decision purposes as the same issues are involved.

March 31, 1975. On that date the record titleholders for Wyoming 0313149 were Freeport Minerals Company and Louisiana Land and Exploration Company, and for Wyoming 0314952 were Freeport Minerals Company, Louisiana Land and Exploration Company, and River Cement Company. Each lease had pending assignments which, if approved, would have given Pierce and Dehlinger, a partnership, full record title. The assignments were received by BLM on March 24, 1975, and could not have been effective before April 1, 1975. ^{2/} The State Office ruled that the leases had expired on March 31, and therefore that the assignments could not be approved.

The remaining five leases were originally issued on July 1, 1965. These leases expired automatically on June 30, 1975, as no situation qualifying them for extension existed. Appellant was the record titleholder of the leases at the time of expiration.

While the State Office reached the correct result in its decision on the merits of the protest, the protest should have been dismissed for another reason. The protest was filed by one John P. Harpel, a petroleum engineer, who also filed this appeal. Harpel claims to represent Pierce and Dehlinger. 43 CFR 1.3 defines who may practice before the Department:

(a) Only those individuals who are eligible under the provisions of this section may practice before the Department, but this provision shall not be deemed to restrict the dealings of Indian tribes or members of Indian tribes with the Department.

(b) Unless disqualified under the provisions of § 1.4 or by disciplinary action taken pursuant to § 1.6:

(1) Any individual who has been formally admitted to practice before the Department under any prior regulations and who is in good standing on December 31, 1963, shall be permitted to practice before the Department.

^{2/} 43 CFR 3106.3-3 provides that subject to final approval by BLM, assignments of oil and gas leases shall take effect on the first day of the lease month following date of filing in the proper office of all papers required by regulation. Cf. Franco Western Oil Co., 65 I.D. 316 (1958).

(2) Attorneys at law who are admitted to practice before the courts of any State, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Trust Territory of the Pacific Islands, or the District Court of the Virgin Islands will be permitted to practice without filing an application for such privilege.

(3) An individual who is not otherwise entitled to practice before the Department may practice in connection with a particular matter on his own behalf or on behalf of (i) a member of his family; (ii) a partnership of which he is a member; (iii) a corporation, business trust, or an association, if such individual is an officer or full-time employee; (iv) a receivership, decedent's estate, or a trust or estate of which he is the receiver, administrator, or other similar fiduciary; (v) the lessee of a mineral lease that is subject to an operating agreement or sublease which has been approved by the Department and which grants to such individual a power of attorney; (vi) a Federal, State, county, district, territorial, or local government or agency thereof, or a government corporation, or a district or advisory board established pursuant to statute; or (vii) an association or class of individuals who have no specific interest that will be directly affected by the disposition of the particular matter.

Practice before the Department includes the filing of a protest with the Bureau of Land Management and the filing of an appeal to the Board of Land Appeals. See 43 CFR 1.2; 43 CFR 4.1; 43 CFR 1812.1-1.

[1] Harpel has made no showing that he is qualified to practice before this Department. An appeal brought by a person who does not fall within any of the categories of persons authorized by regulation to practice before the Department is subject to dismissal. Thomas P. Lang, 14 IBLA 20 (1973); Ben P. Gleichner, 67 I.D. 321 (1960).

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Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the appeals are dismissed.

Anne Poindexter Lewis
Administrative Judge

We concur:

Douglas E. Henriques
Administrative Judge

Edward W. Stuebing
Administrative Judge

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