

PATRICIA B. AMOROSO

IBLA 81-66

Decided June 16, 1981

Appeal from decision of Nevada State Office, Bureau of Land Management, rejecting simultaneous oil and gas lease offer N-27989.

Reversed and remanded.

1. Oil and Gas Leases: Generally -- Rules of Practice: Appeals:
Generally

Adjudication of an appeal before the Board of Land Appeals is necessarily based on the information included in the case file. Where there is nothing in the case file to support the BLM's basis for rejecting an oil and gas lease offer, BLM's decision rejecting the offer will be reversed.

APPEARANCES: Patricia B. Amoroso, pro se.

OPINION BY ADMINISTRATIVE JUDGE BURSKI

Patricia B. Amoroso appeals from a decision of the Nevada State Office, Bureau of Land Management (BLM), dated July 17, 1980, rejecting her oil and gas lease offer N-27989 for failure to submit a "Certification of Qualifications" within the time allowed by BLM.

Appellant's drawing entry card was drawn with first priority for parcel No. NV-101 in the simultaneous oil and gas lease drawing held by the Nevada State Office on January 3, 1980. On May 16, 1980, BLM sent appellant a notice informing her that in order to establish her qualifications to hold a lease she must submit the attached statement certifying whether:

1. Any undisclosed parties owned an interest in your drawing entry card at the time it was filed;

2. You had become a party, prior to filing the drawing entry card, to any agreement, arrangement, or understanding to assign any interest in the offer or the resulting lease;
3. You had any interest in any other drawing entry card filed for the parcel identified above;
4. You are in compliance with the oil and gas acreage limitations (43 CFR 3101.1-5 and 3101.2-4).

There is a copy of this notice in the case file consisting of one page. There is no copy of "the attached statement" as indicated in the notice.

BLM rejected appellant's lease offer on July 17, 1980, because she had not returned the certification form demonstrating her qualifications to hold an oil and gas lease "within the specified 30-day time period."

On appeal Amoroso states that she answered each question listed on the form, "No," signed it, dated it, and mailed it to the Nevada State Office on June 7, 1980. Appellant contends that she complied with all the regulations and that she did complete and sign the Certification of Qualifications. She says she mailed the form within the specified time period and attached statements of three people who attest to the fact that she mailed a letter to the Department of the Interior, in their presence, on June 7, 1980.

The case file contains a copy of the form notice sent to appellant with the postal return receipt card attached. There is no mention of any time limit for filing the Certification of Qualifications. Our determination of an appeal is necessarily based on the information included in the case file. Since there is nothing in the file to show that appellant was required to submit certification within a certain time, we conclude that BLM had no grounds for rejecting the offer. See Beverly Trull, 25 IBLA 157 (1976). ^{1/} Accordingly, we do not reach appellant's contention that she did, in fact, timely transmit the statement to BLM.

^{1/} The case file in Ken Wiley, 54 IBLA 367 (1981), unlike the instant appeal, clearly showed that appellant had been informed of the 30-day response period. No document in the present case file indicates that appellant herein was ever notified that a 30-day time period applied to her response. We also note that recertification of compliance was terminated by Instruction Memorandum 81-449, May 13, 1981. Inasmuch as third party rights are involved in the simultaneous filing system, we do not believe that this change would necessarily work to appellant's benefit, and do not base our decision thereon.

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 reversed and remanded to the State Office for further appropriate action.

James L. Burski
Administrative Judge

We concur:

Gail M. Frazier
Administrative Judge

Bruce R. Harris
Administrative Judge

