

GRACE M. WILLIAMS

IBLA 76-530

Decided August 17, 1976

Appeal from decisions of the Nevada State Office, Bureau of Land Management, rejecting simultaneous oil and gas lease offers N-12604 and N-12666.

Affirmed.

1. Oil and Gas Leases: Applications: Generally -- Oil and Gas Leases: Applications: Drawings

A simultaneous oil and gas drawing entry card must be fully executed by an applicant, and when the applicant omits her address, the lease offer is properly rejected and the filing fee properly retained.

APPEARANCES: Grace M. Williams, pro se.

OPINION BY ADMINISTRATIVE JUDGE FISHMAN

Grace M. Williams has appealed from separate decisions dated February 17 and 27, 1976, of the Nevada State Office, Bureau of Land Management (BLM), rejecting oil and gas lease offers N-12604 and N-12666, respectively, for the stated reason that appellant had failed to include her address on the simultaneously filed drawing entry cards. Appellant contends that when the cards were received prior to the drawing and found to be in error, they should have been returned for correction or completely withdrawn and the filing fee returned.

Appellant's failure to include her address on the drawing card may have stemmed from her previous use of drawing cards given to her by the Petroleum Leasing Corp., on which its address was listed. That organization has no official connection with the BLM and adherence to instructions issued by the corporation does not negate the requirement of compliance with the regulations governing BLM matters.

[1] When the Secretary of the Interior determines that an oil and gas lease is to be issued for a particular tract, it must be issued to the first qualified applicant. 30 U.S.C. § 226 (1970).

A pertinent regulation, 43 CFR 3112.2-1(a), provides that:

Offers to lease such designated leasing units by parcel numbers must be submitted on a form approved by the Director, "Simultaneous Oil and Gas Entry Card" signed and fully executed by the applicant or his duly authorized agent in his behalf. * * * (Emphasis added.)

By notice published in the Federal Register, BLM Form 3112-1 (May 1974) was designated as the correct form of lease offer, 39 F.R. 24523 (1974). That same notice contained the statement that:

Failure to complete any part of the card will disqualify the applicant for participation in the drawing and will result in the retention of the \$ 10 filing fee by the Federal Government as a service charge.

Under the authority of the above regulation, the Board of Land Appeals has held that a simultaneous drawing entry card is properly rejected when an appellant omits from the card the name of the state in which the land to be leased is located, Ray Granat, et al., 25 IBLA 115 (1976); Albert E. Mitchell, III, 20 IBLA 302 (1975); and when an applicant omits the date of execution on the card. John R. Mimick, et al., 25 IBLA 107 (1976). In line with these precedents we hold that a card is not fully executed and may be rejected when an applicant omits her address from the card. Because failure to fully execute the card rendered appellant's offer unqualified, she is not entitled to priority over the other offerors who properly completed their cards. Although the State Office may have included her cards in the drawings, this act did not waive the defect nor could the defect have been cured by the Bureau. John R. Mimmick, et al., supra; Manhattan Resources, Inc., 22 IBLA 24 (1975). In Albert E. Mitchell, III, supra, at 303, the Board explained the reasons for its stringent application of the regulation and for retaining the filing fee:

The reason for this policy is clear. In order to process the increasingly large number of simultaneous offers certain procedures must be followed which for their successful operation require complete cooperation and accuracy on the part of applicants. See Mountain Fuel Supply Co., 13 IBLA 85, 87 (1973). The regulation and notice makes it clear that no mistakes will be permitted and that the \$ 10 filing fee is "earned" at the time of filing. Moreover, retention of the filing fee

is consistent with both the spirit and the letter of the law. The Secretary of the Interior may charge reasonable fees for such filings. 43 U.S.C. § 1371 (1970). And it is the sense of Congress that federal agencies should charge an amount equal to the cost of the services rendered. 31 U.S.C. § 483a (1970). Since there was a cost to the Government for processing the filing of the offers in both instances, it is reasonable to charge filing fees for both submissions. [Footnote omitted.]

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.

Frederick Fishman
Administrative Judge

We concur:

Joseph W. Goss
Administrative Judge

Martin Ritvo
Administrative Judge

