

EVE REESE

IBLA 76-481

Decided June 22, 1976

Appeal from decision of Eastern States Office, Bureau of Land Management, dismissing protest to issuance of oil and gas lease ES 14943.

Affirmed.

1. Administrative Practice--Oil and Gas Leases: Generally --Oil and Gas Leases: Applications--Regulations: Generally

Where the Bureau of Land Management ordered on March 26, 1975, that unofficial copies of the simultaneous oil and gas lease entry card were invalid and to be rejected, that order will be given prospective application only and will not be applied retroactively to simultaneous entry cards filed during the January 1975 simultaneous filing period.

APPEARANCES: Eve Reese, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

In a drawing of simultaneously filed oil and gas lease offers (drawing entry cards) conducted by the Eastern States Office Bureau of Land Management (BLM), in January 1975, Ann H. Babington's entry card ES 14943 was first drawn for Parcel No. 85. The card submitted was a reproduction of required Form 3112-1 (May 1974). The card of Eve Reese was drawn second. The Eastern States Office issued a decision dated June 13, 1975, in which it rejected Mrs. Babington's drawing entry card because it was a reproduction and not the official entry card provided by BLM.

The Eastern States Office decision was predicated upon Instruction Memorandum No. 75-145 of March 26, 1975, from the Associate Director to all State Directors in which he directed that oil and gas lease offers filed under the simultaneous oil and gas leasing procedures must be submitted on the official entry card (Form 3112-1) provided by the Bureau. He instructed the State Directors to deny requests for reproduction of this form and to reject offers filed on copies or facsimiles of that form.

In an Order issued on July 16, 1975, this Board vacated the June 13, 1975, decision of the Eastern States Office and remanded the case to that Office. The Board explained the reason for the Order as follows:

In V. J. Malloy, 20 IBLA 327, of June 6, 1975 (distribution of this decision was subsequent to June 13) the Board held that unofficial copies of Form 3112-1 filed prior to the March 26, 1975, order prohibiting their use, would be accepted. The rule in that decision is applicable here.

Appellant filed her protest to the issuance of the oil and gas lease to Mrs. Babington on January 19, 1976. She objected to the fact that Mrs. Babington's card was a reproduced copy rather than the official form, and urged that Mrs. Babington's nonconformance with the existing regulations should not infringe on appellant's conformance with the procedure required by the Bureau.

On January 29, 1976, the Eastern States Office dismissed the protest of Ms. Reese. It cited V. J. Malloy, supra for the proposition that where the Bureau of Land Management changes an administrative practice to refuse to accept unofficial copies of a filing form, the new practice is to be given prospective application only.

In her statement of reasons appellant reiterates the contentions set forth in her protest. She adds that if the use of reproduced cards is not now acceptable, this rule should apply in this case.

[1] We cannot agree. Submission of privately reproduced drawing entry cards was not forbidden under the BLM procedures prevailing when Mrs. Babington filed her card in January 1975. Confusion resulted from the variety of privately reproduced cards and for this reason the system was changed by the Associate Director's memorandum of March 26, 1975. Since Mrs. Babington's card was filed prior to this date, it was entitled to consideration under the procedures in vogue at the time of its filing. Appellant's

protest was properly dismissed. To decide differently would be a retroactive application of a new rule, which violates the holding of V. J. Malloy, supra, that where the Bureau of Land Management changes an administrative practice to refuse to accept unofficial copies of a filing form, the new practice is to be given prospective application only.

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.

Douglas E. Henriques

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Administrative Judge

We concur:

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Newton Frishberg  
Chief Administrative Judge

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Frederick Fishman  
Administrative Judge

