

FEDERAL ENERGY CORP.

IBLA 80-954

Decided November 24, 1980

Appeal from decision by the Wyoming State Office, Bureau of Land Management, dismissing protest against rejection of 8,757 simultaneous noncompetitive oil and gas drawing entry cards. W 3100 (943g).

Affirmed.

1. Applications and Entries: Filing -- Oil and Gas Leases: Applications: Drawings -- Oil and Gas Leases: Applications: Filing -- Regulations: Applicability

BLM properly applied amended regulations, the effective date for which is June 16, 1980, to a drawing of simultaneous noncompetitive lease offers held in July 1980.

2. Applications and Entries: Filing -- Oil and Gas Leases: Applications: Drawings -- Oil and Gas Leases: Applications: Filing

Under 43 CFR 3112.2-2(b) (1980), a single remittance is acceptable for a group of filings of drawing entry cards. However, if the remittance was insufficient to cover the \$ 10 filing fee per card, BLM properly determined that the entire group was unacceptable and returned the filings to the offerors.

3. Applications and Entries: Filing -- Oil and Gas Leases: Applications: Drawings -- Oil and Gas Leases: Applications: Filing

An applicant is required to submit a filing fee for every ostensible application whether or not it is completed as required under the regulations. Thus, a failure to

remit enough money to cover all of the fees due for a group of filings is not excused because one of the filings may not have been properly completed.

APPEARANCES: Joel Held, Esq., Bruce A. Budner, Esq., Dallas, Texas, for appellant; William R. Murray, Esq., Office of the Solicitor, U.S. Department of the Interior, for the Bureau of Land Management.

#### OPINION BY ADMINISTRATIVE JUDGE STUEBING

On July 22, 1980, Federal Energy Corp. (Federal Energy) filed 8,757 drawing entry cards (DEC's) for the July 1980 drawings of simultaneous noncompetitive oil and gas lease offers in the Wyoming State Office, Bureau of Land Management (BLM). Federal Energy, an oil and gas leasing service, filed these offers on behalf of its clients on 128 different parcels which were open to offers in this drawing. These offers were accompanied by a single check in the amount of \$ 87,560 to cover filing fees for these offers.

Subsequently, BLM determined that this check was insufficient to cover the required filing fee of \$ 10 per offer, as it was \$ 10 short. Accordingly, it returned all of the offer cards to the offerors.

On August 18, 1980, attorneys for Federal Energy filed a protest against BLM's rejection of these offers, on behalf of the clients of Federal Energy. On August 27, 1980, BLM issued a decision dismissing this protest, from which decision Federal Energy (appellant) filed a notice of appeal, again through counsel and on behalf of its clients.

Pending resolution of this appeal, BLM has withheld action on issuance of leases on any of the parcels for which Federal Energy had filed offers on behalf of its client. In view of the large number of parcels so affected by this appeal, we have decided to expedite consideration of it.

[1] The drawing in question was held under the terms of 43 CFR Part 3100 (1980) as recently amended. 45 FR 35156 (May 23, 1980). These amended terms were effective as of June 16, 1980. Ibid. Thus, BLM properly applied the amended regulations.

[2] These amended regulations provide that each filing shall be accompanied by a \$ 10 filing fee. 43 CFR 3112.2-2(a). Moreover, 43 CFR 3112.2-2(b) provides as follows:

A single remittance is acceptable for a group of filings. Failure to submit sufficient fees to cover all filings shall

render unacceptable the entire group of filings submitted with that remittance.  
Such filings shall be returned to the applicant in accordance with [section] 3112.5 of this title. [Emphasis supplied.]

Appellant filed 8,757 drawing entry cards on behalf of its clients, and submitted a check for \$ 87,560 as a single remittance to cover filing fees for all of these offers. This amount is \$ 10 less than the \$ 10 fee per filing which is required by 43 CFR 3112.2-2(a). Thus, appellant failed to submit sufficient fees to cover all filings, and BLM correctly determined that the entire group of filings submitted with the single remittance was unacceptable under 43 CFR 3112.2-2(b) and properly returned these filings to their respective offerors together with the filing fees, as provided in 43 CFR 3112.5(a)(3).

[3] Apparently, one of the cards which appellant filed was defective, although we cannot verify this fact or determine the nature of the alleged defect. 1/ Appellant argues that BLM should have excluded this defective card from consideration, so that the amount tendered would have been sufficient to cover the required filing fees. This argument is unpersuasive.

Under the regulations, one must submit a fee of \$ 10 for each "filing." This term applies to any ostensible application whether or not it is completed as required under the regulations. Thus, appellant made 8,757 "filings" and was therefore required to pay \$ 87,570 in filing fees. As it failed to do so, BLM properly returned all of the filings.

Appellant suggests that, prior to the selection drawing, BLM must cull a group of cards accompanied by an insufficient payment in an effort to find any defective card, and that it must exclude this card in order to preserve the remaining cards from return. This suggestion ignores the significant administrative problems facing BLM in managing the oil and gas drawing system which render such a procedure impractical and impossible. It is because BLM simply does not have the time to inquire into validity of each offer prior to selection that 43 CFR 3112.2-2(b) was drafted in its present form.

As the Circuit Court for the District of Columbia observed in Thor-Westcliffe Development, Inc. v. Udall, 314 F.2d 257, cert. denied, 373 U.S. 951 (1963):

The history of the administration of the [Mineral Leasing Act] furnishes compelling proof, familiar to the membership of Congress, that the human animal has not changed, that

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1/ Appellant variously describes the defective card as being "unexecuted, incomplete, and unsigned," and "an unsigned and uncompleted paper which is otherwise an application form approved by BLM."

when you determine to give something away, you are going to draw a crowd. It is the Secretary's job to manage the crowd while complying with the requirements of the Act.

This observation is truer than ever today. BLM has advised us that it received 322,275 acceptable filings for the July 1980 Wyoming drawing alone. 2/ When such numbers are involved, it is not unreasonable for the Department to demand strict compliance with filing requirements and not to take extra steps to protect those who do not comply from the proper consequences of their failures.

Similarly, the Department reasonably declines to consider filings for which proper fees are not tendered in situations where there are literally thousands of others who are able to comply with its requirements for the orderly consideration of lease offers. Appellant had adequate notice of the terms of these new regulations, as they were published well in advance of their application. Accordingly, it works no injustice that BLM returned appellant's clients' offers in these circumstances.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Department of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

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Edward W. Stuebing  
Administrative Judge

We concur:

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Bernard V. Parrette  
Chief Administrative Judge

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Douglas E. Henriques  
Administrative Judge

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2/ There is no way to know how many more DEC's were filed but not accepted by BLM in addition to the 8,757 in the group in question here.

## APPENDIX A

The following are the parcel numbers and serial numbers for which Federal Energy's clients filed applications in this case.

<u>Parcel Number</u>	<u>Serial Number</u>	<u>Parcel Number</u>	<u>Serial Number</u>	<u>Parcel Number</u>	<u>Serial Number</u>	<u>Parcel Number</u>	<u>Serial Number</u>
WY-1105	W-71947	WY-2616	W-72021	WY-3789	W-72090	WY-7488	W-72212
WY-1123	W-71948	WY-2723	W-72027	WY-3800	W-72081	WY-7577	W-72214
WY-1244	W-71954	WY-2741	W-72028	WY-3967	W-72089	WY-7581	W-72215
WY-1258	W-71955	WY-2769	W-72029	WY-3985	W-72090	WY-7595	W-72216
WY-1276	W-71956	WY-2787	W-72030	WY-4147	W-72099	WY-7666	W-72217
WY-1301	W-71957	WY-2812	W-72031	WY-4432	W-72113	WY-7670	W-72218
WY-1436	W-71963	WY-2830	W-72032	WY-4478	W-72114	WY-7684	W-72219
WY-1525	W-71968	WY-2901	W-72036	WY-4638	W-72122	WY-7755	W-72220
WY-1589	W-71970	WY-2933	W-72038	WY-4834	W-72133	WY-7773	W-72221
WY-1614	W-71972	WY-2947	W-72039	WY-5484	W-72154	WY-7862	W-72223
WY-1632	W-71973	WY-3010	W-72041	WY-5591	W-72157	WY-7880	W-72224
WY-1703	W-71976	WY-3038	W-72042	WY-5662	W-72158	WY-7894	W-72225
WY-1749	W-71978	WY-3042	W-72043	WY-5751	W-72161	WY-8092	W-72231
WY-1927	W-71987	WY-3056	W-72044	WY-5993	W-72169	WY-8177	W-72232
WY-1931	W-71988	WY-3074	W-72045	WY-6066	W-72170	WY-8181	W-72233
WY-1945	W-71989	WY-3131	W-72048	WY-6070	W-72171	WY-8266	W-72234
WY-1963	W-71990	WY-3145	W-72049	WY-6098	W-72172	WY-8284	W-72236
WY-2018	W-71991	WY-3163	W-72050	WY-6155	W-72173	WY-8341	W-72237
WY-2054	W-71995	WY-3216	W-72051	WY-6173	W-72174	WY-8355	W-72238
WY-2107	W-71996	WY-3220	W-72052	WY-6262	W-72176	WY-8551	W-72244
WY-2111	W-71997	WY-3341	W-72058	WY-6490	W-72184	WY-8672	W-72247
WY-2125	W-71998	WY-3369	W-72059	WY-6561	W-72184	WY-8686	W-72248
WY-2303	W-72006	WY-3387	W-72060	WY-6575	W-72186	WY-8690	W-72249
WY-2349	W-72008	WY-3444	W-72063	WY-6860	W-72193	WY-8761	W-72250
WY-2367	W-72009	WY-3476	W-72065	WY-7072	W-72199	WY-8775	W-72251
WY-2385	W-72010	WY-3501	W-72066	WY-7086	W-72200	WY-8793	W-72252
WY-2410	W-72011	WY-3565	W-72070	WY-7090	W-72201	WY-8999	W-72258
WY-2438	W-72012	WY-3618	W-72071	WY-7175	W-72203	WY-9062	W-72259
WY-2442	W-72013	WY-3622	W-72072	WY-7193	W-72204	WY-9080	W-72260
WY-2474	W-72015	WY-3640	W-72074	WY-7264	W-72206	WY-9094	W-72261
WY-2545	W-72019	WY-3654	W-72075	WY-7282	W-72207	WY-9151	W-72262
WY-2563	W-72020	WY-3711	W-72077	WY-7460	W-72211	WY-9375	W-72274

